

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

Determination Report

Report by Ian Johnson, Head of Communities and Economy

1 Purpose of Report

- 1.1 The purpose of this report is to provide a framework for the Local Review Body (LRB) to consider a 'Notice of Review' for the erection of eight dwellinghouses at Airybank House, Cousland Kilns Road, Cousland.

2 Background

- 2.1 Planning application 15/00952/DPP for the erection of eight dwellinghouses at Airybank House, Cousland Kilns Road, Cousland was refused planning permission on 7 November 2016; a copy of the decision is attached to this report.
- 2.2 The review has progressed through the following stages:
- 1 Submission of Notice of Review by the applicant.
 - 2 The Registration and Acknowledgement of the Notice of Review.
 - 3 Carrying out Notification and Consultation.

3 Supporting Documents

- 3.1 Attached to this report are the following documents:
- A site location plan (Appendix A);
 - A copy of the notice of review form and supporting statement (Appendix B). Any duplication of information is not attached;
 - A copy of the case officer's report (Appendix C);
 - A copy of the decision notice, issued on 7 November 2016 (Appendix D); and
 - A copy of the relevant drawings/plans (Appendix E).
- 3.2 The full planning application case file and the development plan policies referred to in the case officer's report can be viewed online via www.midlothian.gov.uk

4 Procedures

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

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

5 Conditions

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

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

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

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

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

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

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

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

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

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

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

- a. the nature, extent and types of contamination and/or previous mineral workings on the site;
- b. measures to treat or remove contamination and/or previous mineral workings to ensure that the site is fit for the uses hereby approved, and that there is no risk to the wider environment from contamination and/or previous mineral workings originating within the site;
- c. measures to deal with contamination and/or previous mineral workings encountered during construction work; and
- d. the condition of the site on completion of the specified decontamination measures.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 Recommendations

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

Date: 21 February 2017

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

Tel No: 0131 271 3310

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



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

Erection of 8 dwellinghouses at Airybank House Cousland

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File No. 15/00952/DPP

Scale: 1:2,500



NOTICE OF REVIEW

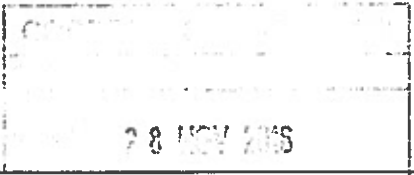
Under Section 43A(8) Of the Town and Country Planning (SCOTLAND) ACT 1997 (As amended) In Respect
of Decisions on Local Developments

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

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

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

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

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

Date of application	3/12/15	Date of decision (if any)	7/11/16
<p>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.</p>			
4. Nature of Application			
Application for planning permission (including householder application)			<input checked="" type="checkbox"/>
Application for planning permission in principle			<input type="checkbox"/>
Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission and/or modification, variation or removal of a planning condition)			<input type="checkbox"/>
Application for approval of matters specified in conditions			<input type="checkbox"/>
5. Reasons for seeking review			
Refusal of application by appointed officer			<input checked="" type="checkbox"/>
Failure by appointed officer to determine the application within the period allowed for determination of the application			<input type="checkbox"/>
Conditions imposed on consent by appointed officer			<input type="checkbox"/>
6. Review procedure			
<p>The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.</p> <p>Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may tick more than one box if you wish the review to be conducted by a combination of procedures.</p>			
Further written submissions			<input type="checkbox"/>
One or more hearing sessions			<input type="checkbox"/>
Site inspection			<input checked="" type="checkbox"/>
Assessment of review documents only, with no further procedure			<input type="checkbox"/>
<p>If you have marked either of the first 2 options, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing necessary.</p> <div style="border: 1px solid black; height: 40px; margin-top: 10px;"></div>			
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?			<input checked="" type="checkbox"/>
Is it possible for the site to be accessed safely, and without barriers to entry?			<input type="checkbox"/>

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

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

8. Statement

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

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

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

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

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

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

9. List of Documents and Evidence

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

Please refer to the attached Schedule of Review Documents.

