

Notice of Meeting and Agenda



Local Review Body

Venue: Virtual Meeting,

Date: Tuesday, 14 September 2021

Time: 13:00

Executive Director : Place

Contact:

Clerk Name: Democratic Services Team

Clerk Telephone: 0131 271 3160

Clerk Email: democratic.services@midlothian.gov.uk

Further Information:

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

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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** Minutes of Meeting held on 14 June 2021 - For Approval. 3 - 6

5 Public Reports

Notice of Reviews - Determination Reports by Chief Officer -
Place:-

- 5.1** Land at 6 Lugton Brae, Dalkeith (20/00695/DPP). 7 - 58
- 5.2** 10 Ashbank, Vogrie Road, Gorebridge (20/00375/PPP). 59 - 120
- 5.3** 18-20 Edinburgh Road, Penicuik (20/00562/DPP). 121 - 210
- 5.4** 33 Mayburn Terrace, Loanhead (21/00032/DPP). 211 - 246

6 Private Reports

No private reports to be discussed at this meeting.

7 Date of Next Meeting

The next meeting will be held on Tuesday 26 October 2021 at 1.00 pm.

Plans and papers relating to the applications on this agenda can also be viewed at <https://planning-applications.midlothian.gov.uk/OnlinePlanning>

Minute of Meeting



Local Review Body

Date	Time	Venue
Monday 14 June 2021	1.00pm	Virtual Meeting, MS Teams

Present:

Councillor Imrie (Chair)	Councillor Alexander
Councillor Cassidy	Councillor Curran
Councillor Lay-Douglas	Councillor McKenzie
Councillor Milligan	Councillor Muirhead
Councillor Small	

In Attendance:

Peter Arnsdorf, Planning Manager	Mike Broadway, Democratic Services Officer

1 Apologies

Apologies for absence were received from Councillor Munro.

2 Order of Business

The order of business was confirmed as outlined in the agenda that had been previously circulated.

3 Declarations of interest

No declarations of interest were received.

4 Minutes of Previous Meetings

The Minutes of Meeting of 17 May 2021 was submitted and approved as a correct record.

5 Reports

Agenda No	Report Title	Presented by:
5.1	Decision Notice – 24 Newton Church Road, Danderhall (20/00541/DPP).	Peter Arnsdorf
Executive Summary of Report		
With reference to paragraph 5.1 of the Minutes of 17 May 2021, there was submitted a copy of the Local Review Body decision notice dismissing a review request on behalf of Mr and Mrs B Ramsay, 24 Newton Church Road, Danderhall seeking, a review of the decision of the Planning Authority to refuse planning permission (20/00541/DPP, refused on 18 November 2020) for the formation of access and driveway at that address and refusing planning permission.		
Decision		
To note the LRB decision notice.		

Agenda No	Report Title	Presented by:
5.2	Decision Notice – 25 Park Road, Dalkeith (20/00521/DPP).	Peter Arnsdorf

Executive Summary of Report

With reference to paragraph 5.2 of the Minutes of 17 May 2021, there was submitted a copy of the Local Review Body decision notice upholding a review request on behalf of Ms K Greve, 25 Park Road, Dalkeith seeking, a review of the decision of the Planning Authority to refuse planning permission (20/00521/DPP, refused on 13 November 2021) for the erection of an extension to dwellinghouse; alterations to window opening to form door; formation of driveway and erection of associated retaining walls; alterations to boundary walls and erection of gates, at that address and granting planning permission subject to conditions.

Decision

To note the LRB decision notice.

Agenda No	Report Title	Presented by:
5.3	Notice of Review Request Considered for the First Time – Land at Soutra Mains Farm, Pathhead (20/00890/S42).	Peter Arnsdorf

Executive Summary of Report

There was submitted report, dated 16 November 2020 by the Chief Officer Place, regarding an application from Suzanne McIntosh Planning Ltd, 45C Bath Street, Portobello, Edinburgh seeking, on behalf of their client Mr G Russell, a review of the decision of the Planning Authority to refuse planning permission (20/00890/S42, refused 11 March 2021) for the removal of condition 6 of planning permission 08/00159/OUT, to enable the long term rental of the holiday homes and in doing so use them as single dwellinghouses at land at Soutra Mains Farm, Pathhead.

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

Summary of Discussion

Having heard from the Planning Advisor, the LRB then gave careful consideration to the merits of the case based on all the written information provided. In discussing the proposed development and the reasons for its refusal, the LRB considered the potential impact that removal of condition would have both in Policy terms and in terms of setting a precedent. Whilst there was general agreement on the need to try and assist business impacted by the coronavirus pandemic, opinion was divided regarding the potential impact of removal of the condition.

After further discussion, Councillor Alexander, seconded by Councillor Cassidy, moved to uphold the review request seeking removal of the condition, and grant planning permission subject to the conditions set out in the report.

As an amendment, Councillor Milligan, seconded by Councillor Muirhead, moved to dismiss the review request, and uphold the decision to refuse planning permission for the reasons detailed in the case officer's report.

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

Decision

The LRB agreed to uphold the review request, and grant planning permission for the following reasons:

The development provides much needed dwellinghouses in a rural location and sits comfortably within the existing cluster of rural buildings and will not have a significant impact on the landscape or have a detrimental impact on the amenity of other properties and therefore complies with the spirit of policy RD1 of the Midlothian Local Development Plan 2017.

subject to:-

- (i) a legal agreement to secure developer contributions towards education provision and public transport. The legal agreement shall be concluded prior to the issuing of the LRB decision. The legal agreement shall be concluded within 6 months of the resolution to grant planning permission, if the agreement is not concluded the review will be reported back to the LRB for reconsideration; and
- (ii) the following condition
 - 1. A maximum of four dwellinghouses and a coffee shop shall be constructed on the site.

Reason: To define the terms of the consent.

Action

Planning Manager

The meeting terminated at 1.30 pm.

Notice of Review: Land at 6 Lugton Brae, Dalkeith

Determination Report

Report by Chief Officer Place

1 Purpose of Report

- 1.1 The purpose of this report is to provide a framework for the Local Review Body (LRB) to consider a 'Notice of Review' for the erection of dwellinghouse; alterations to existing boundary walls; erection of gates and retaining walls on land at 6 Lugton Brae, Dalkeith.

2 Background

- 2.1 Planning application 20/00695/DPP for the erection of dwellinghouse; alterations to existing boundary walls; erection of gates and retaining walls on land at 6 Lugton Brae, Dalkeith was refused planning permission on 10 March 2021; a copy of the decision is attached to this report.
- 2.2 The review has progressed through the following stages:
- 1 Submission of Notice of Review by the applicant.
 - 2 The Registration and Acknowledgement of the Notice of Review.
 - 3 Carrying out Notification and Consultation.

3 Supporting Documents

- 3.1 Attached to this report are the following documents:
- A site location plan (Appendix A);
 - A copy of the notice of review form and supporting statement (Appendix B). Any duplication of information is not attached;
 - A copy of the case officer's report (Appendix C);
 - A copy of the decision notice, excluding the standard advisory notes, issued on 10 March 2021 (Appendix D); and
 - A copy of the key plans/drawings (Appendix E).
- 3.2 The full planning application case file and the development plan policies referred to in the case officer's report can be viewed online via www.midlothian.gov.uk

4 Procedures

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

- Have determined to consider a visual presentation of the site and undertaking a site visit (elected members not attending the site visit can still participate in the determination of the review); and
 - Have determined to progress the review by way of a hearing.
- 4.2 The case officer's report identified that there were two consultation responses and no representations received. As part of the review process the interested parties were notified of the review. No additional comments have been received. All comments can be viewed online on the electronic planning application case file.
- 4.3 The next stage in the process is for the LRB to determine the review in accordance with the agreed procedure:
- Identify any provisions of the development plan which are relevant to the decision;
 - Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies;
 - Consider whether or not the proposal accords with the development plan;
 - Identify and consider relevant material considerations for and against the proposal;
 - Assess whether these considerations warrant a departure from the development plan; and
 - State the reason/s for the decision and state any conditions required if planning permission is granted.
- 4.4 In reaching a decision on the case the planning advisor can advise on appropriate phraseology and on appropriate planning reasons for reaching a decision.
- 4.5 Following the determination of the review the planning advisor will prepare a decision notice for issuing through the Chair of the LRB. A copy of the decision notice will be reported to the next LRB for noting.
- 4.6 A copy of the LRB decision will be placed on the planning authority's planning register and made available for inspection online.

5 Conditions

- 5.1 In accordance with the procedures agreed by the LRB at its meeting of 13 June 2017, and without prejudice to the determination of the review, the following conditions have been prepared for the consideration of the LRB if it is minded to uphold the review and grant planning permission.
1. Prior to the commencement of development, the following details shall be submitted and approved in writing by the planning authority and only those approved details shall be used in the implementation of this grant of planning permission:
 - a) Details and a sample of all external materials;
 - b) Details of the materials of any areas of hardstanding;
 - c) Details of the design, dimensions, materials and colour finish of all new walls, gates, fences or other means of enclosure;

- d) Details of a scheme of landscaping for the site. Details shall include the position, number, size and species of all trees and shrubs that are proposed to be planted, as well as identifying all trees and hedges on site which are proposed to be removed and retained;
- e) Details of a sustainability/biodiversity scheme for the site, including the provision of boxes for bats and birds and sustainability areas; and
- f) Details of the proposed solar including dimensions and illustrations.

Reason: *These details were not submitted with the application; in order to ensure that the development hereby approved does not detract from the character and appearance of the surrounding conservation area and nearby listed building.*

2. The wall materials approved in condition 1a) above shall be either natural stone, smooth or wet dash render, or timber cladding.

Reason: *In order to ensure that the development hereby approved does not detract from the character and appearance of surrounding conservation area and nearby listed building.*

3. The landscape plan approved in condition 1d) above shall include that the existing hedge along the west boundary of the site to 6B Lugton Brae is protected during development and retained.

Reason: *To protect the character and appearance of the surrounding conservation area; to integrate the house into the area; to protect the amenity and privacy of existing and future occupants.*

4. The landscape plan approved in condition 1d) above shall include details of protection measures for the hedge to be retained in condition 3.

5. Any temporary protective fencing approved in condition 4 shall be erected before any work on the development is begun, including site clearance, and shall be retained until the development is completed. Within the area enclosed by the fencing there shall be no movement of machinery, excavation, no removal of soil, no placing of additional soil, no storage of any kind, disposal of any waste or fires lit. These works shall be carried out in accordance with BS5838:2012 Trees in Relation to Development.

Reason for conditions 4 and 5: *To protect the character and appearance of the surrounding conservation area; to integrate the house into the area; to protect the amenity and privacy of existing and future occupants; to ensure that the hedge to be retained is protected from damage during development; to ensure that the best practice is followed.*

6. Development shall not begin until details, including a timetable of implementation, of high speed fibre broadband have been submitted to and approved in writing by the planning authority. The details shall include delivery of high speed fibre broadband prior to

the occupation of each dwellinghouse. The delivery of high speed fibre broadband shall be implemented as per the approved details.

Reason: *To ensure the quality of the development is enhanced by the provision of appropriate digital infrastructure in accordance with the requirements of policy IT1 of the adopted Midlothian Local Development Plan 2017.*

7. Development shall not begin until details of the provision and use of electric vehicle charging stations throughout the development have been submitted to and approved in writing by the planning authority. Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be approved in writing by the planning authority.

Reason: *To ensure the development accords with the requirements of policy TRAN5 of the adopted Midlothian Local Development Plan 2017.*

8. Unless otherwise approved in writing by the planning authority, shrubs to be removed to accommodate the outbuilding shall not be removed during the months of March to September inclusive.

Reason: *To protect the local biodiversity of the site; there is potential for the disturbance of nesting birds at the site during bird nesting season.*

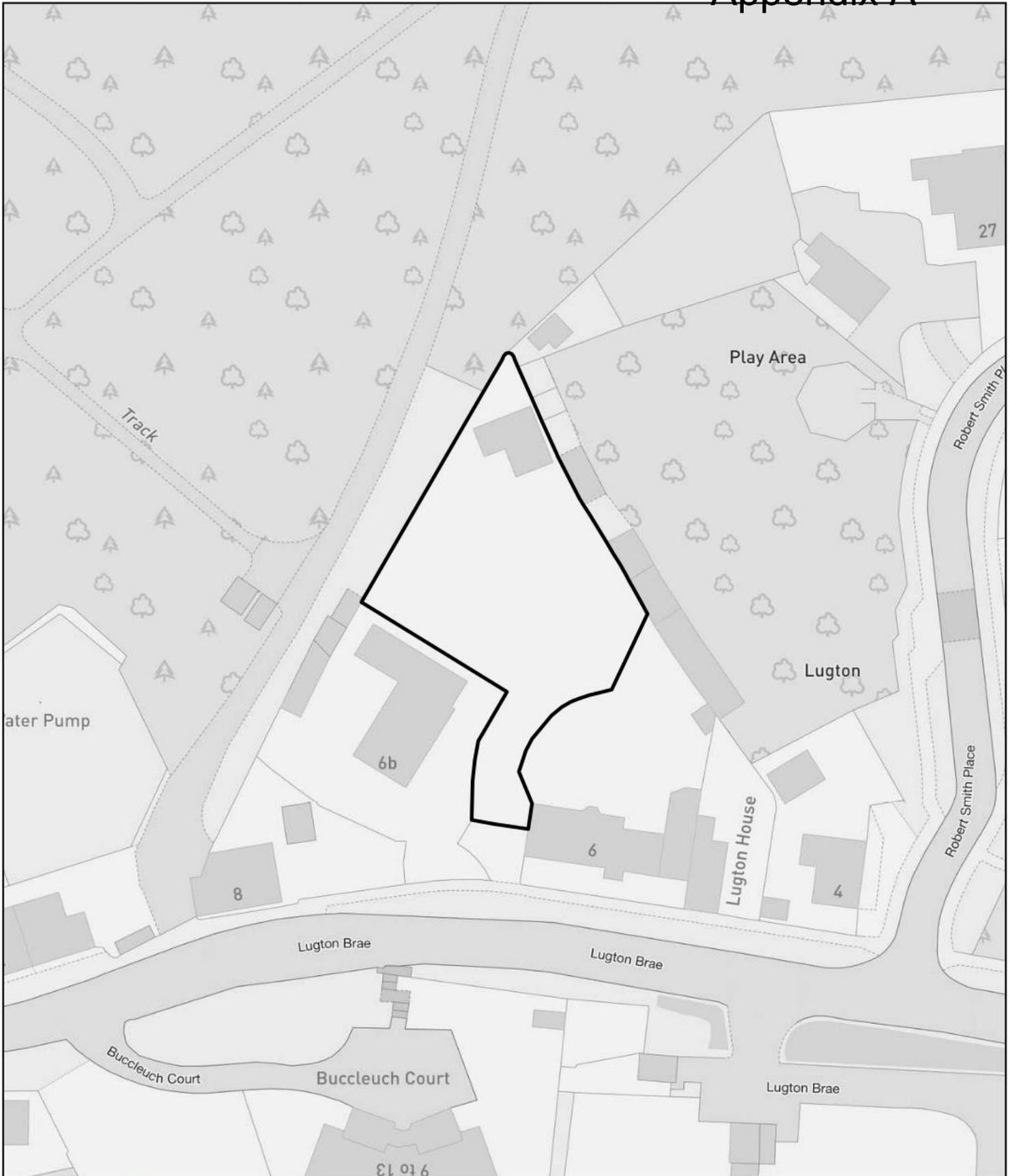
6 Recommendations

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

Peter Arnsdorf
Planning, Sustainable Growth and Investment Manager

Date: 2 September 2021
Report Contact: Mhairi-Anne Cowie, Planning Officer
Mhairi-Anne.Cowie@midlothian.gov.uk

Background Papers: Planning application 20/00695/DPP available for inspection online.



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

Erection of dwellinghouse; alterations to existing boundary walls; erection of gates and retaining walls at Land At 6 Lugton Brae, Dalkeith,

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File No: 20/00695/DPP

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Scale: 1:750
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Fairfield House 8 Lothian Road Dalkeith EH22 3ZN Tel: 0131 271 3302 Fax: 0131 271 3537 Email: planning-applications@midlothian.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100415948-001

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

Applicant or Agent Details

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

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:	<input type="text" value="APT PLANNING & DEVELOPMENT"/>		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	<input type="text" value="TONY"/>	Building Name:	<input type="text"/>
Last Name: *	<input type="text" value="THOMAS"/>	Building Number:	<input type="text" value="6"/>
Telephone Number: *	<input type="text" value="01620870371"/>	Address 1 (Street): *	<input type="text" value="HIGH STREET"/>
Extension Number:	<input type="text"/>	Address 2:	<input type="text"/>
Mobile Number:	<input type="text"/>	Town/City: *	<input type="text" value="EAST LINTON"/>
Fax Number:	<input type="text"/>	Country: *	<input type="text" value="UK"/>
		Postcode: *	<input type="text" value="EH40 3AB"/>
Email Address: *	<input type="text" value="tony@apt-plandevlop.co.uk"/>		

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

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Other"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text" value="MR & MRS"/>	Building Name:	<input type="text" value="c/o APT Planning & Development"/>
First Name: *	<input type="text" value="CHRIS & EMMA"/>	Building Number:	<input type="text" value="6"/>
Last Name: *	<input type="text" value="FLOCKHART"/>	Address 1 (Street): *	<input type="text" value="HIGH STREET"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text" value="07747780852"/>	Town/City: *	<input type="text" value="EAST LINTON"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="UK"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="EH40 3AB"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="TONY@APT-PLANDEVELOP.CO.UK"/>		

Site Address Details

Planning Authority:	<input type="text" value="Midlothian Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="6 LUGTON BRAE"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="DALKEITH"/>
Post Code:	<input type="text" value="EH22 1JX"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="667716"/>	Easting	<input type="text" value="332788"/>
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Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

LOCAL REVIEW BODY APPEAL OF APPLICATION 20/00695/DPP - ERECTION OF HOUSE IN GARDEN GROUND OF 6 LUGTON BRAE, DALKEITH, EH22 1JX

Type of Application

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

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

What does your review relate to? *

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

Statement of reasons for seeking review

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

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

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

PLEASE SEE ACCOMPANYING REVIEW STATEMENT

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

Yes No

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

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

REVIEW STATEMENT & ORIGINAL APPLICATION DOCUMENTS

Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

20/00695/DPP

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

20/10/2020

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

10/03/2021

Review Procedure

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

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

Yes No

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

Please select a further procedure *

Holding one or more hearing sessions on specific matters

Please explain in detail in your own words why this further procedure is required and the matters set out in your statement of appeal it will deal with? (Max 500 characters)

IN OUR OPINION, A HEARING TO BEST EXPLORE AND DISCUSS THE KEY ELEMENTS OF THE APPEAL WOULD BE THE BEST WAY TO APPROACH THIS APPEAL TO THE LRB PANEL.

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

Can the site be clearly seen from a road or public land? *

Yes No

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

Yes No

If there are reasons why you think the local Review Body would be unable to undertake an unaccompanied site inspection, please explain here. (Max 500 characters)

SITE VISIT CAN BE UNACCOMPANIED BUT ACCESS WILL BE REQUIRED THROUGH THE ACCESS GATE TO 6 AND 6B LUGTON BRAE.

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. *

Yes No

Have you provided the date and reference number of the application which is the subject of this review? *

Yes No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

Yes No N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

Yes No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

Yes No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr TONY THOMAS

Declaration Date: 20/05/2021

Alan Hardie Architect

Suite 4 Dundas House,
Westfield Park,
Eskbank EH22 3FB

Introduction

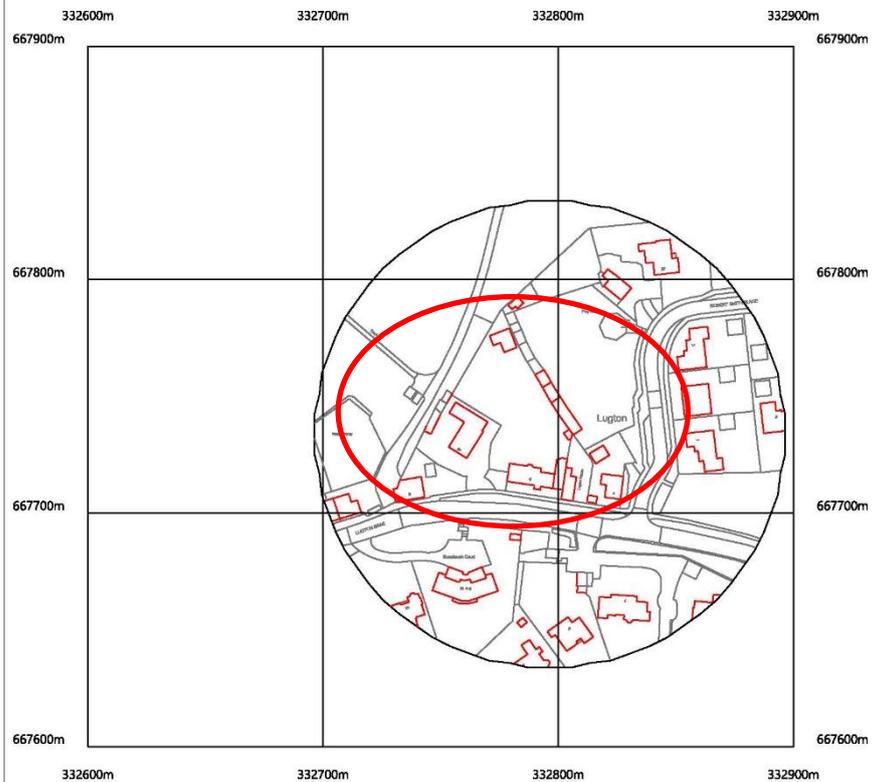
Project: Application for Dwelling in Garden of 6 Lugton Brae, Dalkeith EH22 1JX
Client: Chris & Emma Flockhart

Proposal: To create a new 3-bed dwelling house for the applicants to use in north-west corner of the existing garden ground of 6 Lugton House.



Listing details

Location plan.



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Alan Hardie Architect

Suite 4 Dundas House,
Westfield Park,
Eskbank EH22 3FB

	<p>Description (from Listing Information):</p> <p>6 LUGTON BRAE, LUGTON HOUSE, WITH BOUNDARY WALLS AND RAILINGS Early 19th century. 2-storey, 3-bay house, made 4-bay by later sympathetic addition. Sandstone rubble, contrasting red sandstone to addition; S elevation squared and coursed, addition stugged ashlar; E elevation harled. Base course. lintel course at eaves level. Raised margins.</p> <p>S (LUGTON BRAE) ELEVATION: modern lean-to porch at centre of original house. Later bay slightly recessed to left. Regular fenestration. Blocked basket carriage arch slightly recessed to right; window inserted at ground.</p> <p>W ELEVATION: window to left at ground. Window to left and right at 1st floor. Wall extended to left beyond gable.</p> <p>N ELEVATION: modern canted porch at ground, window to left and canted window, with cornice and blocking course, to right. 3 windows at 1st floor. Gabled bay advanced to right; window to left at 1st floor.</p> <p>E ELEVATION: window to right at 1st floor.</p> <p>12-pane glazing pattern in sash and case windows; 2 and 4-pane glazing pattern in canted window. Coped skews. Gablehead stacks to W and E; former gablehead stack at junction with addition; wallhead stack to</p> <p>left to N. Purple slates to S pitch of original house, grey-green slates to N pitch; grey slates to addition.</p> <p>BOUNDARY WALLS AND RAILINGS: low flat coped rubble wall to S, with iron spearhead railings.</p> <p>Single storey outbuilding adjoined to E elevation, lean-to on wall to E. Outbuilding to E, with half-piend roof; S elevation continuous with boundary wall.</p> <p>Entry Name: Lugton House, 6 Lugton Brae, Dalkeith Listing Name: 6 Lugton Brae, Lugton House, with Boundary Walls and Railings Listing Date: 9 March 1992 Category: C Source: Historic Scotland Source ID: 332011 Historic Scotland Designation Reference: LB1432 Building Class: Cultural</p> <p>Conservation Area: Dalkeith House and Park</p>
<p>Site and area appraisal</p>	<p>The buildings in the vicinity are a mix of apparently Georgian/ Victorian and what appears to be examples of various styles spanning the 20th C. The buildings in Robert Smith places date from a few years ago and comprise a mock-Georgian style with rendered walls and</p> <p>Lugton House itself (6 Lugton Brae) is traditional sandstone and slate as described above and immediately adjacent is a modern dwelling, 6B Lugton Brae which was granted Planning Consent in February 2105, reference 15/00001/DPP. This is in a modern style with white render walls, mono-pitch single ply membrane roof with grey aluminium windows/doors and some timber panelling.</p>

Alan Hardie Architect

Suite 4 Dundas House,
Westfield Park,
Eskbank EH22 3FB

The proposed site is large – approximately 0.19 Ha with most of it laid as garden ground, with an existing tarmac road leading to a steel clad garage and shed in the extreme north of the site. The site is bounded to NE and NW by a stone wall, also as referred to above in Listing description and hedge bounds the edge of the site to 6B Lugton Brae. There is a low dwarf wall defining the tarmacked area and retaining an area of grass.



Design principles

A Request for Pre-application Advice for this site was made by Tony Thomas of APT Planning & Development on 7th May 2020. The advice received in response from Mhairi-Anne Cowie stated: *"The proposal would have a significant detrimental impact on the character and setting of the listed building. There is also potential for a detrimental impact on the privacy and amenity of existing and proposed occupants due to the layout of these houses. It is highly unlikely that this application could be supported by the Planning Authority"*.

Clearly this was a disappointment to the clients who had hoped to build a modern house on the site which would allow them to stay in the locality and continue to enjoy the benefits of a large garden (their business is landscape gardening) with the added comfort and facilities that a modern house would provide. After much discussion and consideration, they concluded that it would be possible to design a house which would address the concerns raised. Specifically, as the current occupants of Lugton House, they do not believe that their proposals would impact the character or setting of the Listed Building in any way – and that by sympathetic design, it would be possible to ensure that the privacy and amenity of existing and proposed occupants is not compromised. Accordingly, every effort has been taken to take full cognisance of Mhairi-Anne Cowie's comments to inform the design.

Accordingly, it is proposed to extend the existing shared access driveway to accommodate two new gates – one for Lugton House and the other for the proposed dwelling. The driveway and car parking spaces to Lugton House is to be retained and a new driveway formed by the part demolition of the dwarf retaining wall which would be rebuilt adjacent to 6B Lugton Brae and some land given over to 6B. The existing screen hedging would stay in place and new screen hedging planted to off additional privacy to both Lugton House and the proposed new dwelling.

The new dwelling would be positioned in the south-western corner of the new site where it will be hidden from view from Lugton Brae and provide privacy to Lugton House rear garden – being some 25m from the proposed new site boundary. There are no windows in that gable of 6B Lugton Brae and their privacy will be enhanced by the inclusion of a 2m high screen fence at first floor level.

Alan Hardie Architect

Suite 4 Dundas House,
Westfield Park,
Eskbank EH22 3FB

The clients have been keen from the outset to have a house which married well with the existing buildings on the site and have opted for a simple modern design which would sit well with 6B Lugton Brae and obviously contrast in style with Lugton House, but utilise a colour palette which will harmonise with the traditional tones of the sandstone and slate.

In summary, the clients are keen to emphasise the following:

- The proposed new building will be further away by some distance from the listed building than the existing new building.
- The proposed new building will be set at a lower height than the existing new build.
- The proposed new building will not be visible from any public areas and will only be visible from certain aspects of the garden to Lugton House.
- The proposed new building will utilise a similar palette of colours and materials to the existing new build with the exception being that we aim to blend it in to the tree line more naturally.
- The proposed new building will also feature a single ply roof to be "in keeping" with its nearest neighbour.
- The proposed new building will be built to high environmental standards with energy saving features to be incorporated i.e. multiple solar panels.
- The proposed building will be screened using multiple aspects of clever planting so to preserve privacy for all three properties.



Mr & Mrs Chris Flockhart

Local Review Body Appeal



APPLICATION – 20/00695/DPP

Erection of dwellinghouse; alterations to existing boundary walls; erection of gates and retaining walls on land at 6 Lugton Brae, Dalkeith.

REVIEW STATEMENT

May 2021

apt planning &
development

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- The applicants, Mr & Mrs Flockhart, have painstakingly renovated 6 Lugton Brae. They want to stay in the locality and create a new and attractive home for themselves. The proposed development to the rear of the existing property will achieve that goal;
- The new home would not be seen from Lugton Brae itself and would be visible only from a minor footpath within Dalkeith Country Park, a view that is already framed and by other residential properties;
- The site has already been subdivided with the development of 6B. This is a logical progression for the site to create three attractive homes each with appropriate access and levels of amenity;
- The site occupies a backland position within the site. It is not imposing or dominating within the context of the category 'C' listed 6 Lugton Brae. The key, public view of 6 Lugton Brae is from the roadside. This development will not impact on that view at all;
- The proposed scheme is committed to delivering an energy efficient building in line with Midlothian's aspirations and utilising modern technology such as ground-source heat pumps and heat exchangers. The aim will be to create a carbon-neutral home;
- Planning policy should act as a framework within which to make good decisions, to find the best solutions. It should not be implemented as a rigid straightjacket and each application must be judged on its own merits;
- In this instance, the quality of design and site specific characteristics ensure that the proposals meet key policy tests and that the site can accommodate the proposed development;

Executive Summary

- a. This appeal to the Midlothian Council Local Review Body is lodged following the refusal of application **20/00695/DPP** on **10th March, 2021**.
- b. **The Local Review Panel has the advantage of looking at the application afresh and is neither bound by the original decision nor a strict interpretation of planning policy. Planning policy provides a framework for decision making not an absolute.**
- c. Mr and Mrs Flockhart and their family currently occupy 6 Lugton Brae, a category C listed building which they have lovingly restored/maintained. They have a proven track record in undertaking work to the highest of standards.
- d. They are proposing to subdivide the garden ground associated with 6 Lugton Brae and building a contemporary two storey house which responds to the site-specific characteristics and is in-keeping with the size, character and type of house found in the immediate vicinity. **The new home would be for the Flockhart family to occupy.**
- e. We contend that the proposed development has been sensitively designed and is a high quality addition to this established residential the area:
 - o The applicant proposes a dwellinghouse in a contemporary style. A significant number of houses in the vicinity are modern in their form, design and appearance;
 - o In the immediate locality the proposed development would sit well with 6B Lugton Brae – a contemporary modern home, and an appropriate contrast in style with 6 Lugton Brae – a traditional listed building. It will utilise a similar colour palette which will harmonise with the traditional tones of the sandstones and slate and provide a unifying effect with the nearby properties;



- It is the logical progression for a site that is comfortably big enough to accommodate three family homes – the proposed new home will occupy a subservient position within the site, not distracting attention from the roadside views of the original building;
 - The proposed site is a parcel of land which has already been substantially changed. It contains an extensive driveway and parking area, garages and an element of existing garden ground. The area of land is surplus to requirements and can accommodate all of the development including satisfactory access, parking and functional garden ground;
 - The new home is of an appropriate scale and density and the proposed design is clearly compatible with its established residential surroundings. The proposed site is in a backland position, completely hidden from view from the general streetscape.
- f. The proposed new home will be constructed as far as reasonably possible to be carbon neutral utilising an air source heat pump with underfloor heating and in-line heat exchanger to minimize heat loss from ventilation. Insulation will be installed in excess of industry and building regulation standards and triple glazed thermally insulated doors and windows will minimise heat loss.
- g. Midlothian is the fastest growing local authority area in Scotland and an ambitious programme of house building will present challenges. It is our assertion that this is an ideal location for a new home.
- h. As the Council seeks to promote innovative, appropriate and sustainable design in new development, this application clearly meets all pertinent policy tests whilst providing an attractive new home designed to give due regard to the specific site characteristics. This new home is for the applicants and their family to move into, freeing up a desirable family sized property in Dalkeith.

INTRODUCTION

1. **apt planning & development** has prepared this Review Statement on behalf of **Mrs and Mrs Chris and Emma Flockhart** with regards to application **20/00695/DPP** seeking planning permission for the erection of a new detached house and associated works. **The application was refused via delegated powers on 10th March 2021.**
2. The application was accompanied by a suite of supporting documents. This appeal statement will not repeat what has been written before, but will concentrate on the reasons used to justify the refusal of the application in March.
3. In brief, the officer report outlines several areas where the proposals conform with policy and these include the following:
 - The Council’s Policy and Road Safety Manager has no objection - there are no road safety or access concerns;
 - The Council’s Biodiversity Consultant states that protected species will not be affected by the proposal and the Dalkeith Estate Local Biodiversity Site, adjacent to the site will be unaffected;
 - There is no impact on any trees in the location and the beech hedge that runs along the west boundary is to be retained;
 - The proposed new walls, gatepiers and gates are acceptable;
 - The site is located within the walled garden of an existing house, this would not have a significant adverse impact on the character or appearance of the designed landscape.

SITE CHARACTERISTICS, BACKGROUND AND PLANNING HISTORY

4. The application site comprises an area of garden ground serving 6 Lugton Brae, a category ‘C’ listed building lying immediately to the south of the application site. No. 6b Lugton Brae lies to the south-west and is a modern infill development already completed within the grounds of NO.6.
5. The Dalkeith House Estate (Country Park) lies to the north (over the boundary wall). The stone wall around the north and east boundaries is part of the listing for 6 Lugton Brae. New development at Robert Smith Place lies immediately to the north-east of the appeal site. The site is within the Dalkeith House and Park Conservation Area.

PLANNING HISTORY

6. 6 Lugton Brae has an extensive planning history dating back to 2004. The more recent and most relevant planning history relates to the development of 6b Lugton Brae. This saw the introduction of a contemporary new home, sitting on the street frontage and seen from public view in the same context and vista as the category 'C' listed 6 Lugton Brae.
7. The proposed new home would not be visible from outwith the site (other than from a scarcely used footpath to the rear where it would be seen over a wall and within the context of other buildings visible in the same view):
 - **13/00852/PPP** - Planning Permission in Principle for a single Dwellinghouse (the same as 09/00153/OUT), consent with conditions granted 17th January, 2014; and
 - **15/0001/DPP** - Erection of a Dwellinghouse, consent with conditions granted 18th February 2015.



6b Lugton Brae as seen from the roadside and looking south-west from the existing (and to be retained) garden ground of No. 6.

APPLICATION 20/00695/DPP

9. Application 20/00695/DPP was validated on 20th October, 2020. It responded to earlier comments from the case officer outlined in their response to a pre-application enquiry. The application was refused on the **10th March, 2021**. Four reasons for refusal were given and we address each below.

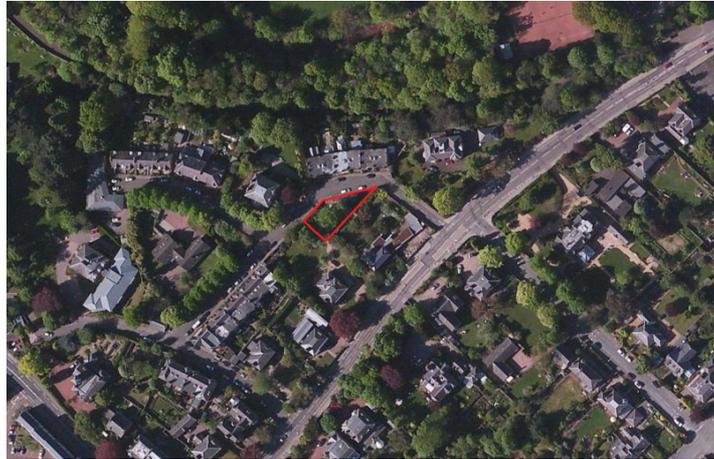
Reason 1

The proposed dwelling house is neither an appropriately designed traditional dwellinghouse nor a dwellinghouse designed in a high quality contemporary style. The design of the proposed dwelling house, in particular its rear elevation which is particularly visible from public viewpoints, is unsympathetic to the character and appearance of the conservation area. The design of the proposed dwellinghouse would have a significant adverse impact on the character and appearance of the conservation area and is therefore contrary to policies DEV2 and ENV19 of the adopted Midlothian Development Plan 2017 and Historic Environment Scotland policy and guidance.

10. **Policy DEV2 - Protecting Amenity within the Built-Up area** states that development will be permitted within existing and future built up areas, and in particular within residential areas, unless it is likely to detract materially from the existing character or amenity of the area.
11. The proposed development is a well thought out attractive dwellinghouse that has been designed in a high quality **contemporary** style and is entirely in keeping with the character of the **residential area**;
- The site constitutes a portion of garden ground serving 6 Lugton Brae which is a two storey stone category C listed building, located within the built up area;
 - Immediately adjacent is 6B Lugton Brae, a contemporary new build property;
 - A substantial flat-roofed modern building is situated immediately to the south of 6 Lugton Brae. This was built in the garden ground of 'The Garden House' a category B listed building and is far more prominent from public view;



- 42 Eskbank Road (a large C listed, detached stone house) – garden ground developed to accommodate a dwellinghouse in a contemporary style (18/00688/DPP);



- Robin Smith Place, a modern development comprising of 26 detached two storey properties is situated nearby and was developed within the walls of a category C listed walled garden;
 - Planning permission has also been granted for a house in the grounds of category B listed *'The Garden House'* also on Robert Smith Place (17/00340/DPP).
12. Overall, there is a variety of existing plot sizes in the area and the general pattern of domestic building is characterised by single and two-storey forms. That said there is no distinct overriding character to the plots sizes or design in this area. The area around Lugton Brae has the appearance of a residential area which has been developed with different groups of houses on separate parcels of land over a period of time.
 13. The proposed development has been designed to a very high standard – **simple and modern** – it is an attractive new home using appropriate high quality materials and design references.
 14. This contemporary design will be in-keeping with 6B Lugton Brae, will contrast in style with Lugton House but will utilise a colour palette which will harmonise with the traditional tones of the sandstone and slate.
 15. Furthermore, the applicants are proposing to build a home that is energy efficient utilising a number of renewable energy resource sources, namely solar panels and ground source heating, meeting many of the Council's aspirations for new build homes. They will employ rigorous standards of energy efficiency reducing the building's ecological footprint and resulting in an ultra-low energy building that requires little energy for space heating or cooling.
 16. This is a high quality development that strikes the right balance with the prevailing architectural style and character of the locality.

17. We strongly contend that the *'The design of the proposed dwelling house, in particular its rear elevation which is particularly visible from public viewpoints'* has been significantly overstated.
18. Dalkeith Country Park is vast - over 660 acres in size, with numerous paths and trails throughout. The north side of the plot backs onto Dalkeith Country Park and is bounded by 3 metre high stone walls. The *'public viewpoint'* that is referenced in the officer report is an informal path that in part has become overgrown and is infrequently used by members of the public (it actually provides access to the rear of the private dwellings at No's 8 and 10 Lugton Brae).
19. This is not one of the main pathways criss-crossing the Country Park. The emphasis is rightly to be found at The Restoration Yard area which has parking, a significant commercial and leisure element and is almost 1.5km away to the east. This is not a popular walking route within the Country Park.
20. The impact from a any public viewpoint will be negligible, an small portion of the roof would be visible, and certainly no more obvious/ imposing than the houses already in situ. It will be a built structure glimpsed over a wall, in an area characterised by glimpsed views of other built structures typically to the rear of other residential properties.



Typically there are views from the path out towards existing residential areas

21. **Policy ENV19 – Conservation Areas** states that within or adjacent to conservation areas, development will not be permitted which could have any adverse effect on its character and appearance. In the selection of site, scale, choice of materials and details of design, it will be ensured that new buildings preserve or enhance the character and appearance of the conservation area. Traditional natural materials appropriate to the locality or building affected will be used in new buildings.
22. The proposal would result in the garden of 6 Lugton Brae being subdivided and the plot can easily accommodate the proposed development. The application site is a natural progression and a parcel of land which could easily accommodate an appropriately designed home.
23. The applicant proposes a dwellinghouse in a contemporary style. A significant number of houses in the vicinity are modern in their form, design and appearance. The proposed development would sit well with 6B Lugton Brae and obviously contrast in style with Lugton Brae House, but utilise a similar colour palette which will harmonise with the traditional tones of the sandstones and slate. It will also feature a single ply roof to be in keeping with its nearest neighbour.
24. Almost regardless of the above, the new home is not visible from the public road (key viewpoint) and barely visible from the other public space at Dalkeith Country Park. There will be no impact on the character appearance or setting of the Conservation Area. It is therefore entirely appropriate to accommodate a high quality development such as this, as it preserves the appearance of the Conservation Area.
25. **The new home is visible from Dalkeith Country Park but only from a less-travelled path and in a context of other buildings behind tall walls. The site is entirely hidden from the general streetscape. There is little if any impact on views from public places and no detrimental impact on the Conservation Area.**

Reason 2

The subdivision of the plot would have an adverse impact on the character and appearance of the conservation area and the character and setting of the important category C listed building and so is contrary to policies DEV2, ENV19 and ENV22 of the adopted Midlothian Local Development Plan 2017.

26. **Policy DEV2 - Protecting Amenity within the Built-Up area** states that development will be permitted within existing and future built up areas, and in particular within residential areas, unless it is likely to detract materially from the existing character or amenity of the area.

Response outlined above – no impact on the character or amenity of the residential area.

27. **Policy ENV19 – Conservation Areas** states that within or adjacent to conservation areas, development will not be permitted which could have any adverse effect on its character and appearance. In the selection of site, scale, choice of materials and details of design, it will be ensured that new buildings preserve or enhance the character and appearance of the conservation area. Traditional natural materials appropriate to the locality or building affected will be used in new buildings.

Response outlined above – no impact on the character or amenity of the Conservation Area.

28. **Policy ENV22 – Listed Buildings** states that development will not be permitted which would adversely affect the character or appearance of a listed building, its setting or any feature of special architectural or historic interest.
29. **New development** within the curtilage of a listed building or its setting will only be permitted where it complements its special architectural or historical character.
30. Great care has been placed on the design of the new home and in particular following the pre application advice, every effort has been made to take account of the concerns raised.



31. We contend that the proposed new house would sit comfortably and appropriately in its position within the site and in relation to the listed building - 6 Lugton Brae:

- The site is large enough to accommodate all of the development including parking, garden ground and landscaping. The scale and density of the proposed building is appropriate in the context of the existing properties at Lugton Brae and the adjacent properties in the immediate vicinity;
- The new building will be further away from the original building than the new property at 6B Lugton Brae and will be set at a ridge height than the existing new build. It is also set back and nestled into the rear of the site;
- The new property would be positioned in the north-western corner of the new site sitting adjacent to, but screened from 6B Lugton Brae and through the use of sensitive screen fencing and planting provide privacy to the rear garden of 6 Lugton Brae whilst enjoying appropriate garden space itself. The new property will be some 25m away from the proposed site boundary;
- The development of 6B has already significantly altered and compromised the whole site. It contains an extensive driveway, a large area of hardstanding, garages and an area of grassed garden ground.
- The development of the plot will not detract from the character and setting of the listed building. The area of formal garden ground currently predominately used by the residents of 6 Lugton Brae is sizable and positioned to the rear of the property.
- The application site is never used as garden space and given the development of 6B, already looks somewhat detached from the main house. This part of the garden ground is entirely appropriate for the creation of a new home.
- The current residents have lovingly restored the listed building and have enjoyed living there with their young family. The application site is surplus to requirements.
- It is worth noting that there is no standard for the provision of garden ground. The partition of the site to allow the development of the proposed home will use under-utilised garden ground and an extensive area of parking. From the roadside, all of this will be invisible. The casual observer will have no clue as to what lies behind the frontage.
- The development of 6B Lugton Brae has already altered the character of the original plot to the extent that the garden ground and driveway proposed for development, now feel separated to the north-west as opposed to the area of garden ground to the north of the house which is naturally aligned as rear garden space.

32. We were naturally disappointed that this application was refused, but particularly that the reasons for refusal include the proposed developments' impact on both the Conservation Area and the category C listed building at 6 Lugton Brae. Neither argument holds water when considering the actual site-specific characteristics.
33. **It is our assertion that the design and position of the proposed new dwellinghouse strikes the right balance - it is an attractive new home to the rear of the site which cannot be viewed from the street. The proposed property adds interest but also complements the local identity and the materials used will provide a unifying effect with the neighbouring properties.**

Reasons 3 and 4

Due to the relationship between the proposed and existing properties the amenity space for the proposed house would be directly overlooked by the existing house and garden ground serving 6 Lugton Brae resulting in a poor level of amenity.

Due to the relationship between the proposed and existing properties the amenity space and rear elevation of 6 Lugton Brae would be directly overlooked by the amenity space for the proposed house resulting in a poor level of amenity.

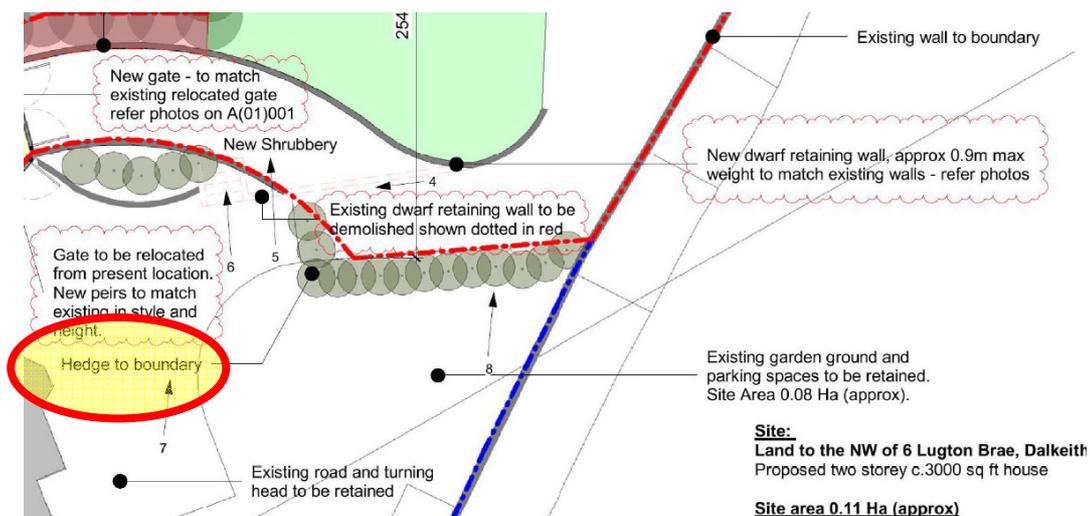
For the above reasons in reasons 3 and 4, the proposal is overdevelopment of the site and does not comply with policies STRAT2, DEV2 and DEV6 of the Adopted Midlothian Local Development Plan 2017.

34. **Policy STRAT 2 - Windfall Housing Sites** states that 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:
- It does not lead to the loss or damage of valuable public or private open space;
 - It does not conflict with the established land use of the area;
 - It has regard to the character of the area in terms of scale, form, design and materials;
 - It meets traffic and parking requirements; and
 - It accords with other relevant policies and proposals, including policies IMP1, IMP2, DEV3, DEV5 – DEV 10.
35. As we have re-iterated throughout this appeal statement this is a high quality development - it strikes the right balance in the context of the existing properties at Lugton Brae. It does not conflict with the established land use in this residential area, nor does it lead to the loss of valuable private open space. It takes into account the character for the area in terms of scale, form, design and materials. It meets all traffic and parking requirements and in our opinion complies with policies IMP1, IMP2, DEV3, DEV5-DEV10.
36. **Policy DEV2 - Protecting Amenity within the Built-Up area** states that development will be permitted within existing and future built up areas, and in particular within residential areas, unless it is likely to detract materially from the existing character or amenity of the area.

Response outlined above – no impact on the character or amenity of the residential area.

37. **Policy DEV6 – Layout and Design of New Development** states that the Council will require good design and a high quality of architecture, in both the overall layout of development proposals and their constituent parts. The layout and design of development proposals should meet a number of listed criteria and those relevant to this application include:
- a. The layout of the development proposals should complement or enhance the character of any adjoining or nearby urban area; include attractive street frontages; provide outlook onto communal open space; and integrate the siting of buildings, landscaping, open space, boundary treatment, and pedestrian/cycle/vehicular routes;
 - There is no active street active frontage associated with the proposed development, it has been designed to sit comfortably and appropriately within its immediate surroundings and there is no impact on the on views from Dalkeith Country Park.
 - b. Any locally prominent landscape feature or historic building should be reflected in the layout and local landmarks and viewpoints and should be incorporated into the streetscape to provide a welcoming atmosphere and assist with navigation;
 - The proposed dwellinghouse has no impact on the key view of the listed building at 6 Lugton Brae (from the Lugton Brae roadside). Care and attention has been placed on selecting the palette of colours and materials which will harmonise with the neighbouring traditional building, whilst the part of the rear garden and amenity land is already visually separate from the main garden due to the development of 6B Lugton Brae.
 - c. Good quality materials should be used in the design;
 - As the drawings illustrate, the proposal is for a high quality energy efficient home in a modern, sensitive style. The applicant has a proven track record of undertaking work to the highest standard as is showcased in their upgrading of 6 Lugton Brae.
 - d. A high standard of passive energy gain should be achieved and overshadowing of buildings should be avoided;
 - The proposed new building will be built to high environmental standards with energy saving features incorporated in the design. There will be no overshadowing of existing buildings or any loss of sunlight.
 - e. Buildings should be laid out along contours to avoid excessive changes in levels and underbuilding in the street scene;
 - The application site is effectively a flat area of former and existing garden ground. The proposed development will respect existing building heights whilst being invisible from public view from Lugton Brae.

