

Notice of meeting and agenda



Local Review Body

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

Date: Tuesday, 10 October 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

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

2 Order of Business

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

3 Declarations of Interest

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

4 Minutes of Previous Meeting

- | | | |
|------------|--|---------------|
| 4.1 | Minutes of Meeting held on 29 August 2017 - For Approval | 3 - 14 |
|------------|--|---------------|

5 Public Reports

Decision Notices: -

- | | | |
|------------|--|----------------|
| 5.1 | Unit 33/1, Mayfield Industrial Estate, Mayfield, Dalkeith 17.00390.DPP | 15 - 18 |
|------------|--|----------------|

- | | | |
|------------|------------------------------------|----------------|
| 5.2 | 35 Temple, Gorebridge 17.00275.DPP | 19 - 22 |
|------------|------------------------------------|----------------|

- | | | |
|------------|---|----------------|
| 5.3 | The Abbey Granary, 12 Newbattle Road, Newtongrange 17.00371.DPP | 23 - 26 |
|------------|---|----------------|

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

- | | | |
|------------|--|----------------|
| 5.4 | Land rear of 180 Main St, Pathhead 17.00420.DPP - Determination Report | 27 - 50 |
|------------|--|----------------|

- | | | |
|------------|---|----------------|
| 5.5 | 13 Burnbrae Crescent, Bonnyrigg 17.00292.DPP - Determination Report | 51 - 66 |
|------------|---|----------------|

6 Private Reports

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.

Minute of Meeting



Local Review Body

Date	Time	Venue
29 August 2017	2.00pm	Council Chambers, Midlothian House, Buccleuch Street, Dalkeith

Present:

Councillor Imrie (Chair)	Councillor Alexander
Councillor Cassidy	Councillor Lay-Douglas
Councillor Montgomery	Councillor Muirhead
Councillor Munro	Councillor Smail

1 Apologies

Apologies received from Councillor Baird and Milligan

2 Order of Business

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

3 Declarations of interest

Councillor Muirhead declared non-pecuniary interests in Agenda Items 5.3 – Update on Review Request – Former Arniston Gas Works, Gorebridge 15/00335/PPP - on the grounds that his views on the matter were well known and 5.6 Notice of Review Request – 35 Temple, Gorebridge 17/00275/DPP- on the grounds that he was friends with the parents of the applicant. He would therefore withdraw from the meeting during discussion of both of these items of business.

Councillor Cassidy also declared a non-pecuniary interest in Agenda Item 5.6 Notice of Review Request – 35 Temple, Gorebridge 17/00275/DPP- on the grounds that he knew the applicant. He also intended to withdraw from the meeting during discussion of this item of business.

4 Minutes of Previous Meetings

The Minutes of Meeting of 13 June 2017 were submitted and approved as a correct record.

5 Reports

Agenda No	Report Title	Presented by:
5.1	Decision Notice – 31 Broomhill Avenue, Penicuik [17/00081/DPP].	Peter Arnsdorf
Executive Summary of Report		
With reference to paragraph 5.8 of the Minutes of 13 June 2017, there was submitted a copy of the Local Review Body decision notice upholding a review request from Mr & Mrs C Neil, 31 Broomhill Avenue, Penicuik seeking a review of the decision of the Planning Authority to refuse planning permission (17/00081/DPP, refused on 30 March 2017) for the Erection of an Extension at that address and granting planning permission subject to conditions.		
Decision		
To note the LRB decision notice.		

Agenda No	Report Title	Presented by:
5.2	Decision Notice – Rosehill, 27 Park Road, Dalkeith [17/00096/DPP].	Peter Arnsdorf

Executive Summary of Report

With reference to paragraph 5.9 of the Minutes of 13 June 2017, there was submitted a copy of the Local Review Body decision notice upholding a review request from RT Hutton, Planning Consultant, The Malt Kiln, 2 Factors Brae, Limekilns, Fife seeking on behalf of their client Society of the Sacred Heart, a review of the decision of the Planning Authority to refuse planning permission (17/00096/DPP, refused on 13 April 2017) for the Erection of an Extension to Building and Alteration to Wall at Rosehill, 27 Park Road, Dalkeith and granting planning permission.

Decision

To note the LRB decision notice.

Sederunt

With reference to paragraph 3 above Councillor Muirhead, having declared a non-pecuniary interest in the following item of business, left the meeting at 2.02 pm, taking no part in the discussion thereof.

Councillor Munro joined the meeting at 2.03 pm.

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

Executive Summary of Report

With reference to paragraph 5.3 of the Minutes of 24 January 2017, there was submitted report, dated 15 August 2017, by the Head of Communities and Economy providing an update on the 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 in attempting to progress the legal agreement to secure the necessary developer contributions required as part of the consent to grant planning permission in principle, it had become apparent that there were outstanding land ownership issues. The report advised that these issues had now been resolved and the legal agreement could now be concluded.

Decision

- (a) To note the update; and
- (b) To instruct officers to conclude the legal agreement and issue the planning permission in accordance with the decision taken by the LRB at its meeting of 20 October 2015.

Action

Head of Communities and Economy

Sederunt

Councillor Muirhead rejoined the meeting at the conclusion of the foregoing item of business at 2.05 pm.

Agenda No	Report Title	Presented by:
5.4	Update on Notice of Review Request Considered at a Previous Meeting – (b) Land west of the junction of Lugton Brae and Old Dalkeith Road (the former Lugton Inn site), Dalkeith [15/00703/DPP].	Peter Arnsdorf

Executive Summary of Report

With reference to paragraph 5.3 of the Minutes of 24 January 2017, there was submitted report, dated 15 August 2017, by the Head of Communities and Economy providing an update on the review request from Rick Finc Associates Ltd, Melford House, 3 Walker Street, Edinburgh, seeking on behalf of their client Mr J O'Rourke, a review of the decision of the Planning Authority to refuse planning permission (15/00703/DPP, refused on 21 October 2015) for the erection of 5 dwellinghouses on land west of the junction of Lugton Brae and Old Dalkeith Road (the former Lugton Inn site), Dalkeith.

The report reminded Members that the LRB had agreed to uphold the review request 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 and town centre improvements.

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.

Decision

- (a) To write to the applicant expressing disappointment at the lack of progress and expressing a desire to conclude the legal agreement timeously; and
- (b) To provide a further 2 months for the applicants to conclude the legal agreement, failing which, the LRB would revisit the site and review the application afresh.

Action
Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.5	Notice of Review Requests Considered for the First Time – (a) Unit 33/1, Mayfield Industrial Estate, Mayfield, Dalkeith [17/00390/DPP]	Peter Arnsdorf

Executive Summary of Report

There was submitted report, dated 15 August 2017, by the Head of Communities and Economy regarding an application from Mr J Wynne, Spartan Gym, Unit 33/1, Mayfield Industrial Estate, Mayfield, Dalkeith seeking a review of the decision of the Planning Authority to refuse planning permission (17/00390/DPP, refused on 23 June 2017) for the change of use from general industry (class 5) to bodybuilding gym (class 11) (retrospective) 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 accompanied visit to the site on Monday 28 August 2017.

Summary of Discussion

In accordance with the procedures for the Local Review Body, the Planning Advisor gave a brief overview of the review hearing procedures and outlined the background to the case. He then introduced Mr Ludovico Rizza, joint owner of the gym and Mr Douglas Slight of RP Slight and Sons owners of the unit.

Thereafter, oral representations were received firstly from Mr Rizza on behalf of the applicants, then from Mr Slight and finally from Mr Robertson, the local authority Planning Officer; following which they responded to questions from members of the LRB.

Thereafter, the LRB gave careful consideration to the merits of the case based on all the information provided both in writing and in person at the Hearing. Whilst noting the reasons for refusal, the LRB considered that the proposed use was compatible to its location, that it provided employment benefits and opportunities for the community to be involved in sports and keep fit in accordance with the Council's healthy lifestyles objectives; these being viewed as material considerations. The LRB also discussed that whilst there was a desire to see a vacant unit brought back into use, there was also felt to be a need to ensure that its future use remained compatible to its location.

Decision

Having heard from the Planning Advisor, the LRB agreed to uphold the review request, and grant planning permission for the following reason:

The proposed use is compatible to its location within an industrial estate; it provides employment benefits and opportunities for the community to be involved in sports and keep fit which accords with the Council's healthy lifestyles objectives.

subject to the following condition:-

1. The building shall be used as a gymnasium, bodybuilding centre or fitness studio and for no other use, including those uses identified in Class 11 of The Town and Country Planning (Use Classes) (Scotland) Order 1997 or any subsequent replacement or amendment Order relating to the use of land or the Use Classes Order.

Reason: *To enable an assessment to be made with regard a proposed use's suitability for its location within an industrial estate.*

Action

Head of Communities and Economy

Sederunt

With reference to paragraph 3 above Councillors Cassidy and Muirhead, having declared non-pecuniary interests in the following item of business, left the meeting at 2.29 pm, taking no part in the discussion thereof.

