

# APPENDIX A



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

Sub-division of dwellinghouse to form 3 flatted dwellings;  
erection of extension; alterations to window opening to form  
door opening; and alterations to garden levels at 33 Mayburn  
Terrace, Loanhead

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File No. 13/00508/DPP

Scale: 1:1,250




**Midlothian**

Fairfield House 8 Lothian Road Dalkeith EH22 3ZN

Tel: 0131 271 3302

Fax: 0131 271 3537

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                      000075657-001

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:

Cockburn's Planning &  
Development

Ref. Number:

First Name: \*

Brent

Last Name: \*

Quinn

Telephone Number: \*

07708971120

Extension Number:

Mobile Number:

Fax Number:

Email Address: \*

cockburnsconsultants@gmail.  
com

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

Building Name:

Building Number:

Address 1 (Street): \*

Address 2:

Town/City: \*

Country: \*

Postcode: \*

29

Ryehill Terrace

Edinburgh

UK

EH6 8EN

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

☒ Individual ☐ Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title: \*

Mr

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

Other Title:

Building Name:

Per Agent

First Name: \*

James

Building Number:

Last Name: \*

Ewen

Address 1 (Street): \*

29 Ryehill Terrace

Company/Organisation:

Address 2:

Telephone Number:

447708971120

Town/City: \*

EDINBURGH

Extension Number:

Country: \*

United Kingdom

Mobile Number:

447708971120

Postcode: \*

EH6 8EN

Fax Number:

Email Address:

cockburnsconsultants@gmail.com

## Site Address Details

Planning Authority:

Midlothian Council

Full postal address of the site (including postcode where available):

Address 1:

33 MAYBURN TERRACE

Address 5:

Address 2:

Town/City/Settlement:

LOANHEAD

Address 3:

Post Code:

EH20 9EH

Address 4:

Please identify/describe the location of the site or sites.

Northing

666163

Easting

327690

## 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)

Sub-division of dwellinghouse to form 3 flatted dwellings; erection of extension; alterations to window opening to form door opening; and alterations to garden levels

## 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.

See Grounds of Appeal

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)

All plans, application form, decision notice, etc. as per planning application  
Grounds of Appeal Statement  
Midlothian Supplementary Guidance on Affordable Housing  
Planning Advice Note 2/2010  
Midlothian\_Local\_Housing\_Strategy\_2013-2017

## Application Details

Please provide details of the application and decision.

What is the application reference number? \*

13/00508/DPP

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

11/07/13

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

05/09/13

## 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

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: Brent Quinn

Declaration Date: 04/11/2013

Submission Date: 04/11/2013

Grounds of Appeal for Local Review Body:

For Mr James Robert Ewen  
Conversion of Dwellinghouse to 3 Flatted  
Dwellinghouses at  
33 Mayburn Terrace, Loanhead, Midlothian  
Planning Ref: 13/00508/DPP



Prepared by:  
Brent Quinn MA(Hons) MRTPI PRINCE2  
Cockburn's Consultants  
November 2013  
[www.cockburnsconsultants.com](http://www.cockburnsconsultants.com)

## Executive Summary

The proposed development will provide much needed affordable flatted dwellinghouses in the Midlothian area. There is a chronic demand for one bedroomed properties, both nationwide and in Midlothian, as recognised in both Midlothian Council's Affordable Housing Planning Policy SPG document and its Housing Strategy 2013-2017. The proposed development represents progress in meeting demand in that regard. There is no demand, either for purchase or for rent, for the dwellinghouse as exists and it has lain vacant for some 2 years now. To uphold the decision to refuse this application and continue this *status quo* would not be in anyone's interest.

The proposed conversion is therefore acceptable in principle.

This report assessment demonstrates that the proposed flatted dwellings will provide a wholly acceptable level of amenity. There will be no overlooking issues arising and all of the other minor issues raised have been demonstrated to be of no consequence.

This report justifies the assertion that Reasons for Refusal 1 & 2, which both relate to amenity and overlooking issues, cannot be upheld.

There are extenuating reasons in respect of parking and road safety. In particular, the proximity to public transport links (both on street and the close by Park & ride facility) and service amenities are a key consideration that appears to have been overlooked by the Planning authority. The net difference between the existing use and the proposed use in terms of car parking space generation is negligible and again does not appear to have been fully considered in the determination of the application. Overall, contrary to the original decision, it is considered that the context of promoting more sustainable forms of transport, does not present any great difficulty in this case. The third Reason for Refusal consequently also cannot be justified.

The fourth Reason for Refusal relates to planning policy (Policies RP20 and D2 of the Midlothian Local Plan) in regard to the material issues raised in Reasons 1 & 2, which have already been demonstrated to not be upheld and therefore Reason 4 is also invalid. The proposal is fully compliant with all relevant planning policy, as demonstrated in the assessment section of this document.

Taking the above into consideration, it is respectfully requested that this LRB appeal be upheld and that planning permission be granted, subject to conditions, as required.

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| Appendix 1: | All Plans, Application Form & Decision Notice           |
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| Appendix 4: | Midlothian_Local_Housing_Strategy_2013-2017             |



## 1. Introduction, Site & Proposal

The appeal site to which this Local Review Body (LRB) case relates is 33 Mayburn Terrace, Loanhead. An application for planning permission to change the use of this property from a Class 9 Dwellinghouse to 3 flatted dwellinghouses units (13/00508/DPP (appendix 1)) was made on 11 July 2013. The application was refused on 3 September 2013 for the following four reasons:

1. The development will provide an inadequate level of amenity for future residents due to the fact that it will be overlooked by existing neighbouring residential properties and that it has not been demonstrated that there will be an adequate level of garden ground being provided for each dwelling within the application site.
2. The development will have a detrimental impact on the amenity and privacy of the occupants of the immediately adjacent residential properties due to the close proximity of the properties and the distances between the windows on neighbouring flatted dwellings.
3. The proposed development in having no off-street parking provision means that it does not comply with the Council's parking standards and will result in cars being parked on the street to the significant detriment of traffic and pedestrian safety on this busy public transport corridor.
4. For the above reasons, the proposal is contrary to policies RP20 and DP2 of the adopted Midlothian Local Plan 2008.

### Site

The appeal site comprises a vacant dwellinghouse and associated garden ground. The house is single storey in height with stone and harled walls and a slate roof. It has been most recently used as a family home, providing extensive living space over 6 apartments. This could be increased internally without any requirement for planning permission. The window frames on the building are a combination of timber sash and case and aluminium frames. The site is located to the rear of a block of four flats, comprising numbers 25, 27, 29 and 31 Mayburn Terrace. Access to the site is via a footpath shared with number 25. From Mayburn Avenue this follows along the front and side elevations of the block of flats. The site is within a largely residential area. There is a nursing home to the south with the other surrounding properties in residential use. The building was historically used as a church hall.

The site is located in an area that is predominately residential, and is not characterised by any particular property type. However, it is noted that the majority of premises benefit from off street parking spaces, with the on street parking spaces available at all times being rarely used, not only on Mayburn Terrace, but also on Mayburn Loan and the wider locale.

A plan showing the appeal site and its context is shown below in Figure 1.

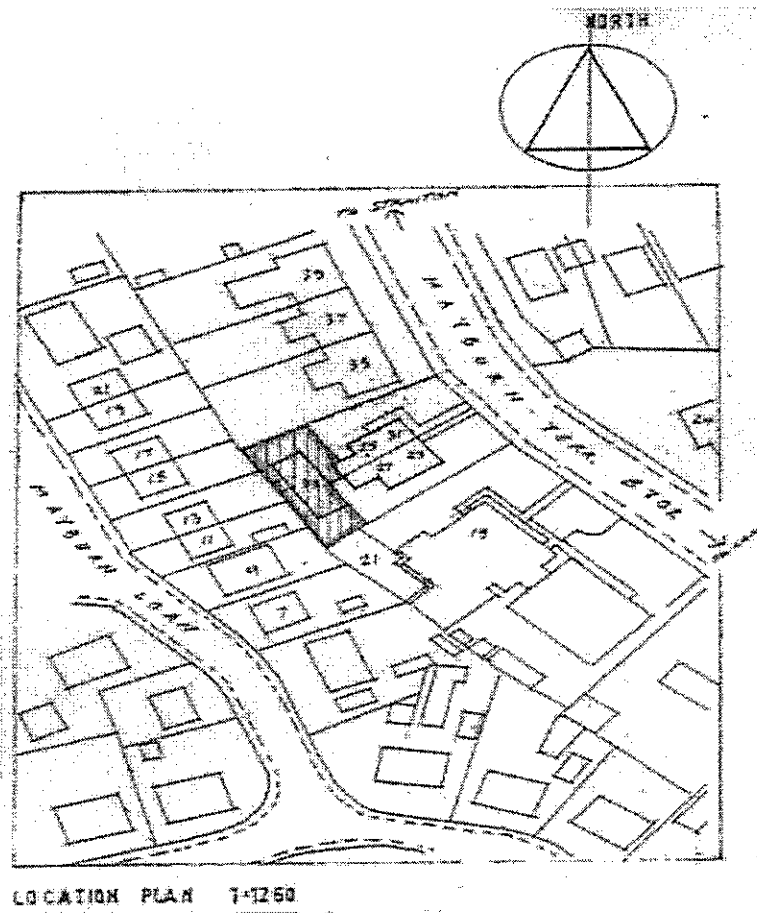


Figure 1: Site Plan (not to scale)

### Proposal

The proposal is to subdivide the existing dwellinghouse to form 3 flat dwellings, to erect an extension, alter window opening to form door opening and alterations to garden levels. The ground floor is to be subdivided in to two units and the roof space is to be converted in to a further residential unit.

There is later lean-to addition on the rear elevation of the building. It is proposed to remove this lean-to and replace it with a longer flat roof structure. This extension will be to the height of the eaves, approximately 2.9 metres, and is to be harled to match existing. An existing window opening on the south elevation is to be altered in to patio doors.

A number of roof lights and alterations to window and door openings are proposed. However, these do not require planning permission as they are permitted development.

The plans show garden areas provided for each property. Fences to a height of 2 metres are to be erected around the boundaries of these garden areas.

#### Report Structure

Following this introduction, this report comprises:

- Section 2: Background
- Section 3: Planning Policy
- Section 4: Assessment; and
- Section 5: Conclusion.

