

# Minute of Meeting

Local Review Body  
Monday 25 September 2023



## Local Review Body

Date	Time	Venue
Monday 25 September 2023	1.00pm	Council Chambers

### Present:

Councillor Imrie (Chair)	Councillor Smail
Councillor Bowen	Councillor Cassidy
Councillor Drummond	Councillor McEwan
Councillor Milligan	
Councillor Virgo	

### In Attendance:

Peter Arnsdorf	Planning, Sustainable Growth and Investment Manager
Derek Oliver	Chief Officer Place
Saty Kaur	Chief Officer Corporate Solutions (Acting)
Hannah Forbes	Assistant Democratic Services Officer
Lucy Roddie	Democratic Services Officer

## 1 Welcome, Introductions and Apologies

---

Apologies for absence were received from Councillor Alexander and Councillor McManus.

## 2 Order of Business

---

The order of business was as outlined in the agenda.

## 3 Declarations of interest

---

In relation to Item 5.2, Councillor Milligan declared that he had been approached by the applicant but had not expressed an interest.

In relation to Item 5.4, Councillor Milligan declared that he had been approached by the applicant but had not expressed an interest.

## 4 Minute of Previous Meeting

---

The Minute of the Meeting of 19 June 2023 was submitted and approved as correct record.

## 5 Reports

---

### Notice of Reviews – Determination Reports by Chief Officer Place

Agenda No	Report Title	Presented by:
5.1	Land South West of 54 Dewartown, Gorebridge (23.00294.DPP) -	Peter Arnsdorf
Outline of report and summary of discussion		
<p>The purpose of this report was to provide a framework for the Local Review Body (LRB) to consider a 'Notice of Review' for the erection of two dwellinghouses and associated works at land south west of 54 Dewartown, Gorebridge.</p> <p>The Planning, Sustainable Growth and Investment Manager presented this report and advised that the review would proceed on the written submissions provided.</p> <p>Planning application 23/00294/DPP for the erection of two dwellinghouses and associated works at land south west of 54 Dewartown, Gorebridge was granted planning permission subject to conditions on 10 July 2023. Condition 3 on planning permission 23/00294/DPP subject to review is as follows:</p> <p>3. The use of render on the dormer cheeks and face is not approved: these elevations shall be clad in slate or another material to be agreed in writing by the planning authority.</p>		

The applicant is requesting that this condition is removed from the grant of planning permission and as a consequence the dormer cheeks will be a render finish rather than slate.

The Planning, Sustainable Growth and Investment Manager noted that elected members had attended a site visit on the morning of 25 September 2023.

The Local Review Body in discussing the requested removal of Condition 3 gave careful consideration to the impact on the appearance of the surrounding area, noting that the dormer cheeks on the rear elevation faced away from the main road and therefore would not be visually intrusive.

Councillor Smaill, seconded by Councillor Virgo moved to uphold the review request and to remove Condition 3 on planning permission 23/00294/DPP. This was unanimously agreed by the committee.

#### Decision

The Local Review Body agreed to uphold the review request and to remove Condition 3 on planning permission 23/00294/DPP for the erection of two dwellinghouses and associated works at land south west of 54 Dewartown, Gorebridge, subject to the conditions as detailed in the report.

#### Action

Planning, Sustainable Growth and Investment Manager to draft and issue the decision of the Local Review Body.

Agenda No	Report Title	Presented by:
5.2	Land 115m east of Highwood House, Barley Dean, Rosewell (23.00003.DPP)	Peter Arnsdorf
Outline of report and summary of discussion		
<p>The purpose of this report was to provide a framework for the Local Review Body (LRB) to consider a 'Notice of Review' for the erection of five dwellinghouses, garages and associated works at land 115m east of Highwood House, Barley Dean, Rosewell.</p> <p>The Planning, Sustainable Growth and Investment Manager presented this report and advised that the review would proceed on the written submissions provided.</p> <p>Planning application 23/00003/DPP for the erection of five dwellinghouses, garages and associated works at land 115m east of Highwood House, Barley Dean, Rosewell was refused planning permission on 6 July 2023.</p> <p>The Planning, Sustainable Growth and Investment Manager noted that elected members had attended a site visit on the morning of 25 September 2023.</p>		

The Planning, Sustainable Growth and Investment Manager noted that one additional objection had been received as part of the review process since the report had been published.

