

Notice of Review: 61A Clerk Street, Loanhead

Determination Report

Report by Ian Johnson, Head of Communities and Economy

1 Purpose of Report

- 1.1 The purpose of this report is to provide a framework for the Local Review Body (LRB) to consider a 'Notice of Review' for the change of use from Chiropodist (class 2) to dwellinghouse (class 9) at 61A Clerk Street, Loanhead.

2 Background

- 2.1 Planning application 17/00363/DPP for the change of use from Chiropodist (class 2) to dwellinghouse (class 9) at 61A Clerk Street, Loanhead was refused planning permission on 18 September 2017; a copy of the decision is attached to this report.
- 2.2 The review has progressed through the following stages:
- 1 Submission of Notice of Review by the applicant.
 - 2 The Registration and Acknowledgement of the Notice of Review.
 - 3 Carrying out Notification and Consultation.

3 Supporting Documents

- 3.1 Attached to this report are the following documents:
- A site location plan (Appendix A);
 - A copy of the notice of review form and supporting statement (Appendix B). Any duplication of information is not attached;
 - A copy of the case officer's report (Appendix C);
 - A copy of the decision notice, issued on 18 September 2017 (Appendix D); and
 - A copy of the relevant drawings/plans (Appendix E).
- 3.2 The full planning application case file and the development plan policies referred to in the case officer's report can be viewed online via www.midlothian.gov.uk

4 Procedures

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

- Have scheduled a site visit for Monday 20 November 2017; and
 - Have determined to progress the review by way of written submissions.
- 4.2 The case officer's report identified that one consultation response and no representations have been received. As part of the review process the interested party was notified of the review. No additional comments have been received. Comments can be viewed online on the electronic planning application case file via www.midlothian.gov.uk
- 4.3 The next stage in the process is for the LRB to determine the review in accordance with the agreed procedure:
- Identify any provisions of the development plan which are relevant to the decision;
 - Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies;
 - Consider whether or not the proposal accords with the development plan;
 - Identify and consider relevant material considerations for and against the proposal;
 - Assess whether these considerations warrant a departure from the development plan; and
 - State the reason/s for the decision and state any conditions required if planning permission is granted.
- 4.4 In reaching a decision on the case the planning advisor can advise on appropriate phraseology and on appropriate planning reasons for reaching a decision.
- 4.5 Following the determination of the review the planning advisor will prepare a decision notice for issuing through the Chair of the LRB. A copy of the decision notice will be reported to the next LRB for noting.
- 4.6 A copy of the LRB decision will be placed on the planning authority's planning register and made available for inspection online.

5 Conditions

- 5.1 It is considered that no conditions would be required if the LRB is minded to grant planning permission. The reasons for refusing the application relate to its potential impact on amenity and it is considered that this cannot be mitigated by conditions if the LRB are minded to support the review on the basis that the proposed development is acceptable.

6 Recommendations

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

Date: 14 November 2017

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

Tel No: 0131 271 3310

Background Papers: Planning application 17/00363/DPP is available for inspection online.

APPENDIX A



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

61A Clerk Street, Loanhead, EH20 9RE

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File No.: 17/00363/DPP

Scale: 1:500



Midlothian



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 100051121-003

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="DM Hall"/>		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	<input type="text" value="Calum"/>	Building Name:	<input type="text"/>
Last Name: *	<input type="text" value="Allmond"/>	Building Number:	<input type="text" value="27"/>
Telephone Number: *	<input type="text" value="01383621262"/>	Address 1 (Street): *	<input type="text" value="Canmore Street"/>
Extension Number:	<input type="text"/>	Address 2:	<input type="text"/>
Mobile Number:	<input type="text"/>	Town/City: *	<input type="text" value="Dunfermline"/>
Fax Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
		Postcode: *	<input type="text" value="KY12 7NU"/>
Email Address: *	<input type="text" value="calum.allmond@dmhall.co.uk"/>		

