



APPENDIX A

 <p>Education, Economy & Communities Midlothian Council Fairfield House 8 Lothian Road Dalkeith EH22 3AA</p>	<p>Formation of car parking at Land Adjacent To 103 Lothian Street Bonnyrigg</p>
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Midlothian



Fairfield House 8 Lothian Road Dalkeith EH22 3ZN

Tel: 0131 271 3302

Fax: 0131 271 3537

Email: 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 000122736-001

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

Applicant or Agent Details

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

☐ Applicant ☒ Agent

Agent Details

Please enter Agent details

Company/Organisation:	D2 Architectural Design Ltd.
Ref. Number:	
First Name: *	David
Last Name: *	Logan
Telephone Number: *	01315615114
Extension Number:	
Mobile Number:	
Fax Number:	
Email Address: *	dlogan@d2architecturaldesign.co.uk

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

Building Name:	
Building Number:	9
Address 1 (Street): *	Eskbank Road
Address 2:	
Town/City: *	Dalkeith
Country: *	UK
Postcode: *	EH22 1HD

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

☐ Individual ☒ Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both:*	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name:	<input type="text" value="L"/>	Building Number:	<input type="text" value="72-74"/>
Last Name:	<input type="text" value="Pia"/>	Address 1 (Street): *	<input type="text" value="Lothian Street"/>
Company/Organisation: *	<input type="text" value="Gigi's Restaurant"/>	Address 2:	<input type="text"/>
Telephone Number:	<input type="text"/>	Town/City: *	<input type="text" value="Bonnyrigg"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="EH19 3AQ"/>
Fax Number:	<input type="text"/>		
Email Address:	<input type="text"/>		

Site Address Details

Planning Authority:	<input type="text" value="Midlothian Council"/>		
Full postal address of the site (including postcode where available):			
Address 1:	<input type="text"/>	Address 5:	<input type="text"/>
Address 2:	<input type="text"/>	Town/City/Settlement:	<input type="text"/>
Address 3:	<input type="text"/>	Post Code:	<input type="text"/>
Address 4:	<input type="text"/>		
Please identify/describe the location of the site or sites.			
<input type="text" value="Area of open landscaping on corner of Waverley Crescent and Lothian Street, Bonnyrigg"/>			
Northings	<input type="text" value="665510"/>	Easting	<input type="text" value="331239"/>

Description of the Proposal

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

(Max 500 characters)

To convert an area of land adjacent to Waverley Crescent in Dalkeith. This site is currently designated as 'green space' as per the local development plan, with an open paved area and sporadic shrub planting throughout. The proposals include provision for new parking areas pertaining to Gigi's Restaurant located at no. 74 Lothian Street, Bonnyrigg. The parking area will be screened by large planting areas to ensure the appearance of the site remains softened and 'green' in the public eye.

Type of Application

What type of application did you submit to the planning authority? *

- ☒ Application for planning permission (including householder application but excluding application to work minerals).
- ☐ Application for planning permission in principle.
- ☐ Further application.
- ☐ Application for approval of matters specified in conditions.

What does your review relate to? *

- ☒ Refusal Notice.
- ☐ Grant of permission with Conditions imposed.
- ☐ No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time of expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

Our client seeks a review based on the generic public support for the application which, the client feels should be considered. The proposal offers a resolution to a well-known local problem re: traffic, road safety, congestion and the client is keen to learn of the local councillor's opinion on the matter.

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

☐ Yes ☒ No

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

Design and Access statement
PP01
LP01
Visual

Application Details

Please provide details of the application and decision.