Agenda No	Report Title	Presented by:
5.6	(b) 35 Temple, Gorebridge [17/00275/DPP]	Peter Arnsdorf

Executive Summary of Report

There was submitted report, dated 15 August 2017, by the Head of Communities and Economy regarding an application from John Gordon, John Gordon Associates Ltd, 3 Dean Acres, Comrie, Dunfermline seeking on behalf of their client Mr A Matthews, a review of the decision of the Planning Authority to refuse planning permission (17/00275/DPP, refused on 17 May 2017) for the installation of replacement windows at 35 Temple, Gorebridge.

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 28 August 2017.

Summary of Discussion

Having heard from the Planning Advisor, the LRB then gave careful consideration to the merits of the case based on all the written information provided. In particular, consideration was given to the likely impact of the proposed replacement windows. Whilst the desire to use modern materials was considered on balance to be acceptable, it was felt that the form and design of the proposed replacement windows required to be more in keeping with the character of the existing building and also the buildings setting within the Conservation Area.

Decision

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

The proposed replacement of timber windows with uPVC is acceptable and reflects a desire to use modern materials. However, it is considered that the design and means of opening shall reflect the character of the house and are sympathetic to its setting in a Conservation Area – the design as submitted is not acceptable.

subject to the following condition:-

1. The proposed design of the windows is not approved. The design and means of opening of the replacement windows shall be approved in writing by the Planning Authority prior to their installation. The windows shall be of a traditional design and means of opening to reflect the character of the house.

Reason: *To ensure the design and means of opening of the windows reflect the character of the house and are sympathetic to its setting in a Conservation Area.*

Action

Head of Communities and Economy

Sederunt

Councillors Cassidy and Muirhead rejoined the meeting at the conclusion of the foregoing item of business at 2.35 pm.

Agenda No	Report Title	Presented by:
5.7	(c) The Abbey Granary, 12 Newbattle Road, Newtongrange [17/00371/DPP]	Peter Arnsdorf
Executive Summary of Report		
There was submitted report, dated 15 August 2017, by the Head of Communities and Economy regarding an application from David Paton Building Consultancy, 13 High Street, Loanhead seeking, on behalf of their client Mr A Mohammed, removal		

of Condition 5 of planning permission 17/00371/DPP, granted on 7 July 2017, for the change of use of public house to a mixed use of public house, restaurant and take away at The Abbey Granary, 12 Newbattle Road, Newtongrange.

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 28 August 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 proposed take away element. Whilst noting the reasons for its refusal, the LRB considered that as it would be ancillary to the main public house/restaurant uses, in this instance it would be an acceptable use in the context of the overall redevelopment of the property, which it was noted had laid vacant for over a year.

Decision

After further discussion, the Local Review Body agreed to uphold the review request and to grant planning permission without Condition 5 as stated in the original decision notice issued on 7 July 2017, viz:-

1. Unless otherwise approved in writing by the Planning Authority, the use hereby permitted shall not open to the public outwith the hours of 11am to 11pm.

Reason: *In order to allow the Planning Authority to assess any impact that extended opening hours could have on the amenity of the surrounding area.*

2. Notwithstanding the plans hereby approved, details of the proposed ventilation system shall be submitted to the Planning Authority for prior written approval. 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.
3. The design and installation of any ventilation system, plant or equipment and associated noise shall comply with noise rating curves (NR30) when measured within any nearby living apartment between 7am and 10pm and noise rating curves (NR25) between 10pm and 7am elsewhere.
4. No amplified music or sound reproduction equipment used in association with the use hereby approved shall be audible at the boundary of any nearby residential properties.

Reason for conditions 2 - 4: *To safeguard the amenity of the surrounding area.*

Action
Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.8	(d) Land 100m South of Glenarch Lodge, Melville Road, Dalkeith [17/00267/DPP]	Peter Arnsdorf

Executive Summary of Report

There was submitted report, dated 15 August 2017, by the Head of Communities and Economy regarding an application from Eskbank Design Studio Ltd, 7 Newbattle Road, Eskbank, Dalkeith seeking on behalf of their client Mr C Douglas, a review of the decision of the Planning Authority to refuse planning permission (17/00267/DPP, refused on 2 June 2017) for the erection of three dwellinghouses at land 100m south of Glenarch Lodge, Melville Road, Dalkeith.

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 28 August 2017.

Summary of Discussion

Having heard from the Planning Adviser, who responded to Members questions, the LRB gave careful consideration to the merits of the case based on all the written information provided. In particular, consideration was given to the proposed access arrangements, the anticipated ground conditions given the outstanding objection from the Coal Authority and potential road safety issues arising from the location of the site, and whether or not these issues could be addressed by way of appropriate conditions.

After discussion, Councillor Montgomery, seconded by Councillor Cassidy, moved to uphold the review request and to grant planning permission subject to the conditions detailed in the report, together with additional conditions covering the access arrangements and extension of the 30mph speed limit; resolution of the outstanding objection to the planning application from the Coal Authority; and appropriate developer contributions.

As an amendment, Councillor Muirhead, seconded by Councillor Lay-Douglas, moved to dismiss the review request and to refuse planning permission for the reasons detailed in the case officers report.

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

Decision

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

The proposed development is within the built up area of Dalkeith where there is a presumption in favour of appropriate development. The proposed three dwellinghouses by means of their siting, form and design will be compatible with their location and provide an attractive development at a key gateway location into Dalkeith.

subject to

- (a) the prior signing of a legal agreement to secure developer contributions towards, education provision, the Borders Railway Line and children's play provision. The legal agreement to be concluded within 6 months of the resolution to grant planning permission, if the agreement is not concluded the review will be reported back to the LRB for reconsideration. The legal agreement to be concluded prior to the issuing of the LRB decision;
- (b) resolution of the outstanding objection to the planning application from the Coal Authority prior to any grant of planning permission being issued. The applicant shall be required to submit a Coal Mining Risk Assessment for consideration by the Coal Authority, and only once the Coal Authority is satisfied that appropriate measures can be taken to mitigate the historical coal legacy issues on the site will the planning permission be issued; and
- (c) the following condition:-
 - 1. Development shall not begin until samples of materials to be used on external surfaces of the buildings; hard ground cover surfaces; means of enclosure and ancillary structures have been submitted to and approved in writing by the planning authority. The external walls of the houses shall be finished in natural stone, wet dash render, zinc, larch or timber cladding 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 RP20 and DP2 of the Midlothian Local Plan, policies DEV2, DEV5 and DEV6 of the Proposed Midlothian Local Plan and national planning guidance and advice.*

- 2. Unless otherwise approved in writing by the Planning Authority, the stone walls around the boundary of the site, including the wall along Melville Road, shall be repaired within 12 months of the commencement of development, using lime based mortar and matching natural stone. The height and form of the wall shall be as existing.

Reason: *To ensure that appropriate and traditional materials are used in the repair of this stone wall.*

3. The visible infill in the gabion baskets hereby approved shall be infilled with natural stone to match the existing walls along the site frontage to Melville Road.

Reason: *To promote visual cohesion in the area; to ensure that the gabion baskets are in keeping with the existing stone walls in the area.*

4. Unless otherwise agreed in writing, the garage doors hereby approved shall be of roller shutter design.

Reason: *To ensure there is adequate room a car in the vehicular manoeuvre area when these doors to be open; in the interests of road safety.*

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

Before any part of the site is occupied for 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.*

7. Development shall not begin until 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 in communal areas and open space, 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. The details shall include a trespass proof fence along the eastern boundary;
- 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 on adjoining plots are occupied;
- vii drainage details and sustainable urban drainage systems to manage water runoff (not within 10 metres of any railway infrastructure);
- viii proposed car park configuration and surfacing;
- ix proposed footpaths; and
- x proposed cycle parking facilities.

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 RP20 and DP2 of the Midlothian Local Plan, policies DEV2, DEV5, DEV6, DEV7 and DEV9 of the Proposed Midlothian Local Plan and national planning guidance and advice.*

8. Unless otherwise agreed in writing by the Planning Authority, the window serving the lounge on the west elevation of the corner house as shown on drawing no. 6 shall be obscurely glazed prior to the occupation of the house. The obscure glazing shall not be replaced with clear glass without the prior written approval of the Planning Authority.

Reason: *In order to minimise overlooking and protect the privacy of the occupants of this property.*

Action

Head of Communities and Economy

The meeting terminated at 2.56 pm.

Local Review Body: Review of Planning Application Reg. No. 17/00390/DPP

Spartan Gym
Unit 33/1
Mayfield Industrial Estate
Dalkeith
EH22 4AD

Midlothian Council, as Planning Authority, having considered the review of the application by Mr Ludovico Rizza, Unit 33/1, Mayfield Industrial Estate, Dalkeith, which was registered on 28 July 2017 in pursuance of their powers under the above Act, hereby **grant** permission to carry out the following proposed development:

Change of use from general industry (class 5) to bodybuilding gym (class 11) (retrospective) at Unit 33/1, Mayfield Industrial Estate, Dalkeith, in accordance with the application and the following plans:

<u>Drawing Description.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	1:2500	16.05.2017

Subject to the following condition:

1. The building shall be used as a gymnasium, bodybuilding centre or fitness studio and for no other use, including those uses identified in Class 11 of The Town and Country Planning (Use Classes) (Scotland) Order 1997 or any subsequent replacement or amendment Order relating to the use of land or the Use Classes Order.