The Local Review Body in discussing the proposed development gave careful consideration to the impact on the appearance of the surrounding area, noting that the location of the development site was such that it would have limited visual impact. It was noted that the case officer's report referenced concern about the layout and design of the buildings, rather than the principle of development on the land.

Councillor Milligan, seconded by Councillor Cassidy moved to uphold the review request and grant planning permission. This was unanimously agreed by the committee.

#### Decision

The Local Review Body agreed to uphold the review request and to grant planning permission for the erection of five dwellinghouses, garages and associated works at land 115m east of Highwood House, Barley Dean, Rosewell, subject to the conditions as detailed in the report.

#### Action

Planning, Sustainable Growth and Investment Manager to draft and issue the decision of the Local Review Body.

Agenda No	Report Title	Presented by:
5.3	50 Dundas Street, Bonnyrigg (23.00117.DPP)	Peter Arnsdorf
Outline of report and summary of discussion		
<p>The purpose of this report was to provide a framework for the Local Review Body (LRB) to consider a 'Notice of Review' for the formation of access at 50 Dundas Street, Bonnyrigg.</p> <p>The Planning, Sustainable Growth and Investment Manager presented this report and advised that the review would proceed on the written submissions provided.</p> <p>Planning application 23/00117/DPP for the formation of access at 50 Dundas Street, Bonnyrigg was refused planning permission on 6 June 2023.</p> <p>The Planning, Sustainable Growth and Investment Manager noted that elected members had attended a site visit on the morning of 25 September 2023.</p> <p>The Local Review Body in discussing the proposed development and the reasons for its refusal, gave careful consideration to the precedent set with a nearby property being granted the same permissions previously, and noted the requirement for consistent decision making. The Local Review Body noted the public advantage in approving the application to minimise congestion caused by street parking.</p>		

Councillor Smaill, seconded by Councillor Cassidy moved to uphold the review request and grant planning permission on the condition that the applicant ensures that vehicles do not overhang the pavement, the condition will transmit to any subsequent owner or tenant of the house, and neighbouring properties are informed.

#### Decision

The Local Review Body agreed to uphold the review request and grant planning permission for the formation of access at 50 Dundas Street, Bonnyrigg, subject to the conditions as set out in the report with an additional condition to be added regarding vehicle overhang and the requirement for neighbouring properties to be informed of the development.

#### Action

Planning, Sustainable Growth and Investment Manager to draft and issue the decision of the Local Review Body.

Agenda No	Report Title	Presented by:
5.4	Land north west of 4 Wadington Lane Lasswade (22.00811.DPP)	Peter Arnsdorf
Outline of report and summary of discussion		
<p>The purpose of this report was to provide a framework for the Local Review Body (LRB) to consider a 'Notice of Review' for the erection of dwellinghouse, formation of access and associated works at land north west of 4 Wadingburn Lane, Lasswade.</p> <p>The Planning, Sustainable Growth and Investment Manager presented this report and advised that the review would proceed on the written submissions provided.</p> <p>Planning application 22/00811/DPP for the erection of dwellinghouse, formation of access and associated works at land north west of 4 Wadingburn Lane, Lasswade was refused planning permission on 3 March 2023.</p> <p>The Planning, Sustainable Growth and Investment Manager noted that elected members had attended a site visit on the morning of 25 September 2023.</p> <p>The Local Review Body in discussing the proposed development and the reasons for its refusal, gave careful consideration to the precedent set by approval for the erection of similar new build properties nearby, and noted that the design meets with local approval from immediate neighbours. The Local Review Body further noted that the development would enhance the setting and contribute to the visual amenity of the area, with existing run-down buildings on site to be removed as part of the development.</p> <p>Councillor Milligan, seconded by Councillor Virgo moved to uphold the review request and grant planning permission. This was unanimously agreed by the committee.</p>		

<b>Decision</b>
The Local Review Body agreed to uphold the review request and to grant planning permission for the erection of dwellinghouse, formation of access and associated works at land north west of 4 Wadingburn Lane, Lasswade subject to the conditions as stated in the report.
<b>Action</b>
Planning, Sustainable Growth and Investment Manager to draft and issue the decision of the Local Review Body.