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

10. Checklist

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

Full completion of all parts of this form ☒

Statement of your reasons for requesting a review ☒

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

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

DECLARATION

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

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

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

Schedule of Documents on Support of Review

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

Document 1: Copy of Decision Notice

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

Document 3: Site Photographs

Document 4: Report of Handling

Document 5: Plan Detailing impact of 30m tree belt

ANDREW BENNIE PLANNING LIMITED

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

25th November 2016

28 NOV 2016

Dear Sirs

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

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

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

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

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

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

Yours Faithfully



ANDREW BENNIE

Director

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

Andrew Bennie Planning Limited
3 Abbots Court
Dullatur
G68 0AP

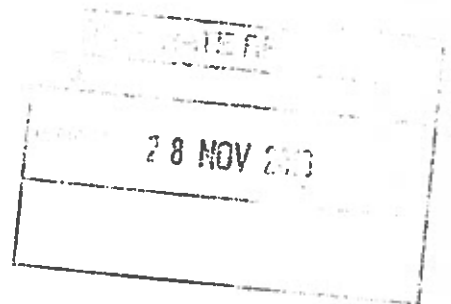
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November 2016

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Appendix 1: Notice of Review Form

Appendix 2: Schedule of Documents

Appendix 3: Review Documents (on CD)

1.0 INTRODUCTION

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

2.0 PROPOSALS SUBJECT TO REVIEW

- 2.1 Under the terms of planning application reference 15/00952/DPP, full planning permission was sought for the erection of eight detached dwelling houses upon that land which comprises the application site.
- 2.2 The proposed dwelling houses would take access off the existing access road, which currently serves the property at Airybank House and are sited on plots, which range in size from 670m² to 2327m².
- 2.3 A total of three house types are proposed, as follows:

House Type X (x4):

Standing 1^{1/2} storeys in height, this house type provides accommodation extending to 226m² in floor area, as follows:

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

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

This house type includes a feature flat roofed 1^{1/2} storey projecting bay on its front elevation.

This house type also features a detached double garage (34.8m²).

House Type Y (x1):

Standing a full 2 storeys in height, this house type provides accommodation extending to 327.1m² in floor area, as follows:

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

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

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

This house type also features an integral double garage (35.3m²).

House Type Z (x3):

Standing 1^{1/2} storeys in height, this house type provides accommodation extending to 216.4m² in floor area, as follows:

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

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

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

This house type also features an integral double garage (33.1m²).

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

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

3.0 REASONS FOR REQUESTING THE REVIEW

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

4.0 REVIEW PROCEDURE

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

5.0 GROUNDS OF REVIEW

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

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

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

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

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

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

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

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

- 5.5 To this end, Policy DP20 states that:

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

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

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

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

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

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

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

5.11 As such, it is not considered to be out of character with the surrounding settlement for larger houses to be proposed for the application site, with it being noted that the existing property at 1 Hadfast Road represents a directly comparable example of a large house being sited on the edge of the settlement.

5.12 The nature of the character of any given settlement changes and evolves over time as it accommodates and assimilates new development and it is submitted that the development, which is proposed under this application is reflective of this evolutionary process, with it being further submitted that there are no reasonable or justifiable grounds upon which it can be stated that this development cannot be successfully assimilated into the surrounding built form of the settlement.

5.13 It is further submitted that when approaching the village from the west, as is shown on the photographs provided at Document 3, it is evident first of all that the view of the village is dominated by the bulk and mass of the existing property at 1 Hadfast Road and secondly, that the proposed development would sit behind the existing belt of woodland that forms the northern and western boundary of the application site, the existence of which provides a nature screen and visually defensible boundary to the proposed development.

5.14 The effectiveness of this existing tree belt as a screen to the proposed development is demonstrated by the fact that within the Street View image, the existing property on the site, Airybank House is barely discernible within the view. As the ridge heights of each of the proposed dwelling houses sites below that of Airybank House, it is submitted that the proposed development will have no adverse impact upon this view of the settlement and hence will have no material or detrimental effect on the character or appearance of the area.

5.15 Turning now to the provisions of Policy HOUS3, which deals with Windfall housing sites, it is noted that at paragraph of the adopted Plan, it is advised that:

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

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

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

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

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

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

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

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

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

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

materials.

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

D. It meets traffic and parking requirements.

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

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

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

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

5.31 In view of the matters set out above, it is submitted that this proposed development can be fully and reasonably justified against the provisions of Policies RP20 and HOU53 of the adopted Plan.

2. The proposed development, on account of its massing, form, impact on existing trees and lack of additional planting, will have a significant adverse impact on the character and appearance of the local landscape and this edge-of-village site which is contrary to policies RP5, RP7, RP20 and HOU53 of the adopted Midlothian Local Plan.