Reason: *To enable an assessment to be made with regard a proposed use's suitability for its location within an industrial estate.*

The Local Review Body (LRB) considered the review of the planning application at its meeting of 29 August 2017. The LRB carried out a site visit on the 28 August 2017.

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

Development Plan Policies:

1. RP20 Midlothian Local Plan – Development within the built-up area
2. COMD1 Midlothian Local Plan – Committed development
3. ECON4 Midlothian Local Plan – Storage and distribution and other non-residential use on existing industrial land and buildings
4. STRAT1 Proposed Midlothian Local Development Plan – Established economic land supply
5. DEV2 Proposed Midlothian Local Development Plan – Protection amenity within the built-up area
6. ECON1 Proposed Midlothian Local Development Plan – Existing employment locations

Material considerations:

1. The individual circumstances of the proposal

In determining the review the LRB concluded:

The proposed use is compatible to its location within an industrial estate; it provides employment benefits and opportunities for the community to be involved in sports and keep fit which accords with the Council's healthy lifestyles objectives.

Dated: 29/08/2017



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

On behalf of:

Councillor R Imrie
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

Local Review Body: Review of Planning Application Reg. No. 17/00275/DPP

John Gordon Associates Ltd
3 Dean Acres
Comrie
Dunfermline
KY12 9XS

Midlothian Council, as Planning Authority, having considered the review of the application by Mr A Matthews, 35 Temple, Gorebridge, EH23 4SQ, which was registered on 6 June 2017 in pursuance of their powers under the above Act, hereby **grant** permission to carry out the following proposed development:

Installation of replacement windows at 35 Temple, Gorebridge, in accordance with the application and the following plans:

<u>Drawing Description.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	1:1250	10.04.2017
Proposed Elevations	30184711/1 1:20	10.04.2017

Subject to the following conditions:

1. The proposed design of the windows is not approved. The design and means of opening of the replacement windows shall be approved in writing by the Planning Authority prior to their installation. The windows shall be of a traditional design and means of opening to reflect the character of the house.

Reason: *To ensure the design and means of opening of the windows reflect the character of the house and are sympathetic to its setting in a Conservation Area.*

The Local Review Body (LRB) considered the review of the planning application at its meeting of 29 August 2017. The LRB carried out a site visit on the 28 August 2017.

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

Development Plan Policies:

1. RP20 Midlothian Local Plan – Development within the built-up area
2. RP22 Midlothian Local Plan – Conservation areas

Material considerations:

1. The individual circumstances of the proposal
2. The window materials used elsewhere in Temple

In determining the review the LRB concluded:

The proposed replacement of timber windows with uPVC is acceptable and reflects a desire to use modern materials. However, it is considered that the design and means of opening shall reflect the character of the house and are sympathetic to its setting in a Conservation Area – the design as submitted is not acceptable.

Dated: 29/08/2017



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

On behalf of:

Councillor R Imrie
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

Local Review Body: Review of Planning Application Reg. No. 17/00371/DPP

David Paton Building Consultancy
13 High Street
Loanhead
EH20 9RH

Midlothian Council, as Planning Authority, having considered the review of the application by Mr Akram Mohammed, 79A Broughton Street, Edinburgh, EH1 3RJ, which was registered on 11 July 2017 in pursuance of their powers under the above Act, hereby **grant** permission to carry out the following proposed development:

Change of use from public house (sui generis) to mixed use of public house, restaurant and take away at The Abbey Granary, 12 Newbattle Road, Newtongrange, in accordance with the application and the following plans:

<u>Drawing Description.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Site Plan	17-20-001 1:1250 1:500	10.05.2017
Other Statements		10.05.2017
Other Statements		02.06.2017

Subject to the following conditions:

1. Unless otherwise approved in writing by the Planning Authority, the use hereby permitted shall not open to the public outwith the hours of 11am to 11pm Mondays to Sundays.

Reason: *In order to allow the Planning Authority to assess any impact that extended opening hours could have on the amenity of the surrounding area.*

2. Notwithstanding the plans hereby approved, details of the proposed ventilation system shall be submitted to the Planning Authority for prior written approval. 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.
3. The design and installation of any ventilation system, plant or equipment and associated noise shall comply with noise rating curves (NR30) when measured within any nearby living apartment between 7am and 10pm and

noise rating curves (NR25) between 10pm and 7am elsewhere.

4. No amplified music or sound reproduction equipment used in association with the use hereby approved shall be audible at the boundary of any nearby residential properties.

Reason for conditions 2 - 4: To safeguard the amenity of the surrounding area.

The Local Review Body (LRB) considered the review of the planning application, in particular condition 5 attached to the original grant of planning permission, at its meeting of 29 August 2017. The LRB carried out a site visit on the 28 August 2017.

In reaching its decision to remove condition 5 the LRB gave consideration to the following development plan policies and material considerations:

Development Plan Policies:

1. RP20 Midlothian Local Plan – Development within the built-up area
2. DP7 Midlothian Local Plan – Control of Class 3 (Food and Drink) Uses and Hot Food Takeaway Shops

Material considerations:

1. The individual circumstances of the proposal
2. The vacant state of the premises

In determining the review the LRB concluded:

The proposed use would support bringing back into use a vacant commercial building, which was previously used for food and drink uses, in a manner which is viable and sustainable. It is considered that the proposed hot food takeaway element would not be detrimental to local amenity.

Dated: 29/08/2017



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

On behalf of:
Councillor R Imrie
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

**Notice of Review: Land to the rear of 180 Main Street,
Pathhead****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 garage at land to the rear of 180 Main Street, Pathhead.

2 Background

- 2.1 Planning application 17/00420/DPP for the erection of a garage at land to the rear of 180 Main Street, Pathhead was refused planning permission on 7 July 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 7 July 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

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 9 October 2017; and
 - Have determined to progress the review by way of a written submissions.
- 4.2 The case officer's report identified that 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. Comments can be viewed online on the electronic planning application case file via 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 13 June 2017, and without prejudice to the determination of the review, the following condition has been prepared for the consideration of the LRB if it is minded to uphold the review and grant planning permission:
1. The garage hereby approved shall be used only for domestic purposes and shall not be used in connection with any trade or business.

Reason: *To ensure the garage is for domestic use only; the application has been assessed only in terms of this restricted use and any other use may have an adverse effect on the amenity of the occupants of the surrounding properties.*

