

Applicant Do	etails		;
Please enter Applicar	nt details		
Title: *	Mr	You must enter a Build both:*	ing Name or Number, or
Other Title:		Building Name:	Format Design
First Name: *	Roberto	Building Number:	146
Last Name: *	Morelli	Address 1 (Street): *	Duddingston Road West
Company/Organisation	on:	Address 2:	
Telephone Number:		Town/City: *	Edinburgh
Extension Number:		Country: *	Scotland
Mobile Number:		Postcode: *	EH16 4AP
Fax Number:			-
Email Address:			
Site Address	s Details		
Full postal address of	the site (including postcode where availab	ole):	
Address 1:	15 MAIN STREET	Address 5:	
Address 2:		Town/City/Settlement	GOREBRIDGE
Address 3:		Post Code:	EH23 4BX
Address 4:			
Please identify/descr	ibe the location of the site or sites.		
Northing	661454	Easting	334518
Nothing	001404		004010
-	of the Proposal		
Please provide a des application form, or a (Max 500 characters)	cription of the proposal to which your revies amended with the agreement of the plant	w relates. The description sho ning authority: *	ould be the same as given in the
Change of use from 4BX	shop (class 1) to hot food takeaway (Sui G	eneris) and installation of flue	e at 15 Main Street, Gorebridge, EH23

Type of Application
What type of application did you submit to the planning authority? *
Application for planning permission (including householder application but excluding application to work minerals).
Application for planning permission in principle.
Further application.
Application for approval of matters specified in conditions.
What does your review relate to? *
Refusal Notice.
Grant of permission with Conditions imposed.
No decision reached within the prescribed period (two months after validation date) – deemed refusal.
Statement of reasons for seeking review
You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)
Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.
You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time of expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.
Please see attached 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? *
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 appeal
Application Details
Please provide details of the application and decision.
What is the application reference number? * 12/00795/DPP
What date was the application submitted to the planning authority? * 04/12/12
La
Has a decision been made by the planning authority? *
What date was the decision issued by the planning authority? * 04/02/13

Review Procedure	
The Local Review Body will decide on the procedure to be used to determine your review and may at any tiprocess require that further information or representations be made to enable them to determine the review be required by one or a combination of procedures, such as: written submissions; the holding of one or more inspecting the land which is the subject of the review case.	. Further information may
Can this review continue to a conclusion, in your opinion, based on a review of the relevant information proparties only, without any further procedures? For example, written submission, hearing session, site inspec	vided by yourself and other tion. *
☐ Yes ☑ No	
Please indicate what procedure (or combination of procedures) you think is most appropriate for the handlin select more than one option if you wish the review to be conducted by a combination of procedures.	ng of your review. You may
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 it will deal with? * (Max 500 characters)	your statement of appeal
We would like to request a hearing to be allowed the discuss the proposal with the Local Review Body	
In the event that the Local Review Body appointed to consider your application decides to inspect the site, i	n your opinion:
Can the site be clearly seen from a road or public land? *	es 🔲 No
Is it possible for the site to be accessed safely and without barriers to entry? *	es 🔲 No
Checklist - Application for Notice of Review	
Please complete the following checklist to make sure you have provided all the necessary information in su Failure to submit all this information may result in your appeal being deemed invalid.	pport of your appeal.
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 or require to be taken into account in determining your review. You may not have a further opportunity to add at a later date. It is therefore essential that you submit with your notice of review, all necessary information on and wish the Local Review Body to consider as part of your review.	to your statement of 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, planning condition or where it relates to an application for approval of matters specified in conditions, it is an application reference number, approved plans and decision notice (if any) from the earlier consent.	variation or removal of a dvisable to provide the

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:

18/02/2013

Submission Date:

18/02/2013

Grounds of Review to Local Review Body - 15 Main Street Gorebridge, EH23 4BX Change of Use from shop (class 1) to hot food takeaway (Sui Generis) and installation of flue at 15 main Street Gorebridge, EH23 4BX.

The application was refused for the following reasons:

- 1. "The proposal, in combination with the proportionately high number of hot food takeaways in the area, would adversely affect the vitality and viability of the town centre and as such is contrary to Midlothian Local Plan policy DP7.
- 2. The proposed development would result in the loss of a retail unit and a reduction of the range and quality of facilities within Gorebridge Town Centre, which is contrary to Midlothian Local Plan policies Shop1 and DP7.
- 3. It has not been demonstrated, to the satisfaction of the Planning Authority, that there would not be a serious and significant adverse impact on the amenity of neighbouring residential properties and occupants, and as such the proposal is contrary to Midlothian Local Plan policy DP7.
- 4. For the above reasons the proposed development would detract from the existing character and amenity of the area, which is contrary to the aims of policy RP20 of the Midlothian Local Plan."

The proposal is to bring a disused derelict shop unit on the Main Street in the Gorebridge Conservation area back into use. The main objection and the main reason for refusal is the loss of a retail unit. Other issues raised are concerned with loss of amenity to the resident living above the adjacent hot food shop and to the possible loss of amenity to the flat above.

The last time the premises was used was as a florists, which ceased trading in 2005, and the unit has lain empty ever since, in spite of the owners trying to let or sell the premises. The last time the premises was advertised for sale or let was over two years ago with no interest of occupying it as a shop unit. Advertising is expensive and to continue to advertise when it is clear, particularly in this economic climate, that there was no interest did not make financial sense.

The Planning Officer's report stated:

"The Planning authority would require details relating to the levels of interest shown in the property or how long the unit was marketed, the types of any interest shown in the property or how long the unit was marketed. It is essential to know that the property was not advertised for a figure well above its market value"

This statement suggests that the owner was deliberately NOT trying to sell or let the property to enable him to get permission to have a hot food takeaway. Perhaps the Council has had a bad experience to lead them to this suggestion, but to suggest that in this case the owner would deliberately leave the premises to fall into disrepair over a period of 8 years, to allow a change of use is not logical.

The proposal is also to introduce a flue to the rear of the premises to ventilate the kitchen. Environmental Health was consulted and they have no objections subject to the normal conditions on noise and ventilation.

