

# Notice of meeting and agenda



## Local Review Body

**Venue:** Council Chambers **PLEASE NOTE:** Due to commence at 2.00 pm or on conclusion of the PRS Committee scheduled for 11.00 am on that date,

**Date:** Tuesday, 08 March 2016

**Time:** 14:00

**John Blair**  
**Director, Resources**

**Contact:**

Clerk Name: Mike Broadway

Clerk Telephone: 0131 271 3160

Clerk Email: [mike.broadway@midlothian.gov.uk](mailto:mike.broadway@midlothian.gov.uk)

**Further Information:**

This is a meeting which is open to members of the public.

**Audio Recording Notice:** Please note that this meeting will be recorded. The recording will be publicly available following the meeting, including publication via the internet. The Council will comply with its statutory obligations under the Data Protection Act 1998 and the Freedom of Information (Scotland) Act 2002.

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**1 Welcome, Introductions and Apologies**

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**2 Order of Business**

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Order of Business

**3 Declarations of Interest**

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Declarations of interest

**4 Minutes of Previous Meeting**

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LRB Minutes 19 January 2016

**3 - 8**

**5 Public Reports**

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**5.1 Decision Notice – Land at Camp Wood, Dalkeith 1500591DPP 9 - 14**

Notice of Review Requests Considered for the First Time – Reports by  
Head of Communities and Economy:-

**5.2 Land west of the junction of Lugton Brae and Old Dalkeith Road (the  
former Lugton Inn site), Dalkeith 15.00703.DPP - Determination Report 15 - 54****5.3 St Mary's Lodge, Rosewell 15.00767.DPP - Determination Report 55 - 92****5.4 42 Station Road, Roslin 15.00762.DPP - Determination Report 93 - 138****5.5 4 Newmills Road, Dalkeith 15.00740.DPP - Determination Report 139 - 188****6 Private Reports**

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No private reports to be discussed at this meeting

Plans and papers relating to the applications on this agenda can also  
be viewed online at [www.midlothian.gov.uk](http://www.midlothian.gov.uk).

**MINUTES** of **MEETING** of the **LOCAL REVIEW BODY** held in the Council Chambers, Midlothian House, Buccleuch Street, Dalkeith on Tuesday 19 January 2016 at 2.00 pm.

**Present:** - Councillors Bryant (Chair), Baxter, Beattie, Bennett, Constable, Imrie and Rosie.

**Apologies for Absence:** - Councillors de Vink, Milligan and Montgomery.

**1. Declarations of Interest**

No declarations of interest were intimated.

**2. Minutes**

The Minutes of Meeting of 24 November 2015 were submitted and approved as a correct record.

**3. Decision Notice – Whitehill, Nine Mile Burn, Penicuik (15/00592/DPP)**

With reference to paragraph 5 of the Minutes of 24 November 2015, there was submitted a copy of the Local Review Body decision notice upholding a review request from Derek Scott Planning, 21 Lansdowne Crescent, Edinburgh, seeking on behalf of their clients Newhall Farm Partnership, a review of the decision of the Planning Authority to refuse planning permission (15/00592/DPP, refused on 28 August 2015) for the erection of a dwellinghouses and formation of access at Whitehill, Nine Mile Burn, Penicuik. and granting planning permission subject to conditions.

**Decision**

To note the LRB decision notice.

**Eligibility to Participate in Debate**

In considering the following item of business, only those LRB Members who had attended the site visit on Monday 23 October 2015 participated in the review process, namely Councillors Bryant (Chair), Baxter, Beattie, Bennett, Constable, Imrie and Rosie.

**4. Notice of Review Requests Considered for the First Time – (a) Shewington, Rosewell (15/00158/DPP)**

There was submitted report, dated 17 November 2015, by the Head of Communities and Economy regarding an application from Mainstream Renewable Power, 2 West Regent Street, Glasgow, seeking on behalf of their clients Neart na Gaoithe Offshore Wind Ltd, a review of the decision of the Planning Authority to refuse planning permission (15/00158/DPP, refused on 30 June 2015) for the formation of a temporary test piling facility, associated car parking, access road and buildings at Shewington, Rosewell.

Accompanying the Notice of Review Form and supporting statement, which were appended to the report, was a copy of the report of handling thereon, together with a copy of the decision notice.

The Local Review Body had made an accompanied visit to the site on Monday 18 January 2016.

In accordance with the procedures for the Local Review Body, the Planning Advisor gave a brief overview of the review hearing procedures and outlined the background to the case. He then introduced Ms Stephanie Moran, Ms Rosie Scurr and Mr Martin Field, all of whom were appearing on behalf of the applicants, Neart na Gaoithe Offshore Wind Ltd, and Mr Robert Pitcairn, Rosslynlee Trout Fishery to the meeting.

Thereafter, oral representations were received on behalf of the applicants, Mr Pitcairn and the local authority Planning Officer; following which they responded to questions from members of the LRB.

Thereafter, the LRB gave careful consideration to the merits of the case based on all the information provided both in writing and in person at the Hearing. Notwithstanding the fact that there was clear disagreement between the various parties as to the potential impact of any vibration or noise disturbance, the LRB debated whether mitigating measures, such as a restoration bond, could be put in place to cover the cost of any damage in the event that it should arise. The LRB also discussed whether any additional measures were needed and in the event that consent were granted for the proposed development what conditions might be appropriate.

After further discussion, Councillor Baxter, seconded by Councillor Bennett, moved that the Review Request be upheld and that the LRB be minded to grant planning permission subject to (i) provision of a suitable bond to cover any damage that might be caused as a result of the works; and (ii) a further report on suitable conditions based on those detailed in the Head of Communities and Economy's report, and having regards to the points raised during discussion.

As an amendment, Councillor Beattie, seconded by Councillor Constable, moved to dismiss the Review Request and uphold the decision to refuse planning permission on the grounds given in the original decision notice.

On a vote being taken, two Members voted for the amendment and four for the motion which accordingly became the decision of the meeting.

## **Decision**

The Local Review Body agreed to uphold the review request, and where minded to grant planning permission, subject to suitable conditions; which would be the subject of a further report, and also evidence of the provision of a suitable bond to cover any damage that might be caused as a result of the works.

(Action: Head of Communities and Economy)



**(b) Land at Camp Wood, Dalkeith (15/00591/DPP)**

There was submitted report, dated 12 January 2016, by the Head of Communities and Economy regarding an application from Format Design, 146 Duddingston Road West, Edinburgh, seeking on behalf of their client Mr M Smith, a review of the decision of the Planning Authority to refuse planning permission (15/00591/DPP, refused on 7 September 2015) for the erection of dwellinghouse and outbuildings; formation of access roads, paths, car parking, two ponds, coarse fishery and associated works at land south of Camp Wood, Dalkeith.

Accompanying the Notice of Review Form and supporting statement, which were appended to the report, was a copy of the report of handling thereon, together with a copy of the decision notice.

The Local Review Body had made an accompanied visit to the site on Monday 18 January 2016.

In accordance with the procedures for the Local Review Body, the Planning Advisor gave a brief overview of the review hearing procedures and outlined the background to the case. He then introduced the applicant Mr Mark Smith, the applicant's agent, Mr Bob Tait, Format Design, and Mr Robert Gray, the applicant's Forestry Consultant to the meeting.

Thereafter, oral representations were received from the applicant, his agent, Forestry Consultant and the local authority Planning Officer; following which they responded to questions from members of the LRB.

Thereafter, the LRB gave careful consideration to the merits of the case based on all the information provided both in writing and in person at the Hearing. Whilst noting the present and emerging development plan policies, the LRB debated whether there were material planning considerations that justified a departure. The representations and consultation responses received were material considerations. The LRB also discussed the need for a Coal Mining Risk Assessment (CMRA) to be undertaken by the applicant in order to secure the removal of an objection from the Coal Authority: the application site being within an identified area of high risk from previous coal workings. Any mitigation measures proposed by the Coal Authority as a result of the CMRA would require to be incorporated into the development.

**Decision**

After further discussion, the Local Review Body agreed to uphold the review request, and grant planning permission for the following reason:

*The erection of a dwellinghouse discreetly designed to fit into the landscape would result in an environmental improvement of the site and help support the proposed rural business.*

subject to the following conditions:-

1. Development shall not begin until phasing plan has been submitted to and approved in writing by the Planning Authority. The phasing plan shall detail the timetable for the commencement of livestock rearing; the erection and operation of the fishery; and the erection and occupation of the dwellinghouse and associated outbuildings. Unless otherwise approved in writing by the Planning Authority development shall be undertaken in the order detailed in the approved phasing plan.

***Reason:*** *To ensure that the agricultural and fishery operations which justify the erection of a dwellinghouse are commenced within an acceptable timeframe.*

2. Development shall not begin until a scheme of investigation and remediation to deal with previous mineral workings has been submitted to and approved in writing by the Planning Authority. The scheme shall include:
  - i. A scheme of intrusive site investigations;
  - ii. A report of findings arising from the intrusive site investigations; and
  - iii. A scheme of remedial works for approval by the Coal Authority.

Before any work starts onsite the investigation schemes and remediation works shall be fully implemented as approved by the Planning Authority and the Coal Authority.

***Reason:*** *To ensure that any risks posed by the coal mining history of the area are identified and addressed prior to development commencing.*

3. Development shall not begin until a Woodland Management Plan, complying with current Forestry Commission Scotland guidance, has been submitted to and approved in writing by the Planning Authority. Unless otherwise approved in writing by the Planning Authority the woodland within the application site shall be managed in compliance with the approved plan.

***Reason:*** *To ensure the development does not result in the loss or damage of trees which merit retention in accordance with policy RP5 of the Midlothian Local Plan and national planning guidance and advice.*

4. Development shall not begin until an Access Plan has been submitted to and approved in writing by the Planning Authority. The Access Plan shall provide details of measures to ensure that access complying with the Midlothian Core Paths Plan is maintained during and after development work. Unless otherwise approved in writing by the Planning Authority the Access Plan shall be implemented on commencement of development and shall remain in operation thereafter.

***Reason:*** *To ensure that the development does not result in the loss of access to core path 7-35 and other paths that form part of the wider path network and to comply with policy RP32 of the Midlothian Local Plan.*

5. Development shall not begin until details of a scheme of hard and soft landscaping has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
- i existing and finished ground levels and floor levels for all buildings, open space and access tracks in relation to a fixed datum;
  - ii existing trees, landscaping features and vegetation to be retained; removed, protected during development and in the case of damage, restored;
  - iii boundary planting along the external boundaries of the application site;
  - iv location and design of any proposed walls, fences and gates, including those surrounding bin stores or any other ancillary structures;
  - v schedule of plants to comprise species, plant sizes and proposed numbers/density;
  - vi programme for completion and subsequent maintenance of the boundary planting. The boundary planting shall be completed prior to the house being occupied. Any tree felling or vegetation removal proposed as part of the landscaping scheme shall take place out with the bird breeding season (March-August);
  - vii drainage details and sustainable urban drainage systems to manage water runoff;
  - viii proposed car park configuration and surfacing; and
  - ix proposed footpaths and rights of way (designed to be unsuitable for motor bike use).

All hard and soft landscaping shall be carried out in accordance with the scheme approved in writing by the planning authority as the programme for completion and subsequent maintenance (vi). Thereafter any trees or shrubs removed, dying, becoming seriously diseased or damaged within five years of planting shall be replaced in the following planting season by trees/shrubs of a similar species to those originally required.

**Reason:** *To ensure the quality of the development is enhanced by landscaping to reflect its setting in accordance with policies RP1 and DP1 of the Midlothian Local Plan and national planning guidance and advice.*

6. Development shall not begin until samples of materials to be used on external surfaces of the buildings; hard ground cover surfaces; means of enclosure and ancillary structures have been submitted to and approved in writing by the planning authority. Development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the planning authority.

**Reason:** *To ensure the quality of the development is enhanced by the use of quality materials to reflect its setting in accordance with policies RP1 and DP1 of the Midlothian Local Plan and national planning guidance and advice.*

7. Prior to work commencing on the formation of the ponds, fishery and associated bunding the following details shall be submitted to and approved in writing by the Planning Authority:
- i Scaled cross sections at a scale of 1:100 of the ponds and bunding;
  - ii Details of any landscaping associated with the ponds and bunding;
  - iii Details of a scheme to ensure that the design, construction and maintenance of the pond embankments will ensure the stability of the embankments.

Unless otherwise approved in writing by the Planning Authority the development of the ponds and bunding shall be undertaken in compliance with the approved details.

***Reason:*** *To ensure that the proposed development does not adversely affect the water environment and to comply with policies RP8 and DP3 of the Midlothian Local Plan.*

(Action: Head of Communities and Economy)

The meeting terminated at 4.02 pm.

## Local Review Body: Review of Planning Application Reg. No. 15/00591/DPP

Format Design  
146 Duddingston Road West  
Edinburgh  
EH16 4AP

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

**Erection of dwellinghouse and outbuildings; formation of access roads, paths, car parking, two ponds, coarse fishery and associated works at land south of Camp Wood, Dalkeith, (land to the east of Gorebridge),** in accordance with the application and the following plans:

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

Subject to the following conditions:

1. Development shall not begin until phasing plan has been submitted to and approved in writing by the Planning Authority. The phasing plan shall detail the timetable for the commencement of livestock rearing; the erection and operation of the fishery; and the erection and occupation of the dwellinghouse and associated outbuildings. Unless otherwise approved in writing by the

Planning Authority development shall be undertaken in the order detailed in the approved phasing plan.

**Reason:** *To ensure that the agricultural and fishery operations which justify the erection of a dwellinghouse are commenced within an acceptable timeframe.*

2. Development shall not begin until a scheme of investigation and remediation to deal with previous mineral workings has been submitted to and approved in writing by the Planning Authority. The scheme shall include:
  - i. A scheme of intrusive site investigations;
  - ii. A report of findings arising from the intrusive site investigations; and
  - iii. A scheme of remedial works for approval by the Coal Authority.

Before any work starts onsite the investigation schemes and remediation works shall be fully implemented as approved by the Planning Authority and the Coal Authority.

**Reason:** *To ensure that any risks posed by the coal mining history of the area are identified and addressed prior to development commencing.*

3. Development shall not begin until a Woodland Management Plan, complying with current Forestry Commission Scotland guidance, has been submitted to and approved in writing by the Planning Authority. Unless otherwise approved in writing by the Planning Authority the woodland within the application site shall be managed in compliance with the approved plan.

**Reason:** *To ensure the development does not result in the loss or damage of trees which merit retention in accordance with policy RP5 of the Midlothian Local Plan and national planning guidance and advice.*

4. Development shall not begin until an Access Plan has been submitted to and approved in writing by the Planning Authority. The Access Plan shall provide details of measures to ensure that access complying with the Midlothian Core Paths Plan is maintained during and after development work. Unless otherwise approved in writing by the Planning Authority the Access Plan shall be implemented on commencement of development and shall remain in operation thereafter.

**Reason:** *To ensure that the development does not result in the loss of access to core path 7-35 and other paths that form part of the wider path network and to comply with policy RP32 of the Midlothian Local Plan.*

5. Development shall not begin until details of a scheme of hard and soft landscaping has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
  - i existing and finished ground levels and floor levels for all buildings, open space and access tracks in relation to a fixed datum;
  - ii existing trees, landscaping features and vegetation to be retained;

- removed, protected during development and in the case of damage, restored;
- iii boundary planting along the external boundaries of the application site;
- iv location and design of any proposed walls, fences and gates, including those surrounding bin stores or any other ancillary structures;
- v schedule of plants to comprise species, plant sizes and proposed numbers/density;
- vi programme for completion and subsequent maintenance of the boundary planting. The boundary planting shall be completed prior to the house being occupied. Any tree felling or vegetation removal proposed as part of the landscaping scheme shall take place out with the bird breeding season (March-August);
- vii drainage details and sustainable urban drainage systems to manage water runoff;
- viii proposed car park configuration and surfacing; and
- ix proposed footpaths and rights of way (designed to be unsuitable for motor bike use).

All hard and soft landscaping shall be carried out in accordance with the scheme approved in writing by the planning authority as the programme for completion and subsequent maintenance (vi). Thereafter any trees or shrubs removed, dying, becoming seriously diseased or damaged within five years of planting shall be replaced in the following planting season by trees/shrubs of a similar species to those originally required.

**Reason:** *To ensure the quality of the development is enhanced by landscaping to reflect its setting in accordance with policies RP1 and DP1 of the Midlothian Local Plan and national planning guidance and advice.*

6. Development shall not begin until samples of materials to be used on external surfaces of the buildings; hard ground cover surfaces; means of enclosure and ancillary structures have been submitted to and approved in writing by the planning authority. Development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the planning authority.

**Reason:** *To ensure the quality of the development is enhanced by the use of quality materials to reflect its setting in accordance with policies RP1 and DP1 of the Midlothian Local Plan and national planning guidance and advice.*

7. Prior to work commencing on the formation of the ponds, fishery and associated bunding the following details shall be submitted to and approved in writing by the Planning Authority:
  - i Scaled cross sections at a scale of 1:100 of the ponds and bunding;
  - ii Details of any landscaping associated with the ponds and bunding;
  - iii Details of a scheme to ensure that the design, construction and maintenance of the pond embankments will ensure the stability of the embankments.

Unless otherwise approved in writing by the Planning Authority the



development of the ponds and bunding shall be undertaken in compliance with the approved details.

***Reason:*** *To ensure that the proposed development does not adversely affect the water environment and to comply with policies RP8 and DP3 of the Midlothian Local Plan.*

The Local Review Body (LRB) considered the review of the planning application at its meeting of 19 January 2016. The LRB carried out an accompanied site visit on the 19 January 2016.

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

Development Plan Policies:

1. RP1 Midlothian Local Plan – Protection of the Countryside
2. RP5 Midlothian Local Plan – Woodland, Trees and Hedges
3. RP7 Midlothian Local Plan – Landscape Character
4. RP12 Midlothian Local Plan – Regionally and Locally Important Nature
5. DERL1 Midlothian Local Plan – Treatment of Vacant and Derelict Land
6. ENV 16 Midlothian Local Plan – Vacant, Derelict and Contaminated Land
7. DP1 Midlothian Local Plan – Development in the Countryside

Material considerations:

1. The proposed Midlothian Local Development Plan which is at an advanced stage of preparation; and
2. The individual circumstances of the proposal

In determining the review the LRB concluded:

The erection of a dwellinghouse discreetly designed to fit into the landscape would result in an environmental improvement of the site and help support the proposed rural business.

Dated: 19/02/2016

Councillor J Bryant  
Chair of the Local Review Body  
Midlothian Council



## NOTICE TO ACCOMPANY REFUSAL ETC.

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

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

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

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.

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

*Advisory note:*

*If you have any questions or enquiries regarding the Local Review Body procedures or this decision notice please do not hesitate to contact Peter Arnsdorf, Planning Manager tel: 0131 2713310 or via [peter.arnsdorf@midlothian.gov.uk](mailto:peter.arnsdorf@midlothian.gov.uk)*



## **Notice of Review: Land west of the junction of Lugton Brae and Old Dalkeith Road (the former Lugton Inn site), Dalkeith**

### **Determination Report**

Report by Ian Johnson, Head of Communities and Economy

#### **1 Purpose of Report**

- 1.1 The purpose of this report is to provide a framework for the Local Review Body (LRB) to consider a 'Notice of Review' for the erection of 5 dwellinghouses on land west of the junction of Lugton Brae and Old Dalkeith Road (the former Lugton Inn site), Dalkeith.

#### **2 Background**

- 2.1 Planning application 15/00703/DPP for the erection of 5 dwellinghouses on land west of the junction of Lugton Brae and Old Dalkeith Road (the former Lugton Inn site), Dalkeith was refused planning permission on 21 October 2015; a copy of the decision is attached to this report.

- 2.2 The review has progressed through the following stages:

- 1 Submission of Notice of Review by the applicant.
- 2 The Registration and Acknowledgement of the Notice of Review.
- 3 Carrying out Notification and Consultation.

#### **3 Supporting Documents**

- 3.1 Attached to this report are the following documents:

- A site location plan (Appendix A);
- A copy of the notice of review form and supporting statement (Appendix B). Any duplication of information is not attached;
- A copy of the case officer's report (Appendix C);
- A copy of the decision notice, excluding the standard advisor notes, issued on 21 October 2015 (Appendix D); and
- A copy of the relevant plans (Appendix E).

- 3.2 The full planning application case file and the development plan policies referred to in the case officer's report can be viewed online via [www.midlothian.gov.uk](http://www.midlothian.gov.uk)

#### **4 Procedures**

- 4.1 In accordance with procedures agreed by the LRB, the LRB by agreement of the Chair:

- Have scheduled an accompanied site visit for Monday 7 March 2016; and
  - Have determined to progress the review by way of a hearing.
- 4.2 The case officer's report identified that two consultation responses and five representations have been received. As part of the review process the interested parties were notified of the review. Five additional comments have been received and reinforce their original objections to the application. All the comments can be viewed online on the electronic planning application case file via [www.midlothian.gov.uk](http://www.midlothian.gov.uk).
- 4.3 The next stage in the process is for the LRB to determine the review in accordance with the agreed procedure:
- 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;
  - Assess whether these considerations warrant a departure from the development plan; and
  - State the reason/s for the decision and state any conditions required if planning permission is granted.
- 4.4 In reaching a decision on the case the planning advisor can advise on appropriate phraseology and on appropriate planning reasons for reaching a decision.
- 4.5 Following the determination of the review the planning advisor will prepare a decision notice for issuing through the Chair of the LRB. A copy of the decision notice will be reported to the next LRB for noting.
- 4.6 A copy of the LRB decision will be placed on the planning authority's planning register and made available for inspection online.

## **5 Conditions**

- 5.1 In accordance with the procedures agreed by the LRB at its meeting of 19 June 2012 and 26 November 2013, and without prejudice to the determination of the review, the following conditions have been prepared for the consideration of the LRB if it is minded to uphold the review and grant planning permission.
1. Development shall not begin until the following details have been submitted to and approved in writing by the planning authority:
    - a) Scaled site plan showing existing and finished ground levels and floor levels for all buildings, open space and access roads in relation to a fixed datum;
    - b) A revised ground floor plan showing 2 car parking spaces (in addition to any space within garages) per dwellinghouse;

- c) Details and samples of all external finishing materials on the dwellinghouses, areas of external hard surface and boundary walls;
- d) A detailed landscape plan, including schedule of plants to comprise species, plant sizes and proposed numbers/density; and
- e) Drawings of all walls, gates and fences to be erected on the site.

Development shall thereafter comply with the approved details unless otherwise approved in writing by the Planning Authority.

**Reason:** *These details are required in order to ensure that the proposed development does not have an adverse impact on the appearance of the Conservation Area and to ensure that the development is provided with an acceptable level of car parking.*

- 2. No boundary wall shall encroach on to the public footpath to the south nor shall it encroach on to the public highway to the east.

**Reason:** *In order to ensure that there is no adverse impact on vehicle and pedestrian safety.*

- 3. Any trees, shrubs or plants which are planted in terms of the approved landscape scheme which die, become diseased, are severely damaged or are removed within five years of being planted shall be replaced with a tree, hedge or plant of a similar size and species as may be agreed in writing by the planning authority.

**Reason:** *To ensure the quality of the development is enhanced by landscaping to reflect its setting in accordance with policies RP22 and DP2 of the Midlothian Local Plan and national planning guidance and advice.*

- 5.2 If the LRB is minded to uphold the review and grant planning permission for the proposed development it shall be subject to a legal agreement to secure developer contributions towards education provision, the Borders Railway, town centre improvements and children's play provision. The legal agreement shall be concluded prior to the issuing of the LRB decision.

## 6 Recommendations

- 6.1 It is recommended that the LRB:
  - a) determine the review; and
  - b) the planning advisor draft and issue the decision of the LRB through the Chair

**Date:** 1 March 2016

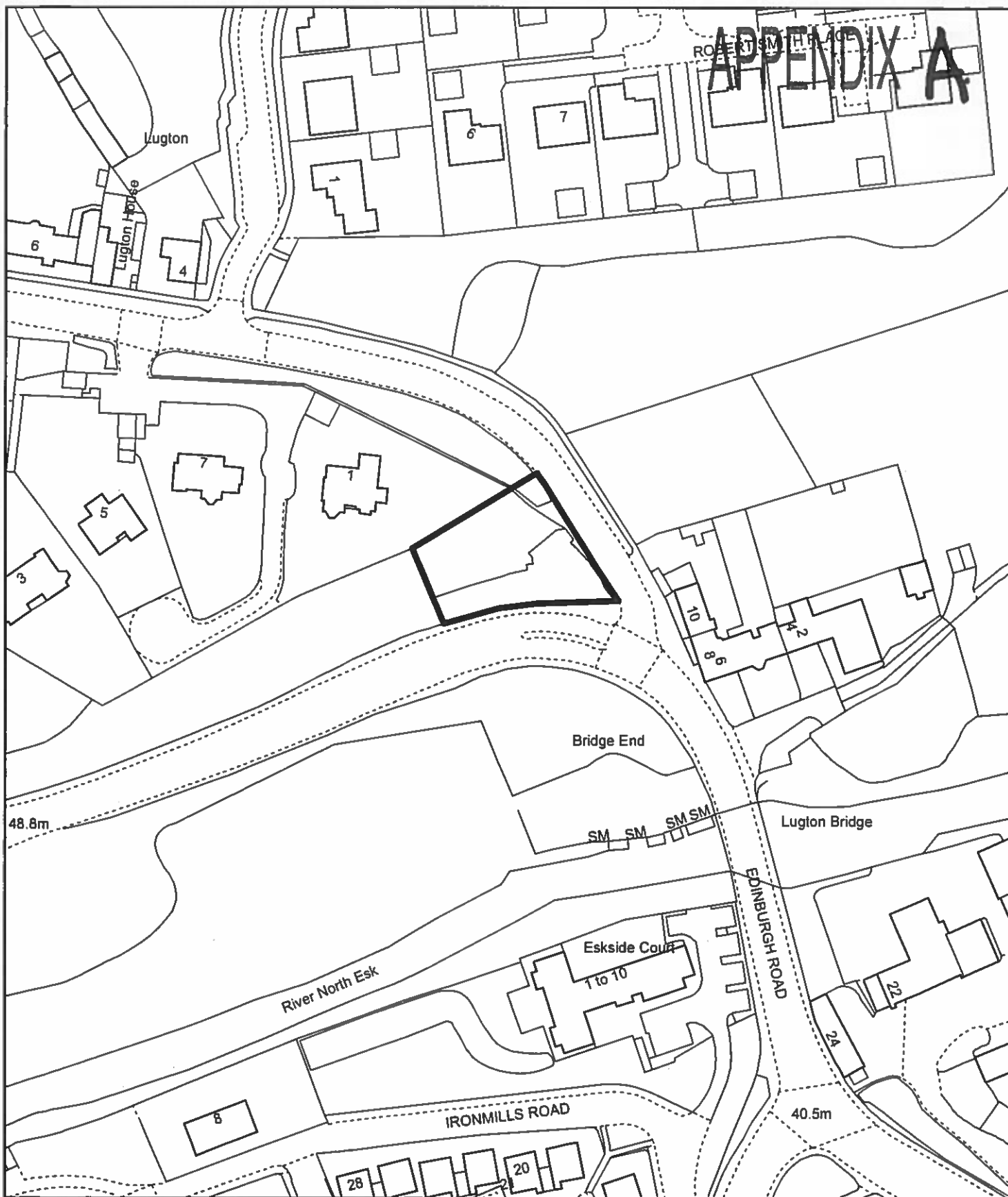
**Report Contact:** Peter Arnsdorf, Planning Manager  
peter.arnsdorf@midlothian.gov.uk

**Tel No:** 0131 271 3310

**Background Papers:** Planning application 15/00703/DPP available for inspection online.



# APPENDIX A



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

Former Lugton Inn site, Lugton Brae

28th January 2016

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File No. 15/00703/DPP

Scale: 1:1,250







## **MIDLOTHIAN COUNCIL LOCAL REVIEW BODY**

### **NOTICE OF REVIEW: SITE OF THE FORMER LUGTON INN, DALKEITH, MIDLOTHIAN.**

## **APPEAL STATEMENT**

**Section 43(A) (8) of the Town and Country Planning (Scotland) Act 1997 (As amended)  
in respect of Decisions on Local Developments**

**The Town and Country Planning (Schemes of Delegation and Local Review  
Procedure) Scotland Regulations 2013**

**The Town and Country Planning (Appeals) (Scotland) Regulations 2013**

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### Appendix 1 – Supporting Documents

# **1 Introduction**

## **Introduction**

- 1.1 This appeal to Midlothian Council Local Review Body (LRB), is on behalf Mr Jamie O' Rourke of Penicuik for a site 25m west of the junction with Lugton Brae, Old Dalkeith Road, Dalkeith.
- 1.2 The applicant proposes the development of 5 new dwellings at the site of the former Lugton Inn. It is lodged as the applicant is aggrieved with the decision made by the case office and disagrees with the Reasons for Refusal.

## **The Proposals**

- 1.3 It is proposed to erect a terrace of 5 townhouses. The houses are 5 storeys tall with garages at ground floor level and roof terraces at fourth floor level. To the rear the fourth and fifth storeys cantilever outwards by 3.3m; at the front there are projecting balconies at first floor level and projecting bays at second and third floor level.
- 1.4 A communal garden space to the rear, on an existing terrace, is located at third floor level. Each house has a garage plus 1 external parking space.
- 1.5 Design of the houses is contemporary with flat roofs and extensive glazing to the front. The proposed finish materials reflect the contemporary design and include natural stone cladding; white render; aluminium and zinc cladding panels; and cedar cladding panels.
- 1.6 The application (REF 15/00703/DPP) was lodged with the Council on the 27 August, 2015 with a decision made through delegated powers on the 21 November, 2015. The appellant now seeks resolution through the Council's LRB in order to reverse the decision, which does not take account of the unique nature of the site. The application made to the Council makes the best use of a constrained site and a departure from current policy is warranted.
- 1.7 A high quality infill housing development is being promoted on a vacant site within the urban area of Dalkeith, close to the town centre. It is a prominent and accessible location. The development is being promoted by a locally based developer bringing investment into Dalkeith.
- 1.8 Reasons for Refusal are based on issues relating to residential amenity and design. The impact on existing neighbours will be minimal and the new residents of these town houses will choose according to the market.
- 1.9 The development proposed is not perfect in terms of design standards and guidelines but is the most feasible and practical solution for the site in a decade. It is hoped that the members of

the LRB can apply a degree of pragmatism to land that is clearly brown-field in nature and offers significant betterment to the appearance and townscape of Dalkeith. The alternative is a prolonged period of continued blight.

- 1.10 If applicable we would respectively request that the LRB take a site visit. Furthermore, we request that representatives of the applicant are heard in terms of verbal evidence on this case.
- 1.11 Under S43A (12) of the Town and Country Planning (Scotland) Act 1997, and Regulation 21 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland ) Regulations 2008, we await the decision of the LRB and any reasons relating to the terms on how this was reached.
- 1.12 Supporting documentation for this appeal is listed in Appendix 1 and is also available on the Midlothian Planning Portal.

## **2 General Comments**

### **Site Description**

- 2.1 The appeal site is located at the junction of Old Dalkeith Road and Lugton Brae and was for many years occupied by the Lugton Inn, a pub and associated motel. The Inn and all the associated buildings have now been demolished and the site is now vacant.
- 2.2 The site is located on the edge of Dalkeith House and Park conservation area. While Lugton sits to the North of Dalkeith, with the river separating the 2 settlements it essentially forms part of the built-up area of Dalkeith.
- 2.3 It is bounded by Old Dalkeith Road to the south beyond which is grass and woodland sloping down to the banks of the River North Esk. To the East the site is bounded by Lugton Brae. To the West the site is bounded by woodland and to the North the site is bounded by the garden of the house at 1 Lugton Brae.
- 2.4 There site levels drop from north to south by approximately 11m and the previous development was terraced. This demonstrates the scale of physical challenge in achieving a feasible and viable development for this site, enabling a practical solution.

