

# Notice of Meeting and Agenda



## Local Review Body

**Venue:** Council Chambers,  
Midlothian House, Dalkeith, EH22 1DN

**Date:** Monday, 22 May 2023

**Time:** 13:00

**Executive Director : Place**

**Contact:**

Clerk Name: Democratic Services  
Clerk Telephone:  
Clerk Email: [democratic.services@midlothian.gov.uk](mailto: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**

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## **2 Order of Business**

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

## **3 Declaration of Interest**

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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**

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- |            |   |       |
|------------|---|-------|
| <b>4.1</b> | Minute of meeting of 17 April 2023 submitted for approval | 3 - 8 |
|------------|---|-------|

## **5 Public Reports**

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Notice of Reviews - Determination Reports by Chief Officer Place

- |            |  |          |
|------------|--|----------|
| <b>5.1</b> | 22.00895.DPP - 44 Crichton Avenue, Pathhead  | 9 - 32   |
| <b>5.2</b> | 22.00869.DPP - 25 High Street, Bonnyrigg     | 33 - 76  |
| <b>5.3</b> | 22.00786.DPP - Unit 7A Pentland IE, Loanhead | 77 - 108 |

## **6 Private Reports**

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No items for discussion

## **7 Date of Next Meeting**

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The next meeting will be held on Monday 19 June 2023 at 1 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  
Monday 22 May 2023  
Item No 4.1



## Local Review Body

Date	Time	Venue
Monday 17 April 2023	1.00pm	Council Chambers

### Present:

Councillor Imrie (Chair)	Councillor Alexander
Councillor Bowen	Councillor Cassidy
Councillor Drummond	Councillor McEwan
Councillor McManus	Councillor Smail

### In Attendance:

Peter Arnsdorf	Planning, Sustainable Growth and Investment Manager
Janet Ritchie	Democratic Services Officer

## 1 Welcome, Introductions and Apologies

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Apologies for absence were received from Councillor Milligan and Councillor Virgo.

## 2 Order of Business

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The order of business was as outlined in the agenda previously circulated.

## 3 Declarations of interest

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No declaration of interests were received

## 4 Minute of Previous Meeting

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The Minute of the Meeting of 6 March 2023 was submitted and approved as correct record.

## 5 Reports

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### Notice of Reviews – Determination Reports by Chief Officer Place

Agenda No	Report Title	Presented by:
5.1	1 Saint Mary's Court, Dalkeith (22/00692/DPP)	Peter Arnsdorf
Outline of report and summary of discussion		
<p>The purpose of this report was to provide a framework for the Local Review Body (LRB) to consider a 'Notice of Review' for the installation of solar panels at 1 St Mary's Court, Dalkeith.</p> <p>Planning application 22/00692/DPP for the installation of solar panels at 1 St Mary's Court, Dalkeith was refused planning permission on 2 December 2022; a copy of the decision is attached to this report.</p> <p>The Planning, Sustainable Growth and Investment Manager presented this report and advised that the review would proceed on the written submissions provided.</p> <p>The Local Review Body in discussing the proposed development and the reasons for its refusal, gave careful consideration to the size of the roof, the solar panels and that this was within a conservation area. It was noted that each application within a conservation area must be considered on its own merits.</p> <p>The Committee unanimously agreed to uphold the Appeal and grant planning permission but to take into account the comments that each building within a conservation must be considered on its own merit.</p>		

Decision
<p>The Local Review Body agreed to uphold the review request and to grant planning permission for the installation of Solar panels at 1 Saint Mary's Court, Dalkeith, EH22 1AD for the following reason:</p> <p style="padding-left: 40px;">The installation of the solar PV panels would not have an impact upon the character and appearance of the conservation area and that the Council supports the principle of renewable energy developments.</p>
Action
Planning, Sustainable Growth and Investment Manager

Agenda No	Report Title	Presented by:
5.2	20 Beechwood Park, Newtongrange (22/00861/DPP)	Peter Arnsdorf
Outline of report and summary of discussion		
<p>The purpose of this report was to provide a framework for the Local Review Body (LRB) to consider a 'Notice of Review' for the change of use from dwelling house to short-term let (retrospective) at 20 Beechwood Park, Newtongrange.</p> <p>The Planning application 22/00861/DPP for the change of use from dwelling house to short-term let (retrospective) at 20 Beechwood Park, Newtongrange was refused planning permission on 16 February 2023; a copy of the decision is attached to this report.</p> <p>The Planning, Sustainable Growth and Investment Manager presented this report and advised that the review would proceed on the written submissions provided.</p> <p>The Local Review Body in discussing the proposed development and the reasons for its refusal, gave careful consideration to the change of use to short term lets within a residential area and the detrimental impact on the people in the area.</p> <p>Councillor Imrie, seconded by Councillor Cassidy moved to dismiss the Appeal and refuse planning permission.</p>		
Decision		
<p>The Local Review Body agreed to dismiss the review request and to uphold the Planning decision to refuse planning permission for the change of use from dwelling house to short-term let (retrospective) at 20 Beechwood Park, Newtongrange for the reasons as stated in the Case Officer's report.</p>		
Action		
Planning, Sustainable Growth and Investment Manager		

Agenda No	Report Title	Presented by:
5.3	6 Gorton Loan, Rosewell (22/00734/DPP)	Peter Arnsdorf
<b>Outline of report and summary of discussion</b>		
<p>The purpose of this report was to provide a framework for the Local Review Body (LRB) to consider a 'Notice of Review' for the erection of a single and two storey extension to dwelling house; and formation of dormer windows at 6 Gorton Loan, Rosewell.</p> <p>The Planning application 22/00734/DPP for the erection of a single and two storey extension to dwelling house; and formation of dormer windows at 6 Gorton Loan, Rosewell was refused planning permission on 21 November 2022; a copy of the decision is attached to this report.</p> <p>The Planning, Sustainable Growth and Investment Manager presented this report and advised that the review would proceed on the written submissions provided. He also advised the Committee that there was an error in the report the reference to 6 Gorton Loan was incorrect and it should be number 9 Gorton Loan.</p> <p>The Local Review Body in discussing the proposed development and the reasons for its refusal, gave careful consideration to the impact on the neighbouring gardens and also the design of the extension and the materials used.</p> <p>Councillor McEwan, seconded by Councillor McManus moved to uphold the Appeal and to grant planning permission.</p>		
<b>Decision</b>		
<p>The Local Review Body agreed to uphold the review request and grant planning permission for single and two storey extension to dwelling house; and formation of dormer windows at 9 Gorton Loan, Rosewell, EH24 9AB the following reasons:</p> <p style="padding-left: 40px;">The proposed extension will not have an impact on the traditional character of the original building and that the dormer windows would not have an overbearing detrimental impact on the privacy of the neighbouring gardens.</p> <p>Subject to the conditions as set out in the report.</p>		
<b>Action</b>		
Planning, Sustainable Growth and Investment Manager		

Agenda No	Report Title	Presented by:
5.4	Land rear of Hunter Court, Loanhead (22/00324/PPP)	Peter Arnsdorf
<b>Outline of report and summary of discussion</b>		
<p>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 dwelling house on land rear of 4 Hunter Court, Loanhead.</p>		

The Planning application 22/00324/PPP for planning permission in principle for the erection of dwelling house on land rear of 4 Hunter Court, Loanhead was refused planning permission on 18 January 2023; a copy of the decision is attached to this report.

The Planning, Sustainable Growth and Investment Manager presented this report and advised that the review would proceed on the written submissions provided.

The Local Review Body in discussing the proposed development and the reasons for its refusal, gave careful consideration to the position and size of the proposed development and the impact on the neighbouring residents.

Following further discussion the Members agreed that a single storey property, restricting the height would be acceptable and that the development is positioned as far as possible from the neighbouring property.

Councillor Smaill, seconded by Councillor McEwan moved to uphold the Appeal and grant planning permission with the condition that there is a restriction on the height and it is a single storey property. It was also noted that the position with regards to neighbouring properties would be discussed.

#### Decision

The Local Review Body agreed to uphold the review request and grant planning permission in principle for erection of a dwelling house at Land to Rear of 4 Hunter Court, Loanheadt with an additional condition that this it is a single storey building, restricting the height for the following reason:

This development would not have a significant adverse impact on the amenity of neighbouring residents.

Subject to the conditions as set out in the report and the additional condition as detailed above.

#### Action

Planning, Sustainable Growth and Investment Manager

## 6. Private Reports

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No private business was discussed.

## 7. Date of Next Meeting

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The next meeting is scheduled for Monday 22 May 2023 at 1 pm

The meeting terminated at 13.23 pm





## **Notice of Review: 44 Crichton Avenue, Pathhead**

### **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 a porch at 44 Crichton Avenue, Pathhead.

#### **2 Background**

- 2.1 Planning application 22/00895/DPP for the erection of a porch at 44 Crichton Avenue, Pathhead was refused planning permission on 18 January 2023; 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 January 2023 (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](http://www.midlothian.gov.uk).

#### **4 Procedures**

- 4.1 In accordance with agreed procedures, the LRB:

- Have determined to undertake a site visit (only elected members attending the site visit can 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 were no consultations required and no representations received.
- 4.3 The next stage in the process is for the LRB to determine the review in accordance with the agreed procedure:
- Identify any provisions of the development plan which are relevant to the decision;
  - Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies;
  - Consider whether or not the proposal accords with the development plan;
  - Identify and consider relevant material considerations for and against the proposal;
  - Assess whether these considerations warrant a departure from the development plan; and
  - State the reason/s for the decision and state any conditions required if planning permission is granted.
- 4.4 In reaching a decision on the case the planning advisor can advise on appropriate phraseology and on appropriate planning reasons for reaching a decision.
- 4.5 Following the determination of the review the planning advisor will prepare a decision notice for issuing through the Chair of the LRB. A copy of the decision notice will be reported back to the 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 20 June 2022, 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 development to which this permission relates shall commence no later than the expiration of three years beginning with the date of this permission.

**Reason:** *To accord with the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended by the Planning (Scotland) Act 2019).*

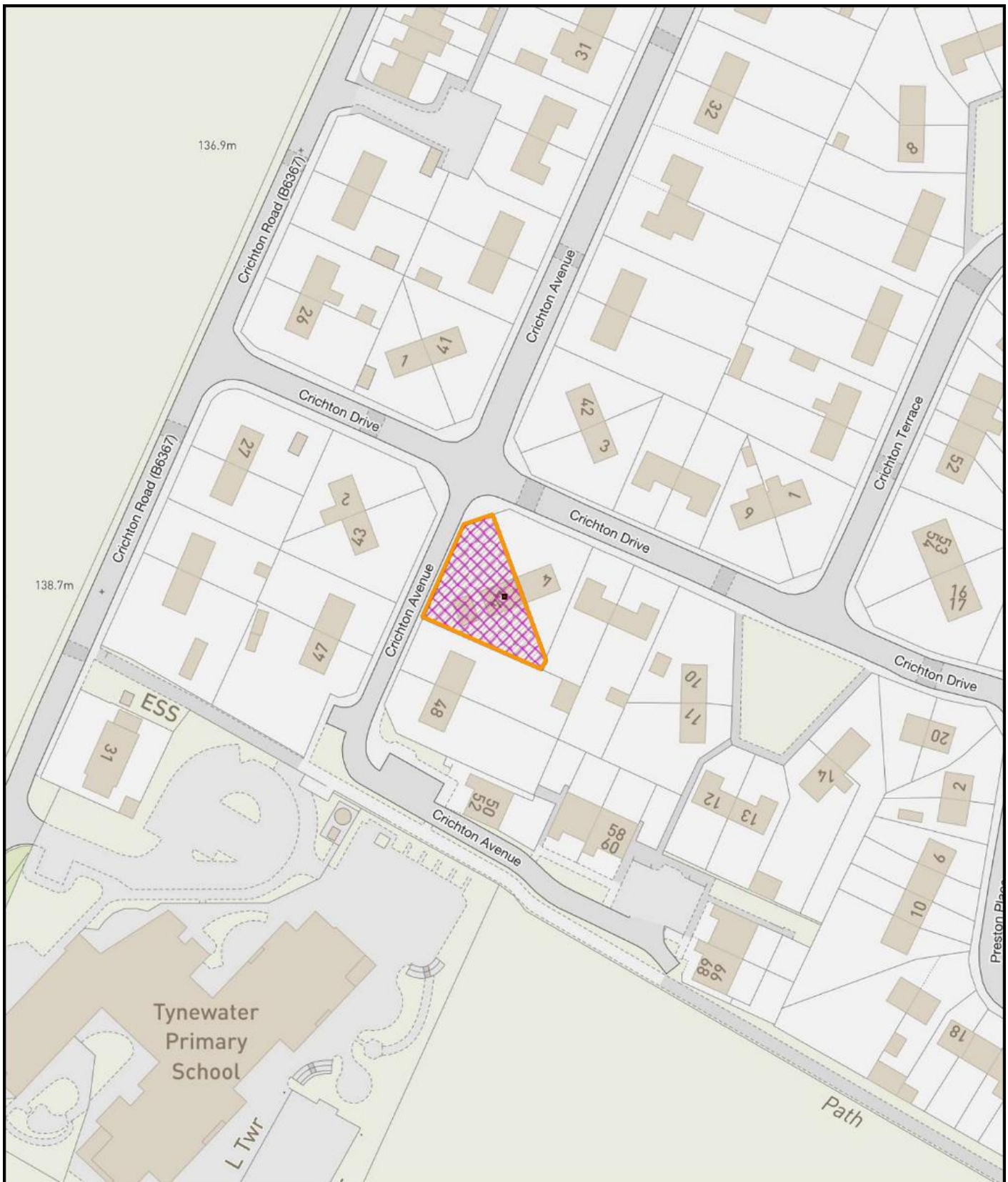
## **6 Recommendations**

- 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:** 12 May 2023  
**Report Contact:** Peter Arnsdorf - Planning, Sustainable Growth and Investment Manager  
[peter.arnsdorf@midlothian.gov.uk](mailto:peter.arnsdorf@midlothian.gov.uk)

**Background Papers:** Planning application 22/00895/DPP available for inspection online.



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

**erection of porch**  
**44 Crichton Avenue, Pathhead**

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File No.22/00895/DPP

Scale: 1:1,250





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

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

Thank you for completing this application form:

ONLINE REFERENCE 100610669-002

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="Niall Young Architecture"/>		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	<input type="text" value="Rebecca"/>	Building Name:	<input type="text"/>
Last Name: *	<input type="text" value="Laing"/>	Building Number:	<input type="text" value="1"/>
Telephone Number: *	<input type="text" value="01316606599"/>	Address 1 (Street): *	<input type="text" value="Duke Street"/>
Extension Number:	<input type="text"/>	Address 2:	<input type="text"/>
Mobile Number:	<input type="text"/>	Town/City: *	<input type="text" value="Dalkeith"/>
Fax Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
		Postcode: *	<input type="text" value="EH22 1BG"/>
Email Address: *	<input type="text" value="rebecca@nyarchitecture.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 &amp; Mrs"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text" value="D"/>	Building Number:	<input type="text" value="44"/>
Last Name: *	<input type="text" value="Walkingshaw"/>	Address 1 (Street): *	<input type="text" value="Crichton Avenue"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Pathhead"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="United Kingdom"/>
Mobile Number:	<input type="text" value=""/>	Postcode: *	<input type="text" value="EH37 5QJ"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value=""/>		

## 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="44 CRICHTON AVENUE"/>
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="PATHHEAD"/>
Post Code:	<input type="text" value="EH37 5QJ"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="664068"/>	Easting	<input type="text" value="339262"/>
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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)

Form new porch extension.

## 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 additional document

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)

Supporting appeal letter. Site, Location and floor plans as proposed and as existing. Elevations as proposed and as existing.

## Application Details

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

22/00895/DPP

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

15/12/2022

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

18/01/2023

## 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: Miss Rebecca Laing

Declaration Date: 24/02/2023

17 Feb 2023

The Planning, Sustainable Growth and Investment Manager  
Planning  
Sustainable Growth and Investment Service  
Midlothian Council  
Fairfield House  
8 Lothian Road  
Dalkeith EH22 3ZN

1 Duke Street  
Dalkeith  
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T 0131 660 6599  
E [info@nyarchitecture.co.uk](mailto:info@nyarchitecture.co.uk)  
W [www.nyarchitecture.co.uk](http://www.nyarchitecture.co.uk)

Dear Sir/ Madam,

**44 CRICHTON AVENUE. PATHHEAD.  
APPEAL AGAINST DECISION TO REFUSE PLANNING PERMISSION  
APPLICATION REG. NO. 22/00895/DPP**

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The local authority refused our application for a single storey extension to the front of the dwelling at 44 Crichton Avenue Pathhead, dated 18 January 2023.

We wish to make an application against the planning authority's refusal and would be grateful if our application can be reviewed under section 43A of the Town and Country Planning act.

Refusal was issued as the proposals were deemed to be unsuitable for the following reasons:-

- It would appear over dominant on the public front elevation.
- The design would be uncharacteristic of the existing building.
- The design would be prominent in the streetscene

It has been indicated that as a result of what is considered to be an unsatisfactory relationship to the existing dwelling, the porch will appear as an incongruous feature and that it would detract from the appearance of the principal elevation of the property and the semi-detached pairing of the houses, within the streetscene.

We would make representation against these points with the following comment:-

The porch extension would not be a dominant feature nor would it detract from the form of the house. The materials chosen would match the original dwelling and the pitch of the roof of the porch would match that of the existing dwelling. This proposal would not be an incongruous addition to the house. Interestingly there are many forms of these type of dwellings within Midlothian which were built around this time which have outshoots and extensions, either from the main building form, or from a recess or a smaller side section of the dwellings, or even an elongated partial extension from the main roof. An example of this can be seen below in Woodburn, Dalkeith. It is therefore not unusual or out of character to have an extension to the dwelling such as the one we are proposing at 44 Crichton Avenue. We also don't think, as it is designed to have similar materials and finishes, that it would be over dominant on the public front elevation.



Woodburn street scene, Dalkeith

As an example of this there is a porch extension to a similar pairing of dwellings at Hunterfield Road in Gorebridge, the conservatory style roof in this instance does not match the house and the choice of materials differs. Another example of a front extension can be seen at Cuiken Avenue Penicuik. The extension in this case is quite large and it extends outwards beyond the line of the building.



Hunterfield, Gorebridge



Cuiken Avenue, Penicuik.

Another example of a front extension is to a semi detached dwelling, nearby in Crichton Terrace, Pathhead. In this situation the porch extension/ conservatory is built to the side and



front of a pair of dwellings. The style of house is different from those in Crichton Avenue however the houses are arranged up the hillside in similar groupings and orientation to one another. The extension materials and the form of the extension differ from those of the original dwelling. The roof finish is different from the roof finish of the main dwelling and the style of fenestration is again different.

It would seem therefore that there exists a precedent for many examples of alterations and extension within Midlothian Council to the front and side of similar types of houses, within groupings and within streetscenes.



Crichton Terrace, Pathhead

The design at 44 Crichton Avenue would be complimentary to the existing dwelling and would not detract from the pleasant streetscene and the corner arrangements of the 4 sets of dwellings at these two road junctions between Crichton Avenue and Crichton Drive. Due to the 45 degree angle location of the corner dwellings the houses sit well back from the streetscene and the effect of the proposed extension would not therefore be prominent.

The front facing roof of the proposed extension at our application at 44 Crichton Avenue is symmetrical, of the same material finish and pitched at the same degree as the original dwelling. Also, by use of matching finishing materials the extension will appear sympathetic and complimentary, whilst subservient to the original dwelling. The porch extension is located to the front of the existing accommodation as it lends itself better to the layout of the ground floor and gives accommodation to the hall.

With regard to the streetscene, It does seem unusual that this small extension to the front a dwelling in a style that relates to the existing house is considered to be detrimental, when a number of new dwellings have recently been built to the end of the street in a different style and character to those of the streetscene. This development of dwellings seems to be shoehorned in to an end section of ground adjacent to these dwellings. Neither the layout of the dwellings, the design of the dwellings or the choice of materials, relate in any way the existing streetscene of dwellings.



## MIDLOTHIAN COUNCIL

### DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

**Planning Application Reference:**22/00895/dpp

**Site Address:** 44 Crichton Avenue, Pathhead

**Site Description:**

The application property comprises a semi-detached two storey dwellinghouse, and its associated garden, located within a residential area. The house is finished externally in drydash render with white plastic window frames and rosemary roof tiles.

