

# Notice of Meeting and Agenda



## Local Review Body

**Venue:** Virtual Meeting,

**Date:** Monday, 20 June 2022

**Time:** 14:00

**Executive Director : Place**

**Contact:**

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

**Further Information:**

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

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**1 Welcome, Introductions and Apologies**

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**2 Order of Business**

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

**3 Declaration of Interest**

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

**4 Minute of Previous Meeting**

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No Minutes for Approval at this Meeting.

**5 Public Reports**

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|------------|--|----------|
| <b>5.1</b> | Local Review Body – Membership and Terms of Reference - Report by Executive Director Place   | 3 - 6    |
| <b>5.2</b> | Procedures for the Local Review Body - Report by Chief Officer Place<br><br>Notices of Review - Determination Reports by Chief Officer: Place. | 7 - 16   |
| <b>5.3</b> | Glencairn, 13 Waverley Road, Dalkeith (21/00933/DPP).  | 17 - 34  |
| <b>5.4</b> | 38 Lawrie Terrace, Loanhead (21/00727/DPP).  | 35 - 50  |
| <b>5.5</b> | 12 Dryden Terrace, Loanhead (21/01024/DPP).  | 51 - 72  |
| <b>5.6</b> | 1 Tipperwell Way, Howgate, Penicuik (22/00056/DPP).  | 73 - 100 |

**6 Private Reports**

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No private reports to be discussed at this meeting.

**7 Date of Next Meeting**

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The next meeting will be held on Monday 27 June 2022 at 2.00pm.

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

## **Local Review Body – Membership and Terms of Reference**

**Report by Kevin Anderson, Executive Director, Place**

### **1 Recommendations**

The Local Review Body is invited to:-

- (a) consider the appointment of a Chair; and
- (b) note its Membership and Terms of Reference.

### **2 Purpose of Report**

This report sets out the Membership and Terms of Reference of the Local Review Body.

**Date:** 31 May 2022

**Report Contact:** Mike Broadway

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

### **3 Background/Main Body of Report**

#### **3.1 Membership**

At the Council meeting on 24 May 2022 it was agreed to appoint the following ten elected Members to serve on the Local Review Body:-

Councillors Alexander  
Bowen  
Cassidy  
Drummond  
Imrie  
McEwan  
McManus  
Milligan  
Virgo  
Smaill.

#### **3.2 Terms of Reference**

The terms of reference of the Local Review Body are stated in the Scheme of Administration (appended to Standing Orders). An extract is attached.

### **4 Report Implications (Resource, Digital and Risk)**

#### **4.1 Resource**

There are no resource implications arising directly from this report.

#### **4.2 Digital**

Not applicable.

#### **4.3 Risk**

In accordance with the Scheme of Administration the Council is required to appoint Members to the various Committees, etc. Failure to do so could impede the discharge of business.

#### **4.4 Ensuring Equalities (if required a separate IIA must be completed)**

An equalities impact assessment has not been required in connection with this report.

#### **4.4 Additional Report Implications (See Appendix A)**

See Appendix A

### **Appendices**

Appendix A – Additional Report Implications

Appendix B – Terms of Reference of Local Review Body



## **APPENDIX A – Report Implications**

### **A.1 Key Priorities within the Single Midlothian Plan**

Not applicable

### **A.2 Key Drivers for Change**

Key drivers addressed in this report:

- ☐ Holistic Working
- ☐ Hub and Spoke
- ☐ Modern
- ☐ Sustainable
- ☐ Transformational
- ☐ Preventative
- ☐ Asset-based
- ☐ Continuous Improvement
- ☐ One size fits one
- ☒ None of the above

### **A.3 Key Delivery Streams**

Key delivery streams addressed in this report:

- ☐ One Council Working with you, for you
- ☐ Preventative and Sustainable
- ☐ Efficient and Modern
- ☐ Innovative and Ambitious
- ☒ None of the above

### **A.4 Delivering Best Value**

There are no direct implications related to this report

### **A.5 Involving Communities and Other Stakeholders**

This report does not directly relate to involving communities

### **A.6 Impact on Performance and Outcomes**

Not applicable.

### **A.7 Adopting a Preventative Approach**

Not applicable.

### **A.8 Supporting Sustainable Development**

Not applicable.

## **APPENDIX B – Terms of Reference of Local Review Body**

### **Planning Committee**

**Business** – The Local Review Body will conduct reviews in accordance with Section 43A(8) of the Planning etc (Scotland) Act 2006, where the appointed person:-

- a) refuses an application for planning permission or for consent, agreement or approval;
- b) grants it subject to conditions; or
- c) has not determined it within such period as may be prescribed by regulations or a development order.

**Meetings** - The Local Review Body will normally meet on a six weekly cycle (subject to breaks for the summer recess, Christmas/New Year holidays and school holidays).

The Council will decide on the schedule of meetings for the Local Review Body, usually on a rolling annual basis which will be published.

**Quorum** - The quorum for meetings of the Local Review Body will be 3 Councillors.

**Minutes** - The Minutes of the Local Review Body will be submitted to the next ordinary meeting of the Local Review Body for approval. They will also be submitted to the Council both for information and to allow the Council to consider any recommendations contained in them.

## PROCEDURES FOR THE LOCAL REVIEW BODY

Report by Chief Officer Place

### 1 Purpose of Report

- 1.1 The purpose of this report is to advise the Local Review Body (LRB) of the arrangements for the determination of 'Notices of Review' by the LRB.

### 2 Background

- 2.1 Where an application for planning permission falling within the Council's scheme of delegation has been:
- refused by an appointed officer;
  - granted permission subject to conditions; or
  - has not been determined within the prescribed period (almost invariably two months) but is of a class of application that falls within the scope of the scheme of delegation.

The applicant may submit a notice of review requiring the planning authority's LRB to review the application. The LRB comprises a panel of elected members.

- 2.2 The role of the LRB is to consider applications adopting 'a de novo approach'. This means the LRB should apply its collective mind afresh to those matters which were before the appointed officer, together with any further information properly before it. Its role is not just to review whether the initial decision referred to it was a reasonable one; it must consider all the relevant matters and arguments afresh. This is the position as outlined by the Scottish Government and reinforced in a challenge to the courts in 2015 regarding *Sally Carroll v Scottish Borders Council*.
- 2.3 The previous administrative and procedural arrangements for the LRB were approved at its meeting of June 2017.
- 2.4 The Town and Country Planning (Schemes of Delegation and Local Review Procedures) (Scotland) Regulations 2013 and Scottish Government guidance in Circular 5/2013: Schemes of Delegation and Local Reviews provides the legislative and regulatory framework for the relevant administrative procedures in determining a notice of review.

### 3 Procedures

- 3.1 The LRB process shall comprises 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**;
4. The LRB carry out a **Site Visit**;
5. The **meeting of the LRB** to determine the review; and
6. The **Issuing of the Decision Notice**.

### **Role of the Planning Adviser**

3.2 The following procedures refer in places to the input of the “planning adviser”. It is important that the role of the planning adviser is clearly defined and well understood by all parties to the process, and therefore is included within these procedures. In conducting reviews it is essential that the LRB acts in an impartial, open and transparent manner. To ensure that its decisions are sound it is vital that in conducting a review the LRB has before it all relevant information and, when required, can seek impartial advice on planning matters. Accordingly, meetings of the LRB (including site visits) will be attended by a planning adviser. The role of the advisor shall be strictly prescribed in the following terms:-

- a) he/she shall have had no participatory role in the assessment and/or determination of the planning application which is the subject of review;
- b) he/she will only speak if invited to do so by the Chair of the LRB;
- c) he/she will be restricted to advising the LRB on procedural matters, planning law and practice, and the facts of the case; and
- d) on no account shall the planning adviser offer views on the merits of the proposals under review.

### **Stage 1: Notice of Review**

3.3 An applicant can request the LRB to review an application for planning permission (this does not include applications for listed building or advertisement consent), or for consent, agreement or approval of a proposal in the category of ‘local developments’ falling within the scheme of delegation which has been:

- refused by an appointed officer;
- granted subject to conditions; or
- has not been determined within the prescribed period (two months) but is of a class of application that falls within the scope of the scheme of delegation

3.4 To initiate this process the applicant submits a formal ‘Notice of Review’, using forms which are available via the Council’s website or from the Scottish Government’s planning portal. The details of how to submit a notice of review are provided as an advisory note on the decision notice issued following determination of an application and in the acknowledgement letter sent to applicants following the submission of a planning application. Advice and guidance on this process is also available online via [www.eplanning.scotland.gov.uk](http://www.eplanning.scotland.gov.uk) or by contacting the Planning duty officer.

3.5 The notice of review must include the following information:

- the name and address of the applicant;

- the date and reference number of the application subject of the review;
  - the name and address of the applicant's agent (where applicable); and
  - a written statement outlining the applicant's reasons for requiring a review and their preferred procedures of review (written submissions or hearing).
- 3.6 Section 9(4) of the LRB regulations state that "(a) all matters which the applicant intends to raise in the review must be set out in the notice of review or in the documents which accompany the notice of review; and (b) all documents, materials and evidence which the applicant intends to rely on in the review must accompany the notice of review". The consequence of the LRB regulations is that 'new' material can only be submitted as part of the review process if it forms part of the review submission. An exception can be made if the LRB request further information to assist them with their determination.
- 3.7 For a notice of review to be valid it must be received by the planning authority within the period of three months beginning with the date of the decision notice for those applications determined or the expiry of the period allowed for determination of an application which has not been determined.

### **Stage 2: Registration and Acknowledgement**

- 3.8 A notice of review will be registered (recorded in the Council's back office database) and the submitted notice of review forms and supporting documentation will be scanned (only required if the notice of review is submitted in a paper format) and indexed into the Council's eplanning document management system. This information can then be viewed online as part of the host application file in the usual way. Following registration of the review the appointed officer will endeavour to report the notice of review to the first available meeting of the LRB.
- 3.9 As part of the registration process a notice of review will be acknowledged in writing either by post or electronic means. The acknowledgement will be issued by the Council's Planning Service and will advise the applicant of the LRB procedures and inform them of the date of the next available LRB meeting.

### **Stage 3: Notification and Consultation**

- 3.10 Within 14 days of receiving the notice of review the local planning authority will notify interested parties of the review.
- 3.11 As part of the review process those parties who have made representations on the original application are notified of the review in accordance with the LRB regulations and any further submissions are considered by the LRB. The interested parties will be given a further 14 days to make any further representations. The regulations do not state whether new representations received from parties who did not make comment on the original application shall or shall not be considered and as such it is for the decision maker to decide what

weight is given to such representations. Comments already made on the application are considered by the LRB as part of the review. Any third party representations will be made available for inspection via the online case file which is accessible via the Council's website.