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

☐ Individual ☒ Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	Mr	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	Winchester House
First Name: *	Nick	Building Number:	259-269
Last Name: *	Sneddon	Address 1 (Street): *	Suite 1.05B
Company/Organisation	Full Speed Ahead Finance	Address 2:	Old Marylebone Road
Telephone Number: *	03303338704	Town/City: *	London
Extension Number:		Country: *	England
Mobile Number:		Postcode: *	NW1 5RA
Fax Number:			
Email Address: *	nick@fsafinance.com		

Site Address Details

Planning Authority:	Midlothian Council
Full postal address of the site (including postcode where available):	
Address 1:	61A CLERK STREET
Address 2:	
Address 3:	
Address 4:	
Address 5:	
Town/City/Settlement:	LOANHEAD
Post Code:	EH20 9RE

Please identify/describe the location of the site or sites

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Northing	665642	Easting	328168
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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)

Change of use from Chiropodist (Class 2) to dwellinghouse (Class 9) at 61A Clerk Street, Loanhead, EH20 9RE

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.

Cannot serve its original purpose as a commercial building. No visible shopfront is undesirable for prospective commercial owner. Property is not easy to access which would discourage patrons and made deliveries difficult. Property is ideal for town centre affordable housing. Amenity may not meet the full requirement but garden ground is available. Proximity to PH would be clear to any prospective buyer. The building would fall into disuse and further disrepair if the use was not changed.

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)

1. Supporting Statement 2. Access Plan 3. Copy of Decision Notice 4. Copy of existing and proposed floor plans and elevations 5. Copy of original application form

Application Details

Please provide details of the application and decision.

What is the application reference number? *

17/00363/DPP

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

31/07/2017

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

18/09/2017

Review Procedure

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

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

☒ Yes ☐ No

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

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

☐ Yes ☒ No

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

☒ Yes ☐ No

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

The site is difficult to find and therefore we will provide a plan showing access.

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 Calum Allmond

Declaration Date: 21/09/2017

Statement to support the appeal of Planning Permission refusal for application 17/00363/DPP

61a Clerk Street, Loanhead, EH20 9RE

The building has not been used in a commercial manor for many years. Although the building is in the town centre the building has no shop front so would not be a desirable premises for retail use. It is also insufficient size to create viable commercial premises. The property is not easily accessed which would discourage most patrons and make deliveries difficult to organise.

The property is ideally suited to serve as affordable town centre housing. Although the amenity does not meet the full requirement there is garden ground available. The properties proximity to a public house would be clear to any prospective buyer.

If the property is not permitted to be used as a private dwelling it will fall into a state of further disuse and disrepair.

In summary, we strongly believe that the best use of this property would be as affordable housing, either a town centre base or a first time buyer's property.

Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

Reg. No. 17/00363/DPP

DM Hall
27 Canmore Street
Dunfermline
KY12 7NU

Midlothian Council, as Planning Authority, having considered the application by Mr Nick Sneddon, Winchester House, 259-269 Suite 1.05B, Old Marylebone Road, London, NW1 5RA, which was registered on 31 July 2017 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

Change of use from Chiropodist (class 2) to dwellinghouse (class 9) at 61A Clerk Street, Loanhead, EH20 9RE

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

<u>Document/Drawing.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Existing Floor Plan	1 1:500 1:50	31.07.2017
Existing Elevations	2 1:500 1:100	31.07.2017
Proposed Floor Plan	3 1:1250 1:50	31.07.2017
Proposed Elevations	4 1:50	31.07.2017
Proposed Elevations	5 1:50	31.07.2017

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

As a result of the close proximity of a public house and associated beer garden, very poor outlook and low levels of private amenity space, the proposed dwelling would be subject to seriously low levels of amenity which do not comply with policies RP20 and DP2 of the adopted Midlothian Local Plan.

