

Notice of meeting and agenda



Local Review Body

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

Date: Tuesday, 13 June 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

No Minutes to be considered at this Meeting

5 Public Reports

5.1 Election of Chair

5.2 Overview of the Local Review Body – Verbal Report by Democratic Services

5.3 Procedures for the Local Review Body 5 - 14

Decision Notices:-

5.4 Airybank House, Cousland Kilns Road, Cousland 15/00952/DPP 15 - 18

5.5 Land at Hardengreen House, Dalhousie Road, Dalkeith 16/00758/DPP 19 - 22

5.6 1D Dalhousie Avenue, Bonnyrigg 16/00762/DPP 23 - 26

5.7 Land South West of Wellington School, Penicuik 16/00460/PPP 27 - 30

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

5.8 31 Broomhill Avenue, Penicuik 17/00081/DPP - Determination Report 31 - 48

5.9 Rosehill, 27 Park Road, Dalkeith 17/00096/DPP - Determination Report 49 - 70

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.

PROCEDURES FOR THE LOCAL REVIEW BODY

Report by Ian Johnson Head of Communities and Economy

1 Purpose of Report

- 1.1 The purpose of this report is to advise the Local Review Body (LRB) of the arrangements for the determination of local reviews by the LRB.

2 Background

- 2.1 Where an application for planning permission falling within the Council's scheme of delegation has been:
- refused by an appointed officer;
 - granted permission subject to conditions; or
 - has not been determined within the prescribed period (almost invariably two months) but is of a class of application that falls within the scope of the scheme of delegation,

the applicant may submit a 'notice of review' requiring the planning authority's Local Review Body (LRB) to review the application. The LRB comprises a panel of elected members.

- 2.2 The role of the LRB is to consider applications adopting 'a de novo approach'. This means the LRB should apply its collective mind afresh to materials which were before the appointed officer, together with any further information properly before it. Its role is not just to review whether the initial decision referred to it was a reasonable one; it must consider all the relevant materials and arguments afresh. This is the position as outlined by the Scottish Government and reinforced in a challenge to the courts in 2015 regarding *Sally Carroll v Scottish Borders Council*.
- 2.3 The previous administrative and procedural arrangements for the LRB were approved at its meeting of November 2013.
- 2.4 The Town and Country Planning (Schemes of Delegation and Local Review Procedures) (Scotland) Regulations 2013 and Scottish Government guidance in Circular 5/2013: Schemes of Delegation and Local Reviews provides the legislative and regulatory framework for the relevant administrative procedures in determining a notice of review.

3 Procedures

- 3.1 The LRB process shall comprise 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**;

4. The LRB carry out a **Site Visit**;
5. The **meeting of the LRB** to determine the review; and
6. The **Issuing of the Decision Notice**.

Role of the Planning Adviser

3.2 The following procedures refer in places to the input of the “planning adviser”. It is important that the role of the planning adviser is clearly defined and well understood by all parties to the process, and therefore is included within these procedures. In conducting reviews it is essential that the LRB acts in an impartial, open and transparent manner. To ensure that its decisions are sound it is vital that in conducting a review the LRB has before it all relevant information and, when required, can seek impartial advice on planning matters. Accordingly, meetings of the LRB (including site visits) will be attended by a planning adviser. The role of the advisor shall be strictly prescribed in the following terms:-

- a) he/she shall have had no participatory role in the assessment and/or determination of the planning application which is the subject of review;
- b) he/she will only speak if invited to do so by the Chair of the LRB;
- c) he/she will be restricted to advising the LRB on procedural matters, planning law and practice, and the facts of the case; and
- d) on no account shall the planning adviser offer views on the merits of the proposals under review.

Stage 1: Notice of Review

3.3 An applicant can request the LRB to review an application for planning permission (this does not include applications for listed building or advertisement consent), or for consent, agreement or approval of a proposal in the category of ‘local developments’ falling within the scheme of delegation which has been:

- Refused by an appointed officer;
- Granted subject to conditions; or
- Has not been determined within the prescribed period (two months) but is of a class of application that falls within the scope of the scheme of delegation

3.4 To initiate this process the applicant submits a formal ‘Notice of Review’, using forms which are available via the Council’s website or directly from the Council’s planning office. The details of how to submit a notice of review are provided as an advisory note on the decision notice issued following determination of an application and in the acknowledgement letter sent to applicants following the submission of a planning application. Advice and guidance on this process is also available online via www.eplanning.scotland.gov.uk or by contacting the Planning duty officer.

3.5 The notice of review must include the following information:

- The name and address of the applicant;

- The date and reference number of the application subject of the review;
 - The name and address of the applicant's agent (where applicable); and
 - A written statement outlining the applicant's reasons for requiring a review and their preferred procedures of review (written submissions or hearing).
- 3.6 Section 9(4) of the LRB regulations state that "(a) all matters which the applicant intends to raise in the review must be set out in the notice of review or in the documents which accompany the notice of review; and (b) all documents, materials and evidence which the applicant intends to rely on in the review must accompany the notice of review". The consequence of the LRB regulations is that 'new' material can only be submitted as part of the review process if it forms part of the review submission. An exception can be made if the LRB request further information to assist them with their determination.
- 3.7 For a 'Notice of Review' to be valid it must be received by the Planning Authority within the period of three months beginning with the date of the decision notice for those applications determined or the expiry of the period allowed for determination of an application which has not been determined.

Stage 2: Registration and Acknowledgement

- 3.8 A notice of review will be registered (recorded in the Council's back office database) and the submitted notice of review forms and supporting documentation will be scanned (only required if the notice of review is submitted in a paper format) and indexed into the Council's e-planning document management system. This information can then be viewed online as part of the host application file in the usual way. Following registration of the review the appointed officer will notify the Chair of the LRB and the Council's Secretariat of the notice of review and advise which meeting of the LRB it will be reported to.
- 3.9 As part of the registration process a notice of review will be acknowledged in writing either by post or electronic means. The acknowledgement will be issued by the Council's Planning Service and will advise the applicant of the LRB procedures and inform them of the date of the next available LRB meeting.

Stage 3: Notification and Consultation

- 3.10 Within 14 days of receiving the notice of review the local planning authority will notify interested parties of the review.
- 3.11 As part of the review process those parties who have made representations on the original application are notified of the review in accordance with the LRB regulations and any further submissions are considered by the LRB. The interested parties will be given a further 14 days to make any further representations. The regulations do not state whether new representations received from parties who did not make comment on the original application shall or shall not be

considered and as such it is for the decision maker to decide what weight is given to such representations. Comments already made on the application are considered by the LRB as part of the review. Any third party representations will be made available for inspection via the Council's website.

Stage 4: Site Visit

- 3.12 The LRB site visit can, at the discretion of the LRB, be undertaken accompanied or unaccompanied. An accompanied site visit would involve giving the applicant, a representative of the local authority's professional planning staff and interested parties, as defined in this report, the opportunity to attend. The purpose of the visit is to enable the LRB to understand the context of the proposed development.
- 3.13 Any debate and discussion on the merits of the case shall take place in the public meeting of the LRB and not on the site visit. This is the case whether the site visit is accompanied or unaccompanied. During an accompanied site visit the LRB can ask for clarification on points already raised in the review process from those parties in attendance. However, it is not permitted for the applicant, the representative of the local authority professional planning staff or interested parties to make oral representation or to introduce new evidence during the site visit. Oral representation can only be given to the LRB if the review is determined by way of a hearing.
- 3.14 The LRB planning advisor will accompany the LRB on both accompanied and unaccompanied site visits. The role of the advisor during the site visit shall be limited to advising the LRB on clarification/assistance on matters relating to the facts of the case, planning law and practice, and procedural matters.
- 3.15 Applicants and interested parties will be notified of the LRB's intention to visit the site and advise whether the site visit will be undertaken accompanied or unaccompanied. This notification will include guidance on site visit procedures.
- 3.16 The site visit is an integral component of the review and as such only those Members attending the site visit would thereafter be able to participate in consideration of the review. A site visit will be scheduled for the Monday afternoon preceding the meeting of the LRB at which the review is determined. The site visit will be unaccompanied if the review is to be determined by way of written submissions and accompanied if the review is to be determined by way of a hearing. The LRB will be notified in advance of any changes to this timetable

Stage 5: Meeting of the LRB

- 3.17 The format of the meeting of the LRB in relation to a case will depend on the procedure used to determine the review. The review can be determined by either written submissions or by way of a hearing.

- 3.18 Where a review is to be determined by way of written submissions the LRB will not hear any oral representations from the applicant, local authority planning staff or any third party.
- 3.19 In determining the review, either by written submissions or a hearing, the LRB shall consider the following:
- 3.20 The LRB will determine the review by way of written submissions unless the applicant requests a hearing in their notice of review submission.

