

# Notice of Meeting and Agenda



## Planning Committee

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

**Date:** Tuesday, 10 September 2024

**Time:** 13:00

**Executive Director : Place**

**Contact:**

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

**Further Information:**

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## **1 Welcome, Introductions and Apologies**

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## **2 Order of Business**

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

## **3 Declaration of Interest**

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

## **4 Minute of Previous Meeting**

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| <b>4.1</b> | Minute of the meeting of 4 June 2024 submitted for approval | 3 - 16 |
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## **5 Public Reports**

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| <b>5.1</b> | TPO Confirmation Report regarding land adjacent to Meyerling, Howgate     | 17 - 34 |
| <b>5.2</b> | Penicuik High School - pre-application consultation Report (24.00363.PAC) | 35 - 40 |
| <b>5.3</b> | East Lodge, Melville Castle Report (24.00131.DPP and 24.00132.LBC)        | 41 - 56 |
| <b>5.4</b> | Glenarch Lodge, Dalkeith Report (23.00600.DPP and 23.00821.LBC)           | 57 - 74 |
| <b>5.5</b> | Land at Rosslynlee Report (24.00313.S42 )                                 | 75 - 88 |

## **6 Private Reports**

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No items for discussion

## **7 Date of Next Meeting**

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The next meeting will be held on Tuesday 29 October 2024

# Minute of Meeting

Planning Committee  
Tuesday, 10 September 2024  
Item 4.1



## Planning Committee

Date	Time	Venue
Tuesday 4 June 2024	13:00	Council Chambers, Midlothian House/Hybrid

### Present:

Councillor Alexander	Councillor McManus (virtual)
Councillor Bowen	Councillor Milligan
Councillor Cassidy (virtual)	Councillor Parry (virtual)
Councillor Curran	Councillor Pottinger (virtual)
Councillor Imrie (Chair)	Councillor Russell ?
Councillor Drummond	Councillor Scott
Councillor McEwan	Councillor Virgo
Councillor McKenzie	Councillor Winchester

### In Attendance:

Derek Oliver	Chief Officer Place
Peter Arnsdorf	Planning, Sustainable Growth and Investment Manager
Kevin Anderson	Executive Director Place
Alan Turpie	Principal Solicitor
Hannah Forbes	Assistant Democratic Services Officer

## **1. Welcome, Introduction and Apologies**

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The Chair welcomed everyone to the meeting of the Planning Committee.

## **2. Order of Business**

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As per the Agenda.

The Chair stated that those members that did not participate in stage 1 and 2 regarding items 5.8 and 5.9 cannot participate in the discussion today.

Councillor Winchester enquired when this decision was made and will this be relevant to all large future applications.

The Chair explained that due to the size of the application it was a 3 stage process, stage 1 was the site visit, stage 2 was a pre-determination meeting to go over all relevant evidence and today we are now at stage 3 of this process.

The Chair also advised that it was for this application only due to its national significance.

## **3. Declarations of interest**

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Councillor Scott made a declaration of transparency in relation to Item 5.6 but would remain for this item. Also a declaration of transparency in relation to Items 5.8 and 5.9 and would leave that meeting at these items.,

Councillor Smail made a declaration of transparency in relation to North Middleton noting that his wife's position on the community council and would take part in this discussion.

## **4. Minutes of Previous Meetings**

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4.1 The Minute of the Planning Committee Meeting of 30 April 2024 was submitted and approved as a correct record.

4.2 The Minute of the Special Planning Committee Meeting of 21 May 2024 was submitted and approved as a correct record.

4.3 Action Log

Councillor Virgo wanted to express his disappointment and wanted it noted that when raised his hand to follow up on Cllr Winchesters point that he was ignored. Councillor Virgo then expressed that members were informed at stage 2 of the 3 stage process that they would not be able to engage in the third stage and questioned the decision that was made of the 3 stage process.

## 5. Reports

Agenda No	Report Title	Submitted by:
5.1	<b>MLDP2 Evidence Report and Local Housing Land Requirement</b>	<b>Chief Officer Place</b>
<b>Outline of Report and Summary of Discussion</b>		
<p>The Planning, Sustainable Growth and Investment Manager presented the report. The purpose of this report was to present the Committee with a copy of the Midlothian Local Development Plan 2 (MLDP2) Evidence Report (Appendix A) and associated Participation Report (Appendix B), the Children and Young People Participation Report (Appendix C) and information on the next stages of the preparation of MLDP2, including the 'Gate Check' (validation of information to base MLDP2) process by Scottish Ministers of the Evidence Report and its accompanying documents. The local development plan regulations require approval of the Evidence Report to be taken by full Council.</p> <p>The report sets out the decisions regarding the next steps, i.e. the submission of the MLDP2 Evidence Report for Gate Check, will be required by Council at its meeting of 25 June 2024. The report also outlines the expectation that the Evidence Report submitted for Gate Check will contain an indicative Local Housing Land Requirement (LHLR) for MLDP2. The report concludes by informing the Committee of a 'Call for Ideas' exercise for MLDP2 that will be undertaken between July and October 2024.</p> <p>At its meeting of 28 February 2023 the Committee commencement the review of the adopted Midlothian Local Development Plan (2017) (MLDP). Its replacement, MLDP2, is timetabled for adoption in late 2026. MLDP2 will be required to cover a 10-year period and therefore its lifespan is expected to be 2026-2036.</p> <p>It is recommended that the Committee:</p> <ul style="list-style-type: none"> <li>a) Notes the content of the report including the Evidence Report (Appendix A), the Participation Report (Appendix B) and the Children and Young People Participation Report (Appendix c);</li> <li>b) Note that Council, at its meeting of 25 June 2024, will be requested to approve the Evidence Report and associated documents for submission to Scottish Ministers for "Gate Check"; and</li> <li>c) Set the Local Housing Land Requirement (LHLR) at the additional generosity (9001-11,000) level subject to those criteria set out in paragraph 4.15 of this report (and any additional criteria elected members wish to add through the preparation of the proposed plan process). If the stated criteria are not met the LHLR shall be set at 8,850 – 9,000 In line with the NPF4 MATHLR target.</li> </ul> <p>The Chair thanked the Planning, Sustainable Growth and Investment Manager for the report and opened it up for questions.</p>		

There was a lengthy discussion regarding the infrastructure and that the Council cannot keep up with the demand for infrastructure with the vast building of houses in Midlothian. It was also mentioned that Midlothian have been advised by the Scottish Government to have a higher increase of house building and have still not met the target. In discussing the matter, it was queried if it was possible to not build above the limit that was already set with no push back from the Scottish Government, the Chief Officer place agreed that this was possible.

The Planning Sustainable Growth and Investment Manager provided an explanation with regards to the greenbelt and noted the comments made by Members.

The discussion then moved on to the conditions of the roads and road bonds in Midlothian with specific mention to Sherrifhall. Certain members of the committee that visited the area were appalled by the conditions. There was concern regarding the stability of the monoblock that was being used in new developments. The Chief Officer place agreed that they would bring back a report on this matter.

The committee then moved to making a decision on the report, the chair then opened to the chamber for comments.

A Motion was moved by Councillor Milligan for no additional housing land in this plan that is not already in the current housing plan at this time, seconded by Councillor Smaill.

The Chair moved an amendment for first setting, having inbuilt flexibility, seconded by Councillor McKenzie.

On a vote being taken 8 voted for the Motion and 9 for the Amendment, the Amendment then became the decision of the Committee.

#### Decision

The recommendations as detailed in the report were approved.

#### Action

A report to be brought back from the Chief Officer place in relation to the conditions on the roads and road bonds in Midlothian.

Agenda No	Report Title	Submitted by:
<b>5.2</b>	<b>MLDP2 – Local Place Plans for Validation and Registration</b>	<b>Chief Officer Place</b>
<b>Outline of Report and Summary of Discussion</b>		
The Planning, Sustainable Growth and Investment Manager presented the report. The purpose of the report was to seek the Committee's agreement to validate and register eight finalised Local Place Plans which have been prepared and submitted to the Council by Midlothian community groups (all community councils).		

The Committee is also requested to note the content of two draft Local Place Plans (LPPs), one prepared by the Penicuik and District Community Council and the second by the Loanhead and District Community Council. Furthermore, while no LPP has been prepared by Tynewater Community Council or Moorfoot Community Council, however engagement has been undertaken by these community councils and their comments should be noted.

At its meeting of 28 February 2023 the Committee authorised invitations to be issued to Midlothian's local community groups to prepare LPPs which would help inform production of the Midlothian Local Development Plan 2 (MLDP2). Invitations were then subsequently sent on 9 March 2023 (and followed up with correspondence on 26 May, 8 August, and 23 November 2023) to Midlothian Community Councils, Midlothian Community Development Trusts and Midlothian Faith Groups. This invitation was issued in accordance section 15 A(a) of the Town and Country Planning (Scotland) Act 1997, as modified by the Planning (Scotland) Act 2019.

It is recommended that the Committee:

- (a) notes the content of the eight submitted final Local Place Plans identified in this report (Appendix B) and agrees to their validation and registration;
- (b) notes the content of the draft Local Place Plans which were submitted by Penicuik and District Community Council and Loanhead and District Community Council; and the Local Place Plan engagement undertaken by Tynewater Community Council and Moorfoot Community Council;
- (c) instruct the Planning, Sustainable Growth and Investment Manager to publish the Local Place Plans in accordance with the requirements of the regulations (to be available online and at Council offices in map and word format); and
- (d) notes that the Local Place Plans, the draft Local Place Plans and records of associated engagement will be taken into account in the preparation of Midlothian Local Development Plan 2.

The Chair thanked the Planning, Sustainable Growth and Investment Manager for the report and opened it up for questions.

There were no comments from the Committee.

#### Decision

The recommendations as detailed were approved unanimously.

#### Action

Planning, Sustainable Growth and Investment Manager

Agenda No	Report Title	Submitted by:
<b>5.3</b>	<b>Planning Obligations Annual Update</b>	<b>Chief Officer Place</b>
<b>Outline of Report and Summary of Discussion</b>		
<p>The Planning, Sustainable Growth and Investment Manager presented the report. The purpose of this report was to provide an annual update on developer contributions. The Planning (Scotland) Act 2019 requires local planning authorities to publish annual details of planning obligations that have been secured. Section 36(5) sets out what the report is to cover, including:</p> <ul style="list-style-type: none"> <li>(a) the number of planning obligations that are – <ul style="list-style-type: none"> <li>a - entered into in that year;</li> <li>b - entered into in a previous year and not yet expired; and</li> <li>c - entered into in a previous year and not complied with.</li> </ul> </li> <li>(b) the development to which each planning obligations relates, and</li> <li>(c) the name of the person that has entered into the planning obligation</li> </ul> <p>It is recommended that the Committee:</p> <ul style="list-style-type: none"> <li>i) note the information set out in the report and attached appendices; and</li> <li>ii) receive an annual report setting out the level of developer contributions secured by planning obligations and the sum of developer contributions recovered within the reporting financial year.</li> </ul> <p>The Chair thanked the Planning, Sustainable Growth and Investment Manager for the report and opened it up for questions.</p> <p>A question was raised by a member of the committee with regards to the developer contributions on a sliding scale depending on the size of the development. The Planning, Sustainable Growth and Investment Manager explained that the more units that are build the more there is to pay. The impact of larger developments is greater, so we need additional contribution.</p> <p>In responding to a further question raised with regards to the fact that some sites have primary schools and some do not - The Planning, Sustainable Growth and Investment Manager advised that it was based on what infrastructure is required to be delivered to meet the impact and further clarification was given on where the money goes with regards to community facilities.</p>		
<b>Decision</b>		
The Committee noted the recommendations as detailed in the report.		
<b>Action</b>		
The Planning, Sustainable Growth and Investment Manager		

Agenda No	Report Title	Submitted by:
5.4	<b>23/00599/DPP – Application for the demolition of existing school and the erection of community campus comprising of primary school and nursery, formation of sports pitches, roads and car parking and associated works at the site of the Mayfield Primary School, Stone Avenue, Mayfield</b>	<b>Chief Officer Place</b>

#### Outline of Report and Summary of Discussion

The Planning, Sustainable Growth and Investment Manager presented the report. The application was for the demolition of existing school and the erection of community campus comprising of primary school and nursery, formation of sports pitches, roads and car parking and associated works at the site of the Mayfield Primary School, Stone Avenue, Mayfield.

The recommendation is to grant planning permission for the following reasons subject to the conditions as detailed in the report.

The site is located within the settlement boundary of Mayfield and on a site with an established educational and community use and as such there is presumption in favour of an appropriate educational and community use development. The proposed detailed scheme of development in terms of its layout, form, design and landscape framework is acceptable and as such accords with development plan policies. The presumption for development is not outweighed by any other material considerations.

The Chair thanked the Planning, Sustainable Growth and Investment Manager for the report and opened it up for questions.

A question was presented, that the 3G football Pitch would be part of the Midlothian Council Football strategy and that it would be available for public use. The Chief Officer place in responding confirmed that it would meet the needs of the community for Football pitch requirements. In responding to a further question in relation to drop off locations for children, the Planning, Sustainable Growth and Investment Manager advised that there would be two access points and a drop off car park.

#### Decision

The recommendations were approved unanimously.

#### Action

The Planning, Sustainable Growth and Investment Manager

Agenda No	Report Title	Submitted by:
5.5	<b>24/00148/DPP - Application for the formation of a site access, remediation works and installation of utilities and drainage infrastructure at the site of the former Monktonhall Colliery</b>	<b>Chief Officer Place</b>

## Outline of Report and Summary of Discussion

The Planning, Sustainable Growth and Investment Manager presented the report. The application was for the formation of a site access, remediation works and installation of utilities and drainage infrastructure at the site of the former Monktonhall Colliery. The site forms part of the Shawfair new settlement.

The recommendation is to grant planning permission for the following reasons subject to the conditions as detailed in the report.

The proposed development site is an integral part of a committed development site as allocated in the Midlothian Local Development Plan 2017. The proposed development would remediate a brownfield site ensuring that it is decontaminated and stabilised, which will thereby enable it to be brought in use in accordance with the Shawfair Masterplan and Midlothian Local Development Plan 2017. The distance of the site from existing dwellinghouses and the nature of the proposed operations would not give rise to an unacceptable impact on amenity. The presumption for development is not outweighed by any other material considerations. As such the proposed development complies with policies STRAT1 and ENV16 of the Midlothian Local Development Plan and Policy 9 of the National Planning Framework 4.

The Chair thanked the Planning, Sustainable Growth and Investment Manager for the report and opened it up for questions.

The discussion began with members of the committee expressing their concerns for the site and its safety. A cause of concern that was identified was in the report mentions that 11 mine shafts were located on the site and only 7 have been identified. It was also stated as a matter of concern the combustible soil 1 meter deep on the site. The Planning, Sustainable Growth and Investment Manager explained that there has been site investigation to identify the mine shafts and the Coal Authority are recognising that this was based on an earlier map that their records were not correct.

The Planning, Sustainable Growth and Investment Manager reinforced the point that the ownership of the site was being transferred to the council for its education ambitions, but that was subject to a separate agreement, that the developer carries out the appropriate remediation as part of their responsibilities.

The Chair advised the committee that this report was for approval and that the remediation work is complete.

## Decision

The recommendations were approved unanimously.

## Action

The Planning, Sustainable Growth and Investment Manager

Agenda No	Report Title	Submitted by:
<b>5.6</b>	24/00107/DPP – Application for change of use from children’s nursery (class 10) to office and ancillary support centre (class 4) at 3 Eskview Villas, Dalkeith	<b>Chief Officer Place</b>
<b>Outline of Report and Summary of Discussion</b>		
<p>The Planning, Sustainable Growth and Investment Manager presented the report. The application was for the change of use from children’s nursery (class 10) to office and ancillary support centre (class 4) at 3 Eskview Villas, Dalkeith. The site is located within the Eskbank and Ironmills Conservation Area.</p> <p>The recommendation is to grant planning permission for the following reasons subject to the conditions as detailed in the report.</p> <p>The proposed use by nature of its scale of operations is less intensive than the existing use and therefore will not have a detrimental impact on the character and amenity of the surrounding area. The proposal seeks to re-use a vacant commercial building which is within the built-up area of Dalkeith, where there is a presumption in favour of appropriate development and is in close proximity to public transport provision and active travel connections. Therefore, the proposed development complies with the relevant policies of the National Planning Framework 4 and the Midlothian Local Development Plan 2017.</p> <p>The Chair thanked the Planning, Sustainable Growth and Investment Manager for the report and opened it up for questions.</p> <p>Councillor Mckenzie declared a note of transparency that this item was in his ward and the constituents and complainants are known to him as are Women’s Aid, he further advised that it was also discussed at the community council but no opinions were expressed by any Councillors attending.</p> <p>It was then noted that Women’s aid has been within Dalkeith for a number of years and the service they provide to some of the most vulnerable members of society is valued. It was stated that there has been concerns raised by local community and to make sure their concerns are heard he called this in as the ward Councillor.</p> <p>The chair then moved to ask the committee if they were happy to agree to the recommendations.</p>		
<b>Decision</b>		
The recommendations were approved unanimously.		
<b>Action</b>		
The Planning, Sustainable Growth and Investment Manager		

Agenda No	Report Title	Submitted by:
5.7	<b>APPLICATION FOR PLANNING PERMISSION 24/00176/DPP FOR THE ERECTION OF DWELLINGHOUSE AND ASSOCIATED WORKS ON LAND AT 4 FALA VILLAGE, PATHHEAD</b>	<b>Chief Officer Place</b>
<b>Outline of Report and Summary of Discussion</b>		
<p>The Planning, Sustainable Growth and Investment Manager presented the report. The planning application was for the erection of a single dwellinghouse on land at 4 Fala Village, Pathhead. The site is located within the Fala Conservation Area.</p> <p>The recommendation is to grant planning permission for the following reasons subject to the conditions as detailed in the report.</p> <p>The proposed dwellinghouse is located within the built-up area of Fala Village where there is a presumption in favour of appropriate development. Furthermore, by means of its scale, orientation and design it will complement the character and appearance of the Fala Conservation Area and will not have a detrimental impact on the residential amenity of the area nor raise any road safety concerns and as such complies with the relevant policies of National Planning Framework 4 and of the Midlothian Local Development Plan 2017.</p> <p>The Chair thanked the Planning, Sustainable Growth and Investment Manager for the report and opened it up for questions.</p> <p>Councillor Smaill advised on the background that a very concerned neighbour had made several representations and that it was believed they were taken into account by the planning officer and that it was called in as only a few days remained before it was too late but the induvial in question has not progressed the complaint into the formal representations on the planning website so he was content for this to proceed.</p> <p>The Chair then confirmed with the committee that they were in agreement to grant the planning permission.</p>		
<b>Decision</b>		
The Planning Permission was granted for the reasons stated subject to the conditions as detailed in the report.		
<b>Action</b>		
The Planning, Sustainable Growth and Investment Manager		

The Chair thanked Councillors for their attendance and that the Councillors on the committee that did not attended the First 2 stages of the process for this application were excused from the Council Chamber.

Councillors Virgo, Smaill, Scott left the meeting prior the following items being discussed.

Agenda No	Report Title	Submitted by:
<b>5.8</b>	23/00595/DPP - Application for the formation of recycling facility and waste transfer station; continuation of landfill operations and associated works for a 17-year time period at the former Middleton Limeworks Quarry	<b>Chief Officer Place</b>
<b>Outline of Report and Summary of Discussion</b>		
<p>The Planning, Sustainable Growth and Investment Manager presented the report. The application is for the formation of recycling facility and waste transfer station; continuation of landfill operations and associated works for a 17-year time period at the former Middleton Limeworks Quarry, Middleton, Gorebridge.</p> <p>The recommendation is to grant planning permission subject to the conditions as detailed in the report.</p> <p>It is recommended that subject to no objection being received from The Coal Authority and the updated Preliminary Ecological Appraisal Report not raising any additional issues planning permission be granted for the following reason:</p> <p>Whilst consideration is given to the countryside location, the planning history and compliance with the principles of the waste hierarchy outweigh any temporary impacts upon the countryside. The proposed development does not have adverse environmental impacts subject to detailed/technical matters being agreed/secured by condition. The proposed development accords with the Midlothian Local Development Plan and National Planning Framework 4.</p> <p>The Chair thanked the Planning, Sustainable Growth and Investment Manager for the report and opened it up for questions.</p> <p>The Committee passed their thanks to the Planning, Sustainable Growth and Investment Manager for organising the site visit and expressed how informative and seeing the plant in use. It was raised by a member of the committee that the community council had objections one being the footpath and the safety of the footpath and wanted to put forward an amendment for a safe footpath to the application. The Planning Sustainable Growth Manager explained that the applicant does not own the land, they are willing to do so, however there are complications on land ownership and it would need looked into. Another comment was raised that there are major concerns from the local residents, it was questioned how the conditions to the report would be monitored. The Planning Sustainable Growth and Investment Manager advised that there are enforcement powers available to the council to secure that the site is run well and managed appropriately. The Chief Officer Place stated that this is under the pollution prevention control regulation and that there will also be a regulator on this site.</p> <p>Another comment was raised in relation to the monitoring of the site and it was asked that a report to come back to the elected members periodically to inform them on the monitoring of the site.</p>		

The Chair advised that the applicant had already stated they were happy to set up a liaison committee between the operator and the community council. It was then mentioned that if the applicant listens back to this recording, they will understand that this is something that elected members want to see. The Chief Officer Place agreed and advised that the onus was on the operator to monitor and evidence how they are operating.