**Proposed Development:**

Erection of porch

**Proposed Development Details:**

It is proposed to erect an extension at the front of the house measuring 3.5m deep and 4.1m wide (external footprint 14m<sup>2</sup>). It has a hipped roof with a flat section at ridge level and is to be finished externally in matching materials to the existing building.

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

The agent has submitted a design statement in support of the application stating that: the porch is required for storage and to accommodate a wc; there is limited space at the rear of the property to extend; the proposal does not impact on privacy or light to neighbouring properties; the roof is pitched at the same angle as the original house; the design is sympathetic to and clearly subservient to the original dwelling; and the extension would not have a significant impact on the character of the original building, the symmetry of the semi-detached pair or the visual amenity of the area.

History sheet checked.

22/00667/dpp- Erection of porch at 44 Crichton Avenue, Pathhead - It was proposed to erect an extension at the front of the house measuring 3.5m deep and 4m wide. It had an asymmetric roof and was to be finished externally in matching materials to the existing building – application withdrawn.

04/00947/ful - Extension to dwelling at 19 Crichton Terrace, Pathhead hipped roof extension at front of house measuring 1.6m deep from front elevation and 4.2m wide overall and wrapping around the side of the house by 2.3m along the side elevation – external footprint of 9.21m<sup>2</sup> - pp 07.03.2005

**Consultations:**

None required.

**Representations:**

None received.

**Relevant Planning Policies:**

Planning policy currently comprises National Planning Framework 3 and Scottish Planning Policy, SESPlan and the adopted Midlothian Local Development Plan 2017. On 8 November the Revised Draft National Planning Framework 4 was submitted to the Scottish Parliament for approval along with an Explanatory Report that outlines the changes from Draft NPF4 to the Revised Draft. The Planning Act requires that NPF4 must be approved by the Scottish Parliament before it can be adopted by Scottish Ministers. On adoption the provisions in the Planning Act will commence to make NPF4 part of the statutory development plan. The existing National Planning Framework 3 and Scottish Planning Policy remain in place until NPF4 has been adopted by Scottish Ministers. As the Revised Draft NPF4 is at an advanced stage and represents the settled view of the Scottish Government in terms of its planning policy it is a material consideration of significant weight in the assessment of the application. The following policies are relevant to the proposal:

**NPF4 REVISED DRAFT (08.11.22)****Policy 14 Design, quality and place**

- a) Development proposals will be designed to improve the quality of an area whether in urban or rural locations and regardless of scale.
- c) Development proposals that are poorly designed, detrimental to the amenity of the surrounding area or inconsistent with the six qualities of successful places, will not be supported.

**Policy 16 Quality homes**

- g) Householder development proposals will be supported where they:
  - i. do not have a detrimental impact on the character or environmental quality of the home and the surrounding area in terms of size, design and materials; and
  - ii. do not have a detrimental effect on the neighbouring properties in terms of physical impact, overshadowing or overlooking.
- h) Householder development proposals that provide adaptations in response to risks from a changing climate, or relating to people with health conditions that lead to particular accommodation needs will be supported.

The relevant policy of the **Midlothian Local Development Plan 2017** is;

DEV2 – Protecting amenity within the built-up area - seeks to protect the character and amenity of the built-up area.

It is noted that policy DP6 House Extensions, from the now superseded 2008 Midlothian Local Plan, set out design guidance for new extensions requiring that they are well designed in order to maintain or enhance the appearance of the house and the locality. The policy guidelines contained in DP6 also relate to size of extensions, materials, impact on neighbours and remaining garden area. It also states that front porches to detached or semi-detached houses are usually acceptable provided they project less than two metres out from the front of the house. It also allowed for novel architectural solutions. The guidance set out within this policy has been successfully applied to development proposals throughout Midlothian and will be reflected within



the Council's Supplementary Guidance on Quality of Place which is currently being drafted.

**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 houses at Crichton Avenue and at the corner of Crichton Drive are distinct in character comprising symmetrical pairs of semi-detached houses characterised by relatively steeply pitched roofs and gable features at the front. There are no other porches on similar properties in this part of Crichton Avenue.

Extensions to the fronts of houses are generally approved if they are small and sympathetically designed; in these cases the existing character of the individual house and of the street scene is retained. The majority of such extensions are front porches, a main purpose of which is to give added protection to the entrance door to the house, and usually these do not project more than 2 metres from the front wall of the original house.

Albeit the house is set back from the road at 3.5m deep and 4.1m wide the proposed extension will be a very prominent addition attached to the front of the house. The porch extension will appear over-dominant on the public front elevation and would be prominent in the streetscene. The form of the application property is symmetrical with that of no. 4 Crichton Drive which forms the other half of the semi-detached pair. The current design of the roof of the porch was put forward by the agent as an option during the processing of the previous application. The case officer advised the agent that it is the size of the proposed porch which is an issue rather than its form and that the revised design does not overcome this and was not considered an improvement on that of the previous proposal. It was suggested that a porch measuring a maximum 3m wide and 2.3m deep as measured externally may be acceptable which would lend itself to a conventional pitched roof form rather than a hipped roof which is not characteristic of the building. However the applicant/agent has decided to pursue the hipped roof option and has not reduced the size of the footprint of the extension. As a result of its size the porch will be a very prominent feature the design of which is uncharacteristic of the existing building and will detract from the symmetrical form and character of the pair of buildings. As a result of the unsatisfactory relationship with the existing house the porch will appear as an incongruous feature detracting from the appearance of the principal elevation of the application property, the semi-detached pair and the street scene.

During the processing of the previous application the agent mentioned an extension at 19 Crichton Terrace which has a hipped roof. It appears from notes on the file that the reason behind the hipped roof design of the extension at the front of the house was due in part to the position of the boundary of the front garden of no 19 with the front garden of no. 18. Whilst not characteristic of the existing building from the submitted plans at single storey and only projecting 1.6m from the front building line of the house as compared to 3.5m as per the application at no. 44 Crichton Avenue, the extension did not appear to be an overly prominent feature. Also the design of the house at no. 19 Crichton Terrace is not the same as and not as distinct



as that at 44 Crichton Avenue. On viewing the front extension at no. 19 in situ it does appear as quite a prominent feature, exacerbated by the different colour roof tiles. At 3.5m deep the proposed porch at no. 44 Crichton Avenue would appear even more prominent.

Also the applicant/agent has not at any stage sought the view of the Planning Authority as to whether a rear extension would be acceptable.

The proposal will not have a significant impact on the amenity of neighbouring properties.

**Recommendation:**

Refuse planning permission

# Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

**Reg. No. 22/00895/DPP**

Niall Young Architecture  
1 Duke Street  
Dalkeith  
EH22 1BG

Midlothian Council, as Planning Authority, having considered the application by Mr and Mrs D Walkingshaw, 44 Crichton Avenue, Pathhead, EH37 5QJ, which was registered on 16 December 2022 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

## **Erection of porch at 44 Crichton Avenue, Pathhead, EH37 5QJ**

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

<u>Document/Drawing.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	2264(00)01 1:1250	16.12.2022
Existing floor plan	2264(PA)01 1:50	16.12.2022
Existing elevations	2264(PA)02 1:50	16.12.2022
Proposed floor plan	2264(PA)07 1:50	16.12.2022
Proposed elevations	2264(PA)08 1:50	16.12.2022
Proposed elevations	2264(PA)09 1:50	16.12.2022
Site Plan	2264(PA)10 1:200	16.12.2022

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

1. The porch extension will appear over-dominant on the public front elevation, the design of which is uncharacteristic of the existing building, and would be prominent in the streetscene. As a result of the unsatisfactory relationship with the existing house, the porch will appear as an incongruous feature detracting from the appearance of the principal elevation of the application property, the semi-detached pair of houses of which it forms one half and the street scene.
2. For the above reason the proposal is contrary to policy DEV 2 of the adopted Midlothian Local Development Plan 2017 which seeks to protect the character and amenity of the built-up area.

Dated 18 / 1 / 2023



.....  
Duncan Robertson

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



The Coal  
Authority

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

Planning and Local Authority Liaison

Direct Telephone: 01623 637 119

Email: [planningconsultation@coal.gov.uk](mailto:planningconsultation@coal.gov.uk)

Website: [www.gov.uk/coalauthority](http://www.gov.uk/coalauthority)

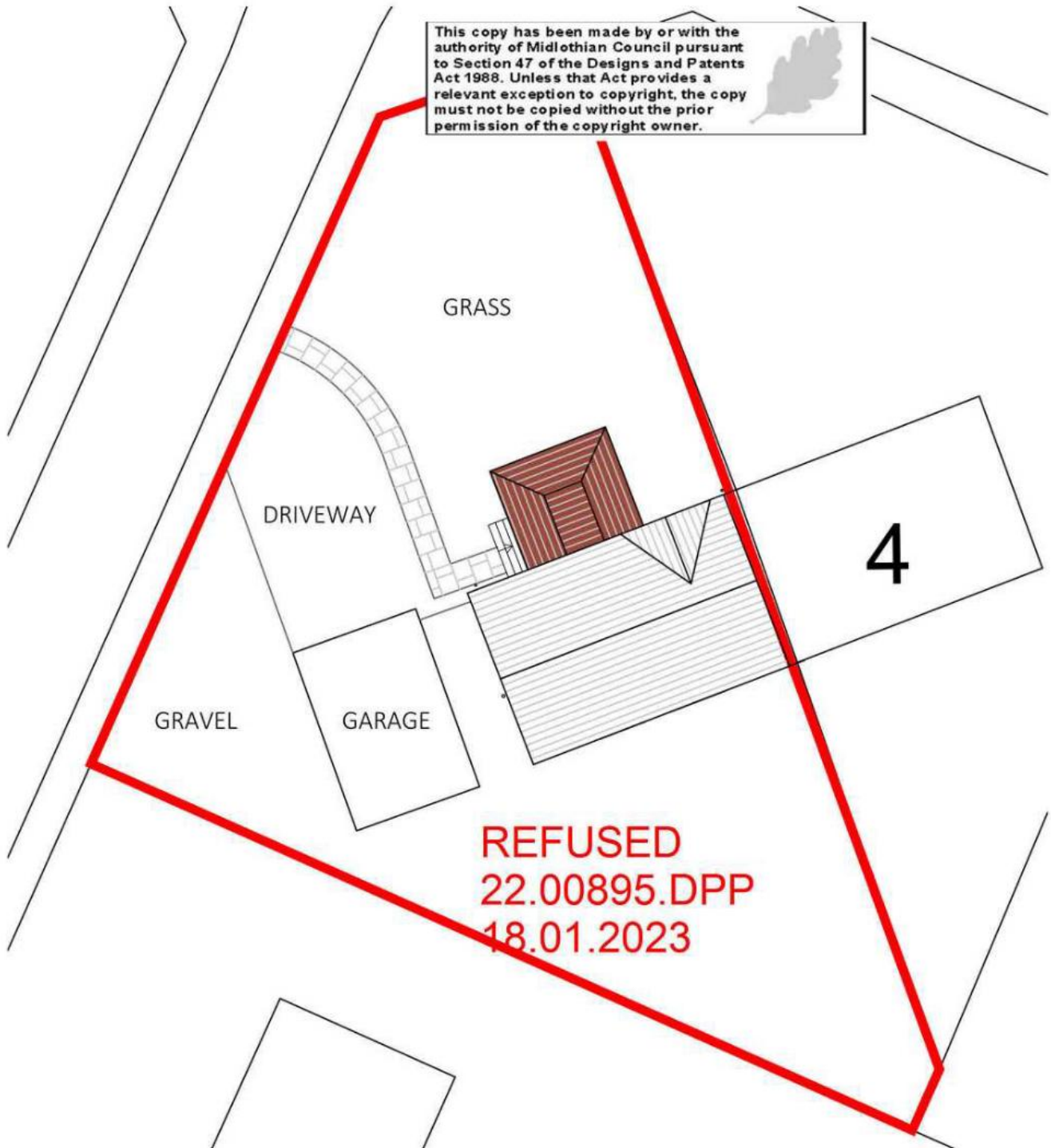
**Development Low Risk Area- STANDING ADVICE**

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:  
[www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

Standing Advice valid from 1st January 2023 until 31st December 2024

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— RED OUTLINE INDICATED SITE BOUNDARY

1:200

4m 0 4m 8m 12m 16m 20m



DRAWING TITLE:  
SITE PLAN

PROJECT:  
MR & MRS WALKINGSHAW  
44 CRICHTON AVENUE  
PATHHEAD  
EH37 5QJ

Niall Young **ARCHITECTURE LTD.**

1 Duke Street, Dalkeith, EH22 1BG  
T. 0131 660 6594 E. info@nyarchitecture.co.uk

Scale  
**1:200@A4**

DO NOT SCALE

Drawn  
**RL**

Checked  
**NSY**

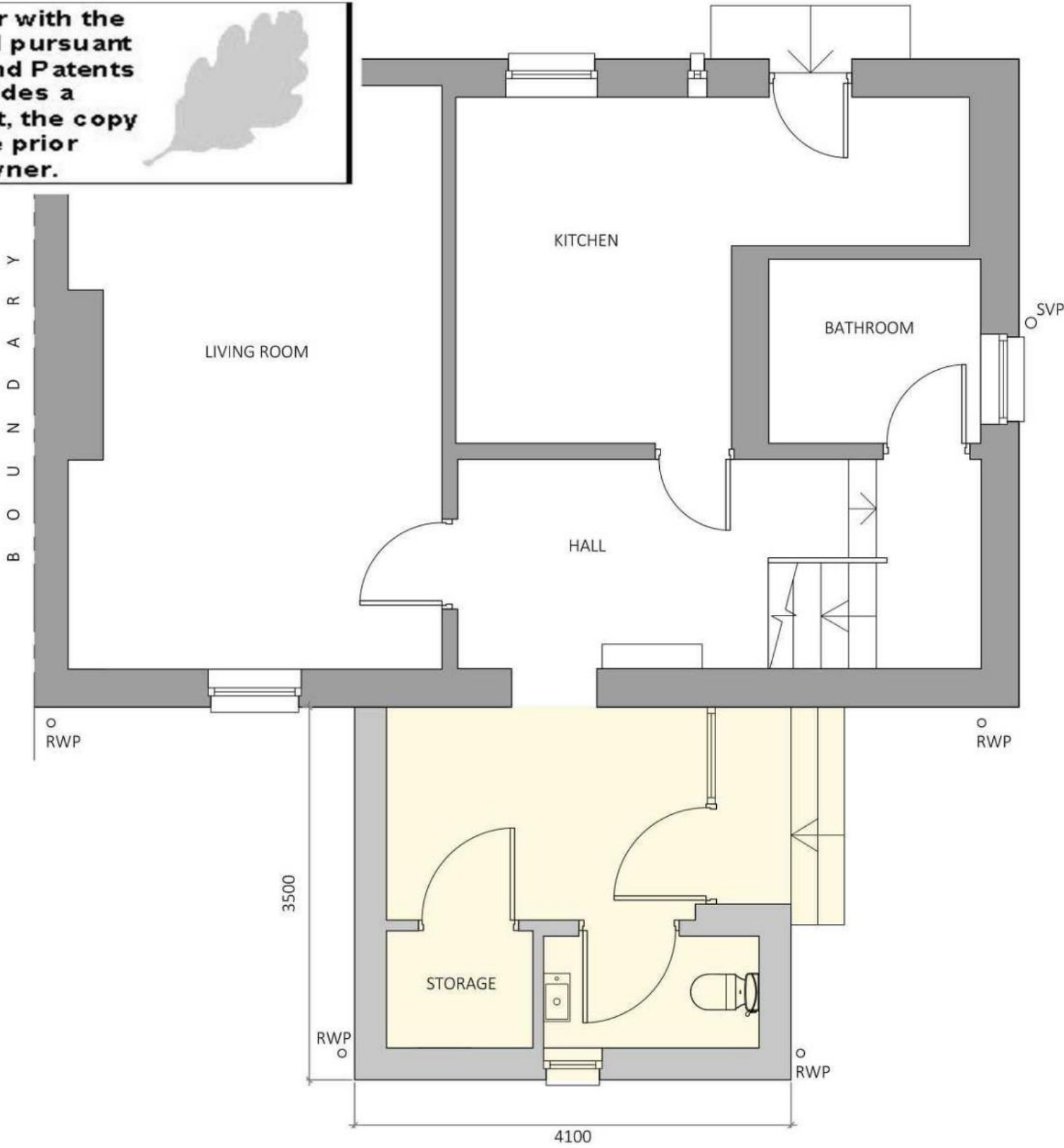
Date  
**06.12.22**

**2264(PA)10**

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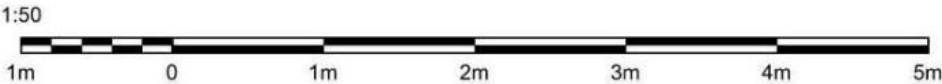


REFUSED  
22.00895.DPP  
18.01.2023



- PROPOSED MATERIALS:
- muPVC window, colour white
  - muPVC door & glass screen, colour sage green
  - dry dash render to match existing
  - rosemary tiled roof to match existing
  - muPVC rainwater goods

GROUND FLOOR PLAN AS PROPOSED 1:50



TO BE READ IN CONJUNCTION WITH ALL OTHER INFORMATION

				PROJECT:		DRAWING TITLE:		Scale:		Issue status:	
				MR & MRS WALKINGSHAW 44 CRICHTON AVENUE PATHHEAD EH37 5QJ		GROUND FLOOR PLAN AS PROPOSED		Niall Young ARCHITECTURE LTD.		PA	
								1 Duke Street, Dalkeith, EH22 1BG T. 0131 660 6599 E. Info@njarchitecture.co.uk		Date 06.12.22	
REV				DETAILS		BY		DATE		2264(PA)07	



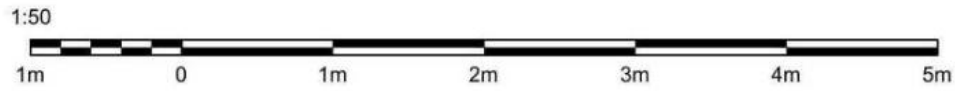
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REFUSED  
22.00895.DPP  
18.01.2023



- PROPOSED MATERIALS:
- muPVC window, colour white
  - muPVC door & glass screen, colour sage green
  - dry dash render to match existing
  - rosemary tiled roof to match existing
  - muPVC rainwater goods



TO BE READ IN CONJUNCTION WITH ALL OTHER INFORMATION

REV	DETAILS	BY	DATE

PROJECT:  
MR & MRS WALKINGSHAW  
44 CRICHTON AVENUE  
PATHHEAD  
EH37 5QQ

DRAWING TITLE:  
ELEVATION AS PROPOSED

Niall Young ARCHITECTURE LTD.  
1 Duke Street, Dalkeith, EH22 1BG  
T: 0131 660 6599 E: info@nyarchitecture.co.uk

