

Notice of Review: Cleikhimin Cottage, Howgate, Penicuik Procedural Report

Report by Ian Johnson, Head of Planning and Development

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 extension to dwellinghouse at Cleikhimin Cottage, Howgate, Penicuik.

2 Background

- 2.1 Planning application 12/00314/dpp for extension to dwellinghouse was refused on 10 July 2012; 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 Procedures (Next Stage)

- 3.1 The next stage in the process is for the LRB to determine the following:
 - 1 Whether any further information is required to determine the review.
 - 2 The time and date of the LRB site visit.
 - 3 Whether the site visit shall be accompanied or unaccompanied.
 - Whether the review will progress by way of written representations or by a hearing. (The applicant is requesting that the review progresses by way of a site inspection and hearing).
- 3.2 The final determination of the review will be scheduled for consideration by the LRB at its meeting 27 November 2012.

4 Supporting Documents

- 4.1 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);
 - A copy of the case officer's report (Appendix C);
 - A copy of the policies stated in the case officer's report (Appendix D);

- A copy of the decision notice issued on 10 July 2012(Appendix E);
 and
- A copy of the submitted plans (Appendix F).

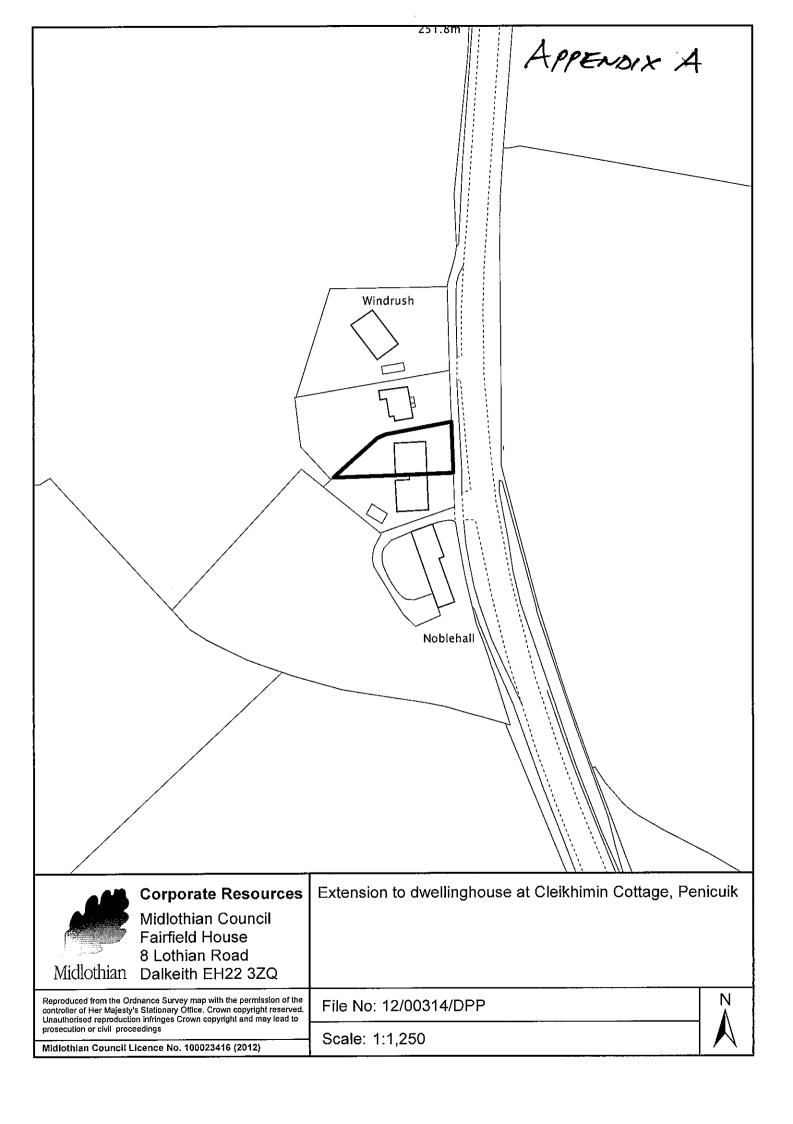
5 Recommendations

- 5.1 It is recommended that the LRB determine:
 - 1 Whether any further information is required to determine the review.
 - 2 The time and date of the LRB site visit.
 - Whether the site visit shall be accompanied or unaccompanied.
 - Whether the review will progress by way of written representations or by a hearing.

23 October 2012

Report Contact:
Peter Arnsdorf, Development Management Manager
peter.arnsdorf@midlothian.gov.uk
Tel No: 0131 271 3310

Background Papers: Planning application 12/00314/dpp available for inspection online.



Midlothian			
Fairfield House 8 Lothian Ro	ad Dalkeith EH22 3ZN		
Tel: 0131 271 3302			
Fax: 0131 271 3537			
Email: planning-applications	@midlothian.gov.uk		
Planning Department			
Applications cannot be valid	ated until all necessary documentation	n has been submitted and the re	equired fee has been paid.
Thank you for completing thi	is application form:		
ONLINE REFERENCE	000049401-001		
The online ref number is the when your form is validated.	unique reference for your online form Please quote this reference if you ne	n only. The Planning Authority w ed to contact the Planning Auth	rill allocate an Application Number ority about this application.
Agent Details Please enter Agent details Company/Organisation:	D2 Architectural Design Ltd.	You must enter a Building	Name or Number, or
Ref. Number:		both:* Building Name:	
First Name: *	David	Building Number:	28
Last Name: *	Ingram	Address 1 (Street): *	Bridge Street
Telephone Number: *	07745368576	Address 2:	
Extension Number:		Town/City: *	Penicuik
Mobile Number:		Country: *	UK
Fax Number:		Postcode: *	EH26 8LN
Email Address: *	dingram@d2architecturaldesig n.co.uk		
Is the applicant an individua	al or an organisation/corporate entity?	*	
Individual Organ	nisation/Corporate entity		

Applicant Deta	ils		
Please enter Applicant det	ails		
Title: *	Mr	You must enter a Building N	Name or Number, or
Other Title:		Building Name:	Cleikhimin
First Name: *	ian	Building Number:	
Last Name: *	Davie	Address 1 (Street): *	Howgate
Company/Organisation:		Address 2:	
Telephone Number:		Town/City: *	Howgate
Extension Number:		Country: *	Scotland
Mobile Number:		Postcode: *	EH26 8QD
Fax Number:			· · · · · · · · · · · · · · · · · · ·
Email Address:			
Site Address D	Details	•	
	site (including postcode where availa	able):	
Address 1:	CLEIKHIMIN COTTAGE	Address 5:	
Address 2:	HOWGATE	Town/City/Settlement:	PENICUIK
Address 3:	HOWGATE	Post Code:	EH26 8QD
Address 4:			
Please identify/describe t	he location of the site or sites.	_	
N. abba	2404	Easting 324	726
Northing 658	8484	Lasting	1120
Description of	the Proposal		
Please provide a descripti application form, or as am (Max 500 characters)	ion of the proposal to which your revi ended with the agreement of the pla	iew relates. The description should nning authority: *	be the same as given in the
Construct an single store	y rear extension with flat roof to inco	porate a new Utility, WC and Dining	g Area.