## **6. Private Reports**

---

No private business was discussed.

## **7. Date of Next Meeting**

---

The next meeting is scheduled for Monday 13 November 2023 at 13:00.

The meeting terminated at 13:31.

# Grant of Planning Permission

Town and Country Planning (Scotland) Act 1997 as amended

## Local Review Body: Review of Planning Application Reg. No. 22/00811/DPP

Ferguson Planning Ltd  
37 ONE  
37 George Street  
Edinburgh  
EH2 2HN

Midlothian Council, as Planning Authority, having considered the review of the application by Mr Bernard Flanagan, 58 Carnethie Street, Rosewell, EH24 9AN, which was registered on 25 May 2023 in pursuance of their powers under the above Act, hereby **grant** permission to carry out the following proposed development:

**Erection of dwellinghouse, formation of access, landscaping and associated works at land north west of 4, Wadingburn Lane, Lasswade**, in accordance with the application and the following plans:

<u>Drawing Description.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	22049 - (2-)001 – 01 1:5000	21.11.22
Location Plan	22049 - PL(2-)002 – 01 1:1250	21.11.22
Site Plan	22049 - PL(2-)003 – 01 1:500	21.11.22
Site Plan	22049 - PL(2-)100 – 01 1:500	21.11.22
Proposed Floor Plan	22049 - PL(2-)101 – 01 1:100	21.11.22
Proposed Floor Plan	22049 - PL(2-)102 – 01 1:100	21.11.22
Roof Plan	22049 - PL(2-)103 – 01 1:100	21.11.22
Proposed Elevations	22049 - PL(2-)200 – 01 1:100	21.11.22
Proposed Elevations	22049 - PL(2-)200 – 01 1:100	21.11.22
Proposed Cross Section	22049 - PL(2-)300 – 02 1:250	21.11.22
Landscape Plan	22049 - PL(2-)104 – 01 1:500	21.11.22
Design and Access Statement		21.11.22
Tree Survey and Arboricultural Impact Assessment		21.11.22
Planning Statement		25.11.22
Ecology/Wildlife Report/Survey		09.01.23

Subject to the following conditions:

1. The development to which this permission relates shall commence no later than the expiration of three years beginning with the date of this permission.

***Reason:*** *To accord with the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended by the Planning (Scotland) Act 2019).*

2. Development shall not begin on site until the following details have been submitted to and approved in writing by the planning authority:
  - a) Details and samples of all external finishing materials for the house;
  - b) Details of the materials of all external doors;
  - c) Details of the colour of all external doors;
  - d) Details of the proposed materials of the areas of hardstanding;
  - e) Details of the design, position, dimensions, materials and finish of all proposed walls, fences, gates or other means of enclosure;
  - f) Details of the proposed bin storage areas, including any related structures;
  - g) Details of the proposed ground air source heat pumps;
  - h) Details of the proposed solar panels;
  - i) Details of the proposed surface water management scheme; and
  - j) A landscape plan, including details of a scheme of landscaping for the site. Details shall include the position, number, size and species of all trees and shrubs proposed, as well as identifying all trees on site which are proposed to be removed and retained.

Thereafter, the development hereby approved shall accord with the details agreed in terms of this condition.

***Reason:*** *These details were not submitted as part of the application: to ensure the houses are finished in high quality materials; to protect the visual amenity of the surrounding area; to ensure the houses are provided with adequate amenity; to help integrate the proposal into the surrounding area.*

3. Unless otherwise agreed in writing by the planning authority the area of hardstanding agreed in terms of condition 2d) shall be surfaced in a porous material.

***Reason:*** *To ensure that the site is adequately drained in the interests of the amenity of the area.*

4. The existing trees on site shall not be pruned, thinned, lopped, topped or felled without the prior written approval of the planning authority.
5. Development shall not begin on site until an arboricultural method statement and tree protection plan have been submitted to and approved in writing by the planning authority. These shall include details of tree protection fencing and a construction detail for the access track, including cellweb or geocell to reduce compaction within the root protection areas of all trees to be retained



onsite. Any works within the tree protection zone of the trees to be retained shall be carried out with an above ground construction method.

