

Notice of Meeting and Agenda



Local Review Body

Venue: Virtual Meeting,

Date: Monday, 27 June 2022

Time: 14:00

Executive Director : Place

Contact:

Clerk Name: Democratic Services
Clerk Telephone:
Clerk Email: democratic.services@midlothian.gov.uk

Further Information:

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

Privacy notice: Please note that this meeting may be recorded. The recording may be publicly available following the meeting. If you would like to know how Midlothian Council collects, uses and shares your personal information, please visit our website: www.midlothian.gov.uk

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 Declaration 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 Minute of Previous Meeting

No Minutes for Approval at this Meeting.

5 Public Reports

Notices of Review - Determination Reports by Chief Officer:
Place.

5.1 Land at Whitehill Farm, Whitehill Village, Dalkeith 3 - 42
(21/00239/PPP).

5.2 Land 25m South West Deaflawhill Cottage, Carrington Road, 43 - 98
Dalkeith (21/00352/DPP).

5.3 Land West of 6 Ramsay Cottages, Bonnyrigg (also known as land 99 - 146
at Cockpen Farm, Newtongrange) (21/00806/DPP).

5.4 Land at North Lodge (also known as Harvieston Lodge), 147 - 208
Powdermill Brae, Gorebridge (21/01008/DPP).

6 Private Reports

No private reports to be discussed at this meeting.

7 Date of Next Meeting

The next meeting will be held on Tuesday 13 September 2022 at 1.00pm.

Plans and papers relating to the applications on this agenda can also be viewed at <https://planning-applications.midlothian.gov.uk/OnlinePlanning>

Notice of Review: Land at Whitehill Farm, Whitehill Village, Dalkeith

Determination Report

Report by Chief Officer Place

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 planning permission in principle for the erection of a dwellinghouse; the erection of agricultural building and associated works at land at Whitehill Farm, Whitehill Village, Dalkeith.

2 Background

- 2.1 Planning application 21/00239/PPP for planning permission in principle for the erection of a dwellinghouse; the erection of agricultural building and associated works at land at Whitehill Farm, Whitehill Village, Dalkeith was refused planning permission on 22 November 2021; 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, excluding the standard advisory notes, issued on 22 November 2021 (Appendix D); and
 - A copy of the key plans/drawings (Appendix E).
- 3.2 The full planning application case file and the development plan policies referred to in the case officer's report can be viewed online via www.midlothian.gov.uk

4 Procedures

- 4.1 In accordance with agreed procedures:

- Have determined to consider a visual presentation of the site and undertaking a site visit (elected members not attending the site visit can still participate in the determination of the review); and
 - Have determined to progress the review by way of a hearing.
- 4.2 The case officer's report identified that there were six consultation responses and 17 representations received. As part of the review process the interested parties were notified of the review. One additional representation has been received in support of the application. All comments can be viewed online on the electronic planning application case file.
- 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 back to the 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 13 June 2017, and without prejudice to the determination of the review, the following conditions have been prepared for the consideration of the LRB if it is minded to uphold the review and grant planning permission.
1. Development shall not begin until an application for approval of Matters Specified in Conditions for a scheme to deal with any contamination of the site and/or previous mineral workings has been submitted to and approved by the planning authority. The scheme shall contain details of the proposals to deal with any contamination and/or previous mineral workings and include:
 - i. the nature, extent and types of contamination and/or previous mineral workings on the site;

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

Before any part of the site is occupied for the use proposed, the measures to decontaminate the site shall be fully implemented as approved by the planning authority.

- 2. On completion of the decontamination/ remediation works referred to in condition 1, and prior to any building on the site being occupied or brought onto use, a validation report or reports shall be submitted to the planning authority confirming that the works have been carried out in accordance with the approved scheme. No part of the development shall be occupied unless or until the planning authority have approved the required validation.

Reason for conditions 1 and 2: To ensure that any contamination on the site is adequately identified and that appropriate decontamination measures are undertaken to mitigate the identified risk to site users and construction workers, built development on the site, landscaped areas, and the wider environment.

- 3. Development shall not begin until an application for approval of matters specified in conditions for a scheme of investigation and remediation to deal with previous mineral workings has been submitted to and approved in writing by the planning authority. The scheme shall include:
 - a) A scheme of intrusive site investigations to establish the risks posed to the development by past shallow coal mining activity;
 - b) A report of findings arising from the intrusive site investigations and the results of any gas monitoring; and
 - c) A scheme of remedial and/ or mitigation works to address land instability arising from coal mining legacy.

Before any work starts onsite on the buildings hereby approved the investigation schemes and remediation/mitigation works shall be fully implemented as approved by the planning authority and the Coal Authority and a verification report shall be submitted to and approved in writing by the planning authority and the buildings hereby approved shall not be occupied until this has been approved in writing by the planning authority. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

Reason: To ensure that any risks posed by the coal mining history of the area are identified and addressed prior to development commencing.

4. Development shall not begin until an application for the approval of matters specified in conditions for the following details has been submitted to and approved in writing by the planning authority:
- a) A detailed layout plan of the site, showing the siting of the proposed house, agricultural buildings, private garden ground, details of vehicular access, parking provision and manoeuvring within the site and details of all walls, fences or other means of enclosure, including bin stores or other ancillary structures;
 - b) Existing and finished ground levels and floor levels for all buildings, open space and access roads in relation to a fixed datum;
 - c) Detailed plans, sections and elevations of the proposed house, indicating the colour and type of materials to be used on the external walls, roof and windows;
 - d) Detailed plans, sections and elevations of the proposed agricultural buildings, indicating the colour and type of materials to be used on the external walls, roof and windows;
 - e) Details of all hard surfacing and kerbing;
 - f) Details of a sustainability/biodiversity scheme for the site, including the provision of house bricks and boxes for bats and swifts;
 - g) Details of the recognised path/route running through the site and how this would be integrated into the works hereby approved;
 - h) Details of the position of any Scottish Water infrastructure on site and the proximity to the development hereby approved;
 - i) Details of the works carried out in proximity to the high pressure pipeline running through the site, including means of construction;
 - j) Details of the provision of superfast broadband connections for the house;
 - k) Details of the provision of electric vehicle charging stations for the house;
 - l) Proposals for the treatment and disposal of foul and surface water drainage from the proposed houses. Unless otherwise approved in writing by the Planning Authority, the surface water drainage shall comply with the standards detailed in the SUDS Manual; and
 - m) Details of a scheme of landscaping and a plan showing the position, number, size and species of all trees and shrubs that are proposed to be planted; all trees on the site which are to be removed and retained; and details of the means of protection of all trees that are to be retained.

Thereafter, the development hereby approved shall accord with the details agreed in terms of this condition.

Reason: Permission is granted in principle only. No details were approved with the application and detailed consideration is required

for the siting, massing and design of the proposed dwellinghouse and agricultural buildings and site access arrangements; to ensure protected species are not adversely affected.

5. The scheme of landscaping approved in accordance with condition 4m) shall include details of planting along the site boundaries and around the farm steading hereby approved.

Reason: *To ensure adequate landscaping is provided at this rural site.*

6. The scheme of landscaping approved in accordance with condition 4m) shall include details of details of a phasing scheme for the implementation of the landscaping for approval.
7. The scheme of landscaping approved in accordance with condition 4m) shall be carried out and completed within one year of work commencing on site. Any trees removed, dying, severely damaged or becoming seriously diseased within five years of planting shall be replaced in the following planting season by trees of a size and species similar to those originally required.

Reason for conditions 6 and 7: *To ensure the landscaping is carried out and becomes successfully established*

8. Before the new house is occupied the installation of the means of drainage treatment and disposal approved in terms of condition 4l) above shall be completed to the satisfaction of the planning authority.

Reason: *To ensure that the house is provided with adequate drainage facilities prior to occupation.*

9. The access arrangements required in condition 4a) shall include that the private access road onto Whitehill Road be a minimum of 6.0 metres wide for the first 12 metres.
10. Any gates approved in condition 4a) at the site entrance shall be set back by a minimum of 6 metres.

Reason for conditions 9 and 10: *In the interests of road safety; to allow vehicles to enter the development while other vehicles are waiting to exit; to allow a vehicle to park off-road while waiting to enter the site.*

11. The access arrangements required in condition 4a) shall include that the first 12 metres of access road shall be surfaced in non-loose material.

Reason: *In the interests of road safety; to prevent materials spilling onto the public road and footpath.*

12. No development shall take place on site until the applicants or their successors have undertaken and reported upon a programme of archaeological (monitored soil strip and evaluation) work in

accordance with a written scheme of investigation to be submitted to and approved in writing by the Planning Authority.

Reason: *To ensure a proper archaeological evaluation of the site, which is within an area of potential archaeological interest, and that adequate measures are in place to record any archaeological finds.*

13. Unless otherwise approved in writing by the planning authority, subsequent to the submission to the planning authority of a Breeding Bird Management Plan, the works hereby approved shall not be carried out during the months of March to September inclusive.

Reason: *To protect the local biodiversity of the site; there is potential for the disturbance of breeding birds at the site during bird breeding season.*

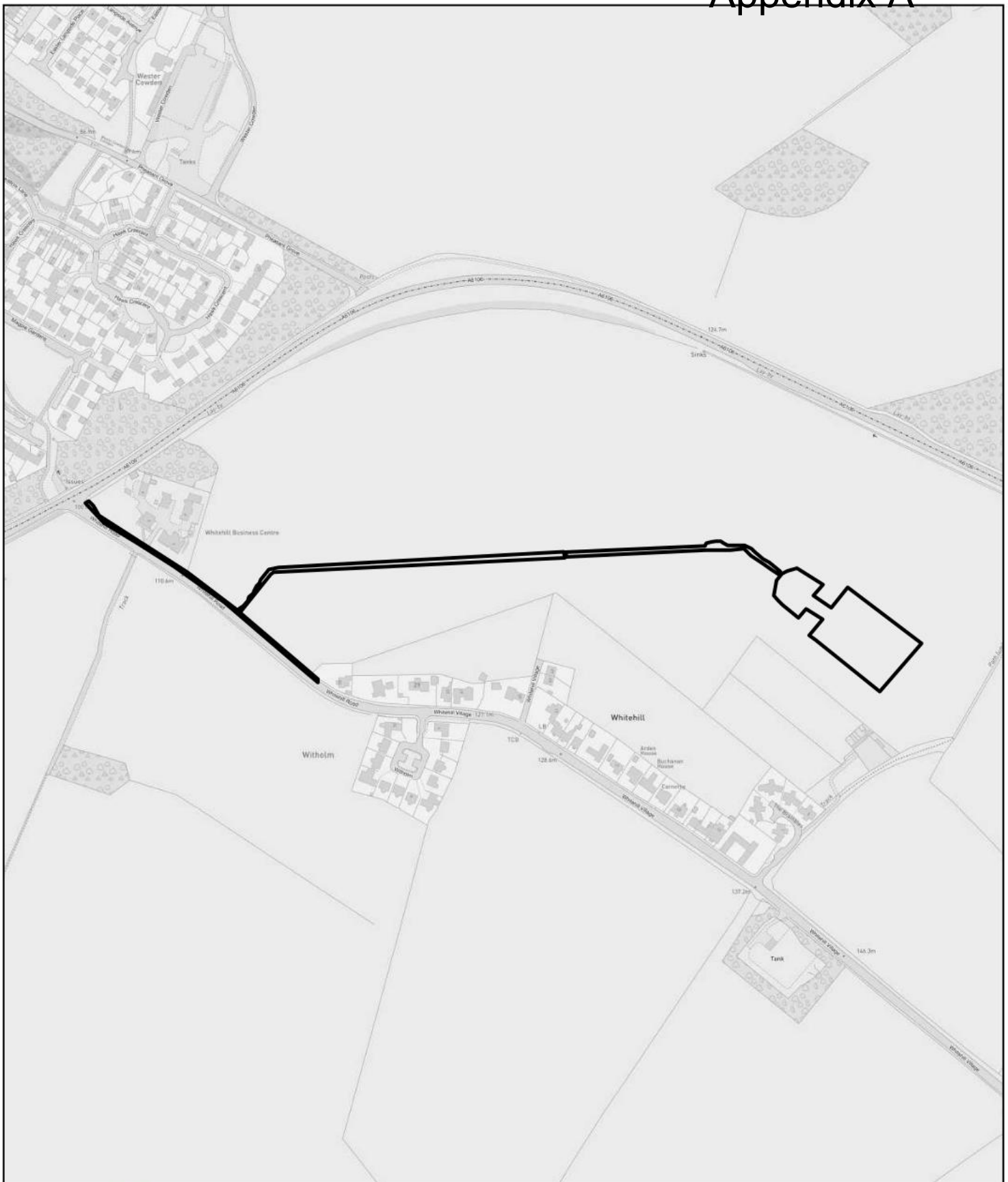
6 Recommendations

- 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

Peter Arnsdorf
Planning, Sustainable Growth and Investment Manager

Date: 17 June 2022
Report Contact: Mhairi-Anne Cowie, Planning Officer
Mhairi-Anne@midlothian.gov.uk

Background Papers: Planning application 21/00239/PPP available for inspection online.



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

Application for planning permission in principle for the erection of dwellinghouse, agricultural buildings, formation of access road and associated works at Land At Whitehill Farm, Whitehill Village, Dalkeith,

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File No: 21/00239/PPP

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NOTICE OF REVIEW

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

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

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

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

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

1. Applicant's Details		2. Agent's Details (if any)	
Title	<u>Mr.</u>	Ref No.	
Forename	<u>GEORGE</u>	Forename	<u>J. STUART</u>
Surname	<u>PIRIE</u>	Surname	<u>MACGAVIE</u>
Company Name		Company Name	<u>MACGAVIE & CO LTD</u>
Building No./Name	<u>45, GILCOMSTON PARK</u>	Building No./Name	<u>LITREHILL</u>
Address Line 1		Address Line 1	<u>KEIR</u>
Address Line 2		Address Line 2	
Town/City	<u>ABERDEEN</u>	Town/City	<u>DUNBLANE</u>
Postcode	<u>AB25 1PN</u>	Postcode	<u>FK15 9NU</u>
Telephone	<u>% AGENT</u>	Telephone	<u>07885 612815</u>
Mobile		Mobile	
Fax		Fax	
Email	<u>% AGENT</u>	Email	<u>smacgavieandco@outlook.com</u>
3. Application Details			
Planning authority	<u>MIDLOTHIAN COUNCIL</u>		
Planning authority's application reference number	<u>21/00239/PPP</u>		
Site address	<u>LAND AT WHITEHILL FARM, WHITEHILL VILLAGE, DALKEITH.</u>		
Description of proposed development	<u>APPLICATION FOR PLANNING PERMISSION IN PRINCIPLE FOR THE ERECTION OF A DWELLINGHOUSE, AGRICULTURAL BUILDINGS, FORMATION OF ACCESS ROAD AND ASSOCIATED WORKS.</u>		

Date of application

12 APRIL 2021

Date of decision (if any)

22 NOVEMBER 2021

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.

THIS PROPOSAL IS FOR THE FURTHERANCE OF AN AGRICULTURAL USE. IT IS FULLY SUPPORTED BY PROFESSIONAL AGRICULTURAL BODIES - WHICH HAVE BEEN DISCOUNTED BY THE DETERMINING PLANNING OFFICER - PLEASE SEE ATTACHED STATEMENT.

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?

NO ☐

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

YES ☐

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

CONSIDERING THE EXTENT OF THE LANDHOLDING (C55AURS) THE LOCAL REVIEW BODY MAY WISH TO ASK PERTINENT QUESTIONS ON THE PROPOSED SITING OF THE FARM STEADING AND PROPOSED USE OF THE LAND.

8. Statement

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

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

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

PLEASE SEE ATTACHED STATEMENT. SM.

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

DOCUMENTS :

- | | |
|--|--|
| 1. THE PLANNING APPLICATION (21/00239/APP) | 7. HISTORICAL PLANS OF WHITEHILL FARM |
| 2. THE DELEGATED WORKSHEET / SHORT REPORT. | |
| 3. THE DECISION NOTICE (22 NOV 2021) | 8. NOTICE OF REVIEW STATEMENT BY MACGARNIE & CO LTD (18 Feb 22). |
| 4. THE AGRICULTURAL LABOUR REPORT (Feb 21) | |
| 5. THE ACCRIS STATEMENT (MARCH 21) | |
| 6. THE PLANNING STATEMENT (MARCH 21) | |

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

10. Checklist

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

Full completion of all parts of this form



Statement of your reasons for requesting a review



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



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

DECLARATION

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

Signature:

Name:

J. STUART MAC GARNIE

Date:

18 February 2022

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

18th February 2022

FAO Mhairi-Anne Cowie

Planning Department

Midlothian Council

Fairfield House

8, Lothian Road

Dalkeith

EH22 3AA

Notice of Review – Local Review Body: Midlothian Council

Planning Ref: 21/00239/PP – Land at Whitehill Farm, Whitehill, Dalkeith

LRB - Planning Statement – Section 8 of the Notice of Review Form

To whom it may concern,

I refer to the above Planning Permission in Principle (PPP) application.

I am instructed by the applicant to submit a Notice of Review of the decision under The Town & Country Planning (Appeals) (Scotland) Regulations 2013 (Schemes of Delegation and Local Review Procedure).

The application was refused by delegated decision on the 22nd November 2021. This Notice of Review to the Local Review Board (LRB) has been timeously lodged. It is supported by a suite of documents as detailed in section 9 of the appropriate form.

The Notice of Review will address the Planning Officer's four reasons for refusal, whilst focussing upon:

- The history of Whitehill Farm and the farming proposal.
- The Permitted Development Rights of up to 1000sq m of agricultural buildings (Not 465sq m referred to by the Planning Officer).
- The sizeable area of agricultural land in the ownership of the applicant, circa 55 acres.

- A formal request to the LRB Panel to engage with an independent experienced Agricultural Advisor to assess the submitted Agricultural Report and confirm its validity or otherwise, which has not been addressed by the Planning Officer.
- The applicant's acceptance of an agricultural occupancy condition or similar.

This statement is to be considered in conjunction with the planning statement (Doc 6) submitted with the PPP application (Doc 1) along with the various documents upon which I rely (Docs 1-8).

Pre-amble:

Within the terms of the Town and Country Planning (Scotland) Act 1997 (as amended) all planning applications are required to be determined by planning authorities in accordance with the Local Development Plan (LDP), unless material considerations apply.

The LRB Panel will be aware that the primary objectives of the Midlothian LDP states that economic growth is the central objective of the LDP and that the LDP supports these objectives through a positive policy context. It seeks to deliver economic benefits by:

~ Providing land and supporting the redevelopment of existing sites/property to meet the diverse needs of business sectors;

~ Supporting measures and initiatives which increase economic activity;

~ Giving due weight to the net economic benefit of the proposed development;

There is a presumption in favour of development if an application complies with the LDP and it is my professional opinion that this proposal fully complies with the relevant policies of the Midlothian LDP and supplementary guidance.

In Planning Policy terms, the existing land use is agricultural. (There is no specific land use category detailed within the Town & Country Planning (Use Classes) (Scotland) Order 1997) The proposed use, subject to this appeal, is a diversification of an existing agricultural use, primarily a top-quality successful breeding programme for Aberdeen Angus Cattle, to include quality beef production. This is supported by the Agricultural Report where there can be no other interpretation than an agricultural activity on agricultural land. There is no dispute over this use and in this regard, there is a policy presumption in favour of development. This is further supported by the Scottish Government, whereby Permitted Development Rights establish both the principle of agricultural development on agricultural land and specifically allow for buildings up to 1000sqm to be erected without the express need for planning permission. The Planning Officer is incorrect in their Delegated Worksheet/Short Report (Doc 2 -page 11: para 3) when he refers to 465sqm.

The associated agricultural dwelling is an integral component of this development, which benefits from policy support in the Midlothian Local Development Plan, notably Policy RD1 and Supplementary Guidance for Housing Development in The Countryside and Greenbelt, when supported by a "qualified professional report." The application is supported by a qualified professional report in which the conclusion is clear, whereby " The labour requirement calculations in this report clearly justify the labour needs for this business." The Report also confirms there is a need for at least one agriculture worker to reside at the site (Doc 4 Page 12) and that the proposal is viable.

The application is supported by a number agricultural organisations including The National Farmers Union (Doc 4 appendix G).

The application is for PPP, however it is accompanied by indicative drawings showing the farm buildings and appropriate sized agricultural dwelling (Doc 4: Appx A-D). The final design of the agricultural dwelling would be subject to a full application procedure.

The Proposal:

To diversify the existing agricultural operation by erecting a farm steading, comprising cattle courts, feed storage buildings, equipment buildings, workshops, cattle holding areas and cattle sheds, associated agriculture worker's house and new access. This complies with National Guidance on agriculture in rural areas and this constitutes a significant investment.

Considerable expenditure has already been expended on new field drainage systems, totalling some £44,000, improving the land for grazing. This new field drainage has also solved an historical run-off/flooding problem adjacent to the northern corner of the land holding and the main road (A6106). This is a matter that has been problematic for the Council and is recorded as such (Doc 4: Appx H). This matter has now been resolved by the landowner/applicant.

History of Whitehill Farm:

It is important that the LRB Panel is made aware of the history of Whitehill Farm. The farm which extended to some 60 acres has been in existence in its present state for some one hundred and seventy years. The farm house and farmland was originally sold by the Duke of Buccleuch in 1955 to his Estate Manager. In turn the farm in its entirety, was sold to the Wright family in 1980 as a working farm, whereby intensive arable production took place. It is noted that this is when all the hedges were removed creating one large tract of arable land. The Wright's subsequently sold off the farmhouse and buildings. The applicant recently purchased the entire farm from the Wrights. The attached plans (DOC 7) detail the extent of the Whitehill farm holding and its field and hedge patterns over a period of 170 years. There is no dispute over this. Whitehill Farm has always operated as a viable agricultural unit and today comprises 55 acres.

Introduction:

As detailed in the Agricultural Report by Colin McPhail, a recognised experienced agricultural consultant, the applicant owns a sizeable tract of land extending to some 55 acres, known as Whitehill Farm. The land is agricultural, however does not now benefit from necessary farm buildings. This proposal is for a diversification of agricultural use, whereby a range of suitable buildings (c1224sqm) are to be erected, along with an appropriately sized agricultural dwelling, creating a farm steading of efficient and operational design. (The Local Review Body will note that agricultural buildings up to 1000m² are now subject to Permitted Development Rights when located on existing agricultural land.) The farm house is required for agricultural purposes, namely animal husbandry, on-site management and security. A new improved access is necessary and guidance from the Council's Road's Department is that the access should be taken from the Whitehill Village side (Doc 5). This is acceptable to the applicant and the Councils roads department. Whilst the applicant is content to accept an agricultural occupancy restriction any concerns relating to the agricultural worker's house being delivered without the agricultural buildings could be reasonably controlled solely with the timing of an occupancy condition. These proposed planning conditions are

considerable safeguards as to the intended development and agricultural operation of the development proposed.

Midlothian Council Planning Officer – Delegated Decision to Refuse:

The Decision Notice contains four reasons for refusal. I address each of these in my Reasoned Response in order, as set out in the Decision Notice (Doc 3).

1. "It has not been demonstrated to the satisfaction of the planning authority that the proposed house is required in the furtherance of an established countryside activity or business. For this reason, the proposed development is contrary to Policy RD1 of the Midlothian Local Development Plan 2017 and the related supplementary planning guidance.

Reasoned Response:

This reason for refusal is difficult to comprehend. The planning application is for the diversification of an existing established agricultural use on a substantial agricultural acreage within the ownership of the applicant/appellant. This fundamentally meets the requirement that the proposal is for the furtherance of an established countryside activity. The construction of agricultural buildings is Permitted Development up to some 1000sqm as noted elsewhere. This is reflected in the Planning Officer's Delegated Worksheet (Doc 2– Page 9: para 3) where the planning officer states:

" While the applicant could set up his business, or activity, whenever he wished at the site, as planning permission is not required for a change of use of the land, he has not done so. The planning authority, therefore, does not agree that the house is required in connection with an established activity as is required by the MLDP."

The applicant has not built the farm buildings as the proposal is inextricably linked with the agricultural dwelling and the agricultural buildings extend to some 1224sqm. The requirement for an associated agricultural dwelling of appropriate size is an established and accepted necessity for this business and this is clearly reflected in Policy RD1 and Supplementary Guidance for Housing Development in the Countryside & Greenbelt, where there is Policy Support when supported by a qualified professional Report. Such a Report has been submitted and is unequivocal in its conclusions. Attention is drawn to the conclusions of the Agricultural Report (Doc 4: Conclusions). I am at a loss as to why the Agricultural Report has been dis-regarded in the Delegated Worksheet (Doc 2) and subsequent reasons for refusal (Doc 3).

The principal policy RD1, along with Scottish Government support on rural diversification permits dwellings linked to agricultural and forestry. There can be no other interpretation.

This is not some 'tin pot' approach to try and get a house in the countryside, whereby someone with 5 acres, some stables and 5 horses argues that a linked dwelling is necessary. This proposal is a genuine and significant investment in the furtherance of an established countryside business at Whitehill Farm, which has the full support of the agricultural industry, not least a comprehensive supporting Agricultural Report by a recognised agricultural professional.

Based upon the wording of the policy and the information provided, I am unclear as to how the Planning Officer has concluded that there is insufficient evidence to conclude that the policy is complied with. The Planning Officer seems to be suggesting that the livestock enterprise should already be established on site. As already noted, the agricultural workers house is integral to the proper management and animal husbandry of such a livestock business. This also addresses why alternative accommodation that may or may not be available in the wider area would not be suitable for the applicant.

Finally on this matter, it is requested that the LRB Panel takes cognisance that the applicant has offered as part of the application an agricultural occupancy restriction clearly linking the agricultural workers house with the proposal.

2. Supporting this application would encourage the sub-division of ever decreasing and unviable parcels of land from larger agricultural units, each with its own large farmhouse to the detriment of the landscape character of Midlothian's rural areas. For this reason, the proposed development is contrary to policies RD1 and ENV7 of the Midlothian Local Development Plan 2017 and the related supplementary guidance.

Reasoned Response:

There is absolutely no policy justification within the Midlothian LDP, for this sweeping statement, which appears to be assuming that this application would result in cumulative landscape harm to the wider Midlothian countryside.

As previously referred to, Whitehill Farm has been in its present form and acreage for some 170 years. This is not a sub-division of ever decreasing and unviable parcels of land from larger agricultural units, it is a farm in its own right and always has been.

As planning authorities commonly state, each application is to be treated on its own merits. This application is supported by a fact-based Agricultural Report supporting this proposal on a substantial area of land extending to some 55 acres. The LRB Panel will note that there is limited/ no reference to the actual size of the acreage in the Delegated Worksheet, or an acknowledgement that it is an existing farm. This proposal certainly does NOT represent "ever decreasing and unviable parcels of land." In the assessment of the application the Planning Officer has sought no professional opinion on the viability of the Whitehill Farm holding related to this application, despite this being addressed in the Agricultural Report. The planning officer is not qualified to refuse the application on this unsupported premise and the reason for refusal is unjustified. The point I would like the LRB Panel to focus upon is how can the Planning Officer dismiss the conclusions contained within the comprehensive professional Agricultural Report prepared by a highly experienced qualified Agricultural consultant, as well as support from the National Farmers Union.

It is also noted that over the years, as shown in the chronology of plans (Doc 7)) the number of field boundaries and hedges of Whitehill Farm have been removed, probably to facilitate larger areas for arable production. The applicant will be replanting a number of hedges and wildlife strips under various farming stewardships as supported by the single farm payments procedures. This field

pattern will for allow for much of the former character of the area to be re-established, where smaller grassed fields and margins will assist in bio-diversity.

3. The location of the application site and siting and scale of the related development would have a significant detrimental impact on the landscape character of the area. This is therefore contrary to policies DEV6, RD1 and ENV7 of the character of the Local Development Plan 2017 and national policies.

Reasoned Response:

The actual siting of the farm steading in the extensive area of land available was taken after consideration of a number of factors, not least the flat plateau area. An examination of historical maps identifies the original Whitehill Farm steading in a similar locale, whereby the ground was drained, relatively flat whereby minimal ground works were required. It is the natural place to construct and replace farm buildings. Whilst there may be some impact on the landscape it can hardly be labelled 'significant detrimental impact' as suggested by the Planning Officer. It is also noted that the Planning Officer, other than referring to Reason 2, has not provided any specific landscape features which the proposal would impact upon, in order to have a significant detrimental impact. This is not the sort of wording I would associate with a farming development of this nature. The proposed development is agricultural so it is hardly out of keeping with the wider area and to put matters into perspective the cattle court would likely have a ridge height of less than 7m (Doc 4: Appx A-D).

It is my opinion that the proposed farm steading is an intrinsic part of the rural landscape. The scale and character is appropriate in a rural area, which can be finalised at the full application stage. This can also include various landscaping, new hedging and tree planting schemes, which would have historically been present at this site and which alongside the smaller field patterns and hedgerows would more than compensate for any minor impact from erection of agricultural buildings and dwelling.

In reality however the LRB Panel is advised that this reason for refusal is not tenable. As has already been established, Permitted Development Rights already extend to include buildings up to 1000sqm on agricultural land and the scale of the overall farm buildings would not be radically different from what could be achieved under these Permitted Development Rights.

4. It has not been demonstrated to the satisfaction of the Planning Authority that the proposed agricultural buildings would not have a significant adverse impact on the amenity of the nearby residential properties through noise, smell and general disturbance and so is contrary to policies ENV17 and ENV18 of the Midlothian Local Development Plan 2017.

Reasoned Response:

This is a PPP application. Throughout the 7 month determination of the application, the planning officers not once raised the matter of amenity, noise, smell and general disturbance.

It is also noted that SEPA was not consulted on this application. It is noted that the HSE did not object to this application.

It is clarified that the agricultural use is not classed as an intensive livestock rearing unit under the Permitted Development Rights Legislation (PDR). This is defined as any 'building, structure, erection of works used for housing pigs, poultry, rabbits or animals bred for their skin or fur or for storage of slurry or sewage sludge'. This proposal does not include slurry production or storage. This proposal does not fall within the characteristic of an intensive livestock/rearing category noted in the PDR, whereby the 400m envelope is considered necessary to restrict development through the PDR. Furthermore, the document referenced by the EHO in the internal response to the Planning Department, is advice intended for farmers under section 13 of the Prevention of Environmental Pollution from Agricultural Activity (PEPFAA), which advises the 400m separation is clearly geared towards intensive livestock production.

The siting of the farm steading/buildings within the extensive area of land available, was chosen after considered investigation and consultation with the Agricultural Consultant. A number of guidance documents were considered, including the Scottish Government's 2005 guidance note on new agricultural developments, (PEPFAA) Code. In addition, historical maps show that there were farm buildings in this vicinity, taking advantage of the flat plateaued area, which has good ground drainage and avoided the need for unnecessary ground works.

The proposal is to produce pedigree breeding cattle, utilising the recognised deep straw bedding system. This procedure is not classed as slurry production, similar to a cattle milking operation. This is an important point whereby the Council's EHO has made erroneous comments in their consultation response to the application. The pedigree stock will have to be kept dry and waste straw stored in a responsible way under cross-compliance for the Basic Payment Scheme and SEPA Regulations. The Environmental Protection Act 1990 gives powers to act to ensure compliance.

The PEPFAA Code in Chapter 13, refers to avoiding intensive livestock buildings 400m from housing developments where slurry is a by-product. This farming operation does not produce slurry, rather a fibrous straw solid. The PEPFAA also requests buildings being sited downwind which is the case here where the prevailing wind is south westerly.

The proposed farm steading has been carefully sited to take account of environmental protection and it is my professional opinion that the proposed site is acceptable and that there are significant environmental regulatory controls in place (under other regimes) to ensure there is negligible impact on any residential areas.

As an aside, it is noted that Midlothian Council recently granted planning permission for horse stables adjacent to houses along Whitehill Road (Planning Application 21/00505/DPP – Erection of stables/store buildings and formation of hard standing). It is noted that the Environmental Health Department was not consulted despite a number of objections on impact on amenity from adjacent householders.

Conclusions:

- This is a PPP application for farm buildings and associated agricultural dwelling at Whitehill Farm comprising some 55 acres of land within the applicant's ownership.

- Whitehill farm, is a recognised entity has been in existence in its present form for over 170years. The farm buildings proposed replace pre-existing buildings which the farm had historically.
- Agricultural buildings up to 1000sqm benefit from Permitted Development Rights subject to appropriate conditions and therefore the principle of providing agricultural buildings on this site is already established.
- The focus of this appeal to the LRB Panel, centres on the requirement for an associated agricultural worker's dwelling, integral to the agricultural business.
- Policy RD1 and associated Supplementary Guidance provides the policy context upon which this appeal is to be determined, whereby houses necessary to support countryside businesses such as the one subject to this appeal are permissible when supported by a qualified Agricultural Report.
- The requirement for the agricultural dwelling is supported by the submitted Agricultural Report, prepared by an experienced and recognised agricultural expert. This is the correct method by which planning authorities determine whether a dwelling is required as part of a countryside activity.
- The Planning Officer does not properly reflect the conclusions of the Agricultural Report in his determination of the application, which are crystal clear. To take a different view from a recognised professional is surprising.
- There is limited impact upon the landscape, which will reflect the agricultural buildings and re-introduction of field boundaries and hedges.
- The proposal will comply with all relevant Environmental Regulations.
- In order to clarify this difference of opinion on the Agricultural Report and to acknowledge that the Agricultural Report is of prime importance in this Notice of Review, the LRB Panel may consider a 'Further Procedure Order' and appoint an external agricultural professional to independently assess the Agricultural Report. The appellant is confident the Agricultural Report is professional and robust in its findings and conclusions.

Recommendations:

1. It is respectfully requested that the LRB Panel acknowledges that the development of the farm buildings is permitted development.
2. It is respectfully requested that the LRB Panel acknowledges the primacy of the Agricultural Report, confirming that an agricultural worker's house is appropriate in this instance and grants PPP subject to suitable conditions.

Stuart MacGarvie MRTPI.

18 February 2022.

MIDLOTHIAN COUNCIL

DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

Planning Application Reference: 21/00239/PPP

Site Address: Land At Whitehill Farm, Whitehill Village, Dalkeith.

Site Description: The application site forms part of an agricultural field which surrounds the site. The site comprises an area of land to the east of the field, at the highest part, with a narrow area to the west leading to the Whitehill Road. Whitehill is to the south, countryside to the east and north and Dalkeith lies to the west. The north and west of the agricultural field is bounded by the A6106. The surrounding field slopes up from west to east and north to south. There is a gas pipeline that runs centrally through the proposed site and an overhead electricity line.

Proposed Development: Application for planning permission in principle for the erection of dwellinghouse, agricultural buildings, formation of access road and associated works.

Proposed Development Details: The application is for planning permission in principle, however the applicant's agent has submitted a site plan showing an indicative layout of a house, retaining wall, stores, sheds and access as well as floor plans and elevations of a two storey house. The works would connect to a new private drainage system and to the public water supply. A planning statement, agricultural appraisal and access statement have been submitted. The access statement includes details of the proposed vehicular access and visibility splays.

The planning statement states the site is agricultural land at present and the proposal is an intensification and diversification of this. It is proposed to graze and breed cattle here, as well as beef production. The statement sets out that the house is required in connection to this and that the proposed site is the best location on a level area. A new vehicular access is formed from the Whitehill Road. Field drainage works have been carried out at the wider site. The applicant is willing to accept a condition that states the house is not occupied until the agricultural buildings are constructed.

The agricultural report was prepared by an independent agricultural consultant. The site is agricultural land and bought by the applicant to be furthered and diversified with buildings and accommodation to operate a pedigree livestock farm. This will support an established countryside activity. The applicant has kept livestock for several decades and is based in Aberdeenshire and Inverness-shire. Details of the specific experience of the applicant have been submitted. The applicant wishes to set up a breeding centre. The business is a viable and ongoing concern as the applicant set up the business and maintain animal welfare standards while living off site and is now in a position to build cattle accommodation and a home at Whitehill. The type of cattle to be kept and bred on site are high value purebreds, with 30 kept on site. The proposed breeding involves an embryo transfer programme and these operations are extremely labour intensive. The report states the specialised nature

of the livestock requires labour hours for 1.6 people, with potential for more staff once the herd is fully established. It is critical for someone to live on site, for animal welfare, health and safety and security reasons. The farm will also be a training facility for young people. The surrounding land is capable of growing cereals and/or crops of silage. This was previously used for growing potatoes in 2019 and cereals in 2020. Details of machinery as well as state of the art cattle accommodation have been submitted. The position of the steading will have limited impact on the area and on nearby neighbours.

Background (Previous Applications, Supporting Documents, Development Briefs): Land to south of field

21/00505/DPP Erection of stables/store building and formation of hardstanding. Consent with conditions.

Consultations:

The Council's **Policy and Road Safety Manager** has no objection in principle but if permission is approved, this should include conditions relating to details of the site access, gates and parking and manoeuvring areas.

The Council's **Environmental Health Manager** has serious concerns regarding this proposal due to its proximity to adjacent housing, as it has the potential to impact on the residents of the nearby existing and proposed housing in terms of odour and noise. They recommend an odour assessment report be submitted before any approval to demonstrate the development could proceed without adverse effects to the existing or proposed housing. If this is demonstrated and the application approved, a noise impact assessment should be conditioned to demonstrate the normal operations of the proposed farm will not affect the nearby residential use, both existing and proposed. They also state that occupation of the proposed house shall be limited to the owners of the farm, or persons employed therein, and their dependents and a legal agreement be entered into to ensure the ownership and occupancy of the residential property is tied to the operation of the proposed farm. This is sought in order to minimise the likelihood of complaints from any future occupier of the residential property due to noise from the normal operations of the farm. Also, if permission is approved, conditions relating to ground contamination be attached, as well as the hours of construction.

The Council's **Archaeological Consultant** recommends a condition be attached to any permission requiring a programme of archaeological works be submitted for approval before any works begin on site.

The **Coal Authority** has no objection subject to conditions being attached relating to site investigation and remedial works prior to the commencement of development.

Scottish Water has no objection but states they will not accept any surface water connections to the combined sewer and that there is no public waste infrastructure in the area and that private treatment options be investigated. The proposal impacts on a water main and the applicant must identify any potential conflicts and contact them direct to apply for a diversion. The applicant should be aware that any conflict with assets identified may be subject to restrictions on proximity of construction.

The Council's **Biodiversity Consultant** states a check for breeding birds, especially ground-nesting birds, should be undertaken if works begin in bird breeding season.

Scottish Gas Networks has objected to the application.

Representations: Fourteen letters of objection have been submitted on the following grounds, with some objectors submitting multiple comments:

- The proposal does not comply with policies DEV8, RD1, ENV4 of the MLDP;
- The site has always been a rural area;
- Query over the size of works being a steading rather than a cottage;
- Little justification for an inappropriate and unnecessary application;
- The size of the development is not in keeping with the village;
- The site is overdeveloped for the enterprise that could be operated here;
- No concerns over the livestock and agricultural aspect but query if a Section 75 could be applied and a time period;
- Why is the existing access from the A6016 is not used, which is closer to the development;
- Why is this access not considered viable due to the presence of a gas main when this has been used for farm machinery as well as heavy machinery for recent drainage works;
- The proposed road would need to cross a high pressure gas mains pipeline which would be dangerous to people and livestock. Access from the A6016 would not cross this and be a safer option;
- The road by the access is in poor condition and concern over surfacing if used by heavy vehicles;
- The traffic survey was carried out during lockdown and not representative of normal conditions. The bus service was not in operation during the surveyed period. A new traffic survey should be submitted;
- The village has a 30mph speed limit and at the proposed entrance is 60mph;
- Whitehill Village road is an important bus route and the congestion caused by slow moving heavy lorries would be a public safety hazard;
- The junction at the A6016 to Whitehill Village is awkward due to the road camber and would be hazardous with increased traffic. The proposed access would pose a hazard to public safety due to a combination of speed limit, turning circle at the road entrance, public transport route and condition of the road. The Whitehill Village road gradient is particularly steep and creating an access onto this, especially for larger vehicles, would have implications in terms of camber, infill construction and splay;
- Whitehill Village road needs a full upgrade and should be reduced to 20mph;
- There will be more HGVs through the quiet village. Query if the Council or the applicant will resurface the road from the A6106 to the Scottish Water plant at no cost to the village?;
- There would be more traffic and pollution in the village;
- The proposed entrance was never a field entrance but hedging which has disintegrated over a number of years and not been replaced;
- There is no reference in the application to the needs of pedestrians, cyclists or horseriders, all of whom regularly use Whitehill Village road and would be detrimentally affected by the proposed access and is contrary to the Midlothian Active Travel Strategy;

- The site should be accessed from the old A68 by a new roundabout junction near Fordel services, which would improve road safety;
- Comments over the dropped kerbs in the area;
- No landscape details have been submitted;
- Whitehill Village road is part of the ancient Dere Street and has some of the most outstanding views in the country. The loss of land to another road and increased traffic could hardly be said to have a minimum impact upon the local landscape;
- The works required at the site access would have a significant detrimental impact on the landscape character of area;
- The proposal would be unnecessarily obtrusive to the surroundings and from wider views;
- The proposed access road is disproportionately long for the nature of the development, would result in the unnecessary loss of important agricultural land, cut across a long section of graded land and disrupt surface water flow;
- The access uses up an unnecessary amount of prime agricultural land and leaves part of the land as a very small area of questionable agricultural value;
- Impact on nearby residential properties in regards noise, during and after construction from HGVs;
- The livestock nature of the use would result in working throughout the day and night and detrimentally impact nearby residents;
- Could working be limited to particular times to limit impact on neighbours?;
- Pollution to nearby properties;
- The proposal would bring noise and air pollution, dusts, smells and vermin that would adversely affect nearby properties;
- Could controls be in place to ensure local residents are not detrimentally affected by noise, light, dust and vermin?;
- The access road is less than 10 metres from neighbours' gardens;
- Have the drainage/sewerage/public water supply capacities been checked and can these cope with the proposed development?;
- Were the drainage works necessary for the proposed agricultural works or may this allow a change of use to the steading buildings to residential if the business were to fail?;
- Potential pollution of watercourses;
- Impact on/potential removal of a well used footpath through the site;
- Can the path be upgraded by the applicant or the Council at no cost to the village?;
- What measures are being taken to make safe a main join to the high pressure gas pipeline to low pressure pipes to nearby houses as a result of development?;
- There was no neighbour notification/neighbours were not made aware of the application by the Council or by signage at the site;
- Issues over letters of objection being uploaded onto the planning file;
- Timescales to submit comments were not clear;
- Concern that conversations could not be had with the case officer;
- Comments on the consultation response from the Archaeology consultant;
- The proposal does not protect existing communities;
- The applicant does not own the path to cross to enter the field;
- There are horses in the fields adjacent to the access;

- If approved, measures should be put in place to ensure no change of use of the agricultural buildings to residential in the future;
- The development is questionable on political and environmental grounds due to cattle contributing significantly to greenhouse gas emissions. When the economy is moving to Net Carbon zero targets, such developments should not be actively encouraged, particularly where the land can already be used for arable purposes without additional building or infrastructure requirements;
- Query if this type of development should be supported when Scotland is hosting a major international climate change conference. Are we not meant to be moving away from fossil fuels and intensive farming methods which are Carbon emitters;
- The agricultural report referred to in submissions is in not the planning file and has not been provided by the planning team despite requests. More details of the proposed agricultural works and compliance with policy are required;
- A request that the landscape plans be provided;
- There is an existing problem with litter and fly tipping in the area which would be exacerbated by another long rural road; and
- Queries if this may lead to future development/use of the site, if the site is segregated and rendered unusable for agricultural purposes.

One objector states they have no objection to the agricultural and livestock aspect but query if a Section 75 would be applied if approved. Another states they do not object to the house and associated farm buildings, only the access road.

The complaints referred to in some letters have been addressed separately.

Three letters of support have been submitted. One states that there has been an access point from Whitehill Road into the fields for over twenty years. This has recently had gates erected and was previously an opening between two gateposts. Another supports this as existing agricultural land will continue to be used for this purpose rather than more housing. The submitted information demonstrates the access can be achieved in a safe and efficient manner with minimal impact to existing residents and road users.

The other is from the director of a company that represents people who occupy land and rural property, sent in both a professional and personal capacity;

- The proposal would benefit not only the local area but also Scottish agriculture in general;
- The applicant has previously run his herd from other people's units whilst looking for a small farm near his other business in Edinburgh, as farms such as the application site rarely come on the market;
- The drainage works carried out make the site suitable for grazing;
- Addressing litter and vermin issues can be done if there is an onsite presence;
- Pastoral use of the land will be limited to less noisy machinery during working hours;
- The design of the buildings would address odour and vermin issues;
- The current operations at the site would result in more dust and water run off than the proposed operations;

- The proposed workings could store more soil carbon than emitted by the cattle;
- A lot of the works could be done through permitted development without requiring planning permission;
- The nature of the proposed operation is for small grazing compartments and so the access road would not sever it or make it unusable for agricultural purposes;
- The proposed operations would result in fewer vehicular movements in smaller vehicles than the recent potato crop at the site;
- The proposal will increase more accessibility and paths at the site;
- Scottish Gas Networks has been consulted and having a proper crossing point rather than soft agricultural tracks over the gas pipe is a benefit; and
- A new purpose built farm complex is subject to regulation relating to noise.

Three additional letters of support were handed to the Lead Officer for Local Development from the applicant during a site meeting, from three different people. There is no way to know if these are legitimate. They were not submitted in an appropriate way and so these have not been taken into account in this assessment.

Relevant Planning Policies: The relevant policies of the **2017 Midlothian Local Development Plan** are;

DEV5 Sustainability in New Development sets out the requirements for development with regards to sustainability principles;

DEV6 Layout and Design of New Development states that good design and a high quality of architecture will be required in the overall layout of development proposals. This also provides guidance on design principles for development, materials, access, passive energy gain, positioning of buildings, open and private amenity space provision and parking. This includes that building should be laid along contours to avoid excessive changes in levels and underbuilding in the streetscene;

DEV7 Landscaping in New Development requires development proposals to be accompanied by a comprehensive scheme of landscaping. The design of the scheme is to be informed by the results of an appropriately detailed landscape assessment;

TRAN5 Electric Vehicle Charging seeks to support and promote the development of a network of electric vehicle charging stations by requiring provision to be considered as an integral part of any new development or redevelopment proposals;

IT1 Digital Infrastructure supports the incorporation of high speed broadband connections and other digital technologies into new homes, business properties and redevelopment proposals;

RD1 Development in the Countryside states 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 or tourism; it accords with other named policies; or it accords with the Council's Supplementary Guidance on Development in the Countryside and Green Belt. All such development will need to be: of a scale and character appropriate to the rural area and well integrated into the rural landscape; capable of being serviced with an adequate and appropriate access; capable of being provided with drainage and a public water supply at reasonable cost, or an acceptable private water supply, avoiding

unacceptable discharge to watercourses; and accessible by public transport and services, within 1 mile of a bus route with a frequency of 1 bus per hour.

In the case of businesses, these should not be primarily of a retail nature and do not harm the amenity of nearby residents through unacceptable levels of noise, light or traffic. In the case of businesses, these should not be primarily of a retail nature and do not harm the amenity of nearby residents through unacceptable levels of noise, light or traffic;

ENV4 Prime Agricultural Land does not permit development that would lead to the permanent loss of prime agricultural land unless there is appropriate justification;

ENV7 Landscape Character states that development will not be permitted where it significantly and adversely affects local landscape character. Where development is acceptable, it should respect such character and be compatible in terms of scale, siting and design. New development will normally be required to incorporate proposals to maintain the diversity and distinctiveness of the local landscapes and to enhance landscape characteristics where they have been weakened;

ENV17 Air Quality states that the Council may require further assessments to identify air quality impacts where considered requisite. It will refuse planning permission, or seek effective mitigation, where development proposals cause unacceptable air quality or dust impacts;

ENV18 Noise states that the Council will seek to prevent noisy developments from damaging residential amenity or disturbing noise sensitive uses. Where new developments with the potential to create significant noise are proposed, these may be refused or required to be modified so that no unacceptable impact at sensitive receptors is generated. Applicants may be required to carry out a noise impact assessment either as part of an Environmental Impact Assessment or separately. Where new noise sensitive uses are proposed in the locality of existing noisy uses, the Council will seek to ensure that the function of the established operation is not adversely affected;

ENV25 Site Assessment, Evaluation and Recording requires that where development could affect an identified site of archaeological importance, the applicant will be required to provide an assessment of the archaeological value of the site and of the likely impact of the proposal on the archaeological resource.