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

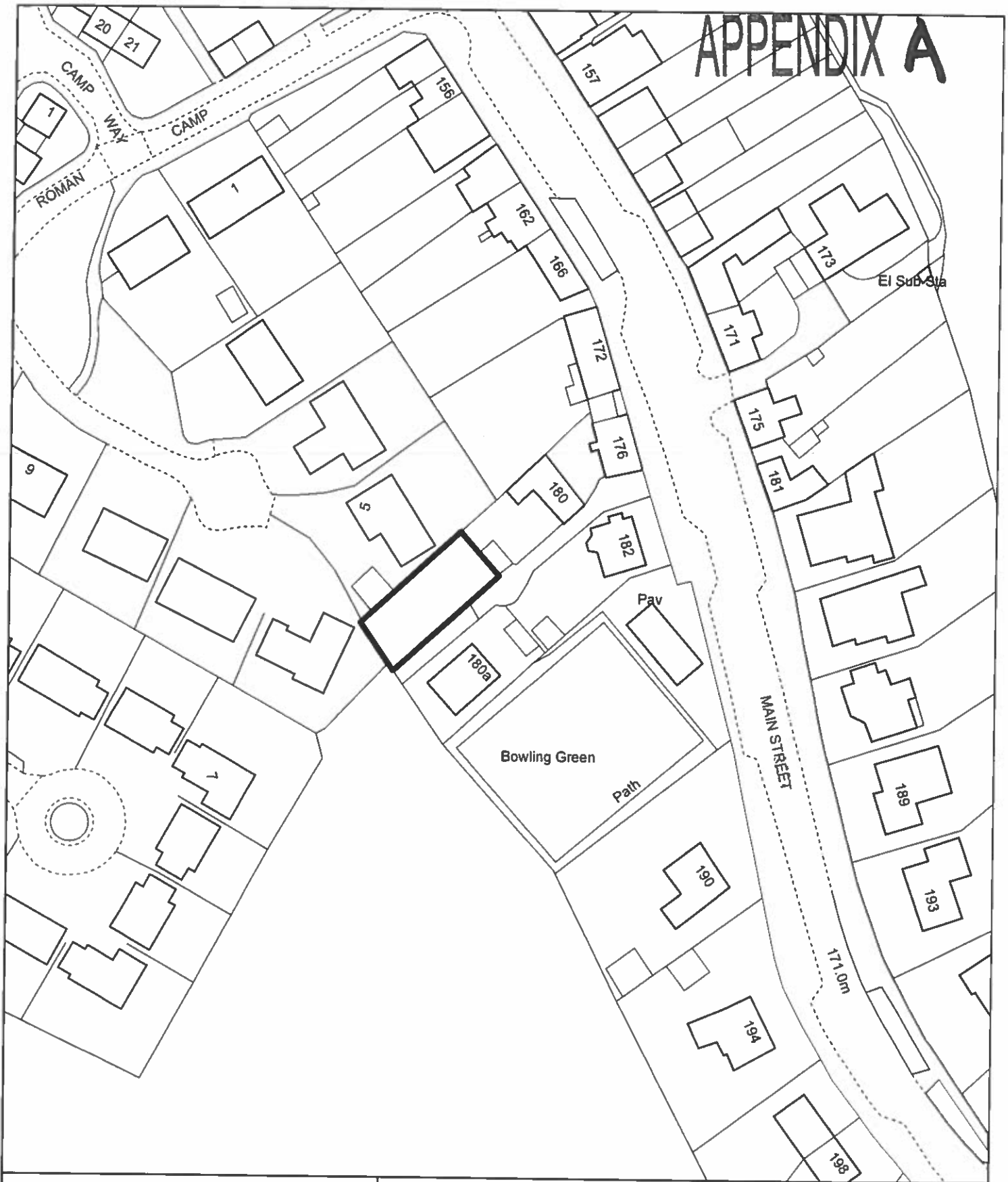
Date: 28 September 2017

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

Tel No: 0131 271 3310

Background Papers: Planning application 17/00420/DPP available for inspection online.

APPENDIX A



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

Land to rear of 180 Main Street, Pathhead

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

Midlothian Council Licence No. 100023416 (2017)

File No. 17/00420/DPP

Scale: 1:1,000

Page 30 of 66



Midlothian

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

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

Thank you for completing this application form:

ONLINE REFERENCE 100064952-001

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

Applicant or Agent Details

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

☐ Applicant ☒ Agent

Agent Details

Please enter Agent details

Company/Organisation: Sir Frank Mears Associates

Ref. Number:

Double Garage

You must enter a Building Name or Number, or both: *

First Name: *

Hugh

Building Name:

Lochrin Buildings

Last Name: *

Crawford

Building Number:

12-14

Telephone Number: *

0743 653 7412

Address 1
(Street): *

Gilmore PLace

Extension Number:

Address 2:

Mobile Number:

Town/City: *

Edinburgh

Fax Number:

Country: *

Scotland

Postcode: *

EH3 9NB

Email Address: *

hwjcrowford@gmail.com

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

☒ Individual ☐ Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	Other	You must enter a Building Name or Number, or both: *	
Other Title:	Double Garage	Building Name:	Malcolm
First Name: *	180	Building Number:	
Last Name: *	McIntosh	Address 1 (Street): *	
Company/Organisation	15 Mitchell Street	Address 2:	
Telephone Number: *		Town/City: *	Dalkeith
Extension Number:	1	Country: *	Scotland UK
Mobile Number:		Postcode: *	EH22 1JQ
Fax Number:			
Email Address: *			

Site Address Details

Planning Authority:	Midlothian Council
Full postal address of the site (including postcode where available):	
Address 1:	
Address 2:	
Address 3:	
Address 4:	
Address 5:	
Town/City/Settlement:	
Post Code:	

Please identify/describe the location of the site or sites

Erection of Garage (part retrospective) to rear of 180 Main Street, Pathhead

Nothing	664656	Easting	329375
---------	--------	---------	--------

Description of Proposal

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

Erection of Garage (part retrospective) at land to rear of 180 Main Street, Pathhead

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.

A full appeal Statement is being lodged. It relates to the refusal of a dormer window which was added to the original proposal, and for which consent is now sought. The window serves an attic space above the garage and provides light and improves headroom for the use of the attic. It does not serve a habitable space, and the attic can only be accessed by a ladder, and entered through a hatch. It is thought to be contrary to Guidelines on Dormer windows, normally applied to houses; it is not.

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)

Planning Application submission form Submission statement Refusal Delegated worksheet Planning History Letter of objection
Appeal Statement, Document Locality Plan 1/1250 Block Plan MMP/1 1/200 Garage Elevation with Dormer MMP/4R
1/50 Ground Floor Plan and Section MMP/2 1/50 Attic Floor Plan and Front Elevation MMP/3 1/50

Application Details

Please provide details of the application and decision.

What is the application reference number? *

17/00420/DPP

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

24/05/2017

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

07/07/2017

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 Hugh Crawford

Declaration Date: 03/09/2017

Double Garage at rear of 180 Main Street, Pathhead, Midlothian. Proposed change of double doors to one wider door, and formation of a dormer in the roof.

Application Reference 17/00420/DPP

Appeal Against Refusal of Resubmitted Planning Application following Midlothian Council's decision to refuse the amended application for planning consent having earlier disallow the earlier appeal to LRB as being out of time.

Submitted on behalf of Malcolm Macintosh of 15 Mitchell Street, Dalkeith

The earlier planning application was submitted in response to the council's enforcement officer advising that the alterations being carried out to the building should be subject of a new planning application to take account of the variations of the existing consent.

The garage was granted consent in 1995 and work started, but later abandoned, for some years. Mr Macintosh bought the structure and the associated land; the land was put into a tidier condition. He has continued with the construction work, and with good intentions, formed the new roof structure with a dormer which was not in the earlier application approved more than 20 years ago. The roof storage space, lit by the dormer is accessed from a ladder.

Mr Macintosh uses the garage for his own purposes, in the restoration of a historic Land Rover. The roof space, with access through a ceiling hatch, is to be used for storage of his associated materials. The roof space is not of a height as can be used for domestic accommodation. It is lit by way of the new dormer window, which increases the usable floor area of the attic. He lives in Dalkeith, in a terraced house with no garage and is happy to have obtained a suitable garage for his restoration work, albeit some distance from his home, but has long associations with Pathhead.

Mr Macintosh had his application submitted, as required by the enforcement officer, and made a submission for amendment to the existing building warrant. Work on the Building Warrant submission has had to be put on hold due to the refusal of his earlier planning application. Following refusal of the earlier planning application the revised application, with modifications was made and registered on 24 May 2017. It was refused on 7th July 2017 for the same reasons as the first application. The terms of the refusal are nearly identical to the earlier refusal and likewise demonstrate no recognition of the supporting arguments which accompanied the submission. or the modification to the detail of the dormer window.

That planning application was refused on four grounds:

1. *The proposed development would not be connected to a nearby residential property and would therefore be used as general storage which would not be appropriate in this residential area as it would have a detrimental impact on amenity of nearby residential properties.*

The fact that the garage is not connected to a nearby residential property does not mean it is going to be used for general storage. It is remote from Mr MacIntosh's house, it is being used as a domestic garage, with associated attic storage of related materials, if need be; the attic is incidental to the use and enjoyment of the garage. Mr MacIntosh has long associations with Pathhead, although he lives in Dalkeith

2. *The proposed dormer window offers potential for overlooking and the perception of overlooking, to the significant detriment of nearby residential properties.*

The dormer essentially overlooks the land in the ownership of the appellant, and outward to a fine view over fields to the south east of the land. The depth of construction of the face of the window does not allow for oblique views necessary to look at neighbouring properties. The perception of overlooking from a garage, loft, storage space, with access from a ladder, owes more to speculation than to fact. The loft space is not a place to inhabit. The garage was stated by an objector to look like a house; it is clearly not, but by prudent choice is intended to be finished in a way which is in keeping with the buildings around it. Regarding any impact on sunshine in a neighbour's garden, the planning permission for the garage has been in place for many years, and there is no supporting diagram of how the dormer, or the garage itself overshadows a garden. It was further stated that the owner is using the site commercially. That is not the case, nor has there been any positive evidence to justify that statement.

3. *The proposed Dormer window is bulky and unattractive, and its size does not comply with the related Supplementary Planning Guidance for dormer windows.*

The SPG for dormer windows, sets out in clear terms the criteria by which dormer windows should be designed and appraised. Looking at these in turn it is submitted that the dormer window as has been constructed, conforms with the guidance.

The garage dormer is designed as a dormer window, and not a box extension on the roof.

The side walls of the dormer, at 180 mm, are less than the SPG recommended maximum thickness of 200 mm and the face of the side walls will be clad in slate to match the roof.

The bottom of the glazed area of the dormer is very close to the plane of the roof surface below it, as recommended in the SPG.

The dormer roof surface marries in to the roof ridge, as the roof ridge over the attic space is low, and the roof will not be seen above the ridge.

The dormer does not rise on the same plane as the wallhead, but is set 1 metre back from it, as recommended in the SPG.

The width of the glazed face of the dormer has been reduced by the introduction of a central mullion as recommended.

The width of the dormer, is shown on the plan drawings as 2.5 metres, against the recommended width of 2.0 metres given, only as a guideline. The drawing MMP 4/R has been modified to more accurately reflect the dimensioned size of the dormer at 2.5 metres, and express the form of that on the roof slope, with lead flashings and watergates. That revised drawing was included in the revised submission in place of drawing MMP 4.