Type of Application
What type of application did you submit to the planning authority? *
Application for planning permission (including householder application but excluding application to work minerals).
Application for planning permission in principle.
Further application.
Application for approval of matters specified in conditions.
What does your review relate to? *
Refusal Notice.
Grant of permission with Conditions imposed.
No decision reached within the prescribed period (two months after validation date) – deemed refusal.
Statement of reasons for seeking review
You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)
Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.
You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time of expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.
Please see supporting document section.
Have you raised any matters which were not before the appointed officer at the time the determination on your application was made? *
If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should now be considered in your review: * (Max 500 characters)
This is a somewhat complex situation in that we feel there was potentially a breakdown in communication within the planning
process that became apparent subsequent to the determination. There were apparent inconsistencies between what was discussed during pre-planning consultation stage with one planning officer and reasons for refusal determination by another (delegated)
officer.
Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)
NOTICE OF REVIEW_cover letter, ID_GC483 Supporting statement, PL01_Location_Block plan, PL02_Existing Plans,
PL03_Proposed Plans, ID_Summary of points for review, Pre-Application_Enquiry_Form_and_Guidance.

Application Details						
Please provide details of the application and decision.						
What is the application reference number? *	12/00314/DF	PP				
What date was the application submitted to the planning at	uthority? *		23/05	/12		
Has a decision been made by the planning authority? *		Yes [☐ No			
What date was the decision issued by the planning authori	ty? *	10/0	7/12			
Review Procedure	<u> </u>		,			
The Local Review Body will decide on the procedure to be process require that further information or representations be required by one or a combination of procedures, such a inspecting the land which is the subject of the review case	be made to er is: written subi	ianie them tr	n determin	e ine reviev	v. Furmer in	ionnation ma
Can this review continue to a conclusion, in your opinion, t parties only, without any further procedures? For example,	pased on a rev , written submi	riew of the re ssion, hearir	levant info ng session	ormation pro , site inspe	ovided by you ction. *	urself and oth
Yes / No						
Please indicate what procedure (or combination of proced select more than one option if you wish the review to be co	ures) you think anducted by a	is most app combination	ropriate for	or the handl ures.	ing of your re	eview. You ma
Please select a further procedure *						
Holding one or more hearing sessions on specific matters	<u> </u>					
Please explain in detail in your own words why this further it will deal with? * (Max 500 characters)	procedure is i	required and	the matte	rs set out ir	n your statem	ent of appeal
We would like the issues raised to be afforded the opport communication through the procedural mangement of this addressed accordingly.	unity of a disct	usssion throu aring, we fee	igh a hear	ing as we f	eel there has pportunity to	been a mis- have this
Please select a further procedure *	-					
Inspection of the land subject of the appeal. (Further detail	ils below are r	not required)				
Please explain in detail in your own words why this further it will deal with? * (Max 500 characters)	r procedure is	required and	the matte	ers set out i	n your staten	nent of appea
We feel a site inspection is necessary in this instance to a surrounds and the topography of the land in which it wou	allow the revie	w panel to a	ssess the fully inforn	proposed d ned decisio	esign agains	t it's ers raised.
In the event that the Local Review Body appointed to con	sider your app	lication deci	des to ins	ect the site	, in your opir	nion:
Can the site be clearly seen from a road or public land? *					Yes 🔽 N	
Is it possible for the site to be accessed safely and without	it barriers to e	ntry? *			Yes 📝 N	0
If there are reasons why you think the Local Review Body explain here. (Max 500 characters)	/ would be una	able to under	take an ui	naccompan	ied site inspe	ection, please
There is currently a gated access to the side of the proper rear of the property where the extension is proposed.	erty which is lo	cked at all ti	mes and i	s unfortuna	tely the only	access to the

Checklist - Application for Notice of Review				
Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.				
Have you provided the name and a	address of the applicant? *	✓ Yes ☐ No		
Have you provided the date and re	ference number of the application which is the subject of this review? *	✓ Yes ☐ No		
If you are the agent, acting on behaddress and indicated whether any should be sent to you or the applic	alf of the applicant, have you provided details of your name and notice or correspondence required in connection with the review ant? *	•		
		✓ Yes ☐ No ☐ N/A		
Have you provided a statement se (or combination of procedures) you	tting out your reasons for requiring a review and by what procedure u wish the review to be conducted? *	✓ Yes ☐ No		
Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.				
Please attach a copy of all docume drawings) which are now the subje	ents, material and evidence which you intend to rely on (e.g. plans and ect of this review *	✓ Yes ☐ No		
Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.				
Declare - Notice of Review				
I/We the applicant/agent certify that	at this is an application for review on the grounds stated.			
Declaration Name:	David Ingram			
Declaration Date:	09/10/2012			
Submission Date:	09/10/2012			

Local Review Body Development Management Fairfield House 8 Lothian Road Dalkeith Midlothian EH22 3ZN

3rd October 2012

Dear Sir/Madam

<u>Proposed Extension at Cleikemin Cottage, Howgate. Ref: 12/00314/DPP Notice of Review</u>

In reference to the aforementioned planning application and subsequent refusal, on behalf of our client (Mr Ian Davie), we would like to take this opportunity to request a review of the application and to raise a few points in connection with some apparent inconsistencies within the procedural management of this project as part of the review procedure.

We (D2 Architectural Design Ltd.) were duly appointed as agent to convert sketch drawings of our client's requirements into suitable drawings in order to apply, on his behalf, for the necessary planning consent. A written account of all subsequent discussions and telecom's is attached as requested and written by our client.

We await	your	response.
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Yours faithfully,

David Ingram

Proposal Details

Proposal Name Proposed rear extension at Cleikemin

Cottage, Howgate

Proposal Description Construct a single storey flat roof

extension to the rear of the property

Address CLEIKHIMIN COTTAGE, HOWGATE,

HOWGATE, PENICUIK, EH26 8QD

Local Authority Midlothian Council
Application Online Reference 000049401-001

Application Status

Form complete
Main Details complete
Checklist complete
Declaration complete
Supporting Documentation complete
Email Notification complete
Payment Method incomplete

Attachment Details

Notice of Review	System	A4
Notice of Review	System	A4
NOTICE OF REVIEW_Cover Letter	Attached	A4
PL01_Location_Block Plan	Attached	A3
PL02_Existing Plans	Attached	A3
PL03_Proposed Plans	Attached	A3
Pre_App Guidance	Attached	A4
scotapp	System	A4
Summary of points for review	Attached	A4
Supporting Statement	Attached	A3

SUMMARY FOR REVIEW AS AT 08.10.2012.

MAIN ISSUES

WE STAND ACCUSSED OF IGNORING PRE-APPLICATION ADVICE AND OF TAKING A DECISION TO SUBMIT FOR DPP NOTWITHSTANDING THAT ADVICE.

At pre-application, while various issues were discussed, we received no advice which suggested that had our proposals were in breach of development plan polices.

Indeed, it was stated by the senior planning officer (SPO) involved that while (after plan amendments) he was disappointed that his advice had not been taken in full we were <u>advised</u> (for the second time) to submit out DPP in the normal way - it was further indicated by the SPO that "as the proposals stand the planners <u>may not</u> have reasonable grounds for refusal".

