

## **Notice of Review: 124A John Street, Penicuik Determination Report**

Report by Derek Oliver, 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 change of use from betting office to restaurant and takeaway and installation of ventilation equipment at 124A John Street, Penicuik.

### **2 Background**

- 2.1 Planning application 20/00185/DPP for the change of use from betting office to restaurant and takeaway and installation of ventilation equipment at 124A John Street, Penicuik was refused planning permission on 3 July 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); and
  - A copy of the decision notice, excluding the standard advisory notes, issued on 3 July 2020; (Appendix D) and
  - A copy of the relevant plans (Appendix E).
- 3.2 The full planning application case file and the development plan policies referred to in the case officer's report can be viewed online via [www.midlothian.gov.uk](http://www.midlothian.gov.uk)

### **4 Procedures**

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

- Have determined to consider a visual presentation of the site instead of undertaking a site visit because of the COVID-19 pandemic restrictions; and
  - Have determined to progress the review by written submissions.
- 4.2 The case officer's report identified that there was two consultation responses and seven representations received. As part of the review process the interested parties were notified of the review. No additional comments have been received at the time of drafting this report. 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 condition has been prepared for the consideration of the LRB if it is minded to uphold the review and grant planning permission.
1. The use of the hot food takeaway hereby approved shall not be open to the public outwith the following hours:

Mondays - Fridays inclusive: 16.00 to 23.00,  
Saturdays and Sundays: anytime

***Reason:*** To ensure that the hot food takeaway does not operate during school hours, in order to comply with the health aims of

*Midlothian Council's Food and drink and other non-retail uses in Town Centres Supplementary Guidance.*

2. The design and installation of any plant, machinery or equipment shall be such that the combined noise level complies with NR25 (or NR20 if the noise is tonal) when measured within any living apartment and no structure borne vibration is perceptible within any living apartment.
3. Within three months from the date of this decision notice, details of the extract ventilation system, including a drawing showing its location, external appearance and finish shall be submitted to and approved in writing by the planning authority. The use shall not start trading until the approved extract ventilation system is operational.
4. The design of the extract ventilation system approved in terms of condition 3 shall either ensure that:
  - Cooking effluvia are ducted to above the level of the adjacent pitched roof of the application premises; or
  - Effluvia are expelled with a minimum upwards velocity of 15 metres per second.
5. Prior to the takeaway use being implemented the following details shall be submitted to and approved in writing:
  - a. Details of the design, capacity and location of a public litterbin to be located at the front of the premises;
  - b. Details of a maintenance schedule to ensure that the litterbin is emptied on a regular basis by the operator of the takeaway; and
  - c. Details of a litter management plan to ensure that takeaway litter within 20 metres of the boundary of the application site is cleared by the operator of the takeaway.

Development thereafter shall comply with the approved details or such alternatives as may be agreed in writing by the Planning Authority.