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

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

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

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

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

development.

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

local landscape within which the site is located.

5.44 Furthermore, in respect of the proposed residential development of the site the east side of Southfield Road, Cousland, as granted planning permission under the terms of planning permission reference 15/00280/DPP (which in common with this application abuts with the defined countryside), it is noted that the planning permission which relates to this development carries with it no requirement to provide any tree belt along the length of the boundary of the site and the adjacent countryside, this being notwithstanding the fact that this boundary was not defined by any form of tree belt or other landscape feature.

5.45 In comparing the relative merits of both of these sites, it is considered that no reasonable case can be made to support the need for a 30m tree belt in respect of the proposed development of my client's site when one was not required in respect of the site at Southfield Road.

5.46 Accordingly, it is submitted that the proposed development will have no significant or adverse impact upon either the character or appearance of the local landscape and that as such, the proposed development can be fully and reasonably justified against the provisions of Policy RP7.

5.47 Our submission in relation to an assessment of the merits of the proposed development against the provisions of Policies RP20 and HOU53 is set out above in relation to our response on the first stated reason for the refusal of this application.

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

5.48 It is not accepted that the proposed development represents a low quality and unimaginative urban design solution or that the development is significantly at odds with the overriding character of the surrounding area.

5.49 Within the Report of Handling (see Document 4) which relates to this application, it is stated under the heading "Planning Issues" that:

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

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

its development.

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

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

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

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

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

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

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

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

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

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

- 5.62 The dwelling on plot 8 is orientated in such a way that its side elevation which faces towards the adjacent plot and not, as is suggested, its rear elevation.
- 5.63 The applicable standard within Policy DP2 requires that in such instances, a separation distance of 16m is to be achieved between gable and rear elevations.
- 5.64 This separation distance is more than met by the proposed position of the dwelling on plot 8 and consequently, there is no justifiable basis upon which it can be reasonably stated or suggested that the proposed development would result in any overlooking in relation to the existing property at 1 Hadfast Road or that the proposed development would adversely affect the amenity of the rear garden of said property.
- 5.65 Accordingly, it is submitted that the proposed development can, in respect of this specific issue, be fully and reasonably justified against the provisions of Policies RP20 and DP2 of the adopted Plan.

6.0 SUMMARY

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

MIDLOTHIAN COUNCIL

DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

Planning Application Reference: 15/00952/DPP

Site Address: Airybank House, Cousland Kilns Road

Site Description:

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

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

Proposed Development:

Erection of 8 dwellinghouses

Proposed Development Details:

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

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

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

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

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

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

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

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

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

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

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

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

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

Consultations:

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

The Coal Authority has not objected to the planning application.

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

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

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

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

Representations:

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

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

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

Relevant Planning Policies:

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

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

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

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

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

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

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

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

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

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

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

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

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

Planning Issues:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Recommendation:

Refuse planning permission

Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

Reg. No. 15/00952/DPP

Raymond Bryan
1 John's Place
Edinburgh
EH6 7EL

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

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

in accordance with the application and the following plans:

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

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

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

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

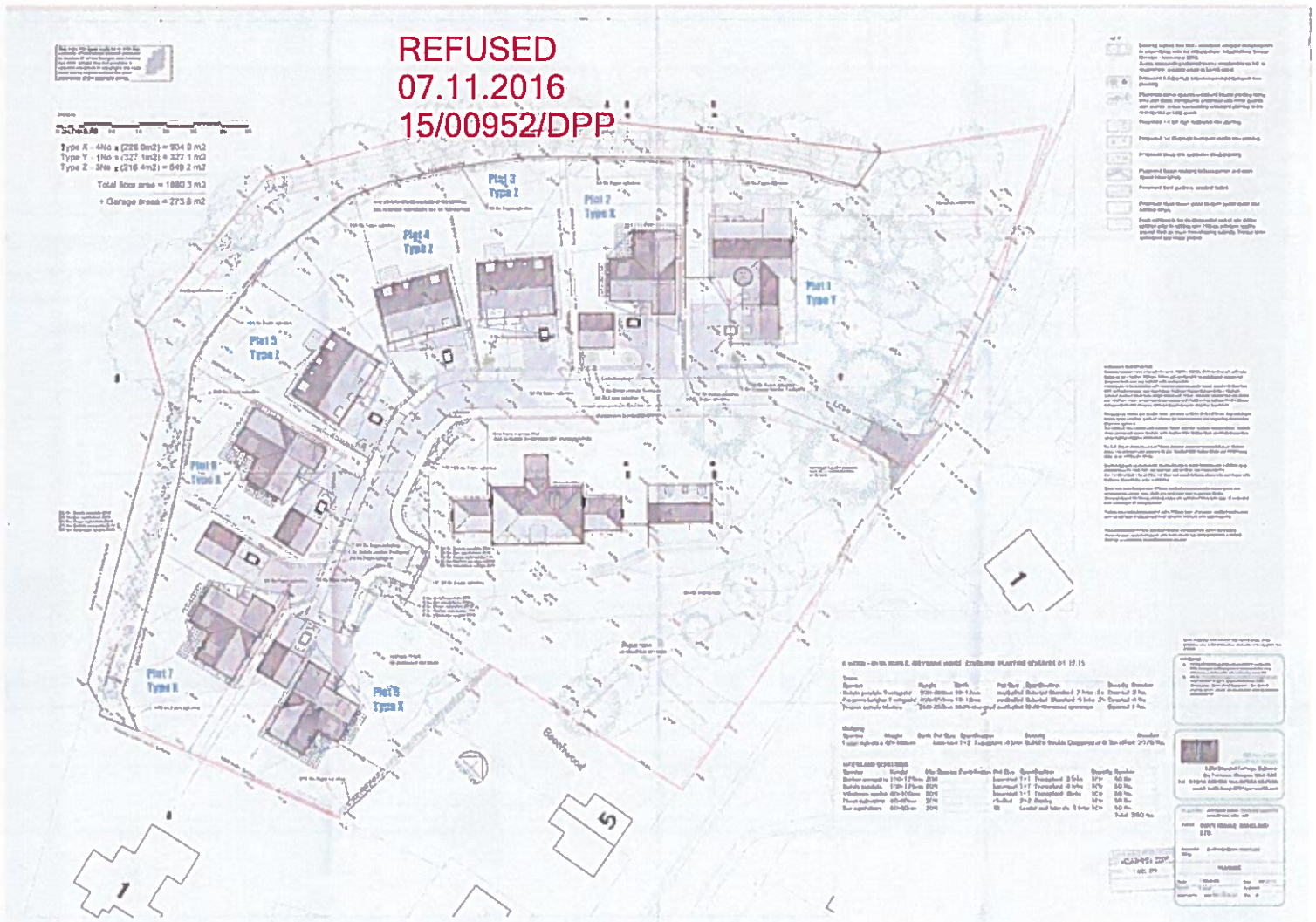
Dated 07 / 11 / 16



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

APPENDIX E

REFUSED
07.11.2016
15/00952/DPP



REFUSED
07.11.2016
15/00952/DPP

From a copy of the design made by or with the authority of the Council, the Council has been advised that the design is not in accordance with the provisions of the Planning and Development Act 2000. The Council has therefore refused the application for planning permission.



Site Section AA



Site Section BB



Site Section EE



Site Section DD



Site Section CC

<p>onvx</p> <p>Onyx Homes</p> <p>Cousland Ltd</p> <p>AIRYBANK HOUSE</p> <p>COUSLAND</p> <p>PROPOSED SITE SECTIONS</p> <p>1:200 @ A1</p> <p>1327</p> <p>DEPT 2015</p> <p>(S)01</p> <p>A</p>	
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CORPORATE RESOURCES
FILE 16/00 952/JPP
RECEIVED - 3 DEC 2015

[illegible]