At DPP the application was refused under DP6.

At a post decision meeting - prior to which the delegated short report recommending refusal was not made available to us due to belated posting - we were effectively told to tear up our proposals, start again and prepare for re-submission to a remit totally and radically different from that originally proposed.

Afterwards, and on reading the terms of the short report to the planning committee, we noted with rising concern that, while there was no appreciable impact on neighbours or any other issues, it was alleged that no notice had been taken of pre-planning advice and refusal was recommended.

In the light of this previously undisclosed information a request for a further meeting was refused.

However, it has been recently (02.10.2012) stated by the development management manager (DMM) that "although some minor changes were made it is my understanding that you were not prepared to make the required changes and decided to proceed with the application".

For the reasons aforesaid it must be clearly stated that we were still in a consultative phase when <u>advised</u> by the SPO to submit our application for DPP in the normal way.

It is duly noted that the documented Midlothian Council pre-application advice notes (copy attached for convenience) under the head of "What happens to your enquiry?" states:- Receipt of your enquiry will be acknowledged and we will endeavour to provide a full written response within 42 days. The advice notes then detail by means of several bullet points specifically what advice will be given - the second significantly stating "Whether the principle of the proposed development is considered to be in compliance with development plan policies".

No written report was prepared, supplied or published on the public record.

A full written response, as detailed above, was provided to finalise pre-app by the PO for a recent extension next door.

White Cottage, 11/00152/DPP, Document 9, D - Supporting Statements.

DPP Registered 07.03.2011. The document posting is for two separate documents, namely the architect's design statement (01.03.2011) and the PO's full written response in the form of an email dated 04.02.2011.

The email refers to various discussions, advice given, etc in respect of the pre-app procedure and summarises all of that in line with the pre-app notes. Unsurprisingly, the architect replicates that advice in his design statement. A text book example in procedure.

Failing to take cognisance of pre-app advice and going to DPP is a rare event, and is unknown in the combined 26 years of experience in these matters by my agents D2.

Furthermore, the PO officer in her 20 years of experience has only known a few such instances.

In these circumstances, in view of the recently introduced pre-app procedures, would it not be unreasonable to suggest that for such a remote event that the SPO would be assiduous in applying these procedures rigorously. This with regard to formalising all of the advice given and stipulating the advice allegedly wilfully ignored. Then go on to indicate that, in his view, DPP was unlikely to be gained in view of DP6 being breached.

In such rare circumstances this would have the additional benefit of providing a template or an approach which in similar circumstances in the future his team of planning officers could adopt.

In summary, we totally refute the accusation of ignoring pre-app advice and taking upon ourselves the decision to apply for DPP. It makes no sense, and we feel strongly that it has now left our position entirely compromised in any future involvement with planning.

We would respectfully ask that the review body consider our application for DPP, while far from perfect, on it's merits and in all of the circumstances.

Furthermore, it is our stated opinion that we have been badly served by the recent Midlothian Council pre-app procedures and would the review body also consider how this may have affected a satisfactory DPP outcome.

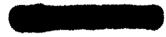
Regards

Ian Davie

Your Ref: 12/00314/DPP Our Ref: GC483/IAD 28th August 2012

Local Review Body
Development Management
Midlothian Council
Fairfield House
8 Lothian Road
Dalkeith
EH22 3ZN

Cleikemin Cottage Howgate Penicuik Midlothian EH26 8QD



BY EMAIL ONLY

Dear Sir/Madam,

PLANNING APPLICATION 12/00314/DPP: EXTENSION TO CLEIKEMIN COTTAGE.

I write to express my concern at the manner in which the aforementioned planning application for an extension to said property was assessed and subsequently refused by Midlothian Council Planning Department.

I feel there were some apparent inconsistencies within the procedural management of this application and as a result, much to my bemusement, have resulted in a refusal determination.

Please find a written account of all proceedings to date to the best of my knowledge based on a substantial amount of notes taken recording all discussions and telecoms that took place between either myself and the relevant planning officers or indeed between my agent (David Ingram) and the relevant planning officer throughout the planning process. I trust these accounts will enable you to undertake a suitable course of review of the situation and the grounds for refusal.

PRE-APPLICATION PROCEDURE.

References: Ian Davie - Client (ID)

David Ingram - D2 Architectural Design Ltd. (DI)

Duncan Robertson - MC Planning Department (DR)
Ingrid Forteath - MC Planning Department (IF)

 $\frac{11/4}{\text{visit}}$ - Wednesday. Site inspection by Duncan Robertson (DR). Duration of visit 3.15pm - 3.40pm.

ID was at home on this day and recorded notes of the discussion between ID and DR.

ID and DI were initially quite surprised that a Senior Planner such as DR was involved with a small project of this nature. DR explained that all his planning officers were busy at that time and he was in the area — the job would, however, be delegated to a planning officer in due course.

ID asked what issues DR would be addressing. DR answered a) height, b) length, c) impact on neighbours and d) possible daylighting issue with the adjacent extension at Dalfaber (to the south).

DR did explain, however, that any item/issue may not in itself rule out the project as it stands - but would be weighed on the balance.

At the end of his site inspection, and after visiting Dalfaber, DR confirmed that daylighting was no longer an issue as long as the extension was no higher than Dalfaber's roof mounted TV ariel, and that the length would only be a concern if the extension were to be any longer than proposed.

DR would then report back to DI, as agent in about one week.

20/4 - Friday, 4.30pm. DI received call from DR. No issues with neighbour impact, step up, length, etc. "Submit application if you want" but DR requested a meeting with DI in order to make a "few design suggestions" on elevations.

1/5 - Tuesday, 10.00am DI met with DR at Fairfield. ID was not present at this meeting.

DI went straight from the meeting to Cleikemin Cottage in order that ID and his wife should be apprised of DR's advice at the earliest opportunity.

There were three points raised. Design issues only, otherwise ok.

The advice given by DR was as follows: -

- 1 At the immediate junction with the eaves of the existing (c.1960's) extension the parapet walling should be cut back to clear the existing rain water gutter; this to create a visible "break" from the existing structure.
- 2 Increase the width of the dining room area of the extension (the rearmost portion) thus providing a step out on the northern elevation - this for aesthetic effect by providing a structural break.
- 3 Following on from that was advice to finish this part of the new structure in wooden cladding for the reasons given.

The application drawings were duly amended fully for Items 1 and 2.

However, with regard to the cladding, it was suggested by DI (pending further discussion) that this be limited to the northern elevation nearest the existing structure - so that, in conjunction with the two breaks (roof and wall), as suggested by DR, cladding so placed may further enhance the "break" effect desired.

Thereafter, the amended plans were emailed to DR to be followed up with a telephone call and email re further discussions on the "compromise" solution in respect of timber cladding.

18/5 - Friday, 2.30pm. After many attempts to contact DR, DI received a response telephone call. DR expressed his disappointment that his proposals had not been adopted in full. DI indicated that we had gone some way towards this. DR advised DI to "submit your DPP application in the normal way as this was as far as we can go on pre-app"

However, DR did indicate to DI that "as the proposals stand the planners may \underline{not} have reasonable grounds to object".