- f. Adequate spacing between housing should be provided to ensure privacy and amenity;
 - o The proposed new building will be set 25 metres from the rear garden of 6 Lugton Brae and sit alongside 6B Lugton Brae. Each of the three properties will enjoy private amenity space and the site is of a sufficient sized to accommodate each of the three distinct homes.
 - g. Private open space should be provided on a scale appropriate to the relevant dwelling type;
 - o Sufficient private open space is to be provided for the new home, whilst each of the three homes will have private garden ground alongside access and parking provision.
 - h. Any roads, lighting and parking must satisfy the Council’s standards.
 - o All parking standards have been met.
38. The officer report specifically outlines concerns regarding amenity space, in particular that the amenity space for the proposed house would be overlooked by 6 Lugton Brae and vice versa. This can be easily rectified.
39. The boundary from the proposed new home’s garden to the access road is currently a dwarf retaining wall which can easily be supplemented with a combination of a new fence and planting (which can be maintained via a planning condition), therefore preserving the privacy of both 6 Lugton Brae and the proposed development. The proposals already show the creation of a boundary treatment along the edge of the existing garden ground to the rear of 6 Lugton Brae (see below – highlighted). This allays any concerns over harmful overlooking or loss of privacy for any of the homes at Lugton Brae.



40. The proposed height of the property, the ratio of built form to undeveloped garden ground and the size of the plot are all sufficiently in keeping with the surrounding area and do not give rise to overdevelopment.

SUMMARY

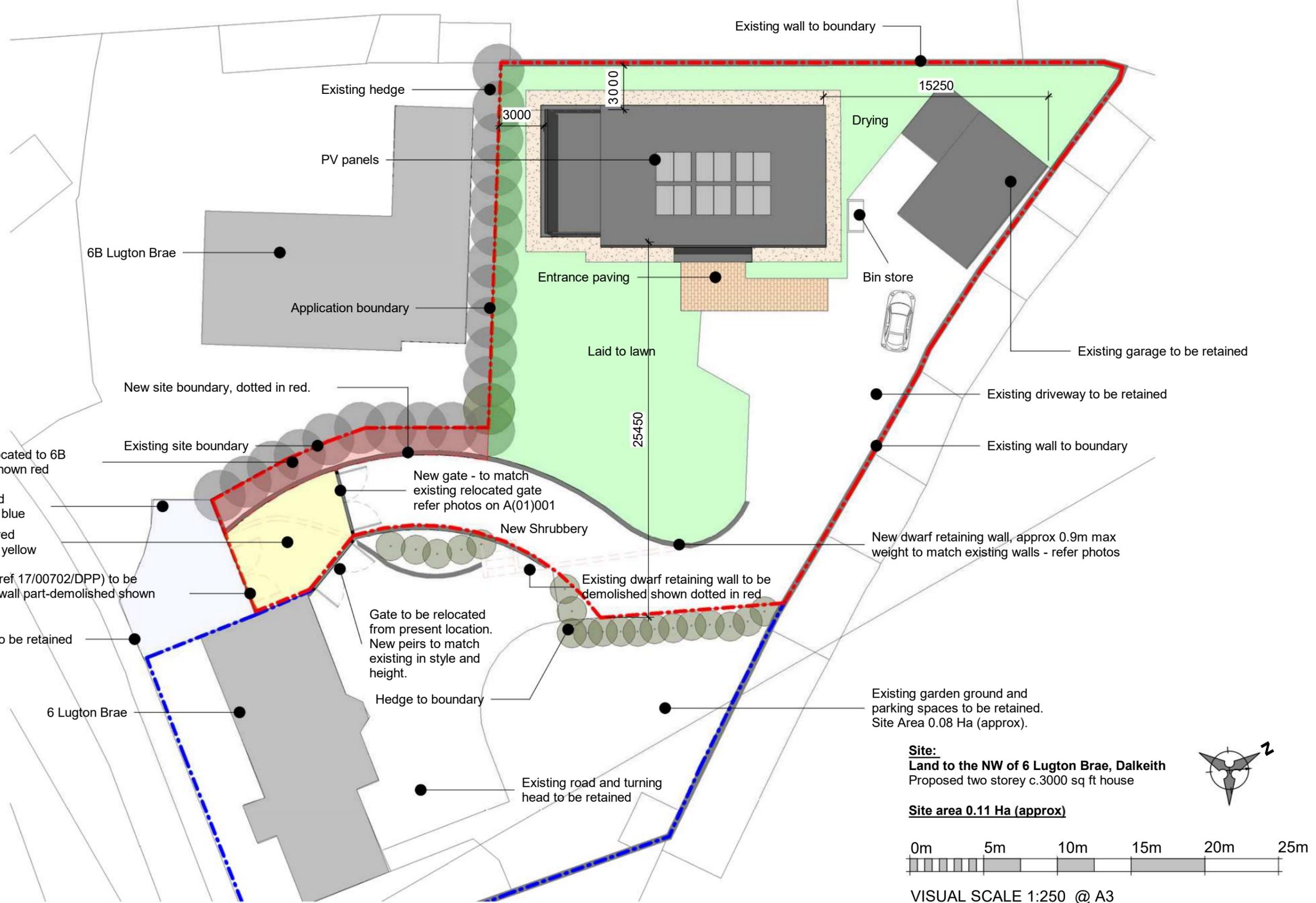
42. This Review Statement challenges the five reasons given for the refusal of application **20/00695/DPP**. We believe that they significantly overstate concerns regarding the development of the site to create an attractive new home for the applicants, Mr & Mrs Flockhart who currently live at 6 Lugton Brae and are keen to stay in the locality.
- i. The site cannot be seen from Lugton Brae, it is essentially an invisible site in the surplus garden ground of 6 Lugton Brae;
 - ii. It is more sensitively sited that the recently completed 6B Lugton Brae which offers a contrasting style of house, adjacent to the main house and occupying a roadside plot;
 - iii. The original siting of 6 Lugton Brae has already been compromised with the development of 6B, this effectively splits the site into an east side and a west side. The proposed new home will occupy the other part of the west side of the site and nestled behind 6B Lugton Brae;
 - iv. The site backs onto Dalkeith Country Park but is visible only from a minor path that is actually the private access to the rear of 8 and 10 Lugton Brae. The view from this rarely travelled path is already of the roof of 6 and the much closer presence of 6B alongside a range of other properties that border the Country Park. There will be no discernible change to this view.
43. Consequently, we strongly believe that there will be no detrimental impact on the setting and/or character of the Conservation Area or the views from Dalkeith Country Park. These apparent impacts have been significantly overstated.
44. We have therefore established that the site can accommodate a new home. The design is contemporary and innovative, making the most of the space within the application site whilst having minimal impact on the appearance of the site from the surrounding area (and delivering what the applicant wants for their new home).
45. The layout, scale and form are compatible with the predominant residential character of the immediate (and wider) vicinity and the development represents the logical progression for a site that is comfortably big enough to contain three family homes;
46. The new home will be constructed as far as reasonably possible to be carbon neutral utilising an air source heat pump with underfloor heating and an in-line heat exchanger to minimize heat loss from ventilation. Insulation will be installed in excess of industry and building regulation standards and triple glazed thermally insulated doors and windows will minimise heat loss.



**Application 20/00695/DPP – Land at Lugton Brae, Dalkeith.
Local Review Body Support Statement – May 2021.**

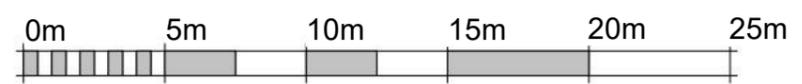
47. We have outlined the merits of the proposed development and have demonstrated that the application is not only acceptable in the context of relevant planning policy, but would be a high quality addition to the area.

Site
1 : 250



Site:
Land to the NW of 6 Lugton Brae, Dalkeith
Proposed two storey c.3000 sq ft house

Site area 0.11 Ha (approx)



VISUAL SCALE 1:250 @ A3

Alan Hardie Architect

Suite 4 Dundas House,
Westfield Park, Eskbank EH22 3FB
t. 0131 448 1249 m. 07706 270072 w. www.alanhardie.co.uk
No dimensions for construction to be scaled from this drawing, refer to figured dimensions only. Any discrepancies to be referred to the architect. This drawing to be read in conjunction with relevant engineer's drawings and specifications. Structural & services information is indicative. Alan Hardie Architect owns the copyright for this drawing which should not be reproduced in any form without written permission.

Client
Chris & Emma Flockhart
Project
New Dwelling House
Land to NW of 6 Lugton Brae,
Dalkeith EH22 1JX

SITE PLAN

Project number	2020-020A	Drawing number	Revision
Date	AUGUST 2020	A(01)002	C
Drawn by	AH	Scale	1 : 250
PLANNING		Size	A3

Rev	Description	Date
C	Updated to Planning status	12.10.2020
B	Client amendments	07.10.2020
A	Client amendments	21.09.2020

Lugton House
6 Lugton Brae
Lugton EH22 1JZ
16th October 2020

Dear Sir/Madam,

We purchased Lugton House in January 2016 because we loved the old building, area and were pleased that we had a neighbour living within the walled garden at 6B. We found out that this house was built recently after being granted permission by the council and we think it was a great decision and enhances the walled garden area as well as the local neighbourhood. We particularly liked the contrast between the listed building which we purchased against the progression of the new building adjacent.

We have spent the last three and a half years restoring and improving many of the listed features of Lugton House. For example, we have spent many thousands of pounds making repairs to the Listed stone wall surrounding the property utilising traditional lime mortar. This is a process which is likely to be ongoing, as the wall ages and the stone deteriorates. We have also spent a considerable amount of money repairing the sash and case windows. Another major project we have undertaken was to restore the railings which involved us tracking down one of the only blacksmiths in Scotland who offered to make the finials to match the missing ones on the railings. Similarly, the Planning Department should be aware that we also had a gate made to match the railings and sit within the listed wall through a planning application.

We are now at the stage of utilising the large section of ground off to the corner which sits behind the new build house next door (6B). What we propose is that we would like to build a similar house to that new one on this area. We want to do this because the land/garden is superfluous to our daily lives and has to be continually maintained and we feel that a new house would give someone else the opportunity to enjoy living in Lugton Village, while it would be of benefit to the security of the neighbours.

We are aware that the advice given to Tony Thomas of APT when he made a Pre-Application Enquiry was that that an application was unlikely to be supported – which we do understand, but feel Planning Department concerns can be readily addressed and have asked our architect to list the reasons why. These reasons are included in his Design Statement.

In addition, we believe that the proposed new building naturally completes the triangulated site being divided into three equal plots leaving future maintenance of the listed walling to be more affordable and thus likely to be up-kept by all proprietors.

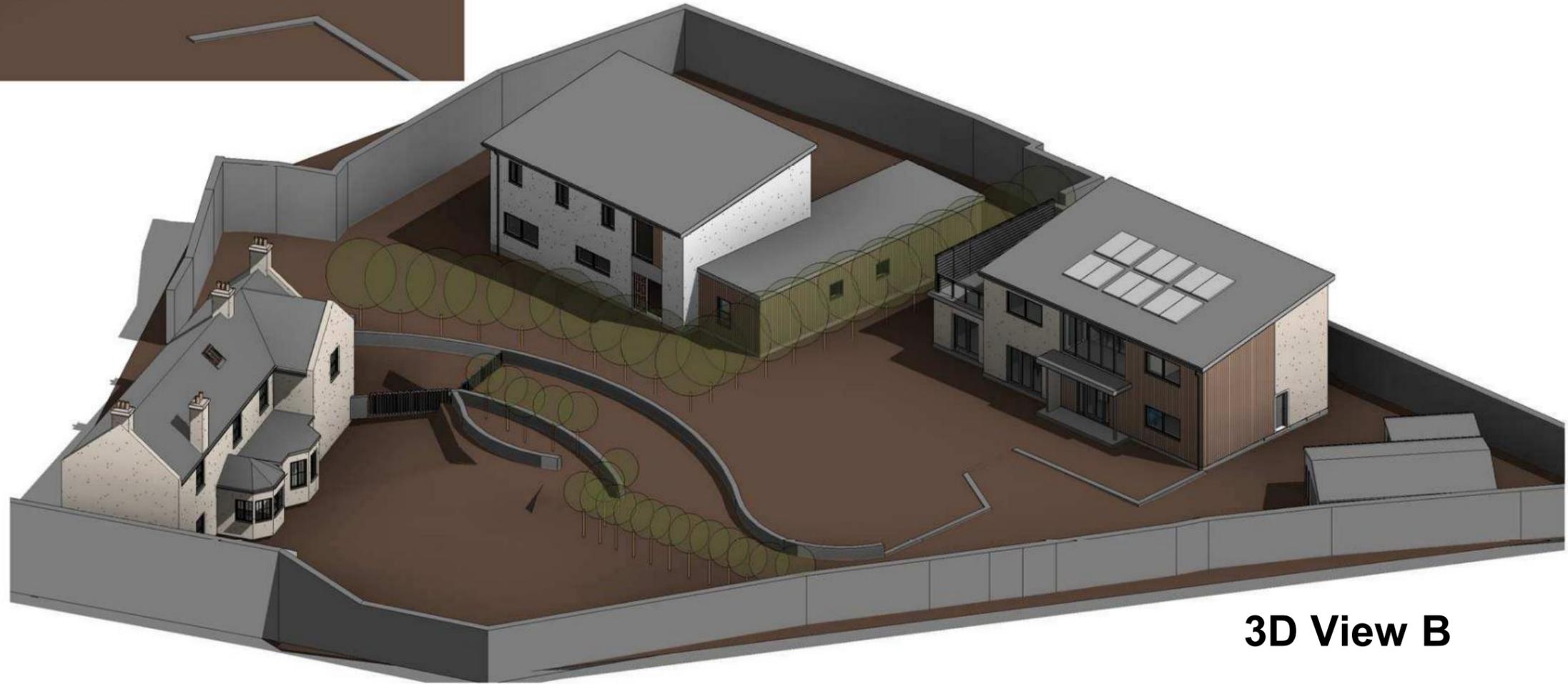
Finally, the proposed building is supported fully by our two closest neighbours, Mr Gerry Martin at no. 6B Lugton Brae and Mr Tony Smith at no. 2 Lugton Brae. Both of whom are happy to put this in writing to you.

Yours faithfully,

Chris & Emma Flockhart



3D View A



3D View B

Alan Hardie Architect

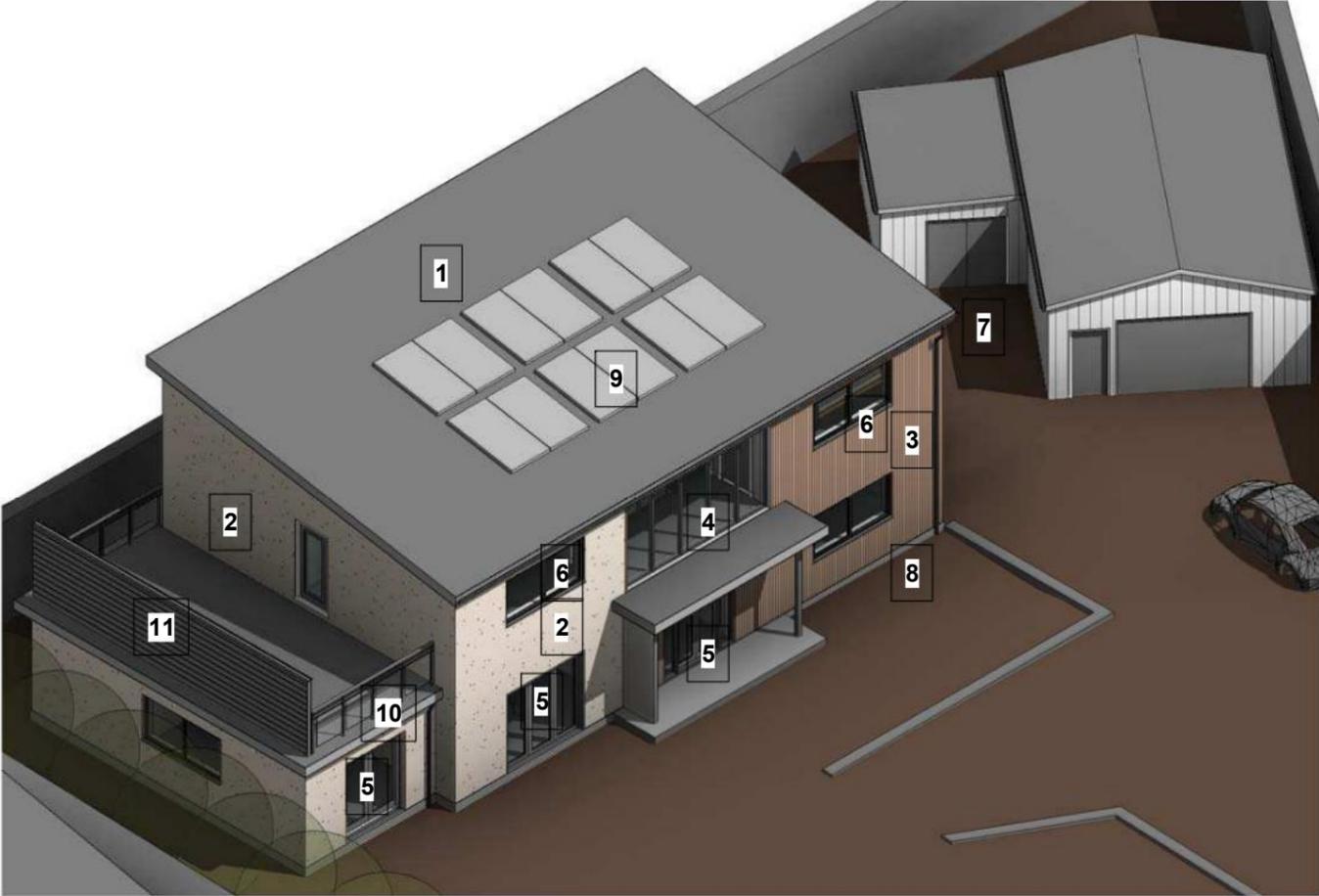
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Client
Chris & Emma Flockhart
Project
New Dwelling House
Land to NW of 6 Lugton Brae,
Dalkeith EH22 1JX

3D VIEWS

Project number	2020-020A	Drawing number	Revision
Date	AUGUST 2020	A(03)003	D
Drawn by	AH		
Status	PLANNING	Scale	Size A3

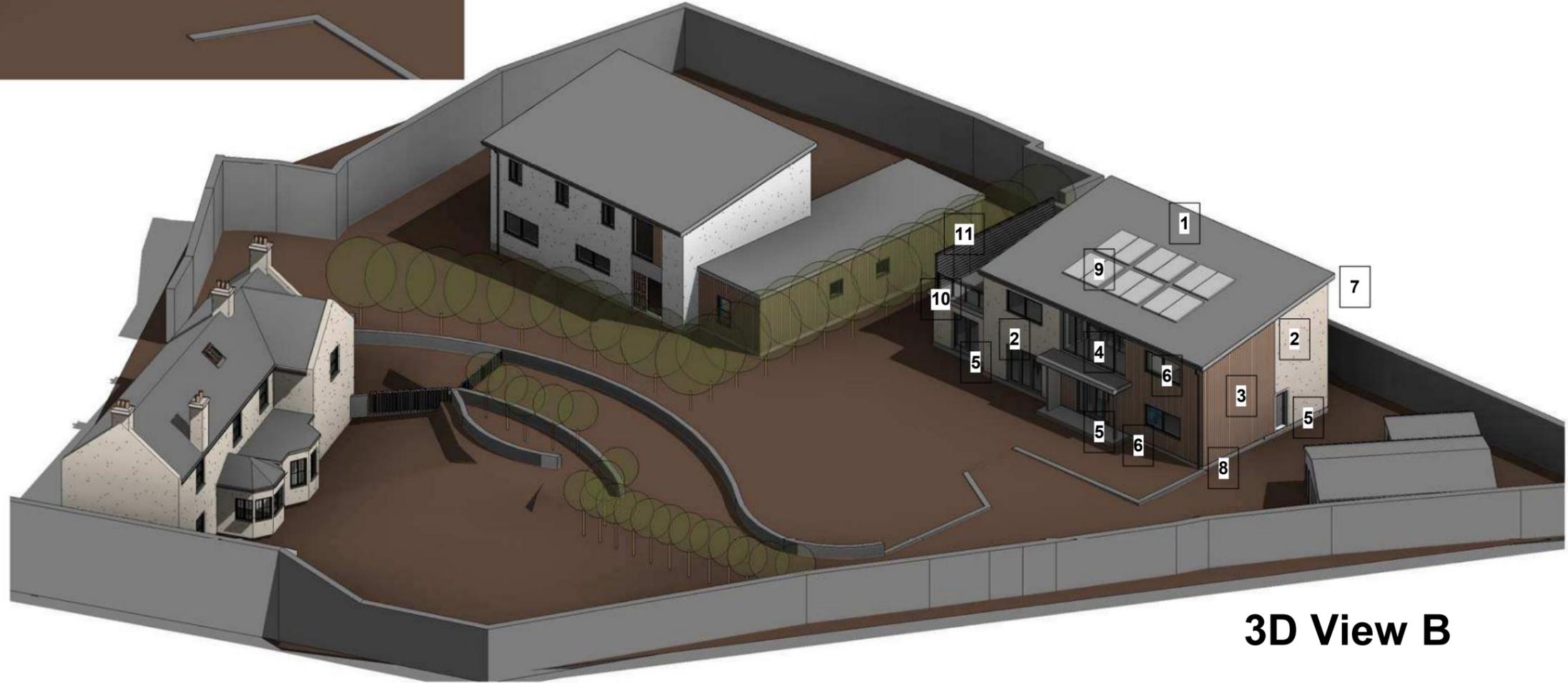
Rev	Description	Date
D	3D View B extended	17.05.2021
C	Updated to Planning status	12.10.2020
B	Client amendments	07.10.2020
A	Client amendments	21.09.2020
0	Initial Issue	31.08.2020



3D View A

Materials Index:

- 1. Single Ply Roofing
- 2. Render
- 3. Linings
- 4. Glazed Screen
- 5. Door
- 6. Window
- 7. Gutter/fascia/soffit
- 8. Facing Block Basecourse
- 9. PV Panel
- 10. Steel/Glass Balustrade
- 11. Screen Fencing



3D View B

Alan Hardie Architect

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MIDLOTHIAN COUNCIL

DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

Planning Application Reference: 20/00695/DPP and 20/00696/LBC

Site Address: Land at 6 Lugton Brae, Dalkeith.

Site Description: The application site comprises an area of garden ground serving 6 Lugton Brae, to the south, and is under the applicant's control. The site includes a grassed area, hardstanding and large outbuilding. There is a relatively new house to the west, the associated large two storey C listed house to the south, open space to the east and Dalkeith House estate to the north. The stone wall around the north and east boundaries is part of the listing for 6 Lugton Brae. There is a beech hedge to the west and an open boundary to the south. The site is within the Dalkeith House and Park Conservation Area. The houses at this area of Lugton Brae range from traditional listed buildings, two storey detached houses and a flatted development. The house to the immediate west is in a contemporary style.

Proposed Development:

20/00695/DPP Erection of dwellinghouse; alterations to existing boundary walls; erection of gates and retaining walls.

20/00696/LBC Alterations to existing boundary walls; erection of gates and retaining walls.

Proposed Development Details:

20/00695/DPP

A two storey detached house is proposed, 19 metres long by 9 metres deep with a monopitch roof ranging between 7.5 and 5.8 metres high. The plans state the walls are to be rendered with a facing brick basecourse and the roof finished with a single ply. There is a balcony at first floor level with a 1 metre high glass balustrade to the front and rear of the balcony, with a 2 metre high fence to the side. There are to be solar panels on the roof. The house is positioned 3 metres from the north and west boundaries. The house will share the existing vehicular access with 6 and 6B Lugton Brae. A bin store is located adjacent to the outbuilding. The existing outbuilding, hardstanding, majority of hedging and boundary walls are to be retained.

2000695/DPP and 20/00696/LBC

The existing retaining wall between number 6 and 6B is to be removed and rebuilt to provide a driveway for the proposed house. The wall is to be 0.9 metres high and will match the existing walls. The existing timber gates are to be relocated at the new vehicular entrance to number 6, with matching gates and piers erected at the entrance to the proposed house. It appears that part of the existing wall will be retained between these driveways, with trees between. There are no details of how the gatepier will be attached to the listed building.

The applicant's agent has submitted a design statement. They state the application takes into account concerns raised at pre-application stage about the concern over

the impact on the listed building and the amenity of the proposed and existing properties. They provide a design rationale for the proposal as well as the siting of the house. The applicants have also submitted a statement.

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

Application site and 6 Lugton Brae

17/00702/LBC Erection of gates. Consent with conditions.

17/00336/DPP Erection of gates, intercom and postbox. Consent with conditions.

Land at the access to Lugton Brae

15/00143/LBC Alterations to existing boundary wall; erection of wall; relocation of gates and formation of hard standing. Consent with conditions.

15/00142/DPP Alterations to existing boundary wall; erection of wall; relocation of gates and formation of hard standing. Consent with conditions.

6B Lugton Brae – west of the site

17/00515/DPP Demolition of outbuilding and erection of replacement outbuilding. Consent with conditions.

17/00514/DPP Demolition of outbuilding, erection of outbuilding and formation of hardstanding. Consent with conditions.

17/00078/WTT Felling of tree within the Dalkeith house and park conservation areas. Consent with conditions.

16/00010/DPP Installation of solar panel (retrospective). Permitted.

15/00021/LBC Alterations to existing boundary walls and erection of gates.

Withdrawn.

15/00001/DPP Erection of dwellinghouse. Consent with conditions.

13/00852/PPP Planning Permission in Principle for a single dwellinghouse. Consent with conditions – same as 09/00153/OUT.

Site covering application site, 6 and 6B Lugton Brae

13/00820/DPP Application for extension to timeframe in which to implement planning permission 08/00793/FUL (Sub-division of dwellinghouse to form two dwellinghouses and erection of extension to dwellinghouses). Consent with conditions.

13/00819/LBC Application for extension to timeframe in which to implement listed building consent 08/00794/LBC (Extension to dwellinghouse, formation of window openings, internal alterations to subdivide existing dwellinghouse to form two dwellinghouses and demolition of outbuilding). Consent with conditions.

09/00153/OUT Outline application for the erection of one dwellinghouse. Consent with conditions – in the position of 6B.

08/00795/OUT Outline application for the erection of two dwellinghouses.

Withdrawn – due to concerns over the provision of two additional houses in the site.

08/00794/LBC Extension to dwellinghouse, formation of window openings, internal alterations to sub-divide existing dwellinghouse to form two dwellinghouses and demolition of outbuilding . Consent with conditions.

08/00793/FUL Sub-division of dwellinghouse to form two dwellinghouses and erection of extension to dwellinghouse. Consent with conditions.

The Garden House - land to the northeast

17/00340/DPP Erection of dwellinghouse and boundary wall; retrospective change of use (of part of site) from public open space to private garden ground and erection of associated boundary fence. Consent with conditions.

17/00233/DPP Erection of dwellinghouse, boundary wall and fence. Withdrawn.

15/00976/DPP Erection of dwellinghouse and detached garage; formation of new boundary wall, gates and access. Withdrawn.

Consultations:

The Council's **Policy and Road Safety Manager** has no objection.

The Council's **Biodiversity Consultant** states that protected species will not be affected by the proposal and the Dalkeith Estate Local Biodiversity Site, adjacent to the site, will be unaffected. Should any shrubs have to be removed/ pruned, this should be done either outwith the bird breeding season (March - Sept) or if unavoidable during these months then a check for breeding birds should be carried out prior to work commencing.

Representations: No representations were received.

Relevant Planning Policies: The relevant policies of the **2017 Midlothian Local Development Plan** are;

STRAT2 Windfall Housing Sites advises within the built-up areas, housing development on non-allocated sites and including the reuse of buildings and redevelopment of brownfield land, will be permitted provided that: it does not lead to the loss or damage of valuable public or private open space; it does not conflict with the established land use of the area; it respects the character of the area in terms of scale, form, design and materials; it meets traffic and parking requirements; and it accords with other relevant Local Plan policies and proposals;

DEV2 Protecting Amenity within the Built-Up Area states development will not be permitted where it is likely to detract materially from the existing character or amenity of the area;

DEV5 Sustainability in New Development sets out the requirements for development with regards to sustainability principles;

DEV6 Layout and Design of New Development requires good design and a high quality of architecture, in both the overall layout of developments and their constituent parts. The layout and design of developments are to meet listed criteria;

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;

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;

IT1 Digital Infrastructure supports the incorporation of high speed broadband connections and other digital technologies into new homes, business properties and redevelopment proposals;

ENV7 Landscape Character states development will not be permitted where it significantly and adversely affects local landscape character. Where development is acceptable, it should respect such character and be compatible in terms of scale,

siting and design. New development will normally be required to incorporate proposals to maintain the diversity and distinctiveness of the local landscapes and to enhance landscape characteristics where they have been weakened;

ENV19 Conservation Areas states within or adjacent to conservation areas, development will not be permitted which would have any adverse effect on its character and appearance. In the selection of site, scale, choice of materials and details of design, it will be ensured that new buildings preserve or enhance the character and appearance of the conservation area. Traditional natural materials appropriate to the locality or building affected will be used in new buildings;

ENV20 Nationally Important Gardens and Designed Landscapes states development should protect, and where appropriate enhance, gardens and designed landscapes. Development will not be permitted which would harm the character, appearance and/or setting of a garden or designed landscape; and

ENV22 Listed Buildings states that development will not be permitted where it would adversely affect the character or appearance of a Listed Building; its setting; or any feature of special, architectural or historic interest.

The site is adjacent to land covered by the following policies:

ENV6 Special Landscape Areas states development proposals here will only be permitted where they incorporate high standards of siting and design and where they will not have a significant adverse effect on the special landscape qualities of the area; and

ENV14 Regionally and Locally Important Nature Conservation Sites states development which could affect the nature conservation interest of any sites or wildlife corridors of regional or local conservation importance, or any other site which is proposed or designated as of regional or local importance during the lifetime of the Plan, will not be permitted unless it meets particular criteria, including that the development has been sited and designed to minimise damage to the value of the site and compensation measures and the public interest to be gained for the proposed development can be demonstrated to clearly outweigh the nature conservation interest of the site.

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

The application site is located within the built-up area of Dalkeith where there is a presumption in favour of appropriate development which does not detract materially from the character or amenity of the area. The site is within the Dalkeith House and Park Conservation Area where the design of any development should preserve or enhance the character and appearance of the area. The site is also within the curtilage of a listed house and within the listed walls and so any proposal should not have an adverse impact on this historic area.

The proposed house would result in a total of three houses within the original plot of land. The original C listed house is large and the related garden ground is proportional to its size and importance in the area. A previous application to subdivide this garden to accommodate the house at 6B Lugton Brae was approved as the proposed house was positioned to the side of the original house; did not have a detrimental impact on its setting; and, there remained a sufficiently large area of

garden ground to serve the original house ensuring that the development respected its historic character and setting. In addition, the previously approved house did not have, at the time of determination, an adverse impact on the character or appearance of the conservation area (some mature trees have since been removed which expose the house more to public views). The erection of a further large, two storey house in the garden ground of the original house would erode the large garden that would usually be associated with large listed buildings and have a detrimental impact on the character and setting of this listed building. The related garden ground to the original house would be limited to a small area to the immediate rear of the house, which is not of a character that would be associated or expected for the scale, size and historic importance of the listed building.

In addition to the concerns over the impact the subdivision would have on the character of the listed building, the provision of three large buildings within this plot would make for a constrained layout. The house at 6B was approved as there was sufficient distance between the properties, adequate private garden ground provision and no overlooking concerns. The proposed house is set back in the plot which would limit direct overlooking between this and number 6. However the related garden ground is to the front of the proposed house, which would be directly overlooked by both number 6 and its associated garden ground. If the house were brought forward in the plot to provide the amenity space to the rear, there would be direct overlooking between the two houses. The inability to provide a house with the necessary private amenity space and private amenity space for number 6 indicates that a further house in this plot is an overdevelopment.

The design of the proposed house is not traditional in scale or form. It has a monopitched roof and appears to try to reflect the contemporary design approach undertaken at 6B. A modern contemporary approach can be acceptable in conservation areas where this does not detract from the character and appearance of the area. However the resultant house has a relatively large and bulky appearance which emphasises the above concerns of overdevelopment and three large buildings in this plot. The proposed house would be particularly obtrusive and unsympathetic to the character of the conservation area when viewed from the Dalkeith Park side, which is a parkland which is open to members of the public. No details of the materials of the house have been provided other than rendered and lined walls and a single ply roof. Any house here would need to have high quality materials to reflect the design of the house and the surrounding conservation area and listed building, such as wet or smooth render, natural stone or timber cladding. The design of the proposed house is not of a high enough design standard to merit supporting a contemporary style house in such a sensitive position.

The proposed house would be close to number 6B. In the assessment of the house at 6B, consideration was given to the provision of private amenity space for the original house and the existing beech hedge was planted and conditioned to be maintained along the boundary to ensure no overlooking between the two houses and garden grounds. This hedge is in place and the current application will retain this, with the exception of a small area to be removed to provide the vehicular access to the proposed house. This hedge would provide screening between the ground floor windows of the proposed and the house at 6B. A balcony is proposed at first floor level adjacent to 6B. This is to have a 2 metre high fence along the side

facing 6B and a 1 metre high glazed balustrade to the front and rear elevation. There are no openings at the first floor of number 6B so the balcony is unlikely to result in any loss of amenity to this house with the proposed boundary treatments.

There are no trees within the site, although there are mature trees in the to the north and east boundary outwith the site. Given these are already constrained by the existing stone boundary wall, it is unlikely that there would be roots within the site that would be affected by the proposed house. The existing beech hedge runs along the west boundary and if permission is approved this should be retained and protected during development.

There are no road safety or access concerns despite three houses using one single track access. The alterations to the existing driveway and formation of driveway to the new house will require the removal and repositioning of retaining walls. The new walls, gatepiers and gates will match the existing at the site which is acceptable in proximity to this listed building in this conservation area. Details of how the gatepier is to be fixed to the building are required to ensure that this is done appropriately and does not detrimentally affect the fabric of the listed building.

Due the site's location within the walled garden of an existing house, this would not have a significant adverse impact on the character or appearance of the designed landscape.

The Biodiversity consultant's comments about the removal of the trees and shrubs during bird breeding season can be addressed by attaching a condition to any permission to restrict when this is done. It may be possible that this could be carried out in this time if a survey has been submitted to show that the removal would not impact on breeding birds.

There are no records of planning permission being applied for or approved for the existing large area of hardstanding or the outbuilding within the site.

Recommendation: Refuse 20/00695/DPP. Grant 20/00696/LBC.

Reg. No. 20/00695/DPP

Alan Hardie Architect
Suite 4 Dundas House
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EH22 3FB

Midlothian Council, as Planning Authority, having considered the application by Mr and Mrs Chris and Emma Flockhart, Lugton House, 6 Lugton Brae, Lugton, Dalkeith, EH22 1JX which was registered on 20 October 2020 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

Erection of dwellinghouse; alterations to existing boundary walls; erection of gates and retaining walls at Land At 6 Lugton Brae, Dalkeith

In accordance with the application and the following documents/drawings:

<u>Document/Drawing.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	A(01)001 B 1:1250	20.10.2020
Site Plan	A(01)002 D 1:250	20.10.2020
Proposed Floor Plan	A(01)003 C 1:100	20.10.2020
Proposed Floor Plan	A(01)004 B 1:100	20.10.2020
Proposed Elevations	A(03)001 C 1:100	20.10.2020
Proposed Elevations	A(03)002 C 1:100	20.10.2020
Proposed Cross Section	A(04)001 1:100	20.10.2020
Illustration/Photograph	A(03)003 C	20.10.2020

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

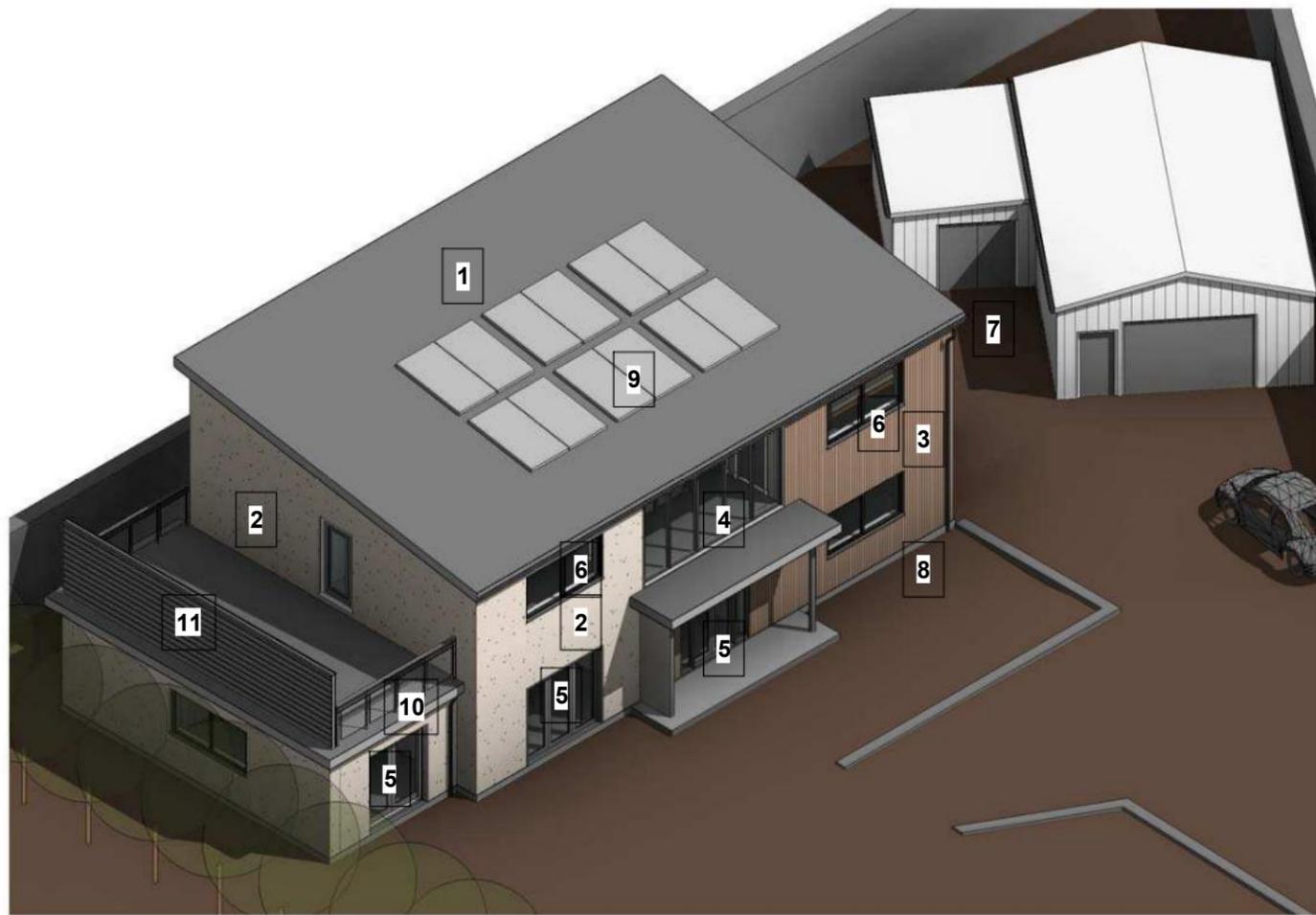
- The proposed dwelling is neither an appropriately designed traditional dwellinghouse or a dwellinghouse designed in a high quality contemporary style. The design of the proposed dwellinghouse, in particular it's rear elevation which is particularly visible from public viewpoints, is unsympathetic to the character and appearance of the conservation area. The design of the proposed dwellinghouse would have a significant adverse impact on the character and appearance of the conservation area and is therefore contrary to policies DEV2 and ENV19 of the adopted Midlothian Local Development Plan 2017 and Historic Environment Scotland policy and guidance.*
- The subdivision of the plot would have an adverse impact on the character and appearance of the conservation area and the character and setting of the important category C listed building and so is contrary to policies DEV2, ENV19 and ENV22 of the adopted Midlothian Local Development Plan 2017.*
- Due to the relationship between the proposed and existing properties the amenity space for the proposed house would be directly overlooked by the existing house and garden ground serving 6 Lugton Brae resulting in a poor level of amenity.*

4. *Due to the relationship between the proposed and existing properties the amenity space and rear elevation of 6 Lugton Brae would be directly overlooked by the amenity space for the proposed house resulting in a poor level of amenity.*
5. *For the above reasons in reasons 3 and 4, the proposal is overdevelopment of the site and does not comply with policies STRAT2, DEV2 and DEV6 of the adopted Midlothian Local Development Plan 2017.*

Dated 10 / 3 / 2021



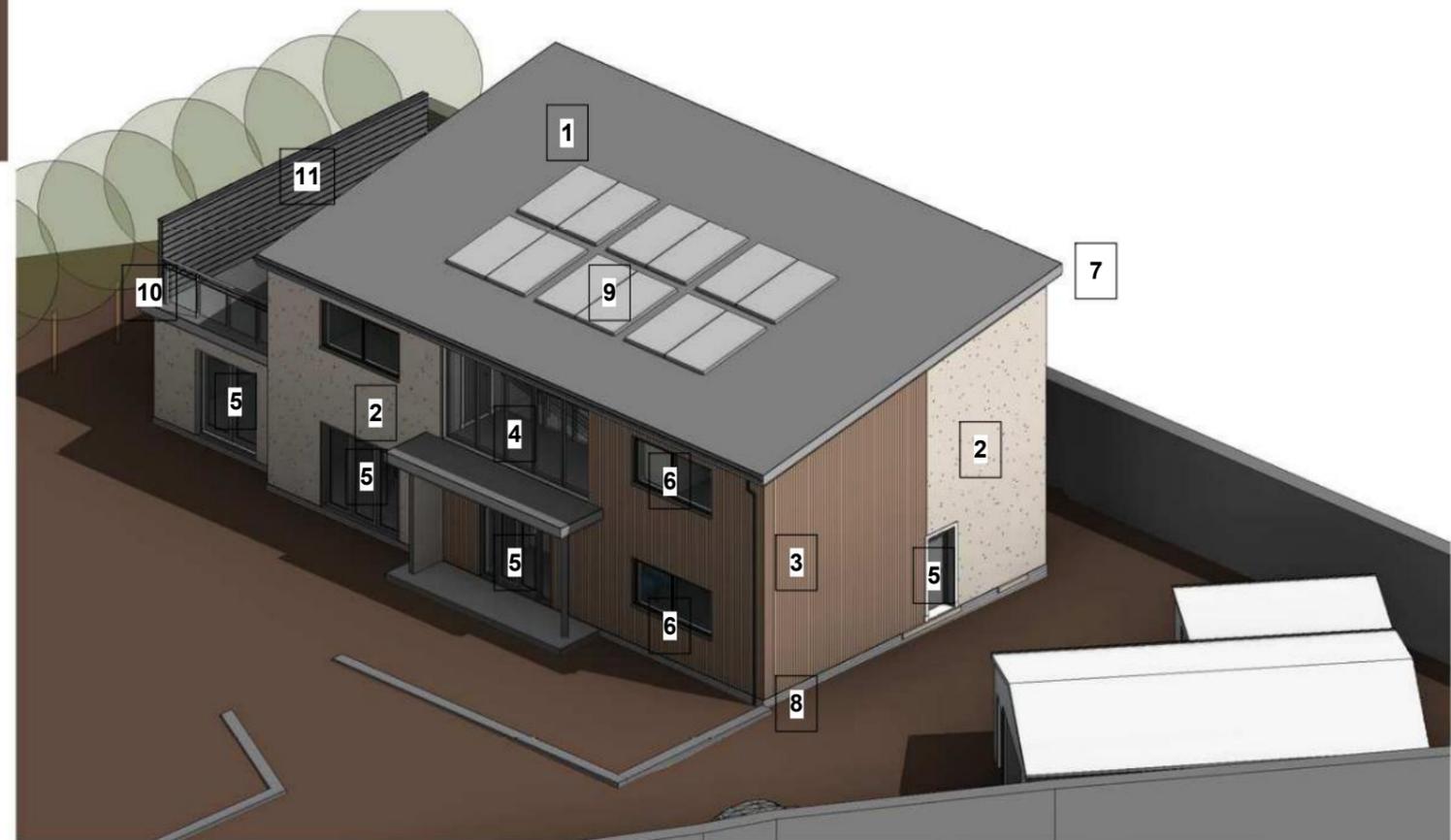
.....
Duncan Robertson
Lead Officer – Local Developments
Fairfield House, 8 Lothian Road, Dalkeith, EH22 3ZN



3D View A

Materials Index:

- 1. Single Ply Roofing
- 2. Render
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3D View B

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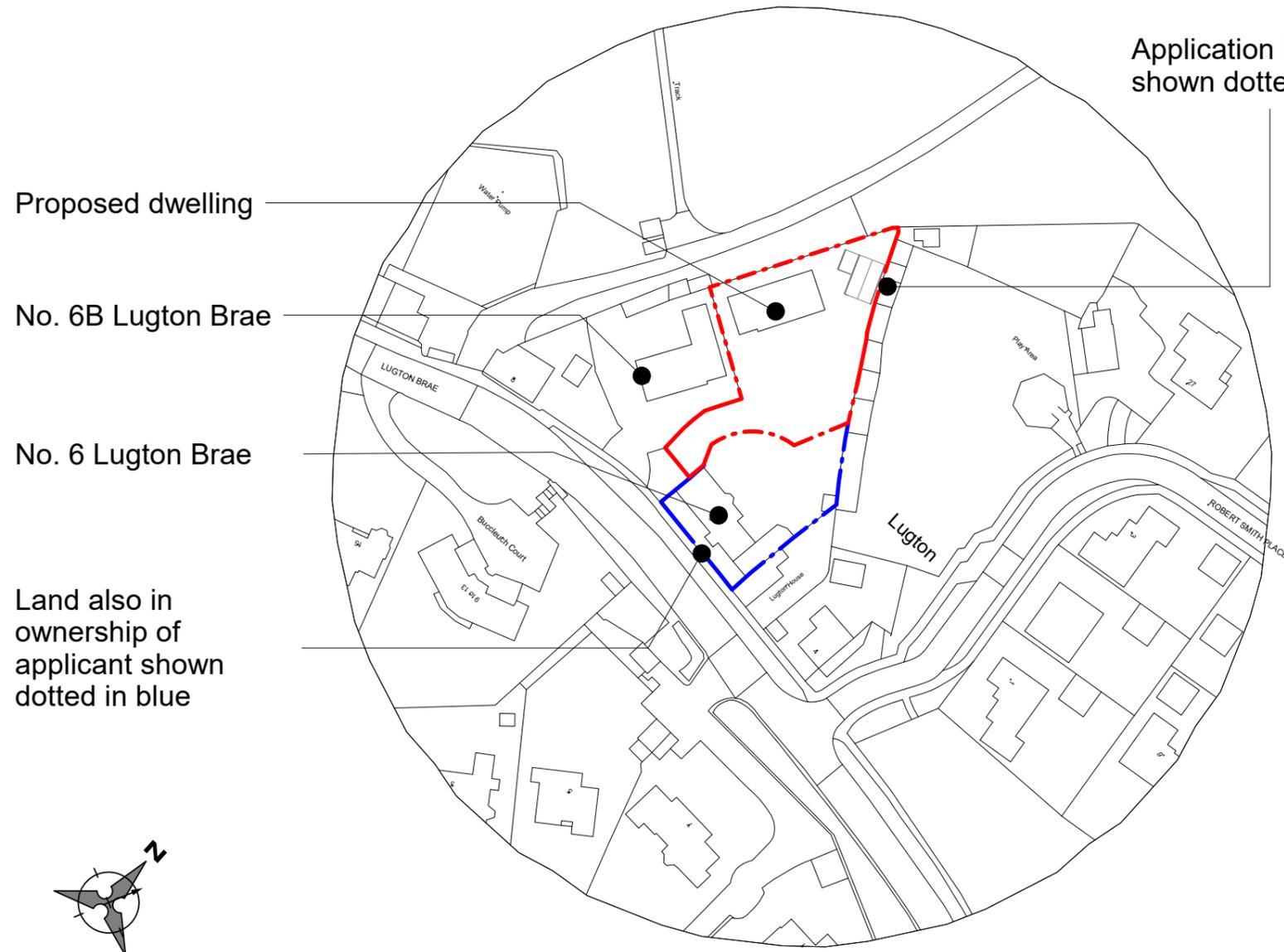
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Drawn by	AH		
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Rev	Description	Date
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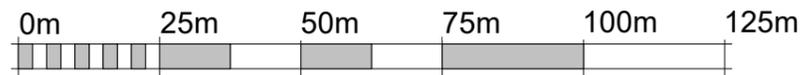
Application boundary shown dotted in red