Assessment of the Review

- 3.21 **Legislation requires decisions on planning applications to be made in accordance with the development plan unless material considerations indicate otherwise.**
- 3.22 The following approach shall be taken in undertaking a review:
- Identify any provisions of the development plan which are relevant to the decision;
 - Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies;
 - Consider whether or not the proposal accords with the development plan;
 - Identify and consider relevant material considerations for and against the proposal;
 - Assess whether these considerations warrant a departure from the development plan; and
 - State the reason/s for the decision and state any conditions required if planning permission is granted.
- 3.23 Having determined its decision on the case the LRB can then ask the planning adviser to advise on appropriate wording to properly reflect the terms of its decision.

Development Plan Policy

- 3.24 The LRB shall identify the relevant development plan policies, which shall be considered when determining the review. The case officer's report will normally be the appropriate starting point for this consideration unless challenged by the applicant. A dispute over the interpretation of policy shall be considered when assessing the planning merits of the case, not in identifying the relevant policies.

Material Considerations

- 3.25 The LRB shall identify any material considerations, which shall be considered in the determination of the review. There are two main tests in deciding whether a consideration is material and relevant:
- It should serve or be related to the purpose of planning and it should thereby relate to the development and use of land; and
 - It should fairly and reasonably relate to the particular application.

- 3.26 It is for the LRB to decide if a consideration is material and to assess both the weight to be attached to each material consideration and whether individually or together they are sufficient to outweigh the relevant provisions of the development plan. Where development plan policies are not directly relevant to the development proposal, material considerations will be of particular importance.
- 3.27 The Council can only take into account '*material planning considerations*' when looking at comments made on an application. For example:
- The proposed land use;
 - The siting, design, scale, form and materials of the proposed development;
 - The impact the proposed development will have on the amenity or privacy of neighbouring properties;
 - The effect the proposed development will have on the setting of a listed building, conservation area or area of great landscape value;
 - Highway safety, means of access and/or parking provision;
 - The potential impact on flooding/drainage;
 - Development Briefs;
 - Supplementary Planning Guidance (SPG);
 - Scottish Government Planning Policy and Advice;
 - The individual circumstances of the applicant;
 - The individual circumstances of the application;
 - The individual circumstances of the site;
 - The planning history of the site (previous grants or refusals of planning permission); and
 - Representations submitted to the Council by third parties.
- 3.28 '*Non material planning considerations*' which cannot be considered include the following:
- Perceived loss of property value;
 - Issues covered by separate legislation;
 - Private disputes between neighbours'
 - Loss of a view;
 - Land ownership disputes;
 - Personal morals or values of the applicant/developer.
- 3.29 The planning system operates in the long term public interest. It does not exist to protect the interest of one person or business against the activities of another. In distinguishing between public and private interest, the basic question is whether the proposal would unacceptably affect the amenity and existing use of land and buildings which ought to be protected in the public interest, not whether owners or occupiers of neighbouring or other existing properties would experience financial or other loss from a particular development.

Amending the Scheme

- 3.30 Although the LRB can agree to amend a scheme (this mirrors the powers of Scottish Ministers on appeal), any such amendment shall not be of a significant scale to change the overall description or form of the development.
- 3.31 A significant amendment would be one which would result in a development of a different description (for example amending an application for 4 dwellinghouses to 3 dwellinghouses), or one of a different character (for example an application for a front extension being amended so that a rear extension is granted planning permission). The planning adviser can offer technical advice on the significance of any amendment.

Hearing

- 3.32 Where a review is to be determined by way of a hearing written notice will be given to the applicant and any interested party who has made representations. A person or body who intends to appear at the hearing session must within 14 days of the date of such notice inform the LRB in writing of their intention to attend. Persons who attend the hearing without giving prior notice can not participate in the proceedings or give oral representations. All those intending to attend the hearing shall be given reasonable notification of the date, time and place of the hearing.

Statements and Documents

- 3.33 A person or body intending to appear at the hearing must submit the following by a specified date:
- a hearing statement, outlining the case relating to the specified matters which a person proposes to put forward at a hearing session;
 - a list of all documents referred to in the statement; and
 - a copy of every document (or the relevant part of) on the list which is not already available for inspection.
- 3.34 If the applicant submitted a statement with their notice of review, this can be treated as *'the statement'* and will form part of the review papers. The planning officer's report of handling also forms part of the review papers and can be treated as *'the statement'*.
- 3.35 Those parties making oral representations will be given a maximum of 5 minutes. All the hearing statements and documents will be made available for inspection online.

Procedures

- 3.36 At the commencement of the hearing the planning advisor will outline the procedure to be followed. The procedure may vary depending upon the complexity of the case. In general terms the procedure shall be as follows:

1. The advisor will outline an overview of the procedures and the case.
 2. Oral representations by the applicant.
 3. Oral representations by any consultees.
 4. Oral representations by interested third parties.
 5. Oral representations by the appointed local authority planning officer. The appointed local authority planning officer cannot fulfil the role of “planning adviser”.
 6. The Chair of the LRB will lead a discussion on the merits of the case, which can include the LRB asking questions of those who have made oral representations.
 7. Cross-examination between those parties giving oral representation will be permitted only if the LRB considers it appropriate to ensure a thorough examination of the issues. *(It is expected that cross-examination will only be allowed on very rare occasions).*
 8. Once steps 1 to 7 have been concluded there shall be no further opportunity for the parties to make any further representations, and the LRB shall determine the review, as per the procedures outlined.
- 3.37 The LRB may appoint a person to sit with the LRB at a hearing session to advise them on such matters arising as they may specify (“an assessor”). The appointment of an assessor may be appropriate in cases which require specialist knowledge or expertise such as archaeology or biodiversity. The planning advisor can advise the Chair of the LRB on the need to appoint an assessor. If the LRB does appoint an assessor it must clearly define its remit prior to the hearing and advise the applicant and other interested parties accordingly.
- 3.38 If the LRB is unable to reach a decision without additional information it is within its remit to defer consideration of the review to a later meeting.

Stage 6: Issuing the Decision Notice

- 3.39 Following the decision of the LRB on the review the planning adviser can be asked to draft a decision notice to properly reflect the decision of the LRB. The decision notice shall comprise the following:
- confirmation of the development details, site location and applicant details;
 - a statement outlining the procedure the LRB followed in the assessment of the case;
 - a statement confirming which development plan policies the LRB considered to be relevant in the determination of the review;
 - a statement confirming which material considerations the LRB considered to be relevant in the determination of the review;
 - the decision of the LRB and the reason/s for the decision;
 - any planning conditions attached to the decision if planning permission is granted; and
 - the applicants statutory rights to challenge the validity of the decision
- 3.40 Once the advisor has prepared the decision notice it will be issued on behalf of the Chair of the LRB. A copy of the decision notice will be

reported to the next LRB for noting and all those interested parties that have made representations will be advised of the outcome.

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

4 Electronic Communication

- 4.1 Wherever possible communication will be undertaken electronically. All documents connected to the LRB will be made available online and can be accessible by viewing the host planning file. All members of the LRB will receive a paper copy of the agenda and reports.

5 Challenging the Validity of the Decision

- 5.1 If the applicant is aggrieved by the decision of the planning authority (LRB) to refuse permission for 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, the grounds for which require being on the basis of procedure, and cannot be on the planning merits of the case.

6 Recommendations

- 6.1 It is recommended that the Local Review Body (LRB) agrees:
- (i) the LRB administrative and procedural arrangements set out in this report; and
 - (ii) that a copy of these arrangements be placed on the Council's website, and be made otherwise readily available on request.

Date: 1 June 2017

Report Contact: Peter Arnsdorf, Planning Manager

Tel No: 0131 2713310

Email: peter.arnsdorf@midlothian.gov.uk

Local Review Body: Review of Planning Application Reg. No. 15/00952/DPP

Andrew Bennie
Andrew Bennie Planning Ltd
3 Abbots Court
Dullatur
G68 0AP

Midlothian Council, as Planning Authority, having considered the review of the application by Onyx Homes, 78 Craigcrook Road, Edinburgh, EH4 3PN, which was registered on 30 November 2016 in pursuance of their powers under the above Act, hereby **refuse** permission to carry out the following proposed development:

Erection of 8 dwellinghouses at Airybank House, Cousland Kilns Road, Cousland, EH22 2NT, in accordance with the application and the following plans:

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

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

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

The Local Review Body (LRB) considered the review of the planning application at its meeting of 7 March 2017. The LRB carried out a site visit on the 6 March 2017.

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

Development Plan Policies:

1. RP5 Midlothian Local Plan – Woodland, Trees and Hedges
2. RP7 Midlothian Local Plan – Landscape Character
3. RP13 Midlothian Local Plan – Species Protection
4. RP20 Midlothian Local Plan – Development within the Built-Up Area
5. HOUS3 Midlothian Local Plan – Windfall Housing Site
6. IMP1 and IMP2 – Implementation Policies
7. DP2 Midlothian Local Plan – Development Guidelines

Material considerations:

1. The individual circumstances of the proposal
2. The scale of local objection to the application

Dated: 07/03/2017

A handwritten signature in dark ink, appearing to read 'Peter Arnsdorf', with a large, stylized initial 'P'.

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

Councillor J Bryant
Chair of the Local Review Body
Midlothian Council

NOTICE TO ACCOMPANY REFUSAL ETC.

