



# APPENDIX

# A



**Education, Economy  
& Communities**  
Midlothian Council  
Fairfield House  
8 Lothian Road  
Dalkeith  
EH22 3AA

Land South of Camp Wood

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File No. 15/00591/DPP

Scale: 1:5,000



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Email: [planning-applications@midlothian.gov.uk](mailto:planning-applications@midlothian.gov.uk)

Applications cannot be validated until all necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE                      000138455-001

The online ref number is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the Planning Authority about this application.

## Applicant or Agent Details

Are you an applicant, or an agent? \* (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

☐ Applicant ☒ Agent

## Agent Details

Please enter Agent details

Company/Organisation:

Format Design

Ref. Number:

First Name: \*

Bob

Last Name: \*

Tait

Telephone Number: \*

01316617666

Extension Number:

Mobile Number:

Fax Number:

01316596033

Email Address: \*

[formatdesign@aol.com](mailto:formatdesign@aol.com)

You must enter a Building Name or Number, or both: \*

Building Name:

Format Design

Building Number:

146

Address 1 (Street): \*

Duddingston Road West

Address 2:

Town/City: \*

Edinburgh

Country: \*

UK

Postcode: \*

EH16 4AP

Is the applicant an individual or an organisation/corporate entity? \*

☒ Individual ☐ Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title: *	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text" value="c/o Format Design"/>
First Name: *	<input type="text" value="Mark"/>	Building Number:	<input type="text" value="146"/>
Last Name: *	<input type="text" value="Smith"/>	Address 1 (Street): *	<input type="text" value="Duddingston Road West"/>
Company/Organisation:	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number:	<input type="text"/>	Town/City: *	<input type="text" value="Edinburgh"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="EH16 4AP"/>
Fax Number:	<input type="text"/>		
Email Address:	<input type="text"/>		

## Site Address Details

Planning Authority:	<input type="text" value="Midlothian Council"/>		
Full postal address of the site (including postcode where available):			
Address 1:	<input type="text"/>	Address 5:	<input type="text"/>
Address 2:	<input type="text"/>	Town/City/Settlement:	<input type="text"/>
Address 3:	<input type="text"/>	Post Code:	<input type="text"/>
Address 4:	<input type="text"/>		
Please identify/describe the location of the site or sites.			
<input type="text" value="Land South of Camp Wood, Dalkeith"/>			
Nothing	<input type="text"/>	Easting	<input type="text"/>

## Description of the Proposal

Please provide a description of the proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: \*

(Max 500 characters)

Erection of dwellinghouse and outbuildings; formation of access roads, paths, car parking, two ponds, coarse fishery and associated works at Land South of Camp Wood, Dalkeith

## 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 or any agreed extension) – 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 separate grounds of review statement attached

Have you raised any matters which were not before the appointed officer at the time the determination on your application was made? \*

☐ Yes ☒ No

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)

Grounds of review statement

## Application Details

Please provide details of the application and decision.

What is the application reference number? \*

15/00591/DPP

What date was the application submitted to the planning authority? \*

24/07/15

What date was the decision issued by the planning authority? \*

07/09/15

## Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. \*

☐ Yes ☒ No

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may select more than one option if you wish the review to be conducted by a combination of procedures.

Please select a further procedure \*

Inspection of the land subject of the appeal. (Further details below are not required)

Please explain in detail in your own words why this further procedure is required and the matters set out in your statement of appeal it will deal with? \* (Max 500 characters)

To allow the Local Review Body members to view the location of the proposal

Please select a further procedure \*

Holding one or more hearing sessions on specific matters

Please explain in detail in your own words why this further procedure is required and the matters set out in your statement of appeal it will deal with? \* (Max 500 characters)

To allow us discuss this proposal and give the Local Review Body members a detailed account of what is proposed and answer any queries they may have

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? \*

☒ Yes ☐ No

Is it possible for the site to be accessed safely and without barriers to entry? \*

☒ Yes ☐ No

## 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 address of the applicant? \*

☒ Yes ☐ No

Have you provided the date and reference number of the application which is the subject of this review? \*

☒ Yes ☐ No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? \*

☒ Yes ☐ No ☐ N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you 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 documents, material and evidence which you intend to rely on (e.g. plans and drawings) which are now the subject 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 this is an application for review on the grounds stated.

Declaration Name: Bob Tait

Declaration Date: 04/12/2015

Submission Date: 04/12/2015

**Grounds of Review – Planning Application – Land South of Camp Wood, Dalkeith –  
Planning Reference: 15/00591/DPP**

**The above planning application is for the “erection of dwellinghouse and outbuildings; formation of access roads, paths, car parking, two ponds, coarse fishery and associated works at Land South Of Camp Wood, Dalkeith”**

The applicant is a game dealer and butcher with a successful butcher's business in Stockbridge, Edinburgh. George Bower Butchers have been supplying Edinburgh with quality meat, game and poultry for over 50 years. His father owns the 100 acre Camp Wood and Common Wood, which is on the ridge between Gorebridge, Mayfield and Edgehead. It is a family business and presently they operate their game larder, in which they store game and venison for their butcher's business, from a large garage/shed within the curtilage of their dwellinghouse, which has been operating as such for well over 20 years. Further details are contained in the report from SAC Consulting Farm Business Services.

The applicant wishes to create a new smallholding near to Gorebridge, to rear goats and other animals, to create a purpose built game larder, and to erect a purpose built family house from where to operate and oversee the business.

The applicant has in the past reared goats, for the sale of goat meat products. This business was very successful, receiving a positive mention in the Scotsman Newspaper. However, due to the lack of on-site supervision and security the goats were stolen and when the animals were eventually recovered unfortunately they were all dead. Mr Bower replenished his stock of goats, which once again were stolen. It was at this point he made the decision to cease rearing the goats and the associated business.

The house that the applicant and his family share at backs onto a new housing site, and it would not be appropriate to have a commercial game larder or livestock situated in such a position. There is no space in his current shop to expand in order to create a game larder. The applicant also does not have land adjacent to his house where he could rear goats or other animals. A new site in a rural location near to Edinburgh is therefore the solution to his business expansion.

The application was refused on 7 September 2015 for the following reasons:

***1. It has not been demonstrated to the satisfaction of the Planning Authority that the proposal is for the furtherance of an existing viable agricultural use; the proposal is therefore contrary to policies RP1 and DP1 of the adopted Midlothian Local Plan.***

***2. The application site contains trees covered by a Tree Preservation Order and woodland defined as ancient woodland. The development could lead directly or indirectly to the loss of the trees; the proposal is therefore contrary to Policy RP5 of the adopted Midlothian Local Plan.***

***3. The Ecological Assessment submitted fails to identify that land adjoining the application site is a Local Biodiversity Site. It has not been demonstrated to the satisfaction of the Planning Authority whether or not the development could adversely affect the Local Biodiversity Site; the proposal is therefore contrary to Policy RP12 of the adopted Midlothian Local Plan.***

***4. It has not been demonstrated to the satisfaction of the Planning Authority and the Coal Authority that the development can take place without affecting coal mining features and hazards at the application site.***

It is our view that the only reasons for consideration of the refusal should be with regard to the erection of the dwellinghouse and ancillary buildings, the other uses are all accepted countryside agricultural activities. The only element of the development that could have any impact upon the Natural Heritage designation is the erection of the dwellinghouse and the ancillary buildings, (the ancillary buildings on their own would possibly fall into the Permitted Development category).