Additionally, and to finalise this pre-application sequence, I have taken due note of the following:-

- A The 18/5 telephone call from DR was the last point of contact during this phase.
- B A full written response, as stipulated in the relevant preapplication form guidance notes, was never produced/inserted in our list of documents nor was it received by us in any format.
- C Accordingly, we were deficient in the formal confirmation of receiving advice on the many points stipulated in the guidance notes; most importantly with regard to issues arising out of DP6.

DETAILED PLANNING PERMISSION.

This section will be brief as, except for during a site inspection, no communication took place between Ingrid (IF) and DI or Ingrid and ID.

The DPP application was registered on 23/5.

12/6 - Tuesday. Site inspection by IF. Duration of visit approx. 2.10pm - 3.00pm.

IF's arrival coincided with ID's departure to collect his granddaughter from school and, thereafter, take her to a doctor's appointment.

There was, however, sufficient time for introductions and to show IF the site of the proposals.

ID also took the opportunity to indicate to IF that while the front of Cleikemin Cottage is old and longstanding the existing rear extension is of more recent construction (c.1960's), namely brick finished in whitewashed roughcast.

ID had recently renovated and retained the wooden sash windows to maintain the street view of the frontage - and duly showed IF this. ID also pointed out that, after extending, the remaining two windows at the rear would be replaced to match those of the new extension. After some 10 minutes, and being reassured by the pre-planning discussions, ID left IF to carry out her site inspection unaccompanied.

DECISION NOTICE - REFUSAL OF PLANNING PERMISSION.

The decision notice was dated 10/7, signed by DR and posted on the website as document 14 on said date.

No communication was received by DI from IF to inform him of any issues or concerns she may have had prior to making a final decision, which all be it, may not be compulsory, DI has intimated he has always been made aware of issues of this nature in the past prior to a formal decision being made.

Subsequent to the refusal decision being made, no recommendation report was posted for inspection or made available for ID or DI to view. In consequence, all ID and DI had by way of an explanation was the single reason briefly stated on the decision notice in one paragraph—"As a result of it's size and design the extension would appear as a bulky addition unsympathetic to and detracting from the character and appearance of the existing building contrary to policy DP6 of the adopted Midlothian Local Plan".

After DI, during the pre-application discussions, had twice been invited by DR to submit our DPP application to say that everyone involved was dumbfounded by this decision was an understatement.

At DI's request a meeting was arranged at Fairfield (26/7) with DR and IF in an attempt to find out why the pre-application consultations and procedures had apparently been rendered redundant in this case.

POST DECISION MEETING.

This was our last meeting (26/7) held at Fairfield. Present were DR, IF, DI and ID. The following is a very brief outline and does not cover all of the issues discussed.

After DI commenced by summarising the position to date DR interjected on a point regarding height of the extension at which point ID, in turn, interjected in support of DI's comments by reading out from his notes recording DR's words as given to him during his initial pre-app site inspection.

At this point there was an air of silence and an apparent confusion.

DI asked why IF had not communicated her concerns to him when there appeared to be a significant problem. IF intimated that she was in fact not required to do so.

ID indicated that ID and DI were inadequately prepared for this meeting as said parties had not been party to the delegated short report.

IF said that we should be in receipt of this. ID responded that the last time ID and DI had both checked the website it was not listed - document 15 was not posted. IF said she would check this after the meeting.

Thereafter, IF pursued the issue of shortening the extension and lowering the roof height. When it was pointed out that it would be near impracticable, due to regulatory requirements regarding insulation depths etc, to do this without severely reducing the ceiling height far below the standard 2.4m. IF then stated, "step the floor level down below existing". This in fact would create a significant issue for ID having lived in the property through some of the worst inclement winters on record therefore knows the repercussions of implementing such a solution.

It slowly became clear to DI and ID that IF was asking said parties to tear up the existing proposals and start again by having DI draw up a new design more in keeping with the points <u>now</u> set out by the planners.

RECOMMENDATION REPORT - DELEGATED SHORT REPORT (DSR).

After the Fairfield meeting DI received an email from DR (3/8) intimating that the delegated report was available for viewing. It had been uploaded six days after the decision notice was issued - this due to staff holidays coinciding with the decision date.

DI and ID downloaded and examined the report.

It was hard to correlate the terms of the DSR with the advice given at and throughout the pre-application discussions.

It seems to me that the report turns on statements made under the head of Planning Issues, page 2, para 3. The report reads thus:- "The applicant's agent submitted a similar scheme for pre-planning comments. He was advised to reduce the height of the extension" etc, etc.

This in my view and to the best of my knowledge and belief, is an erroneous interpretation of the facts as they were discussed and known (but failed to be formally finalised) at the pre-planning stage of the application.

In summary, as stated above, DR advised only three minor design changes.

Item 2 - the DR advice given to widen the dining area of the extension was not even mentioned in the DSR.

At no point during the advisory stage was any reference made to reducing the height of the extension either locally or generally.

Accordingly, as stated in the last sentence of the report paragraph referred to above, the floor level/height of the extension would indeed remain the same as there was no adverse comment made or advice given regarding these issues.

Specifically, during the pre-application phase DR made no comment or reference to the proposals being in contravention of DP6 or any other development plan policy. In fact the opposite as he alluded that "as the proposals stand the planners may $\underline{\text{not}}$ have reasonable grounds to object".

Para 3, page 2 of the DSR is quite critical in this instance. If this is in fact in error as we believe, then the remainder of the DSR must fail, being founded on erroneous data.

GENERAL.

ID forwarded a request to meet with IF in order to clarify the issues set out above subsequent to the examination of the DSR. This request was refused.

However, further to ID's email of 3/8, on IF's return from holiday on Monday, 26/7, ID was able to ask a pertinent question.

ID intimated that the two partners in D2 Architectural Design Ltd. have, between them, 26yrs of experience in planning matters. However, they have never previously experienced similar circumstances to the position in which we now find ourselves.

IF replied that she had 20yrs experience in planning matters.

ID then responded, in your 20yrs experience when and how often have you advised against a proposal after advice sought and given during due process? IF responded "now and again - but usually only after preplanning advice has been ignored".

In this instance, we strongly maintain that such pre-planning advice was not ignored but taken on board almost entirely and the application drawings amended in accordance with this.

SUMMARY.

I would summarise all of the foregoing, which is set out to the best of my knowledge and belief.

Pre-Planning.

The pre-planning phase entered into encouraged us to believe that we had a feasible set of proposals.

On two separate occasions we were invited to apply for DPP.

No objections were raised under DP6.

There was, however, a failure of the procedure in that no formal full written response was provided as detailed in the relevant Midlothian Council, Pre-Application Advice Services, Advice Note.

This resulted in no formal confirmation of the mainly verbal proceedings throughout the process. Specifically, and in view of the decision document, no formal confirmation was obtained that the project did not contravene DP6.

Detailed Planning Permission.

It is self-evident that I can find little correlation between the advice given during the pre-planning advice stage and the text of the DSR.

Furthermore, I find it difficult to believe in view of the relative rarity of the circumstances prevailing, namely a rejection decision after pre-planning, that IF did not seek clarification from DI as agent.

I understand this is usually done as standard practice where concerns are noted prior to making a decision, especially when the case officer is in fact different to the officer who initially undertook the preplanning procedure as they may not have been entirely party to all the discussions and correspondence to date. Notwithstanding IF taking the stance that she has no obligation to do this.

