

# Notice of meeting and agenda



## Local Review Body

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

**Date:** Tuesday, 26 April 2016

**Time:** 14:00

**John Blair**  
Director, Resources

**Contact:**

Clerk Name: Mike Broadway

Clerk Telephone: 0131 271 3160

Clerk Email: [mike.broadway@midlothian.gov.uk](mailto:mike.broadway@midlothian.gov.uk)

**Further Information:**

This is a meeting which is open to members of the public.

**Audio Recording Notice:** Please note that this meeting will be recorded. The recording will be publicly available following the meeting, including publication via the internet. The Council will comply with its statutory obligations under the Data Protection Act 1998 and the Freedom of Information (Scotland) Act 2002.

---

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

---

## **2 Order of Business**

---

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

## **3 Declarations of Interest**

---

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

## **4 Minutes of Previous Meeting**

---

- |            |  |               |
|------------|--|---------------|
| <b>4.1</b> | Minutes of Meeting held on 8 March 2016 - For Approval | <b>3 - 10</b> |
|------------|--|---------------|

## **5 Public Reports**

---

Decision Notices -

- |            |  |                |
|------------|--|----------------|
| <b>5.1</b> | St Mary's Lodge, Rosewell 15/00767/DPP | <b>11 - 14</b> |
|------------|--|----------------|

- |            |                                      |                |
|------------|--------------------------------------|----------------|
| <b>5.2</b> | 42 Station Road, Roslin 15/00762/DPP | <b>15 - 18</b> |
|------------|--------------------------------------|----------------|

- |            |  |                |
|------------|--|----------------|
| <b>5.3</b> | 4 Newmills Road, Dalkeith 15/00740/DPP | <b>19 - 22</b> |
|------------|--|----------------|

Notice of Review Request Considered at a Previous Meeting – Report by Head of Communities and Economy:-

- |            |  |                |
|------------|--|----------------|
| <b>5.4</b> | Shewington, Rosewell 15/00158/DPP - Determination Report | <b>23 - 26</b> |
|------------|--|----------------|

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

- |            |  |                |
|------------|--|----------------|
| <b>5.5</b> | Land at 22 Tipperwell Way, Howgate 15/00794/DPP - Determination Report | <b>27 - 52</b> |
|------------|--|----------------|

- |            |  |                |
|------------|--|----------------|
| <b>5.6</b> | Land at Rosebank North Cottage, Roslin 15/00948/DPP - Determination Report | <b>53 - 90</b> |
|------------|--|----------------|

## **6 Private Reports**

---

No private reports to be discussed at this meeting

Plans and papers relating to the applications on this agenda can also be viewed online at [www.midlothian.gov.uk](http://www.midlothian.gov.uk)

# Minute of Meeting



## Local Review Body

| Date         | Time   | Venue  |
|--------------|--------|--|
| 8 March 2016 | 2.00pm | Council Chambers, Midlothian House, Buccleuch Street, Dalkeith |

### Present:

|                           |                       |
|---------------------------|-----------------------|
| Councillor Bryant (Chair) | Councillor Baxter     |
| Councillor Bennett        | Councillor Constable  |
| Councillor de Vink        | Councillor Montgomery |
| Councillor Rosie          |                       |

## 1 Apologies

---

Apologies received from Councillors Beattie, Imrie and Milligan.

## 2 Order of Business

---

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

## 3 Declarations of interest

---

No declarations of interest were received.

## 4 Minutes of Previous Meetings

---

The Minutes of Meeting of 19 January 2016 were submitted and approved as a correct record.

Arising from paragraph 4(a) of the foregoing Minutes, the LRB noted an update from the Planning Manager regarding the review request concerning the formation of a temporary test piling facility at Shewington, Rosewell, in particular that work on the further report was progressing and that it was hoped to be in a position to report back to the LRB at its next meeting.

## 5 Reports

---

| Agenda No | Report Title   | Presented by:  |
|-----------|--|----------------|
| 5.1       | Decision Notice – Land at Camp Wood, Dalkeith (15/00591/DPP) | Peter Arnsdorf |

### Executive Summary of Report

With reference to paragraph 4(b) of the Minutes of 19 January 2016, there was submitted a copy of the Local Review Body decision notice upholding a review request from Format Design, 146 Duddingston Road West, Edinburgh, seeking on behalf of their client Mr M Smith, a review of the decision of the Planning Authority to refuse planning permission (15/00591/DPP, refused on 7 September 2015) for the erection of dwellinghouse and outbuildings; formation of access roads, paths, car parking, two ponds, coarse fishery and associated works at land south of Camp Wood, Dalkeith and granting planning permission subject to conditions.

### Decision

To note the LRB decision notice.

---

| Agenda No | Report Title   | Presented by:  |
|-----------|--|----------------|
| 5.2       | Notice of Review Requests Considered for the First Time – (a) Land west of the junction of Lugton Brae and Old Dalkeith Road (the former Lugton Inn site), Dalkeith [15/00703/DPP] | Peter Arnsdorf |

#### Executive Summary of Report

There was submitted report, dated 1 March 2016, by the Head of Communities and Economy regarding an application from Rick Finc Associates Ltd, Melford House, 3 Walker Street, Edinburgh, seeking on behalf of their client Mr J O'Rourke, a review of the decision of the Planning Authority to refuse planning permission (15/00703/DPP, refused on 21 October 2015) for the erection of 5 dwellinghouses on land west of the junction of Lugton Brae and Old Dalkeith Road (the former Lugton Inn site), Dalkeith.

Accompanying the Notice of Review Form and supporting statement, which were appended to the report, was a copy of the report of handling thereon, together with a copy of the decision notice.

The Local Review Body had made an accompanied visit to the site on Monday 7 March 2016.

#### Summary of Discussion

In accordance with the procedures for the Local Review Body, the Planning Advisor gave a brief overview of the review hearing procedures and outlined the background to the case. He then introduced the applicant's agent, Mr Rick Finc, Rick Finc Associates Ltd, and Mr R Talbot, Mr W Lindsay and Mr T Healy all of whom had made representations in regards to the application, to the meeting.

Thereafter, oral representations were received firstly from the applicant's agent, then from Mr R Talbot, Mr W Lindsay and Mr T Healy and finally from the local authority Planning Officer; following which they responded to questions from members of the LRB.

Thereafter, the LRB gave careful consideration to the merits of the case based on all the information provided both in writing and in person at the Hearing. Whilst noting the reasons for refusal of the application, the LRB considered that the previous use of the site as a public house/motel and before that a chalet site were material considerations. The LRB also discussed the need to see this brownfield gateway site, which had been an eyesore for some considerable time, redeveloped.

#### Decision

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

*The proposed development by means of its size, form and design is compatible to its location and does not have a detrimental impact on neighbouring properties or other land users. The positive redevelopment of this site, which is currently in a state of dereliction and disuse, will enhance this key gateway location which is strategically located on an arterial route into/out of Dalkeith.*

subject to:-

- (a) a legal agreement to secure developer contributions towards education provision, the Borders Railway, town centre improvements and children's play provision; and
- (b) the following conditions:-
  - 1. Development shall not begin until the following details have been submitted to and approved in writing by the planning authority:
    - a) Scaled site plan showing existing and finished ground levels and floor levels for all buildings, open space and access roads in relation to a fixed datum;
    - b) A revised ground floor plan showing 2 car parking spaces (in addition to any space within garages) per dwellinghouse;
    - c) Details and samples of all external finishing materials on the dwellinghouses, areas of external hard surface and boundary walls;
    - d) A detailed landscape plan, including schedule of plants to comprise species, plant sizes and proposed numbers/density; and
    - e) Drawings of all walls, gates and fences to be erected on the site.

Development shall thereafter comply with the approved details unless otherwise approved in writing by the Planning Authority.

***Reason:*** *These details are required in order to ensure that the proposed development does not have an adverse impact on the appearance of the Conservation Area and to ensure that the development is provided with an acceptable level of car parking.*

- 2. No boundary wall shall encroach on to the public footpath to the south nor shall it encroach on to the public highway to the east.

***Reason:*** *In order to ensure that there is no adverse impact on vehicle and pedestrian safety.*

- 3. Any trees, shrubs or plants which are planted in terms of the approved landscape scheme which die, become diseased, are severely damaged or are removed within five years of being planted shall be replaced with a tree, hedge or plant of a similar size and species as may be agreed in writing by the planning authority.

***Reason:*** *To ensure the quality of the development is enhanced by landscaping to reflect its setting in accordance with policies RP22 and DP2 of the Midlothian Local Plan and national planning guidance and advice.*

**Action**

Head of Communities and Economy

| Agenda No | Report Title                                    | Presented by:  |
|-----------|---|----------------|
| 5.3       | (b) St Mary's Lodge, Rosewell<br>[15/00767/DPP] | Peter Arnsdorf |

**Executive Summary of Report**

There was submitted report, dated 1 March 2016, by the Head of Communities and Economy regarding an application from Dr L Collins, Capielaw Cottage, Rosewell, seeking a review of the decision of the Planning Authority to refuse planning permission (15/00767/DPP, refused on 12 November 2015) for the erection of an extension to dwellinghouse at St Mary's Lodge, Rosewell.

Accompanying the Notice of Review Form and supporting statement, which were appended to the report, was a copy of the report of handling thereon, together with a copy of the decision notice.

The Local Review Body had made an accompanied visit to the site on Monday 7 March 2016.