It was also noted that the Operator had agreed to upkeep the road to a decent standard. It was further raised that the amendment put forward by Councillor Pottinger regarding the footpath and if this was put in as a condition it would effectively stop the whole application if the land owner decides not to sell the land.

The Chair advised that the Planning Sustainable Growth and Investment Manager had explained the conditions in relation to the footpath that the applicant if happy to get the land and complete the footpath but if they were unable, it would not stop this going ahead. The Planning, Sustainable Growth and Investment Manager confirmed that the council would work with the Operator and the local community with regards to this footpath but this condition would not stop this going forward

The chair asked the committee for approval on the report with the following comments made by elected members.

#### Decision

The Planning Permission was granted for the reasons stated subject to the conditions as detailed in the report taking into account the comments made by Members of the Committee

#### Action

The Planning, Sustainable Growth and Investment Manager

Agenda No	Report Title	Submitted by:
<b>5.9</b>	23/00773/S42 – Section 42 to amend the wording of conditions 1 and 6 attached to the grant of planning permission 22/00546/S42 for the infilling and restoration of the former Middleton Limeworks Quarry to extend the duration of the temporary planning permission and the subsequent landscaping maintenance to reflect the potentially revised expiration date of the planning permission – from 31 March 2024 to 31 March 2026	<b>Chief Officer Place</b>
<b>Outline of Report and Summary of Discussion</b>		
The Planning, Sustainable Growth and Investment Manager presented the report. This application seeks to amend the wording of conditions 1 and 6 attached to the grant of planning permission 22/00546/S42 to extend the duration of the temporary planning permission again and to also extend the timescales for the subsequent landscaping maintenance to reflect the potentially revised expiration date of the planning permission. At its meeting on 17 November 2015 the Committee granted		

planning permission for the infilling and restoration of the former Middleton Limeworks Quarry (15/00503/DPP). Subsequently, at its meeting of 10 January 2022 the Committee granted a section 42 application (22/00546/S42) which sought to amend the wording of conditions 1 and 3 attached to the grant of planning permission 15/00503/DPP to extend the duration of the temporary planning permission and to allow the acceptance of non-hazardous waste as an infill material.

The recommendation is to grant planning permission for the following reasons subject to the conditions as detailed in the report.

The proposed amendments to two conditions do not fundamentally change the development which is being implemented under a previous grant of planning permission. The proposed development does not have adverse environmental impacts subject to detailed/technical matters being agreed/secured by condition. This presumption in favour of development is not outweighed by any other material considerations. The proposed development accords with the Midlothian Local Development Plan (2017) or NPF4.

The Chair thanked the Planning, Sustainable Growth and Investment Manager for the report and opened it up for questions.

There were no questions from the committee, the chair then asked for agreement on the paper subject to the conditions.

#### **Decision**

The Planning Permission was granted for the reasons stated subject to the conditions as detailed in the report.

#### **Action**

The Planning, Sustainable Growth and Investment Manager

## **6. Private Reports**

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No items for discussion

## **7. Date of Next Meeting**

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The next meeting will be held on Tuesday, 10 September 2024 at 1:00 pm.

The meeting terminated at 13:43 pm.





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## **TREE PRESERVATION ORDER (1 of 2024) REGARDING TREES AT LAND ADJACENT TO MEYERLING AND LAND AT LITTLE MOSS AND NETHER MOSS, HOWGATE, PENICUIK**

Report by Chief Officer Place

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### **1 PURPOSE OF REPORT**

- 1.1 This report seeks the Committee's approval to confirm Tree Preservation Order (TPO) 1 of 2024 issued on 30 May 2024 for a group of trees (G1) at land adjacent to Meyerling and land at Little Moss and Nether Moss, Howgate, Penicuik.

### **2 BACKGROUND**

- 2.1 At its meeting of 23 January 2024 the Committee determined to issue a TPO regarding a group of trees (G1) at land adjacent to Meyerling and land at Little Moss and Nether Moss, Howgate, Penicuik.
- 2.2 The TPO was issued on the basis that a report regarding the confirmation of the TPO, once the owner of the land and other interested parties have had the opportunity to make comment, be reported to Committee for consideration. The following details of the case are set out in the 23 January 2024 Committee report attached as Appendix A:
- Site location and description;
  - Background and justification for issuing the TPO;
  - Details of the TPO proposal;
  - Location plan;
  - Local development context plan; and
  - Site photos
- 2.3 The TPO came into effect on 30 May 2024 and continues in force for six months (until 30 November 2024) or until the Order is 'confirmed', which is the process of making the TPO permanent (until it is removed).
- 2.4 Following the service of the TPO the landowners were given the opportunity to make representation. Furthermore, in accordance with the Regulations, a notice was published in the Midlothian Advertiser and on the Council's website and the Howgate Community Council were also notified of the decision to issue the Tree Preservation Order and invited to make a representation. In addition, site notices were attached to gates/fences on site advising of the TPO and the consultation process.

Interested parties were given until 5 July 2024 to make representations. Legislation requires that a period of at least 28 days is made available for representation to be submitted to the Council following a decision to make a Tree Preservation Order.

### **3 REPRESENTATIONS**

- 3.1 No representations were received in response to the TPO notification process.

### **4 PLANNING ISSUES**

- 4.1 The plantation woodland features in views from the west and from the A6094. It adds to the setting and amenity of the area, contributes to local biodiversity and will help to screen the recently approved dwellinghouse (planning applications 21/00775/DPP and 23/00187/DPP) on the adjoining land.
- 4.2 The issuing of a TPO will be a valuable tool in perpetuating canopy cover in the area to help mitigate and address the effects of the climate emergency, protecting the trees for their amenity and place functions and preserving local biodiversity and habitat connectivity. The woodland is of value and suitable for protection by way of a TPO for the following reasons:
- It positively contributes to the landscape character and amenity of the local area and is worthy of retention;
  - It contributes to the wider landscape setting when viewed from the A6094 and from areas to the west including from the A701 and the road approaching Milkhall Pond Local Biodiversity Site;
  - It contributes towards the landscape setting for those existing properties along the A6094 in the local vicinity;
  - It provides visual screening and shelter to existing dwellings at Little Moss and Nether Moss and to the site of the dwelling approved by planning applications 21/00775/DPP and 23/00187/DPP, especially in providing partial screening of long-distance night-time lit views of the dwelling house from the west due to its elevated location on a ridge alongside the A6094;
  - Based on the site history of tree removal, the woodland appears to be at potential risk of felling. The recent approved planning application 23/00187/DPP has also raised concerns that the woodland may suffer either indirect or direct harm, either through tree removal or pruning prior to the start of any construction works, due to construction damage to the trees or their root protection areas, or in future due to perceived or actual conflict with the residential land use (for example due to partial shading leading to pressure for tree removal or pruning);
  - There are no specific measures in place to prevent tree felling prior to the commencement of the approved dwellinghouse, except for the limitations on tree felling imposed by the Forestry and Land Management (Scotland) Act 2018. This means that currently tree felling of up to 5 cubic metres per calendar quarter could take place;

- Plantation blocks and associated shelterbelts are a typical landscape feature of this part of Midlothian, planted to serve the role of providing shelter from south westerly winds in this otherwise exposed undulating landscape. The landscape of the local area affords expansive views meaning that any proposed removal of plantation woodland would be widely visible especially when viewed from the west;
- The plantation is worthy of protection as a tree group related to the domestic and pastoral setting of the adjacent cottage at Nether Moss and the surrounding grazing land and stables;
- The plantation is assessed to be of reasonable condition with a retention period of over forty years; and
- The proposed TPO contributes to wider green network and nature network connections across the wider area, creating links to Milkhall Pond Local Biodiversity Site, the Lead Burn corridor and wider rural tree canopy including Tree Preservation 1 of 2018 Wellington School.

## **5 PROCEDURES**

- 5.1 The provision for issuing a Tree Preservation Order is set out in the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006, and the Town and Country Planning (Tree Preservation Order and Trees in Conservation Areas) (Scotland) Regulations 2010. A planning authority may make a Tree Preservation Order if it appears to them to be “expedient in the interest of amenity and/or that the trees, groups of trees or woodlands are of cultural or historic significance” (Scottish Government Planning Circular 1/2011: Tree Preservation Orders). The TPO subject of this report has been made on amenity grounds.
- 5.2 The TPO will continue to remain in effect to the end of the six-month period (ending 30 November 2024). If the local planning authority wishes the TPO to stay in effect beyond the six months it must ‘confirm’ the order.
- 5.3 To ‘confirm’ the Order the LPA must register the TPO in the Land Registry of Scotland, place a copy on its own TPO register and notify Scottish Forestry (previously the Forestry Commission Scotland), interested persons and any person who has made a representation (in this case no representations were received).

## **6 RECOMMENDATION**

- 6.1 It is recommended that Committee:
  - a) Confirm the Tree Preservation Order (1 of 2024) for a group of trees (G1) at land adjacent to Meyerling and land at Little Moss and Nether Moss, Howgate, Penicuik; and
  - b) Instruct the Planning, Sustainable Growth and Investment Service Manager to carry out the necessary procedures, following confirmation and endorsement of a tree preservation order, that are required by the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006 and the Town and Country Planning

(Tree Preservation Order and Trees in Conservation Areas) (Scotland) Regulations 2010.

**Peter Arnsdorf**  
**Planning, Sustainable Growth and Investment Manager**

**Date:** 31 August 2024  
**Contact Person:** Grant Ballantine  
grant.ballantine@midlothian.gov.uk  
**Background Papers:** January 2024 Committee Report (attached as Appendix A)



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### **TREE PRESERVATION ORDER REGARDING TREES AT LAND ADJACENT TO MEYERLING AND LAND AT LITTLE MOSS AND NETHER MOSS, HOWGATE, PENICUIK**

Report by Chief Officer Place

---

#### **1 PURPOSE OF REPORT**

- 1.1 This report seeks the Committee's approval to issue a Tree Preservation Order (TPO) on woodland located at land adjacent to Meyerling and land at Little Moss and Nether Moss, Howgate, Penicuik.

#### **2 LOCATION AND SITE DESCRIPTION**

- 2.1 The site is located on land approximately 900 metres south of Howgate, off the A6094 and south of a cluster of dwellings including Cluny House, Meyerling, Ardroig Venture Fair and the former Howgate Restaurant site. The Lead Burn is located approximately 60 metres to the northwest and Milkhall Road runs approximately 100 metres to the west. Milkhall Pond (a local biodiversity site) is 300 metres to the north. There is a further cluster of dwellings which includes Nether Moss and Mosshouses located to the west and southwest of the site. An existing TPO, no 2 of 2021, already exists, protecting other groups of trees in the local landscape.
- 2.2 The proposed subject of the TPO is a shelterbelt woodland; Group 1 (G1) which sits on the western edge of two sloping pastoral fields adjacent to the A6094, south of Howgate. The woodland is clearly visible from the A6094. It is also visible from the west owing to its elevated position on a visually prominent ridge. In the recent past the fields to the east of the proposed TPO have been used for grazing horses. Planning permission for residential development on the field to the north has recently been granted (see Section 3 of the report).

#### **3 BACKGROUND**

- 3.1 The immediate surroundings of the proposed TPO have suffered loss of tree cover in recent years. Between 2010 and 2018 an approximate one hundred metre linear shelterbelt of trees along the A6094 was removed. The group of trees the subject of this TPO report (is predominantly Scots Pine) originally formed part of a continuous

roadside shelterbelt from Mosshouses to Cluny House and Venture Fair. More recently, on 25 March 2021, further partial removal of the shelterbelt along the A6094 took place and in response an emergency TPO (TPO 2 of 2021) was made on 31 March 2021 and confirmed by the Committee at its meeting of 15 June 2021. This TPO protected the remaining trees in the shelterbelt running for 370 metres along the A6094 - it also protected individual beech trees on the site's northwest boundary. TPO 2 of 2021 did not include any of the plantation woodland at G1 which is the subject of this proposed TPO.

- 3.2 The site of this proposed TPO 1 of 2024 has been the subject of a number of planning applications between 2002 and 2023 for residential development. All the planning applications were refused, except for the most recent two. Planning application 21/00775/DPP for the erection of dwellinghouse and access off the A6094 was approved by the Council's Local Review Body (LRB) on 21 March 2022. A further application, 23/00187/DPP, proposed an alternative location for the dwellinghouse and was approved by the LRB on 6 July 2023. This application sited the dwellinghouse on raised land closer to the site's southwestern boundary and the plantation woodland the subject of this TPO report. The woodland at G1 provides significant screening along part of the housing site's northwest boundary and is particularly important in partially screening views of the residential development, with additional but incomplete filtering of views being provided by the trees already protected by TPO 2 of 2021.

## **4 PROPOSAL**

- 4.1 It is proposed to issue a TPO covering an area of woodland (Group 1) comprising a semi-mature plantation and shelterbelt woodland including Larch and Scots Pine.

## **5 PROCEDURES**

- 5.1 The provision for issuing a Tree Preservation Order is set out in the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006 and the Planning (Scotland) Act 2019, and the Town and Country Planning (Tree Preservation Order and Trees in Conservation Areas) (Scotland) Regulations 2010. A planning authority may make a TPO if it appears to them to be "expedient in the interest of amenity and/or that the trees, groups of trees or woodlands are of cultural or historic significance" (Scottish Government Planning Circular 1/2011: Tree Preservation Orders).
- 5.2 Following the service of a TPO the owner of the land and other interested parties have the opportunity to make representation. However, there is no right of appeal against a Tree Preservation Order once it is designated by the planning authority.

- 5.3 The TPO shall be in effect for six months, during which time representations from the owner of the land and other interested parties will be considered. If the local planning authority wishes the TPO to stay in effect beyond the six months, it must '*confirm*' the order.

## **6 PLANNING ISSUES**

- 6.1 The plantation woodland features in views from the west and from the A6094. It adds to the setting and amenity of the area, contributes to local biodiversity and will help to screen the recently approved dwellinghouse (planning applications 21/00775/DPP and 23/00187/DPP) on the adjoining land.
- 6.2 The issuing of a TPO will be a valuable tool in perpetuating canopy cover in the area to help mitigate and address the effects of the climate emergency, protecting the trees for their amenity and place functions and preserving local biodiversity and habitat connectivity. The woodland is of value and suitable for protection by way of a TPO for the following reasons:
- It positively contributes to the landscape character and amenity of the local area and is worthy of retention;
  - It contributes to the wider landscape setting when viewed from the A6094 and from areas to the west including from the A701 and the road approaching Milkhall Pond Local Biodiversity Site;
  - It contributes towards the landscape setting for those existing properties along the A6094 in the local vicinity;
  - It provides visual screening and shelter to existing dwellings at Little Moss and Nether Moss and to the site of the dwelling approved by planning applications 21/00775/DPP and 23/00187/DPP, especially in providing partial screening of long-distance night-time lit views of the dwelling house from the west due to its elevated location on a ridge alongside the A6094;
  - Based on the site history of tree removal, the woodland appears to be at potential risk of felling. The recent approved planning application 23/00187/DPP has also raised concerns that the woodland may suffer either indirect or direct harm, either through tree removal or pruning prior to the start of any construction works, due to construction damage to the trees or their root protection areas, or in future due to perceived or actual conflict with the residential land use (for example due to partial shading leading to pressure for tree removal or pruning);
  - There are no specific measures in place to prevent tree felling prior to the commencement of the approved dwellinghouse, except for the limitations on tree felling imposed by the Forestry and Land Management (Scotland) Act 2018. This means that currently tree felling of up to 5 cubic metres per calendar quarter could take place;
  - Plantation blocks and associated shelterbelts are a typical landscape feature of this part of Midlothian, planted to serve the role of providing shelter from south westerly winds in this otherwise

exposed undulating landscape. The landscape of the local area affords expansive views meaning that any proposed removal of plantation woodland would be widely visible especially when viewed from the west;

- The plantation is worthy of protection as a tree group related to the domestic and pastoral setting of the adjacent cottage at Nether Moss and the surrounding grazing land and stables;
- The plantation is assessed to be of reasonable condition with a retention period of over forty years; and
- The proposed TPO contributes to wider green network and nature network connections across the wider area, creating links to Milkhall Pond Local Biodiversity Site, the Lead Burn corridor and wider rural tree canopy including Tree Preservation 1 of 2018 Wellington School. The figure below shows Tree Preservation orders in the area (shown in green), indicating how this proposed TPO (shown in red) would help to strengthen green network connectivity. The designation of these other TPOs reflects the significance of the role and contribution to local character of these shelter belt tree groups.

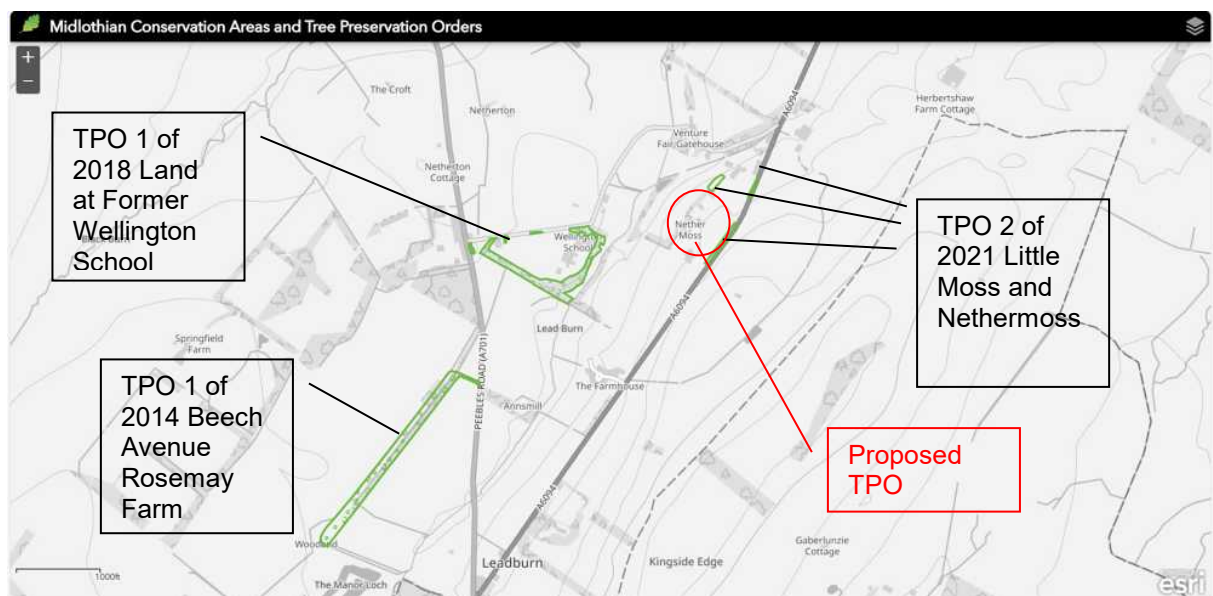


Figure 1: Tree Preservation Orders and Proposed TPO Context

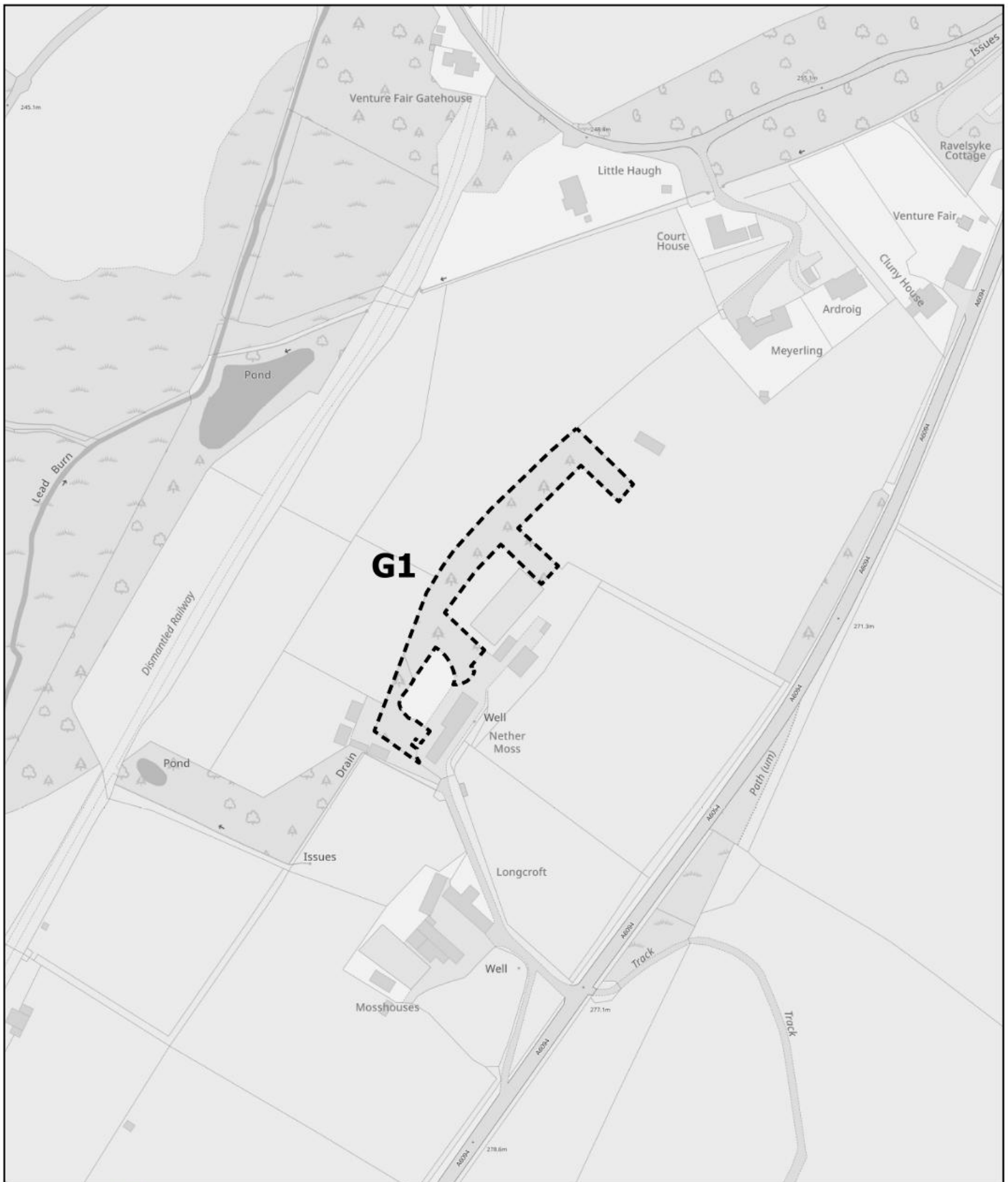
## 7 RECOMMENDATION

### 7.1 It is recommended that the Committee:

- Agrees to the issuing of a TPO to protect the identified trees at land adjacent to Meyerling and land at Little Moss and Nether Moss, Howgate, Penicuik; and
- Agrees to receive a further report to consider confirming the TPO once the owner(s) of the land and other interested parties have had the opportunity to make comment.