The width of a dormer should not normally exceed 35% of the roof slope; and 45% when bay dormers are built. The garage dormer is 37% of the width of the roof slope, and as such is in reasonable compliance with the SPG recommendations.

The perception of intrusion on privacy of neighbours can be assessed by examining the block plan showing the plan of the garage and its roof dormer. It can readily be seen that the main outlook from this attic store is over the private land which it occupies. Straight ahead, the nearest house is more than 20 Metres away, and sits at an oblique angle. To the north west, the window in the gable of the adjacent house, may only be glimpsed at a very acute angle, likewise the house to the south east and its associated garden ground can only be seen at an acute angle.

The dormer, as has been created, is in compliance with the SPG document and provides a window which brings natural lighting to an attic store, above a garage. With quality slate cladding and lead flashings it is not detrimental to residential amenity. Those claims can be best assessed through looking at the half completed work on site.

4. The final reason for refusal of the earlier submission concludes from the Reasons 1,2, and 3, *“that the proposed development will adversely impact on the character, appearance and amenity of the area, and therefore the proposed development is contrary to the policy RP20 of the adopted Midlothian Local Plan and policy DEV2 of the emerging Local Development Plan”*.

The garage has had the benefit of planning permission for very many years with the work started on site. The letter of objection states that the site has been untidy with weeds growing up to a high level. Mr Macintosh has done much to improve the site since he bought it over. To allow the work to be completed, and the garage made available for the use and enjoyment of owner, with a

completed building, is fair and reasonable. The garage will be finished in traditional slate and roughcast, and will sit within a tidy garden area. To be allowed to achieve that is clearly not going to “adversely affect the character, appearance and amenity of the area”...making... “the proposed development contrary to policy RP20 of the adopted Midlothian Local Plan”. It is simply not the case, and has not been demonstrated through any factual assessment or interpretation of planning policy or supplementary guidelines.

The application is further said to be contrary to policy DEV2 of the emerging Midlothian Development Plan, (the Document gives background to the framing of this policy in, paragraph 3.1.5). This emerging policy “applies to all town and villages, to ensure that new development does not change or blight land uses which are already established or supported by this Plan. This can include negative impact by way of layout, appearance, unacceptable traffic, disturbance and noise.” It is not clear why the clearly stated intent of this proposed policy, as thought to apply to Mr MacIntosh’s attic dormer window, in his garage roof, can have a negative impact on the surrounding area; its appearance with slate cladding, traditional windows and lead flashings are traditional, quality finishes. The other potential effects stated, by way of layout, traffic disturbance and noise give a better indication of the considerations intended to be applied through this policy. It clearly is misquoted in an attempt to add substance to an already inadequate reason for refusal.

The application application should not have been refused on such insubstantial grounds as have been quoted. The planning officer has not engaged with the reasoning advanced with the resubmitted application. The case for refusal is unsupported and inadequate. I ask that this appeal against the refusal of this application, resubmitted with further detail and justification, be supported.

Hugh W J Crawford RIBA, FRIAS, FRTPI
Chartered Architect, Town Planner and Mediator

MIDLOTHIAN COUNCIL

DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

Planning Application Reference: 17/00420/DPP.

Site Address: Land to rear of 180 Main Street, Pathhead.

Site Description: The application site comprises an area previously associated with the house at 176 Main Street to the south. There is a hedge along the southern boundary and a wall along the north. There are houses surrounding the site which is accessed by a lane from Main Street. The site is within the Pathhead Conservation Area. There is a partially erected double garage within the site (see background section below).

Proposed Development: Erection of garage (part retrospective).

Proposed Development Details: It is proposed to complete a garage which has been under construction since 1995 (see background section below). The plans state that this measures 6.3 metres by 6.3 metres. The roof is pitched with the plans showing this to be either 4.8 or 5.1 metres high.

The design of the garage has altered slightly, replacing two smaller garage doors with one larger door and the inclusion of a dormer window on the west elevation, measuring 2.5 metres wide and the plans vary in its height, between 1.5 and 1.7 metres high. There appears to be a store at first floor level accessed by a hatch and ladder. No internal stairs are proposed. The originally approved garage measured 6 metres by 6.1 metres by 4.9 metres high so the dimensions of the garage appear to have altered from that originally approved.

The roof is slate with the dormer roof felt, the walls wet dash render and redwood cladding, the garage door metal and the dormer window frames timber painted a chestnut colour.

The garage is to be used as a garage and store for the applicant who lives in Dalkeith. They have submitted comments relating to the previous reasons for refusal.

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

Application site

16/00676/DPP Erection of garage (part retrospective). Refused – not related to a nearby residential unit so would be general storage which is not appropriate in this residential area as it would have a detrimental impact on the amenity of nearby residential properties; the dormer window offers potential overlooking to neighbouring properties; the dormer is bulky and unattractive and does not comply with the SPG for dormers; contrary to RP20.

382/91 Erection of garage. Consent with conditions – improvement of condition of site; details of and erection of fencing; restricting the use of the garage to domestic incidental to 176 Main Street; no vehicles parked or stationed outwith the garage; no parts of vehicles store within the site outwith the garage; and no vehicle repairs or maintenance within the site other than the garage.

Two applications for a house on site were refused in 1987 and 1992 over concerns of overdevelopment and impact on the surrounding area.

Consultations: No consultations were required.

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

- The dormer windows will cause overlooking and a detrimental impact on privacy;
- The dormers should be removed;
- The height of the building appears to have been raised;
- The garage is too close to neighbouring properties and blocks light to windows;
- The garage breaches building regulations regarding proximity;
- The dormers are out of character with the size of building;
- The restoration of vehicles is inappropriate for this site as this will detract from the amenity of the surrounding occupants;
- The site has consistently been in an untidy state; and
- There is a concern that a change of use of the plot may occur given the distance of the applicant's house to the site.

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

RP20 Development Within the Built Up Area states that development will not be permitted where it is likely to detract materially from the existing character or amenity of the area; and

RP22 Conservation Areas states development will not be permitted in conservation areas which would have any adverse effect on its character and appearance. In regards to new buildings, policy states that in selection of site, scale, choice of materials and details of design it will be ensured that new buildings preserve or enhance the character and appearance of the conservation area.

Supplementary Planning Guidance – Dormer Windows states dormers should be windows rather than a large box extension. Recommendations are given regarding the size and position of the dormer on the roof.

The relevant policies of the **2014 Midlothian Local Development Plan Proposed Plan** are;

DEV2 Protecting Amenity Within the Built-Up Area contains similar policy requirements to RP20 of the adopted Local Plan; and

ENV19 Conservation Areas contains similar policy requirements to RP22 of the adopted Local Plan.

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.

Planning permission was previously granted for a garage at this site, which was partially erected in 1995 after which development ceased. Works began again in July 2016, which included the formation of a dormer window and alterations to the garage entrance. These changes require a new planning permission which is being assessed here.

The previous garage was approved with a number of conditions, including that it be used only as a domestic garage incidental to the enjoyment of the residents of 176 Main Street, Pathhead, the property adjacent to the access to the site. The site was previously garden ground for 176 Main Street, with the house at 180 Main Street separating the two areas. The garage was considered to be acceptable in the garden ground of 176 Main Street as, although separated from the house, it was related to a nearby residential property and not a standalone garage with no connection to any nearby property. This position is reinforced given the condition restricting the domestic use of the garage for the residents of 176 Main Street.

It appears that since the original application was approved the ownership of the garage and house have been separated. The applicant's address is in Dalkeith and they have confirmed that the use of the garage would be domestic related to the Dalkeith property. By their nature, domestic garages are located in close proximity to the related houses, generally for domestic storage or car parking. It is unusual for garages to be so remote from the associated house as currently proposed. It is a concern that the potential user of the garage is not the occupant of a nearby property and it that the garage appears to be used as general storage rather than for domestic use related to a nearby house. The applicant has refuted these concerns, stating that the garage will be in domestic use and not general storage. However given the history of why the house was initially approved, it is clear that this was considered acceptable as it was related to a nearby property. Given that the site is within a residential area with houses in very close proximity and such a distance from the related dwellinghouse, such a storage use would not be acceptable as it would likely have a detrimental impact on the amenity of neighbouring residents. There are no links to any nearby properties or means to restrict its future use to any nearby properties, thereby meaning that anyone could use it as storage which could have an adverse affect on the amenity of the area.

Notwithstanding the concerns over the use of the garage, the appearance of the garage and the potential impact on the surrounding area require to be considered. The main difference between the previously approved garage and the current proposal, which is largely built, is alterations to the garage doors and the inclusion of a dormer window. The alterations from two doors to one door are acceptable.

As noted above, the Planning Authority has produced SPG for dormer windows, giving general advice on the size and position of these features. The proposed dormer measures 2.5 metres wide, appearing large and bulky. The SPG states that box dormers, as in this case, should not exceed 2 metres and bay dormers are

permitted to 2.5 metres wide. The dormer extends from the ridge of the roof, rather than being set down 500mm as prescribed in the SPG.