**Summary of Discussion**

In accordance with the procedures for the Local Review Body, the Planning Advisor gave a brief overview of the review hearing procedures and outlined the background to the case. He then introduced the applicant Dr L Collins, and Ms J Darling, who had made representations in regards to the application, to the meeting.

Thereafter, oral representations were received from the applicant, Ms Darling and the local authority Planning Officer; following which they responded to questions from members of the LRB.

Thereafter, the LRB gave careful consideration to the merits of the case based on all the information provided both in writing and in person at the Hearing. Whilst noting the concerns raised the LRB debated whether the proposed extension would be any less intrusive than what which was already there and concluded that the proposed development actually had the potential to provide a more uniform layout to the property.

**Decision**

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

*The proposed development by means of its size, form and design is compatible to the host dwellinghouse and does not have a detrimental impact on neighbouring properties or other land users.*

subject to the following conditions:-

1. The external materials and finishes of the extension shall match those on the existing extension;
2. The design, materials and treatment of the window and door surrounds on the extension shall match the corresponding details on the existing extension.
3. Unless otherwise approved in writing by the Planning Authority the dormer roof and cheeks shall be finished externally in natural slate to match that on the roof of the existing extension.
4. Details of the colour finish of the timber cladding proposed on the dormer fascias shall be submitted to the Planning Authority and no work shall start on the dormers until these details have been approved in writing by the Planning Authority.

***Reason for conditions 1 – 4: To safeguard the character of the existing building.***

#### Action

Head of Communities and Economy

| Agenda No | Report Title                                  | Presented by:  |
|-----------|---|----------------|
| 5.4       | (c) 42 Station Road, Roslin<br>[15/00762/DPP] | Peter Arnsdorf |

#### Executive Summary of Report

There was submitted report, dated 1 March 2016, by the Head of Communities and Economy regarding an application from Bergmark Architects, 3 Walker Street, Edinburgh, seeking on behalf of their client Mr A Cormack, a review of the decision of the Planning Authority to refuse planning permission (15/00762/DPP, refused on 30 October 2015) for the erection of an extension to dwellinghouse at 42 Station Road, Roslin.

Accompanying the Notice of Review Form and supporting statement, which were appended to the report, was a copy of the report of handling thereon, together with a copy of the decision notice.

The Local Review Body had made an unaccompanied visit to the site on Monday 7 March 2016.



### Summary of Discussion

Having heard from the Planning Adviser, the LRB then gave careful consideration to the merits of the case based on all the written information provided. In this particular instance, the LRB considered that the proposed extension had the potential to provide a more uniform layout to the rear of the property, which if anything would be less intrusive than what was already there.

### Decision

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

*The proposed development by means of its size, form and design is compatible to the host dwellinghouse and does not have a detrimental impact on neighbouring properties or other land users.*

subject to the following condition:-

1. Details of the colour finish of the timber cladding and the window and door frames proposed on the extension shall be submitted to the Planning Authority and these features shall not be installed until these details have been approved in writing by the Planning Authority.

**Reason:** *To safeguard the character of the building as extended and the visual amenity of the surrounding area.*

### Action

Head of Communities and Economy

| Agenda No | Report Title                                    | Presented by:  |
|-----------|---|----------------|
| 5.5       | (d) 4 Newmills Road, Dalkeith<br>[15/00740/DPP] | Peter Arnsdorf |

### Executive Summary of Report

There was submitted report, dated 1 March 2016, by the Head of Communities and Economy regarding an application from Hardies Property and Construction Consultants, London House, 20-22 East London Street, Edinburgh, seeking on behalf of their client Ms S Ballantyne, a review of the decision of the Planning Authority to refuse planning permission (15/00740/DPP, refused on 26 October 2015) for the change of use from office (class 4) to residential (class 9) at 4 Newmills Road, Dalkeith.

Accompanying the Notice of Review Form and supporting statement, which were appended to the report, was a copy of the report of handling thereon, together with a copy of the decision notice.

The Local Review Body had made an unaccompanied visit to the site on Monday 7 March 2016.

#### Summary of Discussion

Having heard from the Planning Adviser, the LRB then gave careful consideration to the merits of the case based on all the written information provided. In this particular instance, the LRB acknowledged concerns regarding noise disturbance but were of the view that whilst this was always likely to be a potential issue given the town centre location, the second floor position and measures proposed by the applicant should help to mitigate matters. In addition, as there appeared to be very little demand for this type of office accommodation, it would bring the currently empty property back into use.

#### Decision

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

*The proposed development by means of its town centre location and position on the second floor means that any level of disturbance from neighbouring uses is at an acceptable level considering this location. Furthermore, as the site is currently vacant it is considered beneficial to bring this part of the building back into use.*

#### Action

Head of Communities and Economy

The meeting terminated at 2.56pm.

## Local Review Body: Review of Planning Application Reg. No. 15/00767/PPP

Dr Lyndhurst Collins  
Capielaw Cottage  
Near Rosewell  
EH24 9EE

Midlothian Council, as Planning Authority, having considered the review of the application by Dr Lyndhurst Collins, Capielaw Cottage, Near Rosewell, EH24 9EE, which was registered on 28 January 2016 in pursuance of their powers under the above Act, hereby **grant** permission to carry out the following proposed development:

**Erection of extension to dwellinghouse at 42 St Marys Cottage, Rosewell, in accordance with the application and the following plans:**

| <u>Drawing Description.</u> | <u>Drawing No/Scale</u> | <u>Dated</u> |
|-----------------------------|-------------------------|--------------|
| Location Plan               | 1:2500                  | 01.10.2015   |
| Site Plan                   | DRWG 2 1:250            | 01.10.2015   |
| Existing elevations         | DRWG 3A 1:50            | 01.10.2015   |
| Existing elevations         | DRWG 4 1:50             | 01.10.2015   |
| Existing elevations         | DRWG 5 1:50             | 01.10.2015   |
| Existing floor plan         | DRWG 6 1:50             | 01.10.2015   |
| Existing floor plan         | DRWG 7A 1:100           | 01.10.2015   |
| Proposed floor plan         | DRWG 8 1:50             | 01.10.2015   |
| Proposed floor plan         | DRWG 9 1:50             | 01.10.2015   |
| Proposed floor plan         | DRWG 10 1:50            | 01.10.2015   |
| Proposed cross section      | DRWG 11 1:50            | 01.10.2015   |
| Proposed cross section      | DRWG 12 1:50            | 01.10.2015   |
| Roof plan                   | DRWG 13 1:100           | 01.10.2015   |

Subject to the following condition:

1. The external materials and finishes of the extension shall match those on the existing extension.
2. The design, materials and treatment of the window and door surrounds on the extension shall match the corresponding details on the existing extension.

3. Unless otherwise approved in writing by the Planning Authority the dormer roof and cheeks shall be finished externally in natural slate to match that on the roof of the existing extension.
4. Details of the colour finish of the timber cladding proposed on the dormer fascias shall be submitted to the Planning Authority and no work shall start on the dormers until these details have been approved in writing by the Planning Authority.

***Reason for conditions 1 – 4: To safeguard the character of the existing building.***

The Local Review Body (LRB) considered the review of the planning application at its meeting of 8 March 2016. The LRB carried out an accompanied site visit on the 7 March 2016.

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

Development Plan Policies:

1. RP1 Midlothian Local Plan – Protection of the countryside
2. RP6 Midlothian Local plan – Areas of Great Landscape Value
3. RP12 Midlothian Local Plan – Regionally & locally important nature conservation sites
4. DP6 Midlothian Local Plan – House extensions

Material Considerations:

1. The individual circumstances of the site.

In determining the review the LRB concluded:

The proposed development by means of its size, form and design is compatible to the host dwellinghouse and does not have a detrimental impact on neighbouring properties or other land users.

Dated: 08/03/2016

Councillor J Bryant  
Chair of the Local Review Body  
Midlothian Council

## NOTICE TO ACCOMPANY REFUSAL ETC.

### TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

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

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

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.

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

*Advisory note:*

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



## Local Review Body: Review of Planning Application Reg. No. 15/00762/PPP

Rick Finc Associates  
Melford House  
3 Walker Street  
Edinburgh  
EH3 7JY

Midlothian Council, as Planning Authority, having considered the review of the application by Mr Alistair Cormack, 42 Station Road, Roslin, EH25 9LR, which was registered on 29 January 2016 in pursuance of their powers under the above Act, hereby **grant** permission to carry out the following proposed development:

**Erection of two storey extension to dwellinghouse at 42 Station Road, Roslin,**  
in accordance with the application and the following plans:

| <u>Drawing Description.</u> | <u>Drawing No/Scale</u> | <u>Dated</u> |
|-----------------------------|-------------------------|--------------|
| Location Plan               | 595/OS/01 1:1250        | 22.09.2015   |
| Existing floor plan         | 595/SU/01 1:50          | 22.09.2015   |
| Existing elevations         | 595/SU/02 1:50          | 22.09.2015   |
| Proposed floor plan         | 595/PL/01 1:50          | 22.09.2015   |
| Proposed elevations         | 595/PL/02 1:50          | 22.09.2015   |

Subject to the following condition:

1. Details of the colour finish of the timber cladding and the window and door frames proposed on the extension shall be submitted to the Planning Authority and these features shall not be installed until these details have been approved in writing by the Planning Authority.