**Peter Arnsdorf**  
**Planning, Sustainable Growth and Investment Manager**

**Date:** 12 January 2023  
**Contact Person:** Grant Ballantine  
grant.ballantine@midlothian.gov.uk  
**Background Papers:** Site location plan and site photographs



**Planning Service  
Place Directorate**  
Midlothian Council  
Fairfield House  
8 Lothian Road  
Dalkeith  
EH22 3AA

Land adjacent to Meyerling and land at Little Moss and Nether Moss, Howgate, Penicuik, Midlothian.

This is the plan relative to the Midlothian Council Tree Preservation Order No. 1 of 2024

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Page 26 of 88



## **Site Photographs**

### **Trees at Nethermoss and Little Moss near Howgate 04/05/2023**

Group G1: All trees visible form part of G1 except the young saplings in tree shelters in the foreground



**View looking south-west from within Nethermoss close to boundary fenceline**

Group G1: All trees visible form part of G1 except  
the young saplings in tree shelters in the foreground



**Looking west. Broadleaved young tree planting on boundary line between  
Nethermoss and Little Moss. Plantation G1 in background**

Group G1: All trees visible form part of G1



**Group G1: Looking southwest from within Little Moss**

Group G1: All trees visible form part of G1



**Edge of Group G1 looking south from just next to the stable block.  
Distant views to the Pentland Hills glimpsed in background.**

Group G1

G3 of TPO 2  
of 2021



**Showing proximity of stable location to edge of G1 and distant views to the Pentlands.**



**Western edge of G1 seen looking north along the boundary fenceline looking towards Court House**



**Boundary line between Little Moss and Nethermoss**





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**PRE - APPLICATION REPORT REGARDING THE RE-DEVELOPMENT OF EXISTING HIGH SCHOOL INCLUDING ERECTION OF EXTENSIONS, PARTIAL DEMOLITION OF BUILDINGS, LANDSCAPING, FORMATION OF ROADS AND SPORTS PITCHES; AND ASSOCIATED WORKS AT PENICUIK HIGH SCHOOL, 39A CARLOPS ROAD, PENICUIK (24/00363/PAC)**

Report by Chief Officer Place

---

## **1 PURPOSE OF REPORT**

- 1.1 The purpose of this report is to advise the Committee of the submission of a Proposal of Application Notice (PAN) and corresponding pre-application consultation for the re-development of an existing high school including erection of extensions, partial demolition of buildings, landscaping, formation of roads and sports pitches; and associated works at Penicuik High School, 39A Carlops Road, Penicuik.
- 1.2 The pre-application consultation is reported to Committee to enable Councillors to express a provisional view on the proposed major development. The report outlines the proposal, identifies the key development plan policies and material considerations and states a provisional, without prejudice, planning view regarding the principle of development.

## **2 BACKGROUND**

- 2.1 Guidance on the role of Councillors in the pre-application process, published by the Commissioner for Ethical Standards in Public Life in Scotland, was reported to the Committee at its meeting of 30 August 2022. The guidance clarifies the position with regard to Councillors stating a provisional view on proposals at pre-application stage.
- 2.2 A Proposal of Application Notice (PAN) detailing the pre-application consultation for the re-development of existing high school including erection of extensions, partial demolition of buildings, landscaping, formation of roads and sports pitches; and associated works at Penicuik High School, 39A Carlops Road, Penicuik was submitted on 30 May 2024. The applicant is Midlothian Council.
- 2.3 As part of the pre-application consultation process two public events were held at Penicuik Leisure Centre, 39A Carlops Road, Penicuik. The first was on Wednesday 19 June 2024 and the second on Wednesday 21 August 2024; these meetings were advertised via the Midlothian Advertiser, the Penicuik Crier, social media posts, the display of leaflets within local community buildings and a maildrop to local neighbouring properties (at least 7 days prior to each event). Upon the conclusion of the public events the applicant can submit a

planning application for the proposal.

- 2.4 An applicant must wait 12 weeks from the date of submission of a PAN before submitting a planning application. The earliest date that the planning application for this proposal could be submitted was 22 August 2024. The subsequent planning application must be accompanied by a Pre-Application Consultation Report detailing the consultation undertaken, a summary of written responses and views expressed at the public events, and an explanation of how the applicant took account of the views expressed and an explanation of how members of the public were given feedback on the applicant's consideration of their views.
- 2.5 Copies of the pre application notices have been sent by the prospective applicant to the local elected members in Ward 1 - Penicuik, the Penicuik and District Community Council Community Council, Owen Thompson MP, Colin Beattie MSP and Christine Grahame MSP.
- 2.6 It is reasonable for an Elected Member to attend one of the events without a Council planning officer present, but the Member should (in accordance with the Commissioner's guidance reported to the Committee at its meeting in August 2022) not offer views, as the forum for doing so will be at meetings of the Planning Committee.

### **3 PLANNING CONSIDERATIONS**

- 3.1 In assessing any subsequent planning application the main planning issue to be considered in determining the application is whether the proposed development complies with development plan policies unless material planning considerations indicate otherwise. The views of consultees and representors will be material considerations in the assessment of an application for the proposed development.
- 3.2 The development plan is comprised of National Planning Framework 4 (2023) and the Midlothian Local Development Plan (2017). Section 24(3) of the Town and Country Planning (Scotland) Act 1997 states that where there is an incompatibility between the provisions of the National Planning Framework and the provisions of a local development plan whichever of them is the later in date is to prevail. At present this means that where there is an incompatibility NPF4 takes precedence, this will change when a new local development plan is adopted.
- 3.3 The application site comprises a high school, associated buildings, parking and large areas of grass and hardstanding. It is noted that part of the building is category B listed. The site is located within a primarily residential area within the built-up area of Penicuik. To the west and attached to the main high school is Penicuik Leisure Centre, beyond this is Sacred Heart Primary School. To the northwest, north and east of the site are a number of residential properties. Carlops Road is to the front of the site and to the south of this is Penicuik Park and playing fields. Off-street parking is located to the eastern side of the site which is accessible via Bellman's Road. There is also parking to the front of Penicuik Leisure Centre which is accessible via Carlops Road.

3.4 The relevant policies of the National Planning Framework 4 (NPF4) are:

- Policy 1 - Tackling the climate and nature crises;
- Policy 2 - Climate mitigation and adaptation;
- Policy 3 – Biodiversity;
- Policy 7 – Historic Assets and Places,
- Policy 14 - Design, quality and place;
- Policy 15 - Local Living and 20 minute neighbourhoods; and
- Policy 21 - Play, recreation and sport.

3.5 The relevant policies of the Midlothian Local Development Plan 2017 (MLDP) are:

- DEV2 - Protecting Amenity within the Built-Up Area;
- DEV5 - Sustainability in New Development;
- DEV6 - Layout and Design of New Development;
- DEV7 - Landscaping in New Development;
- DEV9 - Open Space Standards;
- TRAN5 - Electric Vehicle Charging;
- IT1 - Digital Infrastructure;
- ENV7 - Landscape Character;
- ENV9 - Flooding;
- ENV10 - Water Environment;
- ENV15 - Species and Habitat Protection and Enhancement; and
- ENV22 - Listed Buildings.

3.6 Material considerations include the Historic Environment Policy for Scotland (HEPS), Section 14(2) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, and Historic Environment Scotland – Managing Change in the Historic Environment Guidance Notes.

3.7 The site is within the built-up area of Penicuik and is used for educational purposes and as such there is a presumption in favour of appropriate re-development of the site to provide enhanced education and community facilities. Detailed consideration will have to be given to design matters, in particular any developments impact on the listed building, the site layout, the siting, design and appearance of the extension/s and other structures, the materials used, landscaping, open space, parking, biodiversity and sustainability, in order to ensure compliance with sustainable place-making policies within the NPF4 and MLDP. It will also be necessary to give careful consideration to the impact of the proposed development on the amenity of neighbouring residents, as well as transport and active travel arrangements.

## **4 PROCEDURES**

4.1 The Scottish Government's Guidance on the Role of Councillors in Pre-Application Procedures provides for Councillors to express a 'without prejudice' view and to identify material considerations with regard to a major application.

4.2 The Committee is invited to express a 'without prejudice' view and to raise any material considerations which they wish the applicant and/or

officers to consider. Views and comments expressed by the Committee will be entered into the minutes of the meeting and relayed to the applicant for consideration.

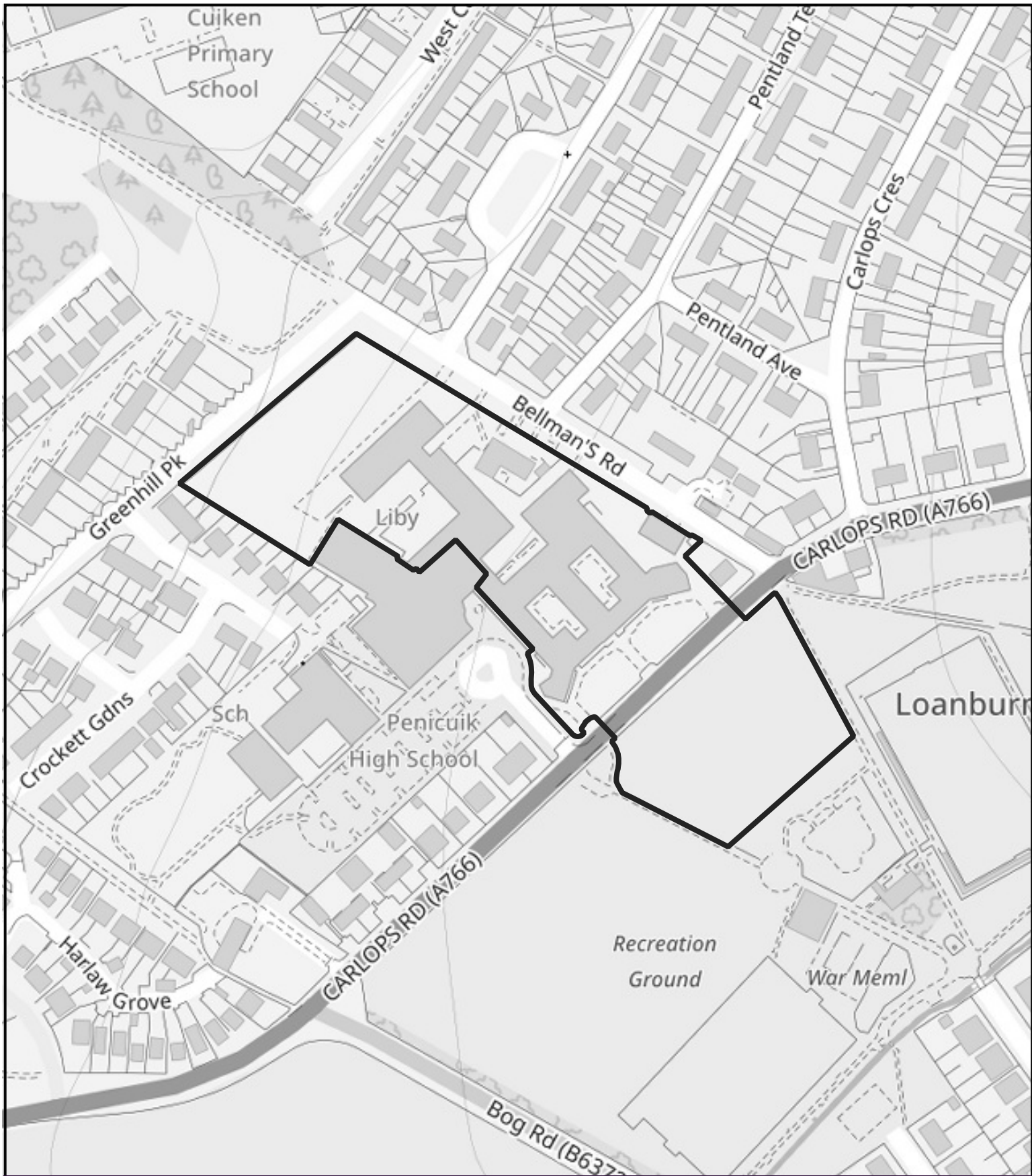
- 4.3 The Scottish Government's Guidance on the Role of Councillors in Pre-Application Procedures advises that Councillors are expected to approach their decision-making with an open mind in that they must have regard to all material considerations and be prepared to change their views which they are minded towards if persuaded that they should.

## **5 RECOMMENDATION**

- 5.1 It is recommended that the Committee notes:
- a) the provisional planning position set out in this report;
  - b) that any comments made by Members will form part of the minute of the Committee meeting; and
  - c) that the expression of a provisional view does not fetter the Committee in its consideration of any subsequent formal planning application.

**Peter Arnsdorf**  
**Planning, Sustainable Growth and Investment Manager**

<b>Date:</b>	31 August 2024
<b>Application No:</b>	24/00363/PAC
<b>Applicant:</b>	Midlothian Council
<b>Agent:</b>	Adam McConaghy
<b>Validation Date:</b>	30 May 2024
<b>Contact Person:</b>	Whitney Lindsay
<b>Email:</b>	Whitney.Lindsay@midlothian.gov.uk



**Planning Service  
Place Directorate**

Midlothian Council  
Fairfield House  
8 Lothian Road  
Dalkeith, EH22 3AA

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Proposal of application notice for re-development of existing high school including; erection of extensions, partial demolition of buildings, landscaping, formation of roads and sports pitches; and associated works. Penicuik High School, 39A Carlops Road, Penicuik

File No. 24/00363/PAC

Page 39 of 88  
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**APPLICATION FOR PLANNING PERMISSION (24/00131/DPP) AND LISTED BUILDING CONSENT (24/00132/LBC) FOR CONVERSION WORKS INCLUDING ALTERATIONS TO INTERNAL LAYOUT, REMOVAL OF EXISTING GARAGE AND ERECTION OF EXTENSION OF STAFF ACCOMMODATION TO PROVIDE TOURIST ACCOMMODATION IN CONNECTION WITH MELVILLE CASTLE HOTEL AT EAST LODGE, MELVILLE CASTLE, LASSWADE**

Report by Chief Officer Place

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**1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION**

- 1.1 The applications are for the conversion works including alterations to internal layout, removal of existing garage and erection of extension of staff accommodation to provide tourist accommodation in connection with Melville Castle Hotel at East Lodge, Melville Castle, Lasswade.**
- 1.2 There have been three representations received in response to the listed building consent application and no representations in response to the planning application. There have been consultation responses from The Coal Authority, Historic Environment Scotland and the Council's Ecological Advisor.**
- 1.3 The relevant development plan policies are policies 1, 2, 3, 6, 7, 8, 13,14, 29 and 30 of National Planning Framework 4 (NPF4) and policies VIS2, ENV1, ENV6, ENV7, ENV11, ENV14, ENV15, ENV20 and ENV22 of the Midlothian Local Development Plan 2017 (MLDP).**
- 1.4 Also material to the assessment of the applications is Historic Environment Policy for Scotland (HEPS), Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and Historic Environment Scotland's – Managing Change in the Historic Environment Guidance Notes on Extensions.**
- 1.5 The recommendation is to grant planning permission and listed building consent subject to conditions.**

## **2 LOCATION AND SITE DESCRIPTION**

- 2.1 The application site relates to a single storey, detached, historic lodge house located at the entrance of Melville Castle Hotel, where access is taken from the B6392 road. The application site is located within the greenbelt, special landscape area and garden and designed landscape as defined by the Midlothian Local Development Plan. The historic lodge is category B listed and is currently used as staff accommodation associated with Melville Castle Hotel.
- 2.2 The original footprint of the historic lodge is a 'L' shape plan. The lodge has a hood-moulded porch to the front and later additions to the rear and side elevations. The main lodge is finished in natural stone with crowstepped gable ends, slate pitched roof and painted white timber framed, sash and case windows. The single storey flat roof garage attached to the northern side elevation is finished in a painted brown timber cladding with a profiled metal roof. The single storey, flat roofed extension located to the rear eastern elevation is finished in concrete blockwork. There are parking spaces located immediately to the front of the house and across the access drive with space for up to five cars.

## **3 PROPOSAL**

- 3.1 Planning permission and listed building consent are sought for alterations and an extension to the existing single storey lodge that is currently used as staff accommodation so that it can be used as self-catering accommodation, or overflow accommodation, associated with Melville Castle Hotel.
- 3.2 Planning permission and listed building consent are sought for the erection of a single storey extension to the north-east rear/side elevation of the application property, which seeks to replace the existing extensions. The proposed extension is set back from the front elevation and is located to the side and wraps around the rear. The proposed extension projects approximately 3.1 metres from the side elevation and 5 metres from the rear elevation and includes a flat roof which measures 3.1 metres in height. The proposed extension is to be finished in a horizontal timber cladding and will contain dark grey aluminium framed windows and doors.
- 3.3 The proposed internal alterations include the removal of an internal partitioned cupboard and gas stove and the formation of an additional single bedroom within the rear elevation of the lodge.
- 3.5 The application is accompanied by:
- Design Statement;
  - Supporting Statement;
  - Bat Survey; and
  - Coal Mining Risk Assessment.

## 4 BACKGROUND

- 4.1 There is no relevant planning history in relation to the application property.
- 4.2 The planning application has been 'called-in' for determination by the Committee by Councillor Smaill. Councillor Smaill has called the planning application in as the application is subject to a number of constraints including being a listed building, being within the curtilage of Melville Castle and garden and within a designed landscape - as such the application should be considered by the Committee. It is considered appropriate that the listed building application also be considered by the Committee, given that the listed building consent application is for the same development as the planning application.

## 5 CONSULTATIONS

- 5.1 The **Coal Authority** does not object to the application subject to conditions being attached to any grant of planning permission in relation to addressing coal mining legacy.
- 5.2 **Historic Environment Scotland** does not object to the application but advised that the applications should be determined in accordance with national and local policy on development affecting the historic environment, together with related policy guidance.
- 5.3 The **Councils Ecological Advisor - The Wildlife Information Centre (TWIC)** does not object to the application – initially TWIC advised that due to the scale of the works planned to a stone and slate roofed pre-1914 property, and the sites location immediately adjacent to ancient woodland habitat, a bat survey should be carried out and submitted by a suitably qualified Ecologist. In response the applicant arranged for a bat survey to be carried out and submitted and in response TWIC advised that the survey identifies that there will be no effects on protected species or habitats.

## 6 REPRESENTATIONS

- 6.1 There have been three representations received in relation to the listed building consent application, which can be viewed in full on the online listed building consent application case file. The representations object to the application. A summary of the main points raised are as follows:
- Concerns regarding the impact upon the natural habitat of protected trees, bats and other wildlife; and
  - Concerns regarding walks that public will not be able to access.
- 6.2 The above matters will be addressed within the planning issues section of the report.