### **Site History**

- 2.5 As identified within the officers report. Please note that the site previously had a minded to grant consent for 15 flats.
- 2.6 It can be seen that many proposals have come forward on this site over the years and it has been difficult to find one that is acceptable in planning, economic and physical feasibility terms. This is primarily due to the site's topography and abnormal costs associated with future development.
- 2.7 Relaxation of standards acts as enabling development and addresses the re-development potential of the land.

### **Handling and Reporting**

- 2.8 We are concerned that this case has been determined without a balanced consideration of all material planning factors. The appellant undertook pre-application consultation and received advice from the previous case officer.
- 2.9 There is correspondence between the appellant and the Council to indicate that the application

would be recommended for approval subject to conditions.

- 2.10 No additional work or information was sought by the Council from the appellant through the development management process. In addition, many of the details questioned by the case officer are detailed matters that can adequately be conditioned.

### **Consultations**

- 2.11 It is understood that there is no objection from the Council's Transportation Policy and Road Safety department but advice and informatives were provided. The appellant is seeking a relaxation in parking requirements given the unique nature of this development site.
- 2.12 Likewise, educational provision is acceptable subject to developer contributions. The appellant is willing to finance these in accordance with the required contribution levels.
- 2.13 Issues raised by local residents relate to scale, character, privacy and amenity. It is considered that these matters have largely been satisfied through the supporting information, some of which can also be addressed through planning conditions (as indicated in the Planning Application Delegated Worksheet).

### 3 Reasons for Refusal

#### The Development Plan

- 3.1 The Development Plan consists of the extant Midlothian Local Plan (2008), and the South East Scotland Strategic Development Plan Authority (SESplan), Strategic Development Plan (SDP) for the South East Scotland area (2013 as amended).
- 3.2 Section 25 of the Town and Country Planning Scotland Act 1997 (as amended), specifies that that determination of planning applications '*shall be made in accordance with the Development Plan unless material considerations indicate otherwise*'. It is supplemented by Section 37(2) which states that '*In dealing with an application the planning authority shall have regard to the provisions of the Development Plan as far as material to the application and any other material considerations*'.
- 3.3 Under S16 (6) of the Planning etc (Scotland) Act 2006 the Local Plan must conform to the Strategic Development Plan (SDP). The applicant does not consider that the provisions of the Act have been fully complied with by the Council in reaching its decision.
- 3.4 As the Local Plan is significantly out of date, both by nature of its timescale (older than 5 years) a significant material consideration should be placed on the presumption in favour of sustainable development (SPP para 32-35 and 123-125).

#### Local Plan Policy

- 3.5 The key policies in the Midlothian Local Plan 2008 relate to
- **Policy RP20: Development within the Built-up Area** states that development will not be permitted within the built-up area where it is likely to detract materially from the existing character or amenity of the area.
  - **Policy RP22: Conservation Areas** seeks to prevent development which would have any adverse effect on the character and appearance of Conservation Areas.
  - **Policy RP24: Listed Buildings** states that development will not be permitted where it would adversely affect the setting of a Listed Building.
  - **Policy DP2: Development Guidelines** sets out Development Guidelines for residential developments. The policy indicates the standards that should be applied when considering applications for dwellings.
  - An additional material consideration is Midlothian Council's **Parking Standards 2014**.

## Reasons for Refusal

3.6 The four reasons for Refusal on the Decision Notice issued by the Council are as follows:

1. *The proposed parking provision is significantly below the minimum standard specified in Midlothian Council's Parking Standards 2014. The proposed parking provision would have a detrimental impact on road safety and on the amenity of both local residents and potential occupants. The proposal is therefore contrary to policy RP20 of the Midlothian Local Plan.*
2. *The proposed outdoor space provision is significantly below the minimum standard specified in policy DP2 of the Midlothian Local Plan. The amenity of potential occupants would be below expected standards. The proposal is therefore contrary to policies RP20 and DP2 of the Midlothian Local Plan.*
3. *The width and height of the building would result in a bulky addition to the streetscape that would be overbearing to neighbours at Bridgend. The proposal is therefore contrary to policy RP20 of the Midlothian Local Plan.*
4. *The width and height of the building would result in a bulky addition to the streetscape that would have a significant detrimental impact on the character and appearance of the Dalkeith House and Park Conservation Area. The proposal is therefore contrary to policy RP22 of the Midlothian Local Plan.*

## Planning Issues

- 3.7 Development Management Regulations specify that decisions must be taken in accordance with the development plan unless material considerations indicate otherwise. The adopted Midlothian Local Plan is now significantly out of date and is related to the previous Structure Plan and revoked Scottish Planning Policy.
- 3.8 Material considerations to be used in any planning application decision are defined by the Act and specified in the Development Management Procedures. They must relate to the site and the particular application as well as being properly evidenced in terms of a good decision. Evidence for the assertions made as part of the planning appraisal and policy justification are not adequate in this case.
- 3.9 Planning decisions need to be properly justified and evidenced under the Act and the relevant Development Management Procedures. Reasons need to be intelligible and adequate (ref Wordie Property Co Ltd v Secretary of State for Scotland 1984 SLT). The planning appraisal within the Officer's Recommendation Report provides a very rigid interpretation of the guidance and does not allow any latitude to the applicant.



## 4 Grounds of Appeal

### Reason 1

*"The proposed parking provision is significantly below the minimum standard specified in Midlothian Council's Parking Standards 2014. The proposed parking provision would have a detrimental impact on road safety and on the amenity of both local residents and potential occupants. The proposal is therefore contrary to policy RP20 of the Midlothian Local Plan."*

- 4.1 **Policy RP20 Development Within the Built Up Area** states that *'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 The stated 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. This is a vacant and unused brownfield site which is already significantly adversely affecting some views and appearance of Dalkieth.
- 4.3 Due to the age of the Local Plan the Midlothian Parking Standards were issued following the adoption of RP20. These are advisory and need to be taken with discretion given the significant changes in policy direction since the Local Plan was adopted.
- 4.4 The minimum standard is a broad brush measure and it is disputed that 13 spaces are needed in this location given the potential for local parking and dedicated garaging. The proposed layout includes 1 space per house with ground floor plans allowing cars to be parked within the garage areas.
- It is not accepted that the level of parking proposed will adversely affect the safe and efficient movement of traffic on the surrounding road network. Parking in the area will become self regulating. Informal parking already occurs on Lugton Brae and Old Dalkeith Road. The Council's transport consultant made no objection on safety grounds, or on the efficiency of traffic movements.
  - There is no evidence to suggest that the parking provision would lead to unsafe parking that obstructs free movement of traffic and creates a dangerous environment for pedestrians. The Council's transport consultant made no objection on safety grounds, or on the efficiency of traffic movements.
  - In addition the proposed level of parking provision would have a positive impact on the amenity of existing residents and future occupants.
- 4.5 It is considered that given the location and accessibility of Lugton Brae to public transport and the town centre that parking standards can be relaxed. This takes account of local services

within walking distance (circa 100m to closes bus stop) and the provision of public transport that the site benefits from.

- 4.6 The appellant does not accept that proposed parking provision is significantly below the acceptable standard and that given this the granting of consent would have an adverse impact on the amenity of local residents, with potential for vehicles parking on local roads to the detriment of highway safety.
- 4.7 There is no credibility in the view that the proposals would affect road safety. The amenity of existing residents would be unaffected.

## Reason 2

*"The proposed outdoor space provision is significantly below the minimum standard specified in policy DP2 of the Midlothian Local Plan. The amenity of potential occupants would be below expected standards. The proposal is therefore contrary to policies RP20 and DP2 of the Midlothian Local Plan."*

- 4.8 **Policy RP20 Development Within the Built Up Area** states that 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.
- 4.9 The Local Plan goes on to say that the 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.
- 4.10 Policy DP2 recognises that houses for family use should be provided with adequate levels of private outdoor space. The nature of this development begs that there should be a compromise on the level of private open space.
- 4.11 The outdoor space proposed is useable. And has acceptable levels of daylight and sunlight. It is disputed that the communal outdoor space would be permanently overshadowed and would be an unpleasant and unwelcoming space.
- 4.12 In order to compensate for the relaxation of open space provision each of the houses all have roof top terraces at fourth floor level. The terraces are on the front elevation of the building and can be considered to be private outdoor space.
- 4.13 Whilst the proposed open space provision is below the minimum expected standards for family houses, it would not necessarily provide an unacceptable level of amenity for future occupants, who would purchase the property in full knowledge of the level of private open space provided.

### Reason 3.

*"The width and height of the building would result in a bulky addition to the streetscape that would be overbearing to neighbours at Bridgend. The proposal is therefore contrary to policy RP20 of the Midlothian Local Plan."*

- 4.14 This policy is based on old Structure Plan policy, to encourage the redevelopment of brownfield land to promote a high quality of design in new development. The Local Plan indicates that the purpose of policy RP20 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.
- 4.15 To suggest that the proposals are contrary to this policy indicates the Council feels that:
- 1) The proposals blight existing land uses; and/or
  - 2) Residential amenity will be affected.
- 4.16 It is clear that through careful re-development of this brownfield site there would not be a case to suggest existing land uses in the area would be blighted. There was no evidence provided by the Council to suggest there was a case of blight.
- 4.17 It is therefore considered that the Council firmly believes that residential amenity will be affected by the proposals, to a significant enough level to warrant refusal. Residential amenity can be affected by factors such as noise, disturbance, overlooking, loss of privacy, overshadowing. The Reason for Refusal suggests the proposals would appear 'overbearing' to neighbours at Bridgend. The applicant assumes that 'Bridgend' relates to the two properties closest to the site on Lugton Brae, only one of which has any outlook onto the site.
- 4.18 The proposed building is no wider than the previous building that accommodated the site. Any view afforded of this gable from the properties on Lugton Brae is at a very oblique angle and is certainly not a 'natural' viewing angle from the properties. The proposed building is indeed taller when viewed from Old Dalkeith Road, but this design complies with all relevant standards and guidance associated with residential amenity.
- 4.19 The applicant does not accept that the proposals would be 'overbearing' within this location, or that the proposals would warrant unacceptable impact on the amenity of the single property that, at an oblique angle, overlooks the site. The proposals comply with all design requirements in relation to privacy, overshadowing, noise etc and this is clearly demonstrated within the drawings and Design and Access Statement.

#### **Reason 4.**

*"The width and height of the building would result in a bulky addition to the streetscape that would have a significant detrimental impact on the character and appearance of the Dalkeith House and Park Conservation Area. The proposal is therefore contrary to policy RP22 of the Midlothian Local Plan."*

- 4.20 The site was not part of the Dalkeith House and Park Conservation Area until 2013 when the boundary was changed to include this area on Lugton Brae.
- 4.21 The Reason for Refusal indicates that the scale of the proposals (not the design or finishes) would have a significant impact on the character and appearance of the Dalkeith House and Park Conservation Area.
- 4.22 The Conservation Area Appraisal indicates that there are important views of the town of Dalkeith from the hamlet of Lugton and Lugton Brae to the north-west. The Dalkeith House and Park Conservation Area comprises two main sections. The first is Dalkeith House and its surrounding policies. The second is the adjoining, although visually separate, urban centre of the burgh of Dalkeith, the area of Lugton is included within this area. The cottages at Bridgend are specifically mentioned in the Area Appraisal and it is stated that 'nothing should be done to compromise the buildings [of Lugton] or their settings'.
- 4.23 Finally, the Area Appraisal specifically mentions the former Lugton Inn and states that it *"is to be redeveloped. Redevelopment should be to a high standard on this prominent site which is proposed for inclusion within the conservation area."*
- 4.24 Clearly, the Council recognises the prominence of this location and wishes this brownfield and derelict site to be redeveloped to a high standard. It has been demonstrated earlier in this Appeal Statement that many proposals have come forward on this site over the years and it has been difficult to find one that is acceptable in planning, economic and physical feasibility terms. This is primarily due to the site's topography and the abnormal costs associated with future development. Relaxation of planning guidance and standards is the only way to enable a high quality, viable and feasible development to be realised at this location.
- 4.25 The development as proposed will not have a significant impact on the setting of the nearby listed buildings. It can clearly be demonstrated that the surroundings and setting of nearby listed buildings and the Conservation Area will not be significantly impacted to such an extent as to change how these assets are experienced, understood and appreciated.

#### **Planning Policy Context**

- 4.26 The Development Plan in this instance relates to the Strategic Development Plan (SESplan, 2013) and the Midlothian Local Plan 2008 which is now substantially out of date and relates to

the previous Edinburgh and Lothians Structure Plan. The Finalised Midlothian Local Development Plan (MLDP) is a material consideration but only limited weight can be given to it in respect of any decision.

4.27 Given that there is no reference to the NPF, SPP or SDP we are assuming that the application is in compliance with these policy documents. It therefore complies with the SDP in relation to Policies 1 A (Development Areas) and 1B (Development Principles).

4.28 In particular we would draw the LRBs attention to the definition of brown-field land within the SDP and its relevance in terms of importance regarding housing land release.

4.29 Reference to Scottish Planning Policy (SPP), re-enforces the priority given to sustainability and place-making with specific importance given to the utilisation of brown-field land. In addition, it recognises the need to provide a range and variety of housing sites in order to meet overall requirements.

4.30 Our response for the reasons for refusal and grounds of appeal is concluded in the following section.

## 5 Conclusions

- 5.1 The Former Lugton Inn site presents the Council with a difficult decision in planning terms. This is a brown-field site with an established use and planning history. Achieving feasible and viable development that meets all of the Local Plan standards and guidance is difficult.
- 5.2 Given the benefits that approval of the proposals would bring it would be counter-productive to resist development on this site. Approval of housing would facilitate a range of improvements to this entrance to Dalkeith.
- 5.3 The character and appearance of the Park Conservation Area would clearly be enhanced by high quality housing. The case officer agreed that previous development, of its time and design, was acceptable in the area and this proposal is no different in its nature. The visual appearance of the area and views into Dalkeith will be improved by this proposed development.
- 5.4 The site is within a prominent and sustainable location and situated within a Strategic Development Area as defined in SESplan (A7 / A68). The appellant does not accept that the proposed development would impact on the character of the Conservation Area or the amenity of adjoining residents.
- 5.5 The proposals are clearly in line with sustainable development principles, as defined by SPP (para 28). As the Local Plan is significantly out of date, both by nature of its timescale and that the Council does not possess an effective 5 year housing land supply, a significant material consideration should be placed on the presumption in favour of sustainable development (SPP para 32-35 and 123-125).
- 5.6 Furthermore, given the Local Plan is significantly out of date it cannot adequately deal with development proposals such as this which rely on the discretion of the LRB. In particular we believe that there are compelling reasons to approve the proposals and that the relevant material considerations outweigh any policy restrictions that the planning officials may have in this regard.
- 5.7 Car parking and open space standards require to be relaxed to achieve a sensible development solution.
- 5.8 Objection from local neighbours or consultees are expected in a development such as this. It is not considered that there is any greater loss of amenity from the appeal proposals in respect of the previous motel scheme. The applicant does not accept that the proposals would be 'overbearing' within this location, or that the proposals would warrant unacceptable impact on the amenity of the single property that, at an oblique angle, overlooks the site. The proposals comply with all design requirements in relation to privacy, overshadowing, noise etc and this is

clearly demonstrated within the drawings and Design and Access Statement.

- 5.9 Accordingly, and for the arguments specified above, the appellant respectfully request that the LRB reverses the decision of the Director of Planning and permits Planning Permission for residential development as proposed on this site.

## **Appendix 1: Supporting Documentation**

1. Application Form
2. Location and Layout Plans
3. Design and Access Statement
4. Officers Handling Report
5. Decision Notice
6. LRB Notice Forms
7. Appeal Statement



## MIDLOTHIAN COUNCIL

### DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

**Case Officer:** Graeme King    **Site Visit Date:** 14/09/2015

**Planning Application Reference:** 15/00703/DPP

**Site Address:** Land 25m West of junction with Lugton Brae, Old Dalkeith Road, Dalkeith

**Site Description:** The application site is located at the junction of Old Dalkeith Road and Lugton Brae and was for many years occupied by the Lugton Inn, a pub and associated motel. The Inn and all the associated buildings have now been demolished and the site is now vacant. To the South the site is bounded by Old Dalkeith Road beyond which is grass and woodland sloping down to the banks of the River North Esk. To the East the site is bounded by Lugton Brae, on the opposite side of which are the predominantly 2 storey houses at Bridgend. To the West the site is bounded by woodland and to the North the site is bounded by the garden of the house at 1 Lugton Brae.

There are very significant level changes within the site; the Southern boundary is approximately 11m lower than the Northern boundary. To accommodate the level changes the previous development on the site made significant use of terracing. The motel element of the business was located on a terrace on the Northern half of the plot; the terrace was at approximately the same height as the eaves level of the 2 storey pub at the front of the plot. The site is located within Dalkeith House and Park conservation area. While Lugton sits to the North of Dalkeith, with the river separating the 2 settlements, for the purposes of the Midlothian Local Plan it forms part of the built-up area of Dalkeith.

**Proposed Development:** Erection of 5 dwellinghouses; formation of access and associated works.

**Proposed Development Details:** It is proposed to erect a terrace of 5 townhouses. The terrace is 34.7m wide, 18m deep and 15.1m tall. The houses are 5 storeys tall with garages at ground floor level and roof terraces at fourth floor level. To the rear the fourth and fifth storeys cantilever outwards by 3.3m; at the front there are projecting balconies at first floor level and projecting bays at second and third floor level. A communal garden space to the rear, on an existing terrace, is located at third floor level. Each house has a garage plus 1 external parking space.

The design of the houses is contemporary with flat roofs and extensive glazing to the front. The proposed finish materials reflect the contemporary design and include natural stone cladding; white render; aluminium and zinc cladding panels; and cedar cladding panels.

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

13/00887/DPP – Erection of dwellinghouse; alterations to ground levels; and erection of retaining walls (Amendment to design and levels approved by Planning Permission 13/00395/DPP) at Land 25M West Of Junction With Lugton Brae, Old Dalkeith Road. Decision – Consent with conditions

13/00843/DPP – Change of use from vacant ground to temporary overspill car park (retrospective) at Land 25M West Of Junction With Lugton Brae, Old Dalkeith Road. Decision – Refuse

13/00395/DPP – Erection of dwellinghouse; alterations to ground levels; and erection of retaining walls at Land 25M West Of Junction With Lugton Brae, Old Dalkeith Road. Decision – Consent with conditions

06/00193/FUL - Demolition of existing inn and motel and erection of 15 flats with associated parking at Lugton Inn, 16-18 Bridgend, Dalkeith. Decision - withdrawn

**Consultations:** The Council's **Transportation Policy and Road Safety** consultant raises concerns over aspects of the proposal. Particular reference is made to the fact that the proposal provides only 5 parking spaces as opposed to the 13 required by the Council's parking standards; and to the fact that details need to be provided of the proposed one way entrance and exit to the plot.

The Council's **Education** section has provided comments on education capacity in the Dalkeith area and the levels of developer contributions required to ensure that the development does not reduce capacity.

**Representations:** Five objections have been received from local residents. The grounds for objection include:

- The scale of the building, in particular its height.
- The impact on the character of the surrounding area, in particular the listed buildings to the North and the East.
- Loss of privacy due to overlooking from balconies and roof terraces.
- Overshadowing.
- The lack of parking provision.
- The access arrangements from the A6106 (Old Dalkeith Road).
- The lack of outdoor amenity space for the houses.
- Possible damage to neighbouring properties during construction.

Four of the five objections suggest reducing the number and height of the houses.

**Relevant Planning Policies:**

Midlothian Local Plan Policy **RP20: Development within the Built-up Area** states that development will not be permitted within the built-up area where it is likely to detract materially from the existing character or amenity of the area.

Midlothian Local Plan Policy **RP22: Conservation Areas** seeks to prevent development which would have any adverse effect on the character and appearance of Conservation Areas.

Midlothian Local Plan Policy **RP24: Listed Buildings** states that development will not be permitted where it would adversely affect the setting of a Listed Building.

Midlothian Local Plan Policy **DP2: Development Guidelines** sets out Development Guidelines for residential developments. The policy indicates the standards that should be applied when considering applications for dwellings. With regard to usable private outdoor space for houses the policy recommends a minimum of 130sqm for houses of 4 apartments or more.

An additional material consideration are Midlothian Council's **Parking Standards 2014** which requires that houses with 4 bedrooms or more should have parking for 2 cars plus an additional 0.5 spaces for visitors. The document clearly states that garages do not count towards parking provision.

**Planning Issues:** Policy RP20 offers support for development of sites within the built-up area; in addition the Council has previously granted consent for the erection of a single house on the site and was minded to grant an earlier scheme for 15 flats. The principle of development on the site is acceptable and supportable; however it is vital that any such development is of a scale that is appropriate to the size of the plot.

Midlothian Council approved its current Parking Standards in 2014 and the standards came into force in May of 2015. It is expected that any application after that date will meet the standards. The provision of adequate parking within a development site is vital in ensuring the safe and efficient movement of traffic on the surrounding road network; inadequate parking provision can lead to inconsiderate and unsafe parking that obstructs free movement of traffic and creates a dangerous environment for pedestrians. In addition sub-standard parking provision can have a significant detrimental impact on the amenity of existing residents in the area and future occupants of a new development.

To comply with the Council's parking standards the proposed development would need to provide a minimum of 13 parking spaces; 2 per house plus an additional 3 visitor spaces outwith the curtilage of the individual houses. The proposed layout includes 1 space per house; while the ground floor plans show cars parked within the garage areas these spaces do not comply with the definition of a parking space set out in the parking standards. The provision of 5 parking spaces represents 38% of the recommended minimum standard. In some instances parking standards can be relaxed for town centre developments, taking account of the variety of local services within walking distance and the provision of public transport that town centres benefit from. In this instance the site is clearly not within the town centre and given the size of the houses it would be unrealistic for the Planning Authority to expect car usage to be less than the expected norm. The proposed parking provision is significantly below the acceptable standard and the granting of consent with such provision would have a significant detrimental impact on the amenity of local residents, with potential for vehicles parking on local roads to the serious detriment of highway safety.

Policy DP2 recognises that houses for family use should be provided with adequate levels of private outdoor space; while communal space is an acceptable solution for flats it is expected that houses will have individually allocated private space. For

such outdoor space to be considered as usable it must have reasonable provision of sunlight. The current proposal seeks to provide outdoor space via a communal space of 107sqm. The space would vary in depth from 1.7m to 5.9m and would be bounded to the South by the 6.7m tall 2 storey cantilevered section of the building and to the North by a 1.9m tall retaining wall with a 1.8m tall fence erected on top of it. It is clear that the communal outdoor space would be almost permanently overshadowed and would have such an overbearing outlook that it would be an unpleasant and unwelcoming space. The proposed space for all 5 houses is less than the recommended minimum for 1 house; it represents a provision of less than 17% of the recommended minimum standard for 5 houses of this size. While it is acknowledged that the houses all have roof top terraces at fourth floor level, varying in size from 28sqm to 51sqm; these terraces are on the front elevation of the building and cannot be considered to be private outdoor space. The proposed open space provision is significantly below the minimum expected standards for family houses and would provide an unacceptable level of amenity for any future occupants of the houses.

The site sits at a prominent location on one of the main routes into and out of Dalkeith; in addition local topography on both the Dalkeith and Lugton sides of the North Esk mean that the site is prominent in a number of views looking Northwards from Dalkeith. Any successful design for the site will need to embrace this prominence and adopt a design approach that significantly enhances this key approach to Dalkeith. Bold contemporary design can work well in such locations subject to the scale and detail being acceptable. There is no uniform building style or scale within Lugton; the settlement developed over hundreds of years and many of the later additions reflect prevailing trends at the time. The listed Arts and Craft style house immediately to the North of the application site is one such example of a design that would have appeared obviously different at the time of construction. However, the area has been designated as a conservation area since the construction of that house and a greater emphasis is now placed on development preserving or enhancing the character and appearance of the area.

The height combined with the width of the building creates a bulky frontage that would appear overly dominant when viewed from Southern approaches. In addition the proximity of the Eastern gable to Lugton Brae and the houses at Bridgend will ensure that this elevation will appear overbearing to the immediate neighbouring properties.

Reference has been made in 3 of the objections to the overshadowing that would be caused by the proposal; one of the objections received includes drawings prepared by an architect indicating overshadowing at the summer solstice. While it is acknowledged that there will be some overshadowing of gardens to the East of the site on summer evenings, the most widely accepted guidance on these matters is the BRE's Site Layout Planning for Daylight and Sunlight. This publication advises that overshadowing calculations should be calculated at the spring equinox and that amenity areas should receive a minimum of 2 hours of sunlight per day. As noted above there will be some loss of sunlight on summer evenings however the overall impact across the year would not be sufficient to warrant refusal of the application.



The proposed layout includes 2 large bedroom windows on the Eastern gable plus smaller high level windows. The bedroom windows are at first and second floor levels; of the 2 the second floor window offers some potential for a loss of privacy of the gardens at Bridgend. This matter could be addressed by condition if the Council was minded to grant consent. Similarly any overlooking from the Easternmost roof terrace could be resolved via screening or a relocation of the terrace boundary.

All but one of the objections received make reference to the unsuitability of the proposed entrance to the site being taken from the A6106 (Old Dalkeith Road) and the fact that historically this has been discouraged by the Council. The Council's Transportation section have not objected to the principle of access being taken from the A6106 and subject to the details of road markings and signage being agreed would be supportive of access to a one way vehicle access system being taken from the A6106.

Two final points have been raised in objections; the impact on views from 1 Lugton Brae and possible damage caused by piling works required for construction. With regard to the loss of the view it is acknowledged that the longstanding view of Dalkeith will be lost, however the loss of view is not a material planning consideration. At the closest point the Westernmost point of the rear elevation of the proposed block would be 15m from the side elevation of no.1 however the orientation of the 2 properties mean that the separation would increase to 45m at the Easternmost point. While the proposed building would be significantly taller than the house at no.1 the differences in levels between the 2 plots would mean that the full height would not be immediately obvious when viewed from the garden of no.1; this would ensure that the building would not be overbearing to when viewed from the garden of no.1.

Any damage caused by construction processes would be a private legal matter between the parties involved. Private legal matters such as this are not material planning considerations and would not be grounds on which to refuse a planning application.

It is clear from the obviously sub-standard parking provision and outdoor space provision that there is insufficient space on the plot to accommodate a development of this scale. The proposal represents a significant over-development of the plot and is contrary to policies RP20 and DP2 of the Midlothian Local Plan.

**Recommendation: Refuse Planning Permission**



## Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

Reg. No. 15/00703/DPP

Gray Macpherson Architects LLP  
Tigh-Na-Geat House  
1 Damhead Farm  
Lothianburn  
Edinburgh  
EH10 7DZ

Midlothian Council, as Planning Authority, having considered the application by Mr Jamie O'Rourke, 41 Eskbridge, Penicuik, EH26 8QR, which was registered on 27 August 2015 in pursuance of their powers under the above Acts, hereby refuse permission to carry out the following proposed development:

**Erection of 5 dwellinghouses; formation of access and associated works at Land 25M West Of Junction With Lugton Brae, Old Dalkeith Road, Dalkeith**

In accordance with the application and the following plans:

<u>Drawing Description.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	1:1250	27.08.2015
Site Plan	P10 1:200	27.08.2015
Proposed floor plan	P01 1:100	27.08.2015
Proposed floor plan	P02 1:100	27.08.2015
Proposed floor plan	P03 1:100	27.08.2015
Proposed floor plan	P04 1:100	27.08.2015
Proposed floor plan	P05 1:100	27.08.2015
Roof plan	P06 1:100	27.08.2015
Proposed cross section	P07 1:100	27.08.2015
Proposed cross section	P08 1:50	27.08.2015
Proposed elevations	P09	27.08.2015
Illustration/Photograph		27.08.2015
Design and Access Statement		27.08.2015

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

1. *The proposed parking provision is significantly below the minimum standard specified in Midlothian Council's Parking Standards 2014. The proposed parking provision would have a detrimental impact on road safety and on the amenity of both local residents and potential occupants. The proposal is therefore contrary to policy RP20 of the Midlothian Local Plan.*
2. *The proposed outdoor space provision is significantly below the minimum standard specified in policy DP2 of the Midlothian Local Plan. The amenity of potential occupants would be below expected standards. The proposal is therefore contrary to policies RP20 and DP2 of the Midlothian Local Plan.*

3. *The width and height of the building would result in a bulky addition to the streetscape that would be overbearing to neighbours at Bridgend. The proposal is therefore contrary to policy RP20 of the Midlothian Local Plan.*
4. *The width and height of the building would result in a bulky addition to the streetscape that would have a significant detrimental impact on the character and appearance of the Dalkeith House and Park Conservation Area. The proposal is therefore contrary to policy RP22 of the Midlothian Local Plan.*

Dated 21 / 10 / 2015



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



# APPENDIX E



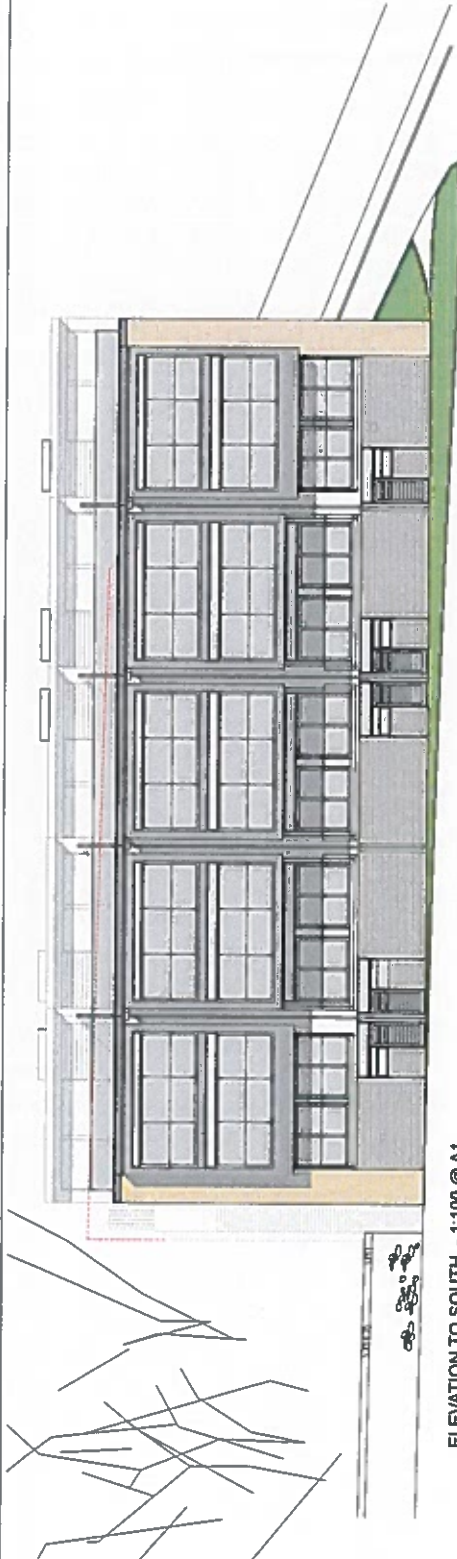


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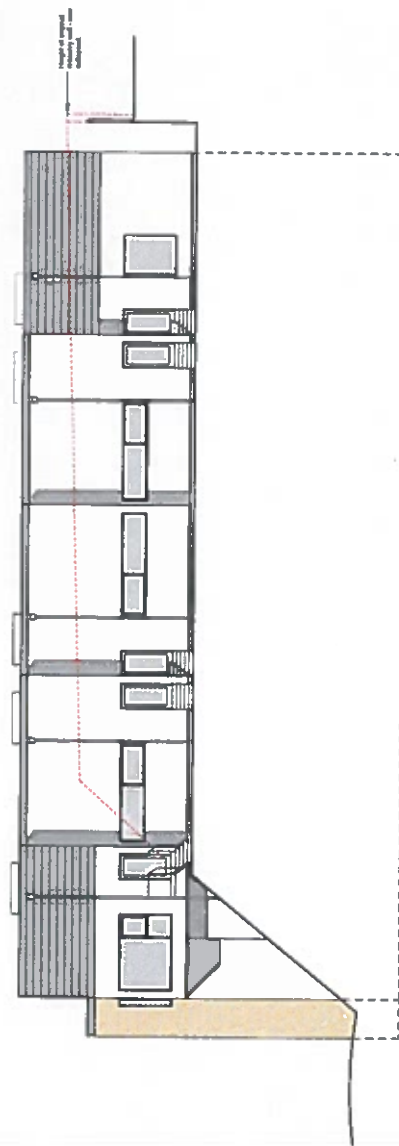
Architect: gray macpherson architects  
 Address: 1000 10th Avenue, Suite 100, West Vancouver, BC V8M 2K7  
 Phone: 604.674.1111  
 Email: info@graymacpherson.com

Project: 5 Store Houses at Legion Iron Site  
 Location: 1000 10th Avenue, Suite 100, West Vancouver, BC V8M 2K7  
 Date: 18.02.2015  
 Drawn by: S18  
 Checked by: P09  
 Project: 518

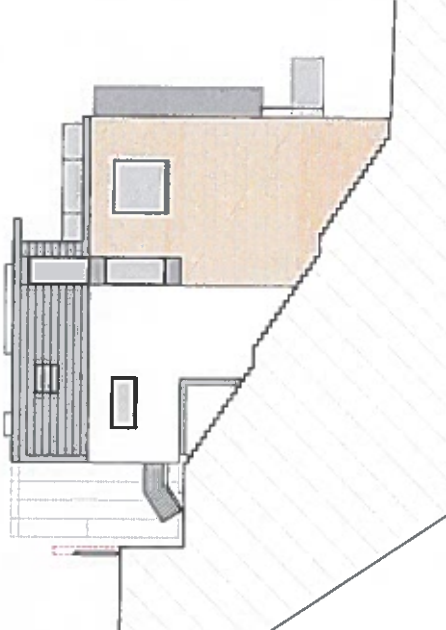
gray macpherson architects LLP  
 1000 10th Avenue, Suite 100, West Vancouver, BC V8M 2K7  
 Phone: 604.674.1111  
 Email: info@graymacpherson.com



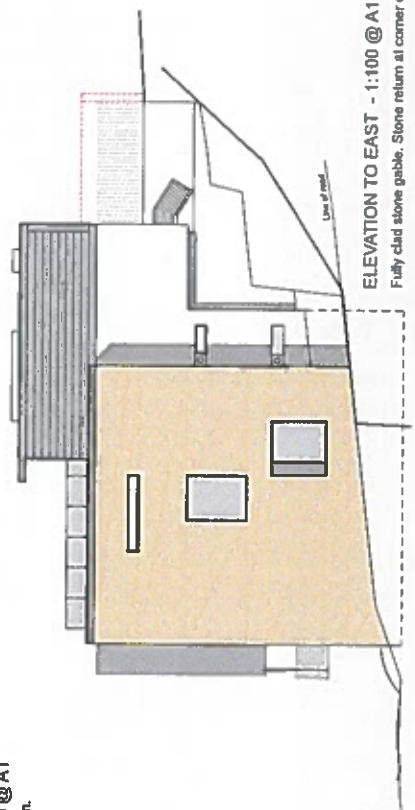
ELEVATION TO SOUTH - 1:100 @ A1  
 Stone return at corner onto front elevation.



