

## **Notice of Review: Land at Rosebank North Cottage, Roslin Determination Report**

Report by Ian Johnson, Head of Communities and Economy

### **1 Purpose of Report**

- 1.1 The purpose of this report is to provide a framework for the Local Review Body (LRB) to consider a 'Notice of Review' for the erection of an outbuilding at land at Rosebank North Cottage, Roslin.

### **2 Background**

- 2.1 Planning application 15/00948/DPP for the erection of an outbuilding at land at Rosebank North Cottage, Roslin was refused planning permission on 8 February 2016; a copy of the decision is attached to this report.
- 2.2 The review has progressed through the following stages:
- 1 Submission of Notice of Review by the applicant.
  - 2 The Registration and Acknowledgement of the Notice of Review.
  - 3 Carrying out Notification and Consultation.

### **3 Supporting Documents**

- 3.1 Attached to this report are the following documents:
- A site location plan (Appendix A);
  - A copy of the notice of review form and supporting statement (Appendix B). Any duplication of information is not attached;
  - A copy of the case officer's report (Appendix C);
  - A copy of the decision notice, issued on 8 February 2016 (Appendix D); and
  - A copy of the relevant plans (Appendix E).
- 3.2 The full planning application case file and the development plan policies referred to in the case officer's report can be viewed online via [www.midlothian.gov.uk](http://www.midlothian.gov.uk)

### **4 Procedures**

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

- Have scheduled an unaccompanied site visit for Monday 25 April 2016; and
  - Have determined to progress the review by way of written submissions.
- 4.2 The case officer's report identified that there was one consultation response and no representations received. As part of the review process the interested party was notified of the review. The comment can be viewed online on the electronic planning application case file via [www.midlothian.gov.uk](http://www.midlothian.gov.uk).
- 4.3 The next stage in the process is for the LRB to determine the review in accordance with the agreed procedure:
- Identify any provisions of the development plan which are relevant to the decision;
  - Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies;
  - Consider whether or not the proposal accords with the development plan;
  - Identify and consider relevant material considerations for and against the proposal;
  - Assess whether these considerations warrant a departure from the development plan; and
  - State the reason/s for the decision and state any conditions required if planning permission is granted.
- 4.4 In reaching a decision on the case the planning advisor can advise on appropriate phraseology and on appropriate planning reasons for reaching a decision.
- 4.5 Following the determination of the review the planning advisor will prepare a decision notice for issuing through the Chair of the LRB. A copy of the decision notice will be reported to the next LRB for noting.
- 4.6 A copy of the LRB decision will be placed on the planning authority's planning register and made available for inspection online.

## 5 Conditions

- 5.1 In accordance with the procedures agreed by the LRB at its meeting of 19 June 2012 and 26 November 2013, and without prejudice to the determination of the review, the following conditions have been prepared for the consideration of the LRB if it is minded to uphold the review and grant planning permission.

1. Prior to the commencement of development, details and samples of the proposed external materials of the outbuilding shall be submitted to and approved by the Planning Authority.

*Reason: These details were not submitted with the original application: to ensure that the development is in keeping with and does not detract from the surrounding countryside, Green Belt, Area of Great Landscape Value, Conservation Area and listed building.*

2. The wall materials approved in terms of condition 1 shall be natural stone, smooth render or timber unless otherwise agreed in writing by the Planning Authority.
3. The roof materials approved in terms of condition 1 shall be natural slate unless otherwise agreed in writing by the Planning Authority.
4. The window and door frames approved in terms of condition 1 shall be timber unless otherwise agreed in writing by the Planning Authority.

***Reason for conditions 2 - 4:** To protect the character and appearance of the existing building and ensure this maintains the visual quality of the surrounding countryside, Green Belt, Area of Great Landscape Value, Conservation Area and listed building.*