It is respectfully requested that this LRB appeal is upheld.

## 2. Background

### Context & History

#### *Applications*

12/00604/DPP Sub-division of dwellinghouse to form 3 flatted dwellings; erection of extension and external staircase; formation of dormer; alterations to window opening to form door opening; and alterations to garden levels.

This application was refused and not appealed. The refusal centred around a perceived low level of amenity for future occupants through overlooking and garden ground; detrimental impact on amenity of existing properties due to close proximity and distances between windows; the dormer extension and external stairs were considered unsympathetic additions.

#### 08/00063/FUL - Formation of driveway

Consented with conditions. This was not progressed on account of a land ownership dispute, although if this can be resolved, the appellant would intend to apply for, and enact a very similar planning permission in the future.

#### *Consultations*

The Council's Policy and Road Safety Manager has concerns over the lack of off-street parking for the dwellings and recommends the application be refused.

#### *Representations*

Ten letters of representation have been received from the occupants of neighbouring properties objecting to the proposal. These are on the following grounds:

- The provision of 3 flats would have a detrimental impact on the occupiers of the block of flats at 25-31;
- Overlooking to neighbouring houses and gardens;
- The plans show the existing wall between the site and the properties to Mayburn Loan is to remain and there are queries how this will happen as the existing wall is part of the existing extension;
- The extension will provide a long blank elevation to the properties at Mayburn Loan;

- Lack of parking and road safety issues;
- There will be an increase in noise in the area;
- The building should remain as a single dwellinghouse;
- Concern that the building will become a high turnover business;
- Short term lettings will be detrimental to the area; and
- Lack of bin storage for the high number of bins.
- Some occupants at Mayburn Loan also state they will not allow access to the site from their gardens.

## 3. Planning Policy

### Determining Issues

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise.

In the context of the above it is worth making reference to the House of Lord's Judgement on the case of the City of Edinburgh Council v the Secretary of State for Scotland 1998 SLT120. It sets out the following approach to deciding an application under the Planning Acts:

- identify any provisions of the development plan which are relevant to the decision;
- interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies;
- consider whether or not the proposal accords with the development plan;
- identify and consider relevant material considerations, for and against the proposal; and
- assess whether these considerations warrant a departure from the development plan.

The development plan in this case comprises:

- SESplan, as modified and approved, (June 2013)
- Midlothian Local Plan (adopted 2008)

Other key material considerations in the determination of the application include the National Planning Framework; Scottish Planning Policy and Circulars; previous planning history and consultation responses.

The proposal raises no strategic issues and therefore the policies within SESplan are not considered to be relevant in this case.

In terms of the adopted Local Plan, Policy RP20 is relevant – it states that development will not be permitted within existing built up areas where it is likely to detract materially from the existing character or amenity of the area. Also applicable is Policy DP2 Development Guidelines, which sets out detailed design guidance for residential developments that should be followed unless there is adequate justification to depart from the standards.

In terms of National Policy, Scottish Planning Policy, it states in respect of transport, that the 'key policy messages are that the planning system:

- 'should help to reduce the need to travel and reduce dependence on the car
- create the right conditions for greater use of sustainable travel modes; and avoid or mitigate adverse environmental impacts.
- ensure that new development should connect to local services by walking, cycling and public transport.'

## 4 Assessment

### Affordable Development

The appellants would assert that, even on the private market, the proposed flatted properties would carry a value that is more in line with what would fall under the umbrella of affordable housing when considered against values achieved in the wider market area e.g. Eskbank. This is further assessed below:

Property values in the area for similar developments of a similar specification (i.e. 1 bedroomed flatted dwellings) vary from £40,000 to £120,000<sup>1</sup> (as at October 2013). There are only 10 two bedroomed properties currently for sale in Loanhead/Bonnyrigg/Lasswade area that are seeking a sale price in excess of £110,000. The only one bedroom property that is looking to attract £120,000 is a traditional stone built cottage with period features and is significantly different from the flatted properties that would be configured in the appeal case. Given that the appeal proposal is for properties on the periphery of the town and that the market draw in this environment is not perhaps as strong as with new build flats with associated higher standards in terms of open space, build standards, etc. it is reasonable to conclude that the properties being considered in this appeal would not attract a sale value anywhere in excess of £110,000.

Indeed, it is anticipated that the proposed properties, if they were on the market as of now, would more realistically attract a sale price of circa £100,000. This price equates to just under 4 times the national average salary bracket of £26,462<sup>2</sup> so it is reasonable then to conclude that this would generally fall within the bracket of what is considered to be 'affordable'. Therefore, in respect of PAN 2/2010, the development can effectively be considered to be for affordable housing under either of the two following definitions: 1) Entry level housing for sale<sup>3</sup> or 2) Subsidised low cost sale<sup>4</sup>.

In Midlothian Council's Supplementary Planning and Guidance, published and adopted in March 2012, it states:

*'...there is still substantial unmet need for affordable housing in Midlothian. This is demonstrated in the need identified in the findings of the Lothian Housing Needs and Market Study (2005), its 2008 update, and in the Council's housing list for affordable housing in Midlothian, which was at 4,588 households at the beginning of 2012'*

<sup>1</sup> <http://www.espc.com/properties/details.aspx?pid=326796>

<sup>2</sup> [http://www.scottish.parliament.uk/ResearchBriefingsAndFactsheets/S4/SB\\_12-75.pdf](http://www.scottish.parliament.uk/ResearchBriefingsAndFactsheets/S4/SB_12-75.pdf)

<sup>3</sup> A dwelling without public subsidy sold at an affordable level.

<sup>4</sup> A subsidised dwelling sold at an affordable level.



There is therefore a very strong requirement for affordable housing within the Midlothian area. Whilst this development is relatively small, in granting planning permission the Council would assist in meeting one of its own key objectives in respect of providing affordable housing and tenure choice and flexibility.

The planning officer completely failed to take account of this key consideration in the determination of this case.

#### Lack of Demand for Existing Use

The appellant has owned the appeal property for a number of years now and recently has struggled to let the property in its current form. It has now lain vacant for some 2 years. This is ultimately on account of the current global and local economic position and the lack of demand to let a family dwelling of this size and scale. Further, Scottish Planning Policy and Planning Advice Note 2/2010 both promote flexibility and choice across all tenure types:

*'A range of housing types, at different prices, tenures and locations are needed to cater for the increasing number and variety of households, maintain the viability of communities, and support the operation of local labour markets and the wider economy.'*

The appellant understands both the national and local market and has responded to demand by seeking planning permission for the 3 flatted dwellinghouses, as part of this appeal case. The National Housing Federation, which represents housing associations, has reported that a survey of 51 of its biggest members found more than half of their residents affected by the bedroom tax – 32,432 people – could not pay their rent between April and June this year<sup>5</sup>. The survey shows a quarter of those affected by the tax had fallen behind with their rent for the first time ever. The only simple way to address this issue is to provide additional one bedroom properties, such as that being proposed in this case. This confirms the appellants assertion that there is a chronic need for one bedroomed houses, not only in Midlothian but nationwide.

Further, Midlothian Council's Housing Strategy 2013 states that, in respect of the Council's Housing Stock, the majority of stock is 2 bedroom (3,611 units), followed by 3 bed (1,743 units). There is a very small number of 1 bed housing (761 units) and 4 bed and larger (295 units). It goes on to state that '46% of applications are from single people, suggesting a need for smaller housing to meet the demand from these households' and that '1 bed housing [is a] house type of which there are very few in Midlothian'.

It is abundantly clear that there is a chronic shortage and therefore need for one bedroomed properties in the Midlothian area. The principle of the development should be considered to be wholly acceptable.

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<sup>5</sup> <http://www.housing.org.uk/media/press-releases/federation-statement-on-six-month-anniversary-of-bedroom-tax>

Again, the planning officer has entirely failed to take account of this major consideration in the determination of this case.

#### Amenity Issues (Reasons for Refusal 1 & 2)

##### *Overlooking*

There appears to be some lack of understanding in terms of the officer's assessment of the case and the reason for refusal in the Decision Notice. The openings that are proposed to be formed could be formed within the context of the existing class 9 dwellinghouse through permitted development rights, and therefore could be enacted without the need for any planning permission. The internal layout of the building would be altered, but the way in which most rooms would (and could, through permitted development rights) be used would not. In this proposal, there is therefore no net change in the way the building could be used in relation to the neighbouring properties.

All of the openings on the first floor are restricted to rooflights only, which by their nature do not give rise to overlooking. These are provided for safety and light purposes only. If dormers were proposed, it may be understandable that there would be some overlooking, limited in relation to the adjacent gardens, but they are not. With the incorporation of rooflights only, which as stated above, could be introduced to the existing building without any requirement for planning permission, there is no overlooking issues arising from the proposal at first floor level.

The majority of the openings are approximately 14m from other windows, although the closest is within 10m, but again the use of rooflights discounts any negative impact in this regard. Indeed, it is generally accepted that the window to window distance of 18m outlined in Policy DP2 applies to 'standard' windows only and that rooflights, introduction of frosted glass, etc. can nullify this. In this change of use application, we are working with an existing building and it is very difficult to ameliorate this issue, although it is important to note that a similar situation could be enacted without any requirement for planning permission. This point is absolutely crucial in the consideration of this case.

For the avoidance of any doubt, there is no overlooking whatsoever arising from the ground floor use. Overall, the proposal will not result in any adverse overlooking issues in relation to adjacent properties, either in terms of public rooms or within their wider curtilage, thus the proposal complies with Policies RP20 and DP2 of the Local Plan.

##### *Residential Amenity*

In terms of the extension to the rear, which is noted will not cause rise to any overlooking issues, the appellants would be happy to either a) submit a revised drawing illustrating exactly how it would be constructed or b) have a condition attached that would require a drawing providing the same.

There are no policies or guidelines in the Midlothian Local Plan 2008 or any other documents relevant to this case that relate to how front door entrances should relate to any adjacent windows so the point made in this regard by the planning officer is of no merit whatsoever.

In the assessment of the proposal, the planning officer has stated that the proposed 2m high fences 'will give a very constrained feel to the development' and that there 'would also be a lot of high fencing in this small area, to the detriment of the visual amenity in the area.' The appellants would be happy to accept a condition on what would be considered to be a reasonable fence height, possibly up to some 1.6m in height.