ELEVATION TO NORTH - 1:100 @ A1  
 Stone return at corner onto front elevation.



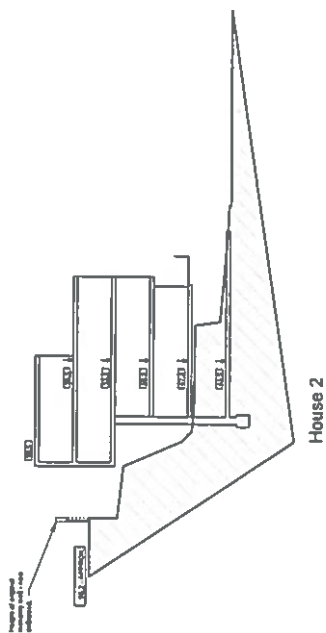
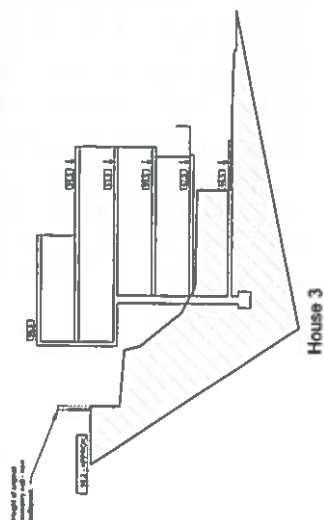
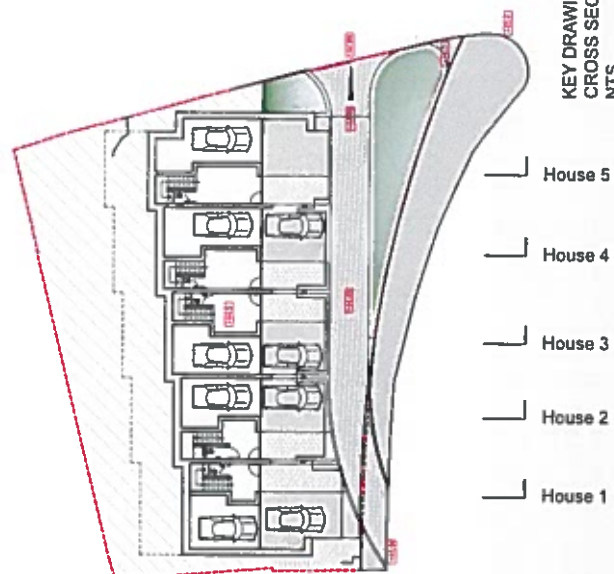
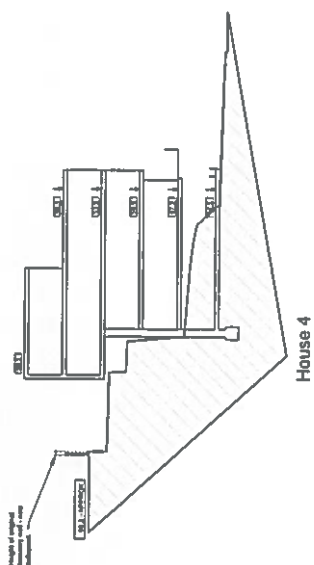
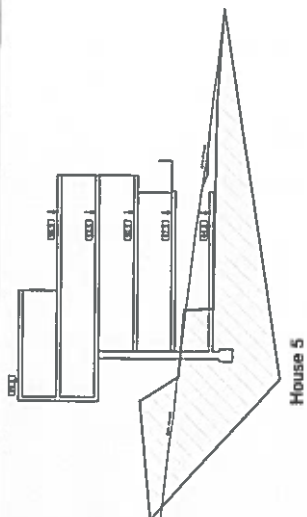
ELEVATION TO WEST - 1:100 @ A1  
 Fully clad stone gable. Stone return at corner onto front elevation.



ELEVATION TO EAST - 1:100 @ A1  
 Fully clad stone gable. Stone return at corner onto front elevation.





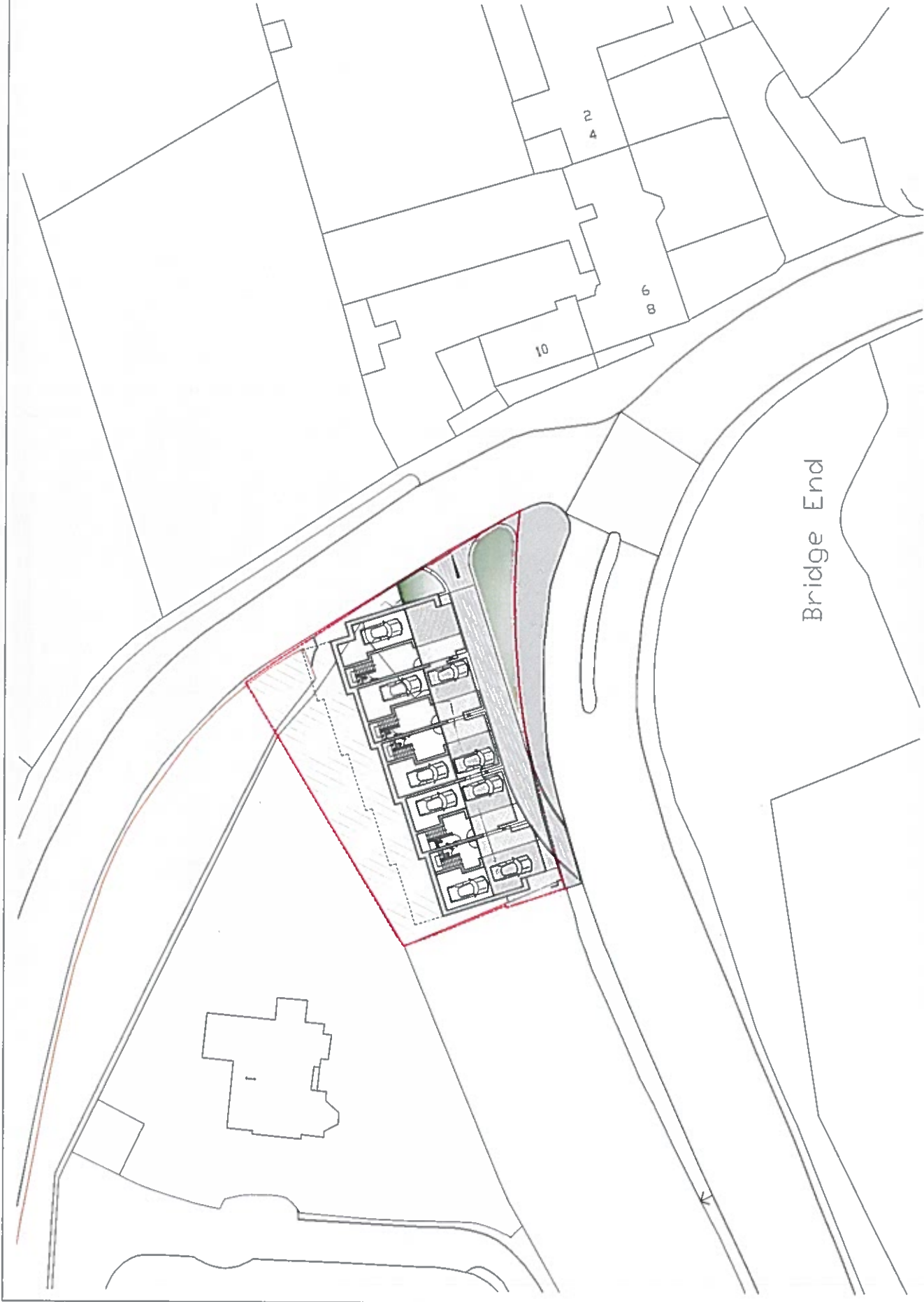


**KEY DRAWING TO  
CROSS SECTIONS -  
NTS.**

**CROSS SECTIONS ACROSS SITE SHOWING LEVELS IN RELATION TO EXISTING BANK -1:200 @ A1**



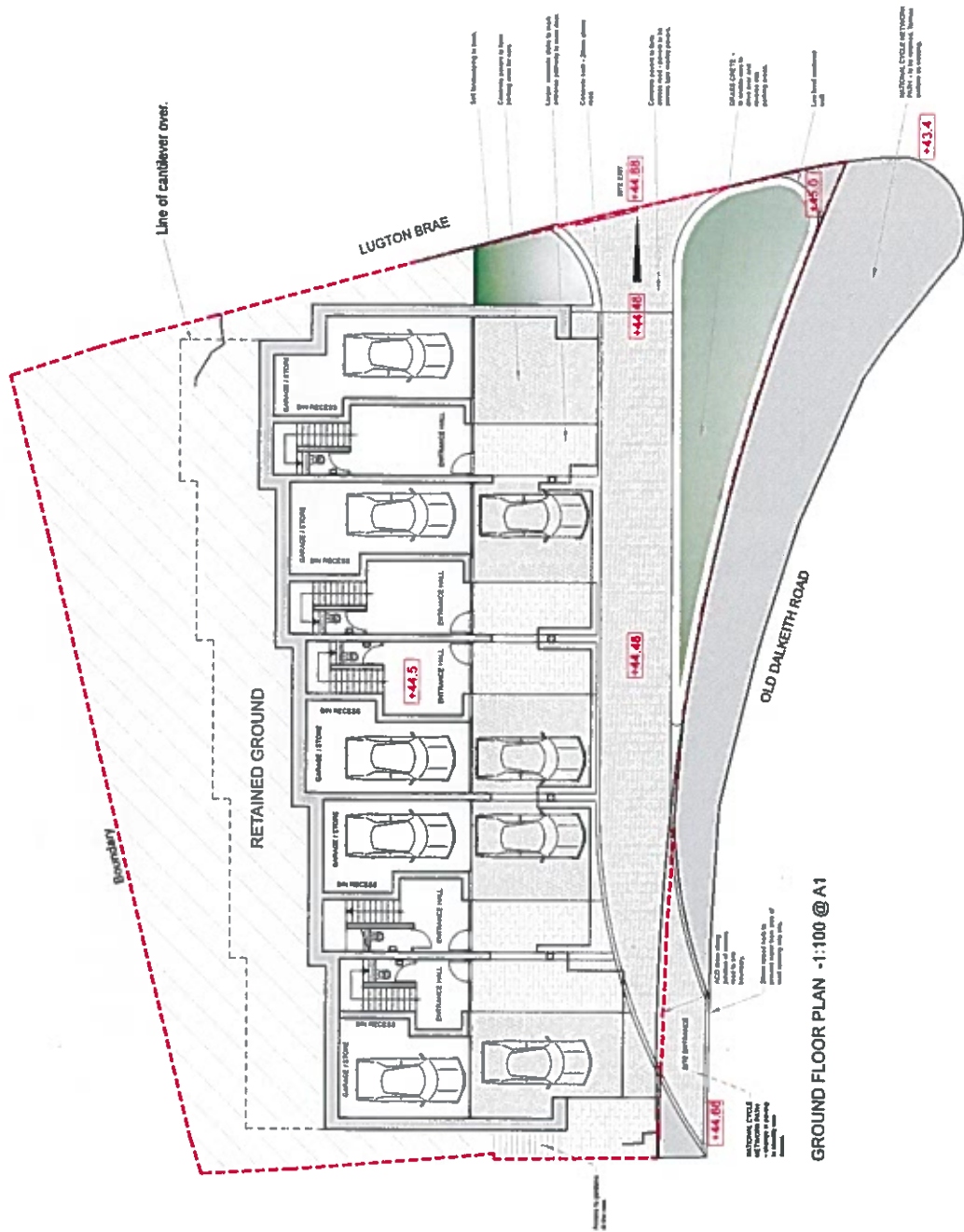




BLOCK PLAN - 1:200 @ A1









## **Notice of Review: St Mary's Lodge, Rosewell**

### **Determination Report**

Report by Ian Johnson, Head of Communities and Economy

#### **1 Purpose of Report**

- 1.1 The purpose of this report is to provide a framework for the Local Review Body (LRB) to consider a 'Notice of Review' for the erection of an extension to dwellinghouse at St Mary's Lodge, Rosewell.

#### **2 Background**

- 2.1 Planning application 15/00767/DPP for the erection of an extension to dwellinghouse at St Mary's Lodge, Rosewell was refused planning permission on 12 November 2015; a copy of the decision is attached to this report.
- 2.2 The review has progressed through the following stages:
- 1 Submission of Notice of Review by the applicant.
  - 2 The Registration and Acknowledgement of the Notice of Review.
  - 3 Carrying out Notification and Consultation.

#### **3 Supporting Documents**

- 3.1 Attached to this report are the following documents:
- A site location plan (Appendix A);
  - A copy of the notice of review form and supporting statement, including plans (Appendix B). Any duplication of information is not attached;
  - A copy of the case officer's report (Appendix C); and
  - A copy of the decision notice, excluding the standard advisor notes, issued on 12 November 2015 (Appendix D).
- 3.2 The full planning application case file and the development plan policies referred to in the case officer's report can be viewed online via [www.midlothian.gov.uk](http://www.midlothian.gov.uk)

#### **4 Procedures**

- 4.1 In accordance with procedures agreed by the LRB, the LRB by agreement of the Chair:

- Have scheduled an accompanied site visit for Monday 7 March 2016; and
  - Have determined to progress the review by way of a hearing.
- 4.2 The case officer's report identified that one representation has been received. As part of the review process the interested party was notified of the review. An additional comment has been received. All the comments can be viewed online on the electronic planning application case file via [www.midlothian.gov.uk](http://www.midlothian.gov.uk).
- 4.3 The next stage in the process is for the LRB to determine the review in accordance with the agreed procedure:
- 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;
  - Assess whether these considerations warrant a departure from the development plan; and
  - State the reason/s for the decision and state any conditions required if planning permission is granted.
- 4.4 In reaching a decision on the case the planning advisor can advise on appropriate phraseology and on appropriate planning reasons for reaching a decision.
- 4.5 Following the determination of the review the planning advisor will prepare a decision notice for issuing through the Chair of the LRB. A copy of the decision notice will be reported to the next LRB for noting.
- 4.6 A copy of the LRB decision will be placed on the planning authority's planning register and made available for inspection online.

## **5 Conditions**

- 5.1 In accordance with the procedures agreed by the LRB at its meeting of 19 June 2012 and 26 November 2013, and without prejudice to the determination of the review, the following conditions have been prepared for the consideration of the LRB if it is minded to uphold the review and grant planning permission.
1. The external materials and finishes of the extension shall match those on the existing extension.
  2. The design, materials and treatment of the window and door surrounds on the extension shall match the corresponding details on the existing extension.

3. Unless otherwise approved in writing by the Planning Authority the dormer roof and cheeks shall be finished externally in natural slate to match that on the roof of the existing extension.
4. Details of the colour finish of the timber cladding proposed on the dormer fascias shall be submitted to the Planning Authority and no work shall start on the dormers until these details have been approved in writing by the Planning Authority.

***Reason for conditions 1 – 4: To safeguard the character of the existing building.***

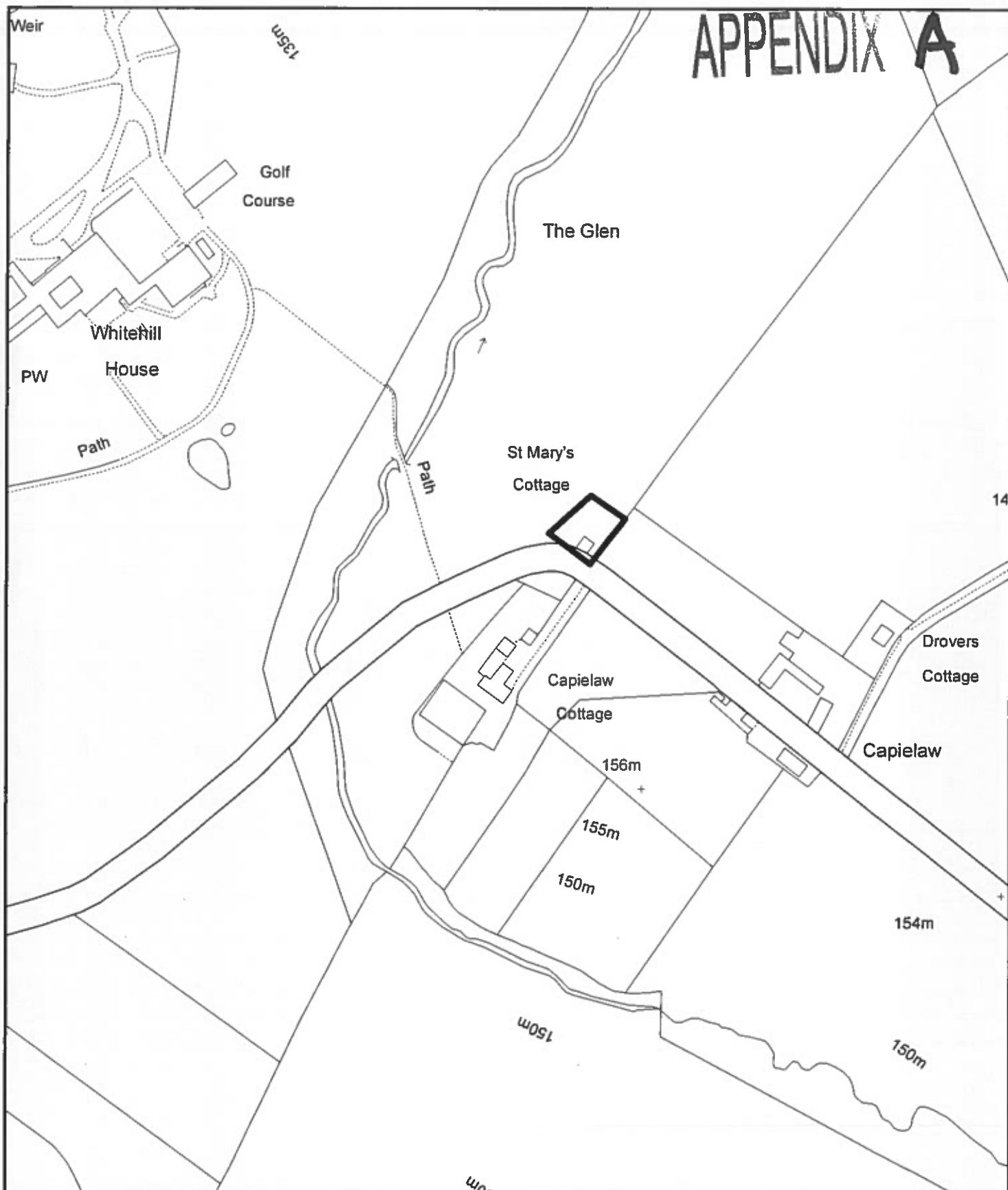
## **6 Recommendations**

- 6.1 It is recommended that the LRB:
- a) determine the review; and
  - b) the planning advisor draft and issue the decision of the LRB through the Chair

**Date:** 1 March 2016  
**Report Contact:** Peter Arnsdorf, Planning Manager  
peter.arnsdorf@midlothian.gov.uk  
**Tel No:** 0131 271 3310

**Background Papers:** Planning application 15/00767/DPP available for inspection online.





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

**St Mary's Cottage, Rosewell**

**29th January 2016**

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**File No. 15/00767/DPP**

**Scale: 1:3,000**

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THE UNIVERSITY OF  
THE SOUTH ALABAMA



## NOTICE OF REVIEW

Under Section 43A(8) Of the Town and Country Planning (SCOTLAND) ACT 1997 (As amended) In Respect  
of Decisions on Local Developments  
The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (SCOTLAND)  
Regulations 2013  
The Town and Country Planning (Appeals) (SCOTLAND) Regulations 2013

**IMPORTANT: Please read and follow the guidance notes provided when completing this form. Failure to supply all the relevant information could invalidate your notice of review.**

PLEASE NOTE IT IS FASTER AND SIMPLER TO SUBMIT PLANNING APPLICATIONS  
ELECTRONICALLY VIA <https://eplanning.scotland.gov.uk>

1. Applicant's Details		2. Agent's Details (if any)	
Title	<div>DR</div>	Ref No.	
Forename	<div>LYNDHURST</div>	Forename	
Surname	<div>COLLINS</div>	Surname	
Company Name		Company Name	
Building No./Name		Building No./Name	
Address Line 1	<div>CARIELAW COTTAGE</div>	Address Line 1	<div>MPORATE RESOURCE</div>
Address Line 2		Address Line 2	<div>LE:</div>
Town/City	<div>NR ROSEWELL</div>	Town/City	<div>RECEIVED 28 JAN 2016</div>
Postcode	<div>EH24 9EE</div>	Postcode	
Telephone		Telephone	
Mobile		Mobile	
Fax		Fax	
Email		Email	
3. Application Details			
Planning authority		<div>MIDLOTHIAN COUNCIL</div>	
Planning authority's application reference number		<div>15/00767/DPP</div>	
Site address			
<div>ST. MARY'S LODGE NR. ROSEWELL EH24 9EE</div>			
Description of proposed development			
<div>EXTENSION TO DWELLINGHOUSE AT ST. MARY'S COTTAGE</div>			

Date of application

Oct 1st 2015

Date of decision (if any)

Nov 12th 2015

**Note.** This notice must be served on the planning authority within three months of the date of decision notice or from the date of expiry of the period allowed for determining the application.

#### 4. Nature of Application

Application for planning permission (including householder application)



Application for planning permission in principle



Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission and/or modification, variation or removal of a planning condition)



Application for approval of matters specified in conditions



#### 5. Reasons for seeking review

Refusal of application by appointed officer



Failure by appointed officer to determine the application within the period allowed for determination of the application



Conditions imposed on consent by appointed officer



#### 6. 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.

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

Further written submissions



One or more hearing sessions



Site inspection



Assessment of review documents only, with no further procedure



If you have marked either of the first 2 options, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing necessary.

Overly restrictive application of planning policy  
DP6 of H6 Midlothian Local Plan

#### 7. Site inspection

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

Can the site be viewed entirely from public land?



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



If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

## 8. Statement

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. Note: 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.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

Please see separate document (attached), 7 pages with 5 photographs on three sheets

Have you raised any matters which were not before the appointed officer at the time your application was determined?

Yes ☐ No ☒

If yes, please explain below a) why your are raising new material b) why it was not raised with the appointed officer before your application was determined and c) why you believe it should now be considered with your review.

## 9. List of Documents and Evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review

1. Written Statement explaining reasons for the Appeal
2. Five photographs on 3 pages referred to in the Statement.
3. Copies of original Plans

**Note.** The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

## 10. Checklist

Please mark the appropriate boxes to confirm that you have provided all supporting documents and evidence relevant to your review:

Full completion of all parts of this form



Statement of your reasons for requesting a review



All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.



**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 from that earlier consent.

## DECLARATION

I, the applicant/agent hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents. I hereby confirm that the information given in this form is true and accurate to the best of my knowledge.

Signature



Name:

DA. L. COLLINS

Date:

27/01/2016

**Mr Lyndhurst Collins - Local Review Body Appeal**  
**Application Reference – 15/00767/DPP**  
**St Mary's Cottage, Rosewell**

1. With reference to the refusal of application 15/00767/DPP to extend St Mary's Lodge, I appreciate that there are principles which have to be used as guidelines in the planning process but I also hope that there is room for discretion on behalf of the planning authority for consideration of special or individual cases. In making this appeal I would like to explain the reasons for the proposed design with the apparent amassing of the extension at the rear of the building and also to convey the different sets of circumstances for wanting to build the proposed extension to create an affordable family home.

#### **History and Background**

2. We purchased St Mary's Lodge, which is located on the opposite side of the road to our property, in 2011. Our intention at the outset was to provide a home for our son. Two factors influenced our decision to make the purchase.
  - a. Our son needed a place for himself and had no hope of getting on to the property ladder on his own.
  - b. On a more personal note, my wife and I, being retired pensioners recognise that there is an increasing need on our behalf for dependency on immediate family in this relatively remote location. The close proximity of the cottage ticked both boxes.
3. When we bought the cottage it was in urgent need of renovation both internally and externally. It was still a listed building even though it was roofed with concrete tiles. The original slate roof had been severely damaged in the early 1970s by thieves who had removed all the lead from the ridging and gable over-hangs. For understandable economic reasons the Sisters of St. Vincent de Paul who ran the St Joseph's Hospital at Whitehill House, and the previous owners of the cottage, repaired the roof as quickly as possible with the tiles.
4. Apart from the roof, the then existing lean-to extension containing combined kitchen and bathroom facilities at the rear of the cottage could be described only as a serious health and environmental hazard.
5. In its prime, this had clearly been a charming cottage. It had been one of the two gate houses for Whitehill House built by Bryce and Burn. One of its more salient features was the diamond leaded light windows at the front. These were removed and replaced with full pane sash windows in the mid 1970's. I found the discarded leaded light windows smashed beyond repair in the Sheil Burn.
6. When we set about renovating and extending the cottage it was my real intention to restore the leaded light windows but the quotation I received (almost £10,000 put it well beyond our reach. By then, Historic Scotland recognised that the cottage did not meet the criteria for being a listed building



and it was duly delisted. Nevertheless, it was still my intention to restore it as sympathetically as possible since it remains as a building of local historical interest.

7. My initial instinct was to build an extension with external stone walls to match those of the cottage but I understood that such an extension would do more to mask the original features. Hence the external walls of the extension were finished in a hard cream coloured render with buff coloured quoins around the windows to emphasise the outline of the extension. This also highlighted the original distinctive features of the cottage especially the stoned gables of the cottage where the two structures meet.
8. The existing extension comprises: a small kitchen; bathroom with shower and toilet and a separate ventilated cubicle for both washing machine and tumble dryer stacked on top of each other; a medium sized bedroom and a small box room containing the hot water storage tank and electric central heating boilers.
9. Much of the space in the extension is occupied by a stairwell leading down to the back door: this is a consequence of the contours of the land to the rear of the property. These contours influenced the design of the extension with the walls being higher than you would expect for a single storey building. This change in level resulted in an unavoidable and unnecessary crawl space of between 1.2 and 0.5 metres under the floor which in terms of accessibility to the bathroom and kitchen facilities needed to be on the same level as the original cottage.
10. Given that the old lean-to extension had to be demolished in order to build the existing extension, the area of increased floor space is significantly less than may appear in the drawings submitted for the proposed extension. The footprint of the old lean-to was 14.5sq m and that of the existing extension is 50sq m so a net increase of 36sq m.
11. In building the extension I recognise that changes were made to the drawings submitted for planning permission especially the roof line, and I fully accept responsibility for that. These changes were discussed with Building Control which requested the re-submission of redrawn plans which were subsequently re-certified by the professional Structural Engineer.
12. Another anomaly relates to the change in style of windows in the extension. This resulted from our overriding concern with security in an isolated and vulnerable location; two previous sets of tenants had been burgled via the existing sash windows at the front of the cottage and our builder had all his tools stolen by the same method .
13. After that we felt that hopper style windows especially in the bedroom and bathroom, both of which require at times to be ventilated with open windows would provide a greater degree of security. This was cleared with Building Control which required a written statement to support these changes to be submitted. Mistakenly with regards to planning, I thought that I had proceeded in accordance with regulations. If this was wrong then I apologise unreservedly. Not knowing the system, I had mistakenly

assumed that having cleared the changes with building control, this would carry forward with regards to the planning permission.

14. The plans for the extension submitted to the planning authority showed a lower roofline. It was intended to keep the concrete tiled roof of the original cottage, even though it distracted greatly from the authenticity of the cottage. I felt that it would be possible to achieve a fairly close match on the roof of the extension which had a much shallower pitch than the original cottage. I understood that modern close fitting tiles would, as shown in the submitted plans, cope with the much shallower pitch of the proposed roof structure.
15. Once building began it was evident that the fragility of the concrete tiles on the original cottage would make it difficult for them to be removed and cut for the junction of the two new roof valleys. But there were no longer any replacements of that style available. It also became evident that sections of the old roof needed extensive repairs. I decided therefore to restore the roof of the old cottage to its original state by using second hand slate. This involved significant additional cost.
16. Scottish slate at that time was unavailable but we were able to source a supply of Burlington slates sufficient to cover the roof of the extension as well. I was advised that in using the Burlington slate that a steeper pitched roof, approximating that of the original cottage was required to keep it weather tight. On that basis the roofline was raised to a level just below that of the original cottage in accordance with what I thought were good planning principles relating to extensions.
17. It is important to highlight that the extension was not built to the full width of the cottage. The walls of the extension were deliberately inset from the lines of the cottage gables to preserve the outline of the corner stones as much as possible.
18. Unfortunately the walls of the extension could not have been inset any further because the rest of the stonework at the rear had been covered in hard render and repeatedly painted as the internal back-wall of the lean-to structure which was demolished to build the extension; much of the original stonework had been removed to provide keying-in anchor points for the walls of the old extension.
19. The degree of damage could not have been ascertained until that extension had been demolished. I wish to re-emphasise, therefore, that every effort was made to preserve and enhance the original structure of the cottage to maintain its distinctive features as a Lodge House.
20. Both stone chimneys, though only one was required, were carefully restored and capped with traditional heart engraved chimney pots.