#### **Stage 4: Site Visit**

- 3.12 The LRB site visit can, at the discretion of the LRB, be undertaken accompanied or unaccompanied. An accompanied site visit would involve giving the applicant, a representative of the local authority's professional planning staff and interested parties, as defined in this report, the opportunity to attend. The purpose of the visit is to enable the LRB to understand the context of the proposed development.
- 3.13 Any debate and discussion on the merits of the case shall take place in the public meeting of the LRB and not on the site visit. This is the case whether the site visit is accompanied or unaccompanied. During an accompanied site visit the LRB can ask for clarification on points already raised in the review process from those parties in attendance. However, it is not permitted for the applicant, the representative of the local authority professional planning staff or interested parties to make oral representation or to introduce new evidence during the site visit. Oral representation can only be given to the LRB if the review is determined by way of a hearing.
- 3.14 The LRB planning advisor will accompany the LRB on both accompanied and unaccompanied site visits. The role of the advisor during the site visit shall be limited to advising the LRB on clarification/assistance on matters relating to the facts of the case, planning law and practice, and procedural matters.
- 3.15 Applicants and interested parties will be notified of the LRB's intention to visit the site and advise whether the site visit will be undertaken accompanied or unaccompanied. This notification will include guidance on site visit procedures.
- 3.16 The site visit is an integral component of the review and as such elected members are encouraged to attend the site visit as an integral part of the review. A site visit will be scheduled to take place in advance of the meeting of the LRB at which the review is determined. The site visit will be unaccompanied if the review is to be determined by way of written submissions and accompanied if the review is to be determined by way of a hearing.

#### **Stage 5: Meeting of the LRB**

- 3.17 The format of the meeting of the LRB in relation to a case will depend on the procedure used to determine the review. The review can be determined by either written submissions or by way of a hearing.
- 3.18 Where a review is to be determined by way of written submissions the LRB will not hear any oral representations from the applicant, local authority planning staff or any third party.

- 3.19 In determining the review, either by written submissions or a hearing, the LRB shall consider the following:
- 3.20 The LRB will determine the review by way of written submissions unless the applicant requests a hearing in their notice of review submission.

#### Assessment of the Review

- 3.21 ***Legislation requires decisions on planning applications to be made in accordance with the development plan unless material considerations indicate otherwise.***
- 3.22 The following approach shall be taken in undertaking a review:
- 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.
- 3.23 Having determined its decision on the case the LRB can then ask the planning adviser to use appropriate phraseology to properly reflect the terms of its decision when drafting the decision notice.

#### Development Plan Policy

- 3.24 The LRB shall identify the relevant development plan policies, which shall be considered when determining the review. The case officer's report will normally be the appropriate starting point for this consideration unless challenged by the applicant. A dispute over the interpretation of policy shall be considered when assessing the planning merits of the case, not in identifying the relevant policies.

#### Material Considerations

- 3.25 The LRB shall identify any material considerations, which shall be considered in the determination of the review. There are two main tests in deciding whether a consideration is material and relevant:
- It should serve or be related to the purpose of planning and it should thereby relate to the development and use of land; and
  - It should fairly and reasonably relate to the particular application.
- 3.26 It is for the LRB to decide if a consideration is material and to assess both the weight to be attached to each material consideration and whether individually or together they are sufficient to outweigh the

relevant provisions of the development plan. Where development plan policies are not directly relevant to the development proposal, material considerations will be of particular importance.

3.27 The Council can only take into account '*material planning considerations*' when looking at comments made on an application. For example:

- The proposed land use;
- The siting, design, scale, form and materials of the proposed development;
- The impact the proposed development will have on the amenity or privacy of neighbouring properties;
- The effect the proposed development will have on the setting of a listed building, conservation area or area of great landscape value;
- Highway safety, means of access and/or parking provision;
- The potential impact on flooding/drainage;
- Development Briefs;
- Supplementary Planning Guidance (SPG);
- Scottish Government Planning Policy and Advice;
- The individual circumstances of the applicant;
- The individual circumstances of the application;
- The individual circumstances of the site;
- The planning history of the site (previous grants or refusals of planning permission); and
- Representations submitted to the Council by third parties.

3.28 '*Non material planning considerations*' which cannot be considered include the following:

- Perceived loss of property value;
- Issues covered by separate legislation;
- Private disputes between neighbours'
- Loss of a view;
- Land ownership disputes;
- Personal morals or values of the applicant/developer.

3.29 The planning system operates in the long term public interest. It does not exist to protect the interest of one person or business against the activities of another. In distinguishing between public and private interest, the basic question is whether the proposal would unacceptably affect the amenity and existing use of land and buildings which ought to be protected in the public interest. Not whether owners or occupiers of neighbouring or other existing properties would experience financial or other loss from a particular development.

#### Amending the Scheme

3.30 Although the LRB can agree to amend a scheme (this mirrors the powers of Scottish Ministers on appeal), any such amendment shall not be of a significant scale to change the overall description or form of the development.



- 3.31 A significant amendment would be one which would result in a development of a different description (for example amending an application for 4 dwellinghouses to 3 dwellinghouses), or one of a different character (for example an application for a front extension being amended so that a rear extension is granted planning permission). The planning adviser can offer technical advice on the significance of any amendment.

### Hearing

- 3.32 Where a review is to be determined by way of a hearing written notice will be given to the applicant and any interested party who has made representations. A person or body who intends to appear at the hearing session must within 14 days of the date of such notice inform the LRB in writing of their intention to attend. Persons who attend the hearing without giving prior notice can not participate in the proceedings or give oral representations. All those intending to attend the hearing shall be given reasonable notification of the date, time and place of the hearing.

### Statements and Documents

- 3.33 A person or body intending to appear at the hearing must submit the following by a specified date:
- a hearing statement, outlining the case relating to the specified matters which a person proposes to put forward at a hearing session;
  - a list of all documents referred to in the statement; and
  - a copy of every document (or the relevant part of) on the list which is not already available for inspection.
- 3.34 If the applicant submitted a statement with their notice of review, this can be treated as '*the statement*' and will form part of the review papers. The planning officer's report of handling also forms part of the review papers and can be treated as '*the statement*' as does an interested parties written representation which can be treated as '*the statement*'.
- 3.35 Those parties making oral representations will be given a maximum of 5 minutes, have the opportunity to answer questions raised by the LRB and make any final comments/a summary of their case if the Chair of the LRB considers it appropriate to do so. Interested parties who are wishing to raise similar points will be encouraged to cooperate so that that there is not repartition in the oral representations. All the hearing statements and documents will be made available for inspection online.

### Procedures

- 3.36 At the commencement of the hearing the planning advisor will outline the procedure to be followed. The procedure may vary depending upon the complexity of the case. In general terms the procedure shall be as follows:

1. The advisor will outline an overview of the procedures and the case.
  2. Oral representations by the applicant.
  3. Oral representations by any consultees.
  4. Oral representations by interested third parties.
  5. Oral representations by the appointed local authority planning officer. The appointed local authority planning officer cannot fulfil the role of “planning adviser”.
  6. The Chair of the LRB will lead a discussion on the merits of the case, which can include the LRB asking questions of those who have made oral representations.
  7. Cross-examination between those parties giving oral representation will be permitted only if the LRB considers it appropriate to ensure a thorough examination of the issues. *(It is expected that cross-examination will only be allowed on very rare occasions)*.
  8. Once steps 1 to 7 have been concluded there shall be no further opportunity for the parties to make any further representations, unless the Chair of the LRB determines otherwise, and the LRB shall determine the review, as per the procedures outlined.
- 3.37 The LRB may appoint a person to sit with the LRB at a hearing session to advise them on such matters arising as they may specify (“an assessor”). The appointment of an assessor may be appropriate in cases which require specialist knowledge or expertise such as archaeology or biodiversity. The planning advisor can advise the Chair of the LRB on the need to appoint an assessor. If the LRB does appoint an assessor it must clearly define its remit prior to the hearing and advise the applicant and other interested parties accordingly.
- 3.38 If the LRB is unable to reach a decision without additional information it is within its remit to defer consideration of the review to a later meeting.

### **Stage 6: Issuing the Decision Notice**

- 3.39 Following the decision of the LRB on the review the planning adviser can be asked to draft a decision notice to properly reflect the decision of the LRB. The decision notice shall comprise the following:
- confirmation of the development details, site location and applicant details;
  - a statement confirming which development plan policies the LRB considered to be relevant in the determination of the review;
  - a statement confirming which material considerations the LRB considered to be relevant in the determination of the review;
  - the decision of the LRB and the reason/s for the decision;
  - any planning conditions attached to the decision if planning permission is granted; and
  - the applicants statutory rights to challenge the validity of the decision
- 3.40 Once the advisor has prepared the decision notice it will be issued on behalf of the Chair of the LRB. A copy of the decision notice will be reported to the next LRB for noting and all those interested parties that have made representations will be advised of the outcome.

- 3.41 A copy of the LRB decision will be placed on the planning authority planning register and made available for inspection online.

#### **4 Electronic Communication**

- 4.1 Wherever possible communication will be undertaken electronically. All documents connected to the LRB will be made available online and can be accessible by viewing the host planning file.

#### **5 Challenging the Validity of the Decision**

- 5.1 If the applicant is aggrieved by the decision of the planning authority (LRB) to refuse permission for the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision, the grounds for which require being on the basis of procedure, and cannot be on the planning merits of the case.

#### **6 Recommendations**

- 6.1 It is recommended that the Local Review Body (LRB) agrees:
- (i) the LRB administrative and procedural arrangements set out in this report;
  - (ii) to determine notices of reviews in accordance with the procedures; and
  - (iii) that a copy of these arrangements be placed on the Council's website, and be made otherwise readily available on request.

**Date:** 10 June 2022

**Report Contact:** Peter Arnsdorf - Planning, Sustainable Growth and Investment Manager

**Email:** peter.arnsdorf@midlothian.gov.uk



## **Notice of Review: Glencairn, 13 Waverley 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 a treehouse (retrospective) at Glencairn, 13 Waverley Road, Dalkeith.

#### **2 Background**

- 2.1 Planning application 21/00933/DPP for the erection of a treehouse (retrospective) at Glencairn, 13 Waverley Road, Dalkeith was refused planning permission on 8 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 8 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](http://www.midlothian.gov.uk)

#### **4 Procedures**

- 4.1 In accordance with agreed procedures the LRB:

- 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 of written submissions.
- 4.2 The case officer's report identified that there was one consultation response and no representations received. As part of the review process the interested party was notified of the review. One additional comment has been received raising concern over the prominent and unsightly nature of the development and its detrimental impact on the conservation area. 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 condition has been prepared for the consideration of the LRB if it is minded to uphold the review and grant planning permission.