The felling of any trees covered by Tree Preservation Orders (TPO'S) would also require permission, however there are no protected trees, we have made enquiries and are unable to obtain any information with regard to protected trees in the vicinity. There are no trees that are required to be removed as part of this application. The applicant also instructed a tree expert to have a look at the woodland and the tree expert has applied for and obtained a tree felling licence from the Forestry Commission.

### **Site History**

Historically the site has been subject to various applications relating to the operation of the Blinkbonny Open Cast Coal Site in the 1980's and 1990's.

### **Proposal**

The proposal is to create a small holding, which as well as the dwellinghouse would also include two farm buildings, as well as the game larder. The buildings will be a livestock shed and a barn to store farm machinery. There is a requirement for a family home, which will incorporate an office for the administration of the steading. This house will provide the necessary family accommodation for the applicant and his family and will also provide the necessary security and 24 hour access to livestock that will be required to successfully manage the smallholding. The onsite location will also reduce the amount of time and energy spent travelling to and from the site.

The applicant has a wife and two teenage children who will work on the smallholding, as well as an infant. The dwellinghouse therefore requires four bedrooms, living dining and kitchen areas and an office/admin area. There will be an integral garage and store room.

The smallholding will facilitate the rearing of 50 goats, which are to be a mixture of breeds. They will all be male and will be brought in from dairy farmers, where the young males are normally culled as they are no use for milk production. The goats would be delivered from the dairy farm at approximately two weeks old, where they will be reared to between 18 months and two years in age. The goats are reared for slaughter for goat cuts, such as goat steaks etc. They will then be sold in the applicant's shop in Edinburgh.

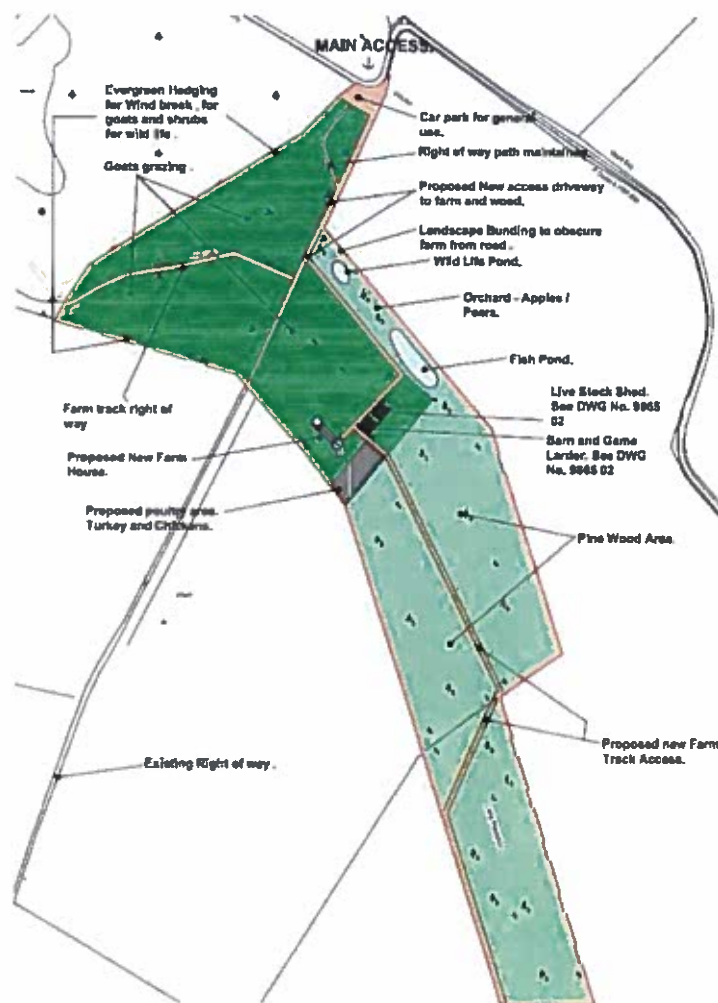


## The Site Choice

As stated earlier the applicant's father owns the 100 acres site known as Camp Wood and Common Wood. The applicant has been gifted one acre of this and has negotiated a lease for a further 5 acres, as shown on the submitted site plan. This site forms part of the former mine workings.

The location is ideal as it is close to Gorebridge and Mayfield and is within easy access to Edinburgh, where the applicant's butchers shop is located. The site is accessed from an unclassified public road leading from the B6372. There is an existing site access onto the unclassified road, adjacent to a water works. It is sited on a bend in the road but it does afford a safe access into the site.

The applicant at present resides within an annex within his parent's house near Gorebridge and this is not an ideal situation. The proposed site is local to the existing schools for the children. It is also close to the present site where livestock have been reared in the past.



**Fig.4 The site layout plan**

The application has been refused on the grounds of Policies **RP1, DP1, RP5 & RP12**

### **Policy RP1 – Protection of the Countryside**

This is a very badly re-instated open cast coal site, the applicant has consulted with SAC

The applicant has consulted with SAC Consulting Farm Business Services, the main aim of the report being to evaluate the labour requirements and need for a house on the land subject to the application. This report forms part of the application papers and concludes *"The applicant has a desire to expand his business into producing his own organic meat for his butchery business. He cannot currently do this due to anti social behaviour and the fact that the site cannot be properly supervised. A small house with general purpose sheds would allow him and his family to live on site to ensure that there are no problems. The number of livestock he proposes to keep means that the whole site will be well utilised and it would be beneficial for him to be on site for feeding, bedding and checking his animals on a daily basis. Animal welfare is a big concern and a presence on site would deter theft and dog worrying. The business proposes to build one house as a permanent residence for him and his family, this is essential to allow a better level of supervision of the premises, enhance animal welfare and ease the daily running of the business."*

The applicant also intends to create a development and management of a small recreational fishery on the site and he has commissioned a report by Dr Bruno Broughton, Fisheries Management Consultant, which forms part of our application. Dr Broughton concludes that the information produced in his report *"clearly demonstrates that the fishery requires a manager based permanently on the site to ensure that the business can be developed and managed successfully"*. He further states *"These duties would be common to other proposed activities within the smallholding e.g. site security and maintenance and in this case the time committed could be divided and allocated against several aspects of the on site activities"*.

The value of the land for agriculture is deemed as commercial woodland with some rough grazing and an ecological draft report by Alpha Ecology Ltd describes the land around the site as of overall moderate value. The house and associated buildings will be of a moderate scale appropriate to the business and the site.