#### The Proposed Extension

21. This proposal has been made to provide a reasonably comfortable and affordable family home in order to keep our son and his partner in close proximity.
22. The existing dwelling is too small for a growing family in a modern domestic environment. Unfortunately and in addition to the normal age related problems, my wife has also developed rheumatoid arthritis so that our feeling of maintaining close proximity to our family for a degree of dependency has intensified.
23. To provide the necessary family home for our son and partner, we needed to provide two extra bedrooms with ready access to bathroom facilities on the same floor level.
24. In designing the proposed extension, I felt that given the uniqueness of the site and situation of the cottage with respect to the immediate local environment, that it would be more appropriate to embrace elements of traditional Scottish architecture with its emphasis on a relatively steep pitched slate roof over rendered walls including modestly sized windows.
25. In one of the earlier designs I did consider the use of wide patio doors across most of the width of the gable end to provide immediate access to, and a broad vista of, the garden and surrounding woodland. But I was concerned that extensive use of plate glass windows would allow easy concealed viewing of the interior of the building from Shiel Wood in this isolated location. Again the security and safety of our family was at the forefront of our minds.
26. Before arriving at the design solution before you, we did consider a number of alternative approaches;
  - a. A lean-to structure on the north-east gable of the existing extension with internal access along the existing stairway from the open kitchen area through the existing back door. A very shallow sloping roof covered in felt could perhaps have provided a structure about 3.6 metres in depth with an internal depth of 3.3 metres providing total floor space of approximately 23 sq.metres. If 3.6 sq metres is allowed for bathroom facilities and an estimated 2 sq metres for an entrance way into two bedrooms and the bathroom then the space for two bedrooms would be 17.4 sq. metres. These calculations preclude any idea of a rear door or increased turning entrance space required by Building Control for accessibility. Apart from the extremely small if not cramped bedroom space, a major concern would be reliance on electric pumps for disposal of waste to the septic tank which is on a higher 1.5 m level outside the existing bathroom. The latter concern would apply to the location of bathroom facilities within any structure on a ground floor at that level.



- b. A second option was a single floor extension extending through the gable from the kitchen in the existing extension. The new extension would be at the same floor level as the current internal floor level to a platform of the same floor dimensions as that already proposed in the submitted plans. This could accommodate two bedrooms and adjacent bathroom at the appropriate level for gravity discharge into the septic tank. The existing stairwell would have to be eliminated and would preclude a back door. Such a structure would lead to the creation of an exceptionally large void or unusable crawl space (approx 1.3m high) under the new floor. Such a structure would involve an environmental cost in the form of a significant waste of building materials for virtually no functional gain. Also, aesthetically I am not sure that from the north-east and north -west perspectives a building with external walls almost 2 metres high below window levels would enhance the appearance of the whole building.
27. Any extension, regardless of size, on either side of the existing extension would need to be flat roofed involving felt covering and would have a significant detrimental impact on the original cottage. Any projection on the north-west side, would I believe, be inappropriate and unsuitable. Structurally any extension on either side would involve the total blocking of at least two windows; on the north west side these would be for the bathroom and kitchen and on the north east side, which is the driveway, the bedroom. Any form of extension on the north-west elevation would have massive implications for the septic tank and major external drainage system.
28. We felt that the most favourable option to achieve the degree of internal functionality desired was that outlined in the submitted proposed drawings. **These involve a two storey extension at the rear of the building and away from the original cottage where it would have no further material impact on the original Lodge.**
29. Concerns were expressed with regard to the bulk of the proposal. I would hope, however, that since the proposed extension would be at the rear of the property, **its visual impact on the original cottage would be negligible compared to an extension on any other elevation.** By extending to the rear we were once again trying desperately to retain the original character of the cottage (chiefly expressed through its front elevation fronting the private estate road) whilst making it fit-for-purpose for modern family living to achieve the desired outcome specific to our very personal needs in providing a home for our son and his family and ensuring our family was close-by as we get older and require more help.
30. Any amassing at the rear of the building would be seen in its entirety from only one position outside the property, and that is from an informal dog walkers path through the Sheil Wood( Photo 1).
31. There is no formal public right of way through Shiel Wood. An oblique view of the proposed extension would be seen for a short distance as one comes around the bend of the privately owned Thornton road as it approaches from the west (Photo 2).

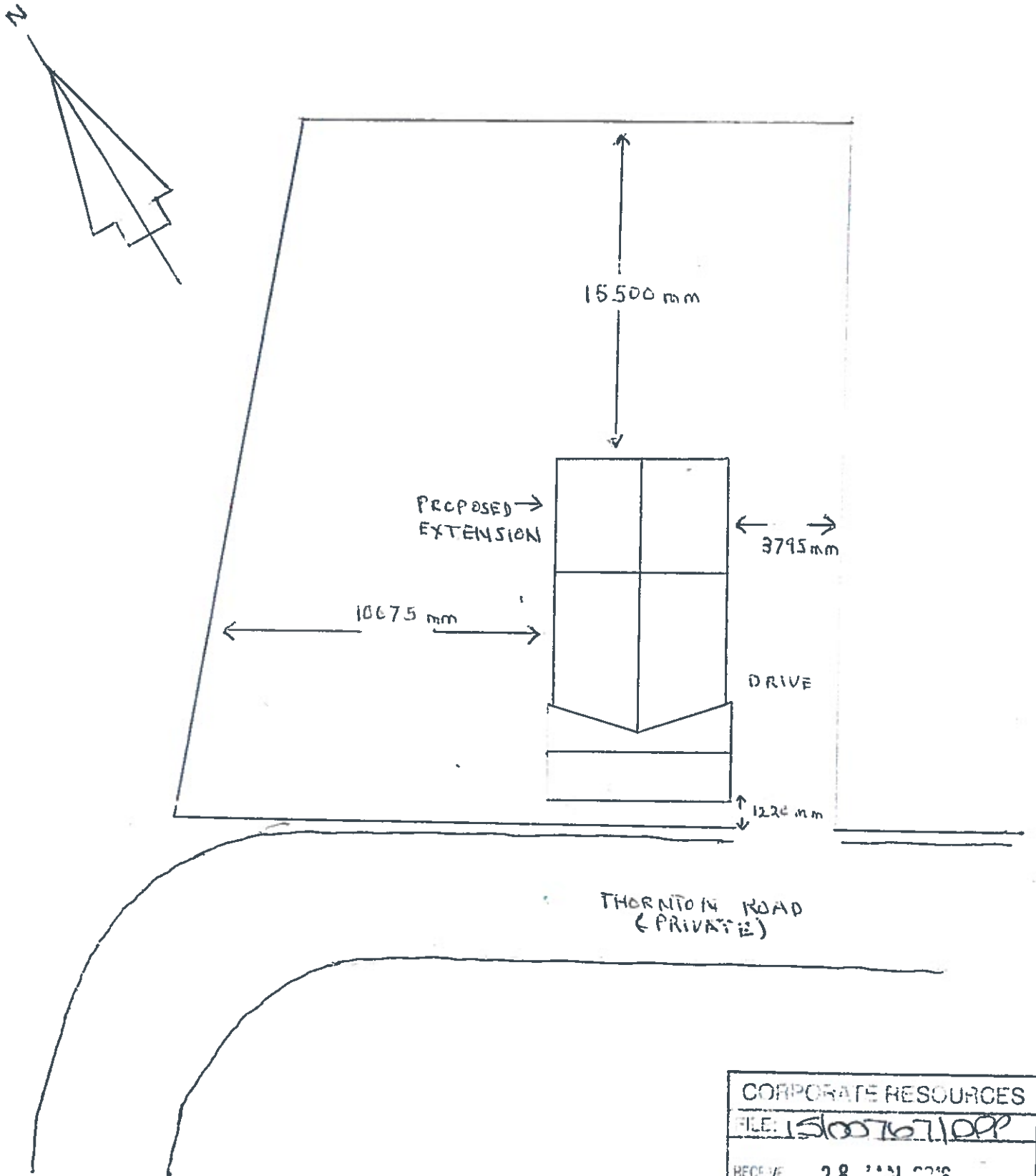
32. From both these viewpoints, the two combined extensions with the same roofline and external wall structures would perhaps have some resemblance to a traditional Scottish Longhouse and would be quite distinctive from the original Lodge which would firmly remain as the dominant architectural feature.
33. Due to the high stone wall, there would be a limited or partial view of the extension as you approach the property along the Thornton road in the opposite direction coming from Capielaw (Photo 3). Only the front elevation and the east facing gable end of the cottage are visible from this perspective, as is the case at the moment.
34. As you pass the front of the cottage, because the walls of the extension have been inset the elevation is exactly the same as when it was built, probably in the 1840's (Photos 4 and 5).
35. The purpose of this appeal therefore is to ask if the decision to refuse our application to extend St Mary's Lodge can be reviewed in the context of the comments made above and to be viewed in its wider context.
36. I have no economic or commercial motive for extending the cottage but there are strong personal reasons for wanting to make this into affordable accommodation in order to maintain close proximity of family for age and health related reasons. The consequence of not securing permission will see my son and his family having to seek larger accommodation elsewhere.
37. **There is no objection to the principle of building an extension to St Mary's Cottage.** There is more than adequate space on the property for a substantial extension.
38. There would be no environmental impact on local biodiversity in the Sheil Wood or any detrimental impact on any neighbouring properties.
- a. The nearest property is our own, 100 metres away and unsighted; the next is Capielaw Farm house which is 150 metres away and also unsighted. The barn at Capielaw Farm has planning permission to be turned into two residential units and permission exists for a further residential unit, again unsighted, to be built on the footprint of an old farm building on the other side (South-east) of the Capielaw Road from Capielaw Farm House.
  - b. Drovers Cottage is 200 metres away and can be seen across the fields; 10 very large new houses that have just been completed on the north-west side of the Whitehill Golf Course are 400 metres away and unsighted because of the Sheil Wood;
  - c. Finally, the 11-15 new houses scheduled to be built along the south side of the Golf Course, and parallel to the Thornton Road, will be 250–400 metres away and will be unsighted.

39. St Mary's Lodge, therefore, is quite isolated from any existing or planned new developments. As recently reported in The Scotsman, Banks Property of Hamilton has asserted that their proposals to build 100 new houses around Rosewell will bring "...much needed family homes to the area where there is a significant housing shortfall". I am asking to create one.

#### **Summary**

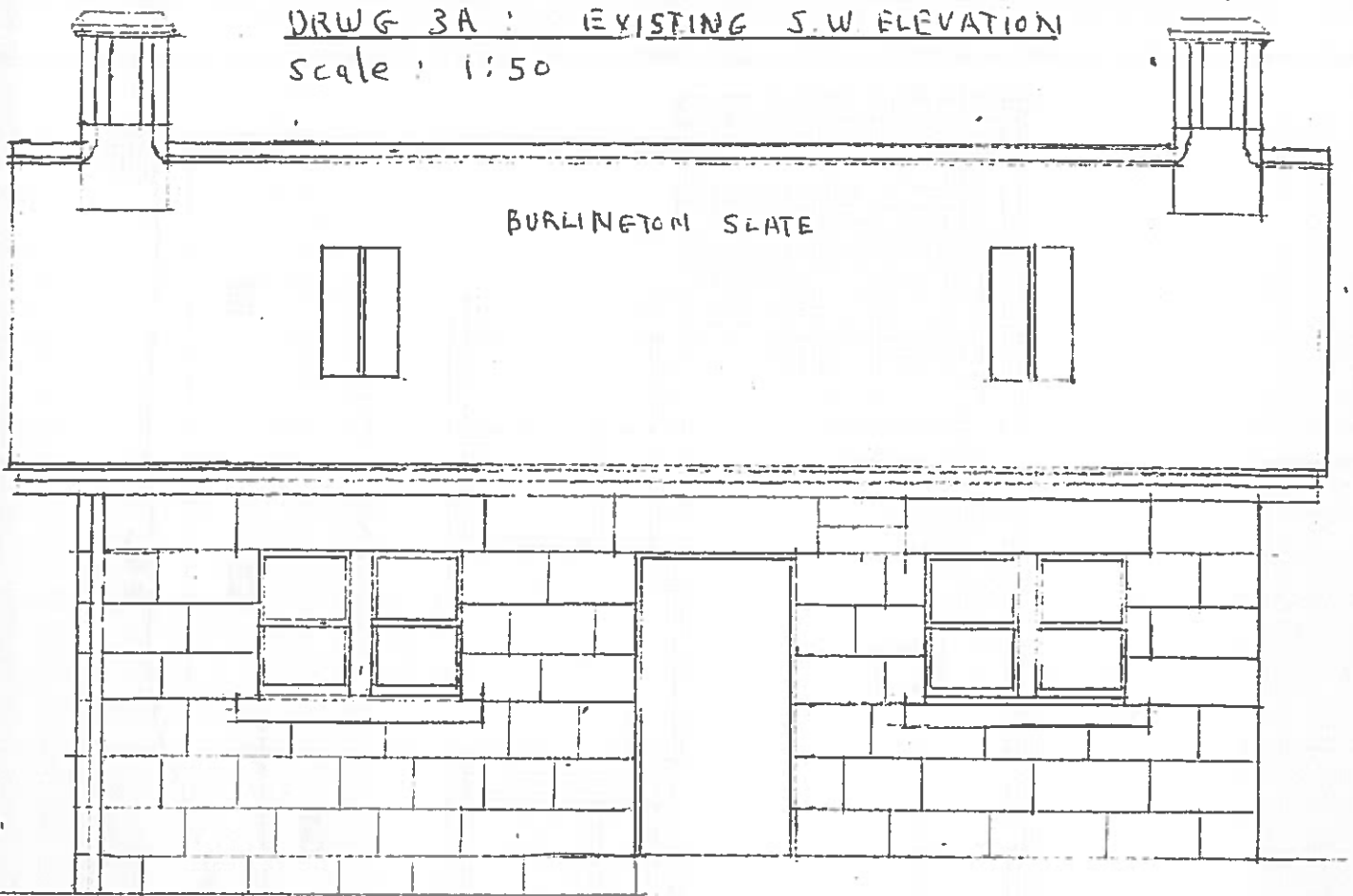
40. Before we submitted an application to build the first extension St Mary's Lodge had been delisted because of all the crude and unsympathetic changes that had been made to the external structure of the building. In building the extension in 2011 our aim was to make the cottage suitable for modern, hygienic living. We have undertaken this with the protection of the distinctive, historical context of the cottage at the forefront of our plans.
41. As stated, we made a genuine mistake in not realising that we needed to secure a variation to the planning permission (for an extension) when changes were made to the existing extension. In securing building warrants for the changes, we were open and honest about the changes; we just missed a step in securing the right permission and we apologise for that, it was a total oversight on our part, not quite knowing the system.
42. The changes made to the existing planning permission actually came about due to our restoring the roof to its original character, at significant expense to ourselves (compared to simply replacing like-for-like). Again we have consistently sought to maintain and enhance the special character of the building.
43. Due to the contours of the site, any extension to the rear will appear larger as it follows the slope, whilst maintaining a consistent floor level and roof line. However, in the design and materials we have consistently sought to ensure that the rear extensions appear subservient to the original cottage. This included the small but significant (in design terms) step in from the full width of the cottage. The front facing original cottage therefore retains its prominence.
44. Finally, and we acknowledge, outwith normal planning considerations, we have very personal reasons for wanting to create a suitable home for our son and his family. This is a relatively isolated property, our proposals have no impact on any neighbouring property and we have tried our best to retain the character and appearance of the key aspects of the original cottage. It would mean a great deal to us if we could secure planning permission to keep our family close to us which is both affordable to them and reassuring to us as we get older and more dependent on family support.

DRWG 2 : SITE PLAN OF EXISTING AND EXTENSION AS PROPOSED  
Scale 1:250

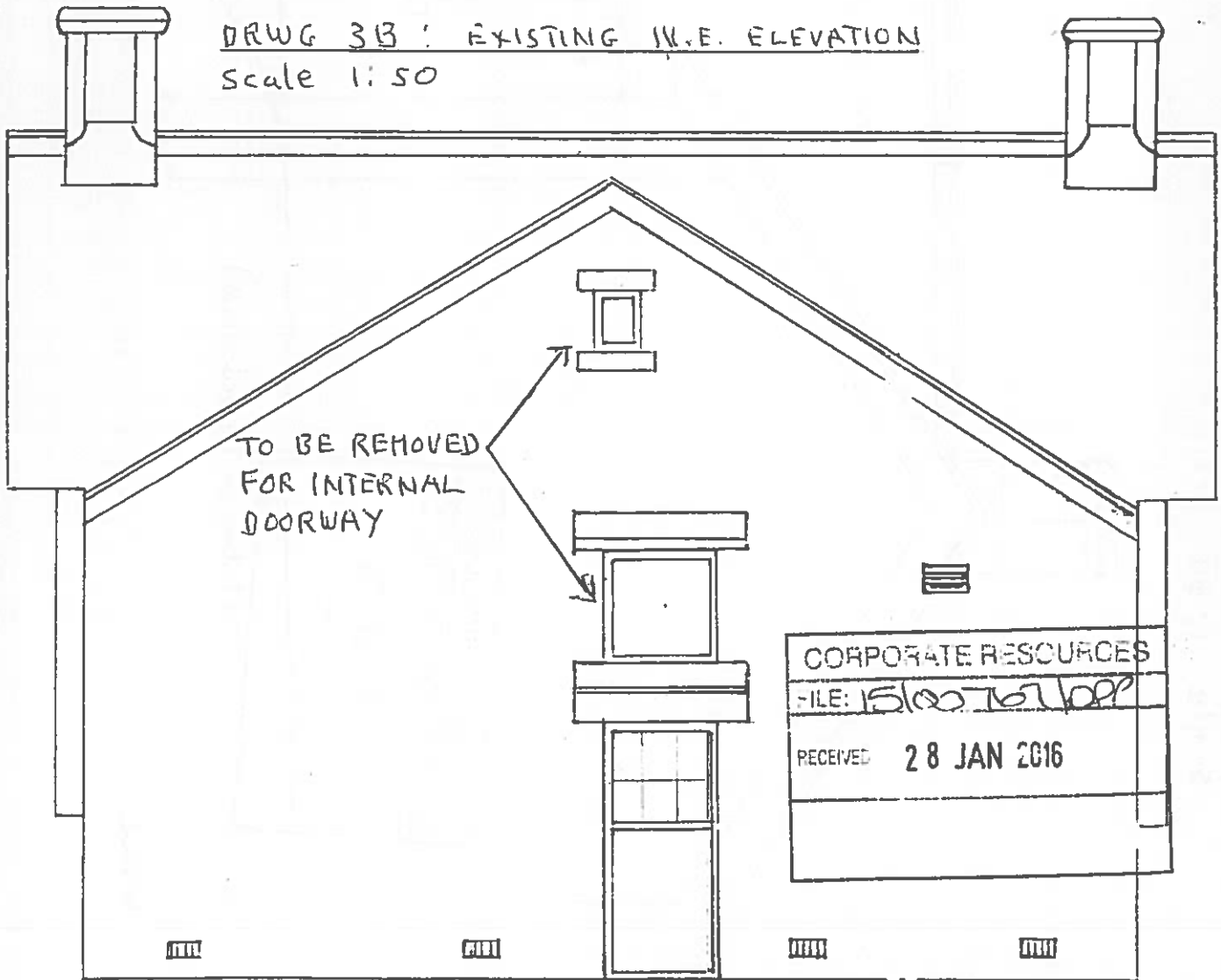


CORPORATE RESOURCES	
FILE:	15/007671.DPP
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DRWG 3A : EXISTING S.W ELEVATION  
Scale : 1:50



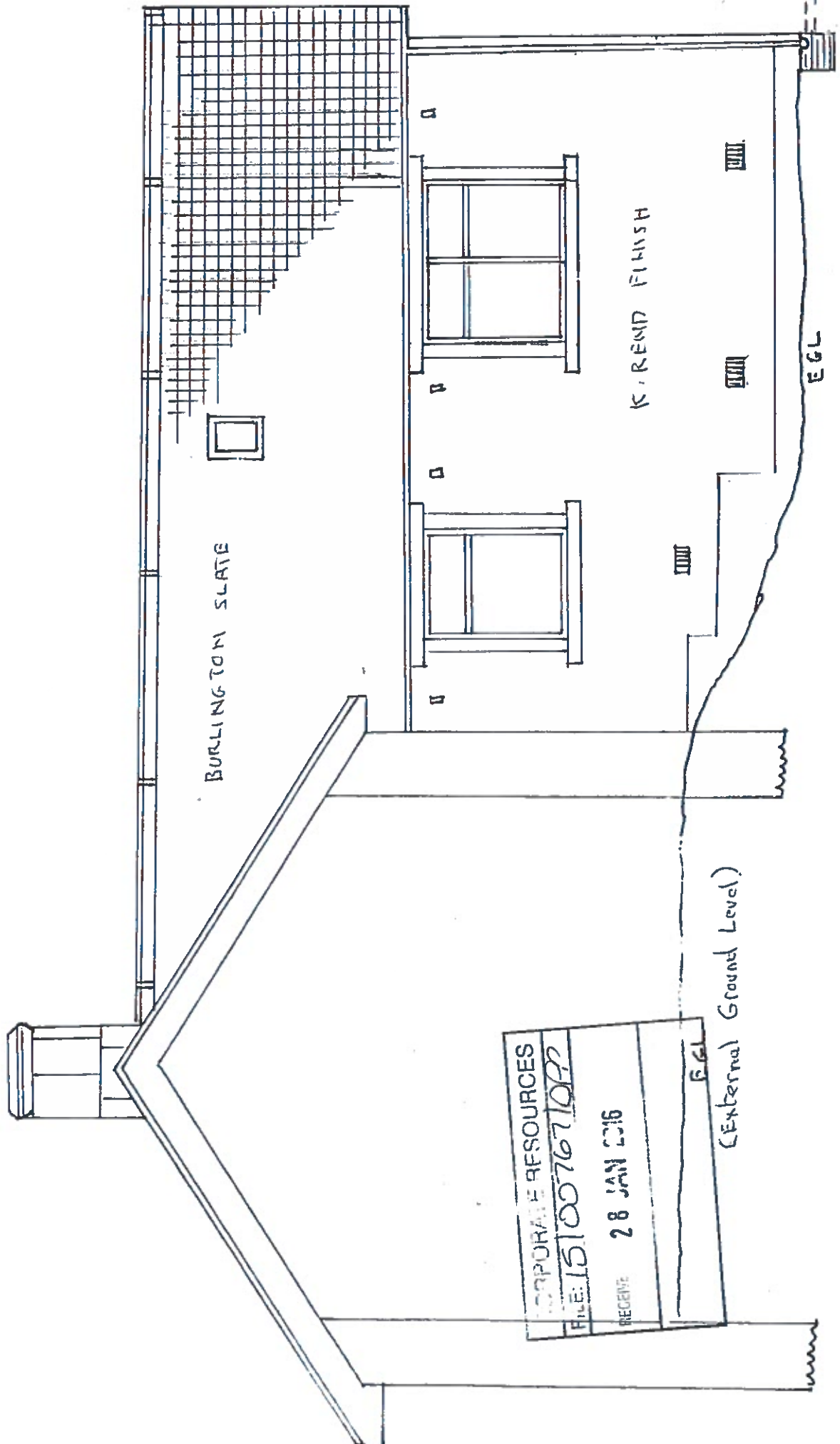
DRWG 3B : EXISTING N.E. ELEVATION  
Scale 1:50



CORPORATE RESOURCES	
FILE: 15/00767/000	
RECEIVED	28 JAN 2016

DRWG. 4: EXISTING S.E. ELEVATION

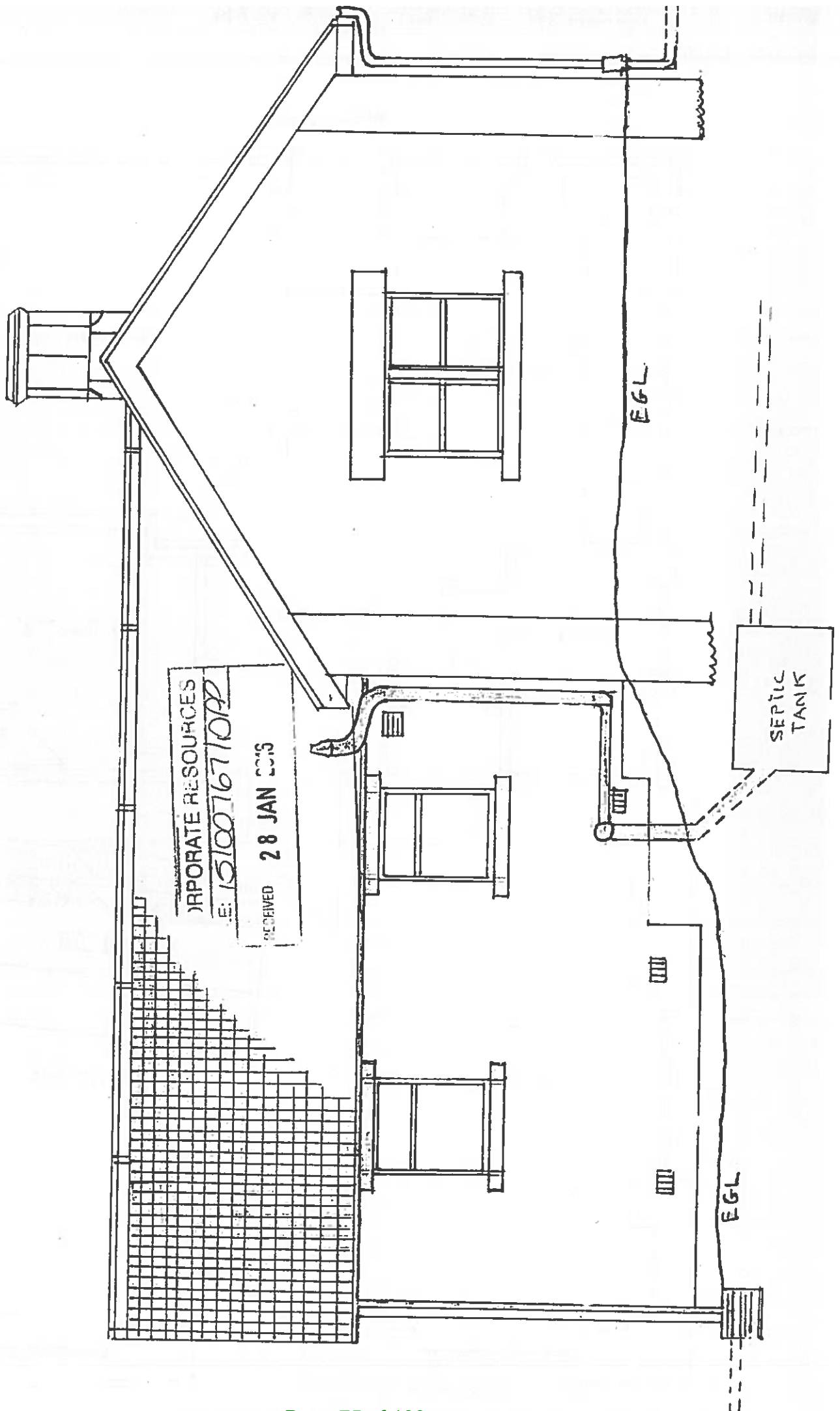
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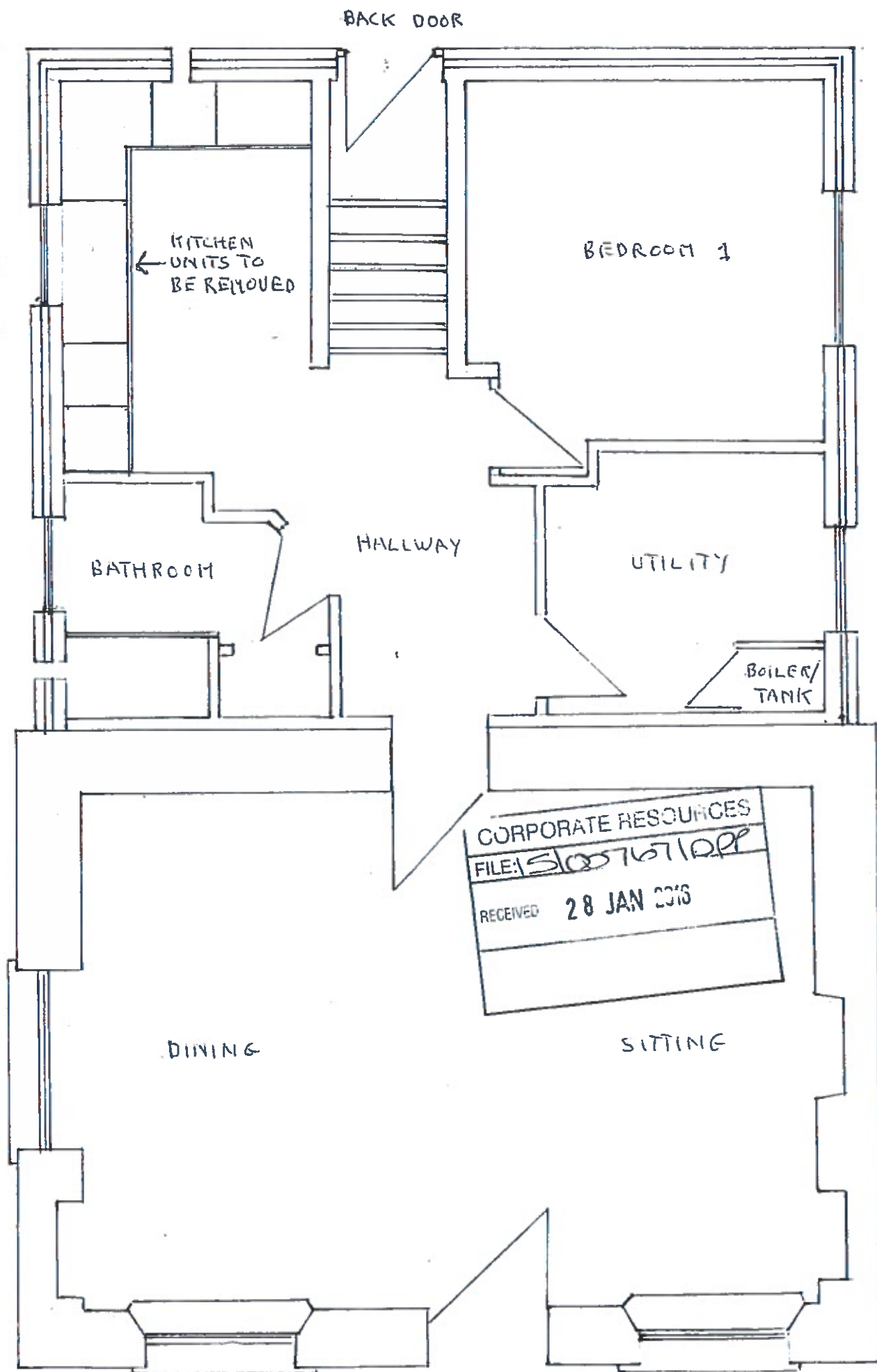
DRWG 5 : EXISTING N.W. ELEVATION