Proposed dwelling

No. 6B Lugton Brae

No. 6 Lugton Brae

Land also in ownership of applicant shown dotted in blue



VISUAL SCALE 1:1250 @ A3

Location Plan

1 : 1250



1



2



3



4



5



6



7



8



9

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LOCATION PLAN & PHOTOS

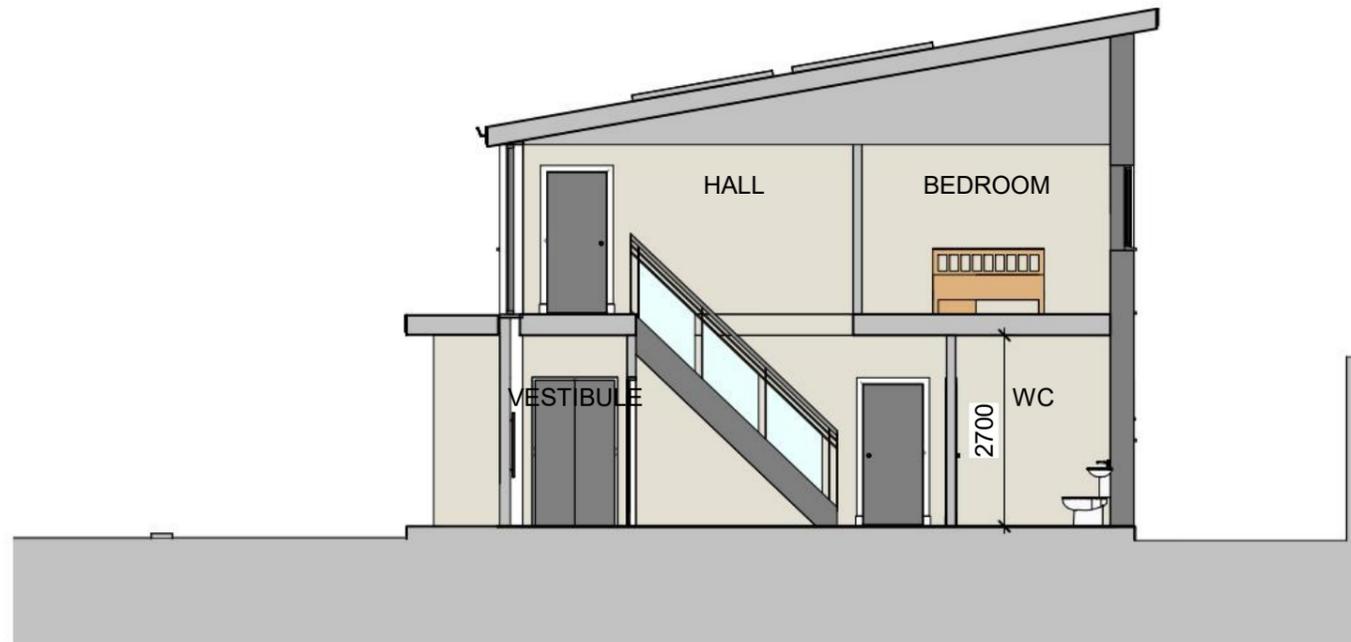
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Date	AUGUST 2020	A(01)001	B
Drawn by	AH	Scale	1 : 1250
Status	PLANNING	Size	A3

Rev	Description	Date
B	Amendments for Planning	20.10.2020
A	Updated to Planning status	12.10.2020



SECTION AA

1 : 100



SECTION BB

1 : 100

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SECTIONS

Project number	2020-020A	Drawing number	Revision
Date	AUGUST 2020	A(04)001	
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Status	PLANNING	Size A3	

Rev Description

Date



East Elevation

1 : 100

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9. PV Panel
10. Steel/Glass Balustrade
11. Screen Fencing

Existing stone wall shown transparent



West Elevation

1 : 100



VISUAL SCALE 1:100 @ A3

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EAST & WEST ELEVATIONS

Project number	2020-020A	Drawing number	Revision
Date	AUGUST 2020	A(03)002	C
Drawn by	AH	Scale	1 : 100
PLANNING		Size A3	

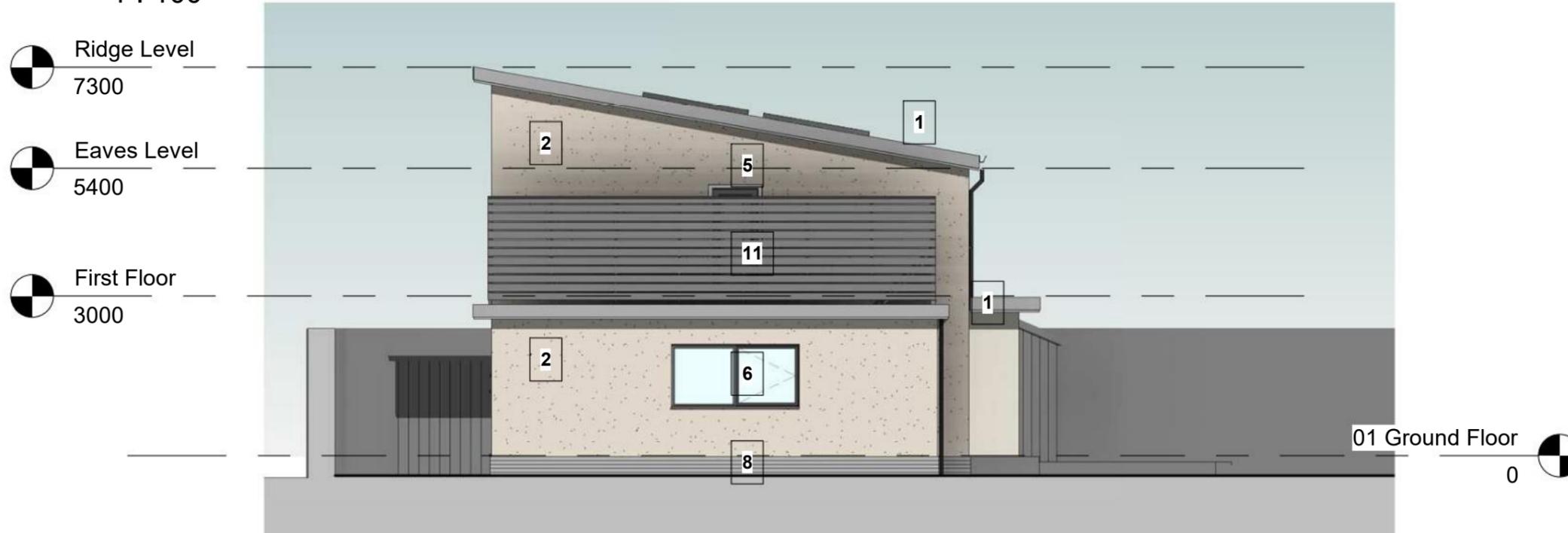
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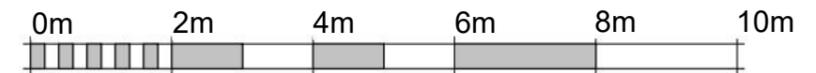
North Elevation

1 : 100



South Elevation

1 : 100



VISUAL SCALE 1:100 @ A3

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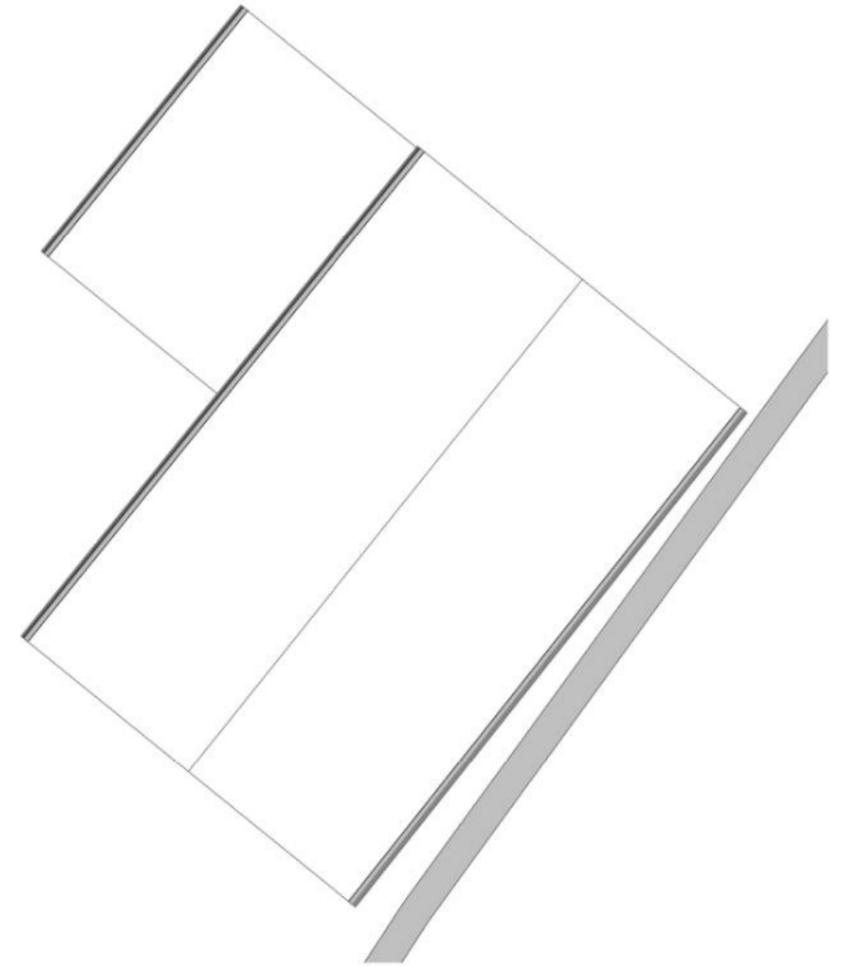
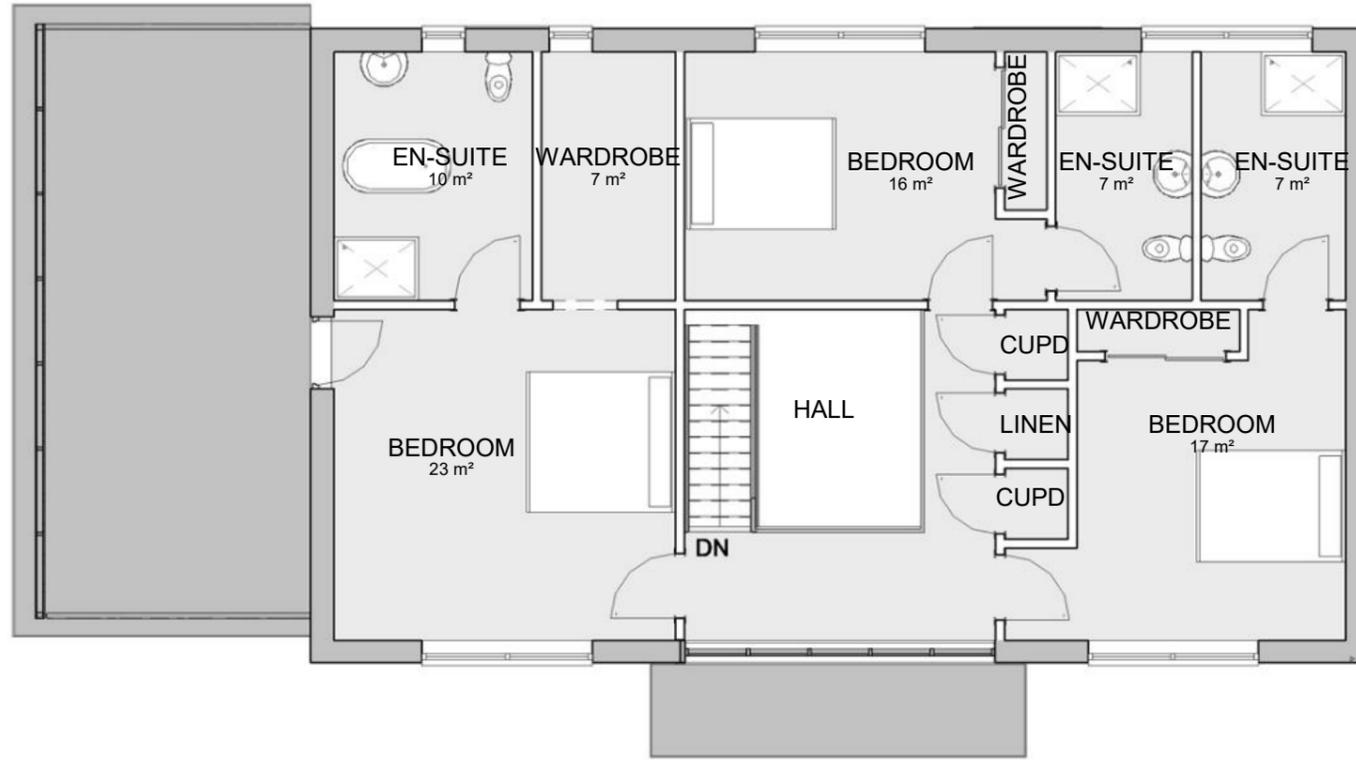
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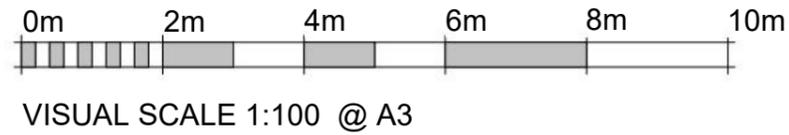
NORTH & SOUTH ELEVATIONS

Project number	2020-020A	Drawing number	Revision
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Drawn by	AH	Scale	1 : 100
Status	PLANNING	Size	A3

Rev	Description	Date
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02 First Floor
1 : 100



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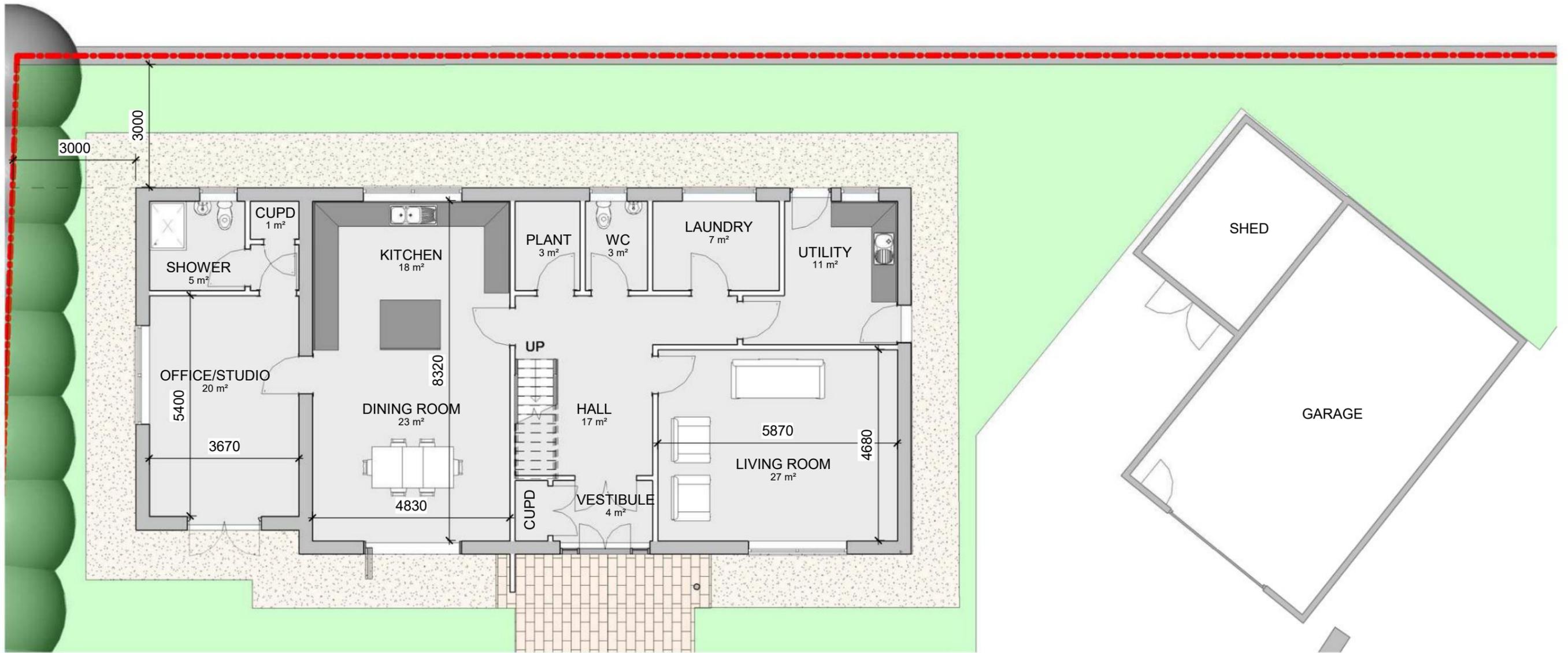
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No dimensions for construction to be scaled from this drawing, refer to figured dimensions only. Any discrepancies to be referred to the architect. This drawing to be read in conjunction with relevant engineer's drawings and specifications. Structural & services information is indicative. Alan Hardie Architect owns the copyright for this drawing which should not be reproduced in any form without written permission.

Client
Chris & Emma Flockhart
Project
New Dwelling House
Land to NW of 6 Lugton Brae,
Dalkeith EH22 1JX

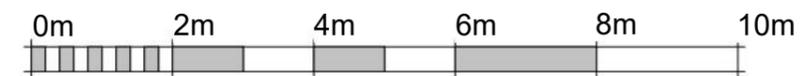
FIRST FLOOR PLAN

Project number	2020-020A	Drawing number	Revision
Date	AUGUST 2020	A(01)004	B
Drawn by	AH	Scale	1 : 100
status	PLANNING	Size	A3

Rev	Description	Date
B	Updated to Planning status	12.10.2020
A	Client amendments	21.09.2020
0	Initial Issue	31.08.2020



01 Ground Floor
1 : 100



VISUAL SCALE 1:100 @ A3

Alan Hardie Architect

Suite 4 Dundas House,
Westfield Park, Eskbank EH22 3FB
t. 0131 448 1249 m. 07706 270072 w. www.alanhardie.co.uk
No dimensions for construction to be scaled from this drawing, refer to figured dimensions only. Any discrepancies to be referred to the architect. This drawing to be read in conjunction with relevant engineer's drawings and specifications. Structural & services information is indicative. Alan Hardie Architect owns the copyright for this drawing which should not be reproduced in any form without written permission.

Client
Chris & Emma Flockhart
Project
New Dwelling House
Land to NW of 6 Lugton Brae,
Dalkeith EH22 1JX

GROUND FLOOR PLAN

Project number	2020-020A	Drawing number	Revision
Date	AUGUST 2020	A(01)003	C
Drawn by	AH	Scale	1 : 100
Status	PLANNING	Size	A3

Rev	Description	Date
C	Updated to Planning status	12.10.2020
B	Client amendments	07.10.2020
A	Client amendments	21.09.2020
0	Initial Issue	31.08.2020

Notice of Review: Land at 10 Ashbank, Vogrie Road, Gorebridge

Determination Report

Report by Chief Officer Place

1 Purpose of Report

- 1.1 The purpose of this report is to provide a framework for the Local Review Body (LRB) to consider a 'Notice of Review' for planning permission in principle for the erection of a dwellinghouse at land at 10 Ashbank, Vogrie Road, Gorebridge.

2 Background

- 2.1 Planning application 20/00375/PPP for planning permission in principle for the erection of a dwellinghouse at land at 10 Ashbank, Vogrie Road, Gorebridge was refused planning permission on 31 August 2020; a copy of the decision is attached to this report.
- 2.2 The review has progressed through the following stages:
- 1 Submission of Notice of Review by the applicant.
 - 2 The Registration and Acknowledgement of the Notice of Review.
 - 3 Carrying out Notification and Consultation.

3 Supporting Documents

- 3.1 Attached to this report are the following documents:
- A site location plan (Appendix A);
 - A copy of the notice of review form and supporting statement (Appendix B). Any duplication of information is not attached;
 - A copy of the case officer's report (Appendix C);
 - A copy of the decision notice, excluding the standard advisory notes, issued on 31 August 2020 (Appendix D); and
 - Key plans/drawings are incorporated into the applicant's supporting statement (Appendix B).
- 3.2 The full planning application case file and the development plan policies referred to in the case officer's report can be viewed online via www.midlothian.gov.uk

4 Procedures

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

- Have determined to consider a visual presentation of the site and undertaking a site visit (elected members not attending the site visit can still participate in the determination of the review); and
- Have determined to progress the review by written submissions.

4.2 The case officer's report identified that there have been four consultation responses and no representations received. As part of the review process the interested parties were notified of the review. No additional comments have been received. However two representations have been received from parties which did not comment on the original application – the points raised are as follows:

- The owner of the dog day care business to the north of the site has never had any noise complaints and has operated for 15 years. They are on site 10am to 3pm;
- There have been other dwellings in the local area built closer to the railway line than the application site;
- This sets a precedence for small scale housebuilding in the area;
- It seems like large builders are allowed to build, but locals are not;
- The site is currently used for storage/plant hire and the proposed house would be an improvement;
- A house would provide security for the yard;
- The site has previously been used for fly tipping and it would be a travesty if allowed to fall into disrepair; and
- The proposal would improve the outlook of the site and ensure this is in keeping with the surroundings.

All comments can be viewed online on the electronic planning application case file.

4.3 The next stage in the process is for the LRB to determine the review in accordance with the agreed procedure:

- Identify any provisions of the development plan which are relevant to the decision;
- Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies;
- Consider whether or not the proposal accords with the development plan;
- Identify and consider relevant material considerations for and against the proposal;
- Assess whether these considerations warrant a departure from the development plan; and
- State the reason/s for the decision and state any conditions required if planning permission is granted.

4.4 In reaching a decision on the case the planning advisor can advise on appropriate phraseology and on appropriate planning reasons for reaching a decision.

4.5 Following the determination of the review the planning advisor will prepare a decision notice for issuing through the Chair of the LRB. A copy of the decision notice will be reported to the next LRB for noting.

- 4.6 A copy of the LRB decision will be placed on the planning authority's planning register and made available for inspection online.

5 Conditions

- 5.1 In accordance with the procedures agreed by the LRB at its meeting of 13 June 2017, and without prejudice to the determination of the review, the following conditions have been prepared for the consideration of the LRB if it is minded to uphold the review and grant planning permission.

1. Development shall not begin until an application for approval of matters specified in conditions for a scheme to deal with any contamination of the site has been submitted to and approved by the Planning Authority. The scheme shall contain details of the proposals to deal with any contamination and include:
 - a) The nature, extent and types of contamination on the site;
 - b) Measures to treat or remove contamination to ensure that the site is fit for the uses hereby approved, and that there is no risk to the wider environment from contamination originating within the site;
 - c) Measures to deal with contamination encountered during construction work; and
 - d) The condition of the site on completion of the specified decontamination measures.

Before any part of the site is occupied for residential purposes, the measures to decontaminate the site shall be fully implemented as approved by the Planning Authority and a validation report or reports shall be submitted to the and approved in writing by the Planning Authority confirming that the works have been carried out in accordance with the approved scheme.

Reason: *To ensure that any contamination on the site is adequately identified and that appropriate decontamination measures are undertaken to mitigate the identified risk to site users and construction workers, built development on the site, landscaped areas, and the wider environment.*

2. Development shall not begin until an application for approval of matters specified in conditions for a scheme of investigation and remediation to deal with previous mineral workings has been submitted to and approved in writing by the Planning Authority. The scheme shall include:
 - a) A scheme of intrusive site investigations;
 - b) A report of findings arising from the intrusive site investigations and the results of any gas monitoring; and
 - c) A scheme of remedial/mitigation works.

Before any work starts onsite on the erection of the dwellinghouse the investigation schemes and remediation/mitigation works shall be fully implemented as approved by the Planning Authority and the Coal Authority and a verification report shall be submitted to and

approved in writing by the Planning Authority and the house hereby approved shall not be occupied until this has been approved in writing by the Planning Authority.

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

3. Development shall not begin until an application for the approval of matters specified in conditions for the following details has been submitted to and approved in writing by the Planning Authority:
 - a) A detailed layout plan of the site, showing the siting of the proposed house, details of vehicular access and parking provision within the site and details of all walls, fences or other means of enclosure, including bin stores or other ancillary structures;
 - b) Existing and finished ground levels and floor levels for all buildings, open space and access roads in relation to a fixed datum;
 - c) Detailed plans, sections and elevations of the proposed house, indicating the colour and type of materials to be used on the external walls, roof and windows;
 - d) Details of all hard surfacing and kerbing;
 - e) Details of a sustainability/biodiversity scheme for the site, including the provision of house bricks and boxes for bats and swifts;
 - f) Details of the provision of high speed fibre broadband connections for the house;
 - g) Details of the provision of electric vehicle charging stations for the house;
 - h) Proposals for the treatment and disposal of foul and surface water drainage from the proposed house. Unless otherwise approved in writing by the Planning Authority, the surface water drainage shall comply with the standards detailed in the SUDS Manual;
 - i) Details of a scheme of landscaping for the boundaries of the site; and Details shall include a plan showing the position, number, size and species of all trees and shrubs that are proposed to be planted; all trees on the site which are to be removed and retained; and details of the means of protection of all trees that are to be retained.

Reason: *Permission is granted in principle only. No details were approved with the application and detailed consideration is required for the siting, massing and design of the proposed dwellinghouse and site access arrangements; to ensure protected species are not adversely affected.*

4. The house hereby approved in terms of conditions 3 (a), (b) and (c) shall be on a maximum of two levels with the upper floor wholly accommodated in the roofspace.

Reason: *To ensure that the dwelling is of an appropriate scale to the surrounding rural area; for the avoidance of doubt; to ensure*

that adequate room is provided to allow for appropriate landscaping; to help integrate the house in the surrounding rural and sensitive area.

5. The details of the hardstanding required in terms of condition 3d) shall be porous materials.

Reason: *In the interests of road safety; to prevent water run-off from the site onto Vogrie Road.*

6. The details of the boundary treatments required in terms of condition 3a) shall include close boarded fencing along the north and east boundaries.

Reason: *To protect the amenity of the occupants of the house from noise from the adjacent dog day care business.*

7. The landscape scheme approved in terms of condition 3i) shall include details of planting along the west boundary to Vogrie Road.
8. The scheme of landscaping approved in accordance with condition 3j) shall include details of boundary planting to both integrate the development into the surrounding area and also provide and maintain privacy to existing and future occupants.

Reason for conditions 7 and 8: *To ensure the development is integrated into and in keeping with the surrounding rural and sensitive area.*

9. The scheme of landscaping approved in accordance with condition 3i) shall be carried out and completed within six months of the building either being completed or brought into use, whichever is the earlier date. Any trees removed, dying, severely damaged or becoming seriously diseased within five years of planting shall be replaced in the following planting season by trees of a size and species similar to those originally required.

Reason: *To ensure the landscaping is carried out and becomes successfully established.*

10. The tree protection measures approved in terms of condition 3i) shall be in place before any work on the development is begun, including site clearance, and shall be retained until the development is completed, including the protection of trees outwith but adjacent to the site which would be affected by development. Within the area enclosed by fencing there shall be no excavation, no removal of soil, no placing of additional soil, no storage of any kind, disposal of any waste or fires lit. These works shall be carried out in accordance with BS5837:2012 Trees in Relation to Design, Demolition and Construction – Recommendations.

Reason: *To ensure that the trees and landscaping to be retained are protected from damage during development; to protect the appearance of the surrounding rural area.*

11. Before the new house is occupied the installation of the means of drainage treatment and disposal approved in terms of condition 3h) above shall be completed to the satisfaction of the planning authority.

Reason: *To ensure that the house is provided with adequate drainage facilities prior to occupation.*

6 Recommendations

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

Peter Arnsdorf
Planning, Sustainable Growth and Investment Manager

Date: 2 September 2021
Report Contact: Mhairi-Anne Cowie, Planning Officer
Mhairi-Anne.Cowie@midlothian.gov.uk

Background Papers: Planning application 20/00375/PPP available for inspection online.



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

Application for planning permission in principle for erection of dwellinghouse at Land At 10 Ashbank, Vogrie Road, Gorebridge

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File No: 20/00375/PPP

2

Midlothian Council Licence No. 100023416 (2020)

Scale: 1:3,000
Page 65 of 246



Fairfield House 8 Lothian Road Dalkeith EH22 3ZN Tel: 0131 271 3302 Fax: 0131 271 3537 Email: planning-applications@midlothian.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100265473-002

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

Applicant or Agent Details

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

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:	<input type="text" value="Liston Architects"/>		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	<input type="text" value="David"/>	Building Name:	<input type="text"/>
Last Name: *	<input type="text" value="Liston"/>	Building Number:	<input type="text" value="1"/>
Telephone Number: *	<input type="text" value="0794 383 0266"/>	Address 1 (Street): *	<input type="text" value="Summerhall"/>
Extension Number:	<input type="text"/>	Address 2:	<input type="text"/>
Mobile Number:	<input type="text"/>	Town/City: *	<input type="text" value="Edinburgh"/>
Fax Number:	<input type="text"/>	Country: *	<input type="text" value="UK"/>
		Postcode: *	<input type="text" value="EH9 1PL"/>
Email Address: *	<input type="text" value="david@listonarchitects.co.uk"/>		

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

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text" value="carlyle lodge"/>
First Name: *	<input type="text" value="Dougie"/>	Building Number:	<input type="text"/>
Last Name: *	<input type="text" value="Givan"/>	Address 1 (Street): *	<input type="text" value="Carlyle Lodge"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text" value="Gorebridge"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Midlothian"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="United Kingdom"/>
Mobile Number:	<input type="text" value="07843380092"/>	Postcode: *	<input type="text" value="EH23 4QN"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="gilliangivan@yahoo.com"/>		

Site Address Details

Planning Authority:	<input type="text" value="Midlothian Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="10 ASHBANK"/>
Address 2:	<input type="text" value="VOGRIE ROAD"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="GOREBRIDGE"/>
Post Code:	<input type="text" value="EH23 4NJ"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="660804"/>	Easting	<input type="text" value="335144"/>
----------	-------------------------------------	---------	-------------------------------------

Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

Application for planning permission in principle for erection of dwellinghouse at Land At 10 Ashbank, Vogrie Road, Gorebridge

Type of Application

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

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

What does your review relate to? *

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

Statement of reasons for seeking review

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

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

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

Please refer to supporting document "Appeal Statement"

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

Yes No

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

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

10 Ashbank Sawmill LRB appeal Statement

Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

20/00375/PPP

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

07/07/2020

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

31/08/2020

Review Procedure

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

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

Yes No

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

Please select a further procedure *

By means of inspection of the land to which the review relates

Please explain in detail in your own words why this further procedure is required and the matters set out in your statement of appeal it will deal with? (Max 500 characters)

No MLC visit was made to the site at the application stage due to COVID 19. Full appraisal of the context of the site is required. Specifically the distance from railway and Dog Day Care Centre, which were reasons given for refusal.

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

Can the site be clearly seen from a road or public land? *

Yes No

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

Yes No

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. *

Yes No

Have you provided the date and reference number of the application which is the subject of this review? *

Yes No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

Yes No N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

Yes No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

Yes No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr David Liston

Declaration Date: 22/09/2020

**10 ASHBANK SAWMILL
VOGRIE ROAD
SUPPORTING STATEMENT
PLANNING PERMISSION IN PRINCIPLE FOR NEW HOUSE**

10/06/2020

This statement is to support the application for Planning Permission in Principle to build one new house on the site of existing workshops and yard at 10 Ashbank Sawmill on Vogrie Road above Fushiebridge, Gorebridge.

The site is set into the hillside above the road, with a long retaining wall to the back. An existing screen of Beech trees to the road is retained. Immediately to the North are 3 large former brick kilns. About 260m to the North of the site, and also about 400m to the West, across Gore Water, are newbuild housing developments. Craigesk Coach Works occupies a large brick building 100m uphill, to the Northeast of the site.

Two existing vehicular entrances give access to the house. They are currently used frequently by the workshop and therefore the proposed house does not increase the vehicular traffic on the road. Public transport and local shops in Gorebridge are a short cycle or walk away.

A 1.5 or 2 storey house is proposed, similar in scale to nearby houses. The application includes a design, which is indicative only, showing a high-quality contemporary house built from materials sympathetic to its surroundings.

**10 ASHBANK SAWMILL
VOGRIE ROAD
LOCAL REVIEW BODY APPEAL
PLANNING PERMISSION IN PRINCIPLE FOR NEW HOUSE REF: 20/00375/PPP**

The documents submitted with the application were as follows:

2001_C_001_Location Plan
2001_B_002_Existing Site Plan
2001_B_003_Proposed Site Plan
2001_B_100_Proposed Plans and Elevations INDICATIVE ONLY
2001_B_Vogrie Road Supporting Statement

The documents noted in the decision notice were:

2001_C_001 Location Plan
2001_B_002 Site Plan
2001_B_003 Site Plan

-Current Developments

Planning permission in principle for a house was granted in the nearby site at 6 Ashbank (Ref: 14/00773/PPP). (Fig 1. in appended aerial photo)

Proposal of Application Notice for a major housing development by Hallam Land Management and CEG has been accepted (Ref: 20/00128/PAC) (Fig 2.). The boundary for this borders Ashbank and is about 140m North of the site of this application at 10 Ashbank.

Developing a house, sensitive to its surroundings, at 10 Ashbank Sawmill would greatly improve the land. An enduring quality of the area, of houses well-integrated into the landscape, would be enhanced by the new house.

-Status of Non-residential Buildings

Please note that the existing non-residential buildings on the site are now redundant. The site was used previously as a workshop but is now too large for the requirements of the applicant. The applicant, despite local advertising, has been unable to let the site and now intends to use it as a combined dwelling and workshop. Break-ins at the yard have previously been a problem and a dwelling on the site would benefit security.

-Road Safety

The road is the same that runs past the various houses around Fushiebridge (**Fig 3.**), the house at 1 Ashbank just to the North of the site, Craigesk Coachworks and also the site with planning permission in principle for a new house at 6 Ashbank.

Two existing vehicular entrances give access to the proposed house at 10 Ashbank. Though the existing buildings on site are redundant, they had been used frequently by the workshop. Furthermore, when the sawmill was operational, the vehicular entrances were used by lorries. If a commercial tenant for the site were to be found, vehicular traffic and footfall would inevitably increase. The traffic for a proposed new house and workshop would be less and vehicles would be smaller. The new house alongside a workshop would allow the occupants to live and work in the same location.

-Noise

Vibrations and noise from the railway are not significant on the site. The site is 150m away from the railway line, which is much further than many houses in Gorebridge. For example, the row of 25 recently built houses on Louis Braille Way (**Fig 4.**) is between 30 and 50 metres away from the railway line.

The noise of the dog day care centre is also not significant, since the site is about 240m away and trees help to further attenuate any noise. The site at 6 Ashbank, with Planning Permission in Principle for a new house, is much closer to the Dog Day Care Centre (**Fig 5.**), as is the site proposed for a major housing development (Ref: 20/00128/PAC). The existing House at 1 Ashbank is about 250m from the Dog Day Care Centre.

Fig 4. Houses at Louis Braille Way



Fig 2.
Ref: 20/00128/PAC

Fig 5.
Dog Day Care Centre

Fig 1.
6 Ashbank Ref: 14/00773/PPP

Application Site

Fig 3.
Houses around Fushiebridge

Aerial Photo 10 Ashbank Sawmill, Vogrie road NTS Liston Architects 18.09.20

Liston Architects RIAS

FAO Duncan Robertson
Local Development
Fairfield House
8 Lothian Road
Dalkeith, EH22 3ZU

01/10/20

Dear Sirs

CORPORATE RESOURCES	
FILE:	
RECEIVED	05 OCT 2020

Mike Radford
Granary Cottage
Fushiebridge
Gorebridge
Midlothian
EH23 4QF

Re Planning application for new house at 10 Ashbank,
Vogrie Road, Gorebridge, Midlothian no. 20/00375

I write in support of Planning Application no 20/00375
for a new dwelling house at 10 Ashbank, Vogrie Rd, Gorebridge.

The ground designated within the application is a storage /
plant hire facility, formally a timber yard which would now be
considerably improved by the development proposed by the owner,
Mr D. Givan, namely a private dwelling house as applied for in
the above application. The security of the yard and the plant
equipment stored there would benefit from the owner being resident
on site.

This piece of ground had a long history of attracting flytipping and
other misuse prior to Mr Givan's ownership and it would be a
travesty if the land in question was allowed to fall into a state of
disrepair and other abuse again.

There has been a considerable amount of residential building works
on the opposite side of the Gore Water Valley (at Harvieston) and
so, in my view considerable precedent for allowing this
(by comparison) small development to proceed.

:- Cont.

This would not only improve the outlook for local residents, but would ensure that the area in question was developed sympathetically in keeping with the immediate locality.

yours sincerely,

Michael. A. Radford

Mhairi-Anne Cowie

From: Mhairi-Anne Cowie
Sent: 29 October 2020 08:55
To: 'smedlam@icloud.com'
Subject: RE: Planning Application 20/00375/ppp

Good morning Sarah,

Local Review Body: 20/00375/PPP Application for planning permission in principle for erection of dwellinghouse at Land At 10 Ashbank, Vogrie Road, Gorebridge

I refer to your email below and apologise for the delay in responding to this.

I can confirm that your comments have been received and I have passed these onto the planning advisor for the Local Review Body, who advises the elected members in these meetings.

Please note that your representation will be placed on the application case file and will be published on the Council's website www.midlothian.gov.uk for members of the public and/or the applicant, to view. If this is a problem, please let me know as soon as possible. However please note that it is only publicly available comments that can be taken into account by the Council in reaching a decision on a Local Review.

Please note the following important information.

IMPORTANT NOTE REGARDING PUBLIC ACCESS TO INFORMATION

Making an application

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

Making comment on an application

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

The planning authority will redact personal information in accordance with its redaction policy and use its discretion to redact any comments or information it considers to be derogatory or offensive. The representations will then be destroyed from the back office systems 6 months after the date of determination or 6 months after an appeal decision date and 6 months after a Local Review Decision date. General Data Protection (GDPR) privacy statement can be found at www.midlothian.gov.uk/privacy (Communities and Economy). Planning Redaction Policy can be found at www.midlothian.gov.uk/downloads/file/1378/redaction_policy

Local Review Body (LRB)

Please note that any additional comments submitted will only be considered by the LRB if made by an interested party. An interested party is an individual or organisation which made comment on the original application.

Regards,

Mhairi-Anne

Mhairi-Anne Cowie
Planning Officer: Local Developments
Planning
Place
Midlothian Council

Fairfield House
8 Lothian Road
Dalkeith
EH22 3AA

Tel: 0131 271 3308
Fax: 0131 271 3537
Web: www.midlothian.gov.uk
Email: Mhairi-Anne.Cowie@midlothian.gov.uk

(please note that due to the Coronavirus outbreak I am currently working remotely and unable to access telephone messages or paper submissions to the office)

-----Original Message-----

From: Sarah Medlam <smedlam@icloud.com>
Sent: 13 September 2020 00:56
To: Duncan Robertson <Duncan.Robertson@midlothian.gov.uk>
Subject: Planning Application 20/00375/ppp

CAUTION: This email originated from outside Midlothian Council. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Hi Duncan

I have been approached by Mr Girvan regarding the above planning application.

I have run The Dog Day Care Centre for 15 years from 8 Ashbank in Gorebridge. In that time I have never had any complaints regarding noise from any neighbours. We are onsite from 10am until 3pm and any noise produced from our centre travels East uphill towards the top road as our prevailing winds are Westerly.

I personally would add that many large building companies have obtained planning permission for hundreds of houses far closer to the railway line than Mr Girvan's proposal. In fact the newly built houses on Louis Braille Way back directly onto the railway.

It often feels to local people and local businesses that these large builders are allowed to build whatever they want where ever they care to, whilst we are unable to even erect one house. Sadly it seems that it is all about Corporate greed, with no thought for the ordinary man or woman.

Sarah Medlam
The Dog Day Care Centre
07930432590

From: Mhairi-Anne Cowie
Sent: 29 October 2020 08:55
To: 'smedlam@icloud.com' <smedlam@icloud.com>
Subject: RE: Planning Application 20/00375/ppp

Good morning Sarah,

Local Review Body: 20/00375/PPP Application for planning permission in principle for erection of dwellinghouse at Land At 10 Ashbank, Vogrie Road, Gorebridge

I refer to your email below and apologise for the delay in responding to this.

I can confirm that your comments have been received and I have passed these onto the planning advisor for the Local Review Body, who advises the elected members in these meetings.

Please note that your representation will be placed on the application case file and will be published on the Council's website www.midlothian.gov.uk for members of the public and/or the applicant, to view. If this is a problem, please let me know as soon as possible. However please note that it is only publicly available comments that can be taken into account by the Council in reaching a decision on a Local Review.

Please note the following important information.

IMPORTANT NOTE REGARDING PUBLIC ACCESS TO INFORMATION

Making an application

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

Making comment on an application

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

The planning authority will redact personal information in accordance with its redaction policy and use its discretion to redact any comments or information it considers to be derogatory or offensive. The representations will then be destroyed from the back office systems 6 months after the date of determination or 6 months after an appeal decision date and 6 months after a Local Review Decision date. General Data Protection (GDPR) privacy statement can be found at www.midlothian.gov.uk/privacy (Communities and Economy). Planning Redaction Policy can be found at www.midlothian.gov.uk/downloads/file/1378/redaction_policy

Local Review Body (LRB)

Please note that any additional comments submitted will only be considered by the LRB if made by an interested party. An interested party is an individual or organisation which made comment on the original application.

Regards,

Mhairi-Anne

Mhairi-Anne Cowie
Planning Officer: Local Developments
Planning
Place
Midlothian Council
Fairfield House
8 Lothian Road
Dalkeith
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Sarah Medlam
The Dog Day Care Centre
07930432590



30 October 2020

Mike Radford
Granary Cottage
Fushiebridge
Gorebridge
EH23 4QF

Dear Sir

Local Review Body: 20/00375/PPP Application for planning permission in principle for erection of dwellinghouse at Land At 10 Ashbank, Vogrie Road, Gorebridge

I refer to your letter supporting the above review dated 1 October 2020.

The letter you were sent dated 14 October 2020 acknowledging your comments was sent in error. This stated that your comments would be taken into account in the assessment of the planning application. As you are aware, the planning application has already been determined and your comments relate to the review of the decision submitted by the applicant's agent.

I can confirm that your comments have been received and I have passed these onto the planning advisor for the Local Review Body, who advises the elected members in these meetings.

Please note that your representation will be placed on the application case file and will be published on the Council's website www.midlothian.gov.uk for members of the public and/or the applicant, to view. If this is a problem, please let me know as soon as possible. However please note that it is only publicly available comments that can be taken into account by the Council in reaching a decision on a Local Review.

Please note important information overleaf.

I apologise for any confusion caused about the contents of these letters.

Yours faithfully

A handwritten signature in black ink, appearing to read 'MAC'.

Mhairi-Anne Cowie
Planning Officer: Local Developments

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The

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Mhairi-Anne Cowie

From: Mhairi-Anne Cowie
Sent: 11 November 2020 11:59
To: 'david@listonarchitects.co.uk'
Subject: RE: Review for 20/00375/PPP land at 10 Ashbank, Gorebridge

Hello David,

Thank you for your email confirming that you wish for the LRB to visit the site. I will pass this onto the Planning Manager so that he is aware of this and to take this off the agenda for the meeting on 14th December. He will be in touch once the LRB are able to visit the site and consider this review depending on the restrictions on movement and meeting, which may be some time away.

Regards,

Mhairi-Anne

From: david@listonarchitects.co.uk <david@listonarchitects.co.uk>
Sent: 09 November 2020 14:17
To: Mhairi-Anne Cowie <Mhairi-Anne.Cowie@midlothian.gov.uk>
Subject: RE: Review for 20/00375/PPP land at 10 Ashbank, Gorebridge

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Hello Mhairi-Anne

Thanks for the email. The client would still like to the LRB to visit the site.

Regards,

David

From: Mhairi-Anne Cowie <Mhairi-Anne.Cowie@midlothian.gov.uk>
Sent: 06 November 2020 17:42
To: 'david@listonarchitects.co.uk' <david@listonarchitects.co.uk>
Subject: Review for 20/00375/PPP land at 10 Ashbank, Gorebridge

Good afternoon David,

I refer to the review for this planning application.

In the submitted application forms, you have requested that the LRB visit the site as part of the review process. At present the LRB are not able to carry out site visits and so if you wish for them to visit the site, consideration of the review will need to wait until the current restrictions on movement and meeting people are relaxed. As you will appreciate, this may result in a significant delay in the consideration of the review.

Could you please confirm if you still wish for the LRB to visit the site and therefore the delay in considering this review? The agendas and timescales for the reviews waiting to be considered was arranged yesterday by the Planning Manager and there are an additional two LRB meetings taking place in addition to the scheduled meeting in order to deal with the current backlog. The review for 20/00375/PPP with no site visit is due to be considered at

the LRB meeting on 14 December, however if you wish for the LRB to visit the site then this will be taken off the agenda for this meeting and held until a visit can be made. If you wish for the review to be considered in this December meeting, you are welcome to submit additional photos for the body to consider.

Also I am sure you will appreciate these are slightly uncertain times and so this may be subject to change if necessary, however this is the current schedule for this review to be considered.

Regards,

Mhairi-Anne

Mhairi-Anne Cowie
Planning Officer: Local Developments
Planning
Place
Midlothian Council
Fairfield House
8 Lothian Road
Dalkeith
EH22 3AA

Tel: 0131 271 3308

Fax: 0131 271 3537

Web: www.midlothian.gov.uk

Email: Mhairi-Anne.Cowie@midlothian.gov.uk

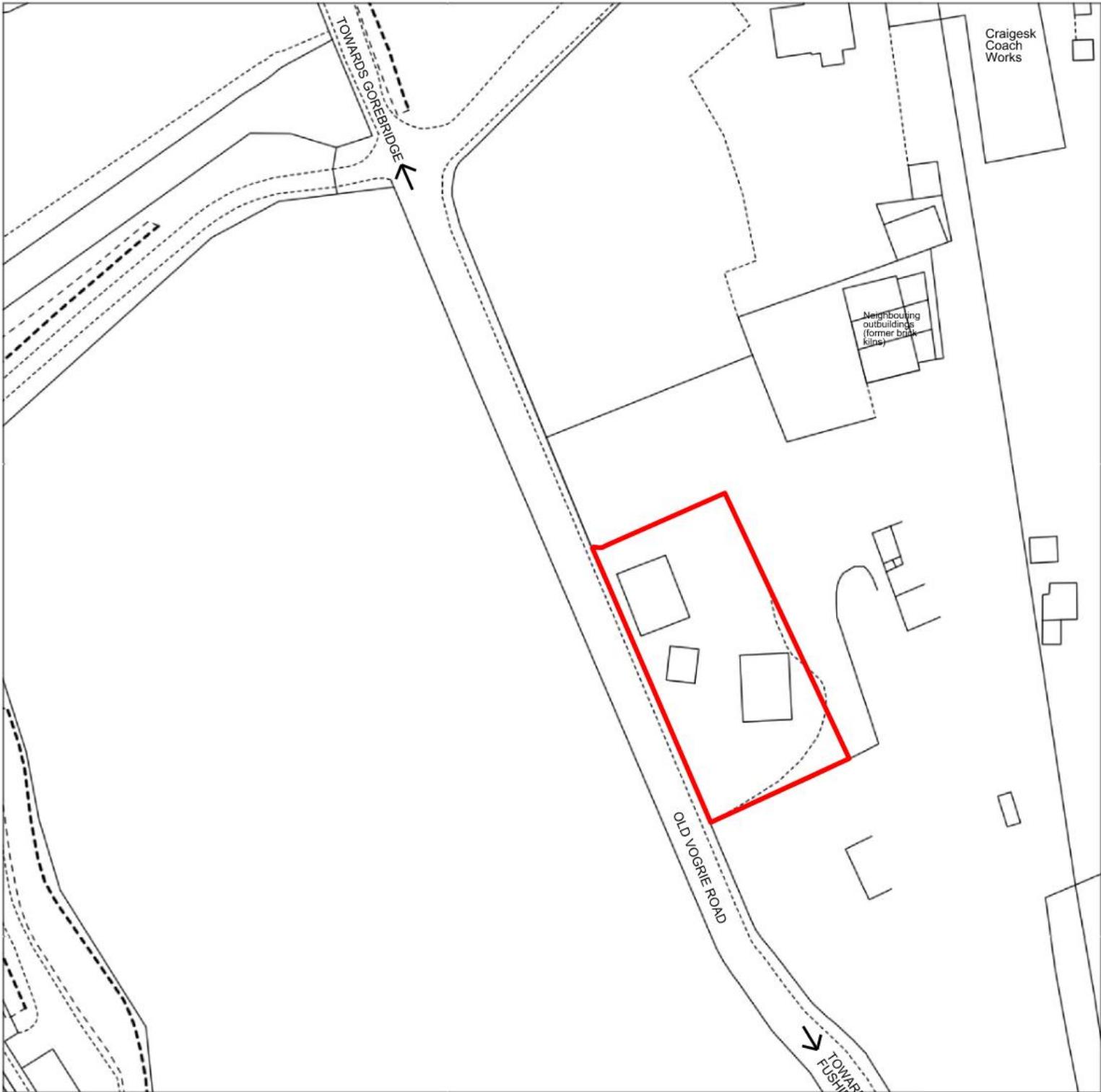
(please note that due to the Coronavirus outbreak I am currently working remotely and unable to access telephone messages or paper submissions to the office)

The information contained in this message may be confidential or legally privileged and is intended for the addressee only.

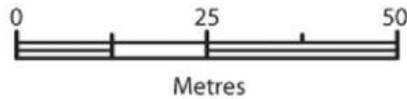
If you have received this message in error or there are any problems please notify the originator immediately.

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All communication sent to or from Midlothian Council may be subject to recording and/or monitoring in accordance with relevant legislation.