## 7 PLANNING POLICY

- 7.1 Planning policy currently comprises of National Planning Framework 4 and the adopted Midlothian Local Development Plan 2017. The following policies are relevant to the proposal:

### National Planning Framework 4 (NPF4)

- 7.2 Policy **1 Tackling the climate and nature crisis**; sets out to encourage, promote and facilitate development that addresses the global climate emergency and nature crisis.
- 7.3 Policy **2 Climate mitigation and adaptation**; sets out to encourage, promote and facilitate development that minimises emissions and adapts to the current and future impacts of climate change.
- 7.4 Policy **3 Biodiversity**; sets out to protect biodiversity, reverse biodiversity loss, deliver positive effects from development and strengthen nature networks.
- 7.5 Policy **6 Forestry, woodland and trees**; sets out to protect and expand forests, woodland and trees.
- 7.6 Policy **7 Historic assets and places**; sets out to protect and enhance historic environment assets and places, and to enable positive change as a catalyst for the regeneration of places.
- 7.7 Policy **8 Green belts**; sets out to encourage, promote and facilitate compact urban growth and use the land around our towns and cities sustainably.
- 7.8 Policy **13 Sustainable transport**; sets out to encourage, promote and facilitate developments that prioritise walking, wheeling, cycling and public transport for everyday travel and reduce the need to travel unsustainably.
- 7.9 Policy **14 Design, quality and place**; sets out to encourage, promote and facilitate well designed development that makes successful places by taking a design-led approach and applying the Place Principle.
- 7.10 Policy **29 Rural development**; sets out to encourage rural economic activity, innovation and diversification whilst ensuring that the distinctive character of the rural area and the service function of small towns, natural assets and cultural heritage are safeguarded and enhanced.
- 7.11 Policy **30 Tourism**; sets out to encourage, promote and facilitate sustainable tourism development which benefits local people, is consistent with our net zero and nature commitments, and inspires people to visit Scotland

Midlothian Local Development Plan 2017 (MLDP)

- 7.12 Policy **VIS2: Tourist Accommodation** supports the development of hotels or self-catering tourist accommodation provided the proposal is:
- A. is in scale and in keeping with the character of the local area;
  - B. is sited and designed to respect its setting and is located in an unobtrusive manner within the rural landscape (where applicable);
  - C. is well located in terms of the strategic road network and maximises public transport access; and
  - D. is in accordance with one of the sections below.

Policy VIS2 also sets out that proposals for self-catering tourist accommodation will be permitted in the Green Belt where it is linked to a related existing development. The development must be of a character and scale in keeping with the rural setting and located in an unobtrusive manner. The proposal must also be for the furtherance of a viable long-term business.

- 7.13 Policy **ENV1: Protection of the Green Belt** states that development will not be permitted in the Green Belt except for proposals that;
- A. are necessary to agriculture, horticulture or forestry; or
  - B. provide opportunities for access to the open countryside, outdoor sport or outdoor recreation which reduce the need to travel further afield; or
  - C. are related to other uses appropriate to the rural character of the area; or
  - D. provide for essential infrastructure; or
  - E. form development that meets a national requirement or established need of no other site is available.

Any development proposal will be required to show that it does not conflict with the overall objectives of the Green Belt which is to maintain the identity and landscape setting of Edinburgh and Midlothian towns by clearly identifying their physical boundaries and preventing coalescence.

- 7.14 Policy **ENV6: Special Landscape Areas** states that development proposals will only be permitted where they incorporate high standards of siting and design and where they will not have significant adverse effect on the special landscape qualities of the area.
- 7.15 Policy **ENV7: Landscape Character** states that development will not be permitted where it may have an unacceptable effect on local landscape character.
- 7.16 Policy **ENV11: Woodland, Trees and Hedges** states that development will not be permitted where it could lead directly or indirectly to the loss of, or damage to, woodland, groups of trees

(including trees covered by a Tree Preservation Order, areas defined as ancient or semi-natural woodland, veteran trees or areas forming part of any designated landscape) and hedges which have a particular amenity, nature conservation, biodiversity, recreation, landscape, shelter, cultural, or historical value or are of other importance.

- 7.17 Policy **ENV14: Regionally and Locally Important Nature Conservation Sites** states that development will not be permitted where it could adversely affect the nature conservation interest of such sites, unless it can be demonstrated that appropriate mitigation measures are in place.
- 7.18 Policy **ENV15: Species and Habitat Protection and Enhancement** presumes against development that would affect a species protected by European or UK law.
- 7.19 Policy **ENV20: Nationally Important Gardens and Designed Landscapes** states development should protect, and where appropriate enhance, gardens and designed landscapes. Development will not be permitted which would harm the character, appearance and/or setting of a garden or designed landscape as identified in the Inventory of historic Gardens and Designed Landscapes.
- 7.20 Policy **ENV22: Listed Buildings** does not permit development which would adversely affect the character or appearance of a listed building, its setting or any feature of special architectural or historic interest.

#### Other national policy and guidance

- 7.21 Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 Section 59(1) places a duty on Planning Authorities when dealing with planning applications to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 Section 14(2) places a duty on Planning Authorities when dealing with listed building applications to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 7.22 Historic Environment Policy for Scotland seeks wherever possible to protect conserve or enhance the special characteristics and qualities of the historic environment.
- 7.23 **Historic Environment Scotland Managing - Change in the Historic Environment Guidance Notes – Extensions** states: that extensions: must protect the character and appearance of the building; should be subordinate in scale and form; should be located on a secondary elevation; and must be designed in a high quality manner using appropriate materials. The guidance allows for different design

approaches including complementary and contrasting design. An addition or extension should play a subordinate role. It should not dominate the original building as a result of its scale, materials or location, and should not overlay principal elevations.

## **8 PLANNING ISSUES**

- 8.1 The main planning issues to be considered in determining these applications is whether the proposal complies with development plan policies and Historic Environment Scotland policy and guidance unless material planning considerations indicate otherwise. The representations and consultations responses received are material considerations.

### Principle of development

- 8.2 The application site comprises an existing property, already used in association with the Melville Castle Hotel business, within the green belt, special landscape area and Melville Castle Designed Landscape. The property has been occupied as staff accommodation associated with Melville Castle Hotel and it is proposed to be used as tourist accommodation that supports a well-established hotel – both uses are ancillary to the hotel use and does not trigger a change of use, but the change triggers physical works which need planning permission and listed building consent. While MLDP policies ENV1 and VIS2 restrict development within the countryside and green belt in some cases, as the building is existing and supports a well-established tourist business within the green belt the principle of extending and/or altering the building is not contrary to development plan policies, provided the physical development does not have an adverse impact on the local landscape or the host building.

### Layout, Form, Design and Materials

- 8.3 When extending a historic/listed building there are a number of design approaches that can be taken. These approaches can include restoration, replication, complementary addition, deferential contrast or assertive contrast.
- 8.4 The proposed extension is to the rear and side of the application property and does not extend beyond a main elevation so as not to dominate the application property. The proposed extension seeks to replace existing extensions which currently fail to make a positive contribution towards the character and appearance of the listed building.
- 8.5 The proposed extension is of a simple contemporary design that includes a flat roof, large vertical windows and timber cladding that ensure the proposed extension does not visually compete with the historic lodge. The extension connects to the rear and side elevations

of the lodge via a small timber link extension with glazing that is set below the eaves so as to minimise the impact upon historic fabric and roof of the original lodge.

- 8.6 The proposed extension is of a scale, form and design that does not detract from the character or appearance of the listed building. The proposal is to be finished in materials that match and reflect the contemporary design approach and setting. Therefore, the proposed extension will not result in an adverse impact upon the character or appearance of the listed building, special landscape area or designed landscape.
- 8.7 Overall, the proposed alterations and extension to the existing listed building see the removal of existing later additions that fail to make a positive contribution to the character and appearance of the historic lodge. Therefore, the proposed alterations and extension would result in a positive outcome for this historic building.

#### Landscaping and Ecology

- 8.8 The submitted plans note that two existing 'scrub' trees are to be removed from the site. However, it was concluded that the two trees are not scrub trees as had been stated and appear to be well established trees. The removal of trees is contrary to policy 6 of NPF4 and policy ENV11 of MLDP. Therefore, it is appropriate to protect the trees by a condition on a grant of planning permission, unless it is evidenced that the trees are unsafe or diseased.

#### Access and transportation

- 8.9 The development proposal does not alter the existing parking or access arrangements. There are no concerns relating to the parking or road safety.

#### Amenity

- 8.10 There are no significant adverse amenity implications as a consequence of the development proposal due to the siting, scale, design and distance from neighbouring properties.

#### Other Matters

- 8.11 It is noted that three valid representations objecting to the application were received raising concerns regarding the impact upon the natural habitat of protected trees, bats and other wildlife as well as concerns regarding walks that public will not be able to access. It is noted that the impact of the proposal on the existing trees and protected species have been taken into consideration. With regards to the concerns relating to access routes, it is noted that the proposals do not alter or restrict any public paths or routes.

## 9 RECOMMENDATION

- 9.1 That planning permission (24/00131/DPP) be granted for the following reason:

*The development will not have an adverse impact on the character or appearance of the listed building, area (including a special landscape area and designed landscape) or on the amenity of neighbouring land and buildings and therefore complies with policies ENV1, ENV6, ENV11, ENV14, ENV20 and ENV22 of the adopted Midlothian Local Development Plan 2017, Policy 7, 29 and 30 of the adopted NPF4 and Historic Environment Scotland's policy and guidance.*

Subject to the following conditions:

1. The development to which this permission relates shall commence no later than the expiration of three years beginning with the date of this permission.

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

2. No development shall commence until the following details have been submitted to the planning authority for prior written approval;
  - a) a scheme of intrusive site investigations has been carried out on site to establish the risks posed to the development by past coal mining activity, and
  - b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

3. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the planning authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

***Reason for conditions 2 and 3:*** The submitted Coal Mining Risk Assessment (Mineral Stability Desktop Report) identifies that further investigation work is required to be undertaken in order to establish the exact situation regarding coal mining legacy issues on the site. The above details are required in order to ensure that the site can safely be developed.

4. Notwithstanding the plans hereby approved, the removal of the two trees identified on approved drawing no. (01)005 Rev B 1:100, are not approved; these trees shall be retained unless otherwise agreed in writing by the planning authority.
5. Development shall not be commenced until the tree protection measures, complying with BS5837 for all trees that are to be retained within the application redline site boundary as per the approved location plan, have been implemented in full and maintained as such for the duration of construction. Evidence of the tree protection measures being in place shall be submitted to the planning authority for approval prior to development commencing.
6. During construction of the development hereby approved, the Root Protection Areas of trees to be retained shall be protected in accordance with the Arboricultural Method Statement with no plant or machinery to be used in these areas.

***Reason for conditions 4 to 6:*** To ensure the development does not result in the loss or damage of a tree which merits retention.

7. Development shall not begin until details of a sustainability/biodiversity scheme for the site including the provision of boxes for bats and swifts adjacent to the development has been submitted to and approved in writing by the planning authority. Development shall thereafter be carried out in, accordance with the approved details, or such alternatives as may be approved in writing with the planning authority.

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

- 9.2 That listed building consent (24/00132/LBC) be granted for the following reason:

*The proposals will not detract from the character, appearance or setting of this listed building. The proposals comply with the aims of Historic Environment Scotland's Policy Statement, Historic Environment Scotland's Managing Change in the Historic Environment Guidance Notes, and policies 7 of NPF4 and ENV22 of the Midlothian Local Development Plan 2017.*

**Peter Arnsdorf**  
**Planning, Sustainable Growth and Investment Manager**

**Date:** 31 August 2024

**Application No:** 24/00131/DPP & 24/00132/LBC

**Applicant:** The Hay Trust

**Agent:** Alan Hardie Architect

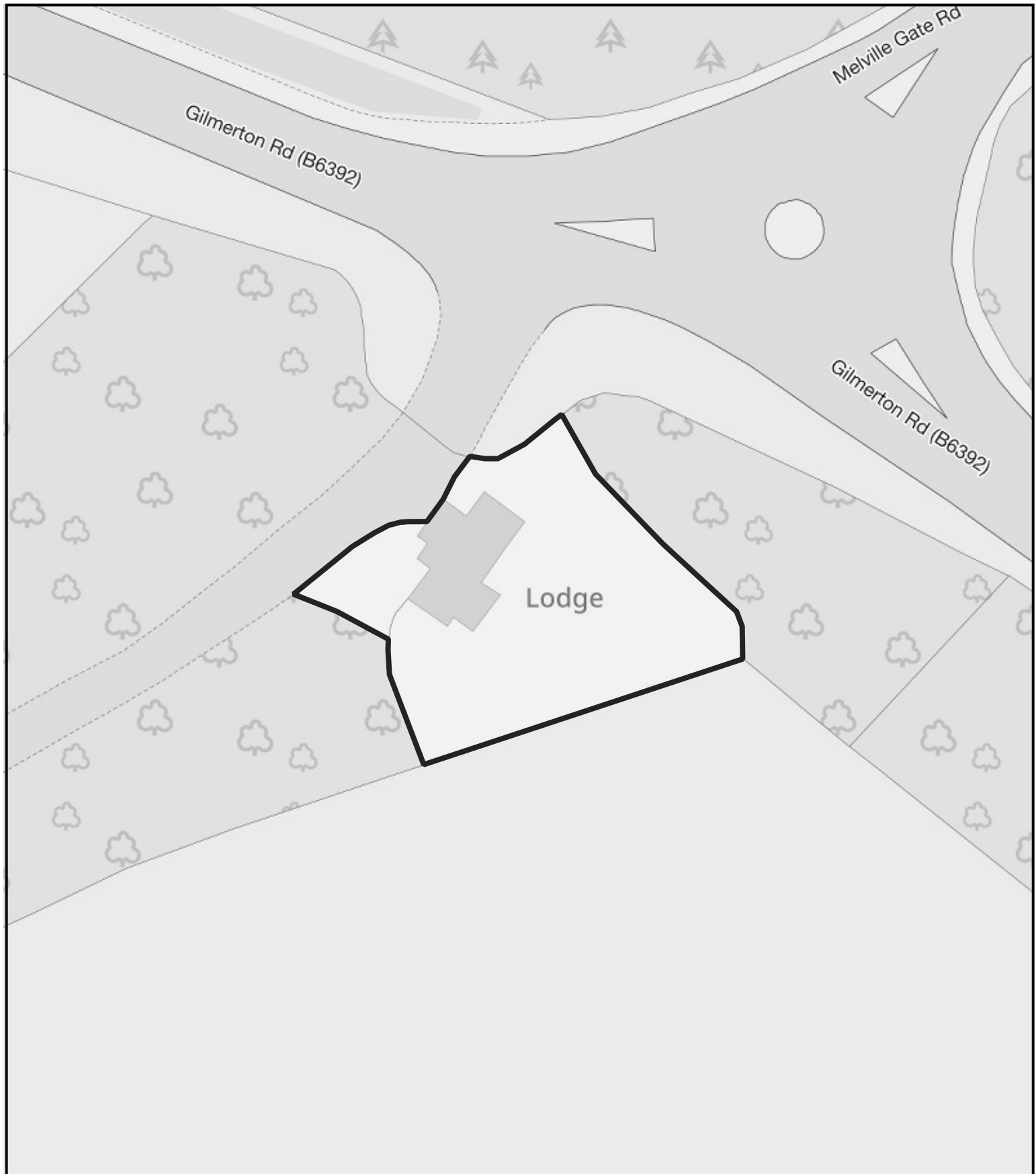
**Validation Date:** 24/00131/DPP - 04 June 2024 and 24/00132/LBC  
- 23 February 2024

**Contact Person:** Whitney Lindsay, Planning Officer

**Email:** Whitney.Lindsay@midlothian.gov.uk

**Background Papers:** none

**Attached Plans:** Location plan, site plan and elevation plans



**Planning Service  
Place Directorate**

Midlothian Council  
Fairfield House  
8 Lothian Road  
Dalkeith, EH22 3AA

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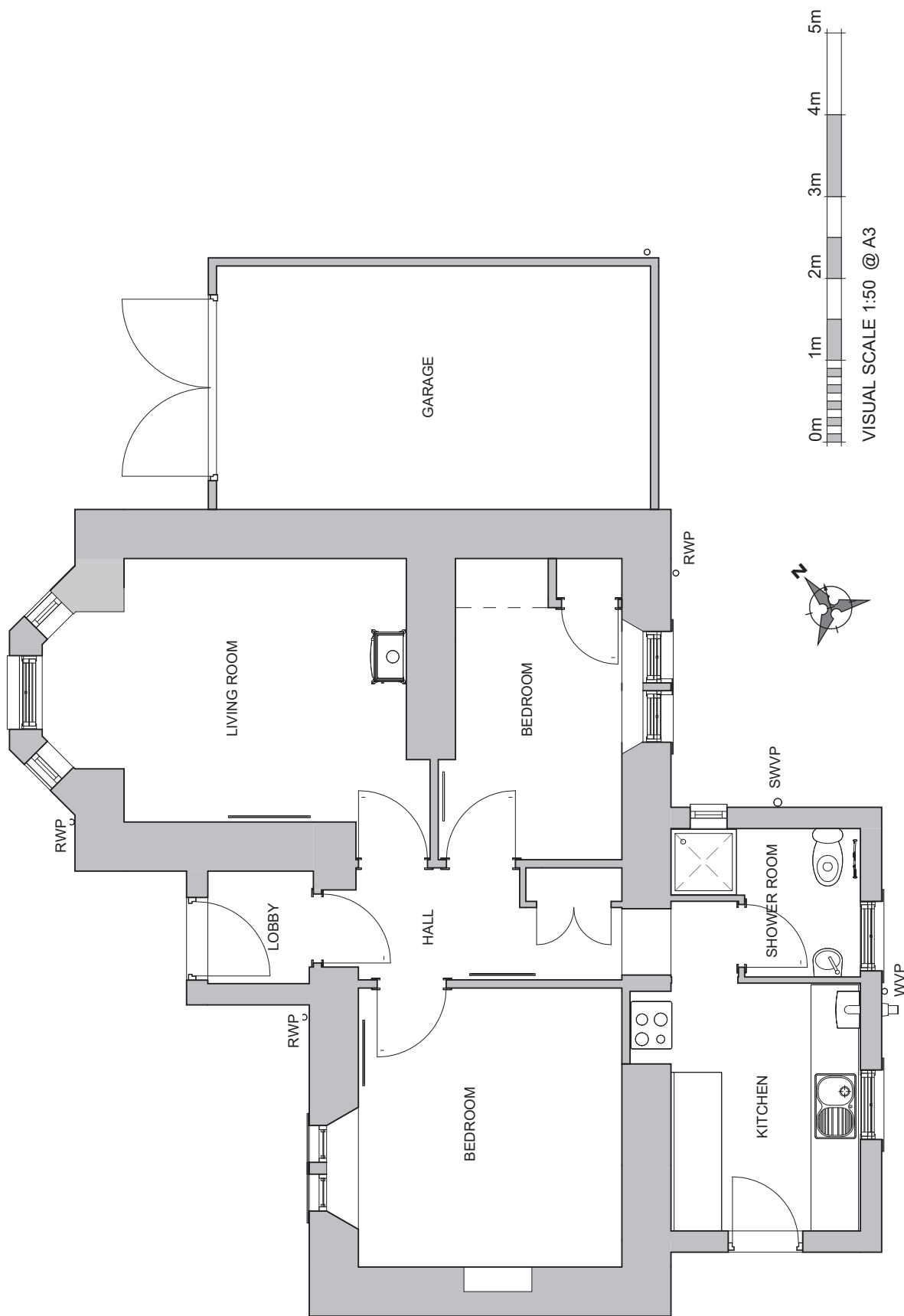
**Midlothian Council Licence No. AC0000811376 (2024)**

Conversion and extension of property to provide accommodation in connection with hotel; and associated works including alterations to internal layout, removal of existing garage and extension.  
East Lodge, Melville Castle, Lasswade, EH18 1AP

**File Nos. 24/00131/DPP & 24/00132/LBC**

**Scale 1:500**





# 01 Existing Ground Floor

1 : 50

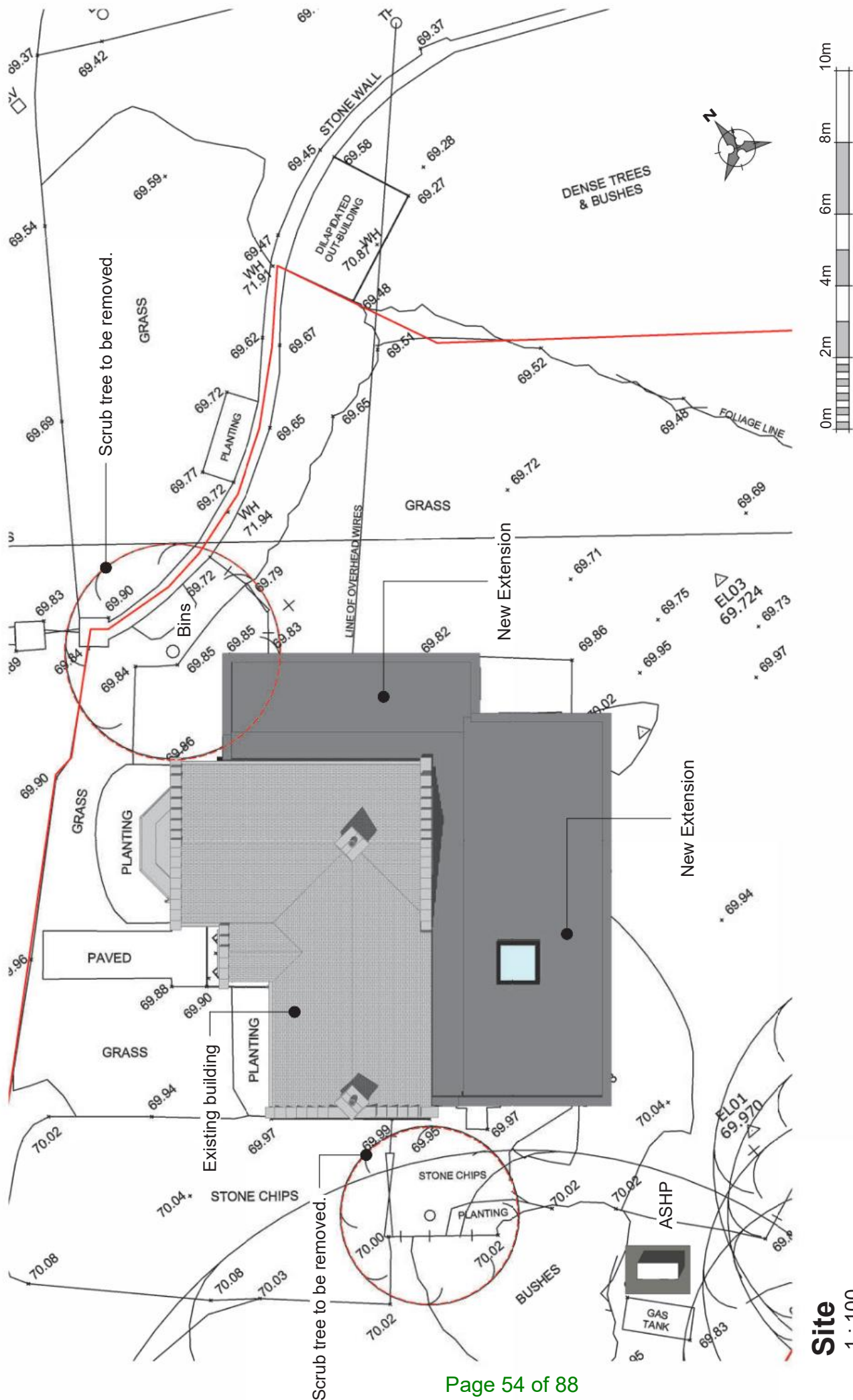
**Alan Hardie Architect**  
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w. www.alanhardie.co.uk