Scale 1:50

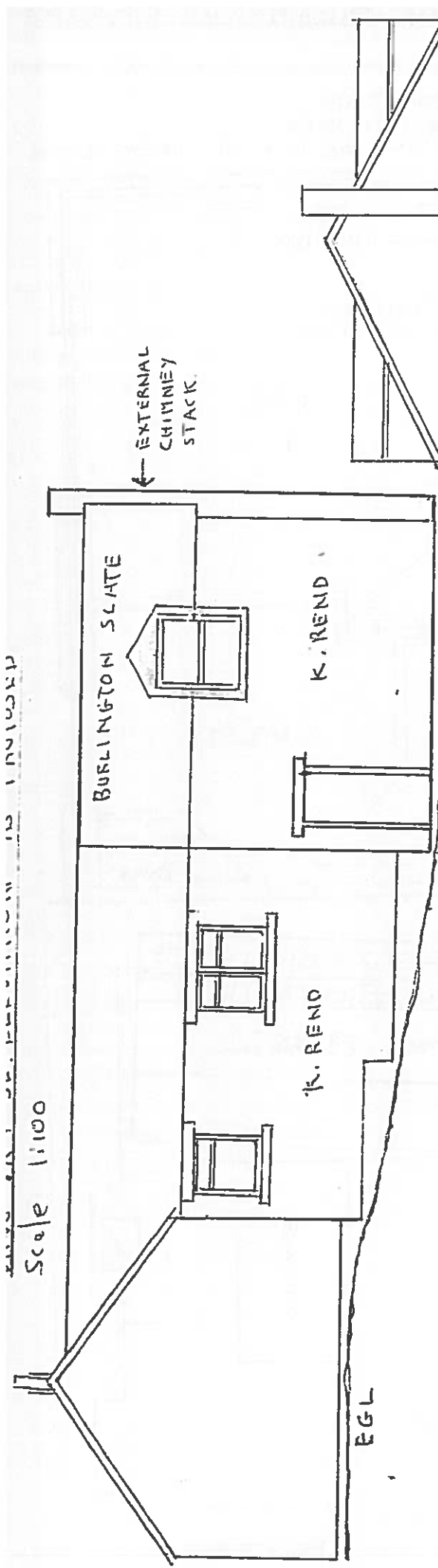


DRWG 6: EXISTING GROUND FLOOR PLAN

Scale 1:50

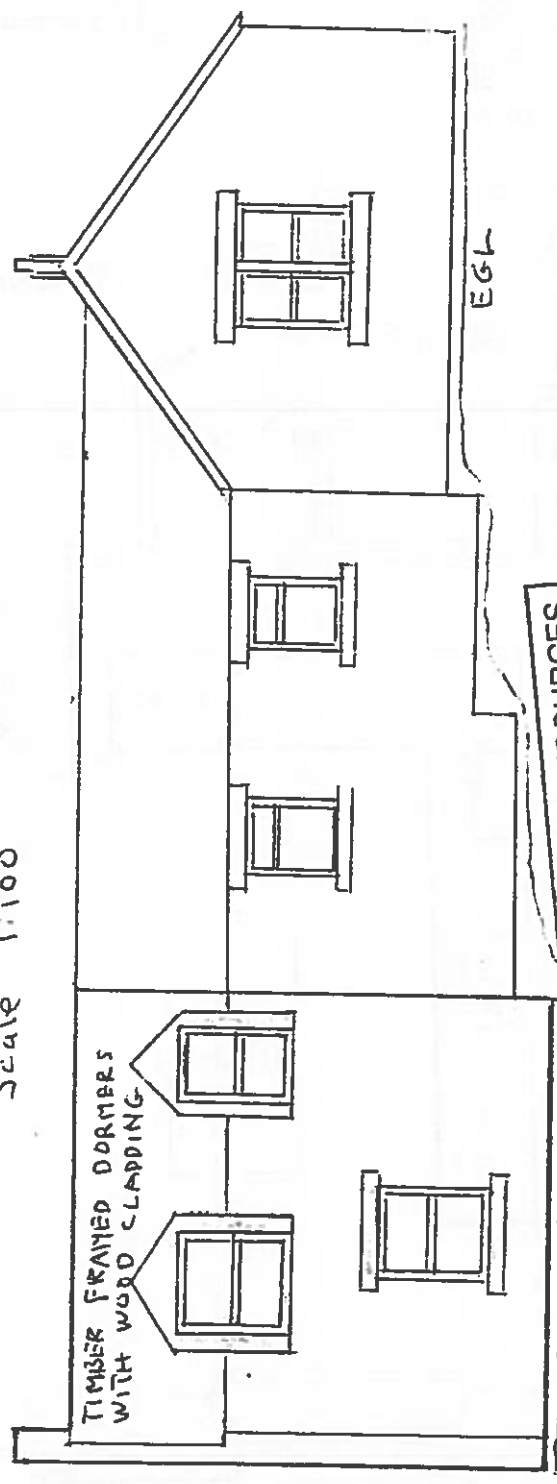






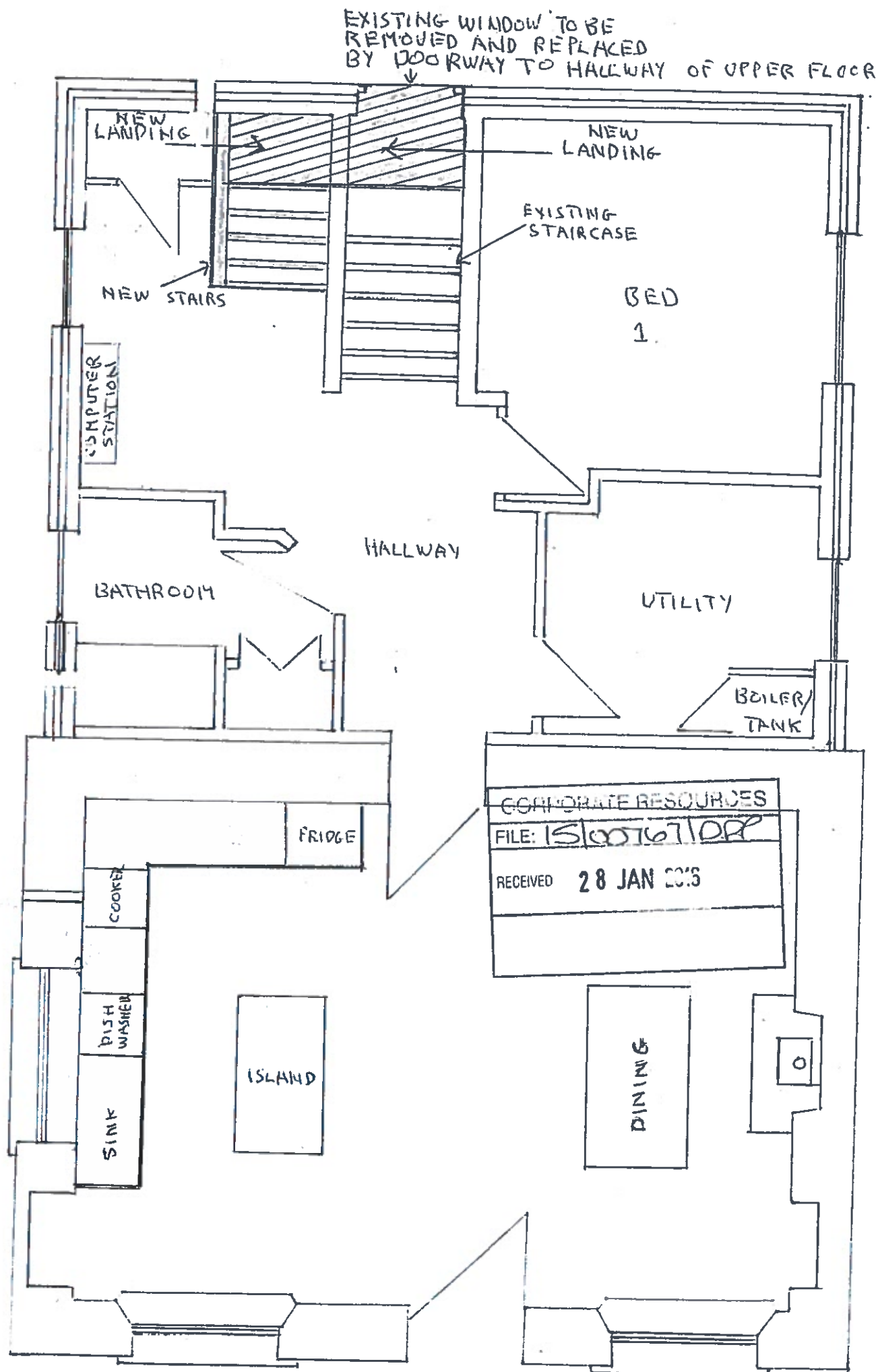
Scale 1:100

DRWG 7B: N.W. ELEVATION AS PROPOSED  
Scale 1:100



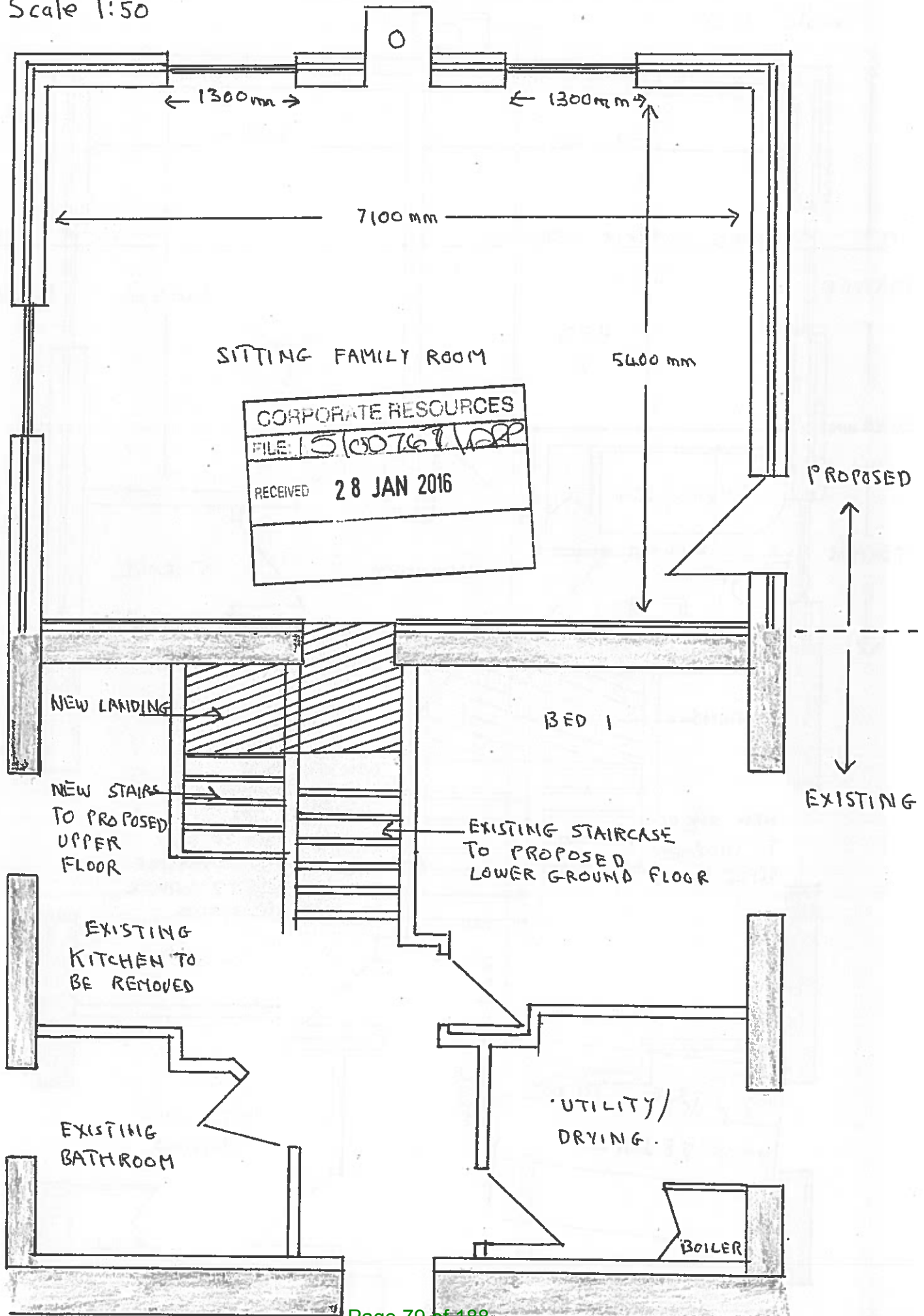
DRWG 7C NE ELEVATION AS PROPOSED  
Scale 1:100

CORPORATE RESOURCES	
FILE: 1510016710PP	
RECEIVED	28 JAN 2016



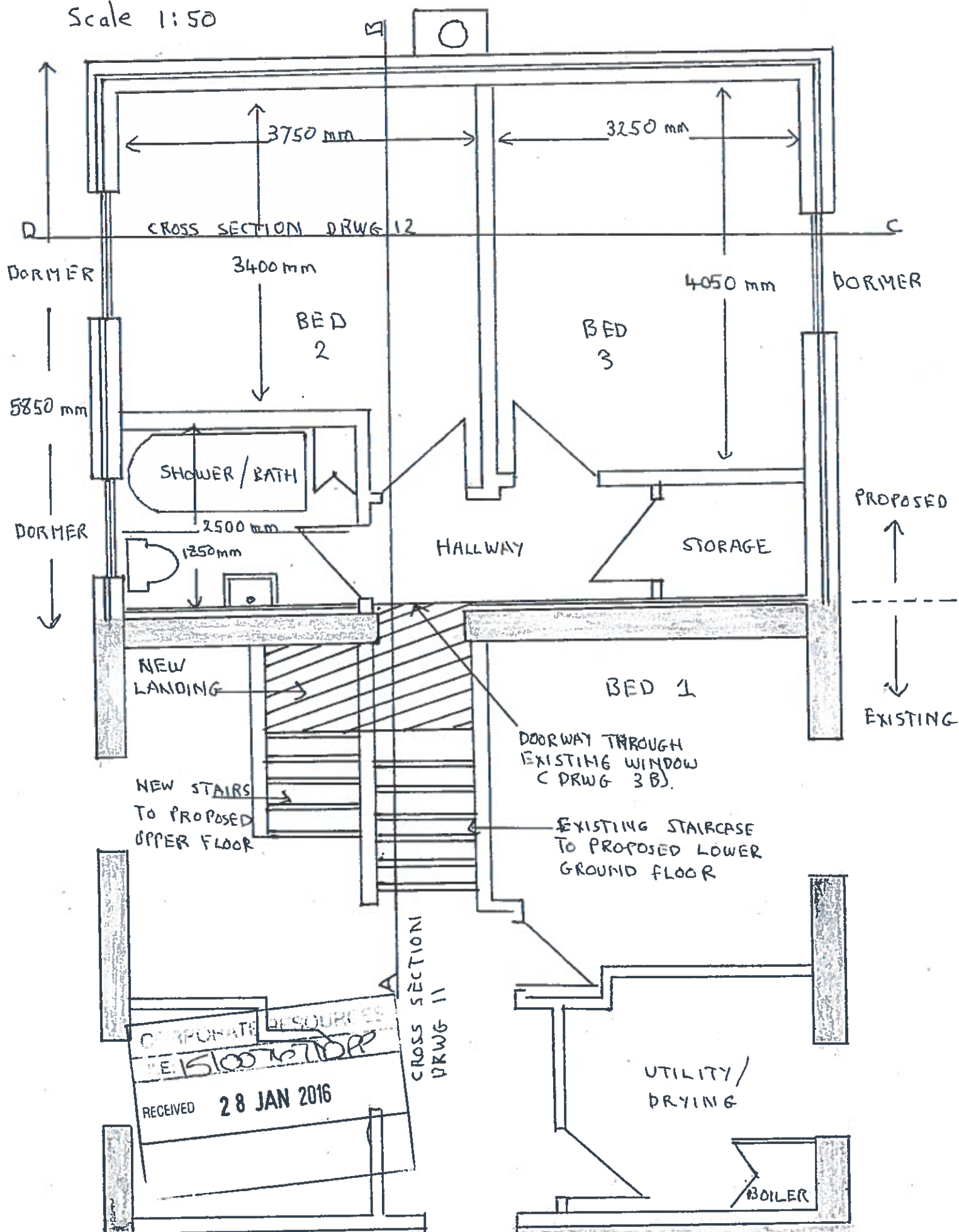
DRWG 9 : PLAN OF EXISTING (PART) GROUND FLOOR AND LOWER  
GROUND FLOOR AS PROPOSED

Scale 1:50



# DRWG 10 : PLAN OF EXISTING GROUND FLOOR(PART) AND UPPER GROUND FLOOR AS PROPOSED

Scale 1:50





Scale 1:50

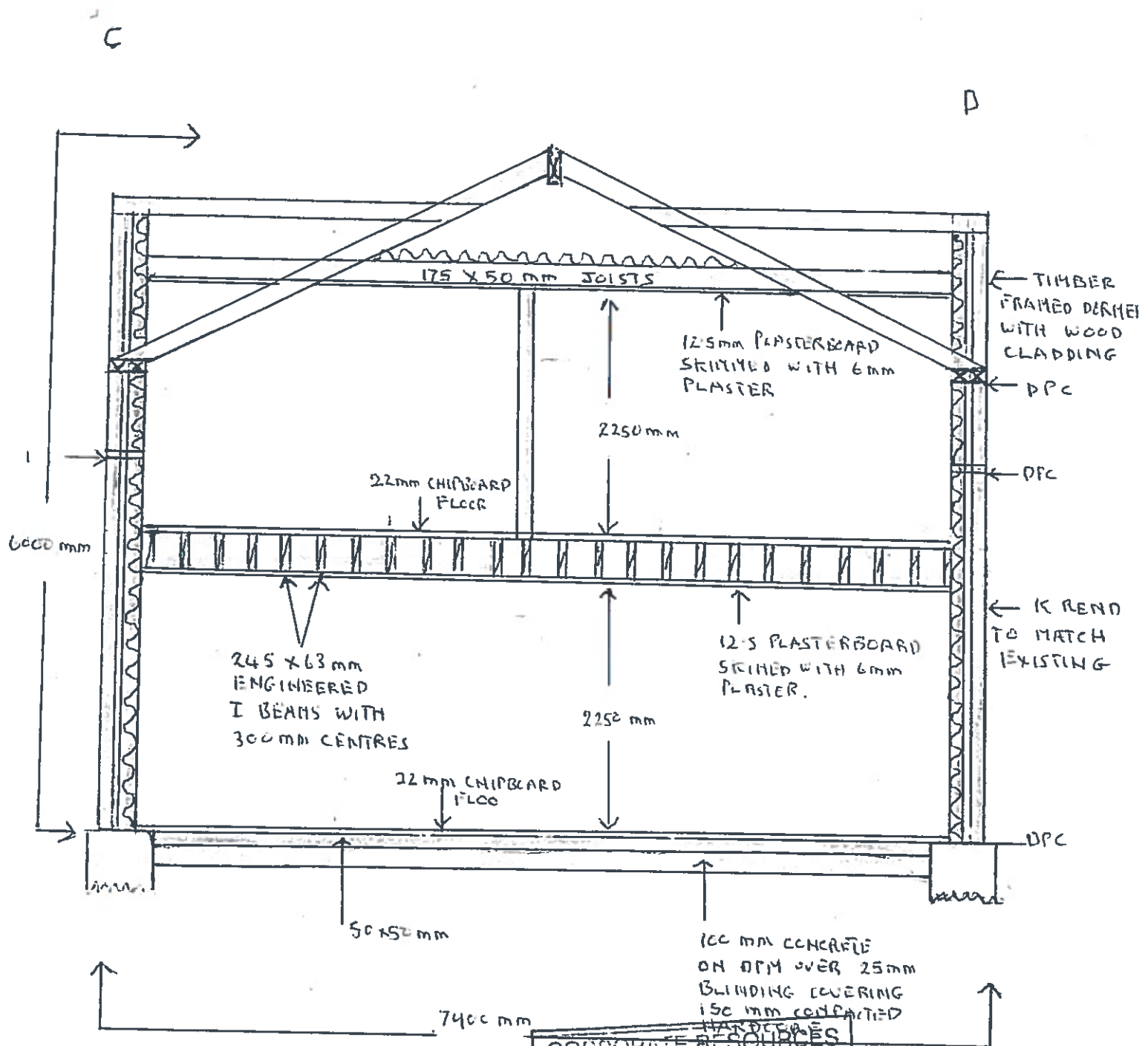
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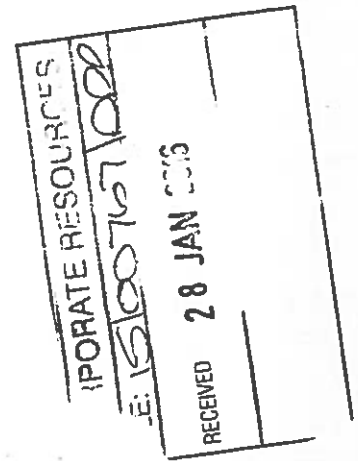
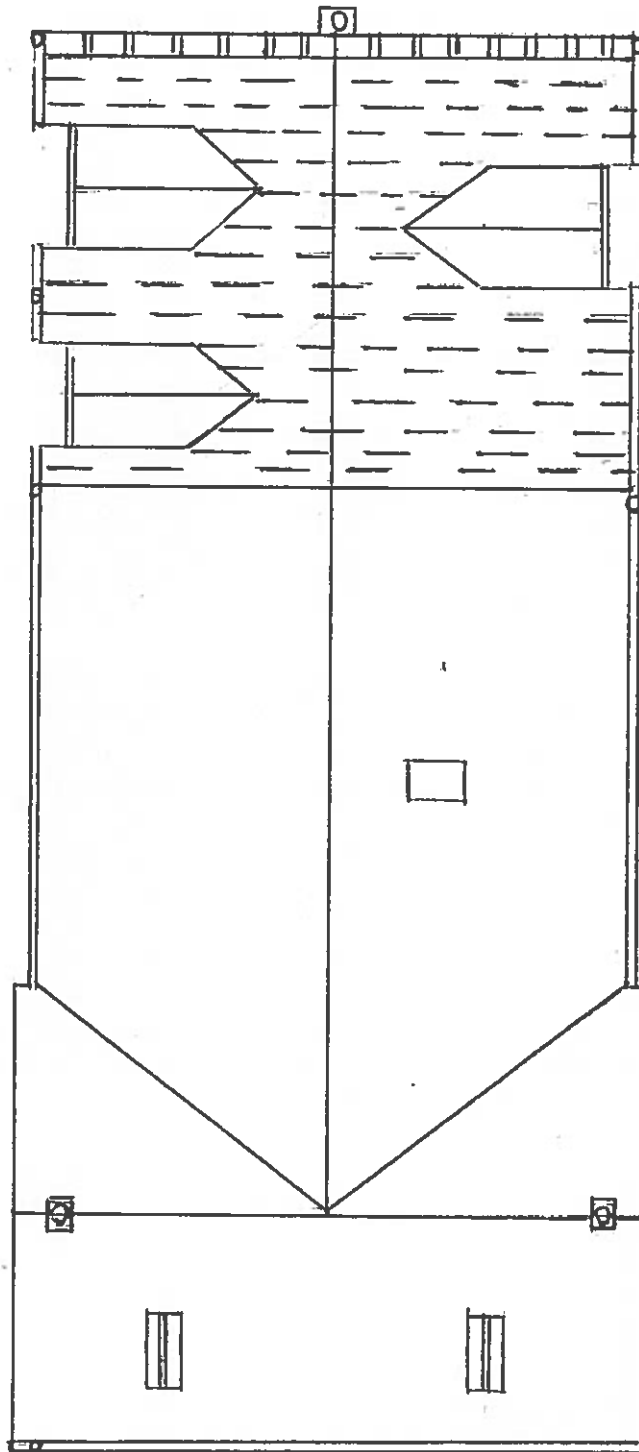
# DRWG 12: CROSS SECTION C-D OF EXTENSION AS PROPOSED

Scale 1:50



CORPORATE RESOURCES	
FILE: 1510076710P	
RECEIVED	28 JAN 2016

DRWG 13: ROOF PLAN OF EXISTING AND EXTENSION AS PROPOSED  
Scale 1:100







PHOTOGRAPH 1



PHOTOGRAPH 2





PHOTOGRAPH 3





PHOTOGRAPH 4



PHOTOGRAPH 5







## MIDLOTHIAN COUNCIL

### DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

**Planning Application Reference:** 15/00767/dpp

**Site Address:** St Mary's Cottage, Rosewell

#### **Site Description:**

The application property comprises a detached single storey traditional stone cottage with a slate roof and white plastic sash and case windows on the front. At the rear of the cottage is an extension measuring 7.9m wide extending the full width of the cottage and 6.35m deep, finished externally in smooth render with stone quoins, a slate roof and white plastic framed windows.

#### **Proposed Development:**

Extension to dwellinghouse

#### **Proposed Development Details:**

It is proposed to further extend the house by 5.8m continuing the form of the existing extension. The extension includes accommodation at ground floor level and first floor level within the roofspace. The design of the roof includes two dormer windows on the north west elevation and one on the south east. It is to be finished in render with a slate roof. The material of the window frames has not been specified.

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

History sheet checked.

11./00664/dpp – Extension at St Mary's Cottage – pp 2.12.11 Approved dimensions 7.7m wide by 5m deep. Condition requiring materials to match existing house.

#### **Consultations:**

None required.

#### **Representations:**

One representation has been received from the occupier of Capielaw Farmhouse which is to the east of the site. She objects on the grounds of the impact on privacy to her property and that the extension would dominate the original cottage.

#### **Relevant Planning Policies:**

The relevant policies of the **2008 Midlothian Local Plan** are;

RP1 – Protection of the countryside - seeks to restrict development in the countryside.

RP4 – Prime agricultural land - seeks to prevent the permanent loss of prime agricultural land, unless the site is allocated to meet Structure Plan requirements; or

there is a locational justification for the development which outweighs the environmental or economic interests of retaining the land in productive use; and if the development accords with all other relevant local plan policies.

RP6 – Areas of Great Landscape Value - seeks to protect the special scenic qualities and integrity of AGLVs.

RP12 – Regionally & locally important nature conservation sites - seeks to protect the nature conservation interest of any sites, or wildlife corridors, of regional or local conservation importance – outwith boundary of Erraid Wood Wildlife Site/ ancient woodland – site adjacent to local biodiversity site – Shiel Burn Wood

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

**Planning Issues:**

The main planning issue to be considered is whether or not the proposal complies with the development plan policies and, if not, whether there are any material planning considerations which would otherwise justify approval. As this is an existing house there is no objection in principle to its extension. The application site lies outwith the boundary of the local biodiversity site.

The report on the previous application noted that the proposed extension was single storey and clearly subservient to the original cottage and that the architectural detailing, proportions and scale of the proposed extension mean that it will not adversely affect the character or appearance of the cottage. Planning permission was granted on this basis.

The extension which has been built does not comply with the approved plans. It is 1.35m longer than the approved scheme and the ridge height is higher than shown on the approved plans. As a result it does not appear subservient to but appears as a bulky addition to the original cottage. The current proposal is to continue the form of the existing extension with accommodation on two levels. As extended the footprint of the rear extension would be almost twice the size of the footprint of the original cottage. The current proposals would exacerbate the bulky form of the extension and detract from the character of the original modest cottage.

Sufficient garden will remain.

There is a field to the east of the application property. The extension will not impact on the residential amenity of neighbouring properties or have a significant impact on the visual amenity of the surrounding area.

**Recommendation:**

Refuse planning permission.



## Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

**Reg. No. 15/00767/DPP**

Dr Lyndhurst Collins  
Capielaw Cottage  
Near Rosewell  
EH24 9EE

Midlothian Council, as Planning Authority, having considered the application by Dr Lyndhurst Collins, Capielaw Cottage, Near Rosewell, EH24 9EE, which was registered on 1 October 2015 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

### **Extension to dwellinghouse at St Marys Cottage, Rosewell, EH24 9EE**

in accordance with the application and the following plans:

<u>Drawing Description.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	1:2500	01.10.2015
Site Plan	DRWG 2 1:250	01.10.2015
Existing elevations	DRWG 3A 1:50	01.10.2015
Existing elevations	DRWG 4 1:50	01.10.2015
Existing elevations	DRWG 5 1:50	01.10.2015
Existing floor plan	DRWG 6 1:50	01.10.2015
Existing floor plan	DRWG 7A 1:100	01.10.2015
Proposed floor plan	DRWG 8 1:50	01.10.2015
Proposed floor plan	DRWG 9 1:50	01.10.2015
Proposed floor plan	DRWG 10 1:50	01.10.2015
Proposed cross section	DRWG 11 1:50	01.10.2015
Proposed cross section	DRWG 12 1:50	01.10.2015
Roof plan	DRWG 13 1:100	01.10.2015

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

1. *As a result of its design, in particular its massing, the extension will appear as a very bulky addition at the rear of the existing building, detracting from the traditional form and character of the original cottage, contrary to policy DP6 of the adopted Midlothian Local Plan which requires that extensions are well designed in order to maintain or enhance the appearance of the house.*

Dated 12 / 11 / 2015

DR

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



The Coal  
Authority

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



## **Notice of Review: 42 Station Road, Roslin**

### **Determination Report**

Report by Ian Johnson, Head of Communities and Economy

#### **1 Purpose of Report**

- 1.1 The purpose of this report is to provide a framework for the Local Review Body (LRB) to consider a 'Notice of Review' for the erection of an extension to dwellinghouse at 42 Station Road, Roslin.

#### **2 Background**

- 2.1 Planning application 15/00762/DPP for the erection of an extension to dwellinghouse at 42 Station Road, Roslin was refused planning permission on 30 October 2015; a copy of the decision is attached to this report.
- 2.2 The review has progressed through the following stages:
- 1 Submission of Notice of Review by the applicant.
  - 2 The Registration and Acknowledgement of the Notice of Review.
  - 3 Carrying out Notification and Consultation.

#### **3 Supporting Documents**

- 3.1 Attached to this report are the following documents:
- A site location plan (Appendix A);
  - A copy of the notice of review form and supporting statement (Appendix B). Any duplication of information is not attached;
  - A copy of the case officer's report (Appendix C);
  - A copy of the decision notice, excluding the standard advisor notes, issued on 30 October 2015 (Appendix D); and
  - A copy of the relevant plans (Appendix E).
- 3.2 The full planning application case file and the development plan policies referred to in the case officer's report can be viewed online via [www.midlothian.gov.uk](http://www.midlothian.gov.uk)

#### **4 Procedures**

- 4.1 In accordance with procedures agreed by the LRB, the LRB by agreement of the Chair:

- Have scheduled an unaccompanied site visit for Monday 7 March 2016; and
  - Have determined to progress the review by way of written submissions.
- 4.2 The case officer's report identified that no consultations were required and no representations have been received.
- 4.3 The next stage in the process is for the LRB to determine the review in accordance with the agreed procedure:
- 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;
  - Assess whether these considerations warrant a departure from the development plan; and
  - State the reason/s for the decision and state any conditions required if planning permission is granted.
- 4.4 In reaching a decision on the case the planning advisor can advise on appropriate phraseology and on appropriate planning reasons for reaching a decision.
- 4.5 Following the determination of the review the planning advisor will prepare a decision notice for issuing through the Chair of the LRB. A copy of the decision notice will be reported to the next LRB for noting.
- 4.6 A copy of the LRB decision will be placed on the planning authority's planning register and made available for inspection online.

## **5 Conditions**

- 5.1 In accordance with the procedures agreed by the LRB at its meeting of 19 June 2012 and 26 November 2013, and without prejudice to the determination of the review, the following conditions have been prepared for the consideration of the LRB if it is minded to uphold the review and grant planning permission.
1. Details of the colour finish of the timber cladding and the window and door frames proposed on the extension shall be submitted to the Planning Authority and these features shall not be installed until these details have been approved in writing by the Planning Authority.