6. The tree protection measures approved as per by condition 2j) above shall be in place before any work on the development is begun, including site clearance, and shall be retained until the development is completed. Within the area enclosed by the protection measures there shall be no excavation, no removal of soil, no placing of additional soil, no storage of any kind, disposal of any waste or fires lit. These works shall be carried out in accordance with BS5837:2012 Trees in Relation to Development.

***Reason for conditions 4 - 6:*** *To ensure that the trees and landscaping to be retained are protected from damage during development; to protect the appearance of the surrounding rural area.*

7. The scheme of landscaping hereby approved in condition 2j) shall include details of replacement and reinforcement tree planting around the application site boundaries and marginal/emerging along the burn corridor.
8. The scheme of landscaping hereby approved in condition 2j) shall include details of a range of native species planting.

***Reason for conditions 7 and 8:*** *To ensure that appropriate replacement planting is provided at the site, to maintain and enhance the character and appearance of the surrounding area and also perpetuate canopy cover; to optimise biodiversity and habitat value.*

9. The scheme of landscaping hereby approved in condition 2j) shall include a survey for Japanese knotweed in the land shown under the control of the applicant on drawing number 22049 – (2-)001 01. This shall also include a strategy to deal with any Japanese knotweed found.

***Reason:*** *To ensure that any invasive species are treated appropriately and to protect the biodiversity of the surrounding area.*

10. The scheme of landscaping hereby approved in condition 2j) shall be carried out and completed within six months of the house either being completed or brought into use, whichever is the earlier date. Any trees removed, dying, severely damaged or becoming seriously diseased within five years of planting shall be replaced in the following planting season by trees of a size and species similar to those originally required.

***Reason:*** *To ensure the landscaping is carried out and becomes successfully established.*

11. Development shall not begin until a scheme to deal with any contamination of the site and/or previous mineral workings has been submitted to and approved by the planning authority. The scheme shall contain details of the proposals to deal with any contamination and/or previous mineral workings and include:

- i. the nature, extent and types of contamination and/or previous mineral workings on the site;
- ii. measures to treat or remove contamination and/or previous mineral workings to ensure that the site is fit for the uses hereby approved, and that there is no risk to the wider environment from contamination and/or previous mineral workings originating within the site;
- iii. measures to deal with contamination and/or previous mineral workings encountered during construction work; and
- iv. the condition of the site on completion of the specified decontamination measures.

Before any part of the site is occupied for residential purposes, the measures to decontaminate the site shall be fully implemented as approved by the planning authority.

12. On completion of the decontamination/ remediation works required in condition 11 and prior to the dwellinghouse being occupied on site, a validation report or reports shall be submitted to the planning authority confirming that the works have been carried out in accordance with the approved scheme. No part of the development shall be occupied until this report has been approved by the planning authority.

***Reason for conditions 11 and 12:*** To ensure that any contamination on the site/ground conditions is adequately identified and that appropriate decontamination measures/ground mitigation measures are undertaken to mitigate the identified risk to site users and construction workers, built development on the site, landscaped areas, and the wider environment; to ensure the remediation works are undertaken.

13. Development shall not begin until details, including a timetable of implementation, of superfast broadband have been submitted to and approved in writing by the planning authority. The details shall include delivery of superfast broadband prior to the occupation of the dwellinghouse. The delivery of superfast broadband shall be implemented as per the approved details.

***Reason:*** To ensure the quality of the development is enhanced by the provision of appropriate digital infrastructure in accordance with the requirements of policy IT1 of the Midlothian Local Development Plan.

14. Development shall not begin until details of the provision and use of electric vehicle charging point within the development have been submitted to and approved in writing by the planning authority. Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be approved in writing by the planning authority.

***Reason:*** To ensure the development accords with the requirements of policy TRAN5 of the Midlothian Local Development Plan.

15. Development shall not begin until details of a sustainability/biodiversity scheme for the site, including the provision of house bricks and boxes for bats and swifts and hedgehog highways throughout the development has been submitted to and approved in writing by the planning authority. Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be approved in writing with the planning authority.

***Reason:*** *To ensure the development accords with the requirements of policy DEV5 of the Midlothian Local Development Plan.*

16. The works hereby approved shall not be carried out during the months of March to August inclusive, unless approved in writing by the planning authority after a check for nesting birds is completed by a suitably competent person within 48 hours of works commencing and, in the event an active nest is found, an appropriate protection zone to the satisfaction of the planning authority is in place within which there can be no works until the related chicks have fledged.
17. The works hereby approved shall comply with the approved Protected Species Report dated 21 November 2022.

