

Notice of Meeting and Agenda



Planning Committee

Venue: Council Chambers/Hybrid,
Midlothian House, Dalkeith, EH22 1DN

Date: Tuesday, 23 January 2024

Time: 13:00

Executive Director : Place

Contact:

Clerk Name: Democratic Services
Clerk Telephone:
Clerk Email: democratic.services@midlothian.gov.uk

Further Information:

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1 Welcome, Introductions and Apologies

2 Order of Business

Including notice of new business submitted as urgent for consideration at the end of the meeting.

3 Declaration of Interest

Members should declare any financial and non-financial interests they have in the items of business for consideration, identifying the relevant agenda item and the nature of their interest.

4 Minute of Previous Meeting

4.1 Minute of 28 November 2023 submitted for approval 5 - 14

4.2 Action Log 15 - 16

5 Public Reports

5.1 MLDP Engagement – Local Place Plans Update 17 - 34

5.2 Issuing of TPO at land adjacent to Meyerling and land at Little Moss and Nether Moss, Howgate, Penicuik 35 - 48

5.3 Non-compliance with a Listed Building Enforcement Notice related to installation of 16 uPVC windows issued in relation to 130 High Street, Dalkeith 49 - 64

5.4 Non-compliance with a Listed Building Enforcement Notice related to erection of fascia sign issued in relation to 41 High Street, Dalkeith 65 - 78

5.5 23/00694/PPP – Application for planning permission in principle for residential development (indicative 78 units) and associated works at the Scotts Touring Caravans site, land north of Mayfield Industrial Estate, Mayfield, Dalkeith 79 - 102

5.6 23/00674/LBC and 23/00675/DPP – Installation of solar panels on Newtongrange Parish Church, Main Street, Newtongrange (called in by Cllr Bowen) 103 - 122

6 Private Reports

No items for discussion

7 Date of Next Meeting

The next meeting will be held on Tuesday 12 March at 1.00pm.

Minute of Meeting

Planning Committee
Tuesday 23 January 2024
Item No 4.1



Planning Committee

Date	Time	Venue
Tuesday, 28 November 2023	13:00	Council Chambers, Midlothian House/Hybrid

Present:

Councillor Alexander	Councillor McManus
Councillor Bowen	Councillor Milligan
Councillor Cassidy	Councillor Parry
Councillor Curran	Councillor Pottinger
Councillor Drummond (Attended virtually)	Councillor Russell
Councillor Imrie (Chair)	Councillor Scott
Councillor McCall (Attended virtually)	Councillor Small
Councillor McEwan (Attended virtually)	Councillor Virgo
Councillor McKenzie	Councillor Winchester

In Attendance:

Kevin Anderson	Executive Director Place (Attended virtually)
Derek Oliver	Chief Officer Place
Peter Arnsdorf	Planning, Sustainable Growth and Investment Manager
William Venters	Principal Solicitor
Morag Barrow	Director of Health & Social Care: Midlothian HSCP / Chief Officer to Midlothian IJB (Attended virtually)
Lucy Roddie	Democratic Services Officer
Gary Leadbetter	Democratic Services Officer

1. Apologies

No apologies for absence were received.

2. Order of Business

The order of business was as set out in the Agenda.

3. Declarations of interest

Councillor McManus made a declaration of transparency in relation to Item 5.4. Councillor McManus reported that he had previously sat on the Newbattle Abbey College board. The land in question within the Eskbank and Ironmills Conservation Area is adjacent to Newbattle Abbey College.

Councillor Cassidy declared an interest in Item 5.4 and would leave the meeting during the discussion.

Councillor Scott declared an interest in Item 5.6 and would leave the meeting during the discussion.

4. Minutes of Previous Meetings

The minute of the meeting of 31 October 2023 was submitted for approval.

In relation to the discussion that took place around Item 5.6, Councillor McCall asked how access to the care home amenities would be safeguarded for the general public. In response, Peter Arnsdorf, Planning, Sustainable Growth and Investment Manager, reported that the Planning Committee had granted planning permission subject to the addition of a condition which would safeguard access to care home amenities for local residents.

Councillor Smail sought confirmation that once the Local Development Plan is approved by the Council, Councillors may not speak against it or have any further dialogue with community councils and others. In response, Peter Arnsdorf provided further information on the Local Development Plan process and noted that once the Council have adopted the Local Development Plan, this constitutes the Council's formal strategy. After adoption, Elected Members are still permitted to discuss the Local Development Plan with all parties.

In relation to the discussion that took place on Item 5.6, Councillor McKenzie clarified that the waste services he was referring to related to the retail units. The minute will be amended for accuracy.

The minute of the meeting of 31 October 2023 was approved subject to the amendment as noted above. Moved by Councillor Pottinger, seconded by Councillor Virgo.

5. Reports

Agenda No	Report Title	Submitted by:
5.1	MLDP2 Engagement - Position Update	Chief Officer Place
Outline of Report and Summary of Discussion		
<p>Peter Arnsdorf, Planning, Sustainable Growth and Investment Manager, introduced the report. The purpose of the report is to present a summary of the evidence collated (to date) in response to the Midlothian Local Development Plan 2 (MLDP2) engagement programme, which has been ongoing since the launch of the local development plan review in February 2023. In addition, the Committee is requested to start considering an indicative Local Housing Land Requirement (LHLR).</p> <p>It is recommended that the Committee notes:</p> <ul style="list-style-type: none">a) the evidence collated to date in response to the Midlothian Local Development Plan 2 engagement programme; andb) the issues set out with regard the indicative Local Housing Land Requirement (LHLR). <p>Councillor Imrie, the Chair, thanked Mr Arnsdorf for the report and opened it up to questions.</p> <p>Discussion took place around affordable housing provision, with Peter Arnsdorf providing further information in relation to the requirements of the Local Development Plan. An allocation of 25% affordable housing is currently required, but NPF4 will enable a higher percentage of development to be allocated to affordable housing provision. Councillor Alexander raised concerns around the length of the housing waiting list and suggested the percentage allocation should be significantly higher.</p> <p>Discussion took place around the format of affordable housing. It was noted that much of the provision is in the form of one or two bedroom flats and it was suggested that a range of property sizes should be offered. In response, Peter Arnsdorf commented that provision reflects demand and assured the Committee that housing waiting lists are reviewed to ensure need is met.</p> <p>Discussion took place around the definition of affordable housing with the Committee noting that a further conversation regarding affordable housing requirements would be useful. Peter Arnsdorf commented that the definition of affordable housing is set out in NPF4.</p> <p>Discussion took place around the requirement for development to be adequately supported by infrastructure. Some discussion took place around growth emanating from Edinburgh. It was suggested that the Midlothian Council should work in collaboration with City of Edinburgh Council to ensure growth was adequately supported.</p>		
Decision		

The Planning Committee agreed to note the evidence collated to date in response to the Midlothian Local Development Plan 2 engagement programme, and the issues set out with regard the indicative Local Housing Land Requirement (LHLR).

Action

All

Agenda No	Report Title	Submitted by:
5.2	Planning Performance Framework Annual Report 2022/23	Chief Officer Place
Outline of Report and Summary of Discussion		
<p>Peter Arnsdorf, Planning, Sustainable Growth and Investment Manager, introduced the report. The report provides an update on the progress of work undertaken on the Planning Performance Framework (PPF) for Midlothian. Specifically, it provides feedback from Scottish Government on the Council's submitted PPF for 2022/23.</p> <p>It is recommended that the Committee notes the feedback from Scottish Government on the Council's submitted PPF for 2022/23.</p> <p>The Chair thanked Mr Arnsdorf for the report and opened it up to questions. No questions were received or comments made.</p>		
Decision		
The Planning Committee noted the feedback from Scottish Government on the Council's submitted Planning Performance Framework (PPF) for 2022/23.		
Action		
All		

Agenda No	Report Title	Submitted by:
5.3	Listed Building Enforcement Appeal Decision regarding installation of signage, vinyl graphics and change of colour at 118 High Street, Dalkeith (USA Nails)	Chief Officer Place
Outline of Report and Summary of Discussion		
<p>Peter Arnsdorf, Planning, Sustainable Growth and Investment Manager, introduced the report. The purpose of the report is to advise the Committee of a listed building enforcement notice appeal decision with regard the installation of signage, vinyl graphics and change of colour of shop frontage at 118 High Street, Dalkeith (USA Nails).</p>		

It is recommended that the Committee notes the enforcement notice appeal decision with regard the installation of signage, vinyl graphics and change of colour of shop frontage at 118 High Street, Dalkeith (USA Nails).

The Chair thanked Mr Arnsdorf for the report and opened it up to questions. No questions were received or comments made.

Decision

The Planning Committee noted the enforcement notice appeal decision with regard the installation of signage, vinyl graphics and change of colour of shop frontage at 118 High Street, Dalkeith (USA Nails).

Action

The Planning, Sustainable Growth and Investment Manager

Agenda No	Report Title	Submitted by:
5.4	Wilful destruction of trees within the Eskbank and Ironmills Conservation Area and the non-compliance with a Planning Contravention Notice issued in relation to land adjacent to Old Golf House, Eskbank, Dalkeith	Chief Officer Place

Outline of Report and Summary of Discussion

Given their declaration of interest, Councillor Cassidy left the Planning Committee meeting for this Item.

At this point, Councillor Pottinger made a declaration of interest and left the Planning Committee for this Item.

Peter Arnsdorf, Planning, Sustainable Growth and Investment Manager, introduced the report. The report relates to the wilful destruction of trees within the Eskbank and Ironmills Conservation Area and the non-compliance with a planning contravention notice issued in relation to land adjacent to Old Golf House, Eskbank, Dalkeith.

It is recommended that the Planning Committee determine to instruct the Planning, Sustainable Growth and Investment Manager (or an alternatively appropriately appointed officer) to refer the case to the Crown Office and Procurator Fiscal Service for consideration of prosecutorial action pursuant to Sections 126 and 172 of the Town and Country Planning (Scotland) Act 1997 as amended.

The Chair thanked Mr Arnsdorf for the report and opened it up to questions.

Councillor Parry stated that she fully supported appropriate action being taken and asked if it would be possible to re-plant the felled trees. Mr Arnsdorf reported that the Council can issue a re-planting notice, once a dispute regarding the ownership of land is resolved.

Councillor Bowen noted there were lengthy delays to prosecutorial action and asked if this case could be expedited. In response, Derek Oliver Chief Officer Place, commented that this would be at the discretion of the Crown Office and Procurator Fiscal Service.

Moved by Councillor Virgo. Seconded by Councillor Parry.

Decision

The Planning Committee instructed the Planning, Sustainable Growth and Investment Manager (or an alternatively appropriately appointed officer) to refer the case to the Crown Office and Procurator Fiscal Service for consideration of prosecutorial action pursuant to Sections 126 and 172 of the Town and Country Planning (Scotland) Act 1997 as amended.

Action

The Planning, Sustainable Growth and Investment Manager

Councillor Cassidy and Councillor Pottinger re-entered the Chamber at 13.43.

Agenda No	Report Title	Submitted by:
5.5	23/00657/PAC – Pre-application consultation regarding remediation works to proposed education campus: including site remediation, formation of hardstanding, site platforming and provision of site access, utilities/services and drainage at the site of the former Monktonhall Colliery, Newton Village, Dalkeith	Chief Officer Place

Outline of Report and Summary of Discussion

Peter Arnsdorf, Planning, Sustainable Growth and Investment Manager, introduced the report. The purpose of the report is to advise the Committee of the submission of a Proposal of Application Notice (PAN) and corresponding pre application consultation for remediation works to the proposed education campus: including site remediation, formation of hardstanding, site platforming and provision of site access, utilities/services and drainage. The land comprises part of the former Monktonhall Colliery, Newton Village, which is located within the Shawfair new settlement area.

It is recommended that the Committee notes:

- a) the provisional planning position set out in the report;
- b) that any comments made by Members will form part of the minute of the Committee meeting; and
- c) that the expression of a provisional view does not fetter the Committee in its consideration of any subsequent formal planning application.

The Chair thanked Mr Arnsdorf for the report and opened it up to questions.

Councillor Curran reported that a local constituent had raised a concern regarding the proximity of the proposed education campus to a recycling plant. Mr Arnsdorf provided reassurances that the site would be thoroughly assessed for suitability as part of the detailed planning application.

Councillor Curran raised safety concerns in relation to the requirement to cross the A6106 road to reach the campus. Mr Arnsdorf provided reassurances that safe routes to school would be considered as part of the detailed planning application.

Councillor Virgo noted that a decision had not yet been made with regards to the capital commitment to Shawfair High School and was therefore reluctant to make a decision at this stage. In response, Mr Arnsdorf noted that this was a pre-application only, and the Committee's view would not fetter consideration of any subsequent formal planning application.

In response to a question from Councillor Scott, Peter Arnsdorf confirmed that condition 26 of planning permission 17/00650/S42 had been carried forward.

Decision

The Planning Committee noted:

- a) the provisional planning position set out in the report;
- b) that any comments made by Members will form part of the minute of the Committee meeting; and
- c) that the expression of a provisional view does not fetter the Committee in its consideration of any subsequent formal planning application.

Action

The Planning, Sustainable Growth and Investment Manager

Agenda No	Report Title	Submitted by:
5.6	23/00662/PAC – Pre-application consultation regarding extension to existing quarry; retention of processing plant; installation of ancillary equipment and associated works at Temple Quarry, Gorebridge	Chief Officer Place

Outline of Report and Summary of Discussion

Given their declaration of interest Councillor Scott left the Planning Committee meeting for this Item.

At this point, Councillor Smail made a declaration of interest and left the Planning Committee for this Item.

Peter Arnsdorf, Planning, Sustainable Growth and Investment Manager, introduced the report. The purpose of the report is to advise the Committee of the submission of

a Proposal of Application Notice (PAN) and corresponding pre-application consultation for an extension to an existing quarry; retention of processing plant; installation of ancillary equipment and associated works at Temple Quarry, Gorebridge.

It is recommended that the Committee notes:

- a) the provisional planning position set out in the report;
- b) that any comments made by Members will form part of the minute of the Committee meeting; and
- c) that the expression of a provisional view does not fetter the Committee in its consideration of any subsequent formal planning application.

The Chair thanked Mr Arnsdorf for the report and opened it up to questions. No questions were received or comments made.

Decision

The Committee noted:

- a) the provisional planning position set out in the report;
- b) that any comments made by Members will form part of the minute of the Committee meeting; and
- c) that the expression of a provisional view does not fetter the Committee in its consideration of any subsequent formal planning application.

Action

The Planning, Sustainable Growth and Investment Manager

Councillor Small and Councillor Scott re-entered the Chamber at 13.55.

Agenda No	Report Title	Submitted by:
5.7	23/00532/S42 – Amendment to phasing regarding the redevelopment of the Midlothian Snowsports Centre to enable construction on site whilst the access is being constructed	Chief Officer Place

Outline of Report and Summary of Discussion

Peter Arnsdorf, Planning, Sustainable Growth and Investment Manager, introduced the report. The report is a Section 42 application (23/00532/S42) to amend Condition 11 (phasing of construction works relative to site access enabling works) imposed on a grant of Planning Permission (19/01018/PPP) for the redevelopment of existing Snowsports centre to include additional leisure facilities, hotel, function suite, ancillary retail and restaurant uses, formation of access road and car parking at Midlothian Snowsports Centre, Biggar Road, Hillend, to enable onsite work on the enhanced leisure and commercial facilities to commence in advance of the new access arrangements and car park being completed.

It is recommended that planning permission is granted subject to the conditions as set out in the report.

The Chair thanked Mr Arnsdorf for the report and opened it up to questions.

Councillor Virgo commented that, while he supported the commercial advantages of certain aspects of the development, part of the proposed development was still up for discussion as part of the ongoing Capital Plan Prioritisation work, and he was therefore unwilling to endorse the proposed amendment to Condition 11 at this stage. Councillor Virgo further commented that the costs of the development had not yet been determined.

The Chair stated that the amendment to Condition 11 was required to enable works to begin on the access road and that necessary approvals for the development had already been secured. Councillor Virgo stated that this was not his understanding.

Councillor Smaill noted that the temporary traffic lights would now be required to remain in place for a longer period at additional cost. Councillor Smaill commented that no assurances had been provided that the development will reach completion. Councillor Smaill stated he was unwilling to endorse the proposed amendment to Condition 11.

Councillor Cassidy noted the importance of making a decision in order to progress the work, given the potential for the project to overrun.

Councillor Cassidy, seconded by Councillor Imrie, moved to grant planning permission subject to the conditions as set out in the report.

Councillor Virgo, seconded by Councillor Smaill, moved to reject the application for planning permission.

On a vote being taken, 3 members of the Committee voted against granting planning permission being granted. 15 members of the Committee voted in favour of granting planning permission. This then became the decision of the Committee.

Decision

The Committee granted planning permission subject to the conditions as set out in the report.

Action

The Planning, Sustainable Growth and Investment Manager

6. Private Reports

No items for discussion

7. Date of Next Meeting

The next meeting will be held on Tuesday 23 January 2024 at 1:00pm.

The meeting terminated at 14:14.



Action Log

No	Subject	Date	Action	Action Owner	Expected completion date	Comments
1.	Motion - Old Craighall Road	10/10/2023	Report on protocols when dealing with road closures around new developments be presented to a future Planning Committee	Executive Director Place	TBC	



MIDLOTHIAN LOCAL DEVELOPMENT PLAN 2 - UPDATE ON LOCAL PLACE PLANS

Report by Chief Officer Place

1 PURPOSE OF REPORT

- 1.1 The purpose of this report is to update elected Members on the production of Local Place Plans (LPPs) by Midlothian community groups. The Committee is requested to note the list of Midlothian community bodies who have submitted draft LPPs to the Council, and the summaries of the plans provided in Appendix A of this report. Committee is also asked to note the intention to bring finalised local place plans to the 30 April 2024 Committee for consideration for validation and registration by the Council.

2 BACKGROUND

- 2.1 At its meeting of 28 February 2023 the Committee authorised invitations to be issued to Midlothian's local community groups to prepare LPPs which would help inform production of the Midlothian Local Development Plan 2 (MLDP2). Invitations were then subsequently sent on 9 March 2023 (and followed up with correspondence on 26 May, 8 August, and 23 November 2023) to Midlothian Community Councils, Midlothian Community Development Trusts and Midlothian Faith Groups. This invitation was issued in accordance section 15 A(a) of the Town and Country Planning (Scotland) Act 1997, as modified by the Planning (Scotland) Act 2019.
- 2.2 Community bodies can develop LPPs. This means either:
- A Community Council, established in accordance with Part 4 of the Local Government (Scotland) Act 1973; or
 - A community-controlled body, as defined by Section 19 of the Community Empowerment (Scotland) Act 2015.
- 2.3 The MLDP2 report to the Committee at its meeting of 31 October 2023 set out a timetable for reporting back to Committee on LPPs. This included reporting on draft LPPs to the 23 January 2024 Committee and on consideration of finalised LPPs at the April 2024 Committee.

Role and Purpose of Local Place Plans (LPPs)

- 2.4 The 28 February 2023 Committee report provided more details of the role and purpose of LPPs, however in summary:
- LPPs are documents to be produced by a community body setting out their ambitions for the development and use of land in their communities;
 - While LPPs must take account of National Planning Framework 4 (NPF4) and the Midlothian Local Development Plan 2017 (as the existing adopted local development plan) during preparation, they are also an opportunity for community groups to formally express their aspirations for their local areas;
 - LPPs can therefore include aspirations on land, buildings, the environment (built, physical and natural), facilities, footpath, cycle and road connections and public transport; and
 - LPPs can also include information on what is valued in a community.
- 2.5 Annex B of the May 2023 Scottish Government local development planning guidance sets out “a local place plan (LPP) is a proposal by a community body about the development and use of land. LPPs aim to improve people’s engagement and involvement in the planning system. They are a way for communities to achieve change in their local area by proactively feeding into development planning. They are a way for local communities to think about how to make their place better, agree priorities, and take action (often working with others) to make change happen.”
- 2.6 The Council will need to consider if it verifies and registers LPPs. The ambition is that this process will be undertaken at the 30 April 2024 meeting of the Committee. This purpose of this report is to highlight the content of received draft LPPs and set out the next steps. Section 4 of this report provides an overview of the verification and registration process of LPPs. This will be set out in more detail in the report to the Committee meeting of 30 April 2024. Where LPPs are verified and registered by the Council, the Council must demonstrably consider and take the LPP into account when preparing MLDP2.

Summary of Support Provided by the Council to Community Groups

- 2.7 Council officers have supported groups in the production of LPPs in the following ways:
- Providing an information pack to assist preparing a LPP;
 - Having a designated LPP page on the Council’s website with information and a detailed FAQ section – including on legislative matters, map production and matters to consider in producing a LPP;
 - Having a designated LPP email address for the Council;
 - Emails issued to those invited to prepare a LPP on matters related to LPP preparation (including LPP templates, map production guides, information on events and surveys, MLDP2 engagement events and examples of LPPs in other parts of Scotland and information on validation of LPPs);

- Having a designated planning officer to deal with queries and to provide support on questions;
- Providing guidance and assistance on map preparation for LPPs;
- Officers attending an in person LPP information session for the Midlothian Federation of Community Councils on Saturday 25 March 2023, shortly after invitations to prepare LPPs had been issued on 9 March 2023;
- Officers attended meetings of the Midlothian Federation of Community Councils on 21 June 2023 and 20 December 2023; and
- Officers have met with individual Community Councils preparing LPPs.

2.8 Throughout this process Council officers have reaffirmed to community groups that lengthy or “hi-tech” LPPs are not necessary. Officers have stated that “low-tech” short documents, prepared in accordance with legislative requirements, are equally valid and useful.

Timescales for preparing Local Place Plans (LPPs)

- 2.9 A date of 31 October 2023 for submitting LPPs to the Council was set out in the 9 March 2023 invitation to community bodies. From engagement with those community bodies expressing an interest in preparing a LPP, it became apparent this timescale for completion was unachievable for the community groups. Council officers informed community bodies of a revised programme of submitting a *draft* to the Council by 31 October 2023 and a final LPP to the Council by 31 March 2024 – a number of communities are still working on their draft LPP.
- 2.10 The Council revised the dates to allow for receipt of draft LPPs to inform the production of the MLDP2 Evidence Reports, but also to have final LPPs available for validation and registration checks prior to the completion of Scottish Government Division of Planning and Environmental Appeals (DPEA) “Gate Check” of MLDP2 Evidence Reports in spring 2024. This approach has been discussed with the DPEA and was considered acceptable. This timetable means that LPPs can go through a validation and registration process check prior to commencement of work on the MLDP2 Proposed Plan.

3 RECEIVED AND DRAFT LOCAL PLACE PLANS IN PREPARATION

- 3.1 The Council has received draft LPPs from the seven community bodies listed in Table 1 of this report. Table 1 also sets out the three bodies from whom the Council has received indication of an intent to produce a LPP. Only Midlothian Community Councils are preparing or have expressed interest in preparing a LPP. Table 1 shows that 10 of Midlothian’s 15 Community Councils have a desire to produce a LPP.

Table 1: Community Bodies Preparing Local Place Plans (LPPs)

Draft LPP received from the following Community Bodies
1. Damhead and District Community Council
2. Eskbank and Newbattle Community Council
3. Gorebridge Community Council
4. Mayfield and Easthouses Community Council
5. Newtongrange Community Council
6. Rosewell and District Community Council
7. Roslin and Bilston Community Council
Community Bodies Indicating Intention to prepare a LPP – but have not submitted a Draft LPP
8. Bonnyrigg and District Community Council
9. Moorfoot Community Council
10. Tynewater Community Council

3.2 Appendix A of this report (Summary of Received Draft Local Place Plans (LPPs)) provides a summary of each of the seven draft LPPs received by the Council. The summaries provide details of the approach to preparing the draft LPPs and summaries of the emerging issues in the draft LPPs.

4 NEXT STEPS FOR LOCAL PLACE PLANS

4.1 Where appropriate Council officers are giving guidance to community bodies on preparing draft LPPs, and also on the legislative requirements that need to be met for LPPs to be successfully validated and registered by the Council. The Council is clear these are community plans and have not been guiding or influencing their content.