***Reason:*** To safeguard the character of the building as extended and the visual amenity of the surrounding area.

## **6 Recommendations**

- 6.1 It is recommended that the LRB:

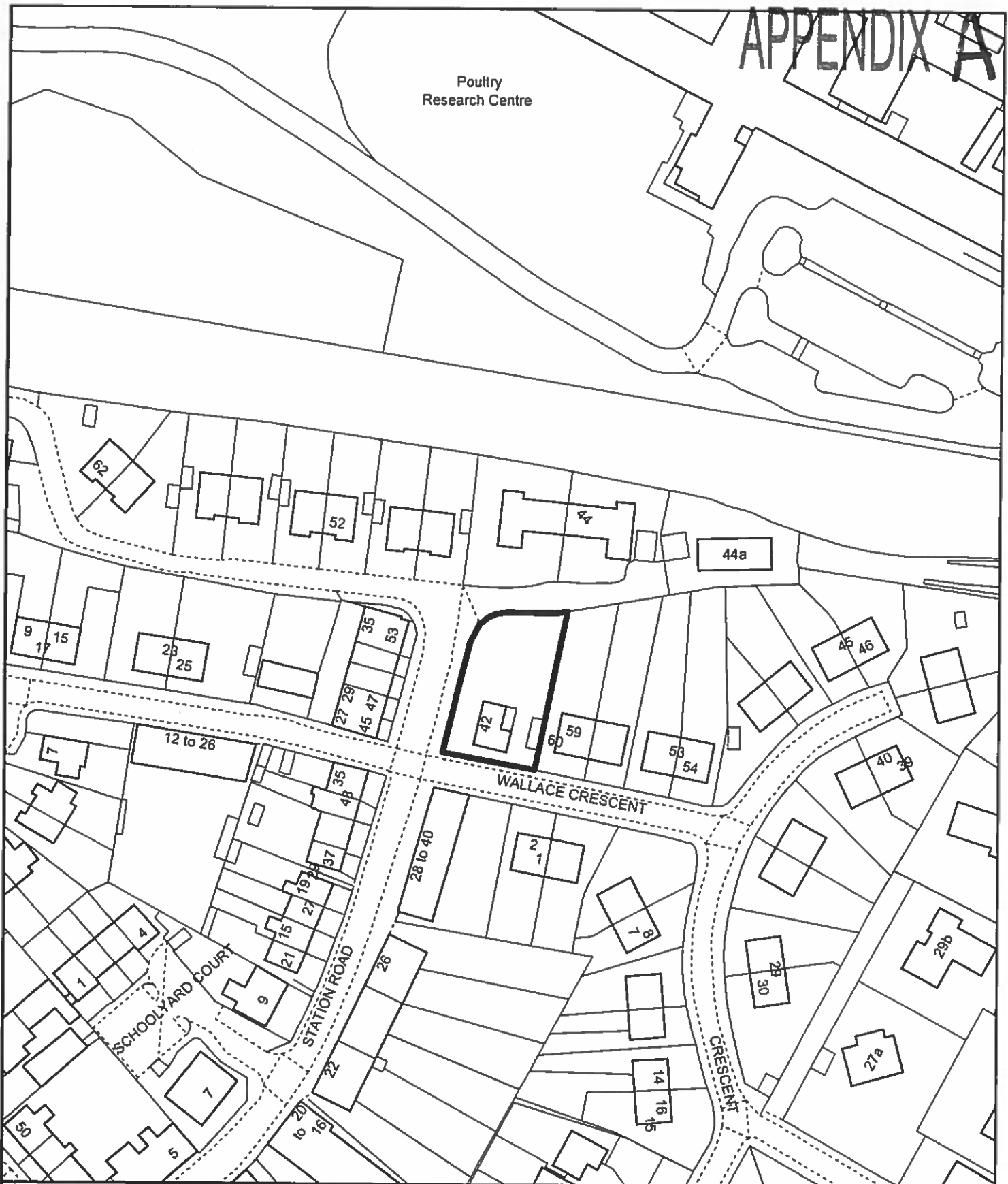
- a) determine the review; and
- b) the planning advisor draft and issue the decision of the LRB through the Chair

**Date:** 1 March 2016  
**Report Contact:** Peter Arnsdorf, Planning Manager  
peter.arnsdorf@midlothian.gov.uk  
**Tel No:** 0131 271 3310

**Background Papers:** Planning application 15/00740/DPP available for inspection online.



Poultry  
Research Centre



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

**Erection of Two Storey Extension to Dwellinghouse  
42 Station Road, Roslin, EH25 9LR**

**3rd February 2016**

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**File No. 15/00762/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                      000128927-001

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.

## Description of Proposal

Please describe accurately the work proposed: \* (Max 500 characters)

two storey rear extension to existing house

Has the work already been started and/or completed? \*

☒ No   ☐ Yes - Started   ☐ Yes - Completed

## 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:	Bergmark Architects
Ref. Number:	
First Name: *	Jens
Last Name: *	Bergmark
Telephone Number: *	07949-361140
Extension Number:	
Mobile Number:	
Fax Number:	
Email Address: *	jb@bergmarkarchitects.co.uk

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

Building Name:	
Building Number:	3
Address 1 (Street): *	Walker Street
Address 2:	
Town/City: *	Edinburgh
Country: *	UK
Postcode: *	EH3 7JY

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

☒ Individual ☐ Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title: *	Mr
Other Title:	
First Name: *	Alistair
Last Name: *	Cormack
Company/Organisation:	
Telephone Number:	
Extension Number:	
Mobile Number:	
Fax Number:	
Email Address:	

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

Building Name:	
Building Number:	42
Address 1 (Street): *	Station Road
Address 2:	
Town/City: *	Roslin
Country: *	UK
Postcode: *	EH25 9LR



## Site Address Details

Planning Authority:

Midlothian Council

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

Address 1:

42 STATION ROAD

Address 5:

Address 2:

Town/City/Settlement:

ROSLIN

Address 3:

Post Code:

EH25 9LR

Address 4:

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

Northing

663518

Easting

327217

## Pre-Application Discussion

Have you discussed your proposal with the planning authority? \*

☐ Yes ☒ No

## Trees

Are there any trees on or adjacent to the application site? \*

☐ Yes ☒ No

If Yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.

## Access and Parking

Are you proposing a new or altered vehicle access to or from a public road? \*

☐ Yes ☒ No

If Yes please describe and show on your drawings the position of any existing, altered or new access points, highlighting the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

## Planning Service Employee/Elected Member Interest

Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? \*

☐ Yes ☒ No

## Certificates and Notices

CERTIFICATE AND NOTICE UNDER REGULATION 15 – TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATIONS 2013

One Certificate must be completed and submitted along with this application form. This is most usually Certificate A, Form 1, Certificate B, Certificate C or Certificate E.

Are you/the applicant the sole owner of ALL the land? \*

☒ Yes ☐ No

Is any of the land part of an agricultural holding? \*

☐ Yes ☒ No

## Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate A

## Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Certificate A

I hereby certify that –

(1) - No person other than myself/the applicant was an owner (Any person who, in respect of any part of the land, is the owner or is the lessee under a lease thereof of which not less than 7 years remain unexpired.) of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application.

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding.

Signed: Jens Bergmark

On behalf of: Mr Alistair Cormack

Date: 15/09/2015

☒ Please tick here to certify this Certificate. \*

## Checklist - Application for Householder Application

Please take a few moments to complete the following checklist in order to ensure that you have provided all the necessary information in support of your application. Failure to submit sufficient information with your application may result in your application being deemed invalid. The planning authority will not start processing your application until it is valid.

- |   |   |
|---|---|
| a) Have you provided a written description of the development to which it relates? *  | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| b) Have you provided the postal address of the land to which the development relates, or if the land in question has no postal address, a description of the location of the land? *  | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| c) Have you provided the name and address of the applicant and, where an agent is acting on behalf of the applicant, the name and address of that agent? *  | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| d) Have you provided a location plan sufficient to identify the land to which it relates showing the situation of the land in relation to the locality and in particular in relation to neighbouring land? *. This should have a north point and be drawn to an identified scale. | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| e) Have you provided a certificate of ownership? *  | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| f) Have you provided the fee payable under the Fees Regulations? *  | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| g) Have you provided any other plans as necessary? *  | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |

Continued on the next page

A copy of other plans and drawings or information necessary to describe the proposals (two must be selected). \*

You can attach these electronic documents later in the process.

- ☒ Existing and proposed elevations.
- ☒ Existing and Proposed floor plans.
- ☐ Cross sections.
- ☒ Site layout plan/Block plans (including access).
- ☐ Roof plan.
- ☐ Photographs and/or photomontages.

Additional Surveys – for example a tree survey or habitat survey may be needed. In some instances you may need to submit a survey about the structural condition of the existing house or outbuilding. \*

☐ Yes ☒ No

A Supporting Statement – you may wish to provide additional background information or justification for your proposals. This can be helpful and you should provide this in a single statement. This can be combined with a Design Statement if required. \*

☐ Yes ☒ No

You must submit a fee with your application. Your application will not be able to be validated until the appropriate fee has been received by the planning authority.

## Declare - For Householder Application

I, the applicant/agent certify that this is an application for planning permission as described in this form and the accompanying plans/drawings and additional information.

Declaration Name: Jens Bergmark

Declaration Date: 15/09/2015

Submission Date: 15/09/2015

## Payment Details

Cheque: Emma Balfour, 100005

Created: 15/09/2015 13:25



# **Supporting Statement**

For

A Notice of Review  
to  
Midlothian Council's Local Review Body

Against the Refusal  
of  
Planning Application Reference 15/00762/DPP

Erection of Two Storey Extension to Dwelling  
House  
At  
42 Station Road, Roslin

Prepared by

**Rick Finc Associates**

On behalf of

**Mr Alistair Cormack**

29<sup>th</sup> January 2016

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2.0 Site Location and Description	4
3.0 Details of the Proposal	5
4.0 Planning Policy	6
5.0 Planning Assessment	7
6.0 Conclusions	10

John MacCallum BSc (Hons), MRTPI  
Planning Consultant

## 1.0 INTRODUCTION AND REASONS FOR REVIEW

A Notice of Review has been submitted by Rick Finc Associates on behalf of Mr Alistair Cormack whose application (Reference 15/00762/FULL) for Full Planning Permission for the erection of a 2 storey extension to the dwelling house at 42 Station Road, Roslin was refused by Midlothian Council under delegated powers for the following 2 reasons:-

*1. The proposed extension is unsympathetic in terms of its design, in particular its massing, to the existing building. It would appear as a bulky addition, detracting from the character of the existing building and the visual amenity of the surrounding area.*

*2. For the above reasons the proposal is contrary to policies RP20 and DP6 of the adopted Midlothian Local Plan which seek to protect the character and amenity of the built-up area and requires that extensions are well designed in order to maintain or enhance the appearance of the house and locality.*

During the course of the application being considered by the Planning Case Officer, the applicant's architect attempted to offer alternative options for a design solution in providing the additional accommodation being proposed, none of which were accepted.

The Review is being sought, therefore, on the basis of the submitted plans which were refused under delegated powers. The Notice of Review and the accompanying documents which were submitted as part of the planning application are included, as well as this Statement which has been prepared in support of the Review.

Although the proposed extension requires planning permission and does not constitute permitted development, greater permitted development rights have recently been introduced by the Scottish Government to enable more freedom to property owners to extend their properties, including at 2 storey level. It is considered that this is a relevant factor for the LRB to take into account when reviewing this case.

The purpose of this Statement is to emphasise the individual design of this property, to further explain the reasoning for the complementary design approach undertaken for the proposed extension and to provide a justification in planning terms for the proposal which will enable the LRB to consider the application favourably in terms of the prevailing planning policy.



## **2.0 SITE LOCATION AND DESCRIPTION**

No. 42 Station Road is located within a residential area on the northern extremity of the built-up area in Roslin, on the east side of Station Road and on the corner with Wallace Crescent.

The area around the property is characterised and dominated by 2 storey dwellings on all sides (Station Road, Springfield Place and Wallace Crescent), with the exception of two low rise bungalows immediately to the north in Station Road which is a short cul de sac. One and a half storey dwellings of more modern design are located to the north-west in a longer cul de sac section of Station Road, but these are further away and not apparent in the area immediately surrounding the application site.

In effect, No. 42 is unique within the area in terms of its individual and distinctive design, character and appearance compared to the other properties in the immediate surrounding area.

The property is a detached dwelling house which sits within its own plot. Part of the front (west) and side (south) boundaries along Station Road and Wallace Crescent respectively are delineated by a low stone wall and high hedges extending more than 2 metres in height. The western boundary which turns the corner in to the Station Road cul de sac is delineated by tall trees and other vegetation. This vegetation therefore helps to effectively screen the majority of the house from these roads.

The dwelling has a living room and dining room on the ground floor level; and 3 bedrooms and a small bathroom at first floor level, set within a "Mansard" designed roof which also has 2 dormer windows facing to the front (Station Road) and 2 small windows to the rear, which face towards the gable of an existing 2 storey building on Wallace Crescent.

The dwelling has been extended in the past with a single storey extension which extends half the width of the rear elevation. It contains a small kitchen area and a shower room. The extension has a flat roof created by a small upstand clad in slate in an attempt to reflect the Mansard roof design on the main house.

The roof is clad with natural slate. The front of the house is finished with natural stone and the side and rear elevations are finished with a wet dash render. Windows throughout the property are white Upvc.

### **3.0 DETAILS OF THE PROPOSAL**

The proposal involves extending the property to the rear to provide additional ground floor level accommodation by way of a utility room and shower room, thus allowing the shower room in the existing extension to be removed to create a larger and more useable kitchen area. This would involve extending the small slate clad upstand of the existing flat roof into the overall "Mansard" roof design for the upper floor accommodation as explained below.

The first floor is to be extended over the existing and new rear extension areas to enable a reconfiguration of the upper floor layout to accommodate an additional bedroom in order that 3 larger, more useable bedrooms can be created along with one smaller bedroom and a slightly larger, more useable and accessible bathroom.

The roof design is of a similar "Mansard" design, to be clad with slates to match the existing with the exception of the vertical rear section which is proposed to be finished with timber cladding in a colour yet to be decided and agreed with the Council, should permission be granted.

The new ground floor level wall sections of the extension at the rear, including the extended new walling above the window in the single storey extension created by the removal of the slate clad upstand, and the (north) side elevation will be finished with a render to match the existing walls on the house.

All new windows and new door will be of timber finish and an existing upvc window in the rear (south) elevation of the single storey extension door will be replaced with a timber window.

Three skylights are proposed to provide additional light to the upper level accommodation, 2 facing south (Wallace Crescent) and 1 facing north.

The application drawings submitted with the planning application clearly illustrate the application proposals and demonstrate the design approach taken.

Photographs and photomontages depicting the "before" and "after" situations have been included in the Review submission documents. These were not submitted with the planning application but It is hoped that these will assist the LRB in obtaining a better understanding of how the property might appear if the extension was granted consent and implemented.

#### **4.0 PLANNING POLICY**

The Development Plan for the area comprises the approved SESplan Strategic Development Plan (June 2013) and the adopted Midlothian Local Plan (February 2008).

##### **(i) SESplan Strategic Development Plan**

There are no specific strategic policies directly relevant to this proposal.

##### **(ii) Midlothian Local Plan 2008**

The Local Plan is the most recent statement of Council policy and the 2 key policies relevant to this proposal, as stated in the Planning Officer's Delegated Report, are as follows:-

- **Policy RP20 – Development Within the Built-Up Area**  
This policy seeks to protect the character and amenity of the built-up area.
- **Policy DP6 – House Extensions**  
This policy seeks to ensure that house extensions are well designed in order to maintain or enhance the appearance of the house and the locality.

## **5.0 PLANNING ASSESSMENT**

Section 25 of the Town and Country Planning Act 1997 (as amended), states that planning applications are required to be determined in accordance with the Development Plan unless material considerations indicate otherwise.

The Planning Case Officer's Delegated Report of Handling already confirms that issues of privacy and overlooking toward the flats and their garden ground to the east and the amount of garden ground to remain for the property were deemed acceptable in policy terms and therefore they do not require any further assessment within this Statement.

It is considered that the key determining issues relative to this proposal, in light of the prevailing planning policy covering the site (Policies RP 20 and DP6), are the effect of the design of the extension on the house itself and on the locality.

### **(i) Impact of the Design on the Appearance of the House**

In terms of the design proposed, it is, in the main, a Mansard roof design which is in keeping with the existing roof design. The Officer has stated that the existing roof design would not have been original. Whether the property had a different original roof design is not pertinent to the current application as the roof that exists on the property is established and would likely have been sanctioned by the Council with a planning consent, as has the single storey rear extension with upstand and flat roof.

The extension would be contained mainly within the footprint of the existing building without encroaching excessively in to the garden ground, thereby retaining a sufficient amount of garden ground for the property. The extension also respects the roof ridge height.

The Officer has also decreed that the property "has an element of charm and has a distinctive character", suggesting that the property is an attractive feature of the streetscene. It is agreed that the property is individual and distinctive in terms of its design, character and appearance. Therefore, it stands out but it is also alien in itself to the predominance of detached, semi-detached and terraced 2 storey dwellings in the immediate vicinity of the site. The dwellings further to the north-east may be one and half storey in height but there are a number of them and therefore they do not stand out as much as the application property.

It is contended that the property has more potential to be extended in a less conventional way than would be done for the 2 storey buildings in the area. However, that does not allow for a blank canvas for any design approach to be considered appropriate. It is contended that, because of the unique design that already exists, a compatible design approach does not necessarily mean that it would stand out more – the property would still retain its distinctiveness, which does not mean it is unacceptable in planning terms.

Although a timber clad material on the rear elevation is proposed, which is a change from the existing appearance of a slate clad, vertical section of Mansard roof, it will not look out of place, as shown on the photomontage (number 2014 – After). It demonstrates that the concerns raised by the Planning Case Officer regarding the mass and bulk of the proposed extension will not be realised when viewed from the east, as the 2 storey element complements the properties adjacent.

The finishing material further helps to soften the impact of the 2 storey element, while retaining the property's distinctive and unique character without detracting from the appearance of the house. Furthermore, the extension will appear more in keeping with the property compared to the awkward

existing single storey extension with flat roof which fails to relate well to the Mansard roof on the main part of the house and which currently detracts from the visual appearance of the property.

Consequently, the complementary design approach with Mansard roof that respects the existing character of the house is appropriate in this regard, as is the 2 storey element.

**Therefore, the proposed extension is wholly in keeping with the character and appearance of the existing house and therefore complies with the relevant criteria contained in Policy RP20 and Policy DP6 in the adopted Local Plan.**

**(ii) Impact on the Streetscene/Locality**

The property is not readily visible from Station Road and Springfield Place because of its height in comparison with the others around the site. The high hedges bounding the property to the south and west also help to screen the property from public view at these locations. However, the proposed extension will not be visible at all from these locations as the extension is to the rear (east side) and the new roof design will respect the existing roof ridge height and not project above it.

The proposed extension will not be prominent when viewed from the north as the property sits considerably well back from the northern boundary and is mostly screened by vegetation along the boundary and within the garden on the north side of the property. When viewing the property from the T-junction where Station Road splits in 2 culs de sac, the 2 storey houses further to the south along Station Road are readily visible and the property as extended will relate well to them and not look out of place. These aspects are clearly illustrated in the photomontage (Reference 2028 – After and taken from the north) which accompanies this Statement.

When travelling from the east (Springfield Place) in the direction of Wallace Crescent, there will be no change in the visual appearance of the property until the point adjacent to the house on Wallace Crescent. However, here the Mansard roof design will look entirely in keeping with the existing roof design. It should be further mentioned that the new roof visible at this point will relate to the section above the existing upstand on the single storey extension, rather than introducing a completely new Mansard roof on this part of the house and therefore the visual change to the property will be marginal.

This is clearly illustrated in the photomontage (Reference 2032 – After and taken from the south-west) which accompanies this Statement.

The only change in the visual appearance of the property will be to the rear (east elevation). As stated above, the property is already of unique design and distinctive in character and appearance in the area. The design approach for the extension is compatible with the house apart from this one change in design to create a 2 storey appearance to the rear.

In terms of the bulk and mass created by the 2 storey element of the extension on this part of the property, it will not appear incongruous in the streetscene or in the locality as it will face on to a part of Wallace Crescent that is already characterised by 2 storey buildings. When travelling westwards along Wallace Crescent towards Station Road, the house will have the impression of a 2 storey building, albeit of different design, within an area already characterised by 2 storey buildings. It is contended that the 2 storey element to the design would not be out of keeping with the building design in this part of Wallace Crescent. The existing single storey extension is more apparent and, as stated above, is more visually detracting from the streetscene at the present time. There will be a

marked improvement therefore on the visual appearance of the property on the streetscene as a result of the proposed extension.

This is clearly illustrated in the photomontage (Reference 2014 – After and taken from the east) which accompanies this Statement.

Consequently, the proposed extension will protect the character and amenity of the area, as well as maintaining the appearance of the area by virtue of the complementary design approach for the new roof section and the 2 storey element appearing compatible with the 2 storey buildings in the area. Amenity is also protected as the extension will meet appropriate guidelines in terms of overlooking of adjacent properties resulting in no loss of privacy.

**Therefore, the proposed extension is compliant with the relevant criteria contained in Policy RP20 and Policy DP6 in the adopted Local Plan.**

### **(iii) Material Planning Considerations**

An additional material consideration in support of the application's determination is the need for dwellings to be able to provide suitable levels of accommodation relative to modern day needs. The existing dwelling does not meet modern day standards, as illustrated by the size of bathroom and kitchen and the overall cramped nature of accommodation.

The property has the ability to be extended, mainly within the footprint of the existing building without encroaching excessively in to the garden ground, thereby still retaining a sufficient amount of garden, as agreed by the Planning Officer. The 2 storey element at the rear is the only viable way of accommodating the additional space requirements while complementing the house design.

As stated in this statement, a complementary design solution has been adopted which is considered a suitable approach in planning terms in order to upgrade the dwelling to modern day standards and provide the level of accommodation that is not excessive, based on the ability to reconfigure the existing internal accommodation and contain the new space required, mostly within the confines of the existing building envelope, in order to reduce the take up of garden ground.

## 6.0 CONCLUSIONS

The proposed extension is required in order to provide the necessary upgrading of the property to modern day living standards to meet the required needs of a couple with a young family. It represents an architectural design solution which is complementary to the design of the existing house, but with a modification that seeks to take cognisance of the 2 storey buildings around the property without adversely affecting the visual appearance of the house itself or the locality.

Furthermore, it is contended that the 2 storey aspect of the extension, with removal of the existing single storey extension, will help to make a marked improvement on the visual appearance of the property and the streetscene generally.

The application is therefore considered to be wholly policy compliant.

Consequently, the applicant welcomes the opportunity to have the application reviewed by Midlothian Council's Local Review Body. The LRB's support is sought in order to ensure that this property can be upgraded to meet modern day living standards and the design approach is considered to be acceptable in planning terms.

It is respectfully requested that the LRB grants planning permission for the proposed extension following their careful consideration of the relevant planning issues and the case presented in this statement.



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

**Planning Application Reference:** 15/00762/dpp

**Site Address:** 42 Station Road, Roslin

**Site Description:**

The application property comprises a detached dwellinghouse with accommodation at first floor level within a slated mansard roof. The front elevation of the house is finished in natural stone with wetdash render at the side and rear and white upvc windows. There is an existing single storey extension at the rear of the house.

**Proposed Development:**

Erection of two storey extension to dwellinghouse

**Proposed Development Details:**

It is proposed to extend the property at the rear, to the side, and in line with the existing rear extension to form additional accommodation at first floor level above both of the rear extensions within a truncated slated mansard roof. The walls at ground floor level are to be finished in render to match existing with timber cladding at first floor level on the rear gable.

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

History sheet checked.

**Consultations:**

None required.

**Representations:**

None received.

**Relevant Planning Policies:**

The relevant policies of the **2008 Midlothian Local Plan** are;

RP20 – Development within the built-up area - seeks to protect the character and amenity of the built-up area.

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

**Planning Issues:**

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

The main issue in this case concerns the design of the extension, and in particular its massing and its effect on the character and appearance of the existing house.

Whilst it is unlikely that the existing mansard roof over the cottage is original it is in part broken up by dormers and rises to a ridge and the property has an element of charm and has a distinctive character. At single storey the existing extension at the rear of the application property appears subservient, with the proportions of the original house still evident. In contrast the proposed two storey rear extension, in particular its roof, would be a very prominent feature dominating the side and rear elevations, the massing of which does not respect the proportions of the existing building. The design of the roof with an area of flat roof at ridge level and including the truncated gable would result in a very large roof detracting from the character of the existing building. The proposed use of timber cladding on the rear elevation does not alleviate this and is out of keeping with the materials on the rest of the building. As a result of its design, in particular its massing, the extension will appear as a very bulky addition at the rear of the existing building, detracting from the form and character of the cottage, contrary to policy DP6 of the adopted Midlothian Local Plan. The extension would be visible from neighbouring properties and from Station Road and Wallace Crescent. Its unsatisfactory relationship to the existing house would detract from the visual amenity of the surrounding area.

Sufficient garden will remain.

The proposals will not have a significant impact on the amenity of neighbouring properties. Windows on the side of the flats at nos 59 and 60 Wallace Crescent to the rear of the site serve bathrooms and landings. The extension will not be overbearing to the outlook of the gardens of the flats. On balance overlooking of the gardens is not sufficient to warrant refusal of planning permission.

**Recommendation:**

Refuse planning permission.

## Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

Reg. No. 15/00762/DPP

Bergmark Architects  
3 Walker Street  
Edinburgh  
EH3 7JY

Midlothian Council, as Planning Authority, having considered the application by Mr Alistair Cormack, 42 Station Road, Roslin, EH25 9LR, which was registered on 22 September 2015 in pursuance of their powers under the above Acts, hereby refuse permission to carry out the following proposed development:

**Erection of two storey extension to dwellinghouse at 42 Station Road, Roslin, EH25 9LR**

in accordance with the application and the following plans:

<u>Drawing Description.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	595/OS/01 1:1250	22.09.2015
Existing floor plan	595/SU/01 1:50	22.09.2015
Existing elevations	595/SU/02 1:50	22.09.2015
Proposed floor plan	595/PL/01 1:50	22.09.2015
Proposed elevations	595/PL/02 1:50	22.09.2015

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

- The proposed extension is unsympathetic in terms of its design, in particular its massing, to the existing building. It would appear as a bulky addition, detracting from the character of the existing building and the visual amenity of the surrounding area.*
- For the above reasons the proposal is contrary to policies RP20 and DP6 of the adopted Midlothian Local Plan which seek to protect the character and amenity of the built-up area and requires that extensions are well designed in order to maintain or enhance the appearance of the house and locality.*

Dated 30 / 10 / 2015

DR

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



The Coal  
Authority

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

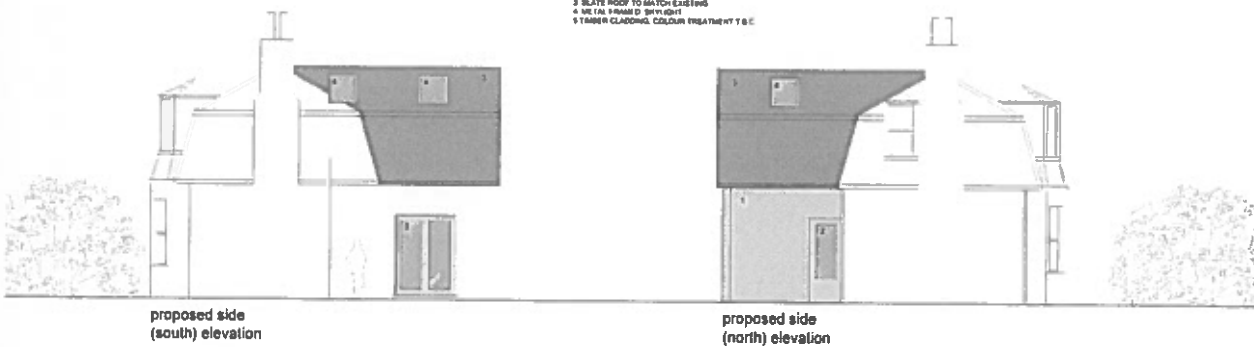
Planning and Local Authority Liaison







- 1 REPAIR TO MATCH EXISTING
- 2 TIMBER DOORS AND WINDOWS
- 3 SLATE ROOF TO MATCH EXISTING
- 4 METAL FRAME TO BRICKWORK
- 5 TIMBER CLADDING, COLOUR TREATMENT T & C



ALL WORK TO BE DONE IN ACCORDANCE WITH THE BUILDING REGULATIONS 2006 AND THE BUILDING STANDARDS SCOTLAND 2004. THE CLIENT IS RESPONSIBLE FOR OBTAINING ALL NECESSARY CONSENTS AND APPROVALS FROM THE LOCAL AUTHORITY AND OTHER RELEVANT AGENCIES. THE ARCHITECT'S RESPONSIBILITY IS LIMITED TO THE DESIGN AND CONSTRUCTION OF THE BUILDING AS SHOWN ON THESE DRAWINGS. THE ARCHITECT DOES NOT ACCEPT RESPONSIBILITY FOR ANY OTHER WORK OR FOR ANY DAMAGE TO OR LOSS OF ANYTHING ON OR ABOUT THE SITE.

**bergmark**  
architects

3 Waver Street  
Edinburgh EH3 7JY

Tel: 0131 555 1000  
Email: info@bergmarkarchitects.co.uk

AS STATION (M4) 1000, 1000, 1000

PROPOSED CLADDING			
Material	Area	Weight	Value
Timber	1000	1000	1000
Slate	1000	1000	1000
Metal	1000	1000	1000

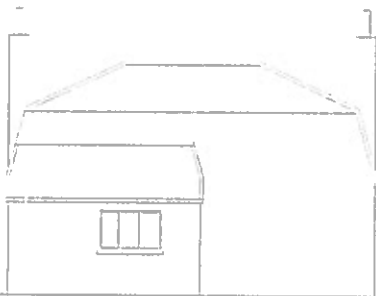
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SCALE 1:50 @ A1



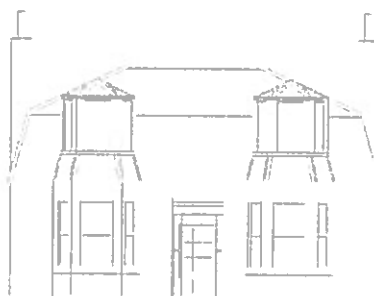




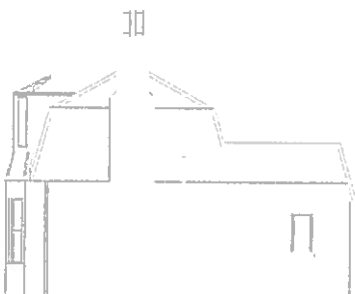
REFUSED  
30 10 2015  
15/00762/DPP



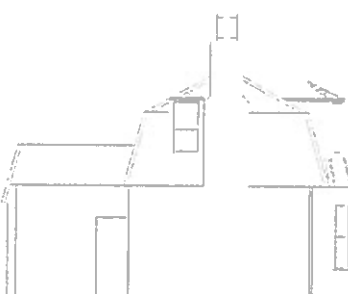
existing rear  
elevation



existing front  
elevation



existing side (south)  
elevation



existing side (north)  
elevation

DRAWING  
SCALE 1:50 @ A1

bergmark  
architects

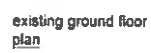
3 Walker Street  
Edinburgh EH3 7JY

42 STATION ROAD, BURNLEY

EXISTING ELEVATIONS

Project	Client	Architect	Scale	Date
42 STATION ROAD, BURNLEY	Mr & Mrs J. Smith	bergmark architects	1:50	10/10/15





**DRAWING  
SCALE 1:50**



Before







After





Before







Aplev





Before







After





## **Notice of Review: 4 Newmills Road, Dalkeith**

### **Determination Report**

Report by Ian Johnson, Head of Communities and Economy

#### **1 Purpose of Report**

- 1.1 The purpose of this report is to provide a framework for the Local Review Body (LRB) to consider a 'Notice of Review' for the change of use from office (class 4) to residential (class 9), comprising the formation of two, one bed flats, at 4 Newmills Road, Dalkeith.