**Client**  
The Hay Trust  
**Project**  
Extension & Internal Alterations  
East Lodge, Melville Castle,  
Edinburgh EH18 1AP

Existing Ground Floor		
Project number	2022-039A	Drawing number
Date	September 2022	(01)002
Drawn by	AH	Revision
Status	PLANNING	A
Scale	1 : 50	Size A3

Rev	Description	Date
A	Updated to Planning status	08.02.2024
0	Initial issue	13.09.2022

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**Site**  
1:100

## Alan Hardie Architect

5 Mitchell Street, Dalkeith, EH22 1JQ  
t. 07706 270072 e. [alan@alanhardie.co.uk](mailto:alan@alanhardie.co.uk)  
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Client  
The Hay Trust

Project  
Extension & Internal Alterations  
East Lodge, Melville Castle,  
Edinburgh EH18 1AP

## Roof & Site Plan

Project number	2022-039A	Drawing number <b>(01)005</b>	Revision <b>B</b>
Date	September 2022		
Drawn by	AH		
Status	PLANNING	Scale	1 : 100
		Size A3	

## Rev Description

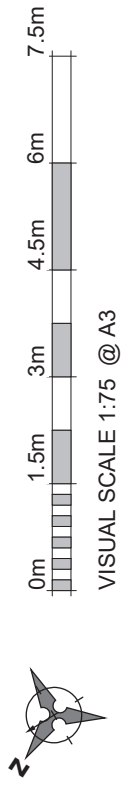
	Initial Issue	Updated to Planning status	Revisions for Planning
0			
A			
B			

VISUAL SCALE 1:100 @ A3

1. Erect new extension to form new bedroom with en-suite.
2. Create new en-suite & WC and connect to existing drains.
3. Erect new extension to create new kitchen, dining & living room. Sheet out existing external wall.
4. Create new en-suite for existing bedroom and form new utility room.
5. Form new patio decking.
6. Dotted line indicating lowered ceiling/roof line.

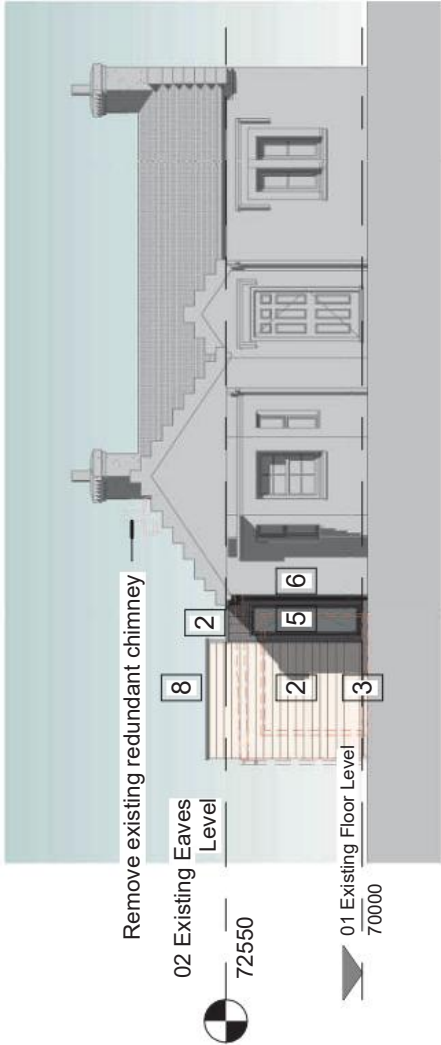


05 Proposed Ground Floor  
1 : 75



Proposed Ground Floor Plan			
Project number	2022-039A	Drawing number	(01)004
Date	September 2022	Revision	E
Drawn by	AH		
Status	PLANNING	Scale	1 : 75
		Size	A3

Rev	Description	Date
E	Revisions for Planning	27.05.2024
D	Updated to Planning status	08.02.2024
C	Client amendments	08.02.2024
B	Client amendments	20.07.2023
A	Client amendments	10.07.2023
0	Initial issue	13.09.2022

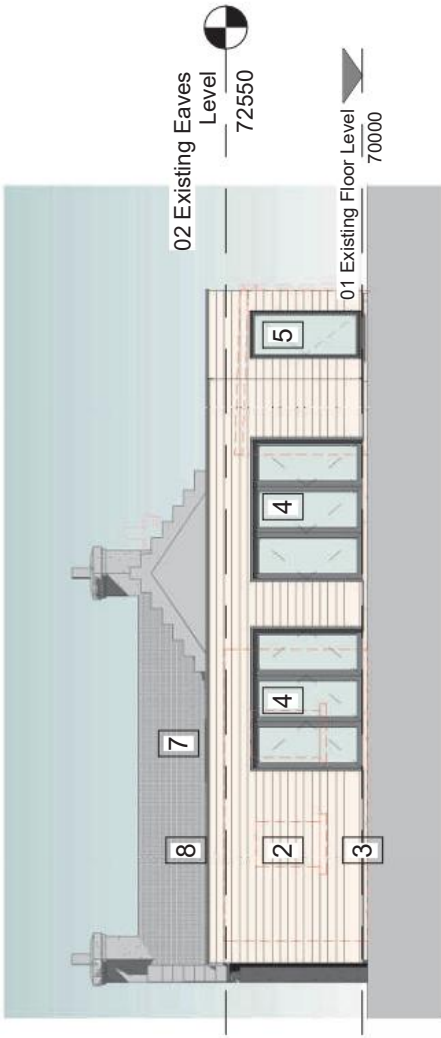


## Proposed West

1 : 100

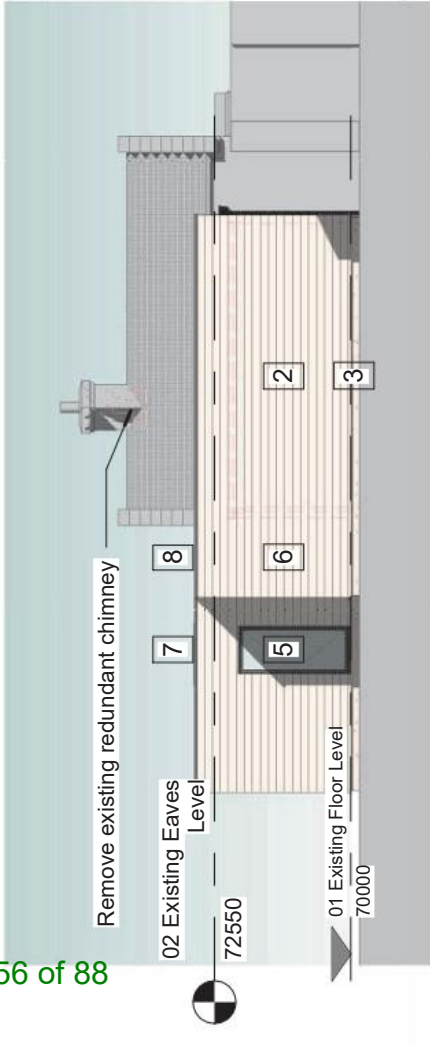
### Materials Index:

1. Single Ply Membrane Roof (slate grey)
2. Larch cladding (horizontal natural & vertical stained RAL 7016)
3. Smooth Render (Jub or equal 025G)
4. Door/Bi-fold Door in RAL 7016 (dark anthracite)
5. Aluminium Window in RAL 7016 (dark anthracite)
6. Aluminium RWP
7. Rooflight
8. PPC Aluminium Cope in RAL 7016 (dark anthracite)



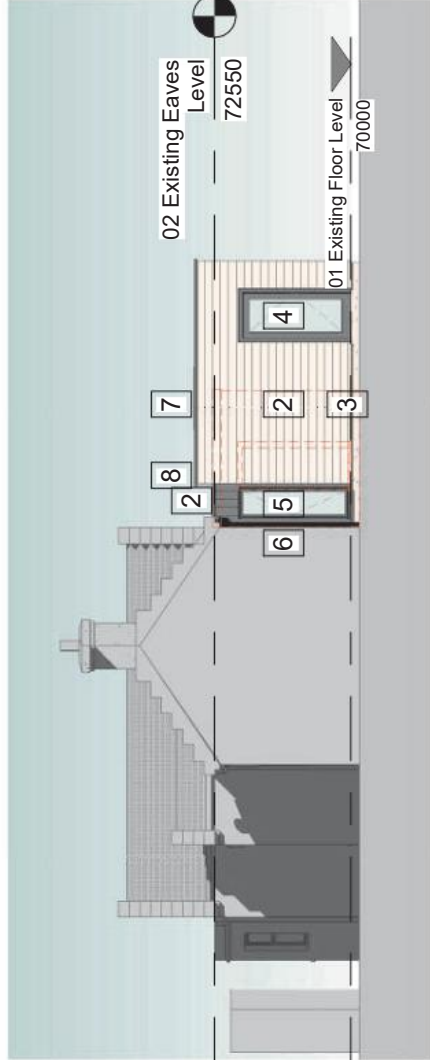
## Proposed East

1 : 100



## Proposed North

1 : 100



## Proposed South

1 : 100

Alan Hardie Architect

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Client

The Hay Trust

Project

Extension & Internal Alterations  
East Lodge, Melville Castle,  
Edinburgh EH18 1AP

### Proposed Elevations

Project number	2022-039A	Drawing number	Revision
Date	September 2022	(03)002	E
Drawn by	AH		
Status	PLANNING	Scale 1 : 100	Size A3

### Rev Description

Rev	Description
E	Revisions for Planning
D	Updated to Planning status
C	Client amendments
B	Client amendments
A	Client amendments
0	Initial issue

### Date

27.05.2024
08.02.2024
08.02.2024
20.07.2023
10.07.2023
13.09.2022

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**APPLICATION FOR PLANNING PERMISSION (23/00600/DPP) AND LISTED BUILDING CONSENT (23/00821/LBC) FOR EXTENSION TO DWELLINGHOUSE; INSTALLATION OF REPLACEMENT WINDOWS, DOORS AND RAINWATER GOODS; RE SLATING OF ROOF; RE RENDER EXISTING DWELLINGHOUSE; INSTALLATION OF AIR SOURCE HEAT PUMP; AND FORMATION OF AREAS OF HARD STANDING AT GLENARCH LODGE, MELVILLE ROAD, DALKEITH**

Report by Chief Officer Place

---

**1 SUMMARY OF APPLICATIONS AND RECOMMENDED DECISIONS**

- 1.1 The applications are for an extension to the dwellinghouse; installation of replacement windows, doors and rainwater goods; re-slating of roof; re-rendering existing dwellinghouse; installation of air source heat pump; and formation of areas of hard standing at Glenarch Lodge, Melville Road, Dalkeith.**
- 1.2 There have been no representations received. Consultation responses have been received from the Council's Ecological Advisor and the Council's Archaeology Advisor.**
- 1.3 The relevant development plan policies are policies 1, 2, 3, 4, 6, 7, 8, 11, 14 and 16 of National Planning Framework 4 (NPF4) and policies ENV1, ENV6, ENV7, ENV8, ENV11, ENV19, ENV22, ENV24 and NRG1 of the Midlothian Local Development Plan 2017 (MLDP).**
- 1.4 Also material to the assessment of the applications is Historic Environment Policy for Scotland (HEPS), Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and Historic Environment Scotland's – Managing Change in the Historic Environment Guidance Notes on Extensions, Windows, Roofs, and Micro-Renewables.**
- 1.5 The recommendation is to grant planning permission and listed building consent subject to conditions.**

**2 LOCATION AND SITE DESCRIPTION**

- 2.1 The application site is located on the east side of Melville Road on the approach to Dalkeith/Eskbank from the north. There are mature trees to the north and a brick-built warehouse building on the site immediately to the south. There are fields on the opposite side of the road, to the west, with housing beyond. The house is set at a lower level than the road and the land to the south.**

- 2.2 The application property comprises a mid-late 19th century single storey lodge house and its associated garden. There is a flat roof single storey extension to the rear of the house, adjacent to the warehouse building on the site behind. The house is brick built and finished externally in keyed/lined smooth render with a slate hipped roof and non-original double-glazed stained timber sash and case 6 over 6 pane windows. The property includes decorative canopies over the front door and windows and a tall chimney on the southwest side of the building with a brick cornice. The roof of the property is in disrepair, as is the inside of the building. There is a timber log store on the east side of the building with a stone-built store beyond.
- 2.3 The application property is category C listed (along with the gate piers and gates to Glenarch House which is to the north of the site) as being of special architectural/historic interest and is located within the Eskbank and Ironmills Conservation Area. The property is included on Historic Environment Scotland's Buildings at Risk Register.

### **3 PROPOSAL**

- 3.1 It is proposed to take down the timber log store on the east side of the lodge house and erect a single storey flat roof extension in its place measuring a maximum of 5.2m deep and 6.1m wide. The exposed external walls of the extension are to be finished in larch cladding with blockwork on the south elevation hard up to the retaining structure along the boundary with the land to the south. Sliding doors with bronze coloured aluminium frames are proposed on the north elevation of the extension. The roof will comprise a single ply membrane and will incorporate a rooflight.
- 3.2 The original house and rear extension are to be re-rendered in an off-white render.
- 3.3 It is also proposed to replace the existing windows on the original lodge building with white painted timber framed sash and case (2 over 2 pane) double glazed (profile 14mm max) windows and to install a new window of the same design and materials on the east side elevation.
- 3.4 The window on the west elevation of the existing flat roof extension at the rear of the original building is to be replaced with a bronze coloured aluminium framed window. A new rooflight is also proposed on this part of the building.
- 3.5 A new white painted timber panelled front door is proposed.
- 3.6 It is proposed to replace the gutters and downpipes with black cast iron rainwater goods.
- 3.7 The original submission included the removal of the chimney on the west side of the house. This is now to be retained although the drawings are annotated that this is pending a structural report and that if it is unsafe, it will be taken down and rebuilt.
- 3.8 It is proposed to re-slate the roof including increasing the height of the ridge by 0.2m.

- 3.9 An area of hardstanding is proposed to the front of the extension and store with a flagstone path along the north and west side of the original building.
- 3.10 Internal works include reconfiguring the internal layout of the original building with new internal panelled doors, architraves, skirting boards and new cornicing.
- 3.11 The store building is to be re-rendered to match the new render on the house with a new aluminium framed window and timber door.
- 3.12 An air source heat pump is proposed in front of the store building.
- 3.13 A timber clad bin store measuring 1.8m wide and 0.95m deep and 1.8m high is proposed on the west side of the building.
- 3.14 In relation to policy 1 of NPF4 the agent has submitted a statement describing the application site and advising the following: planting for pollinators is proposed; bird and bat boxes are proposed; protected species survey should be carried out; a new wildlife edible hedge is proposed; proposed works will comply with and go above building standards in terms of sustainability; an air source heat pump is proposed; locally sourced flagstones are proposed internally which retain heat; a rain water butt is proposed; space for home working; locally sourced materials and contractor to be used.

#### **4 BACKGROUND**

- 4.1 In 2023 planning permission, 21/00746/DPP, was approved for the erection of 6 dwellinghouses, formation of access road, car parking and associated works at land to the south of Glenarch Lodge. The approved site plan indicates the demolition of the existing warehouse and the erection of a house and its associated garage to the south of the lodge house.
- 4.2 The listed building consent application has been 'called-in' for determination by the Committee by Councillor Smaill. Councillor Smaill has called the listed building consent application on the grounds of the proposal constituting a proportionately large extension to a property which acts as a visual entry point to Eskbank where there are road issues. It is considered appropriate that the planning application also be considered by the Committee, given that the planning application is for the same development as the listed building consent application.

#### **5 CONSULTATIONS**

- 5.1 The **Council's Ecological Advisor - The Wildlife Information Centre (TWIC)** does not object to the application but advised that ecological surveys need to be carried out (these were undertaken).
- 5.2 The **Councils' Archaeology Advisor** does not object to the application but notes that the application property is a historic listed building with potential disturbance to/loss of historic building fabric and a change in character of the building and has advised that a Programme of Archaeological Works (Historic Building recording) should be carried out.

## 6 REPRESENTATIONS

- 6.1 No representations have been received.

## 7 PLANNING POLICY

- 7.1 The development plan is comprised of National Planning Framework 4 and the Midlothian Local Development Plan 2017. The following policies are relevant to the proposal:

### National Planning Framework 4 (NPF4)

- 7.2 Policy **1 Tackling the climate and nature crises**; sets out to encourage, promote and facilitate development that addresses the global climate emergency and nature crisis.
- 7.3 Policy **2 Climate mitigation and adaptation**; sets out to encourage, promote and facilitate development that minimises emissions and adapts to the current and future impacts of climate change.
- 7.4 Policy **3 Biodiversity**; sets out to protect biodiversity, reverse biodiversity loss, deliver positive effects from development and strengthen nature networks.
- 7.5 Policy **4 Natural Places**; sets out to protect, restore and enhance natural assets making best use of nature-based solutions.
- 7.6 Policy **6 Forestry, woodland and trees**; sets out to protect and expand forests, woodland and trees.
- 7.7 Policy **7 Historic assets and places**; sets out to protect and enhance historic environment assets and places, and to enable positive change as a catalyst for the regeneration of places and supports the sensitive repair and bringing back into use of historic buildings on the national Buildings at Risk Register.
- 7.8 Policy **8 Green belts**; sets out to encourage, promote and facilitate compact urban growth and use the land around our towns and cities sustainably.
- 7.9 Policy **11 Energy**; sets out to encourage, promote and facilitate all forms of renewable energy development onshore and offshore. This includes energy generation, storage, new and replacement transmission and distribution infrastructure and emerging low-carbon and zero emissions technologies including hydrogen and carbon capture utilisation and storage (CCUS).
- 7.10 Policy **14 Design, quality and place**; sets out to encourage, promote and facilitate well designed development that makes successful places by taking a design-led approach and applying the Place Principle.
- 7.11 Policy **16 Quality homes**; in relation to householder developments sets out to safeguard the character and environmental quality of the home and surrounding area and the amenity of neighbouring properties.

7.12 Policy **ENV1: Protection of the Green Belt** advises that development will not be permitted in the Green Belt except for proposals that;

- A. are necessary to agriculture, horticulture or forestry; or
- B. provide opportunities for access to the open countryside, outdoor sport or outdoor recreation which reduce the need to travel further afield; or
- C. are related to other uses appropriate to the rural character of the area; or
- D. provide for essential infrastructure; or
- E. form development that meets a national requirement or established need of no other site is available.

Any development proposal will be required to show that it does not conflict with the overall objectives of the Green Belt which is to maintain the identity and landscape setting of Edinburgh and Midlothian towns by clearly identifying their physical boundaries and preventing coalescence.

7.13 Policy **ENV6: Special Landscape Areas** states that development proposals will only be permitted where they incorporate high standards of siting and design and where they will not have significant adverse effect on the special landscape qualities of the area.

7.14 Policy **ENV7: Landscape Character** states that development will not be permitted where it may have an unacceptable effect on local landscape character.

7.15 Policy **ENV 8: Protection of river valleys** outlines that development within the river valley protection areas of the Rivers North and South Esk and River Tyne will not be permitted unless there is a specific locational need for the development.

7.16 Policy **ENV11: Woodland, Trees and Hedges** states that development will not be permitted where it could lead directly or indirectly to the loss of, or damage to, woodland, groups of trees (including trees covered by a Tree Preservation Order, areas defined as ancient or semi-natural woodland, veteran trees or areas forming part of any designated landscape) and hedges which have a particular amenity, nature conservation, biodiversity, recreation, landscape, shelter, cultural, or historical value or are of other importance.

7.17 Policy **ENV 19: Conservation Areas** states that development will not be permitted within or adjacent to conservation areas where it would have any adverse effect on its character or appearance.

7.18 Policy **ENV 22: Listed Buildings** does not permit development which would adversely affect the character or appearance of a listed building, its setting or any feature of special architectural or historic interest.