The planning officer's report further states:

"the extraction flue is to the rear of the building and as such would not be visible from Main Street. There would be limited impact on the character of the Conservation area. Environmental Health is satisfied that the proposed ventilation will not have an adverse impact of the surrounding area."

In the Development Management Planning Application Delegated Worksheet the various planning policies are explained and other points of concern were raised. These can be summarised as follows and we have made our comments on the issues.

Under the heading of Background (Previous Applications, Supporting Documents, Development Briefs) it states that in 2009 an application for a change of use from a Post Office (class 1 shop) and a shop to 2-flatted dwellings was approved.

Comment - This approval to change shop units into flats was considered against the same policies and criteria as the current application. It is our position that the vitality and viability of the Main Street, Gorebridge would be seriously eroded if shop units were to continue to be changed into residential flats. In the current application the fabric of the unit will remain in the form of a shop unit while being upgraded and maintained. History has proved that shop units in towns and villages over the years change use and very often change back to uses that were there originally. However, if shop units change into flats that option has been lost.

At this point it may be worthwhile listing the uses that are considered shops and other uses that, while occupying a shop unit, are not classed as shops as defined in the Town and Country Planning (use classes) (Scotland) Order 1997.

Class 1 Shops - examples

Butcher

Baker

Post office (note this is a shop not an office)

Newsagent.

Grocers.

Ironmongers/hardware.

Travel agent (note this is not an office)

Chemist

Hairdresser

Clothes shop

Charity shop

Funeral undertakers (note this is a shop not a service as in class 2)

Takeaway coffee shop (with limited seating)

Class 2 Financial, professional and other services - examples

Estate agents

Solicitors

Banks

Bookies Shops (note this is an office not a shop)

Beauty parlours

Class 3 Food and drink - examples

Restaurants (cooking and non cooking)

Cafes

Coffee shops

Ice cream parlours (with seating).

Sui Generis i.e.(not in a use class) - examples

Pubs
Hot food for consumption off the premises.
For example.
Fish and chip shop.
Chinese takeaway
Indian takeaway
Baked potato
Pizza pasta takeaway

Gorebrige Main Street has a reasonable mix of outlets, which comprise of the following:

Gorebridge Development Trust Offices. Unique Beauty Salon Shear Expansions hairdressers Martin Grav Solicitors Midlothian Self Catering Apartments and Studios Wilmo's Bar Morrellis Fast Food (chip shop) W.D.Paul Undertakers Orchid Chinese Takeaway Vacant derelict shop (Appeal site) Dentist McColls Convenience Store and off sales New Wongs Chinese takeaway Lloyds Pharmacy Aytouns Butchers Bank of Scotland

From the above it can be seen that the street is well served with all the services that are required for local-living. The hot food facility that is proposed is for Italian food Pizzas and Pasta. There is not a hot food facility nearby serving this type of food.

There were 6 letters of objection and 66 letters of support for the application.

The concerns over smells and parking have been dealt with in the officer's report and have been assessed by Environmental Health and Transport who are satisfied that the proposed ventilation will alleviate any issues of smells, and Transport have no objections.

There was a concern over the number of takeaways, which we have addressed in this appeal. The objectors are also concerned about the letters of support. The planning officer's report questions the validity of these letters, but we as agents encourage applicants to discuss their proposal with as many people as they can local and otherwise. It is our experience over 50 years that most letters of representation from the public tend to be objections, whereas other neighbours and interested parties that have no objection to proposals simply do not write in supporting the application. Their view being that if it is fine I have no reason to write in and object. In this case there were significant numbers of people who would like to see the derelict vacant shop reopened and a hot food shop serving Italian food is a welcome addition to the street.

To summarise:

This shop has remained vacant for over 8 years and is in a poor condition and detracts from the Gorebridge Conservation Area.

If the application is approved it will bring a variety to the hot food shops in the street. The shop unit would be upgraded and maintained, safeguarding the sustainability of the shop units. It would avoid alternatives to shops, i.e flats being introduced similar to the recent change of post office to flat. It would revitalise the shop unit and add to the vitality of the street. Due to the installation of new ventilation it will not impact on the amenity of the residents. It will bring additional employment to the area as the proposal will generate 2 full time and 3 part time jobs.

It is our position that the proposal complies with Midlothian Local Plan Policies DP7, SHOP1 and RP20

For the above reasons we would respectfully request that the appeal is upheld and planning permission granted.

Format Design February 2013



MIDLOTHIAN COUNCIL

DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

Planning Application Reference:

12/00795/DPP

Site Address:

15 Main Street, Gorebridge.

Site Description:

The application site is a ground floor vacant retail unit located within Gorebridge Town Centre. The unit is part of a two storey stone built building which is of traditional design. The walls are natural stone, with slate roof and timber windows. The windows at the site are painted green, with the windows on the upper floor stained timber. The property is an end terrace unit with a vennel/pend between the site and the neighbouring property.

There is residential accommodation on the first floor level above the application site. The adjoining property is a hot food takeaway with residential accommodation above. The unit on the other side of the vennel has recently been converted into flatted residential dwellings on two floors. There is also residential accommodation to the rear of the site on Private Road.

The site is located within Gorebridge Conservation Area.

Proposed Development:

Change of use from shop (class 1) to hot food takeaway (sui generis) and installation of flue.

Proposed Development Details:

It is proposed to change the use of the existing retail unit to a hot food takeaway. There are no details of any external works to the front elevation of the building. A flue is proposed on the rear elevation. This is to measure 3.5 metres long and project 1 metre from the eaves of the building.

The agent for the application has stated that the site has been vacant for at least 8 years. It was marketed around 2 years ago with no success. They also state that

there is no requirement for a retail unit in this street as there are others in the area. The agent has stated that the flat above is owned by the current owner of the shop.

In addition to this, the agent has submitted 66 letters from people supporting the proposed change of use. All, except one, are standard letters individually signed stating that they support the vacant shop being opened again. Two of these do not have full address details.

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

Application site

12/00037/DPP Change of use from shop (class 1) to hot food takeaway (sui generis) and installation of flue. Withdrawn.

09/00346/FUL 17 Main Street Change of use of post office, shop and flat to two flatted dwellings and associated external alterations. Consent with conditions.

Consultations:

The Council's **Policy and Road Safety Manager** has no objection. **Environmental Health** has no objection provided that conditions are attached to any permission relating to noise and ventilation.