Supplementary Guidance for Housing Development in the Countryside and Green Belt is adopted and expands policy RD1 and the criteria to be met in such proposals. There is some support for development that is required for the furtherance of an established countryside activity. The applicant must demonstrate compliance with the relevant policies. Any application shall be accompanied by an independent report prepared by a suitably qualified professional to support the need for a house and on the viability of the associated business and its operational requirement. In outlining the needs of the business, it should be apparent whether the need can be met within an existing settlement and whether the occupier will be employed full-time in the associated activity.

Planning Advice Note 39: Farm and Forestry Buildings provides general principles of good practice governing siting that can help to ensure that these buildings are integrated with the immediate surroundings and the general landscape setting. Existing trees and hedges should be retained where possible and new

buildings should respect the field boundary pattern. Consideration should also be given to the best way of integrating a new building with its immediate surroundings. The positioning of agricultural buildings should retain and, if possible, augment existing groups of trees and shelter belts. Trees can improve the appearance of large new buildings by softening their outline and horizontal emphasis. The PAN was prepared to address a number of problems relating to such developments, including poorly sited buildings, located for example in prominent skyline locations, or without regard to existing development.

Planning Advice Note 72: Housing in the Countryside sets out design principles that should be considered in such applications, including siting, design and materials. A well designed house must reflect the landscape in which it is set. It must be informed by and respond to it, rather than being a house which is designed without regard to the context and placed within a site. Most new developments should try to fit into or nestle within the landscape. Skyline development should normally be avoided, as should heavily engineered platforms. This is to ensure that the building does not interrupt and conflict with the flow of the landform or appear out of scale. Setting a building against a backdrop of trees is one of the most successful means by which new development can blend with the landscape. Where trees exist they should be retained. The overall aim should be to ensure that new housing is carefully located, worthy of its setting, and is the result of an imaginative, responsive and sensitive design process.

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. Comments from representors and consultees will also be taken into consideration.

Principle of a house and buildings

The planning authority has restrictive policies relating to proposals for new housing developments within the countryside. These policies aim to prevent the creeping suburbanisation of the countryside which is under significant pressure due to the convenient commuting distance to Edinburgh. However, there are enabling policies, within the adopted Midlothian Local Development Plan (MLDP), which support residential developments within the countryside where justified. Policy RD1 of the MLDP contains a section specifically related to proposals for the development of new housing. It states that housing will only be permissible where it is required in connection with the furtherance of an existing and established businesses in the countryside. In addition, the applicant must demonstrate that the need for the new house is permanent and cannot be met within an existing settlement, and that the occupier will be employed full-time in the associated countryside activity.

The applicant owns the site and seeks to diversify the use of the property, which has most recently been used for growing cereals and potatoes. It is proposed to graze and breed cattle, as well as beef production with an element of training. It has been argued that the proposed house relates to this proposed business and that the new house is, therefore, justified on this basis. The submitted site plan and associated documents are clear in stating that the proposed business is not currently operating from the site. The related business operates from another location and it is proposed

to relocate this to this site. However, the applicant states that the site is currently in agricultural use and that the proposal will further and diversify this use.

The supporting information accompanying the planning application has been submitted by an agricultural consultancy. Within the supporting information it has been stated that the proposed house is required due to the nature of the proposed business of producing pedigree livestock, which will support an established countryside activity. It appears this refers to the business the applicant currently operates elsewhere and not the application site.

The applicant's agent states that the house is required to support a countryside use. Whilst it is the case that the field is in agricultural use, the applicant's business does not operate from the site. The field that is in the applicant's ownership has been subdivided off from another agricultural unit. While the applicant could set up his business, or activity, whenever he wished at this site, as planning permission is not required for a change of use of the land, he has not done so. The planning authority, therefore, does not agree that the house is required in connection with an established activity as is required by the MLDP.

In addition, the planning authority has significant concerns regarding the size of the agricultural unit, in effect being one large field, and the scale of the business being able to support, on a long term basis, a large house and occupant engaged full-time at the site. The supporting documents state that the proposal is for the keeping of thirty cows on one field. The number of livestock is very low. The case is weak for this being a scale of business which could support a large new house in the countryside.

Supporting this application would act as encouragement for the subdivision of ever decreasing, and potentially unviable, parcels of land from larger agricultural units, each with their own large farmhouse. There is a significant risk that the Council's policy which aims to protect the valuable qualities of the Midlothian countryside could be circumvented by farmhouse proposals from non-genuine agricultural-related applicants.

With regards to the argument for on-site security, the land is within close proximity to Whitehill. There is a good level of passive supervision of the area. The site is close to Dalkeith where there is a large amount of housing, including new developments, which would afford the operators of the business quick access to the site. Indeed there is an existing planning permission for a house to the east of Whitehill which is less than 200 metres from the application site. This house offers a similar amount of accommodation as the indicative plans but is within a settlement boundary. The Planning Authority considers that the information that has been submitted does not demonstrate there is a requirement for someone to live on site for this element of the business and it has not been demonstrated that the need for accommodation cannot be met in an existing settlement.

Policy RD1 sets out other circumstances where the development of a residential unit may be supported in the countryside. However, as the proposal does not relate to a housing group, is not for the conversion of a redundant farm building or other non-residential building, the redevelopment of a redundant farm building or other non-

residential building or an enabling development there is not support for the new house in terms of these other facilitating criteria.

Notwithstanding the above that the principle of residential development here is not supported, the following assessment of the other matters related to this case are relevant.

Siting of the proposed house and buildings and impact on landscape

The application is for planning permission in principle so no details, other than indicative plans, have been submitted. The lack of detail makes it more difficult to consider if the proposal is of a scale and character appropriate to the rural area and if this will be well integrated into the rural landscape, as well as its impact on the surrounding landscape character.

Planning guidance and policy states that new development, including houses and agricultural buildings, should fit into the landscape and landform of an area. The site plan shows the proposal development is sited at the highest part of the field under the control of the applicant, at the brow of a hill. This is a highly prominent part of the field and would be very visible in the surrounding area and wider views. There are no existing trees or landscaping in the immediate vicinity of the application site. The siting of a house and buildings here would not be integrated in to the immediate surroundings or general landscape setting, being a development on a prominent skyline with no existing landscaping or landform to accommodate the development. This is not to say that planting trees around the site would make this acceptable. The proposal does not fit into the existing landscape due to the topography in the area and planting of trees would not resolve this.

The submitted plans show a proposed development which has not demonstrated that it would not be of a scale appropriate to the rural area or be well integrated into the rural landscape. This would have a significant detrimental impact on the landscape character of the area.

Should permission be approved, details of the design, setting and materials of all buildings would be required. This should respect the character and appearance of this rural area.

Amenity for occupants of proposed house

The submitted plans are only indicative, however the application site area is sufficiently large to be able to accommodate a dwellinghouse, garden ground, turning area and parking.

There could be concern over impact on the amenity of the proposed house if it were occupied by anyone other than the people operating the related farm. Due to the proximity of the house to the farm buildings, the occupants would be significantly affected by noise, smell and general disturbance from this use. Whilst previously the planning authority would restrict the occupancy of the house to the person operating the farm use, the Chief Planner's letter from 2011 stated that these are rarely

appropriate and should generally be avoided. The reasoning is that if a house is acceptable at a location, its occupancy should not be restricted. Therefore if planning permission were to be approved for this application, the occupancy of the house would not be restricted. However the issues over the principle and siting of the proposal, as detailed above, as well as the following assessment mean that this proposal is not acceptable in this location.

Impact on amenity to residential properties

The site is close to residential properties in Whitehill which could be affected by noise, light and traffic from the proposed use. The Environmental Health Manager shared this concern, asking for odour and noise reports to demonstrate the proposal would not have an adverse impact on the amenity of these residents.

The use of the site for grazing cattle does not require planning permission. The site is in agricultural use at present and so there would be no material change of the use of this land if this took place. There are permitted development rights to erect agricultural buildings and so some buildings, including a cattle shed, could be erected on site without requiring planning permission, subject to a number of criteria being met one of which is a limit on the size of the building. This is restricted to 465 square metres, as any buildings with a larger footprint would be of such a scale that could have an adverse impact on the area and requires full assessment.

Although the application is for planning permission in principle, the submitted indicative plans show the proposed buildings to have a footprint of more than 1200 square metres and so are of a scale that would not benefit from permitted development rights.

It has already been considered that the position of the site is such that it would have an adverse impact on the landscape character of the area. It is also considered that this could have a significant impact on the amenity of the nearby residential properties. The site is close to these and would likely result in smell, noise and general disturbance in the area.

Access

The proposal is accessed from a new vehicular access from the road running through Whitehill by a road approximately 500 metres long. The Policy and Road Safety Manager previously raised concerns over an access onto the A6106 due to road safety concerns and so the current access is proposed. They have considered all the information submitted, including the access report, current speed limits and timings of the surveys, and have no objections to the proposal in terms of road safety. Should the application be approved, further applications will need to include details of the access. This should be 6 metres wide for the first 12 metres from Whitehill Road, to allow vehicles to enter the development while other vehicles are waiting to exit, and this first 12 metres should be surfaced in non-loose material with any gates set back 6 metres to allow a vehicle to park off-road while waiting to enter the development.

While the proposed access and recommended conditions would make the proposed development safe in road safety terms, this would have a significant impact on the landscape character of the area. The widening of the access to the requirements would be similar to the road access to the clusters of houses at Witholm and the Brambles elsewhere in Whitehill, which would have a formal and suburban appearance for a farm access.

Also the ground level where the access road would be located is at a higher level than Whitehill Road and would be a prominent feature in the surrounding area, cutting through this open field.

The access road would be some distance to neighbouring garden ground which would limit impact on the amenity of local residents. Also the road is for farm traffic which would be unlikely to generate such traffic to disturb horses in the closes fields some 30 metres away. The same is true for pollution concerns to locate residents.

There is not a core path through the site but there is a recognised route running from south to north that would cross the access track. This would be retained and details of how this will be achieved are required.

Should permission be approved, details of the road and related drainage would be required to ensure any water run-off is addressed.

The site is within 1 mile of services and public transport

Drainage and water supply

The application form states that the development will connect to the public water supply. Scottish Water has not raised any concerns over this or the impact a further connection would have on the supply to the area.

A private drainage system is proposed, including a septic tank and soakaway. This is acceptable in principle, as Scottish Water has confirmed there is no public waste infrastructure in the area. Should planning permission be granted, details of the drainage, both foul and surface water, would be required. This drainage information would ensure that there is no pollution to watercourses as a result of the proposal, as well as how surface water run off would be dealt with.

Scottish Water has stated that the proposal impacts on a water main and so the applicant must identify any potential conflicts and contact them direct to apply for a diversion. The applicant should be aware that any conflict with assets identified may be subject to restrictions on proximity of construction. The applicant's agent was made aware of this and does not consider that the proposal would affect SW infrastructure. As the application is for planning permission in principle, limited details of the proposed works are submitted. Should planning permission be approved, further details of this situation are required including proximity to SW infrastructure, what development would affect this and confirmation from SW that these works are acceptable.

Other

With regards to the construction at the site, mitigation measures regarding ground conditions and contamination and/or previous mineral workings must be considered. The Council's Environmental Health Manager recommends that conditions be attached to protect future occupants of the site and neighbouring land from the potential impact of contaminated land. A scheme mitigating any contamination of the site and/or previous mineral workings, and the submission of a validation report(s) confirming the approved works have been carried out shall be required by planning condition should permission be approved. The site was previously used as a coal depot rather than landfill. Any contamination or land condition concerns can be addressed by these conditions. Also further details relating to coal mining legacy in the area are required.

The proposals would result in the loss of prime agricultural land but, if approved, the use would relate to an agriculture use, being farm buildings and a farmhouse.

Scottish Gas Networks were consulted as the proposed site crosses and is in close proximity to a high pressure gas pipeline that runs through the site. They have objected to the proposal due to this proximity. However, based on their comments, their concerns could be addressed through particular construction methods and information being submitted. Pipeline crossing points are not uncommon, particularly for new developments, and reinforced concrete slabs can be used to protect the integrity of the pipeline and ensure no damage is caused. These requirements could be covered by condition if planning permission were approved.

Neighbour notification was carried out correctly with all notifiable neighbours identified and sent letters. The application was also advertised in the local press.

Due to high workload, there were slight delays in letters of representation being uploaded to the planning file but this was a matter of days and all comments are available to view.

The application is for a single house, agricultural buildings and associated works. This is what is being assessed. The Planning Authority cannot consider any potential future schemes at the site, such as future development if the segregated wider site is not viable.

Policy DEV8 relates to open spaces identified in the MLDP. This site is not identified as this in the MLDP and so this policy is not relevant.

The agricultural report submitted was not originally made publically available as this stated it was private and confidential. The agent subsequently confirmed this could be made public. Neighbour notification was carried out again to notify interested parties that this information was available, as well as notification sent to all representors who made comment until that point.

Any issues over vermin from the site is not a material planning consideration.

It has been stated the development is questionable on political and environmental grounds due to cattle contributing significantly to greenhouse gas emissions. The

use of the site for grazing cattle does not require planning permission. The site is in agricultural land at present and so there would be no material change of the use of this land if this took place and this would be outwith planning control. Also, there are permitted development rights to erect agricultural buildings and so some buildings can be erected at such sites without requiring planning permission. Albeit the planning authority try to resist houses in the countryside, in some cases it can be demonstrated these are required and expected for some businesses. In these instance, these can be required to be low carbon and meet relevant Building Standards requirements to limit emissions.

The applicant's agent has confirmed that the applicant owns the site outlined in red and blue.

Recommendation: Refuse planning permission in principle.

Reg. No. 21/00239/PPP

MacGarvie & Co Ltd
Littlehill
Littlehill, Keir
Dunblane
FK15 9NU

Midlothian Council, as Planning Authority, having considered the application by Mr George Pirie, 45 Gilcomston Park, Aberdeen, AB25 1PN, which was registered on 12 April 2021 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

Application for planning permission in principle for the erection of dwellinghouse, agricultural buildings, formation of access road and associated works at Land At Whitehill Farm, Whitehill Village, Dalkeith

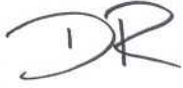
In accordance with the application and the following documents/drawings:

<u>Document/Drawing.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	(SK-P) L1 C 1:2500	12.04.2021

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

- 1. It has not been demonstrated to the satisfaction of the Planning Authority that the proposed house is required in connection with the furtherance of an established countryside activity or business. For this reason the proposed development is contrary to policy RD1 of the Midlothian Local Development Plan 2017 and the related supplementary planning guidance.*
- 2. Supporting this application would encourage the subdivision of ever decreasing, and unviable, parcels of land from larger agricultural units, each with their own large farmhouse to the detriment of the landscape character of Midlothian's rural areas. For this reason the proposed development is contrary to policies RD1 and ENV7 of the Midlothian Local Development Plan 2017 and the related supplementary planning guidance.*
- 3. The location of the application site and siting and scale of the related development would have a significant detrimental impact on the landscape character of the area. This is therefore contrary to policies DEV6, RD1 and ENV7 of the Midlothian Local Development Plan 2017 and national policies.*
- 4. It has not been demonstrated to the satisfaction of the Planning Authority that the proposed agricultural buildings would not have a significant adverse impact on the amenity of the nearby residential properties through noise, smell and general disturbance and so is contrary to policies ENV17 and ENV18 of the Midlothian Local Development Plan 2017.*

Dated 22 / 11 / 2021

A handwritten signature in black ink, appearing to be 'DR' with a stylized flourish.

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



**The Coal
Authority**

Any Planning Enquiries should be directed to:
Planning and Local Authority Liaison

Direct Telephone: 01623 637 119 (Planning Enquiries)
Email: planningconsultation@coal.gov.uk
Website: www.gov.uk/coalauthority

INFORMATIVE NOTE

The proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity at the surface or shallow depth. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and former surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of new development taking place.

It is recommended that information outlining how former mining activities may affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), is submitted alongside any subsequent application for Building Warrant approval (if relevant).

Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant land stability and public safety risks. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design which takes into account all the relevant safety and environmental risk factors, including mine gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at:

www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, excavations for foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

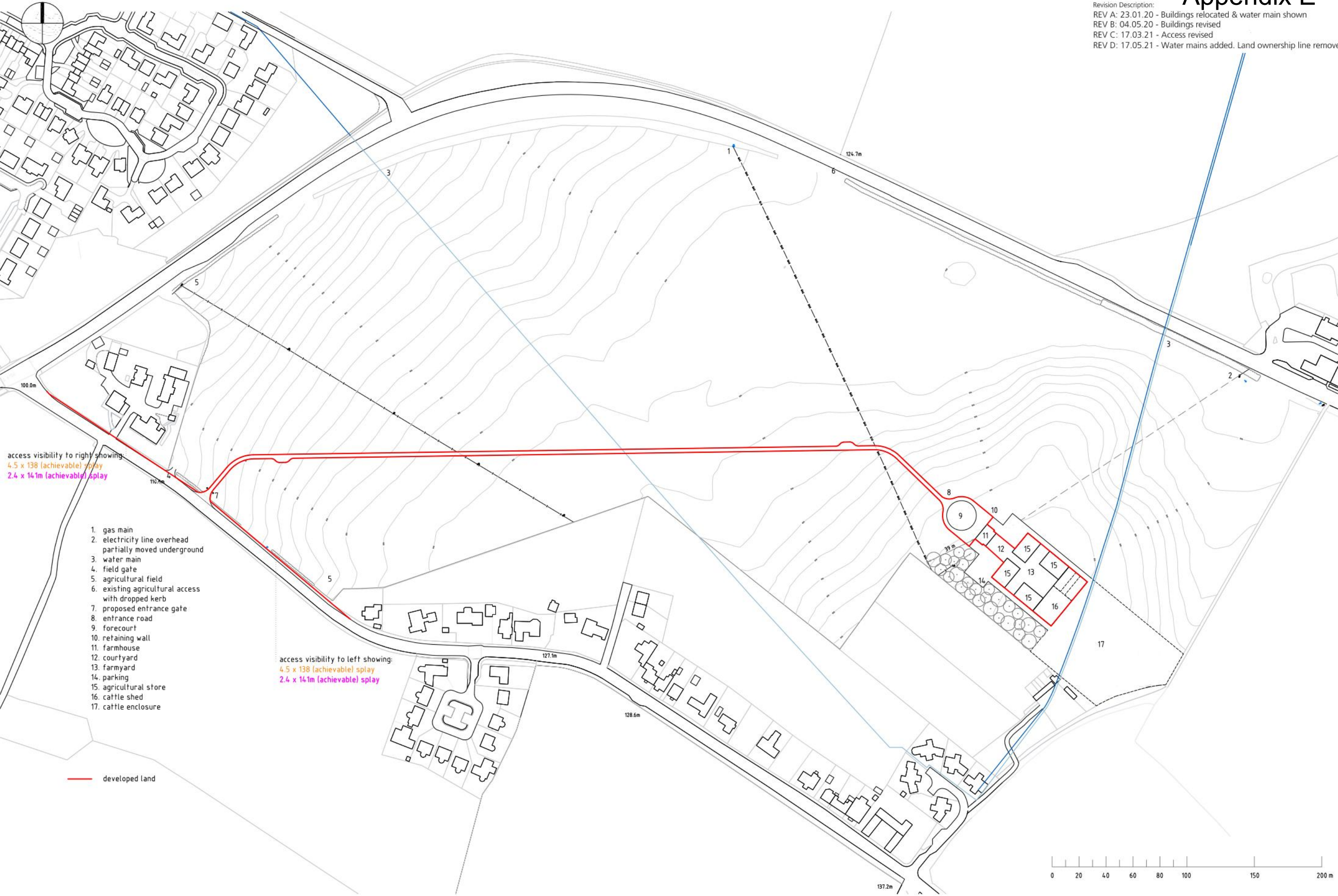
If any coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at:

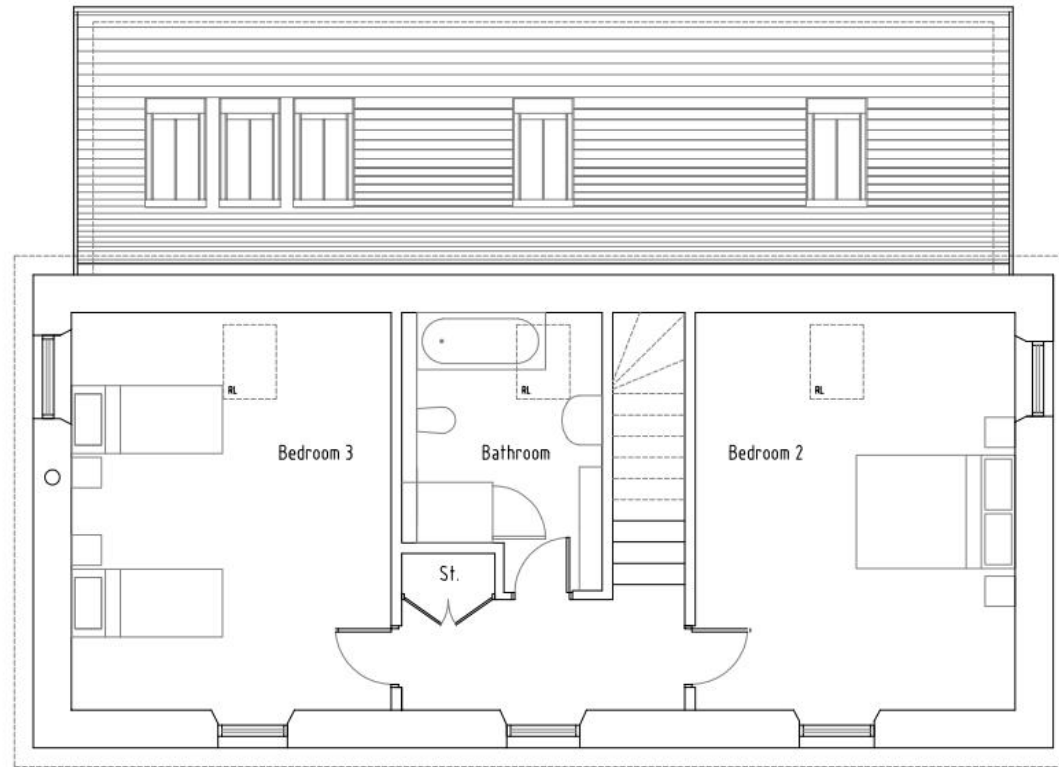
www.gov.uk/government/organisations/the-coal-authority

Informative Note valid from 1st January 2021 until 31st December 2022

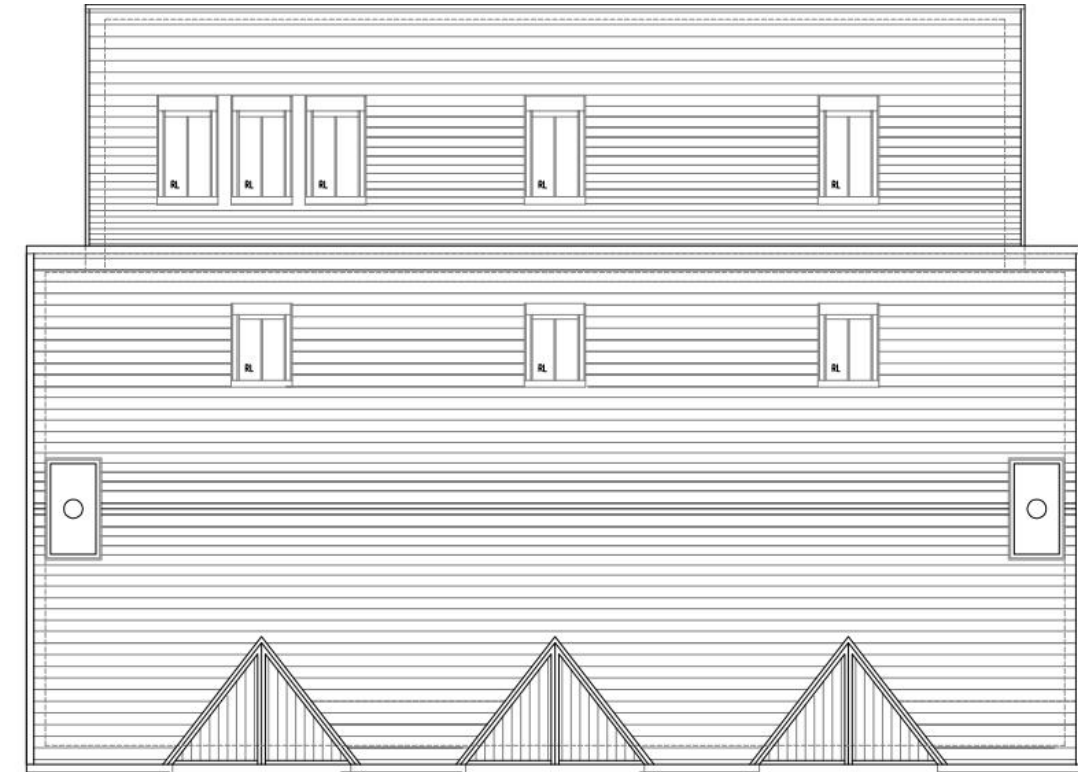
Appendix E

Revision Description:
REV A: 23.01.20 - Buildings relocated & water main shown
REV B: 04.05.20 - Buildings revised
REV C: 17.03.21 - Access revised
REV D: 17.05.21 - Water mains added. Land ownership line removed

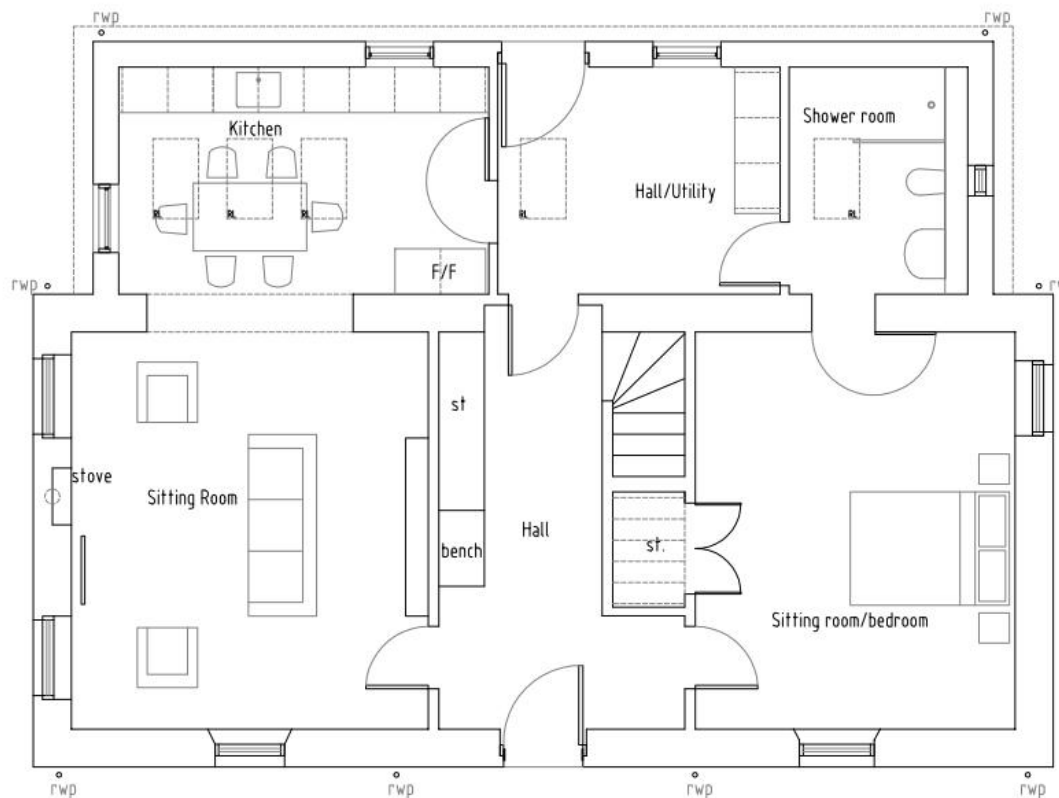




First Floor



Roof Plan

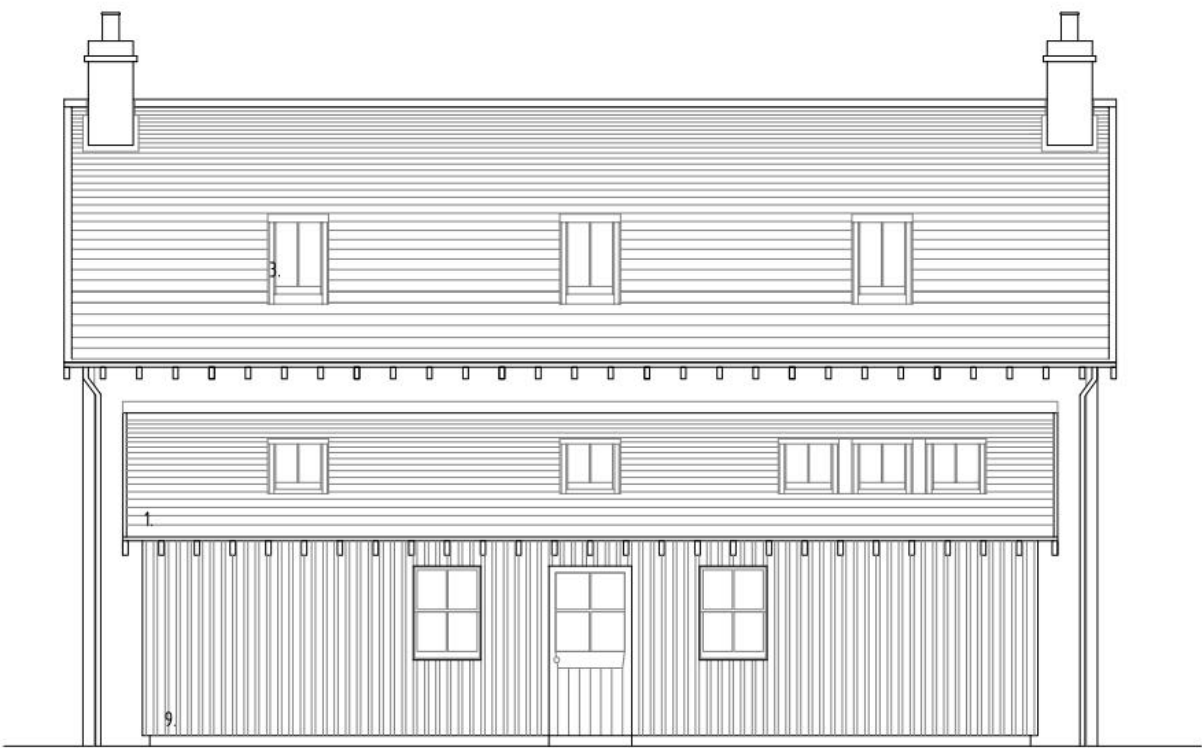


Ground Floor

1. roof - natural slate laid in diminishing courses. 2. roof flashings - lead 3. rooflights - velux low profile 4. roof timbers - stain finish (grey)
5. render - traditional wet dash harl. keim paint finish (white) 6. natural stone margins 7. windows - traditional sash + case paint finish (estate blue)
8. doors - timber paint finish (estate blue) 9. timber cladding - larch 10. rainwater goods - cast aluminium ppc finish (grey)



south east elevation



north west elevation



south west elevation



section A-A



north east elevation

**Notice of Review: Land 25m South West Deaflawhill Cottage,
Carrington Road, Dalkeith****Determination Report**

Report by Chief Officer Place

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 two dwellinghouses; formation of access, car parking and areas of hard standing and associated works at land 25m south west of Deaflawhill Cottage, Carrington Road, Dalkeith (between Bonnyrigg and Newtongrange).

2 Background

- 2.1 Planning application 21/00352/DPP for the erection of two dwellinghouses; formation of access, car parking and areas of hard standing and associated works at land 25m south west of Deaflawhill Cottage, Carrington Road, Dalkeith (between Bonnyrigg and Newtongrange) was refused planning permission on 22 November 2021; 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, excluding the standard advisory notes, issued on 22 November 2021 (Appendix D); and
 - A copy of the key plans/drawings (Appendix E).
- 3.2 The full planning application case file and the development plan policies referred to in the case officer's report can be viewed online via www.midlothian.gov.uk

4 Procedures

4.1 In accordance with agreed procedures:

- Have determined to consider a visual presentation of the site and undertaking a site visit (elected members not attending the site visit can still participate in the determination of the review); and
- Have determined to progress the review by written submissions.

4.2 The case officer's report identified that there were seven consultation responses and four representations received. As part of the review process the interested parties were notified of the review. Three additional comments have been received – both the Eskbank and Newbattle Community Council and Bonnyrigg and Lasswade Community Council have reaffirmed their objections and SEPA have confirmed that they do not object (SEPA did not make comment on the application prior to it being determined). All comments can be viewed online on the electronic planning application case file.

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 back to the 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 13 June 2017, 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, the following details shall be submitted to and approved in writing by the planning authority:
 - a. Details and samples of all external materials for the buildings, boundary treatments and bin and bike stores
 - b. Details of the proposed materials of the areas of hardstanding;
 - c. A landscape plan, including details of a scheme of landscaping for the site. Details shall include the position, number, size and species of all trees and shrubs proposed, as well as identifying all trees on site which are proposed to be removed and retained.

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

Reason: *These details were not submitted as part of the application: to protect the visual amenity of the surrounding area; to integrate the development into the area; to ensure the development is served by adequate amenities.*

2. No development shall begin until an update proposed site plan is submitted to the planning authority that demonstrates the proposed dwellings have sufficient private amenity space and is approved in writing. The updated site plan will include details of boundary treatments that deliver private amenity space. Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be agreed in writing with the planning authority.

Reason: *to ensure that private dwellings have access to private amenity space in line with Midlothian's private amenity space standards.*

3. Within six months of the development being completed or occupied, whichever is the earlier date, the landscape scheme approved under the terms of condition 1c) above shall be carried out; thereafter, any trees or shrubs removed, dying, becoming seriously diseased or being severely damaged shall be replaced during the next available planting season with others of a similar size and species.

Reason: *To protect and enhance the landscaping of the area; to ensure that planting on the site is carried out as early as possible, and has an adequate opportunity to become established.*

4. Development shall not begin until details, including a timetable of implementation, of high speed fibre broadband have been submitted to and approved in writing by the planning authority. The details shall include delivery of high speed fibre broadband prior to the occupation of each residential unit. The delivery of high speed fibre broadband shall be implemented as per the approved details.

Reason: *To ensure the quality of the development is enhanced by the provision of appropriate digital infrastructure in accordance with the requirements of policy IT1 of the adopted Midlothian Local Development Plan 2017.*

5. Development shall not begin until details of the provision and use of electric vehicle charging stations throughout the development have been submitted to and approved in writing by the planning authority. Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be approved in writing by the planning authority.

Reason: *To ensure the development accords with the requirements of policy TRAN5 of the adopted Midlothian Local Development Plan 2017.*

6. Development shall not begin until details of a sustainability/biodiversity scheme for the site, including the provision of house bricks and boxes for bats and swifts throughout the development has been submitted to and approved in writing by the planning authority along with details of how the proposals will implement the recommendations set out in chapter 5.0 of the Ecology Assessment August 2021, Nigel Rudd Ecology). Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be approved in writing with the planning authority.

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

7. Construction of the development hereby permitted shall not take place outwith the hours of 8am to 7pm on Mondays to Fridays, 8am to 1pm on Saturdays, with no work at any time on Sundays.

Reason: *To safeguard the amenity of the surrounding residential area; to protect the amenity of neighbouring properties.*

8. No development shall take place until a programme of archaeological (evaluation) work has been undertaken and a written scheme of investigation has been submitted to and approved in writing by the local planning authority.

Reason: *To ensure this development does not result in the unnecessary loss of archaeological material in accordance with Policies ENV24 and ENV25 of the Midlothian Local Development Plan 2017.*

9. No development shall commence until details of the proposed surface water management scheme and outfall for the development demonstrating that development does not result in any increase in flooding risk for existing properties is submitted to and approved in writing by the planning authority.

Reason: To ensure that the development is provided with adequate surface water drainage; and to ensure that development complies with policies ENV9, ENV10 and ENV15 of the Midlothian Local Development Plan 2017.

10. No development shall commence until;

- a) a scheme of intrusive site investigations has been carried out on site to establish the risks posed to the development by past coal mining activity, and;
- b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.

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

Reason: To ensure compliance with policy ENV16 of the Midlothian Local Development Plan 2017.

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

Reason: To ensure compliance with policy ENV 16 of the Midlothian Local Development Plan 2017.

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

Peter Arnsdorf
Planning, Sustainable Growth and Investment Manager

Date: 17 June 2022
Report Contact: Hugh Shepherd, Planning Officer
Hugh.Shepherd@midlothian.gov.uk

Background Papers: Planning application 21/00352/DPP available for inspection online.



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

Erection of two dwellinghouses; formation of access, car parking and areas of hard standing and associated works at Land 25M South West of Deaflawhill Cottage, Dalkeith

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File No: 21/00352/DPP

Scale: 1:1,000

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Fairfield House 8 Lothian Road Dalkeith EH22 3ZN Tel: 0131 271 3302 Fax: 0131 271 3537 Email: 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 100538060-001

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

Agent Details

Please enter Agent details

Company/Organisation:	<input type="text" value="Rick Finc Associates Ltd"/>		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	<input type="text" value="Stuart"/>	Building Name:	<input type="text" value="Melford House"/>
Last Name: *	<input type="text" value="Szylak"/>	Building Number:	<input type="text" value="3"/>
Telephone Number: *	<input type="text" value="01312266166"/>	Address 1 (Street): *	<input type="text" value="Walker Street"/>
Extension Number:	<input type="text"/>	Address 2:	<input type="text"/>
Mobile Number:	<input type="text"/>	Town/City: *	<input type="text" value="Edinburgh"/>
Fax Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
		Postcode: *	<input type="text" value="EH3 7JY"/>
Email Address: *	<input type="text" value="stuart@rickfincassociates.com"/>		

Is the applicant an individual or an organisation/corporate entity? *

☒ Individual ☐ Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *
Other Title:	<input type="text"/>	Building Name: <input type="text" value="Holly Cottage"/>
First Name: *	<input type="text" value="Ian"/>	Building Number: <input type="text"/>
Last Name: *	<input type="text" value="Dickson"/>	Address 1 (Street): * <input type="text" value="Croft Road"/>
Company/Organisation	<input type="text"/>	Address 2: <input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: * <input type="text" value="West Linton"/>
Extension Number:	<input type="text"/>	Country: * <input type="text" value="Scotland"/>
Mobile Number:	<input type="text" value=""/>	Postcode: * <input type="text" value="EH46 7DZ"/>
Fax Number:	<input type="text"/>	
Email Address: *	<input type="text" value="stuart@rickfincassociates.com"/>	

Site Address Details

Planning Authority:	<input type="text" value="Midlothian Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text"/>
Post Code:	<input type="text"/>

Please identify/describe the location of the site or sites

Land 25M South West of Deaflawhill Cottage Dalkeith

Northing	<input type="text" value="664723"/>	Easting	<input type="text" value="332507"/>
----------	-------------------------------------	---------	-------------------------------------

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)

Erection of two dwellinghouses; formation of access, car parking and areas of hard standing and associated works

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 see accompanying Statement

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)

Documents as uploaded on Midlothian Planning Portal in support of original application. Supporting Statement of Review.

Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

21/00352/DPP

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

04/04/2021

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

22/11/2021

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

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: Mr Stuart Szylak

Declaration Date: 21/02/2022

NOTICE OF REVIEW

21/00352/DPP

**LAND 25M SOUTH WEST OF DEAFLOWHILL
COTTAGE, DALKEITH**

S T A T E M E N T O F R E V I E W

**ERECTION OF TWO DWELLINGHOUSES; FORMATION OF ACCESS, CAR
PARKING AND AREAS OF HARD STANDING AND ASSOCIATED WORKS**



**RFA DEVELOPMENT CONSULTANTS
ON BEHALF OF MR IAN DICKSON**

FEBRUARY 2022

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Executive Summary

This review relates to a detailed planning application to develop two dwellinghouses on derelict and vacant brownfield land on land 25m southwest of Deaflawhill Cottage, Newtongrange Midlothian.

Principle of Use & Strategic Greenspace Safeguarding

Although the proposed development does not adhere in its entirety to the aims and objectives of **Development in the Countryside** policy, and that of the **Strategic Greenspace Safeguarding**, we would contend there are a number of other material considerations which outweigh these policy conflicts so the appeal could be supported:

- The site is considered an historic building group which was previously utilised for residential development and does not adversely affect the character and setting of the surrounding area. In that context, the site is brownfield by definition within a countryside location rather than a greenspace as reported.
- The site still very much remains brownfield in nature with the site utilised as a stonemason's yard for the storage of building materials, a container, and there is an existing vehicular access into the site directly from Carrington Road. It has been in the appellant's ownership and used as a storage site for over 10 years so has a legal established use and therefore it is unquestionable that the site is brownfield by definition.
- The proposed site is small in size and is located within a much wider blanket Countryside designation outlined in the adopted Midlothian LDP. The size of the site proposed would not adversely affect the objectives of the blanket Countryside designation and policy aims.
- Land to the northwest of the application site is allocated for a major residential development (Hs11) and was granted planning permission for 248 units. Scottish Planning Policy states that in accessible rural areas, decision making should generally *'guide most new development to locations within or adjacent to settlements'*.

Prime Agricultural Land

The site is definitely not Prime Agricultural Land, as stated by the Case Officer. The Macaulay Institute classes this part of Dalkeith as Class 5 land, very low in quality (see Figure 4.2).

Regardless, the LDP states that in the context of Prime Agricultural Land *'where possible built development should be directed to land that has previously been developed ("brownfield" land) in order to minimise the loss of agricultural land'*. In this instance we have comprehensively justified that the site is brownfield by definition and therefore directing development to the right place which does not conflict with the associated text to Policy ENV 4. We have demonstrated to a reasonable degree of certainty

that the loss of the site would have a negligible impact on the food production capacity of the agricultural land within Midlothian.

Landscape & Ecology

An Ecological Assessment was undertaken and concluded that it was considered that the re-development of the appeal site would enhance the biodiversity of opportunities on the site with a positive impact on the biodiversity status of the land, a biodiversity net gain. This would be achieved by bringing existing habitats under management, creation of new habitats and installation of features to provide nesting/breeding opportunities and shelter for fauna.

The proposed development respects the character of the locale, is of an appropriate scale, siting and design regarding the history of the site and the requirements of modern day living and the consented scheme adjacent to the site, while maintaining and improving the diversity and distinctiveness of the local landscape which has been diluted over time due to the current use of the site which has been left effectively vacant and derelict.

Access

Proposed development would use the existing access. Regarding visibility splays for the access and egress to the site, the DMBR standards (210m) are not strictly applicable in this case, and there are a number of residential properties within the immediate locale that share similar visibility traits for access and egress without causing a road safety issue. According to CrashMap data there have been no recorded accidents along Carrington Road in the past 5 years.

There are a number of measures that could be employed to ensure as safe as possible access and egress to the proposed development. The appellant would be supportive of a reduction in the speed limit to 40mph on Carrington Road which would correspond with the adjacent roads of the A7 and B704 at the point of connecting to Carrington Road. This could be achieved through a TRO, and traffic calming measures such as appropriate signage including additional access signage. The appellant would be happy to support such mitigation measures and bear the cost of implementation. Vegetation both north and south of the access could be maintained to improve visibility as it lies within the appellant's ownership.

As a part of the proposed development the access point has been moved further south than the existing access, resulting in an improvement in visibility to the south on access and egress. The nature of Carrington Road is such that 60mph cannot be achieved along the sections where the proposed access is located, and the minimal additional trips created from the proposed development means that there would be no adverse impact on the road network, or to road safety with adjacent properties experiencing similar traits.

Conservation Area

The appeal site is brownfield by definition and currently used as a stonemason's yard. Development of the site will bring an unkempt derelict brownfield site back into a sustainable use, significantly improving the appearance of the site. It is considered that re-development of the appeal site would enhance the biodiversity of opportunities on the site with a positive impact on the status of the land, with a biodiversity net gain.

The proposed development adheres to the policy and advice in SPP and PAN 71 with the proposal respecting and enhancing the locale and has a positive impact on the area. SPP is clear in its wording that *'proposals that do not harm the character or appearance of the conservation area should be treated as preserving its character and appearance'*. The proposed development preserves the character and appearance of the Dalhousie and Cockpen Conservation Area as the appellant has clearly demonstrated that the proposal does not harm the character or appearance of the conservation area. The appellant has clearly demonstrated that the proposal preserves the character and appearance of the Dalhousie and Cockpen Conservation Area

Trees

There are no significant trees within the area proposed for development and what exists on the ground is very much just self-seeded scrubs and shrubs of limited landscape quality.

No Tree Survey or Arboriculture Impact Assessment was requested by Midlothian Council throughout the planning process but as rightly indicated through the Council's Report of Handling, such can be appropriately conditioned through the granting of any planning application. The appellant would be accepting of such a condition.

1 Introduction

Purpose of this Statement

- 1.1 The appellant is aggrieved by the decision to refuse permission for the proposed development at land 25m southwest of Deaflawhill Cottage, Dalkeith (21/00352/DPP) and requests the Planning Authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997.
- 1.2 The application was made by Mr Ian Dickson (hereafter referred to as “the appellant” This request for Review has been made within three months beginning with the date of the Decision Notice (22 November 2021).
- 1.3 The purpose of this Supporting Statement is to assist the Local Review Body (LRB) in the understanding, assessment and determination of the application). The appellant is proposing to develop two dwellinghouses on brownfield land at Deaflawhill Cottage Dalkeith.
- 1.4 This Statement provides a summary of the appeal submission. It is not, however, a substitute for the important supporting documents, and all supporting documents that were submitted as part of the original planning application should be read in their entirety. It addresses comments made within the Case Officer’s Report of Handling, addresses the key policy issues and highlights material considerations in respect of the Reasons for Refusal. It presents a convincing and compelling case for permitting the proposed development.

Background

- 1.5 A full planning application was submitted on 03 May 2021 and validated on 24 June 2021. The application was supported by:
- Formal detailed architectural drawings (plans and elevations);
 - Visibility splays drawing;
 - Design and Access Statement;
 - Ecological Assessment; and,
 - Phase 1 GEO Environmental Desk Study.
- 1.6 A series of discussions were undertaken between the case officer and the appellant’s agent during the determination phase. These provided further clarifications and information to support the application.
- 1.7 The application was refused by delegated decision on 22 November 2021.

Reasons for Refusal

- 1.8 The decision notice issued for the application noted that it was refused for the following reasons:
1. *The proposal does not satisfy any of the criteria in relation to acceptable rural development set out in the Midlothian Local Development Plan 2017. As such, the principle of the development cannot be supported as development is contrary to policies RD1, ENV3, ENV4 and ENV8 of the Midlothian Local Development Plan 2017.*
 2. *The development is unable to demonstrate safe access into the site by virtue of insufficient distance for suitable visibility splays.*
 3. *The proposed development, by virtue of its proposed scale and massing, is unsympathetic to the character of the conservation area, the existing built and the natural landscaped character of the area and so conflicts with policies DEV6, ENV7 and ENV19 of the Midlothian Local Development Plan 2017.*
 4. *The proposed removal of vegetation from the site would harm the Tree Preservation Order and so conflict with policy ENV11 of the Midlothian Local Development Plan 2017.*
- 1.9 The reasons for refusal are considered and rebutted in Section 3 of this Statement.

2 The Site and Proposals

Site Location and Description

Location

- 2.1 The appeal site is located on land 25m southwest of Deaflawhill Cottage, Dalkeith (see Figure 2.1).
- 2.2 The site is brownfield within a countryside location to the east of Bonnyrigg and to the west of Newtongrange along the A7 corridor which runs from Edinburgh to the Scottish Borders. To the north of the site is the Lothian Bridge Caravan Park and the Newbattle Viaduct which is now a part of the recently reinstated Borders Railway. To the west of the site, it is constrained by Carrington Road and to the east by the Dalhousie Burn which flows at a lower level. To the south are existing trees which are also under the ownership of the appellant and provide an effective buffer for the site.
- 2.3 Much of the site is surrounded by trees which are to be retained as part of this proposal. There is a stone yard located to the north adjacent to the existing road junction. There is also evidence of historic buildings within the site which have since been demolished.