Dated 18 / 9 / 2017



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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
Email: planningconsultation@coal.gov.uk
Website: www.gov.uk/government/organisations/the-coal-authority

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. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous 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 development taking place.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Standards approval (if relevant). Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant safety and engineering risks and exposes all parties to potential financial liabilities. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should wherever possible be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design is developed and agreed with regulatory bodies which takes into account of all the relevant safety and environmental risk factors, including gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at: <https://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, digging of 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.

Property specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com or a similar service provider.

If any of the 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

This Informative Note is valid from 1st January 2017 until 31st December 2018

MIDLOTHIAN COUNCIL**DEVELOPMENT MANAGEMENT
PLANNING APPLICATION DELEGATED WORKSHEET:**

Planning Application Reference: 17/00363/DPP

Site Address: 61A Clerk Street, Loanhead.

Site Description: The application site comprises a two storey building with a single storey element and area of ground to the rear of the properties at Clerk Street. The walls are harled and painted cream and the roof is finished with slate. The single storey building has a monopitched roof and is currently in use as a garage. The two storey building was previously used as a chiropodist clinic and is now vacant. The site is accessed by a vennel from Clerk Street and there is access from the rear through a coachwork business. There are a variety of uses in the surrounding area, with a public house and associated beer garden to the south, commercial units to the north along with a number of flatted dwellings.

Proposed Development: Change of use from Chiropodist (class 2) to dwellinghouse (class 9).

Proposed Development Details: It is proposed to change the use of the building to one house. The only external alterations are the formation of two window openings on the single storey area of the south elevation.

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

Application site

16/00486/DPP Change of use from Business (class 4) to dwellinghouse (class 9) and associated external alterations. Refused – the flat would have a poor outlook and low levels of private amenity space; the proposal would likely exacerbate existing on-street parking problems in the area; the proposed dormer window was bulky, box-like and unsympathetic to the building; does not comply policies RP20, DP2 and related SPG.

Consultations: The Policy and Road Safety Manager has no objection in principle but notes that while there is no off-street parking provided, the residential unit would have access to the existing garage which could be used as a residential parking space.

Representations: No representations were received.

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

RP20 Development Within the Built Up Area states that development will not be permitted within existing built up areas where it is likely to detract materially from the existing character or amenity of the area;

SHOP1 Town Centres states that development proposals bringing about an improvement to the range and quality of retail facilities in town centres will be considered favourably. Given the nature of the proposed works, this policy is not considered relevant; and

DP2 Development Guidelines sets out guidelines for residential developments, indicating standards that should be applied when considering applications for such units.

The relevant policies of the **2014 Midlothian Local Development Plan Proposed Plan** are;

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;

DEV6 Layout and Design of New Development sets out design guidance for new developments; and

TCR1 Town Centres states that proposals for retail, commercial leisure development or other uses which will attract significant numbers of people, will be supported in Midlothian's town centres, provided their scale and function is consistent with the town centre's role,

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 the application site is located within the built up area, there is a presumption in favour of development provided that the proposal complies with related local plan policies and would not have a detrimental impact on the character or amenity of the surrounding area. The main consideration for this proposal is the amenity provided for proposed and existing occupants of the area.

The submitted plans show there to be an area of garden ground provided for the proposed unit, measuring approximately 70 square metres. Policy DP2 requires that new dwellinghouses be provided with 130 square metres of amenity ground. Whilst this policy requires the provision of private outdoor space for new residential development, where an existing building is to be re-developed it can sometimes be appropriate to make allowance for the constraints of the particular site, if the amenity of the properties created and the overall quality of the development are otherwise of a high standard.

The proposed residential unit will have an extremely poor outlook, with a public house and its associated beer garden and smoking shelter in very close proximity to the south, with the north elevation hard up to the boundary in close proximity to an extension to the neighbouring commercial unit. The standard of amenity associated with the development is not sufficiently high so as to mitigate against the lack of garden ground.