OBSERVATIONS AND OPINIONS.

Any apparent disparity between my understanding of the pre-application advice given and the issues highlighted in the DPP recommendation report, in the absence of further clear information, can now only be a matter for conjecture.

What is clear, however, is that in the absence of a formal full written response the pre-planning procedure was incomplete and flawed in consequence.

I have already stated that I can find no correlation between advice given during the pre-planning phase and the terms of the DPP DSR.

In circumstances such as this, leaving aside statements and conflicting reports, I tend to stand back and adopt a common sense approach.

What is apparent to me is that something has certainly gone wrong during the management of this planning process perhaps as a result of a breakdown in communication.

I have to fall back on Council guidance notes which state that "the submission of a pre-application enquiry will help you gain <u>clear</u>, impartial and professional advice at an early stage regarding any key issues that you need to address prior to submitting a formal development proposal" and "pre-application advice can help to identify schemes that are unlikely to gain approval from entering the process, and as a result can save you time and money".

Given that (a) we did not receive a full written response to the preapplication discussions, and (b) the delayed posting of the recommendation report, left us at a disadvantage and lacking the clarity of purpose required to address the meeting of 26/7 constructively and meaningfully.

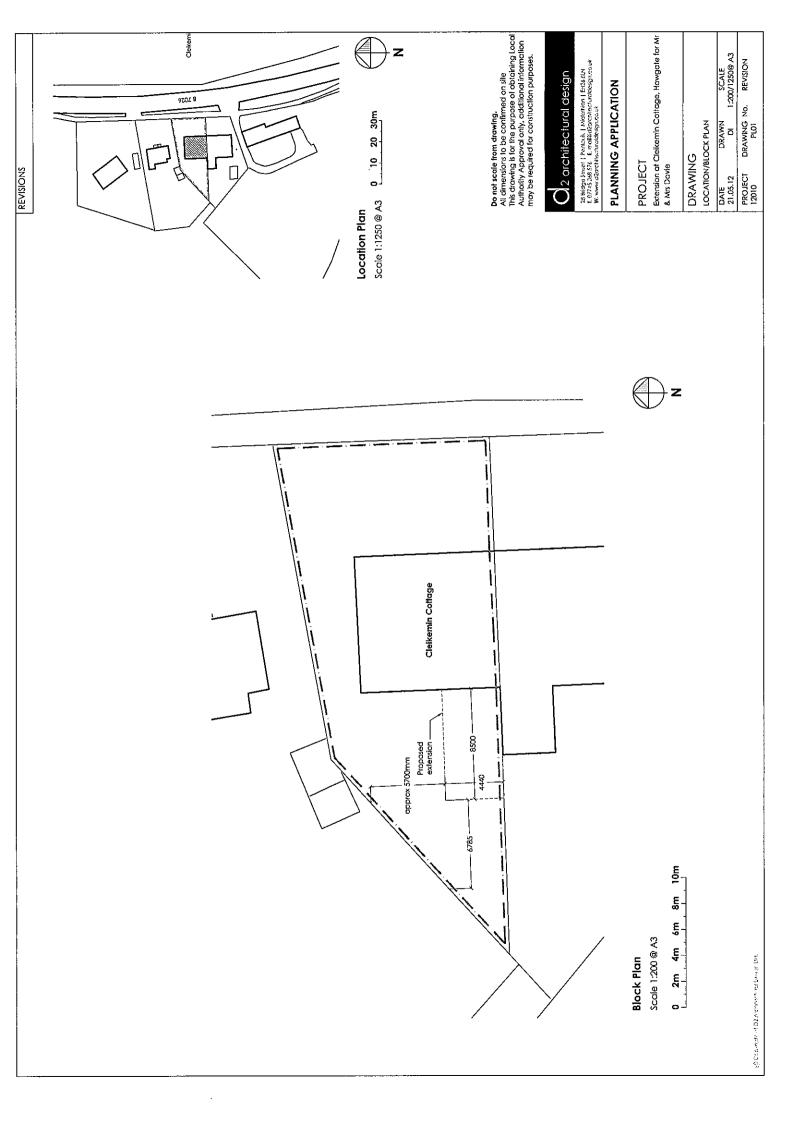
Having both of these documents to hand, between myself and my agent we would have prepared a targeted agenda with a reasonable prospect of resolution.

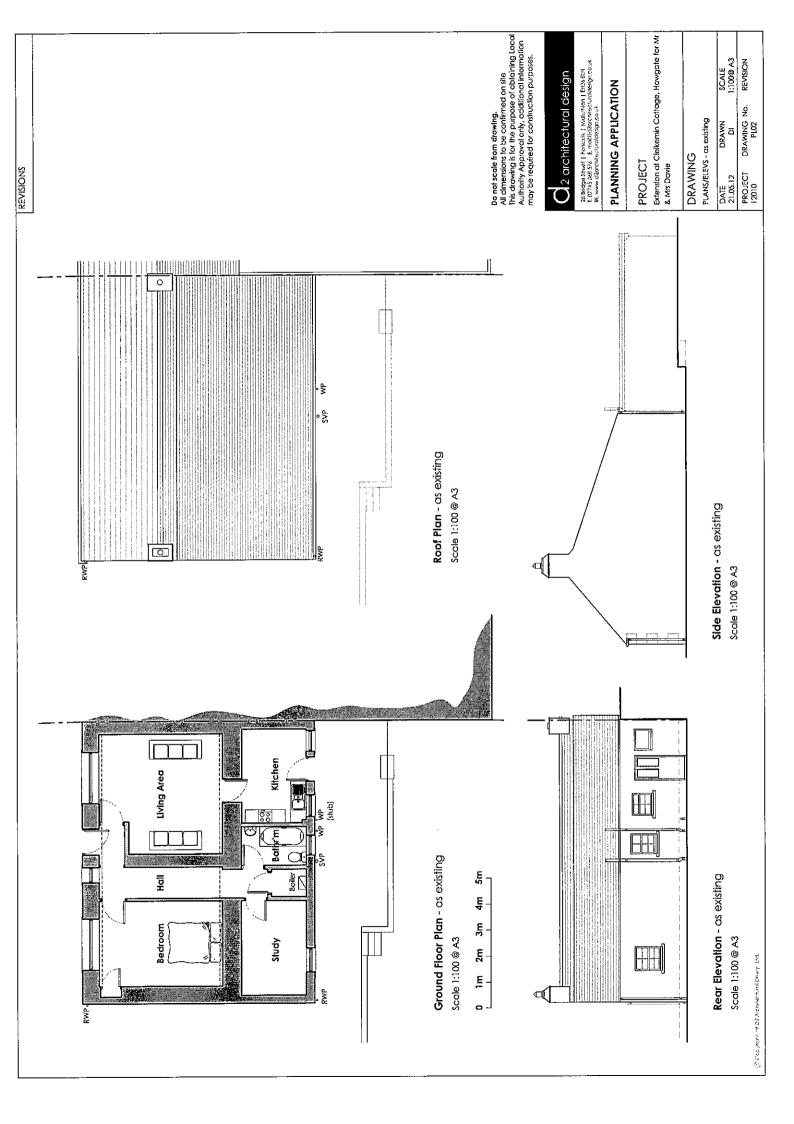
Taking everything together I have formed the opinion that, as a result of the manner in which the application proceeded, either we were misled or the planning committee was.