What is the application reference number? *

15/00222/DPP

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

18/03/15

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

29/04/15

Review Procedure

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

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

☒ Yes ☐ No

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: David Logan

Declaration Date: 09/06/2015

Submission Date: 09/06/2015

Midlothian Council
Strategic Services
Development Management
Fairfield House
8 Lothian Road
Dalkeith
Midlothian
EH22 3ZN

4 March 2015

Dear Sir/Madam

Proposed conversion of land adjacent to Waverley Crescent:
Gigi's Restaurant, Lothian Street, Bonnyrigg
Design and Access Statement

This application for full planning permission is to convert an area of land adjacent to Waverley Crescent in Dalkeith. This site is currently designated as 'green space' as per the local development plan, with an open paved area and sporadic shrub planting throughout. The proposals include provision for new parking areas pertaining to Gigi's Restaurant located at no. 74 Lothian Street, Bonnyrigg. The parking area will be screened by large planting areas to ensure the appearance of the site remains softened and 'green' in the public eye.

The area of the site in question is approximately 480sqM and is currently designated as green space for the town of Bonnyrigg. In reality my client and others have observed that the land is essentially a paved open area that is not used as anything other than a shortcut to avoid walking around the existing pavement. The bus stop that previously occupied an area of the site has now been removed. The area is often littered and has in the past been vandalised with graffiti as I understand.

It is anticipated that the parking area could potentially house a maximum of 13 spaces though this would require to be investigated further.

The proposal to purchase and convert the area of land is born from the lack of on-street parking near the restaurant. As such many of the local residents, customers of the restaurant and indeed the police have commented on the need for an off street parking area to ease congestion. In an effort to resolve these issues the client has investigated a number of potential options – arriving at these proposals as the optimum solution pending the procurement of the necessary agreements.

Having canvassed the local residents to ascertain the collective position; my client has been witness to almost universal positivity with regards to the proposals.

Having gleaned the above feedback my client then decided to obtain general feedback using social media which again was met with a significantly positive response from people in Midlothian and further afield.

Finally my client formed an online petition which received some 355 responses, again most of which fully supported the above proposals. I note a local councillor offered his input on the aforementioned petition which again seems to reflect my clients views that a parking area here would be hugely beneficial to everyone. –
<http://www.ipetitions.com/petition/parking-at-gigis-restaurant-bonnyrigg>

Pre-planning consultation has been carried out & though the feedback obtained during this process has been very useful, the proposals were not deemed as acceptable.

The client fully understands the need to retain recreational areas within the locale. Further to this my client believes that the area can be significantly improved as a result of the screening proposed whilst providing this critical service to an award winning, well established business whilst also benefiting the local residents as per the aforementioned census carried out. In short my client is confident the development will be of mutual benefit to all parties should it be deemed permissible.

My clients business is now well established in the locale and brings with it a lot of positive exposure to the area along with serving local customers, purchasing local produce and employing local staff. The business has significant potential to grow and diversify into other areas (take-away, bar, family area) though the lack of parking provision greatly prohibits this.

As a result my client is now forced to look a potentially relocating the business out-with the locale which would be to the detriment of the area based on the census obtained.

In light of the circumstances outlined above we hope that this application will be considered favourably.

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

Planning Application Reference: 15/00222/dpp

Site Address: Land adjacent to 103 Lothian Street, Bonnyrigg

Site Description:

The application site comprises an area of public open space comprising two large beds planted with shrubs and a central paved area located at the junction of Lothian Street with Waverley Crescent.

Proposed Development:

Formation of car parking

Proposed Development Details:

It is proposed to change the use of the area of open space to a car park in association with Gigis restaurant on the opposite side of Lothian Street. The submitted plan indicates 13 car parking spaces with vehicular access off Waverley Crescent. The plan indicates planting around the perimeter of the site although no details have been submitted.

An illustration submitted with the application also indicates a wall around the car park and the note attached to the petition organised by the applicants states that they would be willing to fit a barrier to restrict parking to visitors to the restaurant during opening hours.

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

History sheet checked.