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

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

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

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the town and Country Planning (Scotland) Act 1997

Advisory note:

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

Local Review Body: Review of Planning Application Reg. No. 16/00758/DPP

HALVORSEN ARCHITECTS
Mountskip House
Gorebridge
EH23 4NW

Midlothian Council, as Planning Authority, having considered the review of the application by Mrs Christina Walters, 127 High Street, Dalkeith, EH22 1BE, which was registered on 30 January 2017 in pursuance of their powers under the above Act, hereby **grant** permission to carry out the following proposed development:

Erection of nursery building and formation of car park at Land at Hardengreen House, Dalhousie Road, Dalkeith, in accordance with the application and the following plans:

<u>Drawing Description.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	HGWN 101 1:1250	14.11.2016
Site Plan	HGWN 103 1:500	26.01.2017
Proposed floor plan	HGWN 104 1:100	14.11.2016
Proposed floor plan	HGWN 105 1:100	14.11.2016
Roof plan	HGWN 106 1:100	14.11.2016
Existing elevations	HGWN 107 1:100	14.11.2016
Proposed elevations	HGWN 108 1:100	14.11.2016
Existing elevations	HGWN 109 1:100	14.11.2016
Proposed elevations	HGWN 110 1:100	14.11.2016
Proposed elevations	HGWN 111 1:100	14.11.2016
Elevations	HGWN 112 1:100	14.11.2016
Existing elevations	HGWN 113 1:100	14.11.2016
Proposed elevations	HGWN 114 1:100	14.11.2016
Illustration/Photograph	HGWN 115	14.11.2016
Illustration/Photograph	HGWN 116	14.11.2016
Illustration/Photograph	HGWN 118	14.11.2016
Illustration/Photograph	HGWN 118	14.11.2016
Design Statement		14.11.2016
Access Statement		14.11.2016
Coal Mining Risk Assessment		14.11.2016

Subject to the following conditions:

1. Development shall not begin until the details of existing trees to be retained, removed, protected during development and in the case of damage, restored been submitted to and approved in writing by the Planning Authority. Development shall thereafter comply with the approved details unless otherwise approved in writing by the Planning Authority.
2. Development shall not begin until temporary protective fencing is erected around all trees on the site to be retained. The fencing shall be positioned in circumference to the trunk at a distance from it which correlates to the trees canopy unless otherwise agreed in writing with the local planning authority. No excavation, soil removal or storage shall take place within the enclosed area.

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

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

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

The Local Review Body (LRB) considered the review of the planning application at its meeting of 7 March 2017. The LRB carried out a site visit on the 6 March 2017.

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

Development Plan Policies:

1. RP1 Midlothian Local Plan – Protection of the Countryside
2. RP2 Midlothian Local Plan – Protection of the Green Belt
3. RP5 Midlothian Local Plan – Woodland Trees and Hedges
4. RP24 Midlothian Local Plan – Listed Building

Material considerations:

1. The individual circumstances of the proposal
2. The provision of child nursery spaces

In determining the review the LRB concluded:

The proposed building by means of its size, form and design is compatible to its location and will not distract from the existing nursery building, Hardengreen House, which is a listed building. Furthermore the proposal will support the existing business and the provision of child nursery spaces.

Dated: 07/03/2017

A handwritten signature in black ink, appearing to read 'Peter Arnsdorf', with a large, stylized initial 'P'.

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

Councillor J Bryant
Chair of the Local Review Body
Midlothian Council

NOTICE TO ACCOMPANY REFUSAL ETC.

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

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

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

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the town and Country Planning (Scotland) Act 1997

Advisory note:

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

Local Review Body: Review of Planning Application Reg. No. 16/00762/DPP

Mr and Mrs R McKenna
1D Dalhousie Avenue
Bonnyrigg
EH19 2ND

Midlothian Council, as Planning Authority, having considered the review of the application by Mr and Mrs R McKenna, 1D Dalhousie Avenue, Bonnyrigg, EH19 2ND, which was registered on 26 January 2017 in pursuance of their powers under the above Act, hereby **grant** permission to carry out the following proposed development:

Erection of porch at 1D Dalhousie Avenue, Bonnyrigg, EH19 2ND, in accordance with the application and the following plans:

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

The Local Review Body (LRB) considered the review of the planning application at its meeting of 7 March 2017. The LRB carried out a site visit on the 6 March 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. DP6 Midlothian Local Plan – House Extensions

Material considerations:

1. The individual circumstances of the proposal

In determining the review the LRB concluded:

The proposed porch in terms of its size, form and design will not distract from the host dwellinghouse or the streetscape and therefore complies with policy RP20 of the Midlothian Local Plan (2008).

Dated: 07/03/2017

A handwritten signature in black ink, appearing to read 'Peter Arnsdorf', with a large, stylized initial 'P'.

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

Councillor J Bryant
Chair of the Local Review Body
Midlothian Council

NOTICE TO ACCOMPANY REFUSAL ETC.

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

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

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

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the town and Country Planning (Scotland) Act 1997.

Advisory note:

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

Local Review Body: Review of Planning Application Reg. No. 16/00460/PPP

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

Midlothian Council, as Planning Authority, having considered the review of the application by Mr Colin Robert Campbell, White Heather Cottage, Ruddenleys Farm, 1 Lamancha, By West Linton, Peebleshire, which was registered on 9 January 2017 in pursuance of their powers under the above Act, hereby **refuse** permission to carry out the following proposed development:

Land 200m South West of Wellington School, Penicuik, in accordance with the application and the following plans:

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

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

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

The Local Review Body (LRB) considered the review of the planning application at its meeting of 7 March 2017. The LRB carried out a site visit on the 6 March 2017.

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

Development Plan Policies:

1. RP1 Midlothian Local Plan – Protection of the Countryside
2. RP7 Midlothian Local plan - Landscape Character
3. DP1 Midlothian Local Plan – Development in the Countryside
4. DP2 Midlothian Local Plan – Development Guidelines

Material considerations:

1. The individual circumstances of the proposal

Dated: 07/03/2017

A handwritten signature in dark ink, appearing to read 'Peter', with a stylized flourish at the end.

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

Councillor J Bryant
Chair of the Local Review Body
Midlothian Council

NOTICE TO ACCOMPANY REFUSAL ETC.

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

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

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

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the town and Country Planning (Scotland) Act 1997

Advisory note:

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

Notice of Review: 31 Broomhill Avenue, Penicuik

Determination Report

Report by Ian Johnson, Head of Communities and Economy

1 Purpose of Report

- 1.1 The purpose of this report is to provide a framework for the Local Review Body (LRB) to consider a 'Notice of Review' for the erection of an extension at 31 Broomhill Avenue, Penicuik.

2 Background

- 2.1 Planning application 17/00081/DPP for the erection of an extension at 31 Broomhill Avenue, Penicuik was refused planning permission on 30 March 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 30 March 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 an unaccompanied site visit for Monday 12 June 2017; and
 - Have determined to progress the review by way of written submissions.
- 4.2 The case officer's report identified that no consultations were required and no representations have been received.

- 4.3 The next stage in the process is for the LRB to determine the review in accordance with the agreed procedure:
- Identify any provisions of the development plan which are relevant to the decision;
 - Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies;
 - Consider whether or not the proposal accords with the development plan;
 - Identify and consider relevant material considerations for and against the proposal;
 - Assess whether these considerations warrant a departure from the development plan; and
 - State the reason/s for the decision and state any conditions required if planning permission is granted.
- 4.4 In reaching a decision on the case the planning advisor can advise on appropriate phraseology and on appropriate planning reasons for reaching a decision.
- 4.5 Following the determination of the review the planning advisor will prepare a decision notice for issuing through the Chair of the LRB. A copy of the decision notice will be reported to the next LRB for noting.
- 4.6 A copy of the LRB decision will be placed on the planning authority's planning register and made available for inspection online.

5 Conditions

- 5.1 In accordance with the procedures agreed by the LRB at its meeting of 19 June 2012 and 26 November 2013, and without prejudice to the determination of the review, the following conditions have been prepared for the consideration of the LRB if it is minded to uphold the review and grant planning permission.
1. The colour and texture of the render on the extension shall match the colour and texture of the render on the existing building.

***Reason:** To ensure that the extension matches the external appearance of the existing building and thereby maintains the visual quality of the area.*
 2. The roof light serving the en-suite at first floor level on the extension shall be glazed with obscure glass which notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (or any Order revoking and re-enacting that Order) shall not be replaced with clear glass.
 3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (or any Order revoking and re-enacting that Order) the windows on the south east elevation of the extension shall not be altered in size and apart from those shown on the approved drawings no rooflights

or windows shall be installed on this elevation unless planning permission is granted by the Planning Authority.

Reason for conditions 2 and 3: *In order to minimise overlooking and protect the privacy of the occupants of the adjoining property.*

6 Recommendations

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

Date: 1 June 2017

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

Tel No: 0131 271 3310

Background Papers: Planning application 17/00081/DPP available for inspection online.