Representations:

In total six letters of objection have been received in regard to this application. Two are standard letters objecting on the following grounds:

- Impact of the proposed flue on the conservation area;
- There is a high number of takeaways in the area and the provision of a further would be to the detriment of the village;
- The flue will discharge odour to the residential properties close to the site;
- The pend is not wide enough for commercial refuse bins;
- Standing water gathers in the pend when it has been raining;
- Concerns over parking:
- Concerns over antisocial behaviour; and
- A number of the letters of support have come from people outwith the village
 they object to the validity of these comments as there is not the same impact on them as people who live in the village.

Finally they state that they are aware a number of other residents have commented online but these have not appeared on the online planning file. Also, they state that they know of somebody whose name is online as having submitted a letter of support but they do not recollect signing any letter and are against the proposal.

A further three standard letters of objection have been submitted stating parking facilities on the Main Street will be further restricted.

Finally, one further objector stated that the proposal would detrimentally affect the character and appearance of the area. It would not assist in improving the image of Main Street. They also reiterate the concerns over antisocial behaviour, parking and odours.

One further representor does not object or support the application but reiterates the concerns over the width of the pend and standing water.

Relevant Planning Policies:

Midlothian Local Plan
RP20 Development within the built up area
RP22 Conservation Areas
SHOP1 Town Centres
DP7 Control of Class 3 (Food and Drink) uses and hot food takeaway shops

Planning Issues:

Policy RP20 states that development will not be permitted where it is likely to detract materially from the existing character or amenity of the area. Policy RP22 states that development will not be permitted which would have any adverse effect on the character and appearance of the conservation area. SHOP1 states that development proposals bringing about an improvement to the range and quality of retail and commercial leisure facilities in town centres will considered favourably.

Policy DP7 states that appropriate locations for hot food takeaways would be within a town centre, local or neighbourhood shopping centre or a predominantly commercial or business area. In addition, it states that they will not be permitted where there are residential properties on the floor or floors above or immediately on either side and the floors above such properties unless these are owned and occupied by the applicant or his immediate family or by an employee working in the establishment. The cumulative effect of additional hot food takeaway establishments will be assessed to ensure that the vitality and viability of the shopping centre is not considered to be seriously harmful. In addition, permission will not be granted where it would cause significant harm to residential amenity or the general environment of the area as a result of noise, disturbance, smell or litter.

As stated above, the application premises is a vacant retail unit within Gorebridge Town Centre. Despite the applicant arguing that the unit has been vacant for eight years the approval of this application would lead to the loss of a retail unit and the creation of a further hot food takeaway.

At present, there are five retail units operating on Main Street (pharmacy, convenience store, butcher, hairdresser and funeral parlour). In addition, there are four class two uses (bank, beauty salon, solicitors and dentist). There are three hot food takeaways on Main Street, with one operating from the property immediately adjacent to the application site. Should planning permission be granted for the proposed change of use, it would result in a quarter of the commercial units within the Town Centre being in a hot food takeaway use.

Policy SHOP1 states that development proposals which bring about an improvement to the range and quality of retail and commercial leisure facilities in town centres will be considered favourably. Main Street is the main shopping area in Gorebridge but offers a limited variety of retail and other uses associated with town centres. The provision of a further hot food takeaway within the town centre would not contribute to a varying range of commercial activities and would lead to an overprovision of this type of establishment. The overprovision of hot food takeaway uses within the town centre would have a seriously detrimental impact on the character and amenity of the area. Hot food takeaways generally operate late in to the evening and can have a detrimental impact on the amenity of local residents. In addition the loss of a potential retail unit would also impact on the range of services in the town centre.

The agent for this application has stated that the unit has been vacant for at least 8 years and that it was unsuccessfully marketed two years ago. No evidence has been submitted to support this statement. The planning authority would require details relating to the levels of interest when it was marketed, the types of any interest shown in the property or how long the unit was marketed. It is essential to know that the property was not advertised for a figure well above its market value. Further information is required to justify the case before it can be considered acceptable to lose the retail unit.

Policy DP7 states that hot food takeaways will not be permitted where there are residential properties on the floor or floors above or immediately on either side and the floors above such properties unless these are owned and occupied by the applicant or his immediate family or by an employee working in the establishment.

There are residential properties on the floor immediately above the application premises and above the neighbouring unit. As previously explained, the neighbouring unit is already in use as a hot food takeaway. Therefore, the residential property above the neighbouring hot food takeaway is already subjected to the adverse impacts of living above such a business. The cumulative impact of two hot food takeaways below the residential property is likely to be significant and lead to a serious loss of amenity.

The agent for this application has suggested that the application site and the residential property above are both owned by the same person. Policy DP7 aims to protect the amenity of residents of upper floor residential properties, unless they have a connection with the hot food takeaway. This usually means that the operator of the hot food takeaway or an employee at the business would be required to live in the residential unit above the commercial premises. It is not clear what link, if any, there would be between the occupant of the flat and the hot food takeaway. Based on the information provided, it is difficult for the local authority to support the proposal given its likely impacts on a residential property above. Again, there is an issue of the cumulative impact of two hot food takeaways affecting the residential property above the application premises.

The proposed extraction flue is to the rear of the building and as such would not be visible from Main Street. As a result of its location and size, there would be limited impact on the character and appearance of the conservation area as a result of the flue. In terms of the representations, Environmental Health is satisfied that the

proposed ventilation will not have an adverse impact on the amenity of the surrounding area.

The Council's Policy and Road Safety Manager has not raised any concerns regarding the proposals impacts on traffic and pedestrian safety.

Turning to the letters of support and of representation. The applicant chose to submit 66 letters of support along with his planning application. The vast majority of these letters are in the form of a standard template which appears to be individually signed and addressed. These are not letters which have been submitted in response to the planning application but are letters that the applicant has gathered and submitted. These letters state that the hot food takeaway would be an asset to the area and that it would be nice to see a vacant shop reopened.