***Reason for conditions 2 to 5:*** *To safeguard the amenity of local residents.*

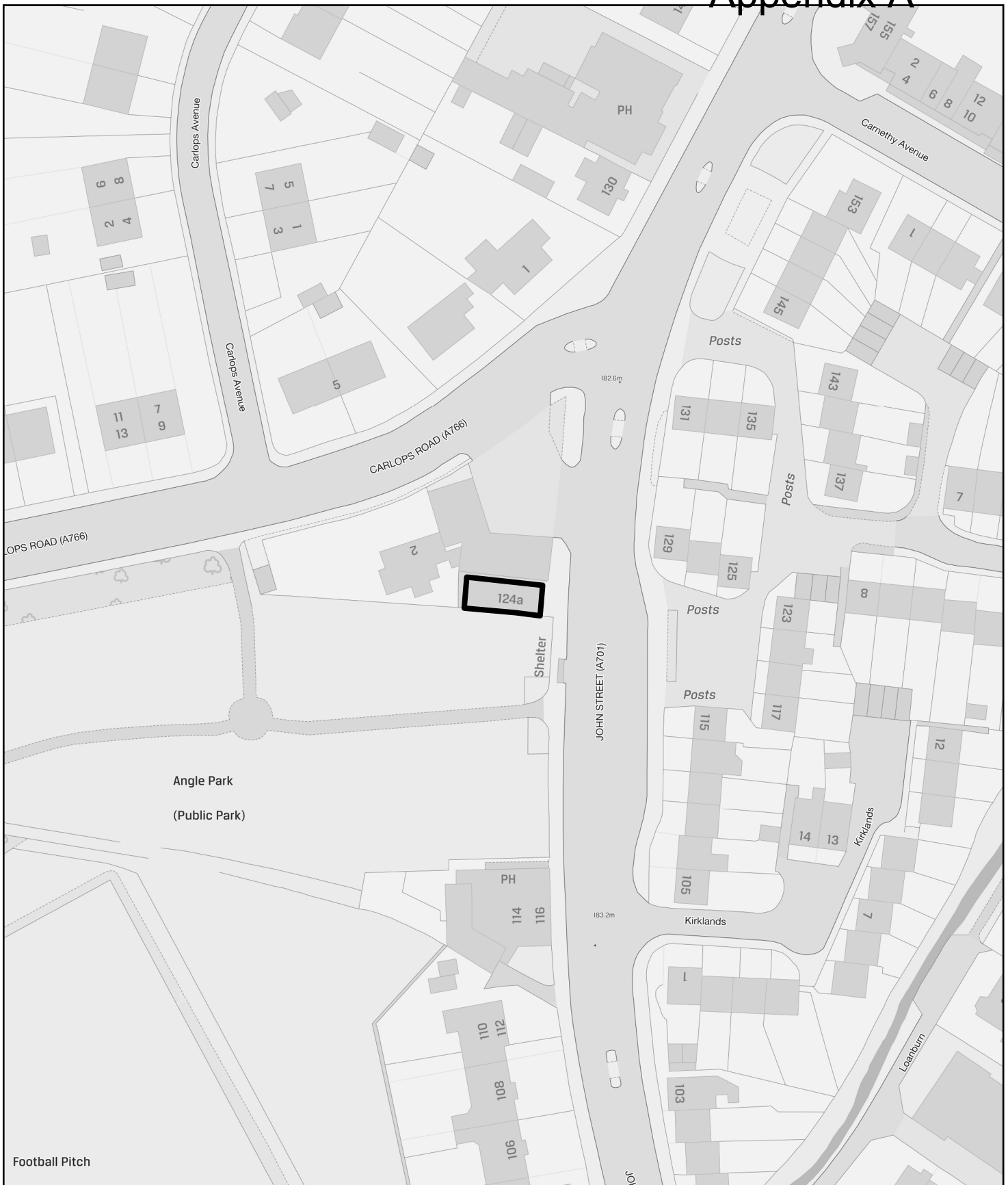
## **6 Recommendations**

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

**Date:** 20 November 2020  
**Report Contact:** Peter Arnsdorf, Planning Manager  
[peter.arnsdorf@midlothian.gov.uk](mailto:peter.arnsdorf@midlothian.gov.uk)

**Background Papers:** Planning application 20/00185/DPP available for inspection online.

# Appendix A



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

Change of use from betting office to restaurant and  
takeaway; and installation of ventilation equipment at 124A  
John Street, Penicuik, EH26 8NG

Reproduced from the Ordnance Survey map with the permission of the  
controller of Her Majesty's Stationary Office. Crown copyright reserved.  
Unauthorised reproduction infringes Crown copyright and may lead to  
prosecution or civil proceedings

File No: 20/00185/DPP

Midlothian Council Licence No. 100023416 (2020)

Scale: 1:1,000



# NOTICE OF REVIEW

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

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

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

### 1. Applicant's Details

### 2. Agent's Details (if any)

Title:

Forename:

Surname:

Company Name:

Building No./Name:

Address Line 1:

Address Line 2:

Town/City:

Postcode:

Telephone:

Mobile:

Fax:

Email:

Ref No.:

Forename:

Surname:

Company Name:

Building No./Name:

Address Line 1:

Address Line 2:

Town/City:

Postcode:

Telephone:

Mobile:

Fax:

Email:

### 3. Application Details

Planning authority:

Planning authority's application reference number:

Site address:

### Description of proposed development

Date of application

11-3-2020

Date of decision (if any)

3-7-2020

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

**4. Nature of Application**

Application for planning permission (including householder application)

Application for planning permission in principle

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

Application for approval of matters specified in conditions

**5. Reasons for seeking review**

Refusal of application by appointed officer

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

Conditions imposed on consent by appointed officer

**6. Review procedure**

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

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

Further written submissions

One or more hearing sessions

Site inspection

Assessment of review documents only, with no further procedure

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

I believe new opening hours won't affect school kids as we will open 4:30-11 and our menu includes healthy options.

**7. Site inspection**

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

Can the site be viewed entirely from public land?

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

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

**8. Statement**

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

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

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

See attached

Have you raised any matters which were not before the appointed officer at the time your application was determined? Yes  No

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

The previous application was Submitted by the former owner of the property, therefore this application is all new from myself.

**9. List of Documents and Evidence**

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

[Empty box for listing documents and evidence]

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

**10. Checklist**

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

- Full completion of all parts of this form
- Statement of your reasons for requesting a review
- All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

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

**DECLARATION**

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

Signature:



Name:

Antonio Cernicchiaro

Date:

6/7/2020

Any personal data that you have been asked to provide on this form will be held and processed in accordance with Data Protection Legislation.



## Section 8 – Statement

I have just purchased the premises which is referred to in part 3 of this document, and I am a business man with 35 years of experience in the food industry and I strongly believe that I will be an asset to the local community and not a problem. The previous application made for this premises, was submitted by the former owner, and as the new owner, I would like to explain to you why I should be considered for a licence to be granted. I have been operating in Edinburgh and West Lothian, where I have managed to build up a strong relationship with the local community and the local authorities through my good service and experience. The menu which I will use, is 50% based upon healthy foods and therefore offers a variety of healthy eating options to those who wish to eat a healthier and calorie conscious diet. We will also offer gluten free alternatives, vegan options and items which are reduced sugar and fat content, making the menu accessible and healthy for everyone. We also do not intend to sell alcohol from this premises. We would also like to clarify that this will not be a fish and chip shop as we are aware that there are already some in the street. Our new opening hours will be from 4:30pm-11pm, so there will be no clashing with school hours, as I know this was a concern of the authority who grants the licence. Opening later, means that children will be home by the time that we open, therefore we will not be encouraging younger people to eat unhealthily. We are aiming to focus our business on delivery services more than having a large footfall, therefore there will not be a large amount of people hanging around the streets outside the premises. By doing this, we cut down loitering, littering and noise in the street. We are looking to create much needed full time jobs within the local community and are looking to do this while maintaining a good relationship and cooperating with the local authorities. Regarding the number of class 3 premises per residents in the area: as we know, there is a large development in Penicuik which will bring a lot more people into the area, I therefore believe that there is a need for a new, up to date, premises with healthy and dietary options to accommodate everyone.

## MIDLOTHIAN COUNCIL

### DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

**Case Officer:** Graeme King    **Site Visit Date:** 18/03/2020

**Planning Application Reference:** 20/00185/DPP

**Site Address:** 124A John Street

**Site Description:** The application subjects are a single storey shop unit attached to the rear elevation of an auto centre. The walls are finished with painted render, matching that of the neighbouring auto centre. The roof is finished with roofing felt. The shop front is protected by roller shuttering. The unit is currently vacant and was last used as a betting shop.