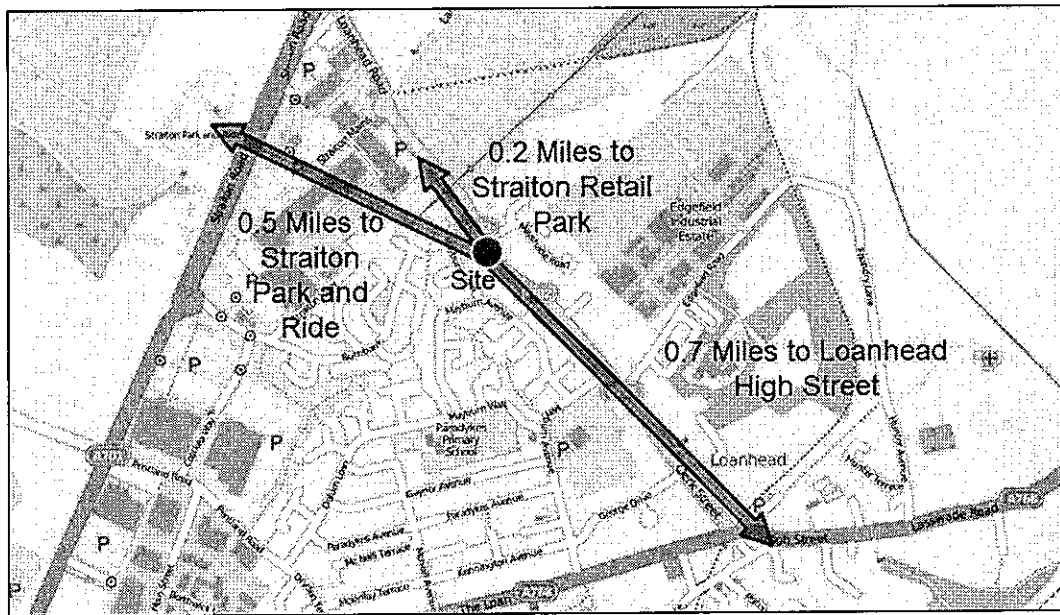
#### *Garden Ground*

The officer states that the amount of garden ground being provided is 'well below' what is suggested in the guidance in terms of Policy DP2 of the Midlothian Local Plan 2008. It is actually stated, as a guide only that 'flatted properties should provide half of the garden area of terraced properties', as a whole. Terraced properties, as a guide, should provide around 100sqm of garden ground per dwelling, therefore 50sqm, as a guide, should be provided per flatted dwellinghouse. The garden ground being provided in this case is 119sqm overall, whilst it is *suggested* that 150sqm should be provided. This equates to some 80% of the required space and is double the footprint of the building area, which is far more than is often provided in flatted developments in reality. It is certainly not 'well below' what the guidelines suggest, and whilst it does not meet the full requirement, it is significant and, given the overall high level of amenity in the wider area is considered to be wholly acceptable in this case.

Overall, the foregoing demonstrates that the proposal provides a wholly satisfactory level of amenity, both for future occupiers of the proposed flatted dwellinghouses and for existing, adjacent properties. Overall, there are no conflicts with the proposal Policies RP20 and DP2 of the Local Plan. In this respect, it is respectfully suggested that both Reasons for Refusal 1 and 2 are invalid.

#### Car Parking

The proposed development is adjacent to an arterial bus route which is immediately adjacent to the appeal site and is wholly accessible on foot. The site therefore benefits from excellent public transport access, to a large number of destinations, both locally within Midlothian and beyond (e.g. to Edinburgh City Centre). Further, the appeal site is within immediate walking distance to Loanhead Town Centre, with its associated local shops, services and community facilities. Indeed, the site is within even easier walking distance to Straiton Retail Park, including IKEA, Sainsbury's, etc. thus all convenience and comparison shopping requirements are within easy walking distance (within 1mile). Further, the excellent Straiton Park and Ride facility is also within 1mile of the site. Figure 2, below illustrates this point and provides a graphic interpretation of the benefits of the site in relation to services and public transport.



**Figure 2: Proximity of Site to Services**

This provides future occupiers of the site with an unrivalled plethora of transport options, services and facilities within a walking distance of less than ten minutes. The absence of car parking spaces from the development and the nature of the development itself would encourage a reduction in dependence on the car, although there are spaces available on street at all times should residents decide to own a vehicle.

As noted previously the majority of properties on Mayburn Terrace and within the immediate locale benefit from off street car parking facilities. In addition to this there are also extensive on-street car parking facilities available.

A recent case at George Drive (ref: 12/00059/DPP), within 0.5 miles of the site, was granted planning permission for a new build flatted development with a 50% reduction in car parking provision. This was a proposal for 8 flatted dwellinghouses for retirement, with only 4 spaces being provided. In his assessment of this case, the officer concluded that *'As this is a proposal for the redevelopment of a previously developed site, with limited open space to accommodate parking, and given...its proximity to town centre facilities, the proposed reduced level of car parking is considered acceptable in this case.'* This was a new build case where full standards should be applied, as conversions, by their nature can be somewhat more restrictive in what can, and cannot be implemented. However, given that a concession has been made for a new build development within the last year where all current policies and standards apply, at a site within 0.5 miles of the site, and where the site characteristics, in terms of parking at least it is wholly inconsistent to not apply the same approach in this case.

In this instance, the building is already used for residential purposes. Quite conceivably, with 3 bedrooms, the site could generate around 4 car users (two parents and two children of driving age), which is more than the three spaces required as per Midlothian Council's parking standards. If the LRB

were to uphold this appeal there would actually be a net loss in car parking space requirements and therefore less pressure in respect of on street parking.

Overall, contrary to the original decision, it is considered that the context of promoting more sustainable forms of transport, does not present any great difficulty in this case. The third reason for refusal consequently cannot be justified.

#### Issues Raised in Letters of Representation

The majority of the issues raised in the letters of representation are addressed above. In terms of those that have not:

- **Damage to Existing Buildings:** Any damage done to an existing property as a result of development could be addressed by building standards and is not a material planning consideration.
- **Short Terms Letting:** The application is for the creation of three flats and these would usually be leased using a short assured tenancy under the Housing (Scotland) Act 1988, but notwithstanding, this is not a material planning consideration.
- **Bin Storage:** An area for the storage of 12 bins has been identified on the proposed site plan.
- **Noise:** The site is largely residential in nature and it is not considered that the provision of further properties would not have a material increase in noise of the area.

## 5. Conclusion

The proposed development will provide much needed affordable flatted dwellinghouses in the Midlothian area. There is a chronic demand for one bedroomed properties, both nationwide and in Midlothian. The proposed development represents progress in meeting that demand. There is no demand, either for purchase or for rent, for the dwellinghouse as exists and it has lain vacant for some 2 years now. To refuse this application and continue this *status quo* would not be in anyone's interest.

The proposed conversion is therefore acceptable in principle.

The foregoing assessment demonstrates that the proposed flatted dwellings will provide a wholly acceptable level of amenity. There will be no overlooking issues arising and all of the other minor issues raised have been demonstrated to be of no consequence.

This report justifies the assertion that Reasons for Refusal 1 & 2, which both relate to amenity and overlooking issues, cannot be upheld.

There are extenuating reasons in respect of parking and road safety. In particular, the proximity to public transport links (both on street and the close by Park & ride facility) and service amenities are a key consideration that appears to have been overlooked by the Planning authority. The net difference between the existing use and the proposed use in terms of car parking space generation is negligible and again does not appear to have been fully considered in the determination of the application. Overall, contrary to the original decision, it is considered that the context of promoting more sustainable forms of transport, does not present any great difficulty in this case. The third Reason for Refusal consequently also cannot be justified.

The fourth Reason for Refusal relates to planning policy (Policies RP20 and D2 of the Midlothian Local Plan) in regard to the material issues raised in Reasons 1 & 2, which have already been demonstrated to not be upheld and therefore Reason 4 is also invalid. The proposal is fully compliant with all relevant planning policy, as demonstrated in the assessment section of this document.

Taking the above into consideration, it is respectfully requested that this LRB appeal be upheld and that planning permission be granted, subject to conditions, as required.

## MIDLOTHIAN COUNCIL

### DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

**Planning Application Reference:** 13/00508/DPP

**Site Address:** 33 Mayburn Terrace, Loanhead.

**Site Description:** The application site comprises a vacant dwellinghouse and associated garden ground. The house is single storey with stone and harled walls and a slate roof. The window frames on the building are a combination of timber sash and case and aluminium frames. The site is located to the rear of a block of four flats, comprising numbers 25, 27, 29 and 31 Mayburn Terrace. Access to the site is via a footpath shared with number 25. From Mayburn Avenue this follows along the front and side elevations of the block of flats. The site is within a largely residential area. There is a nursing home to the south with the other surrounding properties in residential use. The agent for the application has stated that the building was originally a church hall.

**Proposed Development:** Subdivision of dwellinghouse to form 3 flatted dwellings, erection of extension, alterations to window opening to form door opening and alterations to garden levels.

**Proposed Development Details:** It is proposed to subdivide the property in to three flatted dwellings. The ground floor is to be subdivided in to two units and the roof space is to be converted in to a further residential unit.

There is later lean-to addition on the rear elevation of the building. It is proposed to remove this lean-to and replace it with a much longer flat roof structure. This extension will be to the height of the eaves, approximately 2.9 metres, and is to be harled to match existing. An existing window opening on the south elevation is to be altered in to patio doors.

A number of rooflights and alterations to window and door openings are proposed. However, these do not require planning permission as they are permitted development.

The plans show garden areas provided for each property. Fences to a height of 2 metres are to be erected around the boundaries of these garden areas.

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

Application site

12/00604/DPP Sub-division of dwellinghouse to form 3 flatted dwellings; erection of extension and external staircase; formation of dormer; alterations to window opening to form door opening; and alterations to garden levels. Refused – low level of amenity for future occupants through overlooking and inadequate garden ground provided; detrimental impact on amenity of existing properties due to close proximity

and distances between windows; the dormer extension and external stairs were unsympathetic additions and detract from the privacy and amenity of neighbouring properties; no off street parking does not comply with Council parking standards and result in a road safety concern; for all reasons proposal does not comply with RP20 and DP2.

08/00063/FUL Formation of driveway. Consent with conditions.