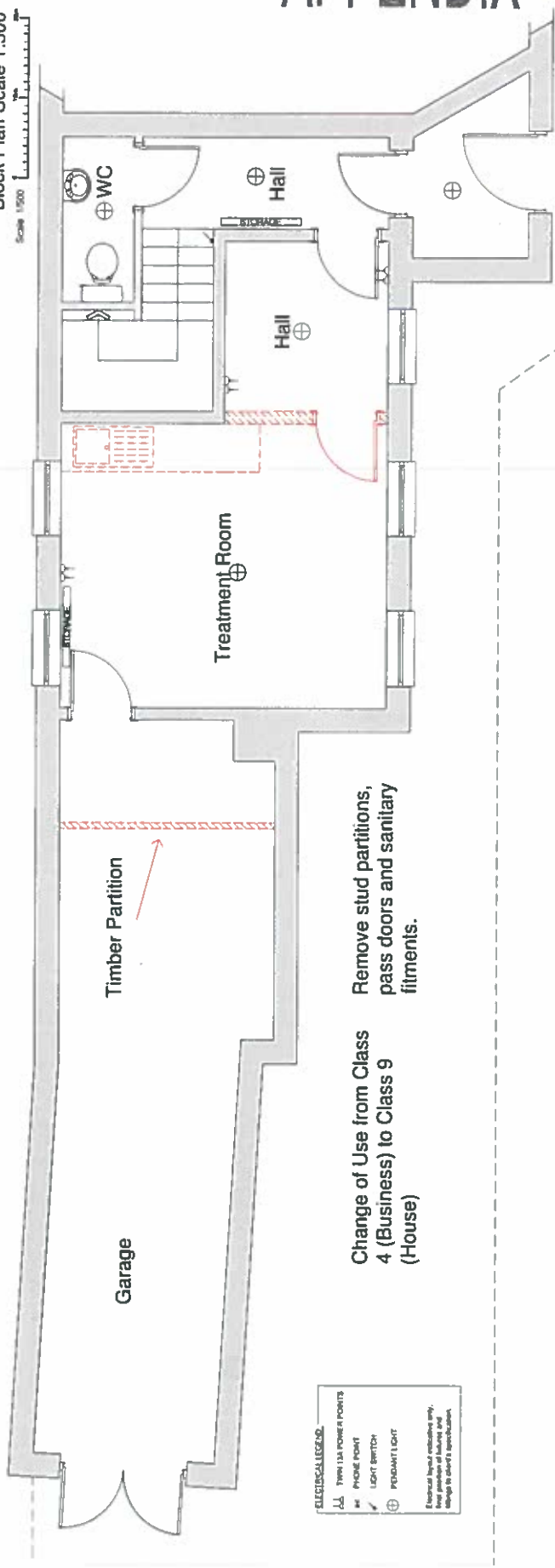
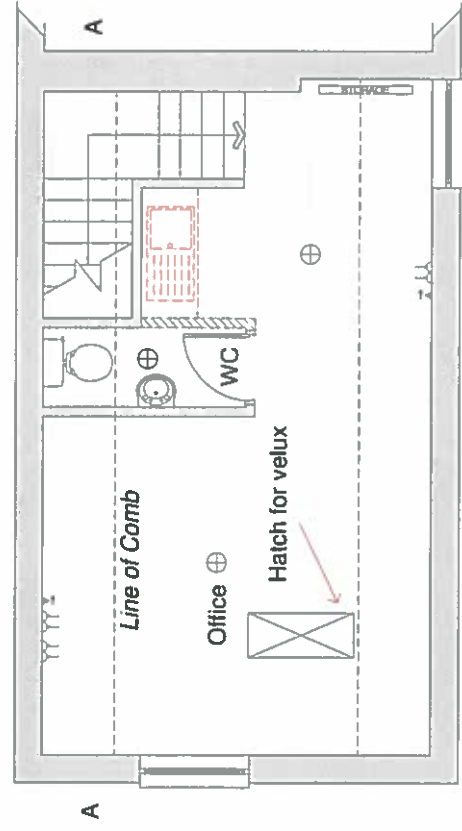
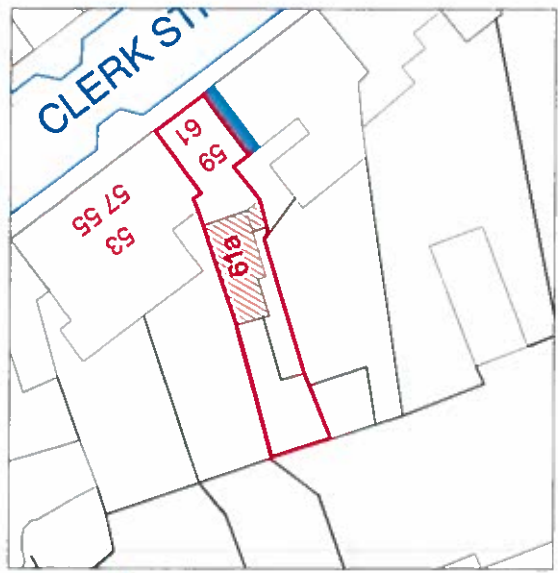
The formation of the new window opening on the ground floor of the south elevation would be acceptable in design terms however the resulting adverse impact on the amenity of the future residents as a result of the close proximity of the beer garden would be significant.