A number of objectors have voiced concern that those from out with the area have supported the application. The planning process is an open and transparent one, and therefore anyone with a valid planning-related comment is able to make comments on a planning application. All valid comments are taken in to account in the assessment of the application. However, given the way by which the letters have been submitted causes the planning authority some concern. The submission of letters of support by the applicant is open to abuse and the planning authority would prefer letters of representation to be submitted directly to the authority by the representor. This avoids allegations of misrepresentation.

With regards to the allegation that a letter of support has been falsified, this is an issue between the two parties. It is not possible for the planning authority to verify if all letters are legitimate.

A representor has stated that other people have made online comments but that these comments have not appeared on the planning file. Two online comments have been received in relation to this proposal to date. There has been no contact from anybody stating they have been unable to submit comments online/that their comments have not appeared online.

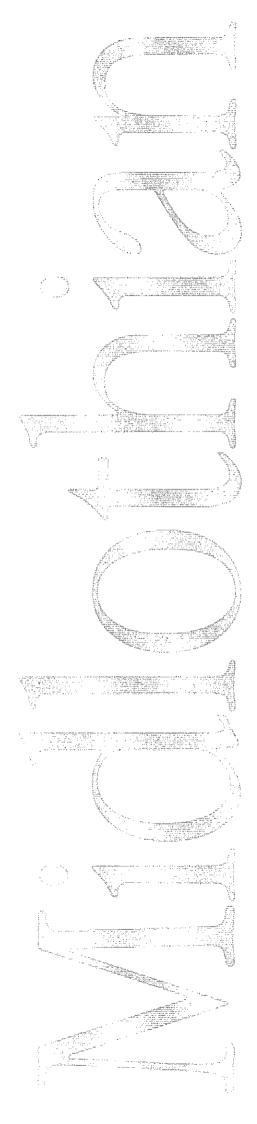
With regards to the representation made in connection with potential antisocial behaviour and noise, reference has been made to the impact of the proposal on local amenity in the report above. Generally antisocial activities are a matter dealt with by the police and cannot be considered as material planning considerations. Also, the issues relating to the width of the pend and standing water are not material planning considerations in this case.

In summary, the applicant has not submitted adequate justification for the change of use from retail to a non-retail use. In addition, there is already over-provision of hot food takeaways in the town centre. The high proportion of evening uses is likely to be harmful to the town centre's amenity, character and identity, thus the character and amenity of the town centre is considered to be adversely affected. The proposal would not bring about an improvement to the range and quality of retail and commercial facilities in the town centre.

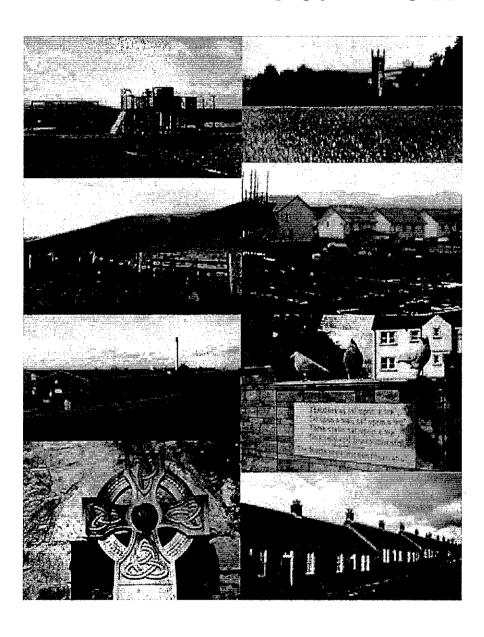
It is also relevant to note that the Council has recently been awarded funding by the Scottish Government for essential repairs and improvements to the historic town centre at Gorebridge. It is stated that the funding is to encourage the local authority to invest in the historic environment whilst helping stimulate economic regeneration. The new funding is likely to attract new business to the town centre with a greater chance of finding a use more suitable than a hot food takeaway for this vacant application site.

Recommendation:

It is recommended that planning permission be refused.



APPENDIX D Midlothian Local Plan





Midlothian Local Plan

ADOPTED BY RESOLUTION OF MIDLOTHIAN COUNCIL ON 23 DECEMBER 2008

This Plan has been produced by the Planning Unit Strategic Services

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

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.

Policy and Proposal Titles

RP22 CONSERVATION AREAS

RP23 CONSERVATION AREAS – AMENDMENTS (PROPOSAL)

RP24 LISTED BUILDINGS

National Planning Policy Special controls in respect of buildings and areas of special architectural or historic interest are brought into force under the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. Under this Act, the Scottish Ministers are required to compile a list of buildings of special architectural or historical interest (listed buildings). Local authorities are required to determine if there are areas of special architectural or historic interest (conservation areas) and if so, to designate these. Both are afforded additional protection through development plan policies seeking to preserve and enhance their character and appearance whilst taking into account that such areas must function successfully as places for social and economic activity. Guidance is set out in NPPG 18 Planning and the Historic Environment and in Historic Scotland's Memorandum of Guidance on Listed Buildings and Conservation Areas.

- **2.2.10 Structure Plan Policy** Strategic policy takes on board conservation objectives in conservation areas, and in urban areas generally, and supports the conservation of all listed buildings. ELSP policies ENV1 and ENV10 require that policies for maintaining and enhancing conservation areas, and protecting all listed buildings and their settings, are contained in local plans.
- **2.2.11** Local Plan Policy Midlothian's towns and villages have many historically and architecturally interesting areas and individual buildings of special architectural or historic interest. These contribute to the distinctive character of the urban and rural environment and to the quality of life in Midlothian generally. As part of our heritage, they are valuable for education, recreation and tourism.
- **2.2.12** Conservation area and listed building status does not mean that development, including new building and alterations to existing buildings, is necessarily opposed. Development proposals must be of an appropriate character, scale and appearance. Consideration requires to be given to opportunities for the preservation and enhancement of these important areas. Policies RP22 and RP24 set out the requirements where new development is proposed in conservation areas, or affecting listed buildings,

and identify where there is scope for enhancing any special qualities.