APPENDIX A



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

31 Broomhill Avenue, Penicuik, EH26 9EG

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Midlothian Council Licence No. 100023416 (2017)

File No. 17/00081/DPP

Scale: 1:750



APPENDIX B

CORPORATE RESOURCE

FILE:

NOTICE OF REVIEW

RECEIVED 26 APR 2017

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

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

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

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

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

1. Applicant's Details

Title	MR & MRS
Forename	CRAIG
Surname	NEIL
Company Name	
Building No./Name	31
Address Line 1	Broomhill Avenue
Address Line 2	
Town/City	FENCUK
Postcode	EH26 9EZ
Telephone	
Mobile	
Fax	
Email	

2. Agent's Details (if any)

Ref No.	
Forename	
Surname	
Company Name	
Building No./Name	
Address Line 1	
Address Line 2	
Town/City	
Postcode	
Telephone	
Mobile	
Fax	
Email	

3. Application Details

Planning authority	MIDLOTHIAN COUNCIL
Planning authority's application reference number	17/00081/0PP
Site address	31 Broomhill Avenue FENCUK

Description of proposed development

EXTENSION TO REAR OF HOUSE

Date of application

10/2/17

Date of decision (if any)

30/3/17

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

4. Nature of Application

Application for planning permission (including householder application)

☒

Application for planning permission in principle

☐

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

☐

Application for approval of matters specified in conditions

☐

5. Reasons for seeking review

Refusal of application by appointed officer

☒

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

☐

Conditions imposed on consent by appointed officer

☐

6. Review procedure

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

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

Further written submissions

☐

One or more hearing sessions

☐

Site inspection

☒

Assessment of review documents only, with no further procedure

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

7. Site inspection

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

Can the site be viewed entirely from public land?

☒

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

☒

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

8. Statement

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

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

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

SEE SEPARATE STATEMENT DOCUMENT.

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

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

9. List of Documents and Evidence

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

DRAWINGS - 1, 2, 3, 4

STATEMENT IN SUPPORT OF REVIEW
APPLICATION FORM.

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

10. Checklist

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

Full completion of all parts of this form



Statement of your reasons for requesting a review



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



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

DECLARATION

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

Signature:



Name:

CRAIG NEIL

Date:

22/4/17.

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

STATEMENT IN SUPPORT OF APPEAL

REFERENCE NO: 17/00081/DPP

APPLICATION ADDRESS: 31 Broomhill Avenue, Penicuik

Site History:

Planning permission was previously granted under application 05/00360/FUL for an extension to the rear of this property. The approved extension was 6m wide and projected 8m from the rear of the house and was finished with a gable end, on this gable end was a further 3.5m long conservatory resulting in a total projection from the rear of the existing house of 11.5m. The extension was flush with the side of the existing house and had a ridge height matching the existing house.

Current Proposals:

When the extension proposed in the current application was being planned it was felt this previously granted extension projected an excessive length from the rear of the existing house resulting in a large mass of extension facing the road to the side of the house and occupying an unreasonably large amount of the rear garden. It was felt the projection of any new extension should be restricted to reduce the amount of extension visible to the side and to provide a more usable rear garden space.

Following the guidelines in the design guidance the extension was set back from the side of the existing house by 1.2m to ensure it was clearly sub-servient to the main house. The height of the proposed roof was reduced from that previously granted under 05/00360/FUL to ensure the extension roof height was lower than that of the main house and again was sub-servient. We were keen to avoid any unnecessary work to the front elevation of the house to maintain the character of the traditional design and maintain the streetscape, albeit that the existing streetscape has been significantly altered from the original by numerous additions and alterations. Having followed the guidance it was felt the proposed extension was a much better fit with the surrounding area and with the existing house.

Massing/Bulky Addition:

We feel the massing of the proposed extension will not appear as a bulky addition, the proposed extension only projects 6m, some 5.5m less than the previously approved extension and only 2m more than allowed under permitted development rights. It will have a lower roof height than both the main house and the previously approved extension. The flat roof area of the extension is a regular feature in the surrounding area, and it is not an unusual design type for this kind of property, there are numerous examples of this design of extension to the rear of houses in Dalkeith and in adjacent Edinburgh.

The side of the house at 31 Broomhill Avenue is restricted from view from the adjacent Craigiefield Road by a 2m high brick wall and by mature planting immediately behind this wall and along the side and rear boundary, it is very difficult to get a clear unobstructed view of the existing house or the proposed extension from the side.

The gable part of the proposed extension is only visible from the rear of the property at 45 Bog Road Penicuik and there is separation between the rear windows of the existing properties of approximately 50m, well in excess of the 18m recommended in guidance and ensuring any view of the proposed extension is limited. As viewed from the side of the house the gable end would not be visible.

Detract from the visual amenity of the surrounding area:

The area immediately surrounding the proposals displays a variety of design features. There is evidence of large box type dormers to the front and rear of houses at 25 and 27 Broomhill Avenue (see photo 1 and 2) which have the same roof design as we are proposing with a small pitched area to give the appearance of a traditional roof with a portion of hidden flat roof above, there is also evidence of dormers on the side hip roofs of a property at 19 Broomhill Avenue (photo 3) and evidence of box dormers to the rear beside a flat roof extension in 43 Bog Road (photo 4). There are several examples of houses and extensions in the vicinity with gable ends as well as flat roofs e.g. 31 Jackson Street (photo 5).

Taking in to account the large variety of existing design styles and features in the surrounding area it is not felt that the proposed extension will detract from the visual amenity of the existing area.

Consultation with the Planning Officer following refusal:

Following the refusal contact was made with the case officer in an attempt to clarify the reasons for refusal and discuss a way forward with the application. Several options were discussed with the case officer including finishing the gable end of the extension in a different material to reduce the visual impact, suggestions included changing the wall finish or wrapping the pitched slated roof round the rear elevation to give the visual effect of a hipped roof rather than a gable end (photo 6 is an example of what this wrap round roof would have looked like viewed from the back, it also shows another example of the numerous flat roof extensions in the area). The case officer stated that the flat roof part of the design was the issue and that wrapping the roof round would not solve this, we are surprised by this view as there are many examples of flat roof extensions and dormers in the surrounding area giving us the impression this was more of a personal opinion than a view based on design guidance (photo 7 shows the extension of our immediate neighbour at 29 Broomhill Avenue). We feel the case officer just didn't like the design and despite trying to explain that visually the roof would look pitched from all elevations it was felt that revising the proposals to include the wrap round roof and submitting a new application would not be viewed favourably by the case officer and therefore not worthwhile.

We are happy to consider other options for finishing the gable end part of the extension to reduce any visual impact perceived by the case officer.

Privacy:

It is noted that there are no concerns over the privacy or overlooking any adjacent properties or garden space.

Over-shadowing:

It is noted that there are no concerns with regard to the proposed extension over-shadowing any adjacent gardens or windows.

Comments or Objections:

It is also noted that none of the 11 consultees noted any comments or objections to the proposals, there were also no comments or objections from any other interested party.

Summary:

To summarize we feel that the mass of the proposed extension will be significantly less than the previously approved extension and will not have a detrimental impact on the visual amenity of the surrounding area, it will not be clearly visible from the side road and has been designed taking into account the guidance for rear extensions. It is not felt the character of the original building will be affected by the proposal, the features of these properties lie on the front elevation and every effort has been made to retain the front elevation unaffected by the proposal (photo 8).

We would have been happy to revise our proposals and submit a revised planning application but following discussion with the case officer it was not felt this would be worthwhile, however, we would like it noted that we would be happy to discuss any suggestions the review body may have with regard to the proposals in order to reach a mutual decision.

Mr & Mrs Neil.



Photo 1: The large box dormers to the front elevation of 25 and 27 Broomhill Avenue

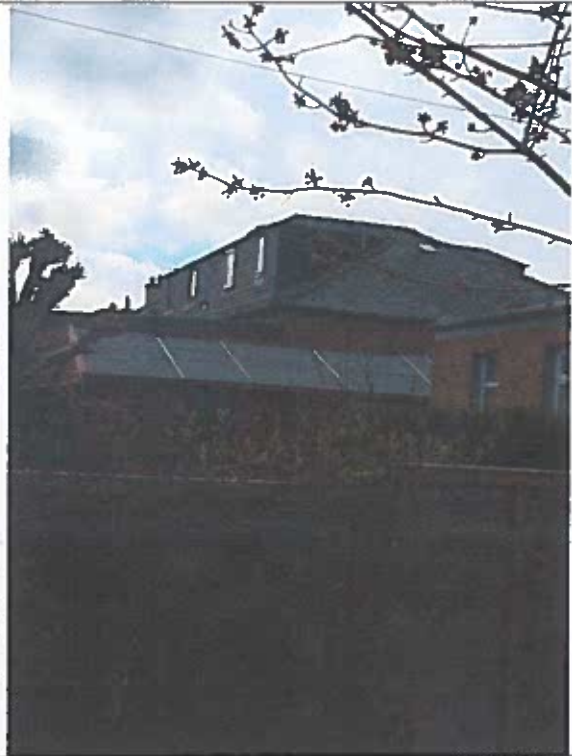


Photo 2: The large box dormers and flat roof extension to the rear elevation of 25 and 27 Broomhill Avenue



Photo 3: showing the box dormer on the side and front elevations of the roof at 19 Broomhill Avenue. This also illustrates another flat roof extension with a partial sloping roof.