12/00120/DPP 21A Hawthorn Gardens Change of use from dwellinghouse (class 9) to form additional residential nursing home accommodation (class 8) and extension to building. Consent with conditions.

**Consultations:** The Council's **Policy and Road Safety Manager** has concerns over the lack of off-street parking for the dwellings and recommends the application be refused.

**Representations:** Ten letters of representation have been received from the occupants of neighbouring properties objecting to the proposal. These are on the following grounds:

- The provision of 3 flats would have a detrimental impact on the occupiers of the block of flats at 25-31;
- Overlooking to neighbouring houses and gardens;
- The plans show the existing wall between the site and the properties to Mayburn Loan is to remain and there are queries how this will happen as the existing wall is part of the existing extension;
- The extension will provide a long blank elevation to the properties at Mayburn Loan;
- Lack of parking and road safety issues;
- There will be an increase in noise in the area;
- The building should remain as a single dwellinghouse;
- Concern that the building will become a high turnover business;
- Short term lettings will be detrimental to the area; and
- Lack of bin storage for the high number of bins.

Some occupants at Mayburn Loan also state they will not allow access to the site from their gardens.

**Relevant Planning Policies:** The relevant policies of the **2008 Midlothian Local Plan** are;

**RP20 Development within the built up area** – states that development will not be permitted within existing built up areas where it is likely to detract materially from the existing character or amenity of the area;

**DP2 Development Guidelines** - sets out detailed design guidance for residential developments that should be followed unless there is adequate justification to depart from the standards.

**Planning Issues:** The main planning issue to be considered is whether or not the proposal complies with the development plan policies and, if not, whether there are any material planning considerations which would otherwise justify approval. The application site is located within an area covered by the Midlothian Local Plan.



The proposal is for the change of use from one dwellinghouse into three flatted dwellings. As noted above, the application premises is located to the rear of a four-in-a-block residential building and is accessed through the garden ground of one of these properties. The site is small and constrained, with the building being attached to the boundary wall to the rear of the site, within very close proximity to the existing flatted block and with very little open space around the building.

A material planning consideration in this case is whether the property will provide an acceptable level of amenity for future residents of the development. Very little private garden ground is to be provided for these properties - the application shows approximately 52 square metres for flat 1, 32 square metres for flat 2 and 35 square metres for flat 3. The measurements stated on the proposed site plan do not match those taken by the case officer. The sizes of these garden areas are well below the standards set out in the guidance contained in policy DP2.

In addition to the above, the outlook from the proposed residential units is severely restricted. The flat on the upper floor is served by rooflights only. However, some of these rooflights are set low down the roof and will provide some limited amount of amenity but will have a detrimental impact on the privacy of neighbouring residential properties. The distances between the windows on the existing flatted block and the windows on the proposed flats is as close as 10m. This distance falls well below the standards required in the policy DP2 guidelines for distances between properties. In some cases where a proposal is for the change of use of an existing building, these standards can be relaxed to accommodate the proposal. However, in this instance, the site is so small and constrained the distances between the existing properties are not considered to be acceptable. In addition to this, one of the lower flats has a bedroom located in the basement. The levels of amenity in the proposed development are well below what could be considered acceptable.

It is proposed to remove the existing extension along the rear elevation and replace this with a longer, flat roofed extension. The existing extension forms part of the boundary wall. The plans show a discrepancy regarding how the proposed extension is to be erected – the floor plan shows the wall of the extension being the boundary wall but the elevations show the wall of the extension being built off the boundary wall. Should planning permission be granted, clarification is required of how and where exactly the extension is to be constructed. The height of the extension is to be under the eaves of the existing building. Due to the change in ground levels between the site and the dwellings to Mayburn Loan, to the rear, the proposed extension would not have a detrimental impact on the amenity or outlook of the properties to the rear. There are no windows on this elevation which results in a long blank elevation but also no overlooking issues.

It is proposed to erect 2 metre high fences along the boundaries of each of the gardens. These fences, paired with the very small gardens, will give a very constrained feel to the development. There would also be a lot of high fencing in this small area, to the detriment of the visual amenity in the area.

Access to the site is via a path that also provides access to number 25. There are no windows on the gable wall of the flatted block, however there are four windows on the rear of the property, which are within 7 metres of the doors serving the three

flatted properties. Although the existing access door to the dwellinghouse is on this same elevation as the proposed doors, this only provided access to one dwellinghouse. The proposal will lead to an increase in the number of residential units at the application site, therefore potentially increasing the amount of people living in, and visiting, the three new flats. The proposed arrangement will result in a significant detrimental impact on the, already limited, amenity of the occupants of the existing flatted block.

No parking spaces have been proposed which would serve the development. Planning permission for a driveway to the property was approved in 2008 which was not implemented and has since expired. The lack of off-street parking will increase pressure on the limited on-street parking in the area. The likely result being that vehicles will be parked illegally or inconsiderately, which will have an adverse impact on traffic and pedestrian safety on this busy public transport corridor. The Council's Policy and Road Safety Manager has recommended that the application be refused for the above reason.

With regards to comments made by objectors which have not already been addressed above, access to the site to carry out proposed works is a private legal matter and not a material planning consideration. In addition, any damage done to an existing property as a result of development could be addressed by building standards and is not a material planning consideration. The application is for the creation of three flats and no information has been submitted, by the applicant, to state if this is to be for short term lettings. In any case, this is not a material planning consideration. An area for the storage of 12 bins has been identified on the proposed site plan. The site is largely residential in nature and it is not considered that the provision of further properties would not have a material increase in noise of the area.

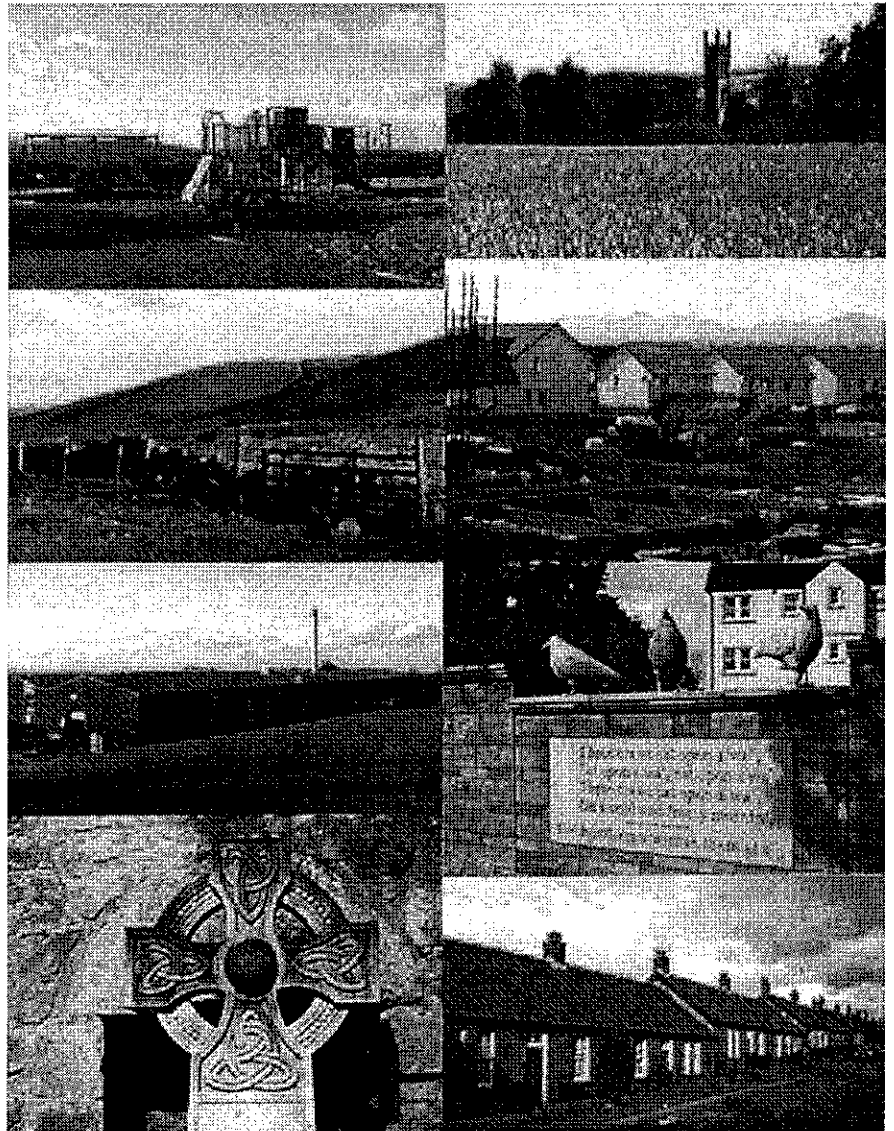
The above assessment demonstrates that the proposed flatted dwellings will have an unacceptably low level of amenity. In addition, the planning authority is concerned regarding the design of some of the proposed external alterations and impact on the amenity and privacy of neighbouring residents. The planning authority consider that the application site can accommodate, at a maximum, two residential units. Any increase on that number will likely be to the substantial detriment of the amenity enjoyed by neighbouring residents and will result in a very low level of amenity for future residents and will adversely affect pedestrian and road safety in the area. For these reasons the application cannot be supported and has been recommended for refusal. The applicant was advised at pre-application stage that a proposal for two flats could be unacceptable, yet an application for three has been submitted.

The agent submitted the proposed plans for pre-application advice before the current application was submitted. The case officer stated that any new application would likely not be supported.

**Recommendation:** Refuse planning permission.

# APPENDIX D

## Midlothian Local Plan



Midlothian



# Midlothian Local Plan

ADOPTED BY RESOLUTION OF  
MIDLOTHIAN COUNCIL  
ON 23 DECEMBER 2008

This Plan has been produced by the  
Planning Unit Strategic Services

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

## 2.2 The Built Heritage

### Policy Title

#### RP20 DEVELOPMENT WITHIN THE BUILT-UP AREA

**2.2.1 National Planning Policy** National policy as set out in SPP 1 *The Planning System* states that one of the three general objectives of development plans and development control is “to maintain and enhance the quality of the natural heritage and built environment”. In addition, the importance of good design is highlighted as a priority for the planning system, given that “mistakes cannot be easily or cheaply rectified”.