The applicant's agent has submitted a statement in support of the application stating:

- The parking area will be screened by large planting areas to ensure the appearance of the site remains softened and green in the public eye.
- The area is essentially a paved area acting as a shortcut and is often littered and has been vandalised in the past.
- There is a lack of on-street parking near the restaurant and local residents, customers and the police have commented on the need for off street parking.
- The business is well established serving local customers, purchasing local produce and employing local staff and has potential to grow though the lack of parking prohibits this and they are now forced to look at potentially relocating outwith the locale to the detriment of the area.

A copy of an online petition has also been submitted in support of the application with 355 signatories (addresses not provided) including comments that it would ease congestion and parking in the area. Two signatories appear to object to the proposal.

An extract of a Facebook page has also been submitted with 96 "likes" (may include likes from the comments attached to the page) for the proposals and 44 (approx) comments (Excludes Gigis responses, repeat contributors and comments irrelevant to the proposals). Addresses are not provided although a few of the contributors state that they live in the Waverleys. Of the 44 comments submitted 29 appear to be in support of the car park and 6 against. It is not clear whether the 9 other comments are in favour or not.

The applicant and agent were both advised at pre-application stage that it was unlikely that an application for the proposals would be supported on the grounds detailed below.

Consultations:

Environmental Health – No objection/comment

Landscape Services – Object to the proposal on the grounds that it would have a negative impact on the visual amenity and a significant loss of attractive planting on the roadside frontage and that existing pedestrian open space would be lost which in addition is a busy school route.

Policy and Road Safety Manager – No objections. Conditions recommended in relation to dropped kerb footway crossing, inward opening gates, details of boundary wall, drainage, signage and any lighting to be submitted.

Estates – No comments provided.

Representations:

Seven letters of representation have been received in relation to the application from occupiers of properties in the neighbourhood (103 Lothian Street and nos 99, 101, 103, 105, 107 and 117 Waverley Crescent) objecting to the proposal on the following grounds:

- Information sent by applicant to neighbouring properties was misleading with regard to the condition of the site and the online petition is customer based rather than coming from local residents.
- The area of ground is an open public area/ a public asset serving the community and is well maintained by the Council and should not be sold off to maximise the profits of a private business.
- The site is in constant use by pedestrians including the elderly and school children. The removal of the area will put pedestrians at risk.
- Concerned regarding the loss of green and open space and that losing yet another area would be detrimental to the surrounding area and residents for little gain.
- It is not unusual when taking the car to other cities/towns to have to park at a distance from shops, cafes, restaurants.
- The restaurant is well served by public transport and there are public car parks 5 minutes walk away, and a good taxi service.
- Concern that if allowed a precedent would be set for other businesses to acquire public land.
- Concern regarding regulating the use of the car park and the future upkeep of the site should ownership change/the business fail - if allowed it should be a

community car park controlled by the Council for the good of the area not just the restaurant.

- A car park is likely to attract rubbish and create issues of noise, litter, light pollution from headlights and anti-social behaviour, and affect the privacy of neighbours.
- The online petition that is being signed by customers has no regard to local residents.
- Congestion in the area is as a result of the restaurant – customers would still park on Lothian Street rather on side streets which have plenty of space.
- Questionable whether there is enough space for planting to adequately screen the car park and as such there may be less than the 13 proposed spaces.
- Concern regarding highway safety with the car park close to a busy junction with the risk of accidents on Lothian Street or Waverley Crescent as a result of visitors waiting to turn in to the car park.
- Use of the property as a restaurant should not have been allowed without suitable parking facilities.
- Concern regarding types of trees to be planted and possible damage to neighbouring properties, impact on security to neighbouring properties and to users of the car park and light.
- The situation doesn't justify locals losing a public space to make way for a car park because visitors choose to drive there.
- Proposal would devalue surrounding property and make it harder to sell.

Relevant Planning Policies:

Scottish Planning Policy states at para 93 that the planning system should promote business and industrial development that increases economic activity while safeguarding and enhancing the natural and built environment as national assets.