Site Description

- 2.4 The site is located circa 220m to the south of the Carrington Road and A7 junction. It is located on the south east/east side of Carrington Road which bounds the site's western boundary. The site is bound to the north/north east by core path (MID/8-1/3), and to the east by Dalhousie Burn.
- 2.5 Much of the appeal site along the Carrington Road edge of the western boundary is fairly level. However, the site slopes steeply down from the top of the existing bank towards the Dalhousie Burn along its eastern edge. The levels along Carrington Road range from approx. +65.0m in the south to approx. +60m in the north. This forms the majority of the developable platform along the western edge. The levels then fall steeply to approx. +52.0m along the Dalhousie Burn corridor. The majority of the site therefore sits between 8 and 13m above the level of the burn.

Figure 2.1 - Site Location



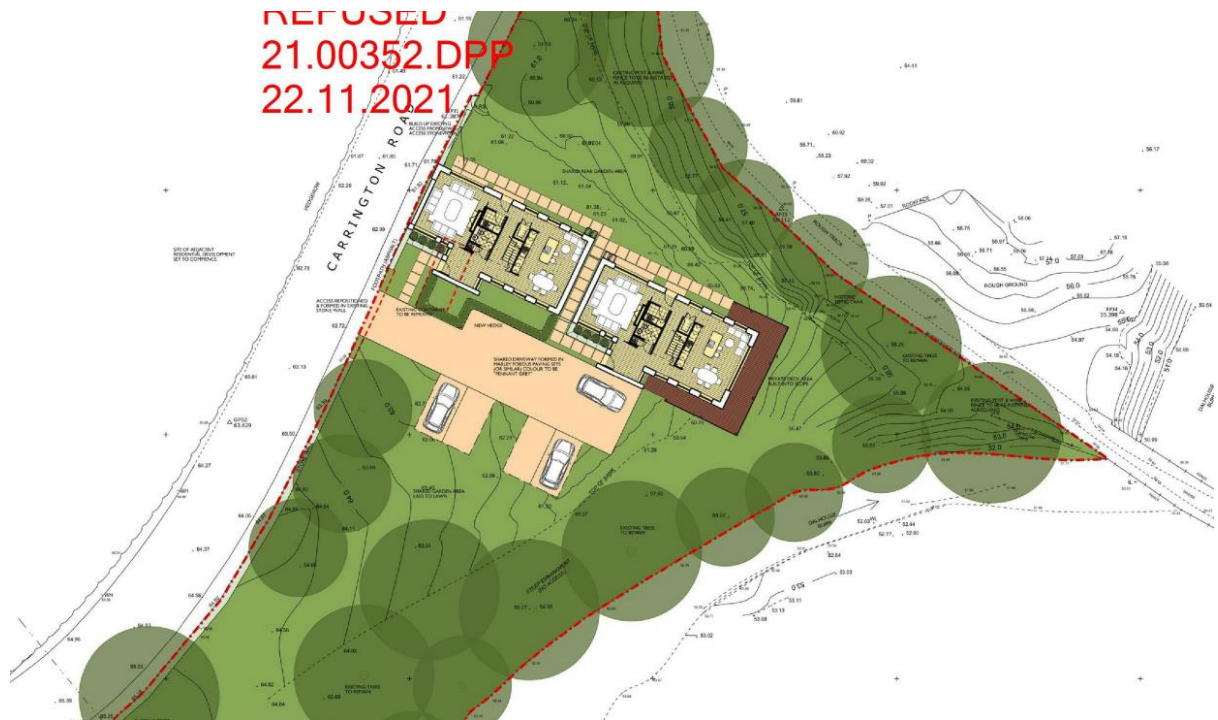
The Proposals

- 2.6 The proposed development seeks to deliver two dwellings. The proposed dwellings are circa 7.8m in height and are two storey with pitched roofs.



- 2.7 In form, the dwellings are based on a traditional style with contemporary additions, principally forward facing (southwest) two storey projections that form an entrance hall, an open plan kitchen/dining/utility room, lounge and toilet at ground floor and bedroom accommodation at first floor level including a master bedroom with en-suite and dressing room, 3 double bedrooms and a family bathroom.
- 2.8 The proposal seeks to maximise light at ground floor level through doubled glazed aluminium

clad windows and doors, and the proposed materials include natural rubble stone to approximately 3.7m where dark timber cladding features below the roof eaves. The roof is proposed to be blue/grey slate.



- 2.9 The proposed development provides access from Carrington Road, a shared driveway and 4 designated parking spaces, 2 per dwelling.
- 2.10 Due to the site levels the south and east gable of one unit will have a wraparound deck which is supported by stilts which provides private amenity space for that unit, with the other unit having private space on the southern elevation. The remainder of the site area is shared amenity space around the properties.

3 Planning Policy Context

Introduction

- 3.1 This section of the Statement identifies the key issues which must be considered when reviewing the decision to refuse application 21/00352/DPP. It then takes each reason for refusal in turn and provides a commentary and rebuttal on each.

National Legislation

- 3.2 Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended) specifies that determination of planning applications '*shall be made in accordance with the Development Plan unless material considerations indicate otherwise*'. It is supplemented by Section 37(2) which states that '*in dealing with an application the planning authority shall have regard to the provisions of the Development Plan as far as material to the application and any other material considerations*'.
- 3.3 Continuing on to Section 37(2A) the Act states that "*the notice of the planning authority's decision on an application must include a statement as to whether the authority consider that the application is for a development that is in accordance with the development plan ...*"
- 3.4 Section 25 therefore indicates that strict adherence to the detail of local development plan policy is not a requirement and that, should a justification be made for a proposal which does not comply, the planning authority can approve it as a departure from the local development plan.
- 3.5 Section 37 indicates that reasons for refusing an application must relate to the development plan.

Scottish Planning Policy (2014)

- 3.6 The first principle of the SPP '*introduces a presumption in favour of development that contributes to sustainable development*'. The SPP notes that '*the Scottish Government's central purpose is to focus government and public services on creating a more successful country, with opportunities for all of Scotland to flourish, through creating sustainable economic growth*'.
- 3.7 Paragraphs 28 and 29 of SPP emphasise the need to achieve the right developments in the right places to support economically, environmentally and socially sustainable places. SPP states that policies and decisions should be guided by the following principles (*inter alia*...):
- Giving due weight to net economic benefit;
 - Responding to economic issues, challenges and opportunities;

- Supporting good design and the six qualities of successful places;
- Making efficient use of existing capacities of land, buildings and infrastructure;
- Support the delivery of infrastructure, for example transport, education, energy, digital and water;
- Improving health and wellbeing; and,
- Avoiding over-development, protecting the amenity of new and existing development and considering the implications of development for water, air and soil quality.

3.8 SPP states that planning should direct the right development to the right places and should consider the re-use or re-development of brownfield land before new development takes place on greenfield sites; as well as locating development where investment and growth or improvement would have most benefit for the amenity of local people, and the vitality of the local economy.

3.9 SPP expects Councils to provide a range and type of housing across all market areas, which includes rural locations. Appropriate provision of rural housing outwith major settlements is an important part of a balanced housing land supply.

The Development Plan

3.10 The extant Development Plan which covers the appeal site comprises:

- **Strategic Development Plan (SDP)** (2013), as prepared by the Strategic Development Planning Authority for Edinburgh and South East Scotland, known as SESplan; and
- **Midlothian Local Development Plan (MLDP)** (2017) as prepared by Midlothian Council.

3.11 As the role of SESplan is to set out the strategic regional wide policy, and this is a '*local*' development of small scale, then no further assessment of SESplan will be made.

Midlothian Local Development Plan (2017)

3.12 The accompanying MLDP Proposals M shows that the site is located on the edge of Bonnyrigg settlement and to the southeast of the allocated housing site Hs11. It is in a sustainable and accessible location.

3.13 The site is covering the following MLDP designations:

- Regionally and Locally Important Nature Conservation Site;
- Protection of River Valleys;
- Prime Agricultural Land;
- Newbattle Strategic Greenspace Safeguard;

- Countryside; and,
- Dalhousie and Cockpen Conservation Area.

3.14 MLDP policies relevant to the determination of this appeal include:

- Policy RD 1 - Development in the Countryside;
- Policy ENV 3 - Newbattle Strategic Greenspace Safeguard;
- Policy ENV 4 – Prime Agricultural Land;
- Policy ENV 7 – Landscape Character;
- Policy ENV 8 – Protection of River Valleys;
- Policy ENV 11 - Woodland, Trees and Hedges;
- Policy ENV 14 – Regionally and Locally Important Nature Conservation Sites;
- Policy ENV 19 - Conservation Areas; and,
- Policy DEV 6 – Layout and Design of New Development.

Material Considerations

3.15 The statutory and non-statutory material considerations relevant in the determination of this planning appeal and the Planning Statement submitted with this appeal considers relevant policies, aims and objectives as presented within:

- Scottish Planning Policy (SPP) (2014);
- Planning Advice Notes (PANs);
- Midlothian LDP Nature Conservation Supplementary Guidance; and,
- Midlothian LDP Housing in the Countryside Supplementary Guidance

4 Grounds of Review

Rebuttal of Reasons for Refusal

- 4.1 This section assesses the Reasons for Refusal in turn and provides a rebuttal to each in planning terms.
- 4.2 The decision notice issued for the application noted that it was refused for the following 4 reasons. Each of these are discussed in turn and a clear case made as to why these decisions and opinions are considered unsound.

Reason 1

The proposal does not satisfy any of the criteria in relation to acceptable rural development set out in the Midlothian Local Development Plan 2017. As such, the principle of the development cannot be supported as development is contrary to policies RD1, ENV3, ENV4 and ENV8 of the Midlothian Local Development Plan 2017.

- 4.3 National Planning Policy encourages Local Planning Authorities to take a positive approach to development that could contribute to sustainable economic growth. SPP seeks to direct development towards the most sustainable locations, and support regeneration proposals which make the full and appropriate use of land.
- 4.4 On the accompanying proposals map to the LDP, the site lies within designated Countryside. This does not in itself preclude development.
- 4.5 Although admittedly the proposed development does not adhere in its entirety to the aims and objectives of **Policy RD 1 Development in the Countryside**, we would contend there are a number of material considerations which outweigh this policy conflict so the appeal could be supported.
- 4.6 The Town and Country Planning Act requires planning applications to be determined in accordance with the Development Plan unless material considerations indicate otherwise. The House of Lords in its judgement in the City of Edinburgh Council v Secretary of State for Scotland case 1998 (SLT120) rules that '*although priority must be given to the Development Plan in determining a planning application, there is built in flexibility depending on the facts and circumstances of each case*'. This judgement, along with other such decisions like Tesco Stores v Dundee [2012] PTSR 983, strongly articulate that the Courts have confirmed that the Development Plan provides the planning authority with discretionary powers and that these can be used flexibly.

- 4.7 Planning policy is the starting point for the determination of a planning application and not an absolute. In this instance, the site-specific nature of the locale where the proposed development is located has to be assessed as opposed to relying on a policy which covers a significant blanket area across the wider Midlothian area. It takes no account of the site characteristics or established use.
- 4.8 The adopted LDP seeks to meet the needs of a stabilising population and changing household formation will require more housing offering greater choice and quality. The Scottish Government in SPP expects Councils to provide a range and type of housing across all market areas, which includes more rural locations. Appropriate provision of such housing is an important part of a balanced housing land supply.

Figure 4.1 – Historical Maps of the site



- 4.9 Historical maps, (circa 1852) of the site show an existing building located within the application site just to the south west of the old Newbattle Paper Mill. The building sat on a north west to south east axis perpendicular to the Carrington Road. The building or buildings are defined as Deaflawhill on the historic map. Deaflawhill cottage still remains immediately opposite the junction. It is likely that the buildings within the site were once terraces/workers cottages/dwellings associated with the mill. Due to the size and scale of the footprint shown on the historic map it is also likely that the building comprised 2 or more dwellings.
- 4.10 The site is considered an historic building group which was previously utilised for residential development and did not adversely affect the character and setting of the surrounding area. In that context, the site is brownfield by definition within a countryside location.
- 4.11 Brownfield land is defined within SPP as *'land which has been previously developed'* and in directing the right development to the right place, and promoting sustainable development, SPP states that decisions should be guided by a number of policy principles including *'considering the re-use or re-development of brownfield land before new development takes place on greenfield sites'*.
- 4.12 Any real evidence of the previous residential units on the site has mostly gone, although there is still a remaining brick structure which appears to be the old septic tank for the historical cottages. Notwithstanding this, site still very much remains brownfield in nature, with the site utilised as a stonemason's yard for the storage of building materials, there is a container located

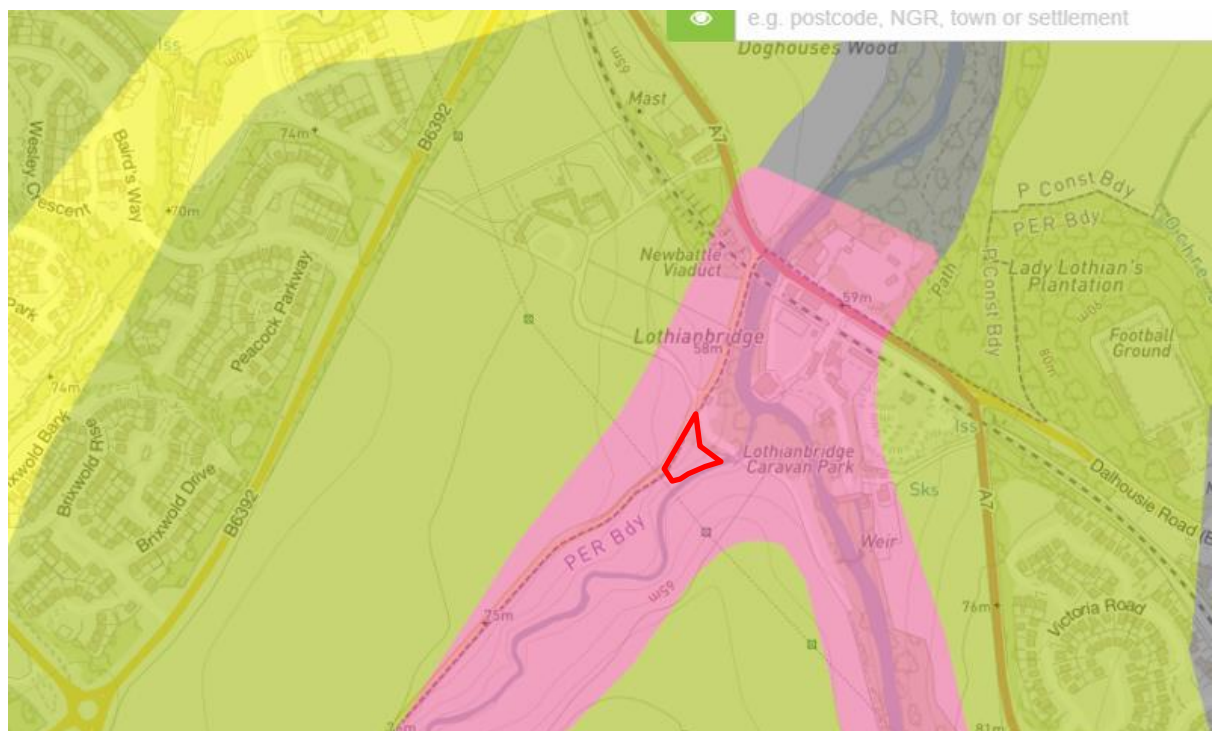
along the northwestern boundary adjacent to Carrington Road, and there is an existing vehicular access into the site directly from Carrington Road. The site has been in the appellant's ownership and used as a storage site for over 10 years so has a legally established use and therefore it is unquestionable that the site is brownfield by definition.

- 4.13 The proposed site is small in size. Accordingly, the size of the site proposed would in no way adversely affect the aims and objectives of what the wider blanket Countryside designation and policy seeks to achieve.
- 4.14 There are also a number of surrounding residential developments adjacent to the appeal site. Recent masterplans within Bonnyrigg and Newtongrange have resulted in improved public transport networks and facilities. The Borders Railway stations at Eskbank and Newtongrange are also nearby and easily accessible.
- 4.15 Land to the northwest of the application site is also allocated for residential development (Hs11) and was granted planning permission for 248 dwellinghouses, formation of access roads and car parking, SUDs features and associated works on 09 April 2020, by Grange Estates (18/00740/DPP). In that context, SPP states that in accessible rural areas, decision making should generally *'guide most new development to locations within or adjacent to settlements'*. In this case, the allocated site (Hs11), with planning permission is directly adjacent to the appeal site.
- 4.16 **Policy RD1** is fairly generic in its criteria where development in the countryside would be permitted. The Development Plan cannot map out every eventuality, especially when detailed site specific matters need to be given due weight and attention to understand why its development would be acceptable without setting a precedent for other proposals to come forward. Sustainable place making factors and wider principles of sustainable development provide the basis for the economic objectives underpinning the policies and proposals of the LDP in supporting Midlothian's growing economy by creating quality and sustainable locations for rural housing which is an important aspect of maintaining a balanced housing land supply.
- 4.17 Planning policy is the starting point for the determination of a planning application and not an absolute. In this instance, an element of professional judgement needs to be employed in the context of the site specifics of the proposed development, as opposed to relying on a blanket policy which does not take into consideration every eventuality. Although the proposed development does not adhere in its entirety to the aims and objectives of **Policy RD 1**, there are significant material considerations which outweigh the policy conflict as explained above in detail, directing the right development to the right place and ensuring the re-development of brownfield land.
- 4.18 **Policy ENV 3 Newbattle Strategic Greenspace Safeguard** sets out that development in land under this designation will not be permitted with the exception of *'ancillary development relevant to existing uses; and/or other development for the furtherance of agriculture (including farm*

related diversification), horticulture, countryside recreation or tourism’ and ‘any proposal should accord with Policy RD 1’. Both **Policies ENV 3** and **Policy RD 1** are very similar in their wording and requirement criteria for development in the countryside/greenspace, so much so that it states that any proposals should accord with **Policy RD 1**. Without wanting to repeat the justification of the proposed development against **Policy RD 1**, there are significant material considerations which outweigh the policy conflict as explained above in detail, directing the right development to the right place and ensuring the re-development of brownfield land.

- 4.19 **The site is designated by Midlothian Council as Prime Agricultural Land (ENV 4)** which seeks to resist development that would result in the permanent loss of designated agricultural land. However, the definitive agricultural land classification maps, produced by the Macaulay Institute, clearly show this land to be Class 5, very low quality. The land is not Prime Agricultural Land.

Figure 4.2 – Macaulay Institute Prime Agricultural Land Classification Map



- 4.20 Regardless, Midlothian is a predominantly rural local authority area, especially to the west, and south of the administrative boundary. Around 25% of Midlothian's area constitutes prime land, mostly surrounding the larger settlements in the north of the county. The percentage of land take required as a consequence of housing development on the appeal site is an incredibly small proportion of Midlothian's and Scotland's total supply of prime agricultural land. The appellant considers the site less desirable as agricultural land due to its topography and existing trees and vegetation on the site, historic and current use, and has never been used as arable

land. There is sufficient evidence that there would be no loss of a natural resource in the interests of food security.

- 4.21 The LDP states that in the context of Prime Agricultural Land '*where possible built development should be directed to land that has previously been developed ('brownfield' land) in order to minimise the loss of agricultural land*'. In this instance we have comprehensively justified that the site is brownfield by definition and therefore directing development to the right place which does not conflict with the associated text in **Policy ENV 4**. In that context, we have demonstrated to a reasonable degree of certainty that the loss of the site would have a negligible impact on the food production capacity of the agricultural land within Midlothian.
- 4.22 Given the land is not actually classified by the Macaulay institute and Class 1, 2 or 3 then there is no impact on Prime Agricultural Land. Therefore, the proposed development does not conflict with the aims and objectives of **Policy ENV 4**.
- 4.23 The site is designated as part of a protected river valley (**Policy ENV 8**) associated with the South Esk River. The locational need for the proposed development is the re-development of a brownfield site and providing for a range and type of housing across all market areas, which includes more rural locations. Appropriate provision of rural housing is an important part of a balanced housing land supply.
- 4.24 An Ecological Assessment was undertaken by Nigel Rudd Ecology and submitted as a supporting document to the planning application and this subsequent appeal. It concluded that it was considered that the re-development of the appeal site would enhance the biodiversity of opportunities on the site. This would be achieved by bringing existing habitats under management, creation of new habitats and installation of features to provide nesting /breeding opportunities and shelter for fauna.
- 4.25 Therefore, it is clearly established that the proposed development would not have an adverse impact either on the landscape and conservation value of the valleys, and will actually have biodiversity net gain, as well as bringing an untidy brownfield site back into a sustainable use which would vastly improve the amenity of the site and subsequently the immediate locale. The site is private and currently operates as a stonemason's yard and therefore has never been open to the public.
- 4.26 In that context the proposed development is compliant with the aims and objectives of **Policy ENV 8**.

Reason 2

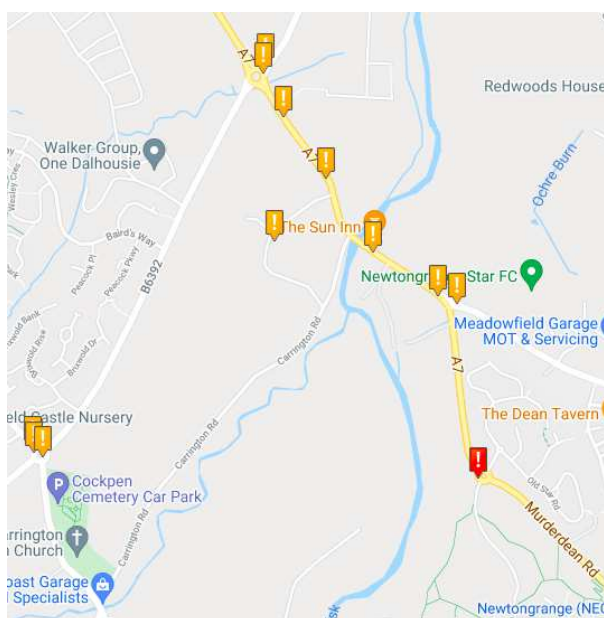
The development is unable to demonstrate safe access into the site by virtue of insufficient distance for suitable visibility splays.

- 4.27 The appellant at the time of the application provided a visibility splay plan (PL-06 Possible

Visibility Splays) via their architects rather than a transportation consultant on the understanding that the detail would be subject to condition and Roads Construction Consent. This would be re-drawn by a transportation consultant to demonstrate that, the available visibility spay to the south could be increased if necessary.

- 4.28 Due to the existing nature of the road, the onerous requirement for a 210m splay required by the DMBR could not be achieved. Nonetheless visibility would be improved from the existing situation
- 4.29 Notwithstanding the above, the DMBR standards (210m) are not strictly applicable in this case, and there are a number of residential properties within the immediate locale that share similar visibility traits and can access and egress their properties safely and without causing a road safety issue. Access and visibility would be improved as a result of development
- 4.30 You will note from Figure 4.3 below that there have been no recorded accidents along Carrington Road in the past 5 years with properties existing along that stretch of road which have identical visibility traits. This is largely due to the actual traffic speeds being lower than the designated design speed of the road itself.

Figure 4.3 – Crash Map Data on Carrington Road



- 4.31 In the context of the local road network, Carrington Road is bookended by the A7 to the north, and the B704 to the south, both of which at those points are 40mph speed limits. It is also worth noting that with the allocation to the north of the site (Hs11), although not having a vehicular access onto Carrington Road, there are x3 proposed pedestrian/cycle access routes planned onto Carrington Road which could see in an increase to both pedestrian traffic (especially dog walkers to the Dalhousie Burn), and cyclists using the road. In that context, there are likely a number of measures that could be employed to make Carrington Road more pedestrian and

cycle friendly and safer from a road safety perspective.

- 4.32 The appellant would be supportive of a reduction in the speed limit to 40mph which would correspond with the adjacent roads of the A7 and B704 at the point of connecting to Carrington Road. This could be achieved through a TRO, and traffic calming measures such as appropriate signage including additional access signage. The appellant would be happy to support such mitigation measures and bear the cost of implementation.
- 4.33 Reducing the speed limit to 40mph would likely allow the relevant visibility splay to be maintained, and the appellant could look at a 4.5m set back as opposed to the current 2.5m set back which would increase visibility even further. In the context of the Site Location Plan (Loc-01) submitted with the planning application and this appeal, you will note the client owns all the land adjacent to Carrington Road up to the B704 and therefore vegetation can be maintained under the appellant's ownership to further improve/maintain visibility.
- 4.34 As a part of the proposed development, the access point has moved further south than the existing access, resulting in an improvement in visibility to the south on access and egress. The nature of Carrington Road is such that 60mph cannot be achieved along the sections where the proposed access is located, and the minimal additional trips created from the proposed development means that there would be no adverse impact on the road network, or to road safety with adjacent properties experiencing similar traits.
- 4.35 We would contend that with mitigation, the access can continue to be used safely with no adverse impact to road safety. Furthermore, the adherence to onerous standards is not in accordance with Scottish Roads Development Guidance and Designing Streets.

Reason 3

The proposed development, by virtue of its proposed scale and massing, is unsympathetic to the character of the conservation area, the existing build and the natural landscaped character of the area and so conflicts with policies DEV6, ENV7 and ENV19 of the Midlothian Local Development Plan 2017.

- 4.36 **Policy ENV 19 Conservation Areas** sets out to preserve or enhance the character and appearance of the conservation area. The site is located within the Dalhousie and Cockpen Conservation Area. A conservation area character appraisal has not been undertaken by Midlothian Council for this conservation area.
- 4.37 The purpose of a conservation character appraisal is to help manage change. They provide an agreed basis of understanding of what makes an area special. This understanding informs and provides the context in which decisions can be made on proposals which may affect the character. An enhanced level of understanding combined with appropriate management tools

ensures that change and development sustains and respects the qualities and special characteristics of the area.

- 4.38 Under the heading Conservation Areas, SPP notes that *'proposals for development with conservation areas and proposals outwith which will impact on its appearance, character or setting, should preserve or enhance the character and appearance of the conservation area. Proposals that do not harm the character or appearance of the conservation area should be treated as preserving its character and appearance'*.

- 4.39 Planning Advice Note (PAN) 71: Conservation Area Management specifies that:

'When efficiently managed, conservation areas can anchor thriving communities, sustain cultural heritage, generate wealth and prosperity and add to quality of life. To realise this potential many of them need to continue to adapt and develop in response to the modern day needs and aspirations of living and working communities. This means accommodating physical, social and economic change for the better.'

Physical change in conservation areas does not necessarily need to replicate its surroundings. The challenge is to ensure that all new development respects, enhances and has a positive impact on the area. Physical and land use change in conservation areas should always be founded on a detailed understanding of the historic and urban design context'.

- 4.40 The reason for refusal notes that *'the proposed development, by virtue of its proposed scale and massing, is unsympathetic to the character of the conservation area...'*. The 'character' of an area is the combination of features and qualities which contribute to the intrinsic worth of an area and make it distinctive. Special character does not derive only from the quality of buildings. Elements such as the historic layout of roads, paths and boundaries, paving materials, urban grain and more intangible features, such as smells and noises which are unique to the area, may all contribute to the local scene. Conservation area designation is the means of recognising the importance of all these factors and of ensuring that planning decisions address these qualities.

- 4.41 The proposed houses have been architect designed and orientated to reflect the historic pattern of development on the site. They replicate the scale and proportion of historic cottages with accommodation within the roof space and traditional elements such as chimneys and dormers. The houses have also been built into the existing boundary wall to create a gatehouse type arrangement. High quality materials such as natural stone and slate will be utilised and to complement the existing stone wall.

- 4.42 The overall effect is a building which is unobtrusive and sits comfortably within the landscape and the historic setting. The site is also located adjacent to an allocated housing site (Hs11) which has planning permission for predominantly two storey new build houses which are simple

in form with pitched roofs and traditional fenestration.

- 4.43 The appeal site is brownfield by definition and currently used as a stonemason's yard. The development of the site will bring a vacant and derelict brownfield site back into a sustainable use, significantly improving the appearance of the site, and it is considered that the re-development of the appeal site would enhance the biodiversity of opportunities on the site. This would be achieved by bringing existing habitats under management, creation of new habitats and installation of features to provide nesting /breeding opportunities and shelter for fauna.
- 4.44 In that context, the proposed development adheres to the policy and advice in SPP and PAN 71 with the proposal respecting the locale and has a positive impact on the area. SPP is clear in its wording that *'proposals that do not harm the character or appearance of the conservation area should be treated as preserving its character and appearance'*. Therefore, the proposed development preserves the character and appearance of the Dalhousie and Cockpen Conservation Area as the appellant has clearly demonstrated that the proposal does not harm the character or appearance of the conservation area. Therefore, the proposal adheres to the aims and objectives of **Policy ENV 19**.
- 4.45 **Policy ENV 7 Landscape Character** states that development will not be permitted where it may have an unacceptable effect on the local landscape character. The site is considered an historic building group which was previously utilised for residential development and did not adversely affect the character and setting of the surrounding area. In that context, the site is brownfield by definition within a countryside location.
- 4.46 It is clearly established that the proposed development would not have an adverse impact on the local landscape character, and will actually have biodiversity net gain, as well as bringing a scruffy brownfield site back into a sustainable use which would vastly improve the amenity of the site and subsequently the immediate locale. The development of the site also provides the opportunity to clear all the existing waste and debris which has been dumped on the site over the years, which would be a clear benefit to the landscape setting of the site.
- 4.47 The proposal is a design led concept which has robustly assessed and understandings the historic and landscape setting of the site and immediate locale. The proposal seeks to retain and reinstate the existing stone boundary wall; build the proposals into existing wall as per the historic layout; develop in the same location as the historic building group; retain existing trees; work with the existing landscape and topography; minimise hard standing and maximise green space; and utilise high quality materials.
- 4.48 In that context, the proposed development respects the character of the locale, is of an appropriate scale, siting and design regarding the history of the site and the requirements of modern day living and the consented scheme adjacent to the site, while maintain and improving the diversity and distinctiveness of the local landscape which has been diluted over time due to the current use of the site which has been left vacant and derelict. Therefore, the proposal

complies with the aims and objectives of both **Policy ENV 7 and Policy DEV 6**.

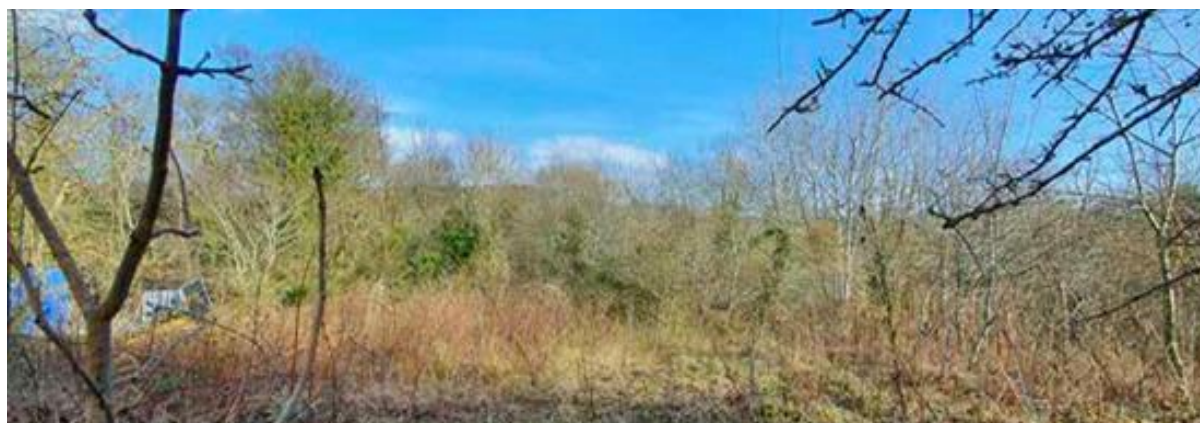
- 4.49 The Council within the Report of Handling notes concerns that the proposal does not provide sufficient private amenity space. It then goes on to note detailed guidance which relates to the previously adopted Local Plan which has been superseded and is no longer relevant. The proposal provides a mix of private amenity space to each unit in the form of garden space and a stilted decking area, as well as shared private amenity space, and direct access to recreational public land around the site.
- 4.50 It is the Appellant's opinion that future occupiers purchasing the properties will make a conscious decision to buy them based on the particulars of the property. The Council does not have any specified policies or guidance on what it deems as acceptable amenity space per dwelling, other than '*private open space should be provided on a scale appropriate to the relevant dwelling type*' through **Policy DEV 6**.

Reason 4

The proposed removal of vegetation from the site would harm the Tree Preservation Order and so conflict with policy ENV11 of the Midlothian Local Development Plan 2017.

- 4.51 **Policy ENV 11** relates to Woodland, Trees and Hedges. The TPO covers approximately half of the application site along its southern edge. Both the historic building group and the proposed development sit on the northern edge and outside of the TPO. The remainder of the site is located within the conservation area and therefore affords protection.
- 4.52 The Council's Report of Handling states that '*the existing landscaping contributes to the area's character as a rural rivet valley location*' but you will note from the photograph below (Figure 4.4) that there are no significant trees within the area proposed for development. What exists on the ground is very much self-seeded scrubs and shrubs of limited landscape quality.

Figure 4.4 – Landscape Quality of development site



- 4.53 An Ecological Assessment was undertaken by Nigel Rudd Ecology which was submitted as a

supporting document to the planning application and this subsequent appeal.

- 4.54 There was found to be no potential impact on European or UK Statutory sites as there are none within 2.5km of the Site. However, the site is within the Dalhousie Burn LBS and very close to two other LBSs. The Site is on the north boundary of the Dalhousie Burn LB and extends to no more than 1% of the area of the LBS. The proposal is to site development on the area currently occupied by the stonemason's yard. There will be retention of habitat within the application area, and it is considered there will be no compromise of the integrity of the LBS and the effect would be no more than that arising from an active business premises in the south of the LBS.
- 4.55 The surveys revealed restricted habitat diversity. The Site supports woodland, dense and scattered scrub and unimproved grassland habitats. The site is unmanaged and progressing to woodland in the absence of grazing pressure.
- 4.56 It concluded that it was considered that the re-development of the appeal site would enhance the biodiversity of opportunities on the site would result in a biodiversity net gain. This would be achieved by bringing existing habitats under management, creation of new habitats and installation of features to provide nesting /breeding opportunities and shelter for fauna. In that context, the proposal is compliant with **Policy ENV 11**.
- 4.57 A Tree Survey / Arboriculture Impact Assessment was not requested by Midlothian Council throughout the development management process but as rightly indicated through the Council's Report of Handling, such can be appropriately conditioned through the granting of any planning application. The appellant would be accepting of such a condition.

5 Conclusions

- 5.1 This review relates to a detailed planning application to develop 2 dwellinghouses on derelict and vacant brownfield land on land 25m southwest of Deaflawhill Cottage, Dalkeith.
- 5.2 The reasons for refusal are considered and rebutted in Section 5 of this Statement. A positive decision potentially rescues a surplus brownfield site and would be in accordance with the MLDP.
- 5.3 Planning policy is the starting point for the determination of a planning application and not an absolute. In this instance, an element of professional judgement needs to be employed in the context of the site specifics of the proposed development, as opposed to relying on a blanket policy which does not take into consideration detailed site proposals such as this. Although the proposed development does not adhere in its entirety to the aims and objectives of **Policy RD 1**, there are significant material considerations which outweigh the policy conflict, directing the right development to the right place and ensuring the re-development of brownfield land.
- 5.4 We have demonstrated the site is not considered as Prime Agricultural Land by the Macaulay Institute. Regardless, to a reasonable degree of certainty, the loss of the site would have a negligible impact on the food production capacity of the agricultural land within Midlothian. Therefore, the proposed development adheres to the aims and objectives of **Policy ENV 4**.
- 5.5 It is clearly established that the proposed development would not have an adverse impact either on the landscape and conservation value of the valleys, and will actually have biodiversity net gain, as well as bringing an underutilised brownfield site back into a sustainable use which would vastly improve the amenity of the site and subsequently the immediate locale. The site is private and currently operates as a stonemason's yard and therefore has never been open to the public. In that context the proposed development is compliant with the aims and objectives of **Policy ENV 8**.
- 5.6 We would contend that with mitigation, the access can continue to be used safely with no adverse impact to road safety.
- 5.7 The proposed development adheres to the policy and advice in SPP and PAN 71 with the proposal respecting the respects and enhances the locale and has a positive impact on the area. SPP is clear in its wording that *'proposals that do not harm the character or appearance of the conservation area should be treated as preserving its character and appearance'*, therefore the proposed development preserves the character and appearance of the Dalhousie and Cockpen Conservation Area as the appellant has clearly demonstrated that the proposal does not harm the character or appearance of the conservation area. Therefore, the proposal adheres to the aims and objectives of **Policy ENV 19**.

- 5.8 The proposal respects the character of the locale, is of an appropriate scale, siting and design regarding the history of the site and the requirements of modern day living and the consented scheme adjacent to the site, while maintain and improving the diversity and distinctiveness of the local landscape which has been diluted over time due to the current use of the site which has been left vacant and derelict. There, the proposal complies with the aims and objectives of both **Policy ENV 7 and Policy DEV 6**.
- 5.9 No Tree Survey or Arboriculture Impact Assessment was requested by Midlothian Council throughout the planning process but as rightly indicated through the Council's Report of Handling, such can be appropriately conditioned through the granting of any planning application. The appellant would be accepting of such a condition.
- 5.10 It is respectfully requested that the members take time to visit the site prior to any determination and that the impacts and benefits of this proposal are carefully considered. We trust that the LRB can agree with the arguments and opinions put forward by the appellant in this case and can grant planning permission.

MIDLOTHIAN COUNCIL

DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

Planning Application Reference: 21/00352/DPP

Site Address: Land 25M South West of Deaflawhill Cottage
Dalkeith

Site Description: The site is located circa 220m to the south the of the Carrington Road and A7 junction. It is located on the south east/east side of Carrington Road which bounds the site's western boundary. The site is bound to the north / north east by a core path (MID/8-1/3). To the east, the site is bound by Dalhousie Burn. As such the site is characterised by steep gradients, particularly to the east of the site towards Dalhousie Burn and to the north / north east towards the aforementioned core path.

The site is largely covered by trees/ landscaping with a small clearing adjacent to Carrington Road. A TPO covers a large proportion of the site at its southern end. A stone working enterprise is situated within the clearing, with the presence of a shipping container on site and ad hoc storage of stone materials within the site. Despite this operation the site is read as being part of the wooded river/burn valley to the west/north west of the Dalhousie Burn.

The site is accessed from Carrington Road by a wooden gate. A footpath runs along Carrington Road. The footpath is narrow (circa 1m) with a loose surface.

The site is located in the open countryside, within Dalhousie & Cockpen Conservation Area and is characterised by the following policy designations:

- RD1 Open Countryside
- ENV3 Newbattle Greenspace Safeguard
- ENV4 Prime Agricultural Land
- ENV8 Protection of River Valley
- ENV11 Woodland, Trees and Hedges (TPO no. 1 of 2004, Legal ref: 069)
- ENV14 Regional Locally Important Nature Conservation
- Coal Mining High Risk Area

The site is understood to have hosted historic development, likely cottages (number unknown). Historical online maps show that the site has been vacant of built form for a period of over 70 years.

Proposed Development: Erection of two dwelling houses; formation of access, car parking and areas of hard standing and associated works

Proposed Development Details: The proposed development seeks to deliver 2no. dwellings. The proposed dwellings are circa 7.8m in height and are two storey with pitched roofs.

In form the dwellings are based on a traditional style with contemporary additions, principally forward facing (south west) two storey projections that form an entrance hall at ground floor and bedroom accommodation at first floor. The proposed dwellings propose a significant amount of glazing particularly at ground floor level.

The proposed materials are natural rubble stone to approximately 3.7m where dark timber cladding features below the roof eaves. The roof is proposed to be blue/grey slate.

The proposed development provides access from Carrington Road, a shared driveway and 4 designated parking spaces (2 per dwelling).

Due to the site levels the south east gable is surrounded by a private decking area which is supported by stilts.

The proposals are proposed to share amenity space around the properties. Plans do not demarcate any specific amenity space for private use, aside from the proposed decking and front garden of the western property.

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

Planning History:

- 04/00227/OUT - Change of use of land to form a caravan park and outline planning permission for associated house/office. Refused at Planning Committee 01.09.2004

Land Between Deaflawhill Cottage And Glenburn Cottage, Cockpen Road

- 05/00606/OUT - Erection of dwellinghouse.
- Appeal ref: 06/00002/NONDET - Erection of dwellinghouse. Dismissed. 11.04.2006 (Archieved)

Consultations:

Archaeology: No objection subject to the application of condition to any grant of planning permission. Recommended Condition:

No development shall take place on the proposed site until the applicant has undertaken and reported upon a programme of archaeological (Desk-Based Assessment, Survey and Evaluation) work in accordance with a written scheme of investigation which has been submitted by the applicant (or their agent) and approved by the planning authority

Scottish Water: No objection to the development. There is currently sufficient capacity in ROSEBERY Water Treatment Works. Further investigations may be required to be carried out once a formal application has been submitted to us. Comments note that the nearest waste water infrastructure is approx. 180m from the site boundary and there may be issues/obstacles in the route of connection.

Bonnyrigg & Lasswade Community Council (BLCC): Object to the proposals for the following reasons:

- Overdevelopment – development is larger than historic development on the site. No other two storey development in proximity to the site.
- Contrary to policy RD1.
- Allocated residential development site HS11 to the west of the site is well screened from the area.
- Proposed development would conflict with policies ENV19 (Conservation Areas), ENV3 (Newbattle Strategic Space), ENV11 (Woodland, Trees and Hedges), and ENV14 (Regionally and Locally Important Nature Conservation Site).
- Any development would need to improve landscape screening to the path to the north of the site.

Eskbank & Newbattle Community Council (ENCC) – Object to the proposals for the following reasons:

- Development does not meet tests for rural housing.
- Development is restricted by policy ENV 3 and would erode an important “green lung”.
- Existing operations and siting of container on site do not have planning permission.
- Additional concerns regarding discharge of septic tank into Dalhousie Burn and insufficient visibility spays for access.

Policy & Road Safety, Corporate Resources: States that *“highly unlikely that the standard visibility splay of 4.5m by 215m could be achieved at this location. Even allowing the relaxation down to 2.4m by 215m does not appear to be achievable and therefore unless the developer can demonstrate that a suitable visibility splay can be achieved under land within his control I would not be in a position to support this application”*. Existing footpath is substandard.

Flooding: No objection

The Coal Authority: No objection subject to proposed conditions:

In light of the above, the Coal Authority recommends the imposition of the following conditions:

1. *No development shall commence until;*

a) a scheme of intrusive site investigations has been carried out on site to establish the risks posed to the development by past coal mining activity, and;

b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.

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

2. *Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development*

shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

Representations: There have been 4 representation made to the application all objecting to the development. It is noted that one is a duplication and another seeks confirmation of receipt of the ENCC objection. Objections have been made for the following reasons:

- Development would harm the river valley
- Development would harm the conservation area
- Resulting harm to vegetation and biodiversity
- Site hosts bats, beavers, otters and deer.
- Loss of landscaping along Dalhousie Burn and associated walkways
- Loss of privacy because of upper storeys and balconies.
- Harm to the local highway.
- Scale of houses is obtrusive and out of character with the area.

Relevant Planning Policies: The relevant policies of the **2017 Midlothian Local Development Plan** are;

RD 1 – Development in the Countryside. The policy generally seeks to restrict new development in the Countryside.

DEV 5 - Sustainability in New Development. The policy sets out a number of principles that new development should adhere to.

DEV 6 - Layout and Design of New Development. The Council will require good design and a high quality of architecture, in both the overall layout of development proposals and their constituent parts.

ENV 3 This purpose of the policy is to that greenspace centred on Newbattle be preserved in the long-term to act as a 'green lung' between the South Esk communities of Dalkeith, Eskbank, Bonnyrigg, Easthouses and Newtongrange.

ENV 4 - Prime Agricultural Land. The permanent loss of prime agricultural land is generally resisted.

ENV 7 - Landscape Character. The policy sets out to resist harmful development. Acceptable development should be compatible in terms of scale, siting and design.

ENV 8 Protection of River Valleys. This policy sets out that *“Development within the river valley protection areas of the Rivers North and South Esk and River Tyne will not be permitted unless there is a specific locational need for the development.”*

ENV 11 - Woodland, Trees and Hedges. The loss of trees and hedges is generally resisted with equivalent replacements required in wake of any required loss of trees or landscaping.

ENV 14 Regionally and Locally Important Nature Conservation Sites. The policy sets out that where development would harm such areas, applications should be refused unless; the siting of development avoids harm and appropriate mitigation is achievable; or the public interest of the proposed development outweighs the assessed harm.

ENV 15 - Species and Habitat Protection and Enhancement. The policy sets out that development that adversely impacts protected species will be refused apart from in certain circumstances, including where appropriate mitigation is proposed and agreed.

ENV 19 - Conservation Areas. Within or adjacent to a Conservation Area, development will not be permitted which would have any adverse effect on its character and appearance.

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.

Principle of Development

A case is put forward in the application for the site to be considered previously developed. It is understood that any former development on the site was removed circa 70 years ago. Since then no evidence of development has been identified. From a site visit it is considered that the site has been reclaimed by nature/landscaping and is greenfield land. An existing stone working /storage use does not benefit from planning permission.

The proposed development is within defined by the Local Development Plan as Countryside. Policy RD 1 controls new development within the Countryside. It sets out that:

- *Normally, housing will only be permissible where it is required for the furtherance of an established countryside activity.*
- *Proposals to replace an existing dwelling may be permissible where it can be demonstrated that it is incapable of renovation or improvement; that the proposal relates to a complete dwelling (i.e. not the plot of a previous, now demolished house)*

The policy sets out four points of exception to this in principle resistance to housing in the countryside. Including:

- *housing groups (allowing 1 new dwelling during the plan period where there are 5 existing units);*
- *conversions of redundant farm buildings or other non-residential buildings;*
- *redevelopment of redundant farm buildings or other non-residential buildings; or*

- *enabling development where it can be clearly shown to be the only means of preventing the loss of a heritage asset and securing its long-term future.*

The Design and Access Statement sets out that there was a row of cottages on the site historically, the footprint of which the proposals will seek to utilise / replicate. However, the structures have been demolished and are no longer present on site. In line with policy RD 1 the development cannot be considered to replace an existing dwelling. The proposed development therefore does not meet any of the aforementioned exceptions. A presumption against development at this location is therefore the starting position for assessing the development.

The site is found within the Newbattle Strategic Greenspace Safeguard (ENV 3) designation. The policy sets out that development in land under this designation will not be permitted with the exception of, “*ancillary development relevant to existing uses; and/ or other development for the furtherance of agriculture (including farm-related diversification), horticulture, forestry, countryside recreation or tourism.*” The proposed development is not ancillary to an existing use, or for the furtherance of agriculture, horticulture, forestry, countryside recreation or tourism. As such the proposed development conflicts with policy ENV 3.

The site is designated as Prime Agricultural Land (ENV 4). The policy seeks to resist development that would result in the permanent loss of designated agricultural land. Whilst forming part of the designation it is noted that the site is not used for agricultural purposes. Whilst the proposals may seek to utilise historical footprints, the development would likely result in the permanent removal of more agricultural land through the delivery of associated hardstanding, gardens and utilities. As such, the proposals are considered to result in some minor conflict with policy ENV 4.

The site is designated as part of a protected river valley (ENV 8) associated with the South Esk River. The policy sets out that development will not be permitted within these areas unless there is a specific locational need for the development. No evidence has been submitted with the application to demonstrate that a locational requirement exists for the proposed dwellings. The development would therefore be in conflict with policy ENV 8.

In light of the above matters, the proposed development is considered to be contradictory to multiple policies within the MLDP that would result in the principle of development not being supported.

Design and Layout

The proposed layout is logical in limiting the impact on Carrington Road by presenting a single gable end to the road. However, there are concerns that the proposals do not provide private amenity. There is likely to be sufficient space within the site to provide sufficient private amenity space, but the steep banks at the north and east of the site (as marked on the Site Layout Plan) hinder the ability of the development to provide demarcated garden space for dwellings to the rear (north). The majority of useable space appears to be directly behind the west property or to the south of the proposed parking. Policy DEV 6 requires development

to deliver privacy and amenity for existing and future residents. The development does not provide sufficient outdoor private amenity space. The Council's Detailed Development guidance is taken from policy DP2 of the previously adopted plan and set out that for dwellings of this size 130sqm outdoor private amenity space should be provided.

The proposed development is circa 40m to the south of Deaflawhill Cottages and so no concern over the privacy and amenity of these dwellings is held.