2.2.13 Minor changes to properties, which normally would not require planning consent, could erode the character and appearance of a conservation area. In Midlothian's Conservation Areas, the Council has put in place Article 4 Direction Orders to remove permitted development rights in order to ensure control over all changes. Requirements specific to individual Conservation Areas (Newtongrange, Broomieknowe and Lasswade & Kevock) are contained in detailed policy DP5. Supplementary planning guidance specific to other Conservation Areas may be approved during the lifetime of the Plan. Work is currently in progress to prepare Conservation Area appraisals for all of Midlothian's Conservation Areas and, when approved as supplementary planning guidance, these will assist with planning decisions relating to development proposals and also help to guide any future enhancement schemes. Conservation Area appraisals and any subsequent enhancement schemes will be the subject of consultation with appropriate organisations including community groups.

2.2.14 There are twenty designated Conservation Areas in Midlothian, three of which are classified as outstanding for grant purposes. Defined on the Local Plan Proposals Map, their locations are: Borthwick & Crichton (outstanding), Broomieknowe, Carrington, Dalkeith (outstanding), Dewartown, Edgehead, Eskbank & Ironmills, Fala, Fala Dam, Gorebridge, Howgate, Lasswade & Kevock, Mavisbank (outstanding), Newbattle, Newlandrig, Newtongrange, Pathhead & Ford, Penicuik, Roslin, and Temple & Arniston. The Local Plan makes provision for the designation of a new Dalhousie Conservation Area, the boundary for which is shown on the Local Plan Proposals Map. In addition, amendments are to be made to the boundaries of the Lasswade & Kevock, Mavisbank and Penicuik Conservation Areas (policy RP23) to ensure that they better reflect the architectural and historic significance of these areas. Statutory procedures are required to implement these proposals, and to update the Article 4 Direction Orders applicable within the Conservation Areas.

2.2.15 In conjunction with the Dalkeith town centre regeneration project, the Council is proposing a Townscape Heritage Initiative within the Dalkeith Conservation Area. This is a Heritage Lottery-funded grant initiative which supports schemes led by partnerships of local, regional and national interests that aim to regenerate the historic parts of their towns and cities. The proposed project focuses on:

- protecting the historic/architectural fabric of Dalkeith;
- enhancing the Conservation Area and improving the quality of the public realm;
- encouraging additional investment in the social and economic infrastructure of Dalkeith, including the reuse of historic buildings; and
- promoting greater awareness of conservation and the historic environment.

The initiative seeks to involve all sections of the local community in the project and has attracted initial support from the local business community. The Council will seek developer contributions from the proposal HOUS1 sites in Dalkeith as part of the project partnership (refer to policy IMP3).

RP22 CONSERVATION AREAS

Within or adjacent to a Conservation Area, development will not be permitted which would have any adverse effect on its character and appearance.

New Buildings, Extensions and Alterations

In the selection of site, scale, choice of materials and details of design, it will be ensured that new buildings, and extensions and alterations to existing buildings, preserve or enhance the character and appearance of the Conservation Area. Traditional natural materials appropriate to the locality or building affected will be used in new buildings, extensions or alterations. Particular care in the design of replacement windows and doors will be required on the public frontage of buildings.

Demolition

- A. Demolition to facilitate new development of part or all of a building or other structure that makes a positive contribution to a Conservation Area will only be permitted where it can be shown that:
 - the structural condition of the building is such that it cannot be adapted without material loss to its character to accommodate the proposal; and
 - * the Conservation Area will be enhanced as a result of the redevelopment of the site; and
 - there is no alternative location physically capable of accommodating the proposed development.
- B. Where demolition of any building or other structure within a Conservation Area is proposed, it must be demonstrated that there are acceptable proposals for the immediate future use of the site which enhance the character or appearance of the Conservation Area.

Detailed plans for an acceptable replacement building must be in receipt of planning permission before conservation area consent will be granted for demolition and redevelopment. Conditions will be applied to the planning permission to ensure that demolition does not take place in advance of the letting of a contract for the carrying out of a replacement building or alternative means of treating the cleared site having been agreed.

These requirements may not apply in circumstances where the building is of no architectural or historic value, makes no material contribution to the Conservation Area, and where its early removal would not detract from the character and appearance of the Conservation Area.

3.5 Town Centres and Retailing

Policy Titles

SHOP1 TOWN CENTRES

SHOP2 MAJOR RETAIL AND COMMERCIAL

LEISURE DEVELOPMENT WITHIN OR ON THE EDGE OF STRATEGIC TOWN

CENTRES

SHOP3 CHANGE OF USE WITHIN

STRATEGIC TOWN CENTRES

SHOP4 STRAITON RETAIL PARK

SHOP5 MAJOR RETAIL AND COMMERCIAL

LEISURE DEVELOPMENT OUTWITH STRATEGIC TOWN CENTRES AND

STRAITON

SHOP6 MINOR RETAIL FACILITIES

SHOP7 NEW NEIGHBOURHOOD SHOPPING

FACILITIES

SHOP8 OPEN AIR MARKETS

SHOP9 FACTORY SHOPS

3.5.1 National Planning Policy SPP 8 Town Centres and Retailing re-emphasises the Government's commitment to town centres, acknowledges the broad range of land uses present in town centres, and sets out policies on retailing and commercial leisure developments. It attaches great importance to the adoption of a sequential approach to selecting sites for retail development, favouring firstly town centre sites, secondly, edge of town centre sites, thirdly, other commercial centres identified within the development plan, and fourthly and finally, outof-centre sites in locations that are, or can be made, easily accessible by a choice of modes of transport, and where the impact on the vitality and viability of existing centres can be shown to be acceptable. The SPP requires the principles underlying the sequential approach to apply to proposals to expand, or to change the use of, existing developments where the proposals are of a scale or form sufficient to change their role and function. There is support for shops in small towns, for village shops, and for neighbourhood centres and local shops. The emphasis is on town centres accessible by public and private transport, and on improving the town centre environment.

3.5.2 Structure Plan Policy The Structure

Plan was prepared in accordance with NPPG 8, the predecessor guidance to SPP 8. It identifies the region's strategic shopping centres, categorising these as town centres and 'Other Major Shopping Centres of Strategic Importance.' Dalkeith, Bonnyrigg and Penicuik are identified as town centres and Straiton is the only Midlothian 'Other Major Centre of Strategic Importance'. Where development cannot be accommodated within, or on the edge of, a town centre, the next preference is to channel development to these 'Other' centres. The Structure Plan recognises that there are many smaller local centres which provide a vital service to surrounding neighbourhoods. There is a presumption that these local centres will be nurtured and protected, however it is for local plans to determine the future role of individual centres according to local circumstances. The principles of NPPG 8 are not significantly different to those of SPP 8. However, a local plan must conform with the current approved structure plan and therefore the Local Plan must be compliant with the ELSP 2015.