## **6 Recommendations**

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

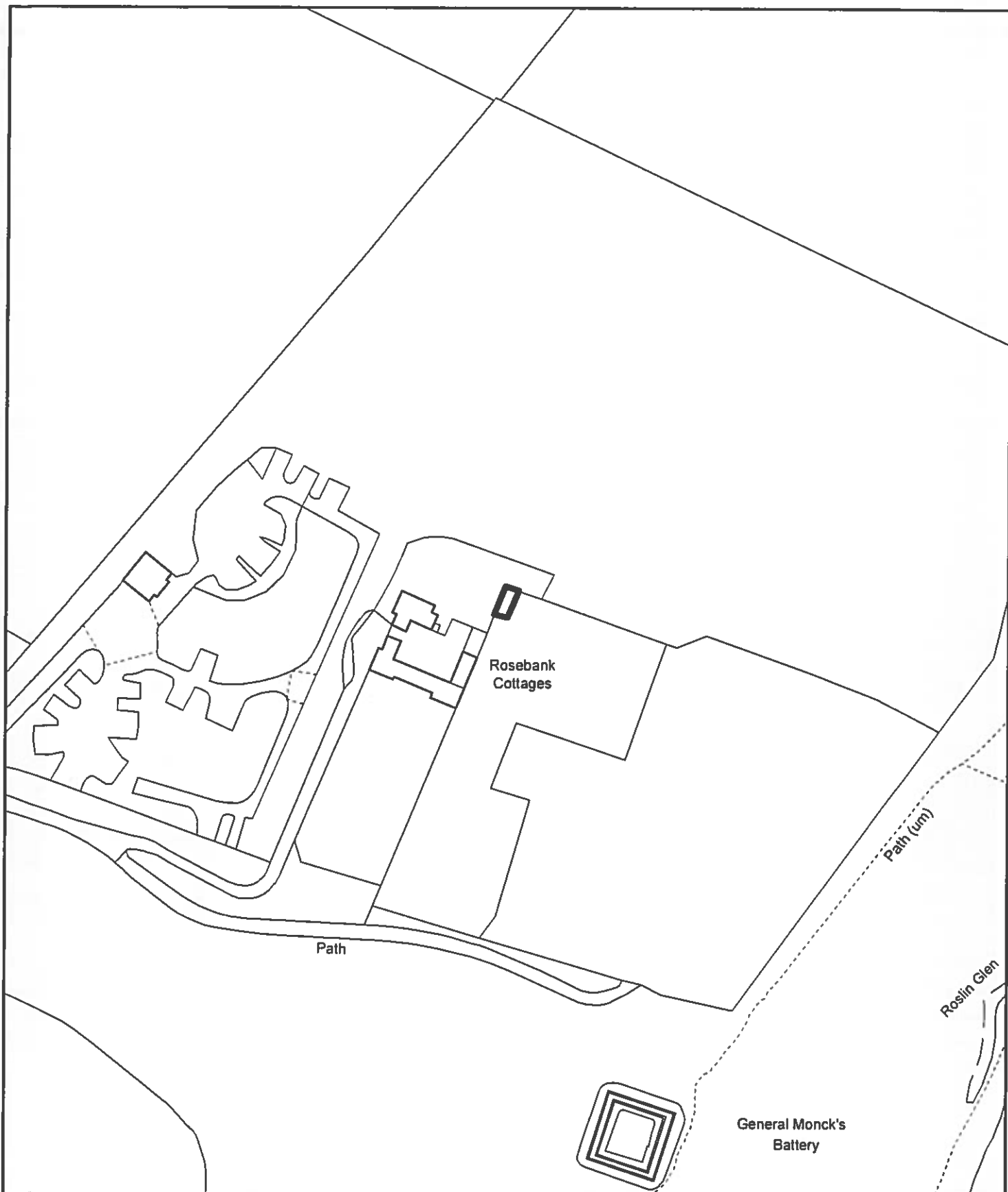
**Date:** 19 April 2016

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

**Tel No:** 0131 271 3310

**Background Papers:** Planning application 15/00948/DPP available for inspection online.





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

**Demolition of derelict outbuildings and erection of  
replacement outbuilding at Rosebank North Cottage,  
Roslin**

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

Midlothian Council Licence No. 100023416 (2016)

File No. 15/00948/DPP

Scale: 1:1,500





## NOTICE OF REVIEW

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

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

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

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

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

1. Applicant's Details		2. Agent's Details (if any)	
Title	Ms	Ref No.	
Forename	Fiona	Forename	
Surname	MACMILLAN	Surname	
Company Name		Company Name	
Building No./Name	ROSEBANK COURT	Building No./Name	
Address Line 1	CHAPEL LOAN	Address Line 1	
Address Line 2		Address Line 2	
Town/City	ROSLIN, MIDDLETHORPE	Town/City	
Postcode	EH25 9PU	Postcode	
Telephone		Telephone	
Mobile		Mobile	
Fax		Fax	
Email		Email	
<b>3. Application Details</b>			
Planning authority		MIDDLETHORPE	
Planning authority's application reference number		000126704 / 15/00948	
Site address			
SAME AS ABOVE.			
Description of proposed development		NAC	
RESTORATION OF BUILDING.			

Date of application

21/07/15

Date of decision (if any)

09/02/2016

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

#### 4. Nature of Application

Application for planning permission (including householder application)

☒

Application for planning permission in principle

☐

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

☐

Application for approval of matters specified in conditions

☐

#### 5. Reasons for seeking review

Refusal of application by appointed officer

☒

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

☐

Conditions imposed on consent by appointed officer

☐

#### 6. Review procedure

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

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

Further written submissions

☐

One or more hearing sessions

☐

Site inspection

☒

Assessment of review documents only, with no further procedure

☐

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

#### 7. Site Inspection

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

Can the site be viewed entirely from public land? YES, ALTHOUGH VERY SECLUDED.

☒

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

YES.

☒

BUILDING IS AN UNSAFE STRUCTURE  
DUE TO DISREPAIR.



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

### 8. Statement

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

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

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

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

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

### 9. List of Documents and Evidence

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

2 PHOTOS  
2 LICENCE AGREEMENT  
2 REFUSAL OF PLANNING + REFUSAL DELEGATED WORKSHEET.  
2 MAP  
2 PLANNING APPLICATION.

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

### 10. Checklist

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

Full completion of all parts of this form



Statement of your reasons for requesting a review



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



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

### DECLARATION

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

Signature:



ne:

F. MACALLAN

Date: 21/03/16

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

## 8. Statement

We would like our application to be reviewed as we are disappointed that we have been refused planning on grounds that it is not an '*acceptable type of development*' in line with Midlothian Local Plan. I fully support sensitive handling of Green Belt and recognise that new structures need to be in keeping with guidelines. However, what we are proposing to do is renovate an already existing structure and feel that we have been refused on an unjust technicality. The replacement of this building would not lead to any loss of agricultural land, adversely affect any scenic qualities or conservation areas. We intend to preserve the character and appearance of the conservation area as well as protecting the historic interest of the building. The building is secluded and is very hard to view from public footpaths even in winter when the trees are bare.

The other concern from Midlothian Planning is that the outbuilding is not connected to an existing planning unit or garden. The Potting Shed is adjacent and part of our garden boundary wall but is not within our property. However, we have a License Agreement with the Earl of Rosslyn that permits us to use and improve the building - this agreement is only allowed to be negotiated with owners of Rosebank Cottage - no other person(s) would be allowed to use/accommodate the building. It has also been stated in the License Agreement that it would only be used by us as stated above - at no time would a personal art studio and home office be used with a 'commercial element'. Access to this area, out with our garden, is possible but extremely difficult, significantly longer and only achievable on foot. Another concern of Midlothian Planning was that the License Agreement is on a rolling yearly review - this is purely so that the Rosslyn Trustees could be confident that the final building was in-keeping with the original design and character. We negotiated the agreement and clearly stated that we would apply for planning permission to renovate the building. The Earl of Rosslyn is keen for this structure to be repaired and fully supports our plans to upgrade and use it as stated - the agreement will not be rescinded. No rent is being paid as the Earl of Rosslyn purely wants to see this space being used and improved in-keeping with regulations and natural character of the original structure.