***Reason:*** To safeguard the character of the building as extended and the visual amenity of the surrounding area.

The Local Review Body (LRB) considered the review of the planning application at its meeting of 8 March 2016. The LRB carried out an unaccompanied site visit on the 7 March 2016.

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

Development Plan Policies:

1. RP20 Midlothian Local Plan – Built-Up area
2. DP6 Midlothian Local Plan – House Extensions

Material Considerations:

1. The individual circumstances of the site.

In determining the review the LRB concluded:

The proposed development by means of its size, form and design is compatible to the host dwellinghouse and does not have a detrimental impact on neighbouring properties or other land users.

Dated: 08/03/2016

Councillor J Bryant  
Chair of the Local Review Body  
Midlothian Council



## NOTICE TO ACCOMPANY REFUSAL ETC.

### TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

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

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

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

*Advisory note:*

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



## Local Review Body: Review of Planning Application Reg. No. 15/00740/PPP

Rick Finc Associates  
Melford House  
3 Walker Street  
Edinburgh  
EH3 7JY

Midlothian Council, as Planning Authority, having considered the review of the application by Ms Sandra Ballantyne, London House, 20-22 East London Street, Edinburgh, EH7 4BQ, which was registered on 26 January 2016 in pursuance of their powers under the above Act, hereby **grant** permission to carry out the following proposed development:

**Change of use from office (class 4) to residential (class 9) to form two flatted dwellings at 4 Newmills Road, Dalkeith, EH22 1DU**, in accordance with the application and the following plans:

| <u>Drawing Description.</u> | <u>Drawing No/Scale</u> | <u>Dated</u> |
|-----------------------------|-------------------------|--------------|
| Location Plan               | 01 1:1250 1:100         | 08.09.2015   |
| Existing floor plan         | 02 1:100                | 08.09.2015   |
| Existing floor plan         | 03 1:100                | 08.09.2015   |
| Proposed floor plan         | 04 1:100                | 08.09.2015   |
| Proposed floor plan         | 04 1:100                | 08.09.2015   |

The Local Review Body (LRB) considered the review of the planning application at its meeting of 8 March 2016. The LRB carried out an unaccompanied site visit on the 7 March 2016.

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

### Development Plan Policies:

1. RP20 Midlothian Local Plan – Built-Up area
2. RP24 Midlothian Local Plan – Listed Buildings
3. DP2 Midlothian Local Plan – Development Guidelines

Material Considerations:

1. The individual circumstances of the site.
2. The site is currently vacant

In determining the review the LRB concluded:

The proposed development by means of its town centre location and position on the second floor means that any level of disturbance from neighbouring uses is at an acceptable level considering this location. Furthermore, as the site is currently vacant it is considered beneficial to bring this part of the building back into use.

Dated: 08/03/2016

Councillor J Bryant  
Chair of the Local Review Body  
Midlothian Council

## NOTICE TO ACCOMPANY REFUSAL ETC.

### TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

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

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

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.

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

*Advisory note:*

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



## **Notice of Review: Shewington, Rosewell**

### **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 an update for the Local Review Body (LRB) regarding an application for planning permission for the formation of a temporary test piling facility, associated car parking, access road and buildings at Shewington, Rosewell.

#### **2 Background**

- 2.1 Planning application 15/00158/DPP for the formation of a temporary test piling facility, associated car parking, access road and buildings at Shewington, Rosewell was refused planning permission on 30 June 2015 for the following reasons:
1. The application does not relate to the furtherance of an existing acceptable countryside use; the proposal is therefore contrary to policy RP1 of the Midlothian Local Plan.
  2. The use of the site as a piling test facility is not supported by any policies in the Midlothian Local Plan; the proposal is therefore contrary to the aims of the Midlothian Local Plan.
  3. The noise associated with the piling activities will have a significant detrimental impact on the amenity of the occupants and users of Rosslynlee Fishery and Reservoir Cottage.
  4. The vibration associated with the piling activities will have a significant detrimental impact on the amenity of the occupants and users of Rosslynlee Fishery and Reservoir Cottage.
- 2.2 A Notice of Review has been submitted by the applicants and at its meeting of 19 January 2016 the LRB were minded to uphold the review and grant planning permission subject to conditions and a bond/bank guarantee to secure a financial arrangement to protect local homes and businesses from any potential damage from the test piling operations and flooding (if the nearby dam was damaged). The LRB determined to consider the conditions and the details of the bond/bank guarantee prior to a decision being issued.
- #### **3 Conditions**
- 3.1 The following conditions have been prepared for the consideration of the LRB

1. Planning permission is granted for a period of 2 years from the date of this permission.

***Reason:*** *To reflect the temporary nature of the development.*

2. Development shall not begin until an Environmental Management Plan detailing mitigation measures for noise, lighting and vibration at properties within 500m of the boundary of the application site; and a timetable for implementation and operation of the measures, has been submitted to and approved in writing by the Planning Authority. The scheme shall be implemented as approved unless otherwise agreed in writing with the Planning Authority.

***Reason:*** *To safeguard the amenity of local residents.*

3. Development shall not begin until a scheme of structural monitoring of the dam, reservoir, fishing lodge and residential property at Rosslynlee Trout Fishery and of Reservoir Cottage has been submitted to and approved in writing by the Planning Authority, following consultation with the supervising engineer of the reservoir (as defined by the Reservoirs (Scotland) Act 2011) to the extent that the scheme relates to the dam and reservoir. The scheme shall contain details of the proposals to monitor the structural integrity of the dam, reservoir and properties and include:
  - i. A survey of the structural condition of the dam, reservoir and properties prior to development commencing at the application site;
  - ii. A scheme of vibration monitoring during the period of test piling activities; and
  - iii. A scheme of surveys to be undertaken once test piling activities have ceased.

Unless otherwise approved in writing by the Planning Authority the structural monitoring scheme shall be implemented as approved.

***Reason:*** *In the interests on flood risk management and monitoring the structural integrity of nearby residential properties.*

4. Prior to test piling activities commencing the scheme of drainage detailed in Environmental Appraisal Appendix 7: Groundwater, Surface Water, Private Water Supplies and Soil Assessment as amended by the Response to Objection from SEPA dated 10 June 2015 shall be implemented, unless otherwise agreed in writing by the Planning Authority in consultation with SEPA; and shall remain in operation for the duration of the relevant activities.

***Reason:*** *To protect water quality.*



5. Development shall not begin until a restoration plan has been submitted to and approved in writing by the Planning Authority. The restoration plan shall include:
- i. Details of the removal of all areas of hardstanding within the application site;
  - ii. Details of the removal of temporary above ground level structures placed on the application site as part of the development;
  - iii. A scheme for monitoring the waste implications of the remainder test piling;
  - iv. A scaled site plan showing existing pre-development ground levels and proposed post-restoration ground levels;
  - v. Details and specifications of seeding within the application site; and
  - vi. The location and details of all new fences and walls to be erected, or hedges to be planted, within or around the boundaries of the site.

Unless otherwise approved in writing by the Planning Authority the approved restoration plan shall be implemented within 6 months of the cessation of the use and shall be completed within 6 months of implementation. Thereafter any planting or seeding removed, dying, becoming seriously diseased or damaged within five years of planting or seeding shall be replaced in the following planting season by planting or seeding of a similar species to those originally required.

***Reason:*** *To ensure that all parts of the site are properly restored to agriculture or other approved after-use.*

6. Pile installation works shall only take place between 08:00 and 18:00 Monday to Friday. Site set up and demobilisation/reinstatement works shall only take place between 08:00 and 18:00. Unless otherwise approved in writing by the Planning Authority in advance no works (other than pile testing) shall take place out with these hours.

***Reason:*** *To reduce the impact of the development on the amenity of residents living in the vicinity of the site.*

7. Unless otherwise approved in writing by the Planning Authority noise from plant and machinery, including generators and vehicle movements, shall be such that the combined noise level (except from pile driving activities) shall not exceed NR 30 daytime (07:00 to 23:00 hrs) and NR25 night-time (23:00 to 07:00 hrs) as measured from within any living apartment in any noise-sensitive premises. For the purposes of this condition the assessment position shall be as identified by BS 7445 in relation to internal noise measurements.

**Reason:** To ensure that noise emanating from the site is within acceptable levels.

- 3.2 The applicants have agreed these conditions, with the exception of condition 5 which seeks to restore the site. The applicants are of the opinion that the site should not be restored because of the condition of the site and its previous open cast use. The applicants advise that the site should be left in the condition that it is prior to works commencing.

#### **4 Financial Bond/Bank Guarantee**

- 4.1 The applicants have stated that they are "not in a position to offer financial security" prior to the issuing of consent and that the "internal governance" of the applicant is such that consent with conditions is required to initiate the work necessary to secure restoration funds. In addition the applicant "is not in a position to spend money until they are confident" of obtaining the necessary consent. In place of a bond/bank guarantee the applicant has suggested that a condition be attached to the consent to secure restoration funds prior to development commencing.