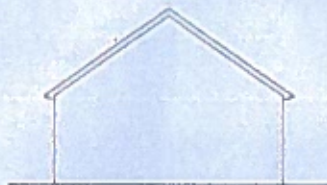
REFUSED
07.11.2016
15/00952/DPP



Front Elevation

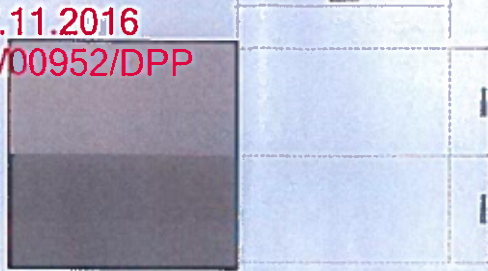


Gable Elevation

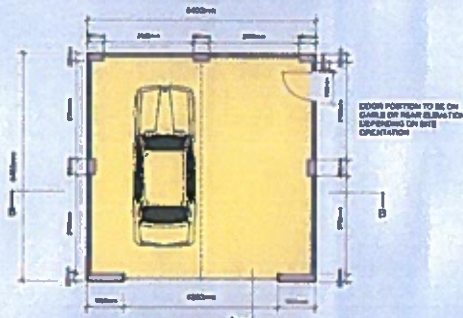


Rear Elevation

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



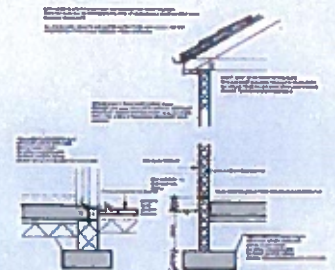
Roof Plan



Garage Plan

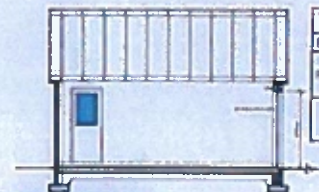


Gable Elevation

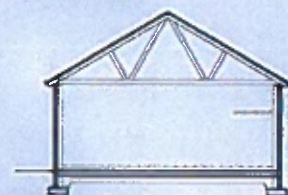


Threshold Detail 1:20

SECTION DETAIL 1:20



Section AA



Section BB

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

PLANNING
onyx Onyx Homes
Cousland Ltd
AIRYBANK HOUSE COUSLAND

PROPOSED DETACHED GARAGE PLANS & ELEVATIONS

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

Garage

Detached double garage - 37.9m²

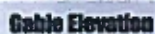
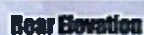
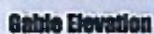
[illegible]

Figure 1

ROOF: INTERROOMS CONCRETE TILES - CHARCOAL GREY
WALLS: SELF COLOURED WHITE RED-CLAY
CLADDING: CEDAR TREND® SHAKING
WINDOWS: DARK GREY UPVC
STONE FEATURES: SMOOTH AGESAN IN BUFF

CORPORATE RESOURCES
FILE 15/00957-1DP
REC'D - 3 DEC 2015

First Floor - 130.0m²
Ground Floor - 96.0m²
Total = 226.0m²
Detached double garage - 33.5m²

House Type X

DRAWINGS		DATE	
NO.	DESCRIPTION	DATE	BY
<p>ELECTRICAL KEY</p> <p>  15 ampere non-grounding receptacle  20 ampere non-grounding receptacle  30 ampere non-grounding receptacle  40 ampere non-grounding receptacle  50 ampere non-grounding receptacle  60 ampere non-grounding receptacle  75 ampere non-grounding receptacle  100 ampere non-grounding receptacle  125 ampere non-grounding receptacle  150 ampere non-grounding receptacle  200 ampere non-grounding receptacle  250 ampere non-grounding receptacle  300 ampere non-grounding receptacle  350 ampere non-grounding receptacle  400 ampere non-grounding receptacle  450 ampere non-grounding receptacle  500 ampere non-grounding receptacle  600 ampere non-grounding receptacle  750 ampere non-grounding receptacle  1000 ampere non-grounding receptacle  1250 ampere non-grounding receptacle  1500 ampere non-grounding receptacle  2000 ampere non-grounding receptacle </p>			
<p>PLANNING</p> <p>onyx Cousland Homes</p> <p>Onyx Homes Cousland Ltd</p>			
<p>AIRYBANK HOUSE COUSLAND</p>			
<p>PROPOSED HOUSE TYPE X ELEVATIONS</p>			
<p>1 1970-03</p>		<p>2071 2071</p>	
<p>1327</p>		<p>2071 2071</p>	
<p>0</p>		<p>2071 2071</p>	

REFUSED
07.11.2016
15/00952/DPP



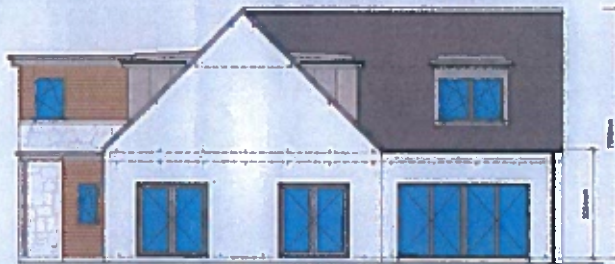
Rear Elevation



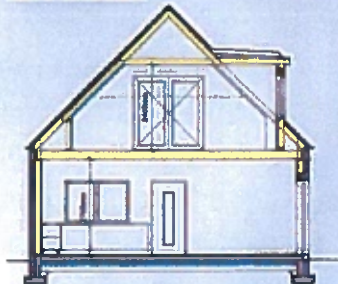
Gable Elevation



Front Elevation



Gable Elevation



SECTION

First Floor - 130.0m²
Ground Floor - 96.0m²
Total = 226.0m²
Detached double garage - 33.6m²