We are keen for work to proceed as the building is rapidly deteriorating further and we are aware that it is unsafe. I have also caught kids climbing on the structure and using it as a fort during the February holidays while we were away. This is becoming a dangerous structure especially for any member of the public that is inclined to be adventurous or nosy!

The Potting Shed is a structure that we are passionate about improving and without intervention this historic building will be lost forever.

## **MIDLOTHIAN COUNCIL**

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

**Planning Application Reference:** 15/00948/DPP and 15/00949/LBC.

**Site Address:** Rosebank North Cottage, Roslin.

**Site Description:** The application site comprises a small area of grassed land on the outside of a walled garden at a B listed building. There is a derelict brick outbuilding within the site which is built onto the boundary walls on two sides. This is a monopitch structure and timber window frames. The site is located within the countryside, Green Belt, prime agricultural land, an area of great landscape value and Roslin Conservation Area.

**Proposed Development:** Demolition of derelict outbuilding and erection of replacement outbuilding.

**Proposed Development Details:** It is proposed to rebuild the existing derelict building on site. There are no details of materials but the footprint and form will be as existing with the inclusion of rooflights and alterations to windows openings. The applicant owns the neighbouring dwellinghouse and intends to use the outbuilding building as an office and studio space. The site is outwith their ownership but they have some control over this agreed with the landowner to use the land as garden ground.

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

Land to west and south west

12/00755/DPP Alterations to existing window opening to form door opening and installation of door. Consent with conditions.

12/00754/LBC Alterations to existing window opening to form door opening and installation of door. Consent with conditions.

12/00156/LBC Erection of garage; alterations to existing windows and doors; installation of flue; internal alterations and removal of stone wall. Consent with conditions.

12/00154/DPP Erection of garage; alterations to existing windows and doors; and installation of flue. Consent with conditions.

**Consultations:** Historic Environment Scotland has no objection.

**Representations:** No representations were received.

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

**RP1 Protection of the Countryside** states that development in the countryside will only be permitted if: it is required for the furtherance of agriculture, including farm related diversification, horticulture, forestry, countryside recreation, tourism, or waste

disposal (where this is shown to be essential as a method of site restoration); it is within a designated non-conforming use in the Green Belt; or it accords with policy DP1;

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

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

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

**RP4 Prime Agricultural Land** states that development will not be permitted which leads to the permanent loss of prime agricultural land unless: the site is allocated to meet Structure Plan requirements; there is a locational justification for the development which outweighs the environmental or economic interests served by retaining the farmland in productive use; and the development accords with all other relevant Local Plan policies and proposals;

**RP6 Areas of Great Landscape Value** which advises that development will not be permitted where it may adversely affect the special scenic qualities and integrity of the Areas of Great Landscape Value;

**RP22 Conservation Areas** seeks to prevent development which would have any adverse effect on the character and appearance of Conservation Areas including sites adjacent to Conservation Areas. In the selection of site, scale, choice of materials and details of design, it will be ensured that new buildings preserve or enhance the character and appearance of the conservation area. Traditional natural materials appropriate to the locality or building affected will be used in new buildings;

**RP24 Listed Buildings** states that development will not be permitted which would adversely affect the character or appearance of a listed building, its setting or any feature of special or architectural or historic interest that it possesses. The change of use of a listed building will only be permitted where it can be shown that the proposed use and any necessary alteration can be achieved without detriment to the character, appearance and setting of the building.

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

#### Application 15/00948/DPP

The local plan contains restrictive policies relating to proposals for new development within the countryside and Green Belt. These policies aim to prevent creeping suburbanisation and development in these areas which are under significant pressure due to the convenient commuting distance to Edinburgh. The plan also contains some enabling policies which supports some commercial and residential developments within these areas in some limited circumstances.

Policy RP1 of the local plan sets out the terms for acceptable forms of development in the countryside. The policy aims to restrict development to that required for the furtherance of an established, and acceptable, countryside activity or business.

Policy RP2 of the local plan seeks to protect the Green Belt from development unless it is necessary for an acceptable countryside use or provides for opportunities to access the countryside for sport or recreation. Developments for other uses may be considered acceptable where they are appropriate to the rural character of the area.

As noted above, the site is adjacent to, but outwith land under the applicant's ownership, and is not within the planning unit of their property. Although the applicants apparently have some form of agreement with the landowner which appears to give them some control over the land for a period of one year, the site is not connected with their property. The agreement between the landowner and the applicant is one that has been drawn up without the involvement of the Planning Authority. As such, the Planning Authority has no control over, or input on, this agreement and it could be possibly be rescinded. The Planning Authority has seen a copy of the legal agreement and notes that one of the clauses states that the applicant must seek the relevant permissions/consents in order to use the building.

*— AS LONG AS WE LIVE IN RUSKIN. WE HAVE ACCESS.*

The applicants have stated that the outbuilding will be used for their personal use and not in any commercial capacity.

The planning authority has previously supported similar outbuildings and uses which form part of an applicant's garden ground or planning unit where it has been stated that this is for their own use and can be linked to their property. In these instances, although the sites may be within the countryside and the Green Belt, the planning authority has been satisfied that the building and use will be related to and connected with an existing house and planning unit, thereby not conflicting with the aims of the related countryside and Green Belt policies. Conditions have been attached to such permissions tying the outbuildings and use to the related property which ensures that there would not be any commercial element to the proposal by linking it to an existing property, thereby complying with related policy.

However, in this case the application site does not form part of the applicant's planning unit or garden. This essentially means the application is for an outbuilding in the countryside and Green Belt which could be used as an office/studio not related to any existing property and could be used by any person. There is no justification for the siting of the outbuilding in the countryside as it is not related to the furtherance of agriculture, horticulture, forestry, countryside recreation, tourism or waste disposal as required in policy RP1. Also, there is no justification to demonstrate compliance with policy RP2 for the siting within the Green Belt. Taking this into consideration, the proposal is contrary to policies RP1 and RP2.