Scale: 1:50@A3	Issue status: PA
Drawn: RL	Checked: NSY
Date: 06.12.22	2264(PA)08

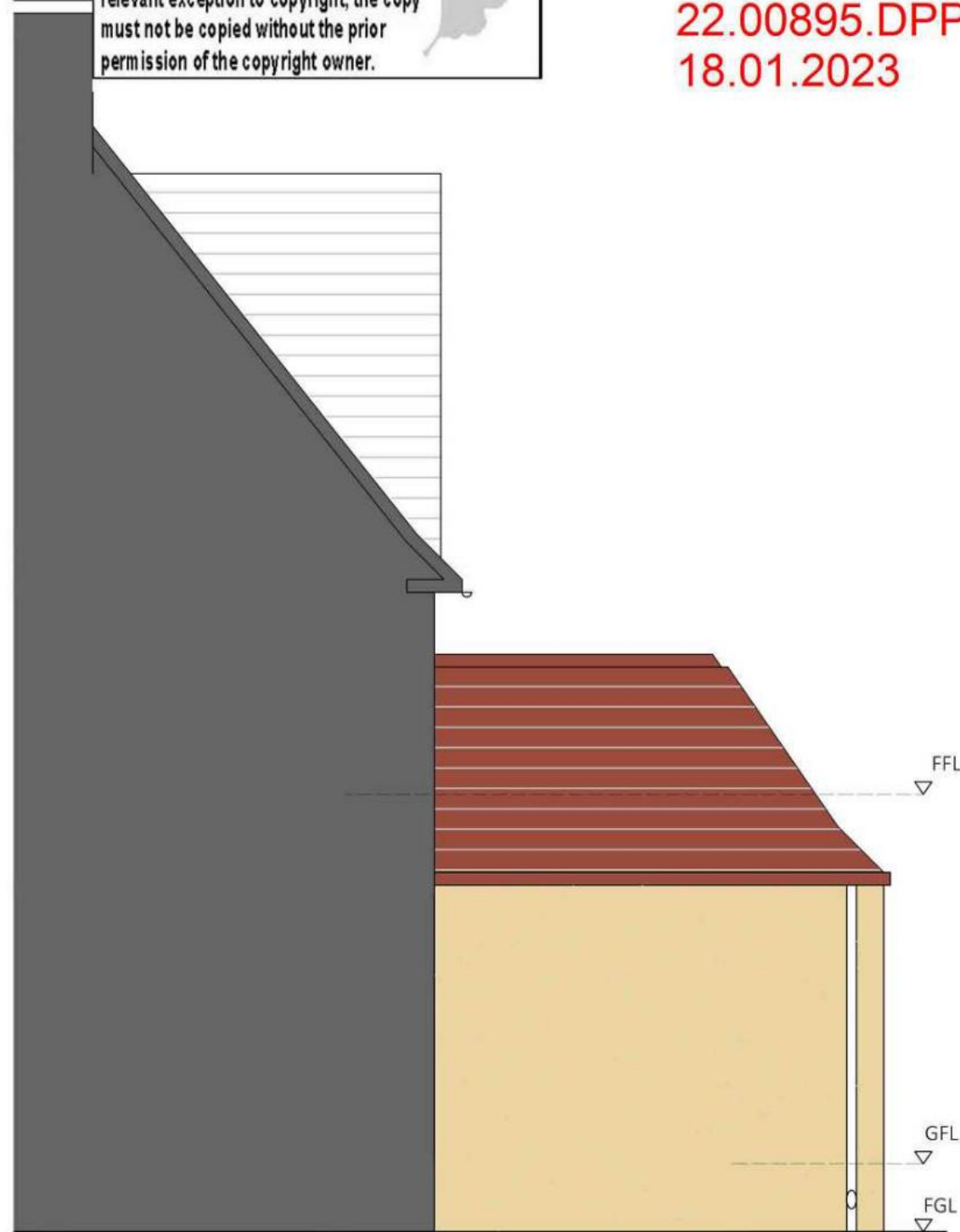
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**REFUSED**  
**22.00895.DPP**  
**18.01.2023**

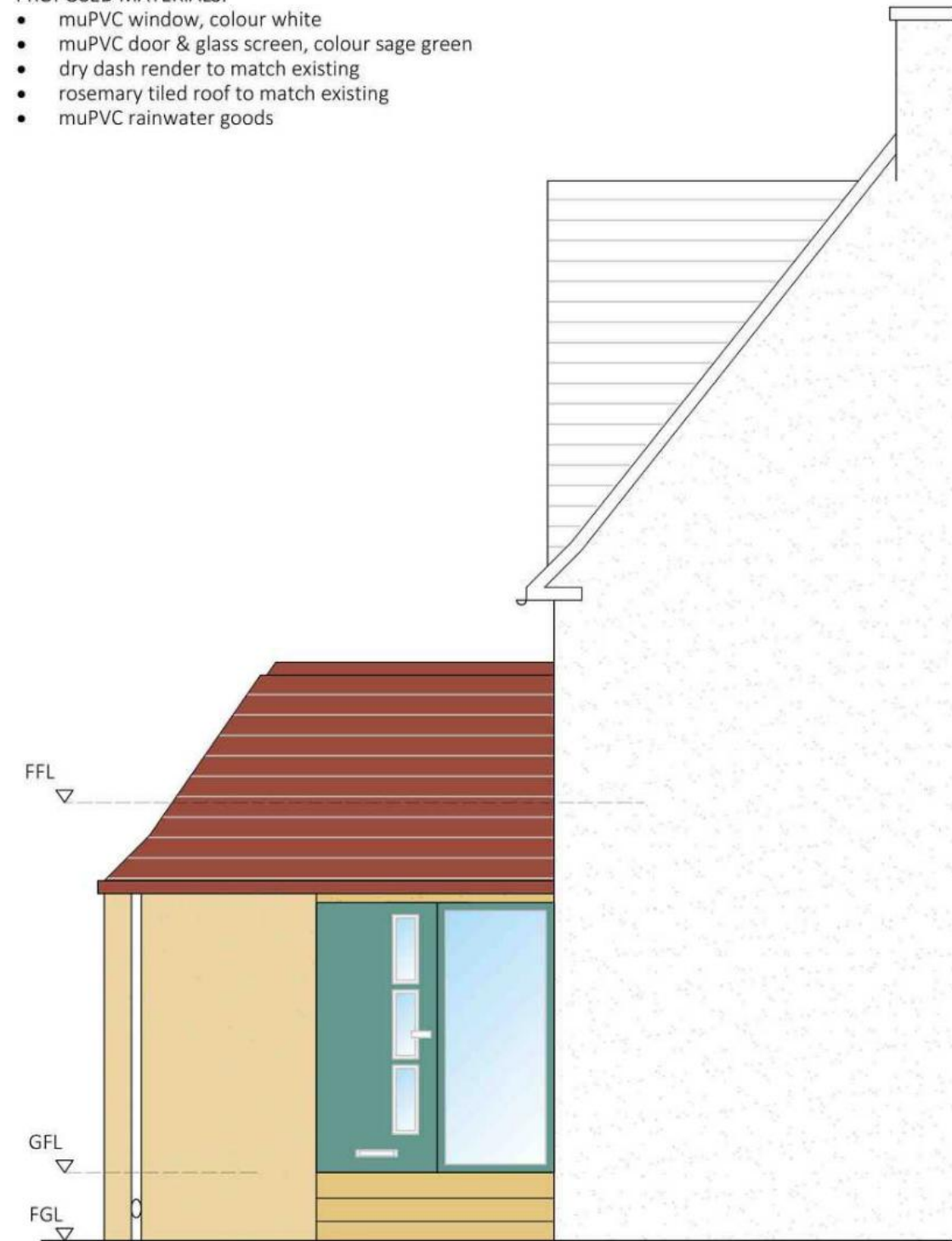
PROPOSED MATERIALS:

- muPVC window, colour white
- muPVC door & glass screen, colour sage green
- dry dash render to match existing
- rosemary tiled roof to match existing
- muPVC rainwater goods



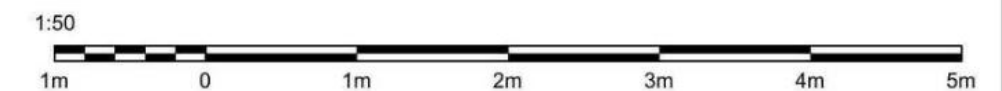
EAST ELEVATION  
AS PROPOSED

1:50



WEST ELEVATION  
AS PROPOSED

1:50



TO BE READ IN CONJUNCTION WITH ALL OTHER  
INFORMATION

REV	DETAILS	BY	DATE

PROJECT:  
MR & MRS WALKINGSHAW  
44 CRICHTON AVENUE  
PATHHEAD  
EH37 5QQ

DRAWING TITLE:  
ELEVATIONS AS  
PROPOSED

Niall Young **ARCHITECTURE LTD.**

1 Duke Street, Dalkeith, EH22 1BG  
T: 0131 660 6599 E: info@nyarchitecture.co.uk

Scale: **1:50@A3**  
Drawn: RL  
Checked: NSY  
Issue status: **PA**  
Date: **06.12.22**

**2264(PA)09**





## **Notice of Review: 25 High Street, Bonnyrigg**

### **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 change of use of workshop to piercing studio (class 2) at 25 High Street, Bonnyrigg.

#### **2 Background**

- 2.1 Planning application 22/00869/DPP for the change of use of workshop to piercing studio (class 2) at 25 High Street, Bonnyrigg was refused planning permission on 30 January 2023; 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 30 January 2023 (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](http://www.midlothian.gov.uk).

#### **4 Procedures**

- 4.1 In accordance with agreed procedures, the LRB:

- Have determined to undertake a site visit (only elected members attending the site visit can 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 were two consultation responses and two representations received. As part of the review process the interested parties were notified of the review. One additional comment reinforcing an objection to the application has 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 back to the 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 20 June 2022, 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 development to which this permission relates shall commence no later than the expiration of three years beginning with the date of this permission.

***Reason:*** To accord with the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended by the Planning (Scotland) Act 2019).

## **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:** 12 May 2023  
**Report Contact:** Peter Arnsdorf - Planning, Sustainable Growth and Investment Manager  
[peter.arnsdorf@midlothian.gov.uk](mailto:peter.arnsdorf@midlothian.gov.uk)

**Background Papers:** Planning application 22/00869/DPP available for inspection online.

# Appendix A



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

**change of use from workshop to piercing studio  
25 High Street, Bonnyrigg**

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File No.22/00869/DPP

Scale: 1:750





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

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

Thank you for completing this application form:

ONLINE REFERENCE 100620893-001

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" value="Per Agent"/>
First Name: *	<input type="text" value="Matin"/>	Building Number:	<input type="text"/>
Last Name: *	<input type="text" value="Khan"/>	Address 1 (Street): *	<input type="text" value="Per Agent"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Per Agent"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Per Agent"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="REDACTED"/>		

## 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="25 HIGH STREET"/>
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="BONNYRIGG"/>
Post Code:	<input type="text" value="EH19 2DA"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="665255"/>	Easting	<input type="text" value="330886"/>
----------	-------------------------------------	---------	-------------------------------------

## 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 Grounds of Appeal 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 Grounds of 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)

Grounds of Appeal Statement All plans, etc. associated with planning application, as made

## Application Details

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

22/00869/DPP

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

02/12/2022

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

30/01/2023

## 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: 10/03/2023

# LOCAL REVIEW BODY (LRB) STATEMENT OF APPEAL

25 High Street Bonnyrigg EH19 2DA



Refusal of Planning Permission by Midlothian Council for Change of Use Change of use from workshop to piercing studio (class 2)

Ref: 22/01666/PPP

Mr Khan

March 2023



## Contents

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1. Introduction	Page 4
2. Site Description, Context & Proposal	Page 6
3. Grounds of Appeal	Page 9
4. Conclusion	Page 22

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Appendix 1:	All Plans, Application Form & Decision Notice
Appendix 2:	Midlothian Local Development Plan, (adopted 2017)
Appendix 3:	Supplementary Guidance on Food & Drink and Other Non-Retail Uses in Town Centres (published 2017)
Appendix 3:	National Planning Framework 4

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25 High Street, Bonnyrigg

## 1. INTRODUCTION

# INTRODUCTION

---

This Appeal Statement is submitted on behalf of Mr Khan ('the appellant') and sets out the grounds of appeal against the decision of the Midlothian Council (MC) to refuse planning application LPA ref: 22/00869/DPP by a delegated decision on 30/01/2023.

The Application for Full Planning Permission sought consent for the "Change of use from workshop to piercing studio (class 2) at 25 High Street Bonnyrigg EH19 2DA".

The three reasons cited for the refusal of the application are set out below.

- 1. Although within Bonnyrigg Town Centre, the proposal would change the character of this area by bringing a higher than expected footfall commercial use into a largely secluded, residential area and detract materially from the existing character of this area.*
- 2. The proposal would result in the loss of privacy to the amenity ground of the occupants of the flatted properties in the area by bringing members of the public into a generally private area as well as a perceived impact on security in this area and overlooking to the flatted dwellings.*
- 3. For the above reasons, the proposal is contrary to policies DEV2 and TCR1 of the adopted Midlothian Local Development Plan 2017 and its associated Supplementary Guidance.*

## **Report Structure**

The remaining sections in this appeal statement comprise:

- A description of the appeal site, the surrounding context and a summary of the appeal proposals (Section 2)
- Ground of Appeal (Section 3)
- Summary of the appellant's case and conclusion (Section 4).

## **Supporting Documents**

This appeal statement should be read in conjunction with all the supporting documents and drawings submitted as part of the original planning application.

## **Application Process**

This appeal is made to the Local Review Body on the basis it was a local application, and which was determined under delegated powers. For the reasons outlined in this statement, we conclude that the development is in accordance with relevant development plan policies and supported by significant material considerations.

25 High Street, Bonnyrigg

## 2. APPLICATION SITE, CONTEXT & PROPOSAL

# APPLICATION SITE, CONTEXT & PROPOSAL

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## *Site Description*

The application site comprises a single storey building located within Bonnyrigg Town Centre. The building is located to the rear of properties on High Street (see Figure 1, Location Plan, below). The buildings between the application premises and the High Street are two storeys in height, with the ground floor in commercial use and the upper floor occupied by residential flats. The site is accessed by a pedestrian vennel and is located within the garden ground of the flatted dwellings.



Figure 1: Location Plan (in red)(not to scale)

The building is a small square outbuilding with harled walls, a hipped slate roof and blocked up window openings. To the east and north of the site is a building accommodating a health centre and dentist, to the south is an extension which relates to a nearby hot food takeaway. The commercial units and residential flats are to the west of the site. The building is currently in use as a workshop/office. A floor plan of the existing use is shown below (Figure 2):



Figure 2: Existing Floor Plan (not to scale)

### ***Proposal***

It is proposed to change the use of the building to a piercing studio. No external alterations are proposed. A floor plan of the proposed use is shown below, in Figure 3:



Figure 3: Proposed Floor Plan (not to scale)

### ***Planning Context/History***

Referring to the Midlothian Council Planning Application Portal, the following historic planning applications have been made:



*13/00188/DPP Change of use from workshop/office to form residential accommodation and alterations to roof.*

Refused – proposed alterations low standard of design and to the detriment of the appearance of the building and surrounding area; low standard of amenity for future residents in terms of privacy, overlooking, garden provision and outlook; impact on amenity of existing residents.

*12/00611/DPP Change of use from workshop to dwellinghouse and formation of dormers.*

Refused – low standard of amenity for future residents in terms of privacy, overlooking, garden provision and outlook; dormers bulky and unattractive.

*06/00135/FUL Change of Use from workshop to form residential accommodation.*

Refused - low standard of amenity for future residents.

### **Consultees & Representations**

The table below provides a summary of the technical consultee responses:

Consultee	Comment
Roads Planning	<b>No Objection.</b>
Protective Services	<b>Consulted, but did not comment</b>

A single objector to the application came from a neighbouring property and raised the following issues:

- The proposal is contrary to policies TCR2, DEV2 and DEV6 of the MDLP;
- The proposal would result in people accessing the site through the vennel and garden and change the character of the garden;
- The proposal would affect their privacy, security and outlook, as well as overlooking from the site into their property;
- While the commercial units are in a local shopping centre, the applicant site is part of residential garden ground with a different character to the High Street;
- Access to their flat is only through the vennel and communal garden ground owned by the flats;
- The site has been used as storage for the commercial unit at 23 High Street, which has a right of access across the garden, though this has been limited;
- The site has not been used as a workshop, only storage; Highlight the planning history of the site and that previous refusals made reference to the impact on the amenity of the flats above commercial units;
- Concern over a class 2 use which is for visiting members of the public and the potential range of uses this could be;

- The vennel is narrow and unsuitable for increased use;
- The statement that a workshop use did not raise any interest due to the restricted access but a class 2 use would be suitable with the same access does not make sense but proves the access is inadequate for any use that relies on additional pedestrian access;
- The hot food takeaway below the flats uses the vennel for deliveries but this is less intensive and a different character to the proposal; Works have been carried out conversion works at the site which has caused a lot of disruption and is in breach of planning; and
- Works to the path and fencing to subdivide the garden have been done without the consent of the land owners.

These issues are addressed in Section 3 of this appeal statement. In terms of representation, to balance this out, there has also been a letter of support received from the proposed occupier of the premises in the event that planning permission is granted. The content of this is summarised below:

- The site was an eyesore and so the proposal will improve this;
- No part of the proposal encroaches onto the communal garden ground;
- The vennel and site has always been open to the public so there is no change to the security in the area;
- It is not possible to see into any neighbouring properties from the site.
- They would be willing to put a film over the middle section of the windows to help any perception of impact on privacy;
- Other commercial uses in the area are open later and result in more noise and smell than the proposed use would be;
- The proposal would increase the range of commercial uses in Bonnyrigg;
- There have been no other complaints to the proposal; Records of customers require to be kept for 3 years so if there are any issues these could be accessed are necessary;
- There is support from local residents and businesses; and
- The works carried out at the site were repairs done during 'normal' operational hours of the construction trade.

25 High Street, Bonnyrigg

### 3. GROUNDS OF APPEAL

## G R O U N D S   O F   A P P E A L

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### *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)
  - Relevant Policies:
  - 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;
  - TCR1 Town Centres states proposals for retail, commercial leisure development or other uses which will attract significant numbers of people, will be supported in Midlothian's town centres, provided their scale and function is consistent with the town centre's role, as set out in the network of centres and subject to the amenity of neighbouring uses being preserved. The conversion of ground level retail space to residential uses will not be permitted. Residential units at ground floor level in retail units will not be permitted but the conversion of upper floors to housing and the formation of new residential space above ground-level structures in town centres is supported; 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.

- National Planning Framework 4 (approved February 2023)
  - Relevant Policies:
  - Policy 1 Tackling the climate and nature crises
  - Policy 2 Climate mitigation and adaptation
  - Policy 3 Biodiversity
  - Policy 9 Brownfield, vacant and derelict land and empty buildings
  - Policy 13 Sustainable transport
  - Policy 14 Design, quality and place
  - Policy 15 Local Living and 20 minute neighbourhoods
  - Policy 27 City, town, local and commercial centres

Supplementary Guidance on Food & Drink and Other Non-Retail Uses in Town Centres (published 2017) is also relevant. Town centres must focus on a variety of uses and services attracting footfall. The town centre first principle encourages activities which attract significant numbers of people including shopping, commercial leisure uses, offices, community and cultural facilities, however a retail core should be retained. The impact that non-retail uses would have on the surrounding town centre must be assessed and considered acceptable, otherwise this will not be supported. Any proposed use shall not have a detrimental impact on the amenity or environment of surrounding properties and occupants in terms of noise, smell or disturbance. These uses must be provided with adequate parking provision and permission will not be permitted where there would be a threat to road safety.

Other key material considerations in the determination of the application include the Town and Country Planning (Use Classes) (Scotland) Order 1997 (hereafter Use Classes Order). 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.

### ***Grounds of Appeal***

The principle of the development must be assessed primarily against LDP policy DEV2 (Protecting Amenity within the Built-Up Area), TCR1 (Town Centre) of the LDP and its Supplementary Planning Guidance on Food and Drink and Non Retail Uses in Town Centres (SPG).

There appears to be some confusion, in terms of the objector understanding and indeed the case officer as to what the most recent (ergo current) use of the property is in terms of the Use Classes Order. This is the critical starting point that hasn't always been clear in both the planning application to which this appeal relates but also other previous cases. In the descriptions of all previous cases (dating back to 2006) the Planning Authority accept that the use is correctly described as being a workshop/office. This would fall under Class 4 or Class 5 of the Use Classes Order. Both of these uses allow up to 256m<sup>2</sup> of Class 6 Use. Given that the premises occupy a considerably lower floorspace than this, Class 6 Use in its entirety is entirely acceptable. Overall, it is reasonable to conclude that the existing use of the premises could fall under any of the Classes 4, 5 and 6 of the Use Classes Order. This is further discussed in terms of its material impact of the case below.

This LRB appeal statement has a wider remit and sets out the following three Grounds of Appeal.

1. **Ground of Appeal 1 (GOA1): The proposal represents a significant improvement in net terms, on the existing use in terms of amenity of existing residents**
2. **Ground of Appeal 2 (GOA2): The proposal is entirely in keeping with its Town Centre setting**
3. **Ground of Appeal 3 (GOA3): There are no other material considerations which warrant refusal of the application. The material considerations, including the single letter of representation, have been fully taken into account. The NPF4 supports and promotes Town Centre uses of this type and investment in the communities**

***Ground of Appeal 1 (GOA1): The proposal represents a significant improvement in net terms, on the existing use in terms of amenity of existing residents***

The proposal is for Class 2 Use, specifically as a piercing parlour.