The development will preserve the landscape character of the area, and will not lead to loss of identity or coalescence of local towns and villages.

The proposed uses are agricultural and accepted countryside uses. The erection of a dwellinghouse is justified for the reasons that are presented in this report.

For the above reasons it is considered that the proposal meets with the terms of Policy RP1.

### **Policy DP1 – Development in the Countryside**

It is considered that it has been well demonstrated through the policy responses and information above, and via the various reports submitted, particularly the SAC Farm Business Services Report, that there is a strong case for the business and a house to be located on this site. The house will be occupied by the applicant and his family who will be working on the farm/smallholding. The applicant is willing to sign up to a legal agreement in this respect.

The design of the house will be appropriate for a rural setting utilising stone and natural materials including slate and green roofs where appropriate. It will fit comfortably into the rural landscape with very low visibility from distant views (over 500 metres).

The house will have to comply with the strict building regulations, and in order to minimise demands on imported energy needs the building will be to a higher specification than is required and can incorporate solar panels and heat recovery systems. Rainwater harvesting and re-use of 'grey water' will reduce demands on the water supply.

For the above reasons we are of the opinion that the proposal meets with Policy DP1.

## **Policy RP5 – Woodland Trees & Hedges**

The felling of any trees covered by Tree Preservation Orders (TPO'S) would also require permission, however there are no protected trees, we have made enquiries and are unable to obtain any information with regard to protected trees in the vicinity. There are no trees that are required to be removed as part of this application. The applicant also instructed a tree expert to have a look at the woodland and the tree expert has applied for and obtained a tree felling licence from the Forestry Commission..

There would be no impact on the neighbouring local wildlife, this has been clarified by the Wildlife Information Centre.

The buildings and grazing areas will be in a relatively open part of the site and the direct impact of the development on trees will be insignificant.

It is proposed to incorporate a woodland management scheme into the development, as there has been no management of the woodland to date, since the conclusion of mining activities on the site. The proposal will therefore enhance the woodland area and will secure it for the future.

The original woodland survey referred to dates from 2009 and very little has changed since that time. The Woodland Trust brief was therefore to prepare a report on the present condition of the woodland and to suggest a programme of work, which would maintain and enhance woodlands for mixed usage including grazing, timber production (small scale) amenity and also benefit wildlife. The report is comprehensive and concludes that thinning to remove approximately 20% of the present crop should be carried out as soon as possible. Furthermore the introduction of the recreational fishing ponds will incorporate indigenous planting on the bunds around the ponds and the introduction of evergreen hedging for wind protection for the goats and shrubs for the wildlife. There will therefore be a significant enhancement of trees and hedges within the ownership boundary.

The development site is adjacent to an area of semi-ancient native woodland to the north, however there is only very limited overlap as can be seen from the figure below. There will be no direct impact, and there will be no cross boundary impacts due to the nature of the development.

It has been raised in the assessment of the earlier application that the Long Plantation is a tree preservation order and that it is classified as semi-ancient woodland. This status was not evident on a desk based assessment of the site. Only the woodland to the north was evident. The Long Plantation appears to be predominantly a coniferous plantation style woodland. In any case, the proposed development will not require any tree removal, nor will there be any impact on the welfare of these trees from the proposed activities.

In conclusion, there will be no trees affected by the erection of buildings or fences or other means of enclosure. The only trees that would be removed would be as part of a woodland management plan. Therefore it is considered that the proposal satisfies the requirements of Policy RP5.

## **Policy RP12 – Regionally and locally important Nature Conservation Sites**

Camp Wood to the north, and Common Wood to the immediate west are identified as regionally and locally important wildlife sites on the 2008 local plan proposals map. The Local Biodiversity Site (LBS) that is Camp Hill is immediately adjacent to the site and the LBS and the application site share a mutual boundary but there is no discernible overlap.

The proposed use of the site is for agricultural purposes, the grazing of livestock. This is a low intensity use and it is not a use that will have any cross boundary impacts. Any proposed buildings are sited away from the LBS and in any case are low scale and there will be no activities or processes that would impact upon the integrity of the LBS.

The same applies to the area of semi-ancient native woodland which covers the same area, immediately adjacent and to the north west of the site. There are some very slight overlaps, but these are not significant and the trees will not be affected in these areas. The ecological assessment prepared by Alpha Ecology was carried out in July 2014, and the ecology of the site and nearby woodland areas creates potential habitats for bats, birds, badgers and *herpetofauna* (amphibians/ reptiles). A physical assessment was carried out between April and May 2014, including detailed surveys of specific species and fauna. The conclusion of this survey was that the site itself is of low or moderate value overall and moderate value to most *taxa* (a group of one or more populations of an organism or organisms), several features of bat roosting potential exist on the site, including foraging habitat, bird nesting habitat and one badger sett was found outwith the site to the north. It is likely that the application site is likely to be used for foraging. The report further states that the potential impacts are considered to be minor in nearly all instances and measures are given to reduce this further to a negligible level. These measures include timing to avoid priority periods for species such as reproduction, pre-works checks of habitats, briefings to contractors etc. The report states that overall the proposals are likely to have a positive impact in the longer term.

For the above reasons we are of the opinion that the proposal meets with **Policy RP12**

### **Coal Authority Report**

The applicant is aware that there is a requirement for a coal authority report and appreciates that this information will be required at some point, however the high cost of this report cannot be justified until the applicant has an indication that planning permission will be granted. The cost of carrying out a desk top study is considered to be excessive. Given that the site was previously an open cast coal site, which has been reinstated there was very heavy traffic over this site, should the Local Review Body uphold the appeal, this coal report should be a condition of the planning permission in that no works can be started on site until such time as a coal report has been submitted and agreed. It is also not possible for works to commence on site until a building warrant has been obtained, which will take into consideration all ground works issues etc.

### **Conclusion**

National Planning Policies also encourage this type of proposal, National Planning Framework 3 paragraph 2.26 states ***"The Scottish Government does not wish to see development in rural areas unnecessarily constrained"***. The Scottish Planning Policy also encourages rural development ***"that supports prosperous and sustainable communities and businesses, whilst protecting and enhancing environmental quality, particularly where there are environmental assets such as sensitive landscapes or good quality agricultural land."***

The applicant currently lives with his family and his father close to the application site in Gorebridge, they have had a game larder in their back garden for many years, however this area is now surrounded by new housing development and it is not now practical to have a game larder in this area. The business is a longstanding family butcher's and game business, which is run from George Bower's premises in Stockbridge in Edinburgh. The applicant has previously also operated pigs and goat farming in and around the area of the application site, however due to lack of security many of these animals were stolen or indeed killed.

There have recently been break ins to the site where the applicant is trying to run his small business, there have also been parts of the site set on fire, dates and incidents can be confirmed by the Scottish Fire & Rescue Service.

It is appreciated that the position of the Local Authority should be to resist inappropriate development in the Countryside, however there must be an ability to permit genuine rural business opportunities to take place subject to good planning reasons.