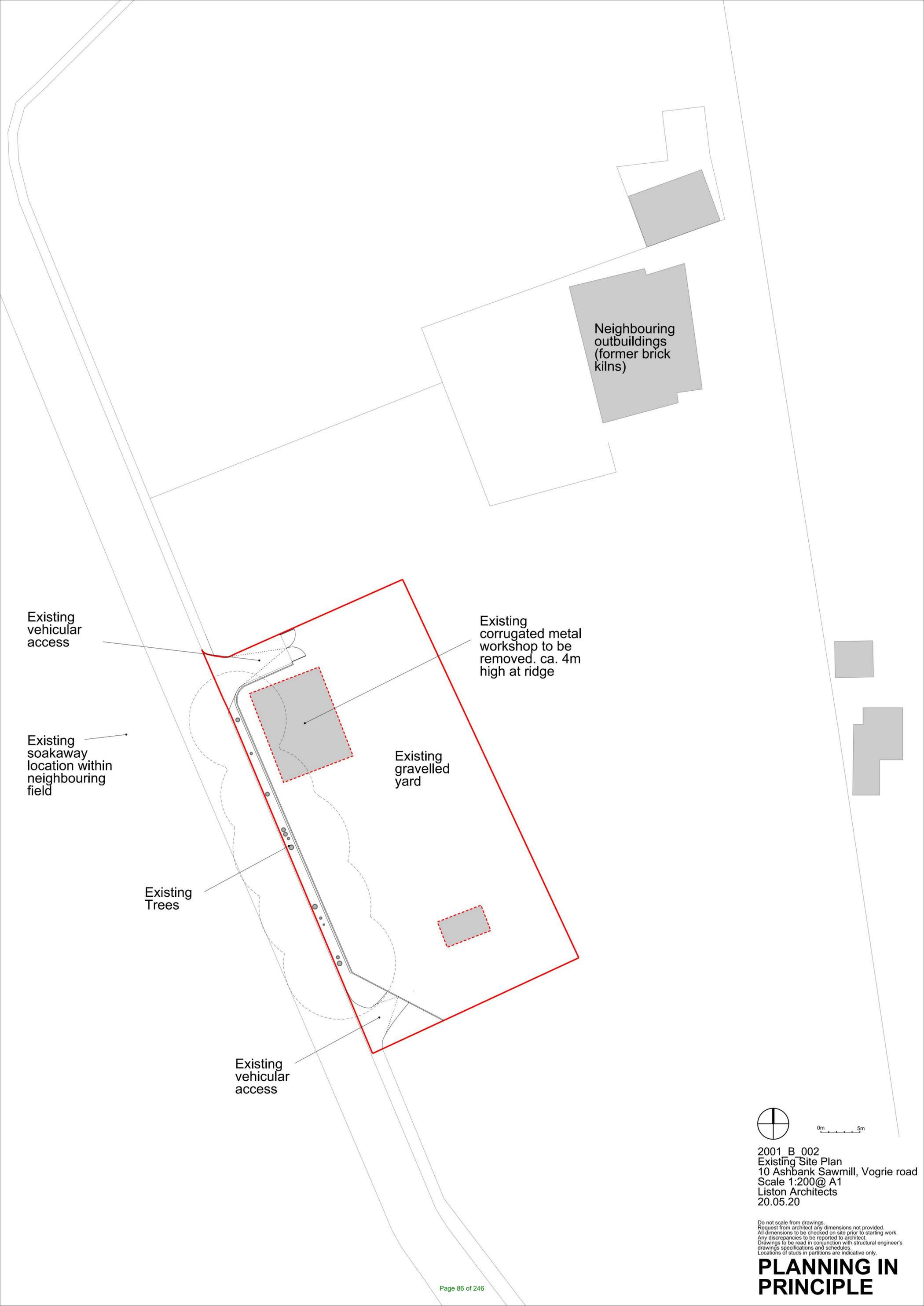


Vogrie Road, Gorebridge



2004_C_001
 Proposed Location Plan
 10 Ashbank Sawmill, Vogrie road
 Scale 1:1000@ A4
 Liston Architects
 29.04.20

Do not scale from drawings.
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Existing vehicular access

Existing corrugated metal workshop to be removed. ca. 4m high at ridge

Existing gravelled yard

Existing soakaway location within neighbouring field

Existing Trees

Existing vehicular access

Neighbouring outbuildings (former brick kilns)

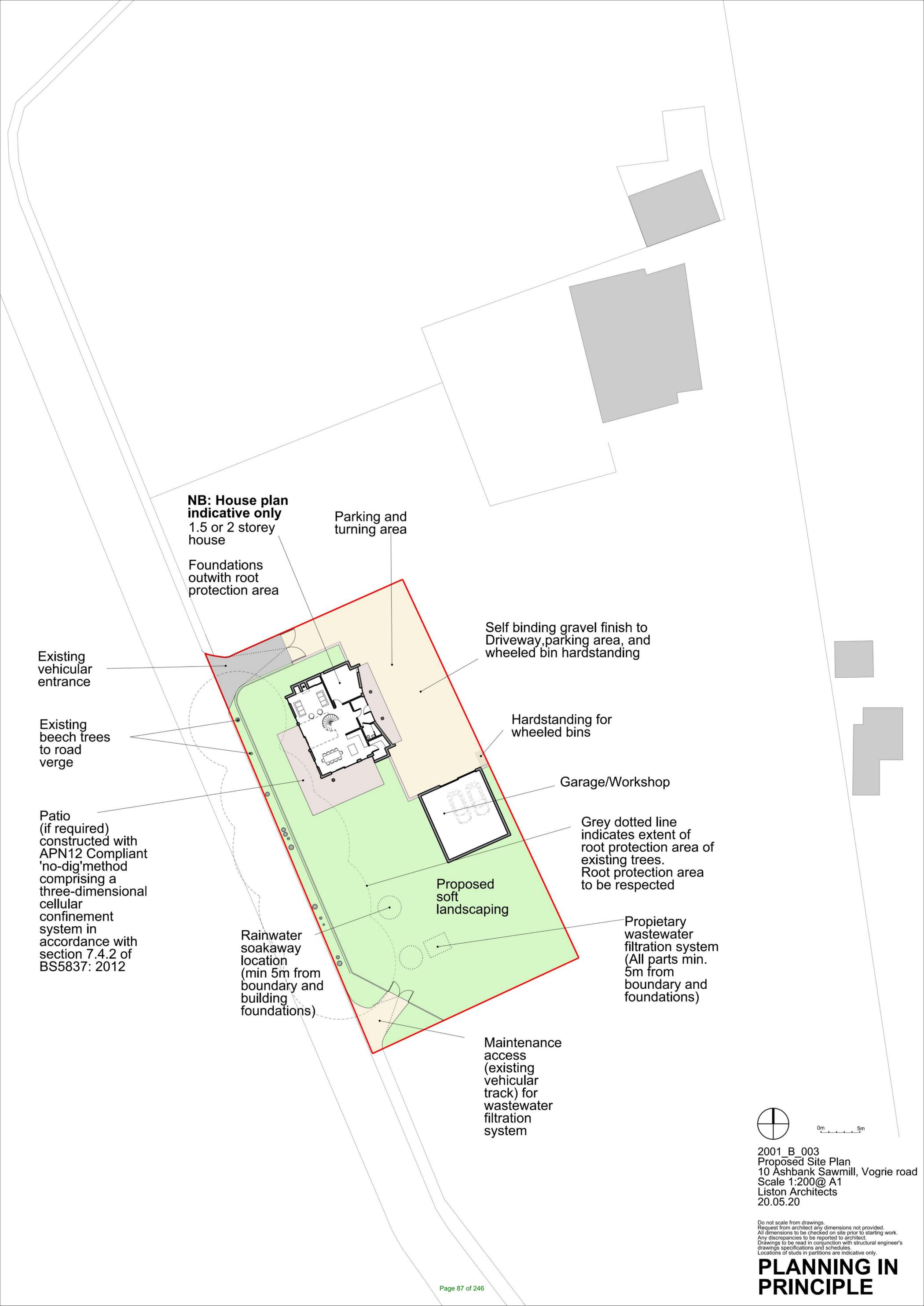


0m 5m

2001_B_002
 Existing Site Plan
 10 Ashbank Sawmill, Vogrie road
 Scale 1:200@ A1
 Liston Architects
 20.05.20

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PLANNING IN PRINCIPLE



NB: House plan indicative only
1.5 or 2 storey house

Parking and turning area

Foundations outwith root protection area

Self binding gravel finish to Driveway, parking area, and wheeled bin hardstanding

Existing vehicular entrance

Hardstanding for wheeled bins

Existing beech trees to road verge

Garage/Workshop

Patio (if required) constructed with APN12 Compliant 'no-dig' method comprising a three-dimensional cellular confinement system in accordance with section 7.4.2 of BS5837: 2012

Grey dotted line indicates extent of root protection area of existing trees. Root protection area to be respected

Proposed soft landscaping

Rainwater soakaway location (min 5m from boundary and building foundations)

Proprietary wastewater filtration system (All parts min. 5m from boundary and foundations)

Maintenance access (existing vehicular track) for wastewater filtration system



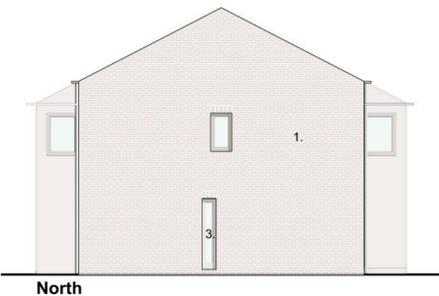
0m 5m

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Proposed Site Plan
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Scale 1:200@ A1
Liston Architects
20.05.20

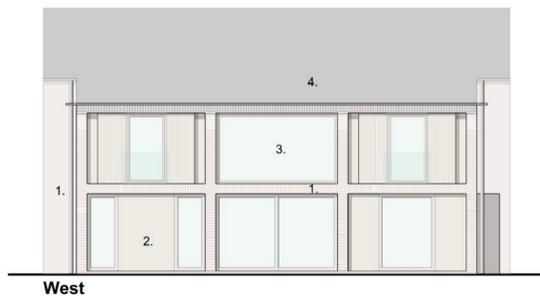
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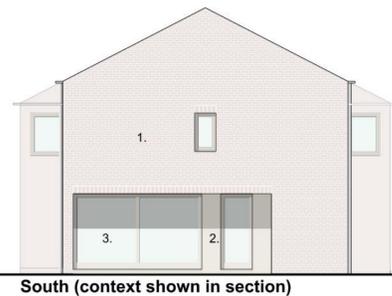
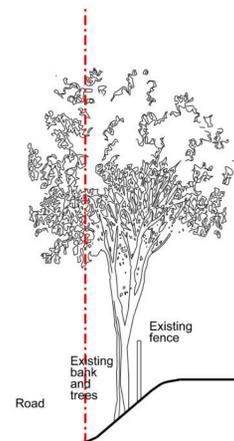
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1.5 or 2 storey house



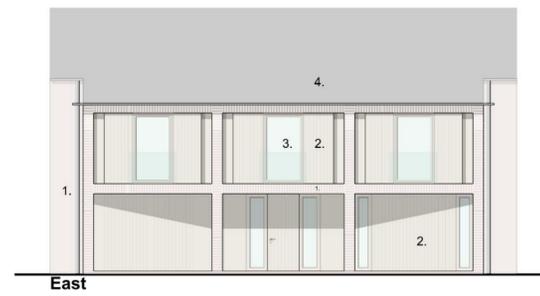
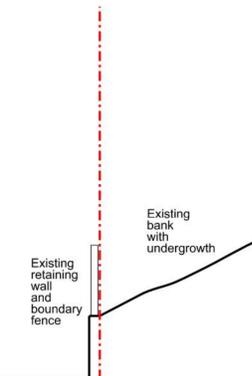
North



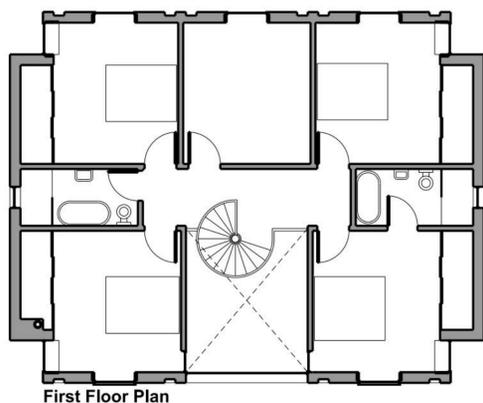
West



South (context shown in section)



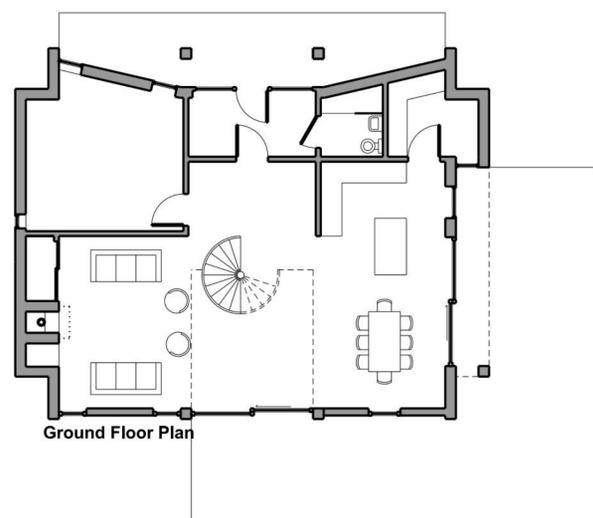
East



First Floor Plan

External Materials Key

- 1. Brick cladding, grey red colour
- 2. Untreated Western red Cedar cladding
- 3. Timber framed windows/doors. Frames painted grey
- 4. Natural slate roof with galvanised steel flashings, gutters and downpipes



Ground Floor Plan



2001_B_100
Proposed Plans and Elevations
NB: DESIGN INDICATIVE ONLY
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Scale 1:100@ A1
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PLANNING IN PRINCIPLE

Midlothian Council
Fairfield House
8 Lothian Road
Dalkeith
EH22 3ZN

Place
Planning
Director: Derek Oliver

Midlothian

5 October 2020

David Liston
Liston Architects
3F2
33 London Street
Edinburgh
EH3 6LY

Dear Sir/Madam

Local Review Body: Planning Application Ref 20/00375/PPP - Application for planning permission in principle for erection of dwellinghouse at Land at 10 Ashbank Vogrie Road, Gorebridge

I am writing in regard to the above and to acknowledge your *Notice of Review* dated 23 September 2020.

The Council's Local Review Body (LRB) will consider in due course. However, because of the current Coronavirus public health emergency the Council has suspended its public meetings including the LRB. Once the LRB has been reconvened or an alternative determination process has been agreed, your notice of review will be determined.

I hope this letter is of assistance.

Yours faithfully



Peter Arnsdorf
Planning Manager

Local Review Body – Hearing Procedures

When the LRB has decided to determine the review by way of a Hearing, written notice will be given to the applicant, any interested party who has made representations and any other body the LRB wishes to receive further representations from. A person or body who intends to appear at the Hearing session must within 14 days of the date of such notice inform the LRB in writing of their intention to attend.

Persons who attend the Hearing without giving prior notice cannot participate in the proceedings or give oral representations. All those intending to attend the Hearing shall be given reasonable notification of the date, time and place of the Hearing.

Statements and Documents

A person or body intending to appear at the Hearing must submit the following by a specified date:

- a Hearing statement, outlining the case relating to the specified matters which a person proposes to put forward at a Hearing session;
- a list of all documents referred to in the statement; and
- a copy of every document (or the relevant part of) on the list which is not already available for inspection

All the Hearing statements and documents will be made available for inspection online.

Hearing Procedures

At the commencement of the Hearing the LRB will outline the procedures to be followed. The procedures may vary depending upon the complexity of the case, but in general terms, the procedures shall be as follows:

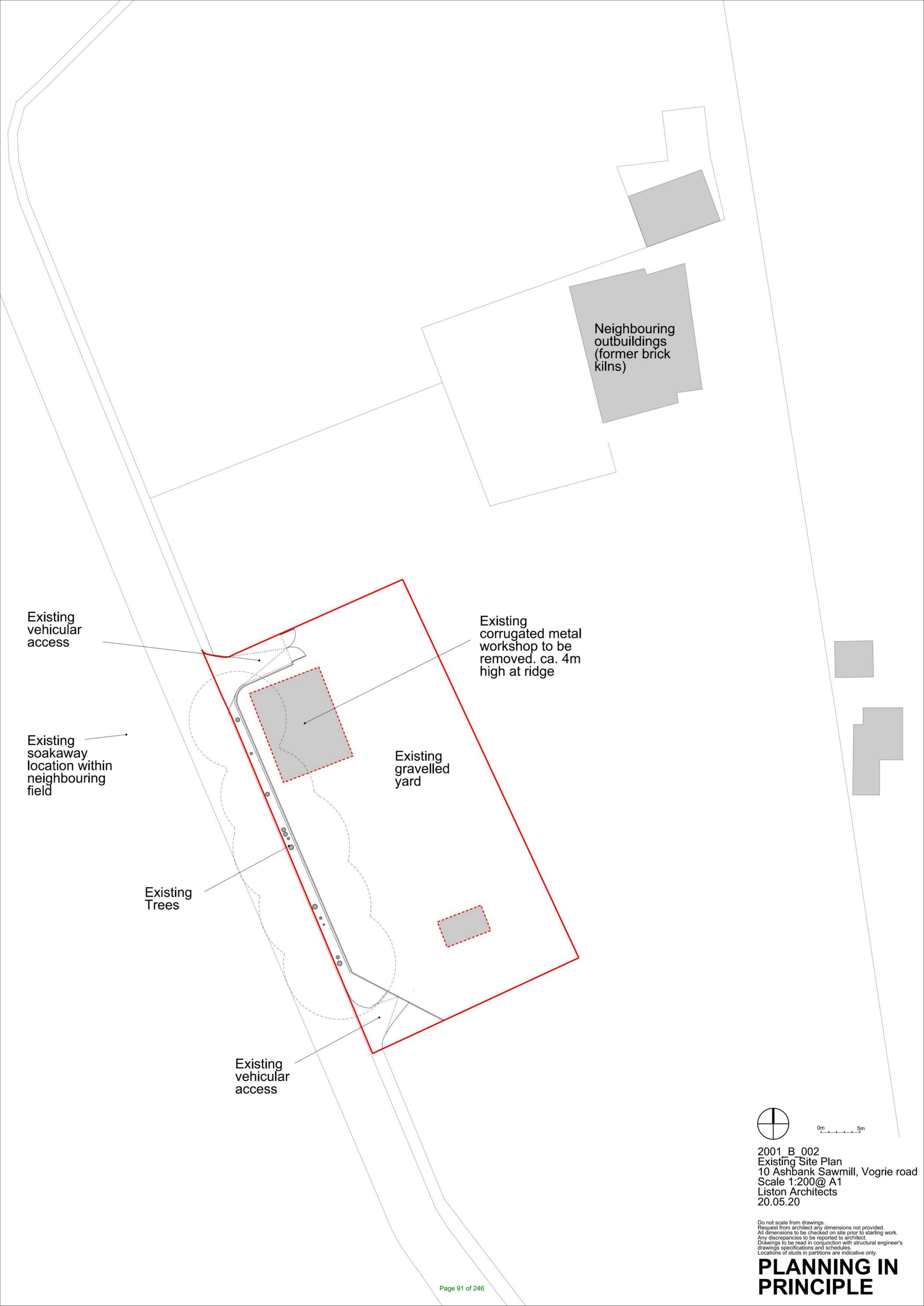
1. The assessor will outline an overview of the procedures and the case.
2. Oral representations by the applicant.
3. Oral representations by any consultees.
4. Oral representations by interested third parties.
5. Oral representations by the appointed local authority planning officer. *(The appointed local authority planning officer cannot fulfil the role of “planning adviser”).*
6. The Chair of the LRB will lead a discussion on the merits of the case, which can include the LRB asking questions of those who have made oral representations.
7. Cross-examination between those parties giving oral representation will be permitted only if the LRB considers it appropriate to ensure a thorough examination of the issues. *(It is expected that cross-examination will only be allowed on very rare occasions).*

Assessment of the Review

Legislation requires decisions on planning applications to be made in accordance with the development plan unless material considerations indicate otherwise.

Therefore, regardless of the format adopted by the LRB for determining the Review, the following approach shall be taken in undertaking the Review:

- Identify any provisions of the development plan which are relevant to the decision;
- Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies;
- Consider whether or not the proposal accords with the development plan;
- Identify and consider relevant material considerations for and against the proposal;
- Assess whether these considerations warrant a departure from the development plan; and
- State the reason/s for the decision and state any conditions required if planning permission is granted.



Existing vehicular access

Existing soakaway location within neighbouring field

Existing Trees

Existing vehicular access

Existing corrugated metal workshop to be removed. ca. 4m high at ridge

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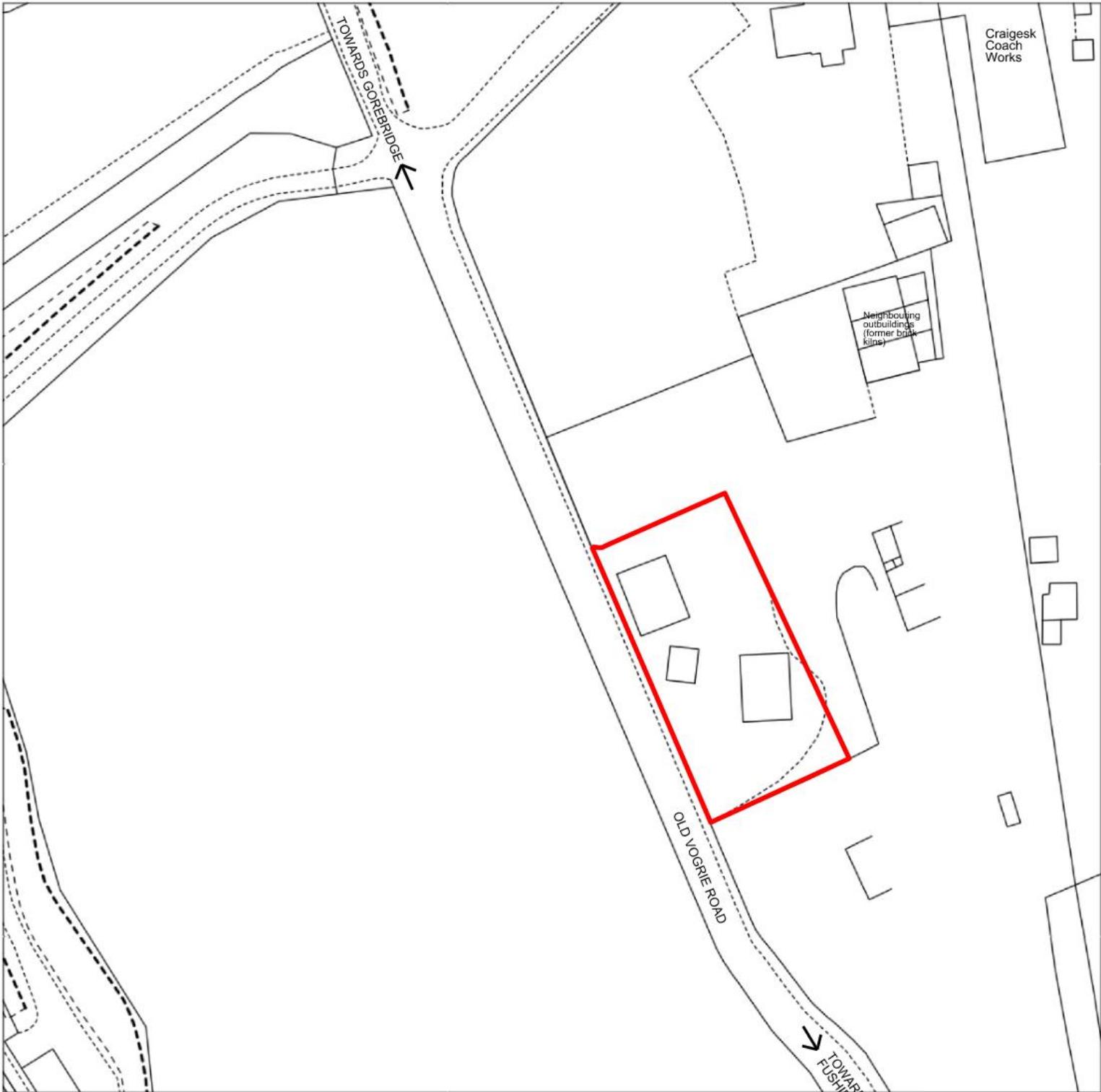


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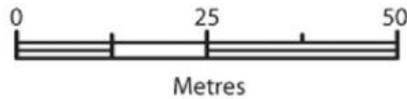
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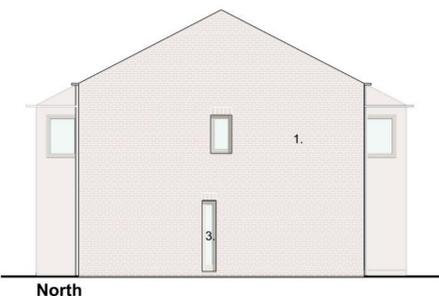
Vogrie Road, Gorebridge



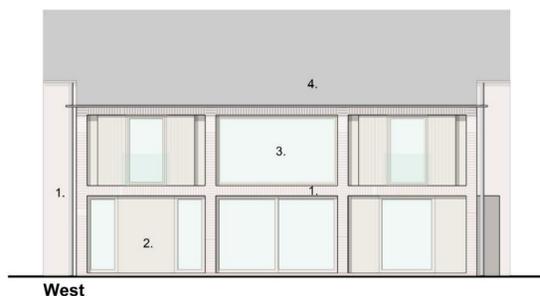
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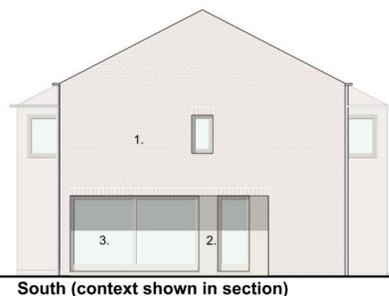
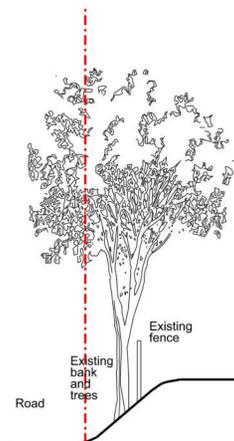
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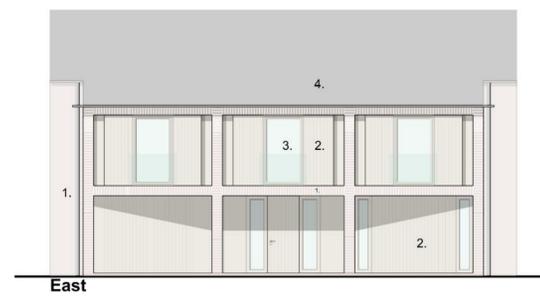
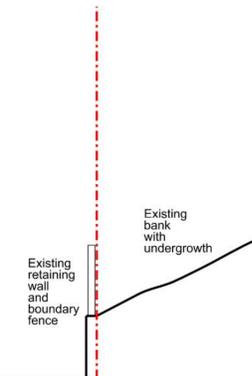
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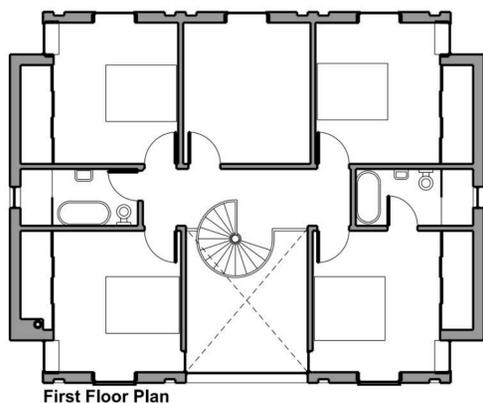
West



South (context shown in section)



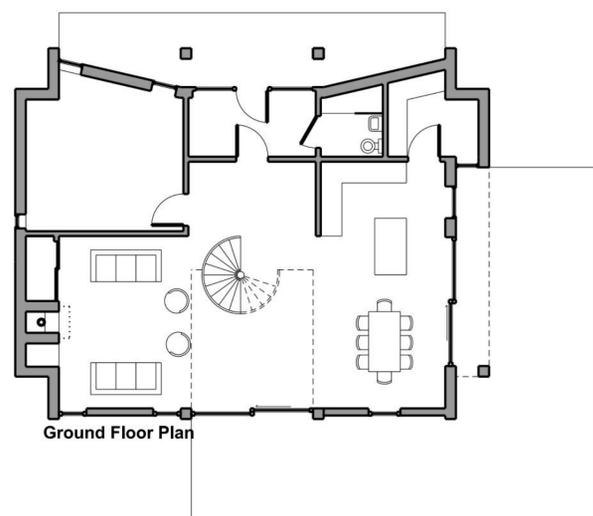
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PLANNING IN PRINCIPLE





































MIDLOTHIAN COUNCIL

DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

Planning Application Reference: 20/00375/PPP

Site Address: Land At 10 Ashbank, Vogrie Road, Gorebridge.

Site Description: The application site comprises a number of buildings and an area of hardstanding. The application form and supporting statement refers to the site as an existing workshop and yard and there are a number of materials within the site. There are two vehicular accesses into the site, from the north and south. The site is at a higher level than Vogrie Road to the west, with trees and landscaping along the roadside boundary. The site sits on a slope and there are wider views into the site from the west with the backdrop of the surrounding woodland to the north, east and south. There is a dog day care centre operating to the northeast of the site. There is a field to the west, across Vogrie Road with the Borders railway line to the other side of this. There is a retaining wall to the east boundary to accommodate the change in ground levels in the area. The site is within the countryside.

Proposed Development: Application for planning permission in principle for erection of dwellinghouse.

Proposed Development Details: The application is for planning permission in principle, however the agent has submitted a site plan showing an indicative layout and floor plans, elevations and cross sections of the proposed house. The house would sit to the north of the site, with a detached garage/workshop close to the retaining wall. The house is either 1.5 or 2 storey, with 4 bedrooms, brick and cedar clad walls and a slate roof. The existing landscaping to Vogrie Road is to be retained, with all works either out with the Root Protection Area of the surrounding trees or constructed with a 'no dig' method. Both existing vehicular accesses will be retained. A rainwater soakaway and wastewater filtration system are proposed within the site. The house is to connect to the public water supply.

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

Land to the north, east and south

14/00774/DPP Change of use from vacant land to landscape business. Consent with conditions.

14/00439/DPP Erection of storage building. Consent with conditions.

Land to the south

09/00207/FUL Erection of dwellinghouse. Withdrawn.

Consultations:

The Council's **Policy and Road Safety Manager** recommends refusal of the application. The local roads are narrow, effectively single track unable to accommodate two-way traffic flow with sections of very low forward visibility, with

drivers being unable to see oncoming vehicles at some of the bends. This is a remote, rural area with no pedestrian footways or street lighting. Given the remoteness of this site and the lack of any public transport or dedicated walking / cycling facilities it is likely that the majority of trips, including school journeys, would be made by private car.

The Council's **Environmental Health Manager** has concerns that any house here would be affected by noise and vibration due to the proximity to the Borders railway line and noise from the dog day care centre to the northeast. They require a noise impact assessment to fully consider the proposal and demonstrate that the house would either not be adversely affected by either noise or vibration or that suitable mitigation measures can be achieved to address any impact. Should permission be approved, they recommend conditions be attached requiring close boarded fencing along the north and east boundaries and to ensure that ground contamination remediation works are undertaken.

Scottish Water has no objection but states that they will not accept any surface water connections to the combined sewer.

The **Coal Authority** has no objection subject to conditions being attached to any permission.

Representations: No representations were received

Relevant Planning Policies: The relevant policies of the **2017 Midlothian Local Development Plan** are;

DEV5 Sustainability in New Development sets out the requirements for development with regards to sustainability principles;

DEV6 Layout and Design of New Development requires good design and a high quality of architecture in the overall layout of developments and their constituent parts. The layout and design of developments are to meet listed criteria;

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;

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;

IT1 Digital Infrastructure supports the incorporation of high speed broadband connections and other digital technologies into new homes, business properties and redevelopment proposals;

RD1 Development in the Countryside states development in the countryside will only be permitted if: it is required for the furtherance of agriculture, including farm related diversification, horticulture, forestry, countryside recreation or tourism; it accords with other named policies; or it accords with the Council's Supplementary Guidance on Development in the Countryside and Green Belt. All such development will need to be: of a scale and character appropriate to the rural area and well

integrated into the rural landscape; capable of being serviced with an adequate and appropriate access; capable of being provided with drainage and a public water supply at reasonable cost, or an acceptable private water supply, avoiding unacceptable discharge to watercourses; and accessible by public transport and services, within 1 mile of a bus route with a frequency of 1 bus per hour. In the case of businesses, these should not be primarily of a retail nature and do not harm the amenity of nearby residents through unacceptable levels of noise, light or traffic;

ENV7 Landscape Character states that development will not be permitted where it significantly and adversely affects local landscape character. Where development is acceptable, it should respect such character and be compatible in terms of scale, siting and design. New development will normally be required to incorporate proposals to maintain the diversity and distinctiveness of the local landscapes and to enhance landscape characteristics where they have been weakened;

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 and hedges (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) which have particular amenity, nature conservation, biodiversity, recreation, landscape, shelter or historical value or are of other importance; and

ENV18 Noise states that the Council will seek to prevent noisy developments from damaging residential amenity or disturbing noise sensitive uses. Where new developments with the potential to create significant noise are proposed, these may be refused or required to be modified so that no unacceptable impact at sensitive receptors is generated. Applicants may be required to carry out a noise impact assessment either as part of an Environmental Impact Assessment or separately. Where new noise sensitive uses are proposed in the locality of existing noisy uses, the Council will seek to ensure that the function of the established operation is not adversely affected.

Supplementary Guidance for Housing Development in the Countryside and Green Belt is adopted and expands policy RD1 and the criteria to be met in such proposals. This provides some support for the conversion or redevelopment of redundant farm buildings or other non-residential buildings to houses. It must be justified and demonstrated that these buildings are fully redundant. Such developments will not be supported where these are still in use or where their loss may result in the requirement for a replacement building elsewhere.

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

The Planning Authority has restrictive policies with regards to new housing proposals within the countryside. These restrictions aim to prevent the creeping suburbanisation of the countryside which is under significant pressure due to the convenient commuting distance to Edinburgh. However, there are enabling policies, within the adopted Midlothian Local Development Plan, which support residential developments within the countryside in some instances, subject to specific criteria.

Policy RD1 and the related supplementary guidance includes several sections where houses in the countryside could be acceptable in planning terms.

The proposal relates to the redevelopment of the existing buildings on site, demolishing the existing buildings and erect a new house and garage within the existing area of hardstanding. The redevelopment of a site could have policy support if it is justified and demonstrated that the buildings in question are fully redundant. The applicant's agent has stated on the application forms and the supporting statement that the site is in use as a workshop and yard. They have also stated that the existing vehicular accesses are used frequently by the workshop and that the proposed house would not result in an increase in traffic generation as compared to the existing situation. The applicant's agent has also submitted photographs of the site which, while not showing the inside of the buildings on site, do show a number of vehicles and materials on site.

Taking the above information into account, the site is not redundant. It has not been demonstrated or justified that the site is fully redundant. Given this, there is no policy support for the redevelopment of the site for housing through the redundant buildings section of policy RD1 or the supplementary guidance.

It has not been demonstrated that the proposed house is required for the furtherance of an established countryside activity. The proposal is not an enabling development where it is clearly shown that this is the only means of preventing the loss of a heritage asset and securing its long term future.

There is therefore no policy support for the principle of a house at this site.

Notwithstanding the above that the principle of residential development here is not supported, the following comments are relevant.

If the principle of redevelopment were supported, the policy requires a development which respects and enhances the character and appearance of the countryside. The scale of development should not extend significantly beyond the footprint of the original building, unless there are significant design reasons for doing so.

Although indicative only, the submitted details of the proposed house appears large and of a design possibly more sub-urban in design rather than respecting the countryside nature of the site. However as the application is for planning permission in principle, had the principle of a house here been established, the design of any house would be subject to a further application where these concerns would be addressed and assessed.

The application site area is sufficiently large to be able to accommodate a dwellinghouse, garden ground, turning area and parking.

There are road safety concerns as the local roads leading to the site are narrow, effectively single track and unable to accommodate the two-way flow of traffic. There are also sections of very low forward visibility with drivers being unable to see oncoming vehicle at some of the bends. Being a remote, rural area, the roads have no pedestrian footways or street lighting. Given the remoteness of this site and the

lack of any public transport or dedicated walking or cycling facilities, it is likely that the majority of trips, including school journeys, would be made by private car.

There are a number of trees along the roadside boundary of the site as well as surrounding the site. Given the elevated position and wider views of the site, should permission be approved, further details of how these trees would be protected, especially those outwith the site in the surrounding woodland. These provide a landscaped backdrop to the site and contribute to the landscape character of the area and any damage to these by the proposed development would be strongly resisted. As the applicant has no control over this, it would be reasonable to require additional landscaping along these boundaries in order to ensure that in the event of the existing landscaping is removed, any house remains well integrated into the area. It would not be reasonable to rely on landscaping outwith the control of the applicant.

There are concerns that any house here would be affected by noise and vibration due to the proximity to the Borders railway line and noise from the dog day care centre to the northeast. The Council's Environmental Health Manager has asked that a noise impact assessment be submitted to fully consider the proposal and demonstrate that the house would either not be adversely affected by either noise or vibration or that suitable mitigation measures can be achieved to address any impact. The case officer did not request this as this would have added additional cost for the applicant for a scheme that was not supportable for other reasons. This has not been submitted and so it has not been demonstrated that the proposal would not have an adverse impact on the amenity of future occupants through not and vibration from nearby infrastructure and uses.

With regards to the construction at the site, mitigation measures regarding ground conditions and contamination and/or previous mineral workings must be considered. The Council's Environmental Health Manager recommends that conditions be attached to protect future occupants of the site and neighbouring land from the potential impact of contaminated land. A scheme mitigating any contamination of the site and/or previous mineral workings, and the submission of a validation report(s) confirming the approved works have been carried out shall be required by planning condition should permission be approved.

Due to the circumstances (specifically restrictions on the movement of people as a result of the Coronavirus pandemic) during the assessment of the proposal, the case officer did not get access into the site. Also the applicant's agent has submitted numerous photographs of the site. Therefore the assessment of the proposal is based on the previous knowledge of the area, as well as the information submitted by the applicant's agent. The case officer is relying on the accuracy of the plans and details submitted by the applicant's agent.

Recommendation: Refuse planning permission in principle.

Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

Reg. No. 20/00375/PPP

Liston Architects
3F2
33 London Street
Edinburgh
EH3 6LY

Midlothian Council, as Planning Authority, having considered the application by Mr Dougie Givan, Carlyle Lodge, Gorebridge, Midlothian, EH23 4QN, which was registered on 7 July 2020 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

Application for planning permission in principle for erection of dwellinghouse at Land At 10 Ashbank, Vogrie Road, Gorebridge

In accordance with the application and the following documents/drawings:

<u>Document/Drawing.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	2004_C_001 1:1000	07.07.2020
Site Plan	2001_B_002 1:200	07.07.2020
Site Plan	2001_B_003 1:200	07.07.2020

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

1. *The proposal involves the redevelopment of non-residential buildings which are sited in the countryside and are not redundant and so the proposal is contrary to policy RD1 of the adopted Midlothian Local Development Plan 2017.*
2. *The proposal presents a significant threat to road safety given the poor vehicular and pedestrian access and the remoteness of the site resulting in the majority of trips being made by private car.*
3. *It has not been demonstrated to the satisfaction of the Planning Authority that the amenity of occupants of a house at this site would not be detrimentally impacted by noise and vibration from the nearby railway line or noise from a nearby dog day care use and so the proposal is contrary to policy ENV18 of the adopted Midlothian Local Development Plan 2017.*

Dated 31 / 8 / 2020

A handwritten signature in black ink, consisting of the letters 'DR' in a stylized, cursive font.

.....
Duncan Robertson
Lead Officer – Local Developments
Fairfield House, 8 Lothian Road, Dalkeith, EH22 3ZN

Notice of Review: 18-20 Edinburgh Road, Penicuik Determination Report

Report by Chief Officer Place

1 Purpose of Report

- 1.1 The purpose of this report is to provide a framework for the Local Review Body (LRB) to consider a 'Notice of Review' for the erection of retail (class 1) and food and drink (class 3) units, formation of car park, creation of external seating area and erection of fence and gates at 18-20 Edinburgh Road, Penicuik.

2 Background

- 2.1 Planning application 20/00562/DPP for the erection of retail (class 1) and food and drink (class 3) units, formation of car park, creation of external seating area and erection of fence and gates at 18-20 Edinburgh Road, Penicuik was refused planning permission on 18 June 2021; a copy of the decision is attached to this report.
- 2.2 The review has progressed through the following stages:
- 1 Submission of Notice of Review by the applicant.
 - 2 The Registration and Acknowledgement of the Notice of Review.
 - 3 Carrying out Notification and Consultation.

3 Supporting Documents

- 3.1 Attached to this report are the following documents:
- A site location plan (Appendix A);
 - A copy of the notice of review form and supporting statement (Appendix B). Any duplication of information is not attached;
 - A copy of the case officer's report (Appendix C);
 - A copy of the decision notice, excluding the standard advisory notes, issued on 18 June 2021 (Appendix D); and
 - A copy of the key plans/drawings (Appendix E).
- 3.2 The full planning application case file and the development plan policies referred to in the case officer's report can be viewed online via www.midlothian.gov.uk

4 Procedures

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

- Have determined to consider a visual presentation of the site and undertaking a site visit (elected members not attending the site visit can still participate in the determination of the review); and
 - Have determined to progress the review by written submissions.
- 4.2 The case officer's report identified that there have been three consultation response and two representations received. As part of the review process the interested parties were notified of the review. No additional comments have been received. All comments can be viewed online on the electronic planning application case file.
- 4.3 The next stage in the process is for the LRB to determine the review in accordance with the agreed procedure:
- Identify any provisions of the development plan which are relevant to the decision;
 - Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies;
 - Consider whether or not the proposal accords with the development plan;
 - Identify and consider relevant material considerations for and against the proposal;
 - Assess whether these considerations warrant a departure from the development plan; and
 - State the reason/s for the decision and state any conditions required if planning permission is granted.
- 4.4 In reaching a decision on the case the planning advisor can advise on appropriate phraseology and on appropriate planning reasons for reaching a decision.
- 4.5 Following the determination of the review the planning advisor will prepare a decision notice for issuing through the Chair of the LRB. A copy of the decision notice will be reported to the next LRB for noting.
- 4.6 A copy of the LRB decision will be placed on the planning authority's planning register and made available for inspection online.

5 Conditions

- 5.1 In accordance with the procedures agreed by the LRB at its meeting of 13 June 2017, and without prejudice to the determination of the review, the following conditions have been prepared for the consideration of the LRB if it is minded to uphold the review and grant planning permission.
1. Prior to the commencement of development, the following details shall be submitted and approved in writing by the planning authority and only those approved details shall be used in the implementation of this grant of planning permission:
 - a) Details and a sample of all external materials;
 - b) Details of the materials of all areas of hardstanding;

- c) Details of the location and design of any proposed walls, fences and gates, including those surrounding bin stores, recycling areas or any other ancillary structures;
- d) Proposals for the treatment and disposal of foul and surface water drainage from the proposed building. Unless otherwise approved in writing by the Planning Authority, the surface water drainage shall comply with the standards detailed in the SUDS Manual;
- e) Details of the proposed vehicular access from the A701;
- f) Details of the proposed staff and customer cycle parking facilities;
- g) Details of a scheme of hard and soft landscaping for the site. Details shall include the position, number, size and species of all trees and shrubs that are proposed to be planted, as well as identifying all trees on site which are proposed to be removed and retained; and
- h) Details of a sustainability/biodiversity scheme for the site, including the provision of boxes for bats and birds and sustainability areas.

Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be agreed in writing with the planning authority.

Reason: *These details were not submitted with the application; in order to ensure that the development hereby approved does not detract from the character and appearance of the surrounding area; in the interest of road and pedestrian safety.*

2. The details of the vehicular access approved in condition 1e) above shall be formed with a 'drop kerb' entrance and maintain the existing public footpath across this entrance.

Reason: *In the interest of road users and pedestrian safety.*

3. The building shall not be occupied and neither unit brought into use until vehicular, cycle and pedestrian access details have been constructed in accordance with plans to be submitted and approved in writing, unless an alternative phasing is agreed in writing by the planning authority.

Reason: *To ensure that the development is served by appropriate and safe accesses in, the interests or public safety, timeously.*

4. Within six months of the new building being completed or either unit brought into use, whichever is the earlier date, the landscape scheme approved under the terms of condition 1g) above shall be carried out; thereafter, any trees or shrubs removed, dying, becoming seriously diseased or being severely damaged within five years of planting shall be replaced during the next available planting season with others of a similar size and species.

Reason: *To enhance the landscaping of the area by ensuring that planting on the site is carried out as early as possible, and has an adequate opportunity to become established.*

5. Before the new building is occupied or either unit brought into use the installation of the means of drainage treatment and disposal approved in terms of condition 1d) above shall be completed to the satisfaction of the planning authority.

Reason: *To ensure that the building is provided with adequate drainage facilities prior to occupation.*

6. The design and installation of any plant, machinery or equipment shall be such that the combined associated noise level shall comply with NR25 when measured within any nearby living apartment (window open standard) and NR20 if the noise is tonal.
7. All music shall be controlled so as to be inaudible within any nearby residential premises.
8. Prior to the building hereby approved being occupied or either unit being brought in to use, whichever is the earlier, details of proposed ventilation measures to be taken to prevent any smell or odours being emitted from any food preparation areas, kitchen and the class 3 use shall be submitted to and agreed in writing by the planning authority.

Reason for conditions 6 to 8: *In order to protect the amenity of existing residential properties in terms of policy DEV2 of the Midlothian Local Development Plan.*

9. Unless otherwise approved in writing by the planning authority, the units hereby approved shall only be open to customers between the following hours:

Monday to Saturday: 0800 until 2200; and
Sunday: 0900 until 1900.

Reason: *Operation of the units hereby approved out with the approved hours may have a significant adverse impact on the amenity of the area, contrary to the aims of policy DEV2 of the Midlothian Local Development Plan.*

10. Any takeaway element ancillary to the class 3 unit hereby approved shall only operate in the following hours:

Mondays - Fridays inclusive: 1600 to 2200.
Saturdays and Sundays: anytime.

Reason: *The application premises is located within 400 metres of the curtilage of Strathesk Primary School and, as such, any ancillary takeaway element of the proposal does not comply with adopted policy; to ensure that there is no takeaway during school hours, in order to comply with the Supplementary Guidance for Food and Drink and Other Non-retail Uses in Town Centres in relation to public health, whilst also supporting the local economy.*

11. Development shall not begin until a scheme to deal with any contamination of the site and/or previous mineral workings has been submitted to and approved by the planning authority. The scheme shall contain details of the proposals to deal with any contamination and/or previous mineral workings and include:
 - i. the nature, extent and types of contamination and/or previous mineral workings on the site;
 - ii. measures to treat or remove contamination and/or previous mineral workings to ensure that the site is fit for the uses hereby approved, and that there is no risk to the wider environment from contamination and/or previous mineral workings originating within the site;
 - iii. measures to deal with contamination and/or previous mineral workings encountered during construction work; and
 - iv. the condition of the site on completion of the specified decontamination measures.

Before any part of the site is occupied for commercial purposes, the measures to decontaminate the site shall be fully implemented as approved by the planning authority.

12. On completion of the decontamination/remediation works required in condition 11 and prior to the units being occupied on site, a validation report or reports shall be submitted to the planning authority confirming that the works have been carried out in accordance with the approved scheme. No part of the development shall be occupied until this report has been approved by the planning authority.

Reason for conditions 11 and 12: To ensure that any contamination on the site/ground conditions is adequately identified and that appropriate decontamination measures/ground mitigation measures are undertaken to mitigate the identified risk to site users and construction workers, built development on the site, landscaped areas, and the wider environment; to ensure the remediation works are undertaken.

13. Development shall not begin until details, including a timetable of implementation, of high speed fibre broadband have been submitted to and approved in writing by the planning authority. The details shall include delivery of high speed fibre broadband prior to the occupation of each dwellinghouse. The delivery of high speed fibre broadband shall be implemented as per the approved details.

Reason: To ensure the quality of the development is enhanced by the provision of appropriate digital infrastructure in accordance with the requirements of policy IT1 of the adopted Midlothian Local Development Plan 2017.

14. Development shall not begin until details of the provision and use of electric vehicle charging stations throughout the development have been submitted to and approved in writing by the planning authority. Development shall thereafter be carried out in

accordance with the approved details or such alternatives as may be approved in writing by the planning authority.

Reason: *To ensure the development accords with the requirements of policy TRAN5 of the adopted Midlothian Local Development Plan 2017.*

- 5.2 If the LRB is minded to uphold the review and grant planning permission for the proposed development it shall be subject to a legal agreement to secure developer contributions towards transport infrastructure (A701 realignment). The legal agreement shall be concluded prior to the issuing of the LRB decision. The legal agreement shall be concluded within 6 months of the resolution to grant planning permission, if the agreement is not concluded the review will be reported back to the LRB for reconsideration.