A tree inspection shall be carried out by a suitably qualified arboriculturalist within three months of the date of decision to assess the condition of the two sycamore trees within which the treehouse is constructed. A report shall be submitted to the planning authority for review within six months of the date of decision, including details of any damage to the trees and their roots; likely effects on tree health as a result of construction (e.g. coach screws in trees, concrete foundations in Root Protection Area (RPA)); recommendations and timetable for re-

inspection. The planning authority shall then confirm if the treehouse is required to be removed (because it is causing damage to the stated trees) and the time period in which it shall be removed.

**Reason:** *To protect trees at the site which contribute to the character and visual amenity of the surrounding area.*

- 5.2 If the LRB dismisses the review, the treehouse will need to be removed. In this case the applicant will be asked to comply with this requirement within two months of the LRB decision. However, the failure to cease the unauthorised use will result in the Council having to consider issuing an enforcement notice to resolve the breach of planning control.

## **6 Recommendations**

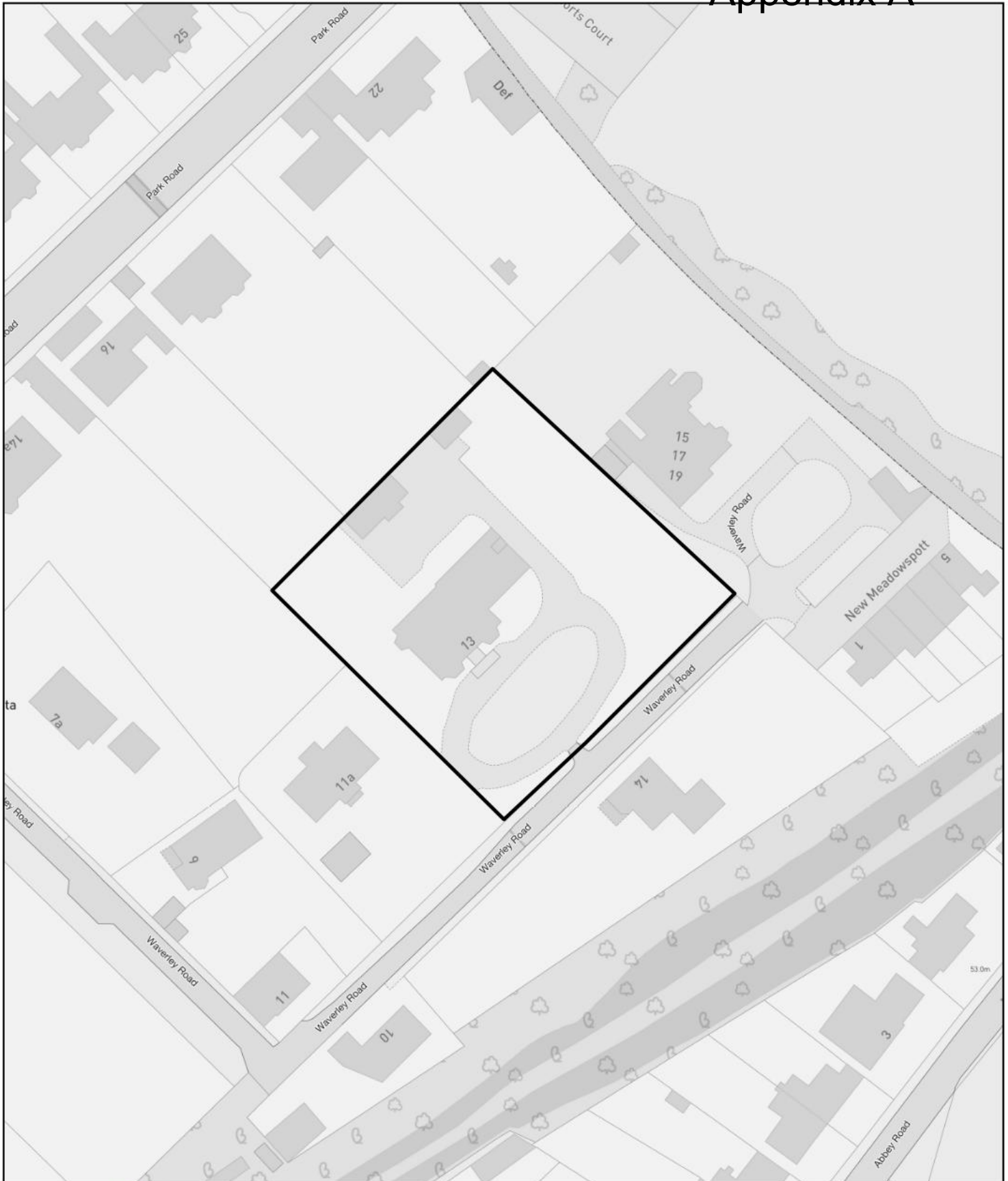
- 6.1 It is recommended that the LRB:
- a) determine the review; and
  - b) the planning advisor draft and issue the decision of the LRB through the Chair

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

**Date:** 10 June 2022  
**Report Contact:** Alison Ewing, Planning Officer  
[Alison.Ewing@midlothian.gov.uk](mailto:Alison.Ewing@midlothian.gov.uk)

**Background Papers:** Planning application 21/00933/DPP available for inspection online.





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

**Erection of treehouse (Retrospective) at Glencairn, 13  
Waverley Road, Dalkeith, EH22 3DG**

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Scale: 1:1,000  
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## NOTICE OF REVIEW

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

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

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

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

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

1. Applicant's Details		2. Agent's Details (if any)	
Title	<div>MR</div>	Ref No.	<div></div>
Forename	<div>CHRISTOPHER</div>	Forename	<div></div>
Surname	<div>SHAW</div>	Surname	<div></div>
Company Name	<div>NIA</div>	Company Name	<div></div>
Building No./Name	<div>13</div>	Building No./Name	<div></div>
Address Line 1	<div>WAVERLEY ROAD</div>	Address Line 1	<div></div>
Address Line 2	<div>ESKBANK</div>	Address Line 2	<div></div>
Town/City	<div>DALKEITH</div>	Town/City	<div></div>
Postcode	<div>EH22 3D9</div>	Postcode	<div></div>
Telephone	<div>NIA</div>	Telephone	<div></div>
Mobile	<div></div>	Mobile	<div></div>
Fax	<div>NIA</div>	Fax	<div></div>
Email	<div></div>	Email	<div></div>
<b>3. Application Details</b>			
Planning authority		<div>MIDLOTHIAN</div>	
Planning authority's application reference number		<div>21-00933-DPP</div>	
Site address			
<div>13 WAVERLEY ROAD, DALKEITH, EH22 3D9</div>			
Description of proposed development			
<div>ERECTION OF TREEHOUSE</div>			

Date of application

25/11/2021

Date of decision (if any)

8/2/2022

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

#### 4. Nature of Application

Application for planning permission (including householder application)



Application for planning permission in principle



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



Application for approval of matters specified in conditions



#### 5. Reasons for seeking review

Refusal of application by appointed officer



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



Conditions imposed on consent by appointed officer



#### 6. Review procedure

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

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

Further written submissions



One or more hearing sessions



Site inspection



Assessment of review documents only, with no further procedure



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

#### 7. Site inspection

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

Can the site be viewed entirely from public land?



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



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

## 8. Statement

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

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

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

Since the application decision the treehouse has been stained a darker colour, and together with other measures to disguise the treehouse, it is no longer visually intrusive, incongruous or out of character within the street scene. I believe it no longer has an adverse impact on the character and appearance of the Eskbank Conservation area. The tree house is only partially visible from the South West, and from the South East, it blends in with the foliage.

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.

No guidance was given prior to the decision regarding the choice of an acceptable appearance.



## 9. List of Documents and Evidence

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

2 x Photographs

13 Waverley road Treehouse South West View

13 Waverley road Treehouse South East View

These are the only public views of the Treehouse

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:

[Redacted Signature]

Name:

CHRISTOPHER SMITH

Date:

5th May 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.

## **MIDLOTHIAN COUNCIL**

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

**Planning Application Reference:** 21/00933/DPP

**Site Address:** Glencairn, 13 Waverley Road, Dalkeith EH22 3DG

#### **Site Description:**

The application site comprises the garden grounds of Glencairn, a large detached dwellinghouse, with associated outbuildings and generous garden ground. The main part of the house is three storey in height with stone walls, a slate roof and white painted timber sash and case windows. There is a single storey section to the side with a hipped roof and matching materials.

The house is B listed and the site is within the Eskbank and Ironmills Conservation Area.

#### **Proposed Development:**

Erection of treehouse (Retrospective)

#### **Proposed Development Details:**

Retrospective planning permission is sought for the erection of a treehouse to the principle boundary of the application site. The treehouse is 3.6m from the ground, and measures 1.75m by 2.28m. The treehouse has been erected in a Sycamore tree and is constructed in wood, and has a perspex sheet roof and features two perspex windows on the south-east and north elevations. There is a ladder and climbing wall which sits vertically up to the treehouse.

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

17/00235/LBC Installation of glazed canopy – Granted 2017

17/00236/DPP Installation of glazed canopy, formation of area of hardstanding and construction of planter (part retrospective) – Granted 2017

#### **Consultations:**

The **Eskbank & Newbattle Community Council** objects to the application. They have concerns that the structure is visually obtrusive and not sympathetic to the Conservation Area or the Category B Listed residence. They feel that the proposals do not enhance or preserve the character and appearance of the conservation area with inexpensive choice of materials.

#### **Representations:**

None received.

#### **Relevant Planning Policies:**

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 places a duty on planning authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

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

DEV2 - Protecting amenity within the built-up area - seeks to protect the character and amenity of the built-up area.

ENV 19 - Conservation Areas - seeks to preserve or enhance the character and appearance of conservation areas.

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.

It is noted that policy DP6 House Extensions, from the now superseded 2008 Midlothian Local Plan, set out design guidance for new extensions requiring that they are well designed in order to maintain or enhance the appearance of the house and the locality. The policy guidelines contained in DP6 also relate to size of extensions, materials, impact on neighbours and remaining garden area. It also states that front porches to detached or semi-detached houses are usually acceptable provided they project less than two metres out from the front of the house. It also allowed for novel architectural solutions. The guidance set out within this policy has been successfully applied to development proposals throughout Midlothian and will be reflected within the Council's Supplementary Guidance on Quality of Place which is currently being drafted.

### **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.

The treehouse is located to the principal boundary of the application property, along Waverley Road. Located at an elevated level the development is visually intrusive to the street scene and unduly prominent as viewed from Waverley Road and the surrounding conservation area. The proposal appears out of place on the principal elevation of the site, uncharacteristic of the surrounding area and appearing incongruous within the street scene. The situation is not helped by the light colour of the timber walls of the treehouse. The applicant has verbally indicated that they would be willing to paint the treehouse a different colour. However it would still appear as an incongruous feature along the site frontage in the conservation area.