4.2 Community bodies preparing LPPs will need to make them available for public comment for a minimum period of 28 days (Local Place Plan Regulations regulation 4(3)). It is expected that this will be done on finalised LPPs between December and March 2024. This will allow for them to be reported to the 30 April 2024 Committee for consideration for verification and registration.

Verification and Registration of Finalised Local Place Plans (LPPs)

4.3 Finalised LPPs are expected to be put before the 30 April 2024 Committee for consideration for verification and registration by the

Council. The officer report to that Committee will set out the checks that have been made on finalised LPPs to ensure they meet the necessary regulations. The report will contain a recommendation to elected members on whether an individual LPP should be verified and registered by the Council. Annex B of the May 2023 Scottish Government local development planning guidance sets out that valid LPPs are those which comply with sections 1(4) and 2(1) of schedule 19, and regulation 5 of the Local Place Plan Regulations regulation 5, schedule 19.

- 4.4 As set out in Section 2 of this report LPPs registered by the Council must demonstrably be considered and taken into account when preparing MLDP2. This will mean taking registered LPPs into account in preparation of MLDP2 Proposed Plan.
- 4.5 The Council will be required to keep a register of validated and registered LPPs, and to produce a plan showing which parts of Midlothian relate to specific LPPs.

5 RECOMMENDATIONS

- 5.1 It is recommended that the Committee notes the contents of the report, in particular:
- i) the list of Midlothian community bodies who have submitted draft local place plans to the Council, and the summaries of the plans provided in Appendix A of this report; and
 - ii) the intention to bring finalised local place plans to the 30 April 2024 Committee for consideration for validation and registration by the Council.

Peter Arnsdorf
Planning, Sustainable Growth and Investment Manager

Date: 12 January 2022
Contact Person: Grant Ballantine, Lead Officer Conservation and Environment
grant.ballantine@midlothian.gov.uk
Appendix A: Summary of Received Draft Local Place Plans
Background Papers: Reports on MLDP2 to Planning Committee of 28 February 2023, 16 May 2023, 31 October 2023 and 28 November 2023.

Report to 23 January 2024 Planning Committee:

Midlothian Local Development Plan 2 – Update on Local Place Plans

Summary of Received Draft Local Place Plans (LPPs)

Received Draft Local Place Plans	Page Number of Appendix A
Damhead and District Community Council	Pages 2-3
Eskbank and Newbattle Community Council	Pages 4-5
Gorebridge Community Council	Page 6
Mayfield and Easthouses Community Council	Pages 7-8
Newtongrange Community Council	Pages 9-10
Rosewell and District Community Council	Page 11
Roslin and Bilston Community Council	Page 12

Damhead and District Local Place Plan (Draft) (2023)

Location: Damhead and District Community Council area

Engagement: Surveys, community events, drop-in sessions and meetings undertaken relating to National Planning Framework 4, Climate Action Plan, Neighbourhood Plan, and LPP proposals.

Priorities: The Draft LPP provides a prioritised list of proposals. The highest rated priorities are:

- Reject the A701 relief road.
- Safeguard the Green Belt.
- Develop an integrated network of paths for walkers, cyclists, and horse riders.
- Improve the safety of the triple junction and the junction of Bush Loan and A702.
- Protect existing wildlife and promote biodiversity.

Further priorities and proposals are:

- Maintain the rural aspect of the area, its open spaces and good agricultural land.
- Encourage local food production.
- Ensure adequate sustainable drainage.
- Address 20mph and 40mph speed limits.
- Improve infrastructure and services, especially doctors and dental practices.
- Create better paths around SRUC fields.
- Improve pavements.
- Increase green wildlife-friendly areas and link them to create corridors.

Additional proposals, which are considered by the Draft LPP are:

- Promote a safe environment through a safe efficient public transport system.
- Separate paths from vehicular traffic.
- Build new houses only where justified.
- Develop a more extensive green network.
- Promote the area as a green gateway to Midlothian and the Pentland Hills.
- Improve the drainage of roads.
- Include community facilities at the new secondary school.
- Improve the integration of social housing.

Proposals Map: The Draft LPP includes a proposals map, which shows location specific suggestions. These include:

- Woodland – restoration and expansion of native woodland.
- Rural land use – agriculture, livestock, or native tree cover restoration.
- Protect local businesses.
- Road safety – improve safety and traffic flows at key junctions.
- Speed limit (40mph) – extend to 40mph on specific roads and reduce to 30mph or 40mph on other specific roads.

- Cycle routes and path network – proposed new active travel routes. Ensure adequate path maintenance and continued access on existing path network. Complete links in the path network.

Eskbank and Newbattle Local Place Plan (Draft) (2023)

Location: Eskbank and Newbattle Community Council area

Engagement: Questionnaire based on 14 themes in the Place Standard tool (online) with provision for comments. The Place Standard tool identified the following ratings per topic:

Order	Place Standard Topic	Rating
1	Natural space	5.9
2	Play and recreation	5.6
3	Public transport	5.1
4	Feeling safe	5.1
5	Facilities and services	4.8
6	Moving around	4.7
7	Work and local economy	4.6
8	Streets and spaces	4.4
9	Social interaction	4.4
10	Housing and community	4.3
11	Identity and belonging	4.1
12	Care and maintenance	4.1
13	Traffic and parking	4.0
14	Influence and sense of control	3.1

Proposals: Using analysis of the local area and the Place Standard results, opportunities are noted in the Draft LPP. A summary of these is noted below.

Natural Space –

- Green spaces must continue to be protected against encroachment by development.
- North Esk River valley – the scenic impact either side of the B6392, Melville Road / Gilmerton Road at Elginhaugh is important to residents, and no development should be allowed here.
- Protect trees on the north side of Melville Gate Road to screen planned development at Sheriffhall, southeast of Gilmerton Road.
- Consider future protection of green space around Hardengreen and off Dalhousie Road (B6392) as it approaches the A7 road.
- Preservation of Smeaton Line railway cutting within Eskbank.
- Consideration of routes over and under the Borders railway line and impact on biodiversity.

Public transport / Moving around / Traffic and parking –

- Need for safe pedestrian crossings and provision of pavements to improve access to bus stops (at A7 and B703 roads) and Eskbank railway station.

- Improve active travel route between Eskbank railway station and Eskbank.
- Restore bus services (Lothian Buses service 49).
- Improve local bus routes and connections to Eskbank railway station.
- Physical measures may be required to address traffic speed around Eskbank Toll roundabout.
- Improve the safety of pedestrian route from supermarket car park and Hardengreen Lane to Eskbank railway bridge and station.

Sense of place –

- Create social space and focal point for Eskbank and Newbattle.
- Newbattle Abbey Business Park area could be redeveloped through a community and sports hub.

Gorebridge Local Place Plan (Draft) (2023)

Location: Gorebridge Community Council area (and parts of Moorfoot Community Council area).

Engagement: Comments and voting preference received on range of themes and priorities.

Proposals: The Draft LPP provides a prioritised list of proposals under the themes of movement, spaces, resources, civic and stewardship. The highest rated priorities are:

- A new high school for Gorebridge.
- A local affordable supermarket.
- A sports complex including swimming pool and all-weather pitches, gym, etc.
- Affordable events/ activities for all age groups, abilities, and cultures.
- Access to full range of health services for all.

Proposals Map: The Draft LPP lists a full range of community initiatives under the NPF4 themes of sustainable places, liveable places, and productive places. A Proposals Map in the Final LPP will highlight the location of key initiatives.

Mayfield and Easthouses Local Place Plan (Draft) (2023)

Location: Mayfield and Easthouses Community Council area

Engagement: Public survey questionnaire undertaken, utilising the Place Standard tool to gauge the views of the local community through. The engagement gathered a range of comments and identified the following ratings per Place Standard topic:

Order	Place Standard Topic	Rating
1	Moving around	4.98
2	Public transport	3.91
3	Traffic and parking	3.72
4	Identity and belonging	3.51
5	Social interaction	3.48
6	Housing and community	3.33
7	Facilities and services	3.29
8	Work and local economy	3.29
9	Feeling safe	3.23
10	Influence and sense of control	3.23
11	Natural space	3.12
12	Streets and spaces	3.08
13	Play and recreation	3.08
14	Care and maintenance	2.95

Two predominant concerns emerged from the engagement process:

1. a prevailing perception of inadequate housing, particularly in the public and voluntary sectors, including older housing stock.
2. widespread dissatisfaction not only with insufficient street cleaning and maintenance but also the continuous loss of green spaces and the looming issue of community coalescence.

Proposals: Analysis of the Place Standard results and comments have been used to inform and develop Draft LPP actions, approaches, and strategies. These are detailed in the Draft LPP and summarised below:

1. Empowering young people – including education and employment opportunities.
2. Tackling deprivation – aim to raise income levels and improve access to education and jobs.
3. Community engagement – involving residents in the decision-making process.
4. Healthcare and wellbeing – providing access to quality healthcare.
5. Placemaking and infrastructure – improving the built environment, infrastructure, and public spaces.
6. Economic development – encouraging economic growth, job creation and support for local businesses.

7. Sustainability and the environment – promote sustainability and protect the environment.
8. Equality and inclusivity – ensuring equity and inclusivity across all actions will be a guiding principle in the development of the LPP.
9. Housing development – opposition to large scale housing developments in MLDP2.
10. Mayfield Town Centre Regeneration Masterplan – addresses redevelopment of existing townscape and built environment as well as improvements in a range of areas, including social housing, safety, amenities, services, facilities, employment, and transport.
11. School provision – address the improvements required in educational attainment.
12. Road improvements – discourage HGV and school bus traffic on Crawlees Road through traffic calming and other road safety measures. Address industrial and residential traffic in the Crawlees Road area.
13. Safer routes to school – a safe route from Lothian Drive to the new Easthouses Primary School.
14. Retail in Easthouses – investment required in the Easthouses shopping area.

Newtongrange Local Place Plan (Draft) (2023)

Location: Newtongrange Community Council area

Engagement: The Draft LPP process included a review of previous engagement undertaken. Place Standard tool used to gain views and opinions from the local community. Community engagement sessions at local library, supermarket, and other venues to gain further comments and understanding of issues. The Place Standard tool identified the following ratings per topic:

Order	Place Standard Topic	Rating
1	Natural space	5.2
2	Identity and belonging	5.0
3	Social interaction	4.5
4	Play and recreation	4.5
5	Moving around	4.5
6	Feeling safe	4.5
7	Housing and community	4.4
8	Streets and spaces	4.2
9	Public transport	4.2
10	Work and local economy	4.0
11	Traffic and parking	4.0
12	Care and maintenance	4.0
13	Facilities and services	3.9
14	Influence and sense of control	3.4

Proposals: Analysis of the Place Standard results and comments and other engagement comments have been used to inform and develop Draft LPP proposals. The Draft LPP outlines next steps, which addresses the Place Standard topics and proposes a range of actions. The full detail is contained in the Draft LPP. A selection of issues and proposed actions is provided below.

Play and recreation –

- Wider range of facilities at play park.
- All-weather sports pitches.
- Village hub

Moving around –

- Faster bus routes.
- Improve cycle routes to Eskbank, Gorebridge, Bonnyrigg, East Lothian, and Edinburgh.
- 20mph speed limit and restrict heavy goods vehicles.

- Safe road crossings, improved lighting, improved footpaths and pavements pedestrian bridges.
- Heritage trail.
- Develop old mineral railway line from Newbattle Community High School to Newtongrange railway station.
- Improve connections between Newtongrange village and railway station.

Feeling safe –

- Derelict buildings need to be addressed.
- Reduce traffic speed.
- Increase street lighting.

Housing and community –

- More focus on infrastructure and solar energy.
- Connect new build community to the original village.
- Preserve the original village.

Streets and spaces –

- Add wildflower areas.
- Repair seating and playpark.
- Widen footpaths and pavements.

Public transport –

- More bus services and routes.
- Toilet facilities at Newtongrange railway station.

Work and local economy –

- Development of mining museum brownfield site at rear
- A local point to access information and support

Traffic and parking –

- Electric vehicle charging points, especially for people without driveways.
- Traffic calming measures.

Facilities and services –

- Develop a community hub with library facility.

Care and maintenance –

- Better community use of the mining museum

Influence and sense of control –

- More weight given to outcomes identified as part of community consultation.

Rosewell and District Local Place Plan (Draft) (2023)

Location: Rosewell and District Community Council area

Engagement: The Draft LPP process utilised a survey, which was based on guidance provided by the Scottish Government 'Our Place' website and Local Place Plan 'How to' Guide. The paper survey was distributed within the community and was accompanied by an online version. Businesses in Rosewell were invited to meet the community council should they have specific matters to discuss regarding the overlap of their interests and the community-led Local Place Plan for Rosewell. Two community in-person sessions were also held to allow the community to express views on the aims and actions for the Local Place Plan.

Proposals: The engagement exercises allowed the community to rate the local area. The highest rating issues are summarised below. The full details are provided in the Draft LPP. The ratings and issues raised will be used to develop LPP proposals and actions.

What do you like about living (or working) in the Rosewell area?

- Scenery and nature
- Sense of community
- Peaceful and safe

What are Rosewell's strengths as a community and place?

- Sense of community
- Steading
- Active community groups

Is there anything you don't like about Rosewell?

- Public transport
- Lack of amenities
- Housing

What challenges are faced by the Rosewell community right now?

- Public transport
- Lack of amenities / infrastructure upgrades
- Housing

What opportunities do you see for Rosewell in the future?

- Improved community facilities, activities, and opportunities
- Better local transport
- Improved health service

Roslin and Bilston Local Place Plan (Draft) (2023)

Location: Roslin and Bilston Community Council area

Engagement: Input sought from the local community.

Proposals: Proposals as to the development of used of land are included in the Draft LPP. The full details are provided in the Draft LPP. A summary is noted below.

Active travel, movement, and safety

1. Active travel B7006 between Bilston and Roslin
2. Active travel to the proposed new high school (Beeslack)
3. Active travel between Auchendinny and Roslin
4. 20 mph speed limits (A701 / B7003) to promote active travel, safety, health and amenity
5. Responsible use of routes dedicated to active travel
6. Active travel and access to Roslin Glen Country Park
7. Safe conditions for mobility-impaired persons

Historic and natural environment

8. Protecting the historic environment (Battle of Roslin site)
9. Fostering the natural environment (trees / hedgerows)
10. Alternatives to regularly mown grass (trees / wildflowers)
11. Allotments and community growing spaces
12. The existing Roslin Conservation Area
13. Extension of Roslin Conservation Area
14. New Conservation Area – Bilston
15. New Conservation Area – Battle of Roslin and Dryden Estate
16. New Conservation Area – Roslin Curling Pond and The Moat

Infrastructure and facilities

17. Infrastructure deficits (roads, active travel, healthcare)
18. Leisure facilities (youth facilities)



TREE PRESERVATION ORDER REGARDING TREES AT LAND ADJACENT TO MEYERLING AND LAND AT LITTLE MOSS AND NETHER MOSS, HOWGATE, PENICUIK

Report by Chief Officer Place

1 PURPOSE OF REPORT

- 1.1 This report seeks the Committee's approval to issue a Tree Preservation Order (TPO) on woodland located at land adjacent to Meyerling and land at Little Moss and Nether Moss, Howgate, Penicuik.

2 LOCATION AND SITE DESCRIPTION

- 2.1 The site is located on land approximately 900 metres south of Howgate, off the A6094 and south of a cluster of dwellings including Cluny House, Meyerling, Ardroig Venture Fair and the former Howgate Restaurant site. The Lead Burn is located approximately 60 metres to the northwest and Milkhall Road runs approximately 100 metres to the west. Milkhall Pond (a local biodiversity site) is 300 metres to the north. There is a further cluster of dwellings which includes Nether Moss and Mosshouses located to the west and southwest of the site. An existing TPO, no 2 of 2021, already exists, protecting other groups of trees in the local landscape.
- 2.2 The proposed subject of the TPO is a shelterbelt woodland; Group 1 (G1) which sits on the western edge of two sloping pastoral fields adjacent to the A6094, south of Howgate. The woodland is clearly visible from the A6094. It is also visible from the west owing to its elevated position on a visually prominent ridge. In the recent past the fields to the east of the proposed TPO have been used for grazing horses. Planning permission for residential development on the field to the north has recently been granted (see Section 3 of the report).

3 BACKGROUND

- 3.1 The immediate surroundings of the proposed TPO have suffered loss of tree cover in recent years. Between 2010 and 2018 an approximate one hundred metre linear shelterbelt of trees along the A6094 was removed. The group of trees the subject of this TPO report (is predominantly Scots Pine) originally formed part of a continuous

roadside shelterbelt from Mosshouses to Cluny House and Venture Fair. More recently, on 25 March 2021, further partial removal of the shelterbelt along the A6094 took place and in response an emergency TPO (TPO 2 of 2021) was made on 31 March 2021 and confirmed by the Committee at its meeting of 15 June 2021. This TPO protected the remaining trees in the shelterbelt running for 370 metres along the A6094 - it also protected individual beech trees on the site's northwest boundary. TPO 2 of 2021 did not include any of the plantation woodland at G1 which is the subject of this proposed TPO.

- 3.2 The site of this proposed TPO 1 of 2024 has been the subject of a number of planning applications between 2002 and 2023 for residential development. All the planning applications were refused, except for the most recent two. Planning application 21/00775/DPP for the erection of dwellinghouse and access off the A6094 was approved by the Council's Local Review Body (LRB) on 21 March 2022. A further application, 23/00187/DPP, proposed an alternative location for the dwellinghouse and was approved by the LRB on 6 July 2023. This application sited the dwellinghouse on raised land closer to the site's southwestern boundary and the plantation woodland the subject of this TPO report. The woodland at G1 provides significant screening along part of the housing site's northwest boundary and is particularly important in partially screening views of the residential development, with additional but incomplete filtering of views being provided by the trees already protected by TPO 2 of 2021.

4 PROPOSAL

- 4.1 It is proposed to issue a TPO covering an area of woodland (Group 1) comprising a semi-mature plantation and shelterbelt woodland including Larch and Scots Pine.

5 PROCEDURES

- 5.1 The provision for issuing a Tree Preservation Order is set out in the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006 and the Planning (Scotland) Act 2019, and the Town and Country Planning (Tree Preservation Order and Trees in Conservation Areas) (Scotland) Regulations 2010. A planning authority may make a TPO if it appears to them to be "expedient in the interest of amenity and/or that the trees, groups of trees or woodlands are of cultural or historic significance" (Scottish Government Planning Circular 1/2011: Tree Preservation Orders).
- 5.2 Following the service of a TPO the owner of the land and other interested parties have the opportunity to make representation. However, there is no right of appeal against a Tree Preservation Order once it is designated by the planning authority.

- 5.3 The TPO shall be in effect for six months, during which time representations from the owner of the land and other interested parties will be considered. If the local planning authority wishes the TPO to stay in effect beyond the six months, it must '*confirm*' the order.

6 PLANNING ISSUES

- 6.1 The plantation woodland features in views from the west and from the A6094. It adds to the setting and amenity of the area, contributes to local biodiversity and will help to screen the recently approved dwellinghouse (planning applications 21/00775/DPP and 23/00187/DPP) on the adjoining land.
- 6.2 The issuing of a TPO will be a valuable tool in perpetuating canopy cover in the area to help mitigate and address the effects of the climate emergency, protecting the trees for their amenity and place functions and preserving local biodiversity and habitat connectivity. The woodland is of value and suitable for protection by way of a TPO for the following reasons:
- It positively contributes to the landscape character and amenity of the local area and is worthy of retention;
 - It contributes to the wider landscape setting when viewed from the A6094 and from areas to the west including from the A701 and the road approaching Milkhall Pond Local Biodiversity Site;
 - It contributes towards the landscape setting for those existing properties along the A6094 in the local vicinity;
 - It provides visual screening and shelter to existing dwellings at Little Moss and Nether Moss and to the site of the dwelling approved by planning applications 21/00775/DPP and 23/00187/DPP, especially in providing partial screening of long-distance night-time lit views of the dwelling house from the west due to its elevated location on a ridge alongside the A6094;
 - Based on the site history of tree removal, the woodland appears to be at potential risk of felling. The recent approved planning application 23/00187/DPP has also raised concerns that the woodland may suffer either indirect or direct harm, either through tree removal or pruning prior to the start of any construction works, due to construction damage to the trees or their root protection areas, or in future due to perceived or actual conflict with the residential land use (for example due to partial shading leading to pressure for tree removal or pruning);
 - There are no specific measures in place to prevent tree felling prior to the commencement of the approved dwellinghouse, except for the limitations on tree felling imposed by the Forestry and Land Management (Scotland) Act 2018. This means that currently tree felling of up to 5 cubic metres per calendar quarter could take place;
 - Plantation blocks and associated shelterbelts are a typical landscape feature of this part of Midlothian, planted to serve the role of providing shelter from south westerly winds in this otherwise

exposed undulating landscape. The landscape of the local area affords expansive views meaning that any proposed removal of plantation woodland would be widely visible especially when viewed from the west;

- The plantation is worthy of protection as a tree group related to the domestic and pastoral setting of the adjacent cottage at Nether Moss and the surrounding grazing land and stables;
- The plantation is assessed to be of reasonable condition with a retention period of over forty years; and
- The proposed TPO contributes to wider green network and nature network connections across the wider area, creating links to Milkhall Pond Local Biodiversity Site, the Lead Burn corridor and wider rural tree canopy including Tree Preservation 1 of 2018 Wellington School. The figure below shows Tree Preservation orders in the area (shown in green), indicating how this proposed TPO (shown in red) would help to strengthen green network connectivity. The designation of these other TPOs reflects the significance of the role and contribution to local character of these shelter belt tree groups.