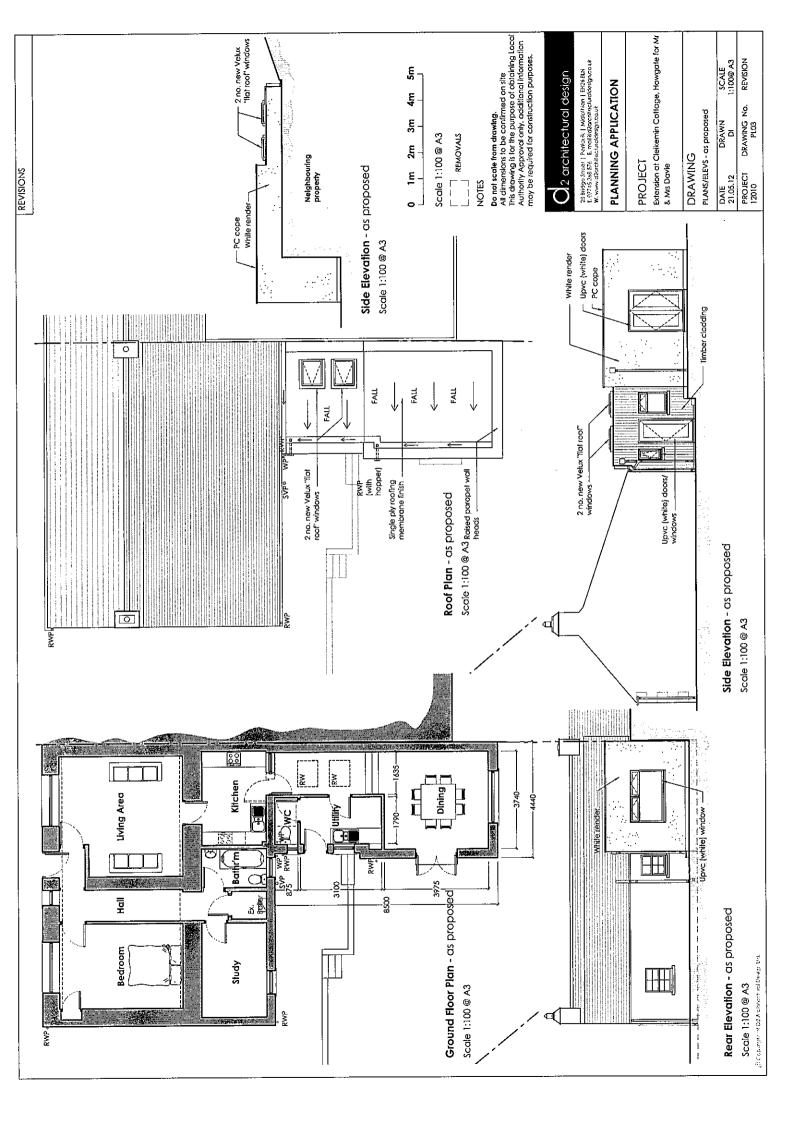
I look forward to the results of your review of the application in due course.

Yours sincerely,

Ian A Davie









MIDLOTHIAN COUNCIL PRE-APPLICATION ADVICE SERVICE

MAKING AN ENQUIRY
WHAT HAPPENS TO MY ENQUIRY?
FURTHER INFORMATION
PRE-APPLICATION ENQUIRY FORM GUIDANCE NOTES
PRE-APPLICATION ENQUIRY FORM

IMPORTANT: PLEASE TAKE THE TIME TO READ THIS ADVICE NOTE CAREFULLY PRIOR TO REQUESTING PRE-APPLICATION ADVICE

The Development Management section of the Planning and Development Service manages the process of applying for planning permission, and offers an advice service to anyone considering making an application.

The submission of a pre-application enquiry will help you to gain clear, impartial and professional advice at an early stage regarding any key issues that you need to address prior to submitting a formal development proposal. Advice can be provided for developments requiring planning permission, advertisement consent, conservation area consent or listed building consent.

You do not have to request pre-application advice prior to submitting a planning application, and you can submit a planning application at anytime. However, pre-application advice can help to identify schemes that are unlikely to gain approval from entering the process, and as a result can save you time and money. Applications submitted without pre-application advice will generally be determined as submitted, without prolonged negotiation.

Making an Enquiry

Enquiries for pre-application advice should be made in writing using the Pre-Application Enquiry Form. The form is available via the Development Management pages on the Council's website www.midlothian.gov.uk or if you wish a paper copy to be sent to you please contact the duty planning officer on 0131 2713302. The pre-application enquiry service is a discretionary one which the Council does not charge for. If you are unsure whether planning permission is required for your proposed development please contact the duty planning officer who can advise you accordingly.

Prior to making an enquiry the Council recommends that you discuss your proposal with your neighbours and resolve any boundary or land ownership disputes.

In addition to the need for planning permission you should also contact the Council's Building Standards team on 0131 2713320 to ascertain whether a building warrant is also required for your proposed development.

What happens to my enquiry?

The Council will record your enquiry on its back office database, allocate your enquiry to a case officer, acknowledge receipt of your enquiry and then endeavour to provide a full written response within 42 days.

Prior to responding to your enquiry the case officer may contact you to discuss your enquiry or to arrange a meeting if further information or clarification is required. In the majority of enquiries the case officer will also carry out an unaccompanied site visit and in some cases informally consult with other specialists such as the Council's Transportation Team.

In the full written response to your enquiry the Council will provide advice on the following points:

- Which development plan policies are considered to be the most appropriate to the determination of a subsequent planning application;
- Whether the principal of the proposed development is considered to be in compliance with development plan policies*;

- What material considerations, if any, shall be given weight if the proposed development is contrary to development plan policies*;
- Suggested improvements to the proposed layout, form and design with the view to improving the content of any subsequent application, turning a potentially unacceptable scheme into a quality development;
- Which external agencies may have to be consulted as part of the formal application process;
- Whether the proposed development, if supported by the Council, would be subject to developer contributions (generally only applicable to larger developments).

*The development plan for Midlothian comprises the Edinburgh and the Lothians Structure Plan and the Midlothian Local Plan; in most cases prospective applicants for planning permission would be advised to check the policies in the Local Plan.

Any pre-application advice will be recorded and considered in the determination of any subsequent application. The pre-application enquiry and the response given by the Council will be available for inspection by the public subject to the Council's redaction (data protection for your benefit) policy, which can be viewed via the Development Management pages on the Council's website www.midlothian.gov.uk

Further information

Further information on the planning system and how to apply for planning permission is available on the Council's website www.midlothian.gov.uk or via the Scottish Government's website www.scotland.gov.uk

The following documents can also be viewed on the Council's website:

- Midlothian Local Plan
- Supplementary Planning Guidance on rural housing, dormer extensions and rear extensions
- Adopted Development Briefs

Pre-Application Enquiry Form Guidance Notes

In requesting pre-application advice it is important to remember that the more information you can provide at the start of the process and the better the quality of submission, the quicker and more comprehensive the advice given by the Council will be.