Photo 4: The large box dormer and flat roof extension to 45 Bog Road, situated to the rear of 31 Broomhill Avenue



Photo 5: The flat roof extension at 31 Jackson Street is an example of flat roof combined with gable ends and hipped roof finishes



Photo 6: The roof at 22 Broomhill Avenue is an example of what the extension roof would have looked like if the suggestion of the wrap-round design had been accepted by the case officer as an alternative to the gable finish. It also shows another example of a flat roof extension.



Photo 7: This is the flat roof extension of our immediate next door neighbour.



Photo 8: The existing front elevation of 31 Broomhill Avenue with the feature bay window. This elevation will remain unaffected by the proposals.

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

Planning Application Reference: 17/00081/dpp

Site Address: 31 Broomhill Avenue, Penicuik

Site Description:

The application property comprises a semi-detached single storey dwellinghouse located on the corner of Broomhill Avenue and Craigiefield Crescent. It is finished externally in drydash render with a slate hipped roof and white plastic window frames. There is a timber summerhouse and two small sheds in the rear garden which is predominantly laid to grass and planting.

Proposed Development:

Extension to dwellinghouse

Proposed Development Details:

It is proposed to erect a 6m deep and 8m wide extension with accommodation at both ground floor and first floor level (within the roofspace) with a 2m wide section of flat roof at ridge height. The walls of the extension are to be rendered with slate on the roof and white upvc windows.

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

History sheet checked.

Consultations:

None required.

Representations:

None received.

Relevant Planning Policies:

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

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

DP6 – House Extensions - requires that extensions are well designed in order to maintain or enhance the appearance of the house and the locality. The policy guidelines also relate to size of extensions, materials, impact on neighbours and remaining garden area.

Planning Issues:

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

The proposed extension would dominate the rear elevation of the house and its massing, in particular the gable end and flat roof section at ridge level, does not respect the traditional hipped form of the roof on the original house. Also the angle of the pitched sections of roof does not match the pitch of the roof of the existing building. As a result of its overall size and design the extension will appear as a very bulky addition at the rear of the existing building the design of which is unsympathetic to and would detract from the host building.

The rear of the application property is publicly visible from Craigiefield Crescent to the side. The unsatisfactory relationship of the extension with the existing building will detract from the visual amenity of the surrounding area.

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

The extension will not have a significant impact on the amenity of the occupiers of the property to the rear of the site or on the opposite side of Craigiefield Crescent.

Impact on no. 29 – The nearest window on the rear elevation of no. 29 serves a bedroom. The extension will be prominent to the outlook of this window but not to such a degree as to be overbearing. Satisfies 45° daylight test to this window. There is a flat roof extension at the rear of no 29 with a window on the side serving a dining area. The extension will block distant views and be prominent to the outlook from this window. (Satisfies standard 25° daylight test to this window.) This room is also served by two windows on the rear elevation overlooking no. 29's garden and a glazed door on the other side. The overall impact on the amenity of this room is not sufficient to warrant refusal of planning permission. The extension will not be overbearing to the outlook of no.29's garden. Overshadowing will not be significant.

There would be potential for overlooking towards no 29 from the rooflight serving an en-suite proposed at first floor level and if the proposed high level windows proposed on the south east elevation of the extension were altered. These aspects could however be covered by condition should planning permission be forthcoming.

Recommendation:

Refuse planning permission.

Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

Reg. No. 17/00081/DPP

Mr And Mrs Craig Neil
31 Broomhill Avenue
Penicuik
EH26 9EG

Midlothian Council, as Planning Authority, having considered the application by Mr And Mrs Craig Neil, 31 Broomhill Avenue, Penicuik, EH26 9EG, which was registered on 10 February 2017 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

Extension to dwellinghouse at 31 Broomhill Avenue, Penicuik, EH26 9EG

In accordance with the application and the following plans:

<u>Drawing Description.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Site plan, location plan and elevations	1 1:1250 1:500 1:100	10.02.2017
Proposed floor plan	2 1:50	10.02.2017
Proposed floor plan	3 1:50	10.02.2017
Proposed elevations	4 1:100	10.02.2017

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

- 1. The proposed extension is unsympathetic to the original building, in terms of its massing and detailed design treatment. It would appear as a bulky addition, detracting from the character of the existing building and the visual amenity of the surrounding area.*
- 2. For the above reasons the proposal is contrary to policies RP20 and DP6 of the adopted Midlothian Local Plan which seek to protect the character and amenity of the built-up area and requires that extensions are well designed in order to maintain or enhance the appearance of the house and locality.*

Dated 30 / 3 / 2017



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



**The Coal
Authority**

Any Planning Enquiries should be directed to:

Planning and Local Authority Liaison

Direct Telephone: 01623 637 119

Email: planningconsultation@coal.gov.uk

Website: www.gov.uk/government/organisations/the-coal-authority

STANDING ADVICE - DEVELOPMENT LOW RISK AREA

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

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

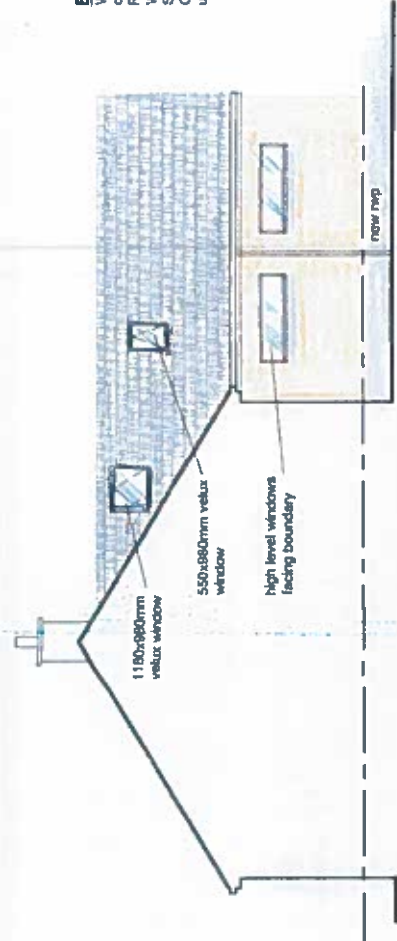
This Standing Advice is valid from 1st January 2017 until 31st December 2018

EXTERNAL FINISHES:
 WALLS: Roughcast finish with smooth
 cement render Basecourse
 ROOF: Slates to match existing
 WINDOWS: White uPVC to match
 SOFFIT AND FASCIA: white uPVC
 GUTTERS AND DOWNPIPES: Black
 uPVC.

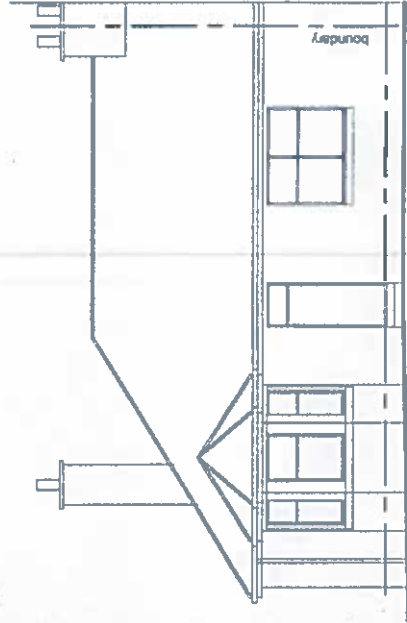
CORPORATE RESOURCES
 FILE: 17100081
 RECEIVED 10 FEB 2017

This drawing has been prepared to obtain statutory Local Authority Consent.
 All sizes to be confirmed by Contractor on site prior to works commencing.