The main thrust of the refusal centres around amenity and the protection thereof for existing residents. However, there are some fundamental misunderstandings in terms of what is being proposed and how that relates to the existing uses that could be brought into use at any time without any need for planning permission. That is the key material consideration that has not been afforded any weight as a material consideration of the planning application to which this appeal relates. The case officer refers to the proposal as 'introduc(ing) a new commercial unit'. This is incorrect. As above, the existing use as Class 4, 5 or 6 are by their very definition (in the Use Classes Order) commercial. This salient point has been missed entirely. Indeed, the uses permitted under Class 4, 5 and 6 could possibly incorporate the following commercial business into use without any requirement for planning permission:

*Mechanical/joinery workshop: This could bring about all sorts of levels of noise and disruption, which would be substantially more negative in terms of impact on amenity than what is being proposed as part of this proposal. There is scope for employee and customer movement on a daily/hourly basis, as well as noise from machinery/workings.*

*Storage: The premises could be used for short term storage of goods e.g. Amazon deliveries in lockers, which would incorporate multiple visitor movements on a minute by minute bases, as well as a significant impact on traffic and parking in the Town Centre. In their determination of the case, the planning officer stated that the 'proposal would create a commercial use with higher than expected footfall here' which was an unreasonable and incorrect conclusion to draw as the existing use of the site could actually generate substantially more footfall than what is being proposed. Whilst this may not be desirable, per the existing use of the premises, it is entirely feasible and acceptable in terms of the Use Classes Order and the control of land use planning.*

This is just one example, and there are many more, e.g. commercial laundry, printing room, etc, etc. The general consensus is that all such uses are generators of significant noise, nuisance, etc. and quite incompatible in relation to residential amenity. Overall, the net impact of the use as proposed



is significantly to the betterment of footfall, transport and overall amenity than how it can be used at present.

SPG states: 'Any proposed use shall not have a detrimental impact on the amenity or environment of surrounding properties and occupants in terms of noise, smell or disturbance'. In this case, the net impact in terms of noise and disturbance is positive against the existing/most recent use (as can be seen against potential operations within Class 4/5/6 above) and there are no smell issues arising from the proposal. Reasons for Refusal 1 and 2 are set out again below:

*1. Although within Bonnyrigg Town Centre, the proposal would change the character of this area by bringing a higher than expected footfall commercial use into a largely secluded, residential area and detract materially from the existing character of this area.*

*2. The proposal would result in the loss of privacy to the amenity ground of the occupants of the flatted properties in the area by bringing members of the public into a generally private area as well as a perceived impact on security in this area and overlooking to the flatted dwellings.*

Reason 2 centres around amenity for existing occupiers and refers to 'bringing members of the public' into the area but fails to recognise that substantially more members of the public could be brought into the area through its existing use and that the proposal represents a net betterment in that regard, such that this reason can be quashed. Overall, having regard to the existing and proposed use and its impact on amenity, noise, disturbance, etc, the foregoing demonstrates that the proposal is fully in compliance with policies DEV2 (Protecting Amenity within the Built-Up Area), TCR1 (Town Centre) of the LDP and the SPG. Accordingly, the 2 reasons for refusal (1 and 2) are refuted in their entirety.

***Ground of Appeal 2 (GOA2): The proposal is compatible and wholly acceptable in keeping with its Town Centre setting.***

The property has lain empty for some 10 years now. This is despite extensive investment by the appellant to try stimulate occupancy. Indeed, the appellant's agent (IME/DJK) who are a well-respected operator in the Edinburgh & Lothian's market recognise that the property is in 'excellent' condition. The premises have been marketed extensively through a variety of different platforms by the agent but the appellant has been unable to lease the property as a workshop or for storage, owing to its unique characteristics. Hence an alternative use (class 2) that does generate a demand and need is now proposed. Empty properties, whether on the High Street or not, detract from the health and vitality of the Town Centre and result in a negative impact in assessing Bonnyrigg's Town Centre Health Check (TCHC), which per section 6 of the SPG, the Council are to carry out every 2 years. The Planning Authority should be responsive to the commercial considerations of its Town Centres and, as above, in this case, to recognise the net positive impact in the use as proposed versus existing/recent. Indeed, in the SPG, it is stated that 'Town centres must now focus on a variety of uses and services, attracting footfall, in order to remain relevant'. This proposal will result in a wholly positive response to that statement, and will provide an additional use within the Town Centre, adding to the offering and vitality of the Town Centre, ensuring it does in fact remain

relevant to the demands of the inhabitants of Bonnyrigg and beyond.

In terms of making the project viable, there must be an understanding of critical development and use, in making the site feasible, both financially and practically. The Appellant is committed to delivering this Proposal in 2023, using local Midlothian companies in doing so, despite the current difficulties with the economy and increasing construction and materials costs. More generally, due to the Covid-19 pandemic, and the current cost of living crisis, the economy faces a difficult period over the next couple of years at least. Therefore, it will be important to support and allow sustainable, compatible town centre uses to hopefully keep people employed. To give this perspective, it is also important to be clear that Midlothian Council will benefit directly from additional rates monies, which are not applicable when the premises remain empty.

The proposal is for a Class 2 (piercing studio) use. Other typical class 2 uses include (per the Use Classes Order):

*Use for the provision of:*

- (a) as a bank,*
- (b) for building societies,*
- (c) for estate agencies,*
- (d) for employment agencies,*
- (e) professional and financial services (other than health or medical services), or*
- (f) for betting offices*

These are all uses which are entirely compatible and indeed encouraged, within Town Centre locations such as Bonnyrigg High Street. A piercing studio is equally eminently suitable in this type of location. It is granted that the location has unique characteristics which mean it does not benefit from a traditional High Street frontage, but as outlined above, the benefit in the proposed use versus the existing/most recent use in terms of amenity, but also importantly viability, is of merit such that planning permission should be granted. It is significant to note that, in the case that was refused in 2013 for residential use, that in their report of handling, the case officer stated that 'the owner of the site should give serious consideration to other forms of development as it is clear that the existing building is unsuitable for residential use'. Yet, a proposal for a use that is wholly reasonable and compatible has now also been refused. There must be a sense of reasonableness from the Planning Authority, but that has been conspicuous by its absence in the determination of the case, unfortunately.

There are currently no piercing parlours within Bonnyrigg whatsoever. The closest facility is in Loanhead (Cap in Hand Tattoos) which is also located within the defined Town Centre (Clerk Street). Another similar nearby business (Pete's Tattoo Studios) is at Dalkeith, also within the defined Town Centre (on the High St). It is clear there is a demand for such services, otherwise this proposal would not be presented. The future user of the premises, in the event that planning permission were to be granted, has highlighted that even before they have taken occupation, there are no fewer than 4 inter dependent and related businesses within the Town Centre that would be interested in co-joining services. This type of proposal is essential for the growth and fostering of existing and new business

uses is absolutely to be encouraged. Indeed, piercing parlours are common features of modern town centres and as footfall generating uses they can aid the vitality and viability of the town centres within which they are situated. The surrounding area will retain a mix of uses and the proposal will not result in any dominance or cluster of singular uses within the town centre, in compliance with SPG (10.4). If approved, the use will result in an additional use to complement the existing provision within Bonnyrigg Town Centre. The use does not detract from the primary retail function and as the existing/most recent use was a workshop the proposed use will not result in the loss in shops to the detriment of local residents or the vitality or the viability of the town centre.

The image in the photograph below (Figure 4) shows how the premises are reached from the vennel. There is fencing on either side. It is very clear from this image that when reaching the premises, any patrons are directed in a clearly formed pathway and with minimal disruption to the adjacent garden. It is no different from any resident accessing their outbuilding or shed, which they would be free to do so at any time, and as frequently, or infrequently as they choose. In a similar fashion, any patrons using the premises would be doing so with express purpose i.e. with a pre-arranged appointment; there would be no aimless 'wandering' ergo actual footfall would be minimised. Overall, this would result in no adverse bearing on adjacent properties, including their shared garden ground.



Figure 4: Photograph of Existing Access, taken looking at Premised from Vennel (not to scale)

The position of the site is set back from the main commercial area of the High Street, behind existing commercial units. The case officer has suggested that the vennel access and the area within which the appeal site 'has a different character to the High Street and surrounding town centre, being a more a residential, secluded and private area'. They go on to state that the access 'does not encourage public access but gives the impression of a private access leading to communal garden ground and the accesses to the flatted dwellings'. This is an unreasonable conclusion to draw and we would make the comparison to Edinburgh Old Town, where similar vennels are found in abundance and provide access to a whole plethora of differing commercial and residential uses which all work in harmony and symphony to create one of the world's best Town Centre environments as recognised in its World Heritage Status. Bonnyrigg High Street may be of a slightly different context, but its aspirations and opportunity for access and multi-purpose, commercially sound and cohesive uses as proposed represents a sense of similar aspiration at least.

There are no external alterations being proposed as part of this proposal whatsoever, so there is no impact in respect of overlooking. In the report of handling, the planning officer incorrectly stated that would be 'would still be a perception of overlooking remaining'. This is an unfair and incorrect assertion to make.

To combat and respond to any potential issues arising in terms of, in particular footfall, the use of appropriately worded planning conditions could be employed e.g. a restriction on number of patrons per day/hour. This would be fully compliant with the terms for planning conditions as set out in Circular 4/1990. It is worth noting that the majority of expected patrons using the premises will be from online bookings, as opposed to walk in customers.

Overall, the foregoing confirms that the use as proposed is entirely in keeping with its Town Centre location; it will result in additional service of which there is currently pent up and unmet demand. The footfall of the proposal will actually be fairly negligible, particularly in comparison with other Class 4/5/6 uses that could be employed without any need for planning permission. This nullifies any extant concerns in terms of footfall and perceived amenity issues as set out in reason for refusal number 1. Having regard to footfall and the generation of members of the public, the above is clear that the proposal accords fully with policies DEV2 (Protecting Amenity within the Built-Up Area), TCR1 (Town Centre) of the LDP and the SPG.

**Ground of Appeal 3 (GOA3): There are no other material considerations which warrant refusal of the application. The material considerations, including the single letter of objection, have been fully been taken into account. NPF4 supports and promotes Town Centre uses of this type and investment in the communities.**

### ***National Planning Framework 4***

National Planning Framework 4 was only approved in February 2023. In the table below, we look at the policy principles as set out in that document and in turn express how the proposed development complies.

Policy Principle	How the Proposal Complies
Giving due weight to net economic benefit;	The proposal will deliver much needed investment and delivery of a new, cohesive and compatible use within the Town Centre boundary of Bonnyrigg. The appellant will also seek to appoint local tradesmen during the construction process, contributing to the local economy.
Responding to economic issues, challenges and opportunities, as outlined in local economic strategies;	The proposal supports the growth of the community, ensuring there is additional offering of Town Centre uses
Making efficient use of existing capacities of land, buildings and infrastructure including supporting town centre and regeneration priorities;	The additional customers the use will bring to the town will contribute to local services and facilities through having a higher footfall in the local area.

Supporting delivery of accessible housing, business, retailing and leisure development;	The proposal will deliver a new business use
Reducing waste, facilitating its management and promoting resource recovery; and	Suitable provision for waste collection can be demonstrated.
Avoiding over-development, protecting the amenity of new and existing development and considering the implications of development for water, air and soil quality.	The low-density scale of the premises means the development is considered appropriate for a site of this nature.

### ***Objector Comments***

In this section of the report, we address the issues raised in the single letter of objection made in relation to the planning application.

- Comment  
The proposal is contrary to policies TCR2, DEV2 and DEV6 of the MDLP;
- Response  
This is addressed in the foregoing discussion.
  
- Comment  
The proposal would result in people accessing the site through the vennel and garden and change the character of the garden;
- Response  
This is addressed in the foregoing discussion. The net impact in terms of footfall and impact on bearing of the existing shared garden is lessened through this proposal versus the existing/most recent use. Further, the nature and characteristic of the access to the appeal premises is very clear and direct, with minimal impact on the adjacent shared garden.
  
- Comment  
The proposal would affect privacy, security and outlook, as well as overlooking from the site into the objector's property;
- Response  
This is addressed in the foregoing discussion. Vacant premises, by their nature, attract more crime and vandalism than when occupied, so security is actually bettered through this proposed use. No external alterations are proposed so there is no impact in terms of privacy and outlook.
  
- Comment  
While the commercial units are in a local shopping centre, the applicant site is part of residential garden ground with a different character to the High Street;
- Response

This is addressed in the foregoing discussion.

- Comment  
Access to their flat is only through the vennel and communal garden ground owned by the flats;
- Response  
This is addressed in the foregoing discussion.
  
- Comment  
The site has been used as storage for the commercial unit at 23 High Street, which has a right of access across the garden, though this has been limited;
- Response  
The right of access is important, from a legal standpoint. The appellant has full servitude rights.
  
- Comment  
The site has not been used as a workshop, only storage; Highlight the planning history of the site and that previous refusals made reference to the impact on the amenity of the flats above commercial units;
- Response  
The Planning Authority have historically accepted the use of the premises as a workshop, on multiple occasions. The overall use, as referred in the foregoing discussion, falls under Class 4/5/6 of the Use Classes Order.
  
- Comment  
Concern over a class 2 use which is for visiting members of the public and the potential range of uses this could be;
- Response  
This is addressed in the foregoing discussion.
  
- Comment  
The vennel is narrow and unsuitable for increased use;
- Response  
Figure ?? shows the access and it is entirely fit for the purpose/use as proposed.
  
- Comment  
The statement that a workshop use did not raise any interest due to the restricted access but a class 2 use would be suitable with the same access does not make sense but proves the access is inadequate for any use that relies on additional pedestrian access;
- Response  
A workshop may necessitate heavy/very large machinery which would could prove to be impractical owing to the restrictions imposed by the vennel itself. The net impact of what is being proposed is substantially improved in terms of amenity for existing residents when compared with other Class 4/5/6 uses that could be employed without the necessity of any



planning permission.

- Comment  
The hot food takeaway below the flats uses the vennel for deliveries but this is less intensive and a different character to the proposal;
- Response  
There is no relationship between the proposed use and this existing use whatsoever. However, it is worth noting that a hot food takeaway (Sui Generis) generally results in more footfall and transport movements than a typical Class 2 use, before considering any impact in respect of odours and noise.
- Comment  
Works have been carried out conversion works at the site which has cause a lot of disruption and is in breach of planning; and
- Response  
This is entirely refuted and is incorrect.
- Comment  
Works to the path and fencing to subdivide the garden have been done without the consent of the land owners.
- Response  
This is a private, legal matter unrelated to planning control. It is also refuted.

#### *Other Matters*

There are no issues arising in respect of road safety or Environmental Health as both of these key consultees offered no objection to the planning application.

25 High Street, Bonnyrigg

## 4. CONCLUSION

## CONCLUSION

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It is considered that the proposals are compliant with all relevant policies and guidance whilst each of the Council's reasons for refusal has been responded to. This Proposal represents a sensible solution for the Appeal Site, a modest development, and an opportunity to create much needed alternative uses in Bonnyrigg Town Centre.

The submitted appeal, supported by this statement, seeks to overturn the Council's decision to refuse Planning Permission for Change of Use from workshop to piercing studio (class 2) at 25 High Street Bonnyrigg EH19 2DA.

The three Grounds of Appeal have all been addressed in the foregoing section, but are set out below, for clarity:

1. Ground of Appeal 1 (GOA1): The proposal represents a significant improvement in net terms, on the existing use in terms of amenity of existing residents
2. Ground of Appeal 2 (GOA2): The proposal is entirely in keeping with its Town Centre setting
3. Ground of Appeal 3 (GOA3): There are no other material considerations which warrant refusal of the application. The material considerations, including the single letter of representation, have been fully taken into account. The NPF4 supports and promotes Town Centre uses of this type and investment in the communities.

A more detailed summary is provided, as follows:

1. There appears to be some confusion, in terms of the objector understanding and indeed the case officer as to what the most recent (ergo current) use of the property is in terms of the Use Classes Order. This is the critical starting point that hasn't always been clear in both the planning application to which this appeal relates but also other previous cases. In the descriptions of all previous cases (dating back to 2006) the Planning Authority accept that the use is correctly described as being a workshop/office. This would fall under Class 4 or Class 5 of the Use Classes Order. Both of these uses allow up to 256m<sup>2</sup> of Class 6 Use. Given that the premises occupy a considerably lower floorspace than this, Class 6 Use in its entirety is entirely acceptable. Overall, it is reasonable to conclude that the existing use of the premises could fall under any of the Classes 4, 5 and 6 of the Use Classes Order
2. Reason 2 centres around amenity for existing occupiers and refers to 'bringing members of the public' into the area but fails to recognise that substantially more members of the public could be brought into the area through its existing use and that the proposal represents a net betterment in that regard, such that this reason can be quashed. Overall, having regard to the existing and proposed use and its impact on amenity, noise, disturbance, etc, the foregoing demonstrates that the proposal is fully in compliance with policies DEV2 (Protecting Amenity within the Built-Up Area), TCR1 (Town Centre) of the LDP and the SPG. According to the Grounds of Appeal for refusal (1 and 2) are refuted in their

entirety

3. The use as proposed is entirely in keeping with its Town Centre location; it will result in additional service of which there is currently pent up and unmet demand. The footfall of the proposal will actually be fairly negligible, particularly in comparison with other Class 4/5/6 uses that could be employed without any need for planning permission. This nullifies any extant concerns in terms of footfall and perceived amenity issues as set out in reason for refusal number 1. Having regard to footfall and the generation of members of the public, the above is clear that the proposal accords fully with policies DEV2 (Protecting Amenity within the Built-Up Area), TCR1 (Town Centre) of the LDP and the SPG.
4. The constraints of the site are somewhat restrictive. The site has lain empty for over 10 years, giving possible rise to a decay in the Bonnyrigg Town Centre Health Check.
5. In 2013, in a refusal for residential use of the premises, the Planning Authority noted that 'the owner of the site should give serious consideration to other forms of development as it is clear that the existing building is unsuitable for residential use'. The appellant has come forward with a use that is wholly compatible but again it has been refused; in our view unreasonably so, but the LRB now has the opportunity to rectify that.
6. The proposal is fully compliant with the terms and policy objectives as set out in the recently published NPF4.
7. The issues raised by the single objector have been responded to in full and are found to have been wholly satisfied.
8. There are no road safety concerns or objections from the Roads Officer or any other consultee.

As we have demonstrated through this statement, we consider that the proposal complies with the development plan, and key LDP Policies DEV2 (Protecting Amenity within the Built-Up Area), TCR1 (Town Centre) and the SPG document against which the original application was refused.

There is a presumption in favour of applications that accord with the development plan unless there are significant material considerations that indicate the development plan should not be followed.

In addition to the above, the proposal will deliver local investment in trade employment, whilst expanding purchasing power in the local economy and supporting existing services.

The proposal is considered with the guiding principles of the NPF4, and we do not consider that there are any impacts which are significant and demonstrably outweigh the presumption in favour of development.

Taking the above into consideration, it is respectfully requested that, on account of the foregoing and the planning permission in principle be granted, if required subject to suitably worded conditions that comply with the tests as set out in Circular 4/1990.

## MIDLOTHIAN COUNCIL

### DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

**Planning Application Reference:** 22/00869/DPP

**Site Address:** 25 High Street, Bonnyrigg.

**Site Description:** The application site comprises a single storey building located within Bonnyrigg Town Centre. The building is located to the rear of properties on High Street. These are two storeys, with the ground floor in commercial use and the upper floors residential flats. The site is accessed by a pedestrian vennel and is located within the communal garden ground of the flatted dwellings.

The building is small with harled walls, white uPVC window frames and a hipped slate roof. To the east and north of the site is a health centre, to the south is an extension which relates to a nearby hot food takeaway. The commercial units and residential flats are to the west of the site. The agent has stated the building as most recently in use as a workshop/office.

**Proposed Development:** Change of use from workshop to piercing studio (class 2).

**Proposed Development Details:** It is proposed to change the use of the building to a piercing studio. No external alterations are proposed.

The applicant's agent and the letting agent marketing the property state the applicant has been unable to lease the property as a workshop due to the narrow lane to gain access and so a class 2 use is proposed. The applicant's agent considers this would not cause disruption to local residents. They also consider a residential use could be appropriate.