The position of the dormer provides potential for overlooking to 5 and 6 Roman Camp, the objectors' properties. The applicant does not consider this the case, stating that the dormer overlooks the application site and fields to the southeast. However the Planning Authority disagrees and maintains its concerns over the impact on the privacy and amenity of the neighbouring properties. Although this could be addressed through the use of obscured glazing, there would remain a perception of overlooking to these properties from these large windows. This would have a detrimental impact on the privacy and amenity of the occupants, in particular to the first floor window of number 5 which serves a bedroom and the garden of number 6, as shown in the objector's photos.

The submitted cross sections of the garage show a floor which would provide storage at attic level, with the floor plan showing this would be accessed by a hatch. The Planning Authority would have no control over any internal works and there would appear to be sufficient room for a staircase to be accommodated within the dormer window to provide access to the attic. Dormer windows are not generally a feature of garages, as rooflights usually provide any required natural light. Given previous refused applications for a house at the site, there is a concern that the use of the garage would not be domestic as proposed but could change into another use.

The following section addresses comments made by the representors not addressed above. The garage as built is in the same position and height as previously approved. There were no concerns over loss of light raised in the previous application, nor is it a significant concern in the current application. The garage does have a slightly larger footprint than that previously approved (at 6.3 metres by 6.3 metres rather than 5.9 metres by 6 metre), however this does not have a detrimental impact on the character or appearance of the surrounding conservation area or the amenity of nearby properties.

There is a building warrant under consideration for the garage, which would assess the building regulations.

The applicant has not submitted any information to remove the Planning Authority's concerns over this development and so these remain. The siting of a garage at this site was previously considered acceptable as this was connected to a nearby residential property. The current proposal offers no such connection and it appears that the garage would be used for general storage rather than domestic which would not be in keeping with the surrounding residential area. Also, the proposed dormer window offers potential for overlooking to the significant detriment of the amenity of nearby residential properties.

Recommendation: Refuse planning permission.



Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

Reg. No. 17/00420/DPP

Sir Frank Mears Associates
Lochrin Buildings
12-14 Gilmore Place
Edinburgh
EH3 9NB

Midlothian Council, as Planning Authority, having considered the application by Mr Malcolm McIntosh, 176, 15 Mitchell Street, Dalkeith, EH22 1JQ, which was registered on 24 May 2017 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

Erection of garage (part retrospective) at Land To Rear Of 180 Main Street, Pathhead

in accordance with the application and the following plans:

<u>Drawing Description.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	1:1250	24.05.2017
Site Plan	MMP/1 1:200	24.05.2017
Elevations, Floor Plan And Cross Section	MMP/2 1:50	24.05.2017
Proposed Elevations	MMP/3 1:50	24.05.2017
Proposed Elevations	MMP/4 1:100 1:50	24.05.2017
Other Statements		24.05.2017

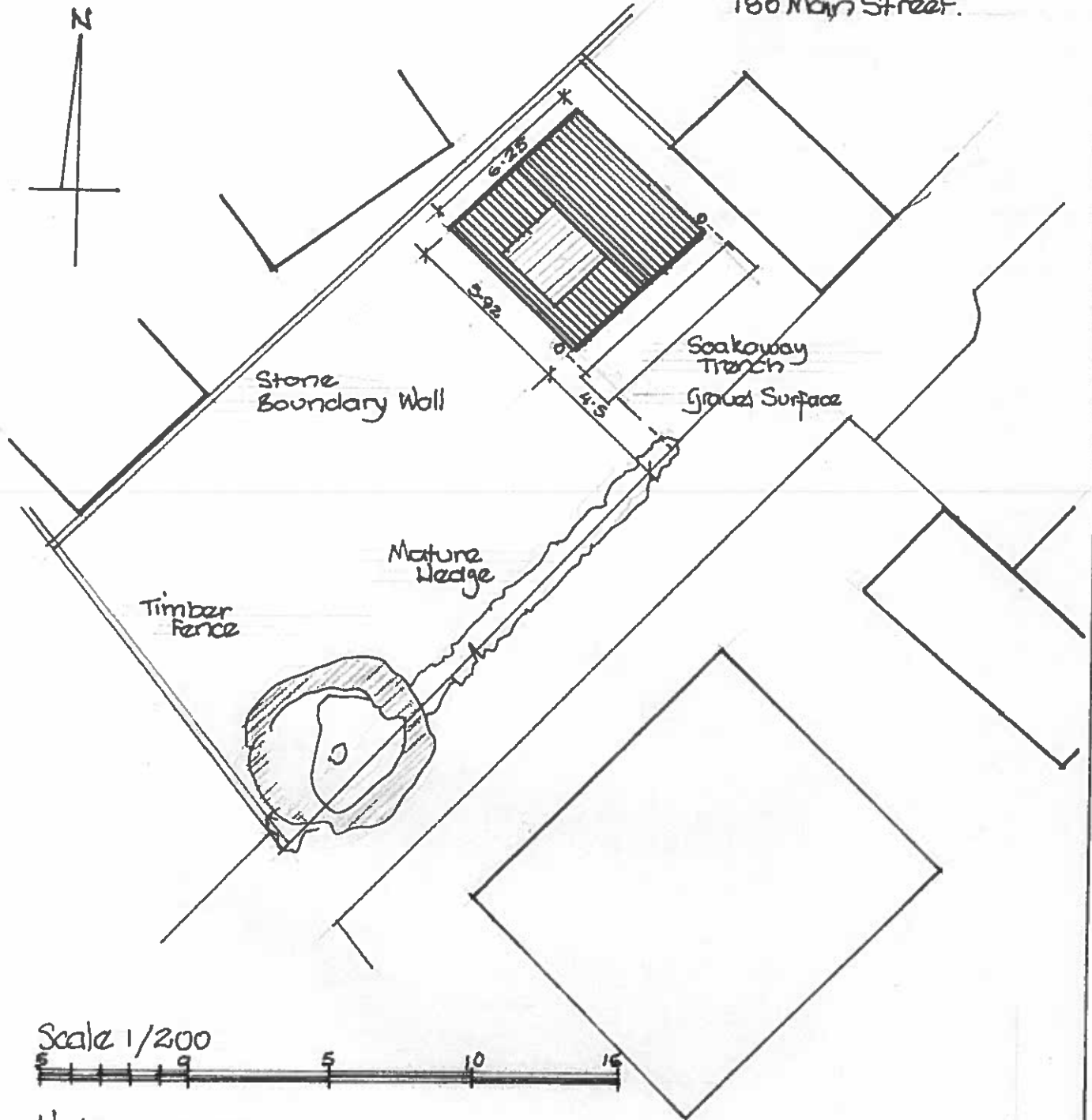
The reasons for the Council's decision are set out below:

1. *The proposed development would not be connected to a nearby residential property and would therefore be used as general storage which would not be appropriate in this residential area as it would have a detrimental impact on the amenity of nearby residential properties.*
2. *The proposed dormer window offers potential for overlooking and the perception of overlooking to the significant detriment of the amenity of nearby residential properties.*
3. *The proposed dormer window is bulky and unattractive and its size does not comply with the related Supplementary Planning Guidance for dormer windows.*
4. *For the above reasons, the proposed development will adversely impact on the character, appearance and amenity of the area and therefore the proposed development is contrary to policy RP20 of the adopted Midlothian Local Plan and policy DEV2 of the emerging Midlothian Local Development Plan.*

Dated 7 / 7 / 2017

DR

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



Notes:

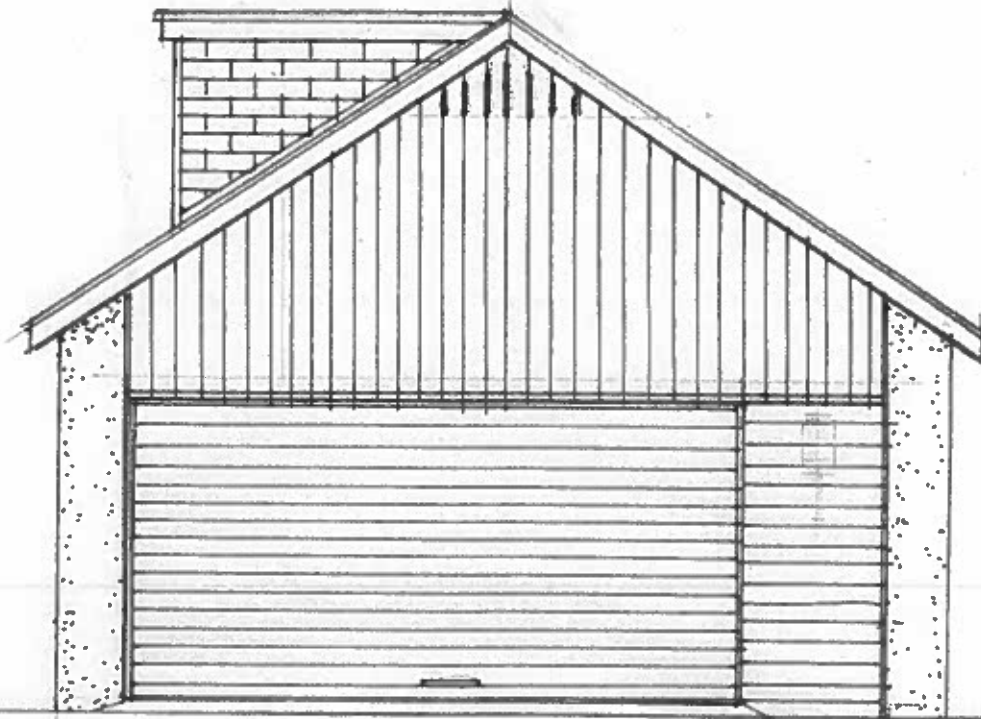
- 1/ All new works are to be in accordance with The Building (Scotland) Regulations 2004 and all current amendments.
- 2/ All new works, products and processes are to be in accordance with the relevant British Standards and manufacturers' guidance.

