

# Notice of meeting and agenda



## Local Review Body

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

**Date:** Tuesday, 07 March 2017

**Time:** 14:00

**John Blair**  
Director, Resources

**Contact:**

Clerk Name: Mike Broadway

Clerk Telephone: 0131 271 3160

Clerk Email: [mike.broadway@midlothian.gov.uk](mailto:mike.broadway@midlothian.gov.uk)

**Further Information:**

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

**Audio Recording Notice:** Please note that this meeting will be recorded. The recording will be publicly available following the meeting. The Council will comply with its statutory obligations under the Data Protection Act 1998 and the Freedom of Information (Scotland) Act 2002.

## **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 Declarations 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 Minutes of Previous Meeting**

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- |            |   |               |
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| <b>4.1</b> | Minutes of Meeting held on 24 January 2017 - For Approval | <b>5 - 10</b> |
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## **5 Public Reports**

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Decision Notices:-

- |            |  |                |
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| <b>5.1</b> | 66 Newbattle Abbey Crescent, Dalkeith 16.00508.DPP | <b>11 - 14</b> |
|------------|--|----------------|

Notice of Review Request Considered at a Previous Meeting – Report by Head of Communities and Economy:-

- |            |  |                |
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| <b>5.2</b> | Former Arniston Gas Works, Gorebridge 15.00335.PPP - Update Determination Report | <b>15 - 24</b> |
|------------|--|----------------|

Notice of Review Requests Considered for the First Time – Reports by Head of Communities and Economy:-

- |            |   |                |
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| <b>5.3</b> | Airybank House, Cousland Kilns Road, Cousland 15.00952.DPP - Determination Report | <b>25 - 80</b> |
|------------|---|----------------|

- |            |   |                 |
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| <b>5.4</b> | Land at Hardengreen House, Dalhousie Road, Dalkeith 16.00758.DPP Determination Report | <b>81 - 114</b> |
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| <b>5.5</b> | 1D Dalhousie Avenue, Bonnyrigg 16.00762.DPP - Determination Report | <b>115 - 130</b> |
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| <b>5.6</b> | Land South West of Wellington School, Penicuik 16.00460.PPP Determination Report | <b>131 - 148</b> |
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No private reports to be discussed at this meeting.

Plans and papers relating to the applications on this agenda can also be viewed online at [www.midlothian.gov.uk](http://www.midlothian.gov.uk).



# Minute of Meeting



## Local Review Body

Date	Time	Venue
24 January 2017	2.00pm	Council Chambers, Midlothian House, Buccleuch Street, Dalkeith

### Present:

Councillor Bryant (Chair)	Councillor Baxter
Councillor Beattie	Councillor Bennett
Councillor Constable	Councillor de Vink
Councillor Imrie	Councillor Rosie

## 1 Apologies

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Apologies received from Councillors Milligan and Montgomery.

## 2 Order of Business

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

## 3 Declarations of interest

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No declarations of interest were received.

## 4 Minutes of Previous Meetings

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The Minutes of Meeting of 29 November 2016 were submitted and approved as a correct record.

## 5 Reports

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Agenda No	Report Title	Presented by:
5.1	Decision Notice – (a) 5 Thornyhall, Dalkeith [16/00575/DPP]	Peter Arnsdorf

### Executive Summary of Report

With reference to paragraph 5.2 of the Minutes of 29 November 2016, there was submitted a copy of the Local Review Body decision notice upholding a review request from Ms G Hay, 5 Thornyhall, Dalkeith seeking a review of the decision of the Planning Authority to refuse planning permission (16/00575/DPP, refused on 30 September 2016) for the Alteration of Existing Conservatory Roof at that address and granting planning permission.

### Decision

To note the LRB decision notice.

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Agenda No	Report Title	Presented by:
5.2	(b) 7 Cochrina Place, Rosewell [16/00568/DPP]	Peter Arnsdorf

### Executive Summary of Report

With reference to paragraph 5.3 of the Minutes of 29 November 2016, there was submitted a copy of the Local Review Body decision notice upholding a review request from FEM Building Design Services, 8 Plantain Grove, Lenzie, Glasgow, seeking on behalf of their client Mrs A Ainsworth, a review of the decision of the Planning Authority to refuse planning permission (16/00568/DPP, refused on 30 September 2016) for the Erection of an Extension at 7 Cochrina Place, Rosewell and granting planning permission.

### Decision

To note the LRB decision notice.

### Eligibility to Participate in Debate

In considering the following item of business, only those LRB Members who had attended the site visits on 19 October 2015 and had been present at the subsequent LRB meeting on 20 October 2015 participated in the review process, namely Councillors Bryant, Baxter, Bennett, Constable, de Vink and Imrie.

Councillors Beattie and Rosie whilst present during the debate had been unable to attend the site visit/previous meeting and accordingly did not actively participate in the proceedings.

Agenda No	Report Title	Presented by:
5.3	Notice of Review Request Considered at a Previous Meeting – Former Arniston Gas Works Site, Gorebridge [15/00335/PPP]	Peter Arnsdorf

### Executive Summary of Report

With reference to paragraph 5(a) of the Minutes of 20 October 2015, there was submitted report, dated 10 January 2017, by the Head of Communities and Economy regarding a review request from RFA Ltd, 3 Walker Street, Edinburgh, seeking on behalf of their client Mr A McCulloch, a review of the decision of the Planning Authority to refuse planning permission in principle (15/00335/PPP, refused on 30 June 2015) for the erection of 10 dwellinghouses, formation of access and associated works at the Former Arniston Gas Works, Gorebridge.

The report reminded Members that the LRB had agreed to uphold the review request and where minded to grant planning permission in principle, subject to suitable conditions, and the prior signing of a legal agreement to secure developer contributions towards, education provision, children's play provision, the Borders Rail Line, town centre improvements and community facilities.

The report advised that despite repeated attempts to engage with the applicants, a legal agreement to secure the required developer contributions had still not been concluded.

### Summary of Discussion

Having heard from the Planning Adviser, who responded to Members questions, the LRB considered the position that had been reached and also possible options to take matters forward.

After discussion, Councillor Baxter, seconded by Councillor Constable, moved that the applicants be provided with a further month in which to conclude the legal agreement, failing which, and without further referral to the LRB the review be dismissed and planning permission refused for the reasons outlined in the planning officers' decision.

As an amendment, Councillor Imrie, seconded by Councillor Bennett, moved that the Chair write, on behalf of the LRB, to remind the applicants of the need to conclude the required legal agreement without further delay, and that the Review Request, together with their response would be considered at the next LRB on Tuesday 7 March 2017, with a view to a decision being taken on how best to progress matters.

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

### Decision

To agreed that the Chair write, on behalf of the LRB, to remind the applicants of the need to conclude the required legal agreement without further delay, and that the Review Request, together with the applicants response be considered further at the next meeting of the Local Review Body on Tuesday 7 March 2017, with a view to a decision being taken on how best to progress matters.

### Action

Head of Communities and Economy/LRB Chair/Democratic Services

### Eligibility to Participate in Debate

In considering the following items of business, only those LRB Members who had attended the site visit on Monday 23 January 2017 participated in the review process, namely Councillors Bryant (Chair), Baxter, Beattie, Bennett, Constable, Imrie and Rosie.

Councillor de Vink whilst present during the debate had been unable to attend the site visit and accordingly did not actively participate in the proceedings.



Agenda No	Report Title	Presented by:
5.4	Notice of Review Request Considered for the First Time – 66 Newbattle Abbey Crescent, Dalkeith [16/00508/DPP]	Peter Arnsdorf

### Executive Summary of Report

There was submitted report, dated 10 January 2017, by the Head of Communities and Economy regarding an application from Mrs L Seath, 66 Newbattle Abbey Crescent, Dalkeith seeking a review of the decision of the Planning Authority to refuse planning permission (16/00508/DPP, refused on 4 October 2016) for the Erection of Store Building and Fence at that address.

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

The Local Review Body had made an unaccompanied visit to the site on Monday 23 January 2017.

### Summary of Discussion

Having heard from the Planning Adviser, the LRB then gave careful consideration to the merits of the case based on all the written information provided. In particular, consideration was given to the likely impact of the fence on the 'open plan' form of the estate. The LRB acknowledged that over the years there had been a number of other similar developments within the estate and that perhaps the policy position required to be revisited. With regards the current application, it was felt that on balance the individual circumstances of the application site meant that the proposed fence and store building would be acceptable.

### Decision

To agreed to uphold the review request, and grant planning permission for the following reason:

*The proposed timber building and fence by means of their scale, form and design are compatible with its location and the host building and will not have a significant impact on neighbouring and nearby properties or on the character of the area. The Newbattle Abbey Crescent housing estate has evolved to a position where it is acceptable to enclose rear and side gardens with timber fencing. Furthermore the proposed fence will not obstruct the visibility of the neighbouring property to a greater extent that which already exists.*

subject to the following conditions:-

1. The replacement fence shall comprise a 1.8m high vertical boarded timber fence details of the colour finish of which shall be submitted to the Planning Authority and the fence shall not be erected until this detail is approved in writing by the Planning Authority.
2. Details of the materials and external finishes of the store building shall be submitted to the Planning Authority and the store shall not be erected until these details have been approved in writing by the Planning Authority.

***Reason for conditions 1 and 2:*** For the avoidance of doubt as to what is approved in order to safeguard the visual amenity of the surrounding area.

Action
Head of Communities and Economy

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The meeting terminated at 2.30 pm.

## Local Review Body: Review of Planning Application Reg. No. 16/00508/DPP

Mrs Leigh Seath  
66 Newbattle Abbey Crescent  
Dalkeith  
Midlothian  
EH22 3LW

Midlothian Council, as Planning Authority, having considered the review of the application by Mrs L Seath, 66 Newbattle Abbey Crescent, Dalkeith, EH22 3LW, which was registered on 14 December 2016 in pursuance of their powers under the above Act, hereby **grant** permission to carry out the following proposed development:

**Erection of store building and fence at 66 Newbattle Abbey Crescent, Dalkeith**, in accordance with the application and the following plans:

<u>Drawing Description.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	S01 1:2500 1:200	21.07.2016
Proposed floor plan	P01 1:50	21.07.2016
Proposed floor plan	P02 1:50	21.07.2016
Proposed elevations	PO3 1:100	21.07.2016

Subject to the following conditions:

1. The replacement fence shall comprise a 1.8m high vertical boarded timber fence, details of the colour finish of which shall be submitted to the Planning Authority and the fence shall not be erected until this detail is approved in writing by the Planning Authority.
2. Details of the materials and external finishes of the store building shall be submitted to the Planning Authority and the store shall not be erected until these details have been approved in writing by the Planning Authority.

***Reason for conditions 1 and 2:*** For the avoidance of doubt as to what is approved in order to safeguard the visual amenity of the surrounding area.

The Local Review Body (LRB) considered the review of the planning application at its meeting of 24 January 2017. The LRB carried out a site visit on the 23 January 2017.

In reaching its decision the LRB gave consideration to the following development plan policies and material considerations:

Development Plan Policies:

1. RP1 Midlothian Local Plan – Protection of the Countryside
2. RP7 Midlothian Local Plan – Landscape Character
3. RP22 Midlothian Local Plan – Conservation Areas
4. DP6 Midlothian Local Plan – House Extensions

Material considerations:

1. The individual circumstances of the proposal

In determining the review the LRB concluded:

The proposed timber building and fence by means of their scale, form and design are compatible with its location and the host building and will not have a significant impact on neighbouring and nearby properties or on the character of the area. The Newbattle Abbey Crescent housing estate has evolved to a position where it is acceptable to enclose rear and side gardens with timber fencing. Furthermore the proposed fence will not obstruct the visibility of the neighbouring property to a greater extent than which already exists.

Dated: 24/01/2017



Peter Arnsdorf  
Planning Manager (Advisor to the Local Review Body)  
Communities and Economy  
Midlothian Council  
On behalf of:

Councillor J Bryant  
Chair of the Local Review Body  
Midlothian Council

## NOTICE TO ACCOMPANY REFUSAL ETC.

### TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

***Notification to be sent to applicant on refusal of planning permission or on the grant of permission subject to conditions, or***

***Notification to be sent to applicant on determination by the planning authority of an application following a review conducted under section 43A(8)***

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.

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

*Advisory note:*

*If you have any questions or enquiries regarding the Local Review Body procedures or this decision notice please do not hesitate to contact Peter Arnsdorf, Planning Manager tel: 0131 2713310 or via [peter.arnsdorf@midlothian.gov.uk](mailto:peter.arnsdorf@midlothian.gov.uk)*



## **Notice of Review: Former Arniston Gas Works, Gorebridge**

### **Update Determination Report**

Report by Ian Johnson, Head of Communities and Economy

#### **1 Purpose of Report**

- 1.1 The purpose of this report is to provide an update for the Local Review Body (LRB) regarding an application for planning permission in principle for the erection of 10 dwellinghouses, formation of access and associated works at the Former Arniston Gas Works, Gorebridge. A copy of the original report to the LRB is appended to this report.

#### **2 Background**

- 2.1 Planning application 15/00335/PPP for planning permission in principle for the erection of 10 dwellinghouses, formation of access and associated works at the Former Arniston Gas Works, Gorebridge was refused planning permission on 30 June 2015 for the following reasons:

1. The proposed development is sited outside any identified settlement boundary and without a proven agricultural, forestry, countryside recreation, tourism or waste disposal need the development is contrary to policies RP1 and DP1 of the adopted Midlothian Local Plan which seeks to protect the countryside.
2. The proposed development would lead to the direct and indirect loss of trees and woodland within a conservation area, to the detriment of the character of the locality, and as such the development is contrary to adopted Midlothian Local Plan policies RP5 (Woodland, trees and hedges) and RP20 (Conservation areas).
3. The indicative layout of the proposal does not comply with the terms of policy DP2 Development Guidelines, which seeks a high standard of development with access to open space and play facilities. The proposed indicative layout does not adequately demonstrate that ten dwellings can be accommodated within the application site and therefore constitutes an over-development.
4. As a result of the loss of trees and the density of the proposed development the proposal will have a significant adverse impact on the character and appearance of the conservation area and is, therefore, contrary to adopted Midlothian Local Plan policy RP22 Conservation Areas which seeks to protect the character and appearance of conservation areas.

5. The access to the proposed development is potentially sub-standard. The applicant has not demonstrated that an acceptable access could be created to serve this development without adversely impacting on the landscape character of the area. The use of this access would potentially cause a hazard to the safety and free flow of traffic.
  6. The proposal takes little cognisance of the Borders railway line, in terms of providing for its safe operation and for protecting the amenity of the dwellings proposed to be in close proximity to it.
  7. Allowing the proposed development will jeopardise the implementation of the restocking notice, served by the Forestry Commission. The required planting of trees supports the aims and objectives of policies RP5, RP7 and RP22 of the Midlothian Local Plan, which seek to protect woodland to the benefit of the countryside and to maintain the high quality of the environment.
  8. It has not been demonstrated, to the satisfaction of the Planning Authority, that the proposed development will not have a significant adverse impact on protected species. Therefore the proposed development is contrary to policy RP13 of the adopted Midlothian Local Plan.
- 2.2 A Notice of Review was submitted by the applicants and at its meeting of 20 October 2015 the LRB was minded to uphold the review and grant planning permission subject to conditions and the prior signing of a legal agreement to secure developer contributions towards, education provision, children's play provision, the Borders Rail Line, town centre improvements and community facilities.

### **3 Current Position**

- 3.1 To date the applicants have not concluded the legal agreement despite the planning authority's continued and consistent best efforts since October 2015 to reasonably engage with them. The view of the planning authority throughout that extended period is that there is no significant impediment to the completion of the legal agreement. However, there is no clear indication that the applicants will conclude the agreement within a reasonable timescale. All planning authorities in Scotland are consistently advised by Scottish Government to determine planning applications without undue delay, and to eliminate what are referred to as 'legacy' cases of applications remaining undermined due to lack of progress on the conclusion of legal agreements. Having regard to these matters this application is being reported further to this meeting of the LRB.
- 3.2 The applicants and other relevant parties have been advised that this application is being referred back to the LRB.

### **4 Recommendations**

- 4.1 At its meeting of 20 October 2015 the LRB was minded to uphold the review and grant planning permission subject to conditions and the prior signing of a legal agreement to secure developer contributions towards,



education provision, children's play provision, the Borders Rail Line, town centre improvements and community facilities. However, as the application remains undetermined due to the required legal agreement not being concluded it is appropriate for the LRB to determine to follow one of the following courses of action, or an alternative course of action as may be stated by the LRB:

Options:

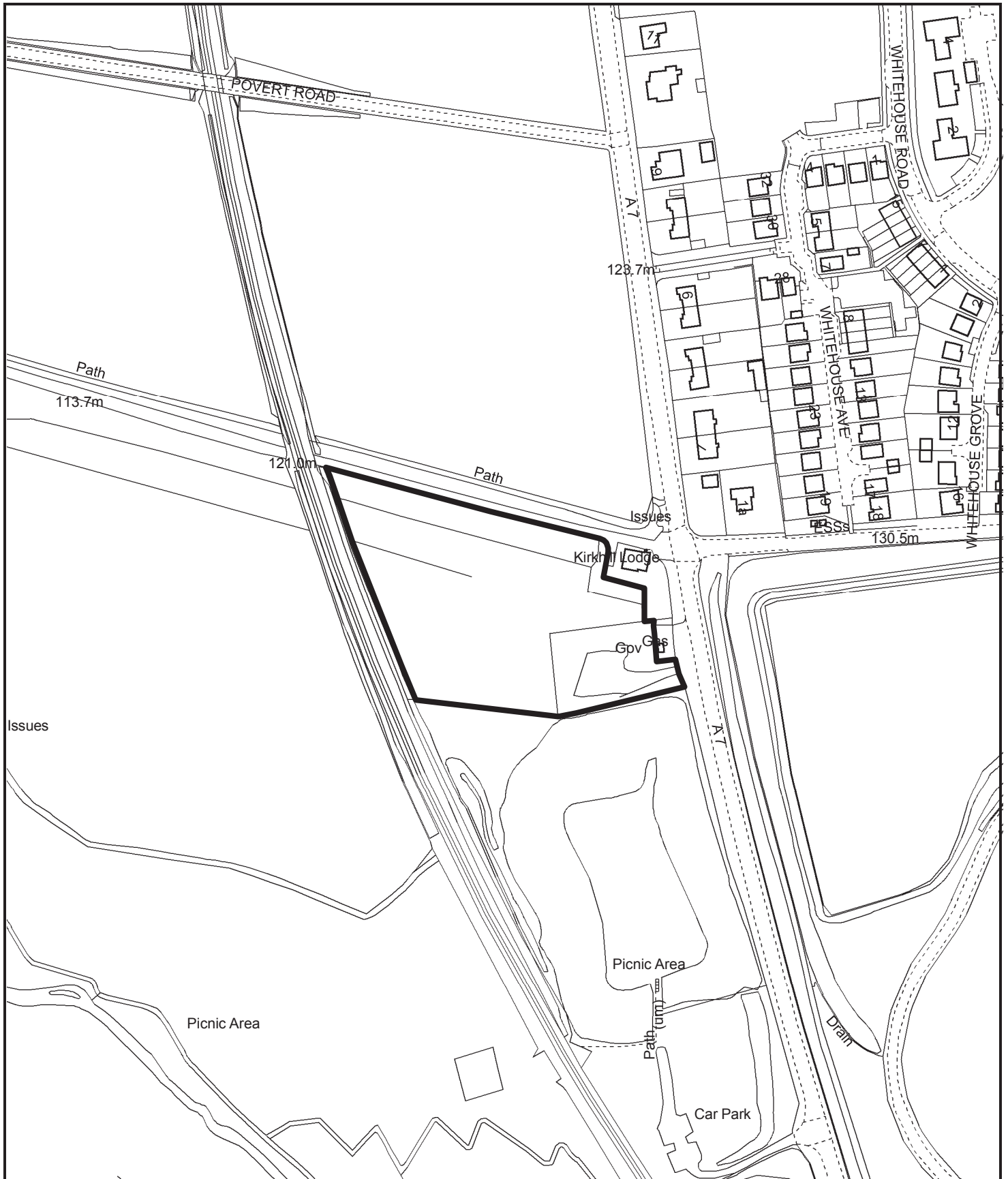
- a) uphold the review and grant planning permission subject to conditions, but not subject to the legal agreement to secure developer contributions; or
- b) provide a further 3 months for the applicants to conclude the legal agreement, failing which, and without further referral to the LRB the review would be dismissed and planning permission refused for the reasons outlined in the planning officers decision; or
- c) defer the review and maintain the LRB's original decision only to grant planning permission subject to securing developer contributions and that the review will be held in abeyance until such time a legal agreement has been concluded.

**Date:** 10 January 2017

**Report Contact:** Peter Arnsdorf, Planning Manager (LRB Advisor)  
peter.arnsdorf@midlothian.gov.uk

**Tel No:** 0131 271 3310

**Background Papers:** Planning application 15/00335/PPP available for inspection online.



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

Application for planning permission in principle for the erection of 10 dwellinghouses; formation of access and associated works at Former Arniston Gas Works, Gorebridge

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File No. 15/00335/DPP

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## **Notice of Review: Former Arniston Gas Works, Gorebridge Determination Report**

Report by Ian Johnson, Head of Communities and Economy

### **1 Purpose of Report**

- 1.1 The purpose of this report is to provide a framework for the Local Review Body (LRB) to consider a 'Notice of Review' for planning permission in principle for the erection of 10 dwellinghouses, formation of access and associated works at the Former Arniston Gas Works, Gorebridge.

### **2 Background**

- 2.1 Planning application 15/00335/PPP for planning permission in principle for the erection of 10 dwellinghouses, formation of access and associated works at the Former Arniston Gas Works, Gorebridge was refused planning permission on 30 June 2015; 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 advisor notes, issued on 30 June 2015 (Appendix D); and
  - A copy of the relevant plans (Appendix E).
- 3.2 The full planning application case file and the development plan policies referred to in the case officer's report can be viewed online via [www.midlothian.gov.uk](http://www.midlothian.gov.uk)

### **4 Procedures**

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

- Have scheduled an accompanied site visit for Monday 19 October 2015; and
  - Have determined to progress the review by way of a hearing.
- 4.2 The case officer's report identified that nine consultation responses and no representations have been received. As part of the review process the consultees were notified of the review. Three additional comments have been received. All the comments can be viewed online on the electronic planning application case file via [www.midlothian.gov.uk](http://www.midlothian.gov.uk).
- 4.3 The next stage in the process is for the LRB to determine the review in accordance with the agreed procedure:
- Identify any provisions of the development plan which are relevant to the decision;
  - Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies;
  - Consider whether or not the proposal accords with the development plan;
  - Identify and consider relevant material considerations for and against the proposal;
  - Assess whether these considerations warrant a departure from the development plan; and
  - State the reason/s for the decision and state any conditions required if planning permission is granted.
- 4.4 In reaching a decision on the case the planning advisor can advise on appropriate phraseology and on appropriate planning reasons for reaching a decision.
- 4.5 Following the determination of the review the planning advisor will prepare a decision notice for issuing through the Chair of the LRB. A copy of the decision notice will be reported to the next LRB for noting.
- 4.6 A copy of the LRB decision will be placed on the planning authority's planning register and made available for inspection online.

## **5 Conditions**

- 5.1 In accordance with the procedures agreed by the LRB at its meeting of 19 June 2012 and 26 November 2013, and without prejudice to the determination of the review, the following conditions have been prepared for the consideration of the LRB if it is minded to uphold the review and grant planning permission.
1. Development shall not commence until an application for approval of matters specified in conditions for a scheme of hard and soft landscaping has been submitted to and approved in writing by the Planning Authority. Details of the scheme shall include:
    - i. existing and finished ground levels and floor levels for all buildings, open space and roads in relation to a fixed datum;

- ii. existing trees, landscaping features and vegetation to be retained; removed, protected during development and in the case of damage, restored;
- iii. proposed new planting in communal areas and open space, including trees, shrubs, hedging, wildflowers and grassed areas;
- iv. location and design of any proposed walls, fences and gates;
- v. schedule of plants to comprise species, plant sizes and proposed numbers/density;
- vi. a programme for completion and subsequent maintenance of all soft and hard landscaping. The landscaping in the open spaces shall be completed prior to the houses/buildings on adjoining plots are occupied. Any tree felling or vegetation removal proposed as part of the landscaping scheme shall take place out with the bird breeding season (March-August); and,
- vii. drainage details and details of sustainable urban drainage systems to manage water runoff.

All hard and soft landscaping shall be carried out in accordance with the scheme approved in writing by the Planning Authority as per the programme for completion and subsequent maintenance (vi). Thereafter any trees or shrubs removed, dying, becoming seriously diseased or damaged within five years of planting shall be replaced in the following planting season by trees/shrubs of a similar species to those originally required.

***Reason:*** To ensure the quality of the development is enhanced by landscaping to reflect its setting in accordance with policies RP7, RP22, RP25 and DP2 of the adopted Midlothian Local Plan and national planning guidance and advice. To ensure that there is no adverse impact on the operation of the adjacent railway.