The applicant's agent has also stated the site was last used as a pet shop before the applicant bought this in 2006. This would have had footfall in the communal areas which they do not think caused any disruption with peoples using the communal access. The communal area is used by commercial properties.

Repair works have been carried out at the site. The application form states no parking is proposed, or any new or altered connections to the public water supply or drainage network. The plans show a new sink connecting to the existing drainage.

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

13/00188/DPP Change of use from workshop/office to form residential accommodation and alterations to roof. Refused – proposed alterations low standard of design and to the detriment of the appearance of the building and surrounding area; low standard of amenity for future residents in terms of privacy, overlooking, garden provision and outlook; impact on amenity of existing residents.

12/00611/DPP Change of use from workshop to dwellinghouse and formation of dormers. Refused – low standard of amenity for future residents in terms of privacy, overlooking, garden provision and outlook; dormers bulky and unattractive.  
06/00135/FUL Change of Use from workshop to form residential accommodation. Refused - low standard of amenity for future residents. Upheld at appeal.

### **Consultations:**

The Council's **Senior Manager Neighbourhood Services (Roads)** states the proposal does not raise any road safety issues so they have no objection.

The Council's **Senior Manager Protective Services** was consulted but did not make comment on the proposal.

**Representations:** The occupants of one neighbouring property have objected on the following grounds:

- The proposal is contrary to policies TCR2, DEV2 and DEV6 of the MDLP;
- The proposal would result in people accessing the site through the vennel and garden and change the character of the garden;
- The proposal would affect their privacy, security and outlook, as well as overlooking from the site into their property;
- While the commercial units are in a local shopping centre, the applicant site is part of residential garden ground with a different character to the High Street;
- Access to their flat is only through the vennel and communal garden ground owned by the flats;
- The site has been used as storage for the commercial unit at 23 High Street, which has a right of access across the garden, though this has been limited;
- The site has not been used as a workshop, only storage;
- Highlight the planning history of the site and that previous refusals made reference to the impact on the amenity of the flats above commercial units;
- Concern over a class 2 use which is for visiting members of the public and the potential range of uses this could be;
- The vennel is narrow and unsuitable for increased use;
- The statement that a workshop use did not raise any interest due to the restricted access but a class 2 use would be suitable with the same access does not make sense but proves the access is inadequate for any use that relies on additional pedestrian access;
- The hot food takeaway below the flats uses the vennel for deliveries but this is less intensive and a different character to the proposal;
- Works have been carried out conversion works at the site which has cause a lot of disruption and is in breach of planning; and
- Works to the path and fencing to subdivide the garden have been done without the consent of the land owners.

The applicant has responded to the representations. The communal areas are not only for the flats but can be accessed by all properties in the area, including delivery drivers for the hot food takeaways in the area. These appear rarely used. The application site can be sold separately from 23 High Street and has not been occupied since 2006, apart from the occasionally using this as an office. They would be happy to change this to residential use. The site would only be used from 9am to



5pm, whereas other people access the area until 10.30pm. The size of the vennel cannot be extended and there are many similar in Edinburgh that do not cause issues. If planning permission is approved, the windows at the site would be tinted to prevent overlooking. The site has never been used as storage to their knowledge and is listed on the land registry as a workshop. They upgraded the existing paving and fencing in the area, as well as carrying out repairs to the site.

The objector made the following comments to the applicant's response;

- The site has never been used as a pet shop, only storage of pet food and supplies;
- There was never any customer access to the site, only by shop staff;
- They understood the applicant owned the site before 2006 and rented this to the pet shop operator;
- There is access to the communal land by delivery drivers but never customers and the nature of this use is different to the proposal; and
- They note that previous applications referred to the previous use of the site as storage/workshop but it is now stated it was a pet shop.

One letter of support has been submitted by the potential user of the site on the following grounds:

- The site was an eyesore and so the proposal will improve this;
- No part of the proposal encroaches onto the communal garden ground;
- The vennel and site has always been open to the public so there is no change to the security in the area;
- It is not possible to see into any neighbouring properties from the site. They would be willing to put a film over the middle section of the windows to help any perception of impact on privacy;
- Other commercial uses in the area are open later and result in more noise and smell than the proposed use would be;
- The proposal would increase the range of commercial uses in Bonnyrigg;
- There have been no other complaints to the proposal;
- Records of customers require to be kept for 3 years so if there are any issues these could be accessed are necessary;
- There is support from local residents and businesses; and
- The works carried out at the site were repairs done during 'normal' operational hours of the construction trade.

### **Relevant Planning Policies:**

Planning policy currently comprises National Planning Framework 3 and Scottish Planning Policy, SESPlan and the adopted Midlothian Local Development Plan 2017. On 11 January 2023 the Revised Draft National Planning Framework 4 was approved by the Scottish Parliament. The Planning Act requires that NPF4 must be approved by the Scottish Parliament before it can be adopted by Scottish Ministers. On adoption, planned for 13 February 2023, the provisions in the Planning Act will commence to make NPF4 part of the statutory development plan. The existing National Planning Framework 3 and Scottish Planning Policy remain in place until NPF4 has been adopted by Scottish Ministers. As the Revised Draft NPF4 is at an advanced stage and represents the settled view of the Scottish Government in terms of its planning policy it is a material consideration of significant

weight in the assessment of the application. The following policies are relevant to the proposal:

- Policy 1 Tackling the climate and nature crises
- Policy 2 Climate mitigation and adaptation
- Policy 3 Biodiversity
- Policy 9 Brownfield, vacant and derelict land and empty buildings
- Policy 13 Sustainable transport
- Policy 14 Design, quality and place
- Policy 15 Local Living and 20 minute neighbourhoods
- Policy 27 City, town, local and commercial centres

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;

**TCR1 Town Centres** states proposals for retail, commercial leisure development or other uses which will attract significant numbers of people, will be supported in Midlothian's town centres, provided their scale and function is consistent with the town centre's role, as set out in the network of centres and subject to the amenity of neighbouring uses being preserved. The conversion of ground level retail space to residential uses will not be permitted. Residential units at ground floor level in retail units will not be permitted but the conversion of upper floors to housing and the formation of new residential space above ground-level structures in town centres is supported; 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.

**Supplementary Guidance on Food & Drink and Other Non-Retail Uses in Town Centres** is also relevant. Town centres must focus on a variety of uses and services attracting footfall. The town centre first principle encourages activities which attract significant numbers of people including shopping, commercial leisure uses, offices, community and cultural facilities, however a retail core should be retained. The impact that non-retail uses would have on the surrounding town centre must be assessed and considered acceptable, otherwise this will not be supported. Any proposed use shall not have a detrimental impact on the amenity or environment of surrounding properties and occupants in terms of noise, smell or disturbance. These uses must be provided with adequate parking provision and permission will not be permitted where there would be a threat to road safety.

**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 within Bonnyrigg Town Centre where there is general support for appropriate proposals which provide a variety of uses and services and attract footfall. The proposed piercing business would enhance the variety of services offered in the area and would not result in the loss of a retail unit, but reuse a long-

standing vacant building. It is noted that the applicant stated the previous use was a pet shop, however this does not align with the established planning history of the site. This type of high footfall business is encouraged in town centres and supports the town centre first approach. In principle this use is acceptable within Bonnyrigg Town Centre, however the details of the proposal need considered.

The position of the site is set back from the main commercial area of the High Street, behind these commercial units. This is accessed by a narrow vennel which provides access to the flatted dwellings above the commercial units, as well as to the rear of these commercial units. The position of the site means this has a different character to the High Street and surrounding town centre, being a more a residential, secluded and private area. This is emphasised by the narrow access, which does not encourage public access but gives the impression of a private access leading to communal garden ground and the accesses to the flatted dwellings.

The proposal would create a commercial use with higher than expected footfall here, which would be out of character with this more private area and result in members of the public accessing a more private residential area. It is acknowledged that people associated with the ground floor commercial units can access this area, including delivery drivers. However this is a long standing arrangement with access more limited than customers of the proposed use crossing the garden ground to the site. The proposal would result in a potentially reasonably high footfall commercial use in an area which has a more private, residential and secluded character than the surrounding town centre, which would be out of keeping with the existing character and amenity of the immediate area. This would also detract from the amenity of the occupants of the flatted properties, with a loss of privacy of their garden ground as well as change in the distinct character of this area away from the largely residential nature which would result in a perceived impact of security. It is acknowledged that the gardens are communal and are already overlooked, however this is by longstanding commercial units with limited openings at ground floor level and other flatted dwellings, whereas the proposal introduces a new commercial unit at ground floor level which would directly overlook this area.

The windows on the application site face onto the rear elevation of the buildings at the High Street. Given the position of the site, distance between the site and the flatted dwellings and that these are at first floor level, overlooking between properties may be limited. However given the size of the window opening at the site there would at the very least be a perception of overlooking between the properties. Any actual overlooking could be resolved by obscuring the windows at site, however there would still be a perception of overlooking remaining. Given there are no external alterations to the application site, it is not clear how the proposal would affect the outlook of the flatted dwellings.

There is no associated parking for the proposed use. However the site is within a town centre with good public transport links. In this instance, there are no road safety concerns over the proposal and lack of dedicated parking.

The following relates to representations not addressed above.

Any issues over land ownership are not material planning considerations but are private matters between interested parties.

As this is an existing building it is not clear how policy DEV6 is relevant to the proposal.

Had the proposed use been acceptable, it would have been prudent to restrict the use of the site to a piercing studio only as this is what was assessed in the application. Use of the site as another use allowed within class 2, such as beauty salon, estate agent or a bank, could potentially have a detrimental impact on the amenity of nearby area through higher footfall, parking, noise or smells which would need more detailed assessment. Should permission be approved, it would be prudent to attach this condition to allow the planning authority to retain control over the use of the site and ensure any future uses are appropriate to the locale.

**Recommendation:** Refuse planning permission.

**Reg. No. 22/00869/DPP**

MSR Architecture And Design  
27 Carnegie Court  
Edinburgh  
EH8 9SN

Midlothian Council, as Planning Authority, having considered the application by Mr Matin Khan, 25A High Street, Bonnyrigg, EH29 2DA, which was registered on 2 December 2022 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

**Change of use from workshop to piercing studio (class 2) at 25 High Street, Bonnyrigg, EH19 2DA**

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	02.12.2022
Site Plan	SITE PL.IMG BN.HS 02 1:100	02.12.2022
Elevations, Floor Plan And Cross Section	FL.EL BN.HS 01 1:50	02.12.2022

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

1. *Although within Bonnyrigg Town Centre, the proposal would change the character of this area by bringing a higher than expected footfall commercial use into a largely secluded, residential area and detract materially from the existing character of this area.*
2. *The proposal would result in the loss of privacy to the amenity ground of the occupants of the flatted properties in the area by bringing members of the public into a generally private area as well as a perceived impact on security in this area and overlooking to the flatted dwellings.*
3. *For the above reasons, the proposal is contrary to policies DEV2 and TCR1 of the adopted Midlothian Local Development Plan 2017 and its associated Supplementary Guidance.*

Dated 30 / 1 / 2023



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



**The Coal  
Authority**

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

Planning and Local Authority Liaison

Direct Telephone: 01623 637 119 (Planning Enquiries)

Email: [planningconsultation@coal.gov.uk](mailto:planningconsultation@coal.gov.uk)

Website: [www.gov.uk/coalauthority](http://www.gov.uk/coalauthority)

### **INFORMATIVE NOTE**

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

Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant land stability and public safety risks. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design which takes into account all the relevant safety and environmental risk factors, including mine gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at:

[www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries](http://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries)

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

If any coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at:

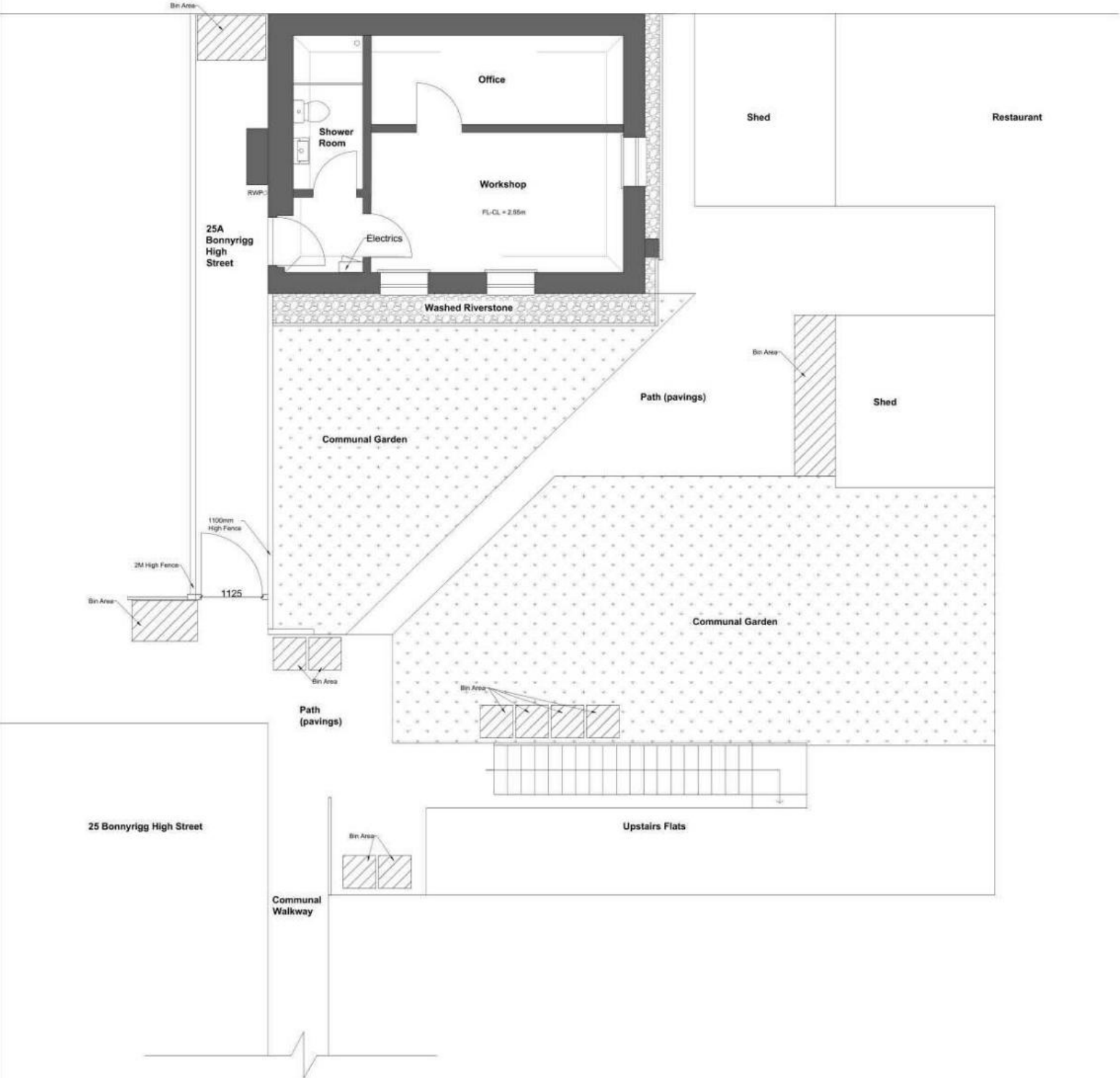
[www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

**Informative Note valid from 1st January 2023 until 31st December 2024**



Existing Site Plan / Site Images

REFUSED  
30.01.2023  
22/00869/DPP



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Floor Plans and Elevations  
Scale: 1:100 / A2 | 01/12/22

DWG Ref: SITE PL.IMG BN.HS 02  
25A Bonnyrigg High Street  
Edinburgh  
EH19 2DA

MSR Architecture & Design  
Mohammed Rahman  
Architectural Technologist Bsc (Hons)  
CIAT Affiliate | BILD Associate Member  
msrtd7@gmail.com / @msr\_architecture



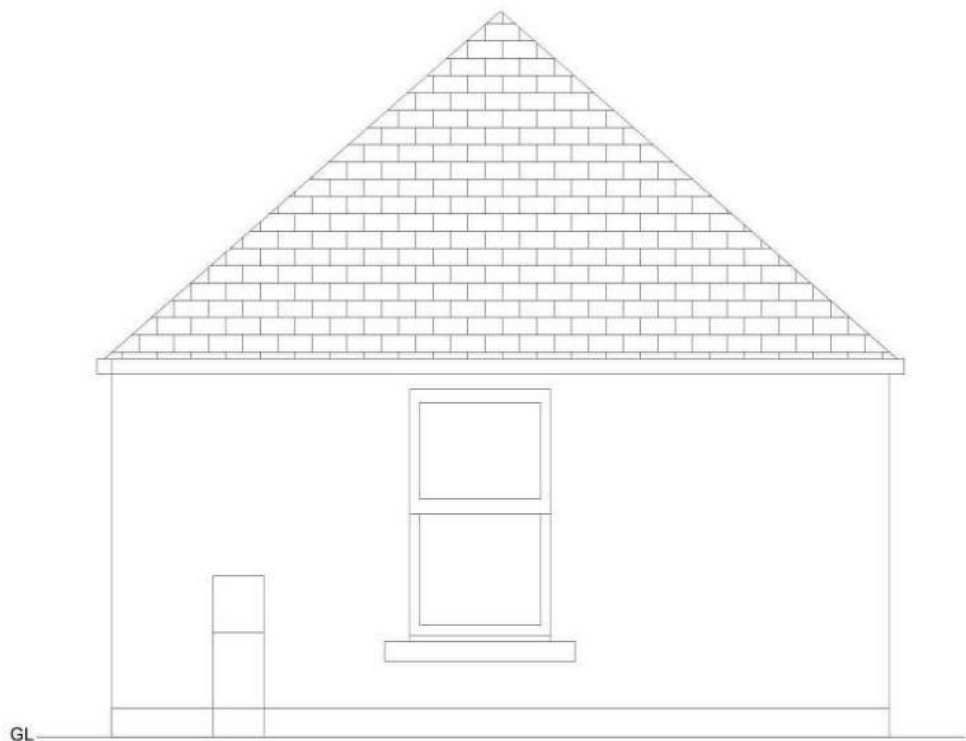
# Floor Plan / Elevations

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REFUSED  
30.01.2023  
22/00869/DPP