7.19 Policy **ENV24: Other Important Archaeological or Historic Sites** seeks to prevent development that would adversely affect regionally or locally important archaeological or historic sites, or their setting.

- 7.20 Policy **NRG1: Renewable and Low Carbon Energy projects** supports these technologies subject to criteria including impact on the historic environment

Other National Legislation and Policy

- 7.22 Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 Section 59(1) places a duty on planning authorities when dealing with planning applications to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 Section 14(2) places a duty on planning authorities when dealing with listed building applications to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 places a duty on planning authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.
- 7.23 Historic Environment Policy for Scotland seeks wherever possible to protect conserve or enhance the special characteristics and qualities of the historic environment.
- 7.24 **Historic Environment Scotland Managing - Change in the Historic Environment Guidance Notes – Extensions** states: extensions must protect the character and appearance of the building; should be subordinate in scale and form; should be located on a secondary elevation; and must be designed in a high-quality manner using appropriate materials. The guidance allows for different design approaches including complementary and contrasting design. An addition or extension should play a subordinate role. It should not dominate the original building as a result of its scale, materials or location, and should not overlay principal elevations.
- 7.25 **Historic Environment Scotland Managing Change in the Historic Environment Guidance Notes – Windows** states: the windows of a historic building form an important element in defining its special interest and character; the size, shape, design and proportions of a window, the reflective sparkle and irregularities of old glass, the pattern of design, the materials and details of construction, the method of opening, the finish, and associated fixtures, typically contribute to the character of a historic window; maintenance and appropriate repair is the preferred means of safeguarding the character of a historic window; some types of double-glazing can be incorporated within existing window joinery and may be acceptable where no historic glass remains; where a window is of limited interest or beyond repair, its replacement should be permitted; new double-glazed windows may be acceptable, if they can closely match the original window design, detail and materials; the colour of internal spacer bars in unit cavities can also be important; e.g. white can better replicate the glazing bar colour; and generally, replacement windows should seek to match the original windows in design, form, fixing, method of opening and materials. In replacing sash windows, materials other than timber, e.g. uPVC, will rarely be acceptable

- 7.26 **Historic Environment Scotland Managing Change in the Historic Environment Guidance Notes – Roofs** states: roofs and associated features form important elements in defining a building's character. The significance of a historic roof comes from a number of factors including its age, functional performance, shape and pitch, profile, and the qualities of its supporting structure, covering materials and associated features. Alterations and repairs to roofs and their associated features should protect the character of the historic building.
- 7.27 **Historic Environment Scotland - Managing Change in the Historic Environment Guidance Notes –Interiors** states: that the interior of a historic building is important in defining its character and special interest and that room proportions are important to the integrity of a design. It also states that alterations must be carefully planned and located to best protect the interest of the internal spaces. In general, the principal spaces in a building will be more sensitive to change as these are the spaces that normally make the most significant contribution to its character. Where the original plan form (or a later plan form of special interest) survives, this should normally be retained without subdivision or amalgamation of spaces, and all major works of alteration restricted to areas of secondary importance
- 7.28 **Historic Environment Scotland - Managing Change in the Historic Environment Guidance Notes – Micro-renewables** states: the use of renewable energy technology in the historic environment is supported where the character of the historic building or place can be protected through careful siting and design. Renewable energy systems will often have some visual or physical impact on the building or site they serve, and it is important to minimise this impact to maintain the character and significance of the historic asset. Micro-renewable installations should be planned carefully to minimise intervention affecting historic character while balancing the potential of available renewable energy sources. Where possible, installations on a building should avoid its main and visible elevations. It may be possible to place installations on secondary parts of the building, adjacent outbuildings or on the ground nearby.

## **8 PLANNING ISSUES**

- 8.1 The main planning issues to be considered in determining these applications is whether the proposal complies with development plan policies and Historic Environment Scotland policy and guidance unless material planning considerations indicate otherwise. The consultation responses received are material considerations.

### Principle of development

- 8.2 The house is an existing residential property and as such there is a presumption in favour of supporting its extension and alteration – this position is not undermined by its location in the green belt, within a conservation area or by means of it being a listed building.

### Detailed design

- 8.3 Given that recently published building regulations require increased insulation in house extensions, which helps reduce heat loss and can

reduce energy consumption in the home, along with the provision of an air source heat pump, the proposed development will contribute to addressing the global climate crisis at a local level.

- 8.4 The central issues in the consideration of the applications are the impact of the proposals on the character of the application property and the visual amenity of the surrounding area.
- 8.5 The existing building is in a dilapidated state. The proposed re-roofing, new render, new gutters, windows and front door are not only appropriate to the character of the building but will improve its appearance and safeguard the long-term future of this historic building. Details of the specification of the exact colour of the render and a sample of the proposed slate to be used can be secured by condition should planning permission be granted. The existing chimney on the west side of the building is a prominent feature and adds to the character of the building. It would be appropriate to condition that the chimney is not removed unless a structural report is submitted that demonstrates that it is necessary to remove it on health and safety grounds and requiring its replacement on a like-for-like basis.
- 8.6 Guidance from HES is clear that contemporary extensions to listed buildings can be successful. The proposed extension is set back from the principal elevation of the original lodge house. Also, the proposed external finish of timber cladding with a large area of glazing on the north elevation will give it a relatively lightweight appearance with a clear distinction between the traditional lodge house and the new addition. The footprint of the original part of the lodge house measures 54sqm. The footprint of the existing rear extension measures 21sqm. The proposed extension measures 28sqm. The combined footprint of both extensions at 49sqm is less than that of the original house. As a result of a combination of these factors, the proposed extension will appear subservient, with the original form of the lodge house still evident and the integrity of the original lodge house preserved.
- 8.7 The frames of the new window on the existing flat roof extension are contemporary both in term of material and colour and is not out of keeping with the flat roof design of this part of the building. They will not have a significant impact on the character and appearance of the original lodge house, again distinguishing the original from the newer parts of the building. The rooflight will not have a significant impact on the character and appearance of the building. In line with development plan policy and the recommendations of the Council's Archaeology Advisor archaeological works can be covered by condition should planning permission be forthcoming.
- 8.8 Sufficient garden area will remain after the erection of the extension and the new areas of hard surface will not detract from the character and appearance of the property.
- 8.9 It was not safe to access the inside of the building during the assessment of the applications. However, the agent has provided photos of the interior which show extensive damage and damp. Whilst the proposed internal alterations will change the floor plan of the original lodge house in its current state it is preferable that the building

is restored and the proposed new skirtings, cornices, architraves and internal doors will go some way to restore the traditional character of the interior of the building.

- 8.10 The proposed alterations to the store building will improve its appearance. Set apart and back from the original lodge house the proposed air source heat pump will not have a significant impact on the character and appearance of the listed building and complies with HES guidance which suggests adjacent outbuildings as a possible location for this technology.
- 8.11 Albeit the proposed bin store is to be located between the boundary wall along Melville Road and the existing building, due to the ground level being at a lower level than the road it will not be a prominent feature and will not have a significant impact on the setting of the listed building.
- 8.12 The improvement to the appearance of the application property will make a positive contribution to the character and appearance of this part of the conservation area.
- 8.13 The proposals by means of their size, design and siting will not have a significant impact on neighbouring properties.
- 8.14 There is an existing dropped kerb and raised area of ground on the west side of the property, the latter of which is annotated as being a gravel driveway on the submitted plans.
- 8.15 It is proposed to remove self-seeded vegetation and a hedge along the north boundary of the site. In addition, during the processing of the application it was established that a mature beech tree in the north corner of the site is unsafe and needs felling. Whilst ordinarily replacement planting would be required to compensate for the loss of existing landscaping the removal of the self-seeded vegetation, hedge and tree is not as a direct consequence of the proposed development and as such a condition for replacement planting would be unreasonable. However, the submitted site plan does show replacement hedge planting and wildflower and nectar rich planting.
- 8.16 Bat surveys have been carried out at the property with no further action required in this respect.

## **9 RECOMMENDATION**

- 9.1 That planning permission (23/00600/DPP) be granted for the following reasons:
  - 1. *The proposed development does not conflict with the aims of NPF4 with regards to sustainability or climate change and the proposed air source heat pump complies with policy 11 of NPF4 and policy NRG1 of the Midlothian Local Development Plan 2017.*
  - 2. *As the site is an existing dwellinghouse the proposals do not conflict with policy 8 of NPF4 or policy ENV1 of the Midlothian Local Development Plan 2017 in relation to development within the green belt.*
  - 3. *The proposals will not detract from the character, appearance or setting of the listed building, or the character and appearance of*

*the Eskbank and Ironmills Conservation Area, or the special landscape qualities of the Special Landscape Area. The proposals comply with the aims of Historic Environment Scotland's Policy Statement, Historic Environment Scotland's Managing Change in the Historic Environment Guidance Notes, and policies 4, 7, 14 and 16 of NPF4 and policies ENV6, ENV19 and ENV22 of the Midlothian Local Development Plan 2017.*

Subject to the following conditions:

1. The development to which this permission relates shall commence no later than the expiration of three years beginning with the date of this permission.

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

2. Details of the colour of the render proposed on the external walls of the existing building and store shall be submitted to the planning authority and the render shall not be applied until this detail has been approved in writing by the planning authority.
3. The colour of the proposed timber cladding on the external walls of the extension shall be as per the details contained in the e-mail from holstead lukas dated 1 March 2024.
4. A sample of the slate proposed on the roof of the existing building shall be provided on site and the slate shall not be installed on the roof until this detail has been approved in writing by the planning authority.
5. The existing chimney on the west side of the original lodge house shall not be removed unless a structural report demonstrating that it is necessary for it to be removed on health and safety grounds has been submitted to and approved in writing by the planning authority.
6. In the event that condition 5 is satisfied the chimney on the west side of the original lodge house shall be rebuilt prior to occupation of the application property, in accordance with a schedule and drawings to be submitted to, at the same time as the structural report, and approved in writing by the planning authority.

***Reasons for conditions 2-6:*** *To safeguard the character of the listed building and the character and appearance of this part of the Eskbank and Ironmills Conservation Area.*

7. No development shall take place at the application site until the applicant or their successor has undertaken and reported upon a programme of archaeological (Historic Building Recording ) work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the planning authority

*site, which is of potential archaeological interest, and that adequate measures are in place to record any archaeological finds.*

- 9.2 That listed building consent (23/00821/LBC) be granted for the following reason:

*The proposals will not detract from the character, appearance or setting of this listed building. The proposals comply with the aims of Historic Environment Scotland's Policy Statement, Historic Environment Scotland's Managing Change in the Historic Environment Guidance Notes, and policy 7 of NPF4 and policy ENV22 of the Midlothian Local Development Plan 2017.*

Subject to the following conditions:

1. Details of the colour of the render proposed on the external walls of the existing building and store shall be submitted to the planning authority and the render shall not be applied until this detail has been approved in writing by the planning authority.
2. The store building shall be rendered at the same time as the new render is applied to the original house.
3. The colour of the proposed timber cladding on the external walls of the extension shall be as per the details contained in the e-mail from holstead lukas dated 1 March 2024.
4. A sample of the slate proposed on the roof of the existing building shall be provided on site and the slate shall not be installed on the roof until this detail has been approved in writing by the planning authority.
5. The existing chimney on the west side of the original lodge house shall not be removed unless a structural report demonstrating that it is necessary for it to be removed on health and safety grounds has been submitted to and approved in writing by the planning authority.
6. In the event that condition 5 is satisfied the chimney on the west side of the original lodge house shall be rebuilt prior to occupation of the application property, in accordance with a schedule and drawings to be submitted to, at the same time as the structural report, and approved in writing by the planning authority.
7. The new internal doors shall be timber.

***Reasons for conditions 1-7: To safeguard the character of the listed building.***

**Peter Arnsdorf**  
**Planning, Sustainable Growth and Investment Manager**

**Date:** 31 August 2024

**Application No:** 23/00600/DPP and 23/00821/LBC (available online)

**Applicant:** Mr Zahid Iqbal

**Agent:** hLp Architecture

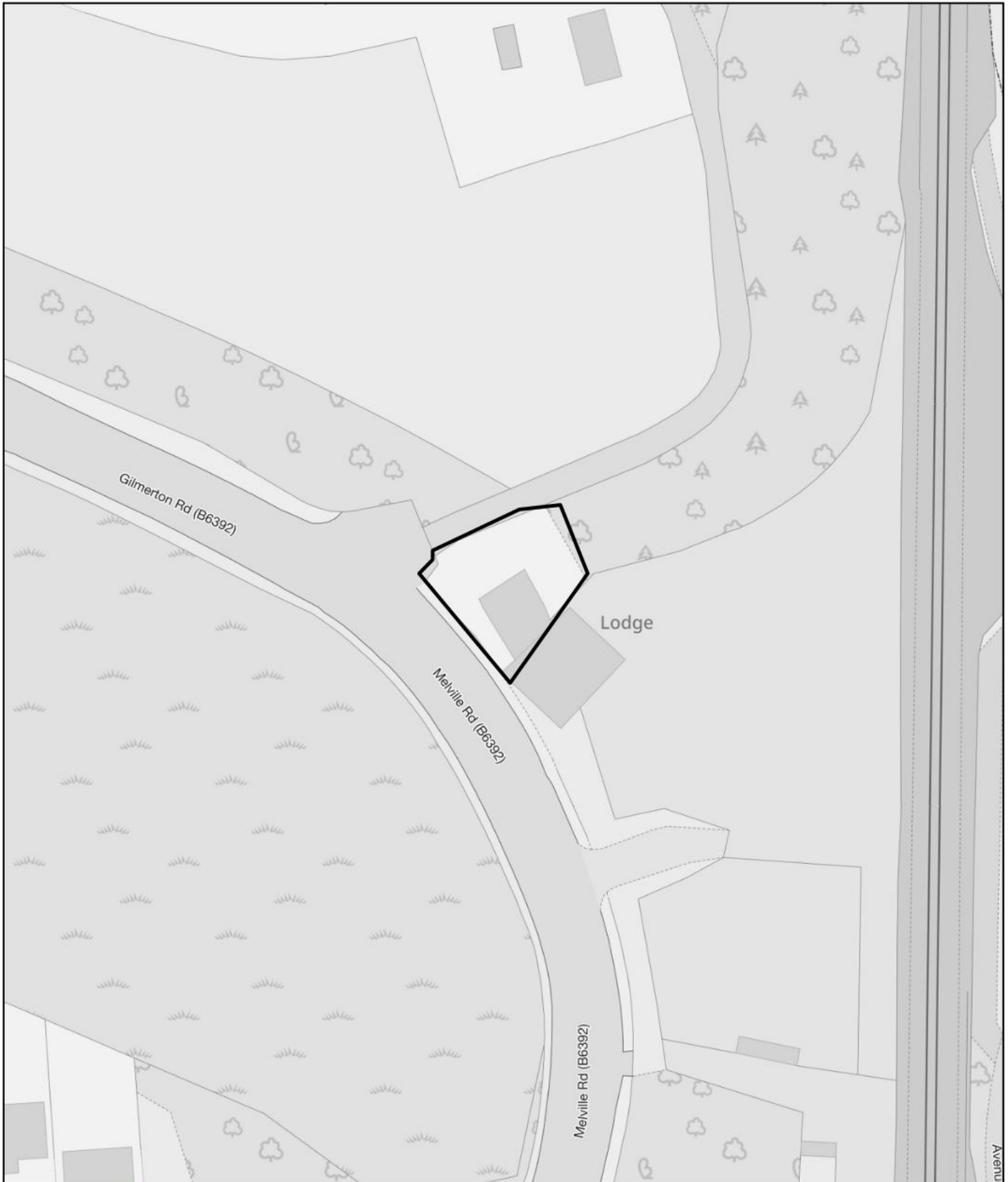
**Validation Date:** 21 September 2023 and 21 December 2023

**Contact Person:** Ingrid Forteath

**Email:** [ingrid.forteath@midlothian.gov.uk](mailto:ingrid.forteath@midlothian.gov.uk)

**Background Papers:** 21/00746/DPP (available online)

**Attached Plans:** Location plan, site plan and elevation plans



**Planning Service  
Place Directorate**  
Midlothian Council  
Fairfield House  
8 Lothian Road  
Dalkeith  
EH22 3AA

Extension to dwellinghouse; installation of replacement windows, doors and rain water goods; re slating of roof; re render existing dwellinghouse; installation of air source heat pump; and formation of areas of hard standing at Glenarch Lodge, Melville road, Dalkeith

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File Nos.: 23/00600/DPP and 23/00821/LBC

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Page 69 of 88



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- Dimensions notified on this drawing may vary due to existing site conditions or to the need to comply with the Building Regulations, or to the need to proceed where dimension adjustment required.

Natural stone retaining wall

Felt flat roof - fire and water damaged

Chimney stack - visibly leaning, risk of collapse

Slate roof - severely damaged and risk of collapse

White smooth render

White smooth render

Timber sash and case windows weather and fire damaged

Conc. stooled cills

EXISTING WEST ELEVATION @ 1:50

EXISTING NORTH ELEVATION @ 1:50

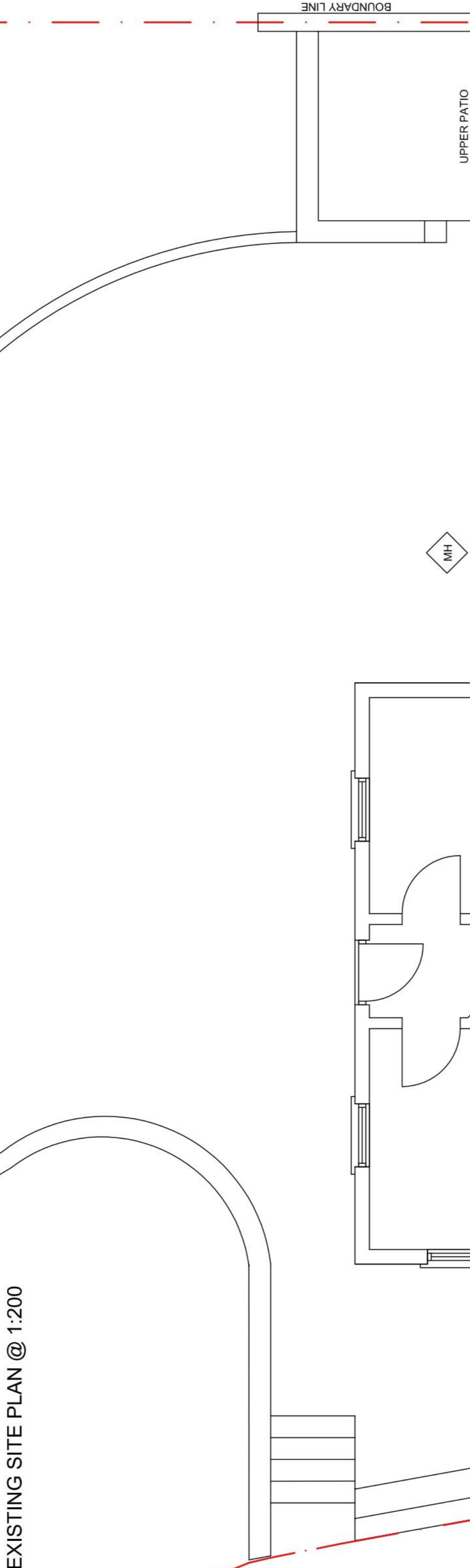
Slate roof - severely damaged and risk of collapse