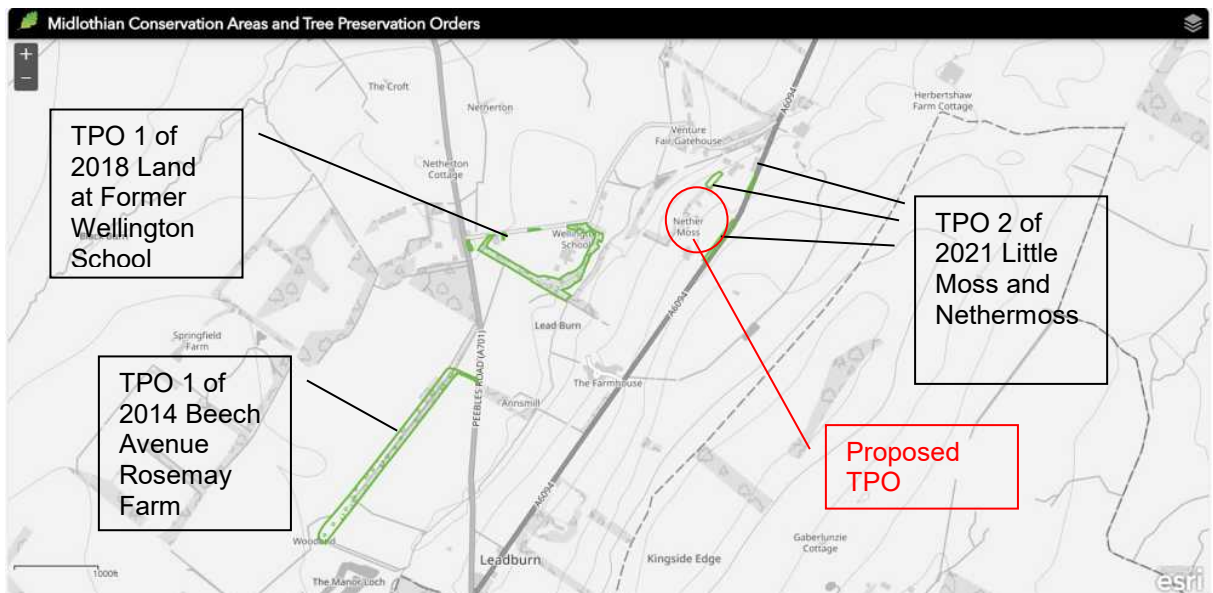


Figure 1: Tree Preservation Orders and Proposed TPO Context

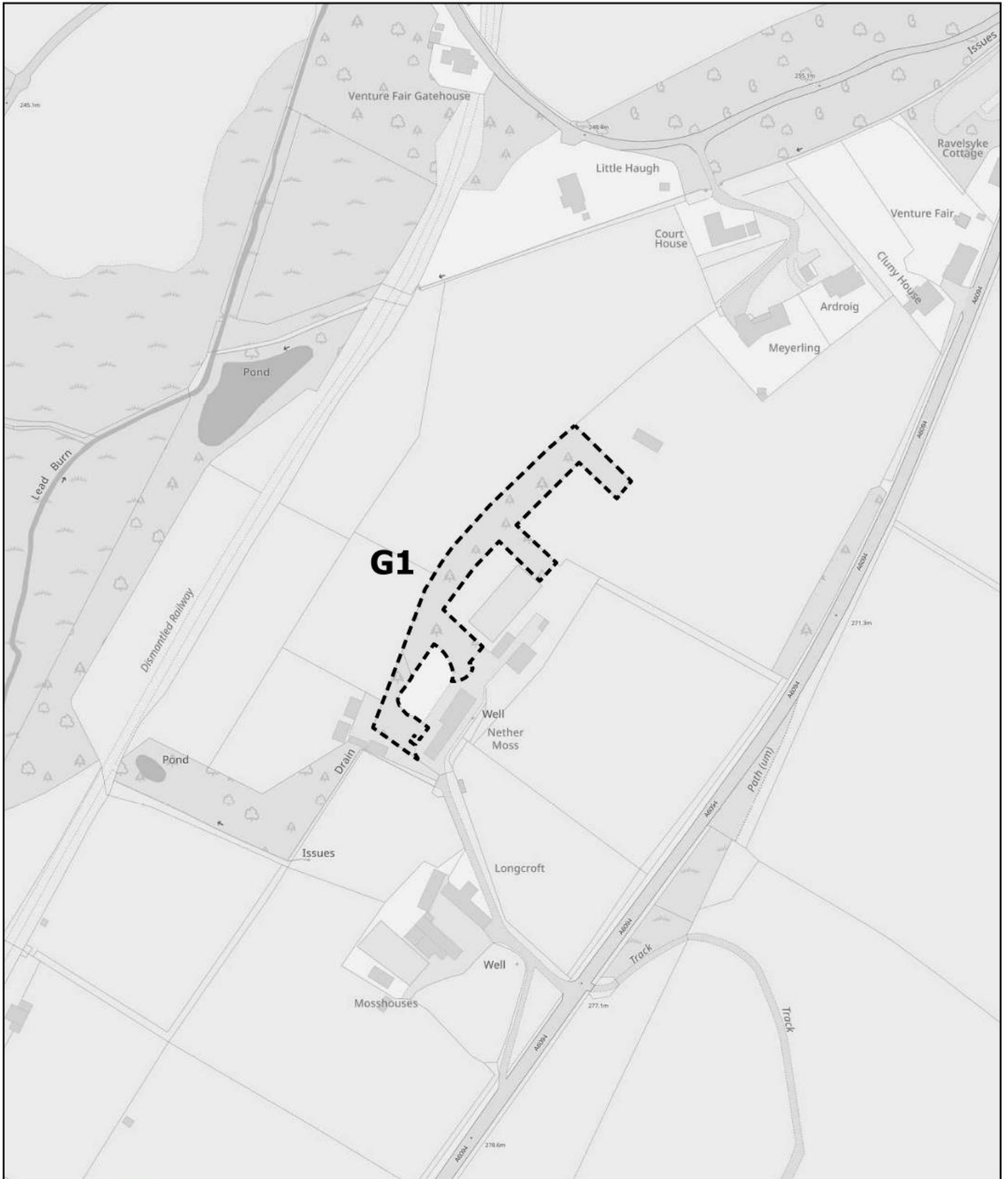
7 RECOMMENDATION

7.1 It is recommended that the Committee:

- Agrees to the issuing of a TPO to protect the identified trees at land adjacent to Meyerling and land at Little Moss and Nether Moss, Howgate, Penicuik; and
- Agrees to receive a further report to consider confirming the TPO once the owner(s) of the land and other interested parties have had the opportunity to make comment.

Peter Arnsdorf
Planning, Sustainable Growth and Investment Manager

Date: 12 January 2023
Contact Person: Grant Ballantine
grant.ballantine@midlothian.gov.uk
Background Papers: Site location plan and site photographs



G1



**Planning Service
Place Directorate**
Midlothian Council
Fairfield House
8 Lothian Road
Dalkeith
EH22 3AA

Land adjacent to Meyerling and land at Little Moss and Nether Moss, Howgate, Penicuik, Midlothian.

This is the plan relative to the Midlothian Council Tree Preservation Order No. 1 of 2024

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File No:

Scale: 1:2,500
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Site Photographs

Trees at Nethermoss and Little Moss near Howgate 04/05/2023

Group G1: All trees visible form part of G1 except the young saplings in tree shelters in the foreground



View looking south-west from within Nethermoss close to boundary fenceline

Group G1: All trees visible form part of G1 except
the young saplings in tree shelters in the foreground



**Looking west. Broadleaved young tree planting on boundary line between
Nethermoss and Little Moss. Plantation G1 in background**

Group G1: All trees visible form part of G1



Group G1: Looking southwest from within Little Moss

Group G1: All trees visible form part of G1



**Edge of Group G1 looking south from just next to the stable block.
Distant views to the Pentland Hills glimpsed in background.**

Group G1

G3 of TPO 2
of 2021



Pentland Hills

Showing proximity of stable location to edge of G1 and distant views to the Pentlands.



Court House

Western edge of G1 seen looking north along the boundary fenceline looking towards Court House

Group G1



Boundary line between Little Moss and Nethermoss



NON-COMPLIANCE WITH THE REQUIREMENTS OF A LISTED BUILDING ENFORCEMENT NOTICE REGARDING THE INSTALLATION OF SIXTEEN UPVC WINDOWS AT 130 HIGH STREET, DALKEITH

Report by Chief Officer Place

1 REPORT SUMMARY AND RECOMMENDATION

- 1.1 This report relates to the non-compliance with the requirements of a listed building enforcement notice served by the Council pursuant to Section 34 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as amended, with regard the removal of sixteen singled glazed, timber framed, sash and case windows, and the installation of sixteen double glazed, uPVC (un-Plasticised Polyvinyl Chloride) framed, tilt and turn windows in the front, rear and side facades at 130 High Street, Dalkeith.**
- 1.2 The enforcement notice required the removal of the uPVC windows and their replacement with timber sash and case windows. None of these steps have been taken, either by the enforcement notice compliance date of 30 August 2023 or to date (at the time of drafting this report). Non-compliance with a listed building enforcement notice constitutes an offence.**
- 1.3 This report recommends that the Committee instruct the Planning, Sustainable Growth and Investment Manager to refer the case to the Crown Office and Procurator Fiscal Service for consideration to be given to prosecutorial action in relation to the parties who have breached the enforcement notice, pursuant to Section 39 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. The maximum penalty on successful prosecution is a fine of up to £50,000 per offence.**

2 BACKGROUND

- 2.1 130 High Street, Dalkeith is a Category B listed building. It is part of a B Group of listed buildings with Nos 100 – 134, 140 and 142 High Street, Dalkeith. It is also within the Dalkeith House and Park Conservation Area.**

2.2 A listed building enforcement notice was issued on the occupiers and owner of the property on 8 November 2022, with a take effect date of 8 December 2022 and a compliance date of 30 May 2023. A copy of the enforcement notice is attached to this report as Appendix A. The enforcement notice required the owner and occupier of the property to:

(1) Remove all uPVC windows of the property and replace them with white painted, timber frame, sash and case windows which match the removed timber windows in glazing pattern, profile of frames and astragals and all externally visible parts of the case/frames.

(2) Reinststate the traditional metal support bar across window cill in three bays on the top floor of the front (north) elevation, matching those still in place in the bays on the floor below.

2.3 The owner appealed the listed building enforcement notice - a Scottish Government Reporter appointed to determine the appeal dismissed it and upheld the listed building enforcement notice subject to the deletion of the requirement to reinststate the traditional metal support bars. A copy of the appeal decision is attached to this report as Appendix B. As a consequence of the appeal the compliance period was extended to 30 August 2023. The appeal decision was reported to the Committee at its meeting of 28 March 2023.

2.4 Section 6 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 provides; “no person shall execute or cause to be executed any works for the demolition of a listed building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest, unless the works are authorised”.

2.5 Section 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 places a specific legal duty on decision makers “In considering whether to grant listed building consent for any works, the planning authority or the Secretary of State, as the case may be, shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses”.

3 THE LEGISLATIVE POSITION

3.1 Section 39 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 provides that; “Where, after the end of the period for compliance with the notice, any step required by a listed building enforcement notice to be taken has not been taken or any works required by the notice to cease have not ceased, the person who is for the time being owner of the land is in breach of the notice. If at any time the owner of the land is in breach of a listed building enforcement notice he shall be guilty of an offence”

- 3.2 In Scotland the Crown Office and Procurator Fiscal Service (COPFS) are responsible for making decisions about prosecutorial actions. In the majority of instances, criminal offences are referred to COPFS by Police Scotland. However, other bodies who are the responsible regulatory organisation for particular legislative areas will also refer cases. This includes the Health and Safety Executive, the Scottish Environmental Protection Agency and local authorities in relation to planning and other matters.
- 3.3 It should be noted that failure to comply with an enforcement notice is not only an offence, but also a continuing offence should a prosecution be successfully brought, a conviction secured, and the enforcement notice requirements remain outstanding. For example, if non-compliance with the enforcement notice requirements continued for a further month after conviction that would be a further 31/30 offences occurring which would bring further potential implications for a defendant in terms of further potential convictions, criminal records and levels of fines.
- 3.4 The Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 also provides (at Section 39 (6)) that “In determining the amount of any fine to be imposed on a person convicted of an offence under this section, the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence”
- 3.5 The failure to comply with an enforcement notice is clearly regarded as a serious matter and understandably so by the Scottish Ministers because of its implications for the integrity of the planning system and indeed in relation to the upholding of the rule of law. The Planning (Scotland) Act 2019 which has now been enacted specifically provided for the increasing of fines for a number of enforcement related matters. In relation to enforcement notices the level of fine on successful prosecution has increased from a maximum of £20,000 to £50,000.

4 OTHER CONSIDERATIONS

- 4.1 The Scottish Government Policy on planning enforcement is contained in Circular 10/2009: Planning Enforcement. It includes the following guidance that is particularly relevant to the consideration of this case:

“Planning authorities should bear in mind the statutory time limits for taking enforcement action and, in particular, the possibility that a referral to the Procurator Fiscal to determine whether to initiate a criminal prosecution may need to be made promptly in those cases where breaches have to be prosecuted within 6 months of the date on which the offence was committed. This is not the date of the alleged breach of planning control but the last date of failure to comply with the Notice requiring the breach to be remedied.”

“The integrity of the development management process depends upon the planning authority’s readiness to take effective enforcement action when necessary. Public respect for the development management system is undermined if unauthorised development, which is unacceptable on its planning merits, is allowed to proceed without any apparent attempt by the planning authority to intervene before serious harm to amenity results from the breach.”

5. CONCLUSION

- 5.1 The responsibility of the outstanding breach of planning control lies with the landowners who decided to install uPVC windows without the required listed building consent or planning permission. All of the unauthorised development which is the subject of the enforcement notice remains on site in breach of the enforcement notice requirements. The unauthorised development has been the subject of public complaint and the enforcement notice has been upheld on appeal.
- 5.2 It is for COPFS to make the final decision with regard prosecutorial action against the non-compliance with an enforcement notice. In this case, unauthorised development has been carried out which does not have the benefit of listed building consent or planning permission. The Council has lawfully served an enforcement notice in relation to unauthorised development. The notice has not been complied with within the period specified by the notice. It is an offence for an enforcement notice not to be complied with. Therefore, having regard to the guidance provided by Scottish Ministers in Circular 10/2009, the serious nature of the breach of planning control and the Council’s responsibility to uphold confidence and integrity in the planning system and the rule of law, it is considered to be in the public interest for the Council to refer this case to COPFS.

6 RECOMMENDATION

- 6.1 It is recommended that the Committee determine to instruct the Planning, Sustainable Growth and Investment Manager (or an alternatively appropriately appointed officer) to refer the case to the Crown Office and Procurator Fiscal Service for consideration of prosecutorial action pursuant to Section 39 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as amended.

Peter Arnsdorf
Planning, Sustainable Growth and Investment Manager

Date: 12 January 2024

Contact Person: Matthew Atkins, Lead Officer Planning Obligations
matthew.atkins@midlothian.gov.uk

Appendix A: A copy of the listed building enforcement notice issued 8 November 2022 with regard 130 High Street, Dalkeith;

Appendix B: A copy of the listed building enforcement notice appeal decision dated 1 March 2023.

**IMPORTANT – THIS COMMUNICATION AFFECTS YOUR LAND OR
PROPERTY**

***Planning (Listed Buildings and Conservation Areas) (Scotland) Act
1997, as amended (“the Act”)***

LISTED BUILDING ENFORCEMENT NOTICE

**Issued by Midlothian Council
08 November 2022**

This Notice is served on:

The Owner 130 High Street
Mrs G Silvestri
19-21 High Street
Bonnyrigg
EH19 2DA

Miss A Gavrill & Mr G Nst (the
occupiers)
130C High Street
Dalkeith
EH22 1AU

Mr W Williams (the occupier)
130A High Street
Dalkeith
EH22 1AU

Mr I & Mrs T Francis (the occupiers)
130D High Street
Dalkeith
EH22 1AU

Mr S & Mrs A Cazan (the occupier)
130B High Street
Dalkeith
EH22 1AU

1. THIS IS A FORMAL NOTICE which is issued by Midlothian Council under Section 34 of the Act because the Council considers that there has been a breach of planning control within Sections 6 and 8(1) of the Act at the listed building described below. The Council considers that it is expedient to issue this notice, having regard to the effect of the character of the building as one of special architectural or historic interest and provisions of the development plan.

2. THE LISTED BUILDING AFFECTED

130 High Street, Dalkeith, EH22 1AU.

It forms part of a Category B listed building address 128-134 High Street, Dalkeith (Listed Building Reference 24414, date of listing 30 June 1983.

IMPORTANT – CONTINUES ON NEXT PAGE

This listed building is in a B Group with Nos 100 and 102, 104 and 106, 108 and 110, 112 and 114, 116-120, 122-126, and 140 and 142 High Street.

It is in the Dalkeith House and Park Conservation Area.

3. THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL

Without listed building consent:

- The removal of sixteen single glazed, timber framed, sash and case windows;
- the removal of traditional metal support bar across window cill in three bays on the top floor of the front (north) elevation.
- The installation of sixteen double glazed, uPVC framed, tilt and turn windows in the front, rear and side facades.

4. REASONS FOR ISSUING THIS NOTICE

Section 6 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states “no person shall execute or cause to be executed any works for the demolition of a listed building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest, unless the works are authorised”. The test for whether Listed Building Consent is required is whether the works “would affect its character as a building of special architectural or historic interest”.

130 High Street is a Category B listed building.

The features of original windows are an essential part of the character of the windows and buildings. These features include materials, glazing pattern, colour of frames, method of opening, dimensions and profiles of frames and astragals, all externally visible parts of the case/frames, and the size and position of the windows in the building.

The materials, glazing pattern, method of opening, profiles of frames and astragals and the externally visible parts of the case/frames of all the replacement windows differ from the window which were removed. The replacement windows therefore materially detract from the character and appearance of the listed building. Given this, it is concluded that listed building consent is required for the alterations. Listed building consent has not been granted or sought in relation to the replacement windows. A breach of listed building control has therefore occurred.

In view of the harmful impact of the replacement windows, enforcement action is required.

IMPORTANT – CONTINUES ON NEXT PAGE

5. WHAT YOU ARE REQUIRED TO DO

- (1) Remove all uPVC windows of the property and replace them with white painted, timber frame, sash and case windows which match the removed timber windows in glazing pattern, profile of frames and astragals and all externally visible parts of the case/frames.
- (2) Reinststate the traditional metal support bar across window cill in three bays on the top floor of the front (north) elevation, matching those still in place in the bays on the floor below.

6. TIME FOR COMPLIANCE

Requirement 5(1) and 5(2) to be complied with by 30 May 2023.

7. WHEN THIS NOTICE TAKES EFFECT

This Notice takes effect on 08 December 2022 unless an appeal is made against it beforehand.

Signed



Matthew Atkins
Lead Officer – Planning Obligations
Planning, Sustainable Growth and Investment Service
Place Directorate
Midlothian Council

Date: 08 November 2022

8. YOUR RIGHT OF APPEAL

You can appeal against this notice, but any appeal must be received, or posted in time to be received by the Scottish Ministers before 09 December 2022. Any other person who has an interest in the land to which this notice relates may also appeal to the Scottish Ministers by the same date.

Schedule 1 of this notice gives information on your Right of Appeal.

9. WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this enforcement notice, it will take effect on 09 December 2022 and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period specified in the notice. Failure to comply with an enforcement notice which has taken effect can result in prosecution or the service of a Fixed Penalty Notice on the relevant person(s) who have not complied with its requirements. Failure to comply with an enforcement notice which has taken effect may also result in the Council taking direct action to correct the breach.

SCHEDULE 1

EXPLANATORY NOTE FOR THOSE IN RECEIPT OF AN ENFORCEMENT NOTICE

RELEVANT LEGISLATION

Sections 6, 8 and 34-39 of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997, as amended.

You may wish to note in particular the points referred to below.

RIGHT OF APPEAL

If you wish to appeal against this notice, you should write to The Directorate for Planning and Environmental Appeals, Ground Floor, Hadrian House, Callendar Business Park, Callendar Road, Falkirk, FK1 1XR or contact the DPEA via their website <https://www.dpea.scotland.gov.uk/>. The appeal must be received, or posted in time to be received by the Scottish Ministers before the date on which this notice takes effect. The Scottish Ministers have no power to consider an appeal lodged out of time.

The appeal, which must be made in writing, must be based on one or more of the grounds set out in section 35 of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997, as amended. If you decide to appeal you should state the facts on which you propose to rely in support of each of the grounds of appeal. The grounds of appeal and the statement of facts must be submitted with your appeal or within fourteen days of your being required to do so by the Scottish Ministers.

If you lodge an appeal, the enforcement notice is suspended and will not take effect unless the appeal is withdrawn or dismissed.

PENALTIES FOR NON-COMPLIANCE WITH AN ENFORCEMENT NOTICE

Where, after the end of the period for compliance with this notice, any steps required to be taken have not been complied with, unless a valid appeal has been made to the directorate, the person who is, for the time being the owner of the building shall be in breach of this notice and guilty of an offence. Any person guilty of such an offence shall be liable on summary conviction to a fine of £20,000 or on conviction on indictment to an unlimited fine.

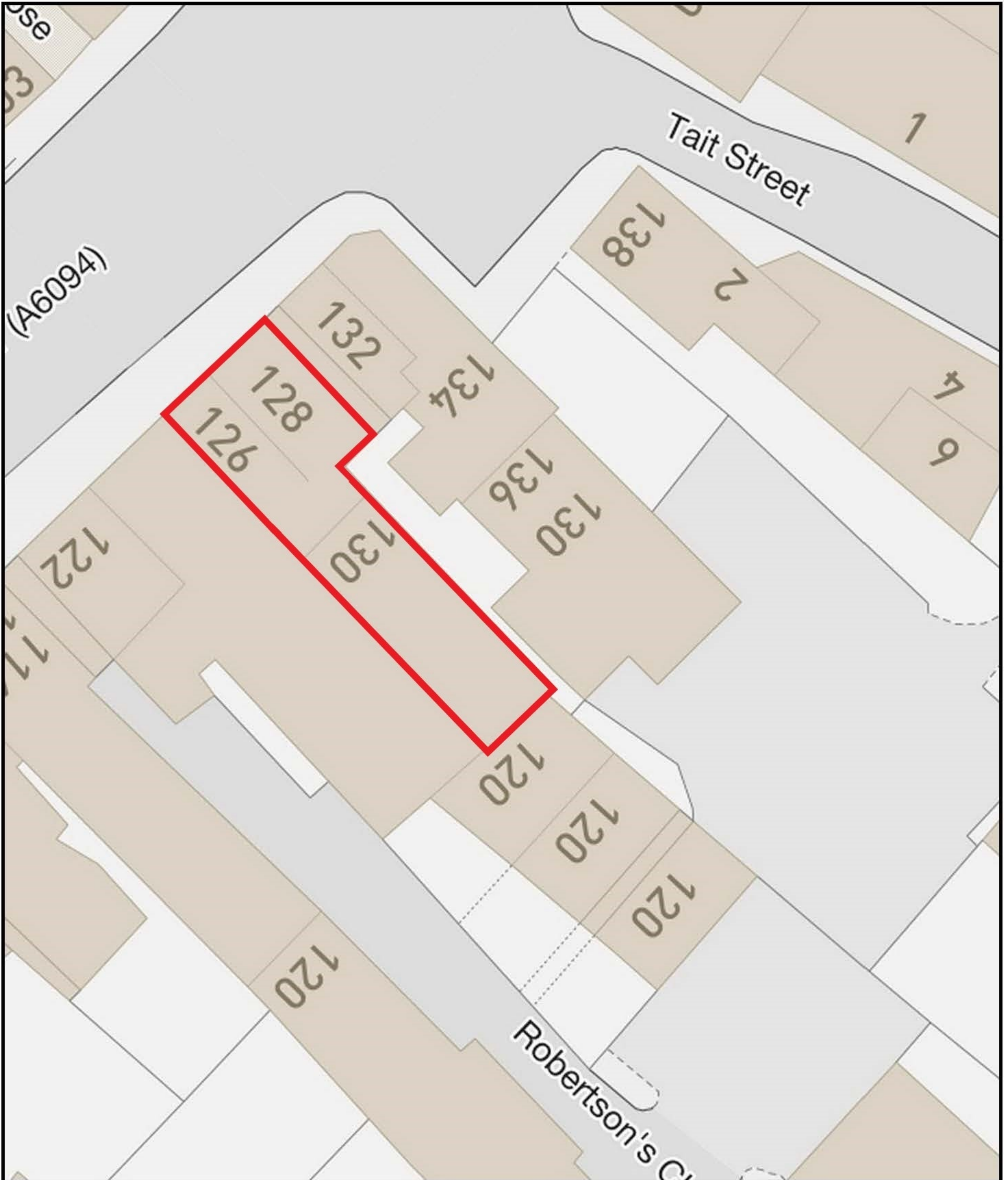
IMPORTANT – CONTINUES ON NEXT PAGE



DIRECT ACTION FOR NON-COMPLIANCE WITH AN ENFORCEMENT NOTICE

If the steps required by a Listed Building Enforcement Notice are not taken within the specified period(s) the Council may enter on the land, take those steps and recover as a civil debt from the person who is then the owner, or the lessee of the land, any expenses reasonably incurred.

FURTHER OFFENCES

Compliance with the terms of a listed building enforcement notice does not discharge that notice. It will continue in effect and any repetition of the breach of control may incur further penalties or may result in direct action by the Council.



 <p>Midlothian</p>	<p>Education, Economy & Communities Midlothian Council Fairfield House 8 Lothian Road Dalkeith EH22 3AA</p>	<p>130 High Street, Dalkeith, EH22 1AU</p>
<p><small>Reproduced from the Ordnance Survey map with the permission of the controller of Her Majesty's Stationary Office. Crown copyright reserved. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings</small></p>	<p>File No. E/22/39</p> <p>Scale: 1:300</p>	
<p>Midlothian Council Licence No. 100023416 (2018)</p>		



Appeal Decision notice

Decision by C Leigh, a Reporter appointed by the Scottish Ministers

- Listed building enforcement appeal reference: LBE-290-2000
- Site address: 130 High Street, Dalkeith, EH22 1AU
- Appeal by Mrs Gloria Silvestri against the listed building enforcement notice dated 8 November 2022 served by Midlothian Council.
- Alleged breach of listed building control: The removal of sixteen single glazed, timber framed, sash and case windows; the removal of traditional metal support bar across window cill in three bays on the top floor of the front (north) elevation; the installation of sixteen double glazed, uPVC framed, tilt and turn windows in the front, rear and side facades.
- Grounds of appeal under s.35(1) of the Act: (d), (e) and (g)
- Date of site visit by Reporter: 9 February 2023

Date of appeal decision: 1 March 2023

Preliminary matters

Following submissions from the appellant the Council accepted that there had not been the removal of the metal support bar across the window cill in three bays on the top from of the front (north) elevation. I therefore do not consider this matter in the appeal.