#### **5 Recommendations**

- 5.1 At its meeting of 19 January 2016 the LRB were minded to uphold the review and grant planning permission subject to conditions and a bond/bank guarantee to secure a financial arrangement to protect local homes and businesses from any potential damage from the test piling operations and flooding. The LRB determined to consider the conditions and the details of the bond/bank guarantee prior to a decision being issued. However, as the applicants are unable to offer financial security prior to the issuing of consent the LRB needs to determine to follow one of the following courses of action, or an alternative course of action as may be stated by the LRB:

Options:

- a) uphold the review and grant planning permission subject to conditions, but not subject to a bond/bank guarantee; or
- b) dismiss the review and refuse planning permission for the reasons outlined in the planning officers decision on the basis that the applicant has not secured a bond/bank guarantee to mitigate the potential impact of the proposed development; or
- c) defer the review and reinforce the LRB's original decision only to grant planning permission if a bond/bank guarantee to mitigate the potential impact of the proposed development is secured and that the review will be held in abeyance until such time a bond/bank guarantee has been agreed.

**Date:** 19 April 2016

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

**Tel No:** 0131 271 3310

**Background Papers:** Planning application 15/00158/DPP available for inspection online.

**Notice of Review: Land at 22 Tipperwell Way, Howgate,  
Penicuik****Determination Report**

Report by Ian Johnson, Head of Communities and Economy

**1 Purpose of Report**

- 1.1 The purpose of this report is to provide a framework for the Local Review Body (LRB) to consider a 'Notice of Review' for the change of use from agricultural land to private garden ground (retrospective) at land north of 22 Tipperwell Way, Howgate, Penicuik.

**2 Background**

- 2.1 Planning application 15/00794/DPP for the change of use from agricultural land to private garden ground (retrospective) at land north of 22 Tipperwell Way, Howgate, Penicuik was refused planning permission on 26 November 2015; 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); and
  - A copy of the decision notice, issued on 26 November 2015 (Appendix D).
- 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 no consultations were required and no representations have been received.
- 4.3 The next stage in the process is for the LRB to determine the review in accordance with the agreed procedure:
- Identify any provisions of the development plan which are relevant to the decision;
  - Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies;
  - Consider whether or not the proposal accords with the development plan;
  - Identify and consider relevant material considerations for and against the proposal;
  - Assess whether these considerations warrant a departure from the development plan; and
  - State the reason/s for the decision and state any conditions required if planning permission is granted.
- 4.4 In reaching a decision on the case the planning advisor can advise on appropriate phraseology and on appropriate planning reasons for reaching a decision.
- 4.5 Following the determination of the review the planning advisor will prepare a decision notice for issuing through the Chair of the LRB. A copy of the decision notice will be reported to the next LRB for noting.
- 4.6 A copy of the LRB decision will be placed on the planning authority's planning register and made available for inspection online.

## **5 Conditions**

- 5.1 As a consequence of the works on the proposed development already having taken place, it is considered that no conditions would be required if the LRB is minded to grant planning permission.
- 5.2 If the LRB dismisses the review, those works which have already taken place without planning permission will have to be removed. However the failure to carry out the required works will result in the Council having to consider issuing an enforcement notice to resolve the breach of planning control.

## **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

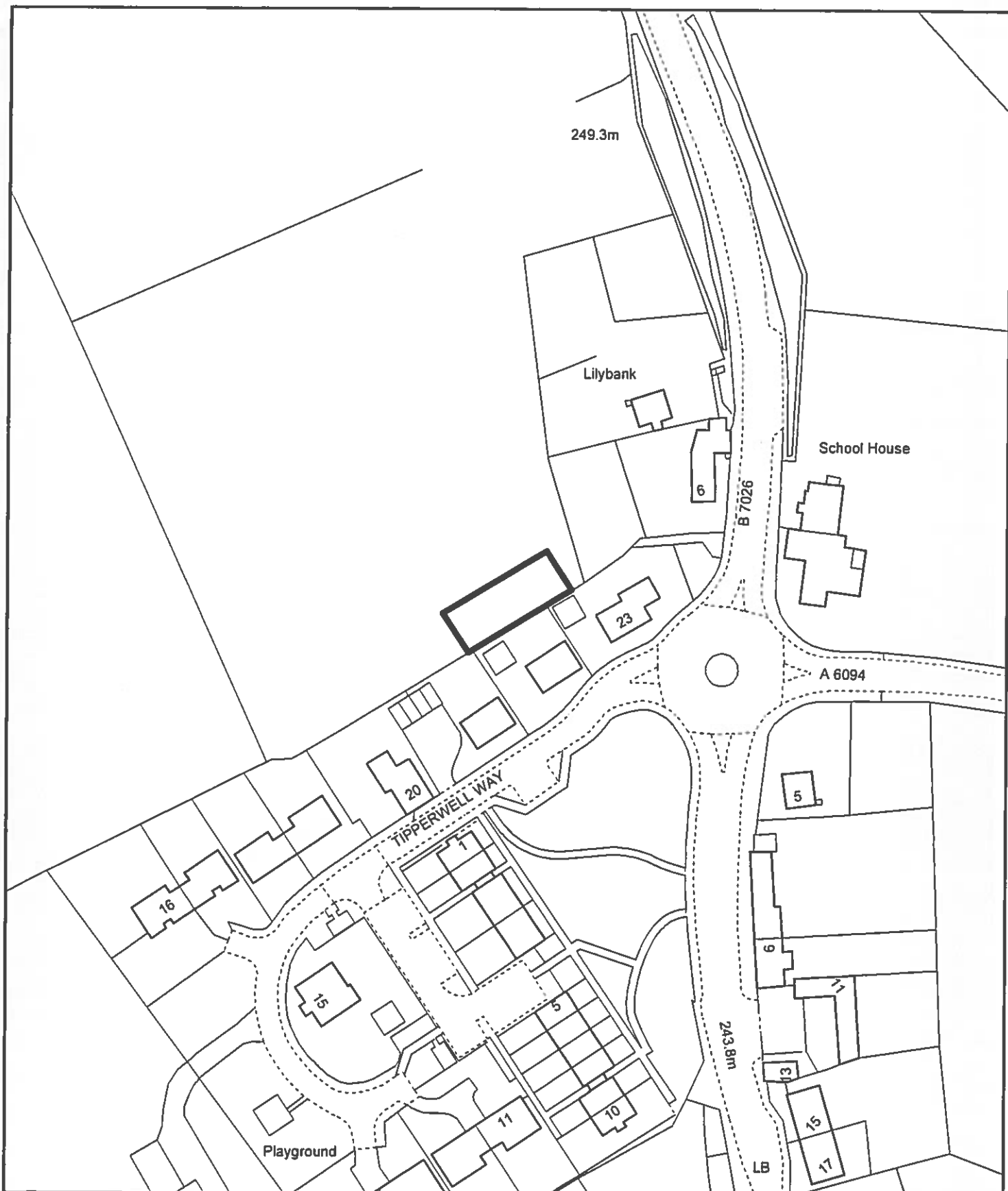
**Date:** 19 April 2016

**Report Contact:** Peter Arnsdorf, Planning Manager  
[peter.arnsdorf@midlothian.gov.uk](mailto:peter.arnsdorf@midlothian.gov.uk)

**Tel No:** 0131 271 3310

**Background Papers:** Planning application 15/00794/DPP available for inspection online.





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

**Change of use from agricultural land to private garden  
ground (retrospective) at 22 Tipperwell Way, Penicuik**

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. 15/00794/DPP**

**Scale: 1:1,250**









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 the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100004205-001

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

## Applicant or Agent Details

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

☒ Applicant ☐ Agent

## Applicant Details

Please enter Applicant details

Title:

Mrs

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

Other Title:

Building Name:

22 Tipperwell Way

First Name: \*

Hilary

Building Number:

22

Last Name: \*

Larkins

Address 1  
(Street): \*

22 Tipperwell Way

Company/Organisation

Address 2:

Howgate

Telephone Number: \*

Town/City: \*

Midlothian

Extension Number:

Country: \*

Scotland

Mobile Number:

Postcode: \*

EH26 8QP

Fax Number:

Email Address: \*

## Site Address Details

Planning Authority:

Midlothian Council

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

Address 1:

22 TIPPERWELL WAY

Address 2:

HOWGATE

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

PENICUIK

Post Code:

EH26 8QP

Please identify/describe the location of the site or sites

Northing

658175

Easting

324767

## Description of Proposal

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

(Max 500 characters)

Reg No: 15/00794/DPP Change of use from agricultural land to private garden ground at the land north of 22 Tipperwell Way.

## Type of Application

What type of application did you submit to the planning authority? \*

- ☒ Application for planning permission (including householder application but excluding application to work minerals).
- ☐ Application for planning permission in principle.
- ☐ Further application.
- ☐ Application for approval of matters specified in conditions.

What does your review relate to? \*

- ☒ Refusal Notice.
- ☐ Grant of permission with Conditions imposed.
- ☐ No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

## Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section. \* (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

Please refer to supporting documents "20160225 LARKINS\_Planning Appeal\_loss\_amenity" and "20160225 LARKINS\_PlanningAppeal\_settlement", in which we describe our grounds for seeking a review of both stated reasons for the Council's decision in relation to the original application.

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? \*

☐ Yes ☒ No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review. \* (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process. \* (Max 500 characters)

We have attached the following supporting documents: 20160225 LARKINS\_PlanningAppeal\_loss\_amenity 20160225 LARKINS\_PlanningAppeal\_settlement

## Application Details

Please provide details of the application and decision.