The contemporary approach does have some merit and would create distinctive dwellings. However, the proposed scale of the new houses would be significantly greater to the residential development to the north of the site (Deaflawhill Cottage). Whilst the DAS submitted suggests that the previous footprint of historic structures would be utilised, the necessity to stilt the eastern / south east elements of the development would seem to suggest a growth in footprint and scale.

The southern facing elements of the development are characterised by projected entrances with bedroom space above. These features are considered to conflict with the simple and traditional form of development in proximity to the site. The projections further exacerbate the stepped nature of the dwellings that departs from the apparent alignment of the historic cottages on the site. Similarly, the proposed development includes a significant quantum of glazing which would appear in contrast to the character of development in proximity to the site.

Whilst a contemporary approach to the proposals is not considered inappropriate in and of itself, it is considered the proposed design (for reasons above) would result in some conflict with policy DEV 6.

Transport and Access

Initially no visibility splay information was submitted with the application and the Council's Policy & Road Safety Officer raised concerns that safe visibility may not be achievable given the 60mph speed limit on Carrington Road. In response additional information was submitted to the application. After review of this information the Policy & Road Safety Officer confirms that his concerns remain. As such, the development is unable to demonstrate safe access to the public highway and as such should be refused.

Conservation Area

Policy ENV 19 sets out to preserve or enhance the character and appearance of the Conservation Area. Whilst there is no Character Appraisal for the Conservation Area the character and scale of the new development contrasts heavily with the existing residential development to the north. In respect of the character of the Conservation Area, there is more concern attached to the loss of vegetation and future increased pressure on trees at the site. Their loss would alter the rural character of the site and so come into contact with policy ENV19.

Landscape and Trees

Whilst the proposed development sets out to retain established trees at the site, it would result in the loss of vegetation at the site, some of which is within the TPO. The existing landscaping contributes to the areas character as a rural river valley location, and further aids in promoting tranquillity and enjoyment of existing core paths.

Whilst mature trees are sought to be preserved within the site, the proposed domestication of the site is considered to result in some added pressure on the trees despite the protection afforded to them by the TPO and Conservation Area. It is further identified that the Ecology Assessment submitted to the application references the loss of some woodland trees.

The proposed development would likely have an adverse impact on the conservation area and additional planting to screen the site would be needed.

No Tree Survey or Arboriculture Impact Assessment was submitted with the application. As such the full impact of the development on trees cannot be full assessed. As such, if this development were to be permitted, conditions requiring this information would be required. As it stands, there is considered to be harm resulting from the development in line with policies ENV 7 and ENV 11.

Ecology

The Wildlife Information Centre (TWIC) have reviewed all submitted information pertaining to biodiversity at the site and are content with the methodology of the assessments. However, they have confirmed that whether the proposed development is able to deliver lasting net gain in biodiversity is not clear given that this is partly reliant on appropriate site management being implemented longer-term. The development may result in harm against policy ENV 15 of the MLDP. In order to alleviate such concern, were this application to be approved, a comprehensive Biodiversity Management Plan would be required prior to development and secured by condition. Additionally, lighting within the development would need to be conditioned in order to make sure no inappropriate illumination of habitat would result.

In relation to policy ENV 14 and the Local Biodiversity Site (LBS), TWIC has set out that there might be harm to the LBS through cumulative small scale developments. The Ecology Assessment sets out that the development site covers 1% of the LBS and so the harm to the LBS is not likely to be significant. However, the cumulative impact could result in further harm to the LBS. Whilst mitigation is proposed in order to mitigate any such harm, additional habitat creation would be encouraged through any such Biodiversity Management Plan.

Drainage

No specific detail has been submitted in relation to Foul Water drainage or Surface Water Drainage. If the development were to be approved, such details would be required by condition. No objection in relation to flooding was raised by the council's consultee.

Summary

It is recommended the proposed development be refused for the following reasons:

- The development is contrary to the MLDP policies RD1, ENV3, ENV4 and ENV8.
- The development is unable to demonstrate safe access into the site.
- The proposed scale of the development is not in keeping with the neighbouring uses and would result in harm according to policy DEV 6.
- The proposed development would result in harm to the Dalhousie and Cockpen Conservation Area and policy ENV19.
- The proposed development would result in harm to the character of the landscape and policy ENV7.
- The proposed development would result in harm to the TPO on the site and policy ENV 11.

Recommendation: refuse planning permission.

Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

Reg. No. 21/00352/DPP

Yeoman McAllister Architects
Waterside Studios
64 Coltbridge Avenue
Edinburgh
EH12 6AH

Midlothian Council, as Planning Authority, having considered the application by Mr Ian Dickson, Holly Cottage, Croft Road, West Linton, EH46 7DZ, which was registered on 24 June 2021 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

Erection of two dwellinghouses; formation of access, car parking and areas of hard standing and associated works at Land 25M South West of Deaflawhill Cottage, Dalkeith

In accordance with the application and the following documents/drawings:

<u>Document/Drawing.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	Loc-01 1:1250/5000	24.06.2021
Topographical Survey	PL-00 1:250	24.06.2021
Site Plan	PL-01 1:250	24.06.2021
Proposed Ground Floor Plan	PL-02 1:100 Ground	24.06.2021
Proposed First Floor Plan	PL-03 1:100 First	24.06.2021
Elevations	PL-04 1:100	24.06.2021
Proposed Cross Section	PL-05 1:200/500 A-A and B-B and Proposed	24.06.2021
Proposed Visibility Splays	PL-06	04.10.2021
Design and Access Statement		24.06.2021

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

- 1. The proposal does not satisfy any of the criteria in relation to acceptable rural development set out in the Midlothian Local Development Plan 2017. As such, the principle of the development cannot be supported as development is contrary to policies RD1, ENV3, ENV4 and ENV8 of the Midlothian Local Development Plan 2017.*
- 2. The development is unable to demonstrate safe access into the site by virtue of insufficient distance for suitable visibility splays.*
- 3. The proposed development, by virtue of its proposed scale and massing, is unsympathetic to the character of the conservation area, the existing built and the*

natural landscaped character of the area and so conflicts with policies DEV 6, ENV7 and ENV 19 of the Midlothian Local Development Plan 2017.

4. *The proposed removal of vegetation from the site would harm the Tree Preservation Order and so conflict with policy ENV11 of the Midlothian Local Development Plan 2017.*

Dated 22 / 11 / 2021



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



**The Coal
Authority**

Any Planning Enquiries should be directed to:

Planning and Local Authority Liaison

Direct Telephone: 01623 637 119 (Planning Enquiries)

Email: planningconsultation@coal.gov.uk

Website: www.gov.uk/coalauthority

INFORMATIVE NOTE

The proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity at the surface or shallow depth. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and former surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of new development taking place.

It is recommended that information outlining how former mining activities may affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), is submitted alongside any subsequent application for Building Warrant approval (if relevant).

Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant land stability and public safety risks. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design which takes into account all the relevant safety and environmental risk factors, including mine gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at:
www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, excavations for foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

If any coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at:

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

Informative Note valid from 1st January 2021 until 31st December 2022

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 Planning, Sustainable Growth and Investment Manager, Planning, Sustainable Growth and Investment Service, 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

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

IMPORTANT NOTE REGARDING PUBLIC ACCESS TO INFORMATION

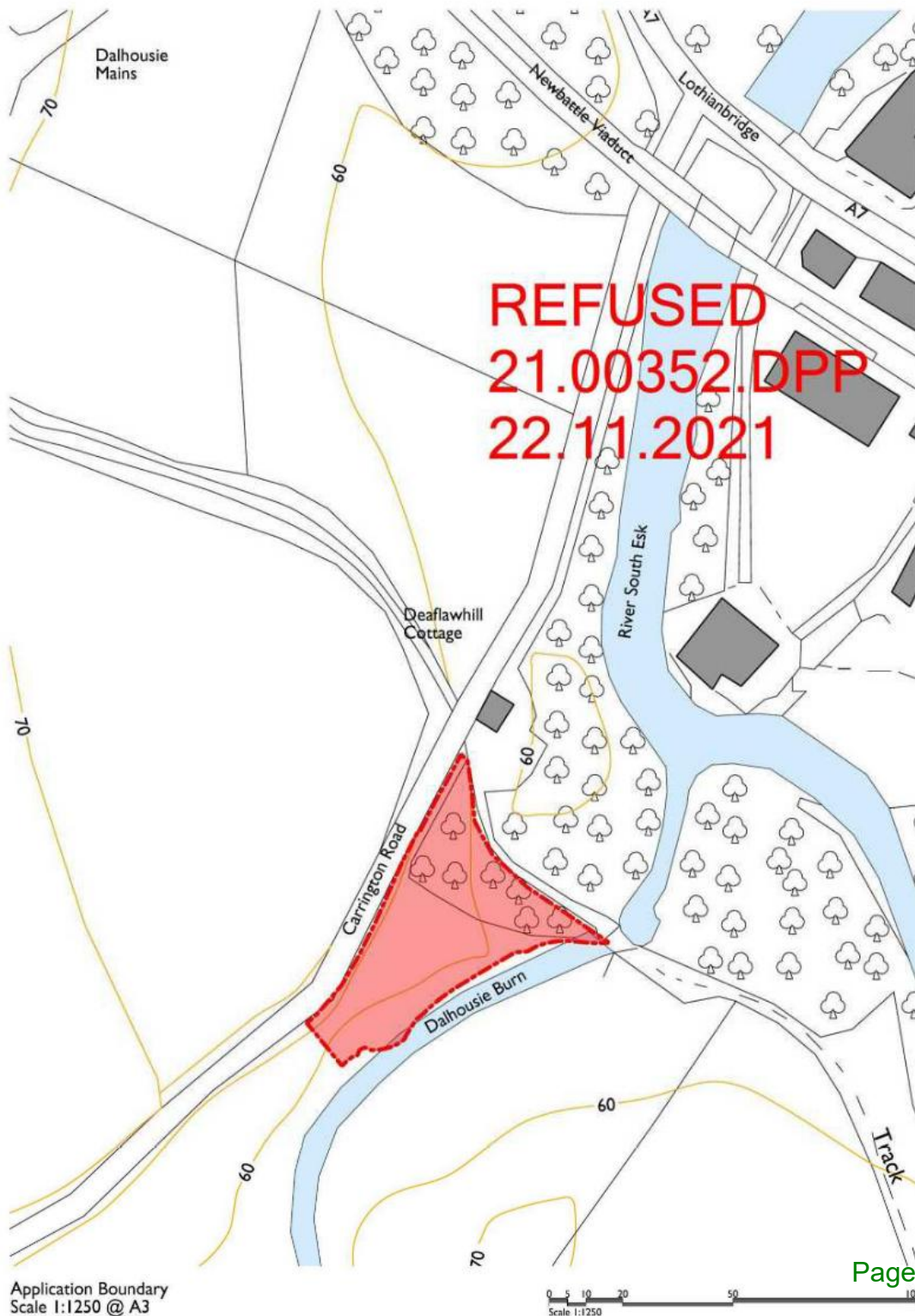
Making an application

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.

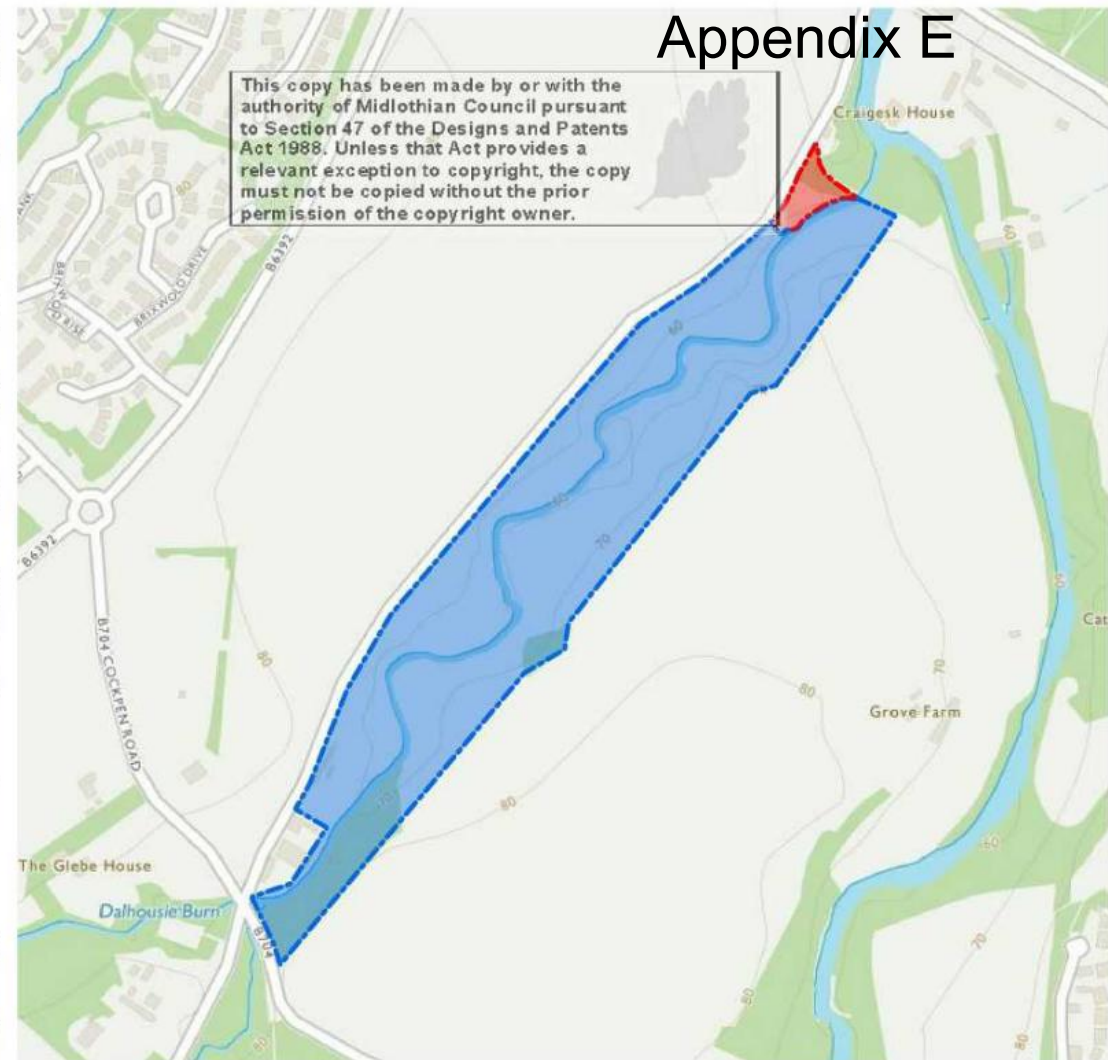
Making comment on an application

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.

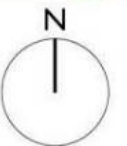
The planning authority will redact personal information in accordance with its redaction policy and use its discretion to redact any comments or information it considers to be derogatory or offensive. However, it is important to note that the publishing of comments and views expressed in letters and 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.



Appendix E



Adjacent Land under Client's Ownership
 Scale 1:1250 @ A3



KEY: Application Boundary Client's Ownership Boundary

0	62.5	125
CLIENT	Mr I. Dickson / Mr T. Love	
JOB	Proposed Dwelling Houses, Carrington Rd. Dalhousie Burn Valley	
DRAWING	Site Location Plan	
STATUS	PLANNING	
Drawn	NRC	Checked...
Approved...	DATE	Apr 21
JOB NO	s/4690	OR NO
Loc-01	REV	/
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SCALE	1:1250/5000	SHEET SIZE A3

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 Fax: 0131 346 1189
 info@ym-architects.com

LONDON -
 Wimbledon
 SW19
 Tel: 01825 1866337
 info@ym-london.com

REFUSED
21.00352.DPP
22.11.2021



Site Layout Plan

0 1 2 3 4 5 10m 20m

REV	DATE	DRAWN	DESCRIPTION	CHECK	APP'D

0	50	100
CLIENT	Mr L. Dickson / Mr T. Love	
JOB	Proposed Dwelling Houses, Carrington Rd, Dalhousie Burn Valley	
DRAWING	Site Layout Plan	
STATUS	PLANNING	
Drawn	GW	Checked
Date	01/10/21	08/10/21
Scale	1:250	SHEET 518 A1

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REFUSED
21.00352.DPP
22.11.2021



Site Layout Plan

Achievable Visibility Splay
2.5 x 141.5m to the North
2.5 x 130m to the South

REV	DATE	DRAWN	DESCRIPTION	CHECK	APP'D
REVISIONS					
0					

CLIENT	Mr I. Dickson / Mr T. Love				
JOB	Proposed Dwelling Houses, Carrington Rd, Dalhousie Burn Valley				
DRAWING	Possible Visibility Splays				
STATUS	PLANNING				
DATE	08/04/21	DESIGNED	08/04/21	DRAWN	08/04/21
SCALE	1:500	SHEET	02	A2	

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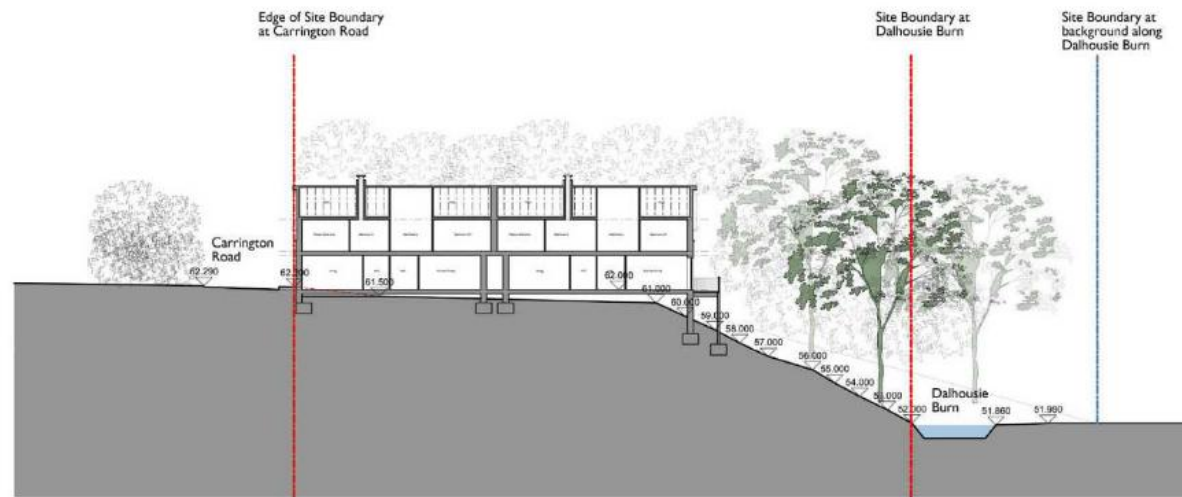
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Colinton, Edin. Gen
tel: 0131 548 1401
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SITE SECTION A-A
Scale 1:200 @ A1



SITE SECTION B-B
Scale 1:200 @ A1



PROPOSED SITE PLAN
Scale 1:500 @ A1

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North Elevation

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0 1 2 3 4 5 10m
Scale 1:100

Material Schedule



Natural Random Rubble Stone



Black Timber Cladding Boards



Double Glazed Alu Clad Windows/Doors



Blue/Grey Slate Roof

REV	DATE	DRAWN	DESCRIPTION	CHECK	APP'D
REVISIONS					

0	50	100
CLIENT	Mr. I. Dickson / Mr. T. Love	
FW	Proposed Dwelling Houses, Carrington Rd. Dalhousie Burn Valley	
DRAWING	Proposed Elevations	
STATUS	PLANNING	
Draw	GW	Desket., Approved, JMS Apr'21 JMS AG/4690 JH RO PL-04 REV /
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Scale	1:100	SHEET 51 A1

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info@waterside-studios.co.uk

**Notice of Review: Land West of 6 Ramsay Cottages,
Bonnyrigg (also known as land at Cockpen Farm,
Newtongrange)****Determination Report**

Report by Chief Officer Place

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 10 dwellinghouses and associated works at land west of 6 Ramsay Cottages, Bonnyrigg (also known as land at Cockpen Farm, Newtongrange).

2 Background

- 2.1 Planning application 21/00806/DPP for the erection of 10 dwellinghouses and associated works at land west of 6 Ramsay Cottages, Bonnyrigg (also known as land at Cockpen Farm, Newtongrange) has not been determined within the statutory time period (2 months as extended by agreement) and as such the applicant has exercised their rights to request the LRB to determine the application. Officers were preparing to refuse the application.
- 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);
 - A copy of the case officer's report (Appendix C);
 - A copy of the decision notice worksheet, which includes the reasons for refusal prepared by the case officer (Appendix D); and
 - A copy of the key plans/drawings (Appendix E).
- 3.2 The full planning application case file and the development plan policies referred to in the case officer's report can be viewed online via www.midlothian.gov.uk

4 Procedures

4.1 In accordance with agreed procedures:

- Have determined to consider a visual presentation of the site and undertaking a site visit (elected members not attending the site visit can still participate in the determination of the review); and
- Have determined to progress the review by written submissions.

4.2 The case officer's report identified that there were seven consultation responses and 17 representations received. As part of the review process the interested parties were notified of the review. No additional comments have been received. All comments can be viewed online on the electronic planning application case file.

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 back to the 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 13 June 2017, 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, the following details shall be submitted to and approved in writing by the planning authority:

- a) Details and samples of all external materials for the buildings, boundary treatments, bin and bike stores;
- b) Details of the proposed materials of the areas of hardstanding;
- c) A landscape plan, including details of a scheme of landscaping for the site. Details shall include the position, number, size and species of all trees and shrubs proposed, as well as identifying all trees on site which are proposed to be removed and retained.

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

Reason: *These details were not submitted as part of the application: to protect the visual amenity of the surrounding area; to integrate the development into the area; to ensure the development is served by adequate amenities.*

- 2. Within six months of the development being completed or occupied, whichever is the earlier date, the landscape scheme approved under the terms of condition 1c) above shall be carried out; thereafter, any trees or shrubs removed, dying, becoming seriously diseased or being severely damaged shall be replaced during the next available planting season with others of a similar size and species.

Reason: *To protect and enhance the landscaping of the area; to ensure that planting on the site is carried out as early as possible, and has an adequate opportunity to become established.*

- 3. Development shall not begin until details, including a timetable of implementation, of high speed fibre broadband have been submitted to and approved in writing by the planning authority. The details shall include delivery of high speed fibre broadband prior to the occupation of each residential unit. The delivery of high speed fibre broadband shall be implemented as per the approved details.

Reason: *To ensure the quality of the development is enhanced by the provision of appropriate digital infrastructure in accordance with the requirements of policy IT1 of the adopted Midlothian Local Development Plan 2017.*

- 4. Development shall not begin until details of the provision and use of electric vehicle charging stations throughout the development have been submitted to and approved in writing by the planning authority. Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be approved in writing by the planning authority.

Reason: *To ensure the development accords with the requirements of policy TRAN5 of the adopted Midlothian Local Development Plan 2017.*

5. Development shall not begin until details of a sustainability/biodiversity scheme for the site, including the provision of house bricks and boxes for bats and swifts throughout the development has been submitted to and approved in writing by the planning authority along with details of how the proposals will implement the recommendations set out in chapter 5.0 of the Ecology Assessment (September 2021, Nigel Rudd Ecology). Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be approved in writing with the planning authority.

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

6. No construction of the development hereby permitted shall not take place outwith the hours of 8am to 7pm on Mondays to Fridays, 8am to 1pm on Saturdays, with no work at any time on Sundays.

Reason: *To safeguard the amenity of the surrounding residential area; to protect the amenity of neighbouring properties.*

7. No development shall take place until a programme of archaeological (evaluation) work has been undertaken and a written scheme of investigation has been submitted to and approved in writing by the local planning authority.

Reason: *In order to comply with policy ENV 25 of the MLDP 2017.*

8. No development shall take place until details of a 3m wide cycling / pedestrian route connecting development to the north, through the proposed site, to the frontage of 1 – 6 Ramsay Cottages on the B704 are prepared and submitted to the local planning authority for approval in writing.

Reason: *To delivery effective site connectivity and promote low carbon movement.*

9. Prior to the commencement of development details of a safe pedestrian crossing point on the B704 to the existing public footway on the southern edge of the B704 shall be submitted to the local planning authority for approval in writing.
10. Prior to the commencement of development details of new street lighting extending from 1 – 6 Ramsay Cottages to cover the new pedestrian link required under condition 8 shall be submitted to the local planning authority for approval in writing.

Reason for conditions 9 and 10: *To ensure user safety of the new multi user route.*

11. No development shall commence until details of the proposed surface water management scheme and outfall for the development demonstrating that development does not result in any increase in flooding risk for existing properties is submitted to and approved in writing by the planning authority.

Reason: To ensure that the proposed development complies with policy ENV 10.

12. No development shall commence until a revised layout showing the provision of 5 visitor parking spaces is prepared and submitted to the planning authority for approval of writing. Thereafter development shall take place in accordance with approved plans.

Reason: To ensure adequate parking is provided as part of the development.

- 5.2 If the LRB is minded to uphold the review and grant planning permission for the proposed development it shall be subject to a legal agreement to secure developer contributions towards primary and secondary school education provision, Borders Rail, community facilities, play provision and affordable housing. The legal agreement shall be concluded prior to the issuing of the LRB decision. The legal agreement shall be concluded within 6 months of the resolution to grant planning permission, if the agreement is not concluded the review will be reported back to the LRB for reconsideration.

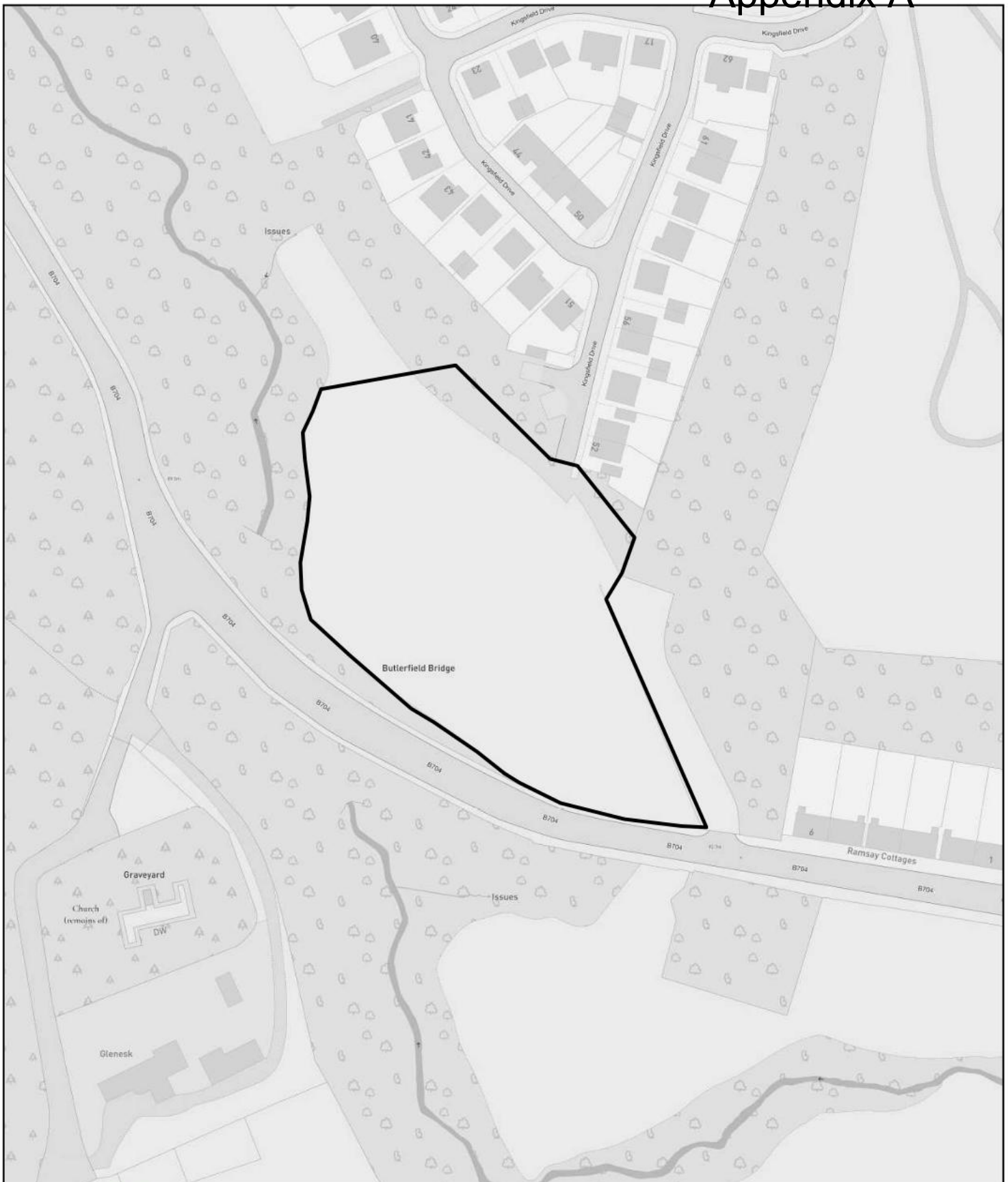
6 Recommendations

- 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

Peter Arnsdorf
Planning, Sustainable Growth and Investment Manager

Date: 17 June 2022
Report Contact: Hugh Shepherd, Planning Officer
Hugh.Shepherd@midlothian.gov.uk

Background Papers: Planning application 21/00806/DPP available for inspection online.



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

Erection of 10 dwellinghouses and three garages; formation of access road, car parking and footpaths and associated works at Land West of 6 Ramsay Cottages , Bonnyrigg,

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Midlothian Council Licence No. 100023416 (2022)

File No: 21/00806/DPP

Scale: 1:1 500
Page 104 of 208





Fairfield House 8 Lothian Road Dalkeith EH22 3ZN Tel: 0131 271 3302 Fax: 0131 271 3537 Email: 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 100478174-007

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

Agent Details

Please enter Agent details

Company/Organisation:	<input type="text" value="Geddes Consulting"/>		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	<input type="text" value="Stuart"/>	Building Name:	<input type="text" value="Quadrant"/>
Last Name: *	<input type="text" value="Salter"/>	Building Number:	<input type="text" value="17"/>
Telephone Number: *	<input type="text" value="0131 553 3639"/>	Address 1 (Street): *	<input type="text" value="Bernard Street"/>
Extension Number:	<input type="text"/>	Address 2:	<input type="text"/>
Mobile Number:	<input type="text"/>	Town/City: *	<input type="text" value="Edinburgh"/>
Fax Number:	<input type="text"/>	Country: *	<input type="text" value="UK"/>
		Postcode: *	<input type="text" value="EH6 6PW"/>
Email Address: *	<input type="text" value="stuart@geddesconsulting.com"/>		

Is the applicant an individual or an organisation/corporate entity? *

☐ Individual ☒ Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Other"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text" value="Miller House"/>
First Name: *	<input type="text"/>	Building Number:	<input type="text"/>
Last Name: *	<input type="text"/>	Address 1 (Street): *	<input type="text" value="2 Lochside View"/>
Company/Organisation	<input type="text" value="Miller Homes Limited"/>	Address 2:	<input type="text" value="Edinburgh Park"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Edinburgh"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="UK"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="EH12 9DH"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="stuart@geddesconsulting.com"/>		

Site Address Details

Planning Authority:	<input type="text" value="Midlothian Council"/>
---------------------	---

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

Address 1:	<input type="text"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text"/>
Post Code:	<input type="text"/>

Please identify/describe the location of the site or sites

<input type="text" value="Land at Cockpen Farm, Newtongrange"/>

Northing	<input type="text" value="663437"/>	Easting	<input type="text" value="332758"/>
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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)

Erection of 10 dwellings and three garages; formation of access road, car parking and footpaths and associated works.

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 Local Review Body Statement.

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)

Please see Planning Application (PA) Document Reference List and Miller Homes (MH) Document Reference List.

Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

21/00806/DPP

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

01/10/2021

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

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

Please select a further procedure *

Further written submissions on specific matters

Please explain in detail in your own words why this further procedure is required and the matters set out in your statement of appeal it will deal with? (Max 500 characters)

Please refer to Local Review Body Statement.

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

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: Mr Stuart Salter

Declaration Date: 06/03/2022

**Cockpen Road, Newtongrange
Local Review Body Statement**

On behalf of

millerohomes

March 2022

Prepared by:



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Document Control and Approval

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Final	Stuart Salter	Bob Salter	4 th March 2022

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Executive Summary

Miller Homes was established in 1934 in Edinburgh and retains its headquarters in the City to this day. The company builds across the UK with Scotland, and the Lothians in particular, remaining a core part of the Company's area of operation. The adjacent new housing at Miller Homes' *Lady Victoria Grange* development (Ref: h37 *Cockpen Farm*) stands testament to the quality family homes that the Company has been building for generations across Scotland and is renown.

The company now builds approximately 4,000 new homes across the UK from its base in Edinburgh and has built many hundreds of new homes across Midlothian in recent decades. Everyone knows someone who lives in a *Miller Home*.

The Appeal site is a logical extension to the current Miler Homes development at *Lady Victoria Grange* (Ref: h37 *Cockpen Farm*) which will itself be completed later in 2022. All necessary services and drainage capacity needed to serve this small development of 9 homes is allowed for via the existing site at *Lady Victoria Grange*.

Providing land for an additional 9 homes of similar design to *Lady Victoria Grange* within the settlement boundary of Newtongrange would not create any unacceptable precedence for coalescence with any neighbouring development or settlements.

This Local Review Body Statement has assessed the Appeal proposal for residential development of 9 homes at *Cockpen Road* against the policies of SESplan and the adopted Midlothian Local Development Plan (LDP), as well as considering other material considerations including Scottish Planning Policy (SPP).

The site is within the *A7/ A68 /Borders Rail Corridor*, one of the SESplan Strategic Development Areas (SDA), which are to be the focus of new development for the Lothian region. The Appeal proposal's location within the SDA is in accord with the approved development strategy for Midlothian and the SESplan region.

The *Planning Statement* demonstrates that there is a shortfall in the supply of housing land in Midlothian and the housing supply target and housing land requirement will not be met by 2024. SESplan Policy 7 *Maintaining a Five Year Housing Land Supply* is therefore triggered as a key development plan policy in the determination of this Appeal. The proposal accords with the relevant two criteria of SESplan Policy 7 and the principle of the proposal is supported by SESplan.

Other SESplan policies are not directly relevant to the determination of this Appeal.

The principle of the Appeal proposal is also supported by the adopted LDP due to the shortfall in the supply of housing land in Midlothian, specifically Policy STRAT 2 *Windfall Housing Sites*.

The Appeal proposal does not conflict with any other relevant LDP Policies, as summarised in this Appeal Statement and other supporting documents. Subject to appropriate planning conditions, the Appeal proposal accords with all relevant development plan requirements.

The additional 9 homes would also be required to be subject to a Section 75 Agreement, which based on recent payments made by Miller Homes could be in the region of £37,500 per home.

Development of the Appeal site could therefore generate a further planning obligation windfall payment of circa **£337,500** for Midlothian Council to put towards local services across the area.

The Appeal proposal is supported by SPP. It constitutes sustainable development and this is a significant material consideration that adds weight to the case for approval.

Case law also confirms that a *tilted balance* in favour of granting planning permission applies in cases where a shortfall in the effective housing land supply emerges.

In these circumstances, planning permission should only be refused where disbenefits of a proposal can be shown to significantly and demonstrably outweigh the benefits. There are no disbenefits that outweigh the benefits of the Appeal proposal.

No material considerations have been identified that indicate the Appeal should be refused.

Accordingly, Miller Homes respectfully submit that the Appeal should be allowed and Planning Permission granted.

1.0 Introduction

1.1 Miller Homes was established in 1934 in Edinburgh and retains its headquarters in the City to this day. The company builds across the UK with Scotland, and the Lothians in particular, remaining a core part of the Company's area of operation. The adjacent new housing at Miller Homes' *Lady Victoria Grange* development (Ref: h37 *Cockpen Farm*) stands testament to the quality family homes that the company has been building for generations across Scotland.

1.2 The company now builds approximately 4,000 new homes across the UK from its base in Edinburgh and has built many hundreds of new homes across Midlothian over recent decades. Everyone knows someone who lives in a *Miller Home*.

Structure of Appeal Statement

1.3 This *Appeal Statement* (the Statement) is prepared on behalf of Miller Homes (the Appellant) in support of an Appeal to the Midlothian Local Review Body (LRB) against the failure of Midlothian Council (the Council) to determine an Application for Planning Permission (PP) for residential development at Cockpen Road, Newtongrange

1.4 This Statement should be read in conjunction with the documents submitted as part of the Application (PA 0.01 to PA 0.35).

1.5 This Appeal submission includes copies of consultations and exchanges of correspondence between the Appellant and relevant consultees prior to determination (PA 1.01 to PA 1.12). These highlight the issues being raised by the Council and other consultees and the responses made by the Appellant.

1.6 All of these documents are referenced in the Planning Application (PA) Document Reference List submitted with this Appeal.

1.7 Chapter 1 of this Statement sets out the background to the Appeal. This includes a summary of the determination of the planning application and the additional or updated information submitted by the Appellants since the planning application was submitted to address comments raised by the Council and consultees.

1.8 Chapter 2 sets out the Appellant's Grounds of Appeal.

1.9 The Appellant considers that the Appeal proposal complies with the relevant policies in the statutory development plan. Material considerations are identified and discussed. The evidence for this compliance is considered and presented in Chapter 3.

1.10 Chapter 4 summarises the case for the Appeal and concludes the Appeal should be upheld based on the evidence originally presented to the Council and now presented to the Local Review Body, subject to appropriate conditions.

Description of Appeal Proposal

1.11 The Appeal site is located in the south west corner of the settlement of Newtongrange, to the south of an housing development currently under construction by the Appellant. The Appeal proposal is for residential development of 9 homes with associated engineering, infrastructure, landscaping and open space.

1.12 The Application Boundary for the site extends to 0.9ha, as shown in Dwg. No. 0126-Cockpen Road-STEX-P002 *Site Boundary* (PA 0.03). The Appeal site was formerly part of a wider agricultural unit.

- 1.13 Following the ongoing construction of the residential development to the north, the Appeal site is now vacant private land and has lost its former use and function.
- 1.14 The application boundary is formed to the south by Cockpen Road (B704). To the north of the site is the existing residential development currently under construction by the Apellant. The western and eastern boundaries of the site are formed by existing tree belts.
- 1.15 The Appeal proposal is explained further in Section 2 of this Statement as well as the *Design Statement* (PA 0.05) submitted in support of the Application.
- 1.16 The Appeal proposal will form a modest and logical continuation of the residential development under construction to the north (Ref: h37 *Cockpen Farm*). The proposed homes will be detached homes and will comprise a mix of house types and sizes ranging from three to five bedrooms.
- 1.17 Dwg. No. 0126-Cockpen Road-MPDF-P001-E *Proposed Site Layout* (PA 1.05) submitted in support of the Application sets out the layout of the proposed homes.
- 1.18 The proposed homes have been positioned to provide active frontage to the road and passive surveillance to the extended streetscape. The proposed homes have been arranged in a small courtyard like configuration adjacent to the site entrance. This will provide a focal point for the development and will create a welcoming entrance into the development and creates a natural end point for the earlier completed development which is currently missing.
- 1.19 Each home will have a private driveway with either an integral or detached garage. The proposed homes will also have sufficient parking to meet the Council's parking requirements.
- 1.20 The Appeal site will be accessed from the development to the north which is currently under construction. This will require the existing road (Kingsfield Drive) to be extended further into the site. As shown on the *Proposed Site Layout* (PA 1.05), this road will include a section of shared surface which will serve four of the proposed homes. The use of shared surfaces promotes pedestrian priority and will encourage a reduction in vehicle speeds within the site.
- 1.21 A single point of access is appropriate for the scale of development proposed. A turning head is also included within the proposal. This will ensure that refuse vehicles can access and manoeuvre safely within the proposed development.
- 1.22 A landscape framework is proposed that complements the existing green network. New homes are focused in the east of the site, providing a buffer between development and the area of mature woodland along the western boundary. The existing open space is retained in the west of the site. This is enhanced with new meadow and tree planting, providing a biodiversity improvement on site.
- 1.23 More formal landscaping is proposed in the east of the site, providing an attractive setting for new homes as well as the existing tracks that run adjacent to the eastern boundary. These existing tracks will be overlooked by new homes, making them safer and more welcoming for all users. The development of the Appeal site presents an opportunity to improve the amenity and ecological value of this area without compromising the function of the informal route through the site.
- 1.24 Further details on the proposal are set out in *Design Statement* (PA 0.05, Section 2.1).
- 1.25 This Statement highlights the relevant development plan policies and material considerations that need to be taken into account by the Council in the determination of this Application for PP. This Statement demonstrates the proposal's compliance with the policies of the development plan and other material considerations, which will allow the Council to grant PP.

1.26 As part of the Application, and in response to matters raised during the determination process, the following reports and submissions were lodged with the Council by the Appellants:

- Design Statement (PA 0.05);
- Proposed Site Layout (PA 1.05);
- Proposed Drainage Layout (PA 1.06);
- Proposed Levels Layout (PA 1.07);
- Landscape Proposal Specification (PA 1.08);
- Landscape Proposal (PA 1.09);
- Desk Study Constraints Report (PA 0.29);
- Transport Statement (PA 0.30);
- Flood Risk Assessment (PA 0.31);
- Air Quality Impact Assessment (PA 0.32);
- Ecological Assessment (PA 0.33); and
- Tree Survey Report (PA 0.35).

1.27 Scottish Planning Policy (SPP) (2020) was quashed by the Court of Session in July 2021, and the previous 2014 version of SPP came back into force.

Determination Process of the Application

1.28 The PP application was lodged on 1st October 2021. Formal acknowledgement was received from the Council dated 11th October 2021, which confirmed the Application had been registered on 6th October 2021.

1.29 The statutory determination deadline was therefore 6th December 2021.

1.30 During the course of the Application's determination, the following consultation responses and Council comments were received:

- Archaeology Consultation Response (PA 1.01);
- Transport Consultation Response (PA 1.02); and
- NatureScot Consultation Response (PA 1.03).

1.31 The Appellant amended the Appeal proposal from 10 homes to 9 homes on 9th December 2021 (PA 1.04).

1.32 The Council has not determined the Application in a period of over five months from submission, which is well over double the statutory two month period.

1.33 The Appellants agreed a series of extensions to the determination period from the original statutory deadline of 6th December 2021 to 11th January 2022 (PA 1.11) and finally to 16th February 2022 (PA 1.12).

1.34 The Appellant's right to appeal against the Council's non-determination of the Application began on 16th February 2022 and is valid for a period of three months.

2.0 Grounds of Appeal

2.1 The Appellant's Grounds of Appeal are as follows:

1. The *Planning Statement* (PA 0.34) demonstrates that there is a shortfall in the supply of housing land in Midlothian and the housing supply target set by SESplan and housing land requirement in the adopted LDP will not be met by 2024. SESplan Policy 7 *Maintaining a Five Year Housing Land Supply* is therefore triggered as a key development plan policy in the determination of this Appeal, along with LDP Policy STRAT 2 *Windfall Housing Sites*.
2. The Appeal site is effective. There are no infrastructure constraints impacting the Appeal proposal that cannot be resolved by planning obligations.

In terms of SESplan Policy 7, the Appellant's *Design Statement* (PA 0.05, Section 2.3) confirms that the Appeal proposal will not have a significant adverse impact on the character of the settlement and the local area and it is therefore in accord with SESplan Policy 7, criterion a.

The Appeal site is not in the Green Belt and SESplan Policy 7, criterion b does not apply.

SESplan Policy 7, criterion c, requires proposals to provide necessary infrastructure. The Appellant's *Planning Statement* (PA 0.34) sets out that existing utilities, roads, public transport, and education infrastructure either have capacity, or the Appellant is willing in principle to make a financial contribution towards the provision of additional infrastructure in accord with the tests in Circular 3/2012 *Planning Obligations and Good Neighbour Agreements*.

Taking all these matters into account, the Appeal proposal accords with SESplan Policy 7.

Compliance with LDP Policy STRAT 2 *Windfall Housing Sites* has also been examined in the *Planning Statement* (PA 0.34). Based on the evidence lodged with this Appeal as well as the Application, the Appeal proposal complies with the five criteria identified in LDP Policy STRAT 2.

3. The Appeal site is within 400m of existing bus stops and within a 15 minute walk of Newtongrange Train Station. The Appeal proposal will, therefore, be well served by existing public transport services in accord with the statutory walking distances set out in PAN 75 *Planning for Transport* and the Scottish Government's "20 minute neighborhoods".
4. The Appeal proposal will retain and enhance around 0.3ha of open space within the site. This will include meadow planting and additional tree planting. This will help to screen the development from the B704 and improve the biodiversity and amenity value of the site. The Appeal proposal also includes the provision of bat boxes and 'Swift' boxes which will further enhance the biodiversity value of the site.
5. The *Flood Risk Assessment* (PA 0.31) demonstrates that the Appeal site will not be at risk of flooding, nor will it increase the risk of flooding for neighboring development. The Appeal proposal will also tie into the existing SuDS delivered as part of the residential development to the north.
6. The *Noise Impact Assessment* (PA 1.10) and *Air Quality Impact Assessment* (PA 0.32) both demonstrate that the Appeal proposal will not have an adverse impact on existing noise or air quality levels. Residents of the proposed development will also not be affected by any adverse noise or air quality issues.

7. Case law also confirms that a 'tilted balance' in favour of granting planning permission applies in cases where a shortfall in the effective housing land supply emerges. In these circumstances, planning permission should only be refused where disbenefits of a proposal can be shown to significantly and demonstrably outweigh the benefits. There are no disbenefits that outweigh the benefits of the Appeal proposal.

3.0 Compliance with Development Plan

- 3.1 In accord with the provisions of Section 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997, this Appeal must be determined in accordance with the provisions of the development plan unless material considerations indicate otherwise.
- 3.2 Material considerations both for and against the proposal should be considered and an assessment made as to whether these considerations warrant a departure from the development plan.
- 3.3 The development plan comprises the approved Strategic Development Plan (SDP) known as SESplan (approved June 2013) and the adopted Midlothian LDP (adopted November 2017).
- 3.4 The Appeal site is located within the settlement boundary of Newtongrange. Policy DEV 2 *Protecting Amenity within the Built-Up Area* is therefore applicable to the determination of this Application.
- 3.5 The preamble to Policy DEV 2 states that there is ...*a requirement to deliver additional housing on windfall sites (policy STRAT2) and such opportunities will generally located within existing built-up areas.*
- 3.6 This Chapter summarises the evidence as to whether or not the Appeal proposal complies with the policy framework in the statutory development plan.

Compliance with SESplan

Principle of Development – Spatial Strategy and Housing Land Supply

- 3.7 Compliance of the Appeal proposal with SESplan's spatial strategy and policies is set out in detail in the *Planning Statement* (PA 0.34, paragraphs 3.3 to 3.29), including the following:
 - The Appeal proposal is within the A7/ A68 /*Borders Rail Corridor*, one of the Strategic Development Areas (SDAs) which are the focus of new development in Midlothian. SESplan Policy 1A *The Spatial Strategy: Development Locations* confirms that the SDAs are where new strategic development shall be directed by local development plans. As the Appeal proposal is in an SDA, its location is in accord with the approved development strategy for Midlothian and the SESplan region.
 - SESplan Policy 6 *Housing Land Flexibility*.
 - SESplan Policy 7 *Maintaining a Five Year Housing Land Supply*.
- 3.8 The Appeal proposal is therefore in accord with the relevant criteria of SESplan Policy 7 and the principle of the proposal is supported by the approved SDP.
- 3.9 SESplan Policy 8 *Transportation*, Policy 9 *Infrastructure*, Policy 11 *Delivering the Green Network*, and Policy 15 *Water and Flooding* set out requirements for the local development plans in the area to address. These are therefore not directly relevant to the determination of this Appeal and are addressed through relevant LDP policies.
- 3.10 The Appeal proposal's location within a defined SDA is in accord with the approved development strategy for Midlothian and the SESplan region. SESplan Policy 7 is triggered as a key development plan policy in the determination of this Appeal due to the shortfall in the supply of housing land in Midlothian.

- 3.11 The Appeal proposal accords with the relevant criteria of SESplan Policy 7 and is supported by the approved SDP.