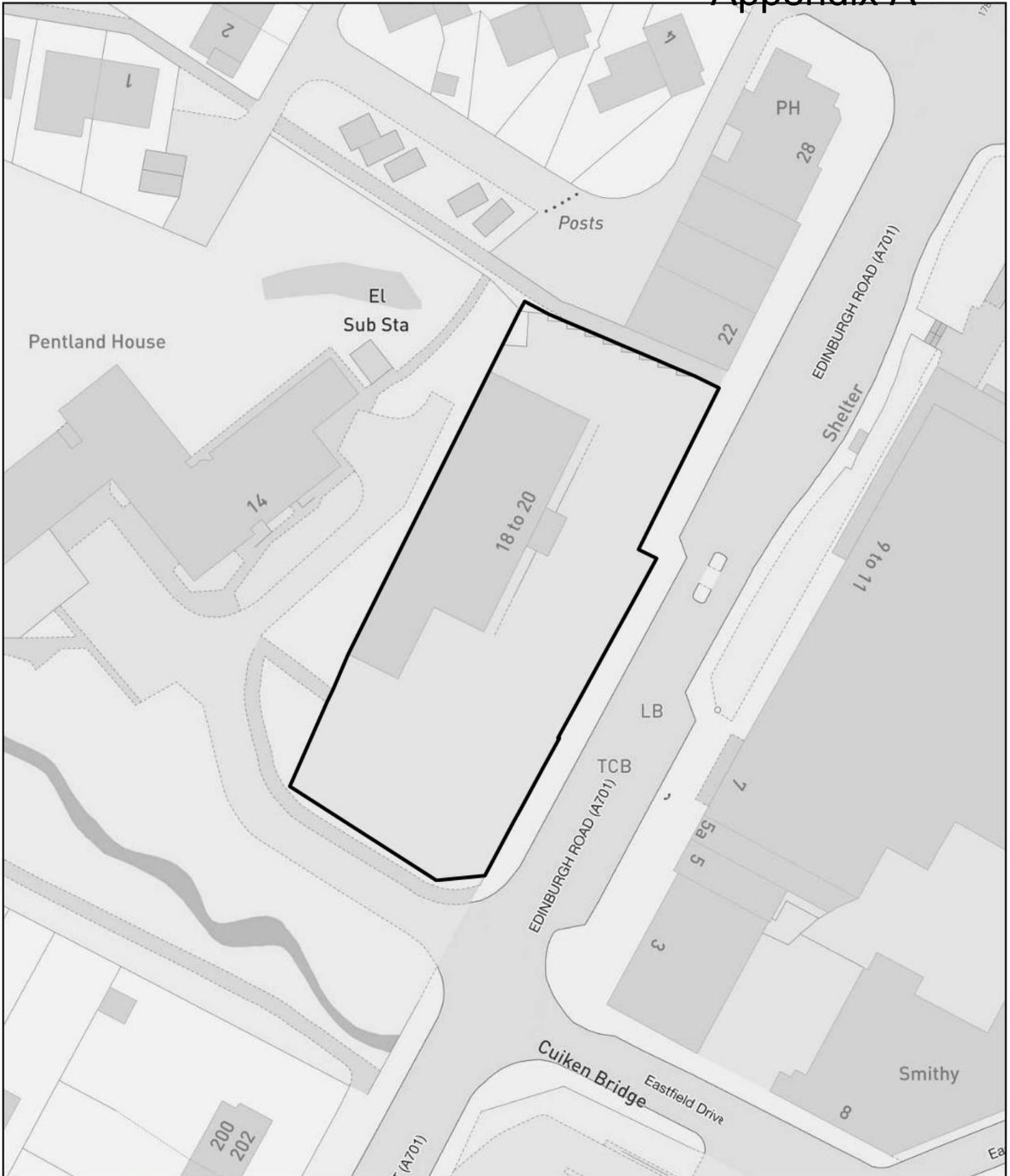
6 Recommendations

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

Peter Arnsdorf
Planning, Sustainable Growth and Investment Manager

Date: 2 September 2021
Report Contact: Mhairi-Anne Cowie, Planning Officer
Mhairi-Anne.Cowie@midlothian.gov.uk

Background Papers: Planning application 20/00562/DPP available for inspection online.



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

Erection of retail (class 1) and food and drink (class 3) units, formation of car park, creation of external seating area and erection of fence and gates at 18 - 20 Edinburgh Road, Penicuik, EH26 8NW

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File No: 20/00562/DPP



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Fairfield House 8 Lothian Road Dalkeith EH22 3ZN Tel: 0131 271 3302 Fax: 0131 271 3537 Email: planning-applications@midlothian.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100447479-001

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

Applicant or Agent Details

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

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:	<input type="text" value="Zander Planning Ltd"/>		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	<input type="text" value="Alex"/>	Building Name:	<input type="text" value="Clyde Office 2nd Floor"/>
Last Name: *	<input type="text" value="Mitchell"/>	Building Number:	<input type="text" value="48"/>
Telephone Number: *	<input type="text" value="07775 706252"/>	Address 1 (Street): *	<input type="text" value="West George Street"/>
Extension Number:	<input type="text"/>	Address 2:	<input type="text"/>
Mobile Number:	<input type="text"/>	Town/City: *	<input type="text" value="Glasgow"/>
Fax Number:	<input type="text"/>	Country: *	<input type="text" value="UK"/>
		Postcode: *	<input type="text" value="G2 1BP"/>
Email Address: *	<input type="text" value="alex@zanderplanning.co.uk"/>		

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

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text"/>	Building Number:	<input type="text" value="2A"/>
Last Name: *	<input type="text"/>	Address 1 (Street): *	<input type="text" value="Eastfield Farm Road"/>
Company/Organisation	<input type="text" value="A F Noble and Sons"/>	Address 2:	<input type="text" value="Eastfield Farm Industrial Estate"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Penicuik"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="UK"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="EH26 8EZ"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="alex@zanderplanning.co.uk"/>		

Site Address Details

Planning Authority:	<input type="text" value="Midlothian Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="18-20 EDINBURGH ROAD"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="PENICUIK"/>
Post Code:	<input type="text" value="EH26 8NW"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="660918"/>	Easting	<input type="text" value="323603"/>
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Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

Erection of retail (Class 1) and cafe/sandwich shop (Class 3/1 - with associated takeaway/external seating) units, formation of car park and access, erection of fence/gate and associated engineering works

Type of Application

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

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

What does your review relate to? *

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

Statement of reasons for seeking review

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

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

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

See attached Planning Appeal Statement and related Documents

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

Yes No

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

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

1 Refusal Notice 2 Officers Delegated Report 3 Application Plans a) Location plan b) Proposed Location Plan c) Proposed Site Plan d) Proposed Floor Plan e) Proposed Elevations 4 Planning and Retail Statement and Appendices 5 Email from case officer dated 28/8/20 6 Midlothian Area Profile – Population Planning Appeal Statement

Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

20/00562/DPP

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

02/09/2020

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

18/06/2021

Review Procedure

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

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

Yes No

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

Can the site be clearly seen from a road or public land? *

Yes No

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

Yes No

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. *

Yes No

Have you provided the date and reference number of the application which is the subject of this review? *

Yes No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

Yes No N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

Yes No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

Yes No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr Alex Mitchell

Declaration Date: 25/07/2021



18-20 Edinburgh Road, Penicuik

Planning Appeal Statement

This appeal relates to a refusal of planning permission for the erection of a retail (Class 1) and food and drink (Class 3) units, formation of car park, creation of external seating area and erection of fence and gates (ref 20/00562/DPP).

Documents

- 1 Refusal Notice
- 2 Officers Delegated Report
- 3 Application Plans
 - a) Location plan
 - b) Proposed Location Plan
 - c) Proposed Site Plan
 - d) Proposed Floor Plan
 - e) Proposed Elevations
- 4 Planning and Retail Statement and Appendices
- 5 Email from case officer dated 28/8/20
- 6 Midlothian Area Profile – Population

The application was refused for 3 reasons, being

1 It has not been demonstrated that the proposed retail and class 3 units would not have a significant detrimental impact on the vitality and viability of Penicuik town centre and so the proposal does not comply with policy TCR2 of the Midlothian Local Development Plan and the Scottish Planning Policy, both of which aim to prioritise and protect town centres through the town centre first principle.



2 The proposed access and turning space within the site raises road safety concerns which would be to the detriment of the safety of road users and customers of the proposed units.

3 The service/delivery area, being located to the front of the building, will have an adverse impact on the appearance of the area, thereby not complying with policy DEV2 of the adopted Midlothian Local Development Plan 2017.

Context of Proposal

The site has been operated by AF Noble and Sons since 1997. AF Noble has been a consistent contributor to the local economy for a number of years.

The premises were originally operated as a foodstore known as MacKays before being converted to a car showroom by AF Noble in 1997. The garage remained open until 2019, after which the premises were closed and the showroom was relocated to the company's other premises at Eastfield.





The development is proposed to form two units. One larger Class 1 unit of 621sq.m Gross to accommodate a convenience retailer and a smaller unit of 145sq.m gross to be operated by a bakers with ancillary takeaway facility, falling within Class 3.

The existing structure will be used to form the majority of the new building, together with some new floorspace. This would represent an increase of 240sq.m.

Grounds of Appeal

Reason for Refusal No.1

Dealing with Reason for Refusal no.1, the officer's assessment of policy is conflicted due to a conflict between the Midlothian LDP and SPP.

The committee report confirms that 'the application site is within the Local Centre of Penicuik/Edinburgh Road, as detailed in the MLDP'.

The committee report also quotes from Scottish Planning Policy (SPP) that the Scottish Government adopts a town centres first policy and a sequential approach must be applied in the following order or preference being:

"Town centres (including city centres and local centres)"

It is therefore the case that SPP places local centres and town centres within the same priority preference.

As a result, the reason for refusal is flawed as it claims this proposal in a local centre is unacceptable as SPP seeks to prioritise town centres over local centres but that is not correct. SPP seeks to prioritise town centres which includes local centres. So, the priority given to local centres in SPP is exactly the same as



town centres, there is no difference. It is therefore erroneous to claim that SPP gives a preference to Penicuik town centre over the local centre as it does not, it gives them the same priority.

This conflict is compounded in the Midlothian LDP as the LDP has chosen to adopt a different approach to SPP and has separated local centres from town centres, contrary to the preference identified in SPP. As a result, the LDP is not in line with SPP.

The LDP supports new shopping facilities within local centres up to 1000sq.m gross, providing they do not undermine the vitality and viability of any Midlothian Town Centre.

This policy at face value supports the appeal proposal as it involves new shopping facilities in the local centre and is considerably below the 1000sq.m threshold, at 621sq.m of floorspace i.e. some 40% below.

The LDP however introduces a further qualification to this support (albeit against the spirit of SPP) which is that it any new retail development does not undermine the vitality and viability of Penicuik Town Centre (in this instance). This further qualification to the initial support introduces another conflict in the policy as in order to consider this, a retail impact assessment would be required.

In this regard, the Councils policy states that Retail Impact Assessments will be required for all proposals of more than 2500sq.m but also for smaller proposals where the Council is of the view these may pose a threat to existing centres.

So, this proposal at 621sq.m is well below the local centre threshold of 1000sq.m and significantly below the Retail Impact Assessment threshold of 2500sq.m but it is still considered to potentially harm or pose a threat to the town centre.

This is the policy conflict. If there is a policy of support for new retail facilities at this local centre, and the proposal is below all the relevant thresholds but still cannot be considered acceptable, what actually can be considered acceptable.



The qualification of support in this policy effectively nullifies the benefit of the policy in the first place. So what is the purpose of the policy? If it is to support new shopping facilities at Local Centres such as Edinburgh Road, Penicuik then under what circumstance can that be achieved?

In this regard it is my opinion that the Councils interpretation of this policy has been incorrect. The purpose of the LDP policy is first and foremost to 'support new shopping facilities at Local Centres'. That is also the stance of SPP. The qualification of undermining town centres in the LDP policy is already qualified by the 1000sq.m threshold. Any reasonable reading of this policy would be that anything proposed under 1000sq.m would be consistent with the policy and should not undermine any centre. If not, what is the purpose of the 1000sq.m threshold?

In simple terms, this involves a proposed development that fits with the policy in that it supports new shopping development at a local centre consistent with the land use allocation of the LDP and under the appropriate scale threshold of 1000sq.m, but some way. In that context it is difficult to understand why this proposal cannot simply be accepted. If it cannot be accepted then the local centre policy is not fit for purpose as what would be normally be accepted at a local centre, can never be justified.

Impact on Penicuik Town Centre

Given the position above and my reservations over the requirement and appropriateness of retail impact assessment in this instance, Zander Planning provided what was considered a proportionate assessment given the scale of the proposal.

In this regard it is disappointing that officer have chosen to question this assessment in their report but not with Zander Planning during the assessment of the application despite clear offers from myself to provide them with any additional information they sought. Some requests for additional information were made by officers and those were duly answered. At no time during the 9 months this application was with officers was it suggested that the assessment was not appropriate.



Zander Planning are of the opinion that the assessment provided to the Council is appropriate and relevant to the scale of development proposed. It is also disappointed to note that the Council do not hold any up-to-date retail information or any Town Centre Health Checks (required by SPP) in order to assist an appropriate assessment of impact on vitality and viability.

Dealing specifically with the officer's criticisms of the Retail Impact Assessment (Document 4) I would comment as follows :

Officers consider the 2012 Midlothian Retail Study to be outdated although during their report appear to seek to use it where it supports their position. The fact is that the 2012 Study was undertaken to inform the current LDP and as such it is linked to the current adopted LDP as it is a quoted background paper. It is acknowledged that this study is now nearly 10 years old but for the purposes of this assessment for Penicuik, the survey data of shopping patterns will still be relevant as it relates to the Penicuik catchment as no new retail floorspace has been developed since that time that would fundamentally alter the findings of the 2012 survey. As a result, it is an adequate base for this assessment.

The officers state that it has been their experience that new retail floorspace has reduced leakage. No evidence of this has been provided or is available from the Council. It is not clear if this statement relates to the whole of Midlothian or Penicuik. The officers report provides no evidence-based reason to discount the 2012 shopping survey.

Officers have also queried the findings of the 2012 Study in terms of the overall potential surplus expenditure to accommodate new floorspace which appears to be based on the 'slower growth rate per capita spending on convenience goods' and that this may have invalidated these original findings. No attempt has been made by officers to quantify or support this statement.

In this context what the officers report fails to recognise is that the retail data from the 2012 Retail Study was actually during the last recession and the data had picked up the lower convenience growths.



However, these reductions are largely irrelevant as convenience expenditure growth is small in any event, usually around 0.5% to 1%. So the slower growth would have no significant impact on the predictions of the Councils 2012 Retail Study.

To illustrate this, estimating the difference in growth using the up-to-date Experian Retail Briefing Note, it is estimated that the impact on growth in relation to Mid Lothian was £83 per person if calculated year on year to give a more accurate figure. In the context of the Retail Assessment for Penicuik relevant to this appeal, this changes the expenditure per head from £2290 in 2012 to £2207 (Document 4). So the 2021 figure used in the Zander Planning assessment rebased to 2018 prices would have changed from £2519 to £2427, a reduction of 3.6%.

It is noted that officers agree with the catchment used but query the population figures used. In particular it is suggested that the population estimates for 2021 may be lower than projected in the 2012 Study. Again, no attempt to quantify this statement is provided by officers.

The most up to date figures from the National Records of Scotland (Document 6) indicates that the population estimate for Midlothian is 95,166 in 2021. This is slightly lower than the 96,441 estimated in 2012 for the same year. The relevance of this to the Penicuik Catchment is that the population utilised in the retail assessment would be reduced by 248 persons, so the estimate for the catchment would be 17882 people not 18130 that was used in the assessment. This is a small difference of 1.4% and makes no significant difference to the assessment as currently submitted.

The officers report also highlights reference to housing completions and that these have already been taken into account in the population estimates. For clarity the assessment does not add housing completion expenditure to the assessment, it is only included as an illustration of the likely to potential additional expenditure from new housing and therefore increased demand. For clarity, the Retail Assessment is only based on the population estimates with no additions.



The criticisms of data used does not alter the retail assessment in any significant way. The small differences to the expenditure and population estimates noted above by officers only make small adjustments to the available expenditure in the catchment. The retail assessment estimates the available expenditure to be £45.6M. Recalculating this with the above minor adjustments reduces this to £43.4M, just less than 5%. That is insignificant in terms of the overall assessment, as the available expenditure reduces from £18.9M to £18M, some 42% of the total available expenditure.

Unfortunately, the officers report has focused too much on minor differences in the base data that does not result in the effects indicated in their report. Officers made no attempt to quantify these differences so were not able to cross check their assumptions. As a result, they have overplayed the effect these differences would have on the assessment of impact. The differences make no significant difference and these comments could have been easily resolved prior to determination if the applicant had been asked to clarify or consider these points.

Having now established that the officer's comments in relation to population and expenditure do not significantly alter the retail assessment, consideration is given to their comments on turnover.

It is noted that there is no end user and they make the point that the sales density is about a third of what has been recently quoted for an Aldi in Dalkeith. It is not sure what the relevance of this is as the proposal is not for an Aldi or any other discount retailer as the size of the unit proposal is too small to accommodate those type of end users.

The proposed turnover is appropriate given the scale of the development and its location. Comparison to retailers such as Aldi or Tesco are of little assistance as these retailers have much larger turnovers compared to what is proposed here, which is a modest retail unit in a local centre. The retail assessment has included a sensitivity analysis which increases the turnover by 50%. The turnover estimated is actually higher than that adopted for the town centre, when it would be normal for the town centre to have a higher turnover. There is no evidence to indicate the turnover is underestimated in the retail assessment.



In terms of assessing the impact on the town centre the officers approach is not clear. Reference is made in their report to adjusting the Penicuik turnover to 2018 figures based on the 2012 Retail Study and a figure of £5.43m is quoted. No explanation of how that figure is derived or why it is relevant. If that is an attempt to estimate the turnover of the town centre then it is flawed. The Lidl in the town centre alone, based on their average turnover would be £5.3M. So this cannot be a reasonable position to adopt.

The officers report then goes on to indicate that there is a 20% impact on the convenience turnover of the town centre. Again, no explanation is given to how that figure has been derived. The Zander Planning estimate is 12% convenience impact.

The officer's report concludes that it is possible that serious harm could be caused to the vitality and viability of the town centre as a result of siting a foodstore with a large floorspace on the application site.

This is a fairly general statement of the situation and does not attempt to consider the policy correctly in that 'would it undermine the vitality and viability of the centre'. In response to this we would comment as follows:

Firstly, what is proposed is not a large foodstore. It is very modest in scale and in particular is below the 1000sq.m threshold considered appropriate for local centres. It would be smaller than both the Tesco and Lidl in Penicuik.

Secondly, what is not acknowledged in the officers report is that it would be Lidl that would absorb the majority of the trade diversion and impact on the town centre. Lidl is an international retailer with a high turnover and strong retail presence. Despite the trade diversion and impact predicated on the Lidl, they are well placed to absorb this trade diversion. This would not threaten the closure of the store. As a result, it would not impact on the town centre to such a degree that would undermine the town centres vitality and viability. A much greater scale of development would be required to do that.



Lastly, I consider the officers assessment of the health of the town centre is overly negative. Our assessment indicates the town centre is average which I consider is fair when considered against other town centres.

Indeed, during the course of this application, new investment occurred in the form of B&M moving into the town centre. In retail terms this is an indicator that Penicuik is still viable and able to attract investment, during a time when many retailers and centres have been struggling.

This is a position that appears to be shared by the Community Council who in their letter of objection refers to 'the busy High Street' of the town centre.

Overall, this proposal is for a small food retail unit on a site that used to be a foodstore historically and is now in a designated local centre where support is given for new retail facilities under 1000sq.m. The officer's concerns over the impact on the town centre are acknowledged and understood but are exaggerated in our opinion. Whilst there will be impact on the town centre, a development of this scale would not be able to undermine the vitality and viability of the town centre due to its critical mass and much wider range of shops and services.

Reference is made to COVID 19 as a negative to the proposal but could also be considered as a positive. Shopping patterns did change as a result of the pandemic and one thing that did happen was that people shopped more locally for food. In this regard the Edinburgh Road Local Centre is ideally located in terms of the walk-in residential population at the north end of the town and the expanding housing.

In the context of the above, it is our opinion that the Councils reason for refusal 1 is not justified as it has not been demonstrated that the proposed development would undermine the vitality and viability of the town centre. The officers report has not considered the true impact on the town centre and the fact that this would ultimately be absorbed by an international retailer (Lidl) who is used to competition and will not fold as a result of the modest trade diversions predicted. The remaining part of the town centre would not be significantly impacted and would continue to provide comparison retail and services as it currently does.



Also, officers have not considered the impact on the town centre as a whole. Consideration has only been given to the convenience impact of the proposal and it is not acknowledged that the impacts on the town centre as a whole would be less as there would be no impact on non-food retail or service units. Estimated convenience impacts by their very nature are higher and do not provide the full picture. The policy assessment in this instance relates to the 'town centre', not the convenience function of the town centre in isolation. No assessment has been made against the town centre as a whole and this is an omission in the assessment of this application.

Of concern, the officers report then states that they would like to see vacant units in the town centre being occupied before any new units are approved at out of centre locations. This statement is fundamentally flawed.

To clarify the application site is not an out of centre site, it is located in a Local Centre. SPP confirms that Local Centres have the same priority as town centres, as noted elsewhere in this statement. The officer has seriously misdirected themselves in this regard the appeal site is not an out of centre location in policy terms. It is a local centre.

In introducing this statement and referring to other available units in the town centre the officers report has introduced sequential site matters to the assessment of this application that are not relevant. In this regard I would bring your attention to the email dated 28 August 2020 (Document 5) where the case officer confirmed during pre-application discussions that:

"In regards your question about a sequential assessment at this site, I have discussed this with colleagues. In this instance there is no requirement to consider the retail proposal in terms of the sequential test."

In this context it is completely unreasonable to then assess the application against the sequential requirements and use this as a justification to refuse the application.



It is our opinion that it has been demonstrated that the proposed retail and class 3 units would not have a significant detrimental impact that would undermine the vitality and viability of Penicuik town centre. As such the proposal does not conflict with policy TCR2 of the adopted Midlothian Local Development Plan 2017 and the adopted Supplementary Guidance.

Reason for Refusal No.2

The proposed access and turning space have been modified to address the road safety concerns previously raised by officers and in particular tracking diagrams (Document 3c) are now included showing how the largest vehicle ever likely to use the site can manoeuvre within the car park, leaving and entering the public road in forward gear.

It is noted that the Policy and Road Safety Manager has not raised any concerns over the widening of the existing access and the manoeuvrability of delivery vehicles to the front of the units and the relationship with the customer parking spaces.

In that context, the reason for refusal is not justified.

Reason for Refusal No. 3

The service/delivery area is located at the front of the unit. This is not an unusual situation and do not consider the limited time servicing is in operations would alter the character or amenity of the local centre in any significant way tha would justify refusal of planning permission.

The yard to the front of the unit previously used as a car showroom was serviced by car transporters that would load/unload in front of the unit. This is not a valid reason for refusal.



Other Matters for consideration

It is noted in the report that the proposed Class 3 takeaway use is considered unacceptable as it is within 400m of a school. We have provided evidence that the distances have been measured on site by means of a Trumeter Road Wheel. This provided the following measurements:

Strathesk Primary School going from the site via the pavements 532 metres taking the most direct route via Tesco's car park past Kwikfit 452 metres.

The officers response to this is that the SG is map based. However on review of the SG, there is no mention of this being map based. The SG simply states:

"Hot food takeaways will not be permitted where they fall within 400metres of the curtilage of a primary or secondary school."

This proposal is not for a hot food takeaway but is a Class 3 restaurant with ancillary takeaway use. It is not within 400m of a school. There should be no restriction on it use.

Assessment of Proposal

The focus of the Planning and Retail Statement (Document 4) was to consider any planning and retail issues raised by the proposals for development at Edinburgh Road, Penicuik and to demonstrate that the principles of the development proposals are acceptable in planning terms.

The report identifies a number of benefits which the application scheme will deliver, including

- Economic development in Penicuik, directed to a Local Centre;
- Improved consumer choice by the introduction of new retail format;
- Encouragement of more sustainable patterns of shopping,



- Redevelopment of a prominent vacant brownfield site, bringing the site into full active economic use; and
- The creation of new employment opportunities.

Retail Impact

In terms of impact, we conclude that there is no evidence to indicate the proposal would result in any significant adverse impacts that would undermine the vitality and the viability of the town centre. It should be noted that 'undermine' is a high bar to meet and is not the same as saying there will be impact. The test is that the impact has to be so significant that it undermines the vitality and viability of the town centre.

Whilst our analysis has indicated that Penicuik town centre displays average indicators of vitality and viability, the centre still has positive attributes with a diverse retail mix. As a consequence the town centres role and position in the hierarchy of retail centres and destinations will not change. The town centre also does not have a large proportion of units selling convenience goods that will be directly affected by the proposal.

The test in Policy TCR2 is a strict test which seeks proposals not to undermine the vitality and viability of the town centre. As noted in our assessment (Document 4), whilst there will be trade diversion and impact, there is no evidence to indicate that these would undermine the vitality and viability of the town centre.

This is particularly relevant when considered against the planning permission granted for an Aldi foodstore at Eastfield.

Planning permission was granted for a new food unit adjacent to the Tesco at Edinburgh Road Local Centre in 2008. This store would have extended to some 1378sq.m gross with a sales area of 975sq.m, so almost twice the size of the current proposal. This consent is relevant for a number of reasons.



Firstly, the site of the former Aldi consent is owned by the current applicant, AF Noble. Given there has been a long standing intention to provide a new food retail outlet at the Local Centre, the applicants considered this current site offered betterment in terms of location and scale.

Secondly, granting the Aldi consent acknowledged the deficiency within the catchment and sought to address this. Indeed the 2012 Retailing and Town Centres Technical Report 2012 (which is a background technical report for the current LDP) still has the proposed Aldi as a committed development. As a consequence it was assumed as part of this LDP that this new store would have been developed, as a result no further policies were developed to address the deficiency. However given that it has not been developed, there remains a deficiency (even taking into account the small reductions in growth identified by officers in their delegated report) and the current proposal seeks to address this with a smaller store and slightly different location but still within the same local centre.

Lastly, in granting the Aldi at the Edinburgh Road Local Centre, the Council accepted the levels of impact on the town centre did not undermine the vitality and viability of the town centre. This current proposal is likely to result in lower levels of impact given its scale. Its therefore logical to conclude that this current smaller proposal would not undermine the vitality and viability of the town centre, as a larger more significant proposal by Aldi was deemed not to.

The proposals are therefore compliant with the requirements of the Development Plan as it relates to the consideration of impact on the town centre. A significant material consideration exists in the form of the planning permission for Aldi at Eastfield. This sets a context in which to assess the current application but given it is smaller, it must be accepted that the impacts will be less.

Sequential Site Assessment

It is our position that the site is specifically allocated for retail development in the adopted LDP.



Paragraph 68 of SPP sets out the sequential approach and confirms that town centres (including Local Centres) is the first choice for retail development having regard to the town centres first principles.

As this site is located in the Edinburgh Road Local Centre, it therefore complies with the sequential approach and there is no requirement to assess potential sites in the town centre as this is on the same status as town centres. Under such circumstances case law is clear that there is no requirement to assess sites below or on the same standing for sequential purposes.

The proposal therefore complies with the sequential approach as set out in the adopted LDP and SPP.

This is directly relevant to our comments above relating to the reasons for refusal and the unreasonable introduction of sequential matters in the officers report.

Policy Considerations

The site is identified in the adopted Mid Lothian Local Development Plan as lying within the Edinburgh Road Local Centre where retail/Class 1 development is considered acceptable.

It has been demonstrated in the Planning and Retail Statement (Document 4) and the further explanations in this statement that, contrary to the reasons for refusal the proposed retail and class 3 units, would not have a significant detrimental impact on the vitality and viability of Penicuik town centre.

Having regard to the proposed Class 3 use, it is proposed that this would have an ancillary takeaway. In the report it is stated that the site is within 400m of a school and therefore would have any takeaway restricted in line with the Supplementary Guidance. As noted above this is not the case.

It also an important material consideration that Penicuik is an expanding town with new housing being developed. Table 1b in Appendix 2 (Document 4) sets out the new housing proposals in the Primary



catchment area. The officers comments in relation to the slower rate of growth is acknowledged but this does not alter the fact that there is still a growing population seeking additional demand on retail services.

For Penicuik this new housing will create additional retail demand, estimated at £7.8M for convenience goods. The existing retail provision in Penicuik Town Centre is not able to absorb all this new expenditure. As a result, it will most likely be spent outwith the catchment. However this proposal will improve the retail offer in the catchment and will provide these new residents improved choice given its location, close to these housing sites to the north of the town. This choice would reduce the need to travel to other locations outwith the catchment and would encourage the use of travel other than the car as the site is well located (on the north edge of the town close to the new housing) to act as a 'local centre' for these new communities as they are located in close proximity to the application site.

In addition, positive benefits will be delivered in terms of the redevelopment of what is currently a long-term vacant site that will be brought into full active economic use, which will directly benefit the local community in terms of increased choice, availability and accessibility to retail provision as well as creating opportunities for employment.

Conclusion

Taking all these considerations into account, it is evident that there are positive benefits associated with the proposals, which outweigh any minor impacts identified.

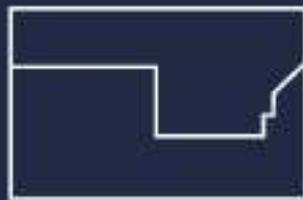
It is our opinion that the proposal:

- Is consistent with the Adopted LDP which allocates the site as a Local Centre where retail/Class 1 and Class 3 is supported
- Meets the policy criteria tests in the adopted LDP having regard to sequential and impact matters



- Will assist in meeting the requirements for retail floorspace set out in the Mid Lothian Retail Study
- A new retail convenience store has already been approved at the Local Centre, this proposal essentially replaces that development
- Will improve customer choice and accessibility
- Will provide additional employment opportunities
- Will see a prominent vacant site be brought into economic use
- The Food and Drink unit would not increase the level of such uses in the Local Centre to over 50%
- The takeaway element associated with the smaller unit is not within 400m of a school

In this regard we consider the reasons for refusal have been adequately addressed and respectfully request that this appeal should be upheld, thereby granting planning permission.



Z A N D E R
P L A N N I N G

Planning and Retail Statement

Edinburgh Road, Penicuik

AF Noble

August 2020

Date : August 2020

Version : Final

Authorised by : 

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Appendices

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Appendix 2	Retail Tables
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Appendix 4	Town Centre Health Check – Penicuik 2016
Appendix 5	Penicuik Shopping Centre brochure

1. Introduction

- 1.1 **Zander Planning** has been appointed by **AF Noble and Son** to prepare a Planning & Retail Statement in support of the application for a Class 1 retail and Class 3 development at 18-20 Edinburgh Road, Penicuik. The proposal will contribute towards improving consumer choice for residents in Penicuik, direct investment to a Local Centre, and bring a prominent vacant brownfield site into full active economic use, in accordance with the Government's agenda for delivering sustainable economic development.
- 1.2 This Planning & Retail Statement has been prepared to assess the application proposals against the relevant provisions of the statutory development plan and other material planning guidance, particularly SPP.
- 1.3 In addition the site is identified in the adopted LDP as a Local Centre. Retail development in policy terms is therefore an acceptable use in principle at this location.

Context of Proposal

- 1.4 The site has been operated by AF Noble and Sons since 1997. AF Noble has been a consistent contributor to the local economy for a number of years.
- 1.5 The premises were originally operated as a foodstore known as MacKays before being converted to a car showroom by AF Noble in 1997. The garage remained open until 2019, after which the premises were closed and the showroom was relocated to the company's other premises at Eastfield.



-
- 1.6 The premises have been actively marketed and given its location in a Local Centre, the commercial interest that has been shown for the unit is retail and restaurant uses. These uses are considered consistent with the surrounding commercial centre.

The Proposal

- 1.7 The proposal seeks to deliver a development of 765sq.m GIFA.
- 1.8 The development is proposed to form two units. One larger Class 1 unit of 621sq.m Gross to accommodate a convenience retailer and a smaller unit of 145sq.m gross to be operated by a bakers with ancillary takeaway facility, falling within Class 3.
- 1.9 The existing structure will be used to form the majority of the new building, together with some new floorspace. This would represent an increase of 240sq.m.
- 1.10 The units would be expected to employ approximately 20 people, with a mix of part time and full time jobs.
- 1.11 This report addresses the above requirements, and also considers any relative impact of the proposals on Penicuik town centre. Our report is structured as follows:
- Section 2 describes the site location and physical characteristics, and provides a description of the proposed development;
 - Section 3 reviews the policy framework, identifying policies and other material considerations relevant to determination of the application;
 - Section 4 examines the impact of the proposed retail development against the criteria listed in SPP and the Development Plan;
 - Section 5 sets out the assessment of the proposal in accordance with SPP and the Development Plan; and draws together our summary and conclusions.

2. Site and Surrounding Area

The Location and Site

- 2.1 The site comprises a partially vacant plot that previously formed a car showroom and parking area. The steel structure of the existing building remains and it is proposed to re-use this to establish a new building on the site.
- 2.2 The site was previously a foodstore before it was converted to a car showroom in 1997.
- 2.3 The site is located in the Edinburgh Road Local Centre and immediately adjacent to Tesco and some small shops that form a small parade onto Edinburgh Road. There is housing to the south and west.
- 2.4 The site benefits from access onto Edinburgh Road with a pedestrian facility over the A701 immediately in front of the site and a bus stop.

Planning History

- 2.5 Planning permission was recently refused on the site for a Class 1/Class 3 development, reference 19/0105/DPP, the reasons noted below:
1. It has not been demonstrated that the proposed retail and class 3 units would not have a significant detrimental impact on the vitality and viability of Penicuik town centre and so the proposal does not comply with policy TCR2 of the adopted Midlothian Local Development Plan 2017 and the adopted Supplementary Guidance.
 2. The proposed access and turning space within the site raises road safety concerns which would be to the detriment of the safety of road users and customers of the proposed units.
 3. The service/delivery area, being located to the front of the building, will have an adverse impact on the appearance of the area, thereby not complying with policy DEV2 of the adopted Midlothian Local Development Plan 2017.

3. Planning Policy Context

Scottish Planning Policy

- 3.1 Scottish Planning Policy (SPP) sets out the Scottish Governments policy on the land use planning system. SPP sets out a number of policy principles.
- 3.2 SPP introduces a presumption in favour of development that contributes to sustainable development. The planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place; it is not to allow development at any cost.
- 3.3 This means that policies and decisions should be guided by the following principles (those relevant to this proposal):
- giving due weight to net economic benefit;
 - responding to economic issues, challenges and opportunities, as outlined in local economic strategies;
 - supporting good design and the six qualities of successful places;
 - making efficient use of existing capacities of land, buildings and infrastructure including supporting town centre and regeneration priorities;
 - supporting delivery of accessible housing, business, retailing and leisure development;
 - having regard to the principles for sustainable land use set out in the Land Use Strategy;
 - avoiding over-development, protecting the amenity of new and existing development and considering the implications of development for water, air and soil quality
- 3.4 In terms of town centre, SPP states that these should be flexible and proactive, enabling a wide range of uses which bring people into town centres. In particular it states that the planning system should:
- apply a town centre first policy when planning for uses which attract significant numbers of people, including retail and commercial leisure, offices, community and cultural facilities;
 - encourage a mix of uses in town centres to support their vibrancy, vitality and viability throughout the day and into the evening;
 - ensure development plans, decision-making and monitoring support successful town centres;
- and

-
- consider opportunities for promoting residential use within town centres where this fits with local need and demand

3.5 In this context para 68 of SPP states that Development Plans should adopt a sequential town centre first approach when planning for uses which generate significant footfall, including retail and commercial leisure uses, offices, community and cultural facilities and, where appropriate, other public buildings such as libraries, and education and healthcare facilities. This requires that locations are considered in the following order of preference:

- town centres (including city centres and local centres);
- edge of town centre;
- other commercial centres identified in the development plan; and
- out-of-centre locations that are, or can be, made easily accessible by a choice of transport modes.

3.6 Paragraph 71 states that where development proposals in edge of town centre, commercial centre or out-of-town locations are contrary to the development plan, it is for applicants to demonstrate that more central options have been thoroughly assessed and that the impact on existing town centres is acceptable. In addition, where a retail and leisure development with a gross floorspace over 2,500m² is proposed outwith a town centre, contrary to the development plan, a retail impact analysis should be undertaken.

Local Development Plan

3.7 The Mid Lothian LDP was adopted in November 2017.

3.9 The LDP has a number of policies that relate to retail development, the most relevant being TCR2

3.10 In this regard the LDP specifically allocates the application site as:

Policy TCR2 – Location of New Retail and Commercial Leisure Facilities

The Council will apply the sequential approach set out in this policy with reference to the network of centre, as described in Table 4.1, insofar as it relates to locations with Midlothian and having regard to the expected catchment of the development.

In this regard Table 4.1 has the Network of Centres as Regional Town Centre, Strategic Town Centre, other town centre, Commercial Centre, Out of centre locations and Local Centres.

In relation to Local Centres, Policy TCR2 confirms that new shopping facilities (up to a scale of 1000sq.m gross floor area) will be permitted within local centres, provided they do not undermine the vitality and viability of any of Midlothian's town centres.

3.11 The Council also has approved Supplementary Guidance on **Food & Drink and other Non-Retail Uses in Town Centres**

3.12 In relation to Food and Drink Provision outwith Town Centres, the SG comments as follows:

Despite there being general support for food and drink uses in local centres the Council is concerned that the overprovision of some uses will adversely affect the range of services in these areas and, in turn, also impact on their vitality. Therefore, development proposals will not be permitted for food and drink uses (including hot food takeaways) in local centres where they will result in 50% or more of the units in the local centre being in a food or drink use (including hot food takeaway). These uses will be permitted in local centres where the applicant provides details to show the change of use will not result in 50% or more of ground floor commercial units within 100 metres of the site being in food and drink use.

As with the section on hot food takeaways in town centres the Council is concerned that the proximity of hot food takeaways to secondary schools encourages pupils to eat unhealthy food. It is recognised that the planning system is limited in restricting access to unhealthy foods, as it is not possible to restrict the sale of unhealthy foods to school pupils from shops. However, it is reasonable for the Council to prevent the change of use of premises to hot food takeaways on account of the adverse impact that they have on the diets of young people and the health of communities. Hot food takeaways will not be permitted where they fall within 400metres of the curtilage of a primary or secondary school.

4. Retail Considerations

- 4.1 This section considers the potential impacts of the proposal on Penicuik town centre.
- 4.2 Consideration of impact on town centre is linked to the vitality and viability of the centre and the analysis of existing shopping patterns and assumptions of trade draw from existing centres/stores. The assessment considers trading performance of existing centres and stores in the catchment area of the proposal at the 'design year', which is taken to be a full calendar year after trading commences (2021). The impact tables are set out in Appendix 2.
- 4.3 The proposed development involves convenience retail floorspace in a retail warehouse format. This includes large floorplate retail unit with dedicated level car parking and servicing for HGV's.

Mid Lothian Retail Study

- 4.4 The Council commissioned a Retail Study in 2012 to include the Local Development Plan process and the Study forms part of the Technical Notes to the Main Issues Report in 2012. The key findings from the study in relation to Penicuik were : -
- estimated 59% of locally derived expenditure retained in the catchment;
 - estimated 41% of locals travelling outwith the catchment to other locations for food/convenience provision ;
 - provision in Penicuik would have increased through the development of Aldi at Eastfield.

Basis of Assessment

- 4.5 Before we assess the impact of the application proposal, it is necessary to first consider:
- the likely catchment area of the application scheme (Step 1);
 - the likely turnover of the proposed development (Step 2);
 - the turnover of existing floorspace (Step 3);
 - the current vitality and viability of Penicuik town centre (Step 4); and
 - the likely patterns of trade diversion to the proposal (Step 5)

Step 1: Definition of catchment area

- 4.6 The Primary that is adopted is taken from the Mid Lothian Retail Study. Zone 3 is Penicuik.
- 4.5 For the purposes of this assessment the population estimates contained in the Retail and Town Centres Technical Report have been adopted. This indicates a population of 18130 in 2021.

Step 2: Turnover of Proposal

- 4.6 Table 2 in appendix 2 sets out the estimated convenience turnover of the proposal, adopting Retail Rankings data on derive turnover ratios. We have assumed that 80% of the turnover of the floorspace proposed will be derived from residents within the catchment area defined above. The broad estimated trade draw is set out in Table 5.

Table 4.1: Turnover of proposed convenience floorspace

Gross Area (sqm)	Net convenience sales area (sqm net)	Sales Density (£/sqm)	Total Turnover 2021 (£m)
621	558	4000	£2.23

Source: Table 5, Appendix 2

- 4.7 As shown, the proposed convenience floorspace is estimated to turnover around £2.23m in 2021.

Step 3: Turnover of existing floorspace

- 4.8 This retail assessment calculates the total potential turnover of centres and stores, which derive a proportion of their trade from residents in the catchment area using ‘benchmark’ or average turnovers taken from the Mid Lothian Retail Study 2012.
- 4.9 The data for the local Penicuik catchment indicates that there is potential residual expenditure capacity for convenience floorspace. In convenience terms, Table 6 indicates an indicative capacity of £32.9M. This information points to a quantitative and/or qualitative deficiency in the catchment, as this money will be spent in existing shops in the catchment (resulting in overtrading) or spent outwith the local catchment (resulting in leakage). There is evidence that both occurs in the catchment.

Table 5.3: Potential Convenience Capacity from local expenditure only

Convenience expenditure in catchment area (£m, 2021)	45.6
Less benchmark turnover of existing floorspace (£m, 2021)	27.2
Residual in local catchment area (£m, 2021)	18.4

Source: Table 5 of Appendix 2

4.10 Another sources of expenditure also exist within the catchment. In terms of overtrading, the retail data indicates that the Tesco at Eastfield is overtrading some 33% or £6M per annum. This is a significant amount and even if all the turnover of the proposed development was diverted from the Tesco, it would still be trading above company averages.

4.11 It is also relevant that the LDP has identified new housing in a number of locations, but specifically to the north of Penicuik. Housing sites H25, H26, H58 and Hs20 account for some 1294 additional houses. This would expect to support a population of 3106, resulting in increased expenditure in the location of £7.8M. Whilst these new houses will be completed over a number of years, these new residents will result in increasing demand for services.

Step 4 : Penicuik Town Centre Vitality and Viability

4.12 Penicuik Town Centre is a relatively small and compact centre focused on High Street and John Street. The main anchor retail use is Penicuik Shopping Centre , which has a car park to the rear and is focused on John Street. This car park also serves the rest of the centre together with limited on-street parking. The main anchors for the centre are Bargain Buys and Job Centre Plus.

4.13 Primary food provision in the town centre is provided by Lidl, who occupy a site on the north edge of the town centre. There is also a small freezer centre in the shopping centre. Primary food provision for the catchment however is undertaken at Edinburgh Road Local Centre Tesco.

4.14 The centres main retail provision is comparison goods and service retailers such as opticians and hairdressers. On High Street there is a cluster of Class 3 restaurant and hot food uses providing evening activity. The centre also has cultural and administrative uses including church and Town Hall.

4.15 Overall the centre is considered to have a reasonable balance of retail and non-retail uses.

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- 4.16 In terms of Retailer Representation, there are a small number of independent and national occupiers providing goods and services in Penicuik.
- 4.17 National occupiers contribute services such as pharmacy, service and retail to complement the other goods and services offered in the centre. The national multiple representation included Bargain Buys, Lidl, Farmfoods, Semi-Chem and Optical Express.
- 4.18 This represents a low to average level of multiple representation although in floorspace terms Bargain Buys and Lidl clearly has the most significant units in the centre.
- 4.19 The centre has a relative low vacancy rate in floorspace terms. It is estimated that vacant floorspace amounts to some 700sq.m (9%) compared to 1147sq.m (14.5%) in the 2012 Retail Study. This represents a reasonable reduction in vacant floorspace. However in unit terms the vacancy rate is estimated at 11.5%, which is around the UK national average. Penicuik Shopping Centre has 3 vacant units at present, extending to 221sq.m (see Appendix 5).
- 4.20 There is some evidence of investment and retailer demand for premises within the designated centre.
- 4.21 The centre has relatively good pedestrian flows, throughout the whole centre and across car parks and from bus stops. This is likely due to the surrounding residential and community uses that will draw the public to the centre,
- 4.22 Public transport to the centre is good. Reasonable levels of car park are also available within and adjacent to the centre.
- 4.23 The function of the centre promotes goods and services to meet largely local residents needs. There is a limited amount of convenience retailing within the centre, the main provision being provided at Tesco at Edinburgh Road. However the centre has a number of service, cultural and health services that will attract people to the centre.
- 4.24 The overall environmental quality of the centre is considered to be good. The perception of the centre is clean and there is a blend of historic buildings and modern. The Penicuik Shopping Centre being well maintained.
- 4.25 It is concluded that Penicuik is a small town centre providing general goods and services to local residents. This centre has a relatively limited range of retail and other non-retail goods reflective of its small catchment and competition from higher order centres such as Straiton and Newcraighall. The town centre does not rely on convenience retailing to provide its vitality and
-

viability but instead on a mix of uses. The indicators show a centre with average levels of vitality and viability.

4.26 An assessment of Penicuik town centre has been undertaken and it is our opinion that the town centre benefits from an average level of vitality and viability, with a reasonable diverse retail mix for a centre of this scale.

4.27 From our assessment of the centre we observed that:

- There is evidence that the centre has suffered like many other centres during the 2008 recession but the town centre clearly remains a vital and viable shopping destination.
- There has been a reduction in vacant floorspace in the town centre since the recession. Vacancy rates in unit terms is consistent with the national average.
- The centre continues to benefit from relatively good levels of footfall throughout much of the centre, and primary shopping areas appeared busy and well supported.

4.28 It is therefore clear that Penicuik town centre is continuing to perform reasonably well. The vitality and viability of the town centre is considered to be average. On that basis the town centre is likely to be susceptible to medium to high levels of impact ie 10% or greater.

4.29 The Council undertook Town Centre perception surveys as part of their Health Checks in 2012 and 2016 (these are contained in Appendices 3 and 4 for reference). The 2012 provided the town centre a score of 64 whereas the 2016 had reduced this to 57. Whilst this is a subjective assessment and will be subject to variation when assessed, it is difficult to extract any meaningful conclusions from this data in isolation. In particular, Penicuik scored the highest rating of all town centres in Mid Lothian in the 2012 Survey, which is surprising in itself given the small nature of the centre compared to others. It is also interesting that the original scores were given in 2012 during the recession which had a significant impact on town centres. All centres have improved since then to some effect so a reduced score in 2016 does not seem appropriate. Given these potential conflicts the findings are noted and whilst they do show a lower score for Penicuik, the data itself does not indicate the centre is struggling or has declined to unacceptable levels.

Step 5: trade diversion to the proposal scheme

4.30 Judgements on the likely diversion of trade following the opening of the proposed development are based on existing shopping patterns, location, accessibility and the extent of comparable retail provision in the area.

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- 4.31 In convenience terms we have assumed that 80% of the turnover of the proposed development will be derived from within the local catchment area. This is based on the fact that some £18M of convenience expenditure is currently spent outwith the catchment in order locations. It is acknowledged it is inevitable that higher order centres such as Straiton will always provide an attraction to shoppers from this location and there it would be unreasonable to assume a significant proportion of this expenditure could be clawbacked. However given the location of the site, we consider it is well placed to offer an alternative to some of those shoppers who are choosing to shop elsewhere.
- 4.32 Table 7 seeks to set out the broad trade diversions. This assumes the bulk of the expenditure being drawn from the existing foodstore located at the Local Centre location close to the site.
- 4.33 In convenience terms an estimate of trade diversion is set out at Table 7 of Appendix 2. This shows that we expect:
- £0.62m of the developments convenience turnover will be diverted from the Penicuik town centre. Given the relatively close proximity of the town centre to the application site, it is appropriate to assume a proportion of trade diversion will take place from this location;
 - £1.1m will be diverted from the Tesco which lies in close proximity to the site;
 - £0.5m of the £18m leakage will be clawbacked.
- 4.34 Current main convenience goods provision in Penicuik is centred around the Tesco at the Local Centre and to a lesser extent the Lidl in the town centre. There is no significant convenience floorspace located with the core of the town centre, where there are some smaller convenience offers. Whilst there will inevitably be trade diversion from existing convenience goods operators (including those in the town centre), the proposal will offer a complementary addition to existing facilities, helping to improve local choice and competition.

Impact on town centre vitality & viability

- 4.35 Table 8 in Appendix 2 shows the impact of the proposed development on the turnover of Penicuik town centre at the 'design year' of 2021. Based on the patterns of trade diversion summarised above, Table 8 shows that the key impacts arising from the proposal scheme are limited, as follows:
- An impact of -8% arises against the convenience floorspace in the town centre; and
 - An impact of -4% on the Town Centre

-
- 4.36 It is our opinion that this predicted impact does not represent a significant adverse impact on the town centre that would undermine its function or role in the catchment.
- 4.37 Table 9 also includes a sensitivity analysis for the proposal. The sensitivity scenario assumes a higher turnover being achieved on the convenience floorspace. This is done at 20%, 30% and 50% increases.
- 4.38 On the assumption of increased convenience turnover of 50%, the sensitivity scenario shows an increased predicted impact to -6% on the town centre.
- 4.39 The sensitivity analysis shows that even with higher predicted turnovers, the level of predicted impact is not significant.
- 4.40 In terms of the significance of this impact, the vitality and viability of Penicuik is considered to be average indicating that the town centre could be susceptible to high or medium levels of impact. The levels of impacts predicted in this assessment are considered to be low, generally between -4% to -6%. Such levels should be within acceptable limits having specific regard to the vitality and viability of Penicuik Town Centre.
- 4.41 In this context it should be acknowledged that the main bulk of food retail floorspace is actually located in the Local Centre at Edinburgh Road and that is where the main impacts will be felt. This floorspace is operated by a national multiple with high turnovers. The retail floorspace at Edinburgh Road can absorb the estimated impact.
- 4.42 In this context, the above impacts do not represent 'significant adverse' impacts when assessed against the criteria in the Development Plan. Penicuik Town Centre is in a reasonable state of health and will be able to withstand the modest amount of trade diversion to the application scheme that will take place. Whilst the town centres vitality and viability is average, its overall retail offer is good with a reasonable quality of comparison shops, a broad retail mix taking in a high number of independent shops. The town centre will continue to trade successfully and will continue to be the main focus of retail activity in the catchment.
- 4.43 On the basis of the above the application scheme will not result in a 'significant adverse' impact on the vitality and viability of Penicuik town centre. Moreover, we consider that the proposal will result in a number of significant positive benefits, including bringing a prominent vacant site back into economic use, creating a number of employment opportunities, and providing additional retail choice and co

5. Assessment of Proposal

5.1 The focus of this report has been to consider any planning and retail issues raised by the proposals for development at Edinburgh Road, Penicuik and to demonstrate that the principles of the development proposals are acceptable in planning terms.

5.2 The report identifies a number of benefits which the application scheme will deliver, including:

- Economic development in Penicuik, directed to a Local Centre;
- Improved consumer choice by the introduction of new retail format;
- Encouragement of more sustainable patterns of shopping,
- Redevelopment of a prominent vacant brownfield site, bringing the site into full active economic use; and
- The creation of new employment opportunities.

Retail Impact

5.3 In terms of impact, we conclude that the proposal will have minimal impact on the town centre. There is no evidence to indicate the proposal would result in any significant adverse impacts.

5.4 Whilst our analysis has indicated that Penicuik town centre displays average indicators of vitality and viability, the centre still has positive attributes with a diverse retail mix. As a consequence the town centres role and position in the hierarchy of retail centres and destinations will not change. The town centre also does not have a large proportion of units selling convenience goods that will be directly affected by the proposal.