Decision

I dismiss the appeal, refuse to grant listed building consent for the matters covered in the listed building enforcement notice, and direct that the notice be upheld subject to variation of the terms of the notice by the deletion of the words “(2) Reinstate the traditional metal support bar across window cill in three bays on the top floor of the front (north) elevation, matching those still in place on the bays on the floor below”. Subject to any application to the Court of Session, this notice takes effect on the date of the decision, which constitutes the determination of the appeal for the purpose of Section 35(3) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

Reasoning

1. The appeal was made on the following grounds as provided for by section 35(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (‘the Act’):

- (d) that (i) works to the building were urgently necessary in the interests of safety or health, or for the preservation of the building; (ii) it was not practicable to secure safety or health or, as the case may be, the preservation of the building by works of repair or works for affording temporary support or shelter; and (iii) the works carried out were limited to the minimum measures immediately necessary;

- (e) that listed building consent ought to be granted for the works, or that any relevant condition of such consent which has been granted ought to be discharged, or different conditions substituted;
- (g) except in relation to such a requirement as is mentioned in section 34(2)(b) or (c), that the requirements of the notice exceed what is necessary for restoring the building to its condition before the works were carried out;

(d) That the works to the building were urgently necessary

2. I am informed the original windows that have been replaced had deteriorated, causing issues with draughtproofing, damp and noise levels, and being poor in terms of thermal efficiency. I have no reason to doubt that the previous windows, which were original timber windows, were in such a condition. However, to be successful on ground (d) it must be demonstrated that works to the building were urgently necessary for safety or health reasons, or to preserve the building, and that temporary works would not have sufficed for the purposes. It must also be demonstrated that the works done were limited to the minimum measures immediately necessary.

3. The evidence presented to me explains that the windows deteriorated over time, rather than there being an event that led to an urgent need for the works. Nor is there any evidence of temporary works having been considered to suffice for any purpose, or of alternative works being undertaken to the original windows. I further consider the replacement of those original windows with uPVC to not represent the minimum measures immediately necessary.

4. The removal of the sixteen original windows and installation of sixteen uPVC windows were therefore not urgently necessary in the interests of safety or health, or for the preservation of the building. The appeal on ground (d) fails.

(e) That listed building consent out to be granted for the works

5. 130 High Street is a Category B listed building and is an attractive example of a 19th Century tenement with shop. The property sits within a group of other Category B listed buildings with Nos. 100 and 102, 104 and 106, 108 and 110, 112 and 114, 116-120, 122-126, and 140 and 142 High Street. These properties lie within the wider Dalkeith House and Park Conservation Area, where I saw at my site visit a high quality mixed commercial area with windows being predominately timber sash and case design with astragals. Under section 14(2) of the Act I have a duty to have special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses. I also have a duty to pay special regard to the preservation or enhancement of the conservation area under section 64(1) of the Act.

6. I have been provided with photographs of the original windows that have been replaced at the front of the property, and I saw at my site visit the remaining original windows in the building. Those original windows were sliding sash with a 6 over 6 pane patter, and with slim proportions to their frame and astragals. Their design and use of materials are a suitably elegant and restrained part of the overall composition of the listed building, and represent an essential part of the historic and architectural interest of the property.

7. The new windows at the front of the property do not display a sensitivity of design to the building. The frames are of chunkier dimensions made of uPVC, the glazing sees

applied astragals to create a 4 over 4 pane design, and the windows are tilt and turn opening. These features combine to create windows that significantly jar with the building and harm its special historic and architectural interest. This harmful effect is widely visible in the area due to views along the road, and the inappropriate design further contrasts with the character of nearby buildings.

8. The windows to the rear and side of the building can be seen from Robertson's Close, and from areas and residential properties between High Street and Tait Street/St Andrews Street. I acknowledge these windows are seen from fewer location than those on the front elevation, but I saw at my site visit that, in those more limited locations, the windows are clearly visible and are an important element in the historic and architectural interest of the property.

9. The uPVC windows that have replaced the original windows to the rear and side display similar shortcomings to those at the front: the dimensions of the frames create a heavy appearance, with poor proportions to the windows, and the appearance of the uPVC is a jarring use of modern materials that contrasts with the building. I saw that the rear of the property and the wider area sees a number of changes to buildings, but in this context the windows that have been installed still appear as discordant elements.

10. It is my conclusion regarding the whole building that the windows which have been installed have a harmful impact on the architectural and historic interest of the property.

11. The Midlothian Local Development Plan 2018 is a material consideration in this appeal, and Policy ENV 22 in essence addresses the same provisions in the Act in respect of the preservation of listed buildings, their setting, or any features of architectural or historic interest that they possess. The Council's Dalkeith House & Park Conservation Area Character Appraisal 2004 identifies that sash and case windows with astragals and original fenestration are part of the character of the Area, and states that such windows should almost always be retained. For the same reasons as expressed above, I consider the works that have been undertaken conflict with Policy ENV 22 and the Character Appraisal, leading to harm to the architectural and historic interest of the property and to the character and appearance of the Conservation Area.

12. I acknowledge the appellant's submissions that the installed windows have been installed to improve energy and sound insulation. The publication from Historic Environment Scotland (HES) Managing Change in the Historic Environment: Windows is a further material consideration in this appeal. This advises that the energy efficiency of existing windows can be improved through measures other than replacement and I have not seen any evidence that such measures were considered or rejected for any specific reason. I also note that, although I have no reason to doubt the original windows were poorly deteriorated, I have not seen any evidence as to why the windows could not be repaired and any improvements to efficiency undertaken. Moreover, even if the original windows were beyond repair, the HES publication advises that new double-glazed windows may be acceptable if they can closely match the original window design, detail and materials. As noted earlier, the windows at the appeal property have not done this.

13. The appeal on ground (e) therefore fails.

(g) The steps required by the notice are excessive

14. The notice requires the removal of all the uPVC windows and replacement with windows to match the original in terms of design, appearance and materials.

15. I have found that the works have harmed the architectural and historic interest of the listed building and harmed the character and appearance of the Conservation Area. The requirements of the notice to remove those harmful windows and replace with windows that match the original windows removed is therefore not excessive: the steps are necessary to restore the building to its condition before the works were carried out.

16. I acknowledge the financial burden to which the appellant will be put through compliance with the notice. However, this is not a material consideration in whether the requirements of the notice exceed what is necessary for restoring the building to its condition before the works were carried out. The appeal on ground (g) fails.

Conclusion

17. The appellant states that she has replaced 11 windows at the property, not 16. It is clear that all 16 windows have been replaced at some time, and no firm evidence has been provided to substantiate the claim regarding only 11 being replaced. In any event, even if some windows may have been replaced in the past there is no provision in the Act for an appeal on the ground of immunity from enforcement action. On the basis of what I have read and seen it is my view on the balance of probability that 16 windows have been replaced.

18. I note representations in support of the windows being retained. However, for the reasons set out in this decision the works that have been undertaken are harmful to the listed building and to the Conservation Area, and are thus contrary to the purposes of the Act, as well as conflicting with the development plan and guidance from HES. This support therefore does not alter my findings regarding the replacement windows.

19. I have considered all the other matters raised but there are none which would lead me to alter my conclusion that the appeal fails. I have, though, modified the terms of the notice to remove reference to the need to reinstate the metal support bars on the front elevation to accord with the confirmation from the Council that such works had not occurred.

C Leigh
Reporter



NON-COMPLIANCE WITH THE REQUIREMENTS OF A LISTED BUILDING ENFORCEMENT NOTICE REGARDING THE ERECTION OF A FASCIA SIGN AT 41 HIGH STREET, DALKEITH.

Report by Chief Officer Place

1 REPORT SUMMARY AND RECOMMENDATION

- 1.1 This report relates to the non-compliance with the requirements of a listed building enforcement notice served by the Council pursuant to Section 34 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as amended, with regard the erection of a fascia sign at 41 High Street, Dalkeith.**
- 1.2 The enforcement notice required the removal of the fascia signage panel from the shopfront and make good any holes created for fixings. These steps have not been taken, either by the enforcement notice compliance date of 7 November 2023 or to date (at the time of drafting this report). Non-compliance with a listed building enforcement notice constitutes an offence.**
- 1.3 This report recommends that the Committee instruct the Planning, Sustainable Growth and Investment Manager to refer the case to the Crown Office and Procurator Fiscal Service for consideration to be given to prosecutorial action in relation to the parties who have breached the enforcement notice, pursuant to Section 39 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. The maximum penalty on successful prosecution is a fine of up to £50,000 per offence.**

2 BACKGROUND

- 2.1 41 High Street, Dalkeith is a Category C listed building and within the Dalkeith House and Park Conservation Area.**
- 2.2 On 20 October 2022 an application for listed building consent (reference 22/00646/LBC) for a fascia sign was refused for the following reasons:**
 - 1 *The design of the proposed signage is not of such high quality to be suitable on the principle elevation of this listed building.***

2. *The materials and fixings of the proposed signage are a non-traditional material which are not appropriate on this listed building.*
 3. *For the above reasons, the proposed signage will have a significant adverse impact on the character, appearance, fabric, setting and historic context of this C listed building and therefore does not comply with Historic Environment Scotland policy and guidance.*
- 2.3 At the time of determining the application the signage had not been installed. Following the refusal of the application officers engaged proactively with the applicant to explore potential acceptable alternative signage (It is worth noting that there is certainly no prohibition on listed building having signage per se, indeed the previous signage on this building was consented by the Council in 2019).
- 2.4 No appeal was submitted to the Scottish Ministers in respect of the refused application within the prescribed period. In early 2023 it was identified that notwithstanding the refusal of the application the signage had been installed. A formal enforcement investigation was opened in February 2023
- 2.5 The applicant was contacted and asked for his intentions in relation to the signage given that it was unauthorised and that the period to submit an appeal had elapsed. He indicated that his intentions were to leave the signage in situ.
- 2.6 A listed building enforcement notice was issued on the occupiers and owner of the property on 31 May 2023, with a take effect date of 8 July 2023 and a compliance date of 7 November 2023. A copy of the enforcement notice is attached to this report as Appendix A. The enforcement notice required the owner and occupier of the property to:
- (1) Remove the fascia signage panel from the shopfront and make good any holes created for fixings.
- 2.7 The owner did not appeal the listed building enforcement notice.
- 2.8 Section 6 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 provides; “no person shall execute or cause to be executed any works for the demolition of a listed building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest, unless the works are authorised”.
- 2.9 Section 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 places a specific legal duty on decision makers “In considering whether to grant listed building consent for any works, the planning authority or the Secretary of State, as the case may be, shall have special regard to the desirability of preserving the building or

its setting or any features of special architectural or historic interest which it possesses”.

- 2.10 To assist the occupier of the shop to resolve the breach of planning control the Council's Planning Service sketched out an indicative plan of an acceptable replacement sign and the Council's Economic Development Service offered to support the business in applying for business support grants – the occupier of the shop did not take up these offers of assistance.

3 THE LEGISLATIVE POSITION

- 3.1 Section 39 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 provides that; “Where, after the end of the period for compliance with the notice, any step required by a listed building enforcement notice to be taken has not been taken or any works required by the notice to cease have not ceased, the person who is for the time being owner of the land is in breach of the notice. If at any time the owner of the land is in breach of a listed building enforcement notice he shall be guilty of an offence”
- 3.2 In Scotland the Crown Office and Procurator Fiscal Service (COPFS) are responsible for making decisions about prosecutorial actions. In the majority of instances, criminal offences are referred to COPFS by Police Scotland. However, other bodies who are the responsible regulatory organisation for particular legislative areas will also refer cases. This includes the Health and Safety Executive, the Scottish Environmental Protection Agency and local authorities in relation to planning and other matters.
- 3.3 It should be noted that failure to comply with an enforcement notice is not only an offence, but also a continuing offence should a prosecution be successfully brought, a conviction secured, and the enforcement notice requirements remain outstanding. For example, if non-compliance with the enforcement notice requirements continued for a further month after conviction that would be a further 31/30 offences occurring which would bring further potential implications for a defendant in terms of further potential convictions, criminal records and levels of fines.
- 3.4 The Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 also provides (at Section 39 (6)) that “In determining the amount of any fine to be imposed on a person convicted of an offence under this section, the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence”
- 3.5 The failure to comply with an enforcement notice is clearly regarded as a serious matter and understandably so by the Scottish Ministers because of its implications for the integrity of the planning system and

indeed in relation to the upholding of the rule of law. The Planning (Scotland) Act 2019 which has now been enacted specifically provided for the increasing of fines for a number of enforcement related matters. In relation to enforcement notices the level of fine on successful prosecution has increased from a maximum of £20,000 to £50,000.

4 OTHER CONSIDERATIONS

- 4.1 The Scottish Government Policy on planning enforcement is contained in Circular 10/2009: Planning Enforcement. It includes the following guidance that is particularly relevant to the consideration of this case:

“Planning authorities should bear in mind the statutory time limits for taking enforcement action and, in particular, the possibility that a referral to the Procurator Fiscal to determine whether to initiate a criminal prosecution may need to be made promptly in those cases where breaches have to be prosecuted within 6 months of the date on which the offence was committed. This is not the date of the alleged breach of planning control but the last date of failure to comply with the Notice requiring the breach to be remedied.”

“The integrity of the development management process depends upon the planning authority’s readiness to take effective enforcement action when necessary. Public respect for the development management system is undermined if unauthorised development, which is unacceptable on its planning merits, is allowed to proceed without any apparent attempt by the planning authority to intervene before serious harm to amenity results from the breach.”

5. CONCLUSION

- 5.1 The responsibility of the outstanding breach of planning control lies with the landowners/occupiers who decided to install a fascia sign without the required listed building consent or planning permission. All of the unauthorised development which is the subject of the enforcement notice remains on site in breach of the enforcement notice requirements.
- 5.2 It is for COPFS to make the final decision with regard prosecutorial action against the non-compliance with an enforcement notice. In this case, unauthorised development has been carried out which does not have the benefit of listed building consent or planning permission. The Council has lawfully served an enforcement notice in relation to unauthorised development. The notice has not been complied with within the period specified by the notice. It is an offence for an enforcement notice not to be complied with. Therefore, having regard to the guidance provided by Scottish Ministers in Circular 10/2009, the serious nature of the breach of planning control and the Council’s responsibility to uphold confidence and integrity in the planning system

and the rule of law, it is considered to be in the public interest for the Council to refer this case to COPFS.

6 RECOMMENDATION

- 6.1 It is recommended that the Committee determine to instruct the Planning, Sustainable Growth and Investment Manager (or an alternatively appropriately appointed officer) to refer the case to the Crown Office and Procurator Fiscal Service for consideration of prosecutorial action pursuant to Section 39 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as amended.

Peter Arnsdorf
Planning, Sustainable Growth and Investment Manager

Date: 12 January 2024
Contact Person: Matthew Atkins, Lead Officer Planning Obligations
matthew.atkins@midlothian.gov.uk
Appendix A: A copy of the listed building enforcement notice issued 8 November 2022 with regard 41 High Street, Dalkeith;
Appendix B: A copy of the unauthorised signage details at 41 High Street, Dalkeith.

**IMPORTANT – THIS COMMUNICATION AFFECTS YOUR LAND OR
PROPERTY**

***Planning (Listed Buildings and Conservation Areas) (Scotland) Act
1997, as amended (“the Act”)***

LISTED BUILDING ENFORCEMENT NOTICE

**Issued by Midlothian Council
31 May 2023**

This Notice is served on:

- 1 Mr Sam Flynn
11 Maxton Court
Dalkeith
EH22 1BL**

- 2 Roberts Properties (Scotland) Limited
C/O Philip Bald Accountancy
3b Ormiston Terrace
Edinburgh, EH12 7SJ.**

1. THIS IS A FORMAL NOTICE which is issued by Midlothian Council under Section 34 of the Act because the Council considers that there has been a breach of planning control within Sections 6 and 8(1) of the Act at the listed building described below. The Council considers that it is expedient to issue this notice, having regard to the effect of the character of the building as one of special architectural or historic interest and provisions of the development plan.

2. THE LISTED BUILDING AFFECTED

41 High Street, Dalkeith, EH22 1JB

It forms part of a Category C, Listed Building (listed building Reference 24383, date of listing 9 March 1992.

It is located within the Dalkeith House and Park Conservation Area.

3. THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL

Without listed building consent:

- Installation of fascia sign

4. REASONS FOR ISSUING THIS NOTICE

Section 6 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states “no person shall execute or cause to be executed any works for the demolition of a listed building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest, unless the works are authorised”. The test for whether Listed Building Consent is required is whether the works “would affect its character as a building of special architectural or historic interest”.

41 High Street is a Category C listed building.

The signage that has been installed without consent does not reflect the traditional features of a modern shop frontage. The use of traditional materials, colours and designs for the shopfront and signage are encouraged to preserve the historic interest of the listed building and prevent detrimental impact to the character and appearance of the conservation area. With the signage installed being an aluminium board placed above the entrance doors, the proposed design, position and materials of the proposed signage does not respect the historic character and appearance of the shopfront and detract from the character, appearance and historic interest of the property.

A listed building application for this signage (reference 22/00646/LBC) was refused for the following reasons

- 1. The design of the proposed signage is not of such high quality to be suitable on the principle elevation of this listed building.*
- 2. The materials and fixings of the proposed signage are a non-traditional material which are not appropriate on this listed building.*
- 3. For the above reasons, the proposed signage will have a significant adverse impact on the character, appearance, fabric, setting and historic context of this C listed building and therefore does not comply with Historic Environment Scotland policy and guidance.*

No appeal was submitted within the prescribed period in respect of this decision and the signage has been installed and is unauthorised.

In view of the harmful impact of the alterations, enforcement action is required.

5. WHAT YOU ARE REQUIRED TO DO

- (1) Remove the fascia signage panel from the shopfront and make good any holes created for fixings

6. TIME FOR COMPLIANCE

Requirement 5(1) and 5(2) to be complied with by 7 November 2023.

7. WHEN THIS NOTICE TAKES EFFECT

This Notice takes effect on 8 July 2023 unless an appeal is made against it beforehand.

Signed



Matthew Atkins
Lead Officer – Planning Obligations
Planning, Sustainable Growth and Investment Service
Place Directorate
Midlothian Council

Date: 31 May 2023

8. YOUR RIGHT OF APPEAL

You can appeal against this notice, but any appeal must be received, or posted in time to be received by the Scottish Ministers before 8 July 2023. Any other person who has an interest in the land to which this notice relates may also appeal to the Scottish Ministers by the same date.

Schedule 1 of this notice gives information on your Right of Appeal.

9. WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this enforcement notice, it will take effect on 8 July 2023 and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period specified in the notice. Failure to comply with an enforcement notice which has taken effect can result in prosecution or the service of a Fixed Penalty Notice on the relevant person(s) who have not complied with its requirements. Failure to comply with an enforcement notice which has taken effect may also result in the Council taking direct action to correct the breach.

SCHEDULE 1

EXPLANATORY NOTE FOR THOSE IN RECEIPT OF AN ENFORCEMENT NOTICE

RELEVANT LEGISLATION

Sections 6, 8 and 34-39 of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997, as amended.

You may wish to note in particular the points referred to below.

RIGHT OF APPEAL

If you wish to appeal against this notice, you should write to The Directorate for Planning and Environmental Appeals, Ground Floor, Hadrian House, Callendar Business Park, Callendar Road, Falkirk, FK1 1XR or contact the DPEA via their website <https://www.dpea.scotland.gov.uk/>. The appeal must be received, or posted in time to be received by the Scottish Ministers before the date on which this notice takes effect. The Scottish Ministers have no power to consider an appeal lodged out of time.

The appeal, which must be made in writing, must be based on one or more of the grounds set out in section 35 of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997, as amended. If you decide to appeal you should state the facts on which you propose to rely in support of each of the grounds of appeal. The grounds of appeal and the statement of facts must be submitted with your appeal or within fourteen days of your being required to do so by the Scottish Ministers.

If you lodge an appeal, the enforcement notice is suspended and will not take effect unless the appeal is withdrawn or dismissed.

PENALTIES FOR NON-COMPLIANCE WITH AN ENFORCEMENT NOTICE

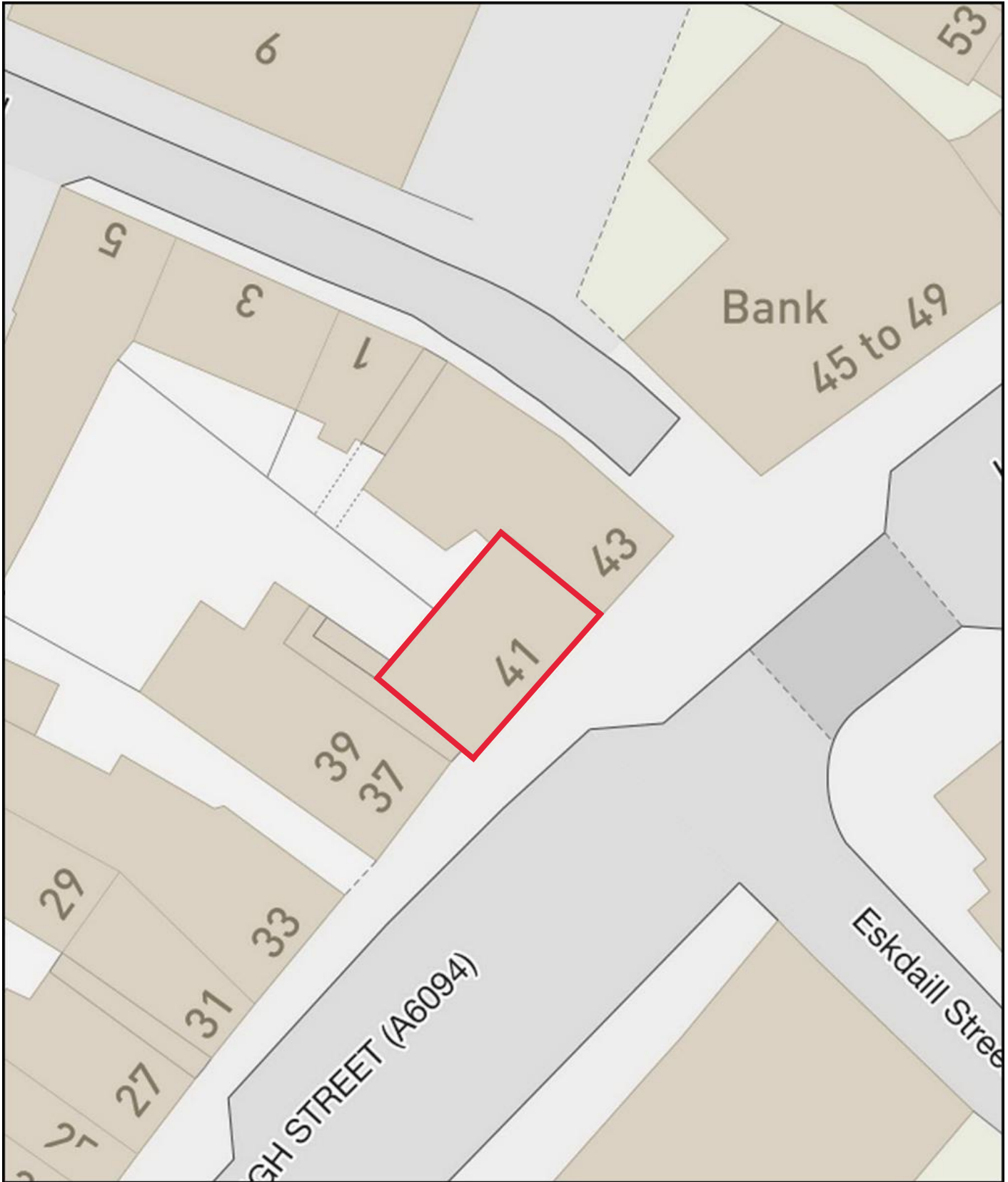
Where, after the end of the period for compliance with this notice, any steps required to be taken have not been complied with, unless a valid appeal has been made to the directorate, the person who is, for the time being the owner of the building shall be in breach of this notice and guilty of an offence. Any person guilty of such an offence shall be liable on summary conviction to a fine of £50,000 or on conviction on indictment to an unlimited fine.