This is a use, as stated above, which is already in part taking place close to the site at present; it is the consolidation of the existing uses into a single location facilitating a more efficient operation. It is an opportunity to allow the business to expand and become more profitable and also hopefully enhance the vitality of the area, which in turn will enhance employment opportunities and the general vitality of the area. The site is also an area of ground of relatively low landscape quality, which has never been adequately restored since it was used as an open cast mining operation, it is of a very poor agricultural quality. This will become evident from a site visit should the Local Review Body deem to visit the site. The proposed use will enhance the landscape quality and will significantly enhance the agricultural benefit of the land.

It is hoped that should the Local Review Body visit the site and having considered the submission they will hopefully agree that the development will be a positive contribution to the local economy, with no negative environmental impact and hopefully the Local Review Body will be in a position will be in a position to overturn the refusal and grant planning permission for the proposal.

**Format Design**  
**December 2015**

**MIDLOTHIAN COUNCIL****DEVELOPMENT MANAGEMENT  
PLANNING APPLICATION DELEGATED WORKSHEET:**

**Case Officer:** Graeme King    **Site Visit Date:** 29/07/2015

**Planning Application Reference:** 15/00591/DPP

**Site Address:** Land South of Camp Wood, Dalkeith

**Site Description:** The application site is located on the upper reaches of sloping land to the East of Gorebridge. The site is at the Southernmost end of a prominent landform ridge that extends North to Tranent; the ridge is highly visible in many views of Gorebridge, Newtongrange, Mayfield and Dalkeith. To the South, West and East of the application site are grazing fields. To the North of the application site are a submerged public water reservoir and a number of areas of established woodland. The Woodland on the Northern side of the public road, from which the site is accessed, is used as an agricultural smallholding containing various small groups of livestock.

The Northern section of the site was used in the 1980's and 1990's as the weighbridge area of an opencast coal site. The extraction land has now been restored and the weighbridge area is now scrubland grass and gorse. When viewed from within the site some signs of the former use can still be determined via obvious areas of disturbed ground; however when seen from neighbouring fields and roads the site has the appearance of a section of gorseland between 2 established areas of woodland and does not appear as an obviously unnatural intrusion into the landscape. The Northern section of the site is covered by a Tree Preservation Order that extends beyond the application site and includes a large area of woodland to the West and North of the application site. Core Path 7-28 passes through this section of the application site.

The Southern section of the site is a densely planted area of woodland. This area of woodland is defined as an area of Ancient Woodland. There is a shipping container sited on an area of crushed rock at the entrance to the Southern section of the site, however neither the Northern nor Southern section of the site is currently in any active use.

**Proposed Development:** Erection of dwellinghouse and outbuildings; formation of access roads, paths, car parking, two ponds, coarse fishery and associated works

**Proposed Development Details:** The proposed dwellinghouse is a single storey building comprising a 4 bedroom house with an attached office, store and garage. The building is 41m long, 6.9m deep, 3.5m tall to the eaves and 6.5m tall to the ridge of the roof. The proposed building is broadly traditional in design with a central section that takes the form of a traditional single storey cottage finished with stone walls and a slate roof. At either end of the central "cottage" are single storey "extensions" finished with render and a slate roof on the front elevation and a grass roof on the rear elevation.

In addition to the house two outbuildings are proposed; a barn/game larder and a live stock shed. The outbuildings are each 6m by 6m with walls clad with timber cladding and ridged roofs clad with slate. The buildings will be used to support the smallholding that the applicant is intending to establish. The applicant runs a successful long established butcher's shop in Edinburgh; the game larder will be used to store game for the shop, the game will delivered to the larder by local gamekeepers.

It is proposed that the Northern section of the plot will be used for grazing a herd of goats and that the Southern, woodland, section of the plot will be used for rearing pigs. Use of land for agriculture does not constitute development and no planning permission is required for this element of the proposal.

In addition to the smallholding it is proposed to establish a coarse fishery that will be open to the public. The fishery will require the formation of a fish pond measuring 60m long, 15.5m wide and 2.67m deep.

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In addition to the above works the site plan indicates that a wild life pond will be formed and that access tracks and car parking areas will be formed to service the various intended uses. The site does not currently have either mains water or a private water supply; it is intended to sink a borehole to reach underground water sources, a divining survey has been provided in support of this.

In support of the proposal the application includes a Planning & Design Statement; Ecological Assessments; a Fishery Creation and Development Report; a House Justification Report; a Water Divining Survey; and a Woodland Survey.

**Background (Previous Applications, Supporting Documents, Development Briefs):**

A similar application at the same site was submitted on 14<sup>th</sup> April 2015; the application was refused on 8<sup>th</sup> June 2015. The application details and reasons for refusal are as follows:

15/00293/DPP - Erection of dwellinghouse and outbuildings; formation of access roads, paths, car parking, two ponds, coarse fishery and associated works at Land South of Camp Wood, Dalkeith

**Reasons for Refusal:**

1. It has not been demonstrated to the satisfaction of the Planning Authority that the proposal is for the furtherance of an existing viable agricultural use; the proposal is therefore contrary to Policy RP1 of the Midlothian Local Plan.
2. The application site contains trees covered by a Tree Preservation Order and woodland defined as ancient woodland. The development could lead directly or indirectly to the loss of the trees; the proposal is therefore contrary to Policy RP5 of the Midlothian Local Plan.

3. The development will be a prominent feature on the summit of a highly visible landform and will adversely affect the quality of the local landscape; the proposal is therefore contrary to Policy RP7 of the Midlothian Local Plan.

4. The Ecological Assessments submitted fails to identify that part of the application site is a Local Biodiversity Site. It has not been demonstrated to the satisfaction of the Planning Authority whether or not the development could adversely affect the Local Biodiversity Site; the proposal is therefore contrary to Policy RP12 of the Midlothian Local Plan.

5. It has not been demonstrated to the satisfaction of the Planning Authority and the Coal Authority that the development can take place without affecting coal mining features and hazards at the application site.

Other applications in the vicinity are as follows:

15/00481/DPP - Erection of two wind turbines (29.9m tip height) at Land 100M North Of Monteith House Farm, Barleyknowe Road, Gorebridge

15/00110/LA - Application to discharge a planning obligation within a legal agreement (associated with planning permission 120/91/FUL) at Site Of Former Blinkbonny Mine, Gorebridge – Refused

14/00360/DPP - Erection of 2 wind turbines (34.5m tip height) at Land 500M North Of Monteith House Farm, Barleyknowe Road, Gorebridge – Refused

07/00518/FUL - Construction of semi submerged reservoir and associated works at Land To The South Of, Mansfield Road, By Gorebridge, Midlothian – Consent with Conditions

The following applications relate to various former opencast coal extraction sites in the surrounding area: 49/81, 189/82, 468/86, 415/88, 120/91, 279/94, 737/94, 648/97

**Consultations:** The Council's **Access and Woodlands Officer** confirms that Core Path 7-28 passes through the site and notes that the proposed access driveway will follow the route of the Core Path. It is recommended that the Core Path be surfaced with a material suitable for vehicles accessing the property (e.g. bound surface) and that if there is an access gate for vehicles it should not impede non-motorised public access to the route (i.e. it should be easy to open for all users). Provided that the access route remains open to the public, at all times, during and after the construction phase of the project there is no objection to the proposal.