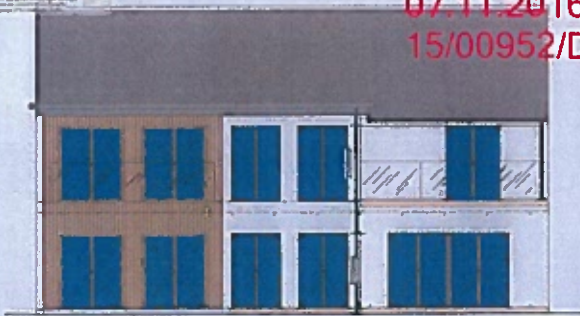
House Type X

(Handed)

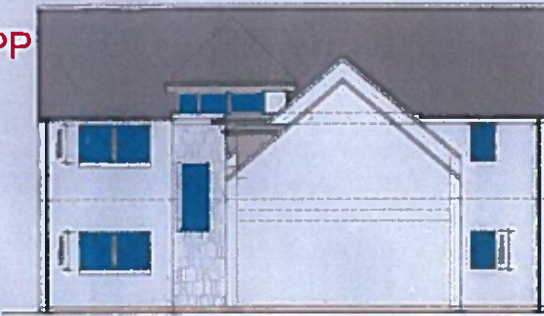
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3	100mm thick concrete foundation
4	100mm thick concrete foundation
5	100mm thick concrete foundation
6	100mm thick concrete foundation
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98	100mm thick concrete foundation
99	100mm thick concrete foundation
100	100mm thick concrete foundation
CORPORATE RESOURCES	
FILE	15/00952/DPP
ISSUED	- 3 DEC 2015
PLANNING	
onyx	
Onyx Homes	
Cousland Ltd	
AIRYBANK HOUSE	
COUSLAND	
PROPOSED HOUSE TYPE X	
(Handed) ELEVATIONS	
1:100@A3	SEPT 2015
1327	(X)BWD4
REVISIONS	

Proposed:
ROOF - INTERLOCKING CONCRETE TILES - CHARCOAL GREY
WALLS - SELF COLOURED WHITE RENDER
GLAZING - COLOUR TIGER GLAZING
WINDOWS - GREY GREY UPVC
STONE FINISHES - SHOWN AS A GUIDE

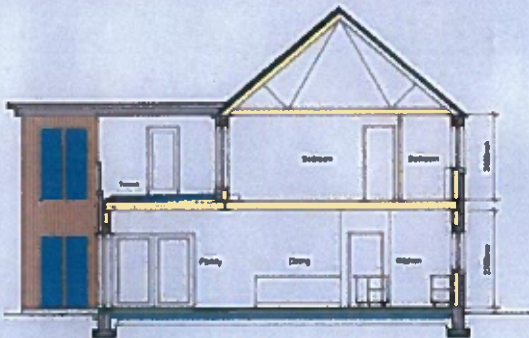
REFUSED
07.11.2016
15/00952/DPP



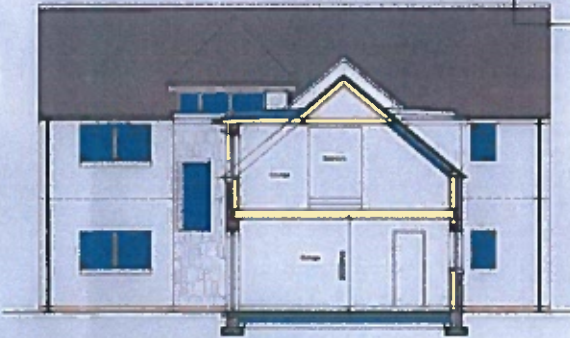
North Elevation



South Elevation



Section



South Section Elevation

FINISHES

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

Ground Floor - 172.8m²
 First Floor - 154.7m²
 Total = 327.5m²
 Garage = 35.3m²

House Type Y

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

PLANNING	
onyx EXCLUSIVE HOMES	
Onyx Homes Cousland Ltd	
AIRYBANK HOUSE COUSLAND	
HOUSE TYPE Y ELEVATIONS & SECTIONS	
1-1008A3	Sept 2015
1327	(Y)BWD4
id	
Approved	