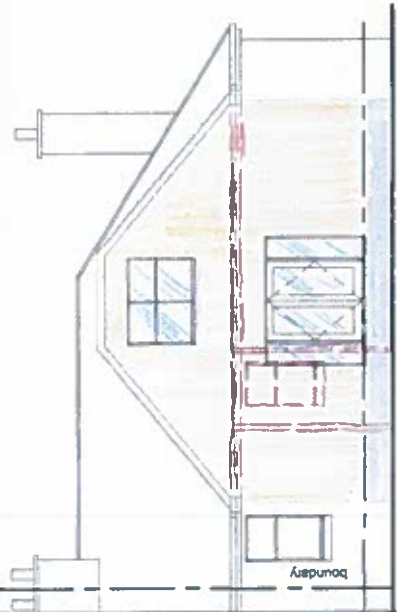
Project		Sheet
Proposed Storey and a half Extension to the rear of the house		4
Address		31 Broomhill Avenue, Penicuik EH26 9EG for Mr & Mrs Neil.
Date	Scale	Rev
30/11/17	1:100	



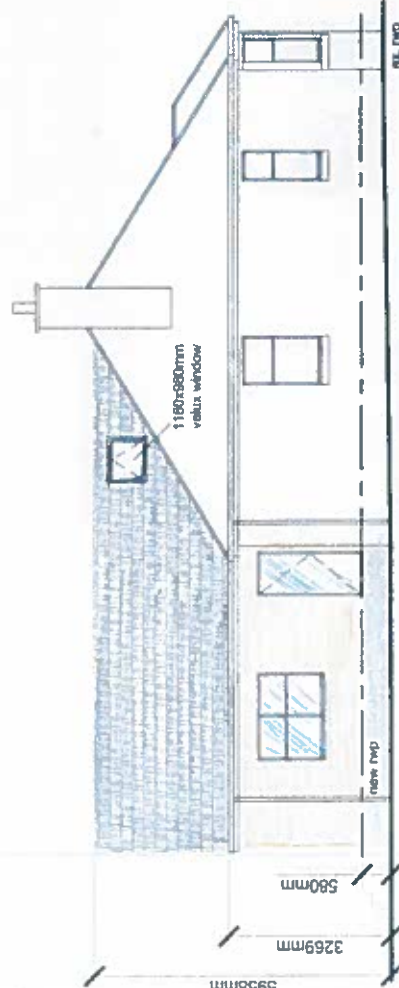
PROPOSED SIDE ELEVATION



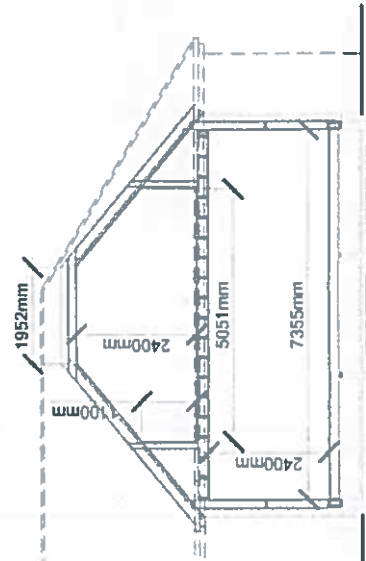
PROPOSED FRONT ELEVATION



PROPOSED REAR ELEVATION



PROPOSED SIDE ELEVATION



PROPOSED SECTION

Notice of Review: Rosehill, 27 Park Road, Dalkeith

Determination Report

Report by Ian Johnson, Head of Communities and Economy

1 Purpose of Report

- 1.1 The purpose of this report is to provide a framework for the Local Review Body (LRB) to consider a 'Notice of Review' for the erection of an extension to building and alteration to wall at Rosehill, 27 Park Road, Dalkeith.

2 Background

- 2.1 Planning application 17/00096/DPP for the erection of an extension to building and alteration to wall at Rosehill, 27 Park Road, Dalkeith was refused planning permission on 13 April 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 13 April 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 an unaccompanied site visit for Monday 12 June 2017; and
 - Have determined to progress the review by way of written submissions.

- 4.2 The case officer's report identified that no consultations were required and no representations have been received.
- 4.3 The next stage in the process is for the LRB to determine the review in accordance with the agreed procedure:
- Identify any provisions of the development plan which are relevant to the decision;
 - Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies;
 - Consider whether or not the proposal accords with the development plan;
 - Identify and consider relevant material considerations for and against the proposal;
 - Assess whether these considerations warrant a departure from the development plan; and
 - State the reason/s for the decision and state any conditions required if planning permission is granted.
- 4.4 In reaching a decision on the case the planning advisor can advise on appropriate phraseology and on appropriate planning reasons for reaching a decision.
- 4.5 Following the determination of the review the planning advisor will prepare a decision notice for issuing through the Chair of the LRB. A copy of the decision notice will be reported to the next LRB for noting.
- 4.6 A copy of the LRB decision will be placed on the planning authority's planning register and made available for inspection online.

5 Conditions

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

6 Recommendations

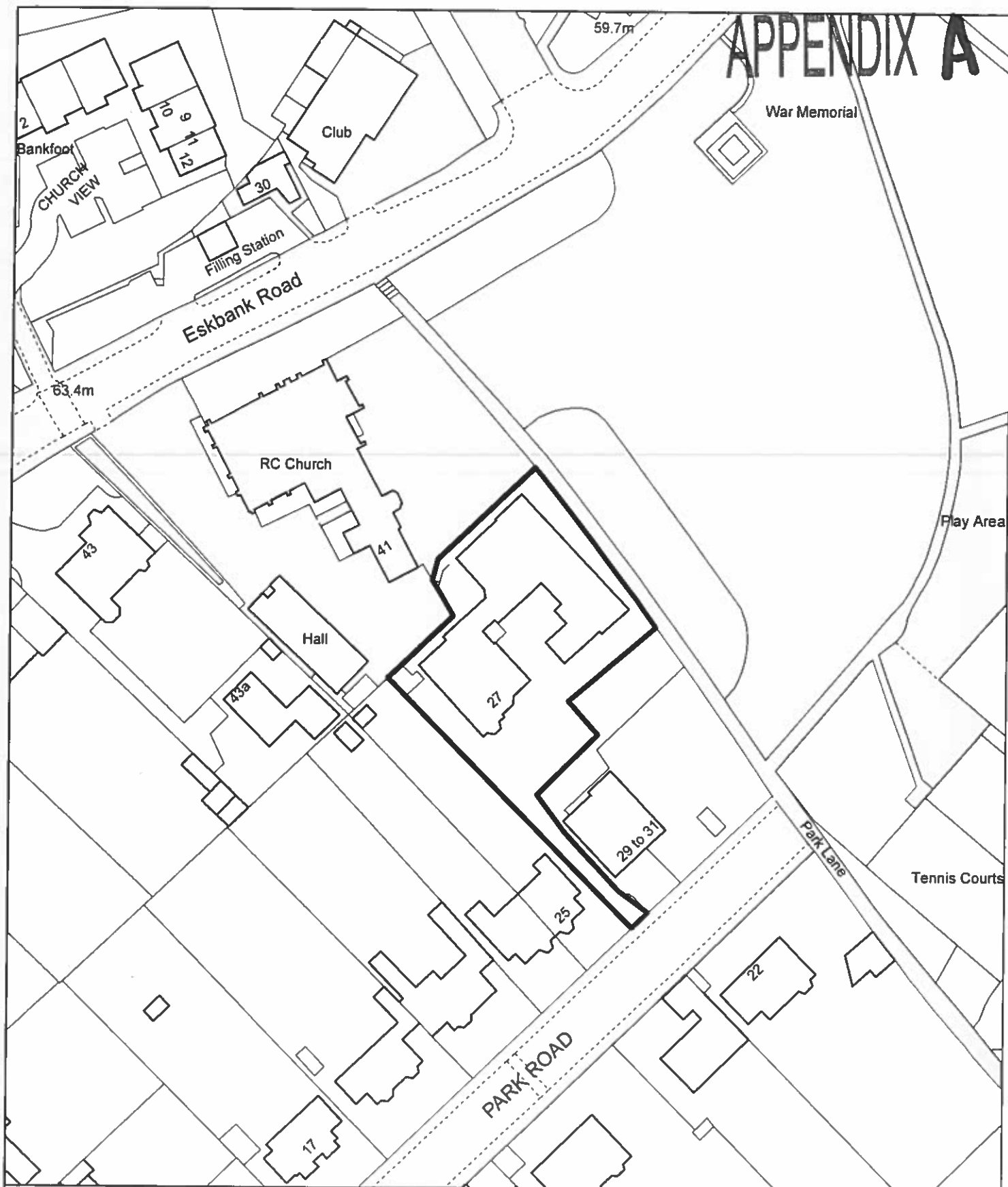
- 6.1 It is recommended that the LRB:
- a) determine the review; and
 - b) the planning advisor draft and issue the decision of the LRB through the Chair

Date: 1 June 2017

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

Tel No: 0131 271 3310

Background Papers: Planning application 17/00096/DPP available for inspection online.



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

Rosehill, 27 Park Road, Dalkeith

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File No. 17/00096/DPP

Scale: 1:1 000

Midlothian Council Licence No. 100023416 (2017)

Page 51 of 70



NOTICE OF REVIEW

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

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

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

1. Applicant's Details		2. Agent's Details (if any)	
Title		Ref No.	
Forename		Forename	
Surname		Surname	
Company Name	Society of the Sacred Heart	Company Name	RT Hutton Planning Consultant
Building No./Name	Rosehill	Building No./Name	The Malt Kiln
Address Line 1	27 Park Road	Address Line 1	2 Factors Brae
Address Line 2		Address Line 2	Limekilns
Town/City	Dalkeith	Town/City	Fife
Postcode	EH22 3DH	Postcode	KY11 3HG
Telephone		Telephone	01383 872000
Mobile		Mobile	07881097659
Fax		Fax	N/A
Email		Email	hutton874@btinternet.com
3. Application Details			
Planning authority		Midlothian Council	
Planning authority's application reference number		17/00096/DPP	
Site address			
Rosehill, 27 Park Road, Dalkeith. EH22 3DH			
Description of proposed development			
Extension to building and alterations to wall			

Date of application

17.02.2017

Date of decision (if any)

13.04.2017

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

4. Nature of Application

Application for planning permission (including householder application)

☒

Application for planning permission in principle

☐

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

☐

Application for approval of matters specified in conditions

☐

5. Reasons for seeking review

Refusal of application by appointed officer

☒

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

☐

Conditions imposed on consent by appointed officer

☐

6. Review procedure

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

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

Further written submissions

☐

One or more hearing sessions

☐

Site inspection

☒

Assessment of review documents only, with no further procedure

☐

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

7. Site inspection

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

Can the site be viewed entirely from public land?