The treehouse fails to preserve or enhance the character or appearance of the conservation area resulting in a significant adverse impact on the character and appearance of the conservation area, which is contrary to policies ENV19 and DEV2 of the adopted Midlothian Local Development Plan.

Set some distance from the house the treehouse will not have a significant impact on the setting of the listed building.

Together with numerous other mature trees in the immediately surrounding area, the two sycamore trees contribute to the local character of the Eskbank and Ironmills Conservation Area at Waverley Road. From observations undertaken at site visit, the sycamore trees which have been used to construct the treehouse appear generally in good condition with no obvious signs of damage or recent pruning works that may be associated with erection of the tree house. An email was sent to the applicant on 21<sup>st</sup> December 2021 requesting further information on the fastening techniques used to build to tree house. It was confirmed by the applicant that the treehouse is fixed to the tree using Turbo Coach Screws, with the associated climbing frame concreted into the ground at a depth of around 600mm.

Given the condition and mature size of the trees, any damage caused by the coach screws that were used in the construction is unlikely to be detrimental. There is concern with the potential damage or severance of roots in the root protection area of the tree caused by the ground fixings, which have the potential to affect the long term health of the tree. Should permission have been granted for this application, it would have been accompanied by a condition to ensure that the health of the tree is monitored periodically.

To allow the erection of a structure of the size and design proposed would set an undesirable precedent for other similar structures in the area.

The treehouse may result in some level of increased overlooking to the garden of the property to the east of the application site, however given the separation distance between the dwellings this is not considered to be significant.

Sufficient garden area remains after the erection of the treehouse.

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. Therefore, it is recommended that the application is refused.

**Recommendation:**

Refuse planning permission

Enforcement action is recommended to secure removal of the treehouse.

# Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

**Reg. No. 21/00933/DPP**

Mr Christopher Shaw  
Glencairn  
13 Waverley Road  
Eskbank  
EH22 3DG

Midlothian Council, as Planning Authority, having considered the application by Mr Christopher Shaw, Glencairn, 13 Waverley Road, Eskbank, EH22 3DG, which was registered on 25 November 2021 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

## **Erection of treehouse (Retrospective) at Glencairn, 13 Waverley Road, Dalkeith, EH22 3DG**

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

<u>Document/Drawing.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	3.01 1:1250	25.11.2021
Landscaping Plan	1:200	25.11.2021
Illustration/Photograph	North View	25.11.2021
Illustration/Photograph	South East View	25.11.2021
Illustration/Photograph	South View	25.11.2021
Illustration/Photograph	South West View	25.11.2021
Other Statements – Treehouse Information		25.11.2021

The reason(s) for the Council's decision are set out below

*The treehouse, located on the principal street elevation, is visually intrusive and is uncharacteristic of the surrounding area and appears incongruous within the street scene resulting in a significant adverse impact on the character and appearance of this part of the Eskbank and Ironmills Conservation Area, contrary to policies ENV19 and DEV2 of the adopted Midlothian Local Development Plan 2017.*

Dated 8 / 2 / 2022



.....

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](mailto:planningconsultation@coal.gov.uk)  
Website: [www.gov.uk/coalauthority](http://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).

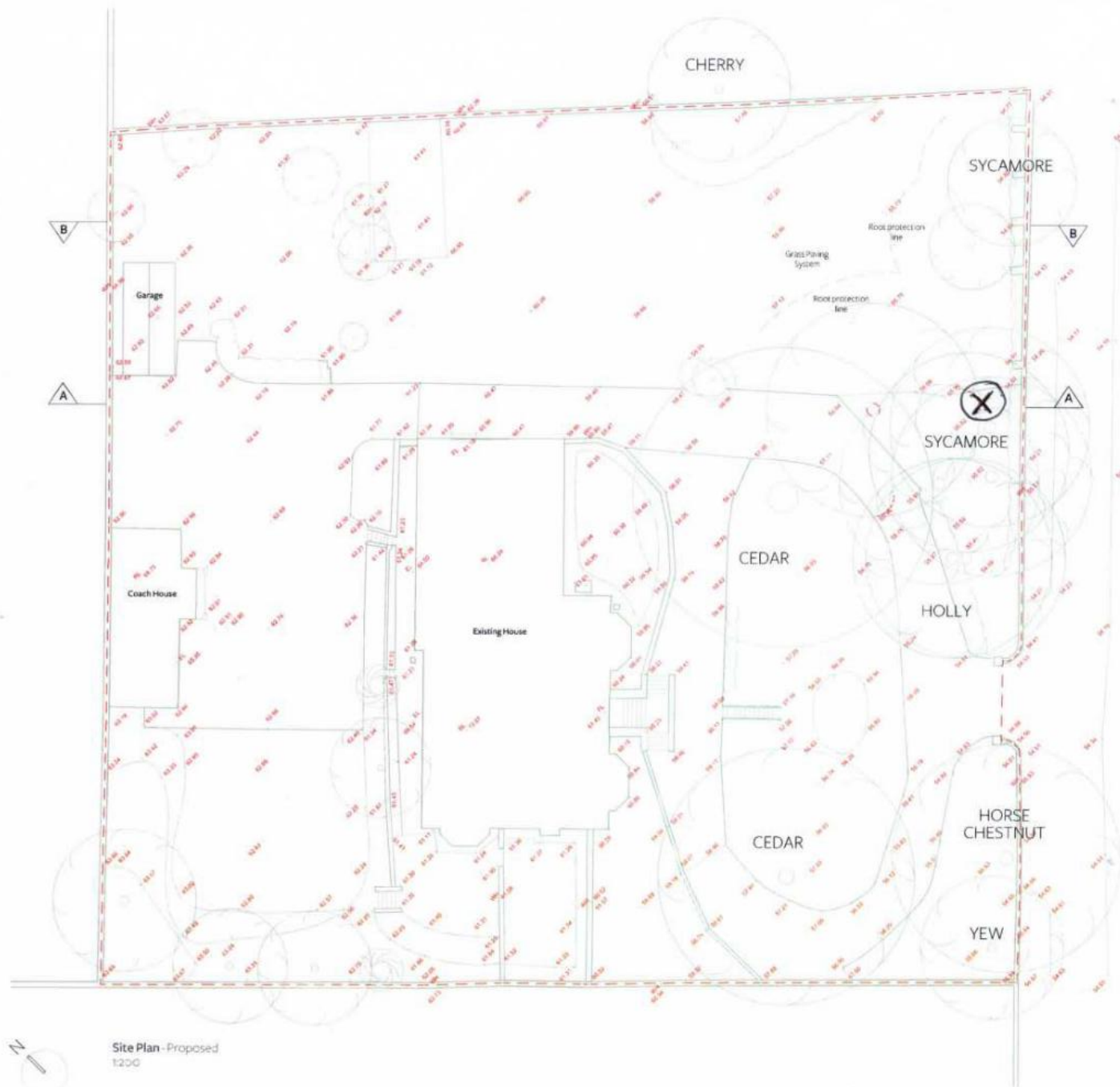
Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant land stability and public safety risks. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry 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](http://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](http://www.gov.uk/government/organisations/the-coal-authority)

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

# Appendix E



LOCATION OF THE TREEHOUSE





VIEW FROM THE NORTH  
(GLENCAIRN GARDEN)











VIEW FROM THE  
SOUTH EAST  
(WAVERLET ROAD)

## **Notice of Review: 38 Lawrie Terrace, Loanhead**

### **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 change of use of former storage building to church/place or worship (retrospective) at 38 Lawrie Terrace, Loanhead.

#### **2 Background**

- 2.1 Planning application 21/00727/DPP for the change of use of former storage building to church/place or worship (retrospective) at 38 Lawrie Terrace, Loanhead was refused planning permission on 1 December 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 1 December 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](http://www.midlothian.gov.uk)

#### **4 Procedures**

- 4.1 In accordance with agreed procedures the LRB:

- 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 of written submissions.
- 4.2 The case officer's report identified that there were two consultation responses and three representations received. As part of the review process the interested parties were notified of the review. One additional comment has been received complaining about noise generated by the use of the building. 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 The nature of the proposal is such that it is considered that no conditions would be required if the LRB is minded to grant planning permission.
- 5.2 If the LRB dismisses the review, the use of the building as a church/place of worship will need to cease. In this case the applicant will be asked to comply with this requirement within two months of the LRB decision. However, the failure to cease the unauthorised use will result in the Council having to consider issuing an enforcement notice to resolve the breach of planning control.



## **6 Recommendations**

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

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

**Date:** 10 June 2022  
**Report Contact:** Mhairi-Anne Cowie, Planning Officer  
[Mhairi-Anne.Cowie@midlothian.gov.uk](mailto:Mhairi-Anne.Cowie@midlothian.gov.uk)

**Background Papers:** Planning application 21/00727/DPP available for inspection online.



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

Change of use of former storage building to church / place of worship (retrospective) at 38 Lawrie Terrace, Loanhead, EH20 9AR

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File No: 21/00727/DPP

Scale: 1:650

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

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

Thank you for completing this application form:

ONLINE REFERENCE 100464399-013

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

## Applicant or Agent Details

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

☒ Applicant ☐ Agent

## Applicant Details

Please enter Applicant details

Title:	<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="Broughton Place Lane"/>
First Name: *	<input type="text" value="Stuart"/>	Building Number:	<input type="text" value="12"/>
Last Name: *	<input type="text" value="Howgate"/>	Address 1 (Street): *	<input type="text" value="12 Broughton Place Lane"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text" value="0131 271 3302"/>	Town/City: *	<input type="text" value="Edinburgh"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Midlothian"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="EH1 3RS"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="stuart.howgate@midlothian.gov.uk"/>		

## Site Address Details

Planning Authority:

Midlothian Council

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

Address 1:

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

Post Code:

Please identify/describe the location of the site or sites

Storage/Workshop Unit 38-40 Lawrie terrace Loanhead EH20 9AR

Northing

Easting

## 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)

The change of use to a small Church/place of worship/Community Centre [retrospective] at 38 Lawrie Terrace Loanhead EH20 9AR. Planning Application 21/00272/DP

## 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.

Refusal on two grounds: 1. "Risk to road safety as increase of vehicle accessing the site through a small/constrained car park". Appealed because there is no vehicular parking or access permitted, only pedestrian access through communal areas. On-street parking sufficient. 2. "Adverse effect/impact on amenity". The tenants have actioned a Professional Acoustic Report and all works associated with it was only just completed by 22/11/2021. Neighbours welcomed the report and the actions taken.

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)

There is no legal vehicular access permitted to this building other than for dropping off or collection, nor is there car parking permitted in the rear other than for owners of all the properties, therefore only pedestrian access is used. This is adhered to and accepted. The conditions of the first refusal have also been actioned in accordance with all the three recommendations by the EH Acoustics Report, a professional body - see attached information.