***Reason for conditions 16 and 17:*** *To protect and enhance the local biodiversity of the site; there is potential for the disturbance of breeding birds at the site during bird breeding season.*

The Local Review Body (LRB) considered the review of the planning application at its meeting of 25 September 2023.

In reaching its decision the LRB gave consideration to the following development plan policy and material considerations:

#### National Planning Framework 4

1. Policy 1 Tackling the climate and nature crisis;
2. Policy 2 Climate mitigation and adaptation;
3. Policy 3 Biodiversity;
4. Policy 4 Natural Places;
5. Policy 5 Soils;
6. Policy 6 Forestry, woodland and trees;
7. Policy 8 Green belts;
8. Policy 9 Brownfield, vacant and derelict land and empty buildings;
9. Policy 11 Energy;
10. Policy 13 Sustainable transport;
11. Policy 14 Design, quality and place;
12. Policy 15 Local Living and 20 minute neighbourhoods;
13. Policy 16 Quality homes;
14. Policy 17 Rural homes;
15. Policy 20 Blue and green infrastructure;

16. Policy 22 Flood risk and water management;
17. Policy 23 Health and safety;
18. Policy 24 Digital infrastructure; and
19. Policy 29 Rural development.

Midlothian Local Development Plan Policies:

1. DEV5 Sustainability in new development;
2. DEV6 Layout and design of new development;
3. DEV7 Landscaping in new development;
4. TRAN5 Electric vehicle charging;
5. IT1 Digital infrastructure;
6. ENV1 Protection of the green belt;
7. ENV4 Prime agricultural land;
8. ENV7 Landscape character;
9. ENV11 Woodland, trees and hedges; and
10. ENV15 Species and habitat protection and enhancement.

Supplementary guidance for housing development in the countryside and green belt.

Material Considerations:

1. The individual circumstances of the site and the application.

In determining the review the LRB concluded:

The proposed single dwellinghouse by means of its scale, siting, design and materials will not be detrimental to the local landscape, residential amenity or the green belt and as such is considered acceptable as an exception to establish restrictive green belt policy as set out in Midlothian Local Development Plan 2017 and National Planning Framework 4.

Dated: 25/09/2023



Peter Arnsdorf  
Planning, Sustainable Growth and Investment Manager  
Advisor to the Local Review Body  
Place Directorate  
Midlothian Council

On behalf of:  
Councillor R Imrie  
Chair of the Local Review Body  
Midlothian Council

## NOTICE TO ACCOMPANY REFUSAL ETC.

### TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

***Notification to be sent to applicant on refusal of planning permission or on the grant of permission subject to conditions, or***

***Notification to be sent to applicant on determination by the planning authority of an application following a review conducted under section 43A(8)***

1. 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 question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
2. 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 reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by 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

*Advisory note:*

*If you have any questions or enquiries regarding the Local Review Body procedures or this decision notice please do not hesitate to contact Peter Arnsdorf, Planning, Sustainable Growth and Investment Manager via [peter.arnsdorf@midlothian.gov.uk](mailto:peter.arnsdorf@midlothian.gov.uk)*



The Coal  
Authority

**Any Planning Enquiries should be directed to:**

Planning and Local Authority Liaison

Email: [planningconsultation@coal.gov.uk](mailto:planningconsultation@coal.gov.uk)

Website: [www.gov.uk/coalauthority](http://www.gov.uk/coalauthority)

**Development Low Risk Area – Standing Advice**

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:  
[www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

**Standing Advice valid from 1st January 2023 until 31st December 2024**

# Grant of Planning Permission

Town and Country Planning (Scotland) Act 1997 as amended

## Local Review Body: Review of Planning Application

Reg. No. 23/00117/DPP

Mr Robert Gyorgy  
50 Dundas Street  
Bonnyrigg  
EH19 3AS

Midlothian Council, as Planning Authority, having considered the review of the application by Mr Robert Gyorgy, 50 Dundas Street, Bonnyrigg, EH19 3AS, which was registered on 21 June 2023 in pursuance of their powers under the above Act, hereby **grant** permission to carry out the following proposed development:

**Formation of access to classified road at 50 Dundas Street, Bonnyrigg, EH19 3AS**, in accordance with the application and the following plans:

<u>Drawing Description.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	Location Plan 1:1250	02.03.2023
Illustration/Photograph	Existing Elevations	02.03.2023
Illustration/Photograph	Proposed Elevations	02.03.2023

Subject to the following conditions:

1. The development to which this permission relates shall commence no later than the expiration of three years beginning with the date of this permission.