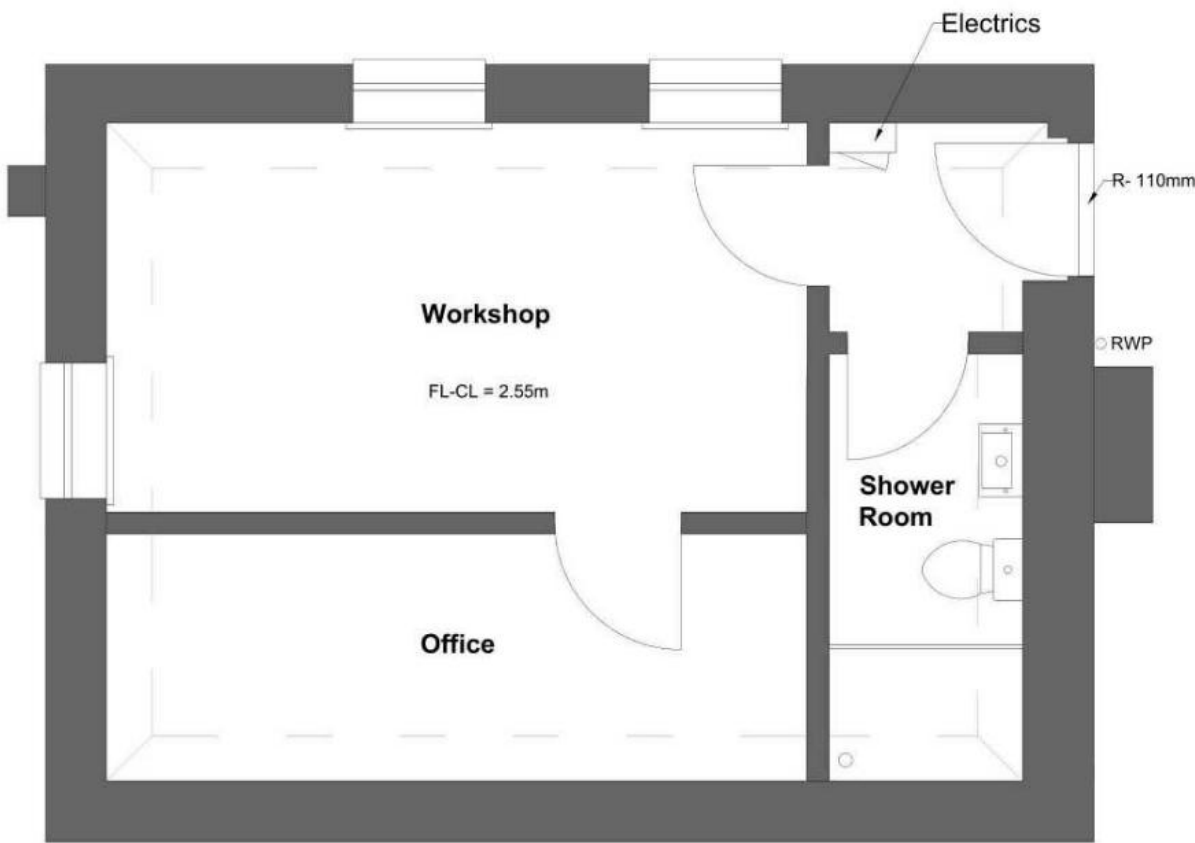
Existing West Elevation



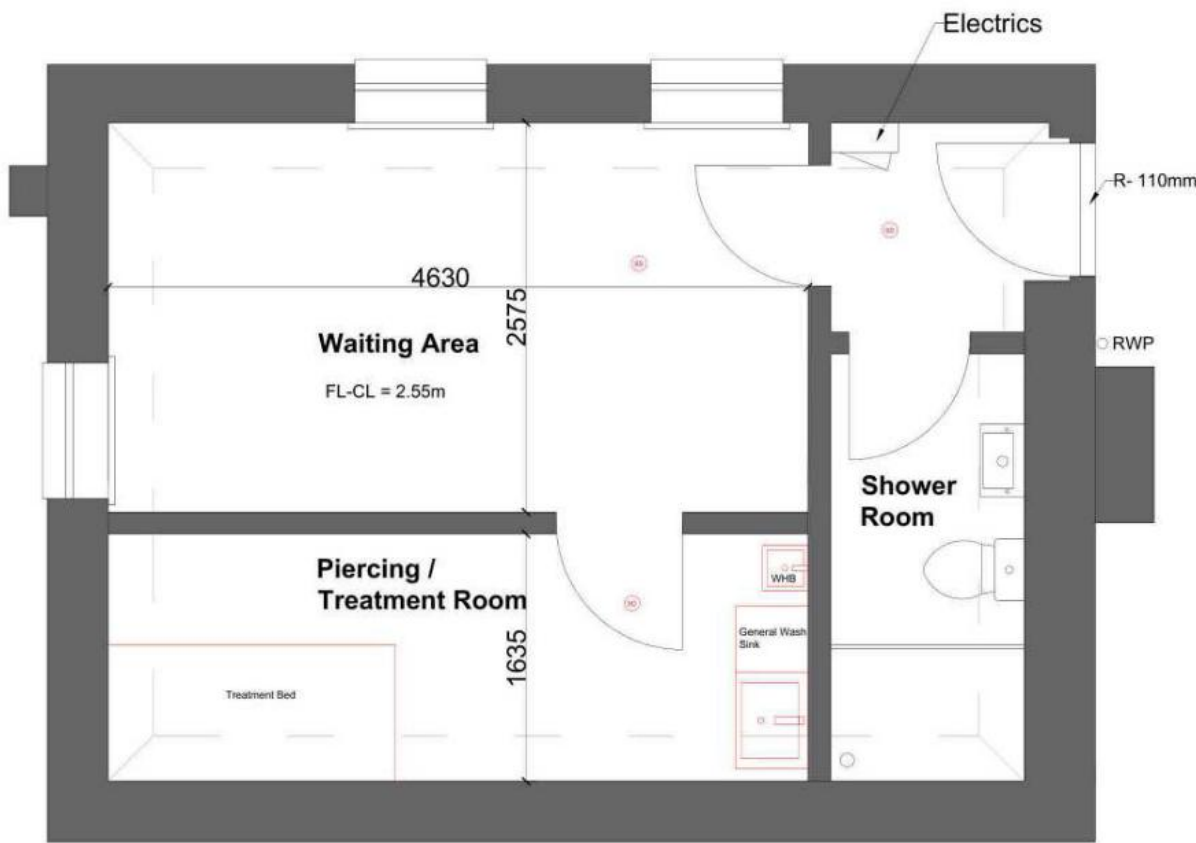
Existing South Elevation

Notes:

- All glazing to have blinds for additional privacy.
- Proposed sink drainage to connect to existing.
- Any electrical works to comply with the latest relevant requirements of BS 7671 : 2018.
- Any new light switches to be positioned at a height of between 1000mm-1200mm above floor level.
- Any new power socket outlets to be positioned at least 350mm from any internal corner and nor more than 1500mm or less than 300mm above the floor level.
- W.C to be fitted with a centrifugal fan type giving at least 15 litres/sec (intermittent) rate of extraction ducted to external air.
- SD - Smoke alarm detectors to be in accordance with BS 5839 and installed in accordance with the recommendations contained in Part 6 of BS 5839 2004 for a grade D type LD4 system and to be hard wired and interlinked.
- Contractor to provide a copy of electrical installation certificate and a copy of electricians registration document on completion of any electrical work carried out.



Existing Floor Plan



Proposed Floor Plan

Floor Plans and Elevations  
Scale: 1:50 / A2 | 01/12/22

DWG Ref: FL.EL BN.HS 01  
25A Bonnyrigg High Street  
Edinburgh  
EH19 2DA

MSR Architecture & Design  
Mohammed Rahman  
Architectural Technologist Bsc (Hons)  
CIAT Affiliate | BILD Associate Member  
msrtd7@gmail.com / @msr\_architecture



## **Notice of Review: Unit 7A Pentland Industrial Estate, 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 erection of an industrial unit and the formation of car parking at Unit 7A Pentland Industrial Estate, Loanhead.

#### **2 Background**

- 2.1 Planning application 22/00786/DPP for the erection of an industrial unit and the formation of car parking at Unit 7A Pentland Industrial Estate, Loanhead was refused planning permission on 22 December 2022; 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 22 December 2022 (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](http://www.midlothian.gov.uk).

#### **4 Procedures**

- 4.1 In accordance with agreed procedures, the LRB:

- Have determined to undertake a site visit (only elected members attending the site visit can 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 were three 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 back to the 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 20 June 2022, and without prejudice to the determination of the review, the following conditions have been prepared for the consideration of the LRB if it is minded to uphold the review and grant planning permission.
1. The development to which this permission relates shall commence no later than the expiration of three years beginning with the date of this permission.

***Reason:*** To accord with the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended by the Planning (Scotland) Act 2019).

2. Development shall not begin on site until the following details have been submitted to and approved in writing by the planning authority:
  - a) Details of the proposed materials of the areas of hardstanding;
  - b) Details of the proposed surface water management scheme; and
  - c) A landscape plan, including details of a scheme of landscaping for the site. Details shall include a plant schedule with position, density, number, size and species of all planting proposed, as well as identifying all trees on site which are proposed to be removed and retained and specification for landscape works and landscape maintenance/management proposals.

Thereafter, the development hereby approved shall accord with the details agreed in terms of this condition.

***Reason:*** *These details were not submitted as part of the application: to ensure adequate drainage is provided; to protect the visual amenity of the surrounding area.*

3. Unless otherwise agreed in writing by the planning authority the area of hardstanding agreed in terms of condition 2a) shall be surfaced in a porous material.

***Reason:*** *To ensure that the site is adequately drained in the interests of the amenity of the area.*

4. The scheme of landscaping hereby approved in condition 2c) shall include details of replacement tree planting and hedgerow and tree planting between the industrial unit hereby approved and the site boundary with Main Street and Pentland Road. The hedgerow planting should comprise a mix of native species such as hawthorn, blackthorn, field maple and beech or single species hedgerow, such as beech or hawthorn.
5. The scheme of planting approved in condition 2c) shall provide details of all replacement planting to a ratio of 3:1 canopy area of the trees being removed.

***Reason for conditions 4 and 5:*** *To ensure that appropriate replacement planting is provided at the site, to maintain and enhance the character and appearance of the surrounding area and also perpetuate canopy cover.*

6. The scheme of landscaping hereby approved in condition 2c) shall be carried out and completed within six months of the unit 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.*



7. 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 works hereby approved is brought into use, the measures to decontaminate the site shall be fully implemented as approved by the planning authority.

8. On completion of the decontamination/ remediation works required in condition 7 and prior to the unit 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 7 and 8:*** 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.

9. Development shall not begin until details, including a timetable of implementation, of superfast broadband have been submitted to and approved in writing by the planning authority. The details shall include delivery of superfast broadband prior to the occupation of the unit. The delivery of superfast 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.

10. Development shall not begin until details of the provision of at least two electric vehicle charging point within 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.*

11. Development shall not begin until details of a sustainability/biodiversity scheme for the site, including the location and details for the provision of nesting and wildlife homes and features to optimise the biodiversity value of the site, has been submitted to and approved in writing by the planning authority. Such a scheme could include swift and bat boxes and biodiverse lawns, ivy screens and green roofs/ walls. Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be approved in writing with the planning authority.

**Reason:** *To ensure the development accords with the requirements of policy DEV5 of the adopted Midlothian Local Development Plan 2017.*

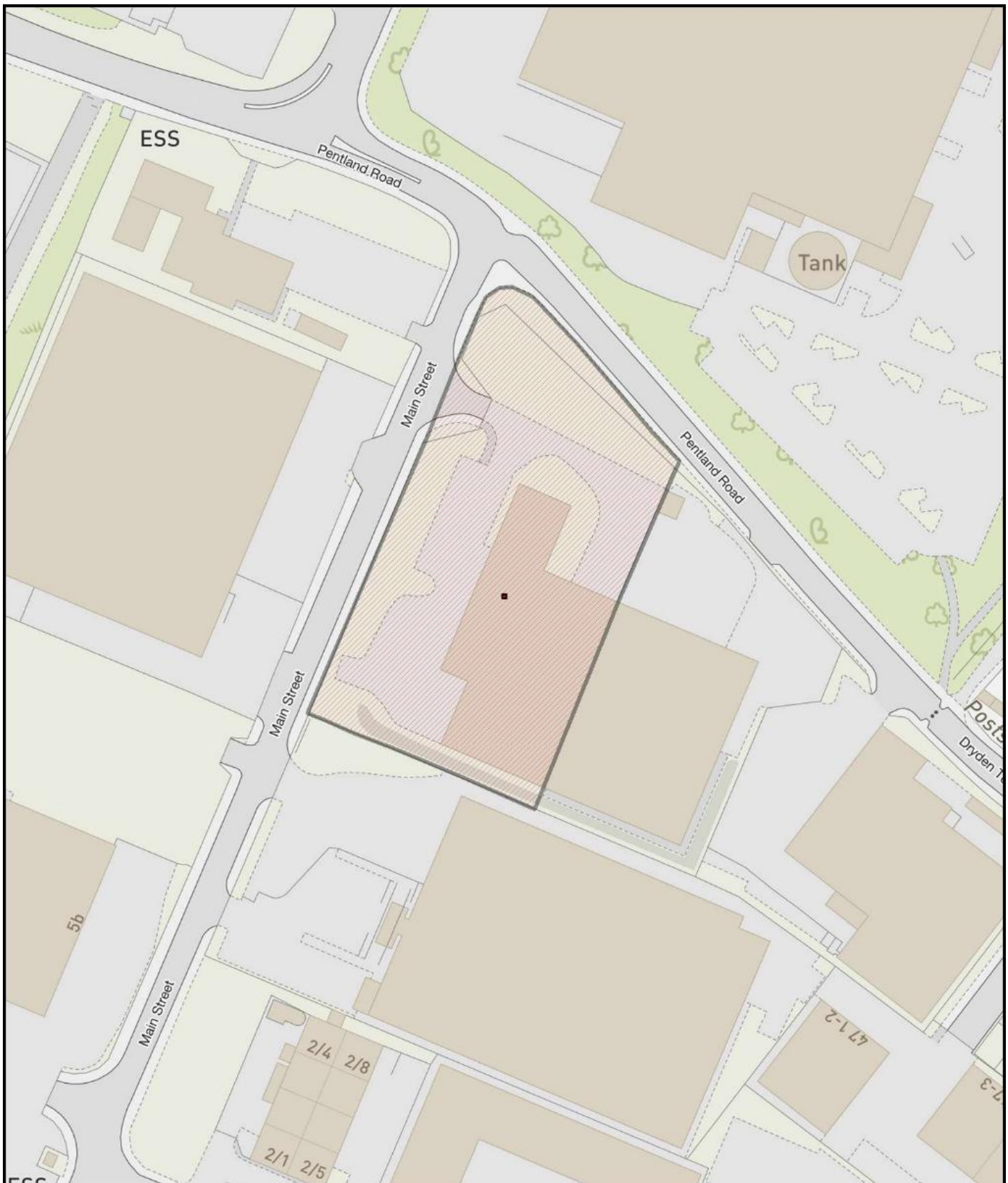
## **6 Recommendations**

- 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:** 12 May 2023  
**Report Contact:** Peter Arnsdorf - Planning, Sustainable Growth and Investment Manager  
[peter.arnsdorf@midlothian.gov.uk](mailto:peter.arnsdorf@midlothian.gov.uk)

**Background Papers:** Planning application 22/00786/DPP available for inspection online.



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

## **Erection of industrial unit and car parking 7A Pentland Industrial Estate, Loanhead**

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File No.22/00786/DPP

Scale: 1:1,250





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

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

Thank you for completing this application form:

ONLINE REFERENCE 100604421-004

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="Cameron Laird Architects Ltd"/>		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	<input type="text" value="Cameron"/>	Building Name:	<input type="text"/>
Last Name: *	<input type="text" value="Laird"/>	Building Number:	<input type="text" value="8"/>
Telephone Number: *	<input type="text" value="0131 370 6698"/>	Address 1 (Street): *	<input type="text" value="Rutland Square"/>
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="United Kingdom"/>
		Postcode: *	<input type="text" value="EH1 2AS"/>
Email Address: *	<input type="text" value="claird@cameronlairdarchitects.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="7A"/>
Last Name: *	<input type="text"/>	Address 1 (Street): *	<input type="text" value="Main Street"/>
Company/Organisation	<input type="text" value="The Trustees of Charlotte James"/>	Address 2:	<input type="text" value="Pentland Industrial Estate"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Loanhead"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="United Kingdom"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="EH20 9QH"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text"/>		

## Site Address Details

Planning Authority:	<input type="text" value="Midlothian Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="7A MAIN STREET"/>
Address 2:	<input type="text" value="PENTLAND INDUSTRIAL ESTATE"/>
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 9QH"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="665594"/>	Easting	<input type="text" value="327073"/>
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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 industrial unit and formation of car parking at Unit 7A, Pentland Industrial Estate, Loanhead, EH20 9QH

## 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.

Refer to Agent Cover Letter Statement attached as Supporting Document

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)

Notice of Review - Agent Cover Letter Statement 22030 (2-) 010 - As Proposed Elevations in Context

## Application Details

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

22/00786/DPP

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

26/10/2022

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

22/12/2022

## 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 Cameron Laird

Declaration Date: 17/03/2023





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The Planning, Sustainable Growth & Investment Manager  
Planning, Sustainable Growth & Investment Service,  
Midlothian Council  
Fairfield House  
8 Lothian Road  
Dalkeith  
EH22 3ZN

17th March 2023

Dear Sirs

**Submission of Notice of Review towards Refusal of Planning Permission**

**Planning Application: 22/00786/DPP**

**Erection of Industrial Unit and Formation of Car Parking at Unit 7A, Pentland Industrial Estate, Loanhead, EH20 9QH.**

**Applicant:** The Charlotte James SSAS, 7A Main Street, Pentland Industrial Estate, Loanhead, EH20 9QH

**Planning Case Officer:** Mhairi-Anne Cowie

We have been instructed by the Applicant for the above, The Charlotte James SSAS, to submit a Notice for Review towards the Refusal of Planning Permission ref 22/00786/DPP for the Erection of a 3,000sqft Industrial Unit and Formation of Car Parking at Unit 7A, Pentland Industrial Estate, Loanhead, EH20 9QH. The following submission summarises the background to the proposed development and responds to items and relevant policy statements within the Planning Application Delegated Worksheet that recommended Refusal of Planning Permission.

It should also be noted that prior to the Refusal being issued there was no dialogue from or further information requested by the Case Officer involved in the assessment of the application. Neither the Applicant nor Agent were provided the opportunity to respond to assist the assessment of any areas of concern, or indeed offered the opportunity to Withdraw the application prior to the Refusal being issued.

The stated reasons for the Refusal dated 22/12/22 were:

1. *"The size, scale and position of the proposed building would be very prominent at the entrance to Pentland Industrial Estate, out of character for the surrounding area and detract from the character and appearance of the surrounding area, which is generally characterised by the positioning of buildings set back from the road behind tree and shrub planting.*
2. *The proposal would result in the loss of mature trees with inadequate room or scope for replacement planting within the site.*

3. *For the above reasons, the proposal is contrary to policies DEV2, DEV7, ENV7 and ENV11 of the adopted Midlothian Local Development Plan 2017.”*

Attached for consideration alongside the Notice of Review are the following relevant supporting documents :

**Planning Submission Drawings:**

Location Plan  
22030 (--) 001 – As Existing Site Plan  
22030 (2-) 001A – As Proposed Site Plan  
22030 (2-) 002A – As Proposed Ground Floor Plan  
22030 (2-) 003A – As Proposed North and South Elevations  
22030 (2-) 004A – As Proposed East and West Elevations  
Design Statement

**Further Information:**

Copy of Planning Application Delegated Worksheet  
Copy of Decision Notice  
Drawing 22030 (2-) 010 – As Proposed Elevations in Context (NB. This was not included in the original Application)

**The Application Proposal**

The proposed use comprises the development of a new Class 5/6 storage warehouse with a nett internal area of 3,000sqft (280sqm) with additional parking and landscaping enhancement.

The proposed unit is to be ancillary to the existing building occupied by Charlotte James Furniture, an established and successful manufacturer of bespoke high quality furniture who have occupied the site at Pentland Industrial Estate for the last 10 years, and located in Midlothian since 2003. The business currently employs 40 staff from the local and surrounding area.

Due to continued growth and future expansion plans, the business requires additional space for storage and warehousing to supplement the increase in manufacture and storage area within the main building which is now at capacity.

A feasibility exercise was conducted to review both the existing building and operation alongside opportunities to expand and create additional capacity within the existing site. Through this process it was established the business required circa 3,000sqft additional space to meet future growth requirements and given existing constraints within the existing building it was concluded that the business could either:

- a) Seek new suitable premises either within Pentland Industrial Estate or another suitable location within the wider Edinburgh or surrounding area.

**Or**

- b) Seek to develop additional space via a new building within the constraints of the existing site.

Due to the lack of suitable vacant premises within the existing industrial estate and given Charlotte James have occupied the site for a decade, alongside local employee considerations, it was concluded the

preferred option was to seek permission to build the required additional space within the existing development site.

Suitable areas for potential development are limited within an otherwise constrained site, and the proposed building occupies the only suitable location with sufficient area to accommodate the potential development area for the business's future needs.

Clearly the proximity to the entrance to the estate and the existing trees were a consideration in the approach to the siting of the proposed unit. These considerations were reviewed and discussed within a previous pre-application enquiry in 2019. (this is referred within the Application Design Statement).

The application proposal sites a proposed building of 3,000sqft (280sqm) NIA within an unused area of land to the north-west corner of the existing site. The proposed building is typical of an industrial building of its type being steel portal framed and externally clad in high quality composite cladding to walls and roof. Internally a 4.8m portal frame haunch height is required for operational / storage racking purposes and this in turn dictates an external eaves height of 5.9m rising to 6.9m at the apex of the pitched roof.

The existing buildings on the site are fronted by a 4.8m high brick faced single storey office building with the main industrial manufacturing building to the rear. The main existing manufacturing unit has an external eaves height of circa 6m rising to a ridge height of circa 7m.