The applicants have been advised that the correct procedure would have been to seek a change of use of the land which the outbuilding is located to garden ground. This change of use, if acceptable would resolve the difficulties in complying with the relevant planning policies highlighted above. The applicants have chosen not to accept the Planning Authority's advice and wish to have the application assessed and determined as it was submitted.

*\* Difficult to contact Earl to organise money? Time? Waste.*

Although the principle of the outbuilding at the site is not considered to be acceptable at this time it is necessary to fully assess the detailed aspects of the application.

The site is well secluded from public views as it is to the rear of housing to the west, with woodland to the south and east. There is an agricultural field to the north which may provide some visibility however it will be viewed with the backdrop of the boundary wall and the buildings associated with the listing. Provided the details of the materials are submitted and agreed with the Planning Authority, the outbuilding would have a limited impact on the character or appearance of the surrounding conservation area or Area of Great Landscape Value.

The proposal would result in the loss of an area of prime agricultural land, as defined in the Local Plan however there would be no change as compared to the situation as existing. This is not considered sufficiently significant to be a reason to refuse the application.

**Applications 15/00948/DPP and 15/00949/LBC**

It is proposed to enlarge the window openings on the front elevation of the building and incorporate a large glazed opening on the side elevation. No details of materials have been submitted however the plans appear to indicate timber cladding on the side elevation. Two rooflights are proposed. Provided the materials are traditional and of a high quality and colour finish, the design of the outbuilding is likely to be an improvement to the appearance of the existing dilapidated building on site.

It is proposed to rebuild the outbuilding in the same footprint as existing which is built on the natural stone boundary wall surrounding the buildings at Rosebank Cottages. This wall forms part of the listing at the site which comprises the former stable range and associated buildings related to the former Rosebank House estate. It appears that the boundary wall was built up using brick to form part of the rear and side elevations of the outbuilding. From the scale and design of the existing outbuilding, it appears that historically it may have been a potting shed associated with the estate. Taking this into consideration, the proposed outbuilding would not have a detrimental impact on the character or appearance of this listed wall or associated buildings as it is a feature which is not uncommon in such former workers' areas.

Overall, although the proposed outbuilding may result in an improvement on the existing situation, this is not connected to an existing planning unit and there is no justification for its location within the countryside and Green Belt.

The applicant has been advised to withdraw the current proposal and resubmit as a change of use application. This approach would be more likely to result in a positive outcome for the applicants. The applicants have chosen not to accept this advice. This approach would still be available once the planning application has been refused.

**Recommendation:** Refuse planning permission and grant listed building consent.



# Midlothian

Fairfield House 8 Lothian Road Dalkeith EH22 3ZN

Tel: 0131 271 3302

Fax: 0131 271 3537

Email: [planning-applications@midlothian.gov.uk](mailto:planning-applications@midlothian.gov.uk)

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

Thank you for completing this application form:

ONLINE REFERENCE 000126704-001

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

## Description of Proposal

Please describe accurately the work proposed: \* (Max 500 characters)

To convert the derelict adjoining lean-to building into an office and studio space. Using the existing foot print rebuild the outer walls and roof. Velux windows to be installed in roof for extra light. New windows and doors to be added.

Has the work already been started and/or completed? \*

☒ No ☐ Yes - Started ☐ Yes - Completed

## Applicant or Agent Details

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

☒ Applicant ☐ Agent

## Applicant Details

Please enter Applicant details

Title: \* Ms

Other Title:

First Name: \* Fiona

Last Name: \* Macaulay

Company/Organisation:

Telephone Number: \*

Extension Number:

Mobile Number:

Fax Number:

Email Address: \*

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

Building Name: Rosebank cottage

Building Number:

Address 1 (Street): \* Chapel loan

Address 2:

Town/City: \* Roslin

Country: \* UK

Postcode: \* Eh25 9pu



## Site Address Details

Planning Authority:

Midlothian Council

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

Address 1:

ROSEBANK NORTH  
COTTAGE

Address 5:

Address 2:

ROSEBANK COTTAGES

Town/City/Settlement:

ROSLIN

Address 3:

Post Code:

EH25 9PU

Address 4:

Please identify/describe the location of the site or sites.

Northing

663239

Easting

327730

## Pre-Application Discussion

Have you discussed your proposal with the planning authority? \*

☐ Yes ☒ No

## Trees

Are there any trees on or adjacent to the application site? \*

☐ Yes ☒ No

If Yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.

## Access and Parking

Are you proposing a new or altered vehicle access to or from a public road? \*

☐ Yes ☒ No

If Yes please describe and show on your drawings the position of any existing, altered or new access points, highlighting the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

## Planning Service Employee/Elected Member Interest

Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? \*

☐ Yes ☒ No

## Certificates and Notices

CERTIFICATE AND NOTICE UNDER REGULATION 15 – TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATIONS 2013

One Certificate must be completed and submitted along with this application form. This is most usually Certificate A, Form 1, Certificate B, Certificate C or Certificate E.

Are you/the applicant the sole owner of ALL the land? \*

☐ Yes ☒ No

Is any of the land part of an agricultural holding? \*

☐ Yes ☒ No

Are you able to identify and give appropriate notice to ALL the other owners? \*

☒ Yes ☐ No

## Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate B

## Certificates

The certificate you have selected requires you to distribute copies of the Notice 1 document below to all of the Owners/Agricultural tenants that you have provided, before you can complete your certificate.

Notice 1 is Required

☒ I understand my obligations to provide the above notice(s) before I can complete the certificates. \*

## Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

I hereby certify that -

(1) - No person other than myself/the applicant was an owner [Note 4] of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application;

or -  
(1) - I have/The Applicant has served notice on every person other than myself/the applicant who, at the beginning of the period of 21 days ending with the date of the accompanying application was owner [Note 4] of any part of the land to which the application relates.