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 to follow

## Application Details

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

21/00727/DPP

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

30/09/2021

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

30/11/2021

## 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

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)

Non.

## 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 Howgate

Declaration Date: 28/02/2022

GROUNDNS FOR REVIEW AGAINST THE REFUSAL NOTICE FOR

**PLANNING APPLICATION NOTICE [21/00272/DPP]**

**1. “Amenity of the occupants of the residential properties to the north”.**

On the request of neighbours and as supported with the evidence submitted within the original application, the recommendations as directed by EH Acoustics on this building [see supporting statements] were completed on 30/11/22. If complied fully, and the drums removed, this would meet standards.

These works were only been completed on 30/11/2021 – during the time this application was considered. The Environmental Officer considered the information and these mitigation works, if the officer still had concerns over noise, then surely a visit to inspect and review since would be a balanced way forward before determination.

A site meeting is proposed with the Review Board to inspect the premises as part of this request.

**2. “Intensification in the number of vehicles accessing the site through a small and constrained carpark”.**

No-one uses or is permitted to use the vehicular access other than the property owners through Legal Disposition.

The carpark is restricted for owners /residents only, pedestrian access is permitted through the communal areas. Those who arrive by car park along the unrestricted parking along Lawrie Terrace. Supporting evidence is available, although again a site meeting would clarify.

Salem is a Religious Charity who have given a source of support to local families through their activities. There have been complaints of noise at times, however they have engaged specialists, specialists who survey Churches for sound reduction measures, and taken the mitigation steps recommended.

Having carried out all the works required , we would like the Local Review Body to review determine for themselves.



## MIDLOTHIAN COUNCIL

### DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

**Planning Application Reference:** 21/00727/DPP

**Site Address:** 38 Lawrie Terrace, Loanhead.

**Site Description:** The application site comprises a single storey, flat roofed detached building positioned to the rear of residential properties on Lawrie Terrace. There is a single track driveway to the west of the properties at Lawrie Terrace and a pedestrian path to the east of these. The flatted properties at Lawrie Terrace are to the north with the parking serving these properties to the east and residential properties to the west and south. The flats at Lawrie Terrace were historically used as a shop and the building at site was associated storage. The site is in a predominantly residential area comprising two storey four-in-a-blocks, flats and semi-detached houses.

**Proposed Development:** Change of use of former storage building to church / place of worship (retrospective).

**Proposed Development Details:** The applicant confirmed the Church operates on Sundays, beginning at 11am with a Sunday School for children for approximately 40 minutes, followed by a service for adults that lasts approximately an hour but can be longer, with meetings taking place after this. There can also be services on Fridays where the site is used as a studio with only two people attending and streaming these online. Events can include classes, a place to meet, worship, sermons, individual groups singing, charity raising as well as invited preachers, singers and speakers. The maximum number of people in site at any one time is restricted to 60, with approximately 30 people usually attending on Sundays, although more attend at Christmas times and for other special services. People who attend either arrive by bus or park on Lawrie Terrace. There is amplified music played at times and a noise report has been submitted responding to noise complaints from this use. This suggests works to mitigate noise from the building and makes reference to an acoustic drumkit and other instruments. The Church has a small local congregation. The plans show the pedestrian and vehicular access as communal access to the site.

**Background (Previous Applications, Supporting Documents, Development Briefs):** Application site and flats to the north

0059/95/FUL Change of use and alterations to retail shops to form five flats. Consent with conditions – reference was made to the current site as an ‘existing store’ under separate ownership to the application. No proposals related to this.

**Consultations:**

The Council’s **Policy and Road Safety Manager** has no objection and notes that they are not aware of any transportation or road safety issues arising from this use.

The Council's **Environmental Health Manager** has serious concerns over the change of use due to noise nuisance to nearby residential properties. They have received numerous noise complaints about this use from amplified music and singing. The submitted noise report showed a significant level of noise. The building is not suitable or design for such a use and the mitigation measures in the noise report would not adequately address these noise concerns and complaints. They recommend the application be refused on these grounds.

**Representations:** Three objections have been submitted on the following grounds:

- The use has been in place for three years;
- Impact on privacy to nearby residents;
- The use stops local residents using their gardens;
- Noise causes nuisance to nearby occupants. This has resulted in complaints to the Council's Environmental Health team and the police;
- Parking is on The Loan which is a very busy road and not the area to the rear;
- Visitors to the church park in the spaces for the residents of Lawrie Terrace;
- The site was previously a wedding studio not a storage building;
- New doors have been fitted without approval;
- A sign has been erected at the road entrance without approval; and
- Abuse from visitors to the church to local residents.

One states that they would not have bought their property had they known this would operate as a church.

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

**DEV2 Protecting Amenity within the Built-Up Area** states development will not be permitted where it is likely to detract materially from the existing character or amenity of the area; and

**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.

**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.

The application site has an unusual relationship to the surrounding area as it is fully enclosed by residential properties. It appears to have been a store related to the previous retail uses in the building to the north, however this did not form part of the application when these were changed to flats. This remained as a store. The proposed use as a church/place of worship has begun on site.

Due to this location and proposed use, there is potential for this to have a detrimental impact on the amenity of nearby residents, particularly those living in the building to the north. This is through noise, impact on privacy and road safety.

The proposed use regularly involves around 30 people attending the site on a weekly basis, but this could be as high as 60.

The site is accessed from Lawrie Terrace from a pedestrian path and a single track driveway to either side of the building. This is through the car parking for these properties and along the backs of their gardens. These gardens are bound by either 1 metre or 1.8 metre high fences. Due to the ground levels of the area, the windows on the rear elevations are clearly visible over these fences from the parking to the rear. This means the privacy of these occupants will be significantly detrimentally affected by people accessing the site. Also, the only access door into the application site is less than 2 metres from the garden boundary of the nearest house, which has a 1 metre high boundary fence. The privacy and amenity of the occupants of this house is significantly affected by this use as any people accessing the site will directly overlook their garden and have views into their house.

Also the surrounding properties are affected by noise from the site and the Environmental Health Manager has confirmed that they have received noise complaints. The type of use in such close proximity to residential properties, with amplified music and singing, in a building not suitable for this type of use and without potential for adequate measures to mitigate this noise to an acceptable level causes significant noise to neighbouring properties. Also there is potential for noise and disturbance to these nearby residential properties from people accessing and leaving the site making noise.

Objectors have states that users of the church/place of worship park in the spaces by the site which are private parking for the residential units at Lawrie Terrace. There is a sign at the vehicular entrance to the site advertising the proposed use and requests people park at the roadside, however it is not unexpected that visitors may park at the car park by the site. The Policy and Road Safety Manager has not received any complaints of road safety to date and so have no objection. However the planning authority is concerned over road safety not only from people parking in residents' spaces, but also residents using their parking spaces when the church/place of worship is in use, as there would be a conflict of vehicles and up to 60 people in a small area.

The following addresses objectors' comments not addressed above.

Whilst new doors may have been fitted at the site which need planning permission, if planning permission is approved for the use as proposed, a further application will be followed up if it is considered in the public interest.

The sign by the road entrance is likely to be removed if planning permission is refused as this will no longer be necessary.

Abuse from visitors to the church to local residents would be a matter for the police rather than something the planning authority.

**Recommendation:** Refuse planning permission.

**Reg. No. 21/00727/DPP**

Howgate Property Ltd  
Rear Unit  
38-40 12 Broughton Place Lane  
Edinburgh  
EH20 9AR

Midlothian Council, as Planning Authority, having considered the application by Howgate Property Ltd, Mr Stuart Howgate, Rear Unit , 38-40 12 Broughton Place Lane, Edinburgh, EH20 9AR, which was registered on 30 September 2021 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

**Change of use of former storage building to church / place of worship (retrospective) at 38 Lawrie Terrace, Loanhead, EH20 9AR**

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

<u>Document/Drawing.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan		30.09.2021

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

- 1. The use of the site as a church/place of worship would result in a significant adverse impact on the privacy and amenity of the occupants of the residential properties to the north.*
- 2. The use of the site as a church/place of worship would result in a risk to road safety with regards to the intensification in the number of vehicles accessing the site through a small and constrained car park.*
- 3. For the above reasons, the proposal does not comply with policy DEV2 of the adopted Midlothian Local Development Plan 2017*
- 4. The use of the site as a church/place of worship would have a significant detrimental impact on the amenity of nearby residents as a result of noise and disturbance and so does not comply with policies DEV2 and ENV18 of the adopted Midlothian Local Development Plan 2017.*

Dated 01/12/2021



.....  
Peter Arnsdorf  
Planning, Sustainable Growth and Investment Manager  
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](mailto:planningconsultation@coal.gov.uk)

Website: [www.gov.uk/coalauthority](http://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](http://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries)

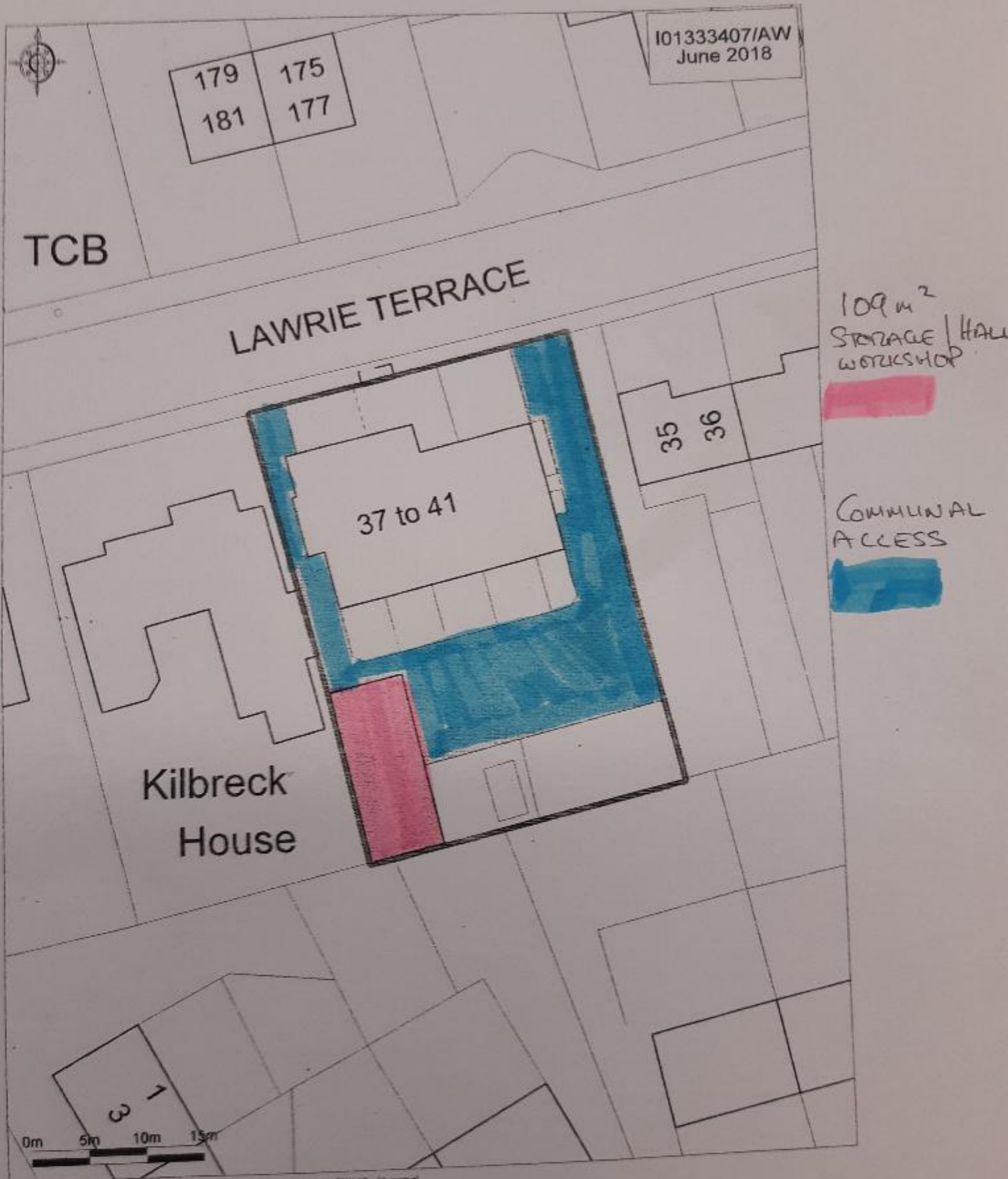
Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, excavations for foundations, piling activities, other ground works and any subsequent 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](http://www.gov.uk/government/organisations/the-coal-authority)