To the North the unit is bounded by the auto centre. To the West the unit is bounded by the garden of a house. To the South the unit is bounded by a public park. The East elevation fronts onto John Street, which is the main approach to Penicuik town centre from the North; on the opposite side of John Street are residential properties. Penicuik High School and Sacred Heart RC Primary School are respectively 210m and 390m West of the application site. The surrounding area is primarily residential but does include a variety of uses including 2 pubs and a parade of shops (comprising 12 units).

**Proposed Development:** Change of use from betting office to restaurant and takeaway and installation of ventilation equipment

**Proposed Development Details:** It is proposed to change the use of the building to form a restaurant and hot food takeaway. The proposed floor plan submitted with the application shows a dining area of approximately 22sqm, a takeaway seating/waiting area of approximately 9sqm, a bar of approximately 8sqm and a kitchen of approximately 11sqm. The only external changes to the building would be a flue to serve the ventilation system. The proposed opening hours are 10am to 11pm Sunday to Thursday and 10am to 12 midnight Friday and Saturday. No allocated parking is proposed, the unit would rely on existing unrestricted on street parking.

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

0584/95 - Alterations to shop frontage to form window with roller shutter at 124A John Street, Penicuik. Consent with conditions

0585/95/A - Erection of fascia sign at 124A John Street, Penicuik. Consent with conditions.

01/00166/FUL - Installation of new shopfront at 124A John Street, Penicuik. Consent with conditions.

01/00167/ADV - Installation of illuminated fascia and projecting sign at 124A John Street, Penicuik. Consent with conditions.

**Consultations:** The Council's **Environmental Health** Manager has no comment to make on the proposal.

The Council's **Policy and Road Safety** Manager states that the proposed change of use does not raise any major road safety issues and has no objection to the proposal.

**Representations:** The application has received 7 objections. The grounds for objection are as follows:

- Areas of Penicuik rank in the bottom 30% of health outcome and have a below average life expectancy.
- Penicuik has 1 takeaway per 1050 people. The Scottish average is 1 per 1500 people.
- The use will increase reliance on pre-prepared foods high in salt, fat and sugars, increase food poverty, and contribute further to Penicuik becoming a food desert.
- It will contribute to poorer diets, reduced health outcomes, and shortened lives.
- The best use of the property would be as a shop selling fresh foods.
- There are already 17 Class 3 businesses in Penicuik, ranging from takeaways to restaurants & pubs, within a 10 min walk of these premises. Another takeaway is not required in the town and if granted would reduce custom to these existing businesses.
- The premises are a 3-5 min walk from Penicuik High School, at a time when Scottish Government and NHS Lothian are promoting that everyone, including young people, eat healthier.
- The premises are near a pedestrian crossing, on what can be a difficult corner to cross, more parked cars would limit visibility and make this more difficult and potentially dangerous.
- The noise and smell from the ventilation system will cause significant detrimental impact on the residential amenity of the neighbouring house and the surrounding area.
- There are 2 chip shops close to the application site. Penicuik does not need another chip shop.
- The residential housing in the surrounding area is mainly occupied by elderly residents. Increase footfall within the area will increase the threat of burglaries.
- The use will result in littering which will attract seagulls and vermin.
- The use will encourage people to gather outside the unit and this will obstruct an already busy pavement.
- There are minimal healthy/alternative eating establishments in Penicuik. An additional chip shop will encourage unhealthy eating.
- The use will encourage people to gather outside the unit and this will lead to anti-social behaviour that will disrupt the amenity of local residents.

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

Policy **DEV2: Protecting Amenity within the Built-Up Area** states that development will not be permitted where it would have an adverse impact on the character or amenity of a built-up area.

Policy **ENV18: Noise** requires that where new noise sensitive uses are proposed in the locality of existing noisy uses, the Council will seek to ensure that the function of established operations is not adversely affected.

Policy **TCR1: Town Centres** supports proposals for retail, commercial leisure development or other uses which will attract significant numbers of people in Midlothian's town centres, provided their scale and function is consistent with the town centre's role. In support of this policy the Council has prepared supplementary guidance on food and drink and other non-retail uses in town centres; this guidance also includes guidance in respect of food and drink and hot food takeaways outwith town centres. The guidance was adopted by the Council on 4 March 2019. Further details on the Supplementary Guidance are provided below.

Policy **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. The policy does not refer to or apply to food and drink uses or hot food takeaways.

The Council's **Food and drink and other non-retail uses in Town Centres Supplementary Guidance (SG)** was adopted by the Council on 4 March 2019. With regard to Food and Drink provision outwith town centres the SG states that it is appropriate to locate some element of food and drink provision in local centres (as identified in the MLDP), however food and drink uses will not be permitted outwith such areas unless it has been demonstrated that there will be no adverse impact on the viability of nearby town centres or where the development is required to support an existing business.

In relation to hot food takeaways in proximity to school premises the SG notes that the Council is concerned that hot food takeaways in the proximity of secondary schools encourages school pupils to eat unhealthy food. The SG states that hot food takeaways will not be permitted where they are situated within 400 metres of the curtilage of a primary or secondary school. With regard to Class 3 Uses (Restaurants, Cafes, Snack Bars etc.) the SG states that an element of takeaway trade is permitted provided that it remains clearly ancillary to the principal use of the premises for the consumption of food and drink on the premises; however such ancillary uses are not permitted within 400 metres of primary and secondary schools.

**Planning Issues:** In dealing with a planning application the Planning Authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations. Any representations and consultation responses received are material considerations.

## Principle of development

Whilst the unit is currently vacant its established use is as betting office, Scottish Government planning regulations define a betting office as being a sui generis use which does not fall within any of the 12 classes within the Use Classes Order. There are permitted development rights which allow for a change of use from a betting office to a Class 1 (Shop) or Class 2 (Financial, Professional and Other Services) use; all other material changes of use from use as a betting office require an application for planning permission.