**2.2.2 SPP 3 Planning for Housing** (now replaced by SPP 3 *Planning for Homes* – see para. 3.2.6) encourages the full and effective use of land within existing built areas, giving priority to reusing derelict and vacant land. However, it also requires that “infill development respects the scale, form and density of its surroundings and enhances rather than detracts from the character and amenity of existing residential areas”. It indicates that this should be an important consideration for planning authorities when preparing development plans and in determining applications, and for developers when preparing proposals.

**2.2.3 Structure Plan Policy** The ELSP 2015 recognises the importance of protecting and

enhancing the amenity of all urban areas to safeguard and improve the quality of life of residents of the Lothians. Policy ENV1G requires local plans, in encouraging the development of infill sites, the redevelopment of brownfield land and the conversion of existing buildings, to promote a high quality of design in all new development.

**2.2.4 Local Plan Policy** Midlothian is not characterised by large areas of brownfield land ripe for redevelopment. It follows therefore that the main areas of new development will be on greenfield sites on the edge of the built-up areas. There will, however, be opportunities for new development within the existing urban areas, including conversion, intensification, infill or redevelopment.

**2.2.5** Policy RP20 applies to the existing built-up area of all towns and villages, and the areas of new housing allocations. The Local Plan Proposals Map defines the urban boundaries of the main settlements and also identifies village envelopes. The purpose of the policy is to ensure that new development does not damage or blight land uses which are already established in the neighbourhood, particularly where residential amenity will be affected. Sections 3.7 and 4 contain guidance with regards to wind turbines (policies NRG1 and NRG2), energy for buildings (policy NRG3), the form and layout of development on greenfield sites (policy DP2), extensions to existing housing (policy DP6) and control over advertising (policy DP8), which may be relevant to proposals for development within the built-up area.

#### RP20 DEVELOPMENT WITHIN THE BUILT-UP AREA

Development will not be permitted within existing and future built-up areas, and in particular within residential areas, where it is likely to detract materially from the existing character or amenity of the area.

## 4.2 Development Guidelines

### DP2 DEVELOPMENT GUIDELINES

**Note: Reference should also be made to Appendix 2C for the design principles and Appendix 2D for landscaping and open space requirements which apply specifically to the Shawfair new community, and expansion of Danderhall. The Shawfair Masterplan and Design Guide provide detailed supplementary planning guidance.**

These policies apply to all proposals for development within this Local Plan area. They will form the basis for any briefs to be prepared for sites to be released for development through the Local Plan.

Developers will normally be expected to submit a statement with applications for major sites explaining their approach to the site with regards to the issue of design, sustainability, landscape and open space. The statement shall explain the way in which the Council's design criteria have been observed. If the criteria have been departed from this should be noted, together with an explanation of the circumstances requiring this.

Irrespective of support for the principle of development in this Local Plan, all proposed developments which fall within the remit of the Environmental Impact Assessment (Scotland) Regulations 1999 (Schedules 1 and 2), will require the submission of an Environmental Statement in conjunction with the planning application.

A case for modification of the private open space standards may be accepted by the Council within the Local Plan area where the sites proposed to be developed are brownfield, infill, involve less than three houses, lie within Conservation Areas, or windfall. In such cases, a determining factor will be the existing character of the area surrounding the site. This may not necessarily dictate lower space standards. For example, in some Conservation Areas, the density of housing is very low. Such existing character may dictate very generous gardens in new housing development.

## 1 Design

The release of extensive areas of land, through the development sites in this Local Plan, offers an opportunity to create new, interesting and attractive environments.

The Council recognises that good design can:

- a) promote sustainable development;
- b) improve the quality of the environment;
- c) attract business and investment;
- d) reinforce civic pride and a sense of place; and
- e) secure public acceptance of the need for new development.

*For these reasons:*

The Council will require good design in both the overall layout of sites and their constituent parts and a high quality of architecture in both the overall layout of sites and their constituent parts.

## 2 Sustainability

The Council will expect development proposals to have regard to the following principles of sustainability:

- a) building in harmony with the site including optimising on orientation and relationships to contours, provision of shelter, and utilising natural features;
- b) fostering and maintaining biodiversity;
- c) treating and conserving water on site in line with best practice and guidance on sustainable drainage;
- d) reducing consumption of energy;
- e) recycling of construction materials and minimising the use of non-renewable resources (refer also to policy WAST4 – waste minimisation);
- f) facilitating accessibility and adaptability; and
- g) providing for waste recycling in accordance with standards which will be set out in supplementary planning guidance on waste separation, collection and recycling requirements for new developments.

### 3 Landscaping

All development proposals must be accompanied by a comprehensive scheme of landscaping. This will be designed to provide shelter, help create spaces, add colour and add to the interest and appearance of the development.

New tree planting will be used to define the edge of development areas within sites. The Forest Habitat Network (Forestry Commission Scotland) provides guidance in planning greenspace within new developments.

Where development sites abut the countryside, tree belts of an average of 30 metres wide will be required except where a development brief indicates a lesser figure will be acceptable. This width is required to ensure the effect of the planting is maintained as the trees mature.

Where distributor and access roads are to be tree lined as a landscape feature of the development site, space sufficient to provide for the span of the trees as they mature must be provided to each side of the road to be planted. The space to be provided will be influenced by the selection of tree species and design concept being followed.

A high standard of landscaping is required throughout sites. Tree and shrub species should be selected primarily for their good appearance, hardiness, low maintenance and suitability to the character of the site and layout design.

Indigenous species should form the basis for landscape schemes.

Finishing materials, surface textures and street furniture, together with the design of walls and fencing should combine with the landscaping to establish a theme for the development as a whole.

When submitted to the Council, detailed applications for planning permission must be accompanied by proposals indicating the character and scale of the landscaping to accompany the new development.

Landscaped areas adjoining roads will be adopted by the Council on the same basis as other landscaped and open space areas provided as a result of development.

Where possible, topsoil should be left *in situ* on development sites. Where it would be sterilised by development, topsoil should be stored in a manner which preserves its intrinsic environmental value and reused in connection with the landscaping of the development site or, if not possible, elsewhere in site restoration, landscape enhancement and/or the creation of public open space.

### 4 Open Space

Open space is an essential part of the built environment. It provides amenity to those whose property adjoins or is close to it. It can provide pedestrian or cycle routes. Open space allows opportunities for play and exercise whether of a formal or informal character. It gives the opportunity within settlements for the creation of natural habitats and shelter for flora and fauna. It can create the setting to important private and civic buildings and be an integral part of the character of settlements. Policies RP29 and 30 provide for the protection of open spaces. The proposed growth of Midlothian's settlements as a result of this Local Plan must be accompanied by open space provision on a scale and in a manner commensurate with its importance to the lives of future communities in these areas.

The following standards do not take account of the need for informal amenity open space, infrastructure tree planting and passive recreation areas such as parks, open spaces and footpath networks. In determining the need for such additional open space the Council will take account of the area surrounding the site. Major development sites will be subject to a brief that will identify such needs.

Open spaces designed for children's play should be large enough to absorb such activity with minimum disturbance to local residents or undue damage to grass and planted areas. Similarly, the location of pitches for older sections of the population within open spaces should take account of the potentially adverse effect on amenity if situated too close to housing.

#### 4a Open Space required for Sport

Unless otherwise determined within development briefs for housing sites proposed in this Plan, provision for outdoor sport will be made in accordance with the National Playing Field Association's (NPFA) minimum standards and the Council's open space strategy, once approved.

#### 4b Children's Play Space

The design and location of play spaces should be convenient to their users. They should be subject to passive supervision and open sunlight during the majority of the day. They should be fenced in order to avoid children running out of the play area and to discourage dogs making their way in.

In general terms, their design and location should accord with the advice provided in SPP 11 *Open Space and Physical Activity* and PAN 46 *Designing Out Crime*.

Provision for children's play space will normally be provided within new housing areas in accordance with the NPFA's recommendations.

This standard is currently set at 0.6 - 0.8 hectares per 1000 population. In assessing the area requirement, the potential population of a housing development will be used for the basis of calculation.

The NPFA recommends that a hierarchy of open spaces be available for children's play, the largest spaces providing for the most extensive range of equipment and facilities and combined with land used for other formal recreational use. Smaller open spaces, recommended by the NPFA at the bottom of the hierarchy perform an important visual amenity function. These spaces will normally be no less than 0.04 hectares in extent. Whether such small spaces will require any equipment placed within them is dependent on the character of housing surrounding the space and the distance to the nearest play area. In small, medium to low density developments, no equipment is likely to be required. Site and distance criteria for such spaces should be as recommended by the NPFA's *The Six Acre Standard*. Larger equipped play areas serving neighbourhoods should be provided as recommended by the NPFA. It may not always be appropriate to provide spaces to the minimum

recommended size. However, an area of open space accommodating play equipment within a housing area should not be less than 0.1 hectares.

#### 4c Maintenance of Play Equipment and Open Spaces

Arrangements for the long-term maintenance of open spaces shall be agreed with the Council prior to consent being issued. Maintenance arrangements can be through adoption by the Council or through alternative measures, either being subject to agreement with the Council.

Acceptable provision, including long-term funding for the maintenance of open spaces, landscaping and play equipment will be a prerequisite of planning permission for new residential and other developments.

For the purposes of this section, "long-term" will typically be a period of at least 15 years.

#### 4d Retention of Open Spaces

Public open spaces provided in association with new development will be subject to conditions and, where appropriate, agreements requiring that they continue in use as communal open space.

#### 4e Provision of Play Facilities for Children

Equipment for communal play will be required in association with all new residential development, with the exception of housing specifically designed for the elderly.

Acceptable levels of provision are currently found to be established where the developer provides equipment to a value based on the sum of £250 per child bed space (as at 2006 price, subject to price index adjustment). The cost per child bed space figure may be subject to negotiation for larger developments where the economies of scale can be brought into effect.

Child bed spaces are the number of bedrooms in a house less the principal bedroom. In the case of houses having secondary bedrooms of exceptionally large size, it may be considered necessary to take the



view that these could be occupied by more than one child.

Where the number of houses or the application site is too small to satisfactorily accommodate children's play, an amount of equipment based on the above standard must still be provided, for installation in an existing park accessible to the new housing.

## 5 Housing: General Considerations

The detailed planning, layout and appearance of new housing developments must reflect national planning advice and guidance. In accordance with the encouragement therein of imaginative and innovative design, proposals showing exceptional ingenuity may be exempted from the usual space requirements, provided that the quality of public and residential amenity is demonstrably not compromised.