#### **2 Background**

- 2.1 Planning application 15/00740/DPP for the change of use from office (class 4) to residential (class 9) at 4 Newmills Road, Dalkeith was refused planning permission on 26 October 2015; a copy of the decision is attached to this report.

- 2.2 The review has progressed through the following stages:

- 1 Submission of Notice of Review by the applicant.
- 2 The Registration and Acknowledgement of the Notice of Review.
- 3 Carrying out Notification and Consultation.

#### **3 Supporting Documents**

- 3.1 Attached to this report are the following documents:

- A site location plan (Appendix A);
- A copy of the notice of review form and supporting statement (Appendix B). Any duplication of information is not attached;
- A copy of the case officer's report (Appendix C);
- A copy of the decision notice, excluding the standard advisor notes, issued on 26 October 2015 (Appendix D); and
- A copy of the relevant plans (Appendix E).

- 3.2 The full planning application case file and the development plan policies referred to in the case officer's report can be viewed online via [www.midlothian.gov.uk](http://www.midlothian.gov.uk)

#### **4 Procedures**

- 4.1 In accordance with procedures agreed by the LRB, the LRB by agreement of the Chair:

- Have scheduled an unaccompanied site visit for Monday 7 March 2016; and
  - Have determined to progress the review by way of written submissions.
- 4.2 The case officer's report identified that one consultation response and one representation have been received. As part of the review process the interested parties were notified of the review. No additional comments have been received. All the comments can be viewed online on the electronic planning application case file via [www.midlothian.gov.uk](http://www.midlothian.gov.uk).
- 4.3 The next stage in the process is for the LRB to determine the review in accordance with the agreed procedure:
- 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;
  - Assess whether these considerations warrant a departure from the development plan; and
  - State the reason/s for the decision and state any conditions required if planning permission is granted.
- 4.4 In reaching a decision on the case the planning advisor can advise on appropriate phraseology and on appropriate planning reasons for reaching a decision.
- 4.5 Following the determination of the review the planning advisor will prepare a decision notice for issuing through the Chair of the LRB. A copy of the decision notice will be reported to the next LRB for noting.
- 4.6 A copy of the LRB decision will be placed on the planning authority's planning register and made available for inspection online.

## **5 Conditions**

- 5.1 It is considered that no conditions would be required if the LRB is minded to grant planning permission. The reasons for refusing the application relate to the low level of amenity for the occupants of the proposed flats and it is considered that this cannot be mitigated by conditions, if the LRB are minded to support the review on the basis that the proposed levels of amenity are acceptable.

## **6 Recommendations**

- 6.1 It is recommended that the LRB:
- a) determine the review; and
  - b) the planning advisor draft and issue the decision of the LRB through the Chair

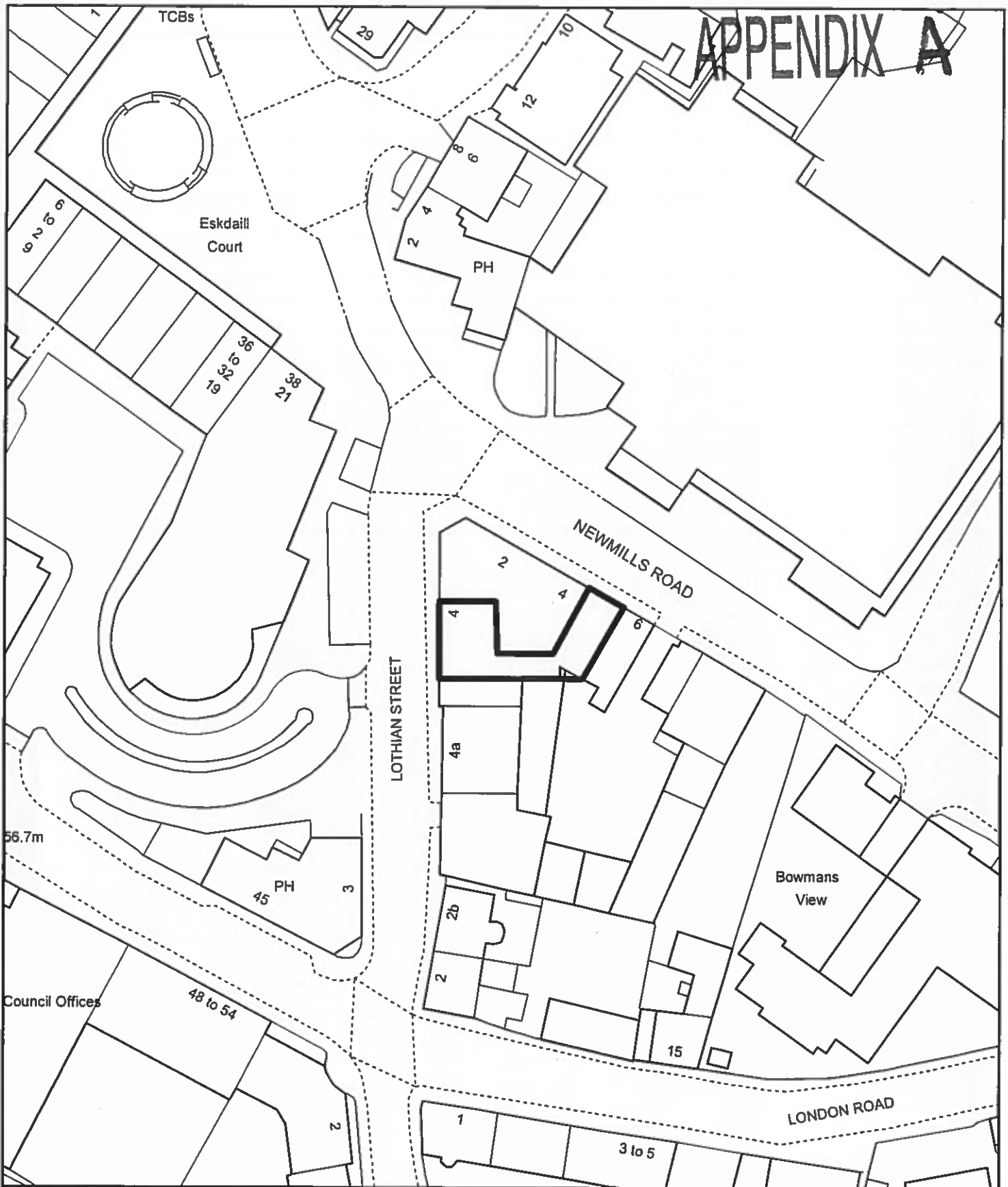
**Date:** 1 March 2016  
**Report Contact:** Peter Arnsdorf, Planning Manager  
peter.arnsdorf@midlothian.gov.uk  
**Tel No:** 0131 271 3310

**Background Papers:** Planning application 15/00740/DPP available for inspection online.





# APPENDIX A



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

4 Newmills Road, Dalkeith, EH22 1DU

28th January 2016

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File No. 15/00740/DPP

Scale: 1:750





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 the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100000260-002

The online reference 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:	Hardies Property & Construction Consultants		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Matt	Building Name:	London House
Last Name: *	Kilburn	Building Number:	20-22
Telephone Number: *	0131 557 9300	Address 1 (Street): *	East London Street
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Edinburgh
Fax Number:		Country: *	Lothian
		Postcode: *	EH7 4BQ
Email Address: *	matt.kilburn@hardies.co.uk		

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

☒ Individual ☐ Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	Ms	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	London House
First Name: *	Sandra	Building Number:	20-22
Last Name: *	Ballantyne	Address 1 (Street): *	East London Street
Company/Organisation	c/o Hardies Property & Construction	Address 2:	
Telephone Number: *		Town/City: *	Edinburgh
Extension Number:		Country: *	UK
Mobile Number:		Postcode: *	EH7 4BQ
Fax Number:			
Email Address: *			

## Site Address Details

Planning Authority:	Midlothian Council
Full postal address of the site (including postcode where available):	
Address 1:	4 NEWMILLS ROAD
Address 2:	
Address 3:	
Address 4:	
Address 5:	
Town/City/Settlement:	DALKEITH
Post Code:	EH22 1DU

Please identify/describe the location of the site or sites

--	--

Northing	667150	Easting	333252
----------	--------	---------	--------

## Description of Proposal

Please provide a description of your 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)

Change of use from two separate second floor offices into two separate dwellings.

## 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 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.

Planning (ref 15/00740/DPP) refused due to sound impact causing poor levels of amenity. To mitigate this we have demonstrated through the Environmental Noise Impact Assessment that by altering the configuration of flat 4/5 and installing secondary glazing to both flats, we can come within the approved sound transference levels. The applicants preference is for the appeal to go to the review hearing.

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

☐ Yes ☒ No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: \* (Max 500 characters)

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)

1. Sound Report - 09.09.11 2. E0206B-05 (rev A) - Proposed flat 4-5 3. 37300-01 Newmills Road Environmental Noise Impact Assessment 4. Secondary Glazing details 5. Copy of refusal of planning Permission notice

## Application Details

Please provide details of the application and decision.

What is the application reference number? \*

15/00740/DPP

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

07/09/2015

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

26/10/2015

## 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:** Mr Matt Kilburn

**Declaration Date:** 22/01/2016





Technical Report

# Environmental Noise Impact Assessment

Planning Application 15/00740/DPP  
4 Newmills Road, Dalkeith, EH22 1DU

Ms. Sandra Ballantyne

15<sup>th</sup> January 2016



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**Document Prepared For**

**Ms. Sandra Ballantyne**

c/o Hardies Property & Construction Consultants

London House

20 – 22 East London Street

Edinburgh

EH7 4BQ

**Document Prepared By**

**Emma Parsons MIOA**

Principal Consultant, Acoustics & Noise

[Emma.parsons@atmosconsulting.com](mailto:Emma.parsons@atmosconsulting.com)

**Document Approved By**

**Jean Curran**

Operations Director

[Jean.curran@atmosconsulting.com](mailto:Jean.curran@atmosconsulting.com)

Version	Date	Reason
1.1	08/01/2016	Draft
1.2	13/01/2016	For client comment
1.3	15/01/2016	Final



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Rosebery House,  
9 Haymarket  
Terrace,  
Edinburgh,  
EH12 5EZ

Moray House,  
16-18 Bank  
Street,  
Inverness,  
IV1 1QY

Linden House,  
Mold Business  
Park,  
Wrexham Road,  
Mold,  
CH7 1XP

## 1 Introduction

Atmos Consulting has been commissioned by Ms. Sandra Ballantyne ('the applicant') to undertake an environmental noise assessment in support of an appeal to Midlothian Council following the refusal of planning application 15/00740/DPP. This application sought planning consent for a proposed change of use at No.4, Flats 3 and 5, Newmills Road in Dalkeith, herein referred to as 'the proposed development', from two separate offices (Class 4) to residential (Class 9) to form two flatted dwellings.

This noise assessment has evaluated the proposed development site in terms of its suitability for residential development and has been supported by information submitted by the applicant to Midlothian Council as part of the planning application in September 2015.

In addition, reference has been made to a technical noise assessment report<sup>1</sup> undertaken by A. Proctor Group on behalf of the applicant dated 9<sup>th</sup> September 2011. Whilst this assessment makes reference to the results of the noise survey undertaken by A. Proctor Group within the proposed development, no reliance is made herein on the details of that report. However it is assumed that, for the purposes of this assessment, the appropriate methodology and best practice survey procedures were followed in the completion of the A. Proctor Group report.

### 1.1 The Proposed Development

The proposed development is located on the second floor of a listed building at the junction of the A6106 (Newmills Road) and Lothian Street in Dalkeith, to the south-east of Edinburgh. The Park bar and nightclub is located on the ground floor of this building.

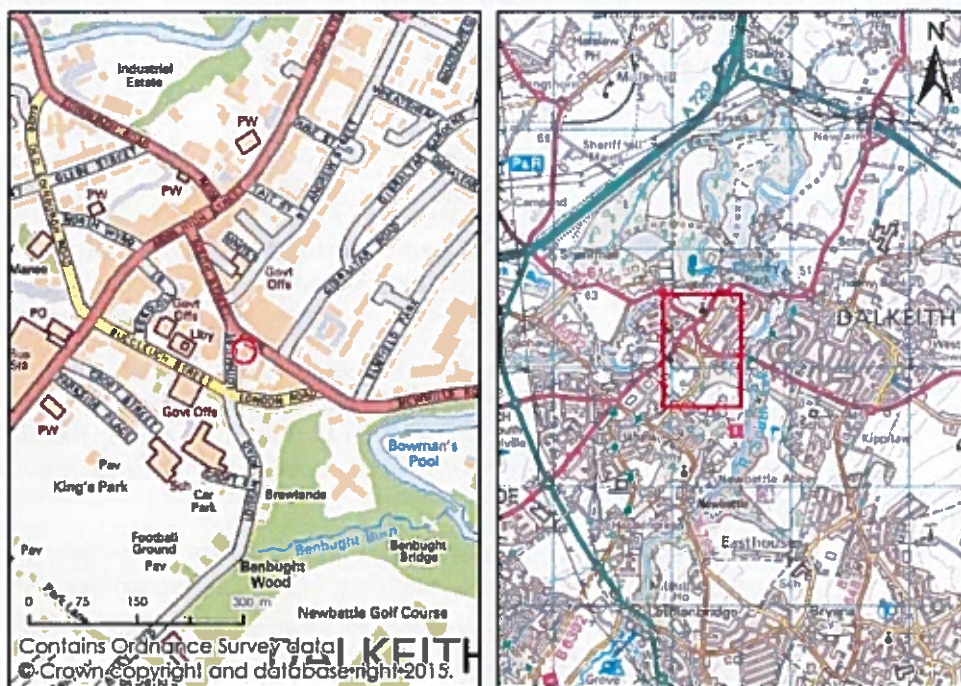
The location of the proposed development is shown on **Figure 1**.

---

<sup>1</sup> Report Number: Site/db/09/09/11-218



Figure 1 – Site Location



The second-floor property was formerly the location of an accountancy business and is currently vacant. It is proposed to develop the property into two flats for residential use – Flat 4/3 and Flat 4/5. The proposed floor plans for these flats are presented as **Appendix A** and **Appendix B** respectively. The plans for each flat include a living room, a kitchen/dining area and bedroom, with each proposed bedroom located to the rear of building. The bedrooms will be ventilated using electrically operated rooflights.

## 1.2 Assessment Methodology

A number of standards and guidelines may be referred to in relation to acceptable environmental noise levels. The overarching European legislation in relation to noise is the 'Environmental Noise Directive' (END). The END aims to limit people's exposure to environmental noise and requires each member state to provide data on noise exposure, to adopt action plans to prevent or reduce noise exposure and try to preserve environmental noise quality where it is currently good.

At a national level, the relevant policy for planning is 'Scottish Planning Policy' (SPP). In addition to the SPP, PAN 1/2011<sup>2</sup> and its associated Technical Advice Note (TAN) are key guidance documents for planners in Scotland on noise issues. PAN 1/2011 sets out a series of noise issues which planning authorities must be aware of when making decisions on planning applications, in order to preserve environmental quality.

<sup>2</sup> Scottish Government (2011), 'Planning and Noise'

PAN 1/2011 and its TAN are also of assistance to developers in the identification of noise issues relevant to proposed developments. Appendix 1 of the TAN details a number of standards and guidelines which may be used in the assessment of noise, including BS8233 and the guidelines of the World Health Organisation (WHO).

### 1.2.1 BS8233:2014

The TAN to PAN 1/2011 refers to British Standard BS8233:1999 entitled 'Sound Insulation and Noise Reduction for Buildings (Code of Practice)'. Since the publication of the TAN in 2011, BS8233 has been updated and the revised version was published in February 2014. The 2014 version of BS8233 is therefore used for the purposes of this assessment (BS8233:2014, 'Guidance on Sound Insulation and Noise Reduction for Buildings').

The standard "provides guidance on the control of noise in and around buildings" and recommends appropriate internal noise levels for dwellings. No balconies, terraces or outdoor living areas (including gardens) are proposed for the development; therefore this assessment is only concerned with the recommended internal daytime and night-time noise levels.

In this regard, and for the purposes of the assessment, the following internal noise levels are used as guideline values, which are in line with recommendations of BS8233:2014:

- Internal daytime noise level of 35dB LAeq,16hour; and
- Internal night-time noise level of 30dB LAeq,8hour.

This correlates with the advice provided by the WHO with regards to suitable internal noise level limits.

### 1.2.2 World Health Organisation Guidelines

The 'Guidelines for Community Noise' document and the 'Night Noise Guidelines for Europe' recommend guideline noise level limits regardless of the current noise environment. The WHO suggests suitable noise levels for both outdoor and indoor living areas during daytime and night-time periods, and these levels are set regardless of the noise type or source, i.e. 'benchmark' levels.

The WHO advises on the minimum levels of noise before critical health effects, including annoyance, occur. In this regard, the WHO guidelines state:

- "To enable casual conversation indoors during daytime, the sound level of interfering noise should not exceed 35dB LAeq."
- "In dwellings, the critical effects of noise are on sleep, annoyance and speech interference. To avoid sleep disturbance, indoor guideline values for bedrooms are 30dB LAeq,8h for continuous noise."



## 2 Noise Assessment

An internal noise measurement survey within the proposed development was undertaken by A. Proctor Group during the 8-hour night-time period on Friday 9<sup>th</sup> September 2011, from 23.00 to 07.00. It is understood that The Park was open and operational during this survey; however, it is assumed that it closed at approximately 02.00. Therefore the survey is assumed to have included the measurement of patrons entering and also leaving The Park.

The internal monitoring location used by A.Proctor Group is shown on the floor plan for Flat 4/5 presented as Appendix B and is indicated as **M01**. It can be seen that this location is representative of the area proposed for the bedrooms of the proposed development. Therefore, the measured 8-hour night-time LAeq value is most relevant when assessing against BS8233:2014 and the WHO guidelines, specifically the recommended 8-hour night-time internal noise level limit of 30dB LAeq.

From the A. Proctor Group report (page 11, paragraph 4.6), it is indicated that the measured value at M01 was 22.4dB LAeq,8hr. This value does not exceed, and is comfortably below, the 8-hour night-time recommended internal noise limit of 30dB LAeq.

Therefore, with respect to noise, it can be seen that this area of the proposed development will be suitable for use as bedrooms. The assessment concludes that the development can achieve an acceptable internal night-time noise level limit, suitable for residential use.

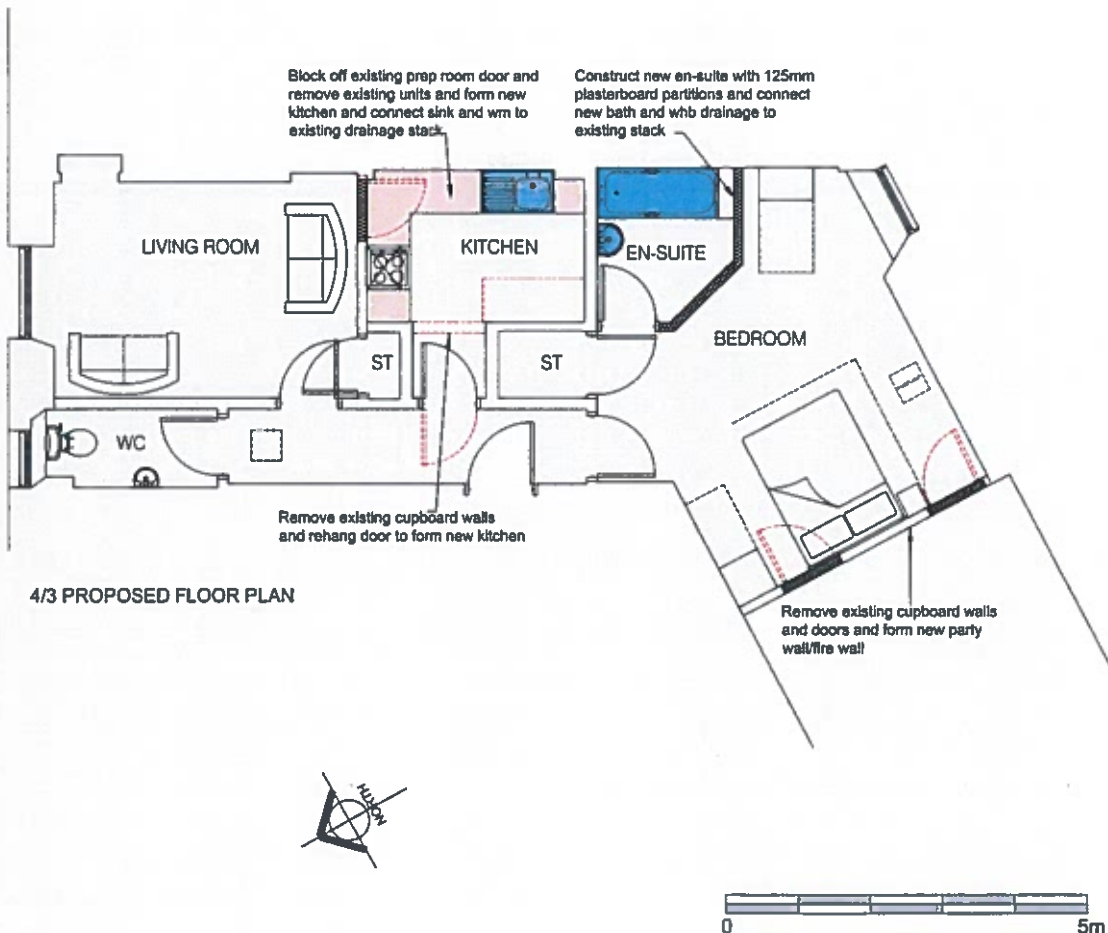
### 2.1 Summary

A noise assessment has been undertaken with reference to measured internal noise levels within the proposed development and comparing the measured noise level against the recommended BS8233:2014 and WHO night-time noise level limit.

The assessment has shown that the measured internal noise level does not exceed the BS8233:2014 and WHO recommended eight-hour night-time noise level limit of 30dB LAeq. Therefore, the existing property can be made suitable for residential use and noise need not be a contributing factor in any planning consent.

## Appendices

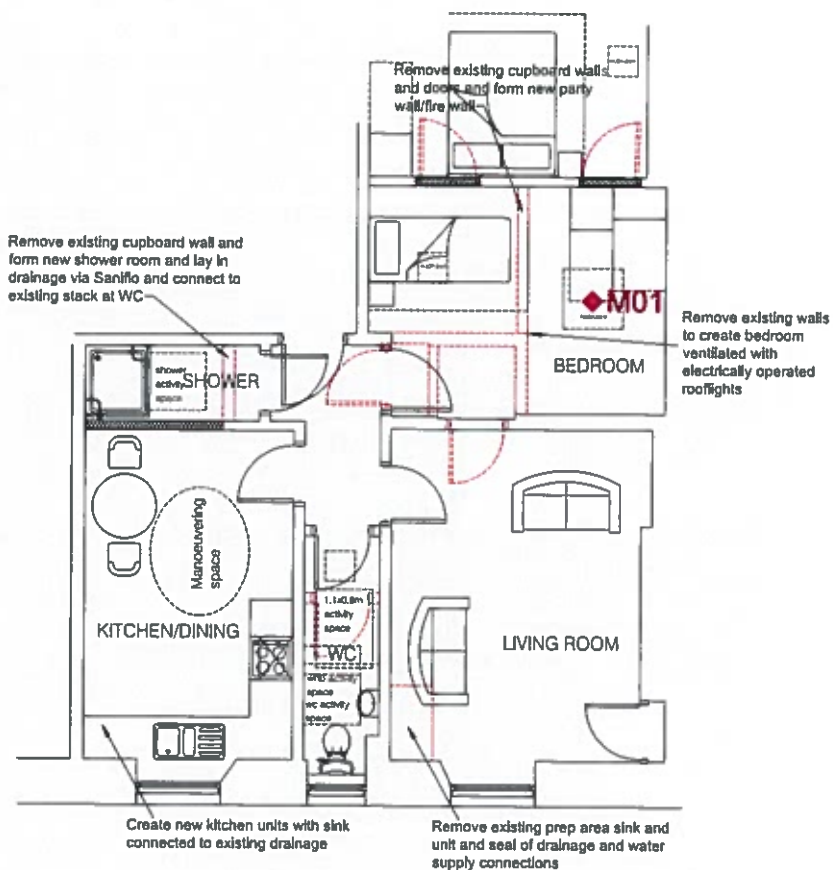
### Appendix A. Proposed Floor Plan for Flat 4/3



<p><b>Notes</b></p> <p>1. Do not scale off this drawing</p> <p>2. All dimensions to be checked on site prior to construction and construction, and any discrepancies to be reported to Hardies LLP prior to ordering of materials and prior to carrying out any construction work</p> <p>© This drawing is copyright of Hardies LLP and must not be reproduced in whole or part without prior written permission. This drawing shall not be scaled for construction purposes.</p> <p><b>CONSTRUCTION (DESIGN AND MANAGEMENT) REGULATIONS 2015</b></p> <p>The designs on this drawing are prepared with the assumption of the need to identify hazards and give regard to the hierarchy of risk control</p> <p>This drawing is to be read in conjunction with project specific standard hazard and risk assessment, where relevant</p> <p>Works to be carried out in accordance with the Construction Phase Health &amp; Safety plan prepared by the Principal Contractor</p>			
<p><b>Hardies</b></p> <p>London House 20-22 Bent Street LONDON EC1A 3DF</p> <p>020 7461 8888 020 7461 8889 020 7461 8890 020 7461 8891 020 7461 8892</p>			
<p><b>author</b></p> <p>Sandra Ballantyne</p>			
<p><b>project</b></p> <p>Flat 4/3 and 4/5 Newmills Road Change of Use Application</p>			
<p><b>drawing title</b></p> <p>Flat 4/3 Proposed Plan</p>			
<p><b>discipline</b></p> <p>Planning</p>			
date	scale	drawn by	checked by
28.08.15	1:100	MK	KD
job no	drawing no	revision	
E0206B	04		

## Appendix B. Proposed Floor Plan for Flat 4/5

**M01** indicates the location of the internal eight-hour noise survey on 9<sup>th</sup> September 2011, undertaken by A. Proctor Group.



4/5 PROPOSED FLOOR PLAN



4/5			
This document is not to be used for any other purpose than the one stated on the title block. It is the responsibility of the user to ensure that the information is up to date and that it is used in accordance with the relevant standards and specifications.			
Rev	Description	Date	By
1	Issue for tender	17/01/11	AM
2	Issue for construction	17/01/11	AM
3	Issue for construction	17/01/11	AM
4	Issue for construction	17/01/11	AM

Alan Hardle Architect

17/01/11 17/01/11 17/01/11 17/01/11

DRAFT

Client: SANDRA BALLANTYNE

Project Title: CHANGE OF USE OFFICES TO FLATS 4 NEWMILLS ROAD, DALKEITH

Drawing Title: 4/5 PROPOSED PLAN

Scale: 1:50 @ A3 1/15 @ A4	Date: 17 JANUARY 2011
Author: AM	Checked by:
Proj No: 2010-049	Rev: A(01)005
	Disc: D



## TECHNICAL REPORT

**A.Proctor Group Ltd**

The Haugh  
Blairgowrie  
Perthshire  
PH10 7ER  
Tel. 01250 872261  
Fax. 01250 872727

<b>Report Number:</b>	Site/db/09/09/11-218
<b>Date:</b>	9 <sup>th</sup> September 2011
<b>Subject:</b>	4/3 & 4/5 Newmills Road, Dalkeith  EH22 1DU
<b>Brief:</b>	To assess internal noise levels at a proposed office conversion.
<b>To:</b>	Sandra Ballantyne c/o 4/3 Newmills Road, Dalkeith  EH22 1DU

Tested By

  
David Buchan

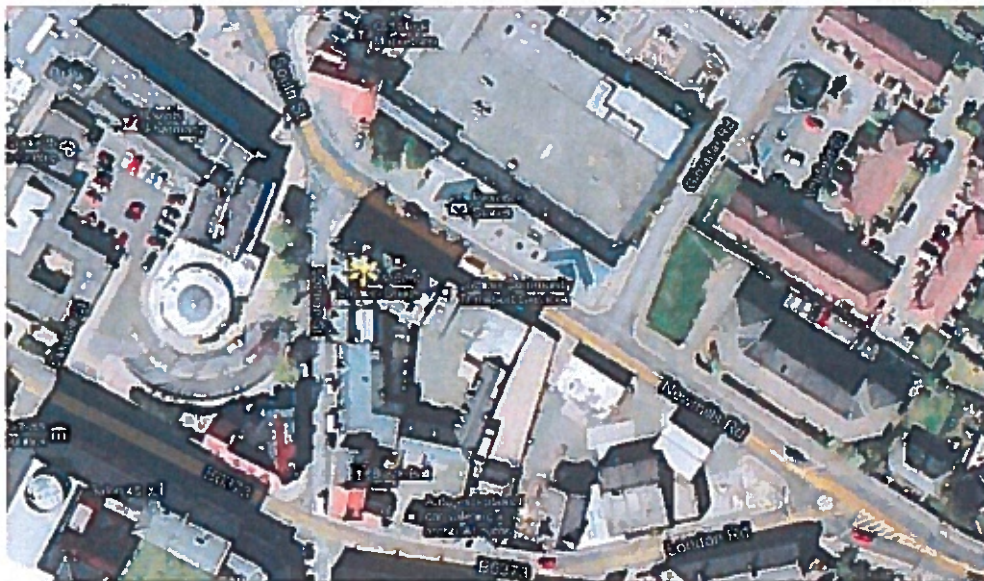
Approved By

  
PP, Iain Faimington



## 1. Introduction

- 1.1 We were instructed by Glenalmond Trading Investments to conduct internal noise measurements within offices to assess the suitability of conversion to residential accommodation.
- 1.2 The offices are located on the 2<sup>nd</sup> floor with a licensed premises (The Park), located at ground floor.
- 1.3 Measurements were made during the 'night' measurement period (11pm – 7am) the licensed premises were in operation as noted.
- 1.4 The building is located at a road junction & intermittent traffic noise was apparent as cars arrived at & departed from the junction.
- 1.5 Temperature during measurement was in the range 16-22°C, RH was in the range 44-54% & conditions were always dry with light winds.
- 1.6 Where windows were present, these were opened to allow natural ventilation.
- 1.7 The site layout & test locations are as shown on the following.



- Site location.