3.5.3 Local Plan Policy Access to a choice of convenient shopping facilities for all of Midlothian's population is an important objective of the Council. Existing town centres serve local communities well. A number of such centres have been the subject of environmental improvements to enhance their town centre environment, for example, the Bonnyrigg town centre environmental enhancement scheme. The Council is also promoting an initiative, with its partners, aimed at revitalising Dalkeith town centre. A draft master plan has been prepared which will create around 3,700m² of new retail floorspace, in the first phase, as part of a mixed-use development. The Council, through policy SHOP1, will continue to support developments that will bring about an improvement to the range and quality of retailing and the environment of all of Midlothian's town centres.

3.5.4 Studies carried out by Midlothian Council and the other ELSP authorities point to continuing future demand for additional food and non-food retail floorspace. In Midlothian this growth will be partly the result of population increases provided for in this and previous development plans. Currently there is significant retail expenditure leakage from Midlothian, and this loss will increase without investment in further retail floorspace in Midlothian. Policy SHOP6 will support minor retail facilities across all Midlothian's town and neighbourhood centres.

3.5.5 For major retail developments, the Local Plan reflects national guidance and the ELSP, by applying a sequential approach through policies

SHOP2, SHOP4, and SHOP5. These policies act to encourage, in the first instance, the development of major retailing proposals within or on the edge of Midlothian's strategic town centres, that is Dalkeith, Penicuik and Bonnyrigg, as defined on the Local Plan Proposals Map. Where no alternative sites are available in these strategic town centres, major retail development is supported in Straiton Retail Park, subject to criteria having been met. Major retailing proposals will only be considered outwith the strategic retail centres where it can be shown that there are no suitable sites available in these centres, and that they can meet a range of criteria, to prevent adverse impacts and encourage accessibility by means other than private car.

- Midlothian Council recognises the importance of the strategic town centres, and the need to ensure they retain their vitality. It considers that there can come a point at which the density of shops in a centre is weakened, through increasing losses to non-retail uses, such that the centre no longer functions as an attractive destination, threatening the viability of remaining retailers. Policy SHOP3 seeks to overcome this problem by protecting the role of the three strategic town centres as retail destinations. The policy aims to limit the number of retail units being lost to non-retail functions. However, the policy contains sufficient flexibility to allow, in specified circumstances, for other uses that will improve the image and vitality of the centre. This reflects the view of SPP 8, that a town centre is more than a retail centre. Supplementary guidance on the control of Class 3 (food and drink) uses and hot food takeaway shops is set out in detailed policy DP7 as a means to control this specific non-retail use.
- 3.5.7 Given the significant number of new houses planned in Midlothian over the next 10 years, policy SHOP7 reflects support for new retail facilities in centres which are well located in relation to residential development. In general, it is not envisaged that there would be a need for retail developments in excess of 1000m² gross floorspace in neighbourhood centres. However, it is acknowledged that there may be occasions where a larger development could be justified in a neighbourhood centre because of the particular circumstances in the area, for example, in areas of significant residential development at some distance from existing centres.
- **3.5.8** Policies SHOP8 and SHOP9 respectively set out the circumstances whereby open air markets within existing centres and factory shops on industrial sites may be acceptable.

- 3.5.9 Straiton is the only 'Other Major Shopping Centre of Strategic Importance' in Midlothian, as identified in Schedule 6.2 of the Structure Plan. Apart from the earlier developments of Costco and IKEA, expansion at Straiton has been limited to the development of the Lower Straiton Retail Park and approval of a small extension close to the A701, on the west side of the Park. Both areas lie within the approved retail park boundary. Some rationalisation of parking has been implemented to improve the park environment and operation. Given the results of the recent retail assessments that expenditure is being lost from Midlothian, the Council considers it desirable to support the continued success of Straiton. Accordingly, a small southward extension of the Park is provided for in this Plan, so that limited further expansion can take place if required (subject to the criteria of policy SHOP4). Therefore, provided development meets an identified need which cannot be accommodated in Midlothian's strategic town centres, and subject to its impact not affecting the viability and vitality of other town centres, retail proposals will be supported at Straiton.
- Attention in the coming Plan period will focus on the need to overcome deficiencies in the retail park, in particular with regard to accessibility by means other than private car. The A701 Multi-Modal Study concluded that development should concentrate at the northern end of the A701, that is in the Straiton area, to take advantage of current and future public transport provision. The Council is undertaking a series of junction modifications to improve bus movement in this corridor. These, in association with the Straiton park and ride, will modify traffic movement, and offer transport alternatives, in the Straiton A720 junction area. The Structure Plan requires the role of Schedule 6.2 centres to be defined in local plans, and this is set out for Straiton overleaf:

Definition of Role of Schedule 6.2 Centre: Straiton

Straiton is the only 'Other Major Shopping Centre of Strategic Importance' in Midlothian. The role of Straiton is to absorb retail and commercial leisure development that cannot be accommodated in, or on the edge of, Schedule 6.1 centres (which for Midlothian comprise Dalkeith, Penicuik and Bonnyrigg). There is potential to diversify the centre's role, with commercial leisure and food and drink uses, and for redevelopment of units with higher quality design, and environmental improvements. Current limitations for the centre are its linear layout, which encourages short internal car journeys, and poor eastwest public transport links within Midlothian. Future development should address these shortcomings.

3.5.11 Major new freestanding retail warehouses and factory outlet centres are unlikely to be supported, in line with SPP 8 and the ELSP. The proactive town centre initiatives, the limited expansion of Straiton Retail Park boundary and the effect of policies SHOP1, 2, 4 and 5, which together combine to provide a comprehensive sequential approach, make it unlikely that a new freestanding retail park or shopping centre would be supported.

3.5.12 The advice provided by SPP 8 relates not

only to retail facilities but also to commercial leisure developments. As such new commercial leisure facilities will be subject to the same sequential test applied to retail developments. Therefore commercial leisure proposals will be supported in the strategic town centres, and if accommodation is not available there, the Straiton area will be considered, subject to the criteria of policy SHOP4 being met.