The Council's **Transportation Policy and Road Safety** consultant has no objection to the application subject to details of the access to the public road being provided.

The Council's **Flood Prevention** consultant has no objection to the application subject to details of the 2 ponds and drainage for the surface water run-off from the car parking areas being provided. It is noted that the SEPA flood maps do not indicate any risk of flooding in the area.



**Scottish Water** offered no comment on the current application. In response to the previous application Scottish Water provided a list of precautions that the applicant should comply with in order to ensure that Scottish Water assets in the vicinity are not damaged.

**SEPA** (Scottish Environment Protection Agency) offered no comment on the current application. In response to the previous application SEPA confirmed that it had no objection to the application. The response contained advice for both the Planning Authority and the applicant with regard to minimising flood risk and the regulations relating to protection of the water environment.

The **Coal Authority** has confirmed that the site lies within a Development High Risk Area. The Authority has objected to the proposal on the grounds that a Coal Mining Risk Assessment has not been submitted by the applicant. The Coal Authority notes that it objected to the previous application and states that "we are pleased to note the Planning Authority refused planning permission as the applicant failed to demonstrate to the satisfaction of the Coal Authority and the Planning Authority that the development can take place without affecting coal mining features and hazards within the application site". The Coal Authority's response emphasises that it is not appropriate to impose a planning condition for a Coal Mining Risk Assessment.

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The Council's **Biodiversity** consultee offered no comment on the current application. The comments received for the previous application noted that the submitted Ecological Assessment makes no reference to the fact that part of the site is a Local Biodiversity Site and no assessment of the potential effect the proposal could have on this designation. The response also that data used in the report had not been correctly attributed and that the local biological records centre for the Lothians and the Scottish Borders (The Wildlife Information Centre commonly referred to as TWIC) was not approached for data.

**Representations:** One objection to the application has been received. The representation states that there is insufficient protection for rights of Way in the application.

**Relevant Planning Policies:**

The **Midlothian Local Plan 2008** policies relevant to the site and the proposed redevelopment are:

Midlothian Local Plan Policy **RP1: Protection of the Countryside** states that development in the countryside will only be permitted if: 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); it is within a designated non-conforming use in the Green Belt; or it accords with policy DP1.

Midlothian Local Plan Policy **RP5: Woodland Trees and Hedges** does not permit development that would lead to the direct or indirect loss of woodland which has a particular value in terms of amenity, nature conservation, recreation, landscape character or shelter.

Midlothian Local Plan Policy **RP7: Landscape Character** which advises that development will not be permitted where it may adversely affect the quality of the local landscape. Provision should be made to maintain local diversity and distinctiveness of landscape character and enhance landscape characteristics where improvement is required.

Midlothian Local Plan Policy **RP12: Regionally and Locally Important Nature Conservation Sites** states that development will not be permitted where it could adversely affect, either directly or indirectly, the nature conservation interest of any sites of regional or local conservation importance.

Midlothian Local Plan Policy **DERL1 Treatment of Vacant and Derelict Land** states that Midlothian Council will seek the treatment of vacant and derelict sites. The proposed afteruse should not conflict with other Local Plan policies. Priority will be given to sites in the Green Belt; sites which are visible from the strategic road network; and sites where treatment would complement other economic and environmental regeneration initiatives.

Midlothian Local Plan Policy **RP12: Regionally and Locally Important Nature Conservation Sites** states that development which could affect the nature conservation interest of any sites will not be permitted unless the applicant can show that:

- A. the development has been sited and designed to minimise damage to the value of the site and includes appropriate measures that will appropriately compensate for any damage which cannot be avoided; or
- B. the public interest to be gained from the development can be demonstrated to clearly outweigh the nature conservation interest of the site.

Midlothian Local Plan Policy **ENV 16 Vacant, Derelict and Contaminated Land** states that redevelopment of vacant and derelict land provided that the new use does not conflict with other policies of the Local Development Plan.

Midlothian Local Plan Policy **DP1 Development in the Countryside** sets out the circumstances where development in the countryside may be acceptable. This policy is mainly concerned with proposals for new housing in the countryside. Section 1.1 of this policy relates to new housing and states support will only be given where it has been demonstrated it is for the furtherance of an established agricultural activity.

The **Midlothian Local Development Plan Proposed Plan 2014 (MLDP)** was published for consultation on 14<sup>th</sup> May 2015. The consultation period closed on 26<sup>th</sup> June 2015. The proposed plan will now be submitted to the Scottish Ministers for approval; it is likely that the Scottish Ministers will appoint a person(s) to examine the plan. It is hoped that the MLDP will be adopted by Midlothian Council mid 2016; in the meantime the MLDP is a material consideration in the assessment of planning applications. Specific policies in the MLDP that are of relevance to this proposal are:

Midlothian Local Development Plan Policy **RD 1 Development in the Countryside** states that development in the countryside will only be permitted if: it is required for the furtherance of agriculture, including farm related diversification, horticulture, forestry, countryside recreation or tourism; it accords with the Low Density Rural

Housing Policy; or it accords with the Council's Supplementary Guidance on *Development in the Countryside and Green Belt*.

Midlothian Local Development Plan Policy **ENV 7 Landscape Character** which advises that development will not be permitted where it may significantly and adversely affect the local landscape character.

Midlothian Local Development Plan Policy **ENV 11 Woodland Trees and Hedges** does not permit development that would lead to the direct or indirect loss of woodland which has a particular value in terms of amenity, nature conservation, recreation, landscape, shelter, cultural or historical value;

**Planning Issues:** The main planning issue to be considered in determining this application is whether the proposal complies with development plan policies unless material planning considerations indicate otherwise. The representations and consultation responses received are material considerations.

#### Principle of Development

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The application seeks to provide justification for the erection of a house in the countryside by virtue of the fact that permanent accommodation is required on the site to support the intended smallholding and the fishery. The applicant has previously kept goats on the site; however the goats were stolen and were dead when they were eventually recovered. The stock was replenished and was again stolen; the applicant ceased keeping goats on the land following the second incident. While it is acknowledged that the incidents occurred it must also be acknowledged that the keeping of livestock has continued on the land to the North of the application site and ongoing incidents of theft do not appear to be occurring on that site.

For a house in the countryside to be supported, on agricultural grounds, the Planning Authority needs to be satisfied that the house is required for the furtherance of a viable existing agricultural business. There is currently no agricultural use on the site and it is to be presumed that any agricultural use on the site will only commence once the house is erected. While the Planning Authority is keen to support the furtherance of viable agricultural uses there must be some existing use in place to justify the erection of a dwellinghouse. In the absence of an existing use the proposal is clearly contrary to policy RP1 of the Midlothian Local Plan.