Many large companies use standard house types in the interests of efficiency and economy for their particular organisation. Such an approach may not always provide an acceptable design. Developers will be expected to be flexible in their use of house types and if necessary modify their range to meet the Council's requirements for specific sites.

The main aims are to achieve comfortable, safe, well-designed living environments with a distinct sense of place, and a high quality of design and finish.



### 5a Housing: Detailed Considerations

Care is required in grouping of buildings. The houses forming a group must relate well in terms of scale, angle and alignment of roof pitch, choice of finishing materials and detailing.

A good level of security for the residents of a scheme must be provided and in this respect attention should be paid to linking buildings together by means of walls or garages. Open spaces should be designed as features to be looked onto from the front and sides of houses as should pedestrian routes and roads. Houses should not, as a general rule, be designed to back onto such features.

Housing layouts should be designed to be convenient for pedestrians, with special attention being paid to the provision of direct footpath / cycleway links between houses, schools, shops and community facilities.

The housing layout and house types should be designed to provide for a high standard of passive energy gain; in this respect buildings should be arranged as to avoid unduly overshadowing one another.

### 5b Housing: Private Outdoor Space

Detached, semi-detached and terraced dwellings should each be provided with a private outdoor space that is free from direct overlooking from public areas and neighbouring property as far as possible. Permanent overshadowing of these areas should be avoided and, wherever possible, such spaces should enjoy good access to sunlight. Where flats are proposed, such spaces should enjoy good access to sunlight and additional provision of amenity open space should be made, including sunlit areas convenient for residents to enjoy.

Private open space attached to the dwelling is required for all non-flatted properties. While recognising that individual preferences may vary, houses suitable for families should be provided with adequate usable private gardens. Such spaces serve a multitude of different household purposes and should be of sufficient size to perform such functions satisfactorily. It is also important to allow for the reasonable extension of a new house without reducing the availability of private open space to an unacceptable level. The usable garden area is defined as that part of the rear garden not occupied by a garage, or garage space, driveway or parking space.

For detached and semi-detached houses, private open space should be provided, as a minimum standard, on the following basis:

- a) houses of 3 apartments should have usable garden areas no less than 110m<sup>2</sup>;
- b) houses of 4 apartments or more should have usable garden areas no less than 130m<sup>2</sup>;

Terraced houses of 3 or more apartments should be provided with a minimum usable garden area of 100m<sup>2</sup>.

Where, particularly in the case of terraced houses because of the floor plan design, these criteria result in garden lengths in excess of the Council's requirements, smaller garden areas will be acceptable. In such cases the amount of communal open space will normally require to be increased to compensate for the reduction in private open space. In exceptional cases, this principle may also apply to other types of houses.

Garden areas referred to above should be so designed and located so that a usable part of the garden area will enjoy at least three hours of any available sunlight on 1 March.

### 5c Space between Houses

Spaces between houses may vary depending on the types of houses and the nature of the sites. Certain minimum standards must be observed. These are as follows:

- a) back to back distance, whether between single storey or two storey houses, of 25 metres;
- b) between gable and rear of such property 16 metres; and
- c) between the front elevations 22 metres.

Where housing is built across steeply sloping ground, the distance between buildings will require to be extended to avoid the higher properties being over

dominant. In such situations, split-level housing should be considered as a means of reducing the distance houses are set apart.

Reduction in the distance between front elevations will be possible where there are positive reasons relating to the design of the layout and where the house design ensures no material loss of privacy as a result of overlooking from windows.

The length of individual rear gardens will vary but will normally be anticipated to be at least half the minimum back-to-back distance. Exceptions to this may be acceptable where distance standards are met, minimum garden size is achieved or where the houses back onto an open aspect.

Flatted properties should be provided with a communal private open space conveniently located for the residents. The area of land supplied for this purpose should be provided to half the standard used for terraced housing.

If essential to secure an appropriate attractive and well designed development, the above space standards may be relaxed. Such relaxation is expected to be confined to sites that have some unusual characteristic.



## 5d House Design

The Council wishes to encourage a high standard of design. Novel architectural solutions including those which meet the need for energy conservation and sustainability will be encouraged.

Conventionally designed housing should observe the following criteria:

- a) roofs should be conventionally pitched and be symmetrical;
- b) roof pitches should be not less than 35° and not greater than 45°;
- c) there should be a dominant roof and ridge line where the floor plan is not a single rectangle as in 'L' or 'T' or other more irregularly shaped floor plans;
- d) the dominant ridge line should normally run parallel to the road;
- e) the colours of wall finishes and roof materials should be sympathetic to one another;
- f) windows should have a vertical emphasis;
- g) a variety of wall finishes on single buildings should be avoided;
- h) variety of finishes on groups of buildings should generally be avoided, interest should be achieved by the use of different architectural detailing; and
- i) underbuilding should be kept to a minimum and base courses should not be obvious if built from a different material from that of the rest of the wall.

## 5e Areas of Improved Quality

Within HOUS1, HOUS2 and HOUS3 sites of 15 units or more, it is desirable to seek, within limited parts of each site, an added emphasis on quality in design. This is to apply to individual buildings or groups of buildings, and in the use of materials both in finishes to dwellings (for example, slate and wet dash render, stone detailing, rosemary and clay pantiles) and also in walls and ground surfaces.

In this way development is likely to have the elements necessary to produce a 'future' conservation area. The Council expects such treatment will be applied to a minimum of 20% of the dwellings on the site and should be focused on prominent landmark groups or key individual homes.

## 6 Accessibility and Parking Provision

Proposals for new development will be required to:

- a) incorporate measures to enable / encourage the use of alternative transport modes to the private car;
- b) make provision for roads, lighting and parking to satisfy the Council's standards (refer to *Standards for Development Roads: A Guide to the Design and Construction of Roads for Adoption*).

Detailed layout designs for developments, or phases thereof, will be accompanied by statements of the design measures taken, and on-site and off-site infrastructure to be provided, in the interests of enabling and encouraging residents and visitors to use alternatives to the private car.

## 7 Notifiable Installations

Proposed developments should take the presence of notifiable installations into account, and planning applications for development within the consultation distances of these installations will be referred to the Health and Safety Executive (HSE), and account taken of their response, in accordance with SOEnvD Circular 5/93. Similarly, proposals to site new notifiable installations in the vicinity of existing urban development will require consultation with the HSE.

## 8 Edinburgh Airport Safeguarding Zone

Planning applications for certain types of development within the consultation zone\* for Edinburgh Airport will be referred to the British Airports Authority (BAA) for their interest, and account taken of their response, in accordance with The Town and Country Planning (Safeguarding Aerodromes, Technical Sites and Military Explosives Storage Areas)(Scotland) Direction 2003 (see Circular 2/2003).

\*For details of types of development and extent of area, refer to Edinburgh Airport Aerodrome Safeguarding Map, available for inspection in the Council's offices.

## Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

**Reg. No. 13/00508/DPP**

Walker Architectural  
3(Flat3)  
Winton Place  
Tranent  
EH33 1AF

Midlothian Council, as Planning Authority, having considered the application by Mr James Ewen, 29/3 Mayfield Gardens, Edinburgh, EH9 2BX, which was registered on 11 July 2013 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

**Sub-division of dwellinghouse to form 3 flatted dwellings; erection of extension; alterations to window opening to form door opening; and alterations to garden levels at 33 Mayburn Terrace, Loanhead, EH20 9EH**

In accordance with the application and the following plans:

| <u>Drawing Description.</u> | <u>Drawing No/Scale</u> | <u>Dated</u> |
|-----------------------------|-------------------------|--------------|
| Location Plan, Site Plan    | 01A 1:1250 1:500        | 11.07.2013   |
| Site Plan                   | 03 1:100                | 11.07.2013   |
| Existing elevations         | 02 1:100                | 11.07.2013   |
| Proposed floor plan         | 05A 1:200 1:100         | 11.07.2013   |
| Proposed elevations         | 04A 1:100               | 11.07.2013   |

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

1. *The development will provide an inadequate level of amenity for future residents due to the fact that it will be overlooked by existing neighbouring residential properties and that it has not been demonstrated that there will be an adequate level of garden ground being provided for each dwelling within the application site.*
2. *The development will have a detrimental impact on the amenity and privacy of the occupants of the immediately adjacent residential properties due to the close proximity of the properties and the distances between the windows on neighbouring flatted dwellings.*
3. *The proposed development in having no off-street parking provision means that it does not comply with the Council's parking standards and will result in cars being parked on the street to the significant detriment of traffic and pedestrian safety on this busy public transport corridor.*

4. *For the above reasons, the proposal is contrary to policies RP20 and DP2 of the adopted Midlothian Local Plan 2008.*

Dated 5 / 9 / 2013

A handwritten signature in black ink, consisting of a stylized 'D' and 'R'.

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

## **PLEASE NOTE**

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

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

### **Prior to Commencement (Notice of Initiation of Development)**

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

## **IMPORTANT NOTE REGARDING PUBLIC ACCESS TO INFORMATION**

### **Making an application**

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

### **Making comment on an application**

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

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



**The Coal  
Authority**

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

Planning and Local Authority Liaison:

Direct Telephone: 01623 637 119

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

Website: [www.coal.decc.gov.uk/services/planning](http://www.coal.decc.gov.uk/services/planning)

**DEVELOPMENT LOW RISK AREA – STANDING ADVICE**

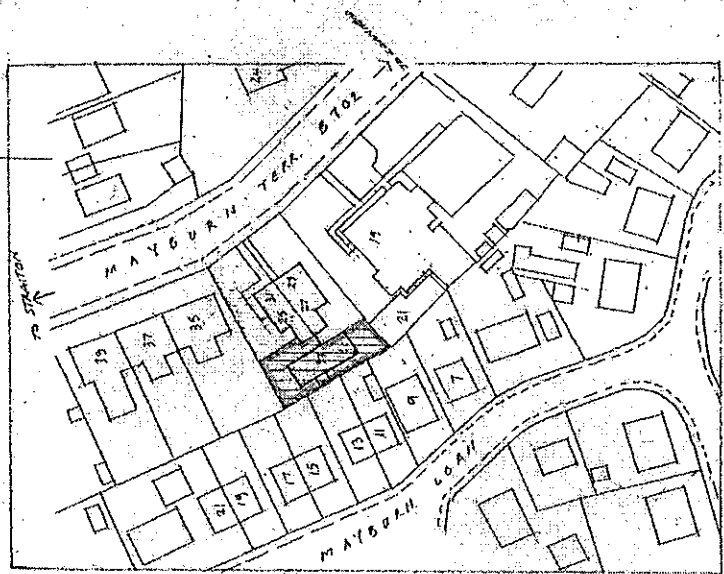
The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0845 762 6848.