Scottish Government Planning Advice Note (PAN) 65 Planning and Open Space (2008) recognises that open spaces contribute to the amenity and character of an area and can help soften the impact of development.

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.

RP30 - Open Space in Towns and Villages - development will not be permitted on open spaces where: they form a visually important part of the settlement or are an integral part of the layout of adjacent buildings; it would result in the loss of an attractive landscaped area; it would result in the loss of land important to informal recreation; or it would result in a material change in the character of the locality.

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. Damage to neighbouring properties is not a material consideration in the assessment of the application.

There does appear to be public support for the car park. However the petition and facebook extract do not include the addresses of the signatories so it is not clear whether the support is from local residents.

The Council's Policy and Road Safety Manager has not raised any objection to the proposal on road safety grounds.

There is very limited car parking associated with the restaurant with a small area to the side of the building and a lay-by in front. Planning permission was granted for the change of use of the premise from a public house to a restaurant in 2010. As part of the assessment of the application it was considered that the proposed change of use would not result in any significant change in the parking or servicing requirements of the premise. Also the owners would have been aware of the situation when they took over the premises.

There are two bus stops very close to the restaurant with 7 buses an hour in each direction Mon-Sat during the day and 3 buses an hour in each direction in the evening and on Sundays. There is unrestricted on-street parking in the surrounding area albeit the concerns regarding congestion/indiscriminate parking in the area are acknowledged. There are two Council run free public car parks in the town centre approximately 500m away from the restaurant with a total of 70 spaces (information from Council' website).

The approach in to Bonnyrigg along Eskbank Road up to this part of Lothian Street is characterised by planting and open space along the road with the houses set back behind serving as an attractive approach in to Bonnyrigg from this direction. Along with the open space on the opposite side of the road the planting and open space at the application site forms an attractive entrance in to Waverley Crescent.

The affected area of open space is of particular value in that it adds interest and enhances the appearance of the surrounding area providing an amenity for both residents and passersby. Despite the intention to screen the car park the loss of this open space to a car park would detract from this and the open character of the area.

The proposal would result in the loss of an attractive area of landscaped open space which is visually important on this main road in to the centre of Bonnyrigg with a significant detrimental impact on the visual amenity of the surrounding area, contrary to local plan policy.

The lack of off street parking does not appear to affect the operation of the current business to a significant degree borne out by the comments by the applicant's agent that it is well established. It is not unusual that town centre uses do not have dedicated parking. The site is well served by public transport. The case put forward by the applicant does not justify the permanent loss of this area of open space.

Also there is potential for noise disturbance to neighbouring residential properties albeit this is difficult to assess as compared to the existing situation.

The impact on property value and saleability is not a material planning consideration in the assessment of the planning application.

Recommendation:

Refuse planning permission.

Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

Reg. No. 15/00222/DPP

D2 Architectural Design Ltd.
9 Eskbank Road
Dalkeith
EH22 1HD

Midlothian Council, as Planning Authority, having considered the application by Mr L Pia, 74 Lothian Street, Bonnyrigg, EH19 3AQ, which was registered on 18 March 2015 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

Formation of car parking at Land Adjacent To 103 Lothian Street, Bonnyrigg,

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	18.03.2015
Site Plan	1:500	18.03.2015
Illustration/Photograph		18.03.2015

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

The proposal would result in the loss of an attractive area of landscaped open space which is visually important on this main road in to the centre of Bonnyrigg with a significant detrimental impact on the visual amenity of the surrounding area, contrary to policies RP20 and RP30 of the adopted Midlothian Local Plan which seek to protect the character and amenity of the built-up area and protect important areas of open space in towns and villages.