Further information regarding anticipated income from the goat and pig herds was requested from the applicant's agent in relation to the previous application. The information was eventually provided after the decision had been issued; it is assumed that the information still applies to the current application however it was not included in the supporting information submitted. The information indicated that the smallholding would generate a profit; however as the profit figure did not appear to include labour costs its accuracy is in doubt. While it is acknowledged that the applicant operates a successful butcher's shop and would be able to find a market for the meat that would be produced it has not been demonstrated that the site could support a viable standalone agricultural smallholding that would be able to justify the erection of a house at this location.

The Fishery report submitted with the application includes a breakdown of anticipated labour requirements which concludes that the fishery would require 1 full time employee and that some of the activities would require a 24 hour presence on the site. The report also forecasts a total potential income of £6,975. Given the costs associated with the formation of the pond, the establishment of the fishery and the ongoing running costs it appears unlikely that the site could support a viable self-supporting fishery. Additional income is envisaged from fishing associated with the wildlife pond; however as the anticipated profit figure assumes that the entire income of £6,975 will be profit the accuracy of this assessment is also in doubt.

The Planning & Design Statement draws attention to the fact that the reinstatement of the site, following its use in relation to the former opencast operations, was of poor quality and that the proposal will improve this situation. As noted above there are undoubtedly signs of disturbed land still visible within the site however when viewed from outwith the site boundaries the land has the appearance of gorseland and does not appear as vacant or derelict. As the proposal is clearly contrary to other policies in the Local Plan the improvements to the land cannot be considered to be sufficient justification for the erection of a house. It is worth noting that the land, in its current condition, is deemed by the applicant to be capable of accommodating livestock and it must therefore be assumed that no treatment is required. Furthermore, the two most obvious areas of disturbed land within the site are the land around the shipping container and an area of scraped land close to the West of the Core Path; these activities appear to have occurred in recent years and would appear to have occurred after the open cast activities ceased. The appearance and condition of the site is adequate at present and policy DERL1 of the Midlothian Local Plan could not be used to justify the proposed development.

#### Protection of Woodland

As noted above part of the application site is covered by a Tree Protection Order, which also covers the larger areas of woodland to the North; and the trees on the remainder of the site are identified as being Ancient Woodland (Long Established of Plantation Origin). The woodland is a long established feature in the area and is prominent in many views within Midlothian. The wooded area makes a vital contribution to the landscape setting of the surrounding communities and its long standing nature means that it represents a significant biodiversity resource. In support of the application a Woodland Report, prepared in 2009, has been submitted. The report covers the Northern section of the application site and large areas of woodland to the North, which are outwith the site. The Southern section of the site, which is the most heavily wooded area of the application site, is not included within the Woodland report.

Given the protected and designated nature of the areas of woodland it is vital that any application satisfactorily demonstrates that development will not lead to the loss of the woodland. While the report is 6 years old the description, within the report, of the Northern section of the site appears to broadly reflect the current pattern of tree and vegetation growth in this area; however the nature of trees and woodland is such that for a survey to accurately reflect the current situation it would need to be less than 2 years old. No report has been provided relating to the most heavily wooded area of the site. In the absence of an up to date report for the Northern

section or of any report for the Southern section there is insufficient information available to determine whether or not the development will impact on the areas of woodland.

In response to the reasons for refusal for the earlier application the Planning & Design Statement states that no trees will be removed; however the Statement also refers to a 20% thinning of the present crop. The Statement makes reference to a brief prepared by the Woodland Trust, however the report submitted with the application was prepared by Scottish Woodlands. The Planning & Design Statement contains noticeable inconsistencies and the Woodland Report submitted is out of date and does not consider the largest area of woodland within the application site. Insufficient information has been provided to allow an accurate assessment of the proposal's impact on the woodland within the site; as it has not been clearly demonstrated that the proposal will not have a detrimental impact on the woodland the proposal is contrary to policy RP5 of the Midlothian Local Plan.

### Biodiversity

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An Ecological Assessment was submitted with the application and the survey considers the impact of the proposed development on various protected species. The Council's Biodiversity consultee, The Wildlife Information Centre, has noted that the report makes no reference to the fact that part of the application site is within a Local Biodiversity Site and that accordingly no consideration has been given to the impact of the proposed development on the said site. The Local Biodiversity Site abuts the Northern boundary of the site and, using the application site boundaries provided by the applicant's agent, there is a small overlap of the boundaries of the application site and the Local Biodiversity Site. Notwithstanding the size of the area of overlap it is clear that the Assessment has not identified the presence of the Local Biodiversity Site in close proximity to the application site.

It is also noted that data used in the report has not been correctly attributed and that the local biological records centre for the Lothians and the Scottish Borders (The Wildlife Information Centre) was not approached for data. As submitted there is insufficient information available to determine whether or not the proposal will have any impact on the Local Biodiversity Site and the proposal is therefore clearly contrary to policy RP12 of the Midlothian Local Plan.

### Coal Mining Risk

The whole of the application site is within an area identified by the Coal Authority as being a Development High Risk Area. Due to the long history of coal mining in Midlothian there are many such areas within the Council boundary; all of Midlothian's major settlements have large sections of high risk areas. The Coal Authority is a statutory consultee for applications within areas with a history of coal mining and they have adopted a system of consultation which seeks to assess the likely risk from developments. To support this assessment the Coal Authority request that Coal Mining Risk Assessments (CMRA) be prepared for certain types of development, the erection of a dwellinghouse is one such type of development.

A CMRA was requested from the applicant's agent at the time of registration of the original application; for reasons of cost the agent indicated that the preference would be to submit a CMRA at a later stage in the application. The Coal Authority were consulted and objected on the grounds that no CMRA has been provided; given the fact that there were other outstanding issues with the proposal a further request for the CMRA was not sent to the agent. The fact that again it had not been satisfactorily demonstrated that the application site is safe to develop when assessed against the legacy of coal mining and coal working in the immediate vicinity was one of the reasons for refusal of the previous application.

Upon submission of the current application the agent was again reminded of the necessity of a CMRA and again indicated that the preference would be to submit a CMRA at a later stage in the application. As no CMRA has been submitted the Coal Authority has objected to the application. Once again it has not been satisfactorily demonstrated that the application site is safe to develop when assessed against the legacy of coal mining and coal working in the immediate vicinity. This safety concern is sufficient to warrant refusal of the application.

#### Other Issues

When submitting the current application the applicant's agent opted not to submit additional information to address the majority of the reasons for refusal of the previous application. It must be acknowledged that the issue of the house's impact on the landscape character has been addressed by virtue of moving the house location further into the site; this reason for refusal has been successfully addressed.

With regard to the point raised in the objection regarding the core path the supporting statement and site plan submitted acknowledge the route of the core path and indicate that the path will be maintained and enhanced. While it is acknowledged that there have been attempts to restrict access in the past the path was readily accessible at the time of the case officer's site visit and no objection has been received from the relevant section of the Council with responsibility for core paths.