1. Contact Details:

You can seek pre-application advice yourself, or you can employ an agent. Please note that if you employ an agent all correspondence and communication will be through them to avoid duplication of responses and to improve efficiency of the process. If you are using an agent please provide their contact details.

2. Location of Proposed Development:

Please give the full postal address of the site or building subject to the enquiry. If the site does not have a postal address please describe the site's location making reference to a minimum of one classified public road or street name.

3. Current Use, Occupation and Buildings:

Please describe the current use of the site or the last known use (with cessation date) if the site is vacant or in disuse. In describing the use of the site please describe the activities taking place. For example if the use is retail please state what goods (i.e. grocery store, bakers, florists) are being sold, if the use is industrial, please state the industrial processes taking place (i.e. metal fabrication, car repairs).

Also provide a brief description of the buildings on site in terms of their size and form. For example, a residential unit can be described as a traditional two storey dwellinghouse, comprising slate roof tiles, stone and render walling and timber window frames.

4. Description of Proposal:

Please provide a detailed description of your proposed development including its intended use and scale of building/engineering works. Proposals for buildings should include a description of the intended size, form, design and materials. Plans and drawings (provisionally these can be sketched plans) should be submitted with your enquiry to support your description of proposed development.

5. Background:

Please provide, as far as you may be aware, details of any previous planning applications, pre-application enquiries or enquiries with other Council departments or external agencies, such as Historic Scotland.

6. Supporting Documents:

In the majority of cases plans and drawings (these can be sketched plans at this stage) should accompany your enquiry. The Council recommends that you submit a location/site plan which shows the location of the site, the siting of existing buildings, landscape features, site access and other site constraints and elevation drawings showing the scale, form and design of any proposed buildings or extensions to buildings. It is also recommended that you submit supporting photographs of the site, existing buildings and street scene, especially when new building works are proposed.

It is important to remember that the more information you can provide about a proposal the more accurate and in-depth our feedback will be.

7. Interest in the Site:

Please state whether you are owner, occupier, interested party or agent acting on behalf of another.

8. Declaration

Please note that you are submitting a pre-application enquiry on the understanding that any written advice provided is based on the information submitted and that the advice is not binding on Midlothian Council. Any advice given by Council officers for pre-application enquiries does not constitute a formal response or decision of the Council with regards to any applications.

Pre-Application Enquiry Form

This form is for requesting pre-application advice when you know planning permission will be required and you want an informal pre application assessment of the acceptability of the scheme. Prior to filling in the form please read the accompanying guidance notes carefully.

		For Office Use Reference:
1	Please provide your contact details: Name:	
	Address:	
	Email:	
	Phone:	
2	Location of the proposed development:	
3	Please provide a description of the sites current use, state of occupation and identify any buildings situated within the site:	
4	Description of the proposal, including the intended use and a description of any proposed building or engineering works:	
5	Background – please provide details of any previous contact with the Council with regard the development site, including reference numbers or planning officer's name if known:	

6	Please identify what plans and supporting information you have submitted with your enquiry:	
7	Please state what your interest in the site is:	
8	Declaration: Please confirm that as far as you are aware the information provided is accurate and that in submitting a pre-application enquiry you have read the accompanying guidance and understand that the advice offered by officers is informal and will be based on the information provided and is provided entirely without prejudice to any ultimate planning application decision: Signed: Date:	

APPENDIX C

MIDLOTHIAN COUNCIL

DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

Planning Application Reference: 12/00314/dpp

Site Address: Cleikemin Cottage, Howgate

Site Description:

The application property comprises a single storey semi-detached cottage. The front of the cottage is finished externally in stone with white painted sash and case windows. At the rear of the property is an existing 2.9m deep monopitch roof extension extending the full width of the cottage. The rear of the cottage is finished in white wetdash render. The cottage has a slate roof. The ground level of the main part of the rear garden is approximately 0.3m higher than the ground level immediately adjacent to the rear elevation of the existing extension.

Proposed Development:

Extension to dwellinghouse

Proposed Development Details:

It is proposed to erect a 3.2m high single storey flat roof extension at the rear of the property measuring 8.7m deep and a maximum of 4.5m wide (as scaled from submitted plans). The floor level/ height of the extension steps up by approximately 0.3m to reflect ground levels at the site, with the extension between 0.6m and 0.95m higher than the eaves of the existing rear extension. Apart from a 3.3m wide timber clad section on the north elevation the extension is to be finished in wetdash render with white upvc windows and doors.

Background (Previous Applications, Supporting Documents, Development Briefs): History sheet checked.

Consultations:

None required.

Representations:

One letter of representation has been received in relation to the application from the occupier of Dalfaber which forms the other half of this semi-detached pair of cottages. He does not object in principle to an extension at the application site however is concerned regarding the height and length of the proposed extension and its impact on his outlook and light. He suggests that the height of the extension is reduced.

Relevant Planning Policies:

RP1 – Protection of the countryside

DP6 – House Extensions requires that extensions are well designed in order to maintain or enhance the appearance of the house and the locality. The policy guidelines also relate to size of extensions, materials, impact on neighbours and remaining garden area.

Planning Issues:

The main planning issue to be considered is whether or not the proposal complies with the development plan policies and, if not, whether there are any material planning considerations which would otherwise justify approval.

As this is an existing house there is no objection in principle to its extension. The main issues are the size and design of the extension.

The applicant's agent submitted a similar scheme for pre-application comments. He was advised to reduce the height of the extension and to try to break up its massing with timber cladding on the rear part of the extension and to increase and amend the style of the glazing to give it a more contemporary lightweight appearance. The height of the extension has been lowered at the immediate junction with the eaves of the existing extension and a 3.3m wide section of the external wall of the extension adjacent to the existing building is to be clad in timber. Apart from this the floor level/height of the extension appears to be the same as originally proposed.

The property forming the other half of the semi-detached pair (Dalfaber) has been much altered at the rear with a hipped roof single storey extension, adjacent to which is a 9.6m deep flat roof extension and to the rear of which is a conservatory. The flat roof extension projects 6.7m beyond the rear wall of the existing rear extension at the application property. Whilst this property has had numerous additions the rear elevation of the flat roof extension and the conservatory are glazed which help to give it a more lightweight appearance. The extension will be between approximately 0.6m and 0.95m higher than and project 2m beyond the adjacent flat roof extension at Dalfaber.

Next door to the north of the application site is a full width flat roof extension (beneath the eaves) at the rear of White Cottage.

Whilst on site the applicant stated that he did not want to lower the ground level in the location of the extension in order to have views outwith his garden.

Neither the form or design, including the materials, design and proportions of the windows, of the extension reflect the traditional character of the existing building. Neither is it of a high quality contemporary design. The flat roof design of the extension is at odds with the pitched roof form of the original cottage and the existing extension at the application site. However it would be difficult to resist some sort of flat roof extension taking in to account that next door. However this does not justify approval of an even more unsympathetic addition. As a result of the proposed depth, its height projecting above the eaves and above the flat roof extension at Dalfaber and its design the proposed extension will appear as a very bulky unsympathetic addition detracting from the character of the existing building.

Sufficient garden area would remain after the erection of the extension.