5.5 The test in Policy TCR2 is a strict test which seeks proposals not to undermine the vitality and viability of the town centre. As noted in this assessment, whilst there will be trade diversion and impact, there is no evidence to indicate that these would undermine the vitality and viability of the town centre. This is particularly relevant when considered against the planning permission granted for an Aldi foodstore at Eastfield.

5.6 Planning permission was granted for a new food unit adjacent to the Tesco at Edinburgh Road Local Centre in 2008. This store would have extended to some 1378sq.m gross with a sales area of 975sq.m, so almost twice the size of the current proposal. This consent is relevant for a number of reasons.

-
- 5.7 Firstly, the site of the former Aldi consent is owned by the current applicant, AF Noble. Given there has been a long standing intention to provide a new food retail outlet at the Local Centre, the applicants considered this current site offered betterment in terms of location and scale.
- 5.8 Secondly, granting the Aldi consent acknowledged the deficiency within the catchment and sought to address this. Indeed the 2012 Retailing and Town Centres Technical Report 2012 (which is a background technical report for the current LDP) still has the proposed Aldi as a committed development. As a consequence it was assumed as part of this LDP that this new store would have been developed, as a result no further policies were developed to address the deficiency. However given that it has not been developed, there remains a deficiency and the current proposal seeks to address this with a smaller store and slightly different location.
- 5.9 Lastly, in granting the Aldi at the Edinburgh Road Local Centre, the Council accepted the levels of impact on the town centre did not undermine the vitality and viability of the town centre. This current proposal is likely to result in lower levels of impact given its scale. Its therefore logical to conclude that this current smaller proposal would not undermine the vitality and viability of the town centre.
- 5.10 The proposals are therefore compliant with the requirements of the Development Plan as it relates to the consideration of impact on the town centre. A significant material consideration exists in the form of the planning permission for Aldi at Eastfield. This sets a context in which to assess the current application but given it is smaller, it must be accepted that the impacts will be less.

Sequential Site Assessment

- 5.11 It is our position that the site is specifically allocated for retail development in the adopted LDP.
- 5.12 Paragraph 68 of SPP sets out the sequential approach and confirms that town centres (including Local Centres) is the first choice for retail development having regard to the town centres first principles.
- 5.13 As this site is located in the Edinburgh Road Local Centre, it therefore complies with the sequential approach and there is no requirement to assess potential sites in the town centre as this is on the same status as town centres. Under such circumstances case law is clear that there is no requirement to assess sites below or on the same standing for sequential purposes.

5.14 The proposal therefore complies with the sequential approach as set out in the adopted LDP and SPP.

Policy Considerations

5.15 The site is identified in the adopted Mid Lothian Local Development Plan as lying within the Edinburgh Road Local Centre where retail/Class 1 development is considered acceptable.

5.16 It has been demonstrated that contrary to the reasons for refusal of the previous application that the proposed retail and class 3 units would not have a significant detrimental impact on the vitality and viability of Penicuik town centre.

5.17 Having regard to the proposed Class 3 use, it is proposed that this would have an ancillary takeaway. In the report relating to application 19/0105/DPP it is stated that the site is within 400m of a school and therefore would have any takeaway restricted in line with the Supplementary Guidance.

5.18 The distances have been measured on site by means of a Trumeter Road Wheel. This provided the following measurements :

- Strathesk Primary School going from the site via the pavements 532 metres taking the most direct route via Tesco's car park past Kwikfit 452 metres
- Cuiken Primary School via pavement 620 metres via a path to the rear of the site 645 metres
- Beesslack High School 690 metres

5.19 On the basis of the above, there is no conflict with the distance of the proposed class 3 use and takeaway with schools.

5.20 The Supplementary Guidance also requires the consideration of concentration of Class 3 uses in the Local Centre. At present there is 40% Food and Drink units in the Local Centre. If approved, this would increase to 42%. As a result, the 50% threshold in the SG would not be breached in approving this application.

5.21 It also an important material consideration that Penicuik is an expanding town with new housing being developed. Table 1b in Appendix 2 sets out the new housing proposals in the Primary catchment area. For Penicuik this new housing will create additional retail demand, estimated at

£7.8M for convenience goods. This is in addition to the estimates provided above. The new housing alone could justify around 1950sq.m net of convenience floorspace. The existing retail provision in Penicuik Town Centre is not able to absorb all this new expenditure. As a result, it will most likely be spent outwith the catchment. However this proposal will improve the retail offer in the catchment and will provide these new residents improved choice given its location, close to these housing sites to the north of the town. This choice would reduce the need to travel to other locations outwith the catchment and would encourage the use of travel other than the car as the site is well located (on the north edge of the town close to the new housing) to act as a 'local centre' for these new communities as they are located in close proximity to the application site.

5.22 We therefore consider that there is sufficient information and material considerations to support the proposed development.

5.23 In addition, positive benefits will be delivered in terms of the redevelopment of what is currently a long-term vacant site that will be brought into full active economic use, which will directly benefit the local community in terms of increased choice, availability and accessibility to retail provision as well as creating opportunities for employment.

Conclusion

5.24 Taking all these considerations into account, it is evident that there are positive benefits associated with the proposals, which outweigh any minor impacts identified.

5.25 It is our opinion that the proposal:

- Is consistent with the Adopted LDP which allocates the site as a Local Centre where retail/Class 1 and Class 3 is supported
- Meets the policy criteria tests in the adopted LDP having regard to sequential and impact matters
- Will assist in meeting the requirements for retail floorspace set out in the Mid Lothian Retail Study
- A new retail convenience store has already been approved at the Local Centre, this proposal essentially replaces that development
- Will improve customer choice and accessibility

-
- Will provide additional employment opportunities
 - Will see a prominent vacant site be brought into economic use
 - The Food and Drink unit would not increase the level of such uses in the Local Centre to over 50%
 - The takeaway element associated with the smaller unit is not within 400m of a school

5.26 On this basis, the application should therefore be viewed favourably and granted planning permission.

Previous Refusal of Planning Permission

5.27 Dealing specifically with the reasons for refusal in relation to the previous application, reference 19/0105/DPP, we would comment as follows :

1. It has been demonstrated that the proposed retail and class 3 units would not have a significant detrimental impact on the vitality and viability of Penicuik town centre. As such the proposal does not conflict with policy TCR2 of the adopted Midlothian Local Development Plan 2017 and the adopted Supplementary Guidance.
2. The proposed access and turning space have been modified to address the road safety concerns and in particular tracking diagrams are now included showing how the largest vehicle ever likely to use the site can manoeuvre within the car park, leaving and entering the public road in forward gear. IN addition we have added a demarcated walking link from Unit 1 to Edinburgh Road footway, Unit 2 can also be accessed directly from existing footway, we have made provision for cycle parking and allowed for 2 no. EV charging spaces within the site
3. The service/delivery area is still located at the front of the unit. This is not an unusual situation and do not consider the limited time servicing is in operations would alter the character or amenity of the local centre in any significant way tha would justify refusal of planning permisison

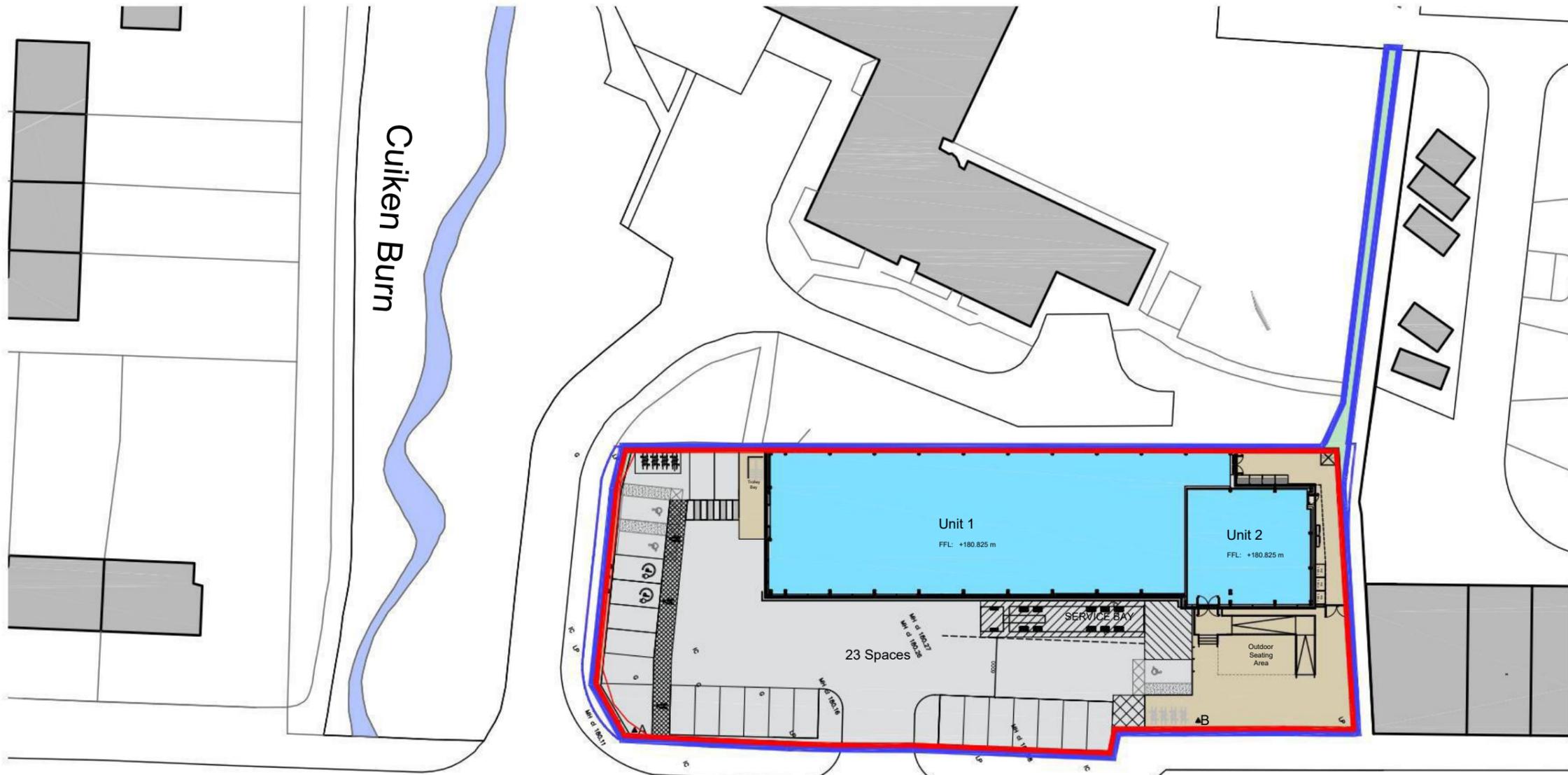
5.28 Overall, we consider this revised proposal adequately addresses the reasons for refusal of the previous application on the site.



Z A N D E R
P L A N N I N G

Appendices

Appendix 1



2. All sizes to be checked on site prior to construction.
3. This drawing is the copyright of the author.

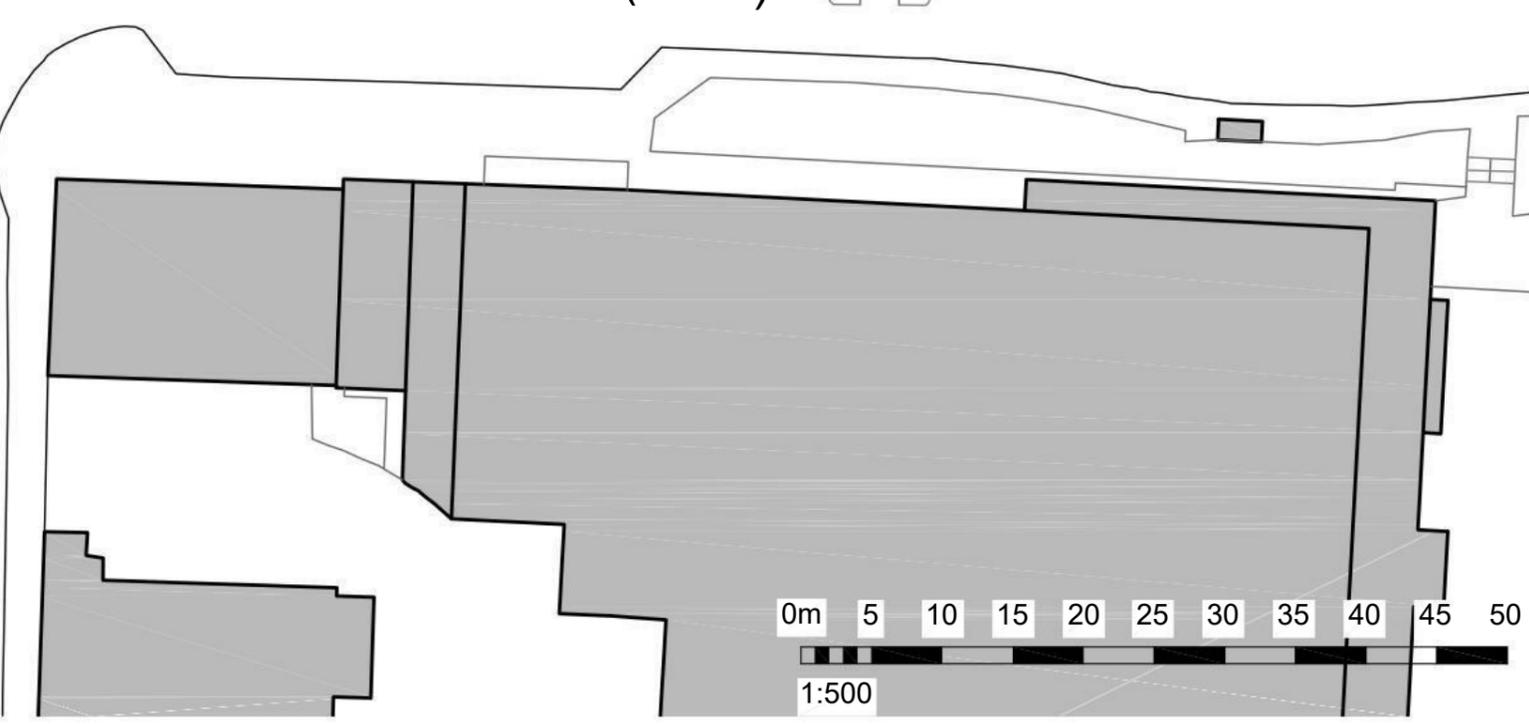
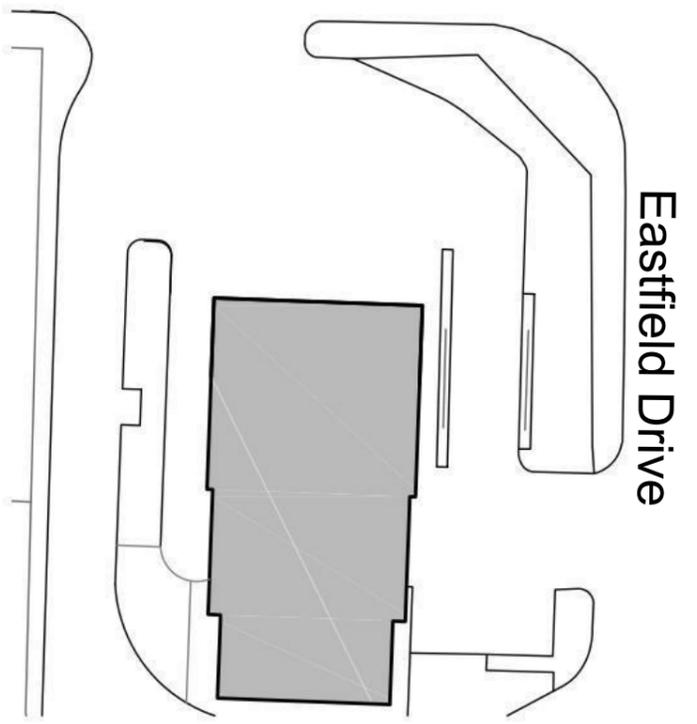


Key

- Site ownership boundary
- Application boundary (0.222 Ha / 0.549 Acres)
- Proposed Units (via extension & sub-division)

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4	24/08/2020 Updated in-line with AL(0)003 Proposed Site Plan	AGE
3	27/03/2020 Refuse bins relocated	AGE
2	2002/2020 Unit 2 repositioned to increase service yard.	AGE
1	08/11/2019 PLANNING ISSUE	SMC

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project Retail Unit
Edinburgh Road, Penicuik

drawing Location Plan original size A3

scale 1:500 drawn SMC

date 10.09.19 checked AD

status PLANNING passed

job no. G2789	drawing no. AL(0)001	revision 4
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Appendix 2

Table 1a - Population and Expenditure (Primary Catchment) in 2018 Prices

	2021			
	Population	2021 Expenditure per head (2012 Prices)	Expenditure per head 2021 (2018 Prices)	2021 Total Expenditure
convenience	18130	£2,290	£2,519	£45,660,748

Population and Expenditure provided by Pitney Bowes via Retailing and Town Centres Technical Report - Mid Lothian Council 2012

2021 Expenditure per head rebased from 2012 using Experian Retail Briefing Note 16

Table 1b Potential Additional Population

Additional Housing Allocations	Number of Units	Potential Population	Additional Convenience Expenditure
H25, H26, H58, Hs20	1294	3106	£7,821,512

Table 2 - Existing Floorspace and Turnover 2020 (2018 Price)							
	convenience			comparison			
Primary Catchment	net sq.m	turnover £ sq.m	benchmark turnover	net sq.m	turnover £ sq.m	benchmark turnover	total benchmark turnover
Penicuik Town Centre							
convenience shops	742	3500	£2,597,000				£2,597,000
Lidl	562	9500	£5,339,000				
comparison shops				2170	4000	£8,680,000	£8,680,000
Tesco	1620	11500	£18,630,000	540	6000	£3,240,000	£21,870,000
local shops	224	3000	£672,000	479	3000	£1,437,000	£2,109,000
Totals	3148		£27,238,000	3189		£13,357,000	£35,256,000

Table 3 - Shopping Patterns (Convenience)							
	expenditure retained	Expenditure spent outwith	Expenditure Spent in Penicuik TC	Expenditure spent in Tesco Eastfield	Expenditure spent in Penicuik TC	Expenditure spent in Tesco Eastfield	Totals
Primary Catchment							
Penicuik Catchment - Zone 3	59%	6%					
Main Food Shopping	£31,962,523						
Zone 3			8%	53%	£2,397,189	£17,036,025	£19,433,214
Zone 6			3%	1%	£894,951	£447,475	£1,342,426
Zone 9			4%	4%	£1,278,501	£1,278,501	£2,557,002
Supplementary Shopping	£9,132,150						
Zone 3			14%	24%	£1,269,369	£2,200,848	£3,470,217
Zone 6			2%	4%	£173,511	£347,022	£520,533
Zone 7			1%		£127,850	£0	£127,850
Zone 9			5%	10%	£438,343	£867,554	£1,305,897
Top Up Shopping	£4,566,075						
Zone 3			31%	52%	£1,415,483	£2,378,925	£3,794,408
Zone 4			2%		£73,057	£0	£73,057
Zone 6				2%	£0	£86,755	£86,755
Zone 12				2%	£0	£68,491	£68,491
					£8,068,254	£24,711,597	£32,779,851

* Shopping Patterns established by Retailing and Town Centres Technical Note 2012

Table 4 - existing and extimated turnover				
	convenience	Convenience		
Primary Catchment	benchmark turnover	Estimated Turnover	Difference £	Difference %
Penicuik Town Centre				
convenience shops	£2,597,000	£2,597,000	£0	0%
Lidl	£5,339,000	£5,471,254	£132,254	2%
Tesco Eastfield	£18,630,000	£24,711,597	£6,081,597	33%
local shops	£672,000	£672,000	£0	0%
Totals	£27,238,000	£33,451,851	£6,213,851	

Table 5 - Proposed Floorspace and Turnover

Proposed retail development	gross floorspace (GIFA)	net convenience floorspace	turnover £ per sq.m	total convenience turnover
Unit 1	621	558	4000	£2,232,000
Unit 2	144			
totals	765	558		£2,232,000

* net floorspace refers to retail or trading floorspace excluding areas behind checkouts, back of house, lobbys, storage and staff accommodation, customer café and toilets

Table 6 - Available Convenience Expenditure in Primary Catchment

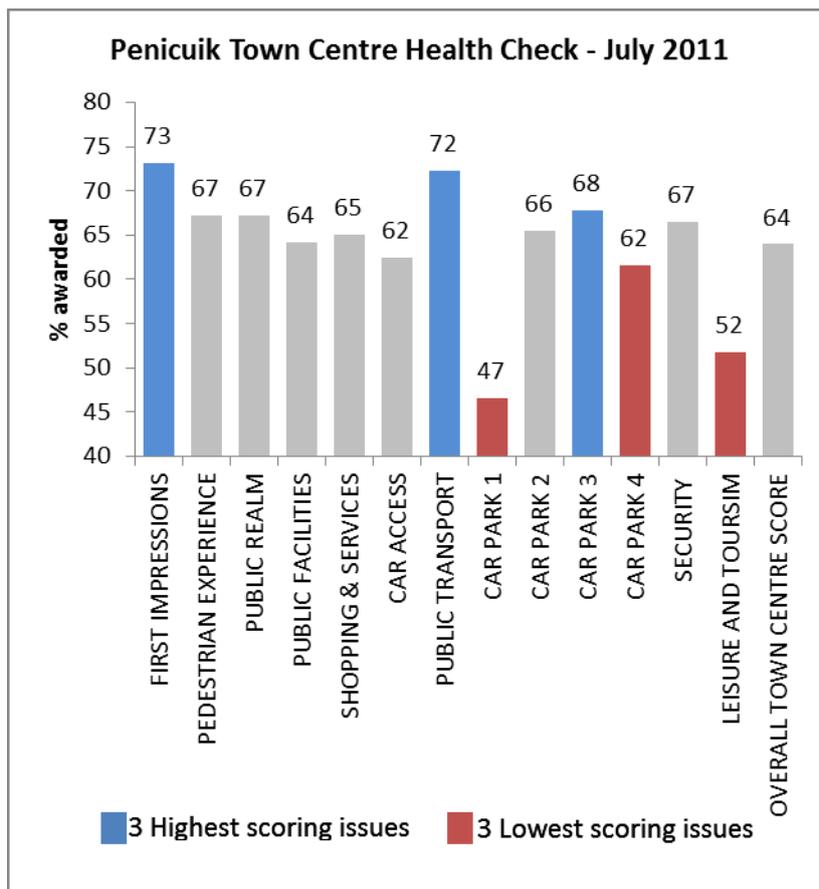
Penicuik (Primary Catchment)	2021
Total Locally Derived Convenience Expenditure	£45,660,748
Convenience Expenditure retained in Catchment	£26,697,839
Convenience Expenditure Imported	£6,082,012
Total Convenience Expenditure	£51,742,759
Estimated turnover v benchmark turnover	£6,213,851
Convenience Expenditure spent outwith Catchment	£18,962,909
Plus future expenditure growth from housing	£7,821,512
Total Potentially Available Convenience Expenditure	£32,998,272

Table 7 - Convenience Trade Diversions 2021						
Primary Catchment	benchmark turnover	Estimated turnover	trade diversion	Trade Diversion	Residual Estimated turnover	Residual compared to benchmark turnover
Penicuik Town Centre						
convenience shops	£2,597,000	£2,597,000	10%	£178,560	£2,418,440	-£178,560
Lidl	£5,339,000	£5,471,254	25%	£446,400	£5,024,854	-£314,146
Town Centre Total	£7,936,000	£8,068,254			£7,443,294	-£492,706
Tesco	£18,630,000	£24,711,597	65%	£1,160,640	£23,550,957	£4,920,957
local shops	£672,000	£672,000	0%	£0	£672,000	£0
From catchment 80%				£1,785,600		
Clawback			20%	£446,400		
Totals	£27,238,000	£33,451,851		£2,232,000	£31,666,251	£4,428,251

Table 8 - Predicted Convenience Impacts				
Primary Catchment	Estimated turnover 2021	Trade Diversion	Convenience Impact	Impact on Town Centre
Penicuik Town Centre				
convenience shops	£2,597,000	£178,560	-7%	-1%
Lidl	£5,471,254	£446,400	-8%	-3%
Comparison Shops	£8,680,000	£0	0%	0%
	£16,748,254	£624,960	-8%	-4%
Tesco	£24,711,597	£1,160,640	-5%	
local shops	£672,000	£0	0%	
Totals	£42,131,851	£1,785,600		

Table 9 - Summary of Retail Impacts			Sensitivity Test = + ?% of turnover on Table 5		
	Impact on Convenience Turnover	Impact on Town Centre Turnover	20%	30%%	50%
Penicuik Town Centre	-8%	-4%	-4%	-5%	-6%

Appendix 3



Penicuik car park 1 is Bank Street, adjacent to public toilets; car park 2 is at Lidl; car park 3 is at Kentigern Mall; car park 4 is at High Street.

The health checks identified common themes across Midlothian's strategic town centres. All three towns scored highly for public transport and the panel felt that this was an asset to each of the towns. Car parking was an issue noted by the panel in all three town centres.

In all three towns Leisure and Tourism scored low. It was noted by the panel that there were few activities for teenagers in the town centres.

In Dalkeith the 'Public Realm and Public Facilities' criterion score was low. When the assessments were undertaken in 2011, Dalkeith was in the midst of environmental improvement works. It is hoped that the work undertaken will have helped address this matter and created a more pleasant town centre environment. This improvement is expected to be reflected in the public realm scores in 2012.

Since the 2011 survey several retail units have closed in Penicuik, and this centre, which had the highest overall score of the three in 2011, may not have been assessed so positively in the 2012 assessment. However, environmental improvements have been implemented in Penicuik town centre also.

There do not appear to have been significant changes in Bonnyrigg between 2011 and 2012. Environmental improvements to the public realm were implemented in 2004/5.

Appendix 4

RESULTS 2016

Penicuik Town Centre Health Check

Date	tbc
Time	tbc
Weather	tbc

<u>Penicuik</u>	<u>%</u>
FIRST IMPRESSIONS	64.79
PEDESTRIAN EXPERIENCE	60.26
PUBLIC REALM	58.14
PUBLIC FACILITIES	53.74
SHOPPING & SERVICES	51.98
CAR ACCESS	55.94
PUBLIC TRANSPORT	58.42
CAR PARK 1	39.81
CAR PARK 2	68.52
CAR PARK 3	58.33
CAR PARK 4	58.08
SECURITY	62.05
LEISURE AND TOURISM	51.43
OVERALL TOWN CENTRE SCORE	57.04

CAR PARKING AVERAGE SCORE

CAR PARK 1	39.81
CAR PARK 2	68.52
CAR PARK 3	58.33
CAR PARK 4	58.08
CAR PARK AVERAGE	56.19

Penicuik Town Centre Health Check 2016

RANKED FROM LOWEST TO HIGHEST

LEISURE AND TOURISM	51.43
SHOPPING AND SERVICES	51.98
PUBLIC FACILITIES	53.74
CAR ACCESS	55.94
CAR PARK	56.19
PUBLIC REALM	58.14
PUBLIC TRANSPORT	58.42
PEDESTRIAN EXPERIENCE	60.26
SECURITY	62.05
FIRST IMPRESSIONS	64.79
OVERALL TOWN CENTRE SCORE	57.29

<u>3 Highest Scoring Issues in Penicuik TC</u>	%
FIRST IMPRESSIONS	64.79
SECURITY	62.05
PEDESTRIAN EXPERIENCE	60.26

<u>3 Lowest Scoring Issues in Penicuik TC</u>	%
LEISURE AND TOURISM	51.43
SHOPPING AND SERVICES	51.98
PUBLIC FACILITIES	53.74

Appendix 5

PENICUIK SHOPPING CENTRE

Penicuik's Prime
Retail Offer

bargain buys

big brands, big discounts

OPENED AUTUMN 2019



- Scheme anchored by **bargain buys** and **jobcentreplus**
- 96 car parking spaces
- Excellent public transport links
- Other key tenants include:



PENICUIK SHOPPING CENTRE EH26 8AB



UNIT	GROUND FLOOR	FIRST FLOOR	RATEABLE VALUE	SERVICE CHARGE (PER ANNUM)	QUOTING RENT (PER ANNUM)
3	798 sq ft (74.14 sq m)	662 sq ft (61.50 sq m)	£12,200	£1,605	£15,000
5B	752 sq ft (69.83 sq m)	659 sq ft (61.19 sq m)	£12,500	£1,733	£15,500
8	842 sq ft (78.23 sq m)	N/A	£14,900	£1,031	£14,000

For further information please contact the lettings agents:



Richard Ford
richard@reithlambert.co.uk
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Isla Monteith
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0131 247 3746
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0131 247 3705

Reith Lambert LLP for themselves and for the vendor of the property give notice that: i) these particulars of sale are a general outline for the guidance of intending purchasers and do not constitute all or any part of any offer or contract. ii) intending purchasers should satisfy themselves as to the accuracy of descriptions, dimensions, references to condition, permitted use and other details all of which are given without any warranty whatsoever. iii) unless otherwise stated all rents and prices are quoted exclusive of VAT. iv) they have not conducted and are not aware of any investigations into any potential or actual pollution or contamination of the building, land, air, or water and give no warranties whatsoever in respect thereof, of which prospective purchasers should satisfy themselves. v) in accordance with the terms of the Requirements of Writing (Scotland) Act 1995 these particulars are not intended to create any contractual relationship or commitment which can only be entered into by exchange of missives between respective solicitors. Date of Publication: October 2019

Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

Reg. No. 20/00562/DPP

Zander Planning Ltd
Clyde Offices
2nd Floor
48 West George Street
Glasgow
G2 1BP

Midlothian Council, as Planning Authority, having considered the application by A F Noble and Sons, 2A Eastfield Farm Road, Eastfield Farm Industrial Estate, Penicuik, EH26 8EZ, which was registered on 2 September 2020 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

Erection of retail (class 1) and food and drink (class 3) units, formation of car park, creation of external seating area and erection of fence and gates at 18 - 20 Edinburgh Road, Penicuik, EH26 8NW

in accordance with the application and the following documents/drawings:

<u>Document/Drawing</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	AL(0)001 5 1:1250	02.09.2020
Site Plan	AL(0)001 4 1:500	02.09.2020
Site Plan	AL(0)003 6 1:200	02.09.2020
Proposed Floor Plan	AL(0)005 6 1:125	02.09.2020
Proposed Elevations	AL(0)009 5 1:100	02.09.2020

The reason(s) for the Council's decision are set out below:

- 1. It has not been demonstrated that the proposed retail and class 3 units would not have a significant detrimental impact on the vitality and viability of Penicuik town centre and so the proposal does not comply with policy TCR2 of the Midlothian Local Development Plan and the Scottish Planning Policy, both of which aim to prioritise and protect town centres through the town centre first principle.*
- 2. The proposed access and turning space within the site raises road safety concerns which would be to the detriment of the safety of road users and customers of the proposed units.*
- 3. The service/delivery area, being located to the front of the building, will have an adverse impact on the appearance of the area, thereby not complying with policy DEV2 of the adopted Midlothian Local Development Plan 2017.*

4. *The proposed ancillary takeaway for the class 3 unit is within 400m of the curtilage of Strathesk Primary School and so the proposal does not comply with the adopted Supplementary Guidance for Food and Drink and Other Non-retail Uses in Town Centres.*

Dated 18 / 6 / 2021



.....
Duncan Robertson
Lead Officer – Local Developments
Fairfield House, 8 Lothian Road, Dalkeith, EH22 3ZN

MIDLOTHIAN COUNCIL

DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

Planning Application Reference: 20/00562/DPP

Site Address: 18-20 Edinburgh Road, Penicuik.

Site Description: The application site comprises a vacant plot that previously housed a car showroom and associated parking area. The building on site has been removed, with only the metal frame and hardstanding remaining. There is a dropped kerb access to the site which has been blocked off by a low barrier. There is housing to the south and west, housing and public footpath and a terrace of commercial units to the north and a superstore and commercial units to the east. The houses in the area are generally two storey semi-detached or terraced, with a three storey flatted block to the west. The site is within a local commercial centre.

Proposed Development: Erection of retail (class 1) and food and drink (class 3) units, formation of car park, creation of external seating area and erection of fence and gates.

Proposed Development Details: A single storey commercial building is proposed. The building is to be split into two units, one for class 1 use, the other class 3 with ancillary takeaway. The building will be adjacent to the western boundary and will measure 56 metres long by a total of 16 metres deep with a flat roof 5.8 metres high. There are areas of signage that are 6.2 metres high. The smaller of the two units, for class 3 use, will project 1 metre forward of the larger unit. The plans state the building is to be large areas of glazing and black and silver composite panels with grey capping. The plans refer to facing brick to match existing but it is not clear where this will be on the building. This may be the hardstanding on site.

The service area will be to the front of the class 1 unit with bin storage to the rear of the units. An external seating area is proposed to the front of the class 3 unit. The car park will be between Edinburgh Road and the proposed building, with the existing vehicular access widened from 7.1 meters to 7.3 metres. Twenty-three parking spaces provided, three of which are wider access and two include electric vehicle charging points. The cycle parking areas are proposed and there is a new pedestrian access formed from Edinburgh Road. The building will connect to the public water supply. Fencing and gates are proposed. No details of their appearance or dimensions are submitted, however it appears from the elevation plans the fencing around the bin store area is 3 metres high and the fencing to the rear of the site is 2 metres high. The gate appears to be by the class 3 unit and the bin store and is set within the 3 metre high fencing.

A Planning and Retail Statement provides justification for the proposal. The previous car showroom on site was operated since 1997 and before this the site was a food retail unit. Since the car sales use ceased in 2019, the site has been actively marketed with interest for retail and restaurant uses. The use would generate 20 jobs. The applicant states that the proposal would not have a significant adverse

impact on, or undermine the vitality or viability of, Penicuik town centre but will bring benefits, including bringing a vacant site back into economic use, create employment and provide additional retail choice. The statement also makes reference to a previous approval for a foodstore to the rear of the Tesco unit in 2008 which has not been developed but shows that the Council accepted that this did not detrimentally affect Penicuik town centre and so it follows that the current proposal would not either. Given the site is within a local centre, this complies with the sequential approach for sites in the MLDP. As measured on foot, the site is outwith 400 metres of the nearest school and so any take away element of the class 3 unit would not be contrary to the adopted SG. This would also not result in 50% of the local centre being in food and drink use.

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

19/01053/DPP Erection of retail (class 1) and food and drink (class 3) units, formation of car park, creation of external seating area and erection of fence and gates. Refused – it was not demonstrated that the proposal would not have a significant detrimental impact on the vitality and viability of Penicuik town centre; road safety concerns over the access and turning space; the service/delivery area to the front of the units would have an adverse impact on the appearance of the area; does not comply policies TCR2 and DEV2 or the SG.

06/00872/FUL Change of use of amenity open space to hardstanding for car sales showroom. Consent with conditions.

Consultations:

The Council's **Policy and Road Safety Manager** has no objection but requires details of the vehicle access, the electric vehicle charging units and the cycle parking should permission be approved.

Scottish Water has no objection but states they will not accept any surface water connections to the combined sewer.

The **Penicuik and District Community Council** has objected. There is no evidence that there has been any material change since the previous refusal of a similar development at the site. They highlight discrepancies between shop operators in Penicuik town centre and the planning statement. They also highlight the ongoing conservation area regeneration works taking place in the town centre, relating to improvements and repairs to buildings, and that it is important that the area is vibrant and viable to help make the regeneration project a success.

The applicant's agent has responded to the comments made by the Community Council.

Representations: Two objections have been received on the following grounds:

- The supporting statement is incorrect in referencing two units in Penicuik town centre that are no longer trading;
- The proposed foodstore will directly compete with a store in Penicuik town centre which will result in closures in the town centre and more vacant units;

- The submitted information does not demonstrate that there would be no adverse impact on Penicuik Town Centre;
- The existing vacant units in Penicuik Town Centre are being actively marketed with little success to secure and maintain occupants in class 1 and 3 uses;
- The vacancy levels and time taken to let out units in Penicuik Town Centre indicate the area is in a poor state of health and the proposal could lead to relocation of occupiers of existing units and further reduce footfall;
- The proposed development could be located in Penicuik Town Centre - no sequential assessment has been carried out to show why such sites are not suitable; and
- It is vital that new retail uses are directed to the Town Centre to promote it and protect the vibrancy and vitality.

Relevant Planning Policies:

The relevant policies of the **2017 Midlothian Local Development Plan** are;
DEV2 Protecting Amenity within the Built-Up Area advises that development will not be permitted where it is likely to detract materially from the existing character or amenity of the area;

DEV5 Sustainability in New Development sets out the requirements for development with regards to sustainability principles;

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, passive energy gain, positioning of buildings, open and private amenity space provision and parking;

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;

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;

IT1 Digital Infrastructure supports the incorporation of high speed broadband connections and other digital technologies into new homes, business properties and redevelopment proposals; and

TCR2 Location of New Retail and Commercial Leisure Facilities states that the Council will apply a sequential town centre first approach to the assessment of such applications. This directs retail developments to the following areas in order:
 Town Centre - Bonnyrigg, Dalkeith, Gorebridge, Loanhead, Mayfield, Newtongrange, Penicuik, Shawfair

Commercial centre – Straiton Commercial Centre

Potential out of centre location - Main corridor from Gorebridge/Redheugh to Newtongrange

Local Centres - Danderhall, Bonnyrigg/Hopefield, Bonnyrigg/Poltonhall, Dalkeith/Thornybank, Dalkeith/Wester Cowden, Dalkeith/Woodburn, Eskbank Toll, Gorebridge/Hunterfield Road, Bilston, Penicuik/Edinburgh Road, Roslin and Pathhead

The adopted **Supplementary Guidance on Food & Drink and Other Non-Retail Uses in Town Centres** reflects and elaborates on this policy, stating that the creation of retail and commercial leisure facilities outwith town centres must comply with policy TCR2. As a town centre first sequential test applies, applications for such development outwith town centres must demonstrate this will not undermine the vitality and viability of town centres within the expected catchment of the proposed development. Retail Impact Assessments will be required for all proposals of more than 2,500 square metres gross floor area, and also smaller proposals where the Council is of the view these may pose a threat to existing centres.

Where new development gives rise to a need, the local development plan gives scope for the Planning Authority to secure measures which will mitigate specific adverse impacts in terms of local infrastructure. Opportunities to improve town centres are set out in the settlement statements within the MLDP, however other measures may be brought forward during the lifetime of the plan and this Supplementary Guidance.

The SG also provides guidance on food and drink units outwith town centres. This states that whilst local centres can accommodate such uses, this must not result in overprovision and there shall be no take away facilities within 400 metres of a primary or secondary school. Details of the hours and days of operation, ventilation, types of foods and bin storage are required if there is a takeaway element.

The **Scottish Planning Policy** (SPP) sets out the Scottish Government's expectations with regards to development in Scotland. With regards to retail developments the SPP states that the planning system should apply a town centre first policy. This position is further clarified in paragraph 68 of the SPP where it is stated that a sequential town centre first approach must be applied, requiring the following locations for high footfall generating uses to be considered in the following order of preference:

- Town centres (including city centres and local centres);
- Edge of town centre;
- Other commercial centres identified in the development plan; and
- Out-of-centre locations that are, or can be, made easily accessible by a choice of transport modes.

The SPP goes on to state that out-of-centre locations should only be considered for uses which generate significant footfall where:

- All town centre, edge of town centre and other commercial centre options have been assessed and discounted as unsuitable or unviable;
- The scale of development proposed is appropriate, and it has been shown that the proposal cannot reasonably be altered or reduced in scale to allow it to be accommodated at a sequentially preferable location;
- The proposal will help to meet qualitative or quantitative deficiencies; and
- There will be no significant adverse effect on the vitality and viability of existing town centres.

The relevant policies of the **Edinburgh and South East Scotland Strategic Development Plan 2013 (SESplan)** are:

Policy 3, the support for the SPP by requiring local development plans to:

- Identify town centres and commercial centres and clearly define their roles
- Support and promote the network of centres identified by SESplan and to identify measures necessary to protect these centres; and
- Promote a sequential approach to the selection of locations for retail proposals. Any exceptions identified through local development plans should be fully justified.

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

Principle of development

The application site is located within the identified built-up area of Penicuik and as such there is a presumption in favour of some form of development provided it is compatible with surrounding uses.

Consideration of the site for retail and food and drink use

The MLDP, through policy TCR2, reflects and applies Policy 3 of the Strategic Development Plan which seeks to: identify town centres and define their roles; set out a network of centres including criteria to be addressed in assessing proposals; and, promote a sequential approach to the selection of locations for retail development. Policy TCR2 sets out policy support for development in (depending on circumstances) town centres, at Straiton commercial hub, and for new convenience shopping in the Gorebridge/Newtongrange area. The application site does not fit any of these supported locations.

Policy TCR2 also supports the development of new local centres/neighbourhood centres up to a scale of 1,000 square metres gross floor area (either in identified local centres or elsewhere within the built-up area where new housing is not adequately served by existing shopping facilities), provided this does not undermine the vitality and viability of any of Midlothian's town centres. The application site is within the local centre of Penicuik/Edinburgh Road, as detailed in the MLDP, where there are a variety of commercial units.

It is necessary to determine conformity with the MLDP by considering the key questions of; whether the scale of the proposal is excessive in the context of policy TCR2 support for local centres; and, whether the proposal, if approved, will adversely impact on vitality and viability of local town centres.

The footprint of the proposed development is under 1000 square metres and so is in line with the new shopping facilities section of policy TCR2.

There could be some support for a retail and class 3 development here provided it is demonstrated this would not undermine the vitality and viability of town centres within the expected catchment of the proposed development - in this case Penicuik town centre.

Impact on Penicuik town centre

In considering the application an assessment of the development's potential impact on the town centre is fundamental, with a view of protecting town centres in line with national and local policies and priorities. The planning authority must be satisfied that the trade diversion figures for affected town centres, and the process by which they have been arrived at, are reasonable and then assess to what extent the scale of diversion is significant.

The 2012 Midlothian Retail Study by RDPC Ltd can be considered outdated, but has been utilised by the applicant and the planning authority when assessing the impact of the proposal.

This 2012 study looked at leakage in and out of Midlothian and flows from other parts of Midlothian. While it has been Midlothian's experience that new retail floorspace has reduced leakage, Midlothian is strongly linked to neighbouring local authorities through commuter flows, and this lack of self-containment will be reflected in expenditure patterns with leakage appearing to reach a ceiling at the time of the 2012 study.

In terms of turnover of the existing stores in the catchment proposal, in the context of flows from other parts of Midlothian there seems to be potential overall surplus expenditure to accommodate an additional store within the A701 corridor of the proposals projected turnover, as per the projection in table 52 of the 2012 study. This is referred to in the information submitted by the applicant's agent and rebased at current prices. However changes since 2012, particularly the slower growth rate in per capita spending on convenience goods, may have invalidated these assumption and there is now an increasing degree of uncertainty. This is due to the age of the study and changes in the convenience market, such as the growth of discount retailers. The rise of discount supermarkets and slower than expected growth in the convenience sector are factors which have emerged in the nearly 10 years since the 2012 study was commissioned, and will serve to further dampen the available quantity of surplus expenditure. Table 46 of the 2012 study considered retail locations in the context of how much notional turnover was required for them to trade at a healthy rate: the Tesco at Eastfield Road was found to be overtrading and the town centre undertrading. The undertrading does point to potential vulnerability of Penicuik to further abstraction, although it is acknowledged the 2012 study is increasingly dated and the additional housing growth reflected in the future projections in that study may be acting to rectify this.

It is reasonable for a development of the size proposed to have a localised catchment and so the Penicuik Zone in the 2012 retail study is used. It should be noted that the 2012 study projected population used expected housebuilding rates from the approved housing land audit at the time. The housing sites in the Penicuik area were slow to commence due to infrastructure constraints and so the population in the target opening year of 2021 may be lower than anticipated in 2012. Other than one site, the other Penicuik housing sites were known quantities in 2011 and an allowance was made for new housing to meet the requirements of the then emerging SDP for the SESplan area. Therefore the additional housing referred to in the report by the applicant's agent is already accounted for.

In terms of trade diversion, the information submitted assumes that 80% of trade will be drawn from the Penicuik area. The 2012 study found that the Tesco opposite the site took 97% and Penicuik town centre 86% respectively of their convenience trade from the Penicuik catchment. However it is not considered that these differences are of great significance and so the proposed estimate of trade draw from the catchment of 80% is accepted. The suggested trade diversion estimates do not seem unreasonable and it seems logical that the greatest trade draw would be from the store nearest to the site i.e. Tesco. It is worth noting that the turnover of the store appears very low compared to other recent projects considered by the planning authority by a factor of about three.

In regards, turnover of development, there does not appear to be an indication of the likely end user in the Information submitted, such as if this is a discount retailer. The sales density originally quoted is about a third of the level quoted in a recent RIA for the Aldi convenience proposal at Thornybank, Dalkeith.

The RDPC study is relatively old and the current performance of similar stores elsewhere may be a better basis to assess current turnover than historic performance in a location. However the 2012 study pointed to convenience sector undertrading in Penicuik at the time and it is reasonable therefore to include in the RIA a sensitivity test based on updating the RDPC figures to the current price base, i.e. £5.43 million convenience turnover at 2018 prices.

It is therefore key to consider what percentage of trade diversion would be significant. There is no set percentage at which a trade diversion becomes significant and it will depend on how marginal the stores are. The 2012 Midlothian Retail Study showed undertrading however it is acknowledged the data itself is now reasonably old. The convenience stores, namely Lidl and B&M, 'anchor' the town centre and their loss would significantly affect the viability and vitality of the town centre.

There is not a specific set level at which trade diversion becomes significant, and if town centre operators are under trading even a small abstraction could impact on viability. If one or more town centre stores were to become unviable and, in the worst case, cease trading this would have a significantly adverse impact on the vitality and viability of a protected town centre. On this basis of the information above and assuming the same trade diversion estimates in Table 7 of the RIA, Penicuik town centre would lose about 20% of its convenience trade.

It is well documented that town centres and high streets across the country are facing challenging conditions, particularly in terms of changing shopping habits and having to deal with a Covid-19 and a post-Covid-19 environment. Town centres will require all the assistance they can get if they are to survive and act as sustainable community spaces. A diversion rate of around 20% from Penicuik town centre is significant in this context. It is possible that serious harm could be caused to the vitality and viability of the town centre as a result of siting a foodstore with a large floorspace on the application site.

The planning authority have concerns over the viability and vitality of Penicuik town centre. Whilst the High Street area has a low vacancy rate and a range of food,

retail and professional services, the pedestrianised John Street area has vacant units. There is a concern that this area is struggling to attract occupiers for the units. Agents for the owner of a number of units in Penicuik town centre has submitted an objection to the application. They state that they have been trying to encourage footfall and enhance the area, including temporary leases at reduced rents in order to limit the number of vacant units in the centre with limited success and they have strong concerns that the proposal would further impact their efforts in the town centre.

The planning authority would like to see vacant units in town centres being occupied before any new units are approved at out of town centre locations which will take existing trade away from town centres. There are units available in the town centre that could accommodate the proposed units that are in proximity to parking and have good public transport access.

The proposed retail (class 1) unit has a footprint of 640 square metres. There are two similarly sized units within Penicuik Town Centre – one 740 square metres and is currently vacant; the other is 541 square metres. This is not currently vacant but the agent acting for the owner of this site has said this is occupied on a temporary basis while trying to attract occupiers.

The proposed food and drink (class 3) unit has a footprint of 160 square metres. There are a number of vacant units within Penicuik town centre which are around 100 square metres and another than is 260 square metres. The agent acting for the owner of a number of units in Penicuik Town Centre has stated there is a unit of 150 square metres that is now vacant.

The references the supporting information includes to two units no longer trading appear to be a result of the applicant's agent not being able to visit Penicuik town centre due to restrictions on movement due to the pandemic. The case officer has visited the town centre a number of times during 2021 (both during and outwith lockdown periods) and based the assessment of the application on the vacancy levels at this time. As of April 2021, there are at least 7 vacant units within Penicuik town centre. As detailed above, the planning authority would like to see the existing units in the town centre occupied before allowing the development of new commercial units outwith the town centre.

Works to promote PTC

The Council is investing in Penicuik town centre through conservation area regeneration works that are mainly taking place in the High Street area. This includes improvements and repairs to buildings to improve the overall character of the area. Previous similar schemes in Dalkeith and Gorebridge town centres have seen not only an improvement in the physical buildings but also an improvement in the character of the wider town centre area. Supporting the current proposal would appear to contradict with other efforts by the Council to protect, enhance and promote Penicuik town centre.

Employment generation

The applicant's agent states the proposal would create 20 jobs, a mix of full and part time. While job creation is an important factor in the consideration of this planning

application, and a Council priority, given the outcome of the above assessment of the impact of the proposal on the town centre the creation of jobs at the application site could be potentially detrimental to existing employment within the town centre. If it were the case that jobs were to be lost in the town centre as a result of out-of-centre commercial units foodstore this would not be a sustainable approach to job creation.

Design

The proposed building is relatively simple in design, with a flat roof and large areas of glazing that makes this clearly have the appearance of a commercial building. This would not detract from the character and appearance of the surrounding area.

Impact on area/local residents

The building is in approximately the same footprint and of the same scale as the previous building on site and so it is not considered that there would be a significant impact on the light to surrounding properties or have an overbearing impact compared to what was there previously.

There are no windows on the gables of the commercial units to the north which would be adversely affected by noise from customers using the external seating area, any ventilation required or the service area.

Transport and access

The existing access is to be widened and used by customers and service vehicles. The Policy and Road Safety Manager has not raised any concerns over this widening or the manoeuvrability of delivery vehicles to the front of the units and the relationship with the customer parking spaces. The parking area appears small to accommodate deliveries and manoeuvring room for larger vehicles. In addition, the service delivery area is located to the front of the proposed building, having a potential adverse impact on the visual amenity of the street scene.