Compliance with Midlothian LDP

- 3.12 Compliance of the Appeal proposal with the policies of the LDP is set out in detail in the *Planning Statement* (PA 0.34, paragraphs 3.30 to 3.170), including the following:

- Policy DEV 2 *Protecting Amenity within the Built-Up Area*.
- The Appeal site is allocated under Policy DEV 8 *Open Spaces and* is identified within the Council's *Open Space Strategy*.

The Appeal site is a redundant piece of land that formed part of a wider farming unit on which the development to the north is built on. The site does not function as an area of open space for the development to the north nor has it ever done given its past use as part of a commercial farming unit

The Appeal site is not considered to have any significant open space value or amenity. Furthermore, the site is not considered to have any realistic potential to be enhanced for open space use. The loss of this area of open space will not have an adverse impact on the availability of access to open space within Newtongrange.

The Appeal proposal will not undermine the existing value of the open space. Rather, the introduction of meadow planting and additional tree planting in the western part of the site will enhance its existing value.

- Policy STRAT 2 *Windfall Housing Sites*.
- Policy DEV 6 *Layout and Design of New Development*.
- Policy DEV 7 *Landscaping in New Development*.
- Policy DEV 9 *Open Space Standards*.
- Policy DEV 5 *Sustainability in New Development*.
- Policy ENV 15 *Species and Habitat Protection and Enhancement*.
- Policy ENV 11 *Woodland, Trees and Hedges*.
- Policy ENV 9 *Flooding*
- Policy ENV 10 *Water Environment*.
- Policy IMP 3 *Water and Drainage*.
- Policy TRAN 1 *Sustainable Travel*.
- Policy TRAN 5 *Electric Vehicle*.
- Policy IMP 1 *New Development*.
- Policy ENV 17 *Air Quality*.

- Policy ENV 18 *Noise*.

3.13 The principle of the approving the Appeal proposal is supported by adopted Policy STRAT 2 *Windfall Housing Sites* of the adopted LDP. The Appeal proposal complies with the criteria in Policy STRAT 2.

3.14 The Appeal proposal does not conflict with any other relevant LDP policies. Subject to appropriate planning conditions and Section 75 Legal Agreement, the Appeal proposal accords with all relevant development plan requirements.

Material Considerations

3.15 Material considerations both for and against the Appeal proposal should also be considered and assessed to determine whether these warrant a departure from the development plan. Circular 3/2013 *Development Management Procedures* (Annex A) explains what material considerations can be taken into account.

3.16 The SPP 2014 is applicable for this Appeal and notes (paragraph iii) that it is non-statutory guidance but is a material consideration that carries ...*significant weight*.

3.17 SPP sets out the policy requirements for both development plans and development management determinations for *Enabling the Delivery of New Homes*. The *Planning Statement* (PA 0.34, paragraphs 4.4 to 4.12) addresses the policy requirements of SPP in detail.

3.18 A housing shortfall exists and consequently a shortage in the five year effective land supply needs to be addressed. In summary, where a shortfall in the five year effective land supply emerges then development plan policies for the supply of housing land will not be considered up to date (paragraph 125) and will be given limited weight in the determination.

3.19 SPP refers to the development management process and how the issue of prematurity is to be addressed with a presumption in favour of sustainable development (paragraphs 32 to 35).

3.20 Case law confirms that a 'tilted balance' in favour of granting planning permission applies in cases where a shortfall in the effective housing land supply emerges. In these circumstances, planning permission should only be refused where adverse impacts of a proposal can be shown to significantly and demonstrably outweigh the benefits.

3.21 SPP also expects proposals to support sustainable development, assessed in accord with the principles set out in paragraph 29.

3.22 The *Planning Statement* (PA 0.34, paragraph 4.8) explains how the Appeal proposal contributes to sustainable development, as defined by SPP.

3.23 The Appeal proposal contributes to sustainable development and this is a significant material consideration. The shortfall in the housing land supply is a significant material consideration in the determination of this Appeal.

4.0 Conclusions

- 4.1 The Appeal site is a logical extension to the current Miler Homes development at *Lady Victoria Grange* (Ref: h37 *Cockpen Farm*) which will itself be completed later in 2022. All necessary services and drainage capacity is allowed for via the existing site at *Lady Victoria Grange*.
- 4.2 Providing land for an additional 9 homes of similar design to *Lady Victoria Grange* within the settlement boundary of Newtongrange would not create any unacceptable precedence for coalescence with any neighbouring development or settlements.
- 4.3 This Appeal Statement has assessed the proposal for residential development at Cockpen Road against the policies of SESplan and the adopted LDP, as well as taking into account material considerations, including SPP.
- 4.4 The site is within the *A7/ A68 /Borders Rail Corridor*, one of the SESplan SDAs, which are to be the focus of new development. The Appeal proposal's location within the SDA is in accord with the approved development strategy for Midlothian and the SESplan region.
- 4.5 The *Planning Statement* (PA 0.34) demonstrates that there is a shortfall in the supply of housing land in Midlothian and the housing supply target and housing land requirement will not be met by 2024. SESplan Policy 7 is therefore triggered as a key development plan policy in the determination of this Appeal. The proposal accords with the relevant two criteria of SESplan Policy 7 and the principle of the proposal is supported by the approved SDP.
- 4.6 Other SESplan policies are not directly relevant to the determination of this Appeal.
- 4.7 The principle of the Appeal proposal is also supported by the LDP due to the shortfall in the supply of housing land in Midlothian, specifically Policy STRAT 2 *Windfall Housing Sites*.
- 4.8 The Appeal proposal does not conflict with any other relevant LDP Policies, as summarised in this Appeal Statement and other supporting documents. Subject to appropriate planning conditions, the Appeal proposal accords with all relevant development plan requirements.
- 4.9 The additional 9 homes would also be required to be subject to a Section 75 Agreement, which based on recent payments made by Miller Homes could be in the region of £37,500 per home.
- 4.10 Development of the Appeal site could therefore generate a further planning obligation windfall payment of circa **£337,500** for Midlothian Council.
- 4.11 The Appeal proposal is supported by SPP as it contributes to sustainable development in terms of and this is a significant material consideration that adds weight to the case for approval.
- 4.12 Case law also confirms that a *tilted balance* in favour of granting planning permission applies in cases where a shortfall in the effective housing land supply emerges.
- 4.13 In these circumstances, planning permission should only be refused where disbenefits of a proposal can be shown to significantly and demonstrably outweigh the benefits. There are no disbenefits that outweigh the benefits of the Appeal proposal.
- 4.14 No material considerations have been identified that indicate that the Appeal should be refused.

- 4.15 Accordingly, Miller Homes respectfully submit that the Local Review Body should allow the Appeal and PP granted.

MIDLOTHIAN COUNCIL

DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

Planning Application Reference: 21/00806/DPP

Site Address: Land West of 6 Ramsay Cottages, Bonnyrigg

Site Description: The site is located to the south of committed development site h37 at Cockpen Farm through which the site is proposed to be accessed via Kingsfield Drive. The site is located to the north of the B704 and is approximately 0.9ha in size. The site is identified by the applicant as a former agricultural field and has not previously been developed. The site is separated from the existing residential site (nearing completion) by a multi user path and post and wire fence.

The levels of the site rise and fall around a central within the site. Proceeding south into the site levels descend from the committed housing development into the site. Levels then rise proceeding further to the south east corner of the site. Levels fall way to the west at the west boundary of the site.

Overhead wires traverse the sites north east boundary. At the sites west and south boundaries is established woodland. A former access track from the B704 binds the sites east boundary. This no longer provide vehicular access. The track is in turn screened from the site by strong landscaping. Further east is more established woodland.

The site is identified as being within the built up limits of Newtongrange, but is further identified by policy DEV 8 as Open Space. Land to the west is designated as Protect River Valley (ENV 8) and further as "Regionally and Locally Important Nature and Conservation Site" (ENV 14). Cockpen Dene Burn runs approximately 9m to the west of the site boundary and 30m west of the nearest proposed built form.

Proposed Development: Erection of 9 dwellinghouses and three garages; formation of access road, car parking and footpaths and associated works

Proposed Development Details:

The proposed development has been amended during the determination from 10 dwellings to 9.

Planning permission is sought for the erection of 9 dwellinghouses and four garages; formation of access road, car parking and footpaths and associated works

The development proposal comprises of the following:

The nine dwellinghouses are all detached and predominantly arranged into a singular row facing east and the proposed access into the site. At the north of the site two dwellings are proposed to face south and would be accessed off a private

drive. Similarly to the south two dwellings are orientated to the north and would present gable ends to the access route.

The access is formed of a short stretch of adoptable road, off which private driveways will serve the dwellings. The southernmost four units are served by a private drive that continues from the adoptable road. Five visitor parking spaces are proposed, three in parallel bays and two in bay parking arrangements on the private drive. No vehicular connection is proposed to the B704.

The proposed detached properties are traditional in form, generally rectangular footprints punctuated with projecting gable elements. The dwellings would have pitched roofs. Plots 2, 3, 8 and 9 are provided with single garages.

Connections are proposed to be made with the approved footpath running along the south west of site h37 and onto the existing access track to the east via a 2m wide path.

Landscaping is proposed as the sites west boundary where the site slopes steeply down to the west. Additional landscaping is proposed within the development as well as a modest amenity space at the south of the site in front of dwellings 8 and 9.

Background (Previous Applications, Supporting Documents, Development Briefs): Planning history sheet checked.

The site is located to the south of a major committed residential development site (h37) within the MLDP. The site was located within the red line boundary for below identified applications. However, no approved plans have identified any new function or development for the site and it has remained undeveloped.

- 09/00056/OUT Outline application for the erection of 131 dwellinghouses and formation of access from Butlerfield Spine Road at Cockpen Farm, Cockpen Dean, Bonnyrigg, CONSENT 23.02.2009
- 15/00968/MSC Erection of 131 dwellinghouses and formation of access and associated works (approval of matters specified in conditions 2, 3, 8, 10, 11 and 12 of planning permission 09/00056/OUT) at Cockpen Farm, Cockpen Dean, Bonnyrigg PERMISSION 14.12.2015
- 16/00601/MSC Erection of 131 dwellinghouses and formation of access and associated works (approval of matters specified in conditions 4, 6 and 9 of planning permission 09/00056/OUT) at Land At Cockpen Farm, Cockpen Dean, Bonnyrigg CONSENT 05.09.2016

Consultations:

The **Council's Policy and Road Safety Manager** initially raised a number of concerns to the proposal development prior to its amendment. Subsequently amendments has meant that no objection has been raised subject to the following proposed conditions:

1. The existing 2m wide footpath link from plot 9 to the adopted road verge of the B704 should be increased to 3m wide to allow its use as a cycling / pedestrian link. To provide a safe pedestrian crossing point on the B704 the existing public footway and street lighting at the cottages should be extended to cover the new pedestrian link.
2. Details of publicly available EV charging units within this development should be submitted for approval.

The **Council's Education Manager** has not raised any objection and identifies the site is within the catchments of:

- | | |
|--------------------------------|-------------------------------|
| • Non-denominational primary | Newtongrange Primary School |
| • Denominational primary | St Andrew's RC Primary School |
| • Non-denominational secondary | Newbattle High School |
| • Denominational secondary | St David's RC High School |

The **Council's Environmental Health Manager** has not made any comments at this time.

Scottish Water offered no objection to this planning application, but advised that the applicant should be aware that this does not confirm that the proposed development can currently be serviced. They set out that a Capacity review and we can confirm that there is currently sufficient capacity in the Rosebery Water Treatment Works to service your development. However, please note that further investigations may be required to be carried out once a formal application has been submitted to us. In addition a review of Waste Water Infrastructure was undertaken by Scottish Water who have stated that, "*according to our records there is no public Scottish Water, Waste Water infrastructure within the vicinity of this proposed development therefore we would advise applicant to investigate private treatment options.*"

The **Council's Archaeological Consultee** has raised no objection to the application subject to a condition being attached to any consent. Their draft condition is:

No development shall take place on the proposed site until the applicant has undertaken and reported upon a programme of archaeological (evaluation) work in accordance with a written scheme of investigation which has been submitted by the applicant (or their agent) and approved by the planning authority.

The **Wildlife Information Centre (TWIC)** identified a number of amendments required to the submitted Ecology Report and furthermore the submission of protected species information.

The Council's **Land Resources Manager** sets not objection in principle to the development.

Representations:

17 objection representation was received which object to the above planning application and can be viewed online. The objection representation raised concerns which can be summarised as follows:

- Development would result in the loss of view to the south from existing development;
- Concern over ability of road to deal with new traffic and the impact on pedestrian safety that would result from additional vehicle movements;
- Concern over the number of visitor parking spaces and the width of driveways to deal with modern car sizes;
- There was an understanding that the site would be planted with walkway as part of the previous development;
- The proposed development would harm the local biodiversity of the site. Deer, birds of prey and other animals are reported to be sited regularly there;
- The site forms a buffer between the development and the B704 which would be lost;
- The development would result in the loss of amenity space enjoyed by local residents, it was suggested that the site became inaccessible when construction fencing was erected;
- The site is an important green connection between woodland to the east and west of the site that would be lost;
- The site forms a buffer between new development at Redheugh (sites Hs7 and H50) to the south that would be eroded;
- Concern that the only access for construction traffic will be through residential areas to the north and will cause detrimental harm to the amenity of residents;
- The land is designated as Open Space in the MLDP which would be lost;
- Bought property in the estate under the understanding that no further development would be carried out;
- The existing development already experiences drainage difficulties, there is concern this development would add to those concerns.

Relevant Planning Policies:

The relevant policies of the adopted **Midlothian Local Development Plan 2017** are;

Policy **STRAT2: Windfall Housing Sites** supports housing on non-allocated sites within the built-up area provided: it does not lead to loss or damage of valuable open space; does not conflict with the established land use of the area; has regard to the character of the area in terms of scale, form, design and materials and accords with relevant policies and proposals.

Policy **ENV2: Midlothian Green Networks** supports development proposals brought forward in line with the provisions of the Plan that help to deliver the green network opportunities identified in the Supplementary Guidance on the Midlothian Green Network.

Policy **ENV9: Flooding** presumes against development which would be at unacceptable risk of flooding or would increase the risk of flooding elsewhere. It states that Flood Risk Assessments will be required for most forms of development in areas of medium to high risk, but may also be required at other locations depending on the circumstances of the proposed development. Furthermore it states that sustainable urban drainage systems will be required for most forms of

development, so that surface water run-off rates are not greater than in the site's pre-developed condition, and to avoid any deterioration of water quality.

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

Policy **ENV14: Regionally and Locally Important Nature Conservation Sites** states that development will not be permitted where it could adversely affect the nature conservation interest of such sites, unless it can be demonstrated that appropriate mitigation measures are in place.

Policy **ENV15: Species and Habitat Protection and Enhancement** presumes against development that would affect a species protected by European or UK law.

Policy **ENV18: Noise** requires that where new noise sensitive uses are proposed in the locality of existing noisy uses, the Council will seek to ensure that the function of established operations is not adversely affected.

Policy **DEV2: Protecting Amenity within the Built-Up Area** states that development will not be permitted where it would have an adverse impact on the character or amenity of a built-up area.

Policy **DEV5: Sustainability in New Development** sets out the requirements for development with regards to sustainability principles.

Policy **DEV6: Layout and Design of New Development** sets out design guidance for new developments.

Policy **DEV7: Landscaping in New Development** sets out the requirements for landscaping in new developments.

Policy **DEV8: Open Spaces** states that the Council will seek to protect and enhance the open spaces identified on the Proposals Map. Development will not be permitted in these areas that would:

- A. Result in a permanent loss of the open space; and/or
- B. Adversely affect the accessibility of the open space; and/or
- C. Diminish the quality, amenity or biodiversity of the open space; and/or
- D. Otherwise undermine the value of the open space as part of the Midlothian Green Network or the potential for the enhancement of the open space for this purpose.

Policy **TRAN1: Sustainable Travel** aims to encourage sustainable modes of travel.

Policy **TRAN5: Electric Vehicle Charging** seeks to promote a network of electric vehicle charging stations by requiring provision to be an integral part of any new development.

Policy **IT1: Digital Infrastructure** states that proposals for telecommunications developments will be supported where they are sited and designed to minimise environmental impact.

Policy **IMP1: New Development** ensures that appropriate provision is made for a need which arises from new development. Of relevance in this case are education provision, transport infrastructure; contributions towards making good facility deficiencies; affordable housing; landscaping; public transport connections, including bus stops and shelters; parking in accordance with approved standards; cycling access and facilities; pedestrian access; acceptable alternative access routes, access for people with mobility issues; traffic and environmental management issues; protection/management/compensation for natural and conservation interests affected; archaeological provision and 'percent for art' provision.

Policy **IMP3: Water and Drainage** require sustainable urban drainage systems (SUDS) to be incorporated into new development.

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.

Principle

The proposed development is not allocated for housing within the MLDP and as such would constitute a windfall site. Policy STRAT 2 is therefore key in determining whether the principle of development is established.

STRAT 2 states that within the built area of settlements windfall development is appropriate so long as:

- A. it does not lead to the loss or damage of valuable public or private open space;*
- B. it does not conflict with the established land use of the area;*
- C. it has regard to the character of the area in terms of scale, form, design and materials;*
- D. it meets traffic and parking requirements; and*
- E. it accords with other relevant policies and proposals, including policies IMP1, IMP2, DEV3, DEV5 - DEV10.*

The site is within the built area as defined by the MLDP. As such consideration of the development against the aforementioned criteria is required. In regards to criteria A, the site is clearly identified as Open Space by policy DEV 8. The nature of the development would mean that this open space would be impacted permanently. As

such, at this stage it is necessary to assess the development against policy DEV 8. That policy states that, *“Development will not be permitted in these areas that would:*

- A. result in a permanent loss of the open space; and/or*
- B. adversely affect the accessibility of the open space; and/or*
- C. diminish the quality, amenity or biodiversity of the open space; and/or*
- D. otherwise undermine the value of the open space as part of the Midlothian Green Network or the potential for the enhancement of the open space for this purpose.*

The development would result in the permanent loss of the open space designation. As such the development would conflict with policy DEV 8. Moreover, the Council’s Open Space Audit (OSA) assesses the value of the open space. The site sits within a larger open space designation (Butlerfield Open Space), and identifies that it but the OSA highlights that it is an area of high quality. The proposed loss of high quality open space would mean that there would be significant harm from its loss as open space.

Whilst this is established the performance against the remaining other criteria is useful to establish. Comments from the public have indicated that the site used for informal recreation/walking etc. The applicant has set out that the field is an enclosed agricultural field not open to the public. The site was easily accessible at the time of a site visit. The proposed development would result in areas of the site not being available to access by the public, however it does provide some links to the new site and to adjacent footways. In regards to criteria B there would be some conflict. In terms of biodiversity and Ecology Report was submitted with the application. This was reviewed by TWIC who raised a number of matters to be addressed in the report. In addition it was noted that the presence of protected species on the site was still forthcoming. Additional information in respect of an amended report or protected species surveys have not been forth coming. As such, there is some concern that the impact of the development cannot be fully assessed at this time. At the least, were the application to be approved, conditions requiring additional ecology information would be required. The site provides a green link between two established areas of woodland and a designated Regionally and Locally Important Nature Conservation Site to the west. The proposed development would effectively sever this underdeveloped link between habitats leaving a small 5m, partially developed, corridor at the south of the site. The Council’s 2021 Nature Conservation SPG sets out the importance of well-connected habitats. In addition, the Council’s Green Network SPG 2017 states that *“In most circumstances, habitat fragmentation and isolation is detrimental to biodiversity”*. In light of the importance of green connectivity for habitats, the missing information provided as part of the application, the development would be seen to conflict with criteria C and D of DEV 8.

In reviewing the development requirements for the housing site to the north, the MLDP sets out that a low density of development should be delivered *“to ensure adequate perimeter planting to help mitigate the impact on the environmental setting.”* The proposed development arguably begins to erode this intended buffer.

The proposed development conflicts with policy DEV 8 and thus Policy STRAT 2. The principle of development is therefore not established. Other material

considerations would therefore be required to demonstrate that justify the development. No such material considerations are identified.

Design and Layout

As stated above, there is no policy support in principle for a house on this site and the applicant's agent was informed of this during the assessment of this planning application.

The design has been developed to deliver a modest (relatively) extension to site h37 to the north. The proposed development was amended in response to Transport comments initially raising concern with the vehicular access proposed as part of the development. These were successful in removing transportation concerns subject to aforementioned conditions.

The development would deliver new dwellings in a style that reflects that reflects approved development to the north.

As already set out, aside from a narrow strip at the south of the site, the development would effectively cut connections between woodland to the east from that on the west. When viewing the site in a wider context, the site extended development nearly to the B704. To the south of the B704 are strategic allocations at Redheugh including H50 and Hs7. The erosion of this green buffer could result in some visual connection between the sites and thus result in a modest degree of coalescence between the new development and existing. As such, there is concern that, whilst low density, the development would be over development of the site. Development would benefit from being brought away from the southern edge, to maximise the green connection from east to west and safeguard the separation of the site from allocated development to the south.

It is noted that even if there was policy support for the principle of housing, the siting and scale, over-development issues are also material considerations that warrant refusal of the application.

Amenity

It is noted that policy DP2 Development Guidelines, from the now superseded 2008 Midlothian Local Plan, sets out design guidance for new developments. The guidance provided in this policy has been successfully applied to development proposals throughout Midlothian and will be echoed within the Council's Supplementary Guidance on Quality of Place which is currently being drafted.

Detached houses should each be provided with a private outdoor space that is free from direct overlooking from public areas and neighbouring property as far as possible. The Council's standard requires that houses of 4 apartments to have useable garden ground no less than 130m². The submitted information indicates sufficient space will be provided for the dwellings.

Spaces between houses may vary depending on the types of houses and the nature of the sites. The Council's applied standard requires a back to back distance of 25

metres, a gable to rear distance of 16 metres and front to front distance of 22 metres. The proposed development appears to meet these separation distances.

Overall, the development demonstrates to the satisfaction of the Planning Authority that the dwellings will be afforded an acceptable level of residential amenity and therefore do not comply with adopted policy DEV6.

Road Safety/Drainage

The Council's Policy and Road Safety Officer initially raised concerns but has noted that these have been resolved in the removal of a dwelling and provision of additional visitor parking spaces and turning head for HGVs. Subject to the provision of information relating to EV charging, the Officer has no objections.

Whilst the proposed development seeks to connect to the B704 with a pedestrian connection, there is no footpath on the north side of the B704. As such, pedestrians would have to cross the road. The Road Safety and Policy Officer requires a condition providing an extension to the existing footpath and a 3m wide active travel link be provided to encourage cycle travel. If this development were to be approved a legal agreement or conditions securing this would be necessary. Without this improvement, the proposed connectivity to the B704 would potentially be unsafe.

The site is within a 15 minute walk to Newtongrange Station. The nearest Bus Stops are understood to be on the B704 but provide an infrequent service.

With the potential for conditions and off site works, the proposed development would be seen to comply with TRAN 1 and TRAN 5.

Landscaping and Connectivity

Landscaping is proposed within the development and the application was accompanied by a Landscape Layout. A Tree Survey was further submitted to the application. These have been reviewed by the Council's Landscape Officers.

There is concern that the impact of the development has not been fully assessed in relation to existing trees. It was identified by the Landscape Officer that two veteran oaks are located at the peripheries of the site boundary, close to the proposed visitor parking. These are not shown on the proposed site plan and as such it would appear they are likely to be removed. Removal of healthy mature trees or woodland is not in accordance with the Council's Climate Strategy Action 5 or general commitments to addressing the climate emergency, or the recently approved Nature Conservation Planning Guidance. It is highlighted in the Climate Strategy that mature trees are key features storing CO₂. Whilst planting is proposed, its mitigation value in regards to carbon capture is limited as it would not mature fast enough to sequester carbon released through felling.

The proposed development would therefore be seen to conflict with ENV 11 and the Council's Climate Change Strategy.

As has been mentioned earlier, the site should deliver a generous east/west green corridor. This has not been delivered in the current scheme.

Ecology

As has been set out there is some concern regarding the impact on ecology and the connectivity of habitats. Based on the reasons previously set out in this report it is considered that the proposed development does not provide sufficient information that no impact will result on protected species and as such the proposed development would not comply with policy ENV 15 of the MLDP. The severance of habitats would further frustrate the aims of Nature Conservation and Green Networks SPGs.

Policy ENV 14 sets out that development could impact the nature conservation interest of wildlife corridors would only be approved where development has been sited and designed to minimise damage to the value of the site or the public interest (including those of a social or economic nature) to be gained from the proposed development can be demonstrated to clearly outweigh the nature conservation interest of the site. Whilst the site is not designated directly under policy ENV 14 the land to the west is and forms a logical connection with woodland to the east. As such, the development would not comply with policy ENV 14.

Summary

Whilst there is scope for the development to be amended to further comply with planning policies, it is noted that there is no policy support or other material considerations to warrant the approval of dwellings at the application site.

Should the application have been recommended for approval there would have been a requirement for developer contributions towards essential infrastructure improvements.

Overall, all relevant matters have been taken into consideration in determining this application. It is considered that the proposal does not accord with the principles and policies of the adopted Midlothian Local Development Plan 2017 and is not acceptable in terms of all other applicable material considerations. Therefore, it is recommended that the application is refused.

Recommendation: Refuse planning permission

**DEVELOPMENT MANAGEMENT
MAJOR PLANNING APPLICATION DECISION NOTICE WORKSHEET:**

Case Officer: HS

Planning Application Reference:21/00806/dpp

Recommendation: Refuse

Reason(s) for Decision:

1. The development will result in the loss of open space without an overriding justification contrary to Midlothian Local Development Plan policies STRAT2 and DEV8.
2. The proposed removal of vegetation from the site would conflict with Midlothian Local Development Plan policy ENV11 to the detriment of public amenity, biodiversity and in conflict to the objectives of the Council's Climate Strategy.
3. The development would result in the overdevelopment of a greenfield site that connects two areas of woodland and habitat that support biodiversity and as such the development would conflict with Midlothian Local Development Plan policies DEV6, ENV14 and ENV15.

Conditions/LA Statement:

N/A

Approved/Refused Plans/supporting statements:

No.	Drawing Description	Drawing number	Date
1	Location Plan	P001 1:5000	06.10.2021
2	Proposed Site Plan	21014_MPDF_P001_E 1:500	10.12.2021
3	Landscape Proposal	109_113_01 Rev B 1:1250	10.12.2021
4	Landscape Proposal	109_113_02 Rev B 1:250	10.12.2021
5	Proposed Drainage Layout	805292_DRA_01 Rev B 1:250	10.12.2021
6	Proposed Levels Layout	805292_LEV_01 Rev B 1:250	10.12.2021
7	Elevations, Floor Plan and Cross Sections	BRD/2018/PLANNING/01 1:100 BRD/2018/PLANNING/02 1:100	06.10.2021
8	Floor Plans	415SC1P1 1:100	06.10.2021

		415SC1P4 1:100 409SCP1 1:100 409SCP4 1:100	
9	Elevations	415SC1P2 1:100 415SC1P5 1:100 409SCP2 1:100 409SCP5 1:100	06.10.2021
10	Floor Plans and Elevations	408SC1P1 1:100 408SC1P3 1:100 505SCP1 1:100 505SCP3 1:100	06.10.2021
11	FACING BRICK FEATURE WALL 1800M	41_02 REV A 1:10	06.10.2021
12	Standard Post and Rail Fence	G10 1:10	06.10.2021
13	Standard Fence	G13 1:10:20	06.10.2021
14	Single Attached Garage	GAR/2018/02 1:100	06.10.2021
15	Single Garage	GAR/2018/01 1:100	06.10.2021

Determination Process: Delegated (Delegated decisions will be issued with back sheet 1 and Committee decisions will be issued with back sheet 2)

Development Type Code (SE Code): 02B

Is there a new Planning Obligation

YES ☐

NO ☒

Has the Keepers acknowledgement been received from Registers of Scotland for the S75 Agreement? Yes/No (*if not, the DN should not be forwarded for signing*)

Were changes required to be made to the proposal by the Case Officer?

- i) During the determination of the application? Yes
- ii) During Pre Application discussions/negotiation? No

Was the proposal a departure from the development plan? Yes

Policies

Please place an X against **all** policies used to determine the application (list attached). These must be detailed or **NO** decision will be issued. Where no Policies were used please mark **NONE**.

Did the Council have an interest in the application? No

Coal Authority advice note? CAIN1

Policies

Used	Policy	Uniform Code (admin only)	Used	Policy	Uniform Code (admin only)	Used	Policy	Uniform Code (admin only)
	NONE	No input	x	ENV 11	17EN11		NRG 5	17NRG5
	DEV 1	17DEV1		ENV 12	17EN12		NRG 6	17NRG6
	DEV 2	17DEV2		ENV 13	17EN13		RD 1	17RD1
	DEV 3	17DEV3	x	ENV 14	17EN14		RD 2	17RD2
	DEV 4	17DEV4	x	ENV 15	17EN15		RD 3	17RD3
x	DEV 5	17DEV5		ENV 16	17EN16		RD 4	17RD4
x	DEV 6	17DEV6		ENV 17	17EN17		STRAT1	17ST1E
X	DEV 7	17DEV7		ENV 18	17EN18			17ST1H
X	DEV 8	17DEV8		ENV 19	17EN19			17ST1M
	DEV 9	17DEV9		ENV 20	17EN20	x	STRAT2	17ST2
	DEV 10	17DEVX		ENV 21	17EN21		STRAT3	17ST3
	ECON 1	17ECO1		ENV 22	17EN22		STRAT4	17ST4
	ECON 2	17ECO2		ENV 23	17EN23		STRAT5	17ST5
	ECON 3	17ECO3		ENV 24	17EN24		TCR 1	17TCR1
	ECON 4	17ECO4		ENV 25	17EN25		TCR 2	17TCR2
	ECON 5	17ECO5		IMP 1	17IMP1	x	TRAN 1	17TRN1
	ECON 6	17ECO6		IMP 2	17IMP2		TRAN 2	17TRN2
	ECON 7	17ECO7		IMP 3	17IMP3		TRAN 3	17TRN3
	ENV 1	17EN1		IMP 4	17IMP4		TRAN 4	17TRN4
	ENV 2	17EN2		IMP 5	17IMP5	x	TRAN 5	17TRN5
	ENV 3	17EN3		IT 1	17IT1		VIS 1	17VIS1
	ENV 4	17EN4		MIN 1	17MIN1		VIS 2	17VIS2
	ENV 5	17EN5		MIN 2	17MIN2		VIS 3	17VIS3
	ENV 6	17EN6		MIN 3	17MIN3		WAST 1	17WST1
	ENV 7	17EN7		NRG 1	17NRG1		WAST 2	17WST2
	ENV 8	17EN8		NRG 2	17NRG2		WAST 3	17WST3
x	ENV 9	17EN9		NRG 3	17NRG3		WAST 4	17WST4
	ENV 10	17EN10		NRG 4	17NRG4		WAST 5	17WST5

The STRAT 1 Policy has been split into Economic (17ST1E), Housing (17ST1E) and Monktonhall (17ST1M) please select the relevant code.



Cockpen



Drawing No. 21014-STEX-P001
Site Location

 Site boundary

Rev - (07.09.21) Drawn: SB Checked: RM Approved: SS

Status: Planning

scale 1:5,000 @ A3

0 50m 100m 250m



The Quadrant, 17 Bernard St., Edinburgh, EH6 6PW | Tel: 0131 5533639 | info@geddesconsulting.com



Filepath: General\Projects\0126 - Miller Homes\Cockpen Retained Land\Plans & Drawings\Masters\0126-Cockpen Road Retained Land - Master.vcx

Cockpen

millershomes

Drawing No. 21014-MPDF-P001-B
Proposed Site Layout

- Proposed new homes
- Garden
- Green space
- Meadow
- Tree planting
- Woodland
- Shrubs
- Beech hedge
- Laurel hedge
- Mixed hedge
- Road
- Shared surface
- Footpath
- Driveway

Rev B (29.09.21) Drawn: SB Checked: KP Approved: SS
Note: Landscaping updated & visitor parking added
Rev A (13.08.21) Drawn: SB Checked: KP Approved: SS
Note: Layout amended
Rev - (06.05.21) Drawn: SB Checked: KP Approved: SS

Status: Planning

scale 1:500 @ A3

0 5m 10m 25m



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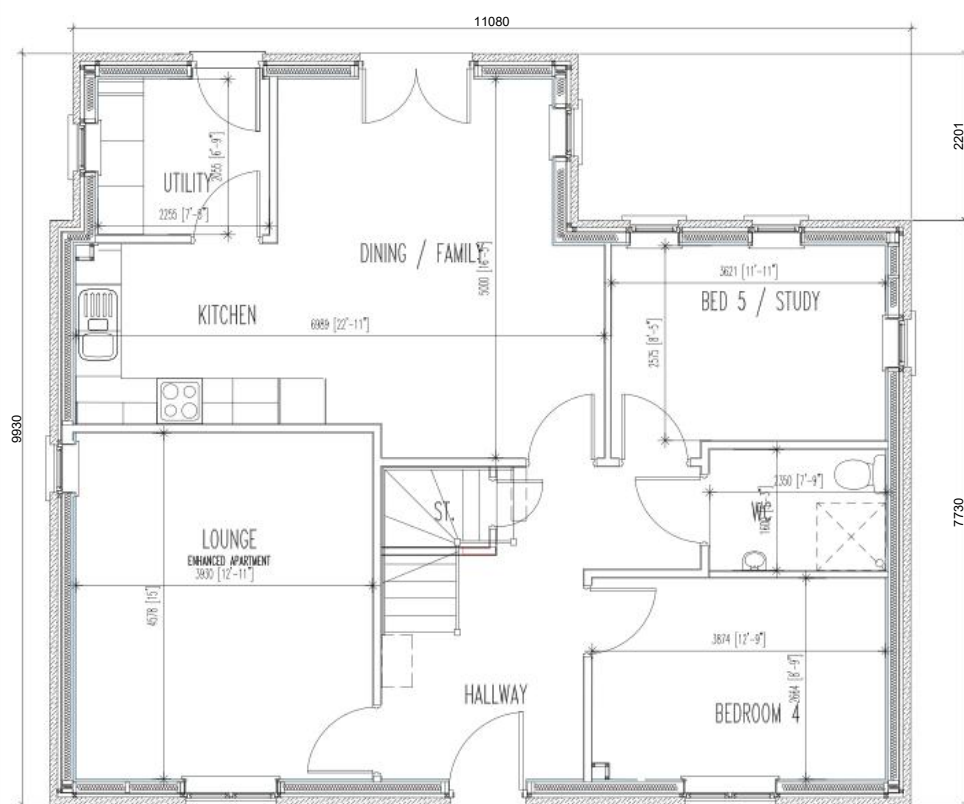
FRONT ELEVATION



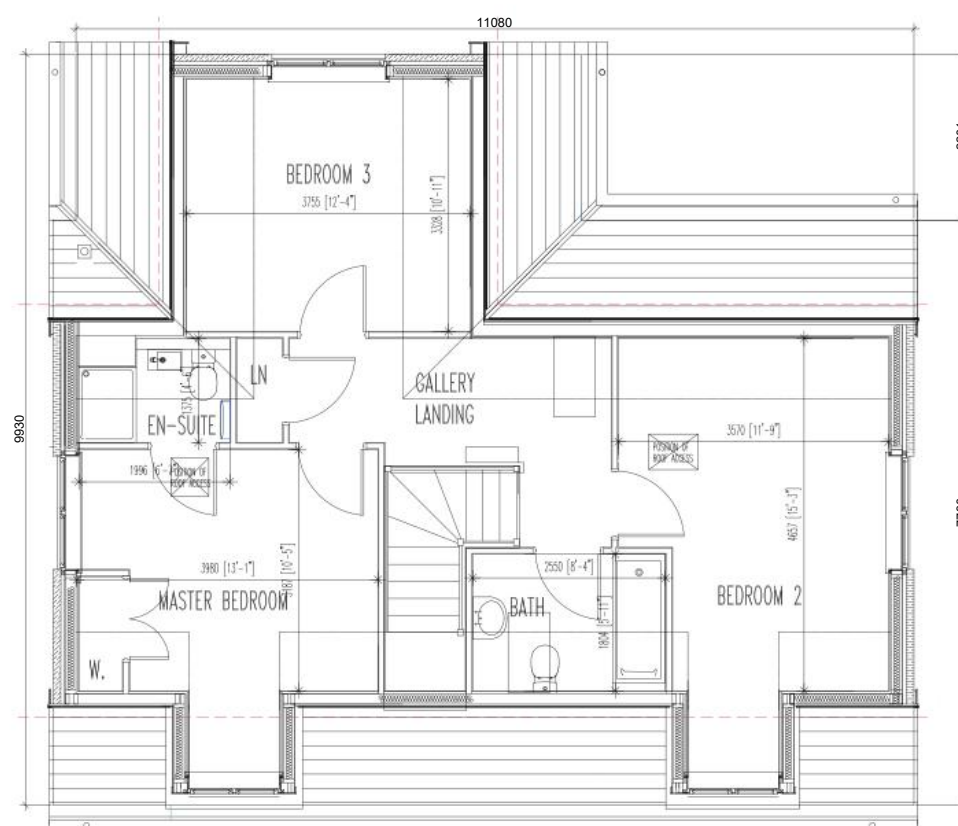
SIDE ELEVATION



REAR ELEVATION



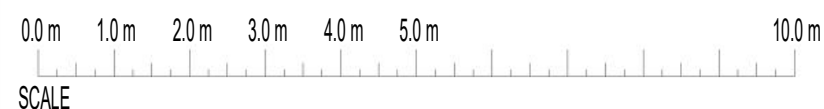
GROUND FLOOR PLAN



FIRST FLOOR PLAN



SIDE ELEVATION



SCALE

miller homes

Miller House, 2 Lochside View, Edinburgh Park,
EDINBURGH, EH12 9DH
Tel: 0870 336 5000 Fax: 0870 336 5160
www.millerhomes.co.uk

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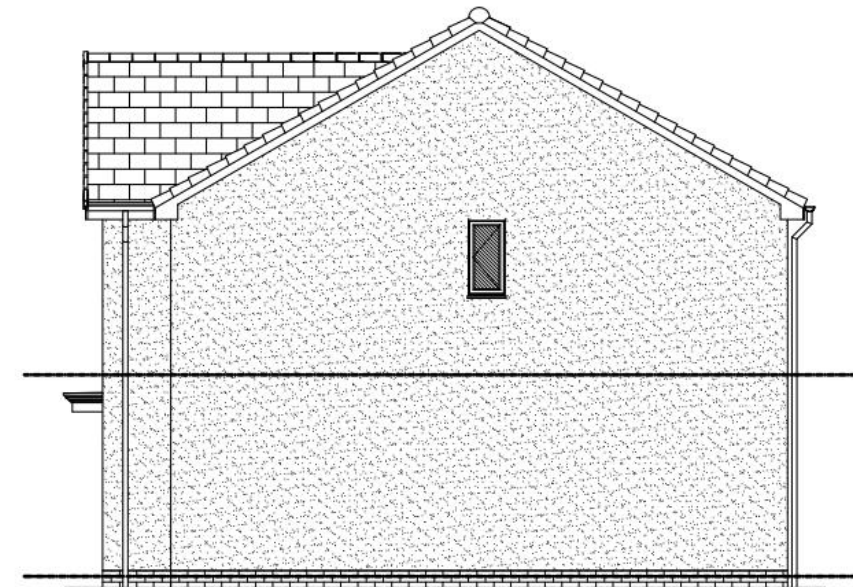
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Date: 2018 2020 SPECIFICATION

Author: Title:
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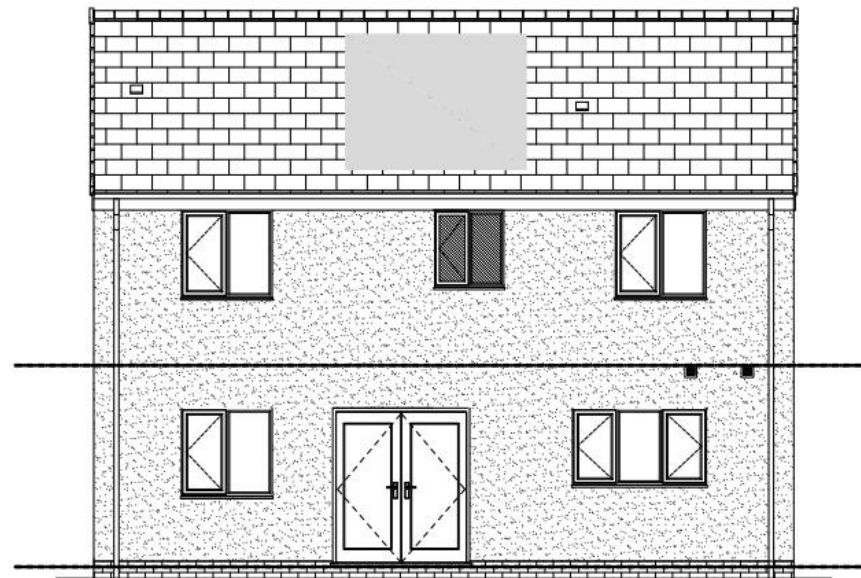
CONTRACTORS MUST CHECK ALL DIMENSIONS ON SITE. ONLY FIGURED DIMENSIONS TO BE WORKED FROM. DISCREPANCIES MUST BE REPORTED TO THE DESIGN OFFICE BEFORE PROCEEDING.



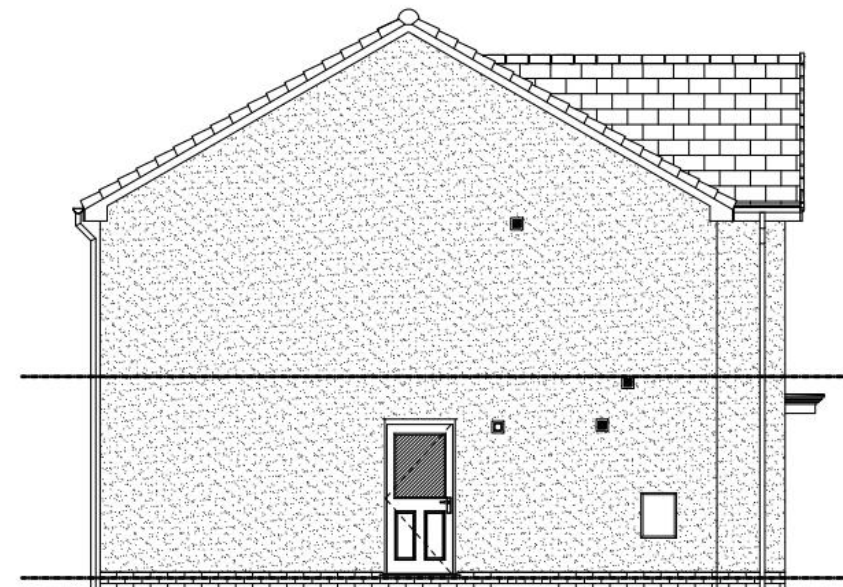
FRONT ELEVATION



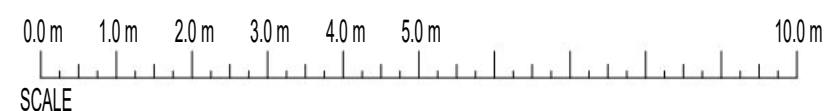
SIDE ELEVATION



REAR ELEVATION



SIDE ELEVATION



SCALE

miller homes

Miller House, 2 Lochside View, Edinburgh Park,
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www.millerhomes.co.uk

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Scale: 1:100
Date: 2021

Title: CEDARWOOD HOUSE TYPE

Author:
Drawing No. 415SC1P2

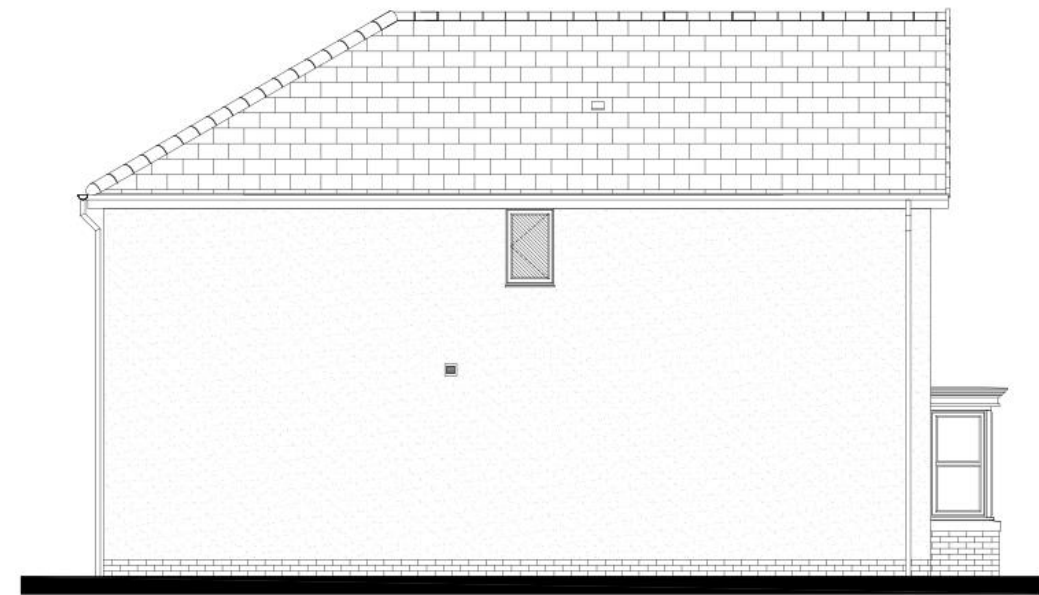
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PLANNING - ELEVATIONS RENDER AS

CONTRACTORS MUST CHECK ALL DIMENSIONS ON SITE. ONLY FIGURED DIMENSIONS TO BE WORKED FROM
DISCREPANCIES MUST BE REPORTED TO THE DESIGN OFFICE BEFORE PROCEEDING



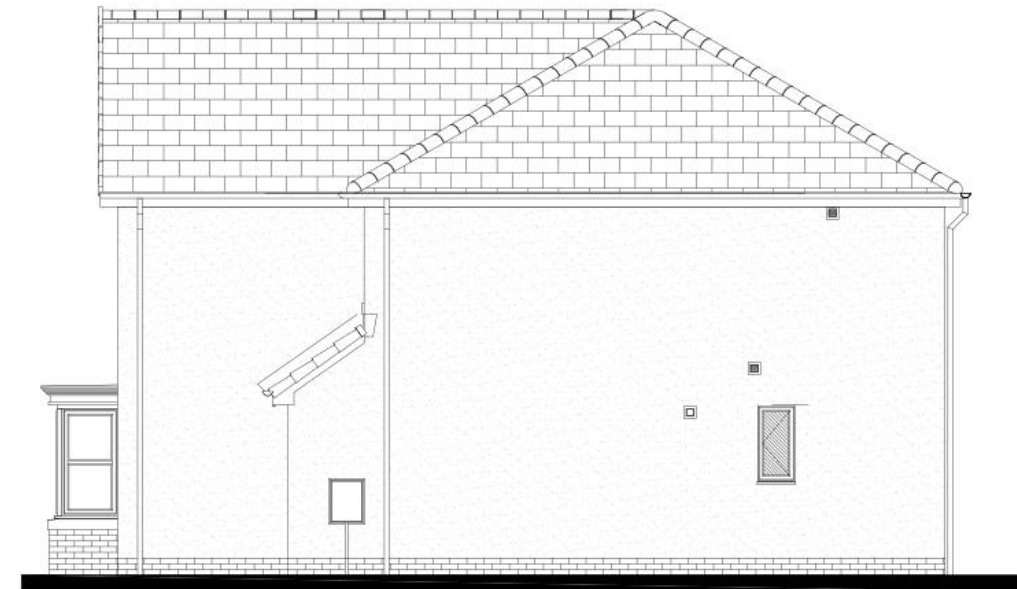
FRONT ELEVATION



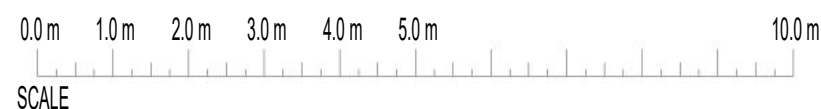
SIDE ELEVATION



REAR ELEVATION



SIDE ELEVATION



miller homes

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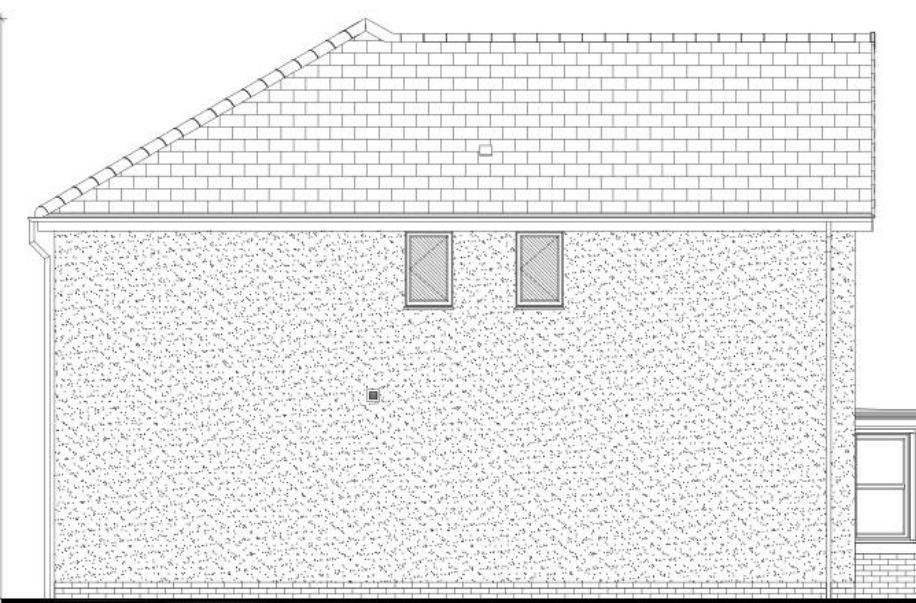
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Date: 2021

Author: Title:
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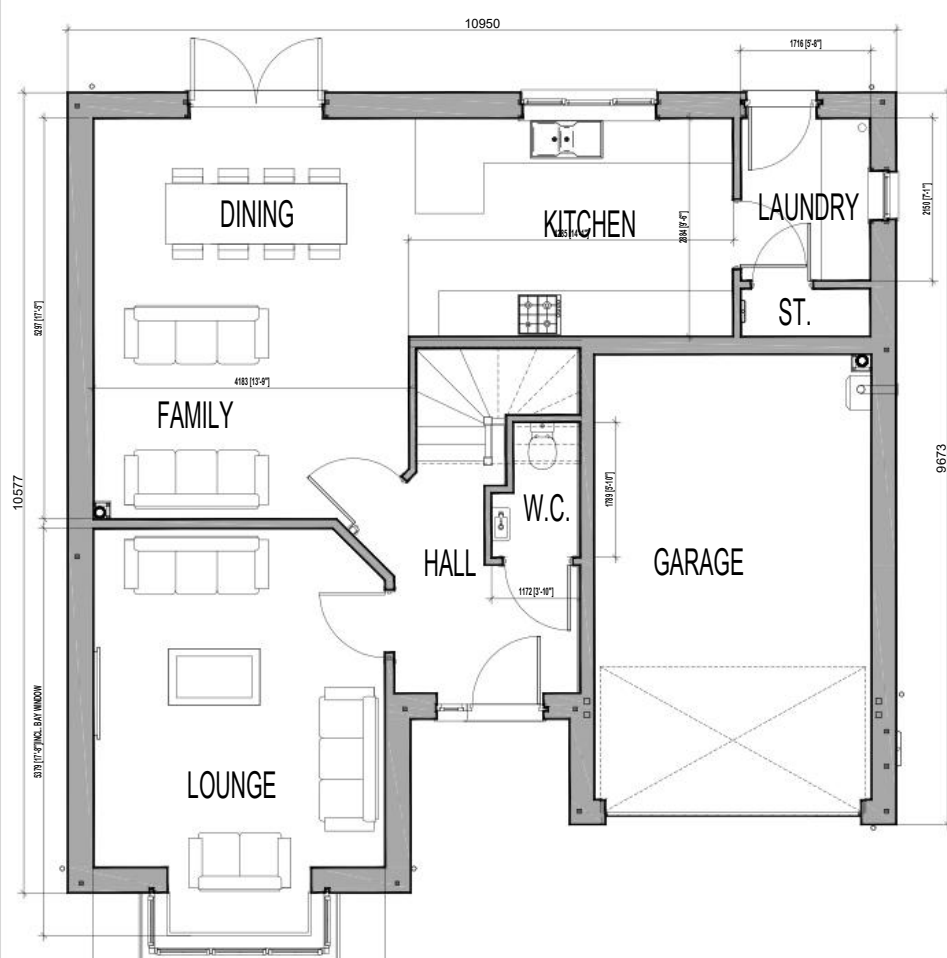
FRONT ELEVATION



SIDE ELEVATION



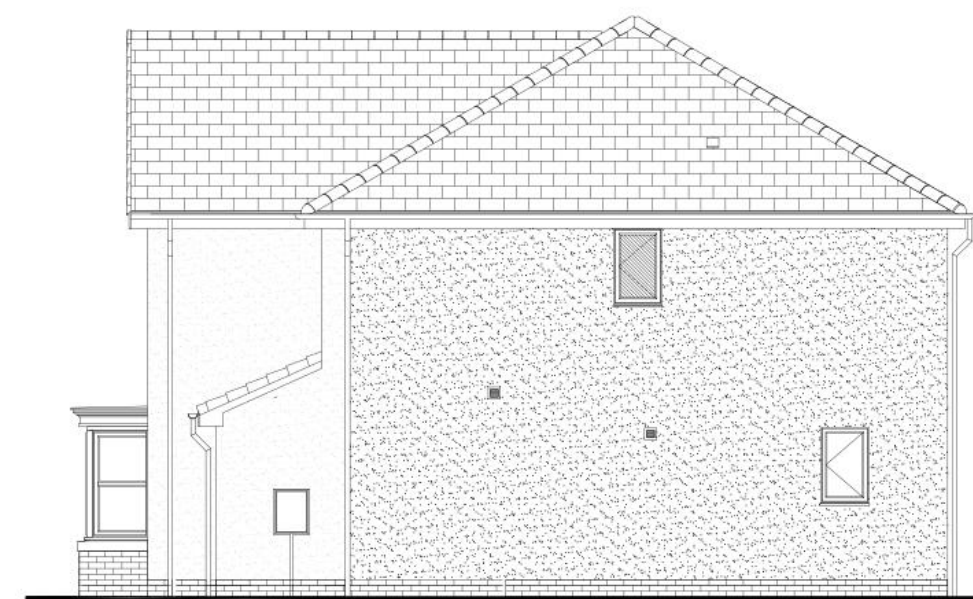
REAR ELEVATION



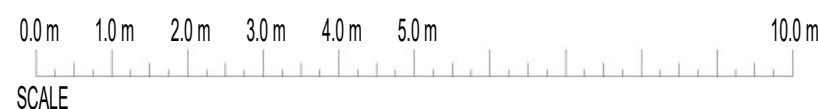
GROUND FLOOR PLAN



FIRST FLOOR PLAN



SIDE ELEVATION



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Date: 2021

Author: Title:
Drawing No. 505SCP1 PLANNING RENDER AS

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DISCREPANCIES MUST BE REPORTED TO THE DESIGN OFFICE BEFORE PROCEEDING



SPECIFICATION FOR THE PROTECTION AND RETENTION OF TREES

Tree Protection shall be compliant with guidance and recommendations set out in BS 5837: 2012 *Trees in Relation to Construction*.