What is the application reference number? \*

15/00794/DPP

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

02/10/2015

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

26/11/2015

## Review Procedure

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

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. \*

☒ Yes ☐ No

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

Can the site be clearly seen from a road or public land? \*

☐ Yes ☒ No

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

☒ Yes ☐ No

If there are reasons why you think the local Review Body would be unable to undertake an unaccompanied site inspection, please explain here. (Max 500 characters)

## Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant? \*

☒ Yes ☐ No

Have you provided the date and reference number of the application which is the subject of this review? \*

☒ Yes ☐ No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? \*

☐ Yes ☐ No ☒ N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? \*

☒ Yes ☐ No

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

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review \*

☒ Yes ☐ No

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

## Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mrs Hilary Larkins

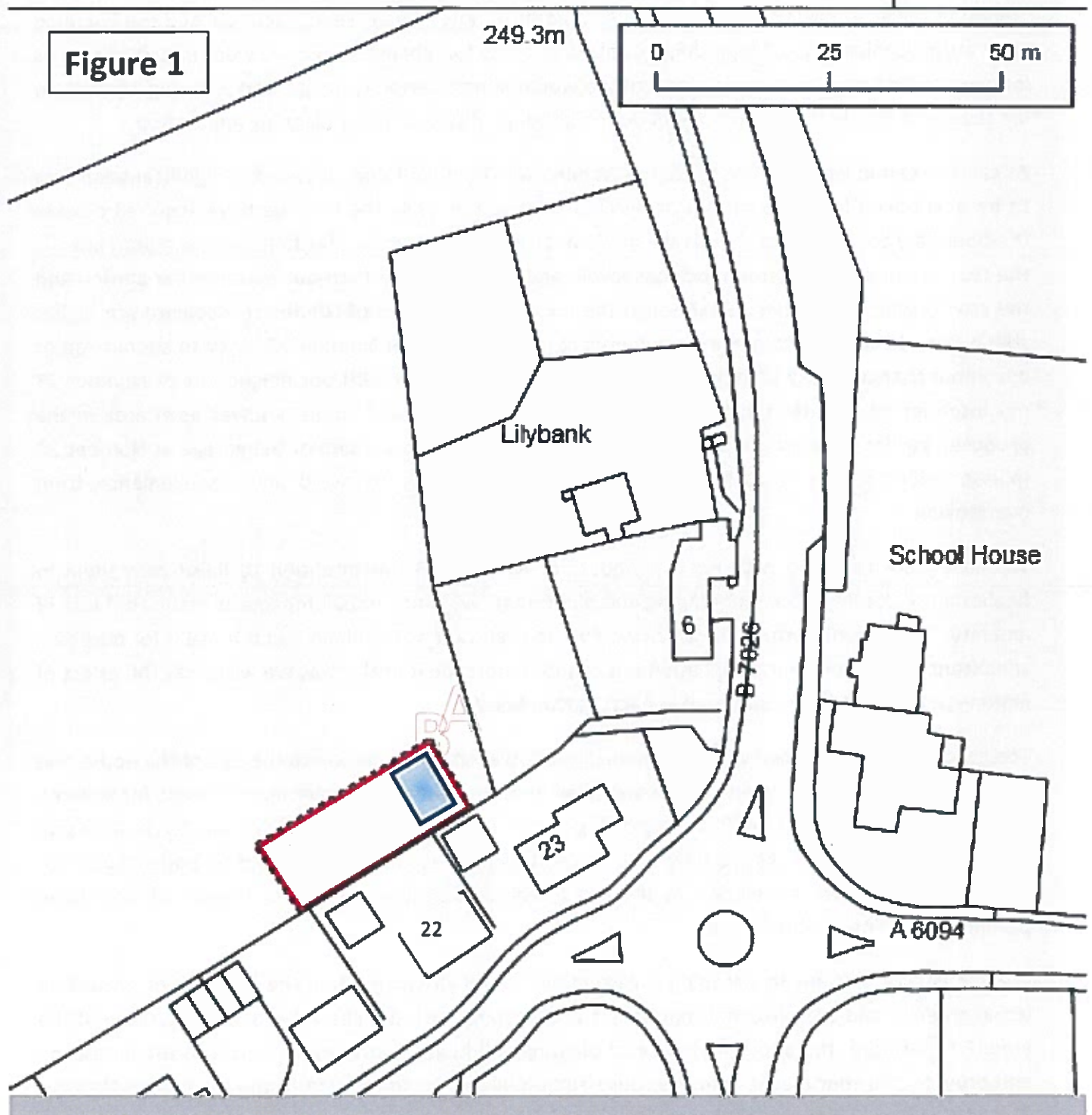
Declaration Date: 25/02/2016

## Ground to the rear of 22 Tipperwell Way, Howgate EH26 8QP

PDR71585  
June 2015

1:1,250

Figure 1





## Appeal in relation to Reason 2 for Council decision

With regard to Reason 2 for the Council's decision to refuse our original planning application (the significant increase in overlooking of the neighbouring house at 23 Tipperwell Way), we have spoken with our neighbours at Number 23 in relation to our plans to use the newly acquired land at the rear of our property as garden and we have had similar discussions with our neighbours at Number 21 Tipperwell Way and Number 6 Howgate. As a point of note, when we first approached the Planning Dept at Midlothian Council regarding our plans to apply for change of use we were informed that as long as we did not receive any objections we would almost certainly be granted planning permission for change of use. In the event none of our neighbours objected to our planning application.

As can be seen in Figure 1, the garden of Number 23 Tipperwell Way already has significant capacity to be overlooked from the garden of Number 6 Howgate, while the land we have acquired crosses the boundary to the end of the garage at Number 23. We recognise that the newly acquired area at the rear of our existing garden includes levels significantly higher than our existing rear garden and the rear garden of Number 23 (although the levels in the garden of Number 6 Howgate are higher still) but we have plans to minimise any impact on the garden of Number 23. Prior to submission of our initial change of use planning application we had discussed with our neighbours at Number 23 our intention to dig into the bank (reinforcing appropriately) and create a lower level area in the proposed garden area extending from our existing boundary to the end of the garage at Number 23 (please refer to area shaded in blue in Figure 1) in order to avoid any inconvenience from overlooking.

We have also discussed with our neighbours at Number 23 our intention to liaise with them in finalising the details of the landscaping and planting to avoid any visual impacts or associated loss of amenity. The current position, in which we own the relevant area of land and can use it for purposes consistent with its present designation but cannot landscape it in the way we wish, has the effect of limiting our ability to prevent visual impacts at Number 23.

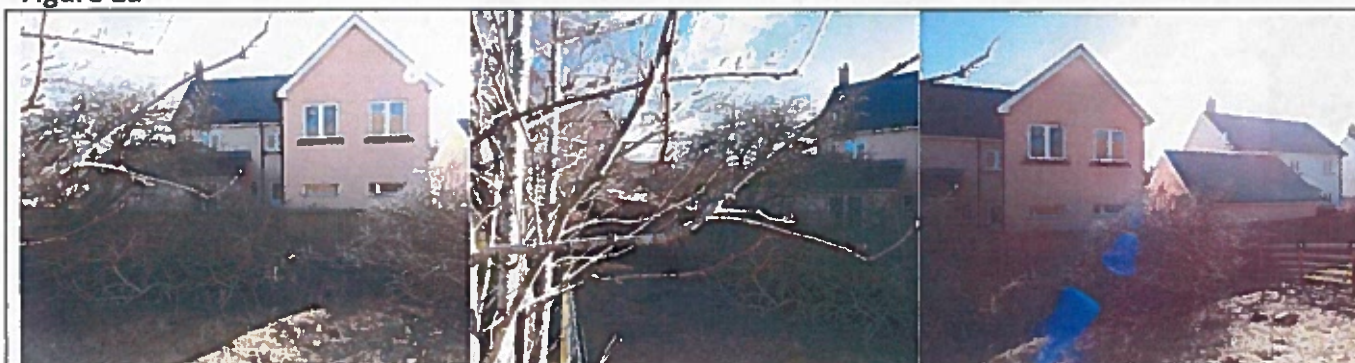
The garden ground supplied with the original house was small in relation to the size of the house and we feel that it is not safe to let our children play on the streets – there are no play areas for children in Howgate beyond the age of 3. With growing children we wish to extend our garden to create a safe outdoor space for them. As we only wish to use this area as garden we would be happy to accept clauses or restrictions in relation to the use of the land and limitations in respect of associated permitted development rights etc.

We will ensure that any landscaping is carried out to a high standard, in the interests of protecting visual amenity and ensuring that materials are in keeping with the character and appearance of the area. Furthermore, the appropriate use of planting will help to soften any impact in the landscape and provide a further mechanism to ensure additional privacy in relation to the gardens of Number 21 and Number 23 Tipperwell Way and Number 6 Howgate.

With regard specifically to the aspect from the new garden area towards the garden of Number 23 Tipperwell Way, please refer to Figures 1a & 1b below, which are views to 23 Tipperwell Way from points A and B as illustrated in Figure 1. Figure 1a indicates views from near to the garden of Number 6 Howgate towards the rear garden of Number 23 while Figure 1b illustrates views from the proposed new garden area at Number 22 toward the rear garden of Number 23. The aspects are approximately 20 feet apart and indicate that overlooking from Number 22 will be if anything less significant than that from Number 6 Howgate. The implementation of landscaping, screening and planting will be completed in a manner consistent with preventing overlooking of the garden of Number 23 from the new garden area of Number 22.