2. Development shall not commence until an application for approval of matters specified in conditions for the siting, design and external appearance of all residential units and other structures has been submitted to and approved in writing by the Planning Authority. The application shall include samples of materials to be used on external surfaces of the buildings; hard ground cover surfaces; means of enclosure and ancillary structures. Development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the Planning Authority.

***Reason:*** To ensure the quality of the development is enhanced by the use of quality materials to reflect its setting in accordance with policies RP7, RP22, RP25 and DP2 of the Midlothian Local Plan and national planning guidance and advice.

3. Development shall not commence until an application for approval of matters specified in conditions for details of a scheme for 'Percent for Art', including a timetable for implementation, have been submitted to and approved in writing by the Planning

Authority. The scheme of 'Percent for Art' shall be implemented as per the approved details.

**Reason:** *To ensure that the quality of the development is enhanced by the use of art to reflect its setting in accordance with policies IMP1 and DP2 of the adopted Midlothian Local Plan and national planning guidance and advice.*

4. Development shall not commence until an application for approval of matters specified in conditions for the site access, roads, footpaths, cycle ways and transportation movements has been submitted to and approved in writing by the Planning Authority. Details of the scheme shall include:
  - i. existing and finished ground levels for all roads and cycle ways in relation to a fixed datum;
  - ii. proposed vehicular, cycle and pedestrian access;
  - iii. proposed roads (including turning facilities), footpaths and cycle ways;
  - iv. proposed visibility splays, traffic calming measures, lighting (including footpath lighting) and signage;
  - v. proposed construction traffic access and haulage routes;
  - vi. a green transport plan designed to minimise the use of private transport and to promote walking, cycling, safe routes to school and the use of public transport;
  - vii. proposed car parking arrangements;
  - viii. an AutoTrack, vehicle swept path analysis, to demonstrate that the site is suitable for HGVs (refuse and recycling vehicles) to enter and exit in a forward gear; and,
  - ix. a programme for the completion of the construction access, roads, footpaths and cycle paths.

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

**Reason:** *To ensure that the future users of the buildings, existing local residents and those visiting the development site during the construction process have a safe and convenient access to and from the site.*

5. Development shall not commence until an application for approval of matters specified in conditions for a scheme to deal with any contamination of the site has been submitted to and approved in writing by the Planning Authority. The scheme shall contain details of the proposals to deal with any contamination and include:
  - i. a site survey (including bore hole testing where necessary) to establish that the level of contamination within the site is acceptable in relation to the proposed development, or that remedial and/or protective measures could be undertaken to bring contamination to an acceptable level in relation to the proposed development; and

- ii. a detailed schedule of any required remedial and/or protective measures, including their programming.

Prior to any part of the site being occupied for residential purposes, the measures to decontaminate/remediate the ground conditions of the site shall be fully implemented as approved by the Planning Authority.

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

6. Details of building levels on the site, to be submitted in terms of condition 1i above, shall show finished floor levels for buildings being raised above ground level.

**Reason:** *In order to prevent surface water runoff from surrounding roads from adversely impacting on the properties.*

7. Details of the means of drainage, to be submitted in terms of condition 1vii above, shall ensure that any SUDs system shall be located outwith 10metres of the adjacent railway infrastructure.

**Reason:** *In order to ensure that water from the proposed development does not drain on to the railway; in the interests of railway safety.*

8. Details of the siting of the buildings, to be submitted in terms of condition 2 above, shall ensure that no buildings are to be erected within 2m of the boundary with the railway.

**Reason:** *In the interests of railway safety.*

9. Details of the design of dwellinghouses, to be submitted in terms of condition 2 above, shall include measures to mitigate against noise and vibrations generated by the adjacent railway.

**Reason:** *In order to protect the amenity of future residents of the dwellings from noise and disturbance generated by the railway.*

10. Details of the materials to be used on the external surfaces of the buildings, to be submitted in terms of condition 2 above, shall comprise traditional materials, including natural slate, wet or smooth render, natural stone and timber.

**Reason:** *In order to ensure a high quality development which respects, and reflects, the character and appearance of buildings within the conservation area and designed landscape.*

11. Details of the means of enclosure, to be submitted in terms of condition 2 above, shall include a 1.8m high trespass proof fence along the boundary with the adjacent railway.



***Reason:*** *In order to prevent unauthorised and unsafe access to the railway; in the interest of the safe operation of the railway.*

12. Details of the vehicular access, to be submitted in terms of condition 4ii above, shall ensure that the vehicular access shall measure 5.5m wide.

***Reason:*** *To ensure the safe passage of pedestrians and vehicles in the interests of highway safety.*

13. Details of the proposed parking arrangements, to be submitted in terms of condition 4vii above, shall include space for five visitor parking spaces within the development site.

***Reason:*** *In order to ensure that sufficient on-site parking is provided so that vehicles do not park in unsafe locations which would be potentially detrimental to highway safety.*

- 5.2 If the LRB is minded to uphold the review and grant planning permission for the proposed development it shall be subject to a legal agreement to secure developer contributions towards education provision, the Borders Railway, town centre improvements, children's play provision and community facilities. The legal agreement shall be concluded prior to the issuing of the LRB decision.

## **6 Recommendations**

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

**Date:** 13 October 2015

**Report Contact:** Peter Arnsdorf, Planning Manager  
peter.arnsdorf@midlothian.gov.uk

**Tel No:** 0131 271 3310

**Background Papers:** Planning application 15/00335/PPP available for inspection online.



## **Notice of Review: Airybank House, Cousland Kilns Road, Cousland**

### **Determination Report**

Report by Ian Johnson, Head of Communities and Economy

#### **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 eight dwellinghouses at Airybank House, Cousland Kilns Road, Cousland.

#### **2 Background**

- 2.1 Planning application 15/00952/DPP for the erection of eight dwellinghouses at Airybank House, Cousland Kilns Road, Cousland was refused planning permission on 7 November 2016; 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, issued on 7 November 2016 (Appendix D); and
  - A copy of the relevant drawings/plans (Appendix E).
- 3.2 The full planning application case file and the development plan policies referred to in the case officer's report can be viewed online via [www.midlothian.gov.uk](http://www.midlothian.gov.uk)

#### **4 Procedures**

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

- Have scheduled a site visit for Monday 6 March 2017; and
  - Have determined to progress the review by way of a written submissions.
- 4.2 The case officer's report identified that five consultation responses and 86 representations have been received. As part of the review process the interested parties were notified of the review. No additional comments have been received. All the comments can be viewed online on the electronic planning application case file via [www.midlothian.gov.uk](http://www.midlothian.gov.uk)
- 4.3 The next stage in the process is for the LRB to determine the review in accordance with the agreed procedure:
- Identify any provisions of the development plan which are relevant to the decision;
  - Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies;
  - Consider whether or not the proposal accords with the development plan;
  - Identify and consider relevant material considerations for and against the proposal;
  - Assess whether these considerations warrant a departure from the development plan; and
  - State the reason/s for the decision and state any conditions required if planning permission is granted.
- 4.4 In reaching a decision on the case the planning advisor can advise on appropriate phraseology and on appropriate planning reasons for reaching a decision.
- 4.5 Following the determination of the review the planning advisor will prepare a decision notice for issuing through the Chair of the LRB. A copy of the decision notice will be reported to the next LRB for noting.
- 4.6 A copy of the LRB decision will be placed on the planning authority's planning register and made available for inspection online.

## **5 Conditions**

- 5.1 In accordance with the procedures agreed by the LRB at its meeting of 19 June 2012 and 26 November 2013, and without prejudice to the determination of the review, the following conditions have been prepared for the consideration of the LRB if it is minded to uphold the review and grant planning permission.
1. Development shall not begin until details of a scheme of hard and soft landscaping has been submitted to and approved in writing by the Planning Authority. Details of the scheme shall include:
    - i existing and finished ground levels and floor levels for all buildings and open space in relation to a fixed datum;
    - ii existing trees, landscaping features and vegetation to be retained, removed, protected during development and in the case of damage, restored;

- iii proposed new planting in communal areas and open space, including trees, shrubs, hedging, wildflowers and grassed areas;
- iv location and design of any proposed walls, fences and gates, including those surrounding bin stores/collection area or any other ancillary structures;
- v schedule of plants to comprise species, plant sizes and proposed numbers/density;
- vi programme for completion and subsequent maintenance of all soft and hard landscaping. The landscaping in the open spaces shall be completed prior to the houses/buildings on adjoining plots are occupied; and
- vii drainage details, flood prevention measures and sustainable urban drainage systems to manage water runoff.

All hard and soft landscaping shall be carried out in accordance with the scheme approved in writing by the Planning Authority as agreed in terms of the programme for completion and subsequent maintenance in condition 1vi. Thereafter any trees or shrubs removed, dying, becoming seriously diseased or damaged within five years of planting shall be replaced in the following planting season by trees/shrubs of a similar species to those originally required.

***Reason:*** To ensure the quality of the development is enhanced by landscaping to reflect its setting in accordance with policies RP20 and DP2 of the Midlothian Local Plan, policies DEV5, DEV6 and DEV7 of the emerging Midlothian Local Development Plan and national planning guidance and advice.

2. Development shall not begin until the following details have been submitted to and agreed in writing by the Planning Authority:
  - i. details and samples of materials to be used on external surfaces of the buildings, including walls and ancillary structures;
  - ii details and samples of hard ground cover surfaces;
  - iii percent for art provision, including timescales for implementation;
  - iv a phasing plan for the development of the site; the phasing schedule shall include the construction of each dwelling and adjacent roads and footpaths, the SUDS provision, transportation infrastructure and the direction of build;
  - v details, including a timetable of implementation, of high speed fibre broadband. The details shall include delivery of high speed fibre broadband, incorporating fibre optic connections to the property, prior to the occupation of each dwellinghouse;
  - vi details of a sustainability/biodiversity scheme for the site, including the provision of house bricks and boxes for bats and swifts throughout the development and sustainability areas;
  - vii proposed visibility splays, traffic calming measures, lighting and signage;
  - viii proposed construction traffic access and haulage routes;
  - ix proposed car parking arrangements (including four visitor parking spaces), including configuration and surfacing;

- x details of a pedestrian crossing point, to be established at a suitable point at the access to the application site, providing a link over Cousland Kilns Road to the existing footway in Beech Grove; and
- xi a dusk and dawn survey to assess the presence of bats.

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

***Reason:*** To ensure the quality of the physical development is of an appropriate standard in terms of its impact on the character and appearance of the area and to ensure appropriate drainage measures are implemented and that biodiversity and digital infrastructure measures carried out. To ensure compliance with policies RP20 and DP2 of the Midlothian Local Plan, policies DEV5, DEV6 and DEV7 of the emerging Midlothian Local Development Plan and national planning guidance and advice.

3. The dwellings hereby approved shall not be occupied until vehicular, cycle and pedestrian access details and routes have been constructed in accordance with the phasing plan agreed in terms of condition 2iv.

***Reason:*** To ensure the future users of the buildings have safe and convenient access to and from the site.

4. Development shall not begin until details of a scheme to deal with any contamination of the site and/or previous mineral workings has been submitted to and approved in writing by the Planning Authority. The scheme shall contain details of the proposals to deal with any contamination and/or previous mineral workings and include:

- a. the nature, extent and types of contamination and/or previous mineral workings on the site;
- b. 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;
- c. measures to deal with contamination and/or previous mineral workings encountered during construction work; and
- d. the condition of the site on completion of the specified decontamination measures.

Before any part of the site is occupied for residential purposes, the measures to decontaminate the site shall be fully implemented as approved by the Planning Authority.

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

with the terms of policy ENV16 of the emerging Midlothian Local Development Plan.

5. Development shall not begin until details of the 'Percent for Art' scheme, including a timetable of implementation, have been submitted to and approved in writing by the Planning Authority. The 'Percent for Art' shall be implemented in accordance with the approved details.

**Reason:** *To ensure the quality of the development is enhanced by the use of art and that it relates well to its setting.*

6. No house shall have an under-building that exceeds 0.5 metres in height above ground level unless otherwise agreed in writing by the Planning Authority.

**Reason:** *Under-building exceeding this height is likely to have a materially adverse effect on the appearance of a house.*

7. Unless otherwise agreed in writing in terms of condition 1 the trees and woodland belt along the north, east and west boundaries shall be retained. In addition the mature trees within plot 8 shall be retained.

**Reason:** *The trees and woodland form a strong landscape character and must be retained in order to provide mature definition to the site in the interests of the landscape character of the area.*

8. Development shall not begin until temporary protective fencing is erected around all trees and hedges on the site to be retained. The fencing shall be positioned in circumference to the trunk at a distance from it which correlates to the canopy unless otherwise agreed in writing with the Planning Authority. No excavation, soil removal or storage shall take place within the enclosed area.

**Reason:** *To ensure the development does not result in the loss or damage of trees and hedges which merit retention in accordance with policies RP5 and RP20 of the Midlothian Local Plan, policies DEV7, ENV7 and ENV11 of the emerging Midlothian Local Development Plan and national planning guidance and advice.*

9. Unless otherwise agreed in writing by the Planning Authority any tree felling or vegetation removal proposed as part of the landscaping scheme shall take place out with the bird nesting season (March-August) and bat roosting period (April – September).

**Reason:** *In order to ensure protected species and other local biodiversity are not adversely affected by the development.*

10. The window on the south elevation, at first floor level, of the dwellinghouse on plot 8 is not hereby approved. The window shall be glazed with obscured glass which shall not be replaced with clear glass.

***Reason: In the interests of protecting privacy and residential amenity for the existing neighbouring residential property.***

## **6 Recommendations**

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

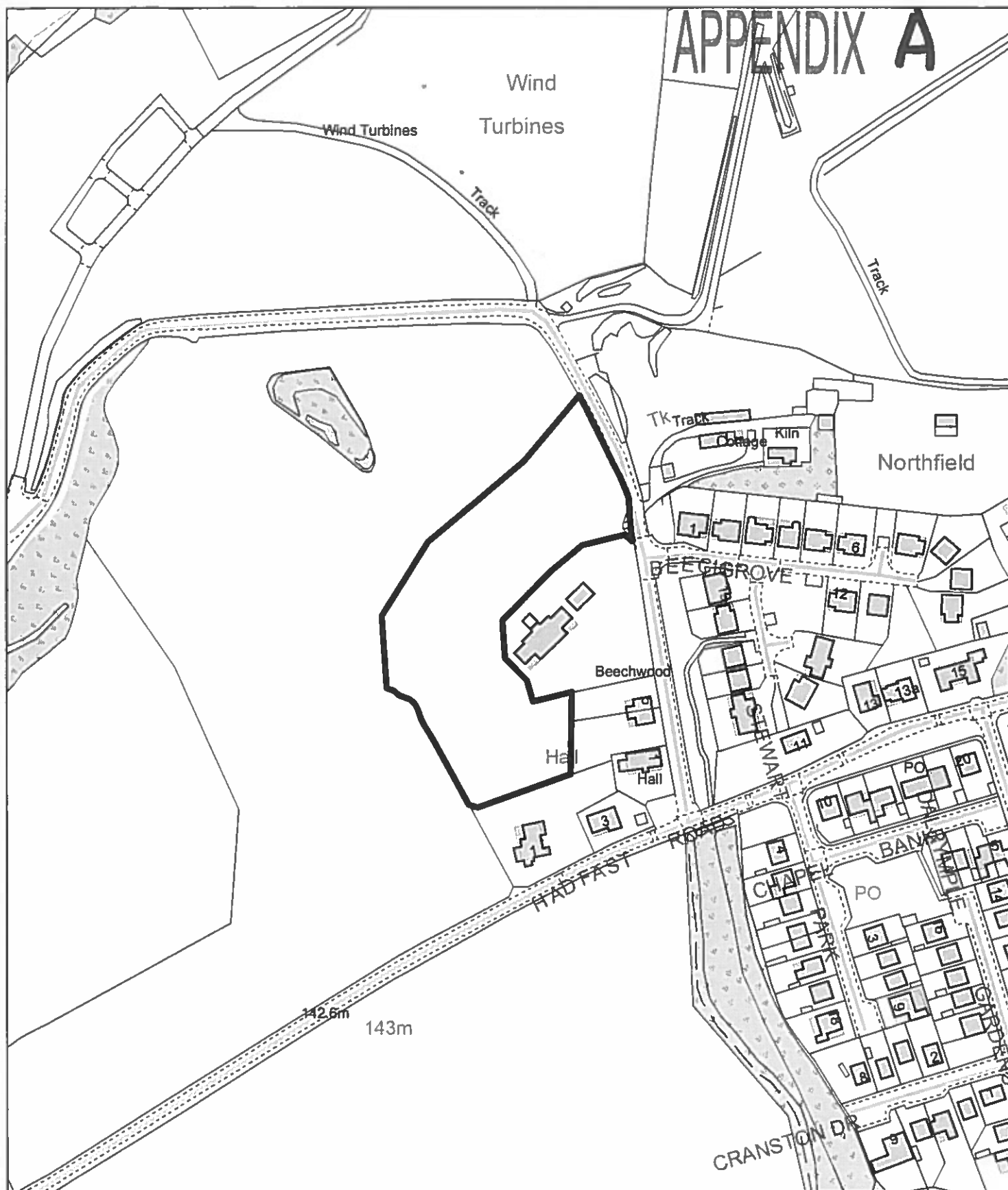
**Date:** 21 February 2017

**Report Contact:** Peter Arnsdorf, Planning Manager (LRB Advisor)  
peter.arnsdorf@midlothian.gov.uk

**Tel No:** 0131 271 3310

**Background Papers:** Planning application 15/00952/DPP available for inspection online.





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

**Erection of 8 dwellinghouses at Airybank House Cousland**

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File No. 15/00952/DPP

Scale: 1:2,500

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**NOTICE OF REVIEW**

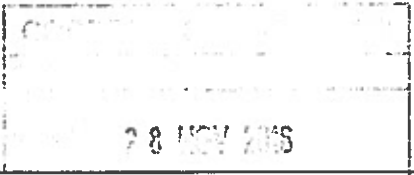
Under Section 43A(8) Of the Town and Country Planning (SCOTLAND) ACT 1997 (As amended) In Respect of Decisions on Local Developments

The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (SCOTLAND) Regulations 2013

The Town and Country Planning (Appeals) (SCOTLAND) Regulations 2013

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

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

1. Applicant's Details		2. Agent's Details (if any)	
Title		Ref No.	
Forename		Forename	Andrew
Surname		Surname	Bennie
Company Name	Onyx Homes	Company Name	Andrew Bennie Planning Ltd
Building No./Name	78 Craigcrook Road	Building No./Name	
Address Line 1		Address Line 1	3 Abbots Court
Address Line 2		Address Line 2	
Town/City	Edinburgh	Town/City	Dullatur
Postcode	EH4 3PN	Postcode	G68 0AP
Telephone		Telephone	
Mobile		Mobile	077209 700210
Fax		Fax	
Email		Email	andrew@andrewbennieplanning.com
<b>3. Application Details</b>			
Planning authority		Midlothian Council	
Planning authority's application reference number		15/00952/DPP	
Site address			
Land at Airybank House, Cousland			
			
Description of proposed development			
Erection of 8 Detached Dwelling Houses and associated Landscaping Works.			

Date of application	3/12/15	Date of decision (if any)	7/11/16
<p><b>Note.</b> This notice must be served on the planning authority within three months of the date of decision notice or from the date of expiry of the period allowed for determining the application.</p>			
<b>4. Nature of Application</b>			
Application for planning permission (including householder application)			<input checked="" type="checkbox"/>
Application for planning permission in principle			<input type="checkbox"/>
Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission and/or modification, variation or removal of a planning condition)			<input type="checkbox"/>
Application for approval of matters specified in conditions			<input type="checkbox"/>
<b>5. Reasons for seeking review</b>			
Refusal of application by appointed officer			<input checked="" type="checkbox"/>
Failure by appointed officer to determine the application within the period allowed for determination of the application			<input type="checkbox"/>
Conditions imposed on consent by appointed officer			<input type="checkbox"/>
<b>6. Review procedure</b>			
<p>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.</p> <p>Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may tick more than one box if you wish the review to be conducted by a combination of procedures.</p>			
Further written submissions			<input type="checkbox"/>
One or more hearing sessions			<input type="checkbox"/>
Site inspection			<input checked="" type="checkbox"/>
Assessment of review documents only, with no further procedure			<input type="checkbox"/>
<p>If you have marked either of the first 2 options, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing necessary.</p> <div style="border: 1px solid black; height: 40px; width: 100%; margin-top: 5px;"></div>			
<b>7. Site inspection</b>			
In the event that the Local Review Body decides to inspect the review site, in your opinion:			
Can the site be viewed entirely from public land?			<input checked="" type="checkbox"/>
Is it possible for the site to be accessed safely, and without barriers to entry?			<input type="checkbox"/>

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

It is considered that an accompanied site inspection would afford the Review Body the best means by which to gain a full and informed appreciation of the nature of the proposed development and the lack of impact that it would have upon the surrounding area.

## 8. Statement

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

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

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

Please refer to the matters set out within the attached Statement in Support of Review.

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

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

### 9. List of Documents and Evidence

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

Please refer to the attached Schedule of Review Documents.

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

### 10. Checklist

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

Full completion of all parts of this form ☒

Statement of your reasons for requesting a review ☒

All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review. ☒

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

### DECLARATION

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

Signature:  Name: Andrew Bennie per Andrew Bennie Planning Ltd Date: 25th November 2016

Any personal data that you have been asked to provide on this form will be held and processed in accordance with the requirements of the 1998 Data Protection Act.

**Schedule of Documents on Support of Review**

**Against the Refusal of Planning Application Ref: 15/00952/DPP**

**Document 1: Copy of Decision Notice**

**Document 2: a-z(2), Application Forms, Plans and Supporting Documents/Reports**

**Document 3: Site Photographs**

**Document 4: Report of Handling**

**Document 5: Plan Detailing impact of 30m tree belt**



# ANDREW BENNIE PLANNING LIMITED

The Planning Manager  
Planning  
Midlothian Council  
Fairfield House  
8 Lothian Road  
DALKEITH  
EH22 3ZN

25<sup>th</sup> November 2016

28 NOV 2016

Dear Sirs

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997  
REQUEST FOR REVIEW UNDER SECTION 43A  
IN RESPECT OF THE REFUSAL OF PLANNING PERMISSION  
APPLICATION REF: 15/00952/DPP  
LAND AT AIRYBANK HOUSE, COUSLAND**

I refer to the above and on behalf of my client, Onyx Homes Cousland Ltd, I submit for your attention and action, a formal request to Review the decision of the Council's Appointed Person to refuse planning permission pursuant to my client's planning application, as referenced above.

In this regard, I attach hereto, a completed copy of the Notice of Review Form and a list of those documents to which reference will be made during the course of this Review.

I also attach a copy of my Statement in Support of this Review, included with which are copies (on CD) of all of those documents listed.

I trust that this is sufficient to enable you to progress this Review and I look forward to hearing from you further on this matter in due course.

Should you require too discuss matters further at this stage please do not hesitate to contact me.

Yours Faithfully



**ANDREW BENNIE**

**Director**





STATEMENT IN SUPPORT OF  
LOCAL REVIEW  
RELATIVE TO THE REFUSAL  
BY MIDLOTHIAN COUNCIL  
OF PLANNING APPLICATION REFERENCE  
15/00952/DPP

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E-mail: [andrew@andrewbennieplanning.com](mailto:andrew@andrewbennieplanning.com)

November 2016

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## **CONTENTS**

- 1.0 Introduction**
- 2.0 Proposals Subject to Review**
- 3.0 Reasons for Requesting Review**
- 4.0 Review Procedure**
- 5.0 Grounds of Review**
- 6.0 Summary**

**Appendix 1: Notice of Review Form**

**Appendix 2: Schedule of Documents**

**Appendix 3: Review Documents (on CD)**

## **1.0 INTRODUCTION**

- 1.1 This Statement has been prepared by Andrew Bennie Planning Limited on behalf of Onyx Homes Cousland Limited in support of their request that the Planning Authority, under the provisions of Section 43A of the Town and Country Planning (Scotland) Act 1997 review the decision of the Appointed Person to refuse planning application reference 15/00952/DPP.
- 1.2 This Statement should be read in conjunction with the matters set out within the completed Notice of Review Form, a copy of which is included at Appendix 1 of this Statement.

## **2.0 PROPOSALS SUBJECT TO REVIEW**

- 2.1 Under the terms of planning application reference 15/00952/DPP, full planning permission was sought for the erection of eight detached dwelling houses upon that land which comprises the application site.
- 2.2 The proposed dwelling houses would take access off the existing access road, which currently serves the property at Airybank House and are sited on plots, which range in size from 670m<sup>2</sup> to 2327m<sup>2</sup>.
- 2.3 A total of three house types are proposed, as follows:

### **House Type X (x4):**

Standing 1<sup>1/2</sup> storeys in height, this house type provides accommodation extending to 226m<sup>2</sup> in floor area, as follows:

Ground Floor: Lounge, Family Room/Kitchen, Bedroom and shower room/wc.