Tree Protection Zone

All trees which are to be retained shall be protected by durable fencing throughout the development period. The fencing shall be erected before any work commences and shall be maintained throughout the contract.

Protective fencing shall be as illustrated in Figure 2 of BS 5837. The area to be enclosed by the fence shall be calculated based on the age, size and vigour of the trees, as set out in Table 1 of BS 5837. Alternatively, the fence shall enclose the area of branch spread, plus 1.8m on all sides. Modification to the fence line may be necessary during the construction process. The Planning Department shall be consulted before each modification and their approval sought.

Avoid locating Drains or Services within this protected zone and Do Not raise or lower soil levels within or adjacent to the zone. Avoid changing ground levels elsewhere on site in such a way as to create a sump or puddles around the base of trees.

Prevention of Damage & Contamination

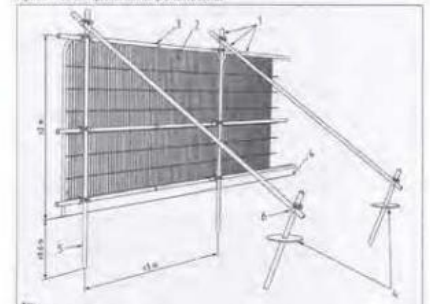
- Do Not store Chemicals, Oils, Herpicides or Toxic Substances within or adjacent to tree protection fences.
- Do Not locate Composts, Site Huts, Machinery or stockpiles of Materials within the protected zone around trees.
- Do Not locate vehicular routes or parking beneath or around protected trees. If this is unavoidable, temporary Tank Tracks or Sleepers shall be laid to avoid compaction.

Instructions for Work Within Tree Protection Zone

- Do Not attach signs or cables to trees.
- Do Not light fires close to trees.
- Where it is not possible to complete works without crossing the Protected Zone around existing trees, the following procedures must be followed:

- Excavations must be hand-dug and supervised.
- All exposed roots greater than 20mm diameter must be left uncut and undamaged.
- Smaller roots may be cleanly cut if necessary and removed.
- Backfill material to excavated trenches must be clean and free of rubble and deleterious material.
- The trees shall be monitored for signs of dieback over the next growing season and if necessary expert arboricultural advice sought.

Figure 2: Details specification for protective barrier



- 1. Standard offset gate.
- 2. Heavy gauge 2-in. x 4-in. galvanized steel pipe (with end caps).
- 3. Heavy gauge 2-in. x 4-in. galvanized steel pipe (with end caps).
- 4. Standard offset gate.
- 5. Light gauge 2-in. x 4-in. galvanized steel pipe (with end caps).
- 6. Standard offset gate.

PLANTING SCHEDULE

CARE SHOULD BE TAKEN TO ENSURE THAT ALL TREES ARE PLANTED AT A MINIMUM OF 1M AWAY FROM ALL FOOTPATHS AND SERVICE STRIPS.

These plants have been chosen taking into account the recommendations of the RHS Plant Selector. Where possible, plants which are particularly attractive to bees have been used.

PROPOSED SMALL TREES (<10m)

Ag	Acer ginnian (Paperbark Maple)	2no
Mi	Malus tschonoskii (Pillar Crab Apple)	2no
Sv	Sorbus vilmorini (Vilmorin's Rowan)	2no

All of the above trees to be Standard (8-10cm girth) single short-staked and root balled. Where trees are planted into turf an area 1m x 1m at the base of the tree, should be mounded and kept clear of weeds and grass and other deleterious material.

PROPOSED MEDIUM TREES (10 - 20m)

Ac	Acer campestre (Field Maple)	2no
AHb	Aesculus hippocastanum 'Baumani' (White Horse Chestnut)	4no
AgCK	Acer platanoides 'Crimson King' (Purple Maple)	2no
Ar	Acer rubrum (Red Maple)	1no
Bp	Betula pendula (Common Birch)	2no

All of the above trees to be Heavy Standard size (12 to 14cm girth) double short-staked and root balled. Where trees are planted into turf, an area 1m x 1m at the base of the tree, should be mounded and kept clear of weeds and grass and other deleterious material.

PROPOSED LARGE TREES (>20m)

Fs	Fagus sylvatica (Common Beech)	4no
Qs	Quercus ilex (Holm Oak)	3no
Qp	Quercus petraea (Sessile Oak)	3no

All of the above trees to be Heavy Standard size (12 to 14cm girth) double short-staked and root balled. Where trees are planted into turf, an area 1m x 1m at the base of the tree, should be mounded and kept clear of weeds and grass and other deleterious material.

BEECH HEDGE

Fagus sylvatica	60 to 80cm 1+2	230no
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Beech hedge is to be planted in two alternate rows at 500mm centres either side of a 900mm high post and wire fence.

MIXED HEDGE (540no)

25% Carpinus betulus (Hornbeam)	60 to 80cm 1+2	135no
25% Corylus avellana (Hazelnut)	60 to 80cm 1+2	135no
25% Crataegus monogyna (Hawthorn)	60 to 80cm 1+2	135no
25% Prunus spinosa (Blackthorn)	60 to 80cm 1+2	135no

Mixed hedge is to be planted in two staggered rows at 200mm centres either side of a 900mm high post and wire fence (6 per linear m), alternating groups of 12no.

LAUREL HEDGE

Prunus laurocerasus 'Rotundifolia'	40 to 60cm 3L	150no
------------------------------------	---------------	-------

Laurel hedge is to be planted in one row, evenly spaced, at 200mm centres.

DOGWOOD MIX (100no)

50% Cornus alba 'Elegantissima'	60 to 80cm 1+1	50no
25% Cornus alba 'Serotina'	60 to 80cm 1+1	25no
25% Cornus stolonifera 'Flavicomata'	60 to 80cm 1+1	25no

Dogwoods are to be planted in groups of 5 to 10 at 2 per m².

EVERGREEN WOODLAND (100no)

25% Ilex aquifolium (Holly)	7.5% Feathered (120-150cm)	25no
15% Pinus nigra (Black Pine)	20L (100-125cm)	15no
25% Pinus sylvestris (Scots Pine)	20L (100-125cm)	25no
20% Quercus ilex (Holm Oak)	10L (120-150cm)	20no
15% Taxus baccata (Yew)	20L (120-150cm)	10no

Woodland is to be planted in groups of 3 to 5 at 1 per 4m². All of the above to be double short-staked. All ungranted edges are to be embanked with a 900mm high timber post and 3 wire fence.

TOPSOIL SPECIFICATION

Topsoil is an important component of most landscape projects where it provides the function of supporting the growth of vegetation. The underlying subsoil or other substrate can provide additional rooting depth, moisture storage, and drainage.

The following specifications for the shipping, storage, transport/importing of topsoil are derived from BS3682: 2015. It is the responsibility of the General Contractor/Grand Workman/landscape Contractor (Contractor) to ensure the standards within BS3682: 2015 (and all normative references) are met both off and on site.

TOPSOIL STRIPPING

- Existing topsoil to be stripped shall be sampled per BS3682: 2015, Clause 5 & Annex C.
- Topsoil is only to be stripped, handled and trafficked in appropriate conditions of weather & soil moisture (in accordance with BS EN ISO 17892-12: 2018), and with suitable tracked machinery per BS3682: 2015, Annex A.

IMPORTED TOPSOIL

- Unless otherwise stated in the design proposals, it is assumed that the topsoil specified for general landscaping works shall be MULTI PURPOSE TOPSOIL.
- Prior to the supply of topsoil the supplier shall provide all information listed within BS3682: 2015, Clause 5.

STORAGE

- The stockpiling of soils (stripped or imported) should be avoided wherever possible to prevent loss of quality.
- Where stockpiling is unavoidable this should be done in a safe area of site, graded and cleared of rubbish, and outwith defined Root Protection Areas of any existing trees. Topsoil to be stockpiled separately from subsoil and other excavated materials.
- Heaps should be topped loosely with surface firmed and shaped to shed water. Depending on length of storage the heap may be grass seeded to prevent run-off. Per BS3682: 2015, Annex A.

PREPARATION AND SPREADING

- Operators by tracked vehicles to prevent over-compaction of subsoil and topsoil.
- Subsoil to be ripped prior to topsoil application (in dry conditions to allow break up). All exposed stones and deleterious material larger than 75mm to be removed from prepared surface. In confined areas a small tracked excavator or hand cultivation should be used.
- Depth of topsoil spread not to exceed 300mm. Care is to be taken not to overwork soils. Per BS3682: 2015, Annex A.

PLANTING SPECIFICATION

GRASS SEEDING

- The grassed area is to be carefully checked to ensure that the soil is appropriate and free from rubble, stones, weeds and other deleterious material. If not appropriate, it should be replaced with quality material or the Landscape Architect should be advised.
(Note: It is the responsibility of the contractor to ensure that he is planting into the correct quality of material)
- Where topsoil is to be added the subsoil should be fully broken up to ensure adequate drainage and a layer not less than 150mm deep applied.
- The topsoil should be cultivated to a fine, even 10th with no undulations or bumps.
- Areas are to be seeded in accordance with guidelines set out in BS 4425: Code of Practice for general landscape operations: 1989.
- Seed is to be an approved proprietary mix applicable to the location.

MEADOW GRASS SEEDING

- The areas for seeding are to be cleared of invasive weeds by hand, mechanical or chemical means. Herbicide pre-treatment with approved Glyphosate only.
- Areas to be free from rubble, stones and other deleterious material. Subsoil is to be broken up to ensure adequate drainage, with surface then prepared by raking or harrowing.
- NO APPLICATION OF TOPSOIL OR FERTILISER.
- Seed to be sown to supplier recommendations.
- Areas to be gently harrowed or raked after sowing.

FRONT GARDEN TURF

- Ground preparation. For all areas of turf, any compacted soil/subsoil is to be turned over thoroughly to a depth of 150mm using a spade or a powered cultivator. Areas are to be cleared of stones over 15mm, weeds, and other debris.
- Areas are to be carefully checked to ensure that the soil is appropriate and free from deleterious material. If not appropriate, it should be replaced with quality material or the Landscape Architect should be advised.
- Any additional multipurpose topsoil to be added should be of item feature and free of stones, roots or other debris to standard BS 3682:2015 "Specification for topsoil". Degraded topsoil not to standard is to be rejected. Spread to an uncompacted depth of 150mm.
- Before laying turf the ground needs to be level and the surface firm but not compacted. Areas are to be raked to produce a smooth, level surface. Lightly tread areas by foot to reveal any soft patches and rake level. Continue until the whole area is firm and level.
- Laying: start by unrolling one strip of turf around the perimeter of the lawn. Avoid using small pieces at the edges. Ensure the underside of the new turf is in full contact with the soil below.
- Lay the next strip along the longest straight run and continue to work across the lawn, strip by strip producing a pattern similar to brickwork. But adjoining edges and ends against each other - DO NOT stretch the turf.
- Overlapping pieces and ends of rows are to be cut off neatly using a sharp knife or a half-moon lawn edger.
- Watering: water newly laid turf well with hose or sprinkler. The amount of watering will be dependent on the time of year, with more water needed during dry/warm summer months. Continue until the water has soaked through to the soil beneath the turf layer.
- 1 to 2 weeks, water new turf daily. In periods of drought do not let new turf dry out.
- All areas to be turfed will be in accordance with guidelines set out in BS 4425: Code of Practice for general landscape operations: 1989.

DOGWOOD MIX

- The whole planting bed is to be carefully set out and the soil checked to ensure that it meets the standards set out in BS 3682: 2015 Specification for Topsoil. If it does not it should be replaced with the appropriate quality material or the Landscape Architect must be advised.

(Note: It is the responsibility of the contractor to ensure that he is planting into the correct quality of material)

- If new topsoil is required the subsoil base should be fully broken up to ensure adequate drainage.

- The bed should be inspected after the subsoil base is broken up and before topsoil cultivation for any signs of flooding. If there are signs and these cannot be resolved the Landscape Architect should be advised.

(Note: It is the responsibility of the contractor to ensure that he is not planting into a waterlogged bed)

- Planting should not be undertaken below 2 degrees centigrade, or when the ground is snow covered or frozen.
- The topsoil should be cultivated throughout the bed to a depth of 200mm. It should be left with a central ridge 150mm above the edges of the bed.
- When the bed has been fully cultivated and formed, planting holes shall be dug 150mm wider than the root spread. Bare-root plants shall have the roots carefully teased out and pot-grown plants shall have the roots carefully loosened from the soil. 2 to 2.5 litres, depending on the size of the plant, of Fison's Peat-free Planting Compost, or similar approved, shall be worked into the backfill. The plants shall be planted so that the finished topsoil level is at the nursery level on the stem of the plant.
- The plants shall be well firmed in and, after planting, a slow acting fertiliser shall be carefully worked into the top 50mm of soil round each plant taking care to avoid contact with the stem.
- Immediately after planting the whole bed shall be well watered in.
- All work shall be carried out in accordance with best horticultural practice.

TREES

- Trees shall be planted at the appropriate season depending on root-grown or bare-root, and in line with BS 5545:2014 Trees from nursery to independence in the landscape.
- Tree pits are to be dug not less than 1m cube and not smaller than 250mm larger than the overall root spread. Care is to be taken to ensure that all sides are permeable and have not been "rubbed" and that all pits are free draining with 50mm of washed round pea gravel to the base of the tree pits.
- A pressure-treated timber stake 75 x 75mm shall be used. It shall extend 500mm above the finished soil level, with a proprietary tie set 100mm below the top of the stake.
- One tie shall be used on standard and feathered trees up to 2m high. Two will be required for Heavy and Extra-Heavy Standard items up to 16m girth. Above this there will be required unless an underground guying system is specified.
- Backfill for the tree pits is to be 20% Peat-free Compost. Fison's or similar approved.
- The backfill is to be a raised mound at the top with the centre 150mm above the edges. Care is to be taken to ensure that the finished backfill level is at the nursery level on the tree and that level is at the centre of the mound 150mm above the edges of the pit when the tree has been well firmed in.
- On completion of the planting the tree shall be well watered in with not less than 10 gallons of water. Thereafter it should be watered as required, following periods of any more than three consecutive hot dry days, until the tree is fully established.

MAINTENANCE

The developer will ensure, within the means, that purchases are responsible for common areas. On completion of the site, a Factor will be appointed who will assist in the establishment of a Residents' Association. The Residents' Association will thereafter ensure that the Factor organises the following maintenance regime:

Grass

- Five grass cut 16 times per year.
- All cuttings to be raked and removed from the site.

Meadow Grass:

- Areas of Meadow are to be maintained as per supplementary merchant recommendations and guidelines, or:
- Early meadow cut in the first year ONLY if unwanted annual weeds appear and grow rapidly. Cut material should be removed. Cutting annual weeds may not be necessary if there is little growth, few weed plants or the appearance is acceptable. Annual weeds should disappear once the meadow is established.

- Meadows should be cut and the cuttings removed once a year at the end of the growing season (normally September). This should be the only management required.

Dogwood Mix:

The objective is to provide a full even cover and prevent overcrowding. To that end the site should be inspected once per year by a suitably qualified horticulturist and the following regime followed:

- The shrub beds shall be kept clear of weeds, either mechanically or by using an approved herbicide.
- Strips shall be pruned up to twice per year, in Spring and Autumn depending on the species, to maintain their natural shape and habit. Any damaged, diseased or broken branches should be removed.
- In the first five years all dead and dying shrubs should be replaced by shrubs of similar size and species to those originally planted.
- From the second year beds should be inspected and thinned out where appropriate. Where suitable, these shrubs can be used to fill gaps in the planting area. Otherwise gaps should be infilled with appropriate new plant material.
- After 10 years a systematic programme of replacement should be established.

Trees:

Trees have been chosen for their appropriateness to their individual location. Pruning other than for health and safety reasons, should not be necessary. They should, however, be inspected by a suitably qualified arboricultural annually.

- An area 1m diameter at the base of the trees shall be kept clear of weed and grass either mechanically or by using an approved herbicide.
- Tree stakes and ties should be inspected 3 times per year (Autumn, Winter and Spring).
- All dead and diseased branches, or those broken due to malicious action or wind damage should be cleanly removed and the scar cleaned up.
- All trees which have been removed or which are found to be dying, severely diseased or damaged will be replaced by trees of similar size and species to those originally planted. These should be replaced as soon as seasonal weather conditions allow.

Beech, Laurel & Mixed Native Hedges:

The objective is to produce a thick, healthy, impenetrable hedge. Pruning should be undertaken where necessary to achieve a neat and compact finish.

- Hedges are to be pruned back to an even hedge line to encourage thickening twice within the first growing season after planting and twice a year thereafter.

Hardsurface:

- Six visits per year to remove weeds from shrub beds and between patios and within other hard standing areas. All weeds are to be removed from the site. Where herbicides are used extreme care should be taken to avoid damage to surrounding grass, avoiding spray drift.

Evergreen Woodland:

The woodland has been designed to achieve a screening mixed woodland with varying canopy heights and characteristics. The ground cover will be allowed to establish naturally, although this can be helped with appropriate maintenance.

- The woodland should be inspected annually by a qualified arboriculturist.
- All dead and dying trees lost in the first five years shall be replaced by trees of similar size and species to those originally planted.
- After ten years the woodland shall be assessed and thinned out by approximately 10 per cent. This should be repeated at five year intervals for the next fifteen years.



Rev	Description	Drawn	Date
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Project Title

COCKPEN_FARM
RETAINED LAND

Drawing Title

LANDSCAPE
PROPOSAL

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Notice of Review: Land at North Lodge (also known as Harvieston Lodge), Powdermill Brae, Gorebridge

Determination Report

Report by Chief Officer Place

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 a dwellinghouse and associated works at land at North Lodge (also known as Harvieston Lodge), Powdermill Brae, Gorebridge.

2 Background

- 2.1 Planning application 21/01008/DPP for the erection of a dwellinghouse and associated works at land at North Lodge (also known as Harvieston Lodge), Powdermill Brae, Gorebridge was refused planning permission on 18 February 2022; 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, excluding the standard advisory notes, issued on 18 February 2022 (Appendix D); and
 - A copy of the key plans/drawings (Appendix E).
- 3.2 The full planning application case file and the development plan policies referred to in the case officer's report can be viewed online via www.midlothian.gov.uk

4 Procedures

- 4.1 In accordance with agreed procedures:

- Have determined to consider a visual presentation of the site and undertaking a site visit (elected members not attending the site visit can still participate in the determination of the review); and
 - Have determined to progress the review by written submissions.
- 4.2 The case officer's report identified that there were three consultation responses and no representations received. As part of the review process the interested parties were notified of the review. No additional comments have been received. All comments can be viewed online on the electronic planning application case file.
- 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 back to the 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 13 June 2017, 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, the following details shall be submitted to and approved in writing by the planning authority:
 - a) Details and samples of the external finishing materials of the proposed house;
 - b) Details of all wall, gates, fences or other means of enclosure to be erected;
 - c) Details of the proposed treatment and disposal of foul and surface water drainage from the proposed house; and

- d) Details of a scheme of landscaping for the site. Details shall include the position, number, size and species of all trees and shrubs that are proposed to be planted, as well as identifying all trees on site which are proposed to be removed and retained.

Thereafter the development shall be implemented as per the approved details

Reason: *These details were not submitted with the original application; in order to protect the character and appearance of the existing house, setting of the listed building and area.*

2. Within six months of the new house being completed or occupied, whichever is the earlier date, the landscape scheme approved under the terms of condition 1d) above shall be carried out; thereafter, any trees or shrubs removed, dying, becoming seriously diseased or being severely damaged within five years of planting shall be replaced during the next available planting season with others of a similar size and species.

Reason: *To enhance the landscaping of the area by ensuring that planting on the site is carried out as early as possible, and has an adequate opportunity to become established.*

3. Notwithstanding the plans hereby approved, a revised site layout, showing an amended parking layout, shall be submitted to the planning authority for prior written approval. Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be agreed in writing with the planning authority.

Reason: *The submitted plans are unclear. For sake of clarification of what parking spaces is afforded to the existing dwelling and proposed dwellinghouse.*

4. Before the new house is occupied the installation of the means of drainage treatment and disposal approved in terms of condition 1c) above shall be completed to the satisfaction of the planning authority.

Reason: *To ensure that the house is provided with adequate drainage facilities prior to occupation.*

5. Development shall not begin until a scheme to deal with any contamination of the site and/or previous mineral workings has been submitted to and approved by the planning authority or it has been confirmed in writing to the planning authority that there is no contamination/ground conditions requiring remediation. The scheme shall contain details of the proposals to deal with any contamination and/or previous mineral workings and include:

- i. the nature, extent and types of contamination and/or previous mineral workings on the site;
- ii. measures to treat or remove contamination and/or previous mineral workings to ensure that the site is fit for the uses

hereby approved, and that there is no risk to the wider environment from contamination and/or previous mineral workings originating within the site;

- iii. measures to deal with contamination and/or previous mineral workings encountered during construction work; and,
- iv. the condition of the site on completion of the specified decontamination measures.

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

Reason: *To ensure that any contamination on the site is adequately identified and that appropriate decontamination measures are undertaken to mitigate the identified risk to site users and construction workers, built development on the site, landscaped areas, and the wider environment and to comply with policy ENV16 of the Midlothian Local Development Plan.*

- 6. On completion of the decontamination/ remediation works and prior to occupation of the dwellinghouse on the site, or within another timescale to be agreed in writing by the planning authority, a validation report or reports shall be submitted to the planning authority confirming in writing that the works have been carried out in accordance with the approved scheme. The dwellinghouse shall not be occupied unless or until the planning authority have approved the required validation for that unit.

Reason: *To ensure that any contamination on the site is adequately identified and that appropriate decontamination measures are undertaken to mitigate the identified risk to site users and construction workers, built development on the site, landscaped areas, and the wider environment and to comply with policy ENV16 of the Midlothian Local Development Plan.*

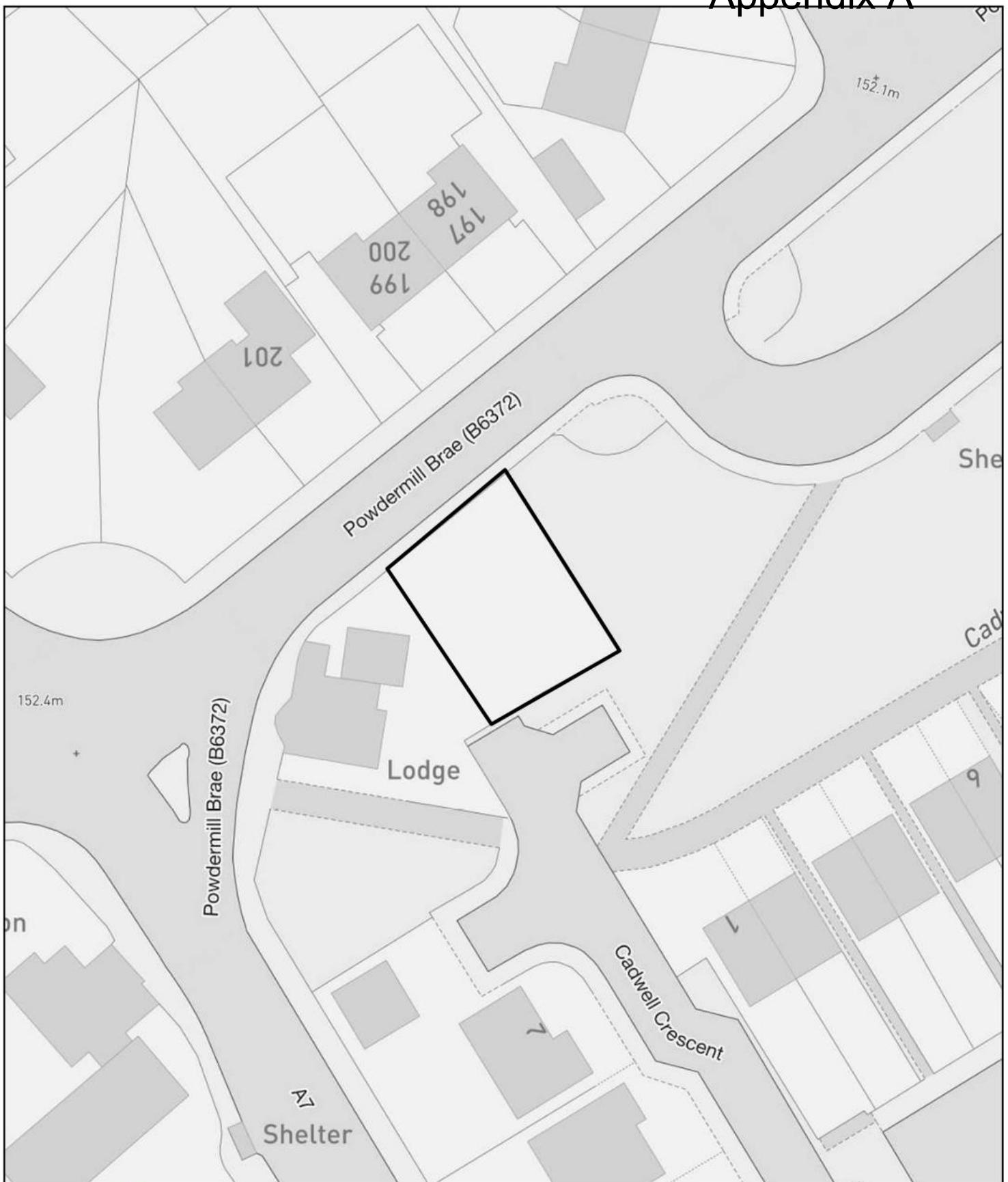
6 Recommendations

- 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

Peter Arnsdorf
Planning, Sustainable Growth and Investment Manager

Date: 17 June 2022
Report Contact: Whitney Lindsay, Planning Officer
Whitney.Lindsay@midlothian.gov.uk

Background Papers: Planning application 21/01008/DPP available for inspection online.



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

Erection of dwellinghouse at Land At North Lodge, Powdermill Brae, Gorebridge,

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File No: 21/01008/DPP

Scale: 1:500

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Fairfield House 8 Lothian Road Dalkeith EH22 3ZN Tel: 0131 271 3302 Fax: 0131 271 3537 Email: 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 100544202-001

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

Agent Details

Please enter Agent details

Company/Organisation:	<input type="text" value="Gray Planning & Development Ltd"/>		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	<input type="text" value="Neil"/>	Building Name:	<input type="text" value="AYE House"/>
Last Name: *	<input type="text" value="Gray"/>	Building Number:	<input type="text"/>
Telephone Number: *	<input type="text" value="07514278498"/>	Address 1 (Street): *	<input type="text" value="Admiralty Park"/>
Extension Number:	<input type="text"/>	Address 2:	<input type="text" value="Rosyth"/>
Mobile Number:	<input type="text"/>	Town/City: *	<input type="text" value="Dunfermline"/>
Fax Number:	<input type="text"/>	Country: *	<input type="text" value="UK"/>
		Postcode: *	<input type="text" value="KY11 2YW"/>
Email Address: *	<input type="text" value="neil@grayplanning.co.uk"/>		

Is the applicant an individual or an organisation/corporate entity? *

☒ Individual ☐ Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *
Other Title:	<input type="text"/>	Building Name: <input type="text"/>
First Name: *	<input type="text" value="Kevin"/>	Building Number: <input type="text" value="25"/>
Last Name: *	<input type="text" value="Craig"/>	Address 1 (Street): * <input type="text" value="Polton Vale"/>
Company/Organisation	<input type="text"/>	Address 2: <input type="text" value="Loanhead"/>
Telephone Number: *	<input type="text"/>	Town/City: * <input type="text" value="Midlothian"/>
Extension Number:	<input type="text"/>	Country: * <input type="text" value="United Kingdom"/>
Mobile Number:	<input type="text" value="07514278498"/>	Postcode: * <input type="text" value="EH20 9DF"/>
Fax Number:	<input type="text"/>	
Email Address: *	<input type="text" value="neil@grayplanning.co.uk"/>	

Site Address Details

Planning Authority:	<input type="text" value="Midlothian Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="LAND AT NORTH LODGE"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="POWDERMILL BRAE"/>
Post Code:	<input type="text" value="GOREBRIDGE"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="660660"/>	Easting	<input type="text" value="334484"/>
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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)

ERECTION OF DWELLINGHOUSE

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 submitted Grounds for Review Statement along with the supporting appeal documents; and the planning application as was submitted for determination by the planning authority.

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)

Please refer to Grounds for Review Statement, inside content page, is a List of Appeal Documents as the evidence we wish to rely on

Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

21/01008/DPP

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

17/12/2021

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

18/02/2022

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

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

Please select a further procedure *

By means of inspection of the land to which the review relates

Please explain in detail in your own words why this further procedure is required and the matters set out in your statement of appeal it will deal with? (Max 500 characters)

As reason for refusal 1 relies on an understanding of the visual connection to the character and appearance of the area (and as there are very recent changes which will NOT be found on Google StreetView) then it is strongly encouraged for the Review Body to visit the site and view for themselves the context. There are also grounds on reason for refusal 4 about car parking which need to be viewed on site given the new development completed and is again NOT visible from Google StreetView

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

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: Mr Neil Gray

Declaration Date: 24/03/2022

MR K CRAIG

GROUNDS FOR REVIEW OF A PLANNING DECISION

**LAND AT NORTH LODGE,
POWDERMILL BRAE, GOREBRIDGE**

**ERECTION OF DWELLINGHOUSE
(PLANNING REF: 21/01008/DPP)**

Online E-planning ref: 100544202-001

March 2022
Our Ref: 2021_115

W: www.grayplanning.co.uk

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Appendices

The following documents are referred to in this Grounds for Review Statement.

All such documents have been electronically uploaded to the ePlanning.Scot online portal.

Document 01 – Decision Notice Application Ref: 21/01008/DPP dated 18.02.22

Document 02 – Report of Handling of Planning Application 21/01008/DPP

Document 03 – Supporting Planning Statement submitted with planning application 21/01008/DPP

Document 04 – Photo 1 – image of adjacent Harvieston Lodge taken 2018, prior to restoration works performed by Mr Craig's construction company

Document 05 – Photo 2 – image of adjacent Harvieston Lodge after completion of restoration works

Document 06 – Architect Drawing reference CDC/19/100/05 – showing existing car parking arrangements and adequacy of space for the appeal proposal

Full Planning application drawings and sections, application form, landowner certification all as submitted for planning approval are re-submitted as required.

1 INTRODUCTION

- 1.1 The appellant Mr Kevin Craig is a self-employed builder with over 15 years experience in renovations, conversions and new build houses. Mr Craig's building company KC Joinery successfully completed the renovation and restoration of the adjacent Category B-Listed Harvieston Lodge in 2018-19. The property was in a dilapidated condition, laid vacant for several years and required significant restoration to provide a new modern dwelling of 2 bedrooms which has been finished to the highest quality standards. Photo 1 shows the adjacent Harvieston Lodge visual condition before Mr Craig's development transformed it to the new dwelling, as shown in Photo 2. The property was highly sought after, and was bought by local purchaser in 2021.
- 1.2 The appeal site lies immediately adjacent to the successfully redeveloped property. Its boundary is immediately formed by the new fence boundary and private garden space of the existing Harvieston Lodge property. Once again Mr Craig has worked hard to present high quality proposals for the approval of Midlothian Council. Unfortunately, after two planning applications the plans have been refused. Mr Craig is particularly frustrated at the second planning application outcome, as he and his architect worked hard to refine the detailing of design which was a reason for refusal of the first planning application (reference 20/00363/DPP) dated 30th August 2020. Rather than appeal this planning decision, Mr Craig invested more time and cost into revisiting his plans for the appeal site. A second further planning application was submitted to Midlothian Council in December 2021, reference 21/01008/DPP) which was refused by Decision Notice dated 18th February 2022.

- **The Principle of housing on the site is acceptable, and fits with the character of the surrounding area. This is an urban brownfield location. Its located within a wider housing area including hundreds of new-build modern homes within the former grounds of Harvieston House**
- **The design of the proposal is in keeping with the surrounding styles and formats. Their character is a combination of terraced-style 20th Century and modern 2-storey family homes of the 21st Century**
- **There will be sufficient amenity provided to existing occupants of Harvieston Lodge, and to future occupants of the appeal site**
- **There will be sufficient car parking provision within the site**
- **There are also material considerations supporting a residential development at this location including a recently constructed large scale housing development within the former grounds of Harvieston House – material because the historical function of grounds associated with a large stately home is no longer applicable given the Council approved the large scale housing development for the housing needs of the area**
- **The existing vacant site with no coherence to its surrounding character can be transformed and fit with the high quality finish and form of the restored Harvieston Lodge, which the appellant was responsible for.**

2 REASONS FOR REFUSAL

- 2.1 The Review request is submitted under Section 43A of the Town and Country Planning (Scotland) Act 1997 (as amended 2006). The Notice of Review has been lodged within the prescribed three-month period from the refusal of planning permission dated 18th February 2022 (**Document 01**).
- 2.2 By Delegated Powers, the Lead Officer (Local Developments) of Midlothian Council decided to refuse the application, as recommended by a Planning Officer in the Report of Handling (**Document 02**). The four reasons for refusal are per the Decision Notice (**Document 01**), which state:
- 1. The proposed dwellinghouse fails to connect visually to the character, appearance and layout of the area or relate to the historic character and appearance of the important listed building, North Lodge (also known as Harvieston Lodge). The proposed dwellinghouse will materially detract from the character of the area which is contrary to policy DEV2 of the adopted Midlothian Local Development Plan.*
 - 2. The proposed dwellinghouse does not respect the localised setting of North Lodge (also known as Harvieston Lodge) and in turn fails to relate to its historic character and appearance. The proposed dwellinghouse will materially detract from the setting of the listed building which is contrary to policy ENV22 of the adopted Midlothian Local Development Plan.*
 - 3. The proposed dwellinghouse will not be afforded an adequate level of amenity and therefore does not comply with policy DEV6 and DEV2 of the adopted Midlothian Local Development Plan.*
 - 4. It has not been demonstrated to the satisfaction of the Planning Authority that the proposed dwellinghouse and North Lodge could be afforded an adequate level of off-street parking spaces. The proposed dwellinghouse may result in a pressure for parking spaces will have a significant detrimental impact on the character and amenity of the surrounding area and is therefore contrary to policy DEV2 of the adopted Midlothian Local Development Plan.*

PROPOSED PROCEDURE TO BE FOLLOWED IN DECIDING THE REVIEW

- 2.3 We recommend one procedure - a site visit (accompanied) should be the procedure followed by the Local Review Body in deciding the case.
- 2.4 With respect to the four reasons for refusal, visual inspection of the appeal site is necessary to confirm that the appeal site is a suitable location for a house as it is in a residential area and it is surrounded by a character of 20th Century houses (to the north) and by 21st Century houses (over 100) to the south on land within the former Harvieston House estate.
- 2.5 A site visit will also view the awkward arrangements to the existing appeal site boundary which no longer has a relationship to either the Harvieston House grounds, nor the Harvieston Lodge

curtilage by virtue of being 'cut off' following a road re-alignment as will be evident from visual site inspection.

- 2.6 A site visit will allow the Review Body to view the context of the renovated and restored neighbour Harvieston Lodge (See Appeal **Document 04 and 05**). This also presents a visual example of the high quality of craftsmanship and finish the appellant Mr Craig's construction firm would apply in the same way, should planning permission be granted for the appeal proposal.

3 THE APPEAL SITE AND PROPOSALS

- 3.1 Full details of the planning application site, detailed site layout, technical land use considerations are contained in the planning application. A Planning Statement was also submitted (**Appeal Document 03**) which details the proposal and comments on its acceptability in terms of relevant development planning policy. These matters will not be repeated in this Statement, however where considered relevant to address Reasons for Refusal, points will be re-emphasised.
- 3.2 It is proposed to erect a single storey detached dwellinghouse with living accommodation within the attic. The ground floor consists of an open plan lounge and kitchen area, family bathroom, and 2 bedrooms; with the attic space being the master bedroom with an en-suite.
- 3.3 The dwellinghouse would be set within a private garden amenity space, with direct existing access from the public highway at Cadwell Crescent into a driveway to form new parking to the front of the dwellinghouse.
- 3.4 The dwellinghouse has a square footprint covering approximately 81.37 sq m ground floor lying within a site of circa 239 sq m. The proposed dwelling has a 35 degree traditional pitched roof, and measures approximately 2.7m to the eaves and 5.90m to the ridge. The proposal contains a pitched roof dormer window within the front elevation along with a velux window, and a further velux window in the rear elevation pitch. The proposal for a garden size of approximately 63.71 sq m and the hard landscaped driveway and parking area of approximately 46m². of mono blocking and 27sq m to front garden.
- 3.5 The front elevation wall will have a stone finish to match that of Harvieston Lodge, with the other three remaining walls to be finished in a render to match housing in the surrounding area. The roof and that of the dormer window are to be finished in slate.
- 3.6 The site will be enclosed by utilising the existing timber palisade fence to the north, east and south, with retention of the existing stone wall on Powdermill Brae on the western boundary.
- 3.7 Full details of these proposals are found in the submitted package of planning application drawings prepared by Capital Draughting Consultants.
- 3.8 As will be evident from a site inspection, the appeal site would sit alongside Harvieston Lodge - the existing recently restored property forming a single storey dwelling set within its own private garden space.
- 3.9 A previously submitted Planning Statement (**appeal Document 03**) explains the proposals and explains how the appellant had revisited the first planning application refusal and took great care to redesign the current proposals. The Statement contents was noted in the Planning Officer's Report of Handling (**appeal Document 04**) however the appellant contends that the details of this Statement were not fully taken into account by the planning officer in the assessment of the planning application, with key points not being fully understood as follows:
- Principle of housing on the site is acceptable, subject to compliance with relevant local development planning policies, including those concerning design, residential amenity and parking.

-
- Within the supporting planning statement, it is noted that the application site is located within the defined urban area of Gorebridge within an allocated housing site h23 where Proposal STRAT3 (Strategic Housing Land Allocation) applies. This policy supports development in principle providing it accords with other detailed policies of the MLDP. It is noted that the capacity of h23 allowed for 211 units – planning application 14/00481/DPP met this capacity, as it was for the erection of 199 dwellinghouses and 12 flatted dwellings.
 - The application site is located within the built-up area, as defined by policy DEV2 of the adopted local development plan, where there may be scope for the application site to be developed.

4 GROUNDS FOR REVIEW

4.1 Section 1 outlined the Planning Authority's four reasons for refusal. Based on the evidence presented in this appeal, the appellant contends all these reasons can be set aside, and planning permission should be granted for the proposed development. This is subject to the imposition of relevant, enforceable planning conditions.

4.2 It is also relevant for the purposes of focusing the main issues for this appeal, **that there is agreement with the Planning Authority on the following points as found in Report of Handling (Appeal Document 02):**

- The site lies in the defined urban area of Gorebridge where housing is acceptable in principle.
- The site lies adjacent to housing site h23 which has subsequently had 199 dwellinghouses and 12 flatted dwellings built within the former Harvieston House grounds some 50m set back from Powdermill Brae and the North Lodge (Harvieston Lodge)
- North Lodge (Harvieston Lodge) will still have an adequate level of garden ground remaining as a result of the proposed development
- The daylight and sunlight previously enjoyed by North Lodge (Harvieston Lodge) will not be affected by the proposed development.
- There are no side windows proposed for the appeal house which would cause any overlooking or privacy issues to existing occupants of North Lodge (Harvieston Lodge)

4.3 The Report of Handling does not comment any deeper on other relevant planning matters which, on balance in this appeal, should be taken into account, being:

- The site is currently vacant, overgrown and under-utilised causing negative visual impact on the surrounding streetscape
- The site does not form any part of the housing allocation h23 in so far as all the 199 homes plus 12 flats approved for development by the major housing developer have been completed and this has resulted in the appeal site being left aside and no longer appears to fit with the surrounding area
- For the reason given above, the historical grounds associated with former Harvieston House are no longer in existence since the 199 homes and 12 flats were constructed upon it, and therefore the Harvieston Lodge (or North Lodge) adjacent to the appeal site no longer provides its historical "lodge house" purpose
- The appellant has developed Harvieston Lodge to the highest quality of restoration befitting of a Category B-Listed Building – therefore he is experienced in respecting the historical significance of the property and its curtilage which would be equally the case in the appeal site in terms of respecting the Category B-Listed building's setting and status.
- The Powdermill Brae has a public transport bus stop 100m from the appeal site (X95 Service) with frequent service routes to Carlisle and Hawick with further local stops en route. Gorebridge Train station (with main line connections to Edinburgh and Tweedbank) lies 700m walking and cycling distance). These are strong reasons to support a modal shift from private car use to more public transport use to help reduce the climate emergency and contribute to lowering carbon footprints. The Report of Handling does not pick up on the sustainable location of the appeal site and rather emphasises the need for car parking

provision which goes contrary to Scottish and UK Government advice to reduce car dependency and shift to other modes of transport.

4.4 Turning to the Reasons for Refusal, this section will argue the following Grounds:

1. The proposal is not contrary to LDP policy DEV 2 as it does connect visually to the character, appearance and layout of the area and it does relate to the historic character and appearance of the important listed building, North Lodge (also known as Harvieston Lodge). This is more so now that a modern housing estate of 199 houses and 12 flats has been built within 50m of the Listed Building.
2. The proposal is not contrary to LDP Policy ENV22. The proposal respects the localised setting of North Lodge (also known as Harvieston Lodge) and it does relate to its historic character and appearance – bearing in mind the vast grounds once belonging to Harvieston House has been permanently changed to a modern housing estate of 199 houses and 12 flats in the foreground of the North Lodge itself.
3. The proposal does provide sufficient amenity to existing occupants of North Lodge and of future occupants of the appeal site as there are no impacts on existing daylight and sunlight, no impacts on loss of garden ground to North Lodge, and there would be reasonable garden space provided to the appeal site. The proposal complies with LDP Policy DEV 6 and DEV 2 accordingly.
4. The proposal is not contrary to LDP Policy DEV 2 on parking matters. The appellants are providing parking, just not enough to satisfy guidelines for parking. They wish to emphasise the high accessibility of the site to public transport provision (bus stop and train station) within walking and cycling distance, and to promote further increase in car use would run contrary to the Climate Emergency.