***Reason:*** To accord with the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended by the Planning (Scotland) Act 2019).

2. Any gates to the vehicular access shall be so designed and installed as to only open inwards.

***Reason:*** To ensure gates do not open over the pavement; to ensure no hazard is caused to pedestrians using the footway.

3. A minimum of the first 2 metres of the driveway as measured from the heel of the footpath shall be surfaced in non-loose material.

***Reason:*** In the interest of road safety and the free flow of traffic

The Local Review Body (LRB) considered the review of the planning application at its meeting of 25 September 2023.

In reaching its decision the LRB gave consideration to the following development plan policy and material considerations:

National Planning Framework 4

1. Policy 1 Tackling the climate and nature crisis; and
2. Policy 14 Design, quality and place.

Midlothian Local Development Plan Policies:

1. DEV2 - Protecting amenity within the built-up area.

Material Considerations:

1. The individual circumstances of the site and the application.

In determining the review the LRB concluded:

The proposed access will enable a vehicle to be parked off the busy B704 (Dundas Street) to the advantage of highway safety and will also facilitate the safe use/charging of an electric vehicle in support of the Council's net zero ambitions. These benefits outweigh the below policy length of the proposed driveway, with any risk to highway safety caused by vehicles overhanging the pavement being addressed by the Council as the local highways authority.

Dated: 25/09/2023



Peter Arnsdorf  
Planning, Sustainable Growth and Investment Manager  
Advisor to the Local Review Body  
Place Directorate  
Midlothian Council

On behalf of:  
Councillor R Imrie  
Chair of the Local Review Body  
Midlothian Council



## NOTICE TO ACCOMPANY REFUSAL ETC.

### TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

***Notification to be sent to applicant on refusal of planning permission or on the grant of permission subject to conditions, or***

***Notification to be sent to applicant on determination by the planning authority of an application following a review conducted under section 43A(8)***

1. 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 question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
2. 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 reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by 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

*Advisory note:*

***Please note – no vehicle should be parked overhanging or blocking the highway (including the pavement). If a vehicle is identified as overhanging any part of the highway and causing an obstruction to other users the Council may consider taking enforcement action under its powers as the local highway authority.***

*If you have any questions or enquiries regarding the Local Review Body procedures or this decision notice please do not hesitate to contact Peter Arnsdorf, Planning, Sustainable Growth and Investment Manager via [peter.arnsdorf@midlothian.gov.uk](mailto:peter.arnsdorf@midlothian.gov.uk)*



**The Coal  
Authority**

**Any Planning Enquiries should be directed to:**

Planning and Local Authority Liaison

Email: [planningconsultation@coal.gov.uk](mailto:planningconsultation@coal.gov.uk)

Website: [www.gov.uk/coalauthority](http://www.gov.uk/coalauthority)

**INFORMATIVE NOTE**

The proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity at the surface or shallow depth. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and former surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of new development taking place.

Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant land stability and public safety risks. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design which takes into account all the relevant safety and environmental risk factors, including mine gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at:

[www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries](http://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries)

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, excavations for foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

If any coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at:

[www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

**Informative Note valid from 1st January 2023 until 31st December 2024**

# Uphold Review to Remove a Condition from a Grant of Planning Permission

Town and Country Planning (Scotland) Act 1997

## Local Review Body: Review of Planning Application Reg. No. 23/00294/DPP

Mr William Sives  
Rose Cottage  
Tynehead  
Pathead  
EH37 5XS

Midlothian Council, as Planning Authority, having considered the review of the application by Mr William Sives, Rose Cottage, Tynehead, Pathead, EH37 5XS which was registered on 10 August 2023 in pursuance of their powers under the above Act, hereby **uphold your review to remove condition 3** from your permission to carry out the following proposed development approved 10 July 2023:

**Erection of two dwellinghouses and associated works at land south west of 54, Dewartown, Gorebridge**, in accordance with the application and the following plans:

<u>Drawing Description</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Site Plan	DPP100 A 1:1250 1:200	05.06.2023
Proposed Floor Plan	DPP101 1:50	11.05.2023
Proposed Elevations	DPP102 1:50	11.05.2023
Proposed Floor Plan	DPP103 1:50	11.05.2023
Proposed Elevations	DPP104 1:50	11.05.2023

In upholding your review to remove condition 3 from the grant of planning permission issued 10 July 2023 the Local Review Body have granted an amended planning permission subject to the following conditions:

1. The development to which this permission relates shall commence no later than the expiration of three years beginning with the date of this permission.

***Reason:*** *To accord with the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended by the Planning (Scotland) Act 2019).*

2. Prior to the commencement of development, the following details shall be submitted to and approved in writing by the planning authority:

- a) Details and samples of the proposed stone dressing and zinc seam materials;
- b) Details of any related structures at the bin storage areas;
- c) Details of the proposed hardstanding materials;
- d) Details of the proposed air source heat pumps;
- e) Details of the proposed electric vehicle charging points;
- f) Proposals for the treatment and disposal of foul and water surface drainage, including the location of any new equipment;
- g) A landscape plan, including details of a scheme of landscaping for the site. Details shall include the position, number, size and species of all trees and shrubs proposed, as well as identifying all trees on site which are proposed to be removed and retained;
- h) An amended site plan showing a 2 metre wide public footway across the whole site frontage at the east of the site; and
- i) Details of proposed streetlighting to the east of the houses hereby approved.

***Reason:*** *These details were not submitted as part of the application: to protect the visual amenity of the surrounding rural area; to integrate the development into the area; in the interests of road safety.*

- 3. Before any house is occupied, the installation of the means of drainage treatment and disposal in terms of condition 2f) shall be completed to the satisfaction of the planning authority

***Reason:*** *To ensure that the houses are provided with adequate drainage facilities prior to occupation.*

- 4. Before any house is occupied, the approved boundary treatment between the rear gardens of the houses shall be in place.

***Reason:*** *To ensure the privacy of the future occupants.*

- 5. Within six months of the first house being completed or occupied, whichever is the earlier date, the landscape scheme approved under the terms of condition 2g) above shall be carried out; thereafter, any trees or shrubs removed, dying, becoming seriously diseased or being severely damaged shall be replaced during the next available planting season with others of a similar size and species.

***Reason:*** *To protect and enhance the landscaping of the area; to ensure that planting on the site is carried out as early as possible, and has an adequate opportunity to become established.*

- 6. The amended site plan approved in terms of condition 2h) above shall include a road kerb at the new footway edge, any additional drainage required and a pedestrian drop kerb crossing point at the termination of the footway to allow pedestrians to cross the main road. These works shall be in place before the houses are occupied.

**Reason:** *In the interest of road safety; in order to ensure these works are in place before the houses are occupied.*

7. Within one month of the date of this permission, the existing redundant outbuildings on the land under the control of the applicant as shown on approved plan DPP100 A shall be demolished and all material removed from the site within four weeks of the buildings being demolished.

**Reason:** *The houses are only supported as these will result in the removal of the existing redundant outbuildings; in order to ensure the existing, unattractive, buildings are removed in the interest of the visual amenity of the area.*

8. Development shall not begin until details, including a timetable of implementation, of superfast broadband have been submitted to and approved in writing by the planning authority. The details shall include delivery of superfast broadband prior to the occupation of each dwellinghouse. The delivery of superfast broadband shall be implemented as per the approved details.

**Reason:** *To ensure the quality of the development is enhanced by the provision of appropriate digital infrastructure in accordance with the requirements of policy IT1 of the Midlothian Local Development Plan.*

9. Development shall not begin until details of a sustainability/biodiversity scheme for the site, including the provision of house bricks and boxes for bats and swifts and hedgehog gaps shown on the fencing throughout the development has been submitted to and approved in writing by the planning authority. Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be approved in writing with the planning authority.