Further information is also available on The Coal Authority website at [www.coal.decc.gov.uk](http://www.coal.decc.gov.uk)

Property specific summary information on past, current and future coal mining activity can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com)

*This Standing Advice is valid from 1<sup>st</sup> January 2013 until 31<sup>st</sup> December 2014*

# APPENDIX F

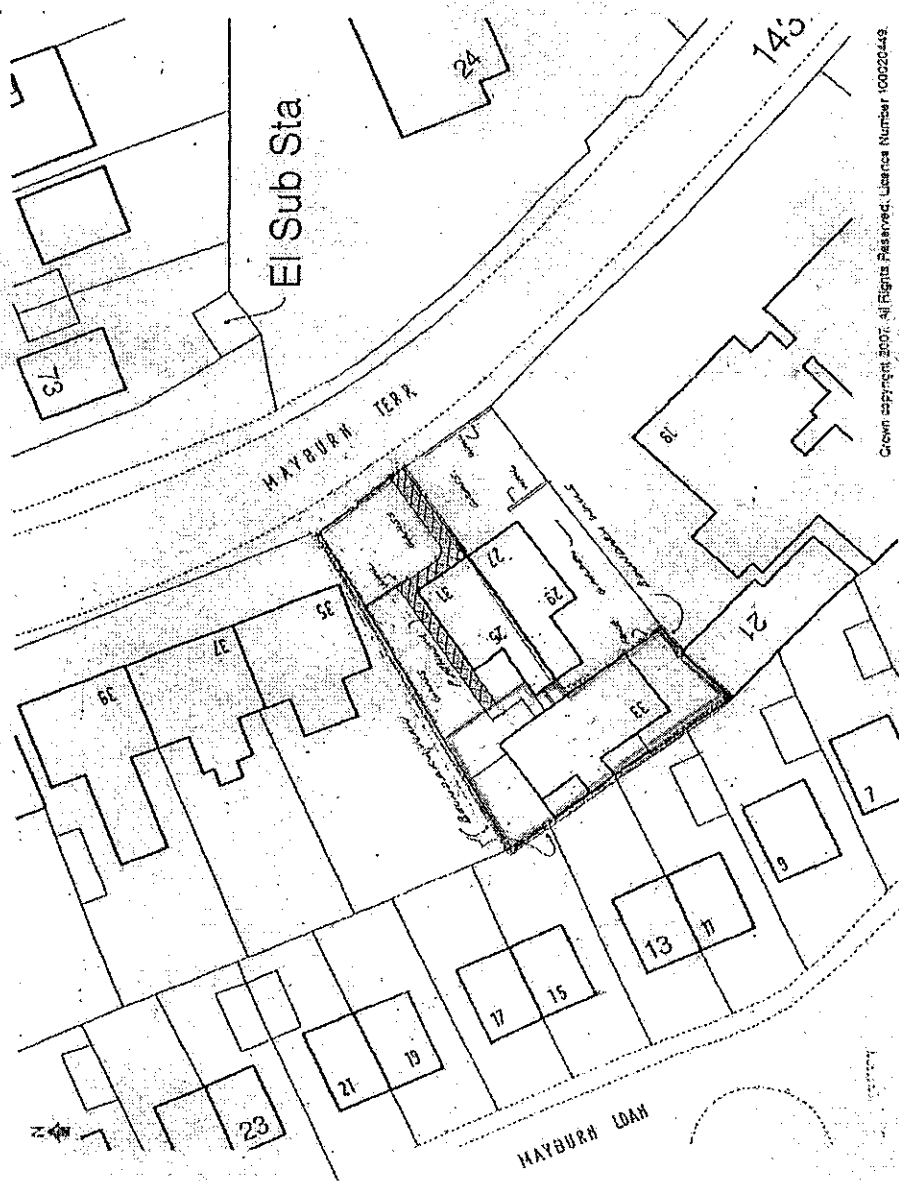


LOCATION PLAN 1:1250

**JOHN WALKER**  
architectural consultants  
97 WARDIE ROAD GLENCOCK  
GLASGOW G3 7JF  
TEL: 0141 781 0165 FAX: 0141 781 1119

**TITLE**  
33 MAYBURN TERR. LOANHEAD  
PROPOSED SUBDIVISION OF HOUSE  
EWEN PROPERTIES  
1:500 JW  
DWG NO. 01  
REV NO. A

This is a true copy of the drawing referred to in the Application.  
dated signed J. Walker



BLOCK PLAN 1:500 SCALE

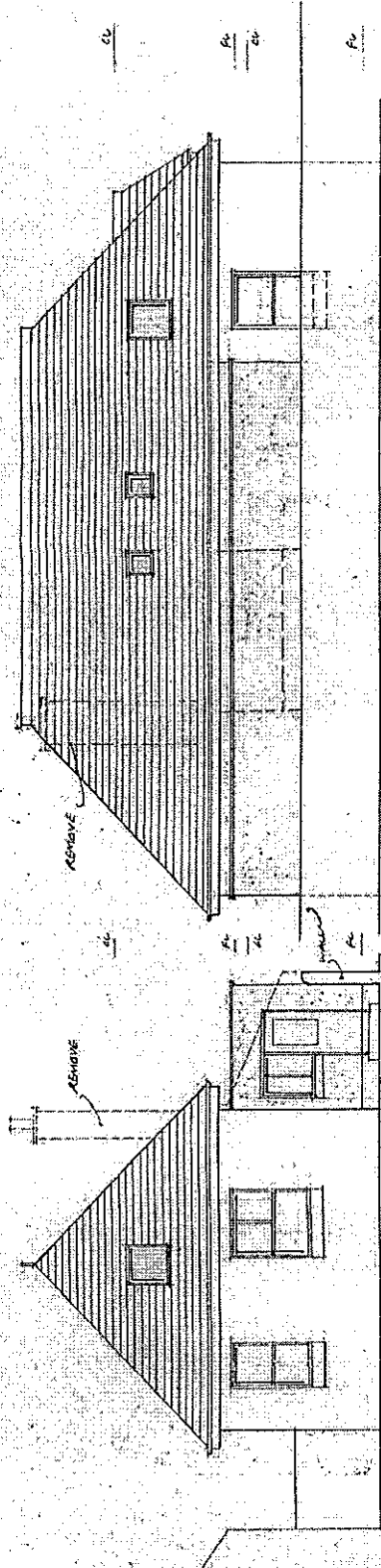
|                     |             |
|---------------------|-------------|
| CORPORATE RESOURCES |             |
| 15 00508 077        | 11 JUL 2013 |
| RECEIVED            |             |

SHARED ACCESS

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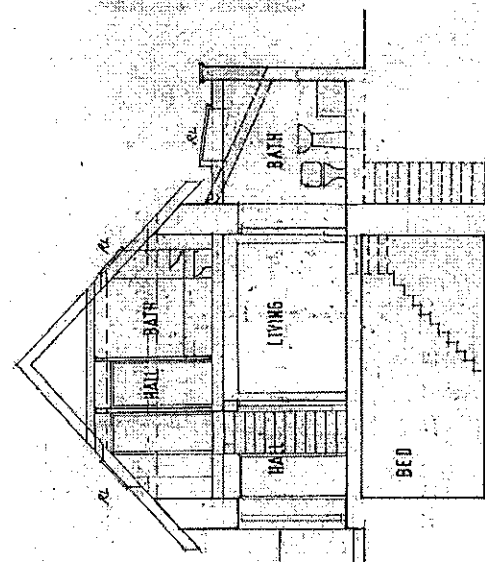


PROPOSED

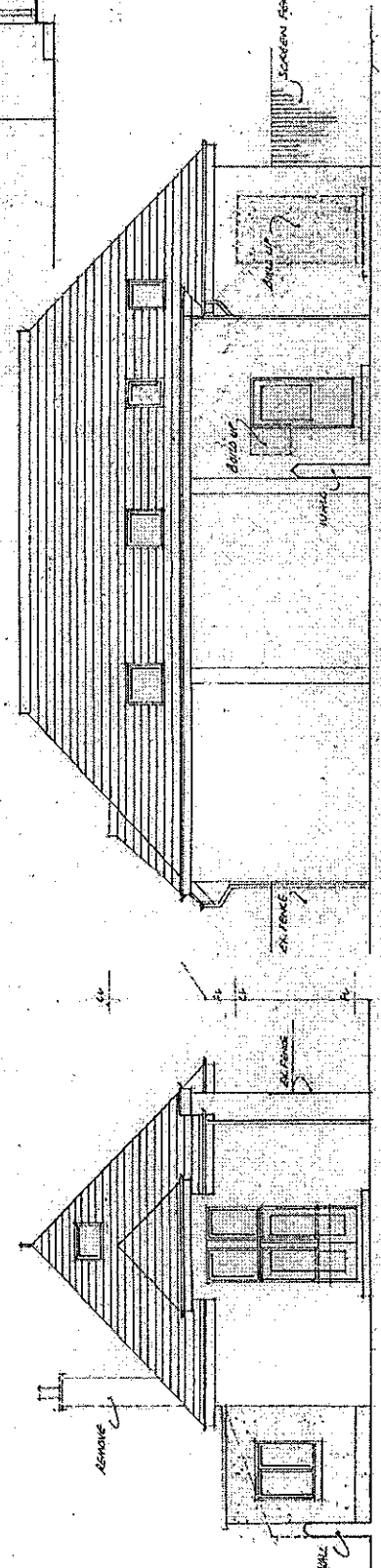


WEST ELEVATION 1:100

NORTH ELEVATION 1:100



SECTION A-A 1:100



SOUTH ELEVATION 1:100

EAST ELEVATION 1:100

CORPORATE RESOURCES  
FILE: 13-00058/DP  
RECEIVED 11 JUL 2013

Legend

| 300. 1 BED FLATS |   |
|------------------|---|
| Flat 1           | 11.5 sq metres floor area ( garden ground achieved 55 sq metres ) |
| Flat 2           | 62 sq metres floor area ( garden ground achieved 32.5 sq metres ) |
| Flat 3           | 54 sq metres floor area ( garden ground achieved 28.5 sq metres ) |

WALK

WALK

SCREEN FENCE

SCREEN FENCE

FENCE

REFUSE BIN STRA 12 NO

GARDEN DIVISIONS: 1:200

| Lot/No.         | Area          | Remarks  |
|-----------------|---------------|--|
| 300.1 BED FLATS |               |  |
| Flat 1          | 115 sq metres | floor area ( garden ground achieved 55 sq metres )   |
| Flat 2          | 62 sq metres  | floor area ( garden ground achieved 32.5 sq metres ) |
| Flat 3          | 54 sq metres  | floor area ( garden ground achieved 29.5 sq metres ) |

**JOHN WALKER.**  
architectural consultants

97-14401E ROAD GLASSGOW G3 7 9ET  
GLASSGOW G3 7 9ET

**TITLE** 33 MAYBURN TERR. LOANHEAD  
PROPOSED SUBDIVISION OF HOUSE

## SEVEN PROPERTIES

SCALE

141

REV NO.