4.5 Each of these points is expanded in the paragraphs below, with evidence presented and justification given to support the appellants case that planning permission should be granted. Not only do the proposals meet the provisions of the Development Plan, but there are also material considerations which are relevant, add weight to and support the appellants' case.

1 – VISUAL CONNECTION TO THE CHARACTER AND APPEARANCE OF THE AREA

4.6 The area has seen considerable change in the last 5 years.

- The long-vacant Harvieston Lodge (North Lodge) as seen in 2018 (see Photo 1) was restored and quickly re-occupied as new high quality dwelling, by 2020. The building had been allowed to deteriorate to its former poor quality despite its Category B-Listing. The building was also not included in the h23 housing land allocation for 211 units, and even once planning consent 14/00481/DPP granting the construction of 199 homes and 12 flats was under construction, there were no mitigating design or construction measures in place.
- There have been road design alterations locally, including the severance of part of the former Harvieston House grounds to a bus layby and new road. This has in part resulted in the residual part of land in the appeal site having no connection to its existing character of the area and is vacant and under-utilised.
- As a result, the visual connection of the site to its surrounding character and appearance has been considerably altered and severed.
- On the contrary, the appellants contend that re-purposing the site to form a new home, positioned alongside the restored Harvieston Lodge restores a new visual connection and a new future for the severed and disjointed appearance of the area as present. A site visit will help the Local Review Body understand the visual connection that can be restored by the new proposal.

4.7 The appeal site lies in a built-up area, where urban development is supported in principle. There is a broad mix of house types and ages – with 2 storey terraced mid 20th Century homes lying opposite on Powdermill Brae; and the 199 modern detached 2 storey new build homes within the former historic garden grounds of the former Harvieston House.

4.8 LDP Policy DEV2 alongside the STRAT2 (specific allocations for greenfield housing development including h23) – sets out a broad assumption. In the supporting text to Policy DEV2 at Section 3.1.5 of the LDP it is clearly stated how the Council will support “*additional housing on windfall sites and how such opportunities will generally be located within existing built-up areas, and can include conversion, intensification, infill or redevelopment*” – the appeal site **IS a brownfield site**, or if it is not by definition, then the fact that it has been severed from the h23 housing development and left undeveloped with little prospect to be consumed by the large standard housing estate development, then the appeal proposals should be examined through this prism. The appeal site should be examined not as an extension of the Harvieston Lodge (North Lodge) but as an infill or gap or completion of the surrounding area. It makes no sense to not allow a single dwelling house on the appeal site, when the entire greenfield land within a once historic garden landscape can be built on and bear little visual connection to the character and appearance of the area either.

4.9 The further supporting text to Policy DEV2 states this policy “*aims to ensure that new development does not damage or blight land uses which are already established*” – the appeal proposal will not damage nor blight the existing residential land uses in the surrounding area. As it has been confirmed that the residential use will not impact on existing daylight and sunlight, nor will it impact on privacy or overlooking into existing residential properties. The proposed land use is entirely compatible and the proposed height, position, scale and form of the new dwelling will not harm the intentions of Policy DEV2.

- 4.10 Therefore the appeal proposal complies with Policy DEV2 as a suitable infill and windfall development for a single dwelling. It will also not harm the new established character of the area which is now dominated by 199 modern family dwellings and 12 modern flats of a design and form that itself does not visually connect to the earlier character and appearance of the area. The addition of one new dwelling at this location will have no harm on the visual connection or to the character and appearance of the area.

2 – RESPECTS NORTH LODGE SETTING AND ITS CHARACTER AND APPEARANCE

- 4.11 North Lodge had historically served as a hunting lodge or reception lodge for visitors to the historic Harvieston House. The historical landscape architecture would have emphasised the sense of hierarchy and setting to both the House and the Lodge with the intervening garden lands (now a 199 housing estate). The fact is this historical rhythm has been lost forever by the introduction of the modern housing estate. The relationship between the House and the Lodge is severed and lost.
- 4.12 However the high quality restoration of the long vacant Harvieston Lodge (North Lodge) already improves the visual appearance of the area, and therefore increases the perception that the status of North Lodge should be preserved yet this has already been lost to the modern housing development. The proposal does respect the local setting the relationship between the Lodge and the appeal site is considered to be sensitively designed. There has been sufficient space provided between the existing building and the new building, the existing boundary fence (albeit lacking presently in mature landscaped gardens owing to the newness of the development) provide sufficient setting for the new appeal proposal.
- 4.13 As stated in the Planning Statement (**Appeal Document 03**) in the commentary about cultural heritage (page 6), it is important to repeat “Historic Environment Scotland (HES) define ‘setting’ is the way the surrounding of a historic asset of place contribute to how it is understood, appreciated and experienced. Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 does not preclude the alterations of a Listed Building or changes to its setting. Rather it essentially directs the planning authority to the desirability of their preservation and that special regard should be given to their special architectural or historic interest when making planning decisions. Given the recent changes driven by the completion of 199 homes and 12 flats in the grounds between the historic House and historic Lodge, then the desirability of preservation has already been questioned by the Planning Authority and it did not hold back on allowing the permanent change of the greenfield site around the appeal site. The Local Review Body should therefore examine the desirability issue as one of how the existing character and its recent change has altered the context. This should be an important matter to bear in mind in reviewing the case.
- 4.14 The appellants do not agree with the planning officers view that the introduction of one dwelling, into land adjacent but with a set back from it, and oriented away from the front and side façade of the North Lodge, would have significant consequences for the listed building given the context explained above. Now that the historic relationship with Harvieston House has been eroded, we are of the opinion that the main setting of the proposed development lies to the southern elevation of Harvieston Lodge which is the elevation seen from the A7 (south and west

elevations) which is further confirmed with the items evidenced within the listing of the property. In their Planning Statement, the appellants had explained how the design process for the appeal proposal took cognizance of the Historic Environment Scotland guidance “*Managing Change In the Historic Environment – Setting*”. As such, the appellants contend that the appeal proposal satisfies Policy ENV22.

3 - AMENITY TO OCCUPANTS

- 4.15 The planning authority considers the proposal fails to meet the requirement of Policy DEV6 and DEV2 with regard to providing sufficient amenity to existing and future residential occupants.
- 4.16 The proposal does provide sufficient amenity to existing occupants of North Lodge and of future occupants of the appeal site as there are no impacts on existing daylight and sunlight, no impacts on loss of garden ground to North Lodge, and there would be reasonable garden space provided to the appeal site.
- 4.17 The Officer’s Report of Handling on the matter (Appeal Document 02) states: “*Detached, semi-detached and terraced dwellings should each be provided with a private outdoor space that is free from direct overlooking form public areas and neighbouring property as far as possible. Private open space attached to the dwelling is required for all non-flatted properties. The Councils standard requires that houses of 3 apartments to have useable garden ground no less than 110m². The proposed dwellinghouse is to be afforded approximately 65m² of useable rear garden ground; there is also a small area of garden ground to the front and sides of the proposed dwelling. The proposed dwellinghouse will not be afforded an adequate level of amenity and therefore do not comply with adopted policy DEV6 and DEV2.*”
- 4.18 However the proposal does not erode the required level of remaining garden ground for the existing dwelling, and the proposal does not result in overlooking or loss of privacy to existing occupants by virtue of window to window or views into the spaces externally.
- 4.19 Policy DEV 6 goes much wider into a range of design requirements to do with site layout, form, use of materials, positioning, open space, cycle provision. When examined as a whole (where applicable), not just parts of Policy DEV 6, the appeal proposal complies with a wide range of other design requirements which on balance demonstrate that the applicant has considered carefully the new design. The appeal proposal is a number of changes made to a previously refused design for a similar proposal. The appeal proposal therefore accounts for these shortcomings and makes considerable improvements in the general approach to amenity and providing for the Policy DEV 6 requirements.
- 4.20 The appeal proposal therefore complies with Policy DEV 6 and on balance the design improvements made to the appeal proposal compared with the first scheme should be taken into account in the assessment of the design of the scheme with regard to amenity matters.

4– PARKING PROVISION VERSUS HIGH ACCESSIBILITY LOCATION

- 4.21 The fourth reason for refusal is based on the planning officer's observation that "*only one*" off-street (in curtilage) parking space will be afforded to the proposed dwelling, accessible via Cadwell Crescent. The fourth reason for refusal further asserts that this would mean the proposal is contrary to Policy DEV2 with regard to adequacy of parking provision.
- 4.22 However the submitted Proposed Site Plan drawing 01 shows the proposed driveway with one car shown, and *suitable additional space on the driveway to accommodate another, making 2 off street car parking spaces are possible*.
- 4.23 Furthermore, the submitted site photos drawing 05, and re submitted to this appeal as **Appeal Document 06**, shows insets of Photo 1 and Photo 3 with other parking available off the main street, on Cadwell Crescent. On the day these photos were taken, 2 vehicles were parked off road at the site. This means that in addition to the 2 in curtilage parking spaces, additional parking spaces can be found immediately on street.
- 4.24 As a result, the appellants wish the Review Body to take a more balanced approach to assessment of this reason for refusal. The Planning Authority has applied its parking guidelines strictly - (by definition "guideline" can be taken as recommendation or advice, it does not imply an absolute requirement).
- 4.25 The appellant is requesting the Review Body considers the following sustainability and high accessibility benefits of the site when considering if the 'guideline' should be applied strictly in this case, or if more reasonably, it can be relaxed to account for measures to combat the Climate Emergency and to encourage modal shift from motor car.
- The site lies 100m walk or cycle from a bus stop on Powdermill Brae – Stagecoach connections Edinburgh to Carlisle and Hawick
 - The site lies 400m walk or cycle from Gorebridge train station – ScotRail services to Edinburgh and to Tweedbank on the Borders Rail line.
- 4.26 The appeal proposal will encourage this high accessibility provision to shift to public transport particularly if new occupants of the property are a family with jobs in Gorebridge, Midlothian or within traveling distance of Edinburgh or the Borders as the public transport provision would be a strong reason for purchasers to locate here. Given the steep rise in fuel costs associated with car use, many peoples habits may be encouraged to alter fuel consumption and this proposal would make a small but relevant contribution to that shift.

5 CONCLUSIONS

5.1 This Grounds for Review statement sets out the appellants case, that the 4 reasons for refusal can be set aside, and planning permission should be granted. This is because:

- The principle of residential use within this residential area, and within the urban boundary supports the development subject to detailed design matters.
- The development is not a greenfield (such as the adjacent large scale housing allocation h23) but should be considered an infill or a windfall development. It is also using vacant land which has little remaining relationship with its immediate surroundings, and little value as a vacant site partially severed by the road design and new housing adjacent.
- The proposal does therefore fill a gap in the pattern surrounding, and visually will improve the streetscape and remove what might otherwise become vacant and visually unpleasant when seen in the context of the wider new large scale development around.
- The proposed form of dwelling as a single storey with attic living space is in market demand and the appellant has no hesitation that this product will be keenly sought and will be a suitable addition to the housing market in this desirable location.
- The Officer's Report of Handling does not offer suitable balance when considering the merits of the proposal from a wider streetscape perspective. The new building will fit much better with the prevailing current and future surrounding streetscape and the past should not be used to gauge change given that the historic gardens once associated with Harvieston House and Lodge have been redeveloped permanently for a modern housing estate.
- The Officer's report of handling positively states the new dwelling will not cause amenity concerns of overlooking, loss of daylight or sunlight and will be a suitable use for this location.
- Whilst the car parking guideline has not been met, this is a conscious decision of the appellant and developer of the site to encourage more public transport use, in times of the Climate Emergency and government encouragement to lower carbon use. Therefore the parking is reduced, given the immediate proximity of bus and train services within 100m and 400 walk or cycle respectively linking the site to Edinburgh, Carlisle, Hawick and rail halts on the Borders Rail Way.
- The appellant is a successful developer having previously purchased in 2018 the then dilapidated and on Building at Risk Category B-Listed Harvieston Lodge – and transformed it into a high quality restoration which has been keenly received by the market. This new proposal would not seek to harm the good work achieved to date, and the appellant would once again take full responsibility to ensure high quality development of the appeal site to ensure it remains a visually attractive and sensitively developed new dwelling which fits with the modern setting and does not hold onto the past, which for the reasons given in this statement, has already been significantly eroded owing to the large scale housing development on the adjacent greenfield.
- A Site Visit is strongly encouraged to appreciate and better understand the context of the surrounding settings and forms of building. Photographs submitted with this appeal can be verified by a site visit.

5.2 It is respectfully requested therefore that the Local Review Body reconsider the proposals and find favour with the arguments set out in this Review and grant planning permission.

07th December 2021

PLANNING STATEMENT

APPLICANT: MR K CRAIG

ERECTION OF DWELLINGHOUSE

AT LAND AT HARVIESTON LODGE (ALSO KNOWN AS NORTH LODGE), POWDERMILL BRAE, GOREBRIDGE

Introduction

This Planning Statement has been prepared on behalf of the applicant to support the planning application for the above proposed development. It follows advice and guidance as provided in the adopted Midlothian Local Development Plan (adopted 2017). This Planning Statement provides a professional assessment of the proposal against these relevant development planning policy considerations, and other material considerations.

Site Description

The application site is located within a built up area as defined by the adopted Midlothian Local Development Plan (MLDP). The application site relates to approximately 239sq m area of part of the garden ground that is associated with Harvieston Lodge (also known as North Lodge). The garden ground is currently enclosed by a high vertical timber fence to the southern and eastern elevations and a natural stone boundary wall to the northern elevation.

Harvieston Lodge is a single storey lodge with a single storey modern flat roof extension which is partially built into the boundary wall of Harvieston House. The lodge and boundary wall form part of the statutory Category B listing. Harvieston Lodge is finished in natural stone with a slate hipped roof.

The lodge and associated garden ground is located at the corner of Powdermill Brae and the A7. To the south and east of the application site there is a new build residential development scheme which is primarily detached and semi-detached two storey dwellings with pitched roofs.

To the north and north east of the application site, at the other side of Powdermill Brae, are residential dwellings. The dwellinghouses are primarily four in a block flatted dwellings which are two storey, semi-detached buildings with hipped roofs.

The land to the western side of the A7 is primarily agricultural land.

The Proposed Development

It is proposed to erect a single storey detached dwellinghouse with living accommodation within the attic. The ground floor consists of an open plan lounge and kitchen area, family bathroom, and 2 bedrooms; with the attic space being the master bedroom with an en-suite.

The dwellinghouse would be set within a private garden amenity space, with direct existing access from the public highway at Cadwell Crescent into a driveway to form new parking to the front of the dwellinghouse.

The dwellinghouse has a square footprint covering approximately 81.37 sq m ground floor lying within a site of circa 239 sq m. The proposed dwelling has a 35 degree traditional pitched roof, and measures approximately 2.7m to the eaves and 5.90m to the ridge. The proposal contains a pitched roof dormer window within the front elevation along with a velux window, and a further velux window in the rear elevation pitch. The proposal for a garden size of approximately 63.71 sq m and the hard landscaped driveway and parking area of approximately 46m² of mono blocking and 27sq m to front garden.

The front elevation wall will have a stone finish to match that of Harvieston Lodge, with the other three remaining walls to be finished in a render to match housing in the surrounding area. The roof and that of the dormer window are to be finished in slate.

The site will be enclosed by utilising the existing timber palisade fence to the north, east and south, with retention of the existing stone wall on Powdermill Brae on the western boundary.

Full details of these proposals are found in the submitted package of planning application drawings prepared by Capital Draughting Consultants.

Key Issues Considered relevant to determination of the planning application

Whilst no formal pre-application advice was obtained from Midlothian Council, the applicant has, via the planning consultant, identified the following broad issues relevant to the determination, in land use planning terms and in the context of the planning history of the site:

- Principle of housing on the site is acceptable, given the urban brownfield location and within a wider housing allocation, subject to compliance with relevant local development planning policies. This includes those concerning design, residential amenity, built heritage (listed buildings), and car parking.
- There are also material considerations supporting the principle of a residential development at this location including a recently constructed large scale housing development within the former grounds of Harvieston House – material because the historical function of grounds associated with a large stately home is no longer applicable given the Council approved the large scale housing development for the housing needs of the area.

Planning History

There is a previous planning history for the application site. On the 21st August 2020, an application (ref 20/00363/DPP) was refused by the planning authority for the erection of a dwellinghouse. The Council Decision Notice states its reasons for refusal being the proposed development fails to connect visually to the character, appearance and layout of the area or relate to the historic character and appearance of the listed Harvieston Lodge. It states that the development does not respect the localised setting of Harvieston Lodge and in turn fails to relate to its historic character and appearance, therefore materially

detracted from the setting of the listed building. The refusal also cited that the development could not be afforded adequate levels of amenity or an adequate level of off street parking.

Notwithstanding the refused planning application relating to the development site, there has been other recent planning history which is relevant to the context of any proposed development on the site.

In September 2015, listed building consent was granted (ref 15/00545/LBC) for alterations to existing boundary wall on land at Harvieston Farm, Powdermill Brae. The section to the north of both Harvieston Lodge and the development site was listed as collapsed and required to be rebuilt with the height to match the existing wall.

In February 2016, planning permission (ref 14/00481/DPP) was granted for 199 dwellinghouses and 12 flatted dwellings, formation of access road, car parking and associated works which has subsequently been built out on the allocated housing site h23 which is located between Harvieston Lodge and Harvieston House.

In September 2019, planning permission (ref 19/00582/DPP) was granted for an extension to Harvieston Lodge along with listed building consent (ref 19/00583/LBC) for extension to Harvieston Lodge, installation of window, installation of replacement windows, and internal alterations.

Development Plan Policy

The development plan comprises the South East Scotland Strategic Development Plan (SESplan) and the Midlothian Local Development Plan (MLDP) adopted 2017.

As the purpose of SESplan is to set out strategic regional wide policy, and this is a local development of small-scale, then no further assessment of SESplan will be made.

In relation to the MLDP, the relevant policies include:

1. Principle - The site is located within the defined urban area of Gorebridge within an allocated housing site h23 where Proposal STRAT3 (Strategic Housing Land Allocation) applies. This policy supports development in principle providing it accords with other detailed policies of the MLDP. Therefore, the plans must be assessed against all relevant policies within the MLDP including housing policies relating to design as introduced below.
2. Detailed Considerations - As a residential development proposed adjacent to a listed building the relevant design policies of the MLDP are – Policy ENV22 (Listed Buildings); Policy DEV2 (Protecting Amenity within the Built up Area) and, Policy DEV6 (Layout and Design of New Development). We will comment on these in the planning policy discussion section later.

Material Considerations

National Planning Policy sits at the top of the planning policy hierarchy and sets the strategic aims and objectives which must be incorporated into the Development Plan.

Scottish Planning Policy (2020)

Scottish Planning Policy (SPP) is a statement of the Scottish Government's policy on how nationally important land use planning matters should be addressed across the country.

The SPP states that:

'The 1997 Act requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. As a Statement of Ministers' priorities the context of the SPP is a material consideration that carries significant weight'.

And that:

'Planning should take a positive approach to enabling high quality development and making efficient use of land to deliver long term benefits for the public while protecting and enhancing natural and cultural resources'.

The first principle policy of SPP 'introduced a presumption in favour of development that contributes to sustainable development'.

Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997

The general duty in the exercise of planning matters relating to Listed Buildings is set out in the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997:

'General duty as respects listed buildings in exercise of planning functions 59(1) in considering whether to grant planning permission for development which affects a listed building or its setting, a planning authority or the Secretary of State [the Scottish Ministers], as the case may be, shall have special regard to the desirability of preserving the building or its setting or any features of special architectural interest or historic interest which it possesses'.

In this regard the Act does not preclude the alteration of a Listed Building or changes to its setting. Rather it essentially directs the relevant planning authority to the desirability of their preservation and that special regard should be given to their special architectural or historic interest when making planning decisions.

Under the heading Listed Buildings, SPP states:

'Change to a listed building should be managed to protect its special interest while enabling it to remain in active use. Where planning permission and listed building consent are sought for development to, or affecting, a listed building, special regard must be given to the importance of preserving and enhancing the building, its setting and any features of special architectural or historic

interest. The layout, design, materials, scale, siting and use of any development which will affect a listed building or its setting should be appropriate to the character and appearance of the building and setting. Listed buildings should be protected from demolition or other work that would adversely affect it or its setting’.

SPP states that the planning system should:

‘enable a positive change in the historic environment which is informed by a clear understanding of the importance of the heritage assets affected and ensure their future use. Change should be sensitively managed to avoid or minimise adverse impacts on the fabric and setting of the asset and ensure that its special characteristics are protected, conserved or enhanced’.

Managing Change in the Historic Environment – Setting (2016)

Managing Change in the Historic Environment defines ‘*setting is the way the surroundings of a historic asset or place contributes to how it is understood, appreciated and experienced*’. The setting of a historic asset can incorporate a range of factors, not all of which will apply to every case. These include:

- Current landscape or townscape context;
- Views to, from and across or beyond the historic asset or place;
- Key vistas (for instance, a ‘frame’ of trees, buildings or natural features that give the historic asset or place a context, whether international or not);
- The prominence of the historic asset or place in views throughout the surrounding area, bearing in mind that sites need not be visually prominent to have a setting;
- Aesthetic qualities;
- Character of the surrounding landscape;
- General and specific views including foregrounds and backdrops;
- Views from within an asset outwards over key elements in the surrounding landscape, such as the view from the principal room of a house, or from a roof space;
- Non-visual factors such as historical artistic, literary, place name, or scenic associations, intellectual relationships (e.g. to a theory, plan or design) or sensory factors;
- A ‘sense of place’: the overall experience of an asset which may combine some of the above factors.

The Historic Environment Scotland guidance states that there are three stages in assessing the impact of a development on setting of a historic asset or place:

- Stage 1: identifying the historic assets that might be affected by a proposed change.
- Stage 2: define the setting by establishing how the surroundings contribute to the ways in which the historic asset or place is understood, appreciated and experienced.
- Stage 3: assess how any change would impact upon the setting.

Planning history is material consideration. The applicant, as builder of the adjacent Harvieston Lodge restoration works, has a proven track record of completing high quality residential development at this location which is both sensitively restored and of attraction to the buyer market.

Planning Policy Discussion

Principle of Use

National Planning Policy encourages Local Planning Authorities to take a positive approach to development that could contribute to sustainable economic growth. SPP seeks to direct development towards the most suitable locations, and supports regeneration proposals which make the full and appropriate use of land.

As highlighted in para 3.2.1 within the MLDP, *'a key aim of the MLDP is to ensure that there is a sufficient range and choice of housing to meet all the needs and help achieve sustainable communities'*. The MLDP seeks to meet the needs of a stabilising population and a changing household formation. It will require more housing, offering greater choice and quality. The Scottish Government in SPP expects Councils to provide a range and type of housing across all market areas.

The proposed development would be an acceptable use for this location as it lies within the defined urban area of Gorebridge and within an allocated site for housing h23 (Harvieston, Gorebridge) which has a stated capacity of 211 units with an expected contribution to the housing land supply up to 2024. The wider allocation site gained planning permission in February 2016 (ref 14/00481/DPP) for 199 dwellinghouses and 12 flatted dwellings, formation of access road, car parking and associated works which has subsequently been built out. In that context, the proposed development lies within an allocated site for housing which is supported by Policy STRAT 1 and Proposal STRAT 3 in that the principle of use is accepted subject to site specific issues being resolved and ensuring it complies with the other MLDP policies.

Cultural Heritage

The application site lies adjacent to Harvieston Lodge which is Category B listed along with associated gates, gatepiers and boundary walls.

SPP notes the planning system should enable a positive change in the historic environment which is informed by a clear understanding of the importance of the heritage assets affected and ensure their future use.

Policy ENV22 (Listed Buildings) seeks to protect the character or appearance of a Listed Building, this includes its setting, or any special feature of special architectural or historic interest.

Historic Environment Scotland (HES) define *'setting'* is the way the surrounding of a historic asset of place contribute to how it is understood, appreciated and experienced. Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 does not preclude the alterations of a Listed Building or changes to its setting. Rather it essentially directs the planning authority to the desirability of their preservation and that special regard should be given to their special architectural or historic interest when making planning decisions.

HES guidance *Managing Change I the Historic Environment – Setting* notes that there are 3 stages in assessing the impact of a development on the setting of a historic asset or place:

Stage 1: Identify the Historic Assets

As noted above, Harvieston Lodge, gates, gatepiers and boundary walls a Category B listed from the 19th March 1998. The description of the listing states that:

'Circa 1800. Single storey, 3 bay, rectangular plan lodge built into boundary wall of Harvieston House. Tooled squared and snecked sandstone with droved dressings polished to margins. Base course; raised margins; strip quoins; eaves course.

S (ENTRANCE) ELEVATION: symmetrical; doorway to centre; with timber door; windows to flanking bays.

E ELEVATION: not seen 1997.

N ELEVATION: not seen 1997.

W (GATE) ELEVATION: asymmetrical; broached with droved margins; bowed window to centre; window to left on flat roofed extension. Timber door set in boundary wall to outer left.

Diamond pane, 2 leaf, zinc windows. Grey slate piended roof with lead ridges. Central corniced sandstone ridge stack with fluted frieze and octagonal can. Cast iron rainwater goods.

INTERIOR: not seen 1997.

GATES, GATEPIERS AND BOUNDARY WALLS: 2 leaf decorative ironwork gate; ironwork pedestrian gate to right. 3 coursed, polished sandstone gatepiers; fluted friezes, deep cornices and pyramidal caps. Coped random rubble boundary wall to N and W'.

The Statement of Special Interest goes on to note that:

'The Borthwick family are said to have lived on the estate of Harvieston before they built Borthwick Castle, circa 1430. According to the Statistical Account the ruin of the castle was by the side of Gore Water which runs to the NW of the estate. Harvieston was the home of George Trotter Cranstoun of Dewar around 1750, when it was a building "of moderate size, with very thick walls, and having the lower part arched" (Small). It was altered in the later 19th century by Mr. Brown of Currie, and then again at the beginning of this century. From 1985 it was known as St. Aidan's and was used by the Roman Catholic Church as a training school for boys. It is presently divided up into flats (1997)'.

Stage 2: Define and Analyse the Setting

Historically gate lodges such as Harvieston Lodge (also known as North Lodge) were an eighteenth and nineteenth century phenomenon providing a small lodge at the entrance to the county mansion, in this case Harvieston House (Category C listed). The gates with their lodges were built to retain livestock and at the same time to deter intruders. However, in the space of approximately 15 years the gate lodge changed from the function of defence and vigilance into a fashion statement. Landowners recognised that power and authority could be expressed by having a strong visual statement at the main entrance leading to the big house.

The significance of the setting of Harvieston Lodge is its historic relationship with Harvieston House, being its gate lodge and entry point leading up to the house. There are now circa 211 residential

dwelling of new build design, scale and massing (199 houses and 12 flats) built on the land directly between Harvieston Lodge and Harvieston House which significantly dilutes its direct historic relationship. Therefore significant and changes the way in which the historic link between the two is understood, appreciated and experienced. Access to Harvieston House is now taken directly off the A7 (Harvieston House Drive) which is circa 417m south of the historic entrance to the property at the lodge. The historic access is now a pedestrian access only with vehicular access to the new build housing development taken off Powdermill Brae.

Now that the historic relationship with Harvieston House has been eroded, we are of the opinion that the main setting of the proposed development lies to the southern elevation of Harvieston Lodge which is the elevation seen from the A7 (south and west elevations) which is further confirmed with the items evidenced within the listing of the property.

Up until recently (2019) Harvieston Lodge was on the buildings at risk register and it was the applicant of this planning application who submitted a planning application and listed building consent application for proposed alterations and extension to the lodge so it could be brought back into a sustainable use and revitalise the existing building. The east elevation of the lodge sites adjacent to the proposed development where a modern flat roof extension has been erected, and further articulated within the listing that this elevation had nothing to note and therefore no real significance to the lodge. The same can be said with the north elevation of the lodge with nothing to note in the listing, and had fallen into disrepair with a listed building consent application was granted in 2015 to rebuild it to match existing as it had collapsed.

Stage 3: Evaluate the Potential Impact of the Proposed Changes

No development is proposed adjacent to the elevation of the lodge which has the most significance with that being the south and west elevations which are seen from the A7 and therefore the setting will be unchanged and continue to be maintained and enjoyed.

The proposed development is built away from the lodge's primary elevation and to the rear where modern additions to the lodge have been erected and therefore not competing with or altering its street frontage appearance. The lodge is not mentioned in the statement of special interest associated with the listing and therefore again aligns with the fact that the lodge itself has no real architectural or historic significance, especially that the direct relationship between it and Harvieston House has been amputated with the erection of 211 residential properties on land between the two.

Due to the reasons outlined above the proposed development will not adversely affect the impact of the character or appearance of the Category B Listed Harvieston Lodge or its setting. As noted below the proposal seeks to compliment the architectural and historical character of the lodge to ensure it sits comfortably alongside it as a neighbouring property. In that context, the proposed development adheres to the aims and objectives set out in Policy ENV22 (Listed Buildings) and the assessment of the lodge's setting has robustly and comprehensively been made in line with the requirements in the HES guidance *Managing Change I the Historic Environment – Setting*.

Residential Amenity

National Planning Policy reflects the great importance which the Scottish Government attaches to the design of the built environment. MLDP policies set out the quality of the development that is expected for the Midlothian Area

Policy DEV2 (Protecting Amenity within the Built Environment) where the principle of development is accepted on the site as long as the development does not result in a detrimental visual impact on the area or results in a harmful loss of amenity. Both Policy DEV2 and Policy DEV6 (Layout and Design of New Development) seek to safeguard the character and appearance of an area, with Policy DEV6 in particular requiring new developments to be of a good design and a high quality of architecture.

A number of changes have been made to the design of the proposed development in the context of the refusal of planning permission 20/00363/DPP:

- The scale and massing of the proposal has been reduced with the single storey porch being deleted on the front elevation;
- There is now a traditional pitched roof with both front and rear elevations sitting flush with the eaves line, with the slightly hipped corners of the roof being deleted;
- The two large hipped roof dormer windows have been replaced by one pitched roof dormer window on the front elevation with an additional velux window;
- The one large hipped roof former window on the rear elevation has been deleted and replaced by a single velux window;
- The proposed windows and doors on both the front and rear elevation have now been made smaller and more traditional for the size of the property; and,
- The front elevation wall to the proposed house is to have a stone finish to match that of Harvieston Lodge as opposed to the previous application being a rendered wall to match the surrounding area. This is an important change to reflect the setting of the south elevation of the lodge in which we have identified its significance to the setting of the listed building.

In that context, the applicant has absorbed the reasons for refusal from the previous application and made appropriate design changes which have made an improvement to the overall design and layout of the proposed dwellinghouse which is more appropriate to the site itself and in keeping with its surroundings, more noticeably tying in with the design and materials of Harvieston Lodge.

The rear and side elevation of Harvieston Lodge is at an offset angle to the western gable end of the proposed dwelling which does not include any windows and therefore does not raise and overlooking concerns of Harvieston Lodge. The positioning, scale, form and massing of the proposal, added to the distance to Harvieston Lodge ensures that there are no adverse impacts to daylight or sun light on Harvieston Lodge.

The full heritage assessment that was undertaken of Harvieston Lodge helped influence and develop a suitable design solution making appropriate changes to the previously refused proposal, lowering the profile, roof pitch, scale, massing, and materials which will preserve and enhance the Category B listed lodge and its setting. The proposal provides a sufficiently high standard of design which positively contributes to the character and appearance of not only the adjacent lodge, but a visual link between that and that of the new build residential scheme beyond.

In that context, the proposed development has been designed and developed to ensure that there are no adverse impacts on residential amenity of neighbouring properties regarding privacy, daylight and sunlight and therefore adheres to the requirements of Policy DEV2. The design of the proposal is of a high quality not just in terms of architecture, but the overall layout and its constituent parts. The layout compliments and enhances the character and setting of the adjacent listed lodge and immediate locale; has no adverse impact on surrounding residential amenity; incorporates good quality materials; which there respects what Policy DEV6 seeks to achieve and portray as a built form.

Parking

In terms of parking requirements for the proposed development, the Council's car parking standards indicate for a 3 bedroom house, there is expectation for 2 resident car parking spaces and 0.5 spaces available for visitors. In the context of the Scottish Government's '*Designing Streets*' advice, spaces can be a mixture of driveways and on-street. One car parking space has been provided within the site curtilage to promote low car ownership and promote other sustainable travel means. There are two public car parking spaces directly adjacent to the south of the proposed site which can smeeet any shortfall, as well as the surrounding streets including Cadwell Crescent, Powdermill Brae and Birken-side which do not have any parking restrictions associated to them. We have assessed these surrounding streets and there was no evidence of parking demand at the time of visiting and therefore ample additional spaces if so required.

Looking at the crashmap data there are no historical recorded accidents on Powdermill Brae nor a history of accidents due to on-street parking.

In terms of promoting sustainable transport means, the proposed development is within 50m walking distance of the bus terminus on Powdermill Brae which services Lothian Bus numbers 29 to Silverknowes through Edinburgh's City Centre, 48 to Fort Kinaird via the Royal Infirmary, and the night bus service N3 to Haymarket in the city centre of Edinburgh. The proposed site is also located within 650m (therefore defined as accessible) from Gorebridge Train Station via Powdermill Brae and Station Road providing a regular train service to both Edinburgh and the Scottish Borders.

The proposed site is also within a short walking distance of local facilities and services on Powdermill Brae.

With the absence of a garage, the applicant will provide a shed to accommodate a safe and secure point to store a bike(s) with the absence of a garage to further promote sustainable travel.

In that context, parking can easily be dealt with through a mixture of the proposed driveway and on-street, with any consequences of overspill being dealt within existing arrangements.

Summary

The proposed development would be an acceptable use for this location as it lies within the defined urban area of Gorebridge and within an allocated site for housing h23 (Harvieston, Gorebridge) which has a stated capacity of 211 units with an expected contribution to the housing land supply up to 2024.

The proposed development will not adversely affect the impact of the character or appearance of the Category B Listed Harvieston Lodge or its setting. As noted above the proposal seeks to more than compliment the architectural and historical character of the lodge to ensure it sits comfortably alongside it as a neighbouring property. In that context, the proposed development adheres to the aims and objectives set out in Policy ENV22 (Listed Buildings) and the assessment of the lodge's setting has been robustly and comprehensively made in line with the requirements in the HES guidance *Managing Change I the Historic Environment – Setting*.

The proposed development has been designed to ensure that there are no adverse impacts on residential amenity of neighbouring properties regarding privacy, daylight and sunlight. It therefore adheres to the requirements of Policy DEV2. The design of the proposal is of a high quality not just in terms of architecture, but the overall layout and its constituent parts. The layout compliments and enhances the character and setting of the adjacent listed lodge and immediate locale; has no adverse impact on surrounding residential amenity; incorporates good quality materials; which respects Policy DEV6 aims looks to portray as a built form.

Parking can easily be dealt with through a mixture of the proposed driveway and on-street provision, with any consequences of overspill being dealt with existing arrangements. The proposed site is highly accessible to regular bus services across the city, to the train station with access to Edinburgh and the wider Borders area, and to facilities and services within Gorebridge.

In terms of material considerations, these also support the planning judgement and add more weight to the assessment, being:

- The proposals comply with the Scottish Government's policy intentions for design of new homes, protection of historic places and meeting the needs of our future places for living
- The applicant has successfully completed the restoration and subsequently marketed the adjacent Harvieston Lodge property – so has proven track record of completing sensitive new development to a high quality and to the liking of the housing market.
- The relationship forged between the former Harvieston House and grounds with its Lodge house has been significantly eroded by the modern housing development positioned in the foreground between the Harvieston House and Harvieston Lodge therefore it is our view that arguments about setting have now shifted from the foreground area to the south and west elevations instead.

Through our Planning Statement and the other supporting documentation submitted, we have demonstrated that there are no significant adverse effects that outweigh the scheme's benefits and respectfully request that planning permission be granted.

Prepared By

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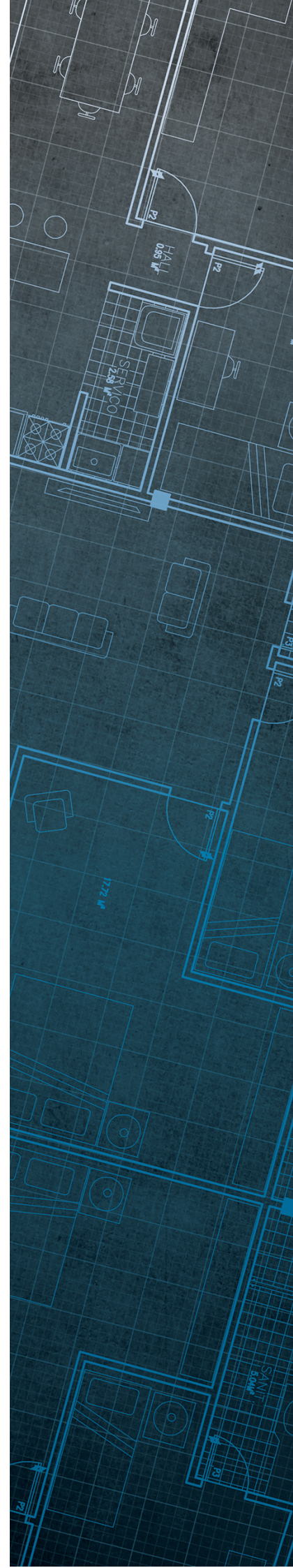
The Coal
Authority

Consultants Coal Mining Report

North Lodge
Powdermill Brae
Gorebridge
Midlothian
EH23 4NG

Date of enquiry: 24 June 2020
Date enquiry received: 24 June 2020
Issue date: 24 June 2020

Our reference: 51002287234001
Your reference: ED4359 **Page 183 of 208**



Consultants

Coal Mining Report

This report is based on and limited to the records held by the Coal Authority at the time the report was produced.

Client name

WARDELL ARMSTRONG LLP

Enquiry address

North Lodge
Powdermill Brae
Gorebridge
Midlothian
EH23 4NG


How to contact us

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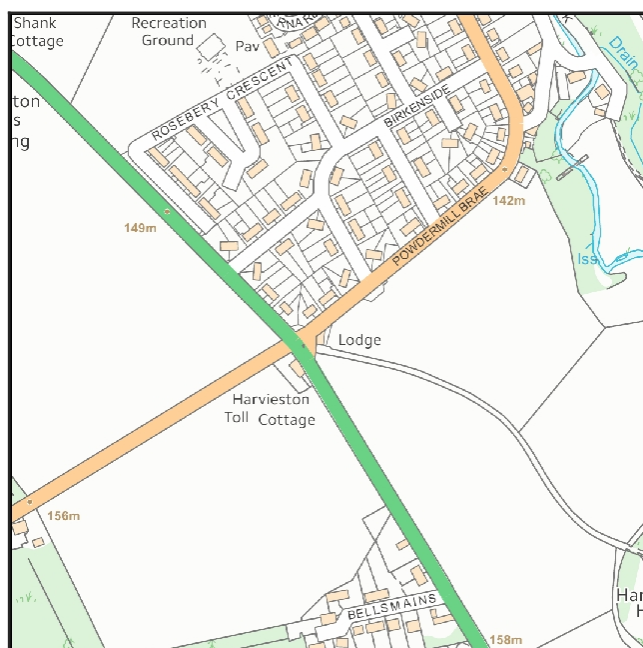
www.groundstability.com

 @coalauthority

 /company/the-coal-authority

 /thecoalauthority

 /thecoalauthority



Approximate position of property



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Section 1 – Mining activity and geology

Past underground mining

No past mining recorded.

Probable unrecorded shallow workings

Yes.

Spine roadways at shallow depth

No spine roadway recorded at shallow depth.

Mine entries

None recorded within 100 metres of the enquiry boundary.

Abandoned mine plan catalogue numbers

None available.

Outcrops

No outcrops recorded.

Geological faults, fissures and breaklines

No faults, fissures or breaklines recorded.

Opencast mines

None recorded within 500 metres of the enquiry boundary.

Coal Authority managed tips

None recorded within 500 metres of the enquiry boundary.

Section 2 – Investigative or remedial activity

Please refer to the 'Summary of findings' map (on separate sheet) for details of any activity within the area of the site boundary.

Site investigations

None recorded within 50 metres of the enquiry boundary.

Remediated sites

None recorded within 50 metres of the enquiry boundary.

Coal mining subsidence

The Coal Authority has not received a damage notice or claim for the subject property, or any property within 50 metres of the enquiry boundary, since 31 October 1994.

There is no current Stop Notice delaying the start of remedial works or repairs to the property.

The Coal Authority is not aware of any request having been made to carry out preventive works before coal is worked under section 33 of the Coal Mining Subsidence Act 1991.

Mine gas

None recorded within 500 metres of the enquiry boundary.

Mine water treatment schemes

None recorded within 500 metres of the enquiry boundary.

Section 3 – Licensing and future mining activity

Future underground mining

None recorded.

Coal mining licensing

None recorded within 200 metres of the enquiry boundary.

Court orders

None recorded.

Section 46 notices

No notices have been given, under section 46 of the Coal Mining Subsidence Act 1991, stating that the land is at risk of subsidence.

Withdrawal of support notices

The property is not in an area where a notice to withdraw support has been given.

The property is not in an area where a notice has been given under section 41 of the Coal Industry Act 1994, cancelling the entitlement to withdraw support.

Payments to owners of former copyhold land

The property is not in an area where a relevant notice has been published under the Coal Industry Act 1975/Coal Industry Act 1994.

Section 4 – Further information

Based on the responses in this report, no further information has been highlighted.

Section 5 – Data definitions

The datasets used in this report have limitations and assumptions within their results. For more guidance on the data and the results specific to the enquiry boundary, please **call us on 0345 762 6848** or **email us at groundstability@coal.gov.uk**.

Past underground coal mining

Details of all recorded underground mining relative to the enquiry boundary. Only past underground workings where the enquiry boundary is within 0.7 times the depth of the workings (zone of likely physical influence) allowing for seam inclination, will be included.

Probable unrecorded shallow workings

Areas where the Coal Authority believes there to be unrecorded coal workings that exist at or close to the surface (less than 30 metres deep).

Spine roadways at shallow depth

Connecting roadways either, working to working, or, surface to working, both in-seam and cross measures that exist at or close to the surface (less than 30 metres deep), either within or within 10 metres of the enquiry boundary.

Mine entries

Details of any shaft or adit either within, or within 100 metres of the enquiry boundary including approximate location, brief treatment details where known, the mineral worked from the mine entry and conveyance details where the mine entry has previously been sold by the Authority or its predecessors British Coal or the National Coal Board.

Abandoned mine plan catalogue numbers

Plan numbers extracted from the abandoned mines catalogue containing details of coal and other mineral abandonment plans deposited via the Mines Inspectorate in accordance with the Coal Mines Regulation Act and Metalliferous Mines Regulation Act 1872. A maximum of 9 plan extents that intersect with the enquiry boundary will be included. This does not infer that the workings and/or mine entries shown on the abandonment plan will be relevant to the site/property boundary.

Outcrops

Details of seam outcrops will be included where the enquiry boundary intersects with a conjectured or actual seam outcrop location (derived by either the British Geological Survey or the Coal Authority) or intersects with a defined 50 metres buffer on the coal (dip) side of the outcrop. An indication of whether the Coal Authority believes the seam to be of sufficient thickness and/or quality to have been worked will also be included.

Geological faults, fissures and breaklines

Geological disturbances or fractures in the bedrock. Surface fault lines (British Geological Survey derived data) and fissures and breaklines (Coal Authority derived data) intersecting with the enquiry boundary will be included. In some circumstances faults, fissures or breaklines have been known to contribute to surface subsidence damage as a consequence of underground coal mining.

Opencast mines

Opencast coal sites from which coal has been removed in the past by opencast (surface) methods and where the enquiry boundary is within 500 metres of either the licence area, site boundary, excavation area (high wall) or coaling area.

Coal Authority managed tips

Locations of disused colliery tip sites owned and managed by the Coal Authority, located within 500 metres of the enquiry boundary.

Site investigations

Details of site investigations within 50 metres of the enquiry boundary where the Coal Authority has received information relating to coal mining risk investigation and/or remediation by third parties.

Remediated sites

Sites where the Coal Authority has undertaken remedial works either within or within 50 metres of the enquiry boundary following report of a hazard relating to coal mining under the Coal Authority's Emergency Surface Hazard Call Out procedures.

Coal mining subsidence

Details of alleged coal mining subsidence claims made since 31 October 1994 either within or within 50 metres of the enquiry boundary. Where the claim relates to the enquiry boundary confirmation of whether the claim was accepted, rejected or whether liability is still being determined will be given. Where the claim has been discharged, whether this was by repair, payment of compensation or a combination of both, the value of the claim, where known, will also be given.

Details of any current 'Stop Notice' deferring remedial works or repairs affecting the property/site, and if so the date of the notice.

Details of any request made to execute preventative works before coal is worked under section 33 of the Coal Mining Subsidence Act 1991. If yes, whether any person withheld consent or failed to comply with any request to execute preventative works.

Mine gas

Reports of alleged mine gas emissions received by the Coal Authority, either within or within 500 metres of the enquiry boundary that subsequently required investigation and action by the Coal Authority to mitigate the effects of the mine gas emission.

Mine water treatment schemes

Locations where the Coal Authority has constructed or operates assets that remove pollutants from mine water prior to the treated mine water being discharged into the receiving water body.

These schemes are part of the UK's strategy to meet the requirements of the Water Framework Directive. Schemes fall into 2 basic categories: Remedial – mitigating the impact of existing pollution or Preventative – preventing a future pollution incident.

Mine water treatment schemes generally consist of one or more primary settlement lagoons and one or more reed beds for secondary treatment. A small number are more specialised process treatment plants.

Future underground mining

Details of all planned underground mining relative to the enquiry boundary. Only those future workings where the enquiry boundary is within 0.7 times the depth of the workings (zone of likely physical influence) allowing for seam inclination will be included.

Coal mining licensing

Details of all licenses issued by the Coal Authority either within or within 200 metres of the enquiry boundary in relation to the under taking of surface coal mining, underground coal mining or underground coal gasification.

Court orders

Orders in respect of the working of coal under the Mines (Working Facilities and Support) Acts of 1923 and 1966 or any statutory modification or amendment thereof.

Section 46 notices

Notice of proposals relating to underground coal mining operations that have been given under section 46 of the Coal Mining Subsidence Act 1991.

Withdrawal of support notices

Published notices of entitlement to withdraw support and the date of the notice. Details of any revocation notice withdrawing the entitlement to withdraw support given under Section 41 of the Coal Industry Act 1994.

Payment to owners of former copyhold land

Relevant notices which may affect the property and any subsequent notice of retained interests in coal and coal mines, acceptance or rejection notices and whether any compensation has been paid to a claimant.

Photo 1 – Harvieston Lodge (adjacent to appeal site) – Before Mr Craig’s Development Restoration



Photo 2 – Harvieston Lodge (adjacent to appeal site) – After Mr Craig’s Development Restoration





Photo 1



Photo 2



Photo 3



Photo 4



Photo 5
House with 1 Car Parking
in Same Street



Photo 6



Photo 7

Rev	Description	Date
<div>Capital Draughting Consultant's Ltd</div> <div>40 Dinmont Drive Edinburgh EH16 5RR</div> <div>Email: cdc.ltd@sky.com Tel. 0131 666 1804 Mob. 07834156071</div>		
Status	Planning	
Project Title		
Proposed New 3 Bedroom Dwelling adjacent to Harvieston Lodge at Powdermill Brae Gorebridge		
Client	Mr K. Craig	
Drawing Title		
Existing Site Photos		
Date	Nov '21	Scale As Shown
Drawn		
Drawing Number		Rev.
CDC/19/100/05		

MIDLOTHIAN COUNCIL

DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

Planning Application Reference: 21/01008/DPP

Site Address: Land at North Lodge (also known as Harvieston Lodge), Powdermill Brae, Gorebridge

Site Description:

The application site is located within a built-up area as defined by the adopted Midlothian Local Development Plan. The application site relates to approximately 252m² area of part of the garden ground that is associated with North Lodge (also known as Harvieston Lodge). The garden ground is currently enclosed by a high vertical timber fence to the southern and eastern elevations and a natural stone boundary wall to the northern elevation.