First Floor: Three Bedrooms (master en-suite) and bathroom.

This house type includes a feature flat roofed 1<sup>1/2</sup> storey projecting bay on its front elevation.

This house type also features a detached double garage (34.8m<sup>2</sup>).

### **House Type Y (x1):**

Standing a full 2 storeys in height, this house type provides accommodation extending to 327.1m<sup>2</sup> in floor area, as follows:

Ground Floor: Lounge, Dining Hall, Family Room/Kitchen, Bedroom (with en-suite), Utility Room and wc.

First Floor: Three Bedrooms (Master with en-suite and dressing room, second bedroom with en-suite and sitting room and third with en-suite).

This house type features a full 2 storey, half round glazed bay window on its rear elevation.

This house type also features an integral double garage (35.3m<sup>2</sup>).

House Type Z (x3):

Standing <sup>1 1/2</sup> storeys in height, this house type provides accommodation extending to 216.4m<sup>2</sup> in floor area, as follows:

Ground Floor: Lounge, Family Room/Kitchen, Utility Room and wc.

First Floor: Four Bedrooms (Master Bedroom with en-suite and dressing area, and one bedroom with en-suite), Bedroom 5/Study and Family Bathroom.

This house type features a 1<sup>1/2</sup> storey flat roofed projecting bay on its rear elevation and a half round turn pike stair well, with high level glazing and a turret roof feature on its front elevation.

This house type also features an integral double garage (33.1m<sup>2</sup>).

- 2.4 Externally, each of the proposed house types would be finished in a white textured render, with feature natural stone detailing to the projecting bay features, with the roof being clad in slate grey tiles.
- 2.5 The proposed development also features a detailed landscaping scheme, all as shown on those plans, which form part of the application submission.
- 2.6 The application site itself comprises an area of land lying to the north and west sides of the existing property known as Airybank House, which is located within the village of Cousland.
- 2.7 The site lies to the west side of the minor road, which heads northwards from Hadfast Road, at the western end of the village, and which links with the A6124, which lies a short distance to the north of the Site.
- 2.8 The northern boundary of the site is defined by a well established belt of large trees, with the western boundary being defined a similarly well established belt of smaller trees. The sites southern boundary is defined by the rear garden boundaries of the two existing residential properties, which lie at the extreme western end of the village, on the north side of Hadfast Road.

- 2.9 The southern boundary of the site is defined by the residential curtilage associated with Airybank House.
- 2.10 The section of the site upon which the proposed dwelling houses would be erected extends to some 0.8102 ha in area and is generally flat and currently comprises an area of rough grassland.
- 2.11 For the avoidance of doubt, the full extent of the site includes the various areas of peripheral planting that run along the sites northern and south western boundaries.
- 2.12 Full details of the proposed development are provided within the documentation which support this Review.

### **3.0 REASONS FOR REQUESTING THE REVIEW**

- 3.1 On the basis of the Grounds of Review, which are set out within Section 5.0 of this Statement, it is submitted that the appointed person has failed to provide sufficient reasons to reasonably justify the refusal of this planning application when considered against the relevant provisions of the development plan.
- 3.2 It is submitted that the application proposals can be both fully and reasonably justified against the relevant provisions of the development plan and that the proposed development would not give rise to any demonstrable adverse impacts upon the integrity, appearance or visual amenity of the wider area of green belt within which the proposed development is located.
- 3.3 Consequently, this Review is put forward on the basis of the unreasonable and unjustifiable grounds for the refusal of the planning application in question.

#### **4.0 REVIEW PROCEDURE**

- 4.1 In addition to consideration of those matters, which are set out within the Notice of Review Form and this Statement, it is requested that the Local Review Body carry out an accompanied inspection of the application site.
- 4.2 Given the nature of the application proposals, it is considered that carrying out of an accompanied site inspection represents the best means of allowing the Local Review Body to gain a full and proper understanding of the potential impact of the application proposals upon the surrounding area and in turn the extent to which the proposals can be reasonably justified against the relevant provisions of the adopted Local Development Plan.



## 5.0 GROUNDS OF REVIEW

5.1 The application which forms the basis of this Review, was refused planning permission on the basis of the reasons set out below:

- 1. The proposed development, on account of its scale, massing, form and design, is significantly out of character with the edge-of village setting and surrounding area and will have a materially detrimental impact on the character and appearance of the area. As a result of the proposed development being incompatible with the surrounding area it is contrary to policies RP20 and HOUS3 of the adopted Midlothian Local Plan.***
- 2. The proposed development, on account of its massing, form, impact on existing trees and lack of additional planting, will have a significant adverse impact on the character and appearance of the local landscape and this edge-of-village site which is contrary to policies RP5, RP7, RP20 and HOUS3 of the adopted Midlothian Local Plan.***
- 3. On account of the scale and layout of the proposed development the proposal represents a low quality and unimaginative urban design solution, significantly at odds with the overriding character of this semi-rural edge-of-village location, which is contrary to the aims and objectives of the Scottish Government's 'Designing Streets' and 'Creating Places' policy documents and policies RP7 and RP20 of the adopted Midlothian Local Plan.***
- 4. The proposed development would result in overlooking, and loss of amenity, to the private rear garden of the dwellinghouse at 1 Hadfast Road, which is contrary to policies RP20 and DP2 of the adopted Midlothian Local Plan.***

5.2 A full copy of the Decision Notice on this application is provided at Document 1, within Appendix 3 of this Statement.

5.3 Our responses to the stated reasons for the refusal of planning application reference 15/00952/DPP are set out below.

- 1. The proposed development, on account of its scale, massing, form and design, is significantly out of character with the edge-of village setting and surrounding area and will have a materially detrimental impact on the***

***character and appearance of the area. As a result of the proposed development being incompatible with the surrounding area it is contrary to policies RP20 and HOUS3 of the adopted Midlothian Local Plan.***

- 5.4 With regards to Policy DP20, the adopted Plan advises, at paragraph 2.2.5 that:

*"The purpose of the policy is to ensure that new development does not damage or blight land uses which are already established in the neighbourhood, particularly where residential amenity will be affected."*

- 5.5 To this end, Policy DP20 states that:

*"Development will not be permitted within existing and future built-up areas, and in particular within residential areas, where it is likely to detract materially from the character or amenity of the area."*

- 5.6 In consideration first of all of the stated purpose of Policy DP20, it is submitted that on no reasonable level can it be suggested that this proposed development will either damage or blight land uses which are already established in the "neighbourhood".

- 5.7 Rather, the proposed development simply proposes the erection of housing within the boundary of the existing settlement boundary of Cousland, adjacent to existing housing, this being wholly in keeping with the established pattern of land use within the village.

- 5.8 This consideration leads to the conclusion that it is not the principle of the erection of housing on the site that has been found to be objectionable, but rather it is the form of the development itself that has been deemed to be unacceptable. This conclusion is borne out by the wording of this reason for the refusal of the application.

- 5.9 Consequently, in addressing this reason for the refusal of the application, the consideration which, requires to be examined is whether or not it is reasonable and justifiable to state that by virtue of its scale, massing, form and design, the proposed development would be significantly out of character with the edge-of village setting and surrounding area and hence would have a materially detrimental impact on the character and appearance of the area.

- 5.10 To this end it is submitted that within villages such as Cousland, and for that matter within most settlements, larger properties, plotted at lower densities, are often to be found on the

outer edges of the settlement, this being reflective of historic patterns of development, which coincide with the outward expansion of the settlements from their historic core.

- 5.11 As such, it is not considered to be out of character with the surrounding settlement for larger houses to be proposed for the application site, with it being noted that the existing property at 1 Hadfast Road represents a directly comparable example of a large house being sited on the edge of the settlement.
- 5.12 The nature of the character of any given settlement changes and evolves over time as it accommodates and assimilates new development and it is submitted that the development, which is proposed under this application is reflective of this evolutionary process, with it being further submitted that there are no reasonable or justifiable grounds upon which it can be stated that this development cannot be successfully assimilated into the surrounding built form of the settlement.
- 5.13 It is further submitted that when approaching the village from the west, as is shown on the photographs provided at Document 3, it is evident first of all that the view of the village is dominated by the bulk and mass of the existing property at 1 Hadfast Road and secondly, that the proposed development would sit behind the existing belt of woodland that forms the northern and western boundary of the application site, the existence of which provides a nature screen and visually defensible boundary to the proposed development.
- 5.14 The effectiveness of this existing tree belt as a screen to the proposed development is demonstrated by the fact that within the Street View image, the existing property on the site, Airybank House is barely discernible within the view. As the ridge heights of each of the proposed dwelling houses sites below that of Airybank House, it is submitted that the proposed development will have no adverse impact upon this view of the settlement and hence will have no material or detrimental effect on the character or appearance of the area.
- 5.15 Turning now to the provisions of Policy HOUS3, which deals with Windfall housing sites, it is noted that at paragraph of the adopted Plan, it is advised that:

*"At Cousland, land at Airybank House has been included in the settlement envelope. This land could accommodate a development of a maximum of four houses without having a negative impact on the setting of the village, subject to the retention of the peripheral landscaping."*

5.16 In commenting on this matter, it is submitted first of all that the sole basis of the suggestion that four houses could be accommodated on the site was the fact that at the time the Plan was being prepared, proposals had been tabled for the erection of four houses on the site and it was the existence of the application which informed this 'capacity figure' rather than any form separate assessment of the actual development potential of the site.

5.17 Secondly, it is submitted that in common with this earlier scheme, the development which is proposed for the site makes full provision for the retention of the existing peripheral landscaping around the boundary of the site, with this existing landscaping being augmented and reinforced by additional planting, as detailed within the landscaping plan which forms an integral part of the application submission.

5.18 In view of the foregoing, it is considered that the proposed development of this site can be reasonably justified within the context of the reasoning, which underpinned the inclusion of this site within the settlement boundary.

5.19 Policy HOU53 itself, set out the criteria, A-E, against which proposals for windfall housing will be assessed. In consideration of each of these criteria, the following submissions are made.

**A. It does not lead to the loss or damage of valuable public or private open space.**

5.20 The application site does not comprise a valuable area of either public or private open space. Rather, it comprises an area of partly developed land within the settlement boundary. Given that the Plan clearly confirms the development potential of this site and as the previous four unit scheme would have involved the same development land take as is associated with the current proposals, it is submitted that the proposed development can be fully and reasonably justified against the requirements of this criterion.

**B. It does not conflict with the established land use of the area.**

5.21 As the proposed development involves new build residential development within the established settlement boundary, adjacent to existing housing, it is submitted that the proposed development will not give rise to any land use conflicts.

**C. It has regard to the character of the area in terms of scale, form, design and**

**materials.**

- 5.22 In terms of the scale of the proposed development, it is considered that in light of recent planning permissions that have been granted for new build residential development within the village, the proposed erection of eight houses on the site is wholly acceptable and that it is no way, based upon development density, represents an over development of the site.
- 5.23 Whilst it is accepted that the proposed houses are larger than many of the existing houses within the village, this does not in itself justify or support any conclusion that the scale of the development is unacceptable, this being especially so within the context of the scale of housing that is established by the adjacent Airybank House and the property at 1 Hadfast Road.
- 5.24 In terms of form and design, it is evident that within the wider village, the nature of the form and design of the existing housing varies significantly, with there being dominant style that could be held up as representing a characteristic feature of the existing village that would require to be reflected within any new development.
- 5.25 To this end, the recently approved scheme for the development of thirteen houses at Southfield Road serves to demonstrate that new build housing of a modern design can be accommodated within the village.
- 5.26 Finally, with regards to the proposed external finishes, it is submitted that the proposed materials and palate of colours is in keeping with those used on other recent developments within the village.
- 5.27 Consequently, it is submitted that the proposed development can be fully and reasonably justified against this criterion.

**D. It meets traffic and parking requirements.**

- 5.28 The Council's Policy and Roads Safety Manager has offered no objection to the proposed development and as such, it is considered that the proposed development can be fully and reasonably justified against this criterion.

**E. It accords with other relevant Local Plan policies and proposals, including IMP1, IMP2, IMP3 and DP2.**

5.29 With regards to policies IMP1, IMP2 and IMP3, it is submitted that in the event of it being determined that improvements to any existing services or infrastructure is required in order to support the proposed development, these matters can be suitably addressed via the use of appropriate planning conditions and/or by the use of a suitably framed Section 75 Planning Obligation.

5.30 Our substantive submission in respect of the compliance of the proposed development against the provisions of Policy DP2 is set out below in terms of our response on Reason for Refusal 3.

5.31 In view of the matters set out above, it is submitted that this proposed development can be fully and reasonably justified against the provisions of Policies RP20 and HOUS3 of the adopted Plan.

***2. The proposed development, on account of its massing, form, impact on existing trees and lack of additional planting, will have a significant adverse impact on the character and appearance of the local landscape and this edge-of-village site which is contrary to policies RP5, RP7, RP20 and HOUS3 of the adopted Midlothian Local Plan.***

5.32 As is detailed within the documentation which supports and forms part of this Review submission, the application was supported by a number of documents which relate directly to the matter of the potential impact of the proposed development upon those existing trees which bound onto the application site on its northern and western sides.

5.33 These documents take the form of: a Tree Survey; an Arboricultural Survey; and, an Arboricultural Method Statement.

5.34 When taken and read together, these reports clearly support our position that the proposed development of this site will have no demonstrable or adverse impact upon the integrity or well being of the existing tree belts, which bound onto the site.

5.35 Accordingly, it is submitted that the proposed development can be fully and reasonably justified against the provisions of Policy RP5.

5.36 As has been noted above in response to the first stated reason for the refusal of this application, the nature of the existing tree belts which bound onto the site are such that they provide for a suitable degree of both physical and visual containment for the proposed

development.

- 5.37 The functionality of the screening and containment role that these existing tree belts play in terms of assimilating the proposed development into the surrounding built and landscape context of the site will be further reinforced by implementation of the landscaping scheme which forms an integral part of the proposed development.
- 5.38 The Report of Handling relative to this application (see Document 4), makes mention of the fact that the proposed development does not provide for a 30m wide tree belt along the boundary of the site where it abuts with the countryside and that as such, the proposed development fails to address the relevant provisions of Policy DP2 of the Plan.
- 5.39 The need for such a tree belt of such a width would, if slavishly applied, have the effect of reducing the potentially developable portion of the site to such an extent that the site would be incapable of supporting any further development. The plan, which is provided at Document 5, shows the extent of this 30m tree belt when applied to the proposed site layout.
- 5.40 Whilst in some circumstances, the provision of new landscape planting to define the boundary between a new development and the surrounding countryside may well be justifiable, the reasonableness of any such requirement must, of necessity, take into account the nature and characteristics of the existing boundary features.
- 5.41 It is self evident that the northern and western boundaries of the site are already defined by well established and mature tree belts, the existence of which both physically define the extent of the site and provide an effective visual screen to the site when viewed from beyond the boundary of the site, to the north and west.
- 5.42 The photographs which are provided at Document 3 provide clear details of the extent of these existing tree belts and the nature of the screening effect that they provide when viewing the site from the west, along the line of Hadfast Road as it heads eastwards towards the village.
- 5.43 In the specific circumstances, which relate to the application site, it is not considered that the provision of a tree belt of the scale suggested under Policy DP2 is justifiable, with it being further considered that the nature of the existing tree belts which define the sites northern and western boundaries are sufficient to ensure that the proposed development will have no demonstrable or adverse impact upon the character and appearance of the

local landscape within which the site is located.

- 5.44 Furthermore, in respect of the proposed residential development of the site the east side of Southfield Road, Cousland, as granted planning permission under the terms of planning permission reference 15/00280/DPP (which in common with this application abuts with the defined countryside), it is noted that the planning permission which relates to this development carries with it no requirement to provide any tree belt along the length of the boundary of the site and the adjacent countryside, this being notwithstanding the fact that this boundary was not defined by any form of tree belt or other landscape feature.
- 5.45 In comparing the relative merits of both of these sites, it is considered that no reasonable case can be made to support the need for a 30m tree belt in respect of the proposed development of my client's site when one was not required in respect of the site at Southfield Road.
- 5.46 Accordingly, it is submitted that the proposed development will have no significant or adverse impact upon either the character or appearance of the local landscape and that as such, the proposed development can be fully and reasonably justified against the provisions of Policy RP7.
- 5.47 Our submission in relation to an assessment of the merits of the proposed development against the provisions of Policies RP20 and HOU53 is set out above in relation to our response on the first stated reason for the refusal of this application.

**3. On account of the scale and layout of the proposed development the proposal represents a low quality and unimaginative urban design solution, significantly at odds with the overriding character of this semi-rural edge-of-village location, which is contrary to the aims and objectives of the Scottish Government's 'Designing Streets' and 'Creating Places' policy documents and policies RP7 and RP20 of the adopted Midlothian Local Plan.**

- 5.48 It is not accepted that the proposed development represents a low quality and unimaginative urban design solution or that the development is significantly at odds with the overriding character of the surrounding area.
- 5.49 Within the Report of Handling (see Document 4) which relates to this application, it is stated under the heading "Planning Issues" that:



*"The proposal does not represent a high quality contemporary scheme, and neither is it of a design appropriate to the local vernacular. In addition, the proposed palate of materials do not add quality to the design. The proposed layout lacks interest and some garages are located to the front of the proposed houses. Overall, the standard of urban design of the proposed development does not provide sufficient justification for approval of the scheme. The development does not consider place before movement. The use of an unimaginative cul-de-sac arrangement does not accord with the principles set out in the Scottish Government policy document on 'Designing Street'."*

- 5.50 In commenting on these various issues, it is submitted first of all that in light of the significant variety of house types, styles and external finishes that are to be found within the village of Cousland, all of which have developed and changed as the village has expended over time, there is no single of dominant architectural style or palate of building materials that can be reasonably held up as constituting an exemplar of the local vernacular of the village.
- 5.51 Consequently, in the absence of any relevant local vernacular from which this development would require to take as its influence, it is submitted that it is wholly unreasonable to suggest that the proposed development is of a design that it not appropriate to the local vernacular.
- 5.52 It should also be noted that the approach, which has been taken in terms of the design of the proposed houses was influenced and informed by the terms of the pre-application discussions, which took place prior to the submission of this application.
- 5.53 Furthermore, it is noted that contrary to the statement, which is made within the Report of Handling on this application, there is nothing within the terms of the Council's pre-application advice, which provided any view on the size of the houses which could be successfully developed on this site, rather, it provided a specific example of the general design of units that would be considered acceptable for the site and it is this example that formed the basis for the design of the houses proposed under this application.
- 5.54 In terms of the design quality of the proposed development, it is submitted that in very broad terms design of the proposed development is reflective of the quality that is to be found in many successful developments of a similar scale throughout the Council area, with there being no evidence to support any suggestion that the site of the application is so unique or of such an outstanding quality that it demands a radically different approach to

its development.

5.55 This being the case, it is submitted that in all respects, this proposed development represents an appropriate design response for this site, with it being further submitted that there is no reasonable or justifiable basis upon which it can be stated that the proposed development *"represents a low quality and unimaginative urban design solution."*

5.56 With regards to the actual layout of the proposed development, it must, of necessity, be understood that the proposed development represents a response to a road layout that already exists on the site, with there being little if indeed any scope, given the specifics of the shape of the application site, to alter this existing road layout in any meaningful way.

5.57 It should also be recognised that as it is both unnecessary and indeed physically impossible to provide this site with anything other than a single point of vehicular access, the only means by which the site can be serviced in terms of vehicular access is through the provision of a short cul-de-sac, with there being no deliverable alternative to this form of access provision.

5.58 The Government's publication "Designing Streets", on page 3, makes the following statement:

*"Designing Streets is not a standards-based document. Balanced decision-making is at the core of this policy. Design-led solutions must be employed."*

5.59 Read within the context of the terms of this statement, Designing Streets does not create any form of prohibition against the use or development of short cul-de-sacs. Rather, founded upon the principle of design-led solutions, this form of layout would be deemed appropriate if in design terms, it can be justified.

5.60 In this instance, as there is no viable design alternative to the use of this form of layout, the proposed development does not offend against the aims and objectives of the document.

**4. The proposed development would result in overlooking, and loss of amenity, to the private rear garden of the dwellinghouse at 1 Hadfast Road, which is contrary to policies RP20 and DP2 of the adopted Midlothian Local Plan.**

5.61 Within the Report of Handling (see Document 4), it is stated, under the heading "Planning Issues" that:

*"Despite many of the proposed dwellings being set within large plots there is an issue of overlooking from the property proposed on plot 8. The rear elevation of the house on plot 8 is only 9m from the adjacent boundary, therefore within the required 12.5m, and would result in overlooking of the neighbours garden."*

5.62 The dwelling on plot 8 is orientated in such a way that its side elevation which faces towards the adjacent plot and not, as is suggested, its rear elevation.

5.63 The applicable standard within Policy DP2 requires that in such instances, a separation distance of 16m is to be achieved between gable and rear elevations.

5.64 This separation distance is more than met by the proposed position of the dwelling on plot 8 and consequently, there is no justifiable basis upon which it can be reasonably stated or suggested that the proposed development would result in any overlooking in relation to the existing property at 1 Hadfast Road or that the proposed development would adversely affect the amenity of the rear garden of said property.

5.65 Accordingly, it is submitted that the proposed development can, in respect of this specific issue, be fully and reasonably justified against the provisions of Policies RP20 and DP2 of the adopted Plan.

## **6.0 SUMMARY**

- 6.1 It is my respectful submission that the Appointed Person has failed to provide sufficient information to support and justify the stated reasons for the refusal of this planning application.**
- 6.2 It is submitted that when assessed against the terms of the relevant provisions of the adopted Local Plan, the proposed development can be fully and reasonably justified.**
- 6.3 Taking into account all of those matters set out above, I would respectfully request that the Local Review Body uphold this Review and in so doing, grant planning permission pursuant to planning application reference 15/00952/DPP.**

## **MIDLOTHIAN COUNCIL**

### **DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:**

**Planning Application Reference:** 15/00952/DPP

**Site Address:** Airybank House, Cousland Kilns Road

#### **Site Description:**

The application property comprises an area of ground within the curtilage of the dwellinghouse known as Airybank House, which is located at the north west edge of Cousland. The site includes to the west and north a row of mature trees. In addition there is a small woodland at the north eastern side of the application site, adjacent to the vehicular access. There is only one access to the site and that is taken from Cousland Kilns Road.

The land slopes down to the north and the site is visible from the public roads to the north and west. The site is a former quarry and landfill site.

#### **Proposed Development:**

Erection of 8 dwellinghouses

#### **Proposed Development Details:**

It is proposed to erect eight detached dwellings in a cul-de-sac arrangement, along one side of an access road, enclosing Airybank House to the north and west. Airybank House is finished with natural slate roof, wet dash render and natural stone.

There are three different house types proposed across the eight dwellings.

House type X has two storeys of accommodation with the upper floor contained within the roofspace and contains a lounge, dining/kitchen area and four bedrooms. There are proposed to be four type X dwellings. Each is proposed to have a detached double garage.

House type Y has two storeys of accommodation containing a two lounge areas, kitchen/dining/family room, dining hall, four bedrooms and an integral garage. There is proposed to be one type Y dwelling.

House type Z has two storeys of accommodation containing a lounge, kitchen/dining/family room, five bedrooms and an integral garage. There are proposed to be three type Z dwellings.

All house types are to be finished with grey concrete roof tiles, white render, cedar timber boarding, dark grey UPVC windows and smooth ashlar stone.

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

01/00589/FUL – Proposed landfill of former quarry - approved

03/00650/FUL - Demolition of existing building and erection of dwellinghouse and detached garage – approved.

05/00588/FUL - Change of use from domestic outbuilding to form granny flat – approved.

08/00694/FUL - Erection of four dwellinghouses – withdrawn (minded to approve subject to s75 legal agreement. Agreement never signed).

The applicant has submitted the following documents to support the application:

- Planning Statement (and subsequent annexe);
- Phase I/II Geo-environmental and geotechnical interpretive report;
- Arboricultural Method Statement;
- Arboricultural Survey;
- Bat Survey; and,
- Tree survey

**Consultations:**

**The Wildlife Information Centre** has raised some concerns over the methodology regarding the bat survey but recommends that should planning permission be granted a condition should be used to protect bats in the area.

**The Coal Authority** has not objected to the planning application.

**The Tynewater Community Council** have objected to the planning application. They are concerned regarding ground stability and contamination. They also state that the development demonstrates deficiencies in respect of:

- Landscaping;
- Visitor parking provision;
- Children's play space provision;
- Safe pedestrian access;
- Vehicular and pedestrian visibility and manoeuvring availability at access; and,
- Energy efficiency information.

**The Council's Education Resource Manager** has stated that the development will result in additional pressure on Primary and Secondary denominational schools and the Secondary non-denominational school.

**The Council's Policy and Road Safety Manager** does not object to the planning application but do raise a number of concerns regarding the proposed scheme.