The applicant's agent has expressed dissatisfaction at the Planning Authority's unwillingness to enter into discussions on the proposal during the application process. The Planning Authority's position is that given the refusal of the previous application the most appropriate time for discussions on the proposal would have been prior to the re-submission of any application. No contact was made with the Planning Authority prior to the submission of the current application and the Planning Authority is under no obligation to enter into discussions during the application process. The fundamental principle of development on the site has not been adequately demonstrated and key supporting information is either inadequate or has not been submitted. Given the recent refusal of a near identical application and the significant issues that still need to be resolved it would not be reasonable of the Planning Authority to encourage false expectations by entering into negotiations during the application process. The Planning Authority would welcome the opportunity to discuss the applicant's aspirations for the site prior to the submission of any future planning application.

**Recommendation:** Refuse Planning Permission



## Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

**Reg. No. 15/00591/DPP**

Format Design  
146 Duddingston Road West  
Edinburgh  
EH16 4AP

Midlothian Council, as Planning Authority, having considered the application by Mr Mark Smith, Format Design, 146 Duddingston Road West, Edinburgh, EH16 4AP, which was registered on 24 July 2015 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

**Erection of dwellinghouse and outbuildings; formation of access roads, paths, car parking, two ponds, coarse fishery and associated works at Land South Of Camp Wood, Dalkeith**

In accordance with the application and the following plans:

<u>Drawing Description.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	9865 1:500	24.07.2015
Proposed elevations	9865 01A 1:100	27.07.2015
Elevations, floor plan and cross section	9865 02A 1:100	24.07.2015
Site Plan	9865 03 1:250	24.07.2015
Proposed cross section	9865 04A 1:100	24.07.2015
Proposed cross section	9865 05 1:200	24.07.2015
Design and Access Statement		24.07.2015
Ecological Assessment		24.07.2015
Fishery Creation and Development Report		24.07.2015
House Justification Report		24.07.2015
Water Divining Survey		24.07.2015
Woodland Survey		24.07.2015

The reasons for the Council's decision are set out below:

1. *It has not been demonstrated to the satisfaction of the Planning Authority that the proposal is for the furtherance of an existing viable agricultural use; the proposal is therefore contrary to policies RP1 and DP1 of the adopted Midlothian Local Plan.*
2. *The application site contains trees covered by a Tree Preservation Order and woodland defined as ancient woodland. The development could lead directly or indirectly to the loss of the trees; the proposal is therefore contrary to Policy RP5 of the adopted Midlothian Local Plan.*

3. *The Ecological Assessment submitted fails to identify that land adjoining the application site is a Local Biodiversity Site. It has not been demonstrated to the satisfaction of the Planning Authority whether or not the development could adversely affect the Local Biodiversity Site; the proposal is therefore contrary to Policy RP12 of the adopted Midlothian Local Plan.*
4. *It has not been demonstrated to the satisfaction of the Planning Authority and the Coal Authority that the development can take place without affecting coal mining features and hazards at the application site.*

Dated 7 / 9 / 2015



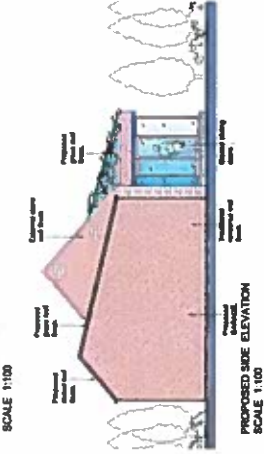
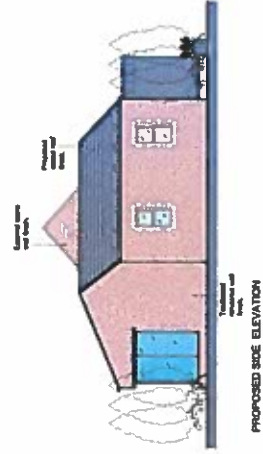
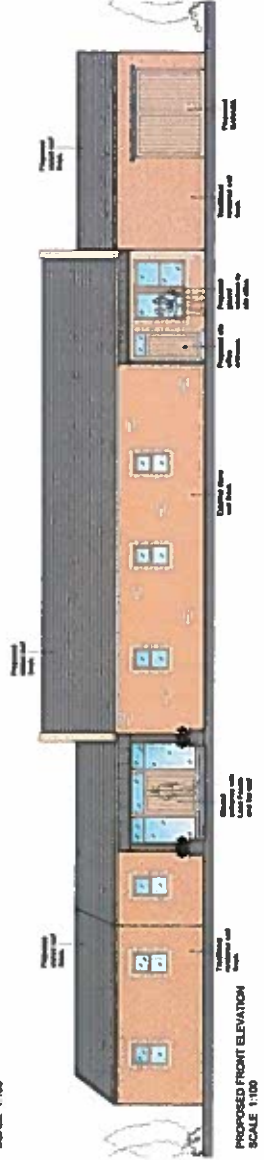
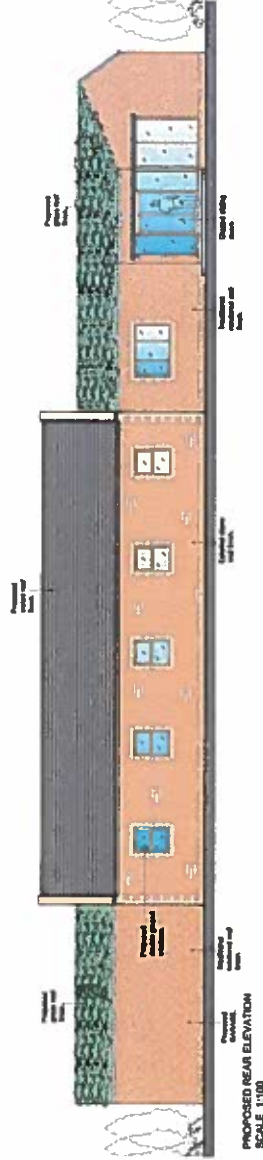
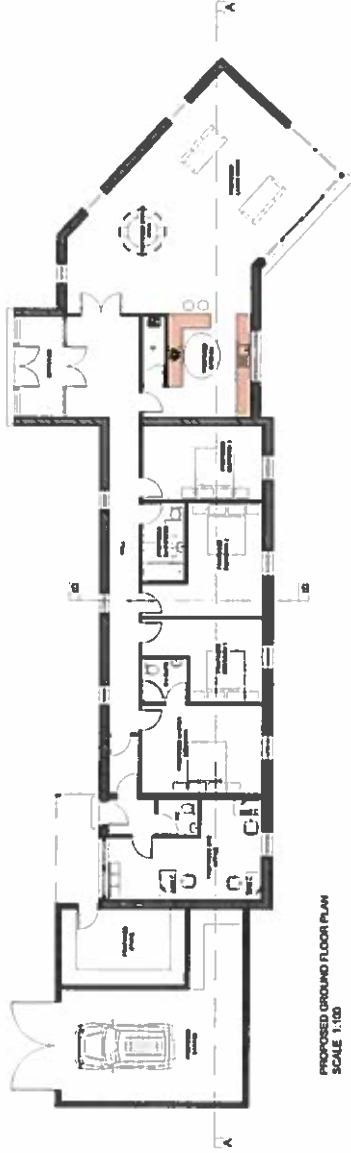
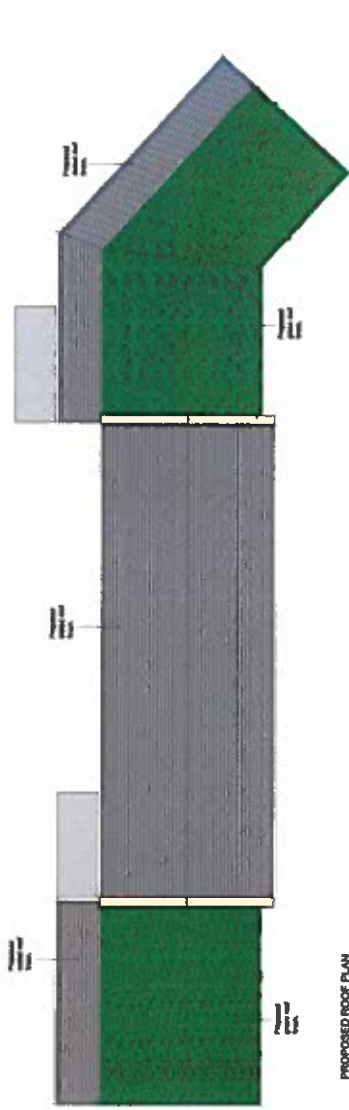
.....  
Duncan Robertson  
Senior Planning Officer; Local Developments  
Fairfield House, 8 Lothian Road, Dalkeith, EH22 3ZN