DIRECT ACTION FOR NON-COMPLIANCE WITH AN ENFORCEMENT NOTICE

If the steps required by a Listed Building Enforcement Notice are not taken within the specified period(s) the Council may enter on the land, take those steps and recover as a civil debt from the person who is then the owner, or the lessee of the land, any expenses reasonably incurred.

FURTHER OFFENCES

Compliance with the terms of a listed building enforcement notice does not discharge that notice. It will continue in effect and any repetition of the breach of control may incur further penalties or may result in direct action by the Council.




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

Listed Building Notice
 41 High Street, Dalkeith, EH22 1JB

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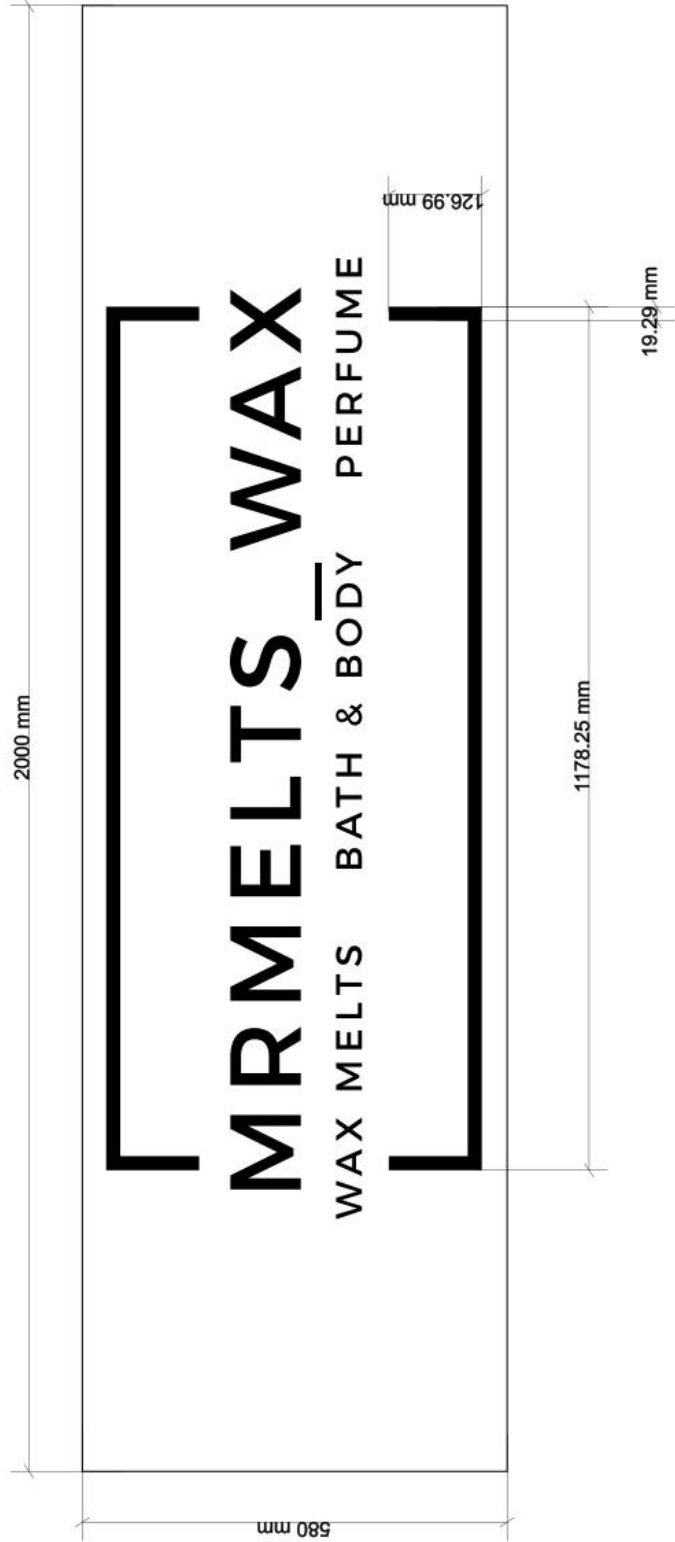
Mr Melts signage, 41 High Street, Dalkeith

White aluminium sign tray 2000mm x 580mm x 40mm

"MRMELTS-WAX" 19mm black foamex on stand off locators

"WAX MELTS BATH & BODY PERFUME" 10mm black foamex double sided tape to the tray

Top and bottom lines fabricated matt black acrylic face and sides, 30mm returns





**APPLICATION FOR PLANNING PERMISSION IN PRINCIPLE
23/00694/PPP FOR RESIDENTIAL DEVELOPMENT AND ASSOCIATED
WORKS AT SCOTTS TOURING CARAVANS, LAND NORTH OF
MAYFIELD INDUSTRIAL ESTATE, MAYFIELD, DALKEITH**

Report by Chief Officer Place

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

1.1 The application is for planning permission in principle for a residential development and associated enabling works. The application site is the site of a former caravan sales, servicing and storage business situated on land to the north of Mayfield Industrial Estate, Mayfield Road (B6482), Mayfield, Dalkeith.

1.2 There have been no representations and consultation responses from the Coal Authority, Scottish Water, Scotia Gas Networks, SP Energy Networks, the Mayfield and Easthouses Community Council, the Council's Ecological Advisor (TWIC), the Council's Education Executive Business Manager, the Council's Land and Countryside Manager, the Council's Senior Manager Neighbourhood Services (Roads), the Council's Senior Manager Protective Services and the Midlothian Health and Social Care Partnership.

1.3 The relevant development plan policies are policies 1, 2, 3, 4, 5, 6, 9, 12, 13, 14, 15, 16, 18, 20, 21, 22, 23 and 26 of the National Planning Framework 4 (NPF4) and policies STRAT1, STRAT2, DEV2, DEV3, DEV5, DEV6, DEV7, DEV9, ECON1, TRAN1, TRAN5, IT1, ENV9, ENV10, ENV11, ENV15, ENV16, ENV17, ENV18, WAST5, IMP1, IMP2 and IMP3 of the Midlothian Local Development Plan 2017 (MLDP).

1.4 The recommendation is to refuse planning permission.

2 LOCATION AND SITE DESCRIPTION

2.1 The site measures 2.4 hectares and is situated at the western edge of Mayfield. The ground is level and mostly covered with grass scrub. There are scattered trees along the north and east boundaries; two groups of trees at the southern and western corners of the site; and a line of trees in the centre of the site. In total there are 125 trees on the

site. The site previously included two buildings; these have now been demolished. The site was used from the early 1970s by a caravan sales, servicing and storage business; that use ceased in the early 2010s.

- 2.2 The site is bounded to the east by the B6482 with flats and housing on the opposite side of the road from the site. The site is bounded to the north by a petrol filling station and by woodland and a footpath. To the west of the site is the housing at the Suttieslea area of Newtongrange. To the south the site is bounded by the Mayfield Industrial Estate. Vehicle access to the site is from the B6482 via a junction shared with the neighbouring petrol filling station.

3 PROPOSAL

- 3.1 The application seeks planning permission in principle for a residential development. The application is accompanied by an indicative site layout which shows a new vehicle access to the site being formed midway along the B6482 frontage. The indicative layout shows 78 units (12 x 2 bed houses; 28 x 3 bed houses; 8 x 4 bed houses; 6 x 1 bed flats; 21 x 2 bed flats; and 3 x 3 bed flats). The layout requires the felling of the majority of trees on the site with only five mature trees shown as being retained.
- 3.2 The application is accompanied by the following reports:
- Design and Access Statement;
 - Drainage Assessment;
 - Extended Phase 1 Habitat Survey;
 - Landscape and Visual Appraisal;
 - Pre-Application Consultation (PAC) Report;
 - Site Investigation Report;
 - Transport Statement; and
 - Tree Survey and Arboricultural Report.

4 BACKGROUND

- 4.1 Planning application 141/69 for the formation of a caravan sales and service centre and for the principle of the erection of a workshop and office was approved in 1969. There were subsequent grants of planning permission in 1969, 1970 and 1973 that established the longstanding layout of the site.
- 4.2 Planning application 08/00447/FUL for a change of use of vacant land to allow the temporary siting of eighteen static caravans, formation of access road and car parking, erection of fence and gates was granted in 2008. The permission was a temporary one for a period of two years and related to the land in the southeast corner of the application site.

- 4.3 Pre application consultation (21/00344/PAC) for residential development at the application site was submitted in April 2021. The notice was reported to Committee at its meeting of June 2021.
- 4.4 Planning application 22/00597/PPP for planning permission in principle for residential development and associated works was registered on 24 October 2022. The supporting information and indicative layouts were the same as the current proposal. The application was included on the agenda for the Planning Committee's meeting on 12 September 2023 with a recommendation for refusal, but the application was withdrawn on 11 September 2023.
- 4.5 As part of the assessment of the previous application the Council as planning authority issued a screening opinion for the current proposals on 4 November 2022. The screening opinion confirmed that an Environmental Impact Assessment (EIA) was not required.
- 4.6 The application site area exceeds 2 hectares, the application therefore constitutes a 'Major Development' as defined in the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 and thereby it requires to be determined by the Planning Committee

5 CONSULTATIONS

- 5.1 The **Coal Authority** does not object to the application subject to any grant of planning permission including conditions to secure remedial stabilisation works to address land instability arising from coal mining legacy; and, a validation report detailing the remedial works carried out. The response confirms that there are two recorded mine entries and their resultant zones of influence within, or within close proximity, of the site.
- 5.2 The application falls below the consultation thresholds set out in the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 (as amended) and NatureScot's Guidance – How and when to consult NatureScot and therefore **NatureScot** was not consulted.
- 5.3 The application falls below the consultation thresholds set out in the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 (as amended) and SEPA's triage framework guidance and therefore **Scottish Environment Protection Agency (SEPA)** was not consulted.
- 5.4 **Scottish Water** does not object to the application. The water supply will be fed from Rosebery Water Treatment Works. The foul water drainage will be dealt with by the Edinburgh PFI Waste Water Treatment Works. Both have sufficient capacity at present; however, it is not possible to reserve capacity for future developments – this will be

subject to a separate regulatory process between the applicant and Scottish Water.

- 5.5 For reasons of sustainability and to protect Scottish Water customers from potential future sewer flooding, Scottish Water will not accept any surface water connections into the combined sewer system. There may be limited exceptional circumstances where Scottish Water allow such a connection for brownfield sites only, however this will require significant justification from the customer taking account of various factors including legal, physical and technical challenges.
- 5.6 In order to avoid costs and delays where a surface water discharge to the combined sewer system is anticipated, the developer should contact Scottish Water at the earliest opportunity with strong evidence to support the intended drainage plan prior to making a connection request. The evidence will be assessed in a robust manner and any decision will reflect the best option from environmental and customer perspectives.
- 5.7 **Scotia Gas Networks (SGN)** does not object to the application. The plan provided with the response shows that there is no SGN infrastructure within the application site.
- 5.8 **SP Energy Networks** does not object to the application. The plan provided with the response shows that there is a high voltage overhead line and a low voltage underground cable within the site.
- 5.9 The **Mayfield and Easthouses Community Council** is broadly in favour of the proposal and welcomes the redevelopment of this brownfield site. The community council has provided comments on the following matters:
- Site capacity – the indicative number of units is acceptable, but increasing the density would be unacceptable;
 - Affordable/Social housing – the proposed 25% provision of affordable housing is welcomed. Affordable housing should be distributed across the site and not concentrated close to the industrial estate. Allocation of the affordable housing should give priority to local residents;
 - Amenities – redevelopment of the site should include provision of a dedicated children’s play area. Provision should be made for the inclusion of works of public art;
 - Greenspace/Countryside – the development should be as permeable as possible in order to increase access to surrounding woodland and paths;
 - Wildlife and habitat – the site in its current state is known to be used by local wildlife. Development of the site should seek to maintain some wildlife habitat, particularly at the boundaries with the industrial estate and the neighbouring Suttieslea residential estate;

- Road access and traffic flow – the B6482 has high levels of traffic flow to and from Mayfield and the development will add to this. Any assessment of trip generation should take account of proposals to build a new distributor road for South Mayfield, which would require a new road junction next to Newbattle Medical Practice. Provision of a new pedestrian crossing on the B6482, to serve new residents and surgery patients crossing to the bus stop, should be considered;
- Proximity to petrol station – a buffer between housing and the petrol filling station should be provided for the purposes of safety and residential amenity;
- Economic land use – part of the site is an allocated economic land supply site. Given that part of the site's relationship to the remainder of the site and the amount of vacant land elsewhere on the industrial estate, its retention for economic use would be impractical;
- Mayfield Industrial Estate – the existing businesses located on the estate are vitally important to the economy of the local community. Any development of the application site should ensure that the interests of existing businesses are safeguarded and that their viability will not be compromised by new residential neighbours;
- Local services (GP services) – the biggest concern amongst local people regarding service provision is access to GP services. It would be reassuring to local residents if assurances could be obtained by the developer from Newbattle Medical Practice that the additional housing will not adversely affect existing service levels;
- Local services (Council services) – local residents are concerned that the additional housing will create additional demand for Council services and that any additional Council Tax revenue provided by the development will be insufficient to cover the increased demand. Assurances from Midlothian Council would help to alleviate concerns;
- Education – whilst it is acknowledged that the developer will be making significant developer contributions towards education provision, local residents are concerned about the possibility of up to 30 more primary school pupils and 15 plus secondary school pupils being added to school rolls. Reassurances from the Council that these additional pupils can be accommodated within the planned expansion of education provision in the Mayfield area, would be welcomed;
- Community identity and integration – The development will be a standalone estate similar to others along the B6482. The design of the development should promote a single identity that integrates private and social housing;
- Site layout and house styles (Design) – one of the main complaints from local residents is that new housing developments are bland with layouts designed to maximise density and using standard house designs. The project should seek to vary house styles and design features to ensure visual variety. Front and back garden sizes should not be compromised. Three storey apartment blocks

should be set back from the main road with adequate screening. A buffer between the site and the Suttieslea housing should be provided to reduce overlooking and overshadowing;

- Site layout and house styles (Housing mix) – provision should be made within the development for housing for the elderly. The indicative layout places the social housing in an unattractive location that will not aid social inclusion;
- Mayfield town centre – developer contributions towards improvements within Mayfield town centre should be secured; and
- Drainage – any assessment of drainage and flood risk should take account of the fact that there are existing problems with surface water drainage on the B6482.

5.10 The **Council's Ecological Advisor – The Wildlife Information Centre (TWIC)** has advised that the Extended Phase 1 Habitat Survey submitted in support of the application is out of date. The survey was prepared in September 2021 following an onsite survey carried out in May 2021. Guidance from the relevant professional body (Chartered Institute of Ecology and Environmental Management) advises that surveys should be updated after a period of 18 months has elapsed from the date of preparation.

5.11 The **Council's Education Executive Business Manager** does not object to the application. The development would give rise to 22 primary school pupils and 16 secondary school pupils. Developer contributions towards education facilities would be required to mitigate the demand from the proposed development. The catchment schools are:

Non-denominational primary – Easthouses Primary School
Denominational primary – St Andrew's/St Luke's RC Primary School
Non-denominational secondary – Newbattle High School
Denominational secondary – St David's RC High School

5.12 The Council utilises a primary school pupil product ratio of 0.28 per dwelling and a secondary school pupil product ratio of 0.2 per dwelling when calculating anticipated primary and secondary school pupil numbers from developments and also for the purposes of negotiating developer contributions with applicants.

5.13 The Council's **Land and Countryside Manager** does not object to the application. The response confirms that the existing upgraded footway on the B6482 provides sufficient access to the core path, situated immediately to the north of the application site, and therefore a direct link is not required.

5.14 The **Council's Senior Manager Neighbourhood Services (Roads)** offered no comments on the current proposal. The response for the previous application confirmed that the Manager did not object to the application subject to the imposition of conditions to secure details of:

- Visibility splays;
- Cycle parking;
- EV charging;
- Larger bus shelters;
- Reinstatement of redundant vehicle access points; and
- Surface water drainage including outfall connection.

5.15 The **Council's Senior Manager Protective Services** does not objection to the application in relation to the Service's **Environmental Health** remit. The site's proximity to the adjacent industrial estate and petrol filling station raises concerns in relation to noise, and the history of mining in the surrounding area raises concerns in relation to potential ground contamination/instability. Any grant of planning permission should include conditions to secure a scheme of site investigation and, if required, remediation to address potential contaminated land issues. A noise impact assessment should be secured to assess the impact of noise on the amenity of houses.

5.16 The Council's **Senior Manager Protective Services** does not objection to the application in relation to the Service's Trading Standards (**Petroleum Officer**) remit.

5.17 The **Midlothian Health and Social Care Partnership** does not object to the application and advise there is capacity and scope to absorb the population increase from the proposed housing into the Newbattle practice list. The response also advises that

there are concerns about the longer-term suitability of the existing practice to absorb the increased list size and need for more face-to-face consultations. This, coupled with supporting the implementation of the GP contract and providing additional services for patients in practices, means space is a premium and is becoming increasingly challenging to manage.

The HSCP is therefore keen that the council give consideration to capital investment into Newbattle GP premises as part of the planning application as an extension of the current Newbattle building -to help practices to suitably accommodate and support the population growth in the area. Newtongrange site has limited opportunities for expansion, and the practice already experience considerable issues with regards parking and patient access, particularly in term time, based on current population in the area.

5.18 The consultation responses are available to view in full on the online planning application case file.

6 REPRESENTATIONS

6.1 There have been no representations received.

7 PLANNING POLICY

7.1 The development plan is comprised of National Planning Framework 4 (2023) and the Midlothian Local Development Plan 2017.

7.2 The following policies are relevant to the proposal:

National Planning Framework 4 (NPF4)

7.3 Policy **1 Tackling the climate and nature crisis**; sets out to encourage, promote and facilitate development that addresses the global climate emergency and nature crisis.

7.4 Policy **2 Climate mitigation and adaptation**; sets out to encourage, promote and facilitate development that minimises emissions and adapts to the current and future impacts of climate change.

7.5 Policy **3 Biodiversity**; sets out to protect biodiversity, reverse biodiversity loss, deliver positive effects from development and strengthen nature networks.

7.6 Policy **4 Natural Places**; sets out to protect, restore and enhance natural assets making best use of nature-based solutions.

7.7 Policy **5 Soils**; sets out to protect carbon-rich soils, restore peatlands and minimise disturbance to soils from development. The policy also sets out acceptable scenarios for development on prime agricultural land.

7.8 Policy **6 Forestry, woodland and trees**; sets out to protect and expand forests, woodland and trees.

7.9 Policy **9 Brownfield, vacant and derelict land and empty buildings**; sets out to encourage, promote and facilitate the reuse of brownfield, vacant and derelict land and empty buildings, and to help reduce the need for greenfield development.

7.10 Policy **12 Zero Waste**; sets out to encourage, promote and facilitate development that is consistent with the waste hierarchy.

7.11 Policy **13 Sustainable Transport**; sets out to encourage, promote and facilitate developments that prioritise walking, wheeling, cycling and public transport for everyday travel and reduce the need to travel unsustainably.

7.12 Policy **14 Design, quality and place**; sets out to encourage, promote and facilitate well designed development that makes successful places by taking a design-led approach and applying the Place Principle.

- 7.13 Policy **15 Local Living and 20 minute neighbourhoods**; sets out to encourage, promote and facilitate the application of the Place Principle and create connected and compact neighbourhoods where people can meet the majority of their daily needs within a reasonable distance of their home, preferably by walking, wheeling or cycling or using sustainable transport options.
- 7.14 Policy **16 Quality homes**; sets out to encourage, promote and facilitate the delivery of more high quality, affordable and sustainable homes, in the right locations, providing choice across tenures that meet the diverse housing needs of people and communities across Scotland.
- 7.15 Policy **18 Infrastructure first**; sets out to encourage, promote and facilitate an infrastructure first approach to land use planning, which puts infrastructure considerations at the heart of placemaking.
- 7.16 Policy **20 Blue and green infrastructure**; sets out to protect and enhance blue and green infrastructure and their networks.
- 7.17 Policy **21 Play, recreation and sport**; sets out to encourage, promote and facilitate spaces and opportunities for play, recreation and sport.
- 7.18 Policy **22 Flood risk and water management**; sets out to strengthen resilience to flood risk by promoting avoidance as a first principle and reducing the vulnerability of existing and future development to flooding.
- 7.19 Policy **23 Health and Safety**; sets out to protect people and places from environmental harm, mitigate risks arising from safety hazards and encourage, promote and facilitate development that improves health and wellbeing.
- 7.20 Policy **26 Business and industry**; sets out to encourage, promote and facilitate business and industry uses and to enable alternative ways of working such as home working, live-work units and micro-businesses.

Other National Policy

- 7.21 The **Scottish Government's Policy on Architecture for Scotland** sets out a commitment to raising the quality of architecture and design.

Midlothian Local Development Plan 2017 (MLDP)

- 7.22 Policy **STRAT1: Committed Development** seeks the early implementation of all committed development sites and related infrastructure, including sites in the established economic land supply. Committed development includes those sites allocated in previous development plans which are continued in the MLDP.
- 7.23 Policy **STRAT2: Windfall Housing Sites** supports housing on non-allocated sites within the built-up area provided: it does not lead to loss

or damage of valuable open space; does not conflict with the established land use of the area; has regard to the character of the area in terms of scale, form, design and materials and accords with relevant policies and proposals.

- 7.24 Policy **DEV2: Protecting Amenity within the Built-Up Area** states that development will not be permitted within existing and future built-up areas where it is likely to detract materially from the existing character or amenity of the area.
- 7.25 Policy **DEV3: Affordable and Specialist Housing** seeks an affordable housing contribution of 25% from sites allocated in the MLDP. Providing lower levels of affordable housing requirement may be acceptable where this has been fully justified to the Council. This policy supersedes previous local plan provisions for affordable housing; for sites allocated in the Midlothian Local Plan (2003) that do not benefit from planning permission, the Council will require reasoned justification in relation to current housing needs as to why a 25% affordable housing requirement should not apply to the site.
- 7.26 Policy **DEV5: Sustainability in New Development** sets out the requirements for development with regards to sustainability principles.
- 7.27 Policy **DEV6: Layout and Design of New Development** states that good design and a high quality of architecture will be required in the overall layout of development proposals. This also provides guidance on design principles for development, materials, access, and passive energy gain, positioning of buildings, open and private amenity space provision and parking.
- 7.28 Policy **DEV7: Landscaping in New Development** requires development proposals to be accompanied by a comprehensive scheme of landscaping. The design of the scheme is to be informed by the results of an appropriately detailed landscape assessment.
- 7.29 Policy **DEV9: Open Space Standards** sets out the necessary open space for new developments. This policy requires that the Council assess applications for new development against the open space standards as set out in Appendix 4 of that plan and seeks an appropriate solution where there is an identified deficiency in any of the listed categories (quality, quantity and accessibility). Supplementary Guidance on open space standards is to be brought forward during the lifetime of the plan.
- 7.30 Policy **ECON1: Existing Employment Locations** seeks to safeguard those sites allocated for economic land uses against loss to non-business or industrial uses. Alternative uses for such sites will only be permitted if there is no net detriment to the overall supply of economic land.

- 7.31 Policy **TRAN1: Sustainable Travel** aims to encourage sustainable modes of travel.
- 7.32 Policy **TRAN5: Electric Vehicle Charging** seeks to support and promote the development of a network of electric vehicle charging stations by requiring provision to be considered as an integral part of any new development or redevelopment proposals.
- 7.33 Policy **IT1: Digital Infrastructure** supports the incorporation of high speed broadband connections and other digital technologies into new homes, business properties and redevelopment proposals.
- 7.34 Policy **ENV9: Flooding** presumes against development which would be at unacceptable risk of flooding or would increase the risk of flooding elsewhere. It states that Flood Risk Assessments will be required for most forms of development in areas of medium to high risk, but may also be required at other locations depending on the circumstances of the proposed development. Furthermore it states that sustainable urban drainage systems will be required for most forms of development, so that surface water run-off rates are not greater than in the site's pre-developed condition, and to avoid any deterioration of water quality.
- 7.35 Policy **ENV10: Water Environment** requires that new development pass surface water through a sustainable urban drainage system (SUDS) to mitigate against local flooding and to enhance biodiversity and the environment.
- 7.36 Policy **ENV11: Woodland, Trees and Hedges** states that development will not be permitted where it could lead directly or indirectly to the loss of, or damage to, woodland, groups of trees (including trees covered by a Tree Preservation Order, areas defined as ancient or semi-natural woodland, veteran trees or areas forming part of any designated landscape) and hedges which have a particular amenity, nature conservation, biodiversity, recreation, landscape, shelter, cultural, or historical value or are of other importance.
- 7.37 Policy **ENV15: Species and Habitat Protection and Enhancement** presumes against development that would affect a species protected by European or UK law.
- 7.38 Policy **ENV16: Vacant, Derelict and Contaminated Land** supports the redevelopment of vacant and derelict land for uses compatible with their location. Developments will be required to demonstrate that the site is suitable for the proposed new use in terms of the risk posed by contamination and instability from historic uses.
- 7.39 Policy **ENV17: Air Quality** states that the Council may require further assessments to identify air quality impacts where considered requisite. It will refuse planning permission, or seek effective mitigation, where development proposals cause unacceptable air quality or dust impacts.