The plans show electric vehicle charging points for two parking spaces. This is welcomed, however this should be increased to 4 parking spaces to meet with the guidance prepared by the Planning Authority.

Other matters

The application site is within 400 metres of Strathesk Primary School and so there is no support for any ancillary takeaway element during school hours from the proposed class 3 unit. The applicant's agent has stated that the site is outwith 400 metres from the nearest school, based on walking routes. However the SG is map based.

Planning Obligations

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

In relation to Midlothian Council, policies relevant to the use of Section 75 agreements are set out in the adopted Midlothian Local Development Plan 2017 and Midlothian Council Developer Contributions Guidelines (Supplementary Planning Guidance) and Supplementary Planning Guidance on Affordable Housing both approved in March 2012.

This proposed development, of which the principal element is the provision of commercial units, has been assessed in relation to the above guidance and it is considered that a Planning Obligation is required in respect of the following areas:

A701 Relief Road

The site is in proximity to the proposed A701 Relief Road. The 2017 Local Development Plan requires that the site contributes towards the delivery of this A701 Relief Road.

Recommendation: Refuse planning permission.

Appendix E

2. All sizes to be checked on site prior to construction.
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Key

- Site ownership boundary
- Application boundary (0.222 Ha / 0.549 Acres)

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5	01/09/2020	PLANNING ISSUE	AGE
4	24/08/2020	Updated in-line with AL(0)003 Proposed Site Plan	AGE
3	27/03/2020	Refuse bins relocated	AGE
2	2002/2020	Unit 2 repositioned to increase service yard.	AGE
1	08/11/2019	PLANNING ISSUE	SMC

smith design associates
www.smithdesign.co.uk

Chartered Architects
16 Lynedoch Crescent, Glasgow G3 6EQ
0141 353 3501

client
A F NOBLE & SON (PENICUIK) LIMITED

project
Retail Unit
Edinburgh Road, Penicuik

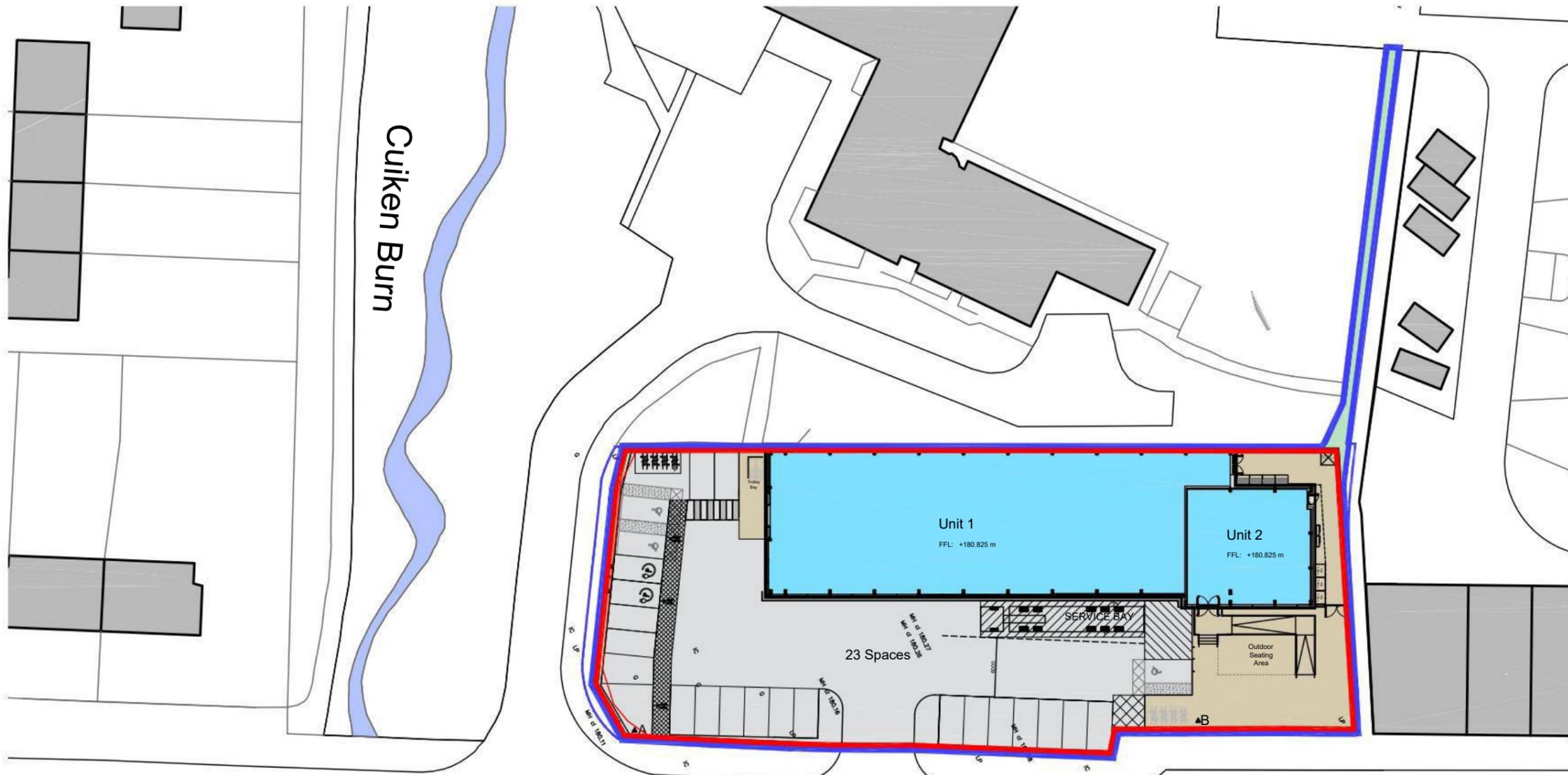
drawing
Location Plan
original size
A3

scale
1:1250
drawn
SMC

date
10.09.19
checked

status
PLANNING
passed

job no.
G2789
drawing no.
AL(0)001
revision
5



2. All sizes to be checked on site prior to construction.
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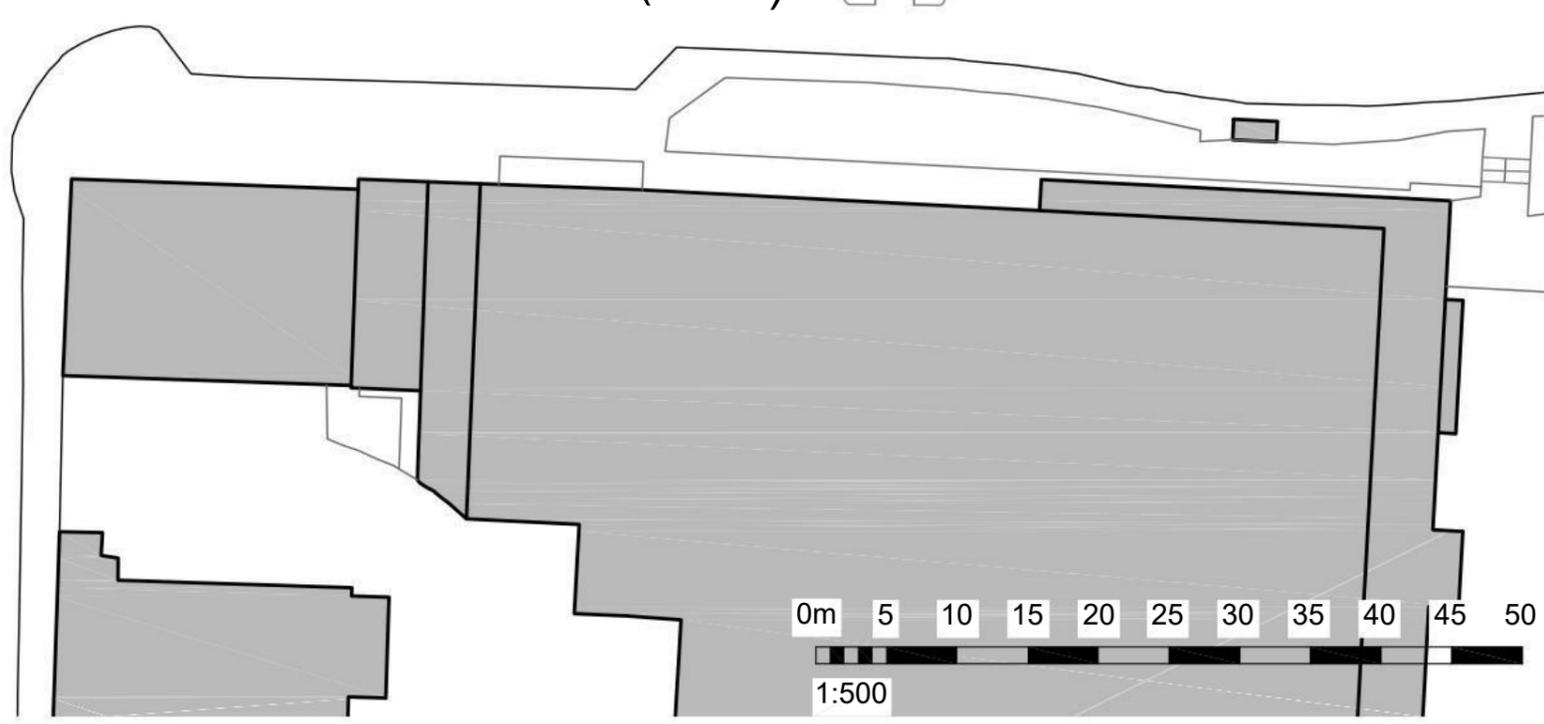
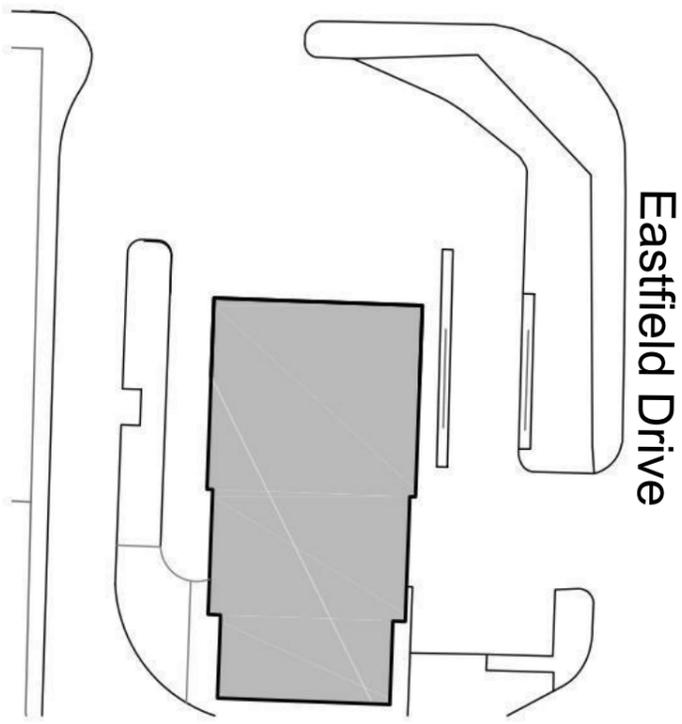


Key

- Site ownership boundary
- Application boundary (0.222 Ha / 0.549 Acres)
- Proposed Units (via extension & sub-division)

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4	24/08/2020 Updated in-line with AL(0)003 Proposed Site Plan	AGE
3	27/03/2020 Refuse bins relocated	AGE
2	2002/2020 Unit 2 repositioned to increase service yard.	AGE
1	08/11/2019 PLANNING ISSUE	SMC

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0141 353 3501

client A F NOBLE & SON (PENICUIK) LIMITED

project Retail Unit
Edinburgh Road, Penicuik

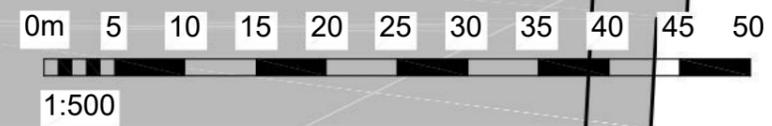
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scale 1:500 drawn SMC

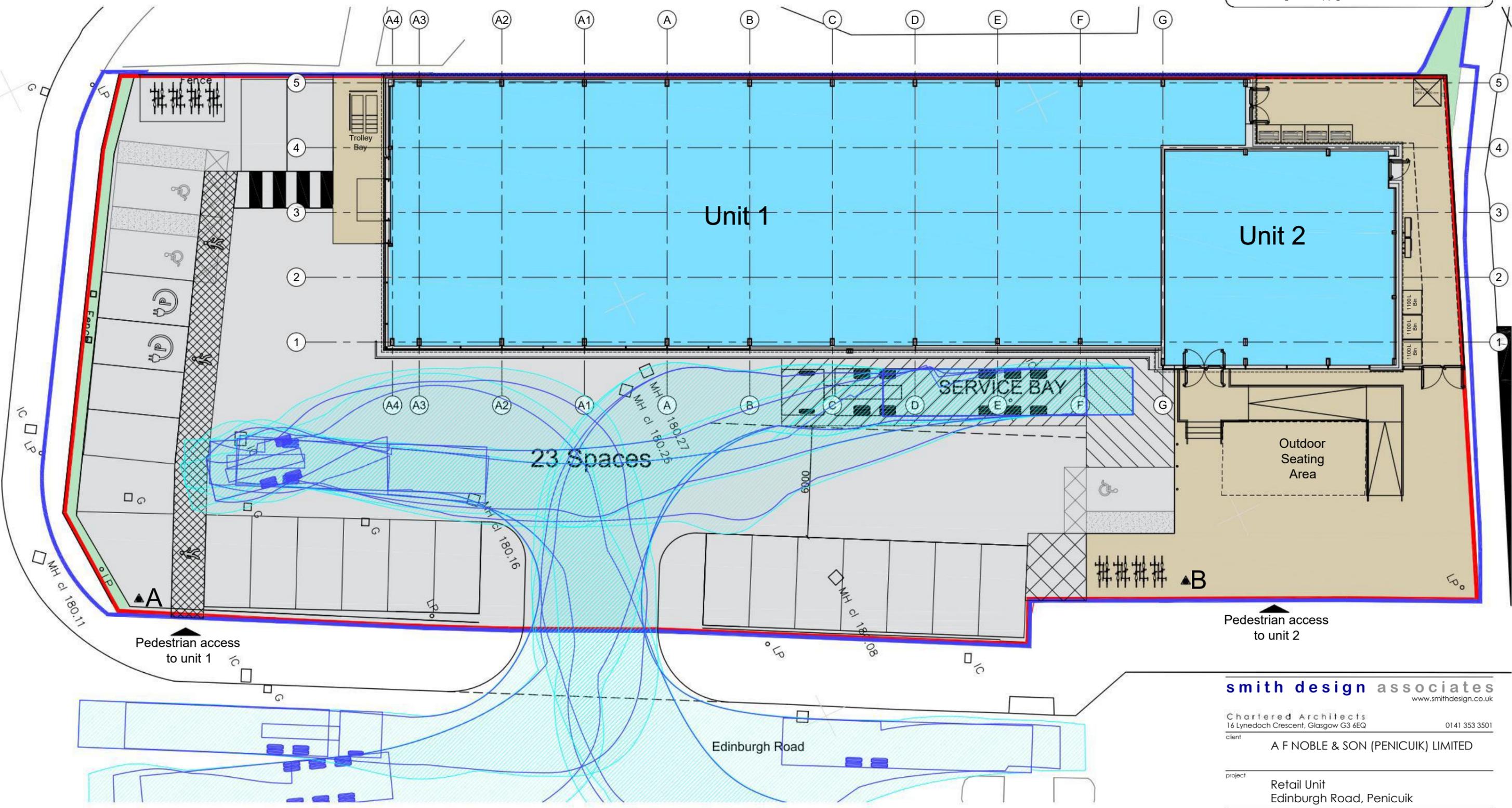
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status PLANNING passed

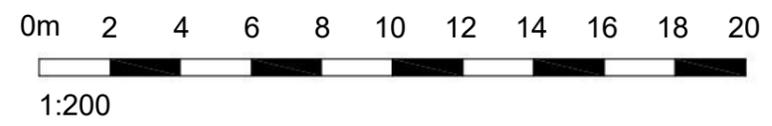
job no. G2789	drawing no. AL(0)001	revision 4
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- Key**
- Site ownership boundary
 - Application boundary
 - Proposed Units (via extension & sub-division)



6	24/08/2020	2no. EV charging bays added Vehicle access widened. Cycle parking added.	AGe
5	08/07/2020	Site ownership boundary updated	AGe
4	27/03/2020	Refuse bins relocated	AGe
3	25/02/2020	Dimensions added	AGe
2	2002/2020	Unit 2 repositioned to increase service yard.	AGe
1	08/11/2019	PLANNING ISSUE	AGe

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 16 Lynedoch Crescent, Glasgow G3 6EQ 0141 353 3501

client **A F NOBLE & SON (PENICUIK) LIMITED**

project **Retail Unit
 Edinburgh Road, Penicuik**

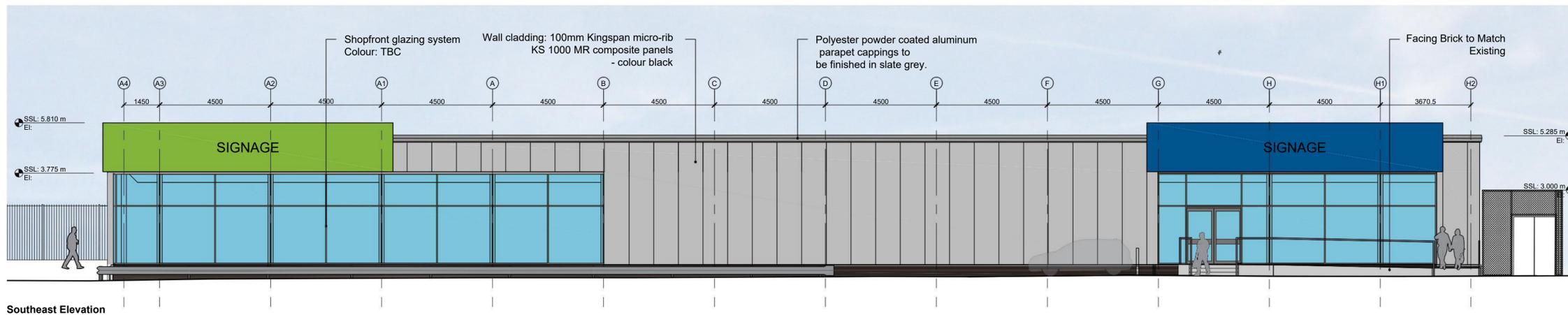
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scale **1:200** drawn **SMc**

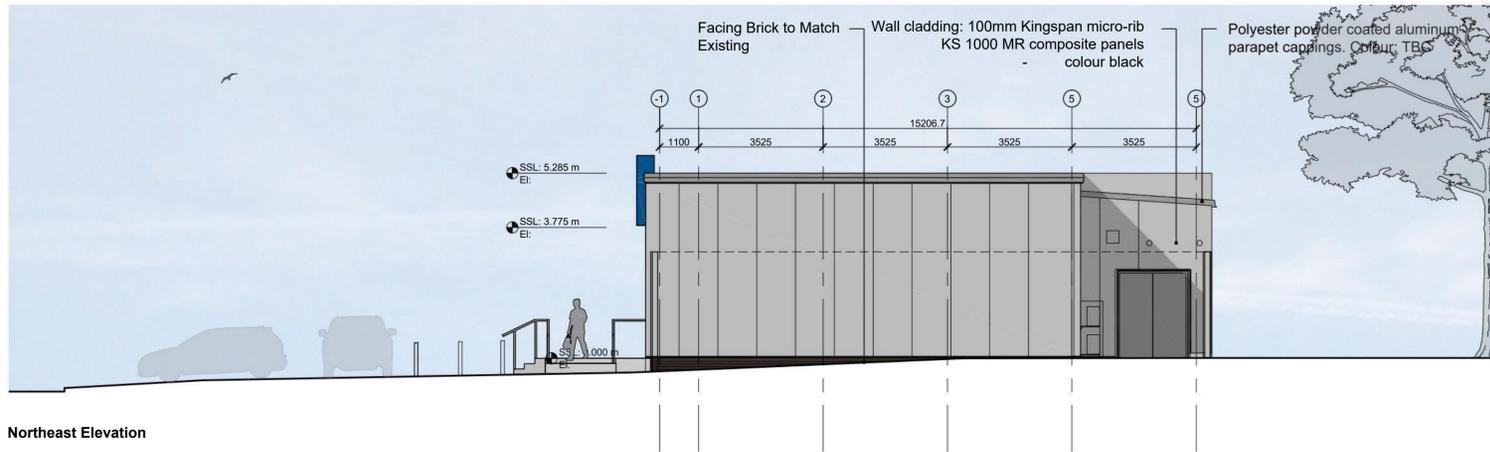
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status **PLANNING** passed

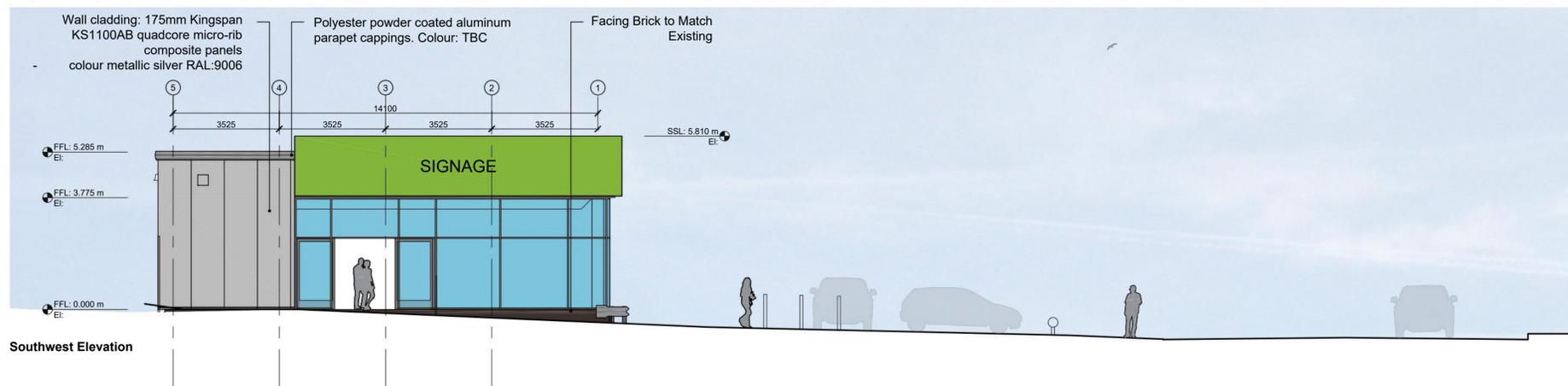
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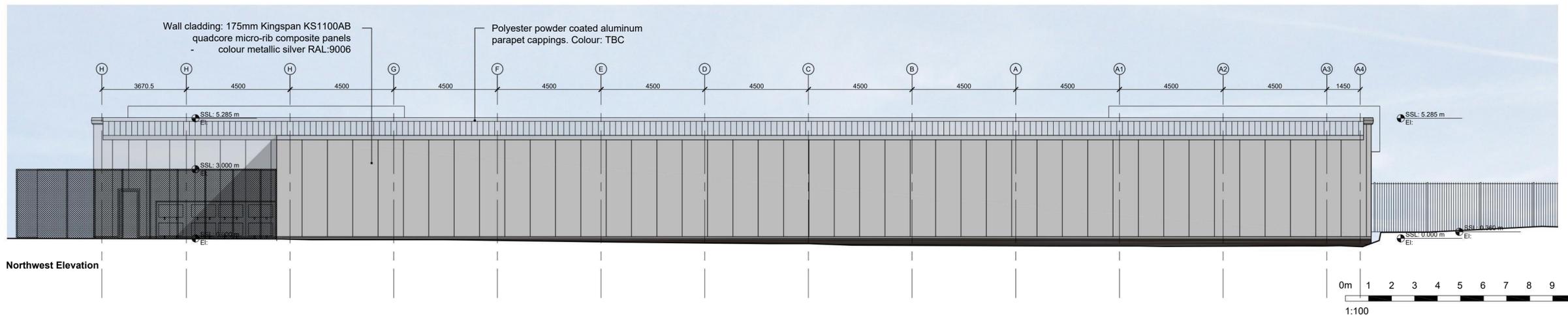
Southeast Elevation



Northeast Elevation



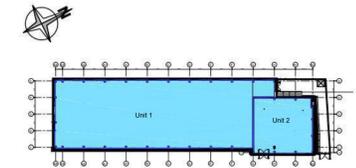
Southwest Elevation



Northwest Elevation



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Reference Plan
NOT TO SCALE

5	02/09/2020	Annotated scale updated	AGe
4	24/08/2020	Updated in line with AL(0)003 Proposed Site Plan	AGe
3	25/02/2020	Plant added	AGe
2	20/02/2020	Unit 2 repositioned to increase service yard	AGe
1	08/11/2019	PLANNING ISSUE	AGe

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Chartered Architects
16 Lynedoch Crescent, Glasgow G3 6EQ 0141 353 3501

client **A F NOBLE & SON (PENICUIK) LIMITED**

project **Retail Unit
Edinburgh Road, Penicuik**

drawing **Proposed Elevations** original size **A1**

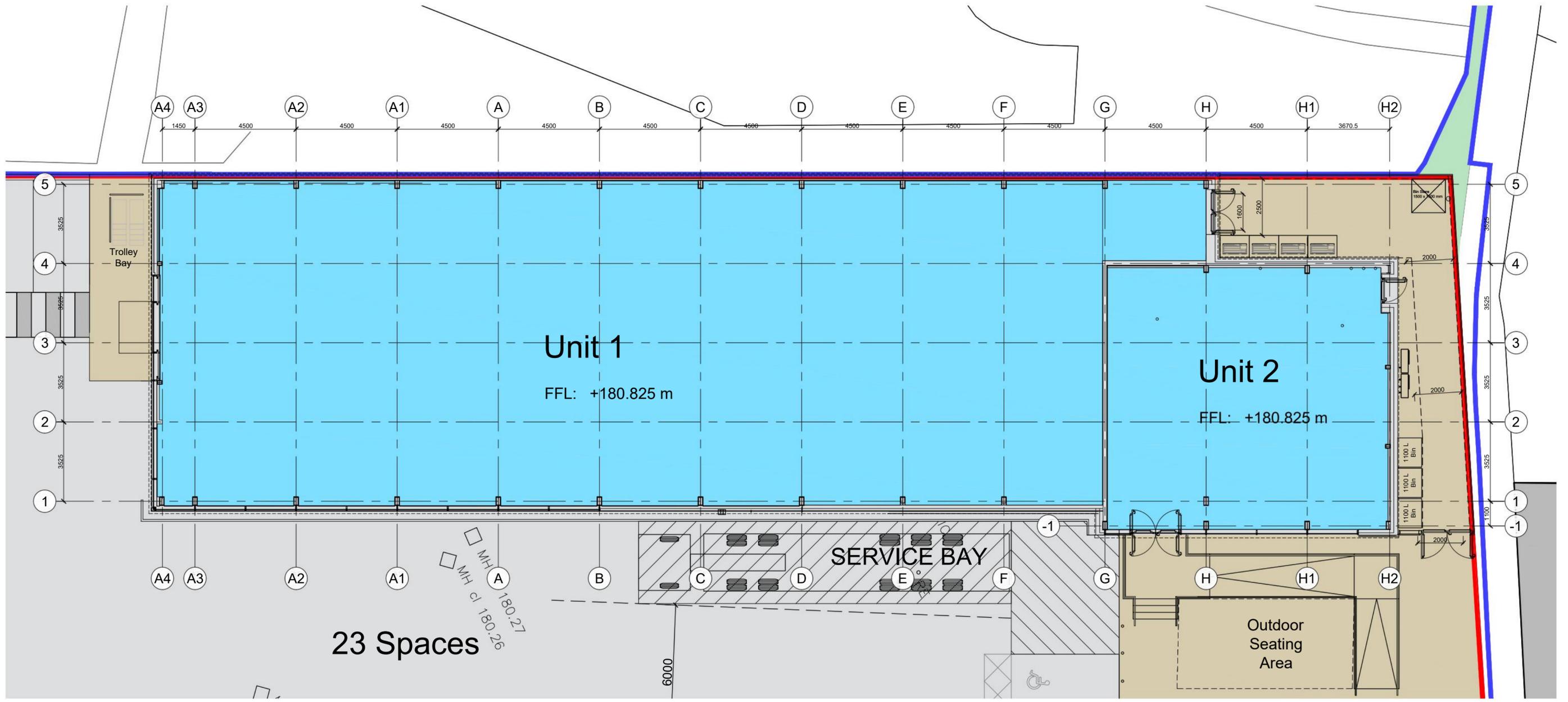
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date **12/09/2019** checked **-**

status **PLANNING** passed **-**

job no. **G2789** drawing no. **AL(0)009** revision **5**

2. All sizes to be checked on site prior to construction.
3. This drawing is the copyright of the author.



- Key**
- Site ownership boundary
 - Application boundary
 - Proposed Units (via extension & sub-division)



5	24/08/2020	Updated in-line with AL(0)003 Proposed Site Plan	AGe
4	10/03/2020	Unit 2 area fill ammended	AGe
3	25/02/2020	Dimensions added	AGe
2	20/02/2020	Unit 2 repositioned to increase service yard	AGe

1	08/11/2019	PLANNING ISSUE	AGe
smith design associates www.smithdesign.co.uk			
Chartered Architects 16 Lynedoch Crescent, Glasgow G3 6EQ 0141 353 3501			
client	AF NOBLE & SON (PENICUIK) LIMITED		
project	Retail Unit Edinburgh Road, Penicuik		
drawing	Proposed Ground Floor Plan	original size	A2
scale	1:125	drawn	AGe
date	12/09/2019	checked	-
status	PLANNING	passed	-
job no.	G2789	drawing no.	AL(0)005
		revision	5

Notice of Review: 33 Mayburn Terrace, Loanhead Determination Report

Report by Chief Officer Place

1 Purpose of Report

- 1.1 The purpose of this report is to provide a framework for the Local Review Body (LRB) to consider a 'Notice of Review' for the subdivision of existing dwellinghouse to form two flatted dwellings and associated extension and external alterations at 33 Mayburn Terrace, Loanhead.

2 Background

- 2.1 Planning application 21/00032/DPP for the subdivision of existing dwellinghouse to form two flatted dwellings and associated extension and external alterations at 33 Mayburn Terrace, Loanhead was refused planning permission on 12 March 2021; a copy of the decision is attached to this report.
- 2.2 The review has progressed through the following stages:
- 1 Submission of Notice of Review by the applicant.
 - 2 The Registration and Acknowledgement of the Notice of Review.
 - 3 Carrying out Notification and Consultation.

3 Supporting Documents

- 3.1 Attached to this report are the following documents:
- A site location plan (Appendix A);
 - A copy of the notice of review form and supporting statement (Appendix B). Any duplication of information is not attached;
 - A copy of the case officer's report (Appendix C);
 - A copy of the decision notice, excluding the standard advisory notes, issued on 12 March 2021 (Appendix D); and
 - A copy of the key plans/drawings (Appendix E).
- 3.2 The full planning application case file and the development plan policies referred to in the case officer's report can be viewed online via www.midlothian.gov.uk

4 Procedures

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

- Have determined to consider a visual presentation of the site and undertaking a site visit (elected members not attending the site visit can still participate in the determination of the review); and
 - Have determined to progress the review by written submissions.
- 4.2 The case officer's report identified that there was one consultation response and two representations received. As part of the review process the interested parties were notified of the review. No additional comments have been received. All comments can be viewed online on the electronic planning application case file.
- 4.3 The next stage in the process is for the LRB to determine the review in accordance with the agreed procedure:
- Identify any provisions of the development plan which are relevant to the decision;
 - Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies;
 - Consider whether or not the proposal accords with the development plan;
 - Identify and consider relevant material considerations for and against the proposal;
 - Assess whether these considerations warrant a departure from the development plan; and
 - State the reason/s for the decision and state any conditions required if planning permission is granted.
- 4.4 In reaching a decision on the case the planning advisor can advise on appropriate phraseology and on appropriate planning reasons for reaching a decision.
- 4.5 Following the determination of the review the planning advisor will prepare a decision notice for issuing through the Chair of the LRB. A copy of the decision notice will be reported to the next LRB for noting.
- 4.6 A copy of the LRB decision will be placed on the planning authority's planning register and made available for inspection online.

5 Conditions

- 5.1 In accordance with the procedures agreed by the LRB at its meeting of 13 June 2017, and without prejudice to the determination of the review, the following conditions have been prepared for the consideration of the LRB if it is minded to uphold the review and grant planning permission.
1. Prior to the commencement of development, the following details shall be submitted and approved in writing by the planning authority and only those approved details shall be used in the implementation of this grant of planning permission:
 - a) Details of the materials of the roof of the extension;
 - b) Details of the materials of any areas of hardstanding; and
 - c) Details of the design, dimensions, materials and colour finish of all new walls, gates, fences or other means of enclosure

Reason: *These details were not submitted with the application; in order to protect the character and appearance of the existing building and surrounding area.*

2. Development shall not begin until details, including a timetable of implementation, of high speed fibre broadband have been submitted to and approved in writing by the planning authority. The details shall include delivery of high speed fibre broadband prior to the occupation of each dwellinghouse. The delivery of high speed fibre broadband shall be implemented as per the approved details.

Reason: *To ensure the quality of the development is enhanced by the provision of appropriate digital infrastructure in accordance with the requirements of policy IT1 of the adopted Midlothian Local Development Plan 2017.*

6 Recommendations

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

Peter Arnsdorf
Planning, Sustainable Growth and Investment Manager

Date: 2 September 2021
Report Contact: Mhairi-Anne Cowie, Planning Officer
Mhairi-Anne.Cowie@midlothian.gov.uk

Background Papers: Planning application 21/00032/DPP available for inspection online.



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

Subdivision of existing dwellinghouse to form two flatted dwellings and associated extension and external alterations at 33 Mayburn Terrace, Loanhead, EH20 9EH

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File No: 21/00032/DPP



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Scale: 1:500
Page 214 of 246



Fairfield House 8 Lothian Road Dalkeith EH22 3ZN Tel: 0131 271 3302 Fax: 0131 271 3537 Email: planning-applications@midlothian.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100425646-001

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

Applicant or Agent Details

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

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:	<input type="text" value="Cockburn's Consultants"/>		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	<input type="text" value="Brent"/>	Building Name:	<input type="text"/>
Last Name: *	<input type="text" value="Quinn"/>	Building Number:	<input type="text" value="1A"/>
Telephone Number: *	<input type="text" value="07708971120"/>	Address 1 (Street): *	<input type="text" value="Belford Park"/>
Extension Number:	<input type="text"/>	Address 2:	<input type="text"/>
Mobile Number:	<input type="text"/>	Town/City: *	<input type="text" value="Edinburgh"/>
Fax Number:	<input type="text"/>	Country: *	<input type="text" value="City of Edinburgh"/>
		Postcode: *	<input type="text" value="EH4 3DP"/>
Email Address: *	<input type="text" value="cockburnsconsultants@gmail.com"/>		

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

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text" value="James"/>	Building Number:	<input type="text" value="29"/>
Last Name: *	<input type="text" value="Ewen"/>	Address 1 (Street): *	<input type="text" value="Stafford Street"/>
Company/Organisation	<input type="text" value="Ewen Property"/>	Address 2:	<input type="text" value="18/4 Tower Street"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Edinburgh"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="United Kingdom"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="EH6 7BY"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="cockburnsconsultants@gmail.com"/>		

Site Address Details

Planning Authority:	<input type="text" value="Midlothian Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="33 MAYBURN TERRACE"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="LOANHEAD"/>
Post Code:	<input type="text" value="EH20 9EH"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="666163"/>	Easting	<input type="text" value="327690"/>
----------	-------------------------------------	---------	-------------------------------------

Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

Please see attached LRB Statement

Type of Application

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

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

What does your review relate to? *

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

Statement of reasons for seeking review

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

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

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

Please see attached LRB Appeal Statement

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

Yes No

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

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

Please see attached LRB Appeal Statement

Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

21/00032/DPP

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

14/12/2020

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

12/03/2021

Review Procedure

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

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

Yes No

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

Can the site be clearly seen from a road or public land? *

Yes No

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

Yes No

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. *

Yes No

Have you provided the date and reference number of the application which is the subject of this review? *

Yes No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

Yes No N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

Yes No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

Yes No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr Brent Quinn

Declaration Date: 08/06/2021

Planning Appeal (Local Review Body (LRB)) Statement

For: Mr James Robert Ewen

Against: Refusal of Planning Permission by Midlothian Council for Conversion of Dwellinghouse to 2 Flatted Dwellinghouses (REF: 21/00032/DPP)

At: 33 Mayburn Terrace, Loanhead, Midlothian



Prepared by:
Brent Quinn MA(Hons) MRTPI PRINCE2
Cockburn's Consultants
June 2021
www.cockburnsconsultants.com

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1. Introduction & Site Description	Page 3
2. Background & Proposal	Page 5
3. Planning Policy	Page 9
4. Assessment	Page 11
5. Conclusion	Page 17

- Appendix 1: All Plans, Application Form & Decision Notice
- Appendix 2: Midlothian Supplementary Guidance on Affordable Housing
- Appendix 3: PAN 2/2010
- Appendix 4: Midlothian Local Development Plan 2017
- Appendix 5: Scottish Planning Policy

1. Introduction

The appeal site to which this planning permission case relates is 33 Mayburn Terrace, Loanhead, Midlothian. Several applications for planning permission to change the use of this property from a Class 9 Dwellinghouse to flatted dwellinghouses units and associated extension and external alterations (Ref: 21/00032/DPP (appendix 1)) have been made in the last five years, with the most recent having been made on the 14th of January 2021. The application was refused on 12th of March 2021 for the following four reasons:

- 1. The development will provide an inadequate level of amenity for future residents due to the fact that it will be overlooked by existing neighbouring residential properties and that it has not been demonstrated that there will be an adequate level of garden ground being provided for each dwelling within the application site.*
- 2. The development will have a detrimental impact on the amenity and privacy of the occupants of the immediately adjacent residential properties due to the close proximity of the properties and the distances between the windows on neighbouring flatted dwellings.*
- 3. The proposed development in having no off-street parking provision means that it does not comply with the Council's parking standards and will result in cars being parked on the street to the significant detriment of traffic and pedestrian safety on this busy public transport corridor.*
- 4. For the above reasons, the proposal is contrary to policies STRAT2, DEV2 and DEV6 of the adopted Midlothian Local Development Plan 2017.*

Site

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

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

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

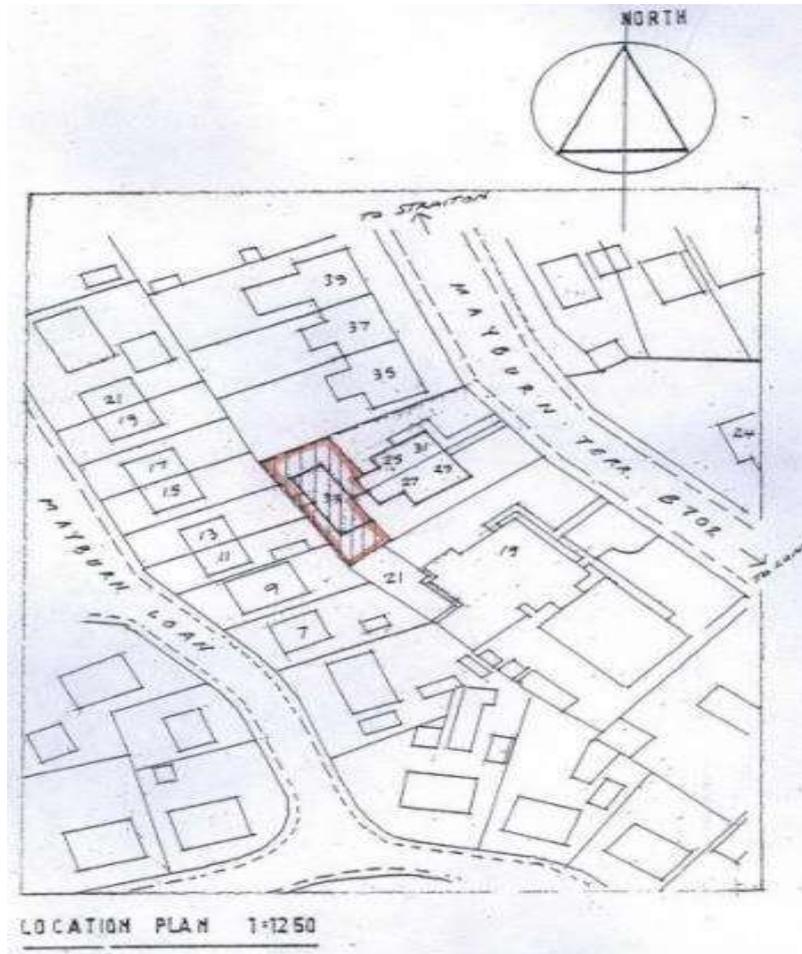


Figure 1: Site Plan

Report Structure

Following this introduction, this report comprises:

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

It is respectfully requested that this appeal case, as revised, is now granted.

2 Proposal Summary & Background

Proposal

It is proposed to subdivide the property to form two flatted dwellings, one on the ground floor and one within the roofspace. There is a lean-to extension to the rear elevation which is to be removed and replaced with a moderately larger flat roof structure that will house a spacious, modern kitchen/dining room. The new extension will sit below the eaves, being 3 metres high, 4.5 metres long and extend 2.7 metres deep to incorporate the boundary wall to the rear. This is to be harled to match the existing building. The previous dormer feature has now been removed and replaced with a rooflight only, which is to be obscurely glazed.

A total of seven rooflights are proposed: four on the rear elevation; two on the north elevation; and one on the south elevation. An existing window opening is to be replaced with a timber door on the east elevation, with an existing doorway infilled with render to match existing. An existing chimney stack is to be removed as well as a dormer feature on the south elevation. The roof infill is to be slate to match existing. Four existing window openings are to be altered and reduced in height. The infill areas are to be rendered to match the walls and the window frames white uPVC. An existing window opening on the south elevation is to be altered to white uPVC patio doors. The areas of infill are to be rendered to match the building. The plans indicate all walls are to be rendered. The plans show acceptable garden areas to be provided for each property, with unit 1 benefiting from some 56.5 m² and unit 1 enjoying some 84m².

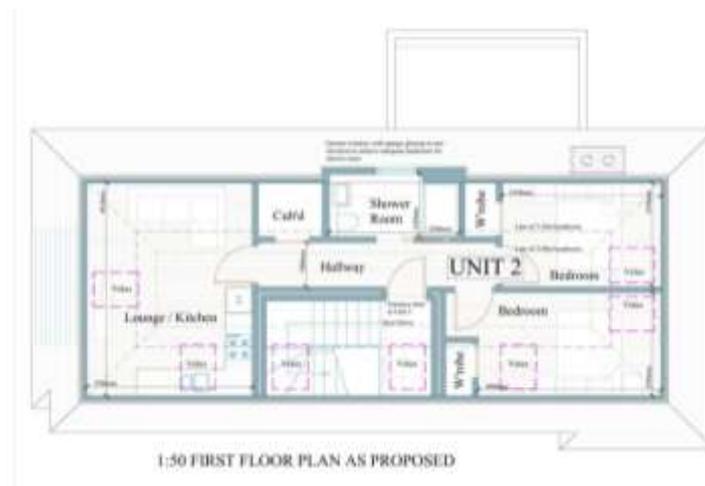
Plans are shown below:



Plan Image 1: Site Plan



Plan Image 2: Unit 1 Layout (Ground Floor)



Plan Image 3: Unit 2 Layout (First Floor)



Plan Image 4: North & South Elevations

Representations:

Only two letters of representation had been received from the occupants of neighbouring properties objecting to the proposal, which is five less than the previous case, presumably as the extant matters were addressed. Notwithstanding, the two received were on the following grounds:

- Impact on privacy;
- There is little contact between the owner of the site and nearby residents;
- The existing building is in an unsafe condition putting nearby residents at risk;
- Major disruption to local residents due to limited access to the site; and
- Impact on access to other properties in the area.

3 Planning Policy

Determining Issues

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

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

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

The development plan in this case comprises:

- SESplan, as modified and approved, (June 2013)
- Midlothian Local Development Plan (adopted 2017)

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

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

STRAT2 Windfall Housing Sites advises that within the built-up areas, housing development on non-allocated sites and including the reuse of buildings and redevelopment of brownfield land, will be permitted provided that: it does not lead to the loss or damage of valuable public or private open space; it does not conflict with the established land use of the area; it respects the character of the area in terms of scale, form, design and materials; it meets traffic and parking requirements; and it accords with other relevant Local Plan policies and proposals;

DEV2 Protecting Amenity within the Built-Up Area advises that development will not be permitted where it is likely to detract materially from the existing character or amenity of the area;

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, passive energy gain, positioning of buildings, open and private amenity space provision and parking; 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; and

IT1 Digital Infrastructure supports the incorporation of high speed broadband connections and other digital technologies into new homes, business properties and redevelopment proposals.

4 Assessment

Affordable Development

Indeed, it is anticipated that the proposed properties, if they were on the market as of now, would more realistically attract a sale price of circa £125,000 (untested estimate). This price equates to just under 4 times the national average salary bracket of £30,353¹ so It is reasonable then to conclude that this would generally fall within the bracket of what is considered to be 'affordable'. Therefore, in respect of PAN 2/2010, the development can effectively be considered to be for affordable housing under either of the two following definitions: 1) Entry level housing for sale² or 2) Subsidised low cost sale³.

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

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

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

Lack of Demand for Existing Use

The applicant has owned the appeal property for a number of years now and recently has struggled to let it in its current format. This is ultimately on account of a lack of demand to let a family dwelling of this size and scale at this location. Further, Scottish Planning Policy and Planning Advice Note 2/2010 both promote flexibility and choice across all tenure types:

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

The applicant understands the local market and has responded to demand by seeking planning permission for the 2 flatted dwellinghouses, as part of this appeal case. The principle of the development should be considered to be acceptable.

1 <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/bulletins/annualsurveyofhoursandearnings/2019>

2 A dwelling without public subsidy sold at an affordable level.

3 A subsidised dwelling sold at an affordable level.

Practical Constraints of the Site

In this change of use appeal, we are working with an existing building and it is very difficult to ameliorate this issue, although it is important to note that a similar situation could be enacted without any requirement for planning permission. This point is absolutely crucial in the consideration of this case.

The site is physically constrained in that the main structure is positioned to the rear of a defined building line and in relatively close proximity to surrounding gardens and such like. This is illustrated in Figure 2, below. These constraints define what can, and can't, be done to the building. Whilst the proposal is to separate the building to 2 flatted dwellinghouses, if the property was to be restored as a single dwellinghouse, substantial external and internal alterations would be required to bring the property up to modern standards. It is worth noting that permitted development rights would allow a good proportion of these changes to be made without the need for any planning permission, in particular the inclusion of new rooflights. It is also worth noting that the garden ground as proposed has been the subject of criticism in terms of its 'usability' but yet a good proportion of this would also form the garden ground for the dwellinghouse, as existing. It is acknowledged that this proposal relates to a very tight and difficult site, but it is considered that this proposal is a proportionate, balanced and ultimately acceptable response to the site and its environs.

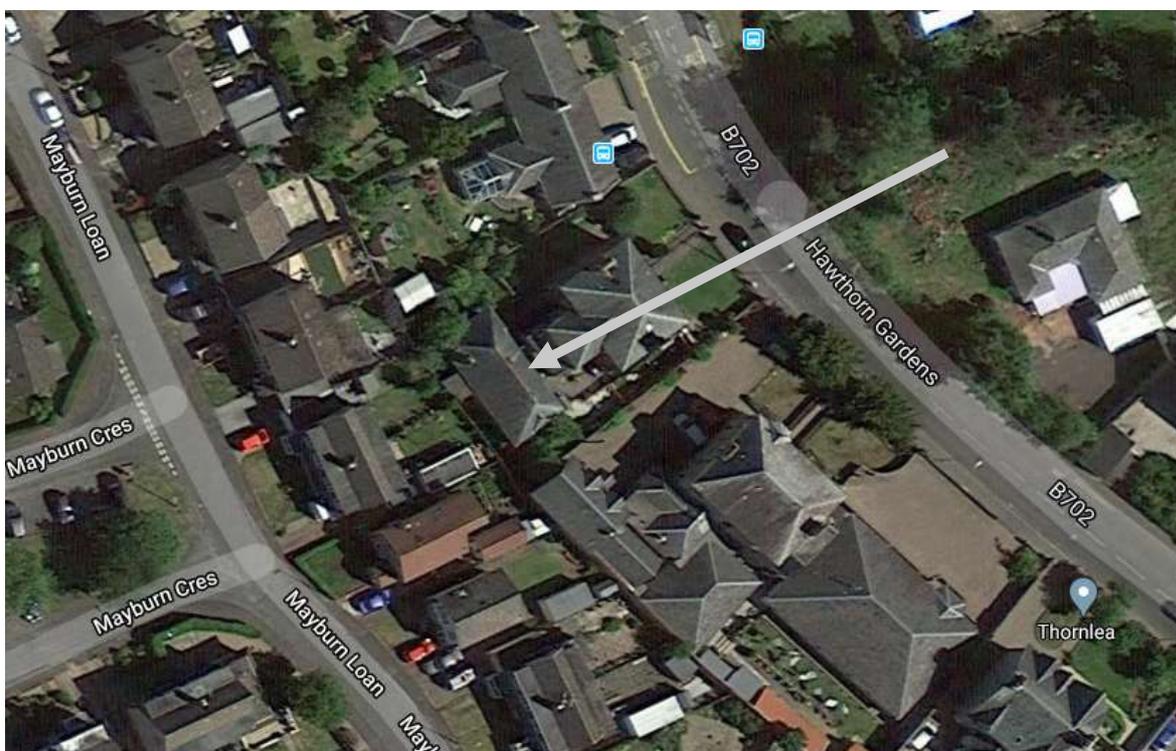


Figure2: Aerial View of Site, Illustrating Context

Amenity Issues (Reasons for Refusal 1 &2)

Overlooking

As referred to above, the openings that are proposed to be formed could be formed within the context of the existing class 9 dwellinghouse through permitted development rights, and therefore could be enacted without the need for any planning permission. The internal layout of the building would be altered, but the way in which most rooms would (and could, through permitted development rights) be used would not. In this proposal, there is therefore no net change in the way the building could be used in relation to the neighbouring properties.