Dated 29 / 4 / 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

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

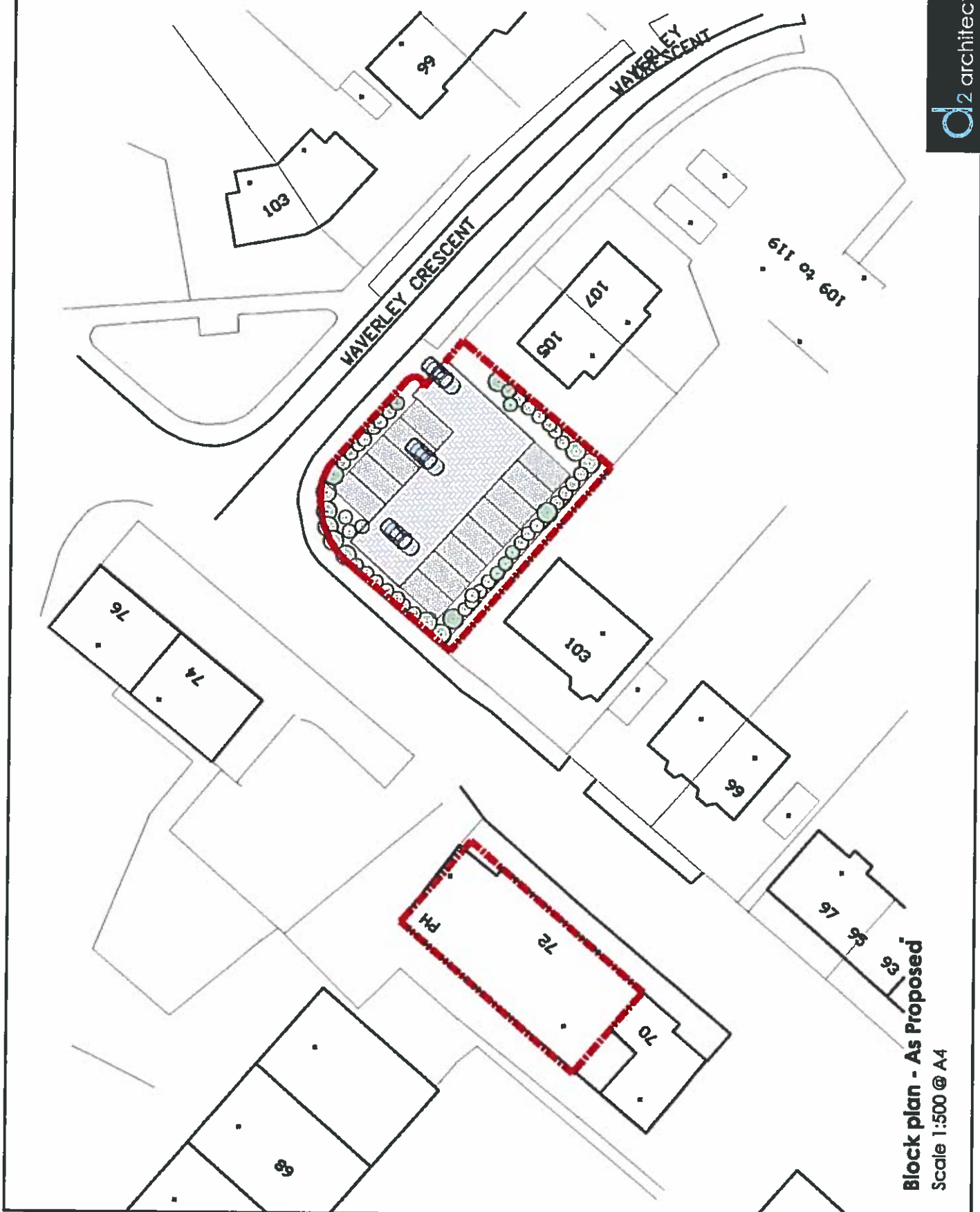

If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848. Further information is available on The Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority

This Informative Note is valid from 1st January 2015 until 31st December 2016

PLEASE NOTE

If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town & Country Planning (Scotland) Act 1997 within 3 months from the date of this notice. The notice of review should

Site Boundary



Block plan - As Proposed
Scale 1:500 @ A4