- 7.40 Policy **ENV18: Noise** requires that where new noise sensitive uses are proposed in the locality of existing noisy uses, the Council will seek to ensure that the function of established operations is not adversely affected.
- 7.41 Policy **WAST5: Waste Minimisation and Recycling in New Developments** states that development should include provision for waste separation and collection to meet the requirements of the Waste (Scotland) Regulations. Locations for the collection and storage of waste should be conveniently sited for both the householder (or other user) and the Council as waste collection authority.
- 7.42 Policy **IMP1: New Development** ensures that appropriate provision is made for a need which arises from new development. Of relevance in this case are education provision, transport infrastructure; contributions towards making good facility deficiencies; affordable housing; landscaping; public transport connections, including bus stops and shelters; parking in accordance with approved standards; cycling access and facilities; pedestrian access; acceptable alternative access routes, access for people with mobility issues; traffic and environmental management issues; protection/management/compensation for natural and conservation interests affected; archaeological provision and 'percent for art' provision.
- 7.43 Policy **IMP2: Essential Infrastructure Required to Enable New Development to Take Place** states that new development will not take place until provision has been made for essential infrastructure and environmental and community facility related to the scale and impact of the proposal. Planning conditions will be applied and where appropriate, developer contributions and other legal agreements will be used to secure the appropriate developer funding and ensure the proper phasing of development.
- 7.44 Policy **IMP3: Water and Drainage** require sustainable urban drainage systems (SUDS) to be incorporated into new development.

8 PLANNING ISSUES

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

Principle of development

- 8.2 As is noted above the development plan comprises National Planning Framework 4 (NPF4) and the Midlothian Local Development Plan 2017 (MLDP). Section 24(3) of the Town and Country Planning (Scotland) Act 1997 states that where there is an incompatibility between the provisions of the National Planning Framework and the provisions of a

local development plan whichever of them is the later in date is to prevail. At present NPF4 is the more recent document and therefore it prevails where there is an incompatibility between NPF4 and the MLDP.

8.3 The application site is within the built-up area of Mayfield where there is a presumption in favour of appropriate redevelopment. However, the site is not identified as an allocated housing site in the MLDP and as such the application is being considered as a windfall housing proposal. The relevant policies in relation to windfall housing are policies 16(f) of NPF4 and STRAT2 of the MLDP.

8.4 NPF4 Policy 16(f) states:

Development proposals for new homes on land not allocated for housing in the LDP will only be supported in limited circumstances where:

- i. the proposal is supported by an agreed timescale for build-out; and*
- ii. the proposal is otherwise consistent with the plan spatial strategy and other relevant policies including local living and 20 minute neighbourhoods;*
- iii. and either:*
 - delivery of sites is happening earlier than identified in the deliverable housing land pipeline. This will be determined by reference to two consecutive years of the Housing Land Audit evidencing substantial delivery earlier than pipeline timescales and that general trend being sustained; or*
 - the proposal is consistent with policy on rural homes; or*
 - the proposal is for smaller scale* opportunities within an existing settlement boundary; or*
 - the proposal is for the delivery of less than 50 affordable homes as part of a local authority supported affordable housing plan.*

*in the absence of any interpretation of 'smaller scale opportunities' Midlothian's Planning Service is taking the position that smaller residential developments are 10 or less units – this is subject to ongoing review based on appeal decisions across Scotland, but is based on a reasoned judgement regarding the impacts of different scales of development.

8.5 MLDP Policy STRAT2 states:

Within the built-up areas, housing development on non-allocated sites, including the reuse of buildings and redevelopment of brownfield land, will be permitted provided that:

- A. *It does not lead to the or damage of valuable public or private open space;*
 - B. *It does not conflict with the established use of the area;*
 - C. *It has regard to the character of the area in terms of scale, form, design and materials;*
 - D. *It meets traffic and parking requirements; and*
 - E. *It accords with other relevant policies and proposals, including policies IMP1, IMP2, DEV3, DEV5 – DEV10.*
- 8.6 NPF4 Policy 16(f)'s reference to the deliverable housing land pipeline is a key difference from policy STRAT2 of the MLDP which makes no reference to housing land supply. Policy 16(f) is a more onerous approach to windfall housing than that set out in the MLDP and represents a clear incompatibility between the provisions of NPF4 and the MLDP.
- 8.7 A recent Scottish Ministers appeal decision at Mossend, West Lothian (PPA-400-2147) makes clear that Policy 16(f) is intended to be engaged from the date of NPF4's publication and that if the housing land pipeline has yet to be identified then "*the exception permitting development on unallocated sites in the circumstances set out in the first bullet of branch (f)(iii) is not engaged*". The deliverable housing land pipeline in Midlothian will be identified once Midlothian Local Development Plan No2 (MLDP2) has established Local Housing Land Requirements (LHLR). Until a pipeline has been established there is "*a policy restriction on housing development on unallocated sites*" such as the application site. The appellant in the Mossend decision has appealed the decision (on procedural grounds) to the Court of Session, however at present no decision has been issued on the appeal.
- 8.8 Whilst there are three further exceptions permitting development listed in the three latter bullet points of Policy 16(f)(iii), the proposed development does not comply with any of these latter bullet points. The proposed development is contrary to Policy 16(f) of NPF4 and therefore there is currently no support within the development plan for the principle of this development at this location.

The supply of effective housing land

- 8.9 Notwithstanding the fact that the housing land pipeline has yet to be identified, in assessing the current application it would be prudent to consider the supply of effective housing land within Midlothian. Annex E of NPF4 sets out a Minimum All-Tenure Housing Land Requirement (MATHLR) for all of Scotland's planning authorities. The MATHLR is the minimum amount of land that a planning authority must provide for a 10 year period, the MATHLR is expected to be exceeded in each planning authority's local development plan. The MATHLR figure for Midlothian is 8850 housing units.

- 8.10 In seeking to reflect the view of Scottish Ministers that MATHLR already forms part of the development plan and is to be taken into account when making planning decisions, the NPF4 Housing Land Figures Method Paper gives some assistance. It indicates that National Records of Scotland (NRS) 2018 based household projections over a 15 period from 2022 to 2036 inclusive (15 years) were used, from which a 10 year requirement was derived. The method paper states that including figures to 2036 allows the flexibility for all new style plans to look ahead 10 years, whenever they are prepared in those first 5 years after NPF4 approval (the method paper appears to assume that NPF4 would be approved in 2021). Although the MLDP2 is expected to become operative in 2026, and address a requirement to 2036, the MATHLR indicates a target that could be used on an annualised basis from 2022 or from NPF4 adoption in 2023. However, Policy 16(f)(iii) requires “two consecutive years of the Housing Land Audit evidencing substantial delivery earlier than pipeline timescales and that general trend being sustained”.
- 8.11 Midlothian’s most up to date 2023 Housing Land Audit (HLA) describes take up and supply to end March 2023. The MATHLR requirements on an annualised basis represent 885 units per annum. Whilst this figure could be used as an interim annual delivery pipeline quantity, the planning authority is of the view that as the Local Housing Land Requirement (LHLR) and Local Development Plan (LDP) delivery programmes are not ready, it will be 2025 at the earliest, that an assessment of delivery over two consecutive years from the commencement of NPF4 could be made. Bearing these considerations in mind, HLA 2023 finds the following:

Effective housing supply at April 2022 – 11,052 units

Programmed completions for the next 10 years from HLA 2023 are set out below. (This agreed programming is arrived at from discussion with housebuilders, although will become less accurate towards the later years of the programme period.)

Year	Programmed Completions
23/24	810
24/25	660
25/26	1058
26/27	756
27/28	760
28/29	727
29/30	711
30/31	662
31/32	614
32/33	591

- 8.12 The completions for the year to March 2023 totalled 908 units, which exceeds the MATHLR annual target by 2.6%. This represents the highest number of completions recorded in Midlothian (in an HLA dataset reaching back to 1992), and the only time completions have exceeded 885 units. In the preceding year (2021-22) there were 818 units completed, which represents a shortfall of 7.6% compared to the MATHLR annual target. The average completion rate over the most recent 2 years is 863 units per year, which represents an average shortfall of 2.5% per year. It is clear that the completions for the last two HLAs do not represent the substantial delivery in excess of pipeline required by Policy 16(f)(iii).
- 8.13 Over the first two years of NPF4 the programmed delivery falls short of the MATHLR by 75 units in 2023/24 and 225 units in 2024/25. These represent shortfalls of respectively 8.5% and 25.4% below the annualised MATHLR. It has also been the planning authority's experience that the programmed delivery in HLAs has tended to exceed the actual delivery. The programmed delivery does not indicate a likelihood of a sustained trend of substantial delivery earlier than pipeline timescales.
- 8.14 Policy 16(f)(iii) requires evidence of completions from the HLA, and it would therefore not be appropriate to use forward HLA programming to assess an application under 16(f)(iii). The appellant in the West Lothian appeal case is seeking judicial review of the decision, however it is clear from the above figures that were a judicial decision to conclude that existing figures can be used to determine a housing land pipeline there is an adequate housing land supply within Midlothian to accommodate the MATHLR figure.

Ground stability

- 8.15 The application is supported by a Site Investigation Report which includes information relating to risks from the legacy of coal mining in the area. The report includes the results of intrusive site investigations (six rotary boreholes) that were carried out on the site. Having reviewed the results of the investigations the report authors conclude that there is insufficient rock cover present across the majority of the site. The report recommends that the shallow mine workings below the site be treated by drilling and pressure grouting prior to the commencement of development on the site. The Coal Authority agrees with this assessment. Were the planning authority minded to grant the application suitable remediation, and a gas migration strategy, could be secured via condition.

Biodiversity

- 8.16 The Extended Phase 1 Habitat Survey submitted in support of the application was prepared in September 2021 following an onsite survey

carried out in May 2021. Guidance from the relevant professional body (Chartered Institute of Ecology and Environmental Management) advises that surveys should be updated after a period of 18 months has elapsed from the date of preparation. The Survey is out of date.

- 8.17 The Survey identifies the presence of protected species (badgers) in the surrounding area and recommends further survey work. The proposal is for planning permission in principle, meaning that further consents would be required before any construction could commence, and it can sometimes be appropriate to secure further biodiversity survey work via condition. This approach has the benefit of ensuring that up to date surveys are undertaken prior to work commencing. Such an approach would not be appropriate in this instance as the initial baseline survey is out of date and therefore it cannot be relied upon to determine which further surveys should be secured via condition.
- 8.18 The failure to provide an up to date biodiversity survey means that it is not possible to demonstrate that the proposal will conserve, restore and enhance biodiversity. The proposal is therefore contrary to Policy 3 of NPF4. Furthermore, the absence of an up to date biodiversity survey means that it is not possible to demonstrate that a protected species, badgers, will be sufficiently protected. The proposal is therefore contrary to policy ENV15 of the MLDP.

Trees and hedgerow

- 8.19 The Tree Survey and Arboricultural Report submitted with the application provides an assessment of the location and condition of 125 trees on the site. Whilst many of the trees are of poor 'U' category and low 'C' category, more than half of the surveyed tree population has been assessed as 'A' or 'B' Category (good/ fair quality). The indicative layout proposes the removal of all but five of the existing trees. Whilst the layout proposes 66 new trees it relates poorly to the existing tree and hedgerow cover on the site and the indicative level of felling would not be compatible with Policies 1, 2, 3 and 6 of NPF4 and policies DEV5 and ENV11 of the MLDP. Most of the site is open and not covered by trees and could potentially accommodate development, however any development of the site should seek to retain trees that are in good or fair quality, and this will restrict the developable space available. Were the planning authority minded to grant permission conditions could be used to restrict tree felling and hedgerow removal.

Design and layout

- 8.20 The application is for planning permission in principle. This means that the detailed layout, form and design of the development would be subject to further applications (matters specified in conditions) and assessment if the proposal is granted planning permission. In this case

conditions would be imposed, if permission is granted, requiring the following details to be submitted by way of an application:

- layout, form and design of any proposed buildings – which will dictate the number of residential units;
- proposed materials to be used in the construction of the dwellinghouses, ground surfaces and ancillary structures – including those to be used in the area of improved quality;
- details of landscaping and boundary treatments;
- provision of open space and play areas/facilities;
- percent for art;
- sustainable urban drainage systems (SUDS);
- details of road, access and transportation infrastructure;
- sustainability and biodiversity details;
- archaeology mitigation details (if required);
- the provision of broadband infrastructure;
- ground conditions/mitigation of coal mining legacy; and
- construction management, including hours of operation and haulage routes.

8.21 It is common for applications for planning permission in principle to be accompanied by indicative layouts that are not usually approved if permission is granted. However, the indicative plan does give an idea of the applicant's development expectations and in reviewing the indicative layout it is evident that the proposed development expectation represents an over-development of the site that provides poor levels of private and communal open space; and relates poorly to the surrounding streetscape. Whilst it must be acknowledged that there are a number of constraints that limit the available land for development within the site, a successful development will need to work with the constraints to provide a development that enhances the character and amenity of the surrounding area.

Residential amenity

8.22 The site's proximity to the industrial estate to the south and the petrol filling station to the north raises potential issues with regard to the residential amenity of potential future occupants of the site. There are currently residential properties adjoining the industrial estate to the west and there are examples of residential development in close proximity to petrol stations elsewhere in Midlothian and Scotland. Careful layout design and appropriate conditions relating to the specification of residential soundproofing could address issues of residential amenity if the planning authority were minded to grant permission.

Loss of economic land supply

- 8.23 The site is identified in the MLDP as being within the built-up area of Mayfield, Easthouses, Newtongrange and Dalkeith. A small portion (approximately 0.2 hectares) of the site is also identified as forming part of the established economic land supply at Mayfield Industrial Estate. The economic land within the site is a fenced compound at the southern edge of the plot, the compound was historically used for the secure storage of caravans. The compound has been part of the application site since the original application in 1969 and the only access to the site is from the main application site, there is no access from the neighbouring industrial yard to the south. Whilst the compound may appear to be linked to the economic land supply when viewed on a map the history of the site and the physical development of the site clearly indicate that it does not function as part of the economic land supply to the south. Were the compound to form part of a residential development there would be no practical loss of economic land.
- 8.24 It is, however, reasonable to consider whether residential development would be the best use of the site. If the site were to come forward for development through the local plan process the planning authority may consider it more appropriate for economic or community uses rather than residential. Its proximity to the industrial estate to the south and the petrol filling station to the north are constraints that could be better addressed via non-residential uses. Furthermore, occupancy levels within Mayfield Industrial Estate indicate that there is a strong demand for small and medium sized roller shutter units in the Mayfield area and the site represents the last remaining option for expansion of the Estate. The site's position and historical use would make it a logical site for expansion of Mayfield Industrial Estate.

Developer contributions

- 8.25 Scottish Government advice on the use of Section 75 Planning Agreements is set out in Circular 03/2012: Planning Obligations and Good Neighbour Agreements. The Circular advises that planning obligations should only be sought where they meet all of the following tests:
- Necessary to make the proposed development acceptable in planning terms (paragraph 15)
 - Serve a planning purpose (paragraph 16) and, where it is possible to identify infrastructure provision requirements in advance, should relate to development plans
 - Relate to the proposed development either as a direct consequence of the development or arising from the cumulative impact of development in the area (paragraphs 17-19)
 - Fairly and reasonably relate in scale and kind to the proposed development (paragraphs 20-23)

- Be reasonable in all other respects
- 8.26 In relation to Midlothian Council, policies relevant to the use of Planning Obligations are set out in the MLDP and Midlothian Council's Developer Contributions Guidelines (Supplementary Planning Guidance).
- 8.27 This proposed residential development has been assessed in relation to the above guidance and it is considered that a Planning Obligation is required in respect of the following matters:
- A financial contribution towards additional primary education capacity;
 - A financial contribution towards additional secondary education capacity;
 - A financial contribution towards Borders Rail,
 - A financial contribution towards improvements within Mayfield town centre; and
 - Provision of affordable housing (25%).
- 8.28 At the point of drafting the Committee report the applicants were not prepared to make the required developer contributions to mitigate the impact of development – this is critical, and any shortfall in developer contributions, if planning permission is granted, effectively is subsidised by the Council. The applicant's position is that the proposed development is not viable if developer contributions are required. Given that provision cannot be made for essential infrastructure and environmental requirements related to the scale and impact of the proposed development, the proposal is therefore contrary to MLDP policies IMP1 and IMP2.

9 RECOMMENDATION

- 9.1 It is recommended that planning permission be refused for the following reasons:
1. *The site is not allocated for housing. No housing land pipeline has been identified at present for Midlothian and the Council's Housing Land Audit does not identify a shortfall or future shortfall in housing land supply and as such there is no policy exception that would support windfall housing development of the scale proposed on the unallocated site. The principle of residential development, of the scale anticipated, at this location is contrary to National Planning Framework 4 Policy 16(f).*
 2. *By not meeting the required developer contribution requirements the proposed development does not mitigate its impact on local infrastructure and the environment and as such does not accord with Midlothian Local Development Plan Policies IMP1 and IMP2.*

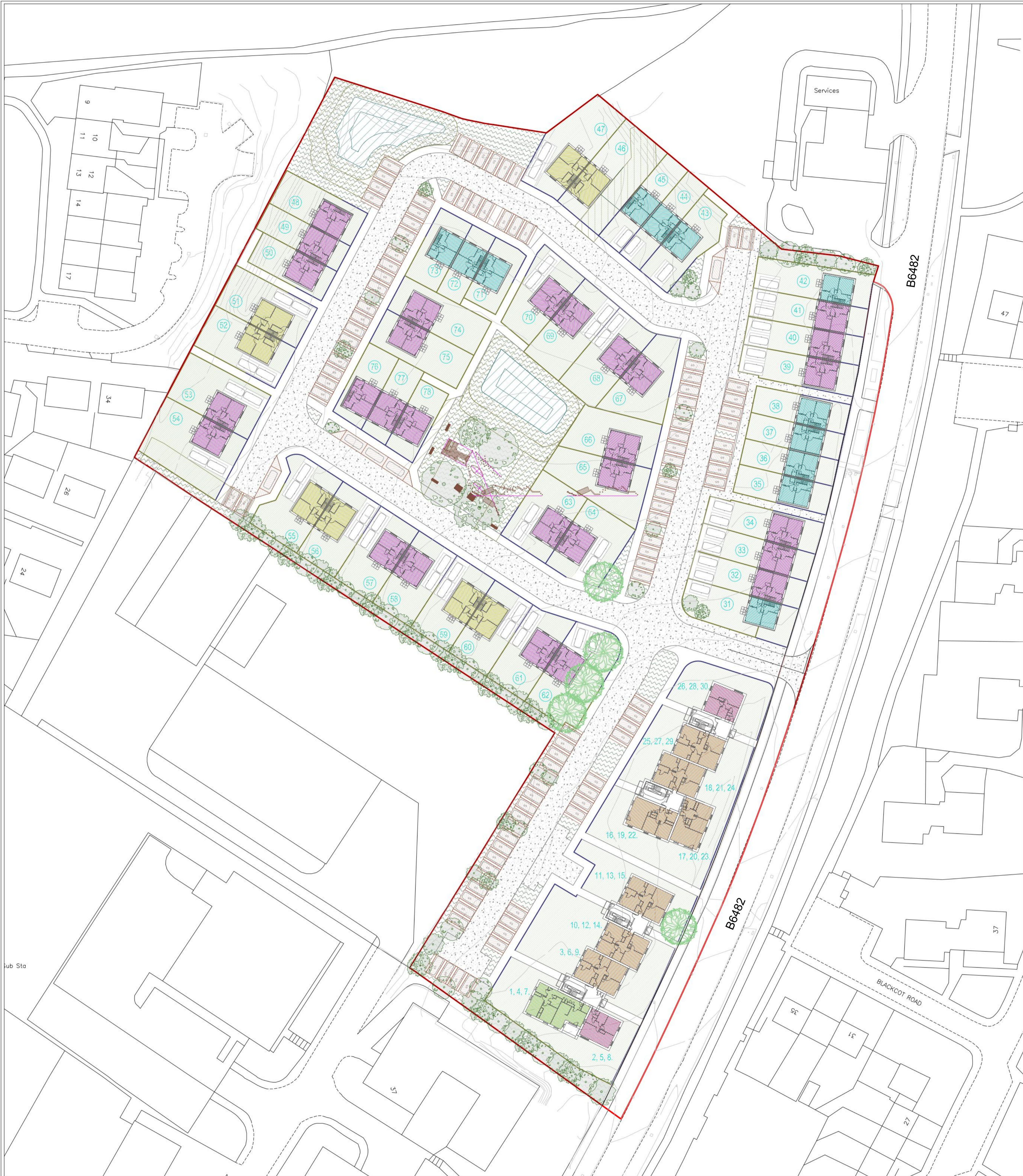
3. *The proposed development, based on the indicative layout and associated reports submitted with the application, will result in the significant and unacceptable loss of trees contrary the Scottish Government and Midlothian Council ambitions with regard climate change, biodiversity enhancement and tree retention. As such the development is contrary to National Planning Framework 4 Policies 1, 2, 3 and 6 and Midlothian Local Development Plan Policies DEV5 and ENV11.*

4. *The ecological survey submitted in support of the application is out of date. It has not been satisfactorily demonstrated that the proposal will conserve, restore and enhance biodiversity or that the interests of a protected species have been adequately assessed. The proposal is contrary to National Planning Framework 4 Policy 3 and Midlothian Local Development Plan ENV15.*

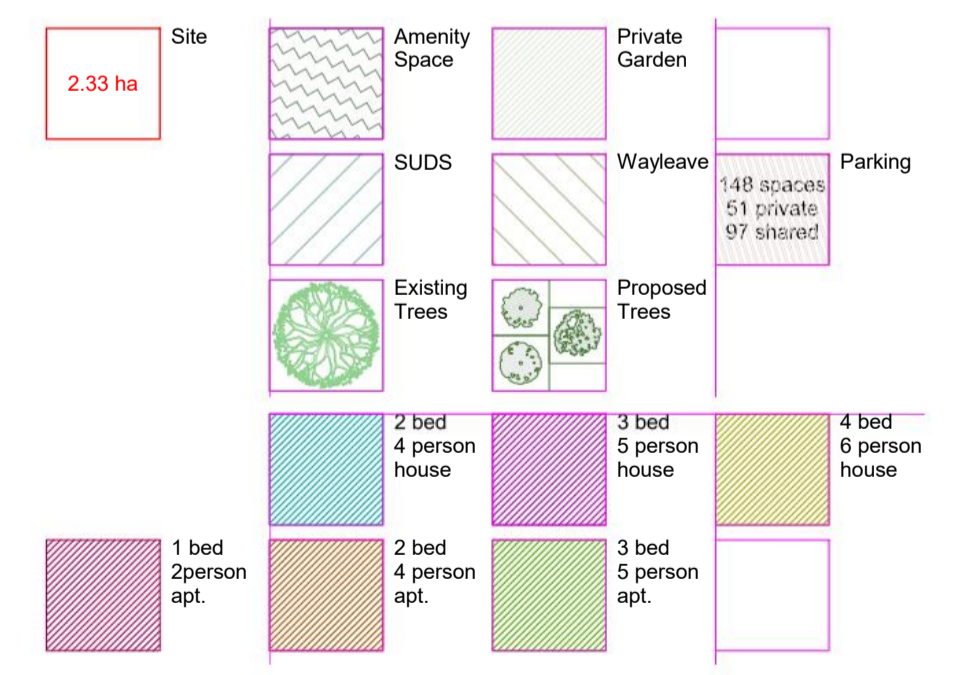
Peter Arnsdorf
Planning, Sustainable Growth and Investment Manager

Date: 12 January 2024

Application No: 23/00694/PPP
Applicant: Online Mayfield Scotland LLP
Agent: Alan Farningham, Farningham Planning Ltd
Validation Date: 23 October 2023
Contact Person: Graeme King, Planning Officer
Email: graeme.king@midlothian.gov.uk
Background Papers: 21/00344/PAC; 22/00597/PPP
Attached Plans: Location plan and indicative site layout.