We have purchased this land to provide a much needed extension to our existing garden and have consulted with all of our potentially affected neighbours to communicate our desire to create an attractive garden area and mitigate any associated impacts. We hope that we have conveyed our intent and that change of use permission can be granted. The current position limits our use of the land but also as described limits our ability to prevent visual impacts at Number 23. We would like to reiterate that we would be happy to have a change of use permission with clauses / restrictions imposed as required, as we would like to use the ground solely for garden purposes.

**Figure 1a**



View from near the garden of Number 6 Howgate looking towards Number 23 Tipperwell Way

**Figure 1b**



View from corner of new garden area at Number 22 looking to Number 23 Tipperwell Way (current, not landscaped)



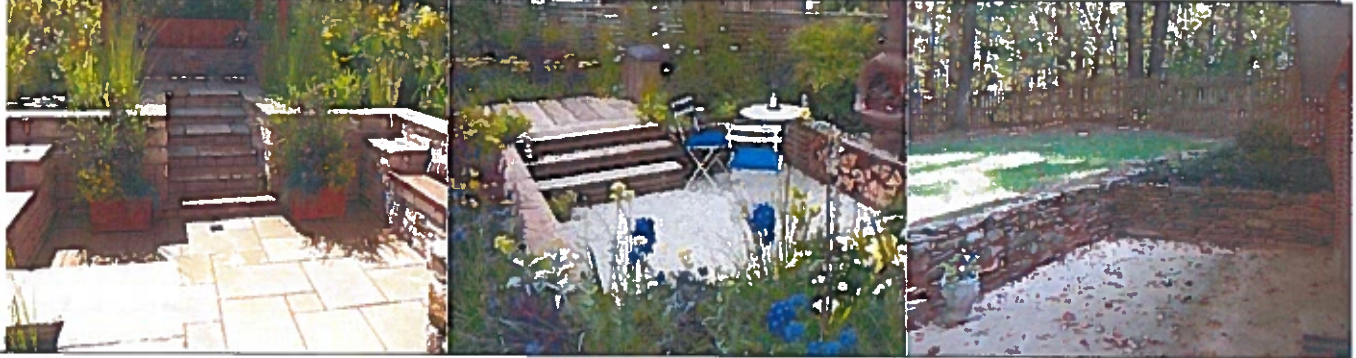
Figure 2



Concepts for the terracing and retaining walls with materials in keeping with the existing walls within Tipperwell Way.



Concepts for sunken vegetable garden and materials we would like to use at the rear of 23.



Concepts for the sunken vegetable garden to minimise overlooking to number 23



### Appeal in relation to Reason 1 for Council decision

With regard to Reason 1 for the Council's decision to refuse our original planning application (disruption of the existing settlement boundary and damage to visual integrity of the settlement), we would contend that (1) any disruption to the settlement boundary is only marginally visible from within the settlement and from the main routes through the village, (2) there are several precedents in Howgate for changes to the settlement boundary that have had the potential to damage the visual integrity of the settlement and (3) there are also several precedents in Howgate for changes and developments that are not well integrated into the rural landscape. In effect the character of the village has evolved significantly in recent years and it is not easy for us to understand why our application should have been rejected when a substantial amount of development and change of use permission has been allowed which has had a much larger impact on the character of the village.

We address each of these points in turn in the following sections.

1. Changes to settlement boundary are barely visible from within Howgate or from the main routes through the village.

The rear gardens and lower hill to the rear of numbers 21 to 23 Tipperwell Way are essentially screened from the village green and routes through the village by the close presentation of the houses and garages. Figure A illustrates views towards the area of ground from the village green and the roundabout on the A6094/B7026 and shows that the upper area of the plot is only just visible. We would suggest that the visual impact of the proposed change of use is minimal and it would therefore not significantly impact the visual integrity of the settlement.

**Figure A: Views from the village looking towards 22 Tipperwell Way, showing limited visual impact of the garden extension.**



View of 22 from Village Green



View between 22 and 23 Tipperwell Way from roundabout (plot just visible)

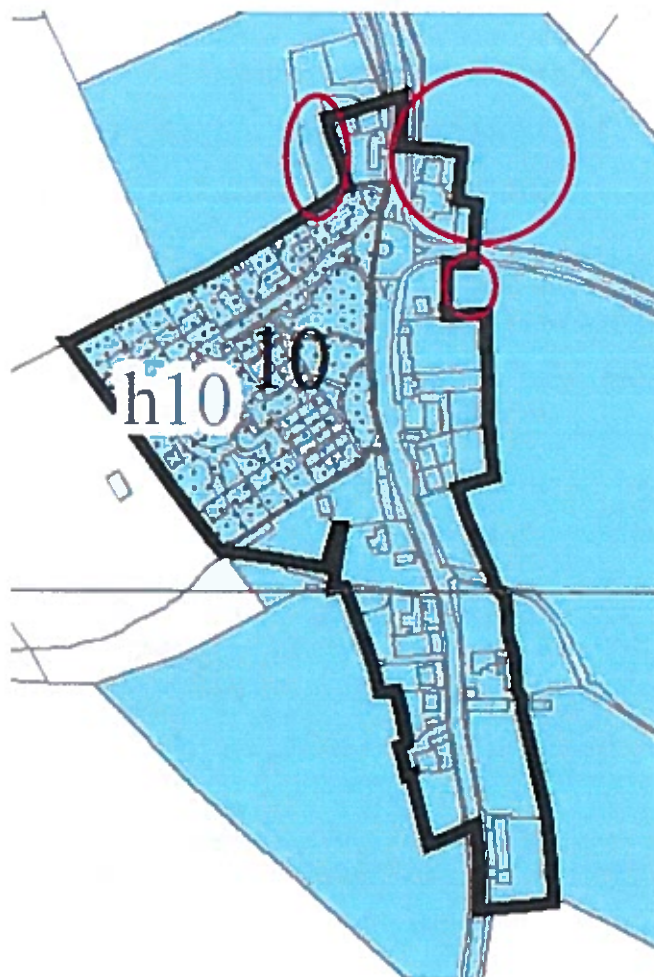
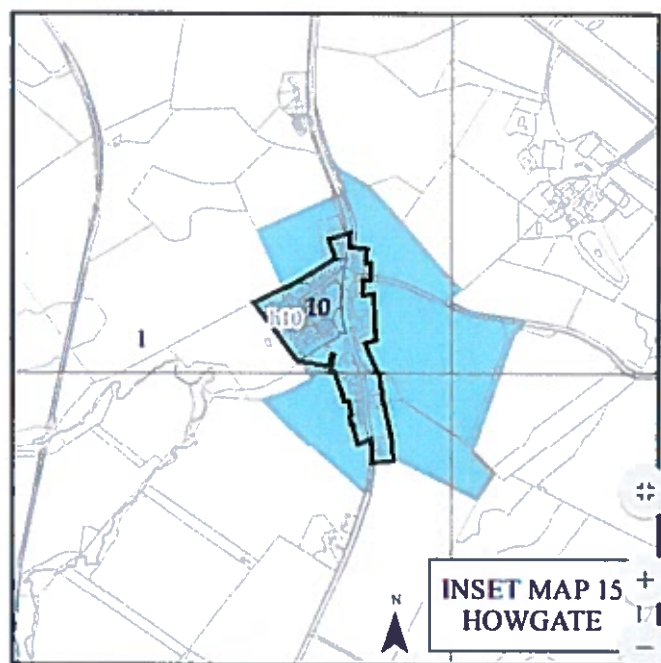


View of 22 from West of the Village Green

- 2) Precedents exist in Howgate for changes to the settlement boundary that could be viewed as having damaged the visual integrity of the settlement.

Figures B and C illustrate previous changes to the settlement boundary that have occurred in the northern part of Howgate and which have involved the purchase of agricultural land for the purpose of extending gardens. These include the School House, Number 6 Howgate, Lilybank and the cottage opposite the School House which all have gardens that exceed the settlement boundary as indicated in the Midlothian Local Plan. The extensions of garden ground at the School House and the cottage opposite the School House have occurred on land that is significantly more visible than the land at Number 22 Tipperwell Way. We would suggest that the proposed changes at Number 22 Tipperwell Way are, from a visual perspective, relatively insignificant in the context of boundary changes that have occurred elsewhere in Howgate, and that the boundary of Tipperwell Way is in any case modern and of relatively little historical significance.