**Representations:**

There have been 86 letters of objection received in connection with this application. The majority of the representations have been submitted on one of a number of standard letter templates. All of the letters raise generally the same issues:

- Concern that the proposed development is significantly out of character with it's surroundings;
- The style, form, scale, design and density of the proposed houses does not reflect the character of the area;
- The proposed development would have a detrimental impact on the landscape;
- The proposed development would impact on already stretched amenities, such as electricity, broadband and telephone lines;
- The proposed development would have a detrimental impact on road and pedestrian safety;
- The proposed development would result in the loss of wildlife (including protected species) and flora;
- Impact of development on ground stability, including land surrounding the site, given known legacy underground mining operations;
- Little demand for this scale of houses. More requirement for smaller houses for older residents and young families and more affordable properties;
- Noise, dust and disruption from construction activities will adversely impact on neighbouring properties and business;

A number of members of the Cousland Village Hall Association have submitted objections to the planning application. They are concerned regarding the potential impact on the village hall as a result of the proposed development. They are concerned regarding the possibility of subsidence. Other groups that have objected to the application include the Cousland Local History Project, Cousland Village Playgroup and Cousland Village Youth Group.

#### **Relevant Planning Policies:**

The Scottish Government's policy documents on 'Designing Streets' and 'Creating Places' are relevant and set out the government's commitment to good quality places.

The relevant policies of the **2008 Midlothian Local Plan** are;

**RP5 – Woodland, Trees and Hedges** – This policy seeks to prevent the loss of, or damage to, woodland, groups of trees, individual trees and hedges which have particular amenity, nature conservation, biodiversity, recreation, landscape character, shelter or other importance.

**RP7 – Landscape Character** – This policy states that development will not be permitted where it may adversely affect the quality of the local landscape.

**RP13 – Species Protection** – This policy states that development that would affect a species protected by law will require an appropriate level of environmental and biodiversity assessment.

RP20 – Development with the Built-Up Area – This policy seeks to ensure that development will not have an adverse impact on the character or amenity of an area.

HOUS3 – Windfall Housing Sites – This policy states that residential development within the built-up area will be permitted should it:

- Not lead to the loss or damage of valuable public or private open space;
- Not conflict with the established land use of the area;
- Have regard to the character of the area in terms of scale, form, design and materials;
- Meet traffic and parking requirements; and,
- Accords with other relevant local plan policies and proposals.

In addition, within the text of policy HOUS3 is the following statement, “At Cousland, land at Airybank has been included in the village envelope. This land could accommodate a development of a maximum of four houses without having a negative impact on the setting of the village, subject to the retention of the peripheral landscaping”.

NRG3 – Energy for Buildings – This policy seeks to secure an improvement in the energy efficiency for buildings through the use of low and zero carbon technologies.

IMP1, IMP2 and IMP3 – These policies seek infrastructure improvements where they are required.

DP2 – Development Guidelines – This policy sets out the design standards expected to be complied with in terms of residential developments in order to achieve good quality design and layout in schemes.

The policies of the emerging Midlothian Local Development Plan are similar to those mentioned above.

### **Planning Issues:**

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

The 2008 Midlothian Local Plan brought the application site within the built-up area of Cousland. Policy RP20 of the local plan is therefore relevant to the assessment of proposed developments at the application site. Policy RP20 seeks to ensure that development within the built-up area is not incompatible with surrounding land uses and does not lead to a significant adverse impact on the character and amenity of the area.

In general, a proposal for a residential development in an inherently residential area is usually considered to be acceptable in principle. The development of the application site for residential purposes in this case is acceptable. Therefore, it is necessary to consider the detailed aspects of the proposed development.



The adopted 2008 local plan, while bringing the site within the village envelope of Cousland, contained a statement which indicated that the site at Airybank could accommodate a development of a maximum of four houses without having a negative impact on the setting of the village. The inference from this statement is that a development of over four dwellinghouses would likely have a negative impact on the character and appearance of the area. Given the requirements of other local plan policies, which seek development which is in keeping with the character of the area, it is considered that an acceptable development would comprise four dwellings, generally of a scale and character commensurate with those in the surrounding area.

Cousland is a small village within which the overwhelming majority of dwellings have either one storey of accommodation or a second storey of accommodation within the roofspace, even within the more recent residential developments. The character of Cousland is, therefore, one of smaller dwellings, bungalows and cottages. As a result of the buildings having relatively low ridge heights, the topography of the land and the strong landscaped boundaries around the village the settlement is not readily visible from outwith.

The applicant proposes eight very large dwellings arranged as a cul-de-sac. Four of the dwellings (house type X), whilst large, provide a second storey of accommodation within the roofspace, the remaining four have two full storeys of accommodation. All proposed buildings are large in terms of their height, bulk and massing, completely at odds with the character of the surrounding area and scale of other buildings in Cousland. The applicant states that the proposed dwellings should be compared to Airybank House, which is a very large house on the adjoining site and the largest house in Cousland. However, Airybank House is a clear exception to the overriding character of the area. The character of area is one of a small village site with sparse edge planting. It is appropriate to have only a low density proposal which safeguards and enhances the existing tree planting. This will sit new development in to the landscape. The proposed development, as a result of the impact on existing landscaping, lack of additional planting and scale and number of proposed dwellings would be visible from out with the site and would significantly degrade the character of this semi-rural edge-of-village area.

The applicant states that the density of development is much less than elsewhere in the village (10 dwellings per hectare rather than 25 dwellings per hectare elsewhere) in an attempt to demonstrate that the proposal does not represent an over-development of the site. However, this position does not take account of the fact that the proposed dwellings are significantly larger than other dwellings in the settlement. On average the proposed dwellinghouses at Airybank have double the footprint and floor area of the houses approved at The Nunnery site and the dwellings on Beech Grove (two of the most recent developments in Cousland).

The applicant states that the development cannot be considered unacceptable on the basis that it would be possible to see it "from out with the immediate confines of the application site". While it is not the case that developments should be completely obscured from view in order to make them acceptable it is the case that development in a semi-rural area, such as this, should generally be carefully integrated into its setting, either by strongly reflecting the character of the surroundings or being softened by natural landscaping, or a combination of both. Alternatively, utilising an

extremely high quality design can also be an acceptable approach. In all cases it is the setting and/or location of the application site which should influence the design solution.

The proposed development appears to be an overdevelopment of the site, maximising the amount of physical development/footprint at the expense of the landscape setting of the site and Cousland.

The applicant has not taken account of the requirement for a 30m tree buffer along the boundary of the site where it abuts the countryside, as identified in policy DP2 of the local plan (the tree belt in the application is as narrow as 4m in some places). He dismisses the Planning Authority's pre-application comments that a development within a woodland setting would more closely accord with the relevant local plan policies. A development in which there is more space between the house plots, and therefore more opportunity for planting, would reduce the requirement for the 30m landscape buffer. The Council's position is that the site is suitable for four dwellings, as this figure takes in to account the need for a landscape buffer and the character of the surrounding area. The applicant has failed to demonstrate that the proposal will not have an unacceptable impact on the character and appearance of the area.

In addition to the very narrow landscape strip and lack of additional planting the proposed development will put existing trees at risk. Any tree within falling distance of any of the houses (plots 1, 2 and 8 especially) will put the tree under pressure of felling in the long run. The proposed change in levels around plots 1 and 2, as well as a widened entrance to accommodate pedestrians as well as cars, would also impact on Root Protection Areas, putting trees at additional risk.

The existing woodland belt along the western, northern and eastern boundaries of the site provides a good and robust landscape separation between Cousland and the wider countryside. It is paramount that this woodland edge is retained, protected and augmented. Without this the application site, and part of Cousland, will be exposed visually and to the prevailing winds.

The proposed garden sizes are generous. However, the applicant can afford to be generous in this respect due to no account being taken of the requirement for a landscape buffer. Due to the orientation, positioning and scale of the proposed dwellings the private rear gardens of a number of the proposed dwellings will be in shade for much of the day.

The Planning Authority were previously minded to support a scheme for four large houses on the application site. This proposal was never approved. The scheme for four dwellings provided better opportunity for landscape planting in the spaces between the houses and along the edges of the development, thereby softening the development in to the landscape and making it appear less dense when viewed from outwith the site.

The applicant claims that the proposal represents a high quality scheme of a type comparable to the successful residential development at Loanhead Farm Steading, Loanhead. While some of the dwellings are similar to some of those at the Loanhead scheme the layout is not as successful. The applicant states that the design solution

for the site is based on pre-application guidance provided by the Planning Authority. However, the applicant has not taken full account of the comments at pre-application stage, or has misinterpreted them. The Planning Authority stated that consideration would be given to increasing the numbers of units from four if a high quality scheme was achieved. The applicant has focused his attention on the very largest dwellings at the Loanhead scheme rather than the steading-type part of the development, which, while resulting in smaller units, would have been a far more appropriate form of development in this semi-rural setting.

The proposal does not represent a high quality contemporary scheme, and neither is it of a design appropriate to the local vernacular. In addition, the proposed palette of materials do not add quality to the design. The proposed layout lacks interest and some garages are located to the front of the proposed houses. Overall, the standard of urban design of the proposed development does not provide sufficient justification for approval of the scheme. The development does not consider place before movement. The use of an unimaginative cul-de-sac arrangement does not accord with the principles set out in the Scottish Government policy document on 'Designing Streets'.

Despite many of the proposed dwellings being set within large plots there is an issue of overlooking from the property proposed on plot 8. The rear elevation of the house on plot 8 is only 9m from the adjacent boundary, therefore within the required 12.5m, and would result in overlooking of the neighbour's garden. It would be difficult to re-site the house given the presence of a mature tree located to the north east which is due to be retained. In addition, the house on plot 8 will cause overshadowing of the neighbouring property to the west. However, the overshadowing would not be sufficiently adverse so as to merit refusal on this issue alone.

The Policy and Road Safety Manager has not objected to the planning application. He considers that the proposed development will not have a significant adverse impact on highway safety in the area. However he has indicated that there are insufficient visitor parking spaces proposed within the development. In addition, he requests that should planning permission be granted the applicant be asked to provide a pedestrian crossing point over Cousland Kilns Road to the existing footway network in Beech Grove and that details of the proposed SUDs scheme and street lighting be submitted for approval. There is some potential that a SUDs scheme may further jeopardise the established trees on the site.

As a gated access the internal road would not be adopted by the Council. Therefore all bin and recycling uplifts would require to be from the kerbside on Cousland Kilns Road. This would necessitate a suitable area of hardstanding to accommodate bins and recycling boxes. This could result in the loss of some of the important landscaping along the roadside boundary of the site, to the detriment of the visual amenity of the area.

The Coal Authority has stated that it "considers that the content and conclusions of the Phase I/II Geo-Environmental and Geotechnical Interpretive Report are broadly sufficient for the purposes of the planning system in demonstrating that the application site is safe and stable for the proposed development". The Council's Environmental Health Manager has highlighted concerns regarding the applicant's

site investigation. These concerns relate to the ground conditions as a result of the infilling of the quarry. Some of the submitted information is out of date and requires to be addressed through the submission of further site investigation reports.

Given that the Coal Authority are satisfied regarding the ground stability issues it is considered unlikely that the development could detrimentally impact on the village hall. Rather than harm the village hall it is possible that the additional residents could help ensure its viability.

A bat roost has been identified on the application site. Bats are a European Protected Species and it is an offence to cause them, or their roosts, harm. Should planning permission be granted further survey work will be necessary if development is to take place between April and September.

The availability, or lack thereof, of broadband in an area is not a reason to refuse planning permission for a development scheme. But when approving residential developments the Planning Authority requires developers to ensure that the development is capable of being served by broadband in the future. Should Cousland's population grow there may be greater commercial interest in improving local services, such as broadband.

There is a requirement to provide play facilities for children. Play facilities already exist elsewhere in Cousland and because of the close proximity of these facilities to the site it is not necessary to provide on-site equipment. In lieu of on-site provision a developer contribution would be sought for improvements to the existing facilities in the village.

While the scale of the proposed dwellings is addressed in terms of the impact on the character of the area earlier in this report, objectors have stated that there is no demand for houses of this size in the area. It would not be in the developer's interests to build houses that there was no market for. It is assumed that the developer has done some research in respects to this matter and has found that there is some demand for houses of this size.

Another material consideration is the considerable weight of public opposition to the proposed development. A large percentage of Cousland residents have made an objection to the proposed scheme. This is a scheme that has received 86 objections and no letters of support. While it is necessary to give greater weight to the types of issues being raised than the quantity of objections it is necessary to give consideration to the level of local public opinion which is set against this development. Local residents have raised serious concerns, mirroring those already addressed in this report, regarding the impact of the proposed development on the character and appearance of the area.

**Recommendation:**

Refuse planning permission

## Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

**Reg. No. 15/00952/DPP**

Raymond Bryan  
1 John's Place  
Edinburgh  
EH6 7EL

Midlothian Council, as Planning Authority, having considered the application by Onyx Homes Cousland Limited, 78 Craigcrook Road, Edinburgh, EH4 3PN, which was registered on 25 February 2016 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

**Erection of 8 dwellinghouses at Airybank House, Cousland Kilns Road, Cousland, , EH22 2NT**

in accordance with the application and the following plans:

<u>Drawing Description.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Site Plan	(PL)101 1:1250	25.02.2016
Elevations, floor plan and cross section	(G)101 1:100	25.02.2016
Landscaping plan	RBA001.15 SL-01 rev B 1:200	25.02.2016
Proposed cross section	(S)01 1:200	25.02.2016
Proposed elevations	(X)BW04 1:100	25.02.2016
Proposed elevations	(Y)BW03 1:100	25.02.2016
Proposed elevations	(Y)BW04 1:100	25.02.2016
Proposed elevations	(Z)BW02 1:100	25.02.2016
Proposed elevations	(X)BW02 1:100	25.02.2016
Proposed elevations	(Z)BW04 1:100	25.02.2016
Proposed floor plan	(Y)BW01 1:100	25.02.2016
Proposed floor plan	(Z)BW03 1:100	25.02.2016
Proposed floor plan	(X)BW01 1:100	25.02.2016
Proposed floor plan	(X)BW03 1:100	25.02.2016
Proposed floor plan	(Y)BW02 1:100	25.02.2016
Proposed floor plan	(Z)BW01 1:100	25.02.2016
Site Plan	(PL)103 1:250	25.02.2016

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

1. *The proposed development, on account of its scale, massing, form and design, is significantly out of character with the edge-of village setting and surrounding area and will have a materially detrimental impact on the character and appearance of the area. As a result of the proposed development being incompatible with the surrounding area it is contrary to policies RP20 and HOUS3 of the adopted Midlothian Local Plan.*



2. *The proposed development, on account of its massing, form, impact on existing trees and lack of additional planting, will have a significant adverse impact on the character and appearance of the local landscape and this edge-of-village site which is contrary to policies RP5, RP7, RP20 and HOUS3 of the adopted Midlothian Local Plan.*
3. *On account of the scale and layout of the proposed development the proposal represents a low quality and unimaginative urban design solution, significantly at odds with the overriding character of this semi-rural edge-of-village location, which is contrary to the aims and objectives of the Scottish Government's 'Designing Streets' and 'Creating Places' policy documents and policies RP7 and RP20 of the adopted Midlothian Local Plan.*
4. *The proposed development would result in overlooking, and loss of amenity, to the private rear garden of the dwellinghouse at 1 Hadfast Road, which is contrary to policies RP20 and DP2 of the adopted Midlothian Local Plan.*

Dated 07 / 11 / 16



.....  
Joyce Learmonth  
Lead Officer – Major Developments and Enforcement  
Fairfield House, 8 Lothian Road, Dalkeith, EH22 3ZN



**REFUSED**  
**07.11.2016**  
**15/00952/DPP**

From a copy of the design made by or with the authority of the Council, the Council has been advised that the design is not in accordance with the requirements of the Planning Act 1990. The Council has therefore refused the application for planning permission.



**Site Section AA**



**Site Section BB**



**Site Section EE**



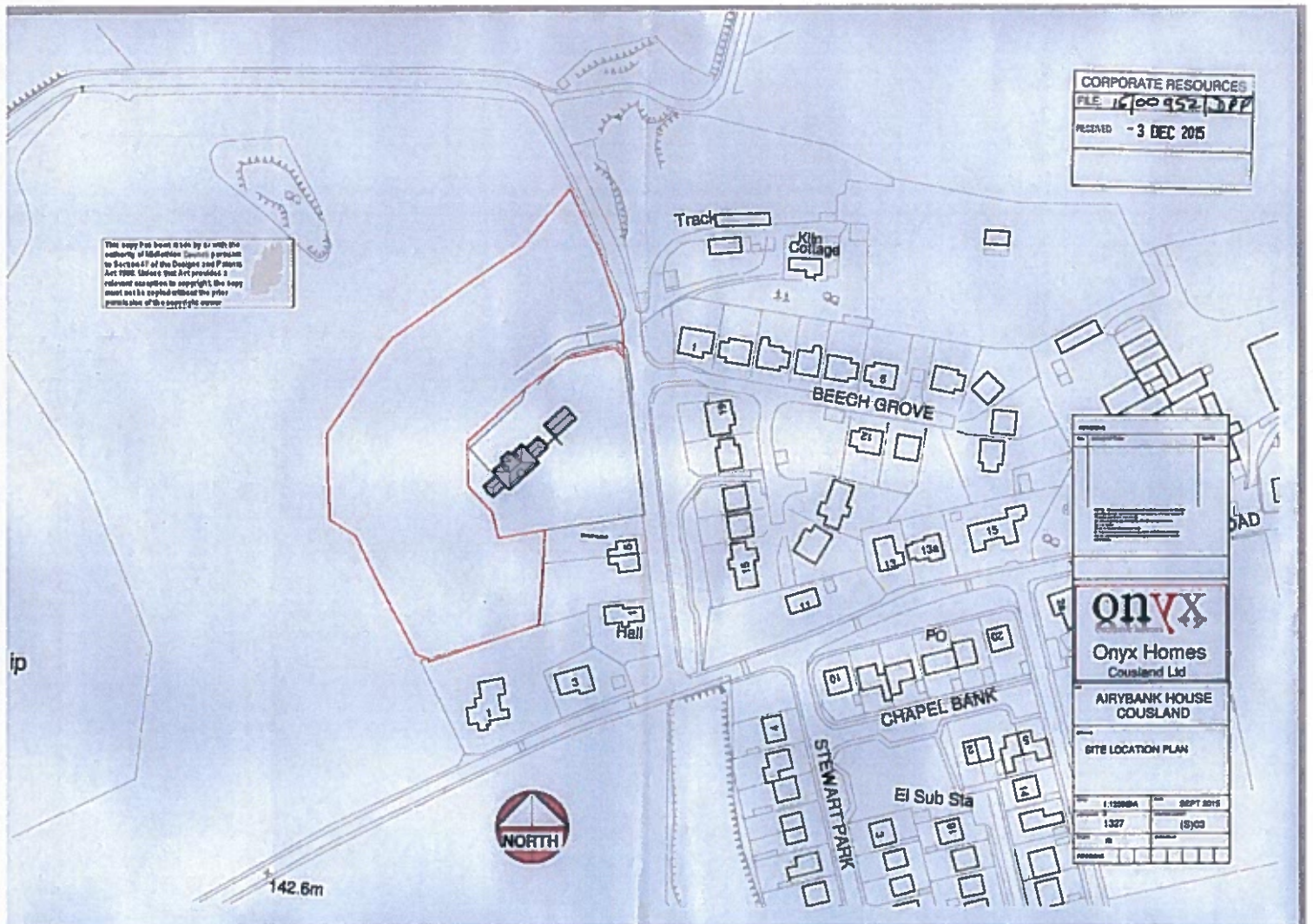
**Site Section DD**



**Site Section CC**

<p>onvix</p> <p>Onyx Homes</p> <p>Cousland Ltd</p> <p>AIRYBANK HOUSE</p> <p>COUSLAND</p> <p>PROPOSED SITE SECTIONS</p> <p>1:200 @ A1</p> <p>1327</p> <p>DEPT 3015</p> <p>(S)01</p> <p>A</p>	
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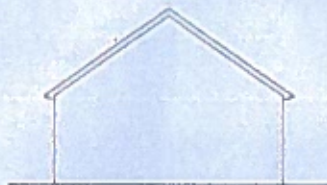
REFUSED  
07.11.2016  
15/00952/DPP



Front Elevation



Gable Elevation

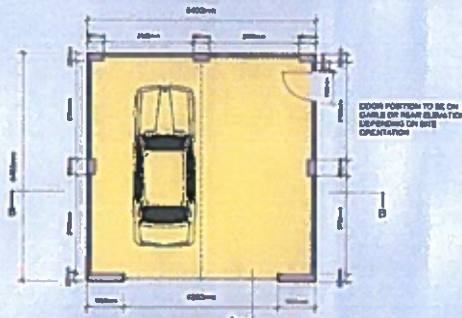


Rear Elevation

ROOF: INTERLOCKING CONCRETE TILES - CHARCOAL GREY  
WALLS: SELF COLOURED WHITE RENDER ON BLOCKWORK  
CLADDING: CEDAR TIMBER BOARDING  
WINDOWS & DOORS: DARK GREY UPVC  
STONE FEATURES: SMOOTH ASHLAR IN BUFF



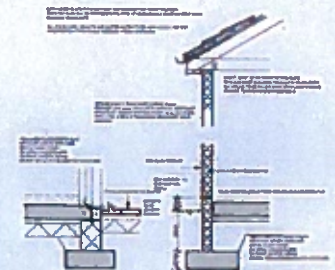
Roof Plan



Garage Plan

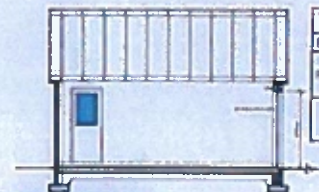


Gable Elevation

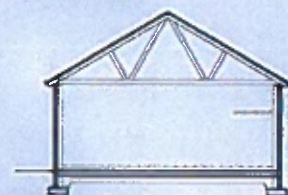


Threshold Detail 1:20

SECTION DETAIL 1:20



Section AA



Section BB

CORPORATE RESOURCES	
FILE:	15/00952/DPP
RECEIVED:	3 DEC 2015

PLANNING

**onyx**  
Onyx Homes

Cousland Ltd

AIRYBANK HOUSE  
COUSLAND

PROPOSED DETACHED  
GARAGE  
PLANS & ELEVATIONS

1:100@A3	Sept 2015
1327	(G)101
10	

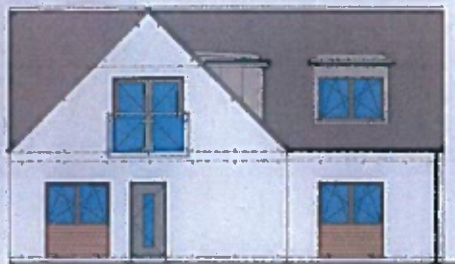
**Garage**  
Detached double garage - 37.9m<sup>2</sup>



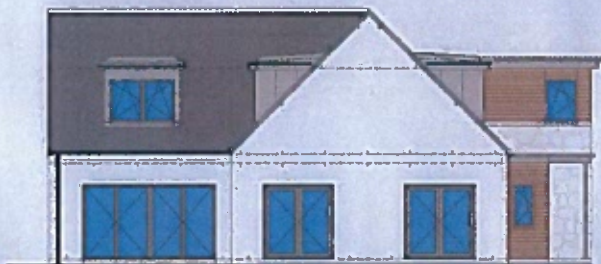
**REFUSED**  
07.11.2016  
15/00952/DPP



**Gable Elevation**



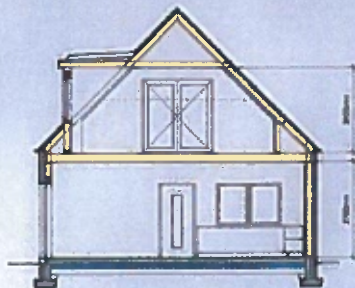
**Rear Elevation**



**Gable Elevation**



**Front Elevation**



**SECTION**



First Floor - 130.0m<sup>2</sup>  
Ground Floor - 95.0m<sup>2</sup>  
Total = 225.0m<sup>2</sup>  
Detached double garage - 33.5m<sup>2</sup>

**House Type X**

<b>ELECTRICAL KEY</b>	
1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100.	1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100.
<b>PLANNING</b>	
<b>onyx</b>	
Onyx Homes	
Cousland Ltd	
AIRYBANK HOUSE	
COUSLAND	
PROPOSED HOUSE TYPE X	
ELEVATIONS	
1. 1000A3	80PT 2015
1327	008W02
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REFUSED  
07.11.2016  
15/00952/DPP