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







## **Notice of Review: 12 Dryden Terrace, Loanhead**

### **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 extension of roof at 12 Dryden Terrace, Loanhead.

#### **2 Background**

- 2.1 Planning application 21/01024/DPP for the extension of roof at 12 Dryden Terrace, Loanhead was refused planning permission on 8 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 8 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](http://www.midlothian.gov.uk)

#### **4 Procedures**

- 4.1 In accordance with agreed procedures the LRB:
- 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 of written submissions.

- 4.2 The case officer's report identified that there were no consultations required and no representations received. No comments have been received.
- 4.3 The next stage in the process is for the LRB to determine the review in accordance with the agreed procedure:
- Identify any provisions of the development plan which are relevant to the decision;
  - Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies;
  - Consider whether or not the proposal accords with the development plan;
  - Identify and consider relevant material considerations for and against the proposal;
  - Assess whether these considerations warrant a departure from the development plan; and
  - State the reason/s for the decision and state any conditions required if planning permission is granted.
- 4.4 In reaching a decision on the case the planning advisor can advise on appropriate phraseology and on appropriate planning reasons for reaching a decision.
- 4.5 Following the determination of the review the planning advisor will prepare a decision notice for issuing through the Chair of the LRB. A copy of the decision notice will be reported 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 The nature of the proposal is such that it is considered that no conditions would be required if the LRB is minded to grant planning permission.

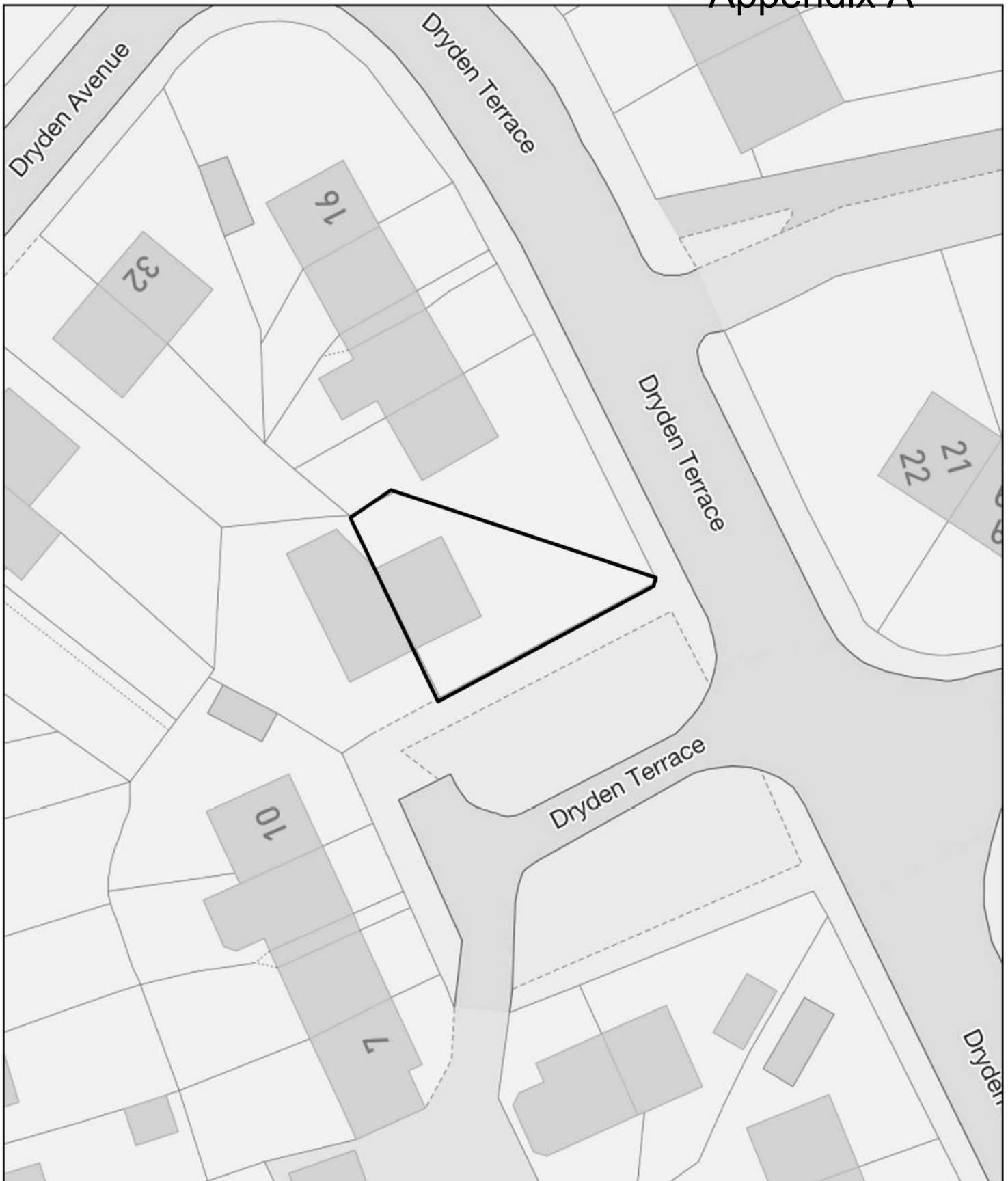
## **6 Recommendations**

- 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:** 10 June 2022  
**Report Contact:** Ingrid Forteath, Planning Officer  
[Ingrid.Forteath@midlothian.gov.uk](mailto:Ingrid.Forteath@midlothian.gov.uk)

**Background Papers:** Planning application 21/01024/DPP available for inspection online.



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

Extension of roof at 12 Dryden Terrace, Loanhead, EH20 9JN

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File No: 21/01024/DPP

Scale: 1:400

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

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

Thank you for completing this application form:

ONLINE REFERENCE 100548549-001

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="Suzanne McIntosh Planning Limited"/>		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	<input type="text" value="Suzanne"/>	Building Name:	<input type="text"/>
Last Name: *	<input type="text" value="McIntosh"/>	Building Number:	<input type="text" value="45C"/>
Telephone Number: *	<input type="text" value="07792230979"/>	Address 1 (Street): *	<input type="text" value="Bath Street"/>
Extension Number:	<input type="text"/>	Address 2:	<input type="text" value="Portobello"/>
Mobile Number:	<input type="text"/>	Town/City: *	<input type="text" value="Edinburgh"/>
Fax Number:	<input type="text"/>	Country: *	<input type="text" value="United Kingdom"/>
		Postcode: *	<input type="text" value="EH15 1HB"/>
Email Address: *	<input type="text" value="smcintoshplan@gmail.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"/>
First Name: *	<input type="text" value="Steven"/>	Building Number: <input type="text" value="12"/>
Last Name: *	<input type="text" value="Quinn"/>	Address 1 (Street): * <input type="text" value="Dryden Terrace"/>
Company/Organisation	<input type="text"/>	Address 2: <input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: * <input type="text" value="Loanhead"/>
Extension Number:	<input type="text"/>	Country: * <input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: * <input type="text" value="EH20 9JN"/>
Fax Number:	<input type="text"/>	
Email Address: *	<input type="text" value="REDACTED"/>	

## 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="12 DRYDEN TERRACE"/>
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="LOANHEAD"/>
Post Code:	<input type="text" value="EH20 9JN"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="665426"/>	Easting	<input type="text" value="327298"/>
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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)

Refusal of a local application for an 'extension to the roof'

## 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.

A Grounds of Review Statement is provided separately

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)

All documents lodged with the application, the drawings for the same proposal at another address in Loanhead and the Grounds for Review

## Application Details

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

21/01024/DPP

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

23/12/2021

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

08/02/2022

## 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

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: Mrs Suzanne McIntosh

Declaration Date: 29/03/2022

# GROUNDS FOR REVIEW

## TO THE LOCAL REVIEW BODY

### AGAINST REFUSAL OF A LOCAL PLANNING APPLICATION

21/001024/DPP – Extension to Roof at 12 Dryden Terrace, Loanhead, EH20 9JN

Appellant: Mr Steven Quinn

Agent on the Application: David Paton Building Consultancy

#### Introduction:

The application was for an alteration to the roof in this semi-detached property to provide an additional bedroom for the family.

Planning Permission was refused on 8.2.22 under powers delegated to the officer for the following reasons:

- 1. The proposed roof extension is unsympathetic to, and would detract from, the symmetrical form of the building of which the application property forms one half.*
- 2. The proposed roof extension will appear incongruous and detract from the visual amenity of the immediately surrounding area.*
- 3. For the above reasons the proposal is contrary to policy DEV2 of the adopted Midlothian Local Development Plan 2017 which seeks to protect the character and amenity of the built-up area*

#### Material Considerations:

S25 of the Town and Country Planning (Scotland) Act 1997 (as amended) requires the council to take their decision in line with the development plan unless material considerations indicate otherwise.