White smooth render

Ply sheathing - doors removed

Log store

EXISTING EAST ELEVATION @ 1:50



EXISTING SITE PLAN @ 1:200

EXISTING GROUND FLOOR PLAN @ 1:50

EXISTING STREET VIEW (WEST ELEVATION) @ 1:50

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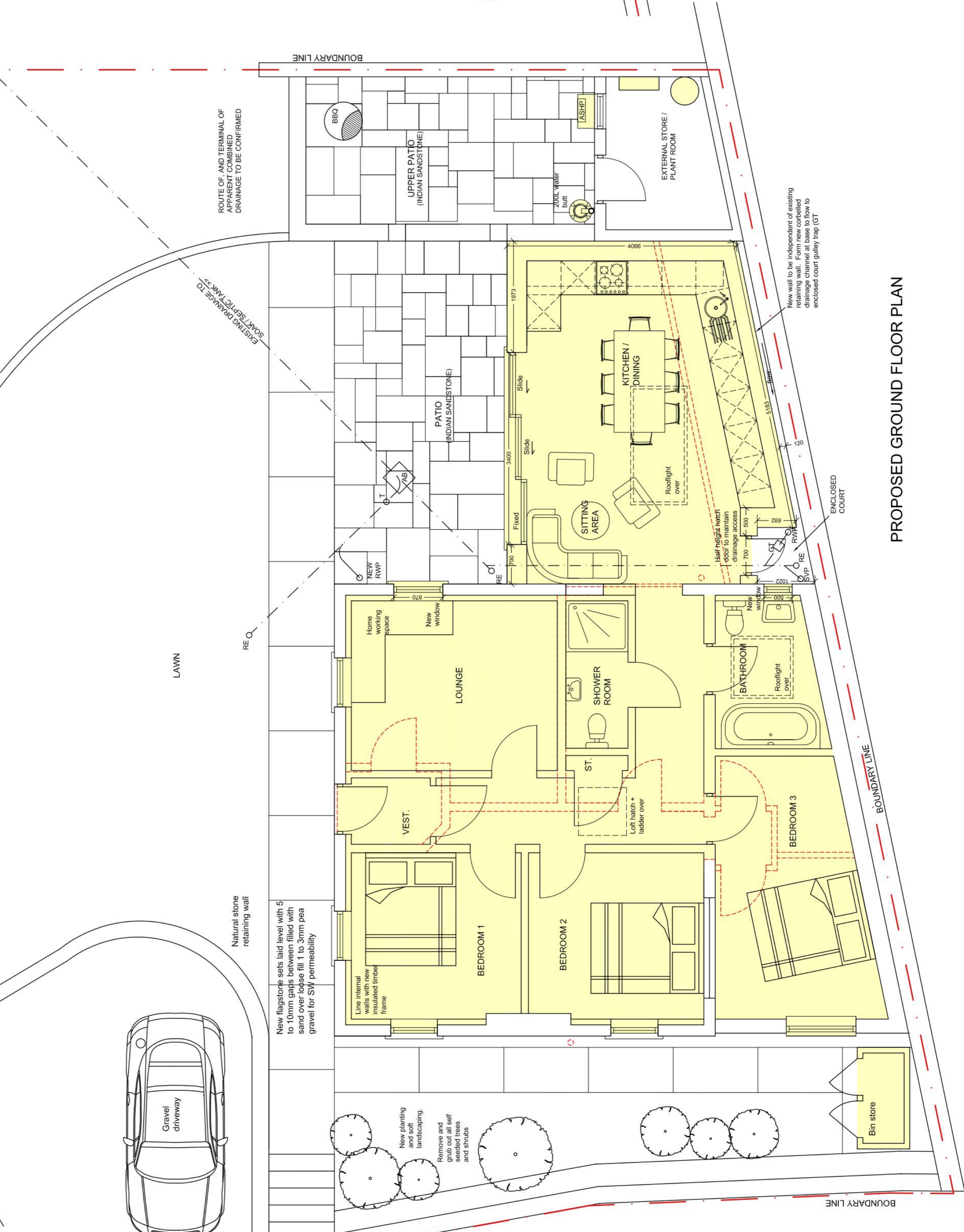
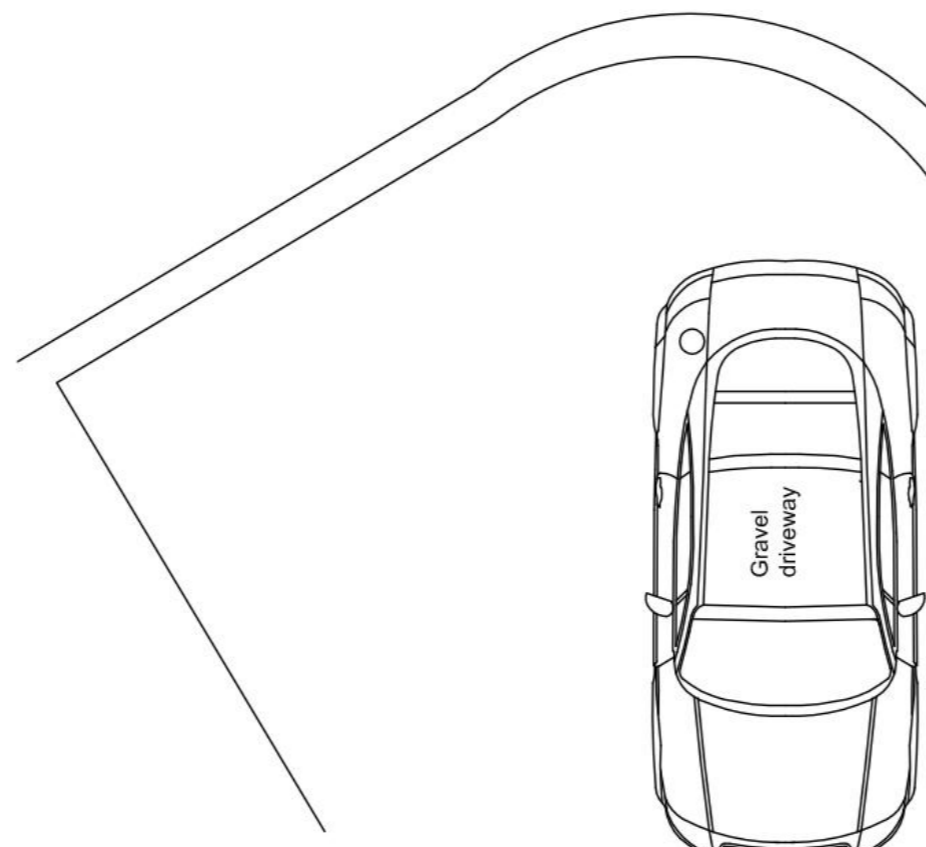
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T. 0131 66 99 300  
E. office@hlpas.co.uk

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Rev	Description	Date
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T I T L E	PROPOSED SITE PLAN	
Date	AUGUST 2023	
Drawn	CG	Checked
Scale	1:50 @ A1	
Dwg No.	23589-005	Rev C
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# PROPOSED ROOF PLAN

## PROPOSED GROUND FLOOR PLAN

Rev	Description	Date
C	GLENNARCH LODGE MELVILLE ROAD GLENNARCH PARK EH22 3NJ	
TITLE		
PROPOSED GROUND FLOOR PLAN		
PROPOSED ROOF PLAN		
Date	AUGUST 2023	
Drawn	CG	Checked
Scale	1:50 @ A1	
Dwg No.	2358-003	Rev C
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## Notes

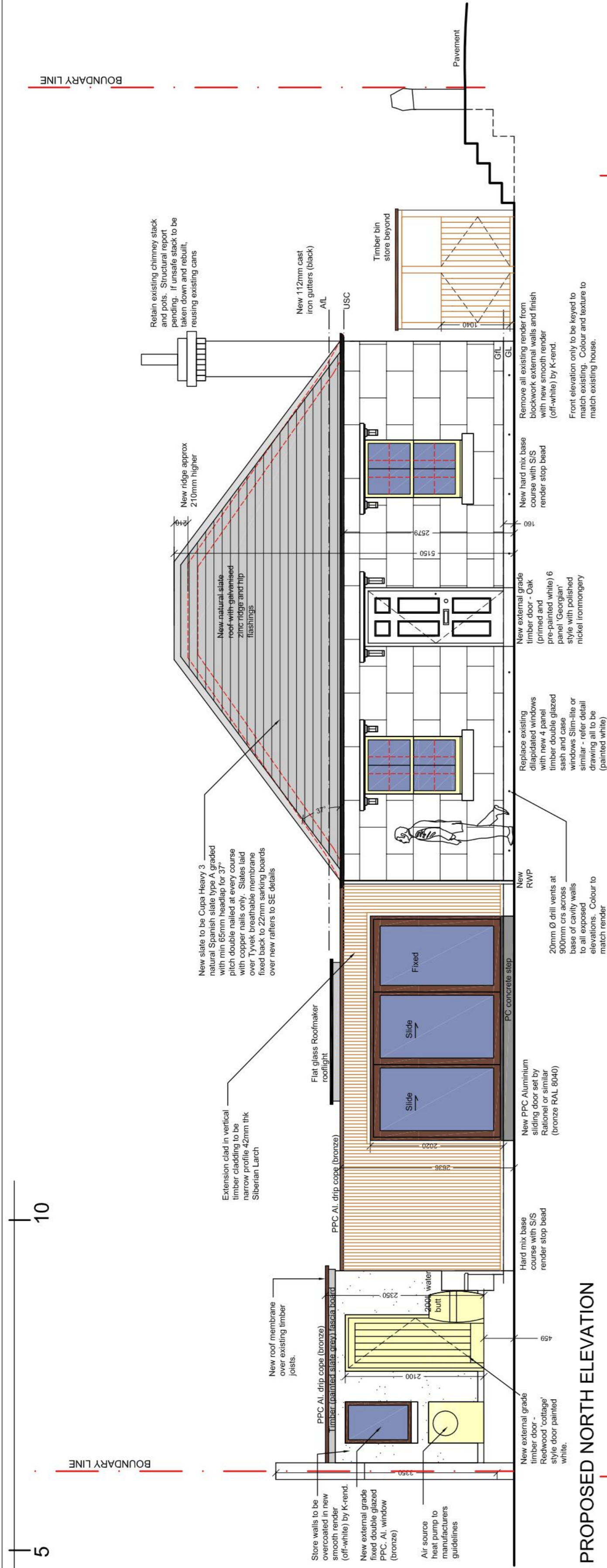
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Drawg No	2358-003	Rev C
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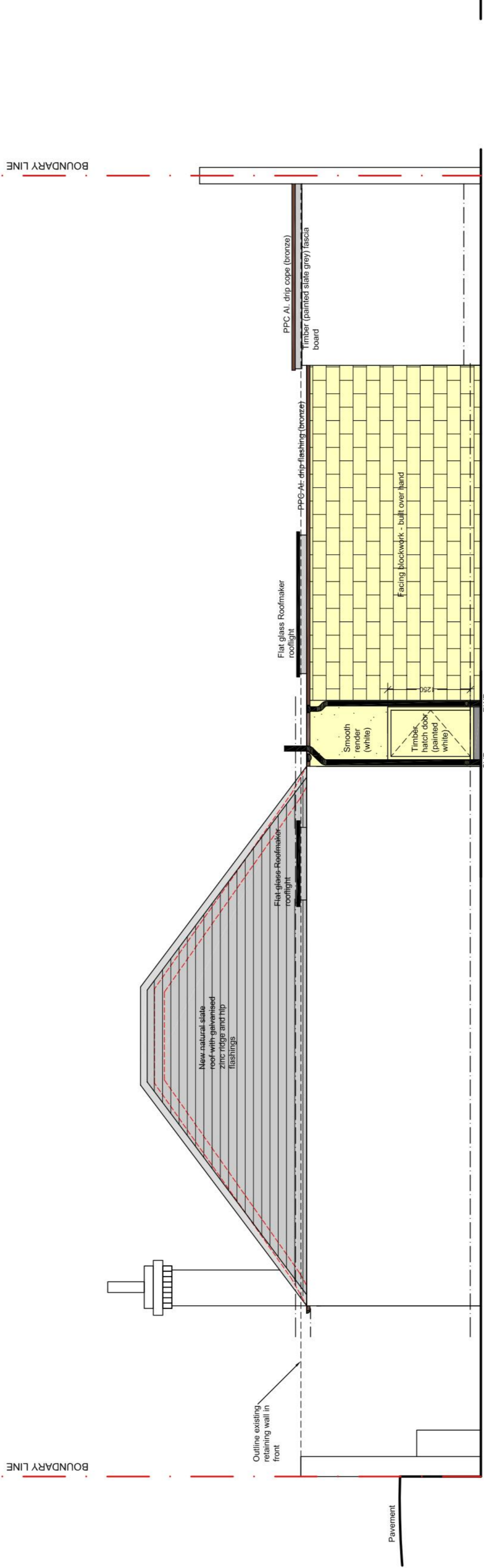
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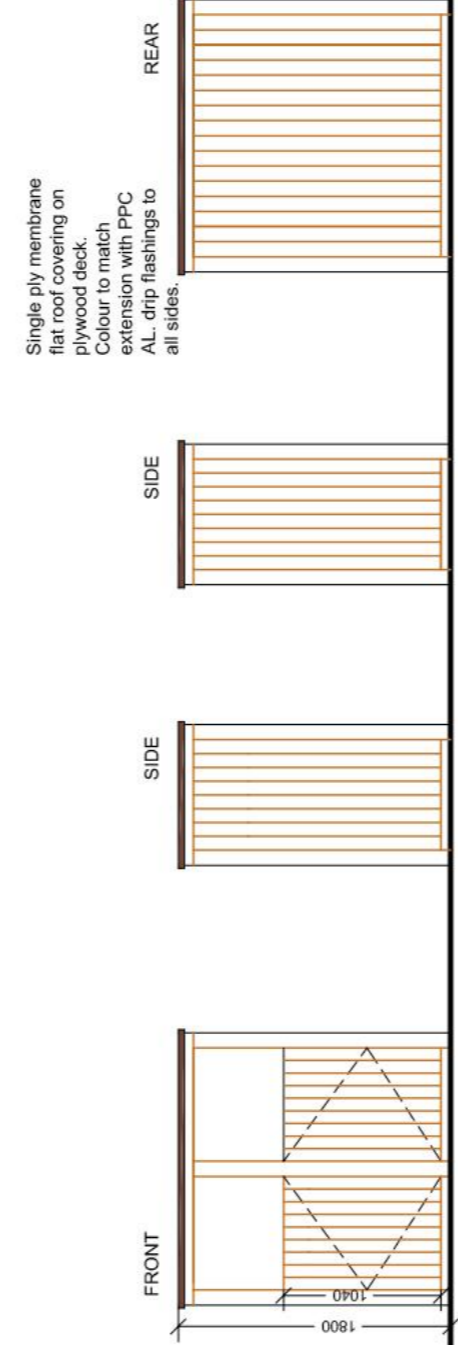
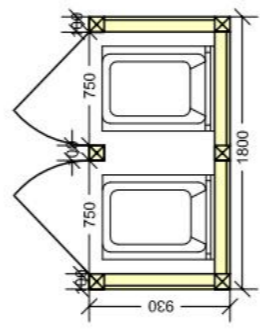
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## PROPOSED NORTH ELEVATION

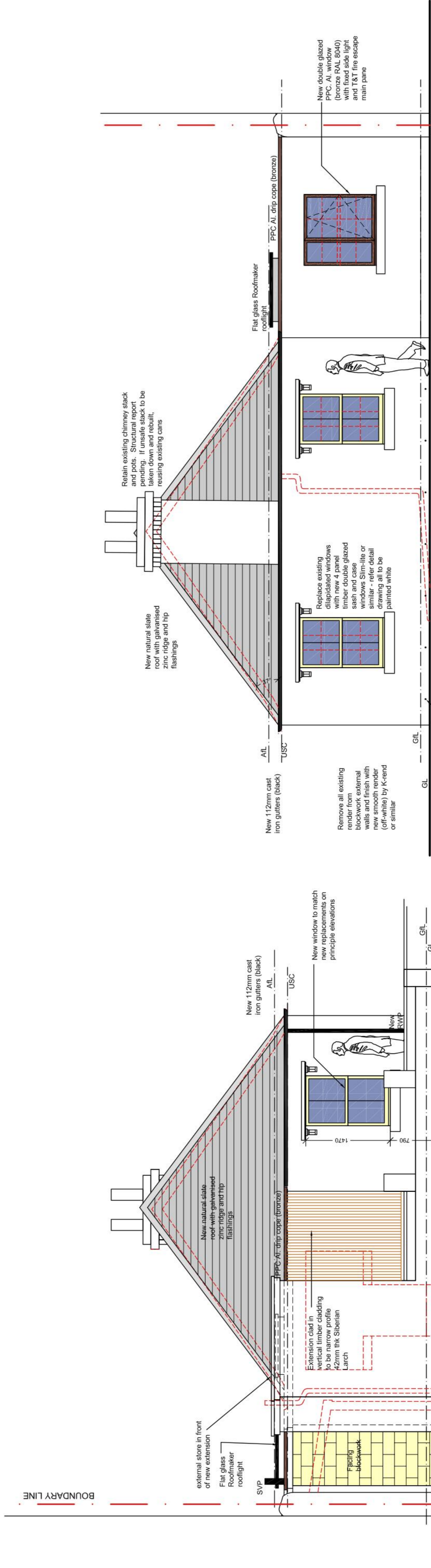


## PROPOSED SOUTH ELEVATION



Timber framed bin store with narrow gauge 42mm vertical larch cladding to match proposed extension

## BIN STORE PROPOSED PLAN AND ELEVATIONS



## PROPOSED EAST ELEVATION

## PROPOSED WEST ELEVATION

Rev	Description	Date
CLIENT	GLENARCH LODGE MELVILLE ROAD GLENARCH EH22 3NJ	
TITLE	PROPOSED ELEVATIONS BIN STORE ELEVATIONS	
Date	AUGUST 2023	
Drawn	CG	Checked
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**SECTION 42 APPLICATION 24/00313/S42 TO AMEND CONDITION 18 (SUSTAINABLE URBAN DRAINAGE SYSTEM) IMPOSED ON A GRANT OF PLANNING PERMISSION IN PRINCIPLE 17/00980/PPP FOR RESIDENTIAL DEVELOPMENT OF UP TO 280 DWELLINGS; COMMERCIAL USE OF CLASS 1 OR 2 OR 3 OR 4 WITH A FLOORSPACE OF UP TO 250SQM; AND ASSOCIATED WORKS AT LAND AT ROSSLYNLEE, ROSLIN**

Report by Chief Officer Place

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## **1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION**

- 1.1 In December 2019 planning permission was granted for residential development of up to 280 dwellings; commercial use of Class 1 or 2 or 3 or 4 with a floorspace of up to 250sqm; and associated works at the former Rosslynlee Hospital, Roslin. The current application is to amend condition 18 in order to enable the installation of an adoptable (by Scottish Water) sustainable urban drainage system (SUDS), rather than the SUDS approved as part of the original planning application.
- 1.2 The application replicates the approach approved by the Committee at its meeting of 12 March 2024 for the former Rosslynlee Hospital site (the current application is for the associated enabling land adjacent to the hospital site).
- 1.3 There have been no representations received or consultations required.
- 1.4 The relevant development plan policies are policy 18 and 22 of the National Planning Framework 4 (NPF4) and policy ENV10 of the Midlothian Local Development Plan 2017 (MLDP).
- 1.5 The recommendation is to grant planning permission subject to conditions and the variation to the existing Planning Obligation either by a Minute of Variation or a Section 75A application, as the original planning application, 17/00980/PPP, is subject to a Planning Obligation securing developer contributions and this agreement needs to continue with the 'new' planning application.

## **2 LOCATION AND SITE DESCRIPTION**

- 2.1 The site is at Rosslynlee, a rural part of Midlothian between Rosewell

and Penicuik. At its heart is the Category C listed former Rosslynlee Hospital and its associated buildings (a number of which are also Category C listed). The hospital site is surrounded by farmland including two fields which have planning permission for enabling residential development (currently under construction).

- 2.2 The application site is accessible by an unclassified road (Firth Road/Farm Road) connecting to the B7026 (heading towards Auchendinny/Howgate) or unclassified roads connecting to the A6094 (heading towards Rosewell) or the B7003 (heading towards Roslin). The application site is within a landscape comprising tree belts and woodlands.

### **3 PROPOSAL**

- 3.1 The application is made under Section 42 of the Town and Country Planning (Scotland) Act 1997 (as amended by the Planning etc. (Scotland) Act 2006 and the Planning (Scotland) Act 2019) (hereafter referred to as the Act), is to amend the wording of condition 18 of planning permission 17/00980/PPP. The condition currently reads as follows:

*No dwelling shall be occupied until the surface water drainage arrangements to serve it have been put in place in accordance with the approved details and the agreed phasing plan. For the majority of the site this will require delivery of the Sustainable urban Drainage detention pond shown on the approved drawings pursuant to planning application 17/01001/DPP plus the infrastructure to provide for surface water arising from this site to drain into it, or such other temporary solution, and in the northern part of the site surface water drainage will be to the existing combined sewer running to the north of the site.*

- 3.2 It is proposed that the condition be amended to read as follows:

*No dwelling shall be occupied until the Sustainable Urban Drainage detention basin approved under 23/00219/DPP and the infrastructure to provide for surface water arising from this site to drain into it, or any subsequent amendments, has been installed in accordance with the approved details.*

- 3.3 The result of this change enables the installation of an adoptable (by Scottish Water) SUDS scheme which has approval by way of planning application 23/00219/DPP, rather than the SUDS approved as part of the original planning application. The adoption process is a separate regulatory process between the applicants and Scottish Water. The 2023 scheme results in a change in design which is compatible to the latest standards compared to the 2017 designed scheme.
- 3.4 A Section 42 application, is in itself a planning application - a particular kind of planning application for development without complying with a condition/s previously imposed on an earlier grant of planning

permission. A grant of planning permission under Section 42 results in an entirely new planning permission.

- 3.5 Although a Section 42 application is a new planning application in law the Act states *“on such an application the planning authority shall consider only the question of the conditions subject to which planning permission should be granted”*. The principle, layout and form of development are not subject to assessment. Planning authorities should attach to the new permission all of those conditions from the previous permission, where it is intended these should still apply.

## **4 BACKGROUND**

- 4.1 Planning permission in principle 17/00980/PPP for residential development of up to 280 dwellings; commercial use of Class 1, 2, 3 or 4 with a floor space of up to 250sqm; and associated works was granted in 2019.
- 4.2 Planning application 17/01001/DPP for alterations and conversion of former hospital and existing buildings to form 72 dwellings; erection of 24 new dwellinghouses and associated works was granted in 2019.
- 4.3 Listed building consent 18/00061/LBC for the internal and external alterations to the former Rosslynlee Hospital and associated listed buildings to form 69 dwellings and one office including; demolition of the former boiler house, outbuildings and elements of the main building, re-slating of roof, alterations to existing window and door openings and associated works was granted in 2019.
- 4.4 Planning application 21/00904/DPP for the formation of a footpath was granted in 2022.
- 4.5 Planning application 21/01025/DPP for the formation of car parking and bus turning area; and associated works was granted in 2022.
- 4.6 Planning application 22/00787/DPP for the alterations to existing junctions, resurfacing and other associated works was granted in 2023.
- 4.7 Planning application 23/00219/DPP for the formation of SUDS and associated works was granted in 2023.
- 4.8 Planning application 23/00700/S42 to amend condition 14 of planning permission 17/01001/DPP enables the installation of an adoptable (by Scottish Water) sustainable urban drainage system (SUDS), rather than the SUDS approved as part of the original planning application for the conversion of the former Rosslynlee Hospital was approved by the Committee at its meeting of 12 March 2024. The current application, subject to this report, replicates this approach for the adjoining enabling land.
- 4.9 The application site exceeds two hectares and therefore the proposed

development constitutes a 'Major Development' as defined in the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 and thereby is required to be determined by the Planning Committee.