- *Elevation to South Street ('The Park' located at ground floor)*

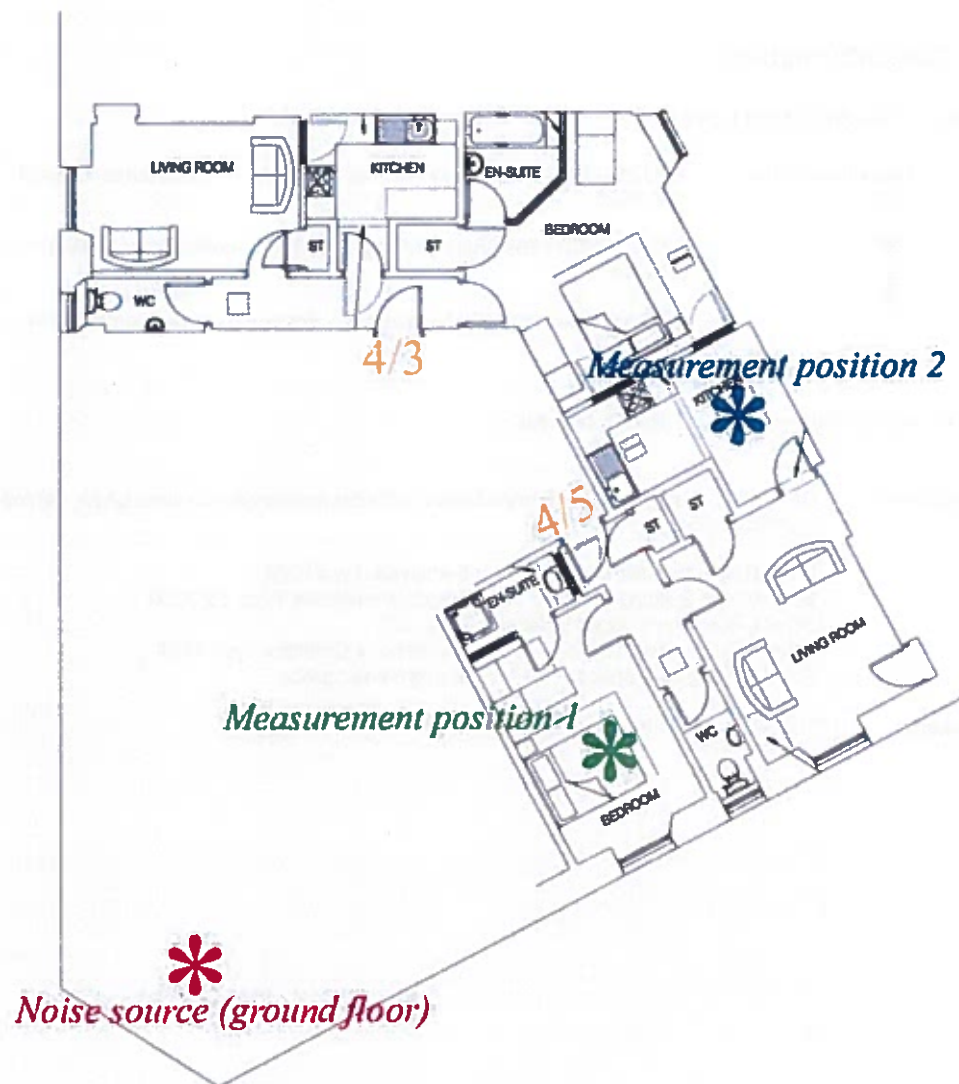


- *Elevation to Newmills Road (Access to flats as marked with a yellow asterisk)*





- *Elevation to Lothian Street*



- Proposed layout / noise source / receiver positions

## **2. Test Information**

**Job:** Site/db/09/09/11-218

**Date of measurements:** 8<sup>th</sup> June 2011 (Wednesday evening – Position 1, noise source inactive)  
Job 0025

11<sup>th</sup> June 2011 (Saturday evening – Position 1, noise source active)  
Job 0027

9<sup>th</sup> September 2011 (Friday evening – Position 2, noise source active)  
Job 0029

**Tests conducted by:** David Buchan MIOA

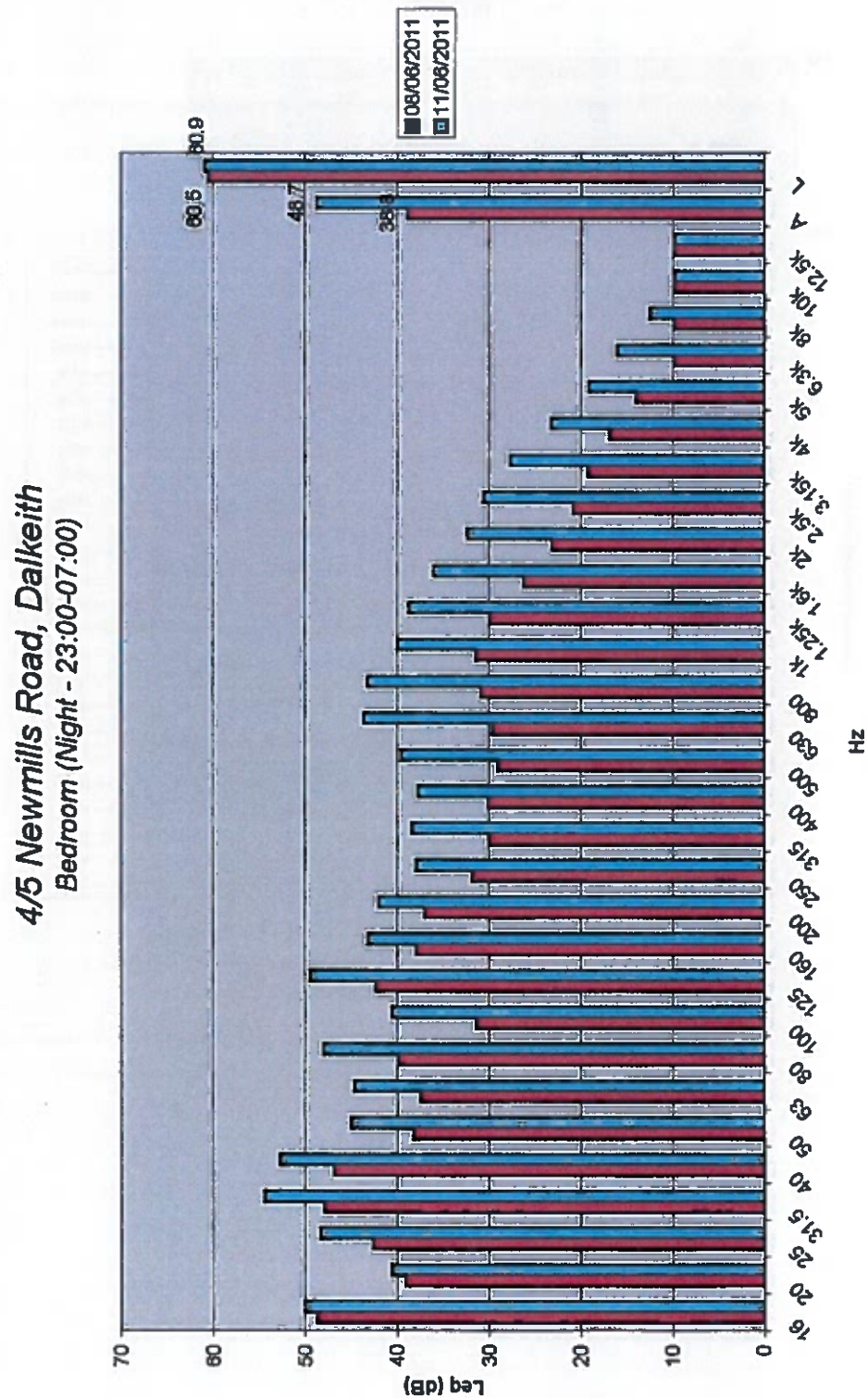
**Equipment:** Calibration checks were performed before and after measurements were taken, with no significant deviation noted.

Brüel & Kjær Modular Precision Sound Analyser Type 2260  
Brüel & Kjær Building Acoustic System Software Module Type BZ 7202  
Brüel & Kjær Sound Level Calibrator Type 4231  
Brüel & Kjær Prepolarised Condenser Microphone Cartridge Type 4189  
Protimeter digital diagnostic Mk.IV with hygrometer probe

**Results:** The full results of the measurements follow.

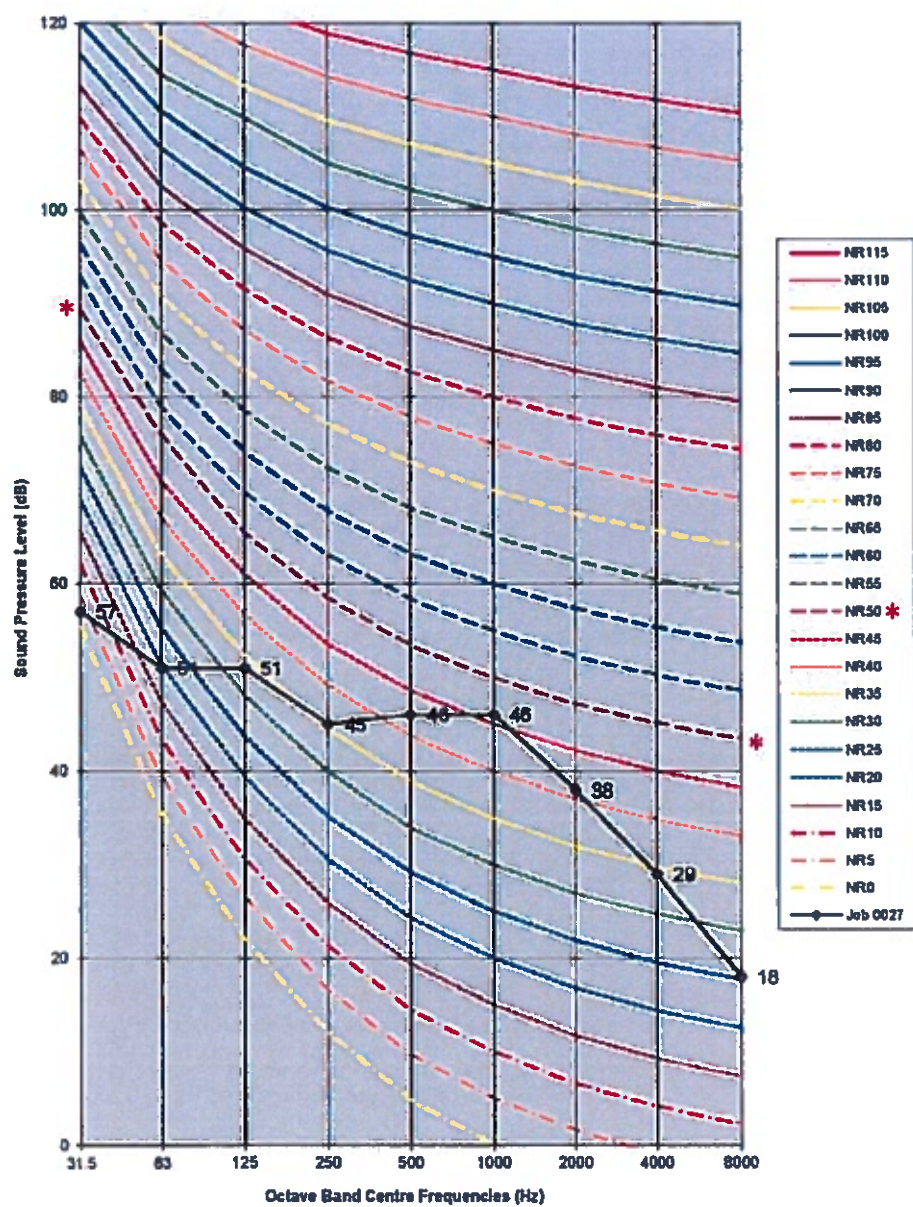
### 3. Test Results

3.1 The following pages show the test results in full.



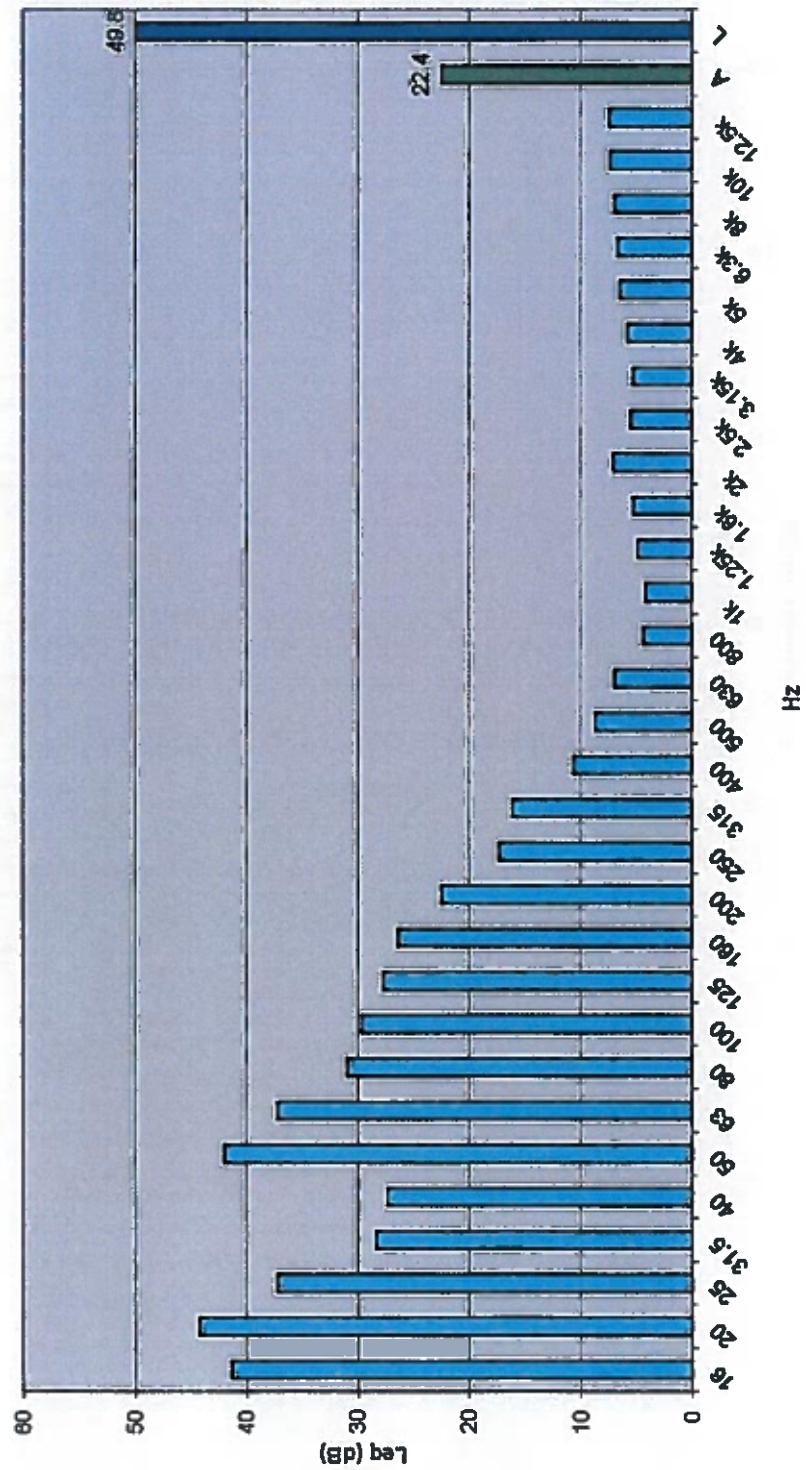


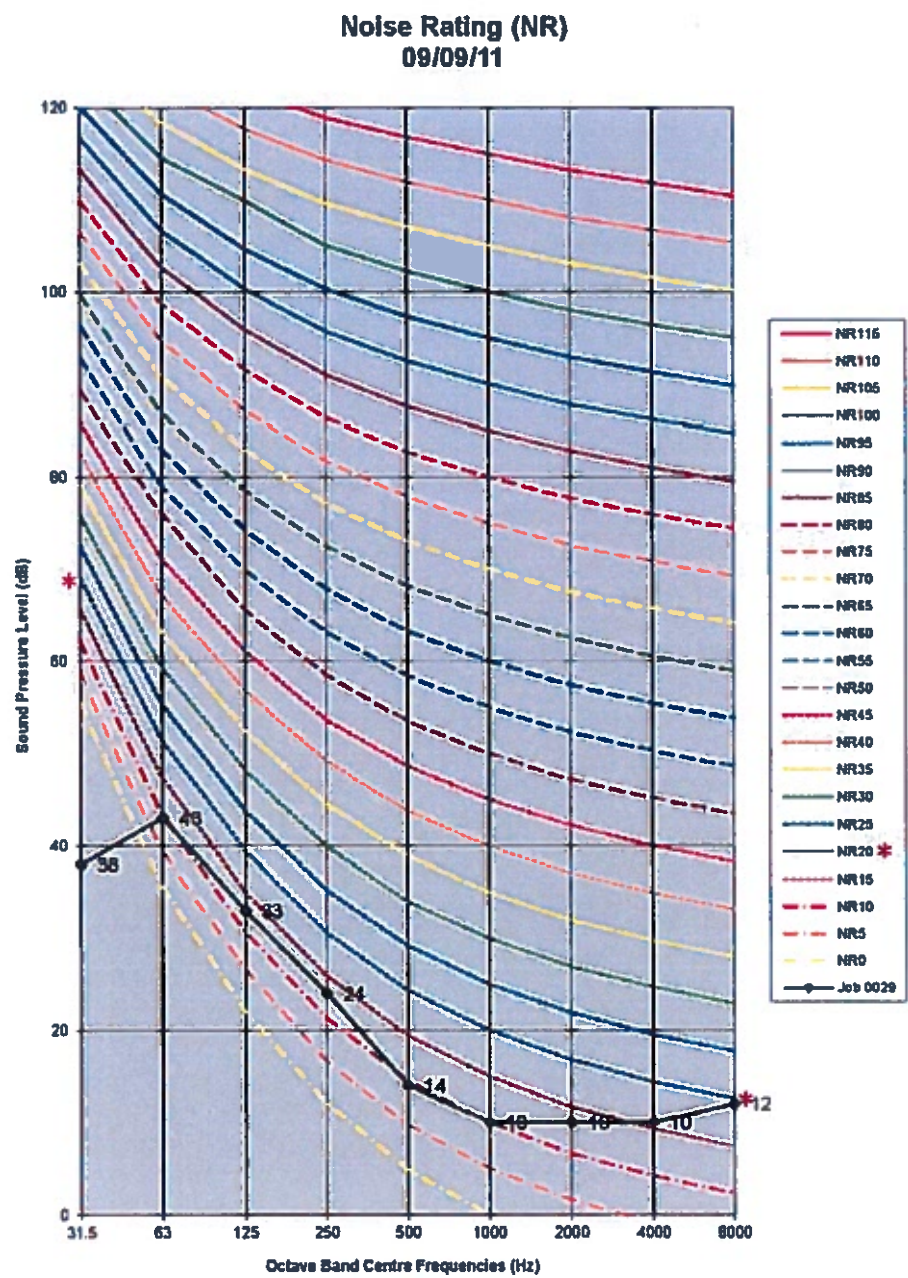
Noise Rating (NR)  
11/06/11





4/5 Newmills Road, Dalkeith  
Position 2 (Night) 09-9-11





#### 4. Comments

- 4.1 Initial measurements were made at position 1 (proposed bedroom, flat 4/5) overnight on Wednesday 8<sup>th</sup> June (licensed premises closed / no noise source) & again overnight on Saturday 11<sup>th</sup> June (licensed premises open / noise source active). This location was selected in preference to the proposed living room of flat 4/3 since it was closest to the noise source & would therefore represent the 'worst case'.
- 4.2 The resultant data presented on page 7 therefore gives an indication of the level increase due to the operation of the licensed premises – an increase from 38.8dB  $L_{Aeq,8h}(23:00-07:00)$  to 48.7dB  $L_{Aeq,8h}(23:00-07:00)$ .
- 4.3 The recommended World Health Organisation precautionary guideline internal noise level within dwellings to avoid sleep disturbance for the night time period is 30 dB  $L_{Aeq,8h}$  (also referenced in the Scottish Government Technical Advice Note – Assessment of noise (2011)). Both measurements therefore fail to achieve this level.
- 4.4 The noise was also quantified in terms of an NR rating (BS 8233 – 1999) for information only, as shown on page 8 (NR 50).
- 4.5 Further measurements were then made at position 2 (proposed kitchen, flat 4/5) overnight on Friday 9<sup>th</sup> September (licensed premises open / noise source active) – this location is currently accessed via flat 4/3 & has no windows (only a rooflight). The idea being to gain an understanding of what the levels would be, were the proposed layout to be altered such that this became sleeping accommodation.
- 4.6 The resultant data presented on page 9 shows that with the licensed premises operating, a level of 22.4dB  $L_{Aeq,8h}(23:00-07:00)$  was recorded. This would be in accordance with the recommended value outlined in 4.3 above.
- 4.7 This noise was also quantified in terms of an NR rating (BS 8233 – 1999) for information only, as shown on page 10 (NR 20).
- 4.8 The conclusion then is that given the noise levels emitted by the licensed premises, the layout as proposed would be unsuitable for sleeping accommodation. Were the layout to be amended such that any sleeping accommodation was located to the rear or the property (diametrically opposed to the noise source), then this should be sufficient to ensure that sleep disturbance does not occur.



## Secondary Glazing Details

Secondary glazing is proposed for the windows to both dwellings that have significantly higher sound insulation values. Table 1 (included in documents) details Sound Reduction Index values for single and secondary glazed windows. The spec of the proposed secondary glazing has not yet been defined by the applicant however the final design will as a minimum meet the performance criteria detailed in table 1. Where a difference glazing configuration is chosen, the dimension will be greater than those specified and will, therefore, offer additional levels of sound insulation. The Rw value represents the single figure weighted level difference. The difference between existing glazed units and proposed secondary glazing is 18dB.

**Table 1: Typical SRI values for single & secondary glazing configurations**

Glazing Type	Thick- ness	Level of Attenuation, dB					
		125Hz	250Hz	500Hz	1000Hz	2000Hz	Rw
Existing 6mm glass in sealed frame*	6	17	24	30	28	24	28
Proposed secondary glazing, 6/150/4 sealed units (horizontal sliding)**  (6mm glass, 150mm cavity, 4mm glass)	160	33	35	43	50	48	46
* Original figures from <i>Building Bulletin 51</i>							
** <a href="http://www.soundspec.info">www.soundspec.info</a>							





## MIDLOTHIAN COUNCIL

### DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

**Planning Application Reference:** 15/00740/DPP

**Site Address:** 4 Newmills Road, Dalkeith

**Site Description:** The application property is a second floor flat, which is part of a three storey building. This building is positioned on the corner of Newmills Road and Lothian Street. The building is stone, slate roof with white painted sash and case windows. The property is C listed. There is a nightclub on the ground floor of the building and offices and an educational facility on the first floor. The application site is currently two separate office units. These are located to either side of the building, one facing onto Newmills Road, the other onto Lothian Street. Access to the site is from Newmills Road.

**Proposed Development:** Change of use from office (class 4) to residential (class 9) to form two flatted dwellings.

**Proposed Development Details:** The offices are to change to become two one bedroom flats. No external alterations are proposed.

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

15/00743/LBC Internal alterations. Pending consideration.  
11/00034/LBC 4 Newmills Road Internal alterations. Permitted.  
11/00033/DPP Change of use from offices to residential to form 2 flatted dwellings. Refused – low levels of amenity for the future occupants due to noise from the nightclub on the ground floor and lack of private amenity space.  
09/00298/FUL 4A Newmills Road Change of use from dwellinghouse (class 9) to educational facility (class 10). Consent with conditions.  
08/00329/LBC 4A Newmills Road Alterations to property. Consent with conditions.  
08/00323/FUL 4A Newmills Road Change of use from office to residential. Permitted.

**Consultations:** The Policy and Road Safety Team has no objection to the proposal. They state that the proposal would place additional pressure on the limited number of on and off street parking spaces in the area, however the building is in a town centre location with good access to local facilities and public transport. Overall it is not considered that the proposed change of use would result in any significant change to the existing parking and delivery situation in the area.

**Representations:** One letter of representation has been received from the leaseholder of the nightclub within the building. They object as their business operates until 2am on Friday and Saturday nights which may result in noise complaints from any future occupants of the flats. If permission is granted then the

residential units would need to be fully soundproofed to avoid such complaints and they wish for written confirmation that the occupants would not complain about noise.

**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 where it is likely to detract materially from the existing character or amenity of the area;

**RP24 Listed Buildings** states that the change of use of a listed building will only be permitted where it can be shown that the proposed use and any necessary alteration can be achieved without detriment to the character, appearance and setting of the building; and

**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.

From a transportation perspective the proposal does not fully address the issues of residential and visitor parking which would arise from the provision of a flat. Notwithstanding this, exceptions can be made for the conversion of existing buildings where it may be difficult to provide the expected level of parking. The site is located within Dalkeith Town Centre, is well served by bus routes and there is local parking in the area. As such refusal of the application on these grounds alone would not be warranted.

Whilst Policy DP2 requires the provision of private outdoor space for new residential development, where an existing building is to be re-used it can be appropriate to make allowance for the constraints of the particular site, especially within a town centre, if the amenity of the property created is otherwise of a high standard. The flats will be adequate in respect of their outlook and the level of daylight provided to the living room and bedrooms. Their location in the town centre provides a high level of amenity in terms of the facilities available. In these circumstances, the absence of private open space would not warrant refusal.

There is another office on the second floor of the building. On the first floor there is an office and an education facility. This facility is used for young people who need support in further training or employment. The facility is used between 9.30 – 3.30 Mondays to Fridays and not used at evenings or weekends. Planning permission was previously approved here for residential use. However, there were issues resulting from the nightclub on the ground floor which rendered the flat dwelling uninhabitable, due to the poor level of amenity as a result from the noise of the nightclub. The Council's Environmental Health team have been consulted on the current proposal and have recommended that the application be refused due to the impact that the nightclub on the ground floor would have on the amenity of the residents of the proposed residential properties. The nightclub is licensed until 2am and there have been complaints received relating to noise. As a result there would be a poor standard of amenity for the occupiers of the residential properties.

Although there is a storey between the nightclub and the proposed residential properties, the noise arising from the nightclub and patrons outside the club would reduce the levels of amenity. Noise complaints have been received by Environmental Health from people living further away than the proposed site.

Given the issues of noise from the neighbouring nightclub, lack of garden area/private amenity space and the absence of a parking area the levels of amenity would be very low for future residents of the proposed residential properties. This has been proven in another flat in the building which could not be used as residential accommodation due to disturbance from the neighbouring use.

**Recommendation:** Refuse planning permission.





## Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

**Reg. No. 15/00740/DPP**

Hardies Property & Construction Consultants  
London House  
20-22 East London Street  
Edinburgh  
EH7 4BQ

Midlothian Council, as Planning Authority, having considered the application by Ms Sandra Ballantyne, London House, 20-22 East London Street, Edinburgh, EH7 4BQ, which was registered on 8 September 2015 in pursuance of their powers under the above Acts, hereby refuse permission to carry out the following proposed development:

**Change of use from office (class 4) to residential (class 9) to form two flatted dwellings at 4 Newmills Road, Dalkeith, EH22 1DU**

In accordance with the application and the following plans:

<u>Drawing Description.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	01 1:1250 1:100	08.09.2015
Existing floor plan	02 1:100	08.09.2015
Existing floor plan	03 1:100	08.09.2015
Proposed floor plan	04 1:100	08.09.2015
Proposed floor plan	04 1:100	08.09.2015

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

1. *The proposed flatted dwellings would be exposed to high levels of noise from the neighbouring nightclub and also do not benefit from any private amenity space.*
2. *As the proposed change of use from office to residential would result in very poor levels of amenity being provided for the future occupants of the residential properties the proposal is contrary to policy RP20 of the adopted Midlothian Local Plan.*

Dated 26 / 10 / 2015

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



**The Coal  
Authority**

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

### **INFORMATIVE NOTE**

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

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Standards approval (if relevant). Your attention is drawn to The Coal Authority Policy in relation to new development and mine entries available at:

<https://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries>

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

Property specific summary information on past, current and future coal mining activity can be obtained from: [www.groundstability.com](http://www.groundstability.com)

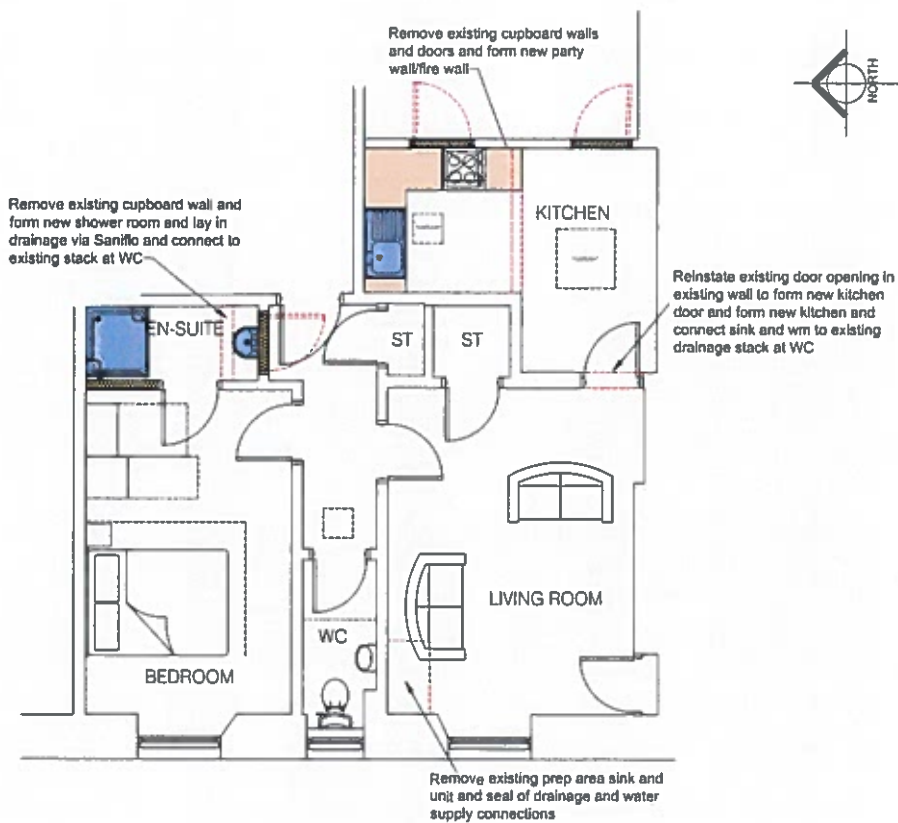
If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848. Further information is available on The Coal Authority website at: [www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

*This Informative Note is valid from 1<sup>st</sup> January 2015 until 31<sup>st</sup> December 2016*










<b>Notes</b> 1 Do not scale off the drawing 2 All dimensions to be checked on site prior to construction and manufacture and any discrepancies to be reported to Hardies LLP prior to ordering of materials and prior to carrying out any construction work 3 This drawing is copyright of Hardies LLP and must not be reproduced in whole or part without prior written permission. This drawing must not be used for construction purposes			
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rev	description	auth	date
London House 20-22 East London Road E1W 1AB Tel: 020 7 462 4444 Fax: 020 7 462 4444 Email: info@hardies.co.uk Website: www.hardies.co.uk			
<b>Hardies</b> PROJECT & CONSULTING SERVICES			
Sandra Ballantyne			
project Flat 4/3 and 4/5 Newmills Road Change of Use Application			
drawing title Flat 4/3 Proposed Plan			
status Planning			
date	scale	drawn by	checked by
28.08.15	1:100	MK	KD
job no	drawing no	revision	
E0206B -	05		

4/5 PROPOSED FLOOR PLAN





Notes			
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CONSTRUCTION (DESIGN AND MANAGEMENT) REGULATIONS 2015 The designs on this drawing are prepared with the consideration of the need to identify hazards and give regard to the hierarchy of risk control. This drawing is to be used in conjunction with project specific standard hazard and risk assessment, where relevant Works to be carried out in accordance with the Construction Phase Health & Safety plan prepared by the Principal Contractor			
ref	description	auth	date
<div><div><div><div><div></div><div>Hardies</div></div><div>PROPERTY &amp; CONSTRUCTION CONSULTANTS</div></div><div>Ground Floor London House 20-22 East London Street EC4A 3DF EN1 2DB Tel: 020 7461 1000 Fax: 020 7461 1001 Email: info@hardies.co.uk Website: www.hardies.co.uk</div></div><div><div>client</div><div>Sandra Ballantyne</div></div><div><div>project</div><div>Flat 4/3 and 4/5 Newmills Road Change of Use Application</div></div><div><div>drawing title</div><div>Flat 4/3 Proposed Plan</div></div><div><div>date</div><div>28.08.15</div></div><div><div>scale</div><div>1:100</div></div><div><div>checked by</div><div>MK KD</div></div><div><div>job no</div><div>E0206B - 04</div></div><div><div>drawing no</div><div>04</div></div><div><div>revision</div><div></div></div></div>			