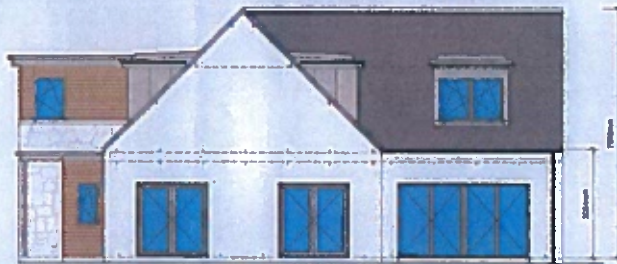
Rear Elevation



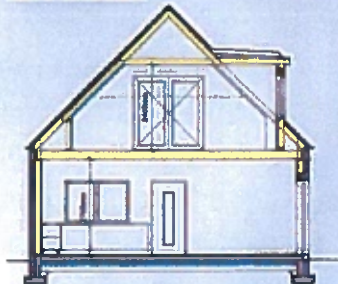
Gable Elevation



Front Elevation



Gable Elevation



SECTION

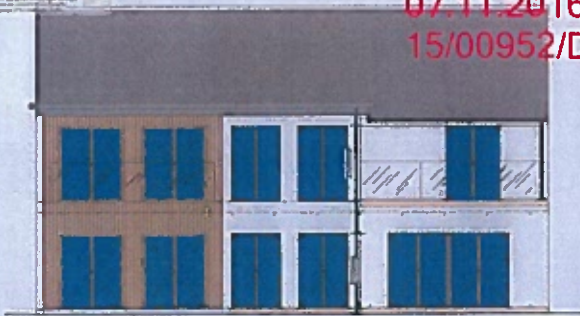
First Floor - 130.0m<sup>2</sup>  
Ground Floor - 66.0m<sup>2</sup>  
Total = 228.0m<sup>2</sup>  
Detached double garage - 33.6m<sup>2</sup>

**House Type X**  
(Handed)

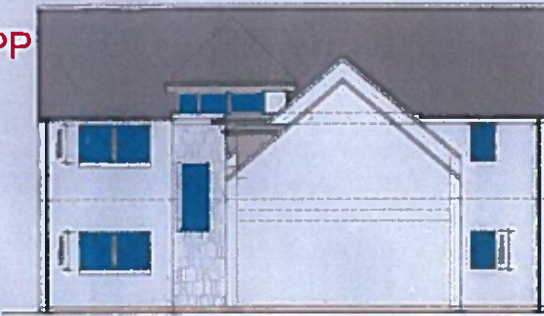
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100	100Amp 3 phase supply
CORPORATE RESOURCES	
FILE	15/00952/DPP
ISSUED	- 3 DEC 2015
PLANNING	
onyx	
Onyx Homes	
Cousland Ltd	
AIRYBANK HOUSE	
COUSLAND	
PROPOSED HOUSE TYPE X	
(Handed) ELEVATIONS	
1:100@A3	08PT 2015
1327	(X)BWD4
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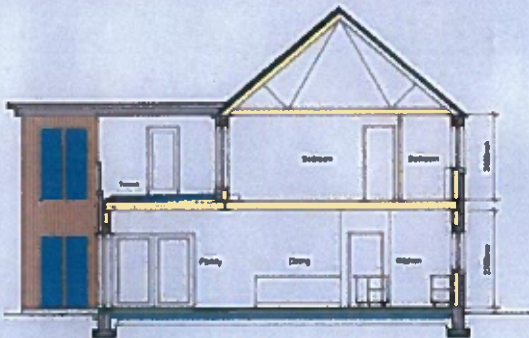
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15/00952/DPP



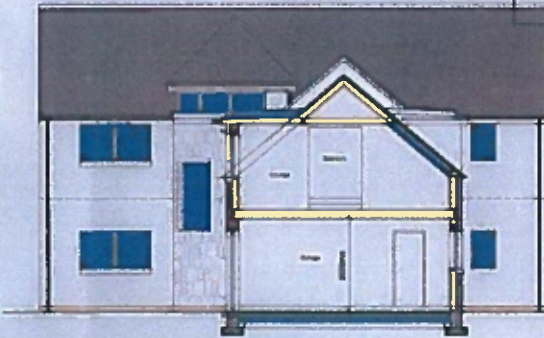
North Elevation



South Elevation



Section



South Section Elevation

**FINISHES**

ROOF - INTERLOCKING CONCRETE TILES - CHARCOAL GREY  
WALLS - SELF COLOURED WHITE RENDER  
CLADDING - CEDAR TRIMMER BOARDING  
WINDOWS - DARK GREY UPVC  
STONE FEATURES - SMOOTH ANGLAR IN BUFF

Ground Floor - 172.8m<sup>2</sup>  
First Floor - 154.7m<sup>2</sup>  
Total = 327.5m<sup>2</sup>  
Garage = 35.3m<sup>2</sup>

**House Type Y**

CORPORATE RESOURCES  
FILE 15/00952/DPP  
RECEIVED - 3 DEC 2015

PLANNING	
onvx Exclusive Homes	
Onyx Homes Cousland Ltd	
AIRYBANK HOUSE COUSLAND	
HOUSE TYPE Y ELEVATIONS & SECTIONS	
1-100@A3	Sept 2015
1327	(Y)BWD4
id	
Approved	

**REFUSED**  
**07.11.2016**  
**15/00952/DPP**

**FINISHES**

ROOF: INTERLOCKING CONCRETE TILES - CHARCOAL GREY  
 WALLS: SLP COLOURED WHITE RENDER  
 CLADDING: CEDAR THICKER BOARDING  
 WINDOWS: DARK GREY UPVC  
 STONE FEATURES: SMOOTH ASHLAR IN BUFP



**East Elevation**



**West Elevation**

Ground Floor - 172.6m<sup>2</sup>  
 First Floor - 154.7m<sup>2</sup>  
 Total - 327.3m<sup>2</sup>  
 Garage - 35.3m<sup>2</sup>

**House Type Y**

<b>CORPORATE RESOURCES</b>	
FILE: 15/00952/DPP	
REF: - 3 DEC 2015	

**PLANNING**

**onyx**  
 HOMES

Onyx Homes  
 Cousland Ltd

AIRYBANK HOUSE  
 COUSLAND

HOUSE TYPE Y  
 ELEVATIONS

1:1000 (A3)	Sept 2016
1327	(YJBW03)



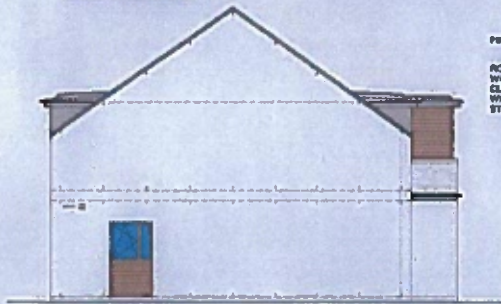
REFUSED  
07.11.2016  
15/00952/DPP



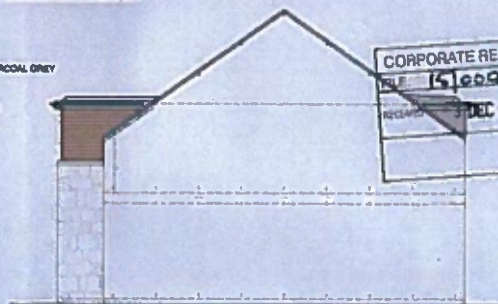
Rear Elevation



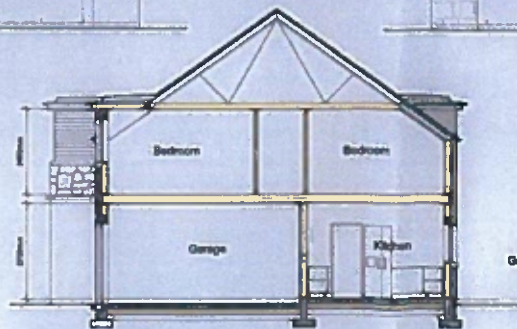
Front Elevation



Gable Elevation



Gable Elevation



SECTION

First Floor - 124.8m<sup>2</sup>  
Ground Floor - 91.8m<sup>2</sup>  
Total = 216.6m<sup>2</sup>  
Garage = 33.7m<sup>2</sup>

House Type Z

ELECTRICAL KEY

- 1. 100mm x 100mm x 100mm
- 2. 100mm x 100mm x 100mm
- 3. 100mm x 100mm x 100mm
- 4. 100mm x 100mm x 100mm
- 5. 100mm x 100mm x 100mm
- 6. 100mm x 100mm x 100mm
- 7. 100mm x 100mm x 100mm
- 8. 100mm x 100mm x 100mm
- 9. 100mm x 100mm x 100mm
- 10. 100mm x 100mm x 100mm
- 11. 100mm x 100mm x 100mm
- 12. 100mm x 100mm x 100mm
- 13. 100mm x 100mm x 100mm
- 14. 100mm x 100mm x 100mm
- 15. 100mm x 100mm x 100mm
- 16. 100mm x 100mm x 100mm
- 17. 100mm x 100mm x 100mm
- 18. 100mm x 100mm x 100mm
- 19. 100mm x 100mm x 100mm
- 20. 100mm x 100mm x 100mm



PLANNING

onyx  
exclusive homes

Onyx Homes  
Cousland Ltd

AIRYBANK HOUSE  
COUSLAND

PROPOSED HOUSE TYPE Z  
SECTION & ELEVATIONS

1100041	11/11/2016
1327	(ZB1W02)

There is a lot of talk about the importance of the environment, but it is not always clear what this means in practice. The environment is a complex and multifaceted concept, and it is important to understand its various dimensions. This article explores the different aspects of the environment, from the natural world to the built environment, and discusses the challenges we face in managing it sustainably.



**Abstract**

ROOF INTERLOCKING CONCRETE TILES CHARCOAL GREY  
WALLS SELF COLOURED WHITE RENDER  
CLADDING CEDAR TIMBER BOARDING  
WINDOWS DARK GREY UPVC  
STONE FEATURES SMOOTH ASHLAR IN BLUFF



First Floor - 124.8m<sup>2</sup>  
Ground Floor - 91.8m<sup>2</sup>  
Total = 216.4m<sup>2</sup>  
Garage = 33.7m<sup>2</sup>

## House Type Z

[illegible]



**Notice of Review: Land at Hardengreen House, Dalhousie Road, Dalkeith****Determination Report**

Report by Ian Johnson, Head of Communities and Economy

**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 nursery building and formation of car park at land at Hardengreen House, Dalhousie Road, Dalkeith.

**2 Background**

- 2.1 Planning application 16/00758/DPP for the erection of nursery building and formation of car park at land at Hardengreen House, Dalhousie Road, Dalkeith was refused planning permission on 10 January 2017; 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, issued on 10 January 2017 (Appendix D); and
  - A copy of the relevant drawings/plans (Appendix E).
- 3.2 The full planning application case file and the development plan policies referred to in the case officer's report can be viewed online via [www.midlothian.gov.uk](http://www.midlothian.gov.uk)

**4 Procedures**

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

- Have scheduled a site visit for Monday 6 March 2017; and
  - Have determined to progress the review by way of a written submissions.
- 4.2 The case officer's report identified that one consultation responses and two representations have been received. As part of the review process the interested parties were notified of the review. No additional comments have been received. All the comments can be viewed online on the electronic planning application case file via [www.midlothian.gov.uk](http://www.midlothian.gov.uk)
- 4.3 The next stage in the process is for the LRB to determine the review in accordance with the agreed procedure:
- Identify any provisions of the development plan which are relevant to the decision;
  - Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies;
  - Consider whether or not the proposal accords with the development plan;
  - Identify and consider relevant material considerations for and against the proposal;
  - Assess whether these considerations warrant a departure from the development plan; and
  - State the reason/s for the decision and state any conditions required if planning permission is granted.
- 4.4 In reaching a decision on the case the planning advisor can advise on appropriate phraseology and on appropriate planning reasons for reaching a decision.
- 4.5 Following the determination of the review the planning advisor will prepare a decision notice for issuing through the Chair of the LRB. A copy of the decision notice will be reported to the next LRB for noting.
- 4.6 A copy of the LRB decision will be placed on the planning authority's planning register and made available for inspection online.

## **5 Conditions**

- 5.1 In accordance with the procedures agreed by the LRB at its meeting of 19 June 2012 and 26 November 2013, and without prejudice to the determination of the review, the following conditions have been prepared for the consideration of the LRB if it is minded to uphold the review and grant planning permission.
1. Development shall not begin until the details of existing trees to be retained, removed, protected during development and in the case of damage, restored been submitted to and approved in writing by the Planning Authority. Development shall thereafter comply with the approved details unless otherwise approved in writing by the Planning Authority.
  2. Development shall not begin until temporary protective fencing is erected around all trees on the site to be retained. The fencing

shall be positioned in circumference to the trunk at a distance from it which correlates to the trees canopy unless otherwise agreed in writing with the local planning authority. No excavation, soil removal or storage shall take place within the enclosed area.

***Reason for conditions 1 and 2:*** To ensure the development does not result in the loss or damage of a tree which merits retention in accordance with policies RP5 of the Midlothian Local Plan; policy ENV11 of the Midlothian Local Development Plan; and national planning guidance and advice.

3. Prior to any external finish materials, including door and windows, being applied to the building; details, including samples if requested, of the finish materials shall be submitted to and approved in writing by the Planning Authority. Development shall comply with the approved details unless otherwise approved in writing by the Planning Authority.

***Reason:*** To safeguard the character and setting of the listed building.

## **6 Recommendations**

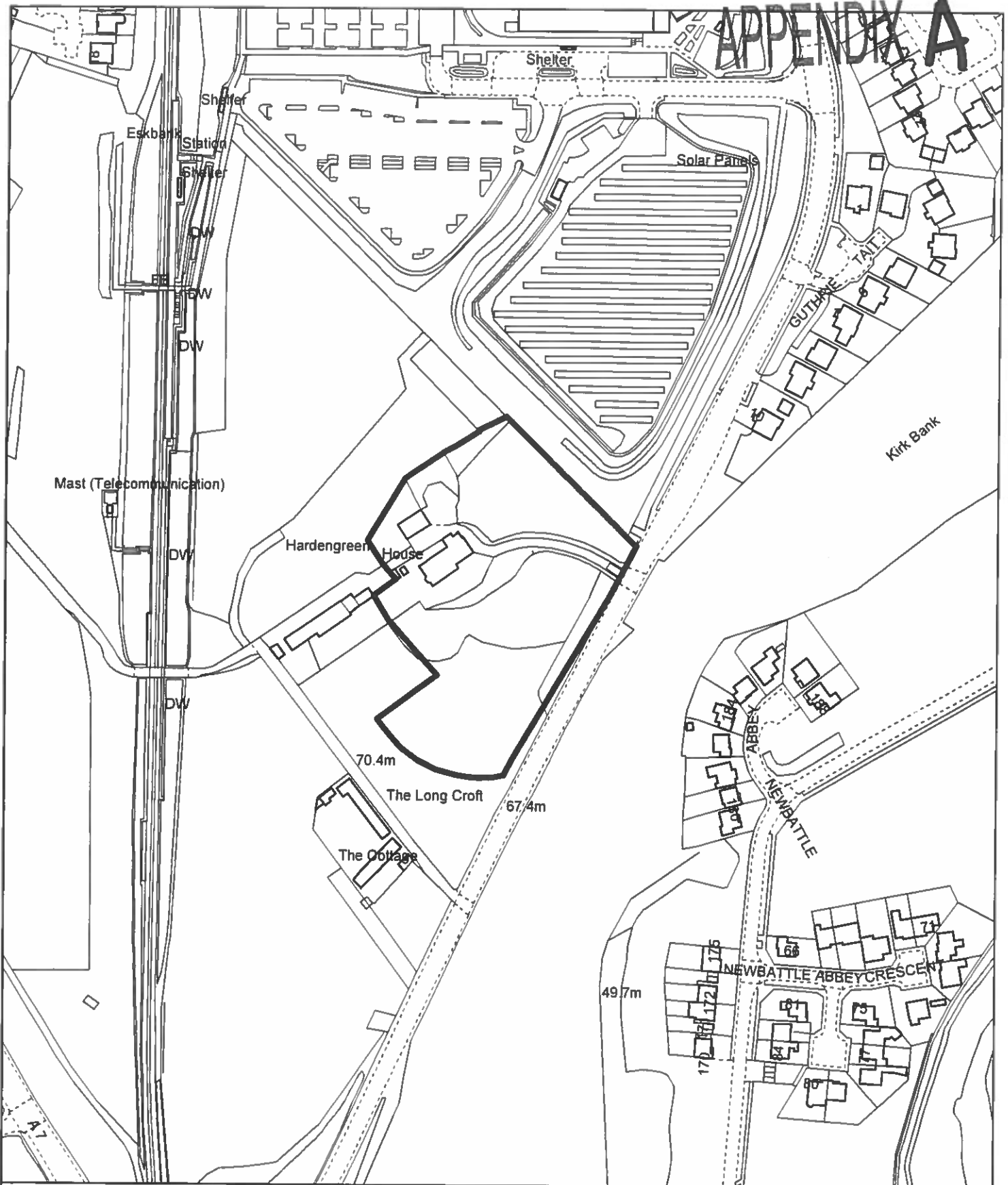
- 6.1 It is recommended that the LRB:
  - a) determine the review; and
  - b) the planning advisor draft and issue the decision of the LRB through the Chair



**Date:** 21 February 2017

**Report Contact:** Peter Arnsdorf, Planning Manager (LRB Advisor)  
peter.arnsdorf@midlothian.gov.uk

**Tel No:** 0131 271 3310

**Background Papers:** Planning application 16/00758/DPP available for inspection online.



 <p><b>Education, Economy &amp; Communities</b> Midlothian Council Fairfield House 8 Lothian Road Dalkeith EH22 3AA</p>	<p><b>Erection of nursery building and formation of car park at Land At Hardengreen House, Dalhousie Road, Dalkeith</b></p>	
<p>Reproduced from the Ordnance Survey map with the permission of the controller of Her Majesty's Stationary Office. Crown copyright reserved. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings</p> <p>Midlothian Council Licence No. 100023416 (2016)</p>	<p>File No. 16/00758/DPP</p> <p>Scale: 1:2,500</p>	<p>N</p> 

Midlothian



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 100029726-003

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:	HALVORSEN ARCHITECTS		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Gail	Building Name:	Mountskip House
Last Name: *	Halvorsen	Building Number:	
Telephone Number: *	01875821266	Address 1 (Street): *	Mountskip House
Extension Number:		Address 2:	
Mobile Number:	07956 247858	Town/City: *	Gorebridge
Fax Number:		Country: *	United Kingdom
		Postcode: *	EH23 4NW
Email Address: *	gail@halvorsenarchitects.co.uk		

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

☐ Individual ☒ Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	Mrs	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	
First Name: *	Christina	Building Number:	127
Last Name: *	Walters	Address 1 (Street): *	High Street
Company/Organisation	GENESIS (J&T) LIMITED	Address 2:	
Telephone Number: *		Town/City: *	Dalkeith
Extension Number:		Country: *	Midlothian
Mobile Number:		Postcode: *	EH22 1BE
Fax Number:			
Email Address: *	genesis.scotland@yahoo.co.uk		

## Site Address Details

Planning Authority:	Midlothian Council
Full postal address of the site (including postcode where available):	
Address 1:	HARDENGREEN HOUSE
Address 2:	DALHOUSIE ROAD
Address 3:	ESKBANK
Address 4:	
Address 5:	
Town/City/Settlement:	DALKEITH
Post Code:	EH22 3LF

Please identify/describe the location of the site or sites

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Northing	665729	Easting	332497
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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)

Two storey detached extension to Happy days nursery at rear of Hardengreen House on site of single storey garages / workshop that is to be demolished.

## Type of Application

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

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

What does your review relate to? \*

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

## Statement of reasons for seeking review

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

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

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

Please refer to accompanying document - Reasons for Review Statement

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

☐ Yes ☒ No

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



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

Reasons for Review Statement Site Plan Revision A: Drg. no. HGWN 103A South Elevation Revision A: Drg. no. HGWN 106A Photomontage HGWN 115 Rev. A Photomontage HGWN 116 Rev. A Photomontage HGWN 117 Rev. A Photomontage HGWN 118 Rev. A

## Application Details

Please provide details of the application and decision.

What is the application reference number? \*

16/00758/DPP

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

09/11/2016

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

10/01/2017

## 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

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

As the site is a working pre-school nursery it would be necessary to contact the nursery prior to the visit to let them know when the inspection will take place.



## 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: Mrs Gail Halvorsen

Declaration Date: 29/01/2017



## **Reasons for notice of Review - Woodland nursery, Eskbank**

**Points raised in DPP report of 18/11/2016 addressed below:**

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### Site description

Although the front elevation of Hardengreen House is relatively unspoilt, the rear of the building has been extended on so many occasions that the original house is barely visible. The DPP report claims that

“the original three bay Georgian villa is still clearly discernible”.

However this is not the case at the back of the house, where most of the 19th century extensions are (photo below) and where the new building is proposed to be sited.



Apart from Hardengreen cottage next door, the East side of the B6392 Dalhousie Road is primarily educational, retail and light industrial - Edinburgh College (Midlothian Campus) is to the North and then Hardengreen Business Park.

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### Retrospective planning

The play structures, animal enclosures and fencing referred to have all now had retrospective planning permission applied for. Planning officer, Graeme King, has indicated that they will all be given permission.

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## Representations

As stated in the DPP report “The local resident has no objection in principle to the building and welcomes the design and finish material”.

The objection on the grounds of the scale of the building and its impact on the setting will be dealt with later.

No trees covered by a TPO will be removed.

Similarly the second objection, which comes from the Architectural Heritage Society of Scotland, states that “we do not object to the general style or plan of the building”. They do object to the use of timber as a finish material for the roof and to the detailed design of the roof, citing Darlington Primary School as an example of a failed roof.

Firstly I would have thought that this is a building standards matter, not a planning one. Secondly the AHSS show little knowledge of the subject. The new building will be built within industry tolerances and in consultation with the Centre for Wood Science & Technology, Edinburgh Napier University. Peter Wilson, a former director of the Centre for Wood Science & Technology, who now runs Timber Research initiatives Ltd. says that:

“Darlington Primary School had a timber clad roof (sweet chestnut) roof, but there were design, detailing and construction quality issues that had nothing to do with the quality and performance of the timber products. The angle of some of the roof planes there, for example, was too shallow to prevent capillary action from driving rain, which is not the case with the Hardengreen nursery design”.

A better example to consider is the award-winning community centre on the Isle of Raasay by Dualchas Architects. It is clad entirely in Scottish larch. It was built in 2003 and has had no problems despite the inhospitable climate. (See photo below).

The Architectural Heritage Society of Scotland also express concerns about the stairs and balconies. As stated in the design statement, Genesis (J&T) Ltd., trading as Happy Days, has need for additional space as a result of an ever-increasing waiting list. To house the number of children



they would like, the floor plan of a comparable single storey building would have taken up too much of the garden which Happy Days uses to the full. Happy Days children spend a lot of time outdoors in all weathers. The balconies were part of the client's brief so that the younger children could spend as much time as possible in the open air.

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## Policy **RP2: Protection of the Green Belt**

The proposed building is located in the garden of Hardengreen House and not on ground that could be considered agricultural.

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## Policy **RP5: Woodland Trees and Hedges**

Most of the ground that is to be built on is the site of an existing garage so no valuable natural amenity or landscape will be lost. No trees covered by a TPO will be removed.

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## Policy **RP24: Listed Buildings**

As stated in the DPP report, Historic Environment Scotland's Extensions guidance note is the document relevant to this proposal. The report identifies *Assertive contrast* as the most appropriate approach, whereby the new addition is to be considered as a more or less equal partner to the old. The combination of the new and old should be of greater lasting value than either on its own.

The DPP report claims:

"The proposed design is compromised by its close proximity to the existing building and woodland".

But it is the proposed building's very proximity to the existing building that makes it an *Assertive contrast*. The new "Woodland nursery " has been designed in the way that it has because of its location on the edge of a wooded area. Happy Days nursery conducts many activities in the woods, including Forest Families and bushcraft, and requested a building that reflected this.

Rather than being "compromised" by the woodland the proposed building is inspired by it.

The DPP report claims:

"The proximity to the existing building and woodland reduces the clear views of the new building and means that the contrast between the open and regularly patterned principal elevation and the enclosed and irregularly patterned remaining elevations will be obscured".

Again, the planners are missing the point. The building is meant to be in the trees, partially hidden on one side. The one open, fully glazed elevation is the one with the best aspect overlooking views. (Happy Days is in the process of purchasing the adjoining land and will open up this aspect more once the purchase is completed). The 'enclosed' elevations - relatively plain facades of timber with a few feature windows - are deliberately simple because the trees themselves and their shadows will bring the elevations to life. The feature windows are there for the children to rediscover and sit amongst the trees (several being large bays with window seats).

Although the design is meant to contrast with the existing house it does refer to the design of Hardengreen House. The DPP report says that:

"The proposed design does not take any design cues from the profile, massing, bay rhythm, scale or proportion of either the original Georgian villa or the prominent 19th century additions."

I would disagree, pointing out the three repeating bays actually relate to the original Georgian house - echoing the angle of the gable end and having a similar end profile as can be seen in the photomontage below.