All of the openings on the first floor are restricted to rooflights only, which by their nature do not give rise to overlooking. These are provided for safety and light purposes only. The dormer as previously proposed has been replaced by a rooflight in this revised proposal, hence there is no overlooking arising from this feature. Otherwise, the incorporation of rooflights which could be introduced to the existing building without any requirement for planning permission, there is no overlooking issues arising from the proposal at first floor level.

The majority of the openings are approximately 14m from other windows, although the closest is within 10m, but again the use of rooflights discounts any negative impact in this regard. Indeed, it is generally accepted that the window to window distance of 18m outlined in the LDP applies to 'standard' windows only and that rooflights, introduction of frosted glass, etc. can nullify this.

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

Residential Amenity

The planning officer had stated that 'the outlook from the proposed residential units is severely restricted'. This is somewhat refuted. The outlook is moderately restricted in part, owing to the constraints of the site, as referred. However, again this would be the case in the event that the development was to be used as a single dwelling. The planning authority need to be reasonable about what is acceptable here. Numerous properties across the nation will have some elements of restriction on view and such like, but these are not in any way considered to be unacceptable in this case. The proposal offers a good balance of both light and amenity in terms of the use of rooflights and window openings.

Garden Ground

This proposal is for 2 flatted dwellinghouses. It should therefore be considered against the same criteria as any other flatted dwellinghouse in Midlothian. A brief assessment of recent decisions for flatted dwellings brings up a case at Fodel, for 20 flatted dwellinghouses (Ref: 19/00691/MSC). In this development, Block L1, Type A clearly shows garden space for each unit to be substantially less than 40m², yet in this case we are proposing more than double that for unit 2, and 56m² for unit 1. This inconsistency in decision making does not make for certainty in the planning process. However, there is now an opportunity to rectify this by allowing this appeal.

Looking at this issue in more detail in this case, the officer states that the amount of garden ground being provided is 'well below' what is suggested in the guidance. The guidance does not stipulate the amount of garden space that should be provided for a flatted dwellinghouse. The proposal provides garden ground that equates to double the footprint of the building area, which is far more than is often provided in flatted developments in reality. It is certainly not 'well below' what the guidelines suggest, , it is significant and, given the overall high level of amenity in the wider area is considered to be wholly acceptable in this case.

Overall, the foregoing demonstrates that the proposal provides a wholly satisfactory level of amenity, both for future occupiers of the proposed flatted dwellinghouses and for existing, adjacent properties. In this respect, it is respectfully suggested that the previous Reasons for Refusal 1 and 2 cannot be upheld.

Car Parking

If the applicant were so minded to restore the property to a single dwellinghouse, without any planning permission, it could provide accommodation of 4 bedrooms or more. Indeed, a 5 bedroom HMO property could be provided. In both of these outcomes, the site would generate up to 5 (or more) vehicles for occupiers. Under this proposal, for 2 flatted dwellings, the likelihood is that only 2 vehicles would be used, but a maximum of 4. In net terms of impact, the configuration of this proposal is more advantageous from a transport perspective. In this instance, the building is already used (in terms of its last use) for residential purposes. Quite conceivably, with 4 bedrooms, the site could generate around 4 car users (two parents and two children of driving age), which is more than the three spaces required as per Midlothian Council's parking standards. If this case were to be approved, there would actually be a net loss in car parking space requirements and therefore less pressure in respect of on street parking.

Further, the proposed development is adjacent to an arterial bus route which is immediately adjacent to the appeal site and is wholly accessible on foot. The site therefore benefits from excellent public transport access, to a large number of destinations, both locally within Midlothian and beyond (e.g. to Edinburgh City Centre). Further, the appeal site is within immediate walking distance to Loanhead Town Centre, with its associated local shops, services and community facilities. Indeed, the site is within even easier walking distance to Straiton Retail Park, including IKEA, Sainsbury's, etc. thus all convenience and comparison shopping requirements are within easy walking distance (within 1mile). Further, the excellent Straiton Park and Ride facility is also within 1mile of the site. Figure 3, below illustrates this point and provides a graphic interpretation of the benefits of the site in relation to services and public transport.



Figure 3: Proximity of Site to Services

This provides future occupiers of the site with an unrivalled plethora of transport options, services and facilities within a walking distance of less than ten minutes. The absence of car parking spaces from the development and the nature of the development itself would encourage a reduction in dependence on the car, although there are spaces available on street at all times should residents decide to own a vehicle. There are also bus stops immediately adjacent to the appeal premises, further adding to the public transport offering and its accessibility.

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

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

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

Dormer Window

The planning officer had previously criticised the dormer window design of the proposal. Had this matter been discussed with the client or the applicant prior to determination, this issue could have been resolved. However, the applicant has acknowledged this point and the design has now been amended. This resolves this rather critical point.

Issues Raised in Letters of Representation

In this case, the number of objections were reduced from seven to two, which is a good indicator that the amended design is more acceptable. The majority of the issues raised in the letters of representation are addressed above. In terms of those that have not:

- **There is little contact between the owner of the site and nearby residents;** this is not a material planning consideration but of course would be bettered in the event that work could take place and the building be used.
- **The existing building is in an unsafe condition putting nearby residents at risk;** as above
- **Major disruption to local residents due to limited access to the site;** The amendments are fairly minor and work would be limited to no more than that in the course of the average extension of any dwellinghouse. Again, this is not a material planning consideration.

5 Conclusion

The proposed development will provide much needed affordable flatted dwellinghouses in the Midlothian area. There is no demand, either for purchase or for rent, for the dwellinghouse as exists.

The proposed conversion is therefore acceptable in principle.

It is acknowledged that this proposal relates to a very tight and difficult site, but it is considered that this proposal is a proportionate, balanced and ultimately acceptable response to the site and its environs.

Notwithstanding, the foregoing assessment demonstrates that the proposed flatted dwellings will provide a wholly acceptable level of amenity. There will be no overlooking issues arising and all of the other minor issues raised have been demonstrated to be of no consequence. Externally, a large proportion of what is proposed could be incorporated in the event that the existing single dwelling were to be upgraded, all without the need for any planning permission.

This report responds to the reasons for refusal in the most recent application for the case, and justifies the assertion that Reasons for Refusal one & two, which both relate to amenity and overlooking issues, cannot be upheld.

The net impact in road safety users is less from this proposal than if the applicant were to restore the single dwellinghouse, as existing. There are extenuating reasons in respect of parking and road safety. In particular, the proximity to public transport links (both on street and the close by Park & Ride facility) and service amenities are a key consideration that appears to have been overlooked by the Planning authority. Overall, contrary to the original decision, it is considered that the context of promoting more sustainable forms of transport, does not present any great difficulty in this case. The third Reason for Refusal consequently also cannot be justified.

Taking the above into consideration, it is respectfully requested that, on account of the foregoing and the removal of the key dormer window, planning permission be granted, subject to conditions, as required.

Reg. No. 21/00032/DPP

Cockburn's Consultants
1A Belford Park
Edinburgh
EH4 3DP

Midlothian Council, as Planning Authority, having considered the application by Mr James Ewen, Ewen Property, 29 Stafford Street, Edinburgh, EH3 7BJ, which was registered on 14 January 2021 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

Subdivision of existing dwellinghouse to form two flatted dwellings and associated extension and external alterations at 33 Mayburn Terrace, Loanhead, EH20 9EH

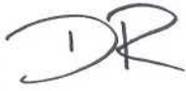
In accordance with the application and the following documents/drawings:

<u>Document/Drawing.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	1:1250	14.01.2021
Site Plan	20417-42A 1:200 1:50	14.01.2021
Elevations, Floor Plans	20417-40 1:50	14.01.2021
Elevations, Floor Plans	20417-41C 1:50	10.03.2021

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

- 1. The development will provide an inadequate level of amenity for future residents due to the fact that it will be overlooked by existing neighbouring residential properties and that it has not been demonstrated that there will be an adequate level of garden ground being provided for each dwelling within the application site.*
- 2. The development will have a detrimental impact on the amenity and privacy of the occupants of the immediately adjacent residential properties due to the close proximity of the properties and the distances between the windows on neighbouring flatted dwellings.*
- 3. The proposed development in having no off-street parking provision means that it does not comply with the Council's parking standards and will result in cars being parked on the street to the significant detriment of traffic and pedestrian safety on this busy public transport corridor.*
- 4. For the above reasons, the proposal is contrary to policies STRAT2, DEV2 and DEV6 of the adopted Midlothian Local Development Plan 2017.*

Dated 12 / 3 / 2021



.....
Duncan Robertson
Lead Officer – Local Developments
Fairfield House, 8 Lothian Road, Dalkeith, EH22 3ZN

MIDLOTHIAN COUNCIL

DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

Planning Application Reference: 21/00032/DPP

Site Address: 33 Mayburn Terrace, Loanhead.

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

Proposed Development: Subdivision of existing dwellinghouse to form two flatted dwellings and associated extension and external alterations.

Proposed Development Details: It is proposed to subdivide the property in to two flatted dwellings, one on the ground floor and one within the roofspace.

There is a lean-to extension to the rear (west) elevation which is to be removed and replaced with a larger flat roof structure. The new extension will sit below the eaves, 3 metres high, 4.5 metres long and extend 2.7 metres deep to incorporate the boundary wall to the rear. This is to be harled to match the existing building.

A total of seven rooflights are proposed: one on the rear (west) elevation; two on the north (side) elevation; one on the south (side) elevation; and three on the front (east) elevation. The rooflight on the rear elevation is to be obscurely glazed. An existing window opening is to be replaced with a timber door on the east elevation, with an existing doorway infilled with render to match existing. An existing chimney stack is to be removed as well as a dormer feature on the south elevation. The roof infill is to be slate to match existing. Four existing window openings are to be altered and reduced in height. The infill areas are to be render to match the walls and the window frames white uPVC. An existing window opening on the south elevation is to be altered to white uVPC patio doors. The areas of infill are to be rendered to match the building. The plans indicate all walls are to be rendered. The plans show garden areas provided for each property, with no details of boundary treatments.

The applicant's agent has submitted a supporting statement. He has stated the following:

- The units would be affordable housing which there is demand for and a lack of demand for the site in its current form.
- Most of the proposed alterations could be carried out as permitted development and not require planning permission.
- The garden ground has been criticised in previous applications as unusable, but this is the case for the existing house.

- The site is tight but the proposal is acceptable.
- There is no overlooking between the proposed and existing properties.
- There is no impact on the outlook of the proposed units as compared the use as a single house.
- Reference is made to development at Fordel to justify the reduction in garden ground.
- Reference is also made to the parking requirements for the existing house compares to the requirements for two flats and that there would be a reduction in parking requirement. The site is close to public transport and services. Reference is made to another application in Loanhead that accepted reduced parking standards.
- They also make reference to objections submitted.

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

19/01003/DPP Subdivision of existing dwellinghouse to form two flatted dwellings and associated extension and external alterations. Refused – lack of amenity for occupants due to overlooking, inadequate parking and garden ground; detrimental impact on amenity of existing residents; contrary to policy.

13/00508/DPP Subdivision of dwellinghouse to form 3 flatted dwellings, erection of extension, alterations to window opening to form door opening and alterations to garden levels. Refused – lack of amenity for occupants due to overlooking, inadequate parking and garden ground; detrimental impact on amenity of existing residents; contrary to policy. Refused by LRB – same reasons as delegated decision.

12/00640/DPP Sub-division of dwellinghouse to form 3 flatted dwellings; erection of extension and external staircase; formation of dormer; alterations to window opening to form door opening; and alterations to garden levels. Refused – low level of amenity for future occupants through overlooking and inadequate garden ground provided; detrimental impact on amenity of existing properties due to close proximity and distances between windows; the dormer extension and external stairs were unsympathetic additions and detract from the privacy and amenity of neighbouring properties; no off street parking does not comply with Council parking standards and result in a road safety concern; for all reasons proposal does not comply with RP20 and DP2.

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

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

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

Representations: Two letters of objection have been received on the following grounds:

- Impact on privacy;
- There is little contact between the owner of the site and nearby residents;
- The existing building is in an unsafe condition putting nearby residents at risk;

- Major disruption to local residents due to limited access to the site; and
- Impact on access to other properties in the area.

Relevant Planning Policies: The relevant policies of the **2017 Midlothian Local Development Plan** are;

STRAT2 Windfall Housing Sites advises that within the built-up areas, housing development on non-allocated sites and including the reuse of buildings and redevelopment of brownfield land, will be permitted provided that: it does not lead to the loss or damage of valuable public or private open space; it does not conflict with the established land use of the area; it respects the character of the area in terms of scale, form, design and materials; it meets traffic and parking requirements; and it accords with other relevant Local Plan policies and proposals;

DEV2 Protecting Amenity within the Built-Up Area advises that development will not be permitted where it is likely to detract materially from the existing character or amenity of the area;

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, passive energy gain, positioning of buildings, open and private amenity space provision and parking;

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; and

IT1 Digital Infrastructure supports the incorporation of high speed broadband connections and other digital technologies into new homes, business properties and redevelopment proposals.

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

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

A material planning consideration in this case is whether the property will provide an acceptable level of amenity for future residents of the development. The plans show 56 square metres of garden ground for the ground floor unit, however part of this is only 2 metres wide, between the building and the boundary wall, and so the Planning Authority does not consider this usable. This leaves the ground floor flat with only 40 square metres of garden ground. The flat at first floor level will have approximately 72 square metres of garden ground, however at least 20 square metres of this will be directly overlooked by the flatted dwellings. The sizes of these usable, private

garden areas are below the required standards, particularly in this out-of-town centre location.

In addition to the above, the outlook from the proposed residential units is severely restricted. The flat on the upper floor is served by rooflights facing onto the existing flatted block at Mayburn Terrace and one rooflight to the houses to the rear. The rooflights are 1.5 metres from floor level, meaning that whilst these will provide some limited amount of amenity, these will also allow overlooking to neighbouring properties and so will have a detrimental impact on the privacy of the occupants of the existing flatted properties. The distances between the proposed windows which are directly opposite the windows on the existing flatted block is approximately 10 metres, however the rooflights will also overlook other windows as close as 5 metres, approximately, away at an angle. This falls well below the standards required for distances between properties. The rooflights will also directly overlook the garden ground of the property at 23 Mayburn Terrace, to the north.

The position of the rooflight on the rear elevation directly overlooks the properties and related garden grounds to the rear. This is to be obscurely glazed which should address overlooking, however there may remain a perception of overlooking to these properties from this window.

The existing extension is to be removed and replaced with a larger, flat roofed extension. The existing extension forms part of the boundary wall and the proposed appears to form part of the wall as well. The height of the extension is to be under the eaves of the existing building. Due to the change in ground levels between the site and the dwellings to Mayburn Loan, to the rear, the proposed extension would not have a detrimental impact on the amenity or outlook of the properties to the rear. There are no windows on this elevation which results in a long blank elevation but also no overlooking issues.

The proposed alterations of windows to door openings and alterations to existing window openings would not have any significant impact on the character or appearance of the building or amenity and privacy of neighbouring properties as compared the existing situation. The removal of the chimney stack and dormer feature is acceptable. The areas of infill and remainder of walls are to be rendered, which is acceptable, as is the infill of the roof with slate to match the existing.

Access to the site is via a path that also provides access to number 25. There are no windows on the gable wall of the flatted block, however there are four windows on the rear of the property, which are within 7 metres of the door serving the proposed flatted properties. Although the existing access door to the dwellinghouse is on this same elevation as the proposed door, this only provided access to one dwellinghouse. The proposal will lead to an increase in the number of residential units at the application site, therefore potentially increasing the amount of people living in, and visiting, the proposed flats. The proposed arrangement will result in a significant detrimental impact on the, already limited, amenity of the occupants of the existing flatted block.

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

An area for the storage of bins has been identified on the proposed site plan. This appears sufficient to store the required general waste bin which would be shared by the two properties, as well as the recycling bins and container required.

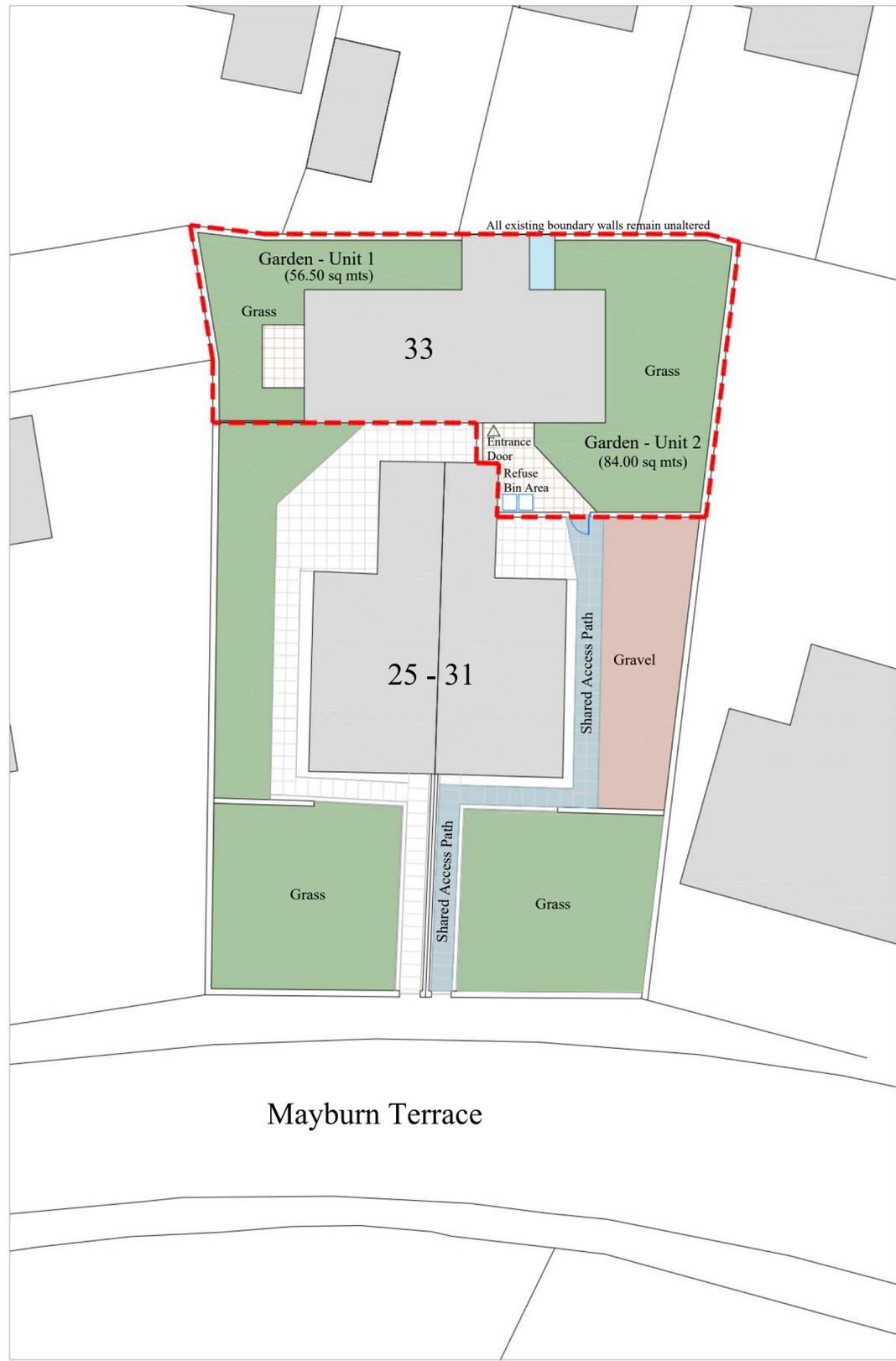
With regards to comments made by objectors which have not already been addressed above, access to the site to carry out proposed works is a private legal matter and not a material planning consideration.

The applicant's agent has made reference to the current situation of the site as one dwellinghouse and the differences between this and the proposal for two units, as well as the works that could be done without needing planning permission, the existing garden ground and potential parking usage for this existing house. It is acknowledged that the existing house has no parking, a poor relationship with nearby houses and limited amenity space. Had this dwellinghouse been proposed at this site now, it is highly unlikely to be acceptable for these reasons. However this is a historic and established house. Most of the proposed external alterations could be carried out as permitted development, but that is not what is being proposed. The proposal is for two residential units in this building. If it is unlikely that one house here could be supported, had the existing house not been in place, there is no reason why two residential units would be acceptable. The Planning Authority have, in some cases where a proposal is for the change of use of an existing building, accepted a reduction in standards to accommodate the proposal, if the standard and quality of other amenity, such as outlook and light, is of high standard or in certain town centre locations. In this instance, the site is so small and constrained that there is no justification for a reduction in standards. The levels of amenity in the proposed development are well below what could be considered acceptable.

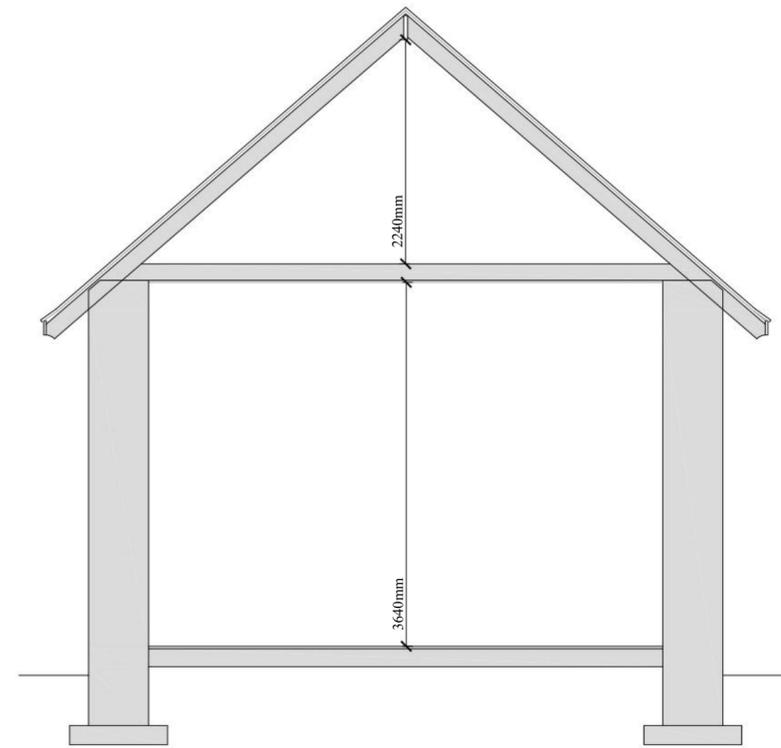
The above assessment demonstrates that the proposed flatted dwellings will have an unacceptably low level of amenity. In addition, the Planning Authority is concerned regarding the design of some of the proposed external alterations and impact on the amenity and privacy of neighbouring residents. For these reasons the application cannot be supported.

Recommendation: Refuse planning permission.

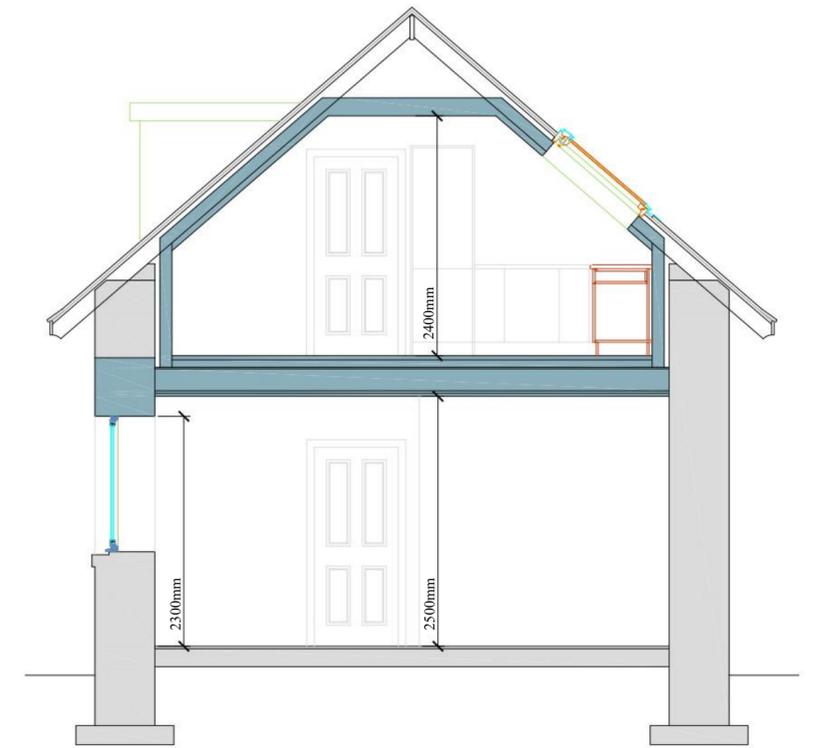
No dimensions to be scaled from drawing.
All dimensions to be checked on site.
Any discrepancy to be notified immediately.



1:200 OVERALL BLOCK PLAN AS PROPOSED



1:50 SECTION AS EXISTING



1:50 SECTION AS PROPOSED



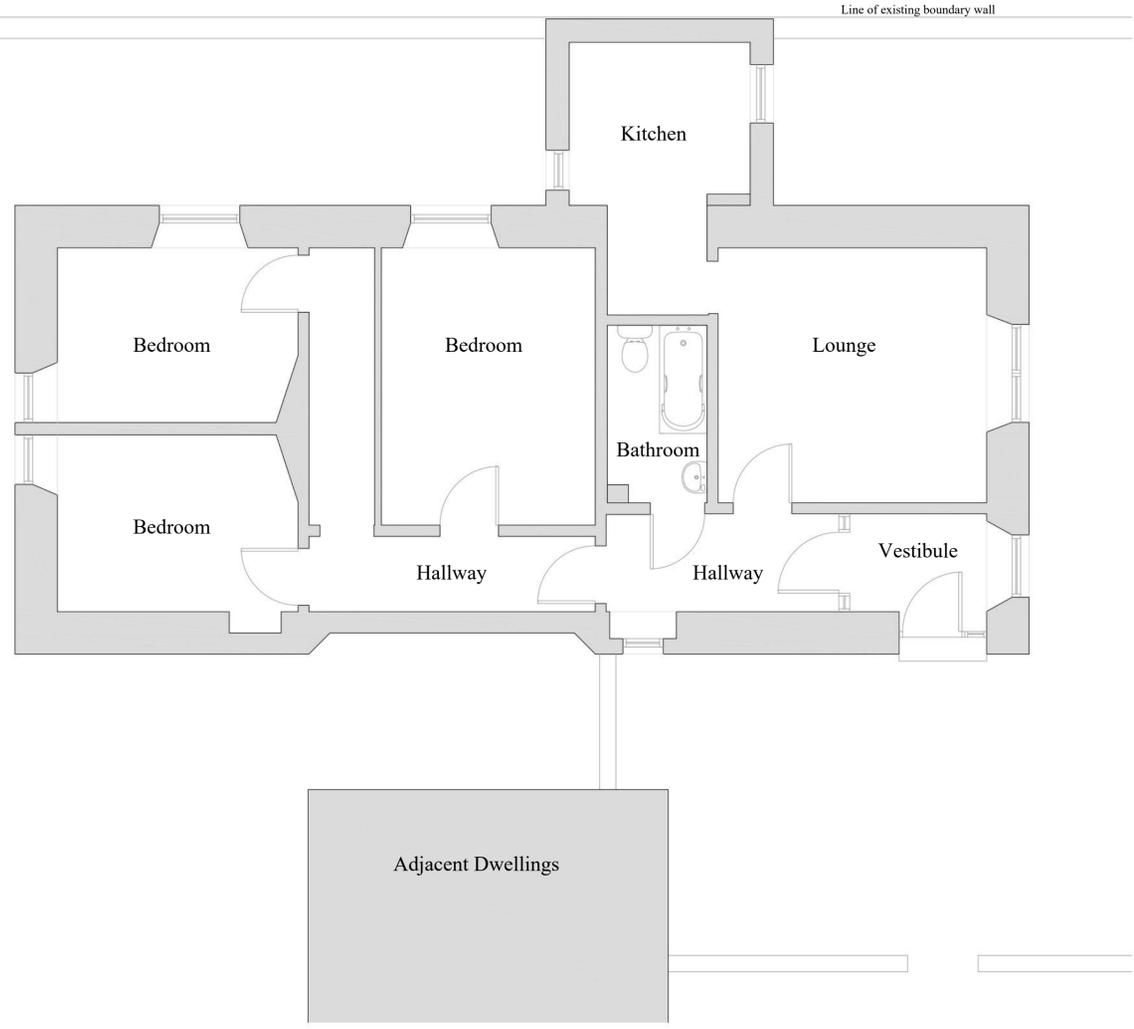
1:50 SCALE BAR



1:200 SCALE BAR

Alterations and Sub-Division of House to form 2No Dwellings at 33 Mayburn Terrace, Loanhead for EWEN PROPERTY		ARCTEC BUILD LTD ANDREW DODDS 4 The Maltings Haddington EAST LOTHIAN EH41 4EF Tel - 01620 820960 Mob. 07715 049752 Andrew.dodds1@btopenworld.com
Site Plan and Cross Sections 1:200 1:50 Feb 19	20417 - 42 A	

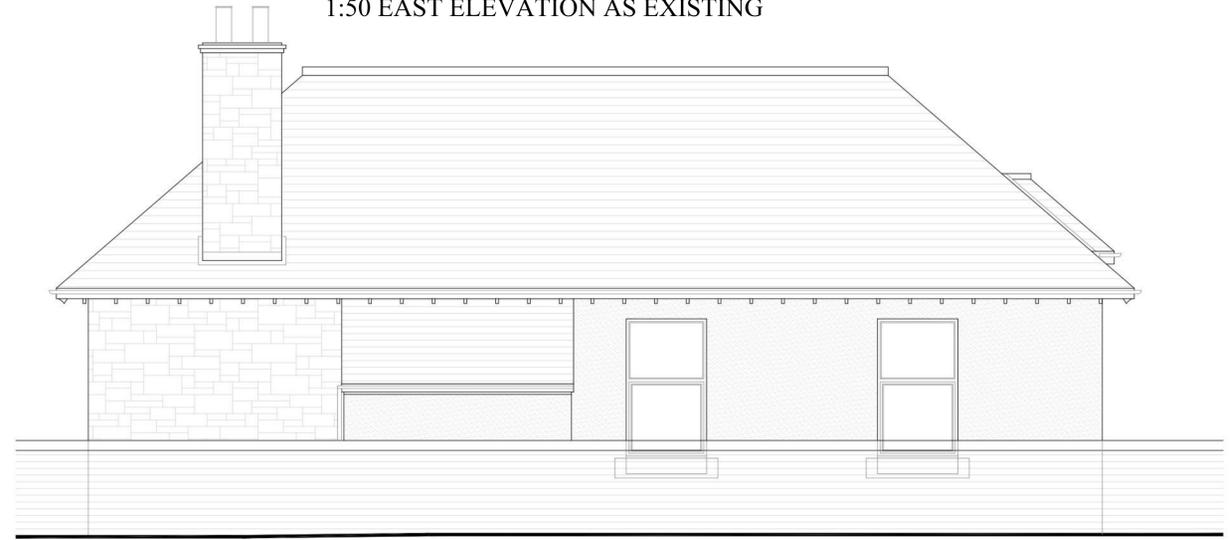
No dimensions to be scaled from drawing.
 All dimensions to be checked on site.
 Any discrepancy to be notified immediately.



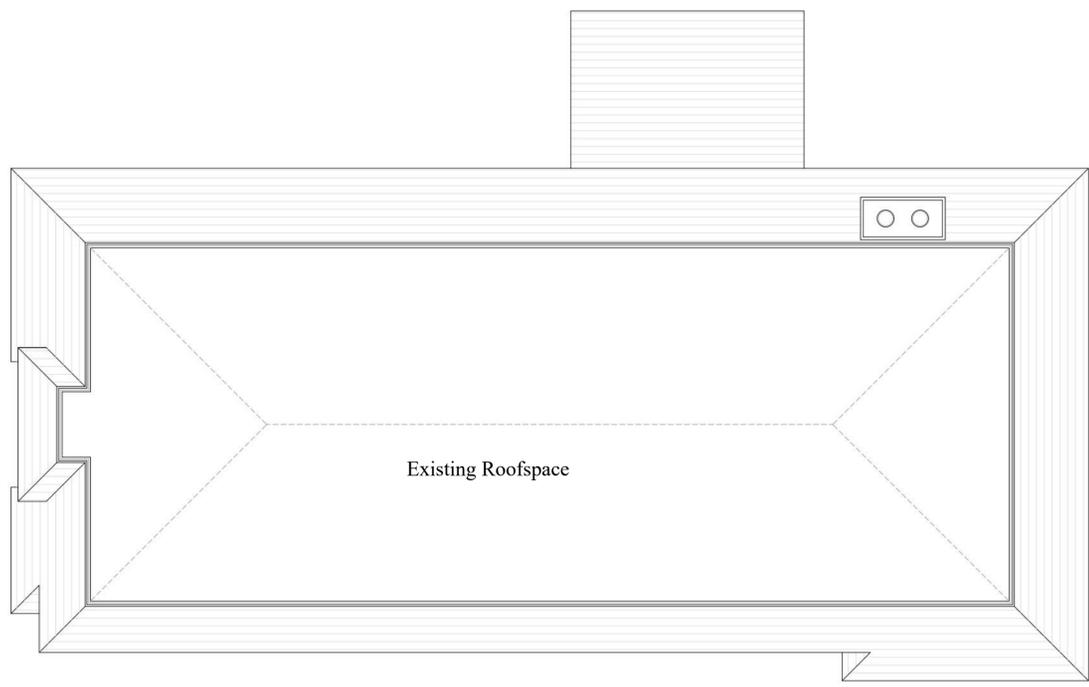
1:50 GROUND FLOOR PLAN AS EXISTING



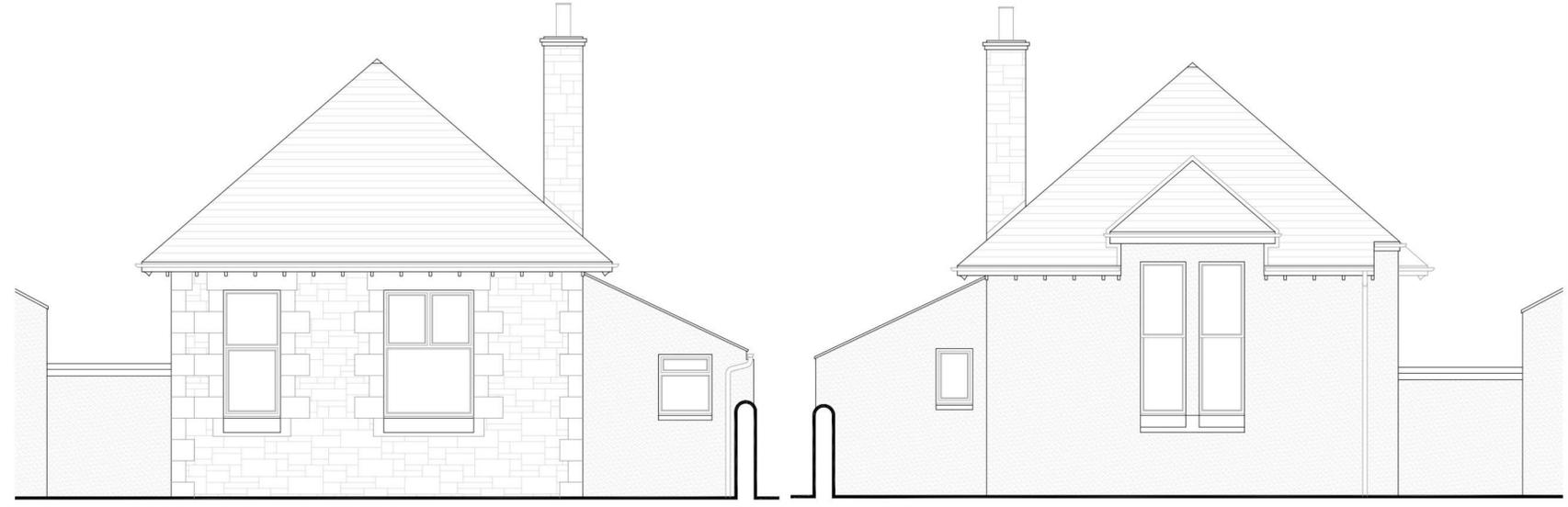
1:50 EAST ELEVATION AS EXISTING



1:50 WEST ELEVATION AS EXISTING

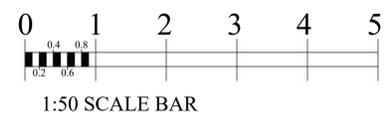


1:50 ATTIC FLOOR PLAN AS EXISTING



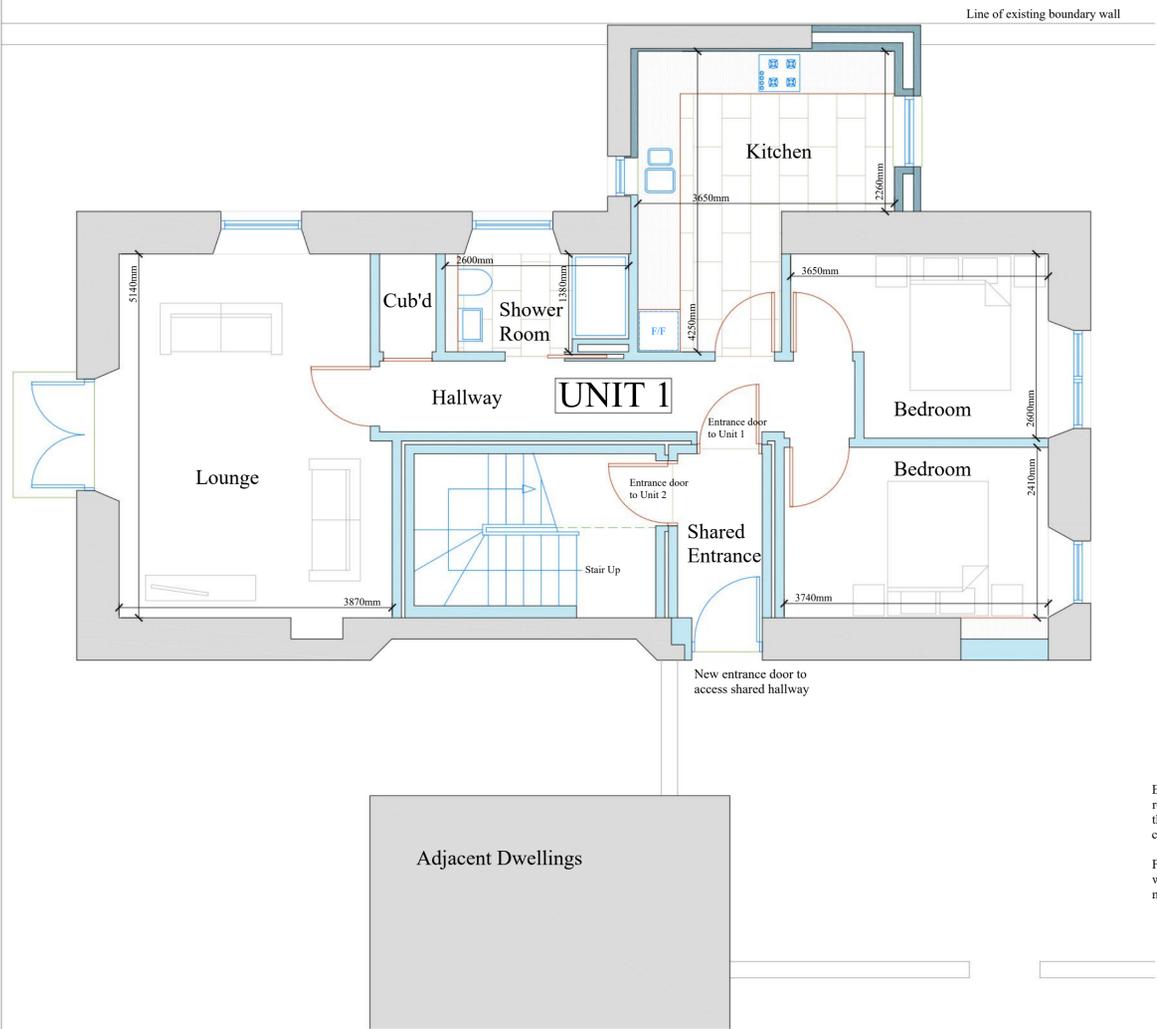
1:50 NORTH ELEVATION AS EXISTING

1:50 SOUTH ELEVATION AS EXISTING



Alterations and Sub-Division of House to form 2No Dwellings at 33 Mayburn Terrace, Loanhead for EWEN PROPERTY		ARCTEC BUILD LTD ANDREW DODDS 4 The Maltings Haddington EAST LOTHIAN EH41 4EF Tel - 01620 820960 Mob. 07715 049752 Andrew.dodds1@btopenworld.com
Floor Plans and Elevations as Existing 1:50 Feb 19	20417 - 40	

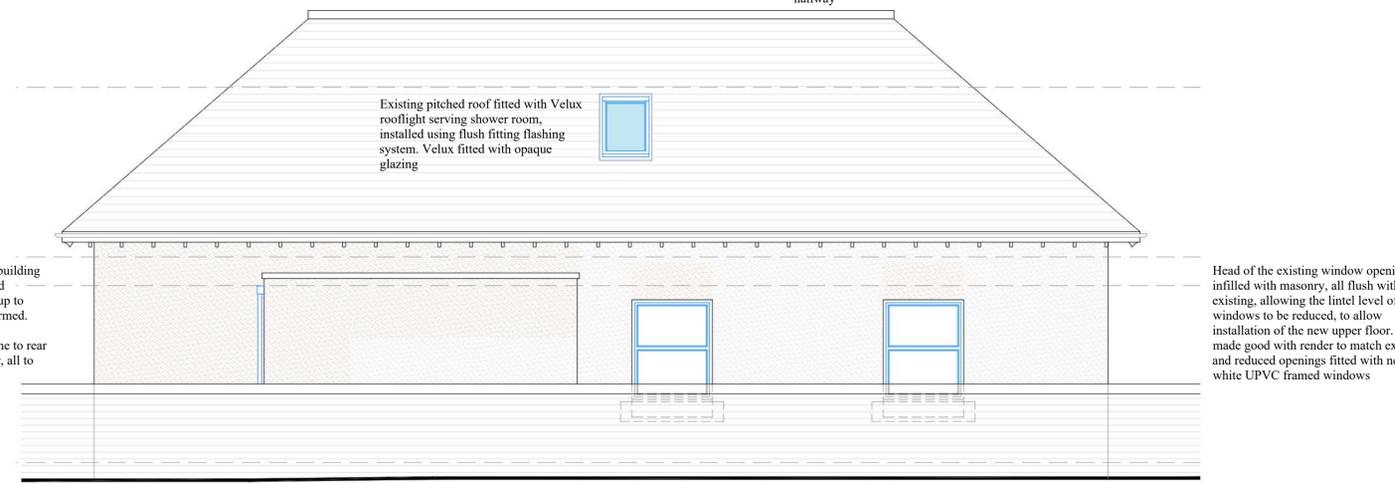
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All dimensions to be checked on site.
Any discrepancy to be notified immediately.



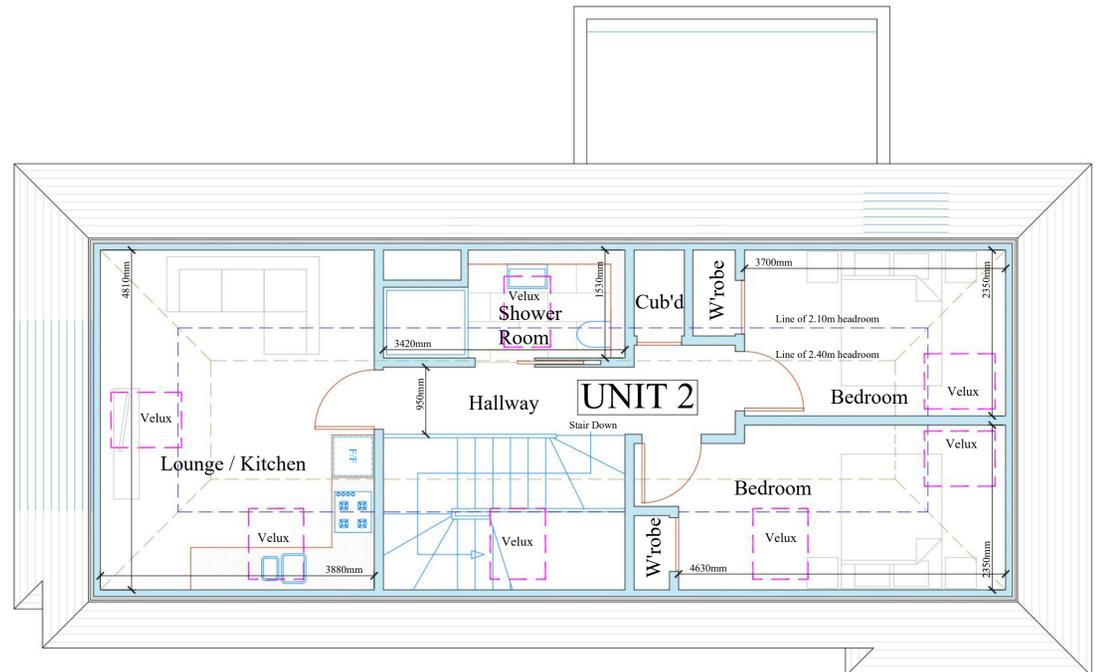
1:50 GROUND FLOOR PLAN AS PROPOSED



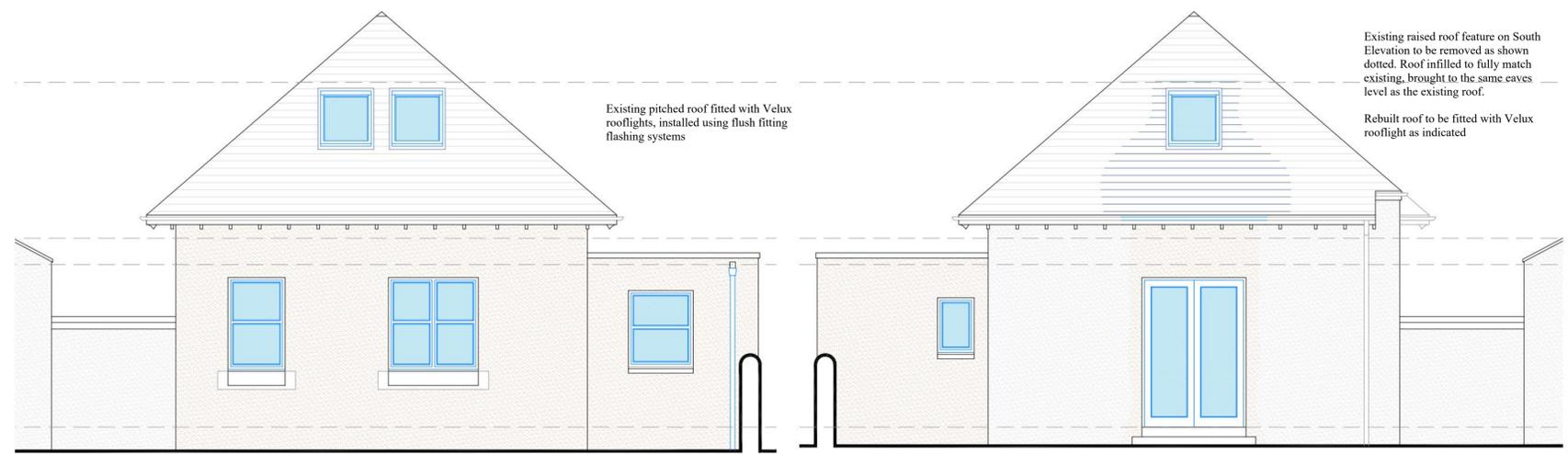
1:50 EAST ELEVATION AS PROPOSED



1:50 WEST ELEVATION AS PROPOSED



1:50 FIRST FLOOR PLAN AS PROPOSED



1:50 NORTH ELEVATION AS PROPOSED

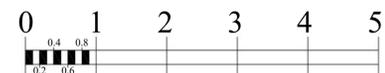
1:50 SOUTH ELEVATION AS PROPOSED

Head of the existing window openings infilled with masonry, all flush with existing, allowing the lintel level of the windows to be reduced, to allow installation of the new upper floor. Reduced openings fitted with new white UPVC framed windows

Following all alterations to the East Elevation wall in terms of adjustments to window heights etc, full extent of the existing wall to be finished with new render, all to match existing.

Existing outbuilding to have roof level raised as shown to a common wallhead level and fitted with new flat roof. Outbuilding extended as shown on plan. All existing render removed and full extent of the existing outbuilding re-rendered to match existing. New extension fitted with white UPVC framed window

Existing window opening to South Elevation altered, to allow fitting of new French Doors to the Ground Floor Unit, providing access to garden. Wall made good around the door opening with render to match existing. Door opening fitted with new white UPVC framed French Doors.



1:50 SCALE BAR

Alterations and Sub-Division of House	
to form 2No Dwellings at	
33 Mayburn Terrace, Loanhead	
for EWEN PROPERTY	
Floor Plans and Elevations as Proposed	
1:50	20417 - 41
Feb 19	

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