The proposed use is described on the application form as being a restaurant with takeaway facility. The Planning Statement submitted in support of the application describes the proposed use as both a restaurant with ancillary takeaway and a restaurant with a small takeaway element. When explaining the nature of the proposal the planning statement describes the proposed internal layout thus:

*The proposed restaurant will continue to be accessed via the existing front door which will lead into the main dining area. Offset to the left upon entering will be a small seating area where customers waiting for a takeaway can be seated. On the left hand side of the restaurant will be the bar/servery where customers can enjoy a drink while waiting to be served. Beyond the servery will be the kitchen, storage and refuse management facilities. There will also be male/female toilets and an accessible toilet.*

The proposed layout and the various descriptions of the proposal make clear that the takeaway element is an integral part of the proposal. The unit is a relatively small unit and the proposed layout dedicates approximately 20% of the public area to space for takeaway collection. Having considered these facts the Planning Authority considers that proposed use is a composite use, rather than a Class 3 use with ancillary takeaway, and as such the proposed use is considered sui generis. Whilst the established use is also a sui generis use the nature of the proposal represents a material change of use and therefore an application for planning permission is required.

The Council's Food and drink and other non-retail uses in Town Centres Supplementary Guidance (SG) is a material consideration in the assessment of the application. The SG does not permit new hot food takeaways within 400 metres of the curtilage of primary or secondary schools. The application site is 210 metres from Penicuik High School and 390 metres from Sacred Heart RC Primary School. The location is clearly contrary to the guidance in the SG and there are no material considerations that justify deviation from this element of the guidance. The proposal is contrary to the SG and therefore by association it is contrary to policy TCR1 of the MLDP.

As is noted above the Planning Authority considers the takeaway element to be an integral element of the proposal and therefore if one element is contrary to policy the whole proposal is contrary to policy. Notwithstanding this fact, if the Planning Authority were to consider using a condition to restrict the use to only that of a restaurant (or other Class 3 use) with no takeaway element then the proposal would

still be contrary to the SG due to the fact that the site is not situated within either a town centre or a local centre. The parade of shops in the surrounding area are situated 115 metres North of the application site and the intervening residential properties create a clear separation between the 2 areas. Furthermore the parade of shops is not identified in the MLDP as forming a local centre. In the absence of a Town Centre Impact Assessment demonstrating that there is no adverse impact on the vitality of Penicuik town centre, then a Class 3 (Food and Drink) use at this location is contrary to the SG and by association policy TCR1.

### Amenity of residential properties

Restaurant and/or hot food takeaway uses can have a detrimental impact on the amenity of residential properties; ventilation systems can create disruption due to noise and/or smells, and evening opening can cause disruption. Notwithstanding this fact there are lots of examples of food and drink businesses, takeaways and pubs operating successfully in close proximity to residential neighbours. Choice of equipment; correct installation and maintenance of equipment; and effective management procedures can all help businesses operate without causing significant disruption to residential properties. The Council can control the impact on amenity via planning, environmental health and licencing powers. It must also be acknowledged that retail uses (which in this instance could be implemented without the need for a planning application) can also cause similar, or greater, impacts on residential amenity.

### Road Safety

The Council's Policy and Road Safety has considered the proposal and is satisfied that it does not raise any major road safety issues. Whilst the application subjects does not have any allocated parking, the surrounding streets have ample areas of unrestricted parking and the existing use as a betting office would also generate regular visits. The scale of the unit is such that the proposed use would be unlikely to create any significant road safety issues.

### Healthy Eating

The MLDP does not contain any specific policies relating to healthy eating; however the 400 metres buffer between schools and hot food takeaways that is specified in the SG is intended to discourage unhealthy eating amongst school children. Planning case law is mixed on the issue of whether or not healthy eating initiatives can be considered to be a material consideration in the assessment of planning applications.

**Recommendation:** Refuse planning permission

### **Reason for Refusal:**

1. The building is within 400 metres of both Penicuik High School and Sacred Heart RC Primary School. Midlothian Council's Supplementary Guidance on Food and drink and other non-retail uses in Town Centres does not permit hot food takeaways within 400 metres of the curtilage of either primary or secondary schools. The proposal is therefore contrary to policy TCR1 of the

Midlothian Local Development Plan 2017 and its associated Supplementary Guidance.

2. The building is not situated within either a Town Centre or a Local Centre, as defined in the Midlothian Local Development Plan 2017, and no evidence has been provided to demonstrate that the use will not have an adverse impact on the vitality of Penicuik town centre. The proposal is therefore contrary to policy TCR1 of the Midlothian Local Development Plan 2017 and its associated Supplementary Guidance.

**Reg. No. 20/00185/DPP**

Bennett Developments and Consulting  
10 Park Court  
Glasgow  
G46 7PB

Midlothian Council, as Planning Authority, having considered the application by Sava Estates, 124A John Street, Penicuik, EH26 8NG, which was registered on 11 March 2020 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

**Change of use from betting office to restaurant and takeaway and installation of ventilation equipment at 124A John Street, Penicuik, EH26 8NG**

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

<u>Document/Drawing.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	28018 1:1250	11.03.2020
Site Plan	28018/11 1:200	11.03.2020
Existing Floor Plan	28018/1 1:50	11.03.2020
Proposed Floor Plan	28018/2 1:50	11.03.2020
Existing Elevations	28018/3 1:50	11.03.2020
Proposed Elevations	28018/4 1:50	11.03.2020
Planning Statement		11.03.2020

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

- The building is within 400 metres of both Penicuik High School and Sacred Heart RC Primary School. Midlothian Council's Supplementary Guidance on Food and drink and other non-retail uses in Town Centres does not permit hot food takeaways within 400 metres of the curtilage of either primary or secondary schools. The proposal is therefore contrary to policy TCR1 of the Midlothian Local Development Plan 2017 and its associated Supplementary Guidance.*
- The building is not situated within either a Town Centre or a Local Centre, as defined in the Midlothian Local Development Plan 2017, and no evidence has been provided to demonstrate that the use will not have an adverse impact on the vitality of Penicuik town centre. The proposal is therefore contrary to policy TCR1 of the Midlothian Local Development Plan 2017 and its associated Supplementary Guidance.*

Dated 3 / 7 / 2020



Handwritten initials 'DR' in a cursive style.