3.5.13 As a means to assess quantitative, qualitative, vitality and viability issues relating to new retail proposals, there could be a requirement for a Retail Impact Assessment. These assessments will generally be required for larger retail or commercial leisure developments (over 2,500 m² gross floorspace), but may also be sought for smaller proposals where the Council is of the view that these may pose a threat to existing centres.



SHOP1 TOWN CENTRES

Development proposals bringing about an improvement to the range and quality of retail and commercial leisure facilities provided in all Midlothian town centres will be considered favourably. Measures for improving the environment and accessibility of town centres will be supported. In particular, support is given to the implementation of the Dalkeith town centre regeneration initiative.

With respect to the new Shawfair town centre (policy COMD1 – committed development), reference should be made to Appendix 2 for the detail of the policy.

SHOP2 MAJOR RETAIL AND COMMERCIAL LEISURE DEVELOPMENT WITHIN OR ON THE EDGE OF STRATEGIC TOWN CENTRES

Proposals for major retail and commercial leisure development, or extensions to existing facilities, will be permitted within, on the edge of, or sufficiently close to form an effective extension to the strategic town centres of Bonnyrigg, Dalkeith and Penicuik, provided they do not (either individually or cumulatively with other developments) undermine the vitality and viability of other strategic town centres.

4.7 Control of Food and Drink Uses

DP7 CONTROL OF CLASS 3 (FOOD AND DRINK) USES AND HOT FOOD TAKEAWAY SHOPS

1 Hot Food Takeaway Shops

Hot food takeaway shops will only be permitted if they are located within a town centre, local or neighbourhood shopping centre, or a predominantly commercial or business area. Even in these locations, hot food takeaway shops will not be permitted in premises where there are residential properties on the floor or floors above or immediately on either side, and on the floors above such properties, unless the affected properties are owned and occupied by the applicant or his immediate family, or by an employee working in the proposed hot food establishment. Within existing shopping centres, consideration will be given to the cumulative effect of additional hot food takeaway establishments on the vitality and viability of the centre, and permission will not be granted if this is assessed to be seriously harmful.

Planning permission will not be granted for a hot food takeaway shop in any circumstance where it would cause significant harm to residential amenity or to the general environment of the area as a result of noise, disturbance, smell or litter. Planning permission will not be granted in a location where it would present a threat to road safety, for example, by encouraging on-street parking at a dangerous location.

Any external alterations to premises resulting from their conversion to a hot food takeaway shop, including any external flues or other ventilation equipment, must not be detrimental to the character and appearance of the building and the area in which the premises are located.

Where planning permission is granted for a hot food takeaway shop, conditions may be imposed to require the following:

- a) installation, operation and adequate maintenance of an effective system for the extraction and dispersal of cooking fumes to minimise the likelihood of nuisance being caused by cooking smells. Details of the proposed system will be expected to be submitted with the planning application so that both its effectiveness and any external visual impact can be considered;
- b) no noise from the premises being audible in any nearby residential or other noise-sensitive building. This relates to impact noise, airborne noise, and noise from any sound reproduction

- system such as a television or music player. Sound insulation must be provided if needed to meet this requirement;
- an adequate area within the premises for the storage of refuse, and a litter bin immediately outside the front door of the premises;
- d) hours of opening no later than 10 p.m. on Sundays and midnight on other days.

2 Restaurants

A proposed restaurant that includes a hot food takeaway element, will be considered on the basis of all the criteria outlined above.

Applications for restaurants solely for the consumption of food and drink on the premises will be considered on their individual merits, taking into account such factors as the size of the proposed establishment; its relationship to adjoining uses and, in particular, residential properties; its relationship to other relevant planning policies; and its likely traffic generation and parking provision.

Where planning permission is granted for a restaurant solely for the consumption of food and drink on the premises, a condition will be imposed preventing its subsequent change of use to, or inclusion of a hot food takeaway facility, without the submission of a further planning application. Planning permissions for restaurants will include conditions, as appropriate, to mitigate any impact on the amenity of the surrounding area from noise or cooking smells.

3 Cafes, Tea Rooms, Coffee Shops

Applications for the above-mentioned types of uses, where it is proposed to open only during normal shopping hours (for example, 9.00 a.m. to 6.00 p.m.) and where the type of cooking facilities will be limited to a domestic scale (for example, domestic cooker, microwave oven etc.) will generally be permitted in existing shopping centres, and other areas of predominantly commercial or business use. In other locations, they will be considered on their individual merits and in relation to other planning policies.

Conditions will be imposed, as appropriate, restricting the hours of opening of the premises; requiring the provision of adequate ventilation equipment; or otherwise as necessary to ensure that the use does not have an adverse environmental impact on its neighbourhood.

Proposals within this category may include an element of takeaway trade, provided that it remains ancillary to the principal use of the premises for the consumption of food and drink on the premises.



Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

Reg. No. 12/00795/DPP

Format Design 146 Duddingston Road West Edinburgh EH16 4AP

Midlothian Council, as Planning Authority, having considered the application by Mr Roberto Morelli, Holyrood Business Park, 146 Duddingston Road West, Edinburgh, EH16 4AP, which was registered on 4 December 2012 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

Change of use from shop (class 1) to hot food takeaway (Sui Generis) and installation of flue at 15 Main Street, Gorebridge, EH23 4BX

in accordance with the application and the following plans:

Drawing No/Scale	<u>Dated</u>
9747 1:1250 1:500	04.12.2012
9747 01 1:1250 1:100	04.12.2012
9747 02 1:1250 1:100	04.12.2012
	04.12.2012
	04.12.2012
	9747 01 1:1250 1:100

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

- 1. The proposal, in combination with the proportionately high number of hot food takeaways in the area, would adversely affect the vitality and viability of the town centre and as such is contrary to Midlothian Local Plan policy DP7.
- 2. The proposed development would result in the loss of a retail unit and a reduction of the range and quality of facilities within Gorebridge Town Centre which is contrary to Midlothian Local Plan policies SHOP1 and DP7.
- It has not been demonstrated, to the satisfaction of the Planning Authority, that there would not be a serious and significant adverse impact on the amenity of neighbouring residential properties and occupants, and as such the proposal is contrary to Midlothian Local Plan policy DP7.
- 4. For the above reasons the proposed development would detract from the existing character and amenity of the area, which is contrary to the aims of policy RP20 of the Midlothian Local Plan.