Name: Mr Anthony Clarke Oates

Address: 91, Gower street, London, England,

Date of Service of Notice: \* 05/11/15

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding;

or -

(2) - The land or part of the land to which the application relates constitutes or forms part of an agricultural holding and I have/the applicant has served notice on every person other than myself/himself who, at the beginning of the period of 21 days ending with the date of the accompanying application was an agricultural tenant. These persons are:

Name:

Address:

Date of Service of Notice: \*

Signed: Ms Fiona Macaulay

On behalf of:

Date: 30/11/2015

## Checklist - Application for Householder Application

Please take a few moments to complete the following checklist in order to ensure that you have provided all the necessary information in support of your application. Failure to submit sufficient information with your application may result in your application being deemed invalid. The planning authority will not start processing your application until it is valid.

- a) Have you provided a written description of the development to which it relates? \* ☒ Yes ☐ No
- b) Have you provided the postal address of the land to which the development relates, or if the land in question has no postal address, a description of the location of the land? \* ☒ Yes ☐ No
- c) Have you provided the name and address of the applicant and, where an agent is acting on behalf of the applicant, the name and address of that agent? \* ☒ Yes ☐ No
- d) Have you provided a location plan sufficient to identify the land to which it relates showing the situation of the land in relation to the locality and in particular in relation to neighbouring land? \*. This should have a north point and be drawn to an identified scale. ☒ Yes ☐ No
- e) Have you provided a certificate of ownership? \* ☒ Yes ☐ No
- f) Have you provided the fee payable under the Fees Regulations? \* ☒ Yes ☐ No
- g) Have you provided any other plans as necessary? \* ☒ Yes ☐ No

Continued on the next page

A copy of other plans and drawings or information necessary to describe the proposals (two must be selected). \*

You can attach these electronic documents later in the process.

- ☐ Existing and proposed elevations.
- ☒ Existing and Proposed floor plans.
- ☐ Cross sections.
- ☐ Site layout plan/Block plans (including access).
- ☐ Roof plan.
- ☒ Photographs and/or photomontages.

Additional Surveys – for example a tree survey or habitat survey may be needed. In some instances you may need to submit a survey about the structural condition of the existing house or outbuilding. \*

☐ Yes ☒ No

A Supporting Statement – you may wish to provide additional background information or justification for your proposals. This can be helpful and you should provide this in a single statement. This can be combined with a Design Statement if required. \*

☐ Yes ☒ No

You must submit a fee with your application. Your application will not be able to be validated until the appropriate fee has been received by the planning authority.

## Declare - For Householder Application

I, the applicant/agent certify that this is an application for planning permission as described in this form and the accompanying plans/drawings and additional information.

Declaration Name: Ms Fiona Macaulay

Declaration Date: 30/11/2015

Submission Date: 02/12/2015

## Payment Details

Online payment: XMEP00000762

Created: 02/12/2015 21:08



This copy has been made by or with the authority of the National Council pursuant to Section 47 of the Patents and Designs Act 1988. Unless the Act provides relevant exceptions to copyright, the copy must not be copied without the prior permission of the copyright owner.

REF ID: A66016  
0902-2016  
15100948/DF

40m  
100m

General Morck's  
Battery

E: 327595 61 N: 663285.69

## **LICENCE AGREEMENT**

between

**ANTHONY CLARKE OAKES, 91 Gower Street, London and THE RIGHT HONOURABLE PETER ST CLAIR-ERSKINE, SEVENTH EARL OF ROSSLYN, Cedar House, Shurlock Row, Berkshire RG10 0QP, the present trustees acting under the Deeds of Trust by the Right Honourable Anthony Hugh Francis Harry St. Clair Erskine, Sixth Earl of Rosslyn dated First and Second and registered in the Books of Council and Session on Third, all days of April Nineteen Hundred and Sixty Nine (hereinafter referred to as "the Licensor")**

### **OF THE ONE PART**

and

**MR CRAIG ALEXANDER MACLEOD and Fiona macaulay, residing together at Rosebank Cottage, Roslin, EH25 9PU (hereinafter referred to as "the Licensees")**

### **OF THE OTHER PART**

1. The Licensor hereby GRANTS to the Licensees a licence to use ALL and WHOLE that area of land forming compartment 569 shown crosshatched in black on the plan annexed and executed as relative hereto ("the Garden").
2. The date of entry shall be the last date of execution hereof. The let shall endure for one year. The Licensees will remove all personal moveable items from the garden on the expiry or earlier termination of this Licence without any notice or other process of removing. The Licensees shall not remove any plants, trees or shrubs from the garden at any time without the consent of the Licensor. At the option of the Licensor all buildings on the garden whether converted as permitted under clause 6 hereof will either be removed at the expense with the Licensees or retained by the Licensor on the expiry or earlier termination of this Licence. No compensation shall be payable to the Licensees on termination of this Licence.
3. No rent shall be payable in respect of this Licence.
4. The garden shall be used as garden ground only ancillary to occupation of the house in which the Licensees reside and for growing vegetables (and in the event of the buildings in clause 6 being converted as thereinmentioned as an artist's studio/office and greenhouse respectively) and for no other purpose without the consent of the Licensor. No trees or