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

## **PLEASE NOTE**

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

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

### *Prior to Commencement (Notice of Initiation of Development)*

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

## **IMPORTANT NOTE REGARDING PUBLIC ACCESS TO INFORMATION**

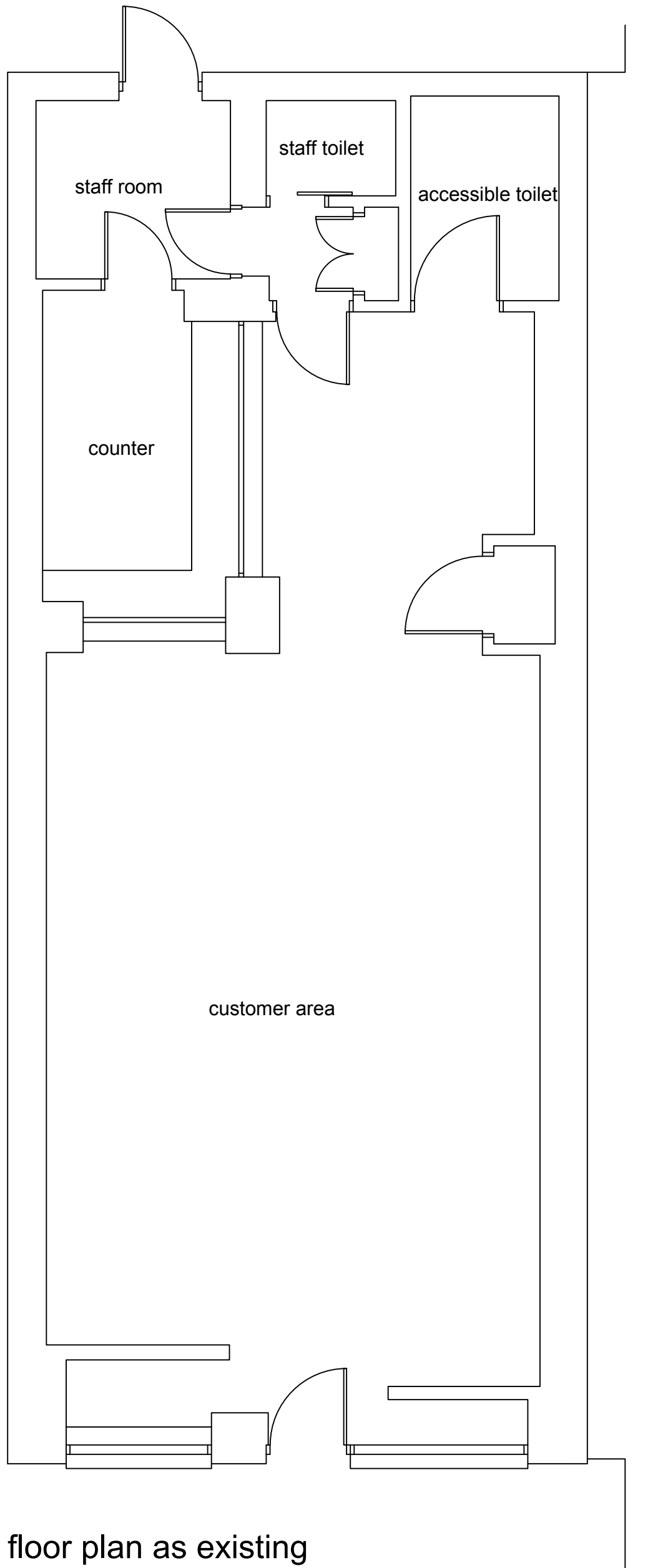
### *Making an application*

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

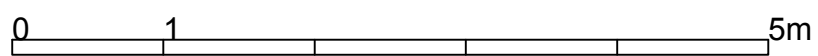
### *Making comment on an application*

*Please note that any information, consultation response, objection or supporting letters 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. However, it is important to note that the publishing of comments and views expressed in letters and reports submitted by applicants, consultees and representors on the Council's website, does not mean that the planning authority agrees or endorses these views, or confirms any statements of fact to be correct.*