The relevant policy in the development plan is DEV 2 (Development within the Built Up Area) Midlothian LDP 2017 which states that: *'Development will be permitted within existing and future built-up areas and in particular within residential areas, unless it is likely to detract materially from the existing character of amenity of the area.'*

This is not quite the same as the way in which it is related by the officer in their report of handling. Their assumption, strangely, is conveyed in the negative – they say the development will not be supported etc...but that is not what the policy says. It is also certainly not what the Scottish Planning Policy (SPP) says in terms of the presumption in favour of development. There is quite a substantial difference in interpretation of the development management today compared to the situation in 2008 which the officer refers to.

The application by the officer of clearly out of date policy and guidance from 2008, some 14 years old, is entirely irrelevant to the case and worryingly for members – wherever else they are applying them. They have essentially misdirected themselves in applying these as tests to this proposal. The appellant, if had been appealing to the Reporter at DPEA, would be making a claim for expenses relating to this appeal on that point alone as it amounts to maladministration in the process. However, one of the shortcomings of the LRB process is that no claim for expenses can be made.

To the matters in hand the applicant has lodged a well designed solution to their growing family needs, produced by a competent, accredited local firm of professional designers. The proposal as members will see on the drawings is a good design solution, within the parameters of the existing building footprint, it is not incongruous, overbearing or a garish to the eye. It is the type of proposal the council should be supporting...and indeed have supported this year. Planning application 21/00602/DPP at 13 Hunter Terrace for exactly the same proposal was approved. The lack of consistency and rigor in the application of policy, consideration of applications or decision making between officers is frankly astounding.

This proposal represents a novel architectural solution to a problem; indeed – as it is described in the Hunter Terrace proposal for the exact same alteration to the same property type, by the officer in that case. There will be no adverse impact on neighbours or the street scene.

The approach taken to extending the roof of the application dwelling respects the scale, form and design of the application property. The proposed roof extension will read as an ancillary addition to the application dwelling. The extension to the roof is to be finished in materials that reflect the design approach and application dwelling so as to ensure the proposal will not visually read an alien addition. Overall, the proposed extension to the roof will not result in an adverse impact upon the application dwelling or area.

The proposed extension to the roof includes a single window within the newly formed gable end; the window looks to serve the stair, not a room. The proposed roof extension will not result in significant overlooking when compared to the existing situation.

Overall, the proposed roof extension will not result in a harmful loss of amenity due to the siting, scale and design along with the separation distance from neighbouring properties.

## Conclusion

The matters relevant in the determination of this appeal are set out above and in the drawing pack lodged to the LRB.

The LRB of the council is requested to overturn the decision of the officer and grant planning permission for this sympathetic extension to the property.

*Suzanne C McIntosh MRTPI HonFRIAS*

*Suzanne McIntosh Planning Limited in association with David Paton Building Consultancy*



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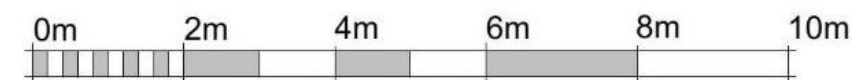


- Materials used
1. Gable wall with composite cladding
  2. Roofing tiles to match existing
  3. Gutter/fascia/soffit
  4. Window/Velux Rooflight
  5. Tile vents

03 Loft Level  
5610

02 First Floor Level  
2880

01 Ground Floor Level  
0



VISUAL SCALE 1:100 @ A3

**APPROVED**  
**21.00602.DPP**  
**09.09.2021**

**North Elevation Proposed**

1 : 100

**South Elevation Proposed**

1 : 100

03 Loft Level  
5610

02 First Floor Level  
2880

01 Ground Floor Level  
0

**East Elevation Proposed**

1 : 100

**3D Proposed**

**Alan Hardie Architect**

5 Mitchell Street, Dalkeith, EH22 1JQ  
m. 07706 270072 e. alan@alanhardie.co.uk  
w. www.alanhardie.co.uk

No dimensions for construction to be scaled from this drawing, refer to figured dimensions only. Any discrepancies to be referred to the architect. This drawing to be read in conjunction with relevant engineer's drawings and specifications. Structural & services information is indicative. Alan Hardie Architect owns the copyright for this drawing which should not be reproduced in any form without written permission.

Client

Chris & Aisling Nicholls

Project

Loft Conversion  
13 Hunter Terrace,  
Loanhead EH20 9SJ

**PROPOSED ELEVATIONS**

Project number	2021-037A	Drawing number	Revision
Date	June 2021	A(03)002	A
Drawn by	AH		
Status	PLANNING	Scale 1 : 100	Size A3

Rev Description

A Updated to Planning status  
0 Initial Issue

Date

12.07.2021  
06.07.2021



## **MIDLOTHIAN COUNCIL**

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

**Planning Application Reference:** 21/00602/DPP

**Site Address:** 13 Hunter Terrace, Loanhead

**Site Description:**

The application site comprises of a two storey semi-detached dwelling located within a primarily residential area. The application dwelling has a hipped roof with a gable feature to the front elevation. The application dwelling is finished in a dry dash render with dark brown profiled tile roof and white uPVC windows.

The side and rear garden ground is fully enclosed by a combination of timber fencing and hedging. To the eastern side of the application dwelling and garden ground is a small vehicle turning head which also provides access to the driveway for the application dwelling and neighbouring dwelling, no.11 Hunter Terrace, beyond the turning head is the garden ground and side elevation of neighbouring dwelling no. 11 Hunter Terrace.

**Proposed Development:** Extension of roof.

**Proposed Development Details:**

Planning permission is sought for the erection of a pitched roof extension to the eastern hipped end of the existing roof of the application dwelling.

The ridge of the pitched roof extension is set down approximately 0.3 metres from the main roof ridge and projects approximately 3.9 metres from the roof plane when measured from the highest point. The proposed roof extension measures approximately 3.5 metres in height from the existing eaves to the proposed ridge.

The gable end of the proposed roof extension is to be finished in a composite cladding and will contain a single window. The roof is to be finished in tiles to match the main dwelling.

The submitted plans also include the installation of two rooflights; one within the rear roof plane and one within the front roof plane. It is noted that the installation of rooflights are deemed as permitted development and do not require the benefit of planning permission.

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

No relevant planning history.

**Consultations:** No consultations required.

**Representations:** No representations received.

**Relevant Planning Policies:**

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.

It is noted that policy DP6 House Extensions, from the now superseded 2008 Midlothian Local Plan, set out design guidance for new extensions requiring that they are well designed in order to maintain or enhance the appearance of the house and the locality. The policy guidelines contained in DP6 also relate to size of extensions, materials, impact on neighbours and remaining garden area. It also allowed for novel architectural solutions. The guidance set out within this policy has been successfully applied to development proposals throughout Midlothian and will be reflected within the Council's Supplementary Guidance (SG) on Quality of Place which is currently being drafted.

**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.

The approach taken to extending the roof of the application dwelling respects the scale, form and design of the application property. The proposed roof extension will read as an ancillary addition to the application dwelling. The extension to the roof is to be finished in materials that reflect the design approach and application dwelling so as to ensure the proposal will not visually read an alien addition. Overall, the proposed extension to the roof will not result in an adverse impact upon the application dwelling or area.

The proposed extension to the roof includes a single window within the newly formed eastern gable end; the window looks to serve the stair/hall. The eastern side elevation is approximately 18 metres away from the western side elevation of neighbouring dwelling no.11 Hunter Terrace which contains a window at first floor level which serves a stair/hall and a window and half glazed door at ground floor level which serve a kitchen. The eastern side elevation of the application dwelling also contains a window at first floor level which serves a stair/hall and a window and half glazed door at ground floor level which serve a kitchen. The proposed roof extension will not result in significant overlooking as compared to the existing situation.

Overall, the proposed roof extension will not result in a harmful loss of amenity due to the siting, scale and design along with the separation distance from neighbouring properties.

Overall, all relevant matters have been taken into consideration in determining this application. It is considered that the proposal accords with the principles and policies of the adopted Midlothian Local Development Plan 2017 and is acceptable in terms of all other applicable material considerations. Therefore, it is recommended that the application is approved.

**Recommendation:** Grant planning permission.

# Planning Permission

Town and Country Planning (Scotland) Act 1997

**Reg. No. 21/00602/DPP**



Alan Hardie Architect  
5 Mitchell Street  
DALKEITH  
EH22 1JQ

Midlothian Council, as Planning Authority, having considered the application by Mr Chris Nicholls, 13 Hunter Terrace, Loanhead, EH20 9SJ, which was registered on 16 July 2021, in pursuance of their powers under the above Acts, hereby grant permission to carry out the following proposed development:

## **Extension of roof at 13 Hunter Terrace, Loanhead, EH20 9SJ**

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

<u>Document/Drawing.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	(00)001 1:1250	16.07.2021
Existing Floor Plans	A(01)001 Rev A 1:50	16.07.2021
Proposed Floor Plans	A(01)002 Rev A 1:50	16.07.2021
Proposed Floor Plan	A(01)003 Rev A 1:50 LOFT	16.07.2021
Existing Elevations	A(03)001 Rev A 1:50	16.07.2021
Proposed Elevations	A(03)002 Rev A 1:50	16.07.2021

This permission is granted for the following reason:

*The development will not have an adverse impact on the character of the area or on the amenity of neighbouring land and buildings and therefore complies with policy DEV2 of the adopted Midlothian Local Development Plan.*

Dated 9 / 9 / 2021

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

## MIDLOTHIAN COUNCIL

### DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

**Planning Application Reference:**21/001024/dpp

**Site Address:** 12 Dryden Terrace, Loanhead

**Site Description:**

The application property comprises a semi-detached two storey dwellinghouse and its associated garden located within a residential area. The building has a hipped roof finished in small scale weathered roof tiles (possibly rosemary roof tiles) with drydash render on the walls and white upvc window frames. Houses in the immediately surrounding area are characterised by hipped roofs.

**Proposed Development:**

Extension of roof

**Proposed Development Details:**

It is proposed to form a pitched roof with a gable end at the east side of the existing hipped roof with its ridge at a lower level than the existing ridge and also set back from the existing front and rear roof planes. Materials are to match existing.

Two rooflights are proposed at the rear of the existing house. These constitute permitted development in terms of class 2B of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992.

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

History sheet checked.

**Consultations:**

None required.

**Representations:**

None received.

**Relevant Planning Policies:**

The relevant policy of the **Midlothian Local Development Plan 2017** is;

DEV2 – Protecting amenity within the built-up area - seeks to protect the character and amenity of the built-up area.