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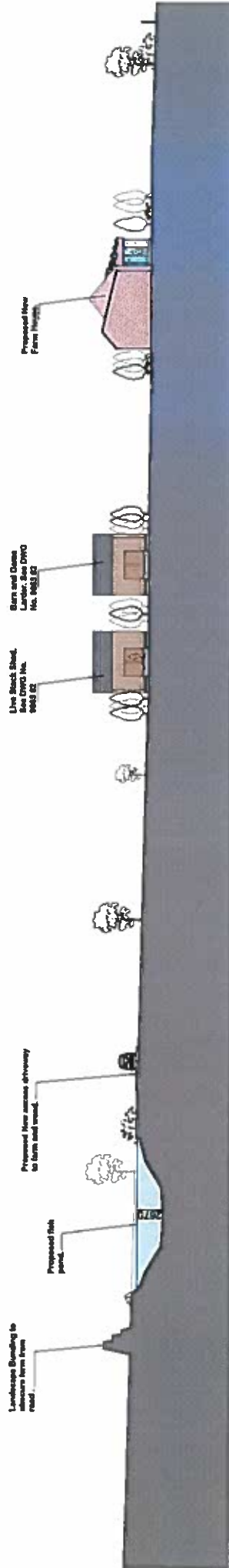


## E

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<p><b>SERVICES OFFERED:</b></p> <p>MEASURED SURVEYS PLANNING PERMISSIONS PLANNING STUDIES NEW BUILDINGS</p>			<p>drawing file: New Drawing Proposed job title: Convent Wood, Cambridge client: Mr Mark Smith date: 07.07.2015 drawn: PH</p>			
<p>PLANNING APPLICATIONS BUILDING PERMISSIONS LIQUOR LICENSING DRAWINGS DEED PLANS</p>			<p><b>format design</b></p> <p>14 011 81 7000 14 011 81 7003 Email: info@formatdesign.co.uk Web: www.formatdesign.co.uk</p>			

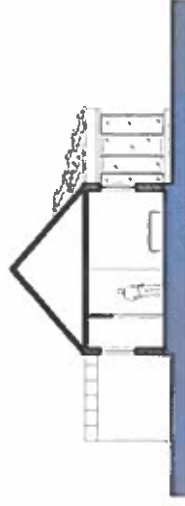


PROPOSED SECTION THROUGH SITE.  
SCALE 1:200

rev	date	details	by	rev	date	details	by
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<p>THIS DRAWING WAS PREPARED TO OBTAIN BUILDING CONTROL AND/OR PLANNING PERMISSION AND CAN ONLY BE USED AS A WORKING DRAWING WITH PERMISSION FROM FORMAT DESIGN.</p> <p>THIS OFFICE'S LIABILITY ENDS UPON THE RECEIPT OF A DECISION FROM BUILDING CONTROL AND/OR THE PLANNING DEPARTMENT.</p> <p>THIS DRAWING IS NOT TO BE REPRODUCED WITHOUT PERMISSION.</p> <p>CONTRACTOR NOT TO DEVIATE FROM THE APPROVED DRAWING WITHOUT INFORMING FORMAT DESIGN. ALL SIZES AND DIMENSIONS TO BE VERIFIED ON SITE BY CONTRACTOR AND MANUFACTURER.</p>							
<p><b>SERVICES OFFERED:</b></p> <p>MEASURED SURVEYS PLANNING CONSULTANTS PLANNING APPLICATIONS NEW BUILDINGS</p> <p>PLANNING APPLICATIONS PLANNING PERMISSIONS BUILDING WARRANT APPLICATIONS LICENSED DRAWING DEED PLANS</p>				<p>drawing title: Proposed Section Through Site. job title: Common Wood, Cambridge client: Mr Mark Smith scheme: PLANNING</p> <p><b>format design</b> FACOS Limited 141 New Bedford Road West Essex, Essex SS16 2AP</p>			
<p>scale: 1:100 @A1 drawing no: 8003 05 date: 07.07.2015 client: PM</p>				<p>141 011 861 7000 Fax: 011 861 8033 Email: <a href="mailto:info@formatdesign.co.uk">info@formatdesign.co.uk</a> Web: <a href="http://www.formatdesign.co.uk">www.formatdesign.co.uk</a></p>			



PROPOSED SECTION A-A  
SCALE 1/100



PROPOSED SECTION B-B  
SCALE 1/100

rev	date	details	by	rev	date	details	by
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	07.07.2015	PLANNING APPLICATION	PM				

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PLANNING PERMISSIONS  
NEW BUILDINGS  
PLANNING APPLICATIONS  
PLANNING PERMISSIONS  
BUILDING WARRANT APPLICATIONS  
LONDON LICENSING DRAWINGS  
DEED PLANS

drawing title: New Dwelling Proposal  
job title: Common Wood - Garage  
client: Mr Mark Smith  
scheme: PLANNING

scale: 1:100 @A1  
drawing ref: 8005 04 A  
date: 07.07.2015  
drawn: PM

**format design**

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