☐

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

☒

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

8. Statement

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

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

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

Please see separate statement attached

Have you raised any matters which were not before the appointed officer at the time your application was determined?

Yes ☐ No ☒

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

9. List of Documents and Evidence

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

Document 1: Plan showing the original Rosehill, later extensions and site of proposed extension.

Document 2: Photographs from adjacent church car park showing an existing roof detail and gable location of proposed extension.

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

10. Checklist

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

Full completion of all parts of this form ☒

Statement of your reasons for requesting a review ☒


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

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

DECLARATION

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

Signature:



Name:

R T Hutton

Date:

27th April 2017

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

**STATEMENT IN SUPPORT OF THE APPLICATION FOR REVIEW OF THE
DECISION TO REFUSE THE PLANNING APPLICATION FOR AN EXTENSION
TO ROSEHILL, 27 PARK ROAD, DALKEITH.**

MIDLOTHIAN COUNCIL REFERENCE 17/00096/DPP.

CORPORATE RESOURCES	
FILE:	17/00096/DPP
RECEIVED	28 APR 2017
WL	

**R T HUTTON PLANNING CONSULTANT
APRIL 2017.**

1.0 Background to the application for review.

1.1 In February this year architects Gibson Laing and Partners submitted applications for both planning and listed building consent on behalf of the Society of the Sacred Heart for an extension to the property at 27 Park Road, Dalkeith. This property has operated for over 30 years as a residence and care home, providing accommodation for permanent residents, those staying for a short period in need of care, and to a lesser extent providing respite care on a short term basis. Generally the age profile of those staying at Rosehill has increased, and as a consequence there is a need for additional specialist equipment such as wheelchairs, zimmer frames and special beds. This has generated a need for additional accommodation to store these pieces of equipment when not in use, and this is the function of the proposed extension.

1.2 Despite explaining the need for the extension, and providing a justification for the design as submitted, the Council's planning officers refused the applications under powers delegated to them. The five reasons given for the refusal were the same for both applications, although the applicants consider that there are in reality only 2 issues. Both of these are based upon a high degree of subjectivity, and the applicants disagree with the conclusions that are reached. For this reason they submit this application seeking a review of the decision on the planning application by the Council's Local Review Body. The applicants' case as to why the application should be approved is set out below.

2.0 The proposal.

2.1 The premises at Rosehill which are the subject of this application are a 2 storey building constructed originally around the middle of the 19th century. The applicants' Document 1 shows the outline of the original building, and also the substantial extensions that were added since . The proposed small extension which is the subject of this application is also shown.

2.2 The applicants, the Society of the Sacred Heart, are an international congregation of women who live in small communities where they not only live a religious life but also provide care and welfare within the local

area. The premises at Rosehill currently provide the permanent residence for 8 sisters, and in addition it also provides more temporary accommodation as noted above. In order to cater for the needs of all those resident, the Society employs 20 staff, some full time and some part time.

2.3 The extension needed to store the necessary additional equipment would project out from a gable wall at a width less than that of the gable. The roof design has deliberately not sought to mirror that of the existing gable as this would have impacted on the symmetry of the elevation which is seen as something to be avoided. Instead a shallower slate roof is proposed which is regarded as minimising visual impact whilst respecting the character of the building, and is of a design similar to that used on an earlier extension. The use of a stone finish on the walls and cast iron rainwater goods also compliments the existing building.

3.0 Comments on the reasons for refusal.

3.1 The decision notice on this planning application gives 5 reasons why the proposal is found to be unacceptable, though the issues of concern relate to 2 separate matters. These are:

1. The design of the proposed extension and its impact on the listed building and the conservation area (reasons 1-3).
2. The impact the proposed extension would have on the amenity of 2 rooms within Rosehill (reasons 4 and 5).

The applicants address both of these issues below and in doing so refer to the specific points noted in the reasons for refusal.

3.2 The first 3 reasons for refusal contend that the proposed extension does not reflect the roof design, form or character of the listed building and because of this is unsympathetic to the character of the building and detracts from the conservation area. As a consequence it is contrary to policies RP22 and RP24 of the Midlothian Local Plan and the guidance from Historic Environment Scotland in their document "Managing Change". Clearly this is a very specific concern relating to the design, and it reflects the subjective view of the decision makers that an extension to a listed building must follow the design of the building to be extended.

The applicants disagree with this view, and their reasons for so doing are detailed now.

3.3 Policy RP22 is headed “Conservation Areas” and requires that any new development must not have an adverse impact on the character and appearance of a conservation area. Policy RP24 is headed “Listed Buildings” and in the section of the policy concerned with extensions it notes that they will only be permitted on listed buildings where their siting, scale, design, materials and detailing do not detract from the original character of the building. In the “Managing Change” document, the section devoted to extensions sets out a number of principles which are seen as important in the design of these. Of particular importance are:

- Protecting the character and appearance
- Being subordinate in form and scale
- Being located on a secondary elevation.
- Designed in a high quality manner using appropriate materials.

These specific matters are helpful when making an assessment of the appropriateness of a design, and it should be noted that they do not require that an extension should necessarily mirror the existing building.

3.4 Taking the specific points listed in Policy RP24 and “Managing Change” it is possible to list the main considerations which need to be taken into account by both designers and decision makers when seeking to protect the character of the building and local area. These are:

- The extension should be located away from main elevations.
- Should be subordinate in scale to the main building.
- Design should be of a high quality with good detailing.
- Appropriate materials should be used.

By considering how the proposed extension measures up against each of these criteria removes much of the subjectivity from the assessment as to whether the design is appropriate.

3.5 The first criteria requires that the location of the extension should be on a secondary elevation, and this is certainly achieved by this proposal. The proposed store room would be on the rear elevation and not affixed to what was the original listed building. It would only be visible from the car park of the adjoining church with whom the applicants work closely. From this car park the most obvious view of Rosehill is part of the 1995 extension, and the proposed new extension would only be seen from

part of the car park. What is worthy of note is that the roof detail, which is referred to specifically in the first reason for refusal as not reflecting the character of the building, can be seen from the car park on the earlier extension. The applicants' Document 2 contains 2 photographs taken from the car park, the first showing the roof over the kitchen which is flat on top with a slated side, as proposed for the new extension. The second shows the elevation from which it is proposed to extend. This shows that if a roof design were used which mirrored that of the gable the symmetry of the gable and the area of detail at first floor would both be lost. We would also point out that it would not be possible to achieve a symmetrical roof over the extension because of the irregular shape of the footprint which is needed to maximise the space in the new store.

3.6 The second criteria requires that the extension be subordinate in scale to the existing building. In this case the proposed store has a small floor area and is single storey, and can certainly be seen as being visually subservient to the existing structure.

3.7 Criteria 3 requires a high quality design with good detailing. The proposal for the new store has been designed by the same architects who so successfully designed the earlier large extension. They have a very detailed knowledge of the building and have brought their expertise to the design of this small extension. Their design reflects a roof arrangement found elsewhere on the building, and the use of materials the same as used extensively throughout the original building and its later extensions. In light of this the applicants are of the opinion that the third criteria is satisfied by the proposed design, and the choice of materials is such as to satisfy the final criterion.

3.8 The proposed extension uses a roof design found elsewhere on this listed building, which clearly was found acceptable previously. The proposed materials reflect those of the existing structure, and because of this the applicants take the view that the proposed design is entirely appropriate. As to the impact on the wider conservation area, this is considered to be an unfounded reason for refusal. Views of the proposed extension will be limited from a part of the car park of the adjacent church. It will not be visible from any public road or footpath, and in light of this it is difficult to understand how it can have any real impact on the character or appearance of the conservation area.

3.9 The final two reasons given for refusal of the planning application concern the impact that Council planners believe the extension will have on two bedrooms in Rosehill, and 2 local plan policies are cited to support this position. These are Policy RP20 "Development within built up areas", and PolicyDP6 "House extensions". The first of these is not written to address extensions such as this, it states:

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

The text which accompanies the policy refers to "infill development" and "opportunities for development within existing urban areas". From this it is clear that this policy seeks to address the development of larger scale sites within settlements rather than extensions to buildings. However, should that view not be accepted, the applicants would suggest that on the basis of the argument set out in 3.8 above the proposed extension will not detract from the existing character of the area. The issue of amenity is considered below.