North Lodge is a single storey lodge with single storey extension that currently being erected, which is partly built into the boundary wall of Harvieston House. The lodge and boundary wall form part of the statutory category B listing. North Lodge is finished in a natural stone with a slate hipped roof. The building currently contains white timber windows. There is a single storey, flat roof contemporary extension erected to the rear/side of North Lodge.

The lodge and associated garden ground is located on the corner of Powdermill Brae and the A7, in a prominent location that is open to views from around the site.

To the south and east of the application site there is a residential development that is still currently being constructed; the dwellinghouses are primarily detached and semi-detached, traditional modern, two storey dwellings with pitched roofs. The residential development to the south and east of the application site is set back approximately 50 metres from the main road, Powdermill Brae.

To the north and north-east of the application site, at the other side of Powdermill Brae are residential dwellings; the dwellinghouses are primarily four in a block flatted dwellings which are two storey, semi-detached buildings with hipped roofs.

The land to the western side of the A7 is primarily agricultural land.

It is noted that a high timber fence has been erected to enclose land to the front and side of North Lodge along with additional timber fencing which do not benefit from planning permission.

Proposed Development: Erection of dwellinghouse

Proposed Development Details:

Planning permission is sought for the erection of a single storey, detached dwellinghouse with living accommodation afforded within the attic.

The proposed dwellinghouse has a square footprint covering approximately 82m². The proposed dwelling has a 39 degree pitched roof. The proposed dwelling measures approximately 2.9m to the eaves and 6m to the ridge. The proposed dwellinghouse contains one large, pitched roof dormer window within the front elevation and a velux roof light within the front and rear elevation.

The external walls are to be finished in a stone to the front elevation and render to the rear and sides, details of the colour or type of render have not been detailed on the submitted plans. The roof and the fascia and cheeks of the dormer windows are to be finished in slate. Details of the windows have not been included within the submitted plans.

Vehicle access to the proposed dwelling is to be taken from Cadwell Crescent, the new residential development to the south/east of the application site. The proposal is afforded parking which is offset to the front of the proposed dwelling.

It is noted that the applicant submitted a supporting planning statement with the planning application.

Background (Previous Applications, Supporting Documents, Development Briefs): Planning history sheet checked.

Planning permission was refused in 2020 for the erection of dwellinghouse. Planning ref: 20/000363/DPP.

Planning permission was granted in 2019 for the extension to dwellinghouse (North Lodge). Planning ref: 19/00582/DPP.

Listed building consent was granted in 2019 for the extension to dwellinghouse; installation of window; installation of replacement windows; and internal alterations (North Lodge). Planning ref: 19/00583/LBC.

It is noted that pre-application advice was provided to the applicant in 2018 with regards to the extension to dwellinghouse and internal alterations and erection of additional dwellinghouse. The applicant was advised at this that there were concerns relating to the development proposal which primarily relate to the adverse impact upon the setting of the listed building and the area and road/pedestrian safety. The erection of an additional dwelling in this located does not respect the historic character/siting of the lodge nor does it reflect the character of the area. It was concluded that the erection of an additional dwellinghouse at this site could not be supported.

Consultations:

The **Councils Policy and Road Safety Manager** offered no objection in principle to this proposal but advised of concerns over aspects of the layout. It was recommended that the plans be amended to ensure that an additional two spaces for the proposed dwelling and a visitor space provided and that the parking afforded to the existing dwelling are included. However, it was noted that visitor parking spaces

have been provided by the developer of the new residential estate and the number of spaces being provided is based on the number of new houses being developed. This additional dwelling is not proposing any additional visitor parking and would rely on the existing number of spaces available. This situation would put additional pressure on the limited number of visitor parking spaces and may result in inconsiderate or illegal on-street parking in the local area. The provision of an adequate number of residential spaces at both the Lodge and new dwelling would help mitigate this lack of visitor parking however if these residential parking spaces are not to be provided I would be recommending that this application be refused.

Scottish Water offered no objection to the development proposed. However, it was noted that this does not confirm that the proposed development can currently be serviced. It is also noted that **Scottish Water** will not accept any surface water connections into our combined sewer system. A surface water management plan is required for the site.

The **Coal Authority** offered no objection subject to conditions being attached to address coal mining legacy issues.

Representations: No representations received.

Relevant Planning Policies:

1997 places a duty on planning authorities to pay special attention to the desirability of preserving or enhancing the building or its setting or any features of special architectural or historic interest which it possesses.

Historic Environment Policy for Scotland (HEPS) 2019 and Scottish Planning Policy (SPP) offer guidance on the protection and management of the historic environment and Conservation Areas and areas of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance. Their designation provides the basis for the positive management of an area. The Policy Statement and SPP also indicated that the planning authority should consider the design, materials, scale and sitting of any development, and its impact on the character of the historic environment.

Historic Environment Scotland's Managing Change in the Historic Environment document on Setting states that the setting can be important to the way in which historic structures or places are understood, appreciated and experienced. It can often be integral to a historic asset's cultural significance. Monuments, buildings, gardens and settlements were almost always placed and orientated deliberately, normally with reference to the surrounding topography, resources, landscape and other structures. Over time, these relationships change, although aspects of earlier settings can be retained.

The relevant policies of the adopted **Midlothian Local Development Plan 2017** are;

Policy **DEV2: Development within the Built-up Area** states that development will not be permitted within existing and future built-up areas where it is likely to detract materially from the existing character or amenity of the area.

Policy **DEV6: Layout and Design of New Development** sets out design guidance for new developments.

Policy **DEV7: Landscaping in New Development** sets out the requirements for landscaping in new developments.

Policy **TRAN5: Electric Vehicle Charging** seeks to promote a network of electric vehicle charging stations by requiring provision to be an integral part of any new development.

Policy **ENV22: Listed Buildings** states that development will not be permitted where it would adversely affect the character or appearance of a Listed Building; its setting; or any feature of special, architectural or historic interest.

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.

As noted above, the applicant submitted a planning statement in support of the current planning application. Within this statement it was noted that the *principle of housing on the site is acceptable, given the urban brownfield location and within a wider housing allocation, subject to compliance with relevant local development planning policies. This includes those concerning design, residential amenity, built heritage (listed buildings), and car parking and that there are also material considerations supporting the principle of a residential development at this location including a recently constructed large scale housing development within the former grounds of Harvieston House – material because the historical function of grounds associated with a large stately home is no longer applicable given the Council approved the large scale housing development for the housing needs of the area.*

Within the supporting planning statement, it is noted that the application site is located within the defined urban area of Gorebridge within an allocated housing site h23 where Proposal STRAT3 (Strategic Housing Land Allocation) applies. This policy supports development in principle providing it accords with other detailed policies of the MLDP. It is noted that the capacity of h23 allowed for 211 units – planning application 14/00481/DPP met this capacity, as it was for the erection of 199 dwellinghouses and 12 flatted dwellings.

The application site is located within the built-up area, as defined by policy DEV2 of the adopted local development plan, where there may be scope for the application site to be developed so long as the development proposal does not result in a detrimental visual impact on the area or results in a harmful loss of amenity.

The remaining planning issues relate to the appropriateness of the scale, mass and proportions of the dwellinghouse, the design, material finish, siting, impact upon setting of listed building, amenity space, access and parking.

Policy DEV2 and DEV6 seek to safeguard the character and appearance of an area; policy DEV6 in particular requires new developments to be of a good design and a

high quality of architecture. Policy ENV22 seeks to protect the character or appearance of a Listed Building, this includes its setting; or any feature of special, architectural or historic interest.

The submitted planning statement notes that the proposed development is built away from the lodge's primary elevation and to the rear where modern additions to the lodge have been erected and therefore not competing with or altering its street frontage appearance. The lodge is not mentioned in the statement of special interest associated with the listing and therefore again aligns with the fact that the lodge itself has no real architectural or historic significance, especially that the direct relationship between it and Harvieston House has been amputated with the erection of 211 residential properties on land between the two.

North Lodge is not a curtilage listing associated with Harvieston Lodge, it is a separate category B listed building which historically was a relatively modest structure sited on its own at the entrance to the former Harvieston House estate. Whilst there is a large residential development to the south and east of the application site, it is noted that the layout of the residential development is set back approximately 50 metres from Powdermill Brae, which respects the historic setting and character of North Lodge by allowing it to still visually read as a historic lodge/gate house. The introduction of an additional dwellinghouse will impact this and detract from the character and setting of North Lodge.

Whilst planning permission and listed building consent was granted for a considerably large contemporary extension, the extension did not visually detract with the character or appearance of North Lodge. Furthermore, the extension replaced a previous unsympathetic extension located to the same elevation. The extension is of a contrasting design and scale that does not visually compete with the historic character appearance or setting of North Lodge.

Whereas, the erection of a dwellinghouse within the garden ground associated with North Lodge does not respect the localised setting of North Lodge and in turn fails to relate to its historic character and appearance. The erection of a dwellinghouse would result in an adverse impact upon the setting of the listed building. Furthermore, the scale, form and design of the proposed dwellinghouse fails to respect the character and appearance of the listed building which also results in an adverse impact upon the setting of the listed building. Overall it is considered that the proposed dwellinghouse will materially detract from the setting of the listed building which is contrary to adopted policy ENV22.

In terms of the design of the proposed dwellinghouse, the general design of the proposed dwellinghouse fails to contribute to the character or appearance of the North Lodge. Whilst it could be argued that the proposed dwelling is a modest traditional design that would be more than acceptable in most residential areas across Midlothian, it is considered that the siting, scale or design does not reflect the character, appearance or setting of the listed building. Furthermore, the proposed dwellinghouse is not of a sufficiently high standard of design to suggest that it would positively contribute to the character and appearance of the listed building or area.

The proposed dwellinghouse will read as an alien addition to the area, and it is visually disconnected from North Lodge and the neighbouring properties surrounding the site. The proposed dwellinghouse fails to connect visually into the layout of the existing residential area or relate to the historic character, appearance or setting of North Lodge. Overall, it is considered that the proposed dwellinghouse will materially detract from the character of the area which is contrary to adopted policy DEV2.

It is noted that policy DP2 Development Guidelines, from the now superseded 2008 Midlothian Local Plan, sets out design guidance for new developments. The guidance provided in this policy has been successfully applied to development proposals throughout Midlothian and will be echoed within the Council's Supplementary Guidance on Quality of Place which is currently being drafted.

Detached, semi-detached and terraced dwellings should each be provided with a private outdoor space that is free from direct overlooking from public areas and neighbouring property as far as possible. Private open space attached to the dwelling is required for all non-flatted properties. The Council's standard requires that houses of 3 apartments to have useable garden ground no less than 110m². The proposed dwellinghouse is to be afforded approximately 65m² of useable rear garden ground; there is also a small area of garden ground to the front and sides of the proposed dwelling. The proposed dwellinghouse will not be afforded an adequate level of amenity and therefore do not comply with adopted policy DEV6 and DEV2.

The proposed dwellinghouse is to be located within the garden ground associated with North Lodge which results in the reduction of private garden ground, it is noted that North Lodge will be still be left with adequate garden ground.

The daylight and sunlight previously enjoyed by North Lodge will not be significantly affected.

The rear and side elevation of North Lodge is at an offset angle to the side elevation of the proposed dwelling; the rear, north-east corner of North Lodge is approximately 6 metres from the side elevation of the proposed dwelling. It is noted that the side elevation of the proposed dwelling does not include any windows. The proposed dwellinghouse does not raise any over-looking concerns of North Lodge.

The proposed site plan indicates that one parking space will be afforded to the proposed dwelling which is accessible via Cadwell Crescent. The development proposal fails to meet the parking standard. The proposed dwellinghouse is a three bedroom dwellinghouse which requires a total of 2.5 parking spaces to be included within the curtilage of the proposed dwellinghouse.

The Council's Policy and Road Safety Manager offered no objection to the principle of development proposal, subject to the layout being revised to address the parking space deficit. There is a requirement for an adequate number of residential spaces at both the Lodge and new dwelling otherwise this would put additional pressure on the limited number of visitor parking spaces and may result in inconsiderate or illegal on-street parking in the local area. The Council's Policy and Road Safety Manager noted that if the required residential parking spaces are not to be provided would be recommending that this application be refused.

As noted above, Scottish Water advised that they will not accept any surface water connections into our combined sewer system. However, should the application be approved then this could be addressed by condition.

Overall, all relevant matters have been taken into consideration in determining this application. It is not considered that the proposal accords with the principles and policies of the adopted Midlothian Local Development Plan 2017 and is not acceptable in terms of all other applicable material considerations. Therefore, it is recommended that the application is refused.

Recommendation: Refuse planning permission.

Reg. No. 21/01008/DPP

Capital Draughting Consultants Ltd
40 Dinmont Drive
Edinburgh
EH16 5RR

Midlothian Council, as Planning Authority, having considered the application by Mr K Craig, Land At North Lodge, Powdermill Brae, Gorebridge, which was registered on 20 December 2021 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

Erection of dwellinghouse at Land at North Lodge, Powdermill Brae, Gorebridge

In accordance with the application and the following documents/drawings:

<u>Document/Drawing.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Proposed Block Plan	1:200	20.12.2021
Proposed Elevations	CDC/19/100/04 A 1:100	20.12.2021
Illustration/Photograph	CDC/19/100/05 EX SITE PHOTOS	20.12.2021
Proposed Site Plan	CDC/20/188/01 1:200	20.12.2021
Proposed Floor Plan	CDC/20/188/03 1:50 First	20.12.2021
Proposed Floor Plan	CDC/20/188/03 1:50 Ground	20.12.2021
Location Plan and Site Plan	CDC/21/188/00 1:1250/100	20.12.2021
Other		20.12.2021

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

1. The proposed dwellinghouse fails to connect visually to the character, appearance and layout of the area or relate to the historic character and appearance of the important listed building, North Lodge (also known as Harvieston Lodge). The proposed dwellinghouse will materially detract from the character of the area which is contrary to policy DEV2 of the adopted Midlothian Local Development Plan.
2. The proposed dwellinghouse does not respect the localised setting of North Lodge (also known as Harvieston Lodge) and in turn fails to relate to its historic character and appearance. The proposed dwellinghouse will materially detract from the setting of the listed building which is contrary to policy ENV22 of the adopted Midlothian Local Development Plan.
3. The proposed dwellinghouse will not be afforded an adequate level of amenity and therefore does not comply with policy DEV6 and DEV2 of the adopted Midlothian Local Development Plan.
4. It has not been demonstrated to the satisfaction of the Planning Authority that the proposed dwellinghouse and North Lodge could be afforded an adequate level of off-street parking spaces. The proposed dwellinghouse may result in a pressure for parking spaces will have a significant detrimental impact on the character and

amenity of the surrounding area and is therefore contrary to policy DEV2 of the adopted Midlothian Local Development Plan.

Dated 18 / 2 / 2022

A handwritten signature in black ink, appearing to be 'DR' with a stylized flourish.

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



**The Coal
Authority**

Any Planning Enquiries should be directed to:

Planning and Local Authority Liaison

Direct Telephone: 01623 637 119 (Planning Enquiries)

Email: planningconsultation@coal.gov.uk

Website: www.gov.uk/coalauthority

INFORMATIVE NOTE

The proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity at the surface or shallow depth. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and former surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of new development taking place.

It is recommended that information outlining how former mining activities may affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), is submitted alongside any subsequent application for Building Warrant approval (if relevant).

Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant land stability and public safety risks. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design which takes into account all the relevant safety and environmental risk factors, including mine gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at:

www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries

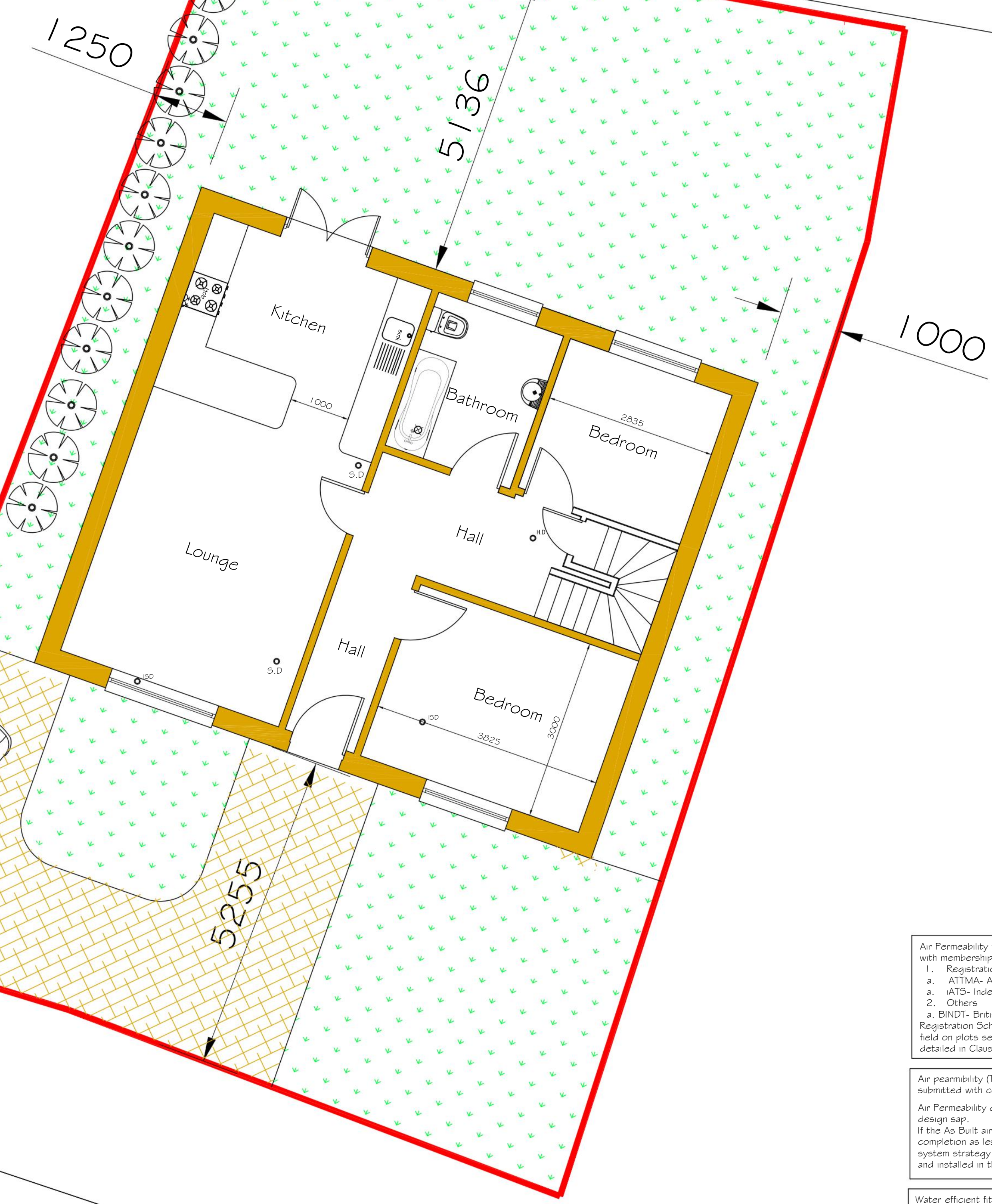
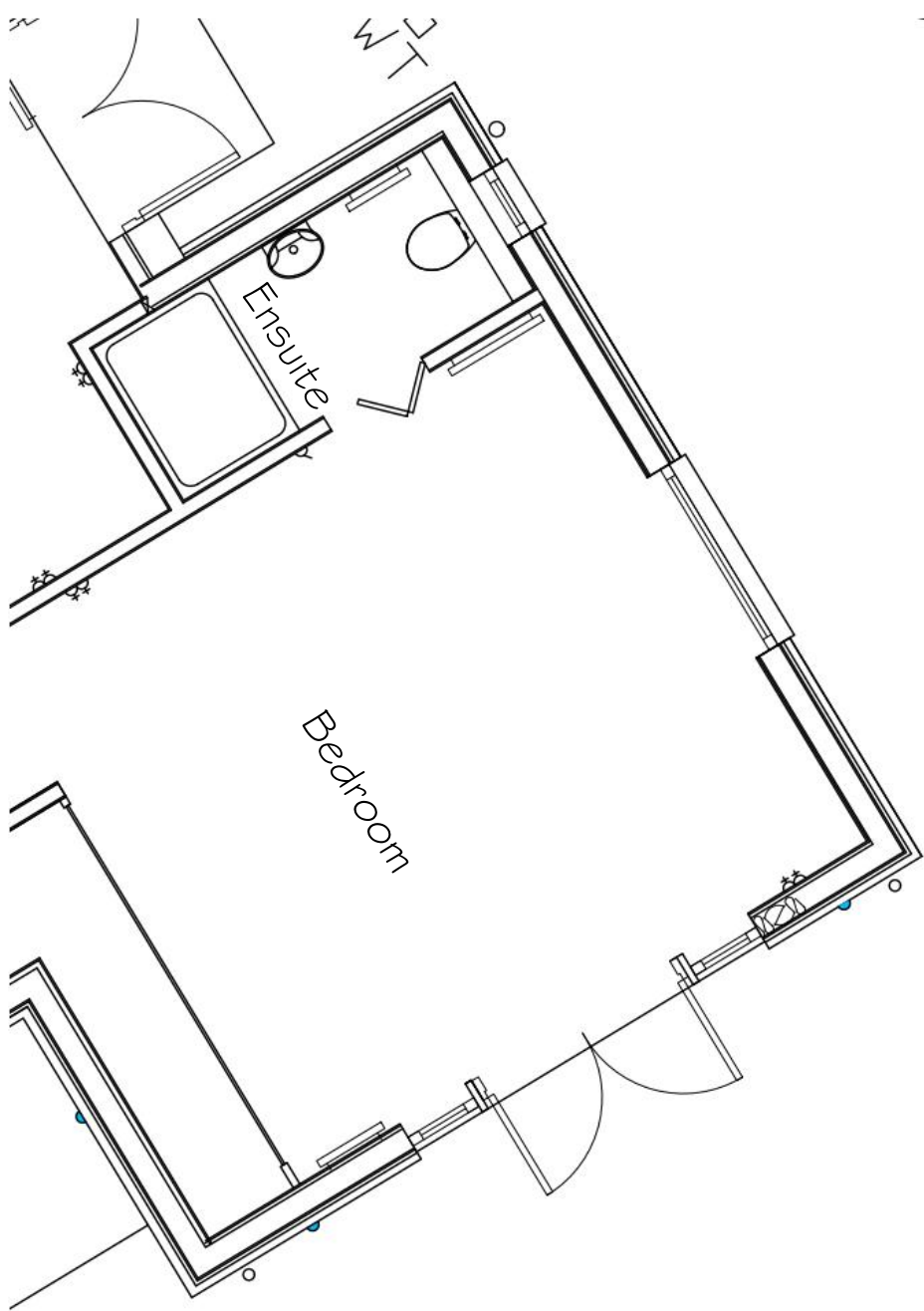
Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, excavations for foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

If any coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at:

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

Informative Note valid from 1st January 2021 until 31st December 2022

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LIMITED INFILTRATION.
The infiltration of air into a building ing must be limited as far as is reasonably practicable by
(a) sealing dry lining junctions between walls, ceilings and floors and at window, door roof space openings.
(b) sealing vapour control membranes in timber framed and other framed panel constructions
(c) sealing vapour control membranes in timber framed and other framed panel roof space openings
(d) fitting of draught stripping in the frames of operable elements of Windows, doors and rooflights.
All in accordance with BRE Report BR 265: 1994

Proposed Ground Floor Plan
Scale 1:50

H,D,S,D
OSD Denotes new Optical smoke detection system in Lounge Optical smoke alarms should conform to BS EN 14604: 2005. Heat detector in Kitchen & Ionisation Smoke detector in hall to be mains connected and have battery back up. All smoke detectors to be interconnected. Detectors to be not more than 3.0m from any bedroom door, New ceiling mounted Smoke & Heat Detectors to comply with BS 5839:Part 6 :2004, and BS 5446:Part 1 :2006 & to be on a separate circuit, detector to be at least 300mm from a wall or light fitting. At least 300mm away from, and not directly above a heater or air conditioning outlet and within 7m of the doors to living rooms and kitchens see floor plans for locations.

C,M,D Denotes Carbon Monoxide Detector. 1.0-3.0m away from appliance compliant with BS EN 5029 1-1 : 2010 & Scottish building standards section 3.20.20.

LIMITED INFILTRATION. The infiltration of air into a building ing must be limited as far as is reasonably practicable by (a) sealing dry lining junctions between walls, ceilings and floors and at window, door roof space openings. (b) sealing vapour control membranes in timber framed and other framed panel constructions (c) sealing vapour control membranes in timber framed and other framed panel roof space openings and around services penetrations (d) fitting of draught stripping in the frames of operable elements of Windows, doors and rooflights. All in accordance with BRE Report

Ionisation smoke alarms should conform to BS EN 14604: 2005

Regulation 13
mandatory
(1) No person shall carry out work unless the following provisions of this regulation are complied with.
(2) Subject to paragraph (3), where work is to be carried out on any building site or building which is within 3.6 metres of any part of a road or other place to which members of the public have access (whether or not on payment of a fee or charge) there shall, prior to commencement of the work, be erected protective works so as to separate the building site or building or that part of the building site or building on which work is to be carried out from that road or other place.
(3) Nothing in paragraph (2) shall require the provision of protective works in any case where the local authority is satisfied that no danger to the public is caused, or is likely to be caused, by the work.
(4) The protective works referred to in the preceding paragraphs are all or any of –
(a) providing hoardings, barriers or fences;
(b) Subject to paragraph (5), where necessary to prevent danger, providing footpaths outside such hoardings, barriers or fences with safe and convenient platforms, handrails, steps or ramps, and substantial overhead coverings;
(c) any other protective works which in the opinion of the local authority are necessary to ensure the safety of the public, all of such description, material and dimensions and in such position as the local authority may direct.
(5) Nothing in paragraph(4)(b) shall require the provision of a platform, handrail, step or ramp –
(a) where no part of the existing footpath is occupied by the protective works or in connection with the work; or
(b) where that part of an existing footpath remaining unoccupied affords a safe means of passage for people, and is of a width of not less than 1.2 metres or such greater width as the local authority may direct.
(6) Any protective works shall be so erected as to cause no danger to the public and shall be maintained to the satisfaction of the local authority.
(7) Subject to paragraph (8), any protective works shall be removed –
(a) in the case of a building which has been constructed by virtue of a warrant, not more than 14 days or such longer period as the local authority may direct from the date of acceptance of the certificate of domestic | general | provision of protective works | 2006

Sap Service Uk are not certifiers of design section G

Regulation 15
requires that all building sites where there are unfinished or partially complete works are kept safe and secure

Air Permeability testing to be undertaken by a suitably accredited professional with membership of either
1. Registration schemes
a. ATTMA- Air Tightness Testing and Measuring scheme
a. iATS- Independent Airtightness Testing Scheme
2. Others
a. BINDT- British Institute of the Non Destructive Testing Air Tight Testers Registration Scheme Other organisations that are UKAS accredited in this field on plots selected by Midlothian Building Standards at the frequency detailed in Clause 6.25 and results submitted with completion submission.

Air permeability (Tightness) testing to be undertaken and results submitted with completion submission
Air Permeability design design Target is 50 m3/m2/h (5.00) as design sap.
If the As Built air permeability (tightness) rate is measured upon completion as less than m3/m2/h @ 50Pa, an alternative ventilation system strategy will be designed by a suitably qualified professional and installed in the dwelling (See B. Reg 3.14.3 & 3.14.1.1)

Water efficient fittings should be provided to all WCs and WHBs within a dwelling. Dual flush WC cisterns should have an average flush volume of not more than 4.5 litres. Single flush WC cisterns should have a flush volume of not more than 4.5 litres.
Taps serving wash or hand rinse basins should have a flow rate of not more than 6 litres per minute.

All radiators are to be fitted wwith TRVs

Note
Confirmation of completion and validation of any environmental remedial measures are to be submitted in a timely manner to allow for reviewing, prior to the submission of completion certificate.

General Notes

1. electrical :- denotes light switch
denotes light point
denotes 13amp F.P. circuit

All electrical works to be in accordance with part 4.5 of the current technical handbook. BS7671 :2006 and current I.E.E. Regulations

2. External Wall Construction to be render as existing 100mm Thermalite Block, 50mm Cavity, 9mm OSB Sheathing on, 145x45 Timber Studs at 600mm c/s with 120mm thk. Celotex FR5000 Insulation Between Studs & 25mm thk. Celotex TB4000 to room side of stud with 500 Gauge polythene as vapour barrier to internal Surface with 12.5mm thk plyboard and Skim-Coat Plaster Finish to Achieve a Thermal Value of a min 0.17 W/M2.K

3. roofs :- to give 0.15 U' value (as noted) walls :- to give 0.22 U' value (as noted) Floors :- to give 0.18 U' value (as noted)

4. All drainage to be to part 3.6, 3.7 & 3.12 of the current technical handbook and to BS EN 12056-2: 2000. to be installed in accordance with manufacturer's recommended instructions

A

The electrical installation should be designed, constructed, installed and tested in accordance with the recommendations of BS7671 :2006. New electrics to be connected to existing supply. White uPVC switch covers & sockets. Outlets and controls of electrical fixtures and systems should be positioned at least 350 mm from any internal corner, projecting wall or similar obstruction and, unless the need for a higher location can be demonstrated, not more than 1.2 m above floor level. This would include fixtures such as sockets, switches. Within this height range:
• light switches should be positioned at a height of between 900 mm and 1.1 m above floor level;
• standard switched or unswitched socket outlets and outlets for other services such as telephone or television should be positioned at least 400 mm above floor level. 75% of all new artificial lighting should be low energy type. Electrical installation to be designed, constructed, installed and tested in accordance with the recommendations of BS 7671 :2006. As amended and submitted only by a person or company having membership to S.I.E.L.C.T or NICEIC or similar electrical schemes recognised by the Scottish Building Standards Agency to comply with safety 4.5. Electrical fixtures and fittings to be positioned as per the Scottish Building Standards section 4.8.5.

Rev	Description	Date
Capital Draughting Consultant's Ltd		
40 Dinmont Drive Edinburgh EH16 5RR		
Email: cdc.ltd@sky.com		Tel. 0131 666 1804 Mob. 07834156071
Status	Planning	
Project Title		
Proposed New 3 Bedroom Dwelling adjacent to Harvieston Lodge at Powdermill Brae Gorebridge		
Client Mr K. Craig		
Drawing Title Proposed Ground Floor Plan		
Date	Nov '21	Scale As Shown
Drawn		
Drawing Number CDC/20/126/03		Rev.

Water efficient fittings should be provided to all WCs and WHBs within a dwelling. Dual flush WC cisterns should have an average flush volume of not more than 4.5 litres. Single flush WC cisterns should have a flush volume of not more than 4.5 litres. Taps serving wash or hand rinse basins should have a flow rate of not more than 6 litres per minute.

LIMITED INFILTRATION.
The infiltration of air into a building ing must be limited as far as is reasonably practicable by
(a) sealing dry lining junctions between walls, ceilings and floors and at window, door roof space openings.
(b) sealing vapour control membranes in timber framed and other framed panel constructions
(c) sealing vapour control membranes in timber framed and other framed panel roof space openings
(d) fitting of draught stripping in the frames of openable elements of Windows, doors and rooflights.
All in accordance with BRE Report BR 265: 1994

Shower Glass to BS 6262 safety tray to be of a ceramic type or similar approved

All Insulation for pipes and ducts should be carried out in accordance with with the guidance contained within BRE Report:- Ref 626 Thermal Insulation avoiding risks and to BS 5422: 2009.

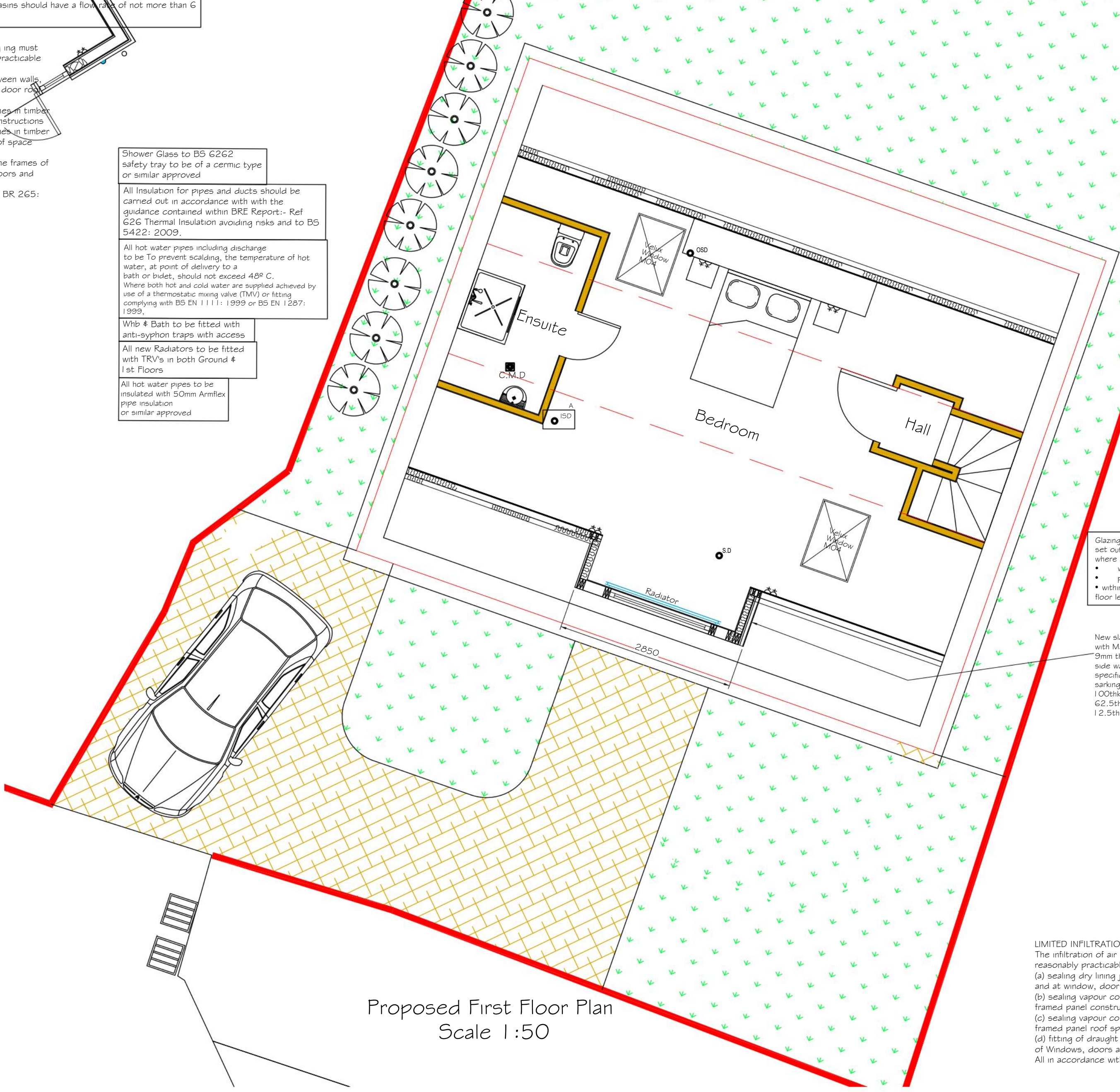
All hot water pipes including discharge to be To prevent scalding, the temperature of hot water, at point of delivery to a bath or bidet, should not exceed 48° C. Where both hot and cold water are supplied achieved by use of a thermostatic mixing valve (TMV) or fitting complying with BS EN 1111: 1999 or BS EN 1287: 1999.

Whb & Bath to be fitted with anti-syphon traps with access

All new Radiators to be fitted with TRV's in both Ground & 1st Floors

All hot water pipes to be insulated with 50mm Armlflex pipe insulation or similar approved

0 0.5 1 1.5 2 2.5m 5m 1:50@a2



The electrical installation should be designed, constructed, installed and tested in accordance with the recommendations of BS7671:2008. New electrics to be connected to existing supply. White UVC switch covers & sockets. Outlets and controls of electrical fixtures and systems should be positioned at least 350 mm from any internal corner, projecting wall or similar obstruction and, unless the need for a higher location can be demonstrated, not more than 1.2 m above floor level. This would include fixtures such as sockets, switches. Within this height range:
• light switches should be positioned at a height of between 900 mm and 1.1 m above floor level;
• standard switched or unswitched socket outlets and outlets for other services such as telephones or television should be positioned at least 400 mm above floor level. 75% of all new artificial lighting should be low energy type.
Electrical installation to be designed, constructed, installed and tested in accordance with the recommendations of BS 7671:2008, As amended and submitted only by a person or company having membership to S.E.L.E.C.T or NICEIC or similar electrical schemes recognised by the Scottish Building Standards Agency to comply with safety 4.5. Electrical fixtures and fittings to be positioned as per the Scottish Building Standards section 4.8.5.

Mains operated CO2 (Carbon Dioxide) monitoring equipment should be provided in the apartment expected to be the main or principal bedroom in a dwelling where infiltrating air rates are less than 15m3/hr/ m2 @ 50 Pa. This should raise occupant awareness of CO2 levels (and therefore other pollutants) present in their homes and of the need for them to take proactive measures to increase the ventilation. Guidance on the operation of the monitoring equipment, including options for improving ventilation when indicated as necessary by the monitor, should be provided to the occupant.

Glazing should be designed to resist human impact as set out in BS 6262: Part 4: 2005, where all, or part, of a pane is:
• within 800mm of floor level, or
• part of a door leaf, or
• within 300mm of a door leaf and within 1.5m of floor level.

New slates fixed back to dormer Haftit in accordance with Manufacturer's Specification and Detail 9mm thk OSB fixed to 145x45 timber studs forming side walls to dormer, refer engineers drawings for specification Code 5 lead flashing dressed over sarking and returned 150mm up dormer walling 100thk Kooltherm insulation.Between Timber Studs 62.5thk Kooltherm insulation over Timber Studs with 12.5thk Foil Backed P/Board

LIMITED INFILTRATION.
The infiltration of air into a building ing must be limited as far as is reasonably practicable by
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General Notes
1. electrical :- denotes light switch
denotes light point
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All electrical works to be in accordance with part 4.5 of the current technical handbook, BS7671:2008 and current I.E.E. Regulations

2. external walls :- External Wall Construction to be render as existing 100mm Thermalite Block , 50mm Cavity, 9mm OSB Sheathing on, 145x45 Timber Studs at 600mm crs with 140 Celotex Insulation Between Studs and 40mm thk to inner leaf of stud with vapour barrier to internal Surface with 12.5mm thk p/board and Skim-Coat Plaster Finish to Achieve a Thermal Value of 0.17 W/M2.K

3. roofs :- to give 0.11 'U' value (as noted) walls :- to give 0.17 'U' value (as noted) Floors :- to give 0.15 'U' value (as noted)

4. All drainage to be to part 3.6, 3.7 & 3.12 of the current technical handbook and to BS EN 12056-2: 2000. to be installed in accordance with manufacturer's recommended instructions

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Capital Draughting Consultant's Ltd		
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Email. cdc.ltd@sky.com Tel. 0131 666 1804 Mob. 07834156071		
Status Planning		
Project Title Proposed New 3 Bedroom Dwelling adjacent to Harvieston Lodge at Powdermill Brae Gorebridge		
Client Mr K. Craig		
Drawing Title Proposed First Floor Plan		
Date	Nov '21	Scale As Shown
Drawn		
Drawing Number CDC/20/126/03		Rev.

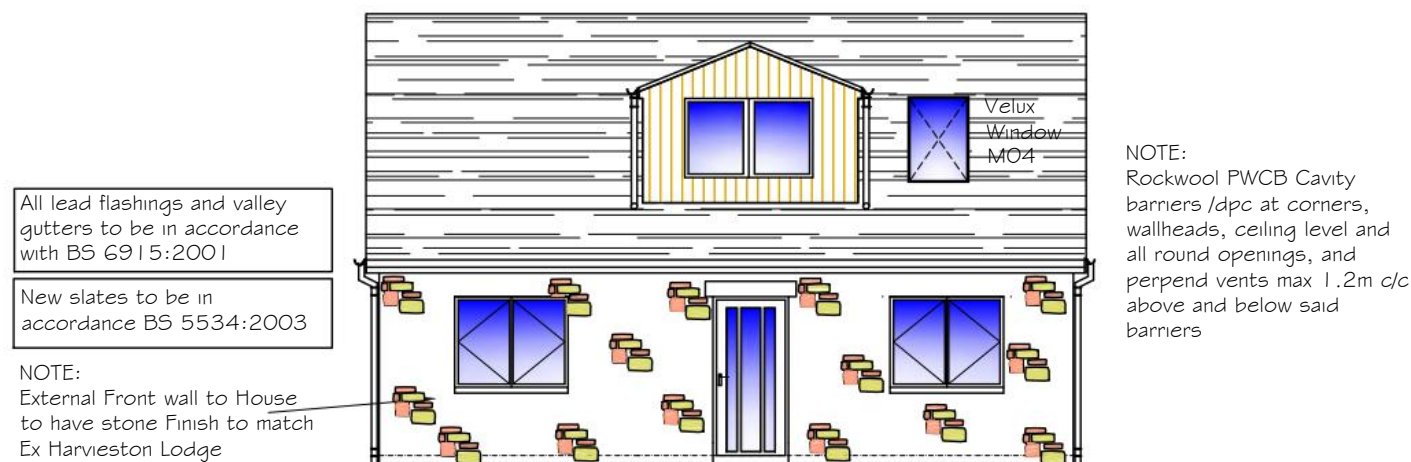
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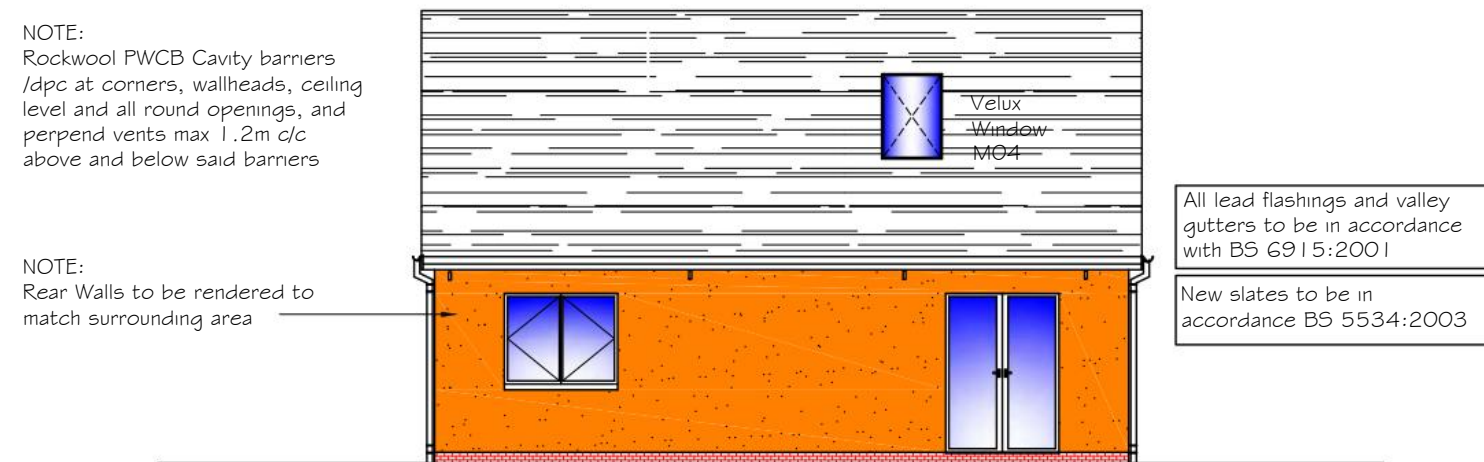
Proposed Site Plan
Scale 1:200

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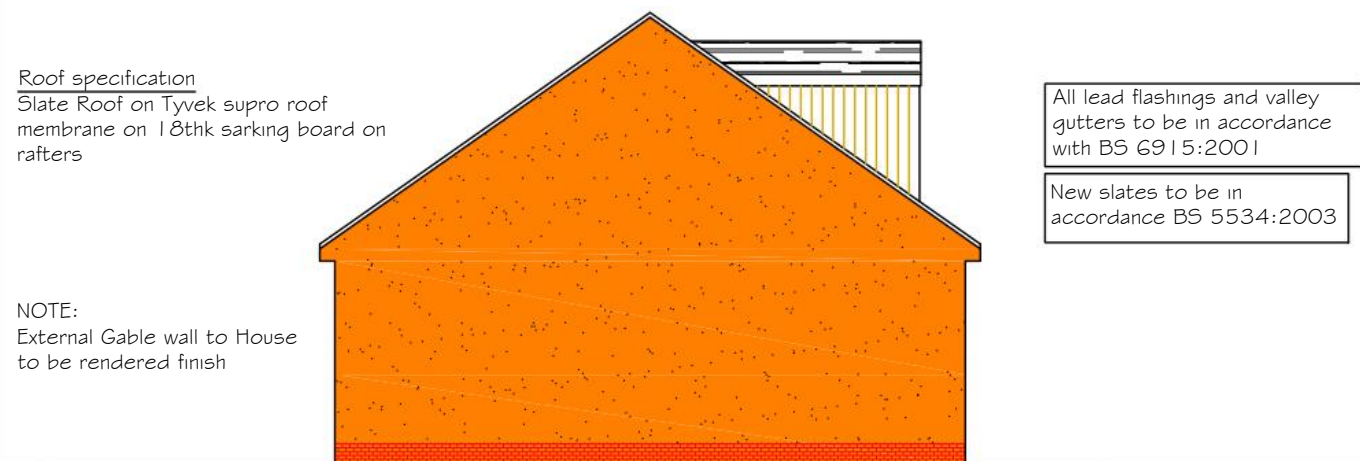
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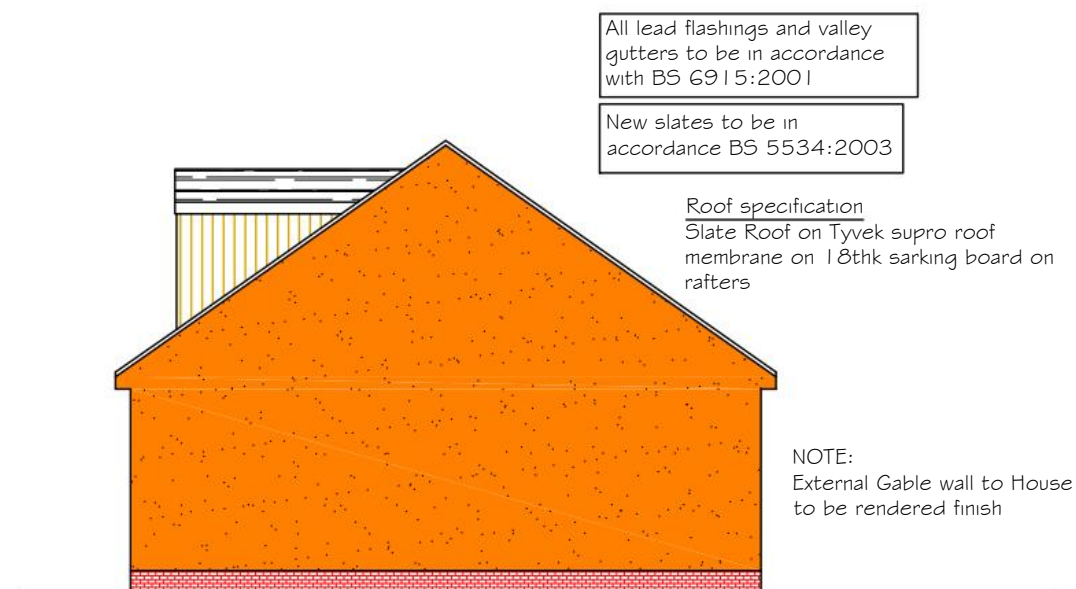
Proposed Front Elevation
Scale 1:100



Proposed Rear Elevation
Scale 1:100



Proposed Gable Elevation
Scale 1:100



Proposed Gable Elevation
Scale 1:100

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Client Mr K. Craig		
Drawing Title Proposed Elevations		
Date Nov '21	Scale As Shown	
Drawn		
Drawing Number CDC/19/100/04		Rev.