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## Location drawings

The DPP report is correct in identifying two discrepancies in the original submitted drawings. Contrary to the planners' assumption the proposed new nursery is shown too near Hardengreen House on the site plan. Please find a revised site plan attached: drawing number 103 A, showing the correct position, along with the amended 3D montages .

Please also find the revised South elevation attached: drawing number 106 A, showing the corner of the new building previously omitted.

## Further points

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### Transport

House was chosen as the location for the new Happy Days nursery partly because of its proximity to Eskbank station on the new Borders Railway - a five minute walk away. The railway was introduced to stimulate economic growth in the areas it serves. Happy Days nursery is an example of a business wanting to expand to meet the growing demand for places.

As can be seen from the numerous awards that Happy Days has won (see appendix 1) it has impressive sustainable credentials. A lot of their employees and users arrive by train.



## Appendix 1

### **Awards for Happy Days nurseries:**

- NMT (Nursery Management Today) Best Outdoor Learning Environment UK 2014
- NMT Green Nursery Award UK 2015
- NMT Personality of the Year UK 2015
- NMT Best Outdoor Learning Environment UK 2016
- NMT Lifetime Achievement Award 2016
- Midlothian and East Lothian Chamber of Commerce, Family Business of the Year 2016
- Green Flag award - Happy Days, Dalkeith 2014 -
- Green Flag award - Happy Days, Hardengreen 2016 -

## Appendix 2

### **Care Inspectorate support:**

"I fully support the changes you propose to both nurseries, and look forward to seeing the impact of these changes in action".

- Isobel Reilly, Care Inspectorate officer





**MIDLOTHIAN COUNCIL****DEVELOPMENT MANAGEMENT  
PLANNING APPLICATION DELEGATED WORKSHEET:****Case Officer:** Graeme King **Site Visit Date:** 18/11/2016**Planning Application Reference:** 16/00758/DPP**Site Address:** Land at Hardengreen House, Dalhousie Road, Dalkeith

**Site Description:** Hardengreen House is a large two storey traditional stone-built villa situated to the South of the Edinburgh College campus at the Southern edge of Eskbank. The building dates originally from 1796 and was substantially extended circa 1830. The walls are stone, the roof is slate and the doors and windows are timber framed. There is a modern single storey conservatory attached to the South West elevation of the building. The building is a Category C Listed Building and was originally built as a farmhouse. It has been used as a single dwellinghouse for the majority of its history; in 2014 the use of the building was changed to a children's nursery.

The building is enclosed by a group of mature trees (covered by a TPO) to the North and East. Various individual trees to the South and West of the building are also covered by the TPO.

There is a large single storey garage situated to the rear of the building; two sheds to the side of the building; and a stable building South of the principal elevation of the building. There is an existing six bay car park at the front of the building and a ten bay car park at the rear. These structures and car parks all have planning permission.

There are various large timber play structures situated within the woodland to the North East of the building. There is a shed located in front of the building, approximately 15m South East of the principal elevation. There is an animal enclosure located approximately 20m South West of the building. There are 1.8m high timber fences along part of the South Eastern boundary of the site and the entire North Eastern boundary of the site. These structures do not have planning permission.

**Proposed Development:** Erection of nursery building and formation of car park

**Proposed Development Details:** It is proposed to erect a two storey detached building to the rear of the existing listed building. The proposed new building is to be 5.3m North West of the rear elevation. The proposed building is 16.9m wide, 12.4m deep, 5.8m tall to the eaves and 8.8m tall to the ridge. The building form comprises three blocks each with a pitched roof; creating a principal elevation with three gables. The South West elevation is entirely glazed; the remaining elevations are primarily solid with interest being created by irregular patterns of windows in different shapes and forms. The walls and roof of the building will be clad with timber cladding stained mid-brown.

An additional three car parking spaces will be formed adjacent to the existing car park at the rear of the building. The existing oil tank to the rear of the garage will be relocated to a site West of the proposed building.

To provide space for the new building the existing garage to the rear of the building will be demolished; no form of planning consent is required for the demolition of the garage.

**Background (Previous Applications, Supporting Documents, Development Briefs):** 14/00554/DPP – Change of use from dwellinghouse (class 9) to children's nursery (class 10); formation of car parking areas; and alterations to existing driveway – Consent with conditions

14/00555/LBC – Internal alterations – withdrawn

15/00047/DPP - Alterations to boundary wall to widen existing vehicular access; formation of car parking and associated roads – Consent with conditions

15/00048/LBC - Installation of access ramp; alterations to boundary wall to widen existing vehicular access; and internal alterations associated with change of use from dwellinghouse to nursery school – Consent with conditions

15/00505/DPP – Erection of sheds; formation of car parking and new entrance door; installation of roof vents and erection of fence (part retrospective) - withdrawn

15/00506/LBC - Installation of protective glazing system and protective stair barrier; formation of entrance door, roof vents and internal alterations – Consent with conditions

16/00046/DPP - Erection of shed and stable building; formation of car parking and new entrance door; installation of roof vents and erection of fence (part retrospective) – Consent with conditions

16/00759/LBC - Erection of nursery building and formation of car park – withdrawn (This application was submitted at the same time as the current application. The proposal relates to a detached building and does not include any alterations to the listed building, therefore listed building consent is not required and accordingly the application was withdrawn.)

**Consultations:** The **Coal Authority** has no objection to the proposed development.

**Representations:** Two objections have been received; one from a local resident and one from the Architectural Heritage Society of Scotland. The local resident has no objection in principle to the building and welcomes the design and finish material; the objection is on the grounds of the scale of the building and its impact on the setting of the listed building. The objection also states that it is unclear whether any trees would be removed.

The Architectural Heritage Society of Scotland objects due to the use of timber as a finish material for the roof and due to the design of the roof. The objection suggests that a timber roof is unlikely to be watertight and is likely to cause the building to fail in the longer term. The objection also states that the triple gable profile will be out of character with the listed building.

**Relevant Planning Policies:** Policy **RP1: Protection of the Countryside** states that development in the countryside will only be permitted if: it is required for the furtherance of agriculture, including farm related diversification, horticulture, forestry, countryside recreation, tourism, or waste disposal (where this is shown to be essential as a method of site restoration); it is within a designated non-conforming use in the Green Belt; or it accords with policy DP1. For countryside areas that are also Green Belt, policy RP2 takes precedence.

Policy **RP2: Protection of the Green Belt** advises that Development will not be permitted in the Green Belt except for proposals that;

- A. are necessary to agriculture, horticulture or forestry; or
- B. are for opportunities for access to the open countryside, outdoor sport or outdoor recreation which reduce the need to travel further afield; or
- C. are related to other uses appropriate to the rural character of the area; or
- D. are in accord with policy RP3, ECON1, ECON7 or are permitted through policy DP1.

Any development proposal will be required to show that it does not conflict with the overall objectives of the Green Belt to:

- Maintain the identity of the city and Midlothian towns by clearly establishing their physical boundaries and preventing coalescence.
- Provide countryside for recreation and institutional purposes of various kinds.
- Maintain the landscape setting of the city and Midlothian towns.

Policy **RP5: Woodland Trees and Hedges** does not permit development that would lead to the direct or indirect loss of woodland which has a particular value in terms of amenity, nature conservation, recreation, landscape character or shelter.

Policy **RP24: Listed Buildings** states that development will not be permitted where it would adversely affect the character or appearance of a Listed Building, or its setting. New development within the curtilage of a listed building will only be permitted where it complements the special architectural or historic character of the listed building.

There are two **Historic Environment Scotland Managing Change in the Historic Environment: Guidance Notes** that could be considered to relate to an application of this type. These are Extensions and New Design in Historic Settings.

**Planning Issues:** The main planning issue to be considered in determining this application is whether the proposal complies with development plan policies unless

material planning considerations indicate otherwise. Any representations and consultation responses received are material considerations.

The Design Statement submitted with the application states the nursery at Hardengreen House is at capacity and has a long waiting list. The new building will cater for 16 0-2 year olds, 10 2-3 year olds and 12 3-5 year olds; an additional 15 members of staff will be required. An extension to Hardengreen House was considered but the option was not pursued as it was felt that the character of the building would be overwhelmed and the circulation space to the rear of the house would be disrupted. A single storey building was not pursued as it would not provide the desired accommodation space and would be more costly to build.

As noted above there are two Historic Environment Scotland guidance notes that could be considered as being relevant to this proposal. The New Design in Historic Settings guidance primarily relates to the incorporation of new designs within historic urban areas and within historic landscapes. While the current proposal is for a new design within a historic setting, i.e. the curtilage of a listed building; the proximity of the proposed building to the listed building means that the guidance contained within the Extensions guidance note is more applicable to the assessment of the application.

The Extensions guidance note states that new work must acknowledge the old and identifies five possible approaches for this:

*Restoration*, whereby alterations seek to restore the appearance of a building to an optimum point in its history.

*Replication*, whereby additions seek to accurately match the design, dimensions (both overall and in detail) and finish materials of the building.

*Complementary additions*, whereby additions take the profile, massing, bay rhythm, scale and proportion of the existing building as the design cues. An approach such as this would not seek to replicate the detail of the original design.

*Deferential contrast*, whereby the new addition becomes a self-effacing backdrop to the old.

*Assertive contrast*, whereby the new additions is to be considered as a more or less equal partner to the old. The combination of the new and old should be of greater lasting value than either on its own.

The proposed building is a contemporary design finished in different materials to the original building; it is clear that the Restoration and Replication approaches are not relevant in this instance.

Hardengreen House has been significantly altered through its history; however the original three bay Georgian villa is still clearly discernible, in particular on the front elevation of the building. The 19<sup>th</sup> century additions introduced a number of different building lines and roof designs. The proposed design does not take any design cues from the profile, massing, bay rhythm, scale or proportion of either the original

Georgian villa or the prominent 19<sup>th</sup> century additions. A visualisation of the South West elevation of the house and new building states that the glazing pattern of the principal elevation of the new building picks up the rhythm of the glazing on the modern conservatory; as the modern conservatory is an unsympathetic addition that detracts from the character of the building it is unclear why this design cue has been focussed upon. The proposed new building cannot be considered to be a complementary addition to the listed building and its setting.

The new building is a bold contemporary design which by virtue of the contrast between the regular pattern of the glazed principal elevation and the irregularly patterned remaining elevations; staggered plan form; and its finish materials, emphasises its modernity. The building seeks to make a significant statement and cannot be considered to be a self-effacing deferential contrast to the listed building.

By a process of elimination the one remaining approach that could be used to justify the scheme is that of assertive contrast. As noted above the new building seeks to make a significant statement; however for an application to be supported on the grounds of an assertive contrast the combination of new and old should have a greater lasting value than either on its own. The proposed design is compromised by its close proximity to the existing building and woodland; and its location at the rear of the building. The proximity to the existing building and woodland reduces the clear views of the new building and means that the contrast between the open and regularly patterned principal elevation and the enclosed and irregularly patterned remaining elevations will be obscured. The design of the new building merits a prominent location that will enhance the views of its contrasting elevations and allow the occupants to benefit from views out from its principal elevation. The location of the new building appears to have been chosen primarily on the grounds of convenience; the garage plot to the rear was already developed and could be re-developed with minimal disruption to the existing nursery operations.

While the plot could be argued to be in a subordinate location in relation to the existing house its location significantly hampers the prospect of the proposed building realising its full potential. The chosen location to the rear of the building results in a proposal that seeks to erect an assertive building in a self-effacing location; the combination of the design and the location results in a proposal that is neither a deferential contrast nor an assertive contrast. The proposed building significantly detracts from the character and setting of the listed building; while at the same time the proximity of the listed building creates a poor setting for the new building thereby significantly diminishing its character.

The principle of extending the car park at the rear of the building is acceptable.

The building location has been assessed on the basis of the location shown on the site plan submitted; this location agrees with the location shown in the various visualisations submitted with the application. The proposed East and West elevations show the building in a different location with greater separation (8.4m from the main rear elevation rather than the 5.3m shown on the site plan) between the existing building and the proposed building. While it is assumed by the Planning Authority that the incorrect location shown on the drawings is a drafting error; it does have the unfortunate side-effect of suggesting that the proposed building will have

less impact on the setting of the listed building than the assumed correct location. Furthermore the existing and proposed South elevation drawing, showing the relationship of the new building to the principal elevation, suggests that only a small portion of the roof of the new building will be visible in views of the front of Hardengreen House; comparison with the site plan and the proposed North elevation drawing indicates that a 2.6m wide portion of the building will be visible at the left hand side of the principal elevation view of Hardengreen House.

While the design and location of the proposed building are unacceptable it is possible that an amended design in an alternative location could be acceptable. During a telephone conversation between the case officer and the applicant's agent the agent indicated that her preferred option was to continue with the current application and seek to gain consent via the Local Review Body.

During the site visit a number of structures erected without planning permission were noted by the case officer; these structures are referred to in the site description above. The applicant's agent will be informed of these and advised to submit a retrospective application.

**Recommendation:** Refuse Listed Building Consent

**Reasons for refusal:**

1. By virtue of its design and location the nursery building will have a detrimental impact on the character and setting of a listed building. The proposal is therefore contrary to policy RP24 of the Midlothian Local Plan.
2. The proposed East, West and South elevation drawings do not correspond with the building location shown on the proposed site plan.



## Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

**Reg. No. 16/00758/DPP**

HALVORSEN ARCHITECTS  
Mountskip House  
Gorebridge  
EH23 4NW

Midlothian Council, as Planning Authority, having considered the application by Mrs Christina Walters, 127 High Street, Dalkeith, EH22 1BE, which was registered on 14 November 2016 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

**Erection of nursery building and formation of car park at Land At Hardengreen House, Dalhousie Road, Dalkeith**

in accordance with the application and the following plans:

<u>Drawing Description.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	HGWN 101 1:1250	14.11.2016
Site Plan	HGWN 102 1:500	14.11.2016
Site Plan	HGWN 103 1:500	14.11.2016
Proposed floor plan	HGWN 104 1:100	14.11.2016
Proposed floor plan	HGWN 105 1:100	14.11.2016
Roof plan	HGWN 106 1:100	14.11.2016
Existing elevations	HGWN 107 1:100	14.11.2016
Proposed elevations	HGWN 108 1:100	14.11.2016
Existing elevations	HGWN 109 1:100	14.11.2016
Proposed elevations	HGWN 110 1:100	14.11.2016
Proposed elevations	HGWN 111 1:100	14.11.2016
Elevations	HGWN 112 1:100	14.11.2016
Existing elevations	HGWN 113 1:100	14.11.2016
Proposed elevations	HGWN 114 1:100	14.11.2016
Illustration/Photograph	HGWN 115	14.11.2016
Illustration/Photograph	HGWN 116	14.11.2016
Illustration/Photograph	HGWN 118	14.11.2016
Illustration/Photograph	HGWN 118	14.11.2016
Design Statement		14.11.2016
Access Statement		14.11.2016
Coal Mining Risk Assessment		14.11.2016

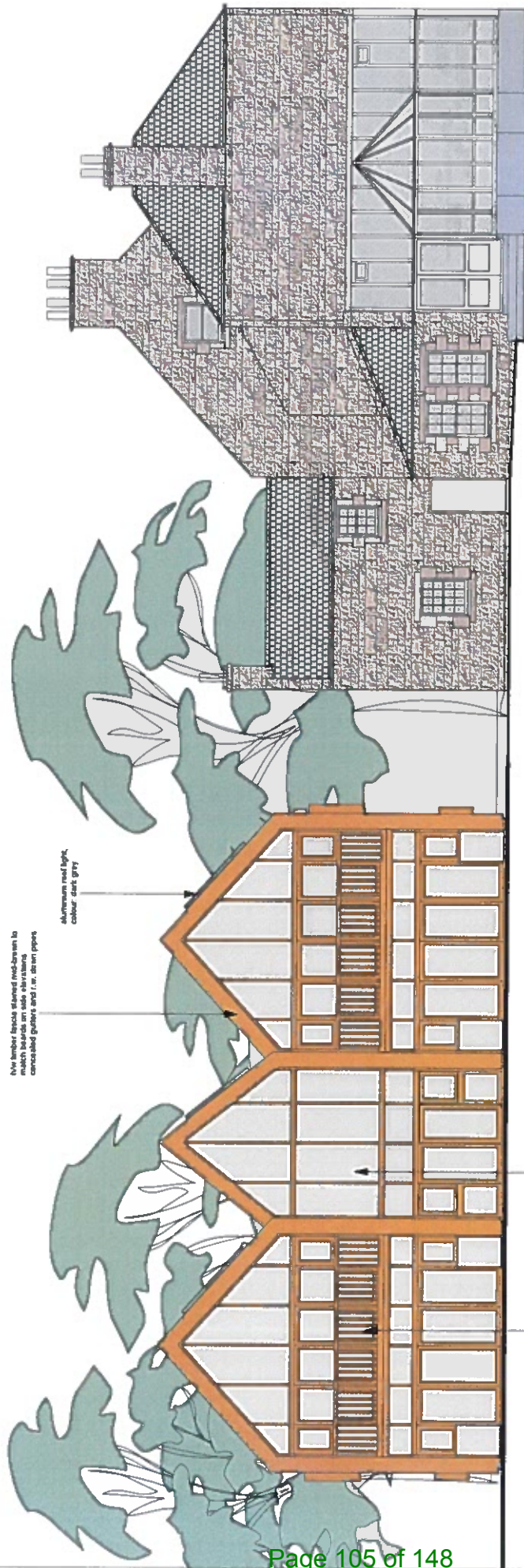
The reasons for the Council's decision are set out below:

1. *By virtue of its design and location the proposed nursery building will have a significant detrimental impact on the character and setting of a listed building. The proposal is therefore contrary to policy RP24 of the adopted Midlothian Local Plan and Historic Environment Scotland guidance.*
2. *The proposed East, West and South elevation drawings are inaccurate and do not correspond with the building location shown on the proposed site plan.*

Dated 10 / 1 / 2017



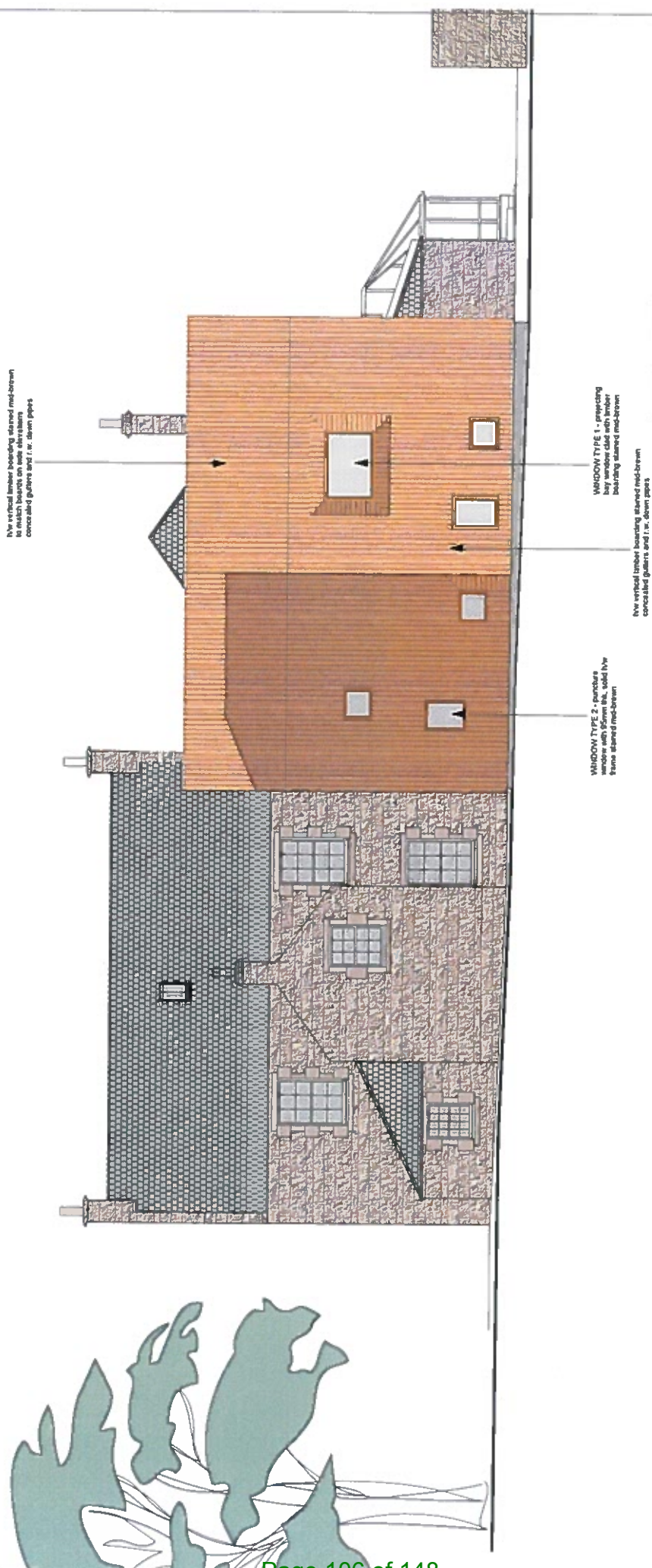
.....  
Duncan Robertson  
Lead Officer – Local Developments  
Fairfield House, 8 Lothian Road, Dalkeith, EH22 3ZN



## Halvorsen

T: 01875 821266 07956247858  
 e: info@halvorsen.co.uk  
 www.halvorsen-architects.co.uk

Project title	Happy Days Nursery, Hardengreen	Ref	HD HG W01
Drawing title	PROPOSED WEST ELEVATION	Date	23/10/16
Drawing no.	HGWN 108	Purpose	PLANNING
		Scale	1:100



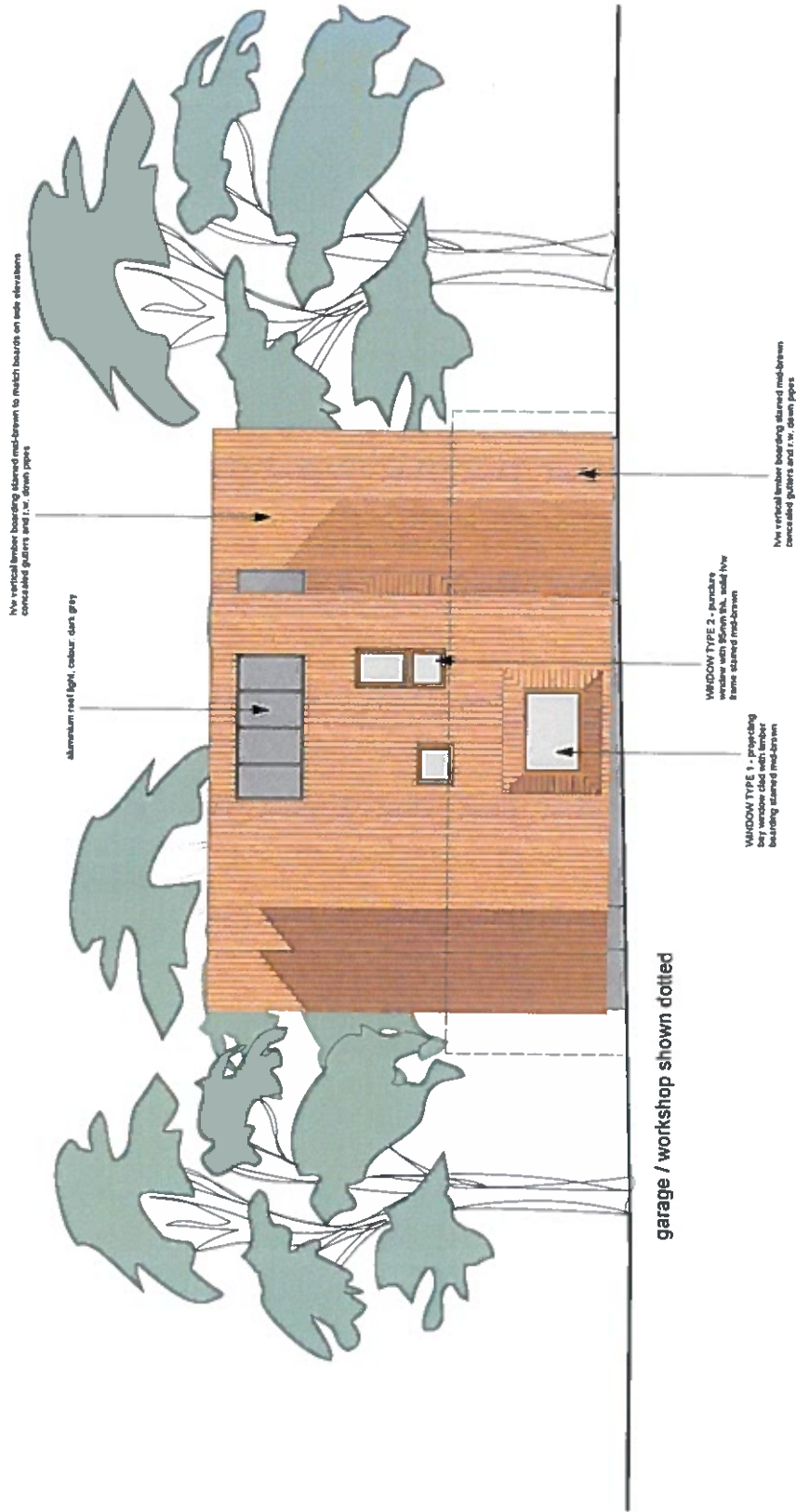


**Halvorsen**  
Architects

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e: [info@halvorsenarchitects.co.uk](mailto:info@halvorsenarchitects.co.uk)  
www.halvorsen-architects.co.uk