3.10 Policy DP6 is concerned specifically with extensions to houses, and so could be argued as not being relevant to this application. However, the applicants are happy to consider the requirements of this policy in relation to their proposal. The issues of amenity referred to in reason 4 of the refusal notice are concerned with the outlook from bedroom 20, and the loss of skylight to bedroom 19. Policy DP6 makes no reference to outlook, and so it is difficult to understand how the proposal breaches this policy. Sunlight is referred to specifically where the policy states:

"extensions must not block, to a material extent, sunlight from reaching adjoining gardens".

Clearly this aspect of policy is designed to ensure that house extensions do not have an adverse impact on neighbouring property. It has never been seen as the role of planning to prevent an applicant from impacting on their own property. The applicants have made a choice that the need for storage is their number one priority and this is being satisfied by this planning proposal. Having said that, the applicants do not believe that

the proposed extension will have any significant impact on the amenity of the two rooms identified.

3.11 The rooms in question are used for short term respite care, and are classified as such by the Care Commission. They do not provide permanent accommodation. The rooms are both on the north side of Rosehill with the proposed extension to the north of both room windows. As little, if any, sunlight is received from a northerly direction, the proposed extension cannot block sunlight. Both rooms receive sunlight in the late afternoon, and this will be unaffected by the extension. On the basis of these points the applicants consider that the proposed extension does not breach either of the policies referred to in the reason for refusal.

4.0 Summary.

4.1 The Society of The Sacred Heart have owned the property at Rosehill for many years from where they provide permanent and short term accommodation, and provide services to the local community. The aging profile of their community has generated the need for additional storage for such items as zimmer frames and wheelchairs. The proposed storage area is formed in a small extension to the rear of the property.

4.2 The reasons given for refusal of the application opine that firstly the design is out of character and as such will have an adverse impact on both the listed building and the conservation area, and secondly that it will impact on the amenity of 2 bedrooms within Rosehill. Both of these views are based upon a subjective opinion which are not substantiated by any reference to specific aspects of policy. The applicants have assessed the design against the criteria set out in Historic Environmental Scotland's guidance "Managing Change", and on the basis of this find that it complies with the relevant advice. In addition to that it is difficult to understand how a building which will be seen from only a private car park can be considered to have an adverse impact on the conservation area.

4.3 The concerns expressed in the final two reasons for refusal concern the perceived impact on two bedrooms within Rosehill. In view of the direction the windows of these room face, the sunlight they receive is

unlikely to be affected to any significant extent. Similarly the outlook which is currently into a small enclosed courtyard will be unchanged. The two rooms in question are used only for those staying on a short term in order to give respite care, and as such a level of amenity which is lower than that in residential bedrooms is considered acceptable. It is also the applicants' choice that the provision of a new store is their priority in maintaining the level of service they provide to both long term residents and short term visitors. It should not be the role of planning to seek to determine otherwise.

4.4 On the basis of all of the above we ask that members of the Review Body reverse the decision and grant planning permission for this extension which will allow the Society of the Sacred Heart to continue their valuable work at Rosehill.

MIDLOTHIAN COUNCIL

DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

Planning Application Reference: 17/00092/LBC & 17/00096/DPP

Site Address: Rosehill, 27 Park Road, Dalkeith.

Site Description:

The application building is a category c listed building which is located within the conservation area. The building was listed in 1992 prior to the erection of a number of extensions.

The application site is a large detached building which has previously been extended to the rear and side. The building was historically a convent and is currently used as a residence and care home. The original building is stone, with the extensions a combination of stone and harling. The windows are white painted timber, mainly sash and case. The roof is slate. There is a detached garage to the rear corner of the site.

The building is located to the rear of houses facing onto Park Road and the rear of St David's Church and hall, which fronts onto Eskbank Road. The Church car park adjoins the rear boundary of the application site which is separated by a stone boundary wall. There is a gate in this wall which provides access between the application site and Church/car park. To the east of the application site is Kings Park.

Proposed Development: Extension to building and alteration to wall.

Proposed Development Details:

Listed building consent and planning permission is sought for the erection of a single storey extension to the rear corner of the building. There is a courtyard area where the proposed extension is to be located. The proposed extension is located to the gable end of a later addition to the building. The extension seeks to extend part of the gable end where the laundry room is located and will leave bedroom no. 20 unaltered which has a window located within the gable end.

The proposed extension will protrude some 5.4 metres from the gable end and is offset some 4.4 metres from the rear elevation, opposite bedroom window no.19, so as to leave a small area of the courtyard in between. The proposed extension has an angled corner to the side/rear elevation so as to allow for part of the boundary wall to remain and retain access between St. David's church and the application site. A small section of the boundary wall is also to be removed to allow for access around the extension and to St. David's church.

The proposed extension has a flat roof with hipped detailing. The proposed extension is to be finished in stone to match the existing building with cast iron gutter, slate roof and a painted timber door to match the main building.

It is also noted that new work must acknowledge the old in every case, whether that work will be:

- a restoration
- a replication
- a complementary addition
- a deferential contrast
- an assertive contrast

New work should be based on a thorough understanding of the existing historic building. A design statement which describes the interest of the building and an explanation of the impact of the alterations is always useful when assessing proposals for change.

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

RP20 – Development within the Built-Up Area - seeks to protect the character and amenity area.

RP22 – Conservation Areas – seeks to preserve or enhance the character and appearance of conservation areas.

RP24 – Listed Buildings – This policy will not permit development which would adversely affect the character or appearance of listed buildings or any feature of special architectural or historic interest that it possesses. Proposals for extensions and/or alterations to a listed building will only be permitted where their siting, scale, design, materials and detailing do not detract from and wherever appropriate, enhance the original character of the building.

Planning Issues:

The proposed works are located to the northern corner of the application site. The proposed extension seeks to form a single storey extension to the gable end of a later addition to the original building. The later addition of which the proposed extension is to extend was granted planning permission in 1994 (ref: 629/94); this proposal was designed so as to relate to the listed building through the use of traditional detailing in respect to the treatment of windows and doors, the material finish, roof design and overall form.

The proposed extension is subsidiary in scale and set down from the main building and is also located on a secondary elevation, however, the proposed extension is open to public views from St. David's Church car park. Visually, from all elevations, the proposed extension appears out of character and unrelated to the existing building due to the depth, design, roof design and form.

Within the supporting statement submitted by the applicant it is noted that the external walls will be finished in the same stone as the existing building, and that the roof pitch is proposed to be exactly the same pitch as the existing building, with traditional slate finish / cast iron gutters and downpipes which reflects the existing building. While the proposed material finishes of the proposed extension do reflect the character of the listed building, the appearance of the proposed extension

Overall, all relevant matters have been taken into consideration in determining this application. It is considered that the proposal does not accord with the principles and policies of Midlothian Local Plan and is not acceptable in terms of all other applicable material considerations. Therefore, it is recommended that the application is refused.

Recommendation: Refuse planning permission.

Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

Reg. No. 17/00096/DPP

Gibson Laing & Partners
3B West Maitland Street
Edinburgh
EH12 5DS

Midlothian Council, as Planning Authority, having considered the application by Society Of The Sacred Heart, Rosehill, 27 Park Road, Dalkeith, EH22 3DH, which was registered on 17 February 2017 in pursuance of their powers under the above Acts, hereby refuse permission to carry out the following proposed development:

Extension to building and alteration to wall at Rosehill, 27 Park Road, Dalkeith, EH22 3DH

in accordance with the application and the following plans:

<u>Drawing Description.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Elevations And Floor Plan	2738/01 A EXISTING	17.02.2017
Elevations, Floor Plan And Cross Section	2738/04 PROPOSED	17.02.2017
Location Plan	2738/05 1:1250	17.02.2017
Site Plan	2738/06	17.02.2017

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

1. *The proposed extension does not reflect the roof design, form or character of the listed building and would result in a significant adverse impact upon the character and appearance of the listed building.*
2. *The design of the extension is unsympathetic to, and would detract from the character and appearance of the conservation area.*
3. *For the above reasons the proposal is contrary to policies RP22 and RP24 of the adopted Midlothian Local Plan and Historic Environment Scotland's Managing Change guidance on extensions. If the application was approved it would undermine the principals set out within the guidance, which is there to ensure that development does not detract the character and appearance of listed buildings or conservation areas.*
4. *The proposed extension does have a significant detrimental impact on the amenity of the occupiers of room's no. 19 and 20 of the residential care home, as detailed on plan no. 2738/04, by virtue of the following:*

- (a) *The depth of the extension would be an overly dominant feature with an overbearing impact on the outlook from bedroom windows of no. 19 and no.20; and*
 - (b) *It would result in a harmful loss of skylight to the bedroom window of no. 19.*
5. *For the above reason the proposal is contrary to policies RP20 and DP6 of the adopted Midlothian Local Plan. If the application were approved it would undermine the consistent implementation of these policies, which is to ensure that proposals do not result in a harmful loss of residential amenity and does not detract from the appearance or character of the property or conservation area.*

Dated 13 / 4 / 2017



.....
Duncan Robertson
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