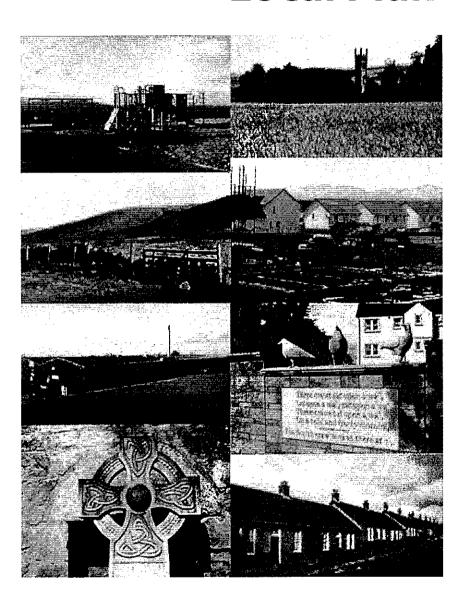
Impact on neighbours:

The proposal would not impact on the amenity of White cottage to the north of the application site.

The extension would not be overly dominant to the outlook of either the house or garden of Dalfaber. Satisfies standard 45 degree daylight test to nearest window at Dalfaber. Whilst it may impact on daylight to the cupola serving the kitchen on balance it would be unreasonable to withhold planning permission on these grounds when daylight to this room is already compromised by the existing extensions at this property.

Recommendation: Refuse planning permission

Midlothian Local Plan





Midlothian Local Plan

ADOPTED BY RESOLUTION OF MIDLOTHIAN COUNCIL ON 23 DECEMBER 2008

This Plan has been produced by the Planning Unit Strategic Services

> Midlothian Council Fairfield House 8 Lothian Road Dalkeith Midlothian EH22 3ZN

RP1 PROTECTION OF THE COUNTRYSIDE

Development in the countryside will only be permitted if:

- A. it is required for the furtherance of agriculture, including farm related diversification, horticulture, forestry, countryside recreation, tourism, or waste disposal (where this is shown to be essential as a method of site restoration); or
- B. It is within a designated non-conforming use in the Green Belt; or
- **C.** it accords with policy DP1.

All such development will need to:

- A. demonstrate a requirement for a countryside location;
- B. be of a scale and character appropriate to the rural area;
- **C.** be well integrated into the rural landscape;
- D. avoid a significant permanent loss of prime quality agricultural land; and
- E. take account of accessibility to public transport and services (where appropriate).

In certain locations, new or expanded business development, low density rural housing, the winning of mineral resources or renewable energy developments may be appropriate (refer to proposal ECON1, policies ECON7, ECON8, HOUS5, MIN1 and NRG1).

4.6 House Extensions

DP6 HOUSE EXTENSIONS

1 Background

While increasing the accommodation of a house, extensions can also add to their architectural interest. It is important that they do not detract from the appearance of the property or that of neighbouring houses. Extensions that reflect the style of the original are most likely to be successful. Novel architectural solutions can also be acceptable.

In providing additional space for the existing building, there should be no material loss of amenity for adjoining houses.

2 Detailed Requirements

Extensions to existing houses must be well designed and must maintain or enhance the appearance of the house and the locality. The design of extensions should take account of the guidelines summarised below:

- a) the size of the extension should be clearly subservient to the original property;
- b) matching or complementary external wall and roof materials should be used;
- c) use of facing brick for an extension to a stone building and use of concrete tiles where the existing roof is slate or clay tiles should be avoided;
- d) the roof pitches should match those of the existing roof;
- e) architectural detailing, scale and proportion should be similar to the existing;
- f) when extending in the same plane, especially if changes in external materials are to be used or if it is likely to be difficult to obtain a close match, a break or step from the main building should be pointed;
- g) extensions must not block, to a material extent, sunlight from reaching adjoining gardens;
- extensions must not result in loss of privacy for neighbouring property;
- i) an adequate garden area must remain after the house has been extended; and
- j) extensions which are two or more storeys high must incorporate a pitched roof unless the existing roof is flat.

3 Front Porches

Front porches to detached or semi-detached houses are usually acceptable where their design follows the principles described above, provided they project less than two metres out from the front of the house.

4 Dormer Extensions

Dormer extensions should incorporate dormer "windows" rather than a "box" dormer. The dormers should not extend other than to a limited extent beyond the glazed area. Windows should line up with any existing ones below. Dormers should not rise off the wall head, nor rise above the existing ridge level, nor occupy a predominant proportion of the existing roof area.

Large dormers to the front of a house can be an incongruous feature, especially in a street with no other roof level extensions. In such cases, use of velux roof lights may be an acceptable alternative.

Note: Supplementary planning guidance is available on Dormer Extensions and on Rear Extensions to Single Storey Semi-Detached and Terraced Houses.

Refusal of Planning Permission





Reg. No. 12/00314/DPP

D2 Architectural Design Ltd. 28 Bridge Street Penicuik EH26 8LN

Midlothian Council, as Planning Authority, having considered the application by Mr Ian Davie, Cleikhimin Cottage, Howgate, Howgate, EH26 8QD, which was registered on 23 May 2012 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

Extension to dwellinghouse at Cleikhimin Cottage, Penicuik, EH26 8QD

in accordance with the application and the following plans:

Drawing Description.	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	PL01 1:200 1:1250	23.05.2012
Existing elevations	PL02 1:100	23.05.2012
Elevations, floor plan and cross section	PL03 1:100	23.05.2012

The reason for the Council's decision is set out below:

1. As a result of its size and design the extension would appear as a bulky addition unsympathetic to and detracting from the character and appearance of the existing building contrary to policy DP6 of the adopted Midlothian Local Plan.

Dated 10 / 7 / 2012

Duncan Robertson

Senior Planning Officer; Local Developments,

Fairfield House, 8 Lothian Road, Dalkeith, EH22 3ZN

PLEASE NOTE

If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town & Country Planning (Scotland) Act 1997 within 3 months from the date of this notice. The notice of review should be addressed to The Development Manager, Development Management Section, Midlothian Council, Fairfield House, 8 Lothian Road, Dalkeith EH22 3ZN. A notice of review form is available from the same address and will also be made available online at www.midlothian.gov.uk

If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonable beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.

Prior to Commencement (Notice of Initiation of Development)

Prior to the development commencing the planning authority shall be notified in writing of the expected commencement of work date and once development on site has been completed the planning authority shall be notified of the completion of works date in writing. Failure to do so would be a breach of planning control under section 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended by the Planning etc (Scotland) Act 2006). A copy of the Notice of Initiation of Development is available on the Councils web site www.midlothian.gov.uk

IMPORTANT NOTE REGARDING PUBLIC ACCESS TO INFORMATION

Making an application

Please note that when you submit a planning application, the information will appear on the Planning Register and the completed forms and any associated documentation will also be published on the Council's website.

Making comment on an application

Please note that any information, consultation response, objection or supporting letters submit in relation to a planning application, will be published on the Council's website.

The planning authority will redact personal information in accordance with its redaction policy and use its discretion to redact any comments or information it considers to be derogatory or offensive. However, it is important to note that the publishing of comments and views expressed in letters and reports submitted by applicants, consultees and representors on the Council's website, does not mean that the planning authority agrees or endorses these views, or confirms any statements of fact to be correct.