Project title	Happy Days Nursery, Hardengreen		
Drawing title	PROPOSED NORTH ELEVATION		
Drawing no.	HWGN 110	Purpose	PLANNING
Rev	HD HG WN	Date	23/10/16
		Scale	1:100





garage / workshop shown dotted

 <b>Halvorsen</b> t. 01875 821266 · 0795247659 e. gash@halvorsenarchitects.co.uk www.halvorsen_architects.co.uk		Ref	HD HG WN
Project title	Happy Days Nursery, Hardengreen	Date	23/10/16
Drawing title	SOUTH ELEV PROPOSED BUILDING	Scale	1:100
Drawing no.	HGWN 111	Purpose	PLANNING

Five vertical timber boarding stained mid-brown to match boards on side elevations  
concealed gutters and 1 m. down pipes

aluminium roof light colour dark grey

WINDOW TYPE 1 - projecting  
grey stained solid with timber  
boarding stained mid-brown

Five vertical timber boarding stained mid-brown  
concealed gutters and 1 m. down pipes

WINDOW TYPE 2 - projecting  
grey stained solid with timber  
boarding stained mid-brown

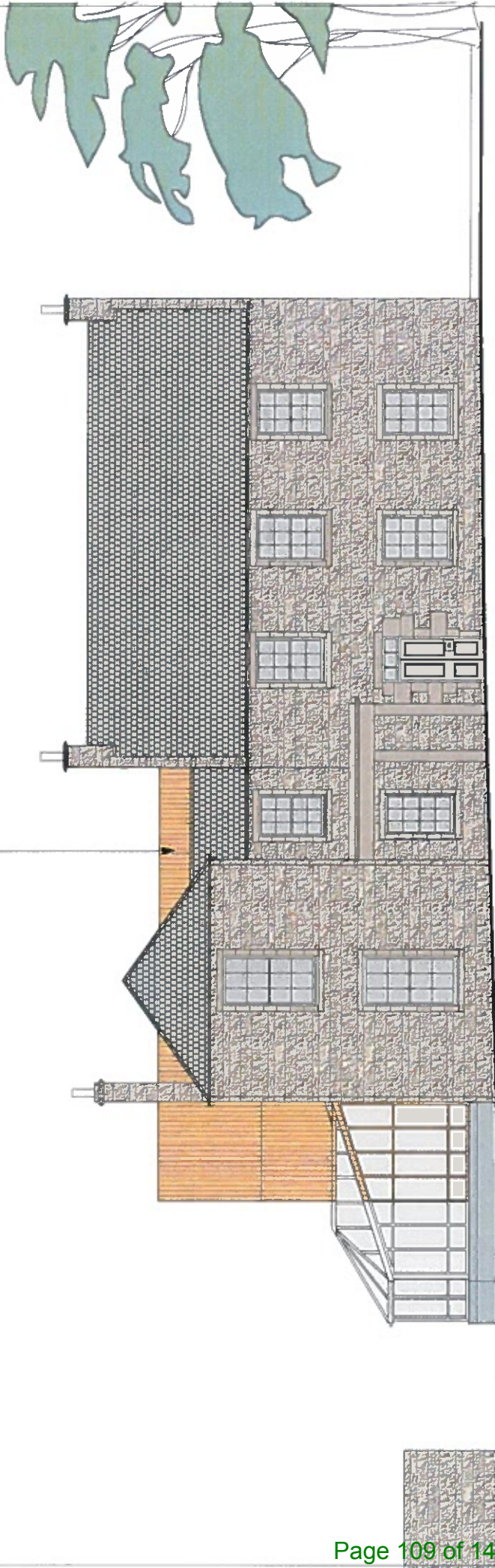


**Halvorsen**  
1 01875 621266 07966247659  
e gal@halvorsenarchitects.co.uk  
www.halvorsen\_architects.co.uk

Project info	Client
Happy Days Nursery, Hardengreen	HD HG WN
Drawing title	Date
PROPOSED EAST ELEVATION	23/10/16
Drawing no.	Scale
HGWN 114	1:100
Purpose	
PLANNING	



the vertical timber building stained red-brown to match boards on side elevations  
concealed gutters and s.w. down pipes





**Halvorsen**

t 01875 821265, 07956247858  
e [gal@halvorsenarchitects.co.uk](mailto:gal@halvorsenarchitects.co.uk)  
www.halvorsen\_architects.co.uk

Project title	Happy Days Nursery, Hardengreen	Ref	HD HG WN
Drawing title	SOUTH ELEV. EXISTING & PROPOSED	Date	23/10/16
Drawing no.	HGWN 106	Purpose	PLANNING
		Scale	1:100

Area of proposed building amended	Revision	Date
	A	26/01/17



View from South of SW elevations of existing and proposed buildings. The original Georgian house is behind two extensions. The proposed building picks up the rhythm of the glazing of the latest extension - the conservatory.





View from South West towards front of proposed building



View from staff car park lot rear of proposed building



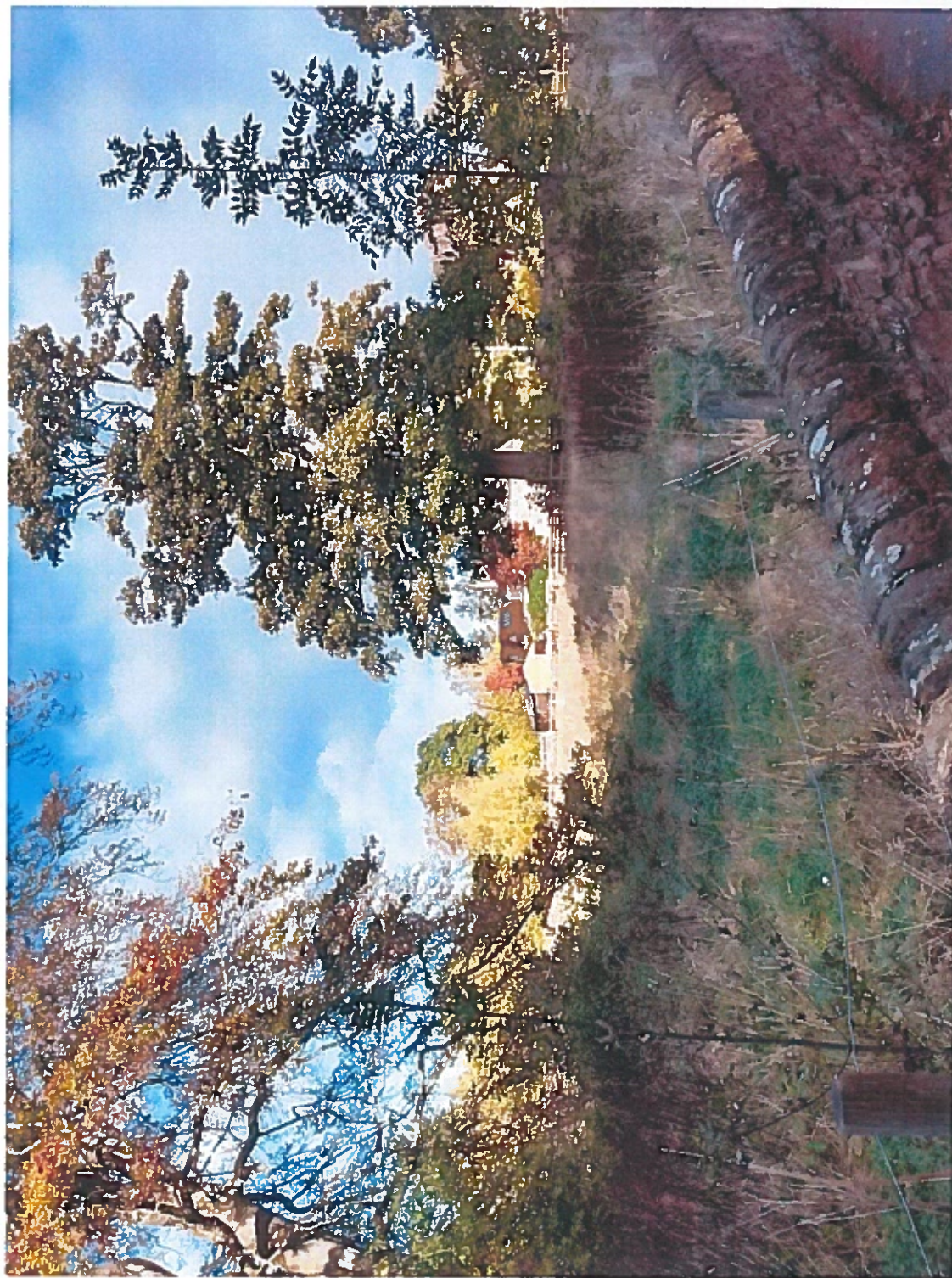
Aerial view from South

View to West as entering staff car park





View from B4392. NB this is the only place from the road from which the proposed building is visible due to the existing house and otherwise good tree / shrub screening both along the road and closer to the site.







## **Notice of Review: 1D Dalhousie Avenue, Bonnyrigg Determination Report**

Report by Ian Johnson, Head of Communities and Economy

### **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 1D Dalhousie Avenue, Bonnyrigg.

### **2 Background**

- 2.1 Planning application 16/00762/DPP for the erection of a porch at 1D Dalhousie Avenue, Bonnyrigg was refused planning permission on 6 January 2017; 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, issued on 6 January 2017 (Appendix D); and
  - A copy of the relevant drawings/plans (Appendix E).
- 3.2 The full planning application case file and the development plan policies referred to in the case officer's report can be viewed online via [www.midlothian.gov.uk](http://www.midlothian.gov.uk)

### **4 Procedures**

- 4.1 In accordance with procedures agreed by the LRB, the LRB by agreement of the Chair:
- Have scheduled a site visit for Monday 6 March 2017; and
  - Have determined to progress the review by way of a written submissions.

- 4.2 The case officer's report identified that no consultations were required and no representations have been 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 to the next LRB for noting.
- 4.6 A copy of the LRB decision will be placed on the planning authority's planning register and made available for inspection online.

## **5 Conditions**

- 5.1 It is considered that no conditions would be required if the LRB is minded to grant planning permission. The reasons for refusing the application relate to its potential impact on the neighbouring property and it is considered that this cannot be mitigated by conditions if the LRB are minded to support the review on the basis that the proposed development is acceptable.

## **6 Recommendations**

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

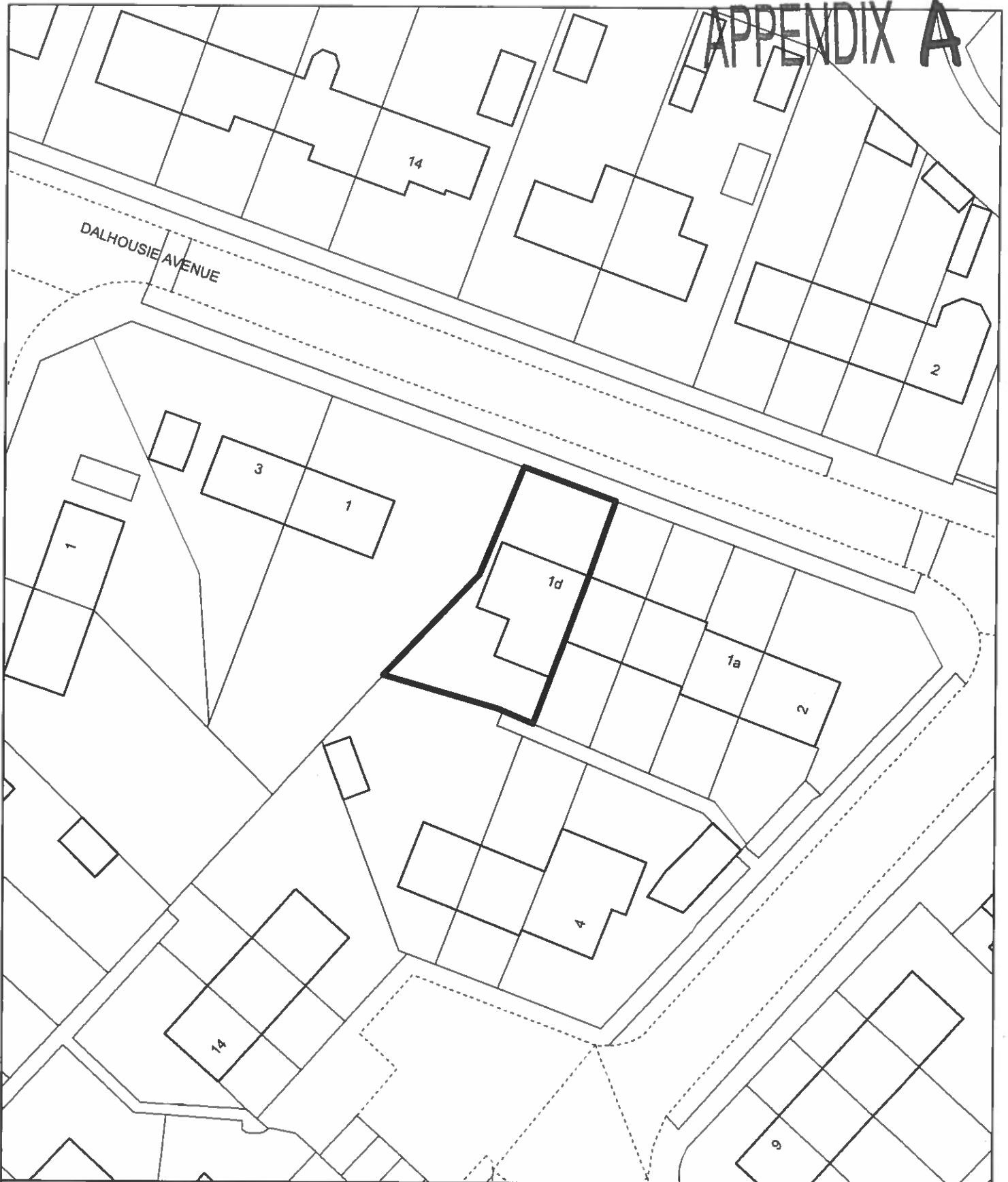
**Date:** 21 February 2017

**Report Contact:** Peter Arnsdorf, Planning Manager (LRB Advisor)  
peter.arnsdorf@midlothian.gov.uk

**Tel No:** 0131 271 3310

**Background Papers:** Planning application 16/00762/DPP available for inspection online.

# APPENDIX A



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

Erection of porch at 1D Dalhousie Avenue, Bonnyrigg,

File 16/00762/DPP

Scale: 1:500  
Page 117 of 148



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Midlothian



Fairfield House 8 Lothian Road Dalkeith EH22 3ZN Tel: 0131 271 3302 Fax: 0131 271 3537 Email: [planning-applications@midlothian.gov.uk](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 100037478-001

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

## Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text" value="Richard"/>	Building Number:	<input type="text" value="1D"/>
Last Name: *	<input type="text" value="McKenna"/>	Address 1 (Street): *	<input type="text" value="Dalhousie Avenue"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text" value="REDACTED"/>	Town/City: *	<input type="text" value="Bonnyrigg"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="EH19 2ND"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="REDACTED"/>		

## Site Address Details

Planning Authority:

Midlothian Council

Full postal address of the site (including postcode where available):

Address 1:

1D DALHOUSIE AVENUE

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

BONNYRIGG

Post Code:

EH19 2ND

Please identify/describe the location of the site or sites

Northing

664772

Easting

330312

## 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)

Proposal was for a front facing porch with shower room. This would extend approximately 2.4m from the house with a width of 3m. This porch included a new front door with entrance through to the property. There would also be a small shower room with toilet, wash basin and shower.

## 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.

My wife and I have 3 children of our own plus 2 foster children ages 6 and 11 as Midlothian council foster carers. We intend to keep these children long term. The property currently only has one small bathroom and we really need a second, ideally with a shower facility, to manage this long term. Due to the layout of the house with existing extensions a front porch really was the only way to accommodate this shower room.

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)

Additional considerations

## Application Details

Please provide details of the application and decision.

What is the application reference number? \*

16/00762/DPP

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

02/11/2016

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

06/01/2017

## 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 Richard McKenna

Declaration Date: 25/01/2017

Additional consideration:

I understand that careful consideration has to be taken when looking at front of house modifications.

We do require a second toilet in a household of seven people. I feel it would be extremely difficult to continue with a single bathroom/toilet in a house of seven people.

There was no alternative option for us to build a toilet / shower room due to the property layout which has previously been extended.

Our immediate neighbours have not expressed any concerns or reservations about this proposal.

There would still be more than adequate room between the proposed porch and the property boundary.

Finally, we are in a row of four similar houses. However the appearance of the street and surrounding area is not uniform in that there are various house designs different to ours.

I did want to add that we would happily agree to finish the exterior of the porch in white render to match the existing property, as opposed to the white weatherboard finish submitted in the original plans, provided the architect can accommodate this into the proposal. I know this was one of the concerns raised.



## MIDLOTHIAN COUNCIL

### DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

**Planning Application Reference:** 16/00762/dpp

**Site Address:** 1D Dalhousie Avenue, Bonnyrigg

#### **Site Description:**

The application property comprises an end terraced two storey house finished externally in drydash render with brown/grey contoured concrete roof tiles and white plastic framed windows.

#### **Proposed Development:**

Erection of porch

#### **Proposed Development Details:**

It is proposed to erect a pitched roof extension on the front of the house incorporating a shower room. It measures 2.4m deep and 3m wide. The external walls are to be finished in white painted timber weather boarding with white upvc windows and concrete roof tiles.

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

History sheet checked.

16/00087/dpp – Erection of porch measuring 2.7m deep and 3.5m wide finished in white painted timber weatherboarding with white upvc windows and concrete roof tiles. Refused.

There is an existing two storey extension on the west side of the house – planning application ref: 06/0048/ful and a single storey extension at the rear – planning application ref: 12/00165/ dpp.

#### **Consultations:**

None required.

#### **Representations:**

None received.

#### **Relevant Planning Policies:**

The relevant policies of the **2008 Midlothian Local Plan** are;

RP20 – Development within the built-up area - seeks to protect the character and amenity of the built-up area

DP6 – House Extensions - requires that extensions are well designed in order to maintain or enhance the appearance of the house and the locality. The policy guidelines 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.

**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.

There are no other porches on this terrace and there is nothing similar apparent in the immediately surrounding area. 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 which is anyway quite large.

The porch has only been reduced in depth by 30cm since the previous submission and reduced in width by 0.5m. At 2.4m deep and 3m wide the proposed porch with its gable running perpendicular to that of the house would still appear as a bulky prominent addition at the front of the house and would be very prominent in the streetscene detracting from both the appearance of the application property and the street scene. As in relation to the previous planning application the prominence of the porch would be exacerbated by the proposed use of white painted timber weather boarding on the walls making it appear stuck on rather than integral to the house. The proposal has not been amended to such an extent as to warrant approval of planning permission.

Driveway unaffected.

The extension 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. 16/00762/DPP

Whitelaw Associates  
Kitleybrig  
Kitleyknowe  
Carlops  
Penicuik  
EH26 9NJ

Midlothian Council, as Planning Authority, having considered the application by Mr And Mrs R McKenna, 1D Dalhousie Avenue, Bonnyrigg, EH19 2ND which was registered on 22 November 2016 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

### Erection of porch at 1D Dalhousie Avenue, Bonnyrigg, EH19 2ND

in accordance with the application and the following plans:

<u>Drawing Description.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Site plan, location plan and elevations	01 1:100	22.11.2016

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

1. *The proposed extension would appear over-dominant on the public front elevation of the dwelling, to the detriment of its appearance with a detrimental impact on the street scene.*
2. *For the above reasons the proposal is contrary to policies RP20 and DP6 of the adopted Midlothian Local Plan. If the proposal were approved it would undermine the consistent implementation of the policies, the objective of which is to protect the character and amenity of the built-up area.*

Dated 6 / 1 / 2017



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



**The Coal  
Authority**

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

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

### **INFORMATIVE NOTE**

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

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Standards approval (if relevant). Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant safety and engineering risks and exposes all parties to potential financial liabilities. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should wherever possible be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design is developed and agreed with regulatory bodies which takes into account of all the relevant safety and environmental risk factors, including gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at: <https://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries>

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

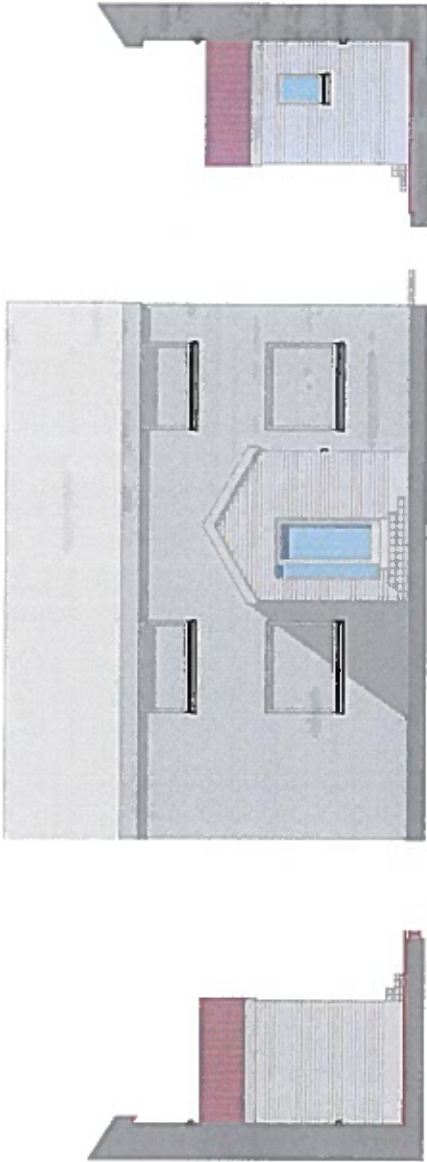
Property specific summary information on past, current and future coal mining activity can be obtained from: [www.groundstability.com](http://www.groundstability.com) or a similar service provider.

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

*This Informative Note is valid from 1<sup>st</sup> January 2017 until 31<sup>st</sup> December 2018*

proposed new porch  
**1D DALHOUSIE AVENUE**  
**BONNYRIGG, EH19 2ND**  
**general arrangement**

scale 1:100 February 2016 drg. 01  
 White Law Associates 01968 660452  
 new A listing required

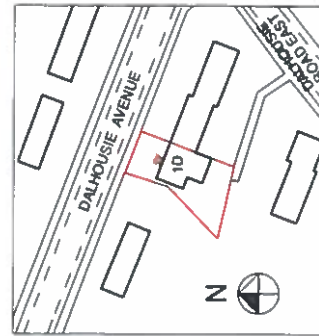


**north west**

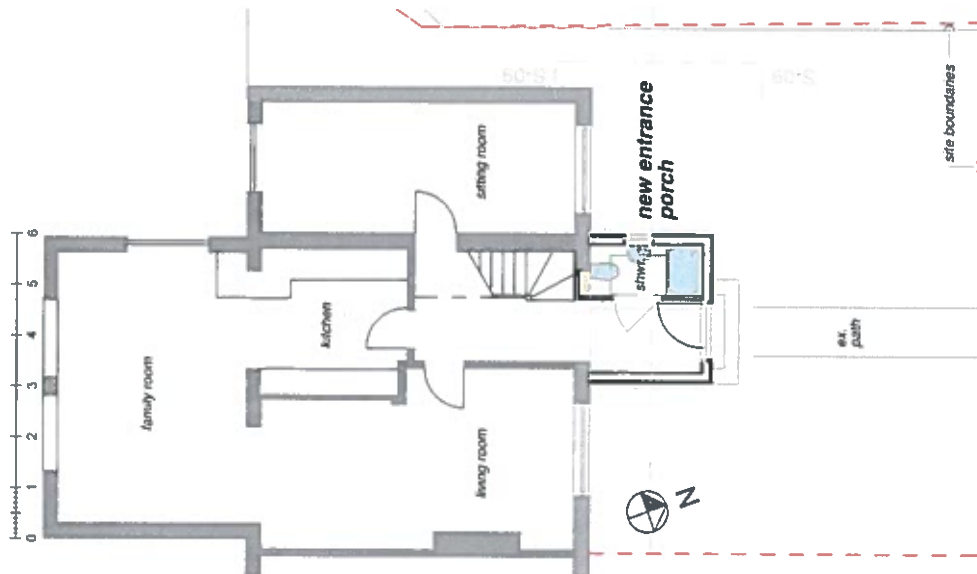
**north east**

**south east**

external finishes :  
 concrete roof tiles to match existing  
 timber weatherboarding painted white  
 white uPVC door & window



**location plan**



**floor and part site plan**



**Notice of Review: Land 200M South West of Wellington School, Penicuik****Determination Report**

Report by Ian Johnson, Head of Communities and Economy

**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' regarding an application for planning permission in principle for the erection of a dwellinghouse at land 200 metres south west of Wellington School, Penicuik.