Dated 4/2/2013



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

PLEASE NOTE

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

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

Prior to Commencement (Notice of Initiation of Development)

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

IMPORTANT NOTE REGARDING PUBLIC ACCESS TO INFORMATION

Making an application

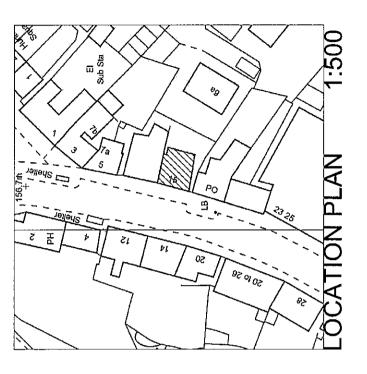
Please note that when you submit a planning application, the information will appear on the Planning Register and the completed forms and any associated documentation will also be published on the Council's website.

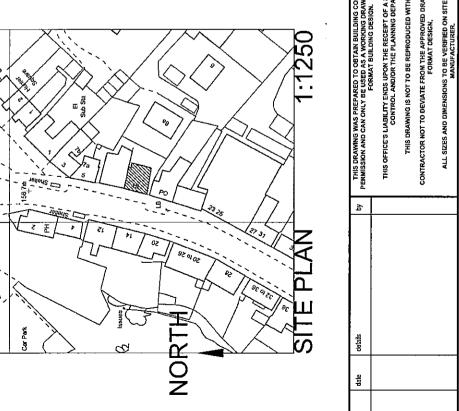
Making comment on an application

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

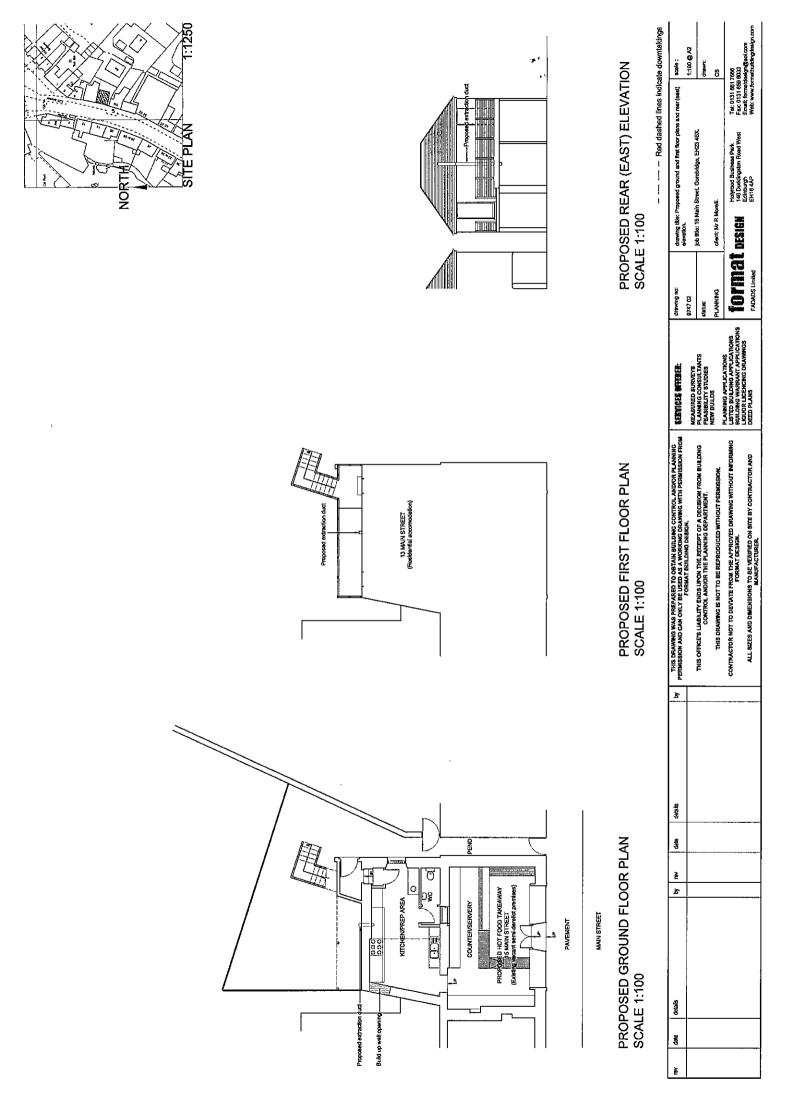
The planning authority will redact personal information in accordance with its redaction policy and use its discretion to redact any comments or information it considers to be derogatory or offensive. However, it is important to note that the publishing of comments and views expressed in letters and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

APPENDIX F





ģ	THIS DRAWING WAS PREPARED TO OBTAIN BUILDING CONTROL AND/OR PLANNING PERMISSION AND CAN ONLY BE USED AS A WORKING DRAWING WITH PERMISSION FROM	SERVICES OFFERED:	drawing no:	drawing title: Site	drawing title; Site and Location Plans.		scale:
	Format Building design.	MEASURED SURVEYS	9747			<u> </u>	1:1250&500 @ A4
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	CONTRACTOR NOT TO DEVIATE FROM THE APPROVED DRAWING WITHOUT INFORMING FORMAT DESIGN.	FLANNING APPLICATIONS LISTED BUILDING APPLICATIONS BUILDING WARRANT APPLICATIONS	format nesign	DESIGN	Holyrood Business Park 146 Duddingston Road West	Tel; 0131 661 7665 Fax: 0131 659 6033	88
	ALL SIZES AND DIMENSIONS TO BE VERHEIGO ON SITE BY CONTRACTOR AND MANUFACTURER.	LIGOUR LIVENCING DRAWINGS DEED PLANS	FADADS Limited		Edinburgh EH16 4AP	Email: formatdesign@aol.com Web; www.formathuildingdesig	Email: formatdesign@aol.com Web; www.formatbuildingdasign.com











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