**Figure B - Settlement Boundary Map of Howgate taken from the Midlothian Local Plan.**





**Figure C – Present boundaries within the northern part of Howgate**



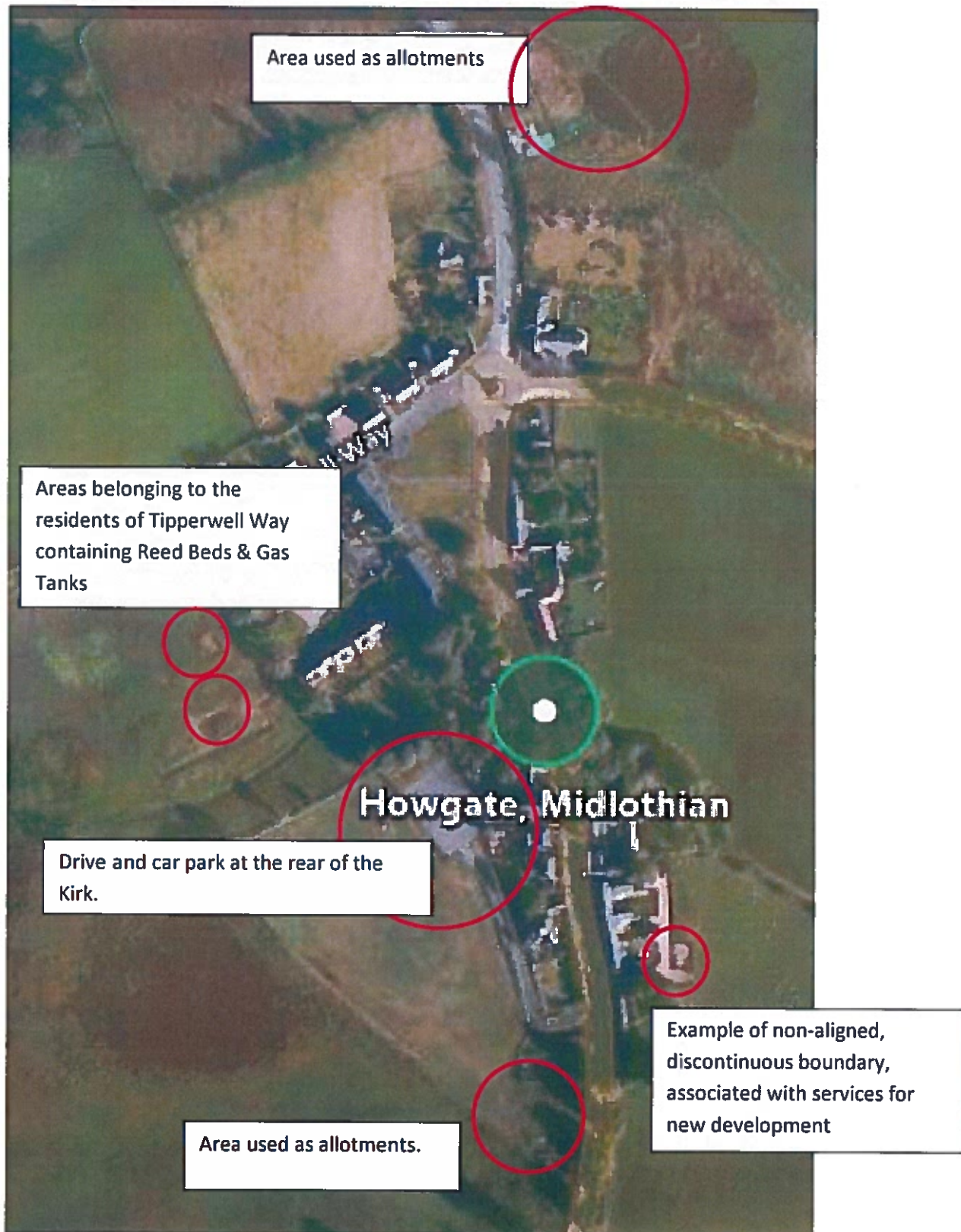
3) There are several precedents in Howgate for changes and developments that can be viewed as not being well integrated into the rural landscape

We would suggest that while the village of Howgate retains its essential character as described within the Howgate Conservation Area Appraisal, there have been numerous developments in the area in recent years which could be viewed as not being well integrated into the rural landscape, and that within the context of these changes the change of use we propose is relatively insignificant. Figures D, E and F presents further examples of such developments, to illustrate that Howgate is to an extent characterised by patterns of varied land use and discontinuous



boundaries, and that as such any minor inhomogeneity associated with the change of use at 22 Tipperwell Way is relatively insignificant.

**Figure D – Summary of developments**





**Figure E - The Manse House before and after access road, car park and allotments**



**Figure F – Intrusions into rural landscape associated with services for Tipperwell Way**





## **MIDLOTHIAN COUNCIL**

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

**Case Officer:** Graeme King    **Site Visit Date:** 16/10/2015

**Planning Application Reference:** 15/00794/DPP

**Site Address:** Land North of 22 Tipperwell Way, Penicuik

**Site Description:** Tipperwell Way is a modern development of 23 houses on the Western edge of Howgate village. The application subjects are an area of farm land to the North of a 2 storey detached dwellinghouse. The farmland is currently used for grazing. The garden of the house is relatively level, the application site slopes steeply upwards from the line of the original boundary fence. The application site is enclosed on 2 sides by timber ranch style fencing and by a stock fence to the rear. The site is within Howgate Conservation Area.

**Proposed Development:** Change of use from agricultural land to private garden ground (retrospective)

**Proposed Development Details:** The application site is 29.3m wide and 12m deep. The change of use application is retrospective; the original rear boundary fence of the garden has been removed and replacement fences erected along the remaining 3 boundaries. The existing garden is 20.5m wide; the application site overlaps the garden of no.23 by 6.9m and the garden of no.21 by 1.3m.

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

13/00476/DPP - Extension to dwellinghouse and erection of canopy at 22 Tipperwell Way, Penicuik. Consent with conditions

09/00631/DPP - Erection of 2 storey extension to dwellinghouse at 23 Tipperwell Way, Howgate. Consent with conditions

08/00662/FUL – Change of use from agricultural land to private garden ground at Land to the rear of Howgate Primary School, Howgate, Penicuik. Consent with conditions

03/00444/FUL - Erection of 23 dwellinghouses, associated roads, car parking, landscaping and works, and alteration to A6094 to create new roundabout and access road at Land Opposite The Former Howgate Inn, Howgate, Penicuik. Consent with conditions

01/00345/FUL – Change of use of agricultural land to private garden at Land To The Rear Of 15 And 17 Howgate, Penicuik. Consent with conditions

0611/98 – Change of use from agricultural land to garden (retrospective) at Criffel Cottage, Howgate, Penicuik. Permitted



**Consultations:** None

**Representations:** None

**Relevant Planning Policies:** Policy **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.

Policy **DP2: Development Guidelines** sets out Development Guidelines for residential developments. The policy indicates the standards that should be applied when considering applications for dwellings and seeks to ensure that occupants of new houses are provided with adequate levels of amenity.

**Planning Issues:** 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.

The application site is identified in the Midlothian Local Plan as being countryside; the boundary of the built-up area is identified as following the original rear garden line of the houses at Tipperwell Way. When the site at Tipperwell Way was allocated as a housing site in the 2003 Midlothian Local Plan, the site boundary was chosen to reflect existing field boundaries and existing hedgerows and trees were retained along the boundaries. There are 2 trees within the application site that would formerly have marked the field boundary.

When allocating housing sites Midlothian Council seeks, wherever possible, to follow and enhance existing boundary features; this approach has worked well at Tipperwell Way where the new development has the appearance of a logical extension to an existing small settlement. The realigned boundary at the application site has disrupted the established boundary line and the visual integrity of the settlement. Policy RP1 will only support development which is well integrated into the rural landscape; the re-aligned boundary is not well integrated and is clearly contrary to policy RP1.

It is acknowledged that there have been previous consents granted in Howgate for the change of use of agricultural land to private garden ground; however those applications either sought to match garden boundaries to existing neighbouring boundaries or, in the case of the former school, were accompanied by significant landscaping works. The previous consents have resulted in boundaries that are well integrated into the rural landscape and which do not appear as intrusions beyond the logical boundaries of the settlement.

As noted above the land in the application site is steeply sloping; the Northern edge of the site is between 2.5 and 3 metres above the level of the gardens at nos. 21, 22 and 23. This level change allied to the fact that the site boundary overlaps with the garden plots of the neighbouring houses results in a significant increase in



overlooking of the neighbouring house and garden at 23 Tipperwell Way. While it is acknowledged that there has been no objection received from the current occupants of no.23 the amenity of future occupants must also be considered. The layout and level changes are such that there is a significant loss of amenity to no.23; such a layout with obvious potential for overlooking is unacceptable and would not be approved as part of a modern housing development.

**Recommendation:** Refuse Planning Permission

**Reasons for Refusal:**

1. The proposed use will disrupt the established settlement boundary and damage the visual integrity of the settlement. The use is not well integrated into the rural landscape and is therefore contrary to policy RP1 of the Midlothian Local Plan.
2. Due to the site levels and the plot layout, use of the land as garden ground will result in a significant increase in overlooking of the neighbouring house at 23 Tipperwell Way. The increase in overlooking will be a material loss of amenity for the adjoining property and will undermine the effective implementation of of policy DP2 of the Midlothian Local Plan.



# Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997



**Reg. No. 15/00794/DPP**

Mrs Hilary Larkins  
22 Tipperwell Way  
Howgate  
Midlothian  
EH26 8QP

Midlothian Council, as Planning Authority, having considered the application by Mrs Hilary Larkins, 22 Tipperwell Way, Howgate, Midlothian, EH26 8QP, which was registered on 2 October 2015 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

**Change of use from agricultural land to private garden ground (retrospective) at Land North Of 22 Tipperwell Way, Penicuik,**

in accordance with the application and the following plans:

| <u>Drawing Description.</u> | <u>Drawing No/Scale</u> | <u>Dated</u> |
|-----------------------------|-------------------------|--------------|
| Location Plan               | PDR71585 1:1250         | 02.10.2015   |
| Illustration/Photograph     |                         | 02.10.2015   |

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

1. *The proposed use will disrupt the established settlement boundary and damage the visual integrity of the settlement. The use is not well integrated into the rural landscape and is therefore contrary to policy RP1 of the Midlothian Local Plan.*
2. *Due to the site levels and the plot layout, use of the land as garden ground will result in a significant increase in overlooking of the neighbouring house at 23 Tipperwell Way. The increase in overlooking will be a material loss of amenity for the adjoining property and will undermine the effective implementation of policy DP2 of the Midlothian Local Plan.*

Dated 26 / 11 / 2015

.....  
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.