**2 Background**

- 2.1 Planning application 16/00460/PPP for planning permission in principle for the erection of a dwellinghouse at land 200 metres south west of Wellington School, Penicuik was refused planning permission on 21 November 2016; 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, issued on 21 November 2016 (Appendix D); and
  - A copy of the relevant drawings/plans (Appendix E).
- 3.2 The full planning application case file and the development plan policies referred to in the case officer's report can be viewed online via [www.midlothian.gov.uk](http://www.midlothian.gov.uk)

**4 Procedures**

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

- Have scheduled a site visit for Monday 6 March 2017; and
  - Have determined to progress the review by way of a written submissions.
- 4.2 The case officer's report identified that two consultation responses and one representation have been received. As part of the review process the interested parties were notified of the review. No additional comments have been received. All the comments can be viewed online on the electronic planning application case file via [www.midlothian.gov.uk](http://www.midlothian.gov.uk)
- 4.3 The next stage in the process is for the LRB to determine the review in accordance with the agreed procedure:
- Identify any provisions of the development plan which are relevant to the decision;
  - Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies;
  - Consider whether or not the proposal accords with the development plan;
  - Identify and consider relevant material considerations for and against the proposal;
  - Assess whether these considerations warrant a departure from the development plan; and
  - State the reason/s for the decision and state any conditions required if planning permission is granted.
- 4.4 In reaching a decision on the case the planning advisor can advise on appropriate phraseology and on appropriate planning reasons for reaching a decision.
- 4.5 Following the determination of the review the planning advisor will prepare a decision notice for issuing through the Chair of the LRB. A copy of the decision notice will be reported to the next LRB for noting.
- 4.6 A copy of the LRB decision will be placed on the planning authority's planning register and made available for inspection online.

## **5 Conditions**

- 5.1 In accordance with the procedures agreed by the LRB at its meeting of 19 June 2012 and 26 November 2013, and without prejudice to the determination of the review, the following conditions have been prepared for the consideration of the LRB if it is minded to uphold the review and grant planning permission.
1. Development shall not begin until an application for approval of matters specified in conditions for a scheme of hard and soft landscaping works has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
    - i existing and finished ground levels and floor levels for all buildings and roads in relation to a fixed datum;



- ii existing trees, landscaping features and vegetation to be retained; removed, protected during development and in the case of damage, restored;
- iii proposed new planting including trees, shrubs, hedging and grassed areas;
- iv location and design of any proposed walls, fences and gates, including those surrounding bin stores or any other ancillary structures;
- v schedule of plants to comprise species, plant sizes and proposed numbers/density;
- vi programme for completion and subsequent maintenance of all soft and hard landscaping; and
- vii drainage details and sustainable urban drainage systems to manage water runoff.

All hard and soft landscaping shall be carried out in accordance with the scheme approved in writing by the planning authority as the programme for completion and subsequent maintenance (vi). Thereafter any trees or shrubs removed, dying, becoming seriously diseased or damaged within five years of planting shall be replaced in the following planting season by trees/shrubs of a similar species to those originally required.

***Reason:*** To ensure the quality of the development is enhanced by landscaping to reflect its setting in accordance with policies DP1 and DP2 of the Midlothian Local Plan and national planning guidance and advice.

2. Development shall not begin until an application for approval of matters specified in conditions for the siting, design and external appearance of the proposed residential unit and other structures has been submitted to and approved in writing by the planning authority. The application shall include samples of materials to be used on external surfaces of the buildings; hard ground cover surfaces; means of enclosure and ancillary structures. Development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the planning authority.

***Reason:*** To ensure the quality of the development is enhanced by the use of quality materials to reflect its setting in accordance with policies DP1 and DP2 of the Midlothian Local Plan and national planning guidance and advice.

3. Development shall not begin until an application for approval of matters specified in conditions for the site access, internal roads, footpaths, car parking and transportation movements has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:

- i existing and finished ground levels for all roads in relation to a fixed datum;
- ii proposed vehicular and pedestrian access;
- iii proposed internal roads/driveways (including turning facilities) and footpaths;

- vi proposed visibility splays, traffic calming measures, lighting and signage; and
- v a programme for completion for the construction of access, roads, footpaths and car parking.

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

***Reason:*** *To ensure the future users of the buildings, existing local residents and those visiting the development site during the construction process have safe and convenient access to and from the site.*

## **6 Recommendations**

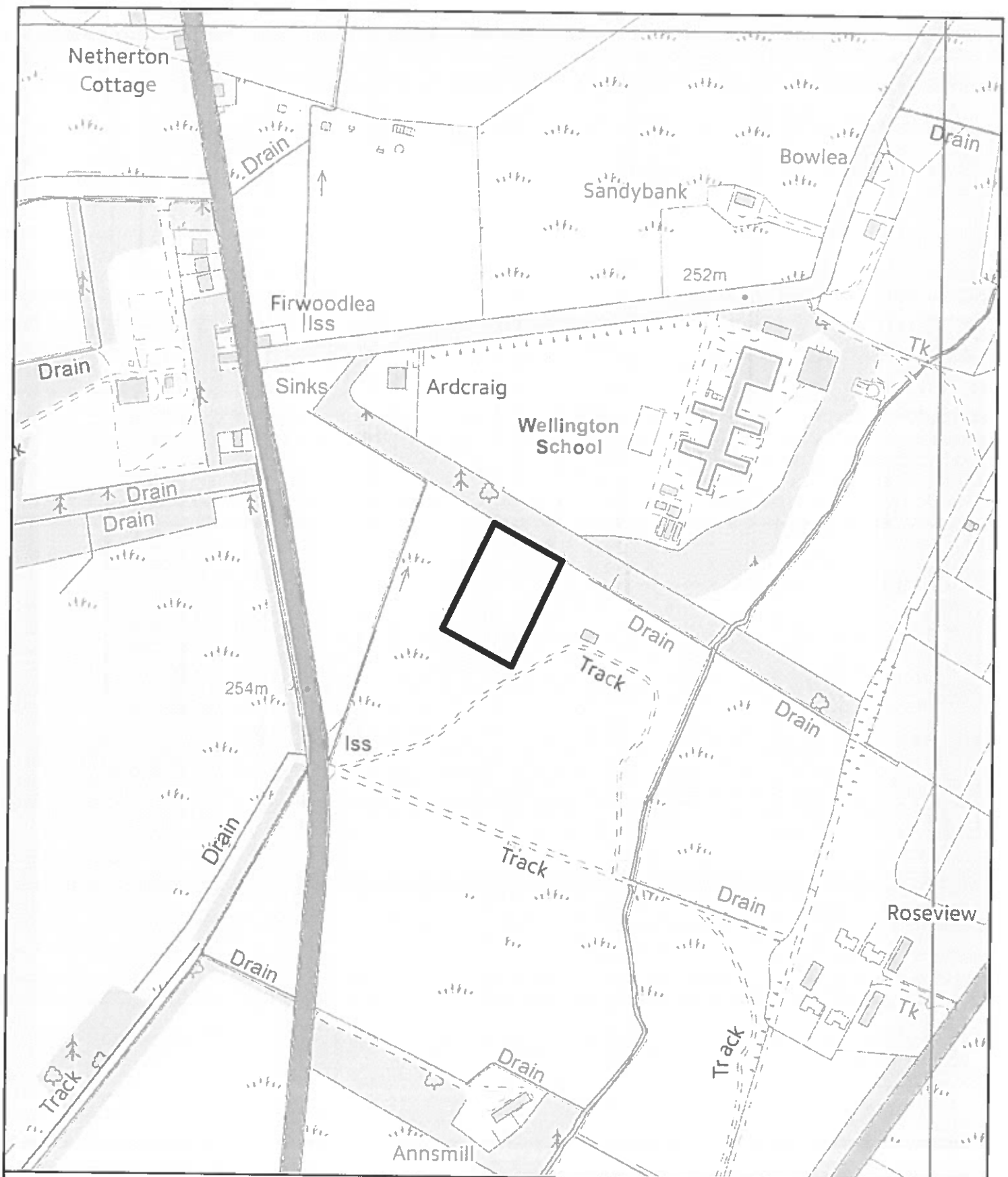
- 6.1 It is recommended that the LRB:
- a) determine the review; and
  - b) the planning advisor draft and issue the decision of the LRB through the Chair

**Date:** 21 February 2017

**Report Contact:** Peter Arnsdorf, Planning Manager (LRB Advisor)  
peter.arnsdorf@midlothian.gov.uk

**Tel No:** 0131 271 3310

**Background Papers:** Planning application 16/00460/PPP available for inspection online.



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

**Planning Permission in Principle for the erection of one  
dwellinghouse at Land 200M South West Of Wellington  
School, Penicuik**

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prosecution or civil proceedings

**File No. 16/00460/PPP**

**Scale: 1:4,000**

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# NOTICE OF REVIEW

Under Section 43A(8) Of the Town and Country Planning (SCOTLAND) ACT 1997 (As amended) In Respect of Decisions on Local Developments

The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (SCOTLAND) Regulations 2013

The Town and Country Planning (Appeals) (SCOTLAND) Regulations 2013

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

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

1. Applicant's Details		2. Agent's Details (if any)	
Title	<input type="text" value="Mr"/>	Ref No.	<input type="text"/>
Forename	<input type="text" value="Colin"/>	Forename	<input type="text"/>
Surname	<input type="text" value="Campbell"/>	Surname	<input type="text"/>
Company Name	<input type="text"/>	Company Name	<input type="text"/>
Building No./Name	<input type="text" value="White Heather Cottage"/>	Building No./Name	<input type="text"/>
Address Line 1	<input type="text" value="Ruddenleys Farm"/>	Address Line 1	<input type="text"/>
Address Line 2	<input type="text" value="Lamancha"/>	Address Line 2	<input type="text"/>
Town/City	<input type="text" value="West Linton"/>	Town/City	<input type="text"/>
Postcode	<input type="text" value="EH46 7BQ"/>	Postcode	<input type="text"/>
Telephone	<input type="text" value=""/>	Telephone	<input type="text"/>
Mobile	<input type="text" value=""/>	Mobile	<input type="text"/>
Fax	<input type="text" value=""/>	Fax	<input type="text"/>
Email	<input type="text" value=""/>	Email	<input type="text"/>
<b>3. Application Details</b>			
Planning authority		<input type="text" value="MidLothian Council"/>	
Planning authority's application reference number		<input type="text" value="16/00460/PPP"/>	
Site address			
<input type="text" value="Roseview Farm, Leadburn, MidLothian, EH46 7BD"/>		<div style="border: 1px solid black; padding: 5px; margin-bottom: 10px;"> CORPORATE RESOURCES  FILE: <u>16/00460/PPP</u>  RECEIVED <b>05 JAN 2017</b> </div> <div style="border: 1px solid black; padding: 5px;"> <u>MAC</u> </div>	
Description of proposed development			
<input type="text" value="Single story 3 bedroom dwelling house."/>			

Date of application

28.06.2016

Date of decision (if any)

21.11.2016

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

#### 4. Nature of Application

Application for planning permission (including householder application)

☐

Application for planning permission in principle

☒

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

☐

Application for approval of matters specified in conditions

☐

#### 5. Reasons for seeking review

Refusal of application by appointed officer

☒

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

☐

Conditions imposed on consent by appointed officer

☐

#### 6. Review procedure

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

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

Further written submissions

☒

One or more hearing sessions

☐

Site inspection

☐

Assessment of review documents only, with no further procedure

☐

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

Further Written submissions: please see statement below and appended image  
Site inspection: to allow for consideration as necessary of the proposal

#### 7. Site Inspection

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

Can the site be viewed entirely from public land?

☒

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

☐



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

The site can be viewed from the main road adjustment, the site is accessible by means of a farm gate and gravel access road

## 8. Statement

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

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

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

This application has been rejected on two grounds, firstly that the authority is not satisfied that the property will support the furtherance of genuine countryside activity. It is submitted that Mr & Mrs Campbell currently live in rented accommodations within the area which is of a substantially substandard nature. Further Mrs Campbell has considerable health issues with means that a single story, modern, economical and accessible property are required to support independent living. It is also submitted that the proposed currently lives within the locality and is the proprietor of a sustainable timber fire wood business. The business currently employs the proposed and one other. Mr Campbell intends also to utilize the land (some 5 acres) as a small holding. Secondly, It is also stated that the proposed property can not be "sited and integrated without having a significant detrimental impact on the landscape". the original proposal stated that a development sympathetic to the surrounding environment be proposed. No request was received for clarification on this point however a potential design is provided at note 2 for consideration. (this is purely provided to enable an aesthetic consideration. It is further submitted that the proposed dwelling house be to the left hand side of the site as faced from the roadside and will be complemented by the existing tree line to the left with consideration for further planting and landscaping.

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

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

The additional information provided with the review is was not given at the initial application stage as we were unaware of the detail required

## 9. List of Documents and Evidence

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

1. Site location drawing
2. Illustration of potential dwelling house

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

## 10. Checklist

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

Full completion of all parts of this form ☒

Statement of your reasons for requesting a review ☒

All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review. ☒

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

## DECLARATION

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

Signature:  Name:  Date:

Any personal data that you have been asked to provide on this form will be held and processed in accordance with the requirements of the 1998 Data Protection Act.

## **MIDLOTHIAN COUNCIL**

### **DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:**

**Planning Application Reference:** 16/00460/PPP

**Site Address:** Land 200m south west of Wellington School, Penicuik.

**Site Description:** The application site comprises part of an agricultural field. There is a tree belt to the north separating the site from Wellington School, with the field on all other boundaries. The A701 runs to the west. There is an existing field access to an agricultural building which is to the east.

**Proposed Development:** Planning permission in principle for the erection of one dwellinghouse.

**Proposed Development Details:** As the application is for planning permission in principle, no detailed plans have been submitted for the proposed house. The applicant has stated the house is to be single storey and three bedroom. The plans show the house is to be accessed from the existing field access.

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

Land to the east of the site

05/00134/PNAG Erection of agricultural storage building. No objection.

**Consultations:** The **Policy and Road Safety Manager** has no objection in principle but recommends conditions be attached to any permission relating to visibility splays, the width of the access and parking.

The **Coal Authority** were consulted on this application as it appeared that the site was within a High Risk Area. However they confirmed that this is not the case and they recommended a standard advice note be attached to any permission.

**Representations:** One letter of objection has been received, on the following grounds:

- Querying why they were not neighbour notified;
- The sewerage from their property discharges with the arrangements at Wellington School and they would expect no changes to this arrangement;
- There is low water pressure in the area;
- Concern over the impact the development would have on trees;
- Issues over streetlighting being turned off which has resulted in fly tipping and damage to buildings;
- Major alterations to the existing road would be required to accommodate a vast increase in traffic; and
- Without any facilities, ie shops, schools, the Council might pay for transport costs of school buses.

**Relevant Planning Policies:** The relevant policies of the **2008 Midlothian Local Plan** are;

**RP1 Protection of the Countryside** states that development in the countryside will only be permitted if: it is required for the furtherance of agriculture, including farm related diversification, horticulture, forestry, countryside recreation, tourism, or waste disposal (where this is shown to be essential as a method of site restoration); it is within a designated non-conforming use in the Green Belt; or it accords with policy DP1;

**RP7 Landscape Character** which advises that development will not be permitted where it may adversely affect the quality of the local landscape. Provision should be made to maintain local diversity and distinctiveness of landscape character and enhance landscape characteristics where improvement is required;

**DP1 Development in the Countryside** is divided into sections entitled New Housing, Design of New Housing, House Extensions, Replacement Houses and Appearance of all Buildings. The section on New Housing is divided into four subsections: Single Houses (not related to Housing Groups/Farm Steadings); Housing Groups; Redundant Farm Steadings and Other Redundant Non-Residential Buildings in the Countryside; and Rural Buildings of Value. The relevant section in this case is 'Single Houses'. This states that new houses will be permitted in the countryside only where they can be demonstrated to be required for the furtherance of an established countryside activity. Applicants are required to show that the need for the new dwelling is permanent, cannot be met within an existing settlement and that the occupier of the property will be employed full-time in the countryside activity being furthered by the provision of the new house. The applicant is required to submit an independent report on the viability of the associated business and labour requirements, demonstrating the long-term need for the proposed house.

The section on 'Appearance of All Buildings' states that all new buildings in the countryside will respect the character of existing buildings in terms of design, scale and materials used, blend with the landscape, conform with the countryside policies and incorporate sustainable building design; and

**DP2 Development Guidelines** sets out Development Guidelines for residential developments. The policy indicates the standards that should be applied when considering applications for dwellings.

The **2014 Midlothian Local Development Plan Proposed Plan** contains similar policies.

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

The Planning Authority's local plan contains restrictive policies relating to proposals for new housing developments within the countryside. These policies aim to prevent the creeping suburbanisation of the countryside, which is under significant pressure due to the convenient commuting distance to Edinburgh. There are also some enabling policies, within the adopted Midlothian Local Plan, which support residential developments within the countryside in some limited circumstances.

Policy RP1 of the local plan sets out the terms for acceptable forms of development in the countryside. The policy aims to restrict development to that required for the

furtherance of an established, and acceptable, countryside activity or business. Residential development is not specifically supported by this policy unless it complies with the terms of policy DP1 and some specific criteria relating to the siting and design of the development.

No supporting information or justification has been submitted along with the proposal. The application form states that the house would provide a home for a family who have moved into the area for work. The applicant has not argued that the proposed dwellinghouse is required in connection with the furtherance of an established countryside business or activity. Therefore the only opportunity for the application to comply with policy RP1 is to first of all comply with the terms of policy DP1.

There are no buildings within the site and so there is no justification for the new house through the redundant buildings section of policy DP1. The site does not form part of an identified housing group. There is no Local Plan policy support for the house as proposed within this countryside location.

The application site is within an agricultural field which is highly visible from the south, east and west. The site is also on slightly elevated land which exacerbates its visibility and prominence. Any house at the site would be highly visible which would be to the detriment of the landscape character of the area, which would be the case even if there were a scheme of landscaping to try to integrate the house into the surrounding area.

At 2 hectares in size, it is likely that the site could accommodate a house along with the required amount of parking and garden ground.

In regards the representor's comments, neighbour notification was carried out as per the Council's procedures and government regulations and the application was advertised in the local press. Should permission be granted, it is likely that conditions would be attached to any consent relating to sewerage, water pressure and landscaping. Given that the proposal is only for one house, it is unlikely that there would be a significant increase in traffic in the area. The comments made in relation to streetlighting and transportation to schools indicates that the representor is making comments on the potential redevelopment of the Wellington School site and not the current proposal for one house.

**Recommendation:** Refuse planning permission.





# Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

Reg. No. 16/00460/PPP

Mr Colin Robert Campbell  
White Heather Cottage  
Ruddenleys Farm  
1 Lamancha  
By West Linton  
Peebleshire  
EH46 7BQ

Midlothian Council, as Planning Authority, having considered the application by Mr Colin Robert Campbell, White Heather Cottage, Ruddenleys Farm, 1 Lamancha, By West Linton, Peebleshire, which was registered on 11 October 2016 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

**Planning Permission in Principle for the erection of one dwellinghouse at Land 200M South West Of Wellington School, Penicuik**

In accordance with the application and the following plans:

<u>Drawing Description.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan		11.10.2016

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

1. *It has not been demonstrated to the satisfaction of the Planning Authority that the house is required for the furtherance of an established countryside activity and so the proposal is contrary to policies RP1 and DP1 of the adopted Midlothian Local Plan.*
2. *It has not been demonstrated to the satisfaction of the Planning Authority that the house can be sited and integrated without having a significant detrimental impact on the landscape character of the area and therefore the proposal is contrary to policy RP7 of the adopted Midlothian Local Plan.*

Dated 21 / 11 / 2016



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

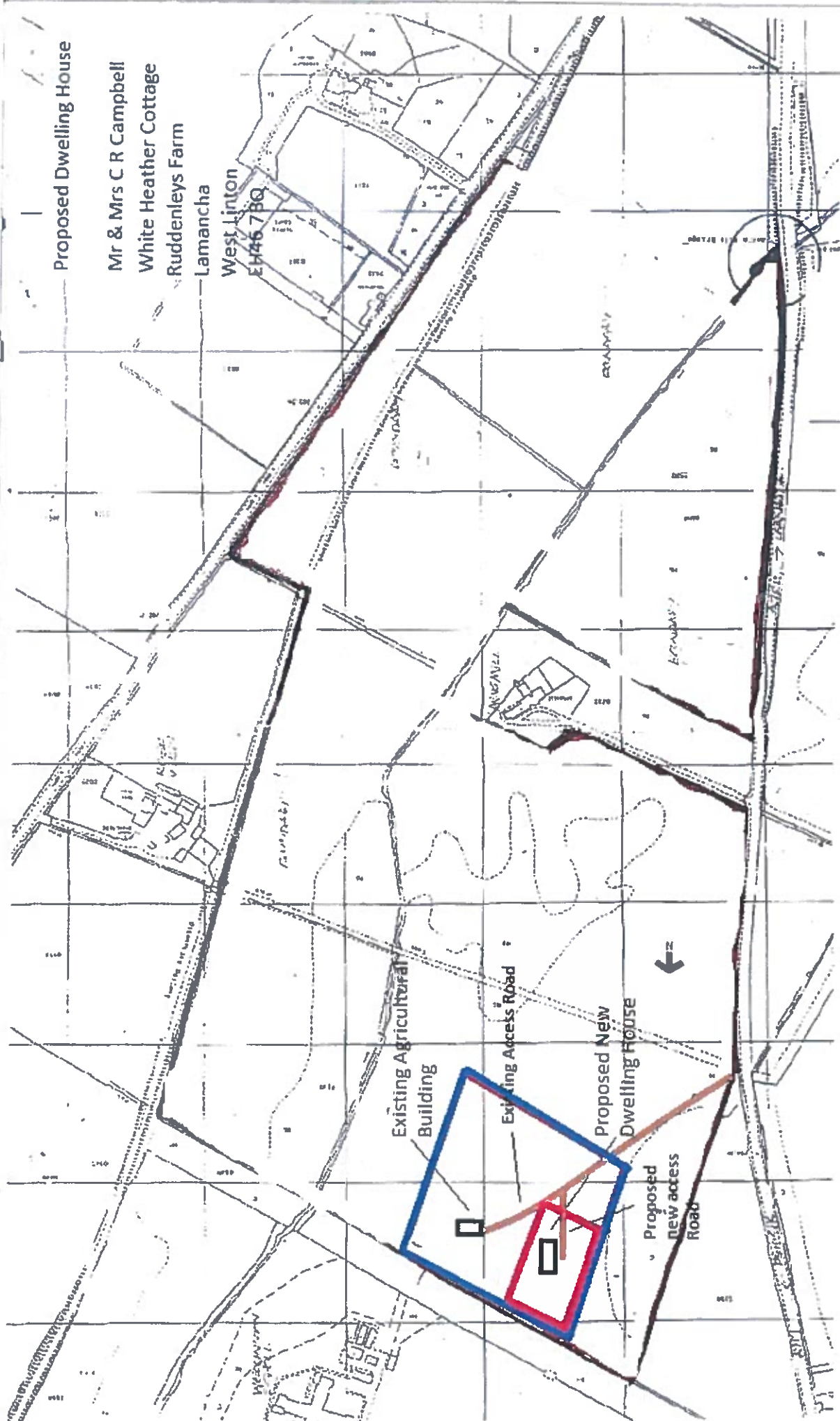
### **STANDING ADVICE - DEVELOPMENT LOW RISK AREA**

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. It should also be noted that this site may lie in an area where a current licence exists for underground coal mining.

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)

Property specific summary information on past, current and future coal mining activity can be obtained from: [www.groundstability.com](http://www.groundstability.com)

*This Standing Advice is valid from 1<sup>st</sup> January 2015 until 31<sup>st</sup> December 2016*



Proposed Dwelling House

Mr & Mrs C R Campbell

White Heather Cottage

Ruddenleys Farm

Lamacha

West Linton

EH46 7BQ

FRANK WILSON ASSOCIATES  
ARCHITECTS  
19 DOUGLAS ROAD  
SALISBURY  
WILTSHIRE  
SP4 8JL  
TEL/FAX: 01458 477548  
FREDMAN, PETER, 198000, WILSON, FRANK



Bungalow  
3 Bedrooms

FLOOR AREA:  
129.60m<sup>2</sup>

FRONTAGE:  
18.00m

RIDGE HEIGHT:  
5.152m



CORPORATE RESOURCES	
FILE:	
RECEIVED	05 JAN 2017