DOUBLE GARAGE on land at rear of 180 Main St., PATHHEAD

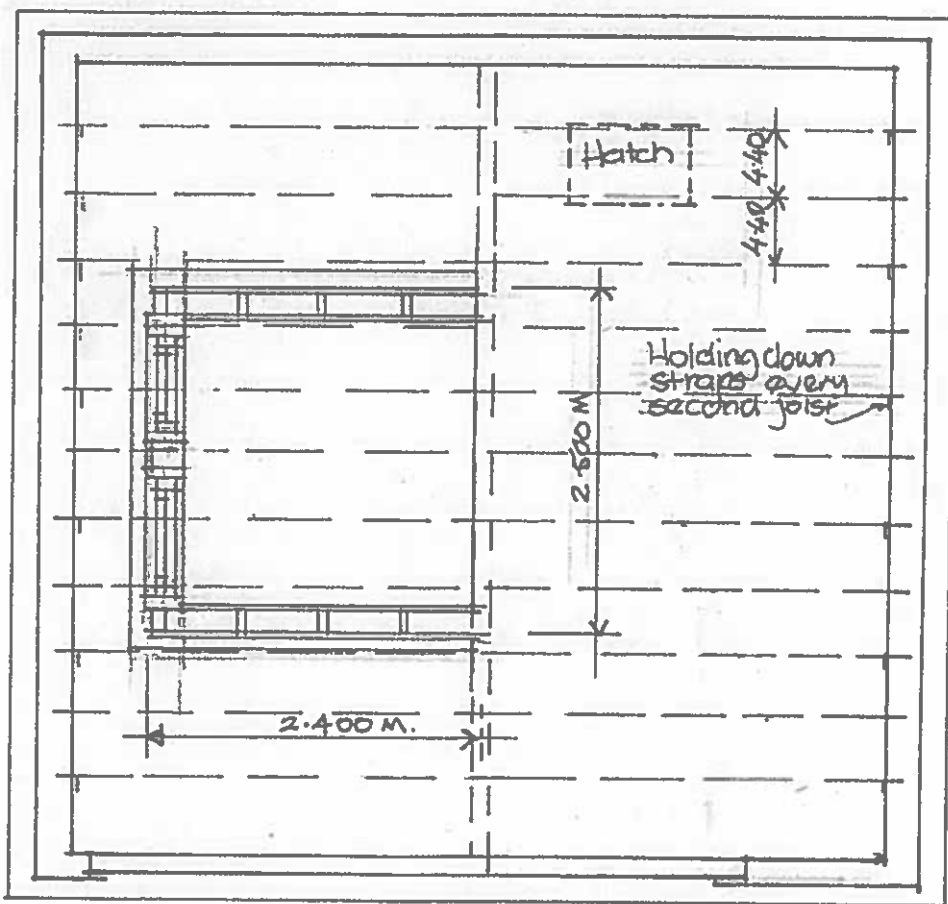
BLOCK PLAN

MMP/1

Hugh W. J. Crawford
Architect.

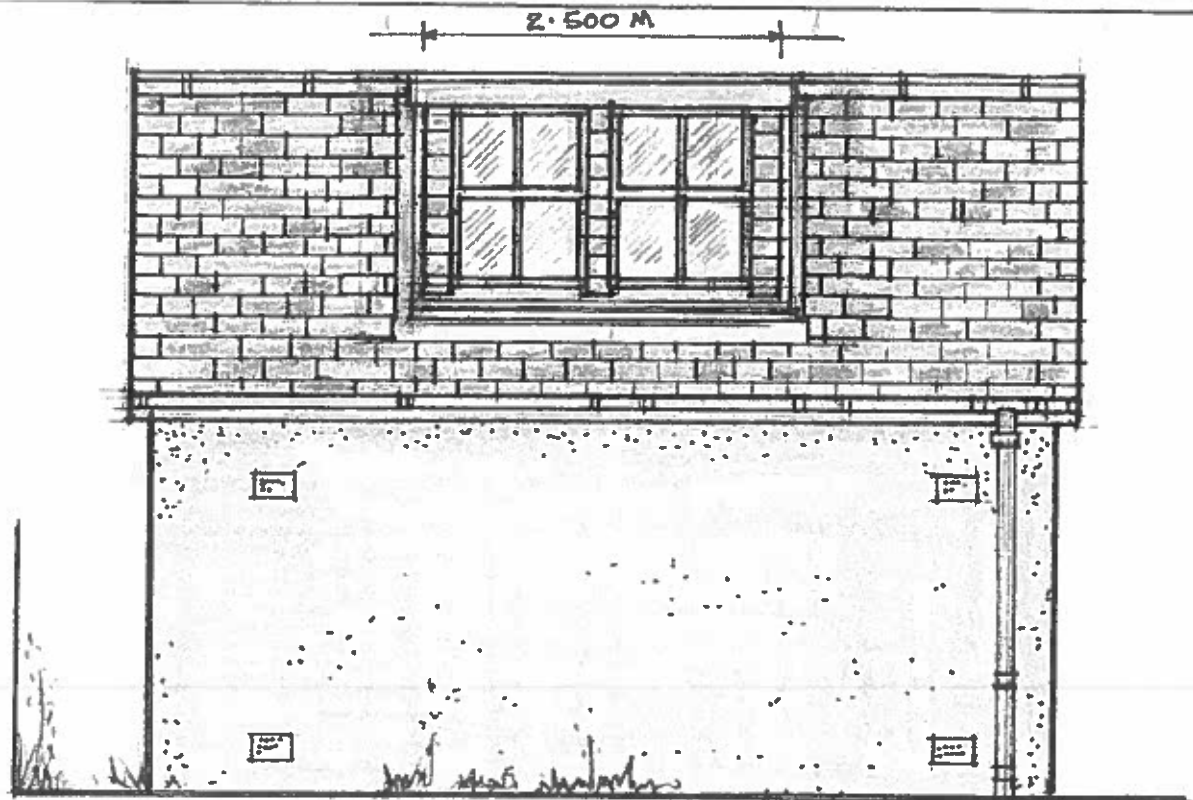


Front Elevation 1/50 Scale

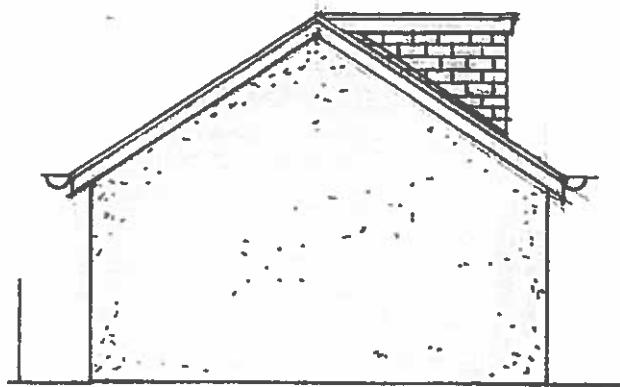
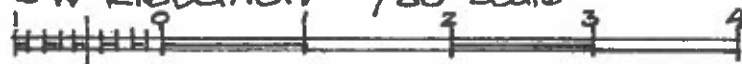


Plan of Attic Store with Dormer
DOUBLE GARAGE on land
at rear of 176 Main St, PATHHEAD.

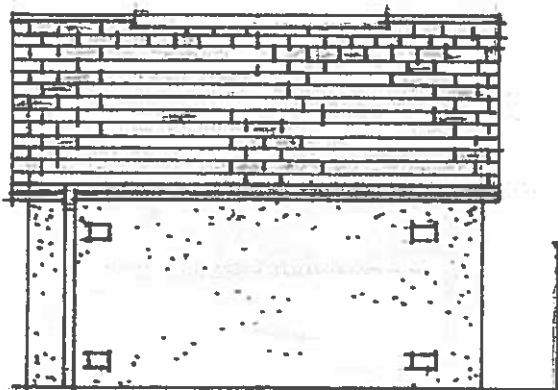
ATTIC PLAN
FRONT ELEVATION
Hughes W. J. Crawford Architect



S.W. Elevation 1/50 Scale



N.W. Elevation 1/100 Scale



N.E. Elevation 1/100 Scale

DOUBLE GARAGE on land
at rear of 180 Main St. PATHHEAD.