Given the proximity to the existing entrance to Pentland Industrial Estate and taking cognisance of comments raised within the previous pre application of 2019, the proposed new unit is positioned as far south as possible from the existing northern boundary whilst maintaining access to the existing service yard / loading area to the east.

This would require the removal of 9 existing trees in the proposed building location (N.B the trees are not protected under any tree prevention orders or with a conservation area).

Given the necessary loss of the existing trees and recognition by the Applicant to the importance and visual impact of the corner site as the entrance to the Industrial Estate, the proposal would be to replace and enhance the landscaping to the corner providing the potential for a more attractive entrance to the estate.

The current estate entrance is currently marked by a rather tired and dilapidated signage, and the Applicant would be keen to assist where necessary in the provision of appropriate enhancements as part of the proposed development.

### **Consideration and Response to the Development Management Planning Application Delegated Worksheet**

With reference to the Delegated Worksheet recommending refusal of the Planning Application we wish to respond to relevant points raised in consideration to this review:

#### **Consultations**

It is noted that no objections were received as part of the consultation process through either statutory consultees or public comment.

### **Relevant Planning Policy**

As noted in the Refusal notification it was considered that the proposal was contrary to policies DEV2, DEV7, ENV7 and ENV11 of the adopted Midlothian Local Development Plan 2017.

### **Policy DEV 2 - Protecting Amenity within the Built-Up Area**

*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.*

### **Policy DEV 7 - Landscaping in New Development**

*The Council will require development proposals to be accompanied by a comprehensive scheme of landscaping. The design of the scheme should be informed by the results of an appropriately detailed landscape assessment, to ensure the landscaping proposals:*

- A. complement the existing landscape both within and in the vicinity of the site;*
- B. create landmarks in the development layout and use the landscape framework to emphasise these;*
- C. provide shaded areas and shelter from prevailing winds, where possible and appropriate with regard to the overall design of the development;*
- D. make use of tree and shrub species that are of a good appearance, hardy and require low maintenance, with a preference for indigenous species;*
- E. provide effective screening. Where the development abuts the countryside an effective tree belt will be required to define the urban edge, allow for future growth of trees and promote pedestrian access to the countryside beyond and wider path networks;*
- F. ensure that, where roads are to be lined with trees, these are given adequate room to grow and mature;*
- G. make use of trees to define the edge of development areas within sites;*
- H. promote local biodiversity and, where appropriate, community food growing; and*
- I. ensure that finishing materials, surface textures and street furniture, together with the design of walls and fencing, combine with the landscaping to create an attractive environment.*

*Landscaping schemes should be implemented at an early stage in the development to allow adequate time to become successfully established. Maintenance proposals must accompany schemes of landscaping.*

### **Policy ENV7 - Landscape Character**

*Development will not be permitted where it may have an unacceptable effect on local landscape character. Where development is acceptable, it should respect such character and be compatible in terms of scale, siting and design. New developments will normally be required to incorporate proposals to maintain the diversity and distinctiveness of local landscapes and to enhance landscape characteristics where they have been weakened.*

### **Policy ENV11 - Woodland, Trees and Hedges**

*Development will not be permitted where it could lead directly or indirectly to the loss of, or damage to, woodland, groups of trees (including trees covered by a Tree Preservation Order, areas defined as ancient or semi-natural woodland, veteran trees or areas forming part of any designated landscape) and hedges which have a particular amenity, nature conservation, biodiversity, recreation, landscape, shelter, cultural, or historical value or are of other importance.*

*Where an exception to this policy is agreed, any woodland, trees or hedges lost will be replaced with equivalent. Removal of woodland, trees and hedges will only be permitted where it would achieve*

*significant and clearly defined additional public benefits. If a development would result in the severing or impairment of connectivity between important woodland habitats, workable mitigation measures should be identified and implemented, preferably linked to a wider green network.*

We will address the various aspects of the above relevant policy points in the below comments relative to the Delegated Report, however we would also note that given the principal reasons behind the application, the policies surrounding the Promotion of Economic Growth are also relevant as a material consideration.

### **Promoting Economic Growth**

Promoting economic growth is a primary objective of the Midlothian Economic Development Framework and the Economic Recovery Plan. As noted in the Policy Guidelines within Section 4 of the Midlothian Local Development Plan 2017 seeks to deliver economic benefits by:

*Providing land and **supporting the redevelopment of existing sites/ property to meet the diverse needs of different business sectors;***

***Supporting measures and initiatives which increase economic activity;***

***Giving due weight to the net economic benefit of the proposed development; and***

*Ensuring the necessary capacity in the physical and transport infrastructure network is available to enable development*

As stated within the MDLP section 4.1.3 “*Business growth is integral to the objective of supporting economic activity and employment*”

### **Policy Econ1 - Existing Employment Locations**

*Existing business and industrial locations will be safeguarded against loss. Within these areas (except within the policy boundaries relating to policy ECON2), economic development, redevelopment or expansion (excluding retail) will be supported where it:*

- A. would contribute to an employment density\* commensurate with the type of development proposed;*
- B. would be compatible with neighbouring uses;*
- C. would not have a detrimental impact on the amenity of the area; and*
- D. could mitigate any infrastructure deficiency or requirement.*

As noted previously the Applicant is seeking additional space to grow and expand due to the continued success of the business. The additional area is critical to Charlotte James Furniture’s growth strategy and further staff employment, however the existing building and site present constraints that limit the options available to achieve this growth.

For operational and functional reasons it is not feasible to extend or alter the existing building and as noted previously this presents 2 possible options for the business moving forward:

- a) Relocate to alternative suitable premises elsewhere
- Or
- b) Develop additional space via a new building within the constraints of the existing site.

Option A has been explored by the Applicant, and due to the current lack of suitable, available and cost effective space within the Pentland Industrial Estate and wider Midlothian, this option would necessitate the business to relocate to another authority area. It should be noted that this is not the preferred option by the

applicant, (with their locally employed staff being a consideration) and is the principal reason why the potential for development on the existing site is being proposed with the submitted Planning Application as per Option B.

### **Response to Delegated Worksheet Planning Issues**

Whilst the erection of an industrial unit at Pentland Industrial Estate would be deemed as acceptable the main Planning issue noted within the delegated worksheet is whether the proposal complies with relevant development plan policy, and if not whether there are any material considerations which would otherwise justify approval.

Please find below our responses to specific comments made within the report:

Paragraph 3:

*“The position of the building would be very prominent at the entrance to Pentland Industrial Estate (PIE), in an area of landscaping between the exiting building at the site and the spine road running through PIE. There are 9 mature trees here which appear in good/fair condition with no obvious defects that would be removed as a result of the proposal. The combination of this landscaping area and trees soften the entrance to PIE and act as a buffer between the entrance and the industrial buildings. This set back and landscaping has a positive contribution to the character and appearance of this industrial area. Tree cover is characteristic to this industrial estate with trees and landscaping continuing along the spine road, particularly the entrance points, which provides notable screening and landscape softening to existing industrial units. This has been carried out successfully and so creates more of a sense of place and character to the area, rather than being a standard industrial space with lots of hardstanding and industrial buildings hard up to the road. The loss of these trees and area of landscaping would have a detrimental impact on the character and appearance at a prominent position of this industrial estate.”*

The potential prominence of a building close to the north western entrance of the Industrial Estate is recognised by the Applicant, and as such the proposed unit has been located as far south as possible within the constraints of the site whilst maintaining the required loading / delivery access to service the existing building. Offsetting the building in parallel with the existing building enables a landscaping area of circa 415 sqm (0.10 acres or thereby) to the corner and Pentland Road Boundary to enable an enhanced landscaping proposal to be developed. It would be the intention that the landscaping would both enhance the corner and setting and be of an appropriate scale to visually soften the proposed building from the corner aspect.

Landscaping in new development relates to Planning policies Dev7, Env7 and Env11 and it should be noted that given the importance placed on the landscaping strategy regards this application it would be reasonable that further information was provided in order to assess proposals fully prior to determination. A detailed landscape proposal was not requested at any time through the determination period in order to assist assessment prior to the Refusal being issued. At the very least we would normally expect some discussion or dialogue with the Planning Department if further information / clarity was required, and to provide the Applicant the opportunity to respond to any concerns raised.

Paragraph 4:

*“While the proposed building has a generally industrial appearance with grey clad walls and a pitched roof and is generally in keeping with the surrounding industrial estate, this is relatively large at 7 metres high. The existing building is approximately 3 metres high and set back further into the site, softened by*

*landscaping. The proposed building would be set back approximately 11 metres from the boundary onto the spine road through PIE and as close as 1 metre to the boundary to the north. The size of the building, along with its position closer to the road through PIE and the loss of landscaping would make the scale of this appear very large compared to the existing building.”*

The proposed building is 6.9m high at the apex of the ridge falling to an eaves height of 5.9m. This height is dictated by the required internal steel frame haunch height of 4.8m which is dictated by internal storage requirements and is recognised as a minimum internal height for a portal framed building of this type.

It should be noted however that the existing brick faced office building is not 3m high as noted in the Planning Report. The actual height is approximately 4.8m from ground level on a sloping site with levels gradually grading higher into the site towards its southern boundary. To assist and illustrate we enclose drawing 22030 (2-) 010 – As Proposed Elevations in Context. It should be noted that this drawing was not included within the original application and is for illustrative purposes only to assist the Notice for Review and clarify heights incorrectly noted within the Delegated worksheet.

From the enclosed it is clear the proposed unit does not appear “*very large compared to the existing building*” and is in fact similar in scale to the wider built context within the existing site.

**Paragraph 5:**

*“There will be proposed landscaping along the boundaries to the spine road and the north which would provide some landscape mitigation through new tree and hedgerow planting. While this is generally welcomed in terms of landscape enhancement and improved boundary treatment, the size and scale of the proposed building and its proximity to the site boundary would limit the extent to which any new landscaping could negate the prominence of the new building and integrate this into the area.”*

As noted above in comments relating to Paragraph 3, no additional information was requested regards the Applicants Landscape Strategy for the proposals prior to refusal being determined to enable a material assessment to be made. Comments noted could be perceived as subjective unsubstantiated opinion.

**Paragraph 6:**

*“The combination of the size, scale and position of the building would mean this is a very prominent building at the entrance to the industrial estate, removing an area of landscaping that positively contributes to the appearance of the area and the character of PIE. This would have a detrimental impact on the area.”*

Refer to previous comments above.

**Paragraph 7:**

*“Also given the ongoing climate emergency, the Planning Authority is reluctant to support the removal of healthy mature trees. These should be retained, protected and enhanced where possible. Where the removal of existing trees is unavoidable, it is expected that replacement tree planting is carried out. In order to maintain canopy cover, any replacement planting should be carried out at a rate of 3:1 at suitable locations within the red line boundary. This proposal would not only would result in the removal of nine mature healthy trees but given the size of the site which would have a relatively constrained nature if the building were approved, there would be inadequate room for sufficient replacement planting to maintain canopy cover.”*



Whilst the principals outlined within the above comments are fully understood, the constraints of the site would necessitate the removal of the existing trees to enable development and this is recognised within the submitted Design Statement and by the Applicant. As noted an enhanced landscaping strategy was proposed to offset the loss of trees to enhance the overall setting of the site and entrance to the Industrial Estate and spine road.

**Paragraph 12:**

*"It is acknowledged that the site is in an established industrial estate and that this relates to a successful business looking to expand. The planning authority would be happy to support development at this site that retains the landscaping and is set off the boundary to be less prominent, such as extending the existing building."*

Whilst it is acknowledged that authority would support extension of the existing building as noted previously this has been explored in depth in conjunction with the expansion and growth plans for the business. Extending the existing building is not feasible both practically and operationally given the existing manufacturing / production flow given the existing buildings constraints and arrangements. The limitations to the development of the site to meet the future business requirements is a material consideration as outlined in the requirements of policy Econ 1 outlined above.

**Summary**

The Applicant is disappointed that a decision was reached without the opportunity to provide further information to clarify and assist the assessment of concerns raised, or indeed the opportunity to Withdraw the application prior to refusal being issued.

Given the importance of this decision to the future expansion and growth plans for the associated business, the Applicant would welcome the reconsideration to the decision reached, and should further information be required please do not hesitate to contact us.



## MIDLOTHIAN COUNCIL

### DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

**Planning Application Reference:** 22/00786/DPP

**Site Address:** Unit 7A Pentland Industrial Estate, Loanhead.

**Site Description:** The application site comprises an industrial unit, car parking, service yard and landscaping, including mature trees. There is mesh fencing around the site. The site sits within and at the entrance to Pentland Industrial Estate from the north and currently operates as a furniture manufacturer. There are industrial units to the west, south and east, within Pentland Industrial Estate, and the Costco retail unit to the north, separated from the proposed site by Pentland Road and landscaping. Penicuik Industrial Estate is an established business/general industry area.

**Proposed Development:** Erection of industrial unit and formation of car parking.

**Proposed Development Details:** An industrial unit is proposed close to the site entrance measuring 28.3 metres long by 11.2 metres deep with a pitched roof 7metres high to ridge. The basecourse is buff brick, the roof composite clad coloured RAL 000 55 00 Pure Grey with 10 rooflights proposed and the doors glazed with aluminium frames, steel or PPC, all coloured RAL 9007. The walls composite clad, with the horizontal areas coloured RAL 9006 Metallic Silver or RAL 9007 Grey Aluminium and the vertical areas RAL 00 55 00 Pure Grey.

Six parking spaces are proposed to the east of the building, with areas of hardstanding to the east and west. The site plan indicates landscaping along the site boundary, as does the submitted design statement. The building will be associated with the existing business on site as additional storage and warehousing (class 5 and 6). This will connect to the public drainage system.

**Background (Previous Applications, Supporting Documents, Development Briefs):** Application site and units to east

18/00913/CL Certificate of lawfulness for a proposed use (servicing, maintenance and cleaning of buses). Refused.

18/00142/FUL Formation of new door openings; formation of car parking and erection of fence. Permitted.

15/00154/CL Certificate of Lawfulness for an existing use (manufacturing, storage and distribution - classes 4, 5 and 6). Refused.

14/00904/CL Certificate of Lawfulness for an existing use (manufacturing, storage and distribution - classes 4, 5 and 6). Withdrawn.

14/00887/DPP External alterations and formation of access and car parking. Consent with conditions.

Units to east

20/00218/DPP Alterations to industrial unit. Permitted.

19/00080/DPP Change of use from general industry (class 5) to bus depot (sui generis). Permitted.

18/00925/DPP Installation of roller shutter doors; formation of door and window openings. Consent with conditions.

Units to west

17/00846/DPP Erection of biomass boiler house and silo. Consent with conditions.

Unit to south

11/00273/DOP Erection of warehouse. Consent with conditions,

08/00422/FUL Erection of units for Class 5 (General Industry) and Class 6 (Storage and Distribution) use with ancillary Class 4 (Office) use, formation of associated access, parking and landscaping. Consent with conditions.

06/00653/CL Application for Certificate of Lawfulness for the use of site for storage or distribution (as per Class 6 of The Town and Country Planning (Use Classes) (Scotland) Order 1997). Permitted.

### **Consultations:**

The Council's **Senior Manager Neighbourhood Services (Roads)** has no objection but recommends conditions be attached to any approval requiring that at least two parking spaces are electric vehicle charging points and details of the proposed surface water management scheme.

The Council's **Senior Manager Protective Services** does not object, subject to conditions being attached to planning permission ensuring that ground contamination remediation works are undertaken and the hours of construction are limited to reasonable working times. They also make reference to noise limits in relation to nearby residential properties.

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

**Representations:** No representations were received.

### **Relevant Planning Policies:**

Planning policy currently comprises National Planning Framework 3 and Scottish Planning Policy, SESPlan and the adopted Midlothian Local Development Plan 2017. On 8 November the Revised Draft National Planning Framework 4 was submitted to the Scottish Parliament for approval along with an Explanatory Report that outlines the changes from Draft NPF4 to the Revised Draft. The Planning Act requires that NPF4 must be approved by the Scottish Parliament before it can be adopted by Scottish Ministers. On adoption the provisions in the Planning Act will commence to make NPF4 part of the statutory development plan. The existing National Planning Framework 3 and Scottish Planning Policy remain in place until NPF4 has been adopted by Scottish Ministers. As the Revised Draft NPF4 is at an advanced stage and represents the settled view of the Scottish Government in terms of its planning policy it is a material consideration of significant weight in the assessment of the application. The following policies are relevant to the proposal:

- Policy 1 Tackling the climate and nature crises
- Policy 2 Climate mitigation and adaptation

- Policy 3 Biodiversity
- Policy 6 Forestry, woodland and trees
- Policy 14 Design, quality and place
- Policy 24 Digital infrastructure
- Policy 26 Business and industry

The relevant policies of the **2017 Midlothian Local Development Plan** are;  
**STRAT5 Strategic Employment Land Allocations** supports development for employment uses on sites identified as strategic employment land allocations;  
**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 shall be informed by an appropriately detailed landscape assessment;

**ECON1 Existing Employment Locations** states that business and industrial locations will be safeguarded against loss. Development will be supported where it:

- Will contribute to an employment density commensurate with the type of development proposed;
- Will be compatible with neighbouring uses;
- Will not have a detrimental impact on the amenity of the area; and
- Can mitigate any infrastructure deficiency or requirement;

**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 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; and

**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.

**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 erection of an industrial unit at this established industrial estate is acceptable in principle, however the details of the proposal need to be considered.

The position of the building would be very prominent at the entrance to Pentland Industrial Estate (PIE), in an area of landscaping between the existing building at the site and the spine road running through PIE. There are 9 mature trees here which appear in good/fair condition with no obvious defects that would be removed as a result of the proposal. The combination of this landscaping area and trees soften the entrance to PIE and act as a buffer between the entrance and the industrial buildings. This set back and landscaping has a positive contribution to the character and appearance of this industrial area. Tree cover is characteristic to this industrial estate with trees and landscaping continuing along the spine road, particularly the entrance points, which provides notable screening and landscape softening to existing industrial units. This has been carried out successfully and so creates more of a sense of place and character to the area, rather than being a standard industrial space with lots of hardstanding and industrial buildings hard up to the road. The loss of these trees and area of landscaping would have a detrimental impact on the character and appearance at a prominent position of this industrial estate.

While the proposed building has a generally industrial appearance with grey clad walls and a pitched roof and is generally in keeping with the surrounding industrial estate, this is relatively large at 7 metres high. The existing building is approximately 3 metres high and set back further into the site, softened by landscaping. The proposed building would be set back approximately 11 metres from the boundary onto the spine road through PIE and as close as 1 metre to the boundary to the north. The size of the building, along with its position closer to the road through PIE and the loss of landscaping would make the scale of this appear very large compared to the existing building.

There will be proposed landscaping along the boundaries to the spine road and the north which would provide some landscape mitigation through new tree and hedgerow planting. While this is generally welcomed in terms of landscape enhancement and improved boundary treatment, the size and scale of the proposed building and its proximity to the site boundary would limit the extent to which any new landscaping could negate the prominence of the new building and integrate this into the area.

The combination of the size, scale and position of the building would mean this is a very prominent building at the entrance to the industrial estate, removing an area of landscaping that positively contributes to the appearance of the area and the character of PIE. This would have a detrimental impact on the area.

Also given the ongoing climate emergency, the Planning Authority is reluctant to support the removal of healthy mature trees. These should be retained, protected and enhanced where possible. Where the removal of existing trees is unavoidable, it



is expected that replacement tree planting is carried out. In order to maintain canopy cover, any replacement planting should be carried out at a rate of 3:1 at suitable locations within the red line boundary. This proposal would not only would result in the removal of nine mature healthy trees but given the size of the site which would have a relatively constrained nature if the building were approved, there would be inadequate room for sufficient replacement planting to maintain canopy cover.

Due to the nature of the proposal and that the building is linked to the existing business operating from the site, there are no road safety issues. Had the existing and proposed units not been linked, there may be some conflict due to the site being relatively small and proximity of the proposed parking and shared access. However the proposed unit is fully related to the existing operation on site. Should planning permission be approved, details of the electric vehicle charging points and surfaced water management scheme are required to ensure compliance with policy and also to ensure drainage is adequately considered and dealt with.