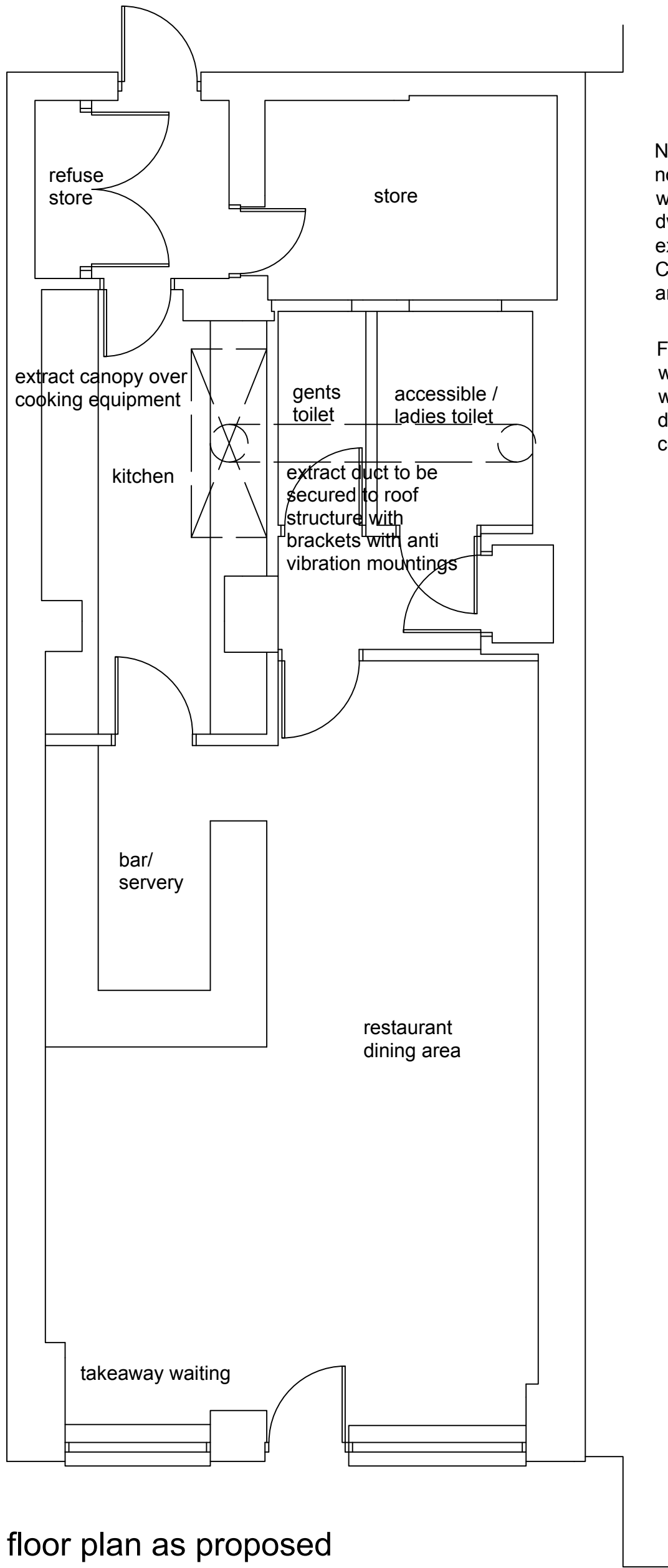


floor plan as existing

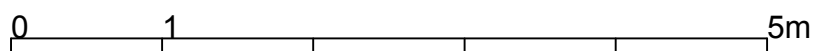


Proposals at  
124A John Street  
Penicuik  
EH26 8NG

scale 1:50 (A3)  
dwg no. 28018/1



floor plan as proposed

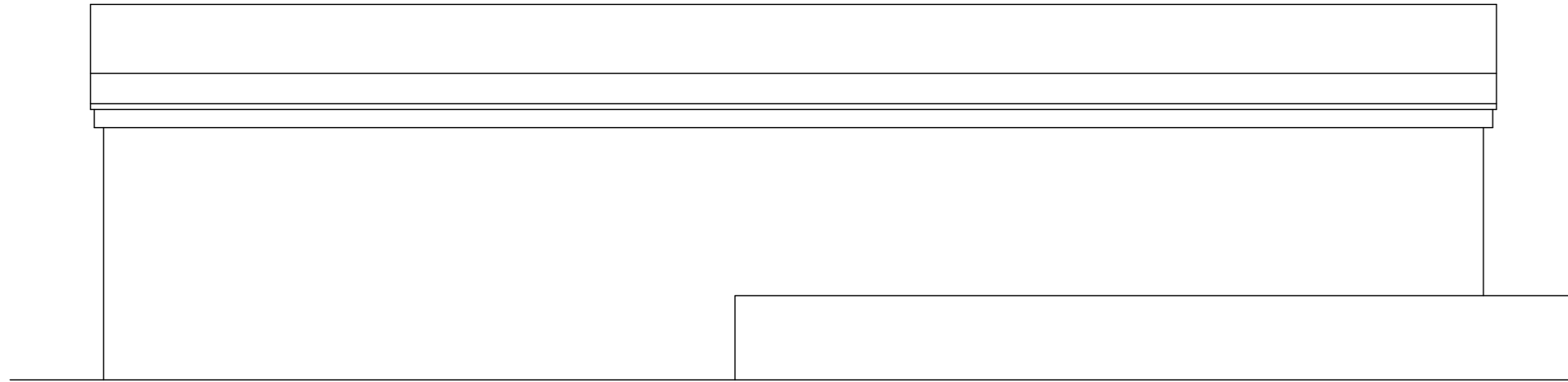


Noise associated with development to not give rise to a noise level assessed with the windows open, within any dwelling or noise sensitive building in excess of the equivalent to Noise Rating Curbe (NRC) 35 between 7am and 11pm and NRC 25 at all other times.

Fan units to be positioned within ductwork internally within unit to be isolated from ductwork by means of flexible connections.