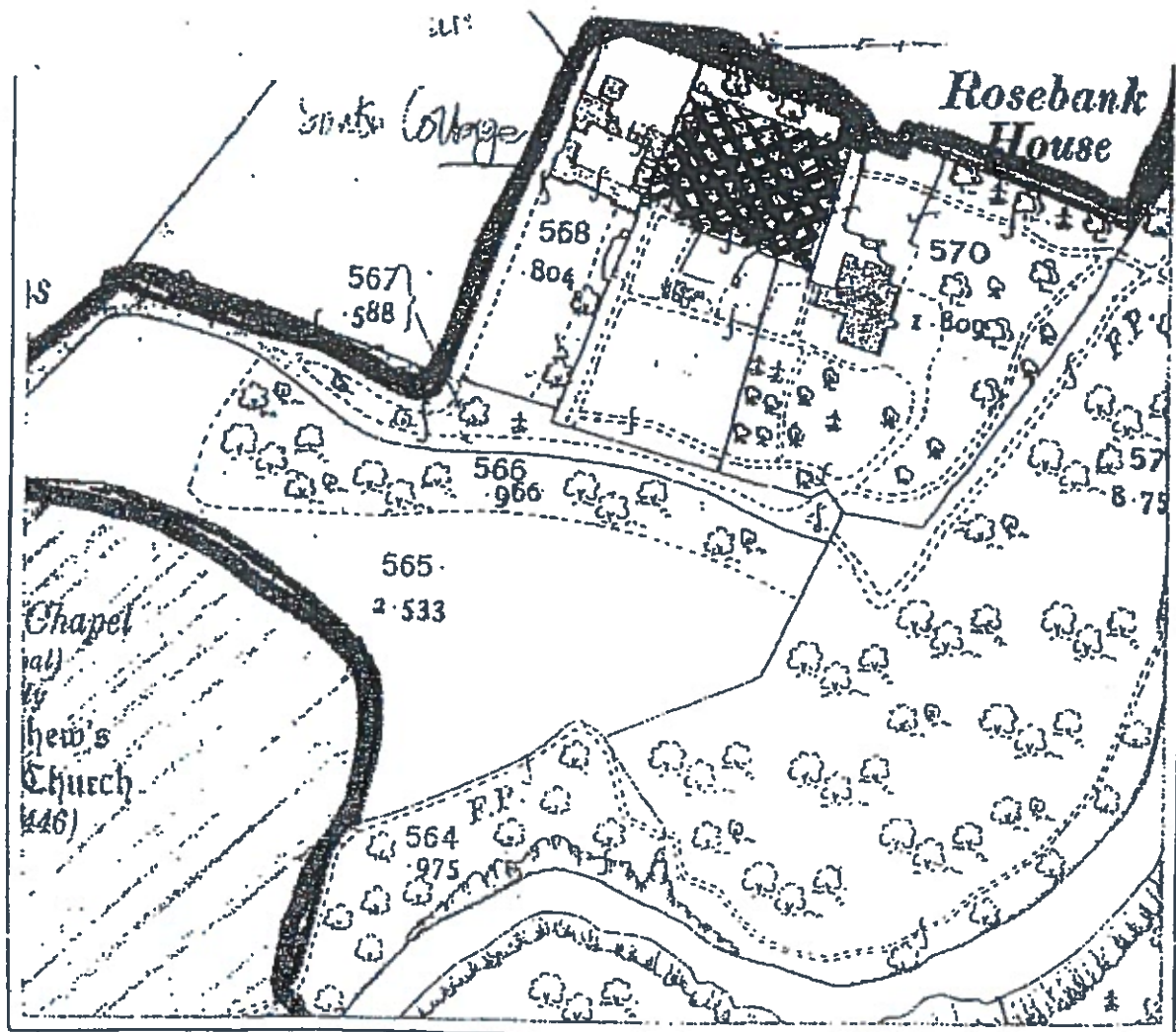
shrubs shall be planted in the garden without the consent of the Licensor. This Licence confers no security of tenure or other statutory protection on the Licensees.

5. This licence is personal to the Licensees and assignees and Sub-Licensees are expressly excluded.
6. The Licensor consents to the existing disused former potting sheds being converted at the Licensee's entire cost into an artist's studio/office provided (1) the Licensees obtaining planning permission and all other necessary consents and (2) the converted building does not extend outwith the footprint of the existing disused building. The modern free standing dilapidated greenhouse can be refurbished at the Licensee's entire cost and used as a greenhouse or demolished entirely at the Licensee's option. The Licensees shall keep all other buildings, greenhouses, fences, gates and other erections within the garden in as good condition during the period of this Licence as they were at the date of entry. No new buildings, greenhouses, fences, gates or other erections shall be erected in the garden without the consent of the Licensor.
7. The Licensees shall indemnify the Licensor against all costs, claims and demands made by the owners or occupiers of adjoining land or any other party which may arise as a result of the Licensees' use of the garden. The Licensor shall have no responsibility for any accident, damage or loss to the Licensees from whatever cause.
8. The Licensees shall keep any of dogs and other pets within the garden under proper control at all times. No pets or other animals shall be kennelled or stabled in the garden.
9. The granting of this Licence shall confer upon the Tenants no right to any extension or renewal thereof at any time after the expiry of one year from the last date of execution hereof.
10. If the Licensees shall be in breach of any of their obligations under this Licence the Licensors may by notice in writing immediately terminate this Licence and the Licensees shall be bound to vacate the garden forthwith. The licensor shall be entitled to take access to the garden for the purpose of ensuring that the Licensees are not in breach of its obligations under this



Licence. No compensation shall be payable to the Licensees in the event of termination of the Licence as aforesaid but the Licensees shall remain liable in full for any antecedent breach by them of their obligations hereunder: IN WITNESS WHEREOF these presents typewritten on this and the preceding two pages together with the plan annexed and signed as relative hereto are subscribed by us the said Mr Craig Alexander Macleod and Fiona Macaulay at Roslin on the Sixth day of July Two thousand and fifteen in the presence of Laetitia Florence Guichard residing at 13/2 Lochrin Terrace, Edinburgh EH8 9QL and by me the said Anthony Clarke Oakes as trustee withinmentioned at London on the Twenty-seventh day of July Two thousand and fifteen in the presence of Andrew Paul Shepherd residing at 4 Slaithwaite Road, London SE13 6DJ and by me the said The Right Honourable Peter St Clair-Erskine, Seventh Earl of Rosslyn as trustee withinmentioned at Cedar House, Shurlock Row on the Twenty-seventh day of July Two thousand and fifteen in the presence of Harry St Clair-Erskine residing at Cedar House, Shurlock Row, Berkshire RG10 0QP

THIS IS THE PLAN REFERRED TO IN THE LICENCE BY THE  
ROSSLYN TRUSTEES AND CRAIG ALEXANDER ~~MAKES~~ AND  
FIONA MACAULAY



THIS PLAN IS PUBLISHED FOR THE CONVENIENCE  
OF IDENTIFICATION ONLY AND ALTHOUGH BELIEVED  
TO BE CORRECT ITS ACCURACY IS NOT GUARANTEED  
AND IT DOES NOT FORM PART OF ANY CONTRACT.