Although the proposal does not fully address the required amount of residential and visitor parking, the plans indicate that the existing garage would remain which could provide one residential space. The site is within a town centre location with good access to public transport which could mitigate for the lack of full compliance with parking standards.

The applicant appears to have reviewed the reasons for refusing the previous application at the site and amended the current proposal accordingly. However any future occupant of the flat would be offered a very poor level of amenity even when some concerns have been addressed. Given the poor levels of amenity at the property it is highly unlikely that planning permission could be secured for the change of use of this unit to living accommodation, with its most appropriate use remaining as a commercial unit.

Recommendation: Refuse planning permission.

DM HALL 27 CANMORE STREET DUNFERMLINE KY12 7NU TEL: 01593 821282 FAX: 01593 821282	
PROJECT 61a Clerk Street Loanhead EH20 9RE	
EXISTING FLOOR LAYOUT	
I hereby certify that this is the plan referred to in the foregoing application for Local Authority permission	
Signed	Dated
PP-17-00227	
DATE 01/07/16	SCALE 1:50
DRAWN BY 1	



ELECTRICAL LEGEND

	13A POWER POINT
	PHONE POINT
	LIGHT SWITCH
	PENDANT LIGHT

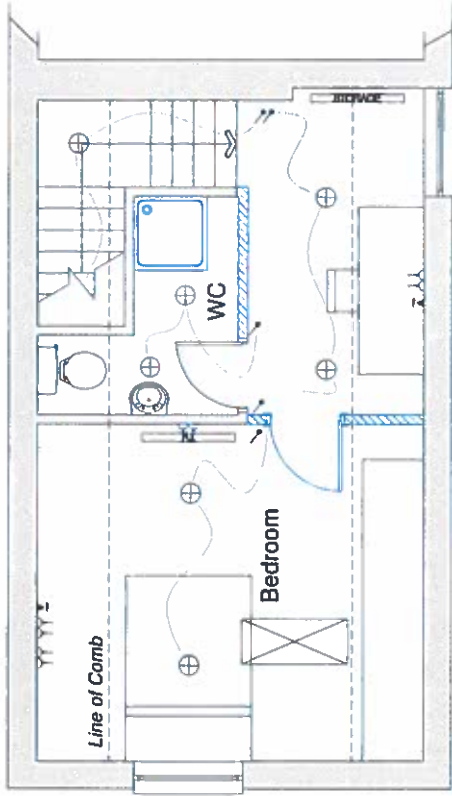
Electrical layout indicates only. See schedule of materials and design for detail specification.