Proposals at  
124A John Street  
Penicuik  
EH26 8NG

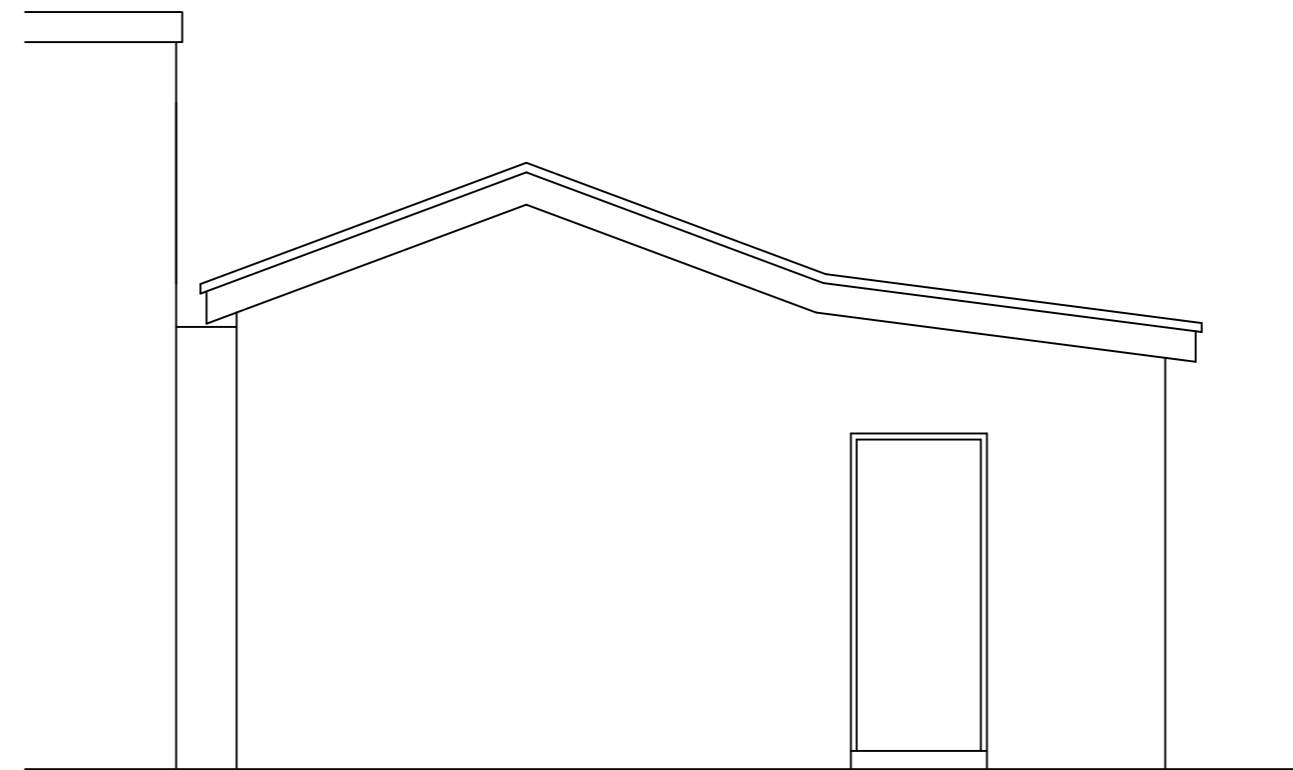
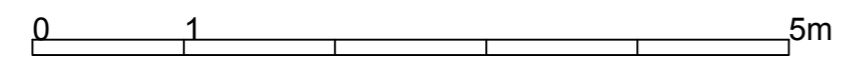
scale 1:50 (A3)  
dwg no. 28018/2