THIS PLAN IS BASED UPON THE ORDNANCE SURVEY MAP  
BY PERMISSION OF THE CONTROLLER OF  
HER MAJESTY'S STATIONERY OFFICE  
CROWN COPYRIGHT RESERVED.  
LONDON No. 55770000



## **MIDLOTHIAN COUNCIL**

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

**Planning Application Reference:** 15/00948/DPP and 15/00949/LBC.

**Site Address:** Rosebank North Cottage, Roslin.

**Site Description:** The application site comprises a small area of grassed land on the outside of a walled garden at a B listed building. There is a derelict brick outbuilding within the site which is built onto the boundary walls on two sides. This is a monopitch structure and timber window frames. The site is located within the countryside, Green Belt, prime agricultural land, an area of great landscape value and Roslin Conservation Area.

**Proposed Development:** Demolition of derelict outbuilding and erection of replacement outbuilding.

**Proposed Development Details:** It is proposed to rebuild the existing derelict building on site. There are no details of materials but the footprint and form will be as existing with the inclusion of rooflights and alterations to windows openings. The applicant owns the neighbouring dwellinghouse and intends to use the outbuilding building as an office and studio space. The site is outwith their ownership but they have some control over this agreed with the landowner to use the land as garden ground.

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

Land to west and south west

12/00755/DPP Alterations to existing window opening to form door opening and installation of door. Consent with conditions.

12/00754/LBC Alterations to existing window opening to form door opening and installation of door. Consent with conditions.

12/00156/LBC Erection of garage; alterations to existing windows and doors; installation of flue; internal alterations and removal of stone wall. Consent with conditions.

12/00154/DPP Erection of garage; alterations to existing windows and doors; and installation of flue. Consent with conditions.

**Consultations:** Historic Environment Scotland has no objection.

**Representations:** No representations were received.

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

**RP1 Protection of the Countryside** states that development in the countryside will only be permitted if: it is required for the furtherance of agriculture, including farm related diversification, horticulture, forestry, countryside recreation, tourism, or waste

disposal (where this is shown to be essential as a method of site restoration); it is within a designated non-conforming use in the Green Belt; or it accords with policy DP1;

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

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

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

**RP4 Prime Agricultural Land** states that development will not be permitted which leads to the permanent loss of prime agricultural land unless: the site is allocated to meet Structure Plan requirements; there is a locational justification for the development which outweighs the environmental or economic interests served by retaining the farmland in productive use; and the development accords with all other relevant Local Plan policies and proposals;

**RP6 Areas of Great Landscape Value** which advises that development will not be permitted where it may adversely affect the special scenic qualities and integrity of the Areas of Great Landscape Value;

**RP22 Conservation Areas** seeks to prevent development which would have any adverse effect on the character and appearance of Conservation Areas including sites adjacent to Conservation Areas. In the selection of site, scale, choice of materials and details of design, it will be ensured that new buildings preserve or enhance the character and appearance of the conservation area. Traditional natural materials appropriate to the locality or building affected will be used in new buildings;

**RP24 Listed Buildings** states that development will not be permitted which would adversely affect the character or appearance of a listed building, its setting or any feature of special or architectural or historic interest that it possesses. The change of use of a listed building will only be permitted where it can be shown that the proposed use and any necessary alteration can be achieved without detriment to the character, appearance and setting of the building.

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

#### Application 15/00948/DPP

The local plan contains restrictive policies relating to proposals for new development within the countryside and Green Belt. These policies aim to prevent creeping suburbanisation and development in these areas which are under significant pressure due to the convenient commuting distance to Edinburgh. The plan also contains some enabling policies which supports some commercial and residential developments within these areas in some limited circumstances.

Policy RP1 of the local plan sets out the terms for acceptable forms of development in the countryside. The policy aims to restrict development to that required for the furtherance of an established, and acceptable, countryside activity or business.

Policy RP2 of the local plan seeks to protect the Green Belt from development unless it is necessary for an acceptable countryside use or provides for opportunities to access the countryside for sport or recreation. Developments for other uses may be considered acceptable where they are appropriate to the rural character of the area.

As noted above, the site is adjacent to, but outwith land under the applicant's ownership, and is not within the planning unit of their property. Although the applicants apparently have some form of agreement with the landowner which appears to give them some control over the land for a period of one year, the site is not connected with their property. The agreement between the landowner and the applicant is one that has been drawn up without the involvement of the Planning Authority. As such, the Planning Authority has no control over, or input on, this agreement and it could be possibly be rescinded. The Planning Authority has seen a copy of the legal agreement and notes that one of the clauses states that the applicant must seek the relevant permissions/consents in order to use the building.

The applicants have stated that the outbuilding will be used for their personal use and not in any commercial capacity.

The planning authority has previously supported similar outbuildings and uses which form part of an applicant's garden ground or planning unit where it has been stated that this is for their own use and can be linked to their property. In these instances, although the sites may be within the countryside and the Green Belt, the planning authority has been satisfied that the building and use will be related to and connected with an existing house and planning unit, thereby not conflicting with the aims of the related countryside and Green Belt policies. Conditions have been attached to such permissions tying the outbuildings and use to the related property which ensures that there would not be any commercial element to the proposal by linking it to an existing property, thereby complying with related policy.