External Finishes:
Roof Covering, Slate
Dormer Roof, mineral
finish felt.
Ropes and Conductors
dark gray pvc.
Walls, wet dash
buff rendering
on block walls.
Garage Door, horizontal
profile, metal door.
Cable over door
redwood weather
boarding stained
chestnut colour.
Dormer Windows
timber painted
chestnut
Eaves and Verges
Redwood stained
chestnut.
Flashings, Zinc Sheet.

ELEVATIONS

MMP/A.R.
Hugh W. J. Crawford Architect

Notice of Review: 13 Burnbrae Crescent, 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 two storey extension at 13 Burnbrae Crescent, Bonnyrigg.

2 Background

- 2.1 Planning application 17/00292/DPP for the erection of a two storey extension at 13 Burnbrae Crescent, Bonnyrigg was refused planning permission on 2 June 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 2 June 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

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 9 October 2017; and
 - Have determined to progress the review by way of a written submissions.
- 4.2 The case officer's report identified that one representation has been received. As part of the review process the interested party was notified of the review. No additional comments have been received. Comments can be viewed online on the electronic planning application case file via 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 13 June 2017, and without prejudice to the determination of the review, the following conditions have been prepared for the consideration of the LRB if it is minded to uphold the review and grant planning permission:
1. The extension shall have a brick basecourse to match the colour and to be in line with the height of the brick basecourse on the existing building.
 2. The colour of the windows on the extension shall match those on the existing building.
 3. The cills on the windows on the front and south east elevation of the extension shall match the cill detail of the existing windows on the front elevation of the building.

4. The design of the extension shall incorporate a lintel detail above the ground floor bedroom/study window on the front and ground floor kitchen and dining area door and first floor bedroom window on the south east elevation to match the lintel detail above the existing kitchen window on the front elevation.
5. The design of the openings at ground floor and first floor level on the rear elevation of the extension shall incorporate cills and lintels to match the corresponding details on the existing openings at ground and first floor level on the rear elevation of the building.

Reason for conditions 1-5: To ensure that the extension matches the external appearance of the existing building and thereby maintains the visual quality of the area.

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: 28 September 2017

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

Tel No: 0131 271 3310

Background Papers: Planning application 17/00292/DPP available for inspection online.

APPENDIX A



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

13 Burnbrae Crescent, Bonnyrigg, EH19 3FQ

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

File No. 17/00292/DPP

Midlothian Council Licence No. 100023416 (2017)

Scale: 1:500

Page 54 of 66



Midlothian



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

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

Thank you for completing this application form:

ONLINE REFERENCE 100061393-001

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

Applicant or Agent Details

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

☐ Applicant ☒ Agent

Agent Details

Please enter Agent details

Company/Organisation:

Ref. Number:

You must enter a Building Name or Number, or both: *

First Name: *

Building Name:

Last Name: *

Building Number:

Telephone Number: *

Address 1 (Street): *

Extension Number:

Address 2:

Mobile Number:

Town/City: *

Fax Number:

Country: *

Postcode: *

Email Address: *

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

☒ Individual ☐ Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text" value="Shaun"/>	Building Number:	<input type="text" value="13"/>
Last Name: *	<input type="text" value="Ramsay"/>	Address 1 (Street): *	<input type="text" value="Burnbrae Crescent"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Midlothian"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="UK"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="EH19 3FQ"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text"/>		

Site Address Details

Planning Authority:	<input type="text" value="Midlothian Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="13 BURNBRAE CRESCENT"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="BONNYRIGG"/>
Post Code:	<input type="text" value="EH19 3FQ"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="664017"/>	Easting	<input type="text" value="331299"/>
----------	-------------------------------------	---------	-------------------------------------

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)

Proposed Two Storey Gable Extension and Internal Alterations

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.

Refusal due to the overbearing outlook and loss of amenity of the No 12 Burnbrae Crescent. Supporting documents included in this review demonstrate that all material concerns raised by Planning could have been addressed through discussion together with elevated evidence that the proposed extension does not block the existing Lounge window of No 12, it is noted that the existing Lounge window of No 12 Burnbrae Crescent could present an impact on the privacy of the application site.

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)

Application drawing as refused, updated drawing to demonstrate all concerns could have been addressed in so far as required, covering letter

Application Details

Please provide details of the application and decision.

What is the application reference number? *

17_00292_DPP

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

17/04/2017

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

02/06/2017

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 Scott Allan

Declaration Date: 31/07/2017

MIDLOTHIAN COUNCIL**DEVELOPMENT MANAGEMENT
PLANNING APPLICATION DELEGATED WORKSHEET:**

Planning Application Reference: 17/00292/dpp

Site Address: 13 Burnbrae Crescent, Bonnyrigg

Site Description:

The application property comprises an end terraced two storey dwellinghouses. It is finished externally in drydash render with a brick basecourse with white upvc windows and grey plain concrete roof tiles.

Proposed Development:

Two storey extension to dwellinghouse

Proposed Development Details:

It is proposed to erect a two storey extension on the south side of the application property measuring 3.8m wide and 7.1m deep. The extension is to be rendered to match existing with roof tiles to match existing. Upvc windows and doors are proposed.

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

History sheet checked.

Consultations:

None required.

Representations:

One representation has been received in relation to the application from the occupier of 9 Burnbrae Crescent. She objects to the proposed extension on the following grounds:

- Impact on privacy of no. 9
- Design of extension
- Scale of extension resulting in odd layout with garage retained behind the extension and loss of driveway

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.

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.

Whilst set back from the front elevation and stepped down in height from the ridge of the roof of the existing house the design of the extension is sympathetic to the character of the existing building and will not have a significant impact on the street scene. The height of the brick base course and lintol details should match existing. This could be covered by condition should planning permission be forthcoming.

Sufficient garden area would remain after the erection of the extension.

The extension is to be built over the driveway at the application property. The remaining driveway in front of the extension would vary in length between 4.6m and 5.65m deep resulting in the possibility of parked cars overhanging the road. However the permitted development regulations allow for side extensions irrespective of the impact on off street parking. Taking this in to account refusal of planning permission is not warranted on the grounds of the impact on parking when the regulations allow for similar types of development with the same impacts. Whilst it will not be possible to use the garage to park a car, garages are not taken in to account when calculating parking provision.

Overshadowing of neighbouring properties will not be significant.

The occupants of no. 9 Burnbrae Crescent currently look on to the existing blank gable at the application property from windows serving a living room, study/spare bedroom at ground floor and two first floor bedrooms at the front of their house. The current proposal includes a kitchen window and glazed door serving a dining area at ground floor and a bedroom window at first floor on the gable of the extension facing no. 9. Whilst it is appreciated that this represents a change from the current situation the extension will be approximately 22m from the front of the house at no. 9. This accords with the Council's space standards for new houses. Whilst the perception of overlooking will be greater the impact is not considered sufficient to warrant refusal of planning permission on these grounds. (Also it should be noted that the ground floor windows are open to public view.)

The impact on the amenity of the occupiers of 18 Burnbrae Avenue to the rear of the site will not be significant as compared to existing.

There is also a first floor flat to the rear of the application property at no 12 Burnbrae Crescent. The extension will be only 13m (approx) from the front windows of this property. It will be a very prominent feature with an overbearing impact on the outlook of inparticular the living room window. Also a bedroom window proposed at first floor on the rear elevation of the extension will result in direct overlooking to this window. The impact on the amenity of this property warrants refusal of planning permission.

Recommendation:

Refuse planning permission.



Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

Reg. No. 17/00292/DPP

Scott Allan
36 Wallace Avenue
Wallyford
East Lothian
EH21 8BZ

Midlothian Council, as Planning Authority, having considered the application by Mr Shaun Ramsay, 13 Burnbrae Crescent, Bonnyrigg, EH19 3FQ, which was registered on 18 April 2017 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

Two Storey extension to dwellinghouse at 13 Burnbrae Crescent, Bonnyrigg, EH19 3FQ

in accordance with the application and the following plans:

<u>Drawing Description.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	2016-36-000 1:1250	18.04.2017
Elevations, floor plan and cross section	2016-36-001 1:1250 1:500 1:100 1:50 1:10	18.04.2017

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

1. *The proposed extension would be an overly dominant feature with an overbearing impact on the outlook of no. 12 Burnbrae Crescent, to the detriment of the amenity of the occupiers of this property.*
2. *The proposed extension would result in direct overlooking of no. 12 Burnbrae Crescent to the detriment of the amenity of the occupiers of this property.*
3. *For the above reasons the proposal is contrary to policies RP20 and DP6 of the Midlothian Local Plan which seek to protect the amenity of residential areas and require that in providing additional space for the existing building there should be no material loss of amenity for adjoining houses. If the proposal were approved it would undermine the consistent implementation of these policies.*

Dated 2 / 6 / 2017

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



**The Coal
Authority**

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

Any Planning Enquiries should be directed to:

Planning and Local Authority Liaison

Direct Telephone: 01623 637 119

Email: 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 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

This Informative Note is valid from 1st January 2017 until 31st December 2018