The proposed building is to be used as storage and warehousing, which would be a class 6 use. The surrounding industrial estate is in business/general industry use, so class 4 or 5. An independent class 6 use here could raise concerns over traffic generation and further information and assessment would be required. However this is to be used in association with the existing business operating from the site and would not be a separate use.

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 Senior Manager Protective Services has no objection to the proposal but recommends that conditions be attached to ensure any that any necessary ground contamination works are undertaken to ensure the site is safe for development and 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.

Although the Senior Manager Protective Services recommended a condition restricting the hours of construction at the site, this is better controlled by their own legislation rather than through planning measures and so the condition will not be attached. They also make reference to noise limits in relation to nearby residential properties. The application site is in an established industrial estate with a range of class 4 and 5 uses in operation. There are industrial units closer to the nearest residential properties than the application site. Therefore it would not be reasonable to attach the suggested noise conditions should permission be approved.

It is acknowledged that the site is in an established industrial estate and that this relates to a successful business looking to expand. The planning authority would be happy to support development at this site that retains the landscaping and is set off the boundary to be less prominent, such as extending the existing building.

**Recommendation:** Refuse planning permission.

## Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

**Reg. No. 22/00786/DPP**

Cameron Laird Architects Ltd  
8 Rutland Square  
Edinburgh  
EH1 2AS

Midlothian Council, as Planning Authority, having considered the application by The Trustees of Charlotte James SSAS, 7A Main Street, Pentland Industrial Estate, Loanhead, EH20 9QH, which was registered on 2 November 2022 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

### **Erection of industrial unit and formation of car parking at Unit 7A, Pentland Industrial Estate, Loanhead, EH20 9QH**

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	02.11.2022
Site Plan	(--)-001 1:500	02.11.2022
Site Plan	(2-)-001 A 1:500	02.11.2022
Proposed Floor Plan	(2-)-002 A 1:100	02.11.2022
Proposed Elevations	(2-)-003 A 1:100	02.11.2022
Proposed Elevations	(2-)-004 A 1:100	02.11.2022

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

- 1. The size, scale and position of the proposed building would be very prominent at the entrance to Pentland Industrial Estate, out of character for the surrounding area and detract from the character and appearance of the surrounding area, which is generally characterised by the positioning of buildings set back from the road behind tree and shrub planting.*
- 2. The proposal would result in the loss of mature trees with inadequate room or scope for replacement planting within the site.*
- 3. For the above reasons, the proposal is contrary to policies DEV2, DEV7, ENV7 and ENV11 of the adopted Midlothian Local Development Plan 2017.*



Dated 22 / 12 / 2022

A handwritten signature in black ink, appearing to be 'DR' with a stylized flourish.

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



**The Coal  
Authority**

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

Planning and Local Authority Liaison

Direct Telephone: 01623 637 119

Email: [planningconsultation@coal.gov.uk](mailto:planningconsultation@coal.gov.uk)

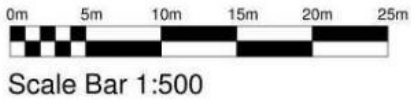
Website: [www.gov.uk/coalauthority](http://www.gov.uk/coalauthority)

**STANDING ADVICE**

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:  
[www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

Standing Advice valid from 1st January 2021 until 31<sup>st</sup> December 2022



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Revisions  
Client  
The Trustees of Charlotte James SSAS

Project Title  
Proposed New Unit  
Charlotte James Furniture Ltd  
Pentland Industrial Estate  
Loanhead  
EH20 9QH

Drawing Title  
As Existing Site Plan

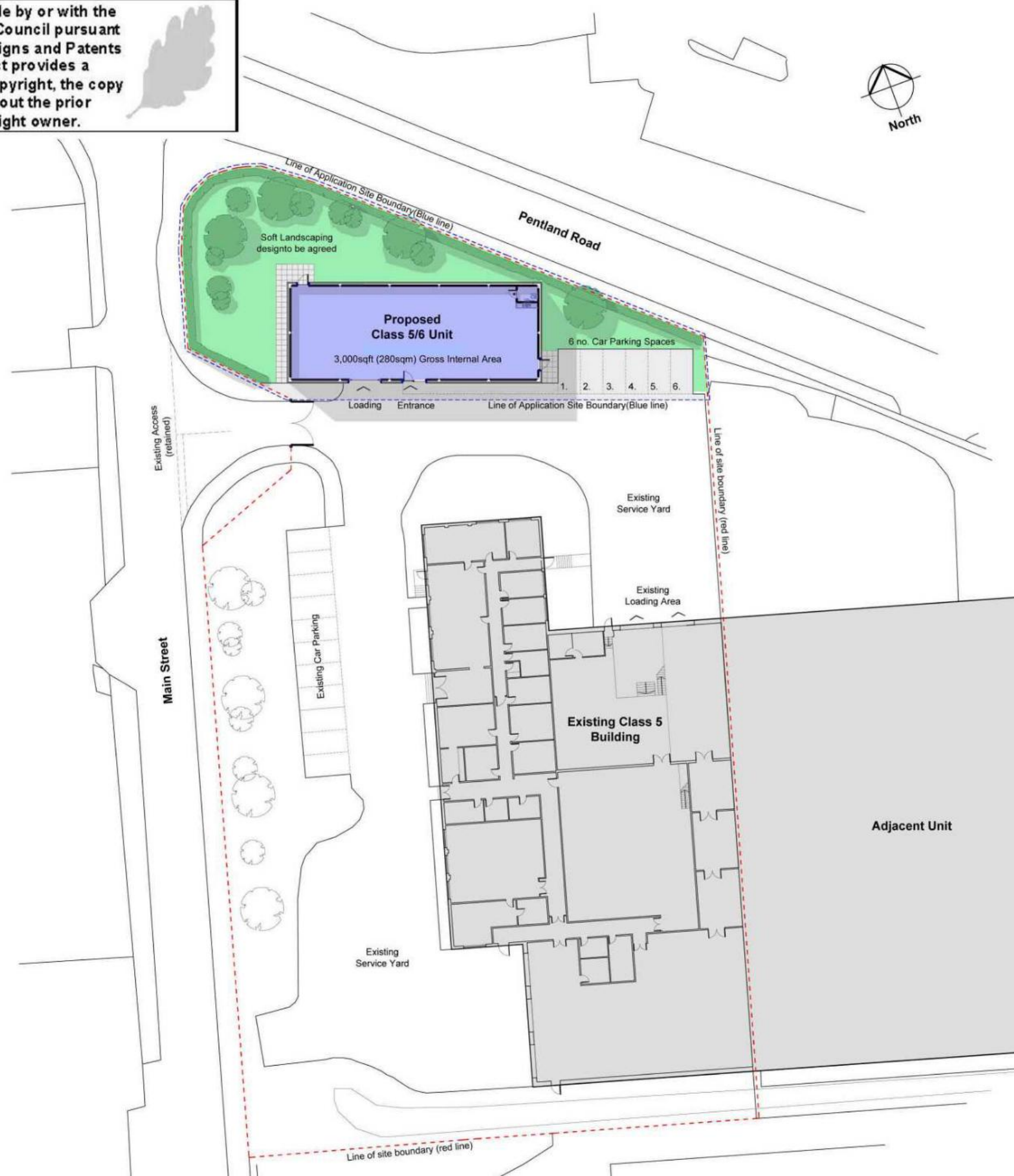
Scale	Size	Date	Drawn	Chk
1:500	A3	Sept 22	CL	CL

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Project Number	Drawing Number	Rev
22030	(--) 001	

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## Notes

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Building Gross External Area - 315sqm (3,390sqft)

**REFUSED**  
**22.00786.DPP**  
**22.12.2022**

A Gross Internal Area Note Updated 01.11.22

Revisions

Client

The Trustees of Charlotte James SSAS

Project Title

Proposed New Unit  
Charlotte James Furniture Ltd  
Pentland Industrial Estate  
Loanhead  
EH20 9QH

Drawing Title

Proposed Site Plan

Scale	Size	Date	Drawn	Chk
1:500	A3	Sept 22	CL	CL

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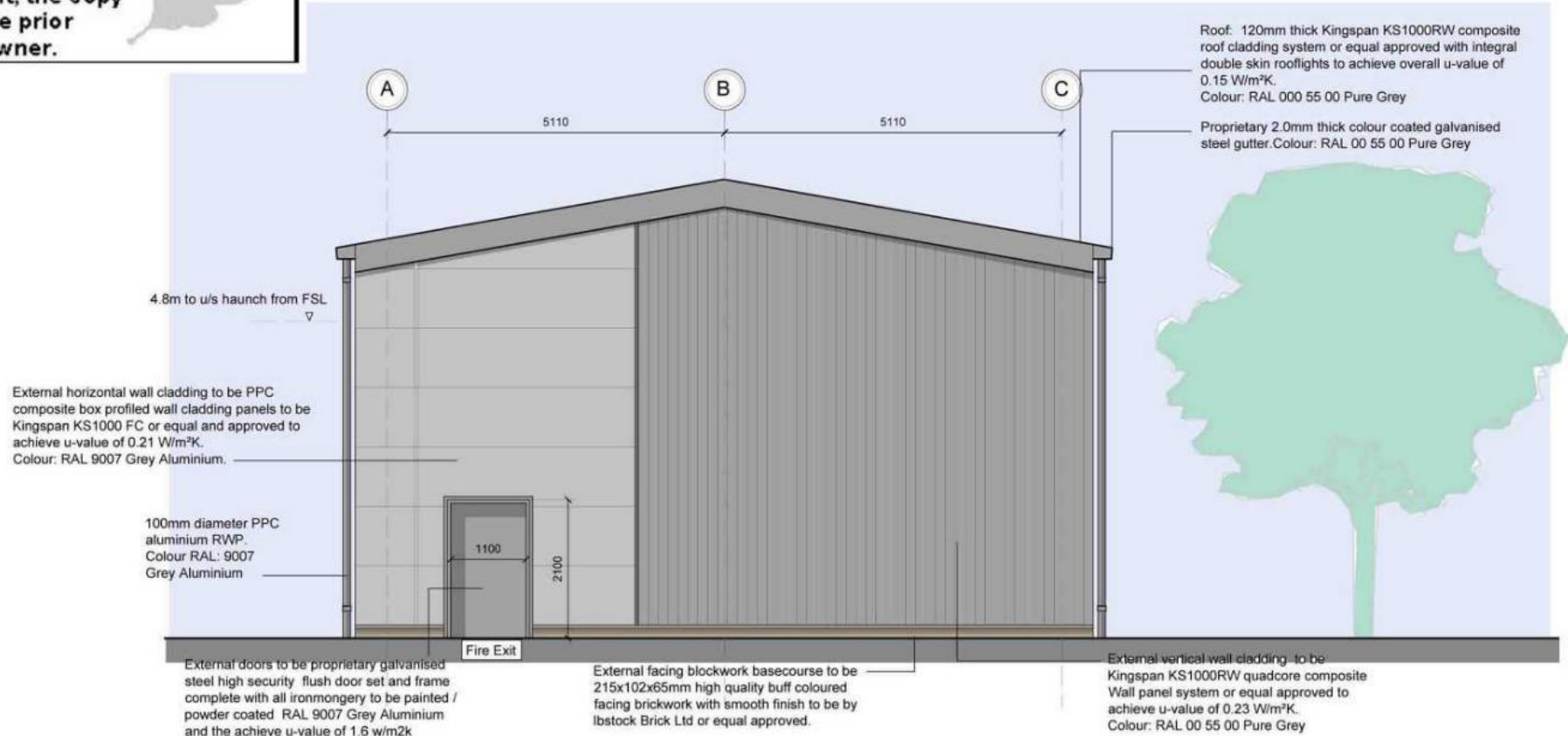
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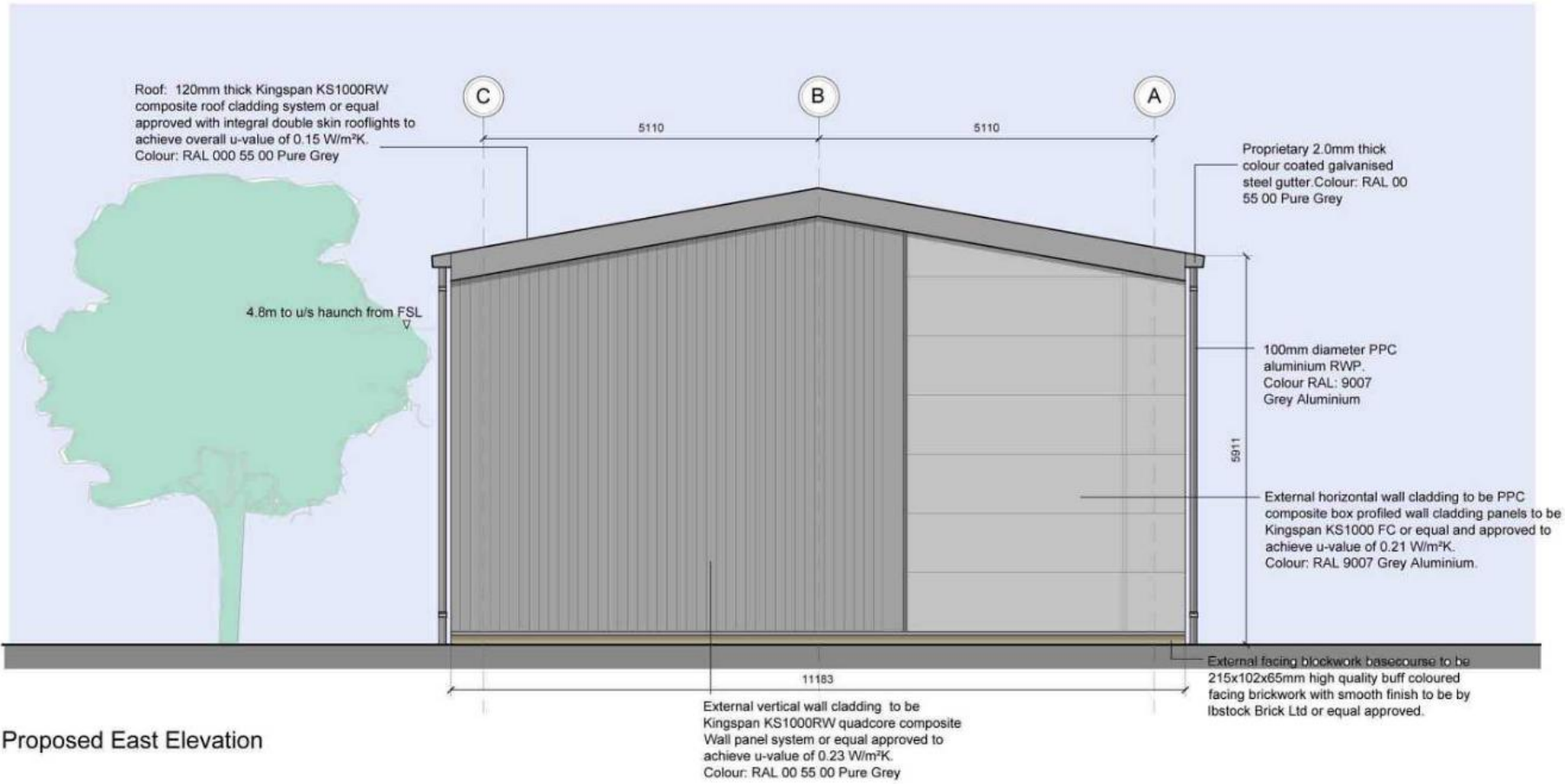
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Proposed West Elevation



Proposed East Elevation

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REFUSED  
22.00786.DPP  
22.12.2022

A

Scale Bar Removed

01.11.22

Revisions

Client

The Trustees of Charlotte James SSAS

Project Title

Proposed New Unit  
Charlotte James Furniture Ltd  
Pentland Industrial Estate  
Loanhead  
EH20 9QH

Drawing Title

Proposed East and West Elevations

Scale	Size	Date	Drawn	Chk
1:100	A3	Sept 22	CL	CL

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unlock the potential

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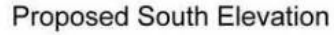
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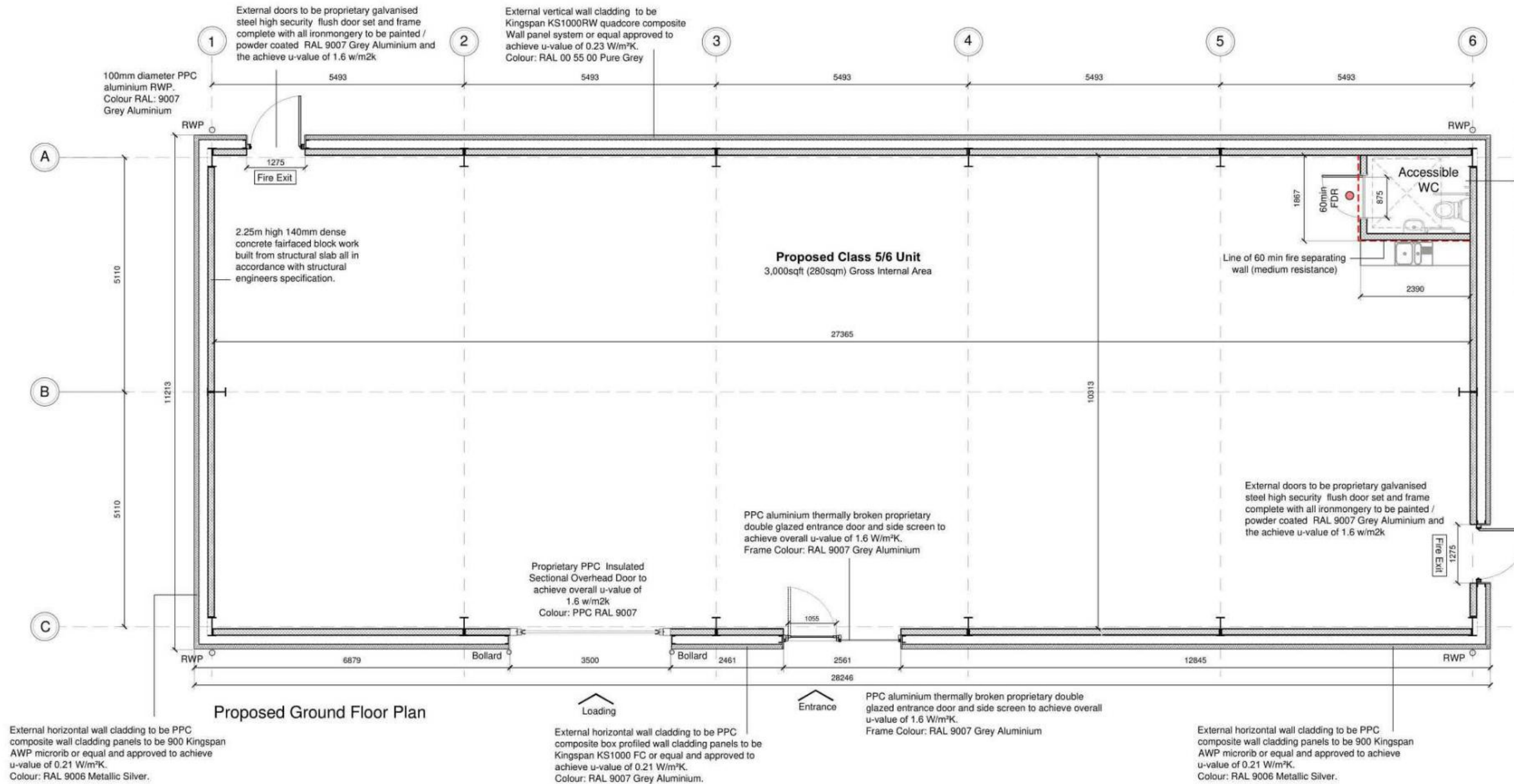


REFUSED  
22.00786.DPP  
22.12.2022

#### Notes

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Building Gross External Area - 315sqm (3,390sqft)



Proposed Ground Floor Plan

A Gross Internal Area Note Updated 01.11.22

Revisions

Client

The Trustees of Charlotte James SSAS

Project Title  
Proposed New Unit  
Charlotte James Furniture Ltd  
Pentland Industrial Estate  
Loanhead  
EH20 9QH

Drawing Title

Proposed Ground Plan

Scale	Size	Date	Drawn	Chk
1:100	A3	Sept 22	CL	CL

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