Change of Use from Class 4 (Business) to Class 9 (House)

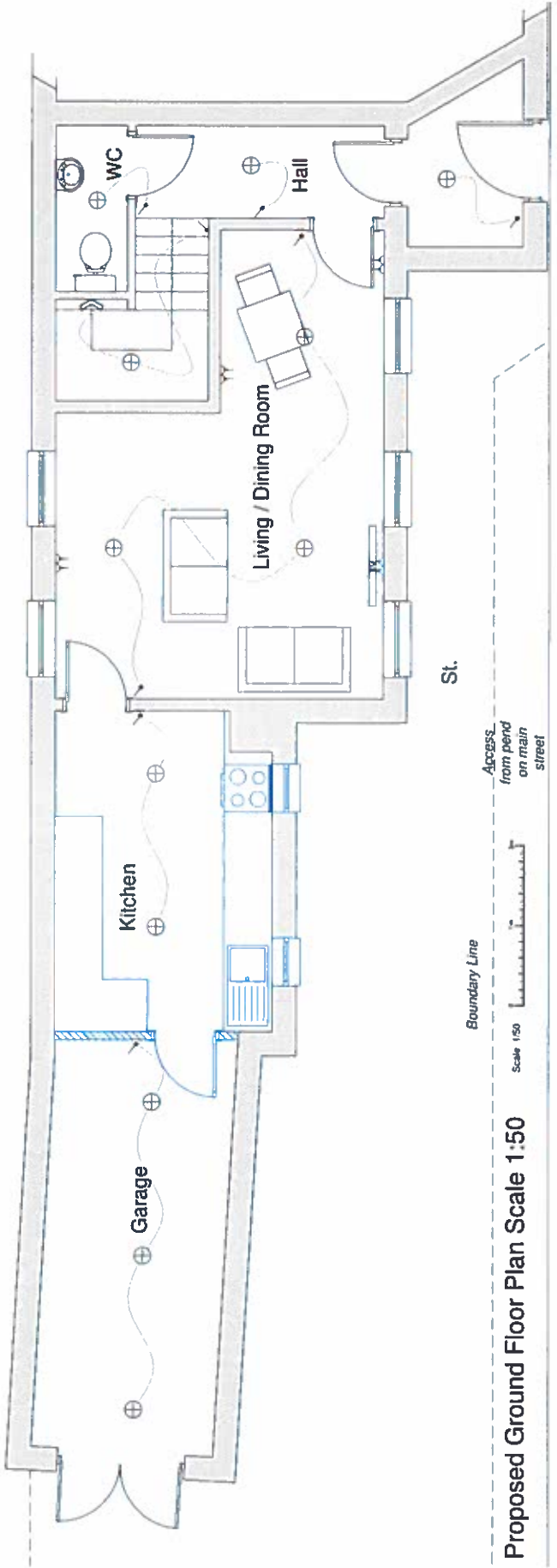
Remove stud partitions, pass doors and sanitary fittings.

DM HALL 27 CANMORE STREET DUNFERMLINE KY12 7NU TEL: 01333 631262 FAX: 01333 631262 Email: info@dmhall.co.uk	
Project: 81a Clark Street Loanhead EH20 9RE	
PROPOSED FLOOR LAYOUT	
I hereby certify that this is the plan referred to in the foregoing application for Local Authority permission.	
Signed	Dated
Titled FR-17-00237 A3	Date 2

ALL WORKS TO BE READ IN CONJUNCTION WITH & IN COMPLIANCE WITH THE SCOTTISH BUILDING STANDARDS TECHNICAL HANDBOOK LATEST EDITION.



Proposed First Floor Plan Scale 1:50



PROPOSED FLOOR LAYOUT

I hereby certify that this is the plan referred to in the foregoing application for Local Authority permission