## **5 CONSULTATIONS**

- 5.1 No consultations were required.

## **6 REPRESENTATIONS**

- 6.1 No representations have been received.

## **7 PLANNING POLICY**

- 7.1 The development plan is comprised of National Planning Framework 4 (2023) and the Midlothian Local Development Plan 2017.

- 7.2 The following policies are relevant to the proposal:

### National Planning Framework 4 (NPF4)

- 7.3 Policy **18 Infrastructure first**; sets out to encourage, promote and facilitate an infrastructure first approach to land use planning, which puts infrastructure considerations at the heart of placemaking.
- 7.4 Policy **22 Flood risk and water management**; sets out to strengthen resilience to flood risk by promoting avoidance as a first principle and reducing the vulnerability of existing and future development to flooding.

### Midlothian Local Development Plan 2017 (MLDP)

- 7.5 Policy **ENV10: Water Environment** requires that new development pass surface water through a sustainable urban drainage system (SUDS) to mitigate against local flooding and to enhance biodiversity and the environment.

## **8 PLANNING ISSUES**

- 8.1 The main planning issue to be considered in determining this application is whether the proposal complies with development plan policies unless material planning considerations indicate otherwise.

### Condition 18

- 8.2 Planning permission was originally granted in December 2019 for residential development of up to 280 dwellings; commercial use of Class 1 or 2 or 3 or 4 with a floorspace of up to 250sqm; and associated works at the former Rosslynlee Hospital, Roslin. As part of this application, a drainage strategy and SUDS Pond was approved,

and its installation was secured by condition 18 (the SUDS Pond was not implemented).

- 8.3 However, the SUDs Pond that was originally proposed was not adequate in terms of Scottish Waters latest adoption requirements and therefore it needed to be redesigned to a basin so as to ensure there was adequate capacity – changing from a pond to a basin increased the size of the engineering feature and the land take required to implement it and was therefore a material change to the original permission.
- 8.4 In March 2023, the applicant submitted a planning application for the formation of a SUDS scheme and associated works at the former Rosslynlee Hospital, Roslin (23/00219/DPP). The application was fully assessed in terms of the residential proposals at Rosslynlee and approved subject to conditions in August 2023. Following on from the approval of the SUDS scheme a section 42 planning application 23/00700/S42 to amend condition 14 of planning permission 17/01001/DPP to enable the installation of an adoptable (by Scottish Water) SUDS, rather than the SUDS approved as part of the original planning application for the conversion of the former Rosslynlee Hospital was approved by the Committee at its meeting of 12 March 2024. The current application, subject to this report, replicates this approach for the adjoining enabling land.
- 8.5 The reason for condition 18 of planning permission 17/00980/PPP is in the interests of ensuring a satisfactory drainage system for the site and to accord with MLDP Policies ENV9 and IMP3. The re-wording of the condition does not change this position and ensures that a suitable and adoptable SUDS scheme for the residential development at Rosslynlee is installed.

#### Other Conditions and Planning Obligation

- 8.6 With regards to condition 6 (bus drop off and turning), it is in part a pre commencement condition that has been discharged under planning permission 21/01025/DPP, therefore it is appropriate to modify condition 1 to ensure it is relevant to the current permission, if granted.
- 8.7 Condition 7 (improvements to Gourlaw Junction) is a pre commencement condition that has been discharged under planning permission 22/00787/DPP; therefore, this condition has been updated to ensure that the works are completed as per the approve plans.
- 8.8 The remaining conditions relate to; works to the access road, agreeing materials, the provision of a tree protection plan and arboricultural method statement, on-site engineering works, drainage provision, street lighting and constructional details, archaeological works, landscaping, addressing ground contamination, biodiversity enhancement, electric vehicle charging and refuse storage. These conditions are still relevant, and it is proposed to attach them to the new permission if granted. In addition, in line with current practice, a

Construction Environment Management Plan (CEMP) condition should be added to the new planning permission.

- 8.9 A Planning Obligation is in place in relation to planning permissions 17/00980/PPP and 17/01001/DPP to provide developer contributions towards primary and secondary education, school transport and off-site footpath improvements. Those requirements remain unchanged, however as planning permission 17/00980/PPP is defined in the agreement it will be necessary for the agreement to be modified/varied to ensure that this new permission in law (24/00313/S42) is bound by the agreement.

## 9 RECOMMENDATION

- 9.1 That planning permission be granted for the following reason:

*The proposed amendment to condition 18 does not fundamentally change the development which is being implemented under a previous grant of planning permission. The proposed development does not have adverse environmental impacts subject to detailed/technical matters being agreed/secured by condition and it secures an adoptable SUDs system. This presumption in favour of development is not outweighed by any other material considerations and accords with the principles approved by the Council. The proposed development accords with the Midlothian Local Development Plan (2017).*

Subject to the variation to the existing Planning Obligation either by a Minute of Variation or a Section 75A application; and the following conditions:

1. No development of a phase shall take place without the prior written approval of the planning authority of all details of the following matters specified by condition for that phase:-
  - a) Appearance (with not less than 20% of total dwellings within the site to be of improved quality of appearance);
  - b) Landscaping;
  - c) Layout (including details and location of the site drainage);
  - d) Scale; and
  - e) Means of Access. Thereafter the development of that phase shall not be carried out otherwise than in accordance with the approved details.

**Reason:** *To safeguard the rights of control by the Local Planning Authority in respect of the matters specified by condition and in the interests of layout and design and to accord with Policy DEV6 and DEV7 of the Midlothian Local Development Plan 2017.*

2. Notwithstanding the details submitted, development shall not commence until a phasing plan (including details of the percentage of dwellings within each phase to be contained within an area of improved quality of appearance pursuant to condition 1a) is

submitted to and agreed in writing by the planning authority. Thereafter the development shall be undertaken only in accordance with the approved phasing plan. For the purpose of this planning permission the extent of a 'phase' shall be determined in accordance with this condition.

**Reason:** *In order to achieve a satisfactory form of development and to accord with Policy DEV6 of the Midlothian Local Development Plan 2017.*

3. Development shall not commence until full details of the existing site levels are submitted to and approved in writing by the planning authority and no development shall commence in any phase until proposed site levels for that phase, have been submitted to and approved in writing by the planning authority. Thereafter the development shall only be carried out in accordance with the approved details.

**Reason:** *In order to achieve a satisfactory form of development to accord with Policy DEV6 of the Midlothian Local Development Plan 2017.*

4. No more than a) 280 dwellings, b) 250 m<sup>2</sup> of either Class 1 (Shops) or Class 2 (Financial and Professional services) or Class 3 (restaurants and cafes) or Class 4 (Business) of the Town and Country Planning (Use Classes) Scotland Order 1997 as amended shall be built within the site.

**Reason:** *In order to define the scope of the planning permission.*

5. Development shall not commence until the planning authority has approved in writing the details of, and arrangements for the setting out of the Public Open Space onsite as part of that phase of the development, such arrangements shall address and contain the following matters:

- i. The delineation and siting of the proposed Public Open Space,
- ii. The type and nature of the facilities to be provided within the public open space including the provision of play equipment, and a trim trail within North Park (within the relevant phase(s)), which shall be supplied and installed to a specification as agreed by the planning authority,
- iii. The arrangements to ensure that the Public Open Space is laid out and completed during the course of the development.

**Reason:** *In the interests of ensuring that there is adequate open space provided for future residents to accord with Policy DEV7 and DEV9 of the Midlothian Local Development Plan 2017.*

6. No dwelling shall be occupied until the approved (or temporary) bus pick up/drop off and bus turning facilities have been provided in accordance with the approved details of planning permission

21/01025/DPP and an agreed phasing plan, which thereafter shall be maintained in accordance with the approved details.

***Reason:*** *In the interests of highway safety and to accord with NPF4 and Policy DEV6 of the Midlothian Local Development Plan 2017.*

7. No dwelling shall be occupied until the improvements to the Gourlaw junction (the junction of the unclassified road leading from the A6094 to the site) have been fully implemented in accordance with the approved details as per planning permission 22/00787/DPP, unless otherwise agreed in writing by the planning authority.

***Reason:*** *In the interests of highway safety and to accord with NPF4 Policy 18.*

8. No dwelling shall be occupied until the formation of the footpath has been fully implemented in accordance with the approved details of planning permission 21/00904/DPP.

***Reason:*** *In the interest of highway safety and to accord with NPF4 Policy 18.*

9. No phase of the built development shall be constructed above foundation level until samples of the external materials to be used in that phase of the development have been submitted to and approved in writing by the planning authority. Development in that phase shall be carried out in accordance with the approved details.

***Reason:*** *In the interests of good design and to accord with Policy DEV6 of the Midlothian Local Development Plan 2017.*

10. Development of each phase shall not commence until details of fencing, a Tree Protection Plan (TPP) and Arboricultural Method Statement (AMS) and other measures to protect trees or other landscape features to be retained in that phase), in line with the recommendations of BS5837:2012 have been submitted to and approved in writing by the planning authority. No operations shall commence on site in connection with a particular phase of development (including any soil moving, temporary access construction and/or widening or any operations involving the use of motorised vehicles or construction machinery) until such time as the TPP and AMS for that phase have been formally approved by the planning authority and all root protection measures for that phase are in place. The approved details shall remain in place for the duration of construction of that phase of development.

***Reason:*** *To ensure the protection of existing landscape features, in line with advice contained in the current versions of BS 5837 Trees in relation to construction and BS8545:2014, in the interests*

*of visual amenity and to accord with Policy ENV11 of the Midlothian Local Development Plan 2017.*

11. No dwelling on any phase shall be constructed until full engineering, drainage, street lighting and constructional details of the streets proposed for adoption by the highway authority within that phase have been submitted to and approved in writing by the planning authority. Thereafter, the development shall be constructed in accordance with the approved details

***Reason:*** *In the interests of highway safety; to ensure a satisfactory appearance to the highways infrastructure serving the approved development; and to safeguard the amenities of the locality and users of the highway and to accord with Policy DEV6 of the Midlothian Local Development Plan 2017.*

12. Development shall not commence until a scheme of temporary security measures to protect the Rosslynlee Hospital listed buildings site from vandalism have been submitted to and approved in writing by the planning authority. No development shall take place until the approved measures have been implemented in full.

***Reason:*** *In the interest of the integrity of the listed buildings and to accord with Policy ENV22 of the Midlothian Local Development Plan 2017.*

13. The landscaping matters specified by condition referred to in condition no. 1 above shall include full details of both hard and soft landscape works for the relevant phase. These details shall include proposed finished levels or contours; means of enclosure; car parking layouts; a scheme of public art; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (such as street furniture, play equipment, refuse or other storage units, signs, amenity lighting); proposed functional services above and below ground (such as drainage, power and communications cables or pipelines); planting plans (including compensatory tree planting; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants (noting species, plant sizes and proposed numbers/densities as appropriate); the identification of all trees and hedgerows to be retained (within the site and on its boundaries) and measures for their protection throughout the course of construction works; an implementation programme; and a management and maintenance programme. All landscaping shall be carried out in accordance with the approved details.

***Reason:*** *In the interests of the quality and design of the development and to accord with Policies DEV6 and DEV7 of the Midlothian Local Development Plan 2017.*

14. No dwelling shall be occupied until the vehicular and pedestrian access to it, both onsite and at the junction with the Rosslynlee Hospital access road, and the parking space(s) for it within its curtilage, has been constructed in accordance with the approved details, unless otherwise agreed in writing by the planning authority.

***Reason:*** *In the interests of highway safety and to accord with NPF4 Policies 14 and 18.*

15. No phase of the built development shall be constructed above foundation level until details of a sustainability/biodiversity scheme for each phase of the site, including the provision of house bricks and boxes for bats and swifts for each phase of the development has been submitted to and approved in writing by the planning authority. Development shall thereafter be carried out in accordance with the approved details and the agreed phasing plan.

***Reason:*** *In the interests of biodiversity and ecology and to accord with NPF4 Policy 3.*

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

Before any part of the 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/ground conditions is adequately identified and that appropriate decontamination measures/ground mitigation measures are undertaken to mitigate the identified risk to site users and construction workers, built development on the site, landscaped areas, and the wider environment; to ensure the remediation works are undertaken and to accord with Policy ENV16 of the Midlothian Local Development Plan 2017.*

17. On completion of any decontamination/ remediation works required in condition 16 and prior to the dwellinghouse being occupied on site, a validation report or reports shall be submitted to the planning authority confirming that the works have been carried out in accordance with the approved scheme. No part of the development shall be occupied until this report has been approved by the planning authority.

***Reason:*** To ensure that any contamination on the site/ground conditions is adequately identified and that appropriate decontamination measures/ground mitigation measures are undertaken to mitigate the identified risk to site users and construction workers, built development on the site, landscaped areas, and the wider environment; to ensure the remediation works are undertaken to accord with Policy ENV16 of the Midlothian Local Development Plan 2017.

18. No dwelling shall be occupied until the Sustainable Urban Drainage detention basin approved under 23/00219/DPP and the infrastructure to provide for surface water arising from this site to drain into it, or any subsequent amendments, has been installed in accordance with the approved details.

***Reason:*** In the interests of ensuring satisfactory drainage for the site and to accord with Policies ENV9 and IMP3 of the Midlothian Local Development Plan 2017.

19. No development shall take place on each phase of the proposed site until the applicant has undertaken and reported upon a programme of archaeological Recording (Appraisal) and Monitored Soil Strip) work in accordance with a written scheme of investigation for that phase which has been submitted by the applicant (or their agent) and approved by the planning authority

***Reason:*** In the interests of the integrity of any archaeological remains and to accord with Policies ENV24 and ENV25 of the Midlothian Local Development Plan 2017.

20. Prior to the construction of any unit to operate within Class 3 of the Town and Country Planning (Use Classes) Scotland Order 1997 as amended, details of:

- a) scheme of fume extraction including means of noise attenuation of the extract system
- b) details of refuse storage; and,
- c) Hours of operation

shall be submitted to and approved in writing by the local planning authority. Such a unit shall not be brought into use until the scheme of fume extraction and refuse storage have been provided in accordance with the approved details and thereafter

the unit shall only be open for business if those facilities are operational in accordance with the approved details.

**Reason:** *In the interest of the amenity of future residential occupiers and to accord with Policy DEV2 of the Midlothian Local Development Plan 2017.*

21. No dwelling shall be occupied until a woodland management plan has been submitted to and approved in writing by the planning authority. Thereafter the woodland within the site shall be maintained in perpetuity in accordance with the approved woodland management plan.

**Reason:** *In the interest of the long-term management of trees within the site and to accord with Policy ENV11 of the Midlothian Local Development Plan 2017.*

22. Construction of homes within any phase shall not commence until details have been submitted to and approved in writing by the planning authority of:
- a) the provision and use of electric vehicle charging stations throughout that phase of the development; and,
  - b) a timetable of implementation, of high-speed fibre broadband to each house within that phase.

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

**Reason:** *In the interests of sustainability and to accord with Policies TRAN 5 and IT1 of the Midlothian Local Development Plan 2017.*

23. Development shall not begin until a Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the planning authority. The CEMP shall include:
- i. Details of a construction access;
  - ii. signage for construction traffic, pedestrians and other users of the site;
  - iii. controls on the arrival and departure times for construction vehicles, delivery vehicles and for site workers (to avoid school arrival/departure times);
  - iv. details of piling methods (if employed);
  - v. details of any earthworks;
  - vi. control of emissions strategy;
  - vii. a dust management plan/strategy;
  - viii. waste management and disposal of material strategy;
  - ix. a community liaison representative will be identified to deal with the provision of information on the development

- to the local community and to deal with any complaints, regarding construction on the site;
- x. prevention of mud/debris being deposited on the public highway;
- xi. material and hazardous material storage and removal; and
- xii. controls on construction, engineering or any other operations or the delivery of plant, machinery and materials (to take place between 0700 to 1900hrs Monday to Friday and 0800 to 1300hrs on Saturdays).

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

***Reason:*** *In order to control the construction activity on the site, ensure environmental impact during the construction period is acceptable and to ensure appropriate mitigation is in place.*

**Peter Arnsdorf**  
**Planning, Sustainable Growth and Investment Manager**

**Date:** 31 August 2024

**Application No:** 24/00313/S42

**Applicant:** Oakridge Group

**Agent:** Nikki McAuley, Ironside Farrar

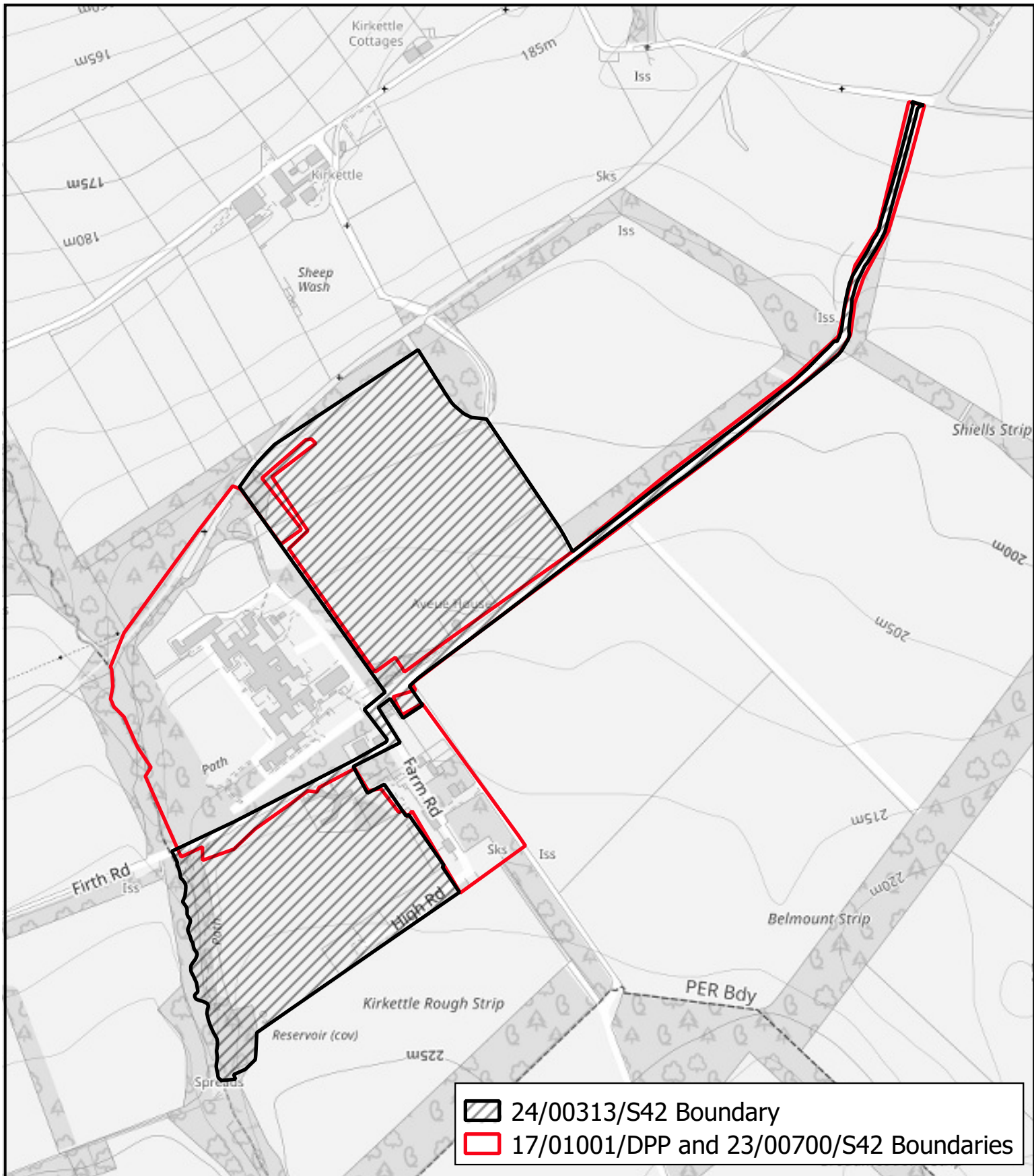
**Validation Date:** 6 May 2024

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**Background Papers:** Applications - 17/00980/PPP, 17/01001/DPP, 18/00061/LBC, 21/00904/DPP, 21/01025/DPP, 22/00787/DPP 23/00219/DPP and 23/00700/S42

**Attached Plans:** Location plan



**Planning Service  
Place Directorate**

Midlothian Council  
Fairfield House  
8 Lothian Road  
Dalkeith, EH22 3AA

Section 42 application to amend condition 18 of  
planning permission 17/00980/PPP

Land at Rosslynlee, Roslin

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File No. 24/00313/S42

Page 88 of 88  
Scale 1:6000