This is a true copy of the drawing related to in the Application.

dated

signed J. Walker

CORPORATION

11/8/2000/21

7013

FLAT 2

BASINENT PLAN 1:100

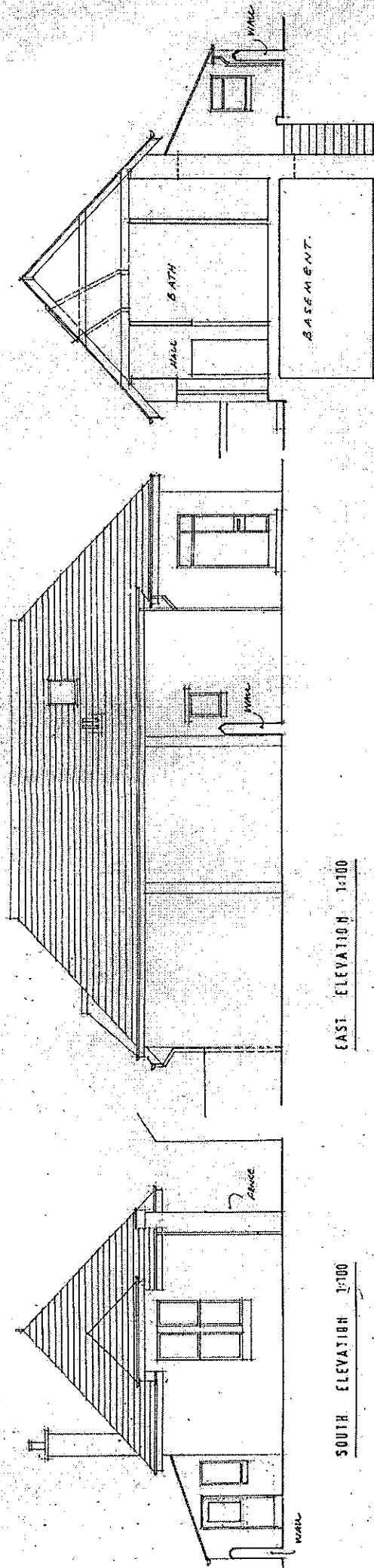
FLAT 1

COPIES OF THE REPORT, 1:100

SECTION - EIGHT PLAN - 1:100

FLAT 3

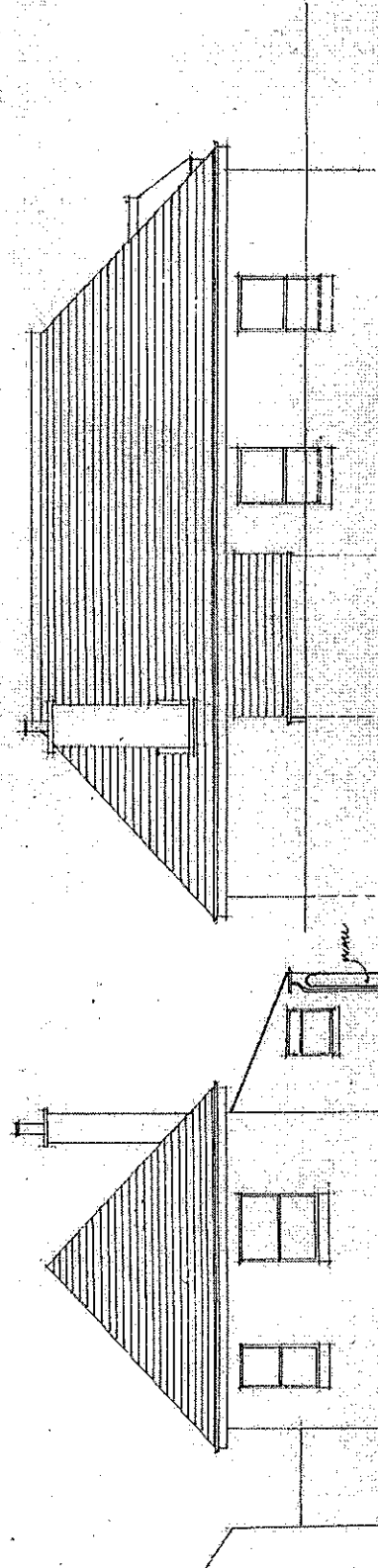
EXISTING



SOUTH ELEVATION 1:100

EAST ELEVATION 1:100

SECTION X-X 1:100



NORTH ELEVATION 1:100

WEST ELEVATION 1:100

**JOHN WALKER**  
architectural consultants

57 WARDEN RD, S.E. 614560W 634565E  
PAPER 1944-184-0165

TITLE 33 MAYBURN TERR. LOANHEAD  
PROPOSED SUBDIVISION OF HOUSE

EVEN PROPERTIES

SCALE 1:100

DRAWN JW

DWG No.

REV NO

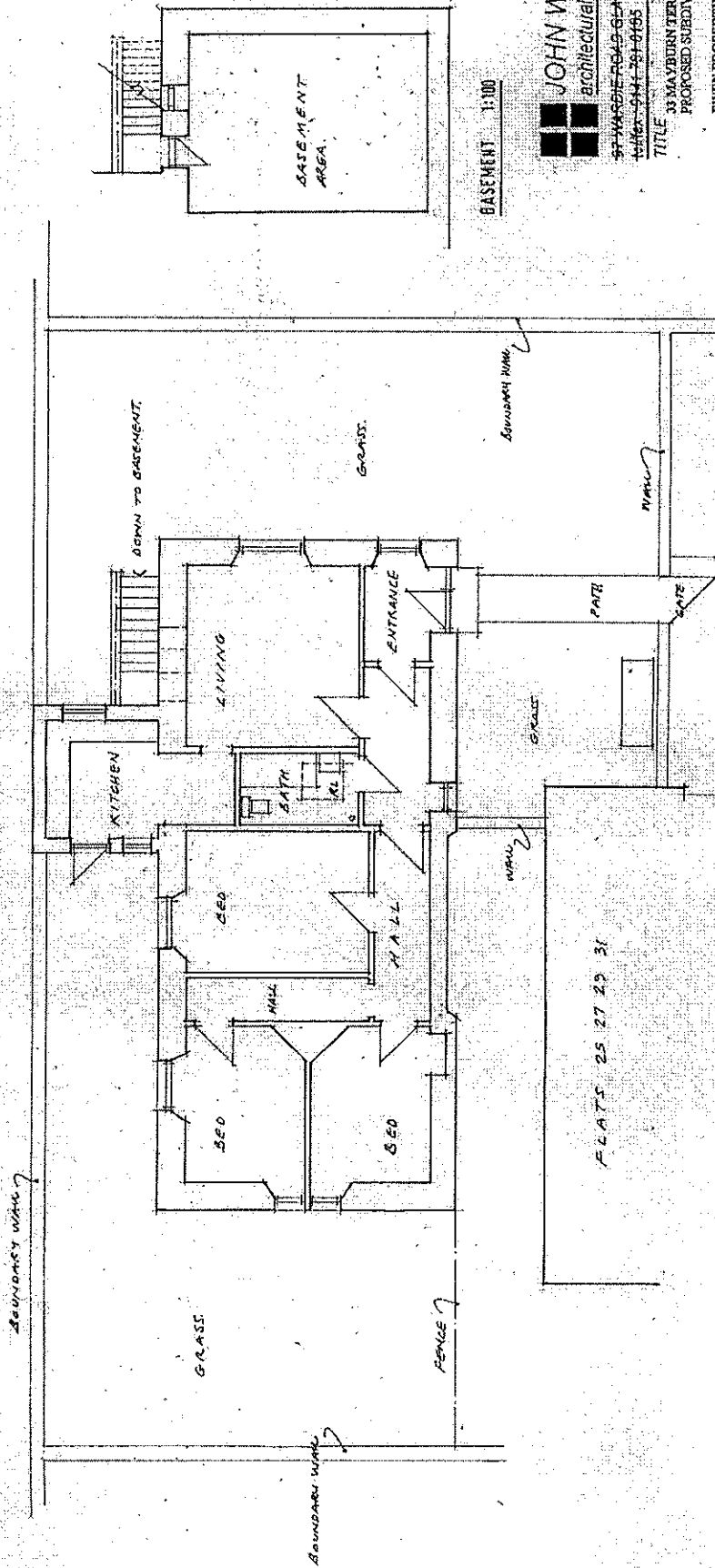
02

This is a true copy of the drawing referred to in the Application.

dated signed *John Walker*

|                      |
|----------------------|
| CORPORATE RESOURCES  |
| FILE 1300508 DDE     |
| RECEIVED 11 JUL 2013 |

**EXISTING**



**JOHN WALKER**  
architectural consultants

**TITLE** 33 MAYBURN TERR. LOANHEAD  
PROPOSED SUBDIVISION OF HOUSE

**EWEN PROPERTIES**

SCALE

001.1 100.1

REV NO: DWG NO:

03

3

This is a true copy of the drawing referred to in the Application.

started  
signed JAWATTON

CORPORATE RESOURCES  
 FILE # 13 00508 / DEN  
 RECEIVED 11 JUL 2013

**SITE PLAN** 1:100