Signed	Dated	Rev
PP-17-00237		A3
DATE	SCALE	NO OF
1/1/2017	1:50	2

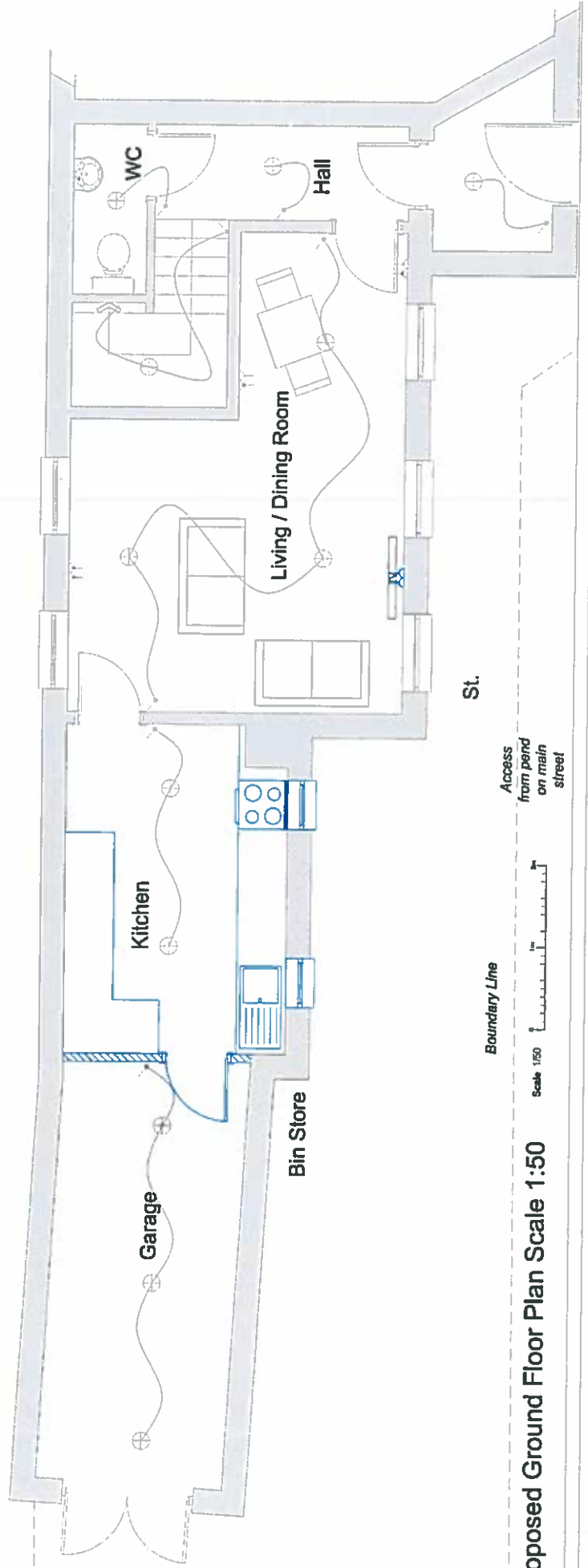
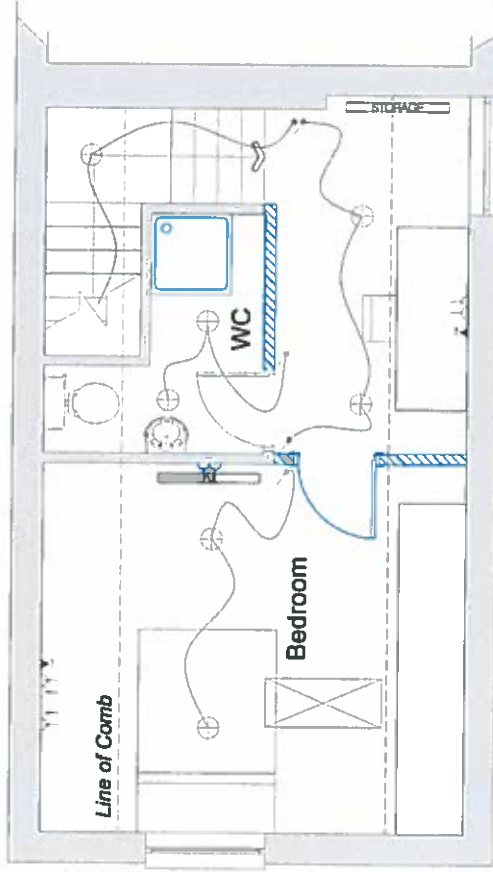
ALL WORKS TO BE READ IN CONJUNCTION WITH & IN COMPLIANCE WITH THE SCOTTISH BUILDING STANDARDS TECHNICAL HANDBOOK LATEST EDITION.