side elevation as existing



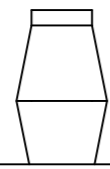
front elevation as existing



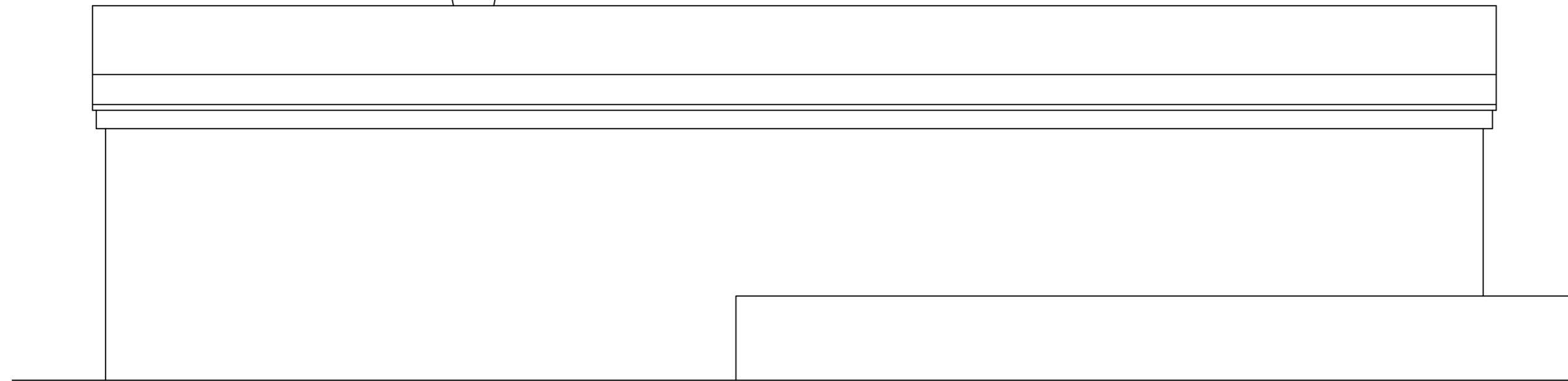
rear elevation as existing

Proposals at  
124A John Street  
Penicuik  
EH26 8NG

scale 1:50 (A2)  
dwg no. 28018/3

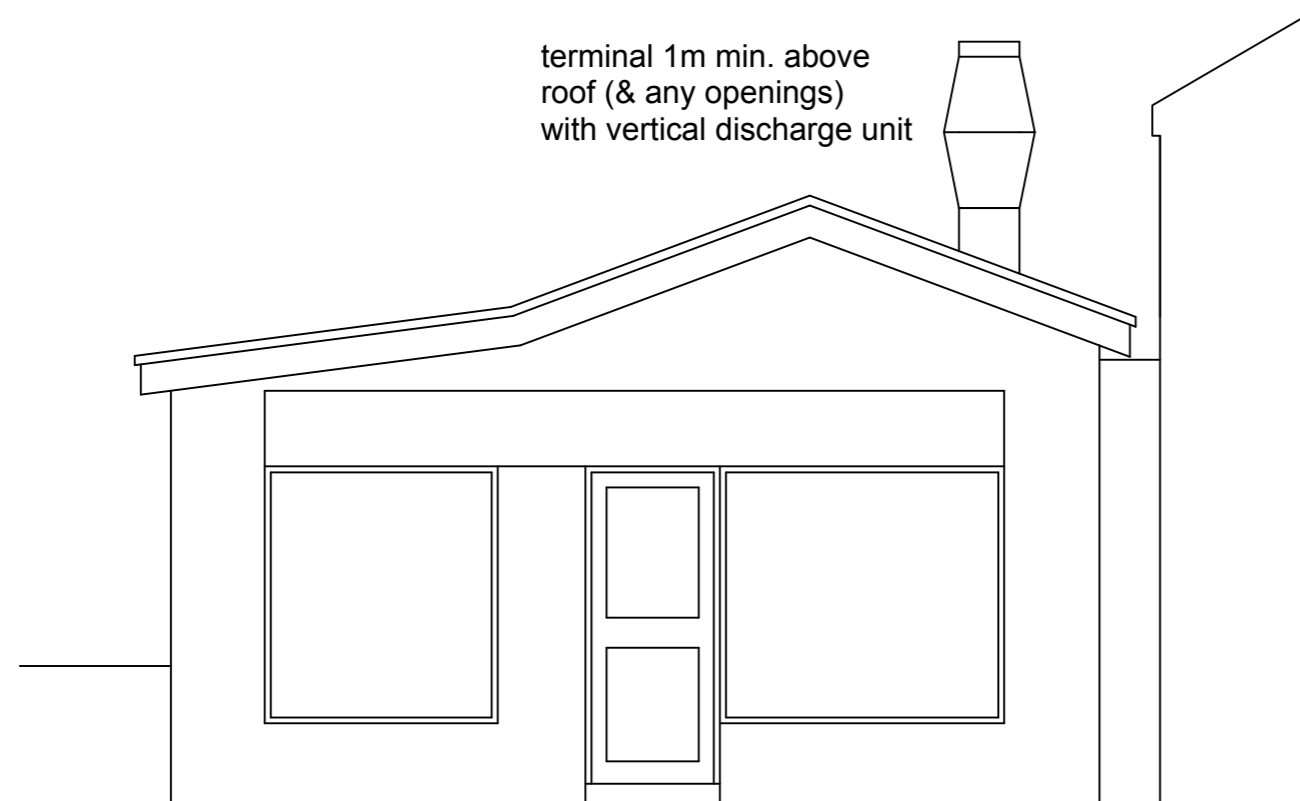
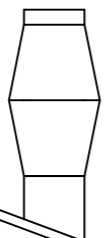


terminal 1m min. above  
roof (& any openings)  
with vertical discharge unit

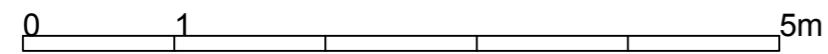


side elevation as proposed

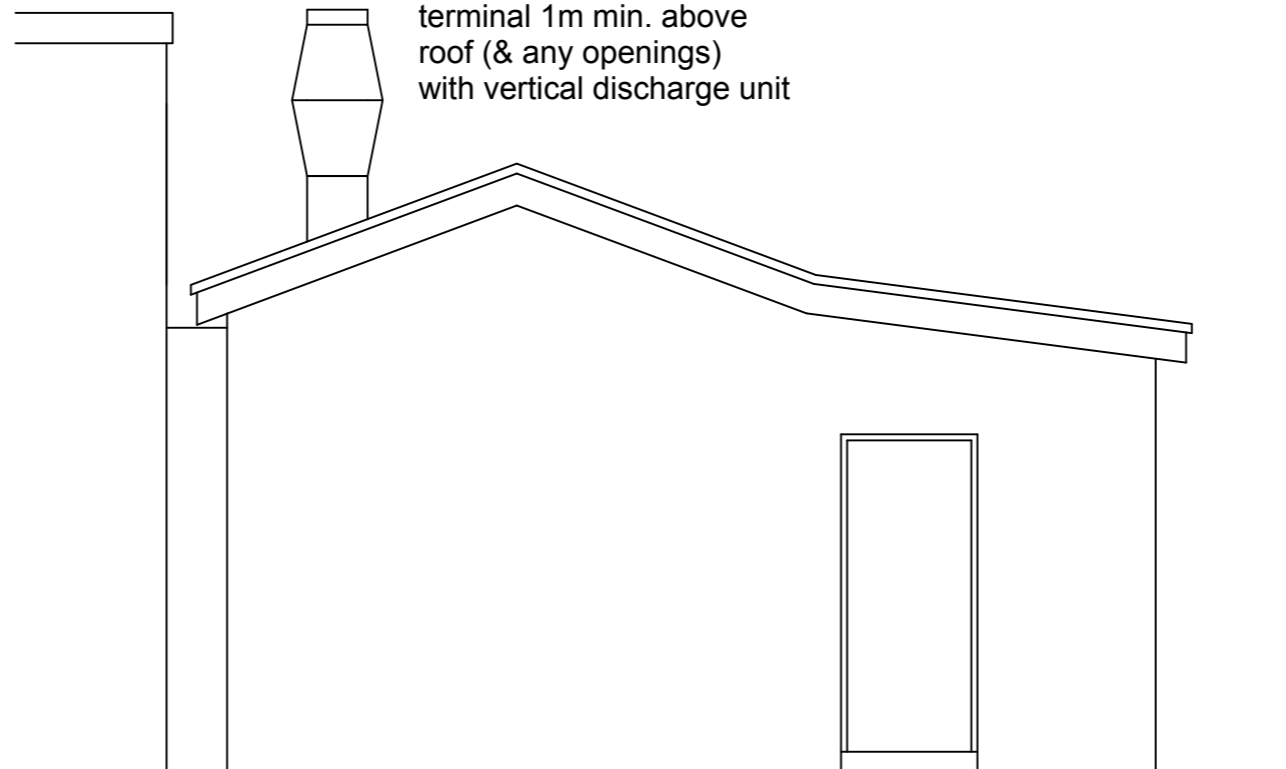
terminal 1m min. above  
roof (& any openings)  
with vertical discharge unit



front elevation as proposed



terminal 1m min. above  
roof (& any openings)  
with vertical discharge unit



rear elevation as proposed

Proposals at  
124A John Street  
Penicuik  
EH26 8NG

scale 1:50 (A2)  
dwg no. 28018/4