**Reason:** *To ensure the development accords with the requirements of policy DEV5 of the Midlothian Local Development Plan.*

10. Notwithstanding the details on approved drawing number DPP104, the house hereby approved at Plot 2 shall not include any areas of facing brick (blue engineering brick).

**Reason:** *For the avoidance of doubt; these materials are not appropriate on this traditional house and appear to be a typo on the submitted plans.*

The Local Review Body (LRB) considered the review of the planning application at its meeting of 25 September 2023.

In reaching its decision the LRB gave consideration to the following development plan policies and material considerations:

#### National Planning Framework 4

1. Policy 1 Tackling the climate and nature crisis;
2. Policy 2 Climate mitigation and adaptation;
3. Policy 3 Biodiversity;
4. Policy 5 Soils;
5. Policy 6 Forestry, woodland and trees;
6. Policy 7 Historic assets and places;
7. Policy 9 Brownfield, vacant and derelict land and empty buildings;
8. Policy 11 Energy;
9. Policy 12 Zero waste;
10. Policy 13 Sustainable transport;
11. Policy 14 Design, quality and place;
12. Policy 15 Local Living and 20 minute neighbourhoods;
13. Policy 16 Quality homes;
14. Policy 17 Rural homes;
15. Policy 18 Infrastructure first;
16. Policy 19 Heating and cooling;
17. Policy 20 Blue and green infrastructure;
18. Policy 22 Flood risk and water management;
19. Policy 23 Health and safety; and
20. Policy 24 Digital infrastructure.

#### Midlothian Local Development Plan 2017 Policies:

1. DEV5 Sustainability in New Development;
2. DEV6 Layout and Design of New Development;
3. DEV7 Landscaping in New Development;
4. TRAN5 Electric Vehicle Charging;
5. IT1 Digital Infrastructure;
6. RD1 Development in the Countryside;
7. ENV4 Prime Agricultural Land;
8. ENV6 Special Landscape Areas;
9. ENV7 Landscape Character; and
10. ENV11 Woodland, Trees and Hedges

#### Material considerations:

1. The individual circumstances of the site and the application.

In determining the review the LRB concluded:

The original condition 3, which stated:

3. The use of render on the dormer cheeks and face is not approved: these elevations shall be clad in slate or another material to be agreed in writing by the planning authority.

***Reason:*** *The use of render on the dormer cheeks and face would not*

*integrate the dormers into the roofspace; in the interest of the visual amenity of the houses hereby approved.*

was not necessary and that the proposed (as built in the case of plot 2) dormer cheeks on the two dwellinghouses could be render finished without detriment to the visual amenity of the local area. As such the stated condition is removed from the grant of planning permission.

Dated: 25/09/2023

A handwritten signature in black ink, appearing to read 'Peter Arnsdorf', with a large, stylized initial 'P'.

Peter Arnsdorf  
Planning Manager (Advisor to the Local Review Body)  
Place  
Midlothian Council

On behalf of:  
Councillor R Imrie  
Chair of the Local Review Body  
Midlothian Council

## NOTICE TO ACCOMPANY REFUSAL ETC.

### TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

***Notification to be sent to applicant on refusal of planning permission or on the grant of permission subject to conditions, or***

***Notification to be sent to applicant on determination by the planning authority of an application following a review conducted under section 43A(8)***

1. 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 question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
2. 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 reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by 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.

*Advisory note:*

*If you have any questions or enquiries regarding the Local Review Body procedures or this decision notice please do not hesitate to contact Peter Arnsdorf, Planning Manager via [peter.arnsdorf@midlothian.gov.uk](mailto:peter.arnsdorf@midlothian.gov.uk)*





**The Coal  
Authority**

**Any Planning Enquiries should be directed to:**

Planning and Local Authority Liaison

Email: [planningconsultation@coal.gov.uk](mailto:planningconsultation@coal.gov.uk)

Website: [www.gov.uk/coalauthority](http://www.gov.uk/coalauthority)

**INFORMATIVE NOTE**

The proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity at the surface or shallow depth. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and former surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of new development taking place.

Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant land stability and public safety risks. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design which takes into account all the relevant safety and environmental risk factors, including mine gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at:

[www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries](http://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries)

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, excavations for foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

If any coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at:

[www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

**Informative Note valid from 1st January 2023 until 31st December 2024**