Site Location Plan Scale 1:1250

Scale 1:1250

Proposed First Floor Plan Scale 1:50



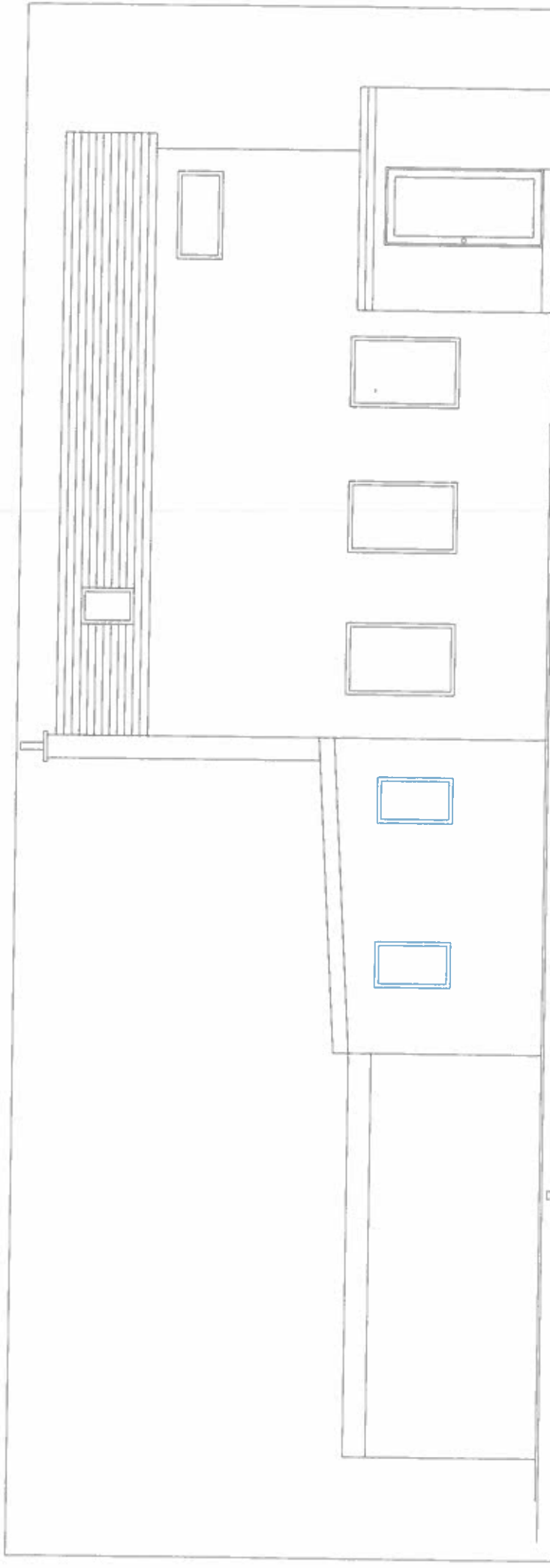
Proposed Ground Floor Plan Scale 1:50

Boundary Line

Scale 1:50

Access from pond on main street

St.



Proposed South Elevation Scale 1:50

DM HALL <small>DESIGN + ARCHITECTURE</small> 27 CANMORE STREET DUNFERMLINE FIFE KY12 7NU TEL: 01383 621282 FAX: 01383 621282 PROJECT:		61a Clerk Street Loanhead EH20 9RE	
I hereby certify that this is the plan referred to in the foregoing application for Local Authority permission. Signed _____ Dated _____ Title: PP-17-00237 A3 Date: 01/07/18 Scale: 1:50 Sheet No: 4 Drawn By: CA Checked By:			

Proposed West Elevation Scale 1:50

Scale 1:50