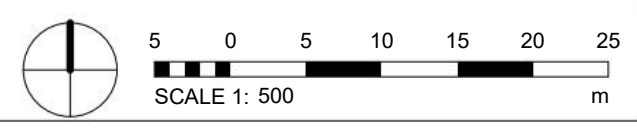


**Indicative layout:
For information purposes only**



	1 bed 2 person	2 bed 4 person	3 bed 5 person	4 bed 6 person	Total
Semi-detached:	/	/	16 units	8 units	24 units
Terraced:	/	12 units	12 units	/	24 units
Apartments:	6 units	21 units	3 units	/	30 units
					78 units

1 Site Plan
1 : 500



Notes

THIS DRAWING READ IN CONJUNCTION WITH :

GENERAL NOTES:

1. Do not scale from this drawing.
2. All dimensions are in millimetres unless noted otherwise.
3. The Contractor is responsible for checking all dimensions, levels and co-ordinates on site before commencing the Works.
4. All new works are to be in accordance with The Building (Scotland) Regulations 2004 and all current amendments.
5. All new works, products and processes are to be in accordance with the relevant British Standards and Manufacturers written guidance.

Rev	Description	Date	Dr by	App by
original by		date created		
Author		05/10/23		Approver

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client name	Online Mayfield Scotland LLP
project	Former Caravan Park off the B6482, Mayfield
drawing	Site Plan
computer file	Z:\Public\AMP\Projects\21 01 Mayfield 10 BM\10.0 WIP\Drawings\Site.rvt
plot date	
project number	Project Number
scale	As indicated@A1
drawing number	LL(90)01
issue status	
rev	

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APPLICATIONS FOR LISTED BUILDING CONSENT 23/00674/LBC AND PLANNING PERMISSION 23/00675/DPP FOR THE INSTALLATION OF SOLAR PANELS AT NEWTONGRANGE PARISH CHURCH, MAIN STREET, NEWTONGRANGE

Report by Chief Officer Place

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

- 1.1 The applications are for the installation of solar panels on Newtongrange Parish Church, Main Street, Newtongrange.**
- 1.2 There have been no representations received and a consultation response from the Newtongrange Community Council.**
- 1.3 The relevant policies, legislation and guidance for 23/00674/LBC are policy 7 of the National Planning Framework 4 (NPF4), Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, Historic Environment Policy for Scotland (HEPS) and Historic Environment Scotland – Managing Change in the Historic Environment Guidance Notes on Micro-Renewables and Roofs. The relevant development plan policies for 23/00675/DPP are policies 1, 2, 3, 7, 11 and 14 of the National Planning Framework 4 (NPF4) and policies DEV2 and ENV22 of the Midlothian Local Development Plan 2017 (MLDP).**
- 1.4 The recommendation is to refuse listed building consent and planning permission.**

2 LOCATION AND SITE DESCRIPTION

- 2.1 The application site is located centrally within the built up area of Newtongrange. This is within the Town Centre which extends to the immediate north, west and southwest. The Newtongrange Conservation Area lies to the south.**
- 2.2 The application site comprises a church set within its own grounds. The church (1939-42) is in a modern style with a long sloping slated pitched roof with dormers. A large tower is located at the entrance (west) of the church. The church walls are harled. There is a church hall to the east which is outwith the site but under the control of the occupant. This was the original church, built in 1935. The church and**

church hall are, together, a category C listed building. Planning permission and listed building consent have been granted for the demolition of the church hall, with planning permission in principle granted for residential development replacing the hall. The application site is at a prominent part of the streetscene and surrounding area.

- 2.3 There is a road and a row of traditional miners' cottages to the south. To the east is car parking associated with the church, with traditional miners' cottages beyond separated by a vehicular access track. There is open space and the Newtongrange Library to the north, again with traditional miners' cottages and low level housing beyond. To the west is an area of open amenity space and the site of the demolished Newtongrange swimming pool, which is earmarked for development as part of the Newtongrange Town Centre redevelopment.
- 2.4 The site comprises a square parcel of land measuring approximately 0.18 hectares. The land within the site and surrounding area is relatively level.
- 2.5 The existing built form within the area comprises of single and two storey brick terraced traditional miners' cottages in residential use. The church hall has a slate roof and rendered walls painted cream colour. The library building to the north is single storey with a flat roof and white painted render walls.

3 PROPOSAL

- 3.1 Listed building consent and detailed planning permission are sought for the installation of thirty solar panels on the south (side) elevation of the roof of the church. The solar panels are set out in 2 sections of 9 panels (3 by 3) and 2 sections of 6 (2 by 3) panels. The panels measure 2.1 metres by 1 metre and would produce 10,449KW annually. These are to be mounted over the existing roof slates.
- 3.2 Both applications are accompanied by:
- A Planning Statement;
 - An Energy Strategy Report;
 - Business Plan;
 - A condition survey of the building;
 - Report on the roof structure;
 - Supporting letters from the Community Council, Newtongrange Development Trust and the National Mining Museum; and
 - Public feedback forms.

4 BACKGROUND

- 4.1 There have been a number of applications submitted for works at the site. Listed building consent was approved in 2004 for the installation of ramped access to church and associated works (04/00530/LBC).

- 4.2 Listed building consent 16/00265/LBC was approved in 2016 to reduce the height of the boiler house chimney/flue on the rear of the hall.
- 4.3 Detailed planning permission 22/00129/DPP for 'external alterations to church including installation of replacement windows and doors, alterations to window openings to form door openings, infilling of window opening, rendering of external walls, installation of vent and installation of photovoltaic (PV) panels; formation of car park; formation of ramps/terrace; and installation of air source heat pumps' and listed building consent 22/00130/DPP for 'external alterations to church including installation of replacement windows and doors, alterations to window openings to form door openings, infilling of window opening, rendering of external walls, installation of vent and installation of PV panels; formation of ramps/terrace; and installation of air source heat pump' were refused in 2022. The applications did not demonstrate that the replacement windows, alterations, solar panels, air source heat pumps and ramps would not have an adverse effect on the character, appearance or historic interest of the listed building. The proposed works would have a significant adverse impact on the prominent listed building which did not comply with relevant policies and guidance.
- 4.4 Further to this, detailed application 23/00264/DPP for 'alterations to church building including; installation of PV panels and replacement windows, alterations to window openings to form door openings; formation of path, access ramp and car park' and listed building consent 23/00265/LBC for 'alterations to church building including; installation of PV panels and replacement windows, alterations to window openings to form door openings; and formation of paths and access ramp' were submitted in April 2023. While the application submissions did not include much more detail than the applications refused in 2022, there were significant discussions between the applicant's agent and the case officer which resulted in additional details being submitted. These addressed a number of concerns over the impact of the proposed works on the historic character and setting of the listed building and allowed both applications to be approved with conditions. However the proposed PV panels were conditioned out of both permissions as it was still considered that these would have an adverse effect on the character, appearance and historic interest of the listed building. These permissions have not been implemented.
- 4.5 Although outwith the site, the approved works at the adjacent church hall site should be noted. Planning permission 21/00701/PPP for planning permission in principle for residential development and associated work and listed building consent 21/00733/LBC for the demolition of church hall were approved in 2022. These permissions have not been implemented.
- 4.6 The detailed planning application has been 'called-in' Committee for determination by Councillor Bowen. Councillor Bowen has called the planning application in as the Newtongrange Community Council fully

supports the application. It is considered appropriate that the listed building application also be considered by the Committee, given that the same comments supporting the proposal have been submitted by the Newtongrange Community Council for both applications and that the listed building consent application is for the same development as the planning application.

5 CONSULTATIONS

5.1 The **Newtongrange Community Council** has submitted the same comments in support of both applications. They aim to support local organisations and so see the proposed church redevelopment as positive for the local area. They state that:

- the works will enhance and improve the village;
- the use of renewable energy is sensitively included on the listed building;
- the works will provide measures for disabled access;
- these works will also sustain the important heritage links in the village, as it is recognised that churches are closing throughout Scotland and Newtongrange is bucking this trend; and
- the works will also retain a local landmark and listed building in main street of the village.

They state that the Community Council also intend to make good use of the building once complete.

5.2 This consultation response is available to view in full on each online application case file.

6 REPRESENTATIONS

6.1 There have been no representations received.

7 PLANNING POLICY

7.1 The development plan is comprised of National Planning Framework 4 (2023) and the Midlothian Local Development Plan 2017.

7.2 The following policies are relevant to the proposal:

National Planning Framework 4 (NPF4)

7.3 **Policy 1 Tackling the climate and nature crises**; sets out to encourage, promote and facilitate development that addresses the global climate emergency and nature crisis.

7.4 **Policy 2 Climate mitigation and adaptation**; sets out to encourage, promote and facilitate development that minimises emissions and adapts to the current and future impacts of climate change.

- 7.5 Policy **3 Biodiversity**; sets out to protect biodiversity, reverse biodiversity loss, deliver positive effects from development and strengthen nature networks.
- 7.6 Policy **7 Historic assets and places**; sets out to protect and enhance historic environment assets and places, and to enable positive change as a catalyst for the regeneration of places.
- 7.7 Policy **11 Energy**; sets out to encourage, promote and facilitate all forms of renewable energy development onshore and offshore. This includes energy generation, storage, new and replacement transmission and distribution infrastructure and emerging low-carbon and zero emissions technologies including hydrogen and carbon capture utilisation and storage (CCUS).
- 7.8 Policy **14 Design, quality and place**; sets out to encourage, promote and facilitate well designed development that makes successful places by taking a design-led approach and applying the Place Principle.

Other National Policy

- 7.9 **Designing Places, A Policy Statement for Scotland** sets out the six key qualities which are at the heart of good design namely identity, safe and pleasant environment, ease of movement, a sense of welcome, adaptability and good use of resources.
- 7.10 The **Scottish Government's Policy on Architecture for Scotland** sets out a commitment to raising the quality of architecture and design.
- 7.11 **Historic Environment Scotland - Managing Change in the Historic Environment Guidance Notes – Micro-renewables** states the use of renewable energy technology in the historic environment is supported where the character of the historic building or place can be protected through careful siting and design. Renewable energy systems will often have some visual or physical impact on the building or site they serve and it is important to minimise this impact to maintain the character and significance of the historic asset. Micro-renewable installations should be planned carefully to minimise intervention affecting historic character while balancing the potential of available renewable energy sources. Where possible, installations on a building should avoid its main and visible elevations, such as secondary parts of the building, adjacent outbuildings or on the ground nearby. During installation, it may be necessary to alter or remove historic building fabric, which can include attaching frames or fixtures to roofs, passing pipes and wires over facades and through the building interiors, and integrating pumps, boilers and storage tanks into existing conventional systems. Any intervention to historic fabric should be minimised and undertaken only after careful analysis and design of the system. For solar panels, it is usually desirable to mount panels over existing slates, rather than replace historic fabric with look-alike materials.

Installation of solar panels on the principal elevation of a historic building should be avoided because of the detrimental visual impact. Therefore, if historic buildings face south, their main roof slopes may be inappropriate as locations for solar panels. Alternative solutions should be explored, such as installation on secondary roof slopes, on locations hidden from main views, or on surrounding areas such as sheds, gardens or fields. Solar systems installed on roofs can be heavy, and an appropriate survey should be carried out to determine the structural impact and safety of such systems.

- 7.12 **Historic Environment Scotland Managing Change in the Historic Environment Guidance Notes – Roofs** states roofs and associated features form important elements in defining their character. The significance of a historic roof comes from a number of factors including its age, functional performance, shape and pitch, profile, and the qualities of its supporting structure, covering materials and associated features. Alterations and repairs to roofs and their associated features should protect the character of the historic building.

Midlothian Local Development Plan 2017 (MLDP)

- 7.13 Policy **DEV2: Protecting Amenity within the Built-Up Area** states that development will not be permitted within existing and future built-up areas where it is likely to detract materially from the existing character or amenity of the area.
- 7.14 Policy **ENV22: Listed Buildings** does not permit development which would adversely affect the character or appearance of a listed building, its setting or any feature of special architectural or historic interest.

8 PLANNING ISSUES

Listed Building Consent Context

- 8.1 Applications for Listed Building Consent are to be assessed in terms of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the LBCA Act). The LBCA Act states:

In considering whether to grant listed building consent for any works, the planning authority or the Secretary of State, as the case may be, shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

This legislative requirement is significantly different from the assessment criteria set out in the Town and Country Planning (Scotland) Act 1997 (the Planning Act) where it is necessary to determine a planning application in accordance with the development plan unless material considerations indicate otherwise. There is no

provision in the LBCA Act for material considerations to influence a decision in an application for Listed Building Consent.

Planning Application Context

- 8.2 The main issue to be considered in determining a planning application is whether the proposal complies with relevant policies, unless material planning considerations indicate otherwise. It needs to be considered whether or not the proposal has an adverse impact on the character, appearance, fabric or historic importance of the listed building. The consultation responses received are material considerations.

Assessment

- 8.3 While the Newtongrange Parish Church remains on the statutory list of listed buildings it is a statutory requirement to protect it from development which will harm its special architectural interest. Part of the architectural interest of the building stems from its design and form, which includes its long sloping dominant roof planes, finished in natural green slate.
- 8.4 Thirty solar panels are proposed to be installed on the roof of the south (side) elevation of the church, fitted on top of a large area of the existing natural slates. Historic Environment Scotland guidance states that alterations to roofs should protect the character of the historic building. They also state that solar panels on the principal elevations of a historic building should be avoided due to the detrimental visual impact that they would have. Alternative solutions should be explored, such as the use of different technologies and equipment, installation of solar panels on locations hidden from main views, or on surrounding areas such as outbuildings or the use of ground mounted solar panels.
- 8.5 The proposed solar panels are on a highly publicly visible elevation which makes a significant positive contribution to the character and appearance of the church and the wider street-scene and adjacent conservation area. It is arguable that the south (side) elevation of the church makes as significant contribution to the architectural quality of the church, and character of the area, as the principle elevation. The solar panels are bulky additions which cover a large section of this prominent elevation, dominating, and distracting from, the south facing roof slope. The solar panels would be large black, contrasting, additions to this natural slate roof plane.
- 8.6 There are significant concerns regarding the siting of the solar panels on this prominent roof plane and the impact the highly visible panels will have on the special architectural interest of the listed building. While the south elevation is not the front elevation, the side elevation, where the solar panels are proposed, is highly prominent in the surrounding area and the solar panels would be an unsympathetic and unattractive addition, significantly prominent on this roof plane. They

would be out of character and out of context. The site is a landmark building at the centre of Newtongrange and has a significant presence on Main Street. The installation of these solar panels would seriously diminish the special architectural interest of the church.

- 8.7 It has not been demonstrated that the church can accommodate the solar panels without having a detrimental impact on the fabric of the listed building, either in terms of the structure, the details of their fixing onto the slates or necessary installation works, including pipeworks through the building. The submissions include a report from a civil engineer which states that the roof should be able to hold the panels. However, the applicant states that the roof structure will only be fully surveyed in order to verify that it is able to accommodate the panels structurally by detailed calculation at Building Warrant stage. A building warrant to 'alter church to include formation of new family room, kitchen, toilets, vestry, stores and two additional exit doors, provide new external access ramps and photo-voltaic panels on roof' has been submitted. However, this does not include any details of the roof structure and its ability to hold the panels. Indeed, more information on this point has been submitted as part of the current listed building consent and planning applications than in the building warrant. Supporting information is not being submitted by the applicant to satisfy concerns which are being raised by the planning authority.
- 8.8 The concerns regarding the solar panels were clearly highlighted in the report of handling and decision notices for the applications considered in April 2022 and August 2023. There were no pre-application discussions or correspondence with the planning authority regarding these concerns after these applications were determined and before the current applications were submitted. During the assessment of the applications determined in 2023 concerns regarding the solar panels and other elements of the proposal were raised by the case officer to the agent early in the application process. While some matters were addressed the planning authority's concerns regarding the solar panels remained. It is clear that the planning authority has maintained serious concerns regarding the solar panels throughout the assessment of proposed alterations to the church and the applicant has been aware of these concerns since early 2022. The current proposal does not attempt to resolve these concerns nor does it find a suitable alternative to panels on the roof.
- 8.9 The planning authority has a duty to consider the climate crisis when assessing development proposals. The planning authority makes a significant effort to support measures to reduce carbon emissions and improve energy efficiency across all development proposals. This approach is clear from attempts to protect trees, create sustainable developments and supporting a range of other microrenewable developments across the Council area, which includes sites within Newtongrange itself. However, there is a balance to be struck between the Council's responsibility to protect the historic environment and

addressing the climate crisis, particularly where a range of alternative, less intrusive, technologies could be employed.

- 8.10 As the applicant's agent has stated, the applicant considers that the inclusion of solar panels are integral to the overall works at the site. The planning authority has suggested investigating alternative solutions, including ground mounted solar panels. However, the applicant is resistant to this as an option, due to the limited space within the applicant's ownership; some of the land is being used for landscaping work; the land is not suitable for this development as the area is utilised for various events throughout the year; and these would be susceptible to vandalism as the grounds cannot be properly secured. The submissions state ground mounted panels could be more prominent than roof mounted panels and would potentially cause significant harm to the appearance and setting of the listed building. The case officer considers that there is a large amount of ground surrounding the church so there is adequate room for ground mounted panels, any events and the previously approved works. The siting of ground mounted panels to the south of the church would have much less impact on the setting of the C listed building than the significant adverse impact of solar panels on the roof.
- 8.11 The applicant's agent has referenced the siting of solar panels on other buildings in the surrounding area, mainly on residential properties but also at the mining museum. The solar panels on the residential properties are of a lower scale and on less prominent buildings which are not listed. The solar panels at the listed mining museum are sited on secondary and rear elevations which are not open to public view. These do not cover a large area of the roof plane and do not dominate the original roof. In the assessment of the panels at the mining museum it was considered they did not result in an adverse impact upon the character or appearance of the listed building or the conservation area and there were no significant adverse amenity implications. These examples do not raise the same adverse impacts and concerns as the proposed works being considered here.
- 8.12 The prominent siting of thirty solar panels on the south facing roof plane of the church will not preserve the architectural interest of this listed building, they will cause significant harm, and will therefore not comply with the legislative requirements as set out in paragraph 8.1 of this report.
- 8.13 The above position is consistent with the national position. The Scottish Government has recently refused solar panels on a listed building in West Lothian as they considered that the visual effects of these would be significant and would have an adverse effect on the architectural and historic features of the listed building. It was considered that the proposals would not preserve the features of special architectural or historic interest of the listed building.

- 8.14 The relevant legislation, Historic Environment Scotland guidance, recent Scottish Government appeal decision, similar refusal in Midlothian and the requirement for planning authorities to protect listed buildings mean that the proposed solar panels should not be supported.
- 8.15 The planning authority does not expect any disruption to the local road network more than any other small scale development as a result of the proposed works.

9 RECOMMENDATIONS

- 9.1 That listed building consent and planning permission be refused for the following reasons:

23/00674/LBC

1. The proposed solar panels would dominate the appearance of the host building as viewed from the south and west and significantly detract from the character and appearance of this prominent listed building.
2. It has not been demonstrated to the satisfaction of the planning authority that the proposed solar panels would not have a detrimental impact on the fabric or structure of the host listed building.
3. For the above reasons, the proposed works will have a significant adverse impact on the character, appearance, fabric, setting and historic context of the listed building and therefore are contrary to the Historic Environment Scotland policy and Managing Change guidance on roofs and section 14(2) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (as amended).

23/00675/DPP

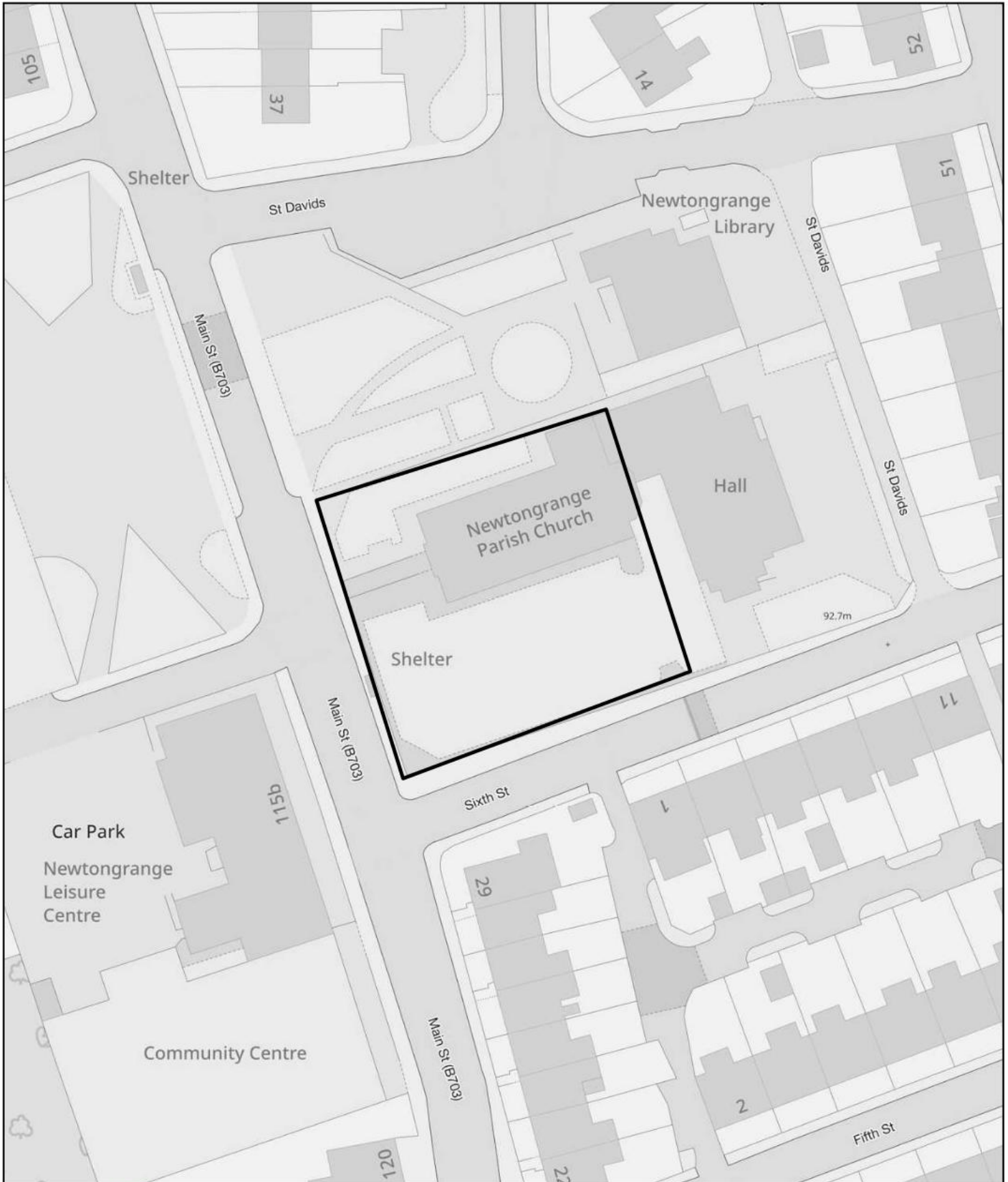
1. The proposed solar panels would dominate the appearance of the host building as viewed from the south and west and significantly detract from the character and appearance of this prominent listed building.
2. It has not been demonstrated to the satisfaction of the planning authority that the proposed solar panels would not have a detrimental impact on the fabric or structure of the host listed building.
3. For the above reasons, the proposed works will have a significant adverse impact on the character, appearance, fabric, setting and historic context of the listed building and therefore are contrary to

DEV2 and ENV22 of the adopted Midlothian Local Development Plan 2017, the requirements set out in planning legislation and policy 7 of the National Planning Framework 4.