However, in this case the application site does not form part of the applicant's planning unit or garden. This essentially means the application is for an outbuilding in the countryside and Green Belt which could be used as an office/studio not related to any existing property and could be used by any person. There is no justification for the siting of the outbuilding in the countryside as it is not related to the furtherance of agriculture, horticulture, forestry, countryside recreation, tourism or waste disposal as required in policy RP1. Also, there is no justification to demonstrate compliance with policy RP2 for the siting within the Green Belt. Taking this into consideration, the proposal is contrary to policies RP1 and RP2.

The applicants have been advised that the correct procedure would have been to seek a change of use of the land which the outbuilding is located to garden ground. This change of use, if acceptable would resolve the difficulties in complying with the relevant planning policies highlighted above. The applicants have chosen not to accept the Planning Authority's advice and wish to have the application assessed and determined as it was submitted.

Although the principle of the outbuilding at the site is not considered to be acceptable at this time it is necessary to fully assess the detailed aspects of the application.

The site is well secluded from public views as it is to the rear of housing to the west, with woodland to the south and east. There is an agricultural field to the north which may provide some visibility however it will be viewed with the backdrop of the boundary wall and the buildings associated with the listing. Provided the details of the materials are submitted and agreed with the Planning Authority, the outbuilding would have a limited impact on the character or appearance of the surrounding conservation area or Area of Great Landscape Value.

The proposal would result in the loss of an area of prime agricultural land, as defined in the Local Plan however there would be no change as compared to the situation as existing. This is not considered sufficiently significant to be a reason to refuse the application.

#### Applications 15/00948/DPP and 15/00949/LBC

It is proposed to enlarge the window openings on the front elevation of the building and incorporate a large glazed opening on the side elevation. No details of materials have been submitted however the plans appear to indicate timber cladding on the side elevation. Two rooflights are proposed. Provided the materials are traditional and of a high quality and colour finish, the design of the outbuilding is likely to be an improvement to the appearance of the existing dilapidated building on site.

It is proposed to rebuild the outbuilding in the same footprint as existing which is built on the natural stone boundary wall surrounding the buildings at Rosebank Cottages. This wall forms part of the listing at the site which comprises the former stable range and associated buildings related to the former Rosebank House estate. It appears that the boundary wall was built up using brick to form part of the rear and side elevations of the outbuilding. From the scale and design of the existing outbuilding, it appears that historically it may have been a potting shed associated with the estate. Taking this into consideration, the proposed outbuilding would not have a detrimental impact on the character or appearance of this listed wall or associated buildings as it is a feature which is not uncommon in such former workers' areas.

Overall, although the proposed outbuilding may result in an improvement on the existing situation, this is not connected to an existing planning unit and there is no justification for its location within the countryside and Green Belt.

The applicant has been advised to withdraw the current proposal and resubmit as a change of use application. This approach would be more likely to result in a positive outcome for the applicants. The applicants have chosen not to accept this advice. This approach would still be available once the planning application has been refused.

**Recommendation:** Refuse planning permission and grant listed building consent.

# Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

**Reg. No. 15/00948/DPP**

Ms Fiona Macaulay  
Rosebank Cottage  
Chapel Loan  
Roslin  
EH25 9PU

Midlothian Council, as Planning Authority, having considered the application by Ms Fiona Macaulay, Rosebank Cottage, Chapel Loan, Roslin, EH25 9PU, which was registered on 8 December 2015 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

**Demolition of derelict outbuilding and erection of replacement outbuilding at Rosebank North Cottage, Roslin, EH25 9PU**

in accordance with the application and the following plans:

<u>Drawing Description.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan		08.12.2015
Proposed elevations		08.12.2015
Proposed elevations		08.12.2015
Proposed elevations		08.12.2015
Proposed elevations		08.12.2015
Proposed elevations		08.12.2015
Proposed elevations		08.12.2015
Proposed elevations		08.12.2015
Proposed floor plan		08.12.2015
Roof Plan		08.12.2015

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

- The proposed development is located on land identified as countryside and within the Green Belt, as identified in the adopted Midlothian Local Plan, and as it does not have any connection with the acceptable types of developments in these areas, or any other appropriate justification, it is contrary to policies RP1 and RP2 of the adopted Midlothian Local Plan.*

Dated 8 / 2 / 2016



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

## **PLEASE NOTE**

*If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town & Country Planning (Scotland) Act 1997 within 3 months from the date of this notice. The notice of review should be addressed to The Development Manager, Development Management Section, Midlothian Council, Fairfield House, 8 Lothian Road, Dalkeith EH22 3ZN. A notice of review form is available from the same address and will also be made available online at [www.midlothian.gov.uk](http://www.midlothian.gov.uk)*

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

### **Prior to Commencement (Notice of Initiation of Development)**

*Prior to the development commencing the planning authority shall be notified in writing of the expected commencement of work date and once development on site has been completed the planning authority shall be notified of the completion of works date in writing. Failure to do so would be a breach of planning control under section 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended by the Planning etc (Scotland) Act 2006). A copy of the Notice of Initiation of Development is available on the Council's web site [www.midlothian.gov.uk](http://www.midlothian.gov.uk)*

## **IMPORTANT NOTE REGARDING PUBLIC ACCESS TO INFORMATION**

### **Making an application**

*Please note that when you submit a planning application, the information will appear on the Planning Register and the completed forms and any associated documentation will also be published on the Council's website.*

### **Making comment on an application**

*Please note that any information, consultation response, objection or supporting letters submitted in relation to a planning application, will be published on the Council's website.*

*The planning authority will redact personal information in accordance with its redaction policy and use its discretion to redact any comments or information it considers to be derogatory or offensive. However, it is important to note that the publishing of comments and views expressed in letters and reports submitted by applicants, consultees and representors on the Council's website, does not mean that the planning authority agrees or endorses these views, or confirms any statements of fact to be correct.*