## **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. 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**

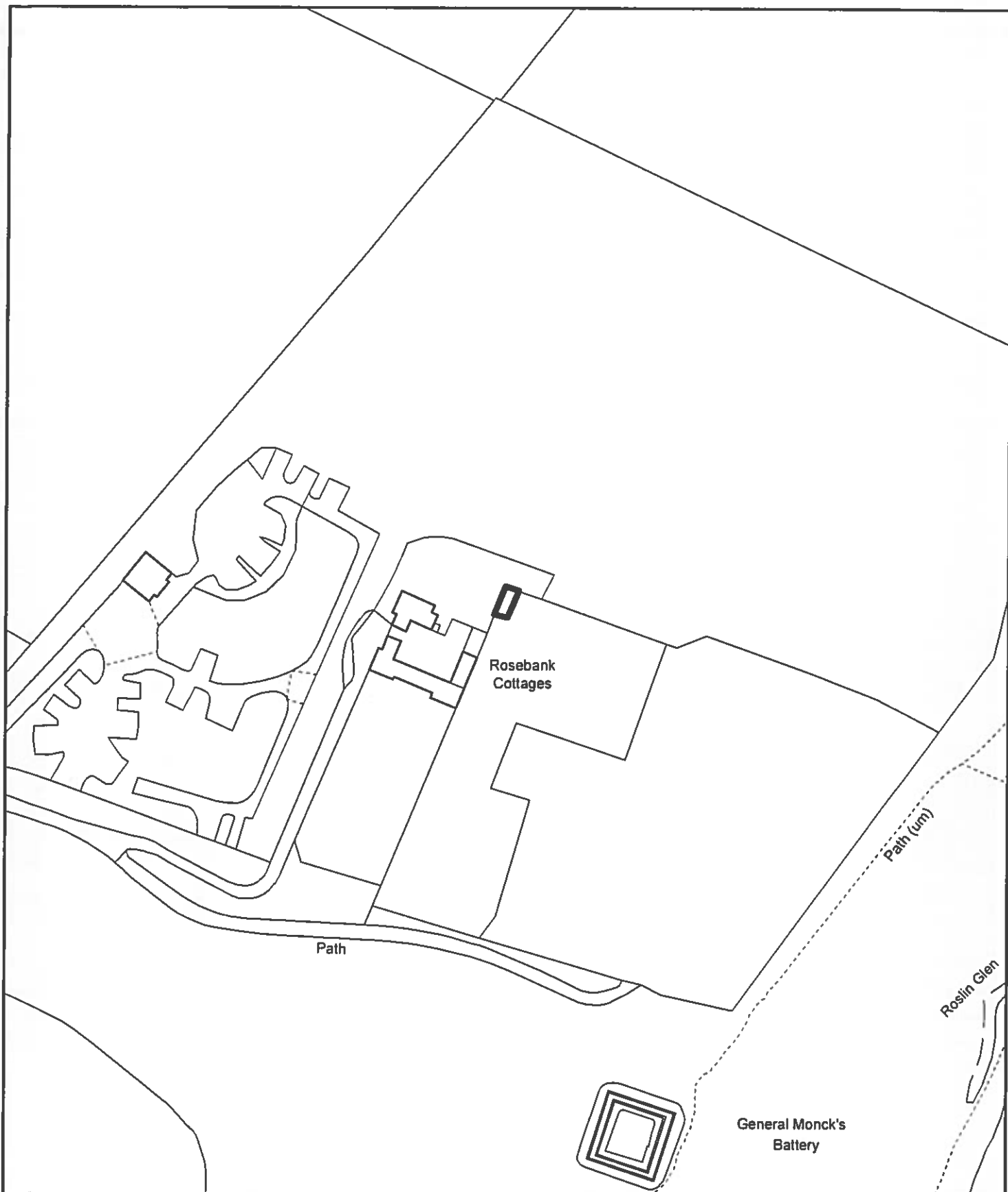
**Report Contact: Peter Arnsdorf, Planning Manager  
peter.arnsdorf@midlothian.gov.uk**

**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 COTTAGE   | Building No./Name   |  |
| Address Line 1                                    | CHAPEL LOAN        | Address Line 1  |  |
| Address Line 2                                    |                    | Address Line 2  |  |
| Town/City   | ROSLIN, MIDLOTHIAN | Town/City   |  |
| Postcode  | EH25 9PU           | Postcode  |  |
| Telephone   |                    | Telephone   |  |
| Mobile  |                    | Mobile  |  |
| Fax   |                    | Fax   |  |
| Email   |                    | Email   |  |
| <b>3. Application Details</b>                     |                    |   |  |
| Planning authority                                |                    | MIDLOTHIAN  |  |
| Planning authority's application reference number |                    | 000126704 / 15/00948  |  |
| Site address                                      |                    |   |  |
| SAME AS ABOVE.                                    |                    | <div> CORPORATE RESOURCES<br/> FILE: 15/00948/000<br/> RECEIVED 22 MAR 2016<br/> MAC </div> |  |
| Description of proposed development               |                    |   |  |
| 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 Designs and Patents Act 1988. Unless the Act provides relevant exception to copyright, the copy must not be copied without the prior permission of the copyright owner.

REF US ED 0902-2016 15106948/DF

40m  
100m

General Morock'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

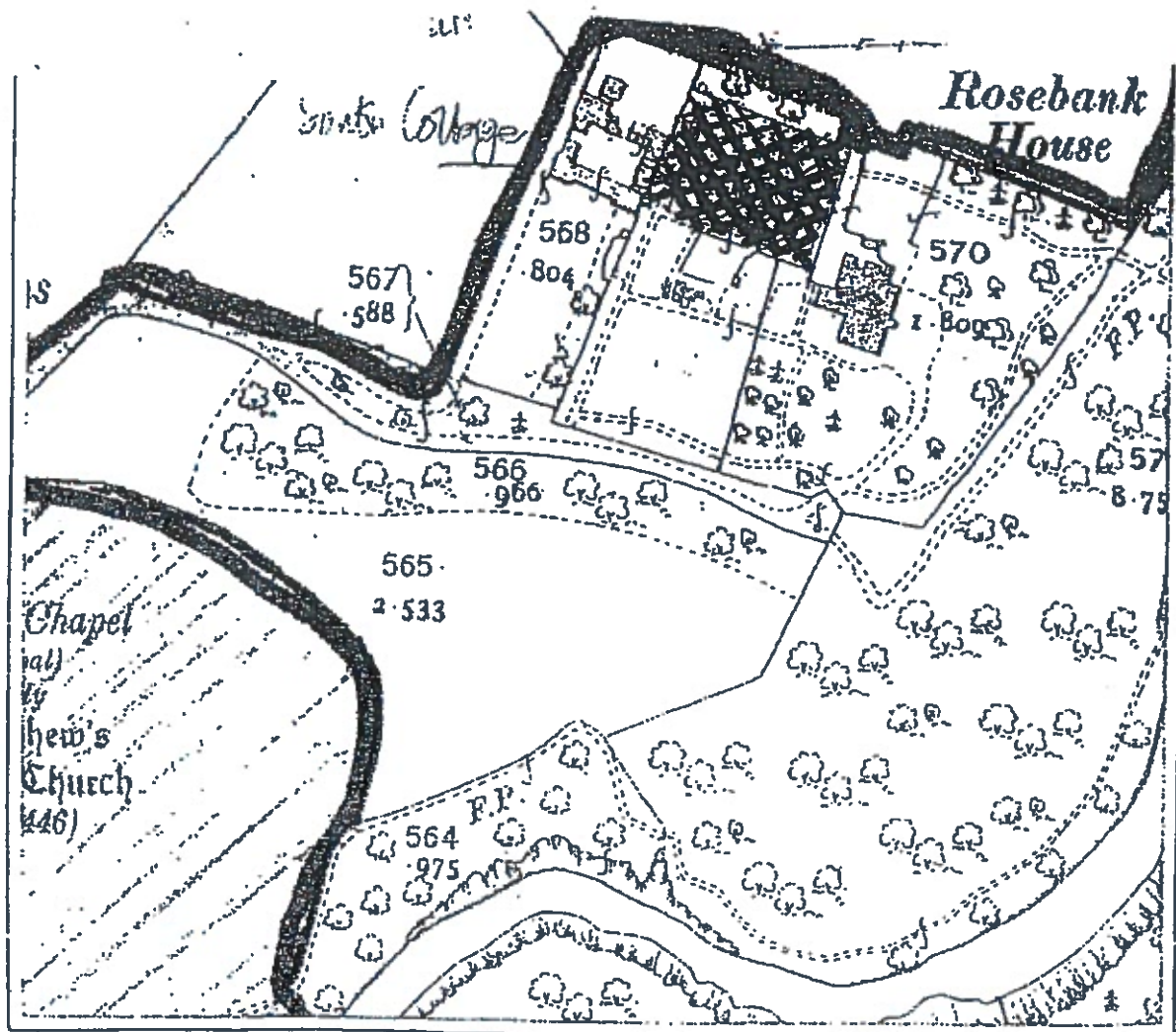


shrubs shall be planted in the garden without the consent of the Licensor. This Licence confers no security of tenure or other statutory protection on the Licensees.

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:

1. *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.*