Peter Arnsdorf
Planning, Sustainable Growth and Investment Manager

Date: 12 January 2024

Application Nos: 23/00674/LBC and 23/00675/DPP
Applicant: Parish of Newbattle
Agent: Kieran McFarlane, Ferguson Planning
Validation Date: 18 October and 14 November
Contact Person: Mhairi-Anne Cowie, Planning Officer
Email: mhairi-anne.cowie@midlothian.gov.uk
Background Papers: Applications 23/00264/DPP, 23/00265/LBC, 22/00129/DPP and 22/00130/LBC
Attached Plans: Location plan, site plan, elevations and indicative illustrations.



**Planning Service
Place Directorate**
Midlothian Council
Fairfield House
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EH22 3AA

Installation of solar panels

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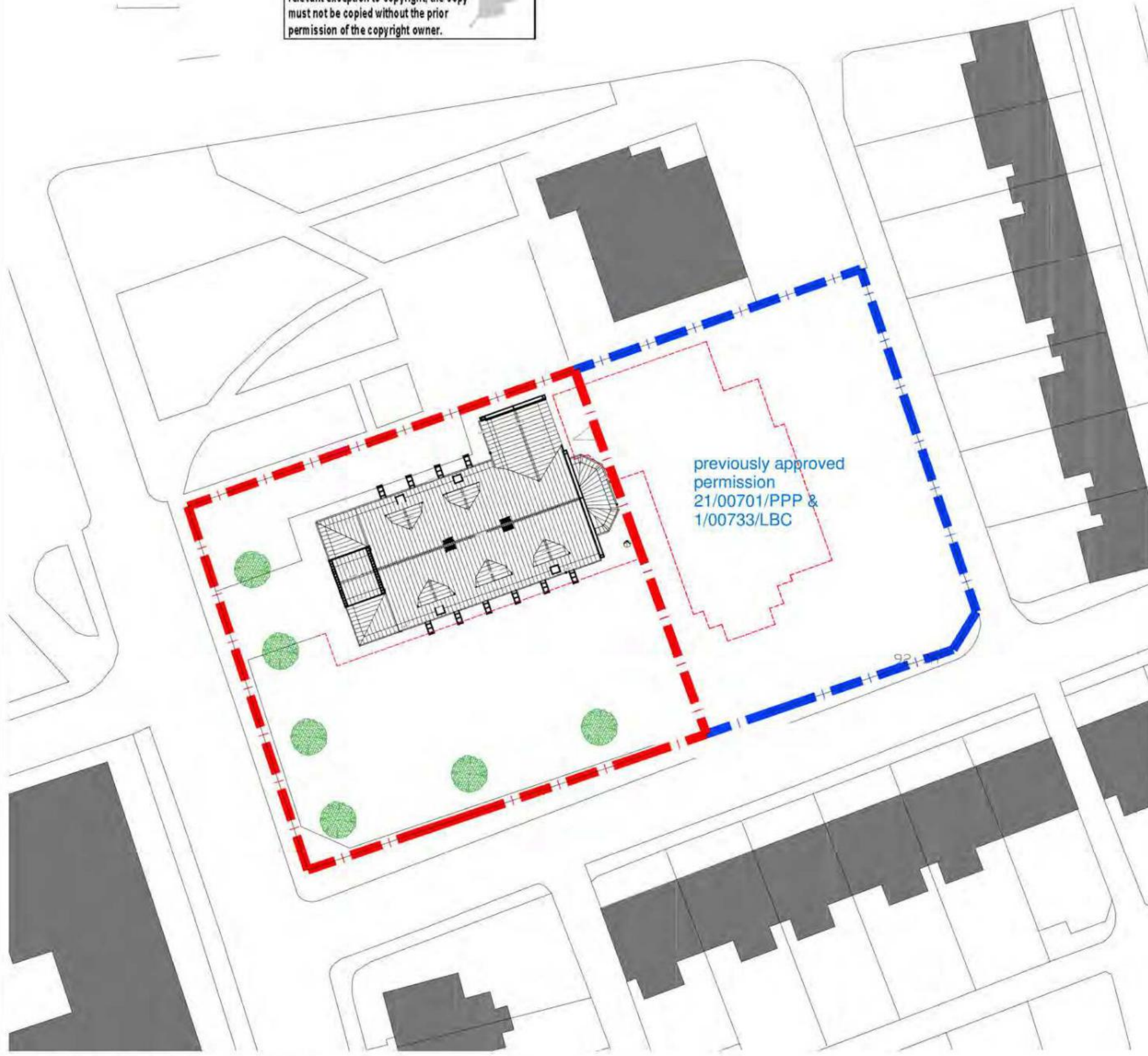
File Nos.: 23/00674/LBC and 23/00675/DPP

Scale: 1:750
Page 114 of 122

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Site Plan - as existing
Scale 1:500

0 5m 10m 15m



Location Plan - as existing
Scale 1:1250

0 10 20 30m



ECCLESIASTICAL EXEMPTION:
NEWTONGRANGE PARISH CHURCH IS AN "ECCLESIASTICAL BUILDING" IN THE TERMS OF THE PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) (SCOTLAND) ACT 1997 AND THE CORRESPONDING HISTORIC ENVIRONMENT SCOTLAND ECCLESIASTICAL EXEMPTION GUIDE. LISTED BUILDING CONSENT IS SOUGHT FOR PROPOSED EXTERNAL ALTERATIONS ONLY, WHICH INCLUDE ALTERATIONS TO EXTERNAL DOORS AND WINDOWS. ALTERATIONS TO THE INTERIOR ARE SUBJECT TO THE ECCLESIASTICAL EXEMPTION AND DO NOT FORM PART OF THE LISTED BUILDING CONSENT APPLICATION. THE ECCLESIASTICAL EXEMPTION DOES NOT APPLY TO PLANNING PERMISSION.

- REMOVED WORKS
- EXISTING BUILDING
- PROPOSED WORKS
- EXISTING TREES

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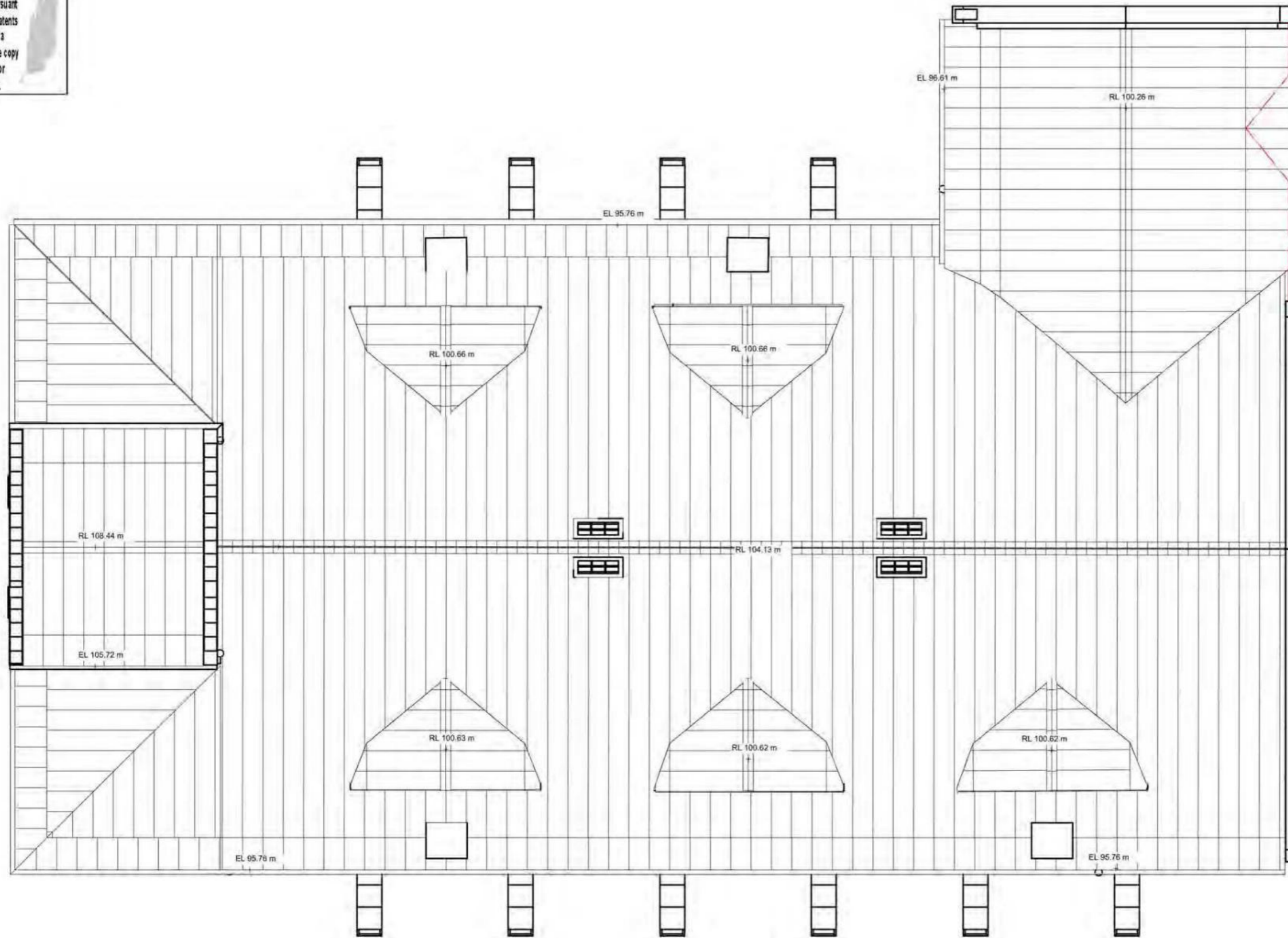
PLANNING

PROJECT
Proposed Refurbishment & Alterations
Newtongrange Parish Church
Main Street
Newtongrange, EH22 4LE

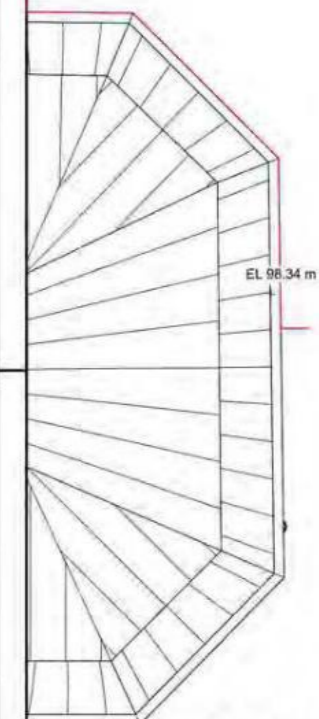
DRAWING
Location & Site Plans - as existing

DATE	DRAWN	SCALE
20.03.23	AS	As noted @ A3
PROJECT	DRAWING No.	REVISION
23002	EX01	

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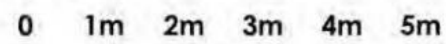


Demolition of Church Hall approved under application 21/00733/LBC



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Roof Plan - as existing
Scale 1:100



-  REMOVALS
-  EXISTING WALL
-  NEW WALL
-  PROPOSED NEW WORKS

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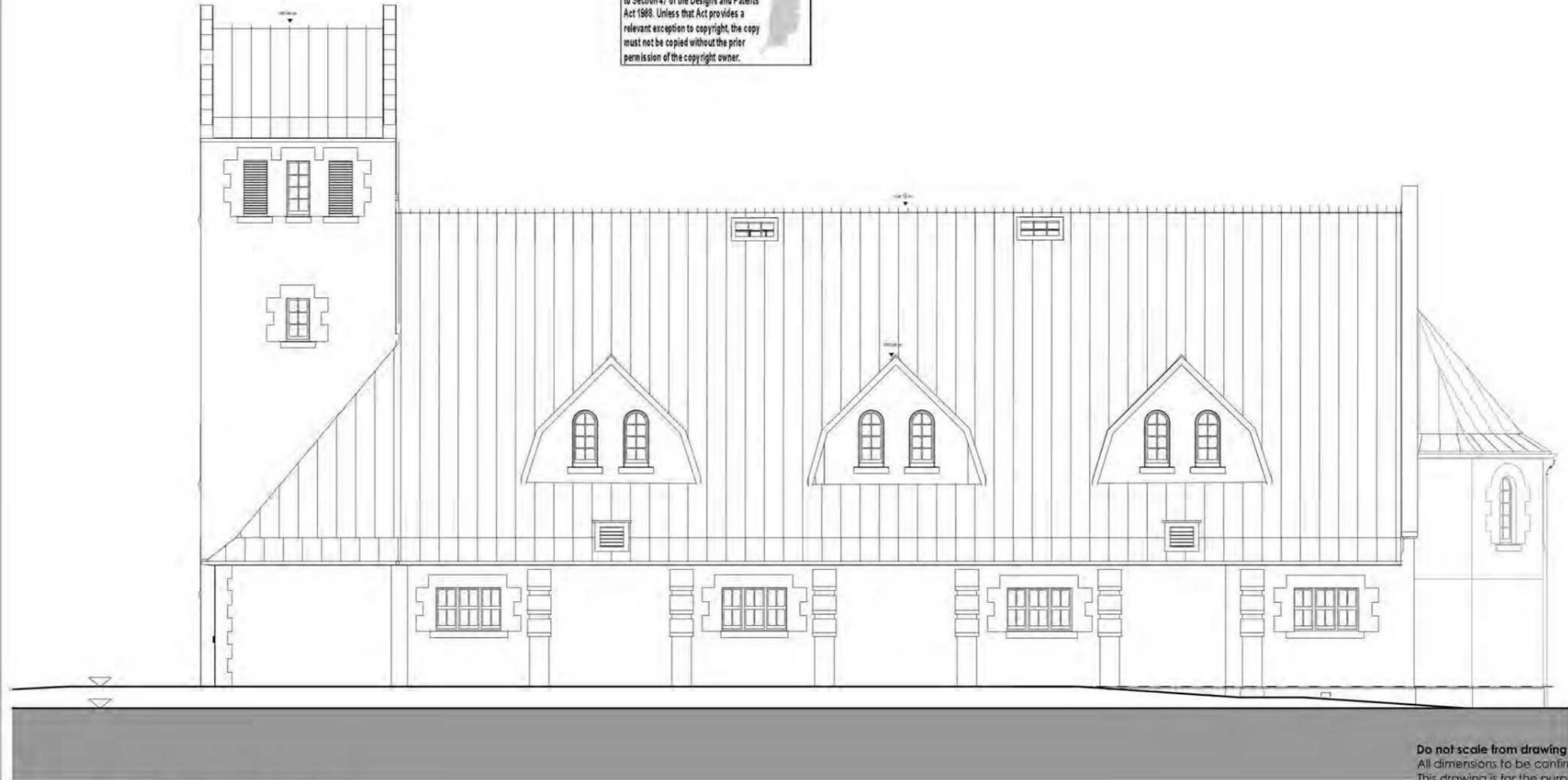
PLANNING

PROJECT
 Proposed Refurbishment & Alterations
 Newtongrange Parish Church
 Main Street
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DRAWING
 Roof Floor Plan - as existing

DATE	DRAWN	SCALE
20.0323	AS	As noted @ A3
PROJECT	DRAWING No.	REVISION
23002	EX04	A

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South Elevation - as existing
Scale 1:100

0 1m 2m 3m 4m 5m

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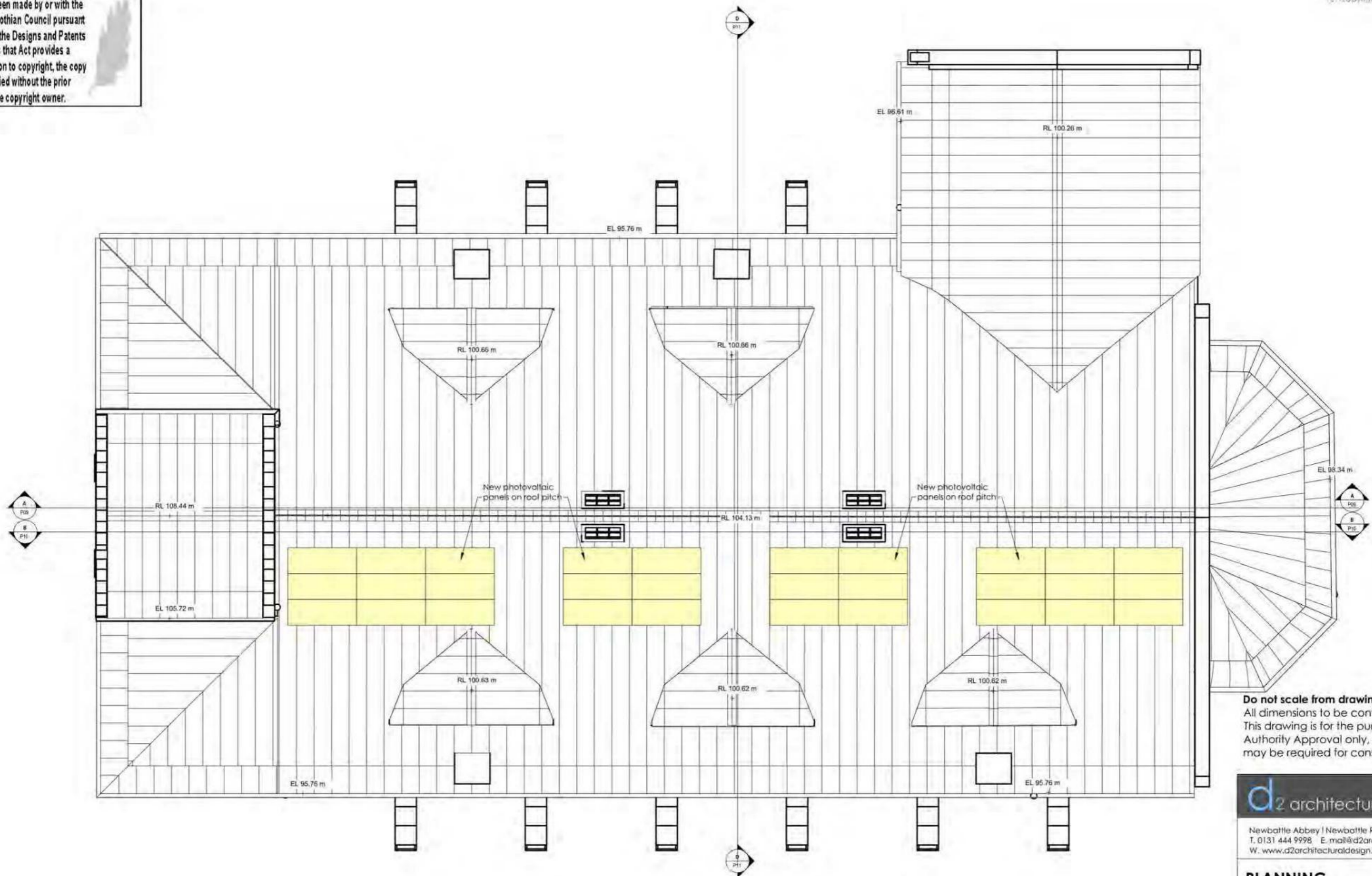
PLANNING APPLICATION

PROJECT
Proposed Refurbishment & Alterations
Newtongrange Parish Church
Main Street
Newtongrange, EH22 4LE

DRAWING
South Elevation - as existing

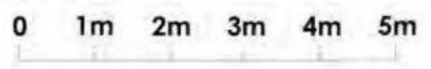
DATE	DRAWN	SCALE
20.0323	AS	As noted @ A3
PROJECT	DRAWING No.	REVISION
23002	EX06	

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Roof Plan - as proposed
 Scale 1:100

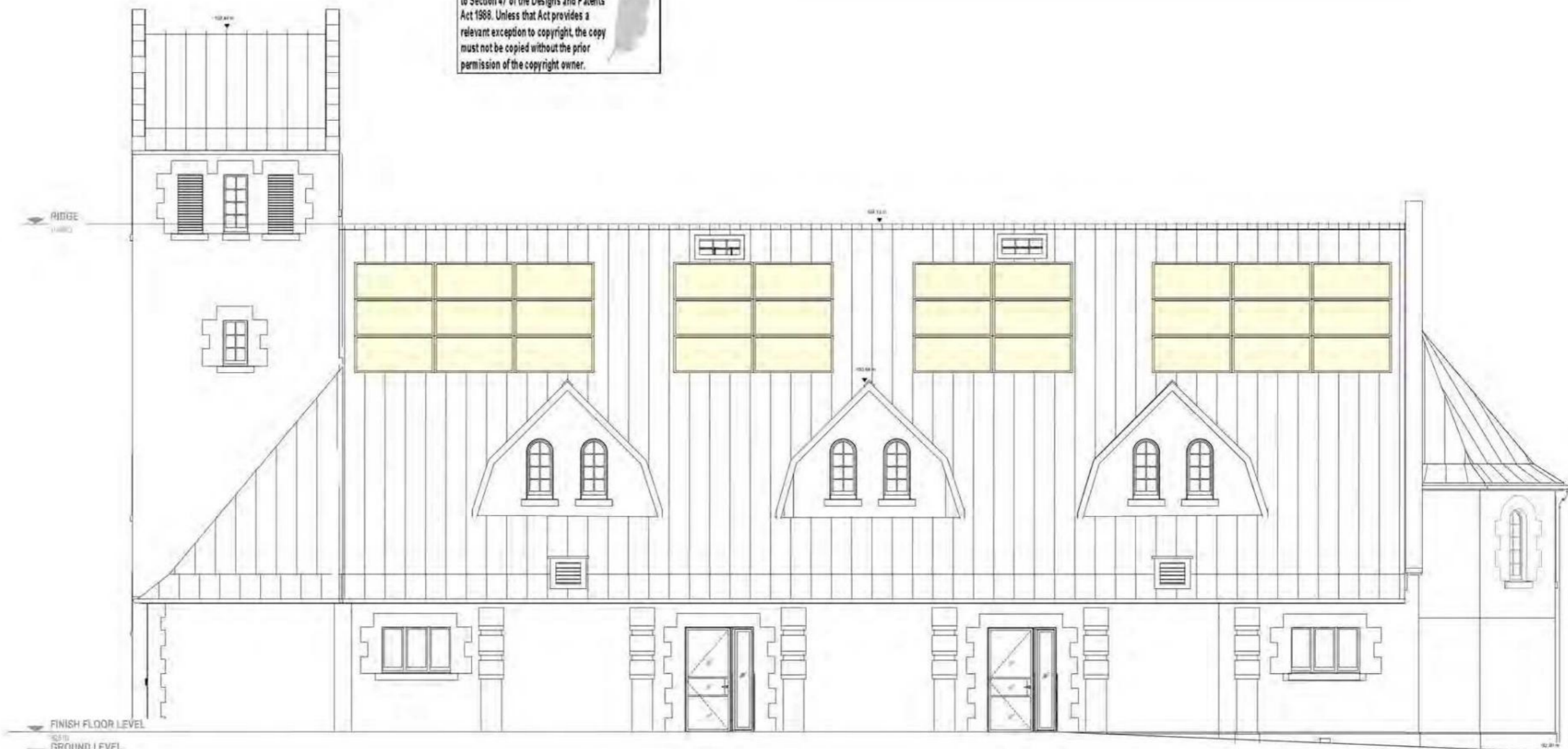


- REMOVALS
- EXISTING WALL
- NEW WALL
- PROPOSED NEW WORKS

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PLANNING		
PROJECT		
Proposed Refurbishment & Alterations Newtongrange Parish Church Main Street Newtongrange, EH22 4LE		
DRAWING		
Roof Floor Plan - as proposed		
DATE 20.0323	DRAWN AS	SCALE As noted @ A3
PROJECT 23002	DRAWING No. P04	REVISION B

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South Elevation - as proposed
Scale 1:100

0 1m 2m 3m 4m 5m

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PLANNING APPLICATION

PROJECT
 Proposed Refurbishment & Alterations
 Newtongrange Parish Church
 Main Street
 Newtongrange, EH22 4LE

DRAWING
 South Elevation - as proposed

DATE	DRAWN	SCALE
12.10.23	DL	As noted @ A3

PROJECT	DRAWING No.	REVISION
23002	P06	-

- REMOVALS
- EXISTING WALL
- NEW WALL
- PROPOSED NEW WORKS