REFUSED
07.11.2016
15/00952/DPP

FINISHES

ROOF: INTERLOCKING CONCRETE TILES - CHARCOAL GREY
 WALLS: B&P COLOURED WHITE RENDER
 CLADDING: CEDAR TIMBER BOARDING
 WINDOWS: DARK GREY UPVC
 STONE FEATURES: SMOOTH ASHLAR IN B&P



East Elevation



West Elevation

Ground Floor - 172.6m²
 First Floor - 154.7m²
 Total - 327.3m²
 Garage - 35.3m²

House Type Y

CORPORATE RESOURCES	
FILE:	15/00952/DPP
REFNO:	- 3 DEC 2015

PLANNING

onyx
 HOMES

Onyx Homes

Cousland Ltd

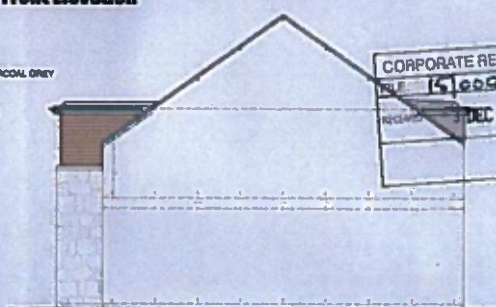
AIRYBANK HOUSE
 COUSLAND

HOUSE TYPE Y
 ELEVATIONS

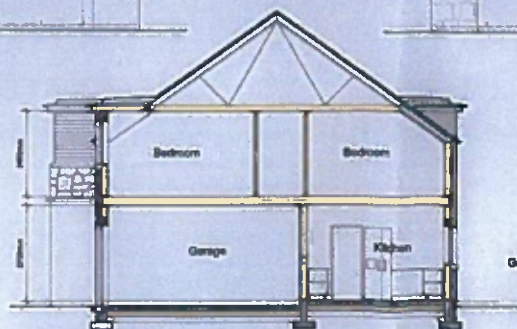
Scale	1:100 (E&S)	Date	Sept 2015
Sheet	1327	Project	(Y)BW03

[illegible]

Front Elevation



Gable Elevation



First Floor - 124.8m²
Ground Floor - 91.8m²
Total = 216.4m²
Garage = 33.7m²

House Type Z

ELECTRICAL KEY

	Ground connection (always on right)
	Wire clamp (usually located on right)
	Ground connection (always on right)
	Wire clamp (usually located on right)
	Wire clamp (usually located on right)
	Wire clamp (usually located on right)
	Wire clamp (usually located on right)
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	Wire clamp (usually located on right)
	Wire clamp (usually located on right)
	Wire clamp (usually located on right)
	Wire clamp (usually located on right)

PLANNING
onyx
exclusive homes
Onyx Homes
Cousland Ltd
AIRYBANK HOUSE
COUSLAND

PROPOSED HOUSE TYPE 2
SECTION & ELEVATIONS

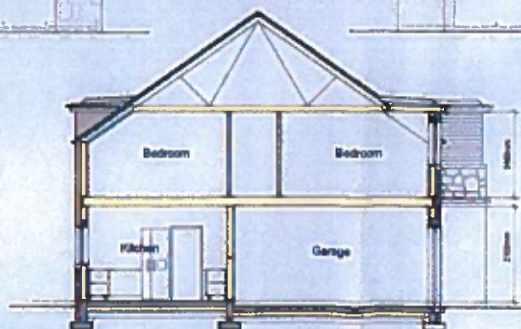
1100@A3	SEPT 201
1327	(ZBWS)
0	

There is a lot of talk about the importance of the environment. But what does it mean to be environmentally friendly? It means to live in a way that does not harm the environment. This can be done by using less energy, recycling, and using public transport. It is our responsibility to take care of the planet for future generations.



Abstract

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



SECTION

First Floor - 124.8m²
Ground Floor - 91.8m²
Total = 216.4m²
Garage = 33.7m²

House Type Z

(Handed)

[illegible]