It is noted that policy DP6 House Extensions, from the now superseded 2008 Midlothian Local Plan, set out design guidance for new extensions requiring that they are well designed in order to maintain or enhance the appearance of the house and the locality. The policy guidelines contained in DP6 also relate to size of extensions,

materials, impact on neighbours and remaining garden area. It also states that front porches to detached or semi-detached houses are usually acceptable provided they project less than two metres out from the front of the house. It also allowed for novel architectural solutions. The guidance set out within this policy has been successfully applied to development proposals throughout Midlothian and will be reflected within the Council's Supplementary Guidance on Quality of Place which is currently being drafted.

**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.

The proposed alterations to the roof will significantly alter the form of the roof and the symmetrical form of the existing building. The proposed roof extension is unsympathetic to and would detract from the appearance of the building which is characterised by its symmetrical form. It would also appear incongruous and detract from the visual amenity of the surrounding area which is characterised by residential properties with hipped roofs.

No. 13 Dryden Terrace which is around the corner from the application property has a hall window at ground and first floor on the side elevation facing the application property and a door leading in to an internal vestibule. The nearest window at ground floor on the rear elevation at this property is set off the boundary. The extension will not be overbearing to the outlook from or have a significant impact on daylight or sunlight to this property.

**Recommendation:**

Refuse planning permission



**Reg. No. 21/01024/DPP**

David Paton Building Consultancy  
13 High Street  
Loanhead  
EH20 9RH

Midlothian Council, as Planning Authority, having considered the application by Mr Steven Quinn, 12 Dryden Terrace, Loanhead, EH20 9JN, which was registered on 23 December 2021 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

**Extension of roof at 12 Dryden Terrace, Loanhead, EH20 9JN**

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

<u>Document/Drawing.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Elevations, Floor Plan And Cross Section	Ex1 1:1250 1:50	23.12.2021
Elevations, Floor Plan And Cross Section	Png1 1:1250 1:500 1:50	23.12.2021

The reason(s) for the Council's decision are set out below:

- 1. The proposed roof extension is unsympathetic to, and would detract from, the symmetrical form of the building of which the application property forms one half.*
- 2. The proposed roof extension will appear incongruous and detract from the visual amenity of the immediately surrounding area.*
- 3. For the above reasons the proposal is contrary to policy DEV2 of the adopted Midlothian Local Development Plan 2017 which seeks to protect the character and amenity of the built-up area.*

Dated 8 / 2 / 2022



.....  
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](mailto:planningconsultation@coal.gov.uk)

Website: [www.gov.uk/coalauthority](http://www.gov.uk/coalauthority)

### **STANDING ADVICE**

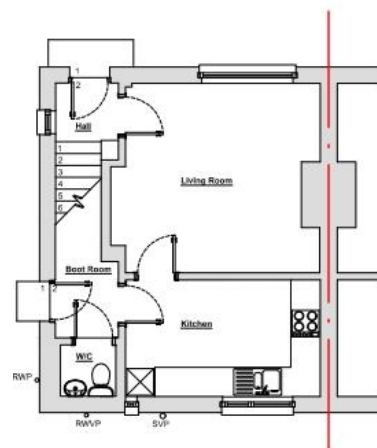
The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:  
[www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

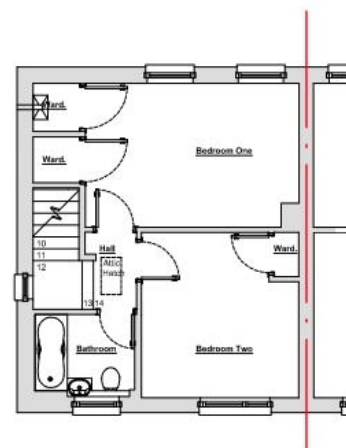
Standing Advice valid from 1st January 2021 until 31st December 2022

# Appendix E

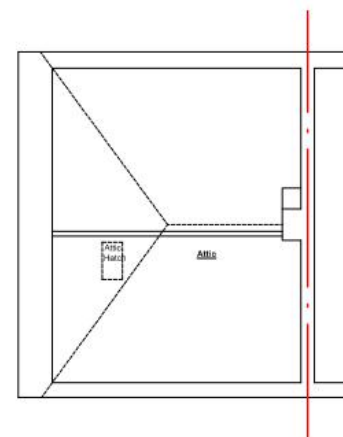
© david paton building consultancy DO NOT SCALE FROM DRAWINGS, IF IN DOUBT ASK.



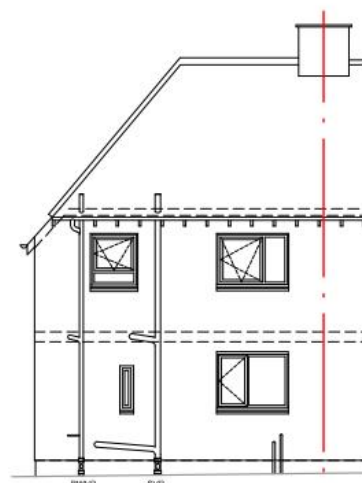
1:50 SCALE EXISTING GROUND FLOOR PLAN



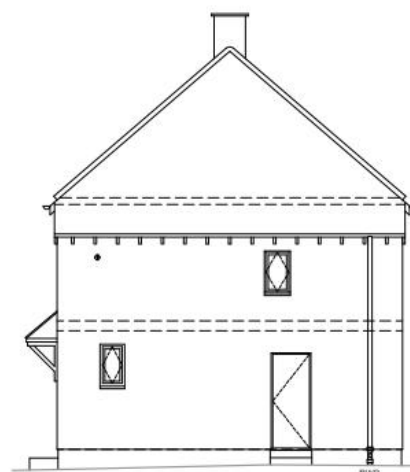
1:50 SCALE EXISTING FIRST FLOOR PLAN



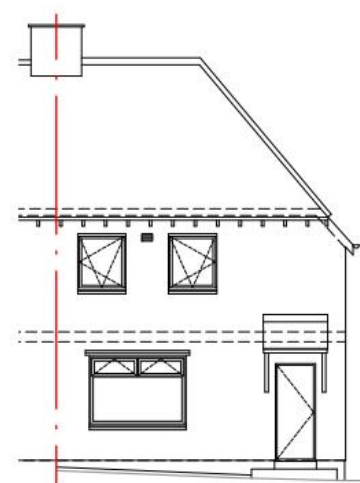
1:50 SCALE EXISTING ATTIC PLAN



1:50 SCALE EXISTING REAR ELEVATION



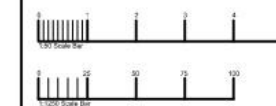
1:50 SCALE EXISTING SIDE ELEVATION



1:50 SCALE EXISTING FRONT ELEVATION



1:1250 SCALE LOCATION PLAN

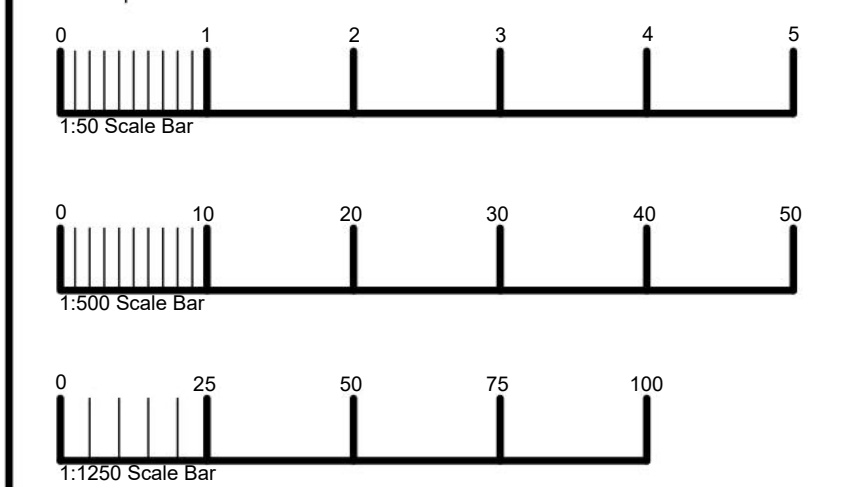
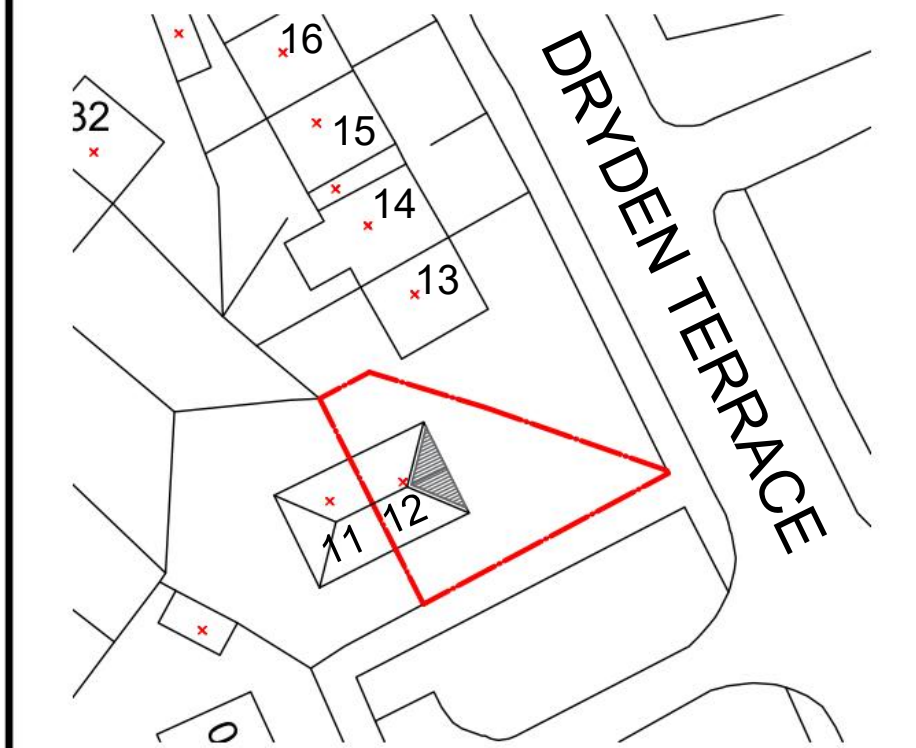


REVISIONS		

AS EXISTING DRAWING

CLIENT Mr Steven Quinn		PROJECT Allie Conversion to Dwellings House at 12 Dryden Terrace Loarhead, EH20 5UN	
DRAWING TITLE As Existing Plans Elevations Location Plan		DATE September 2021	
		DRAWN SA	
		SCALE 1:50 @ A1	
<b>david paton building consultancy</b> <small>Chartered Architectural Technologists Established in 1981 12 High Street, Leamford Widford, W52 6BN Telephone No. 0151 440 1213 website: www.davidpaton.co.uk e-mail: davidpaton@btconnect.com</small>			
		JOB NO. <b>21/25</b>	DRAWING NO. <b>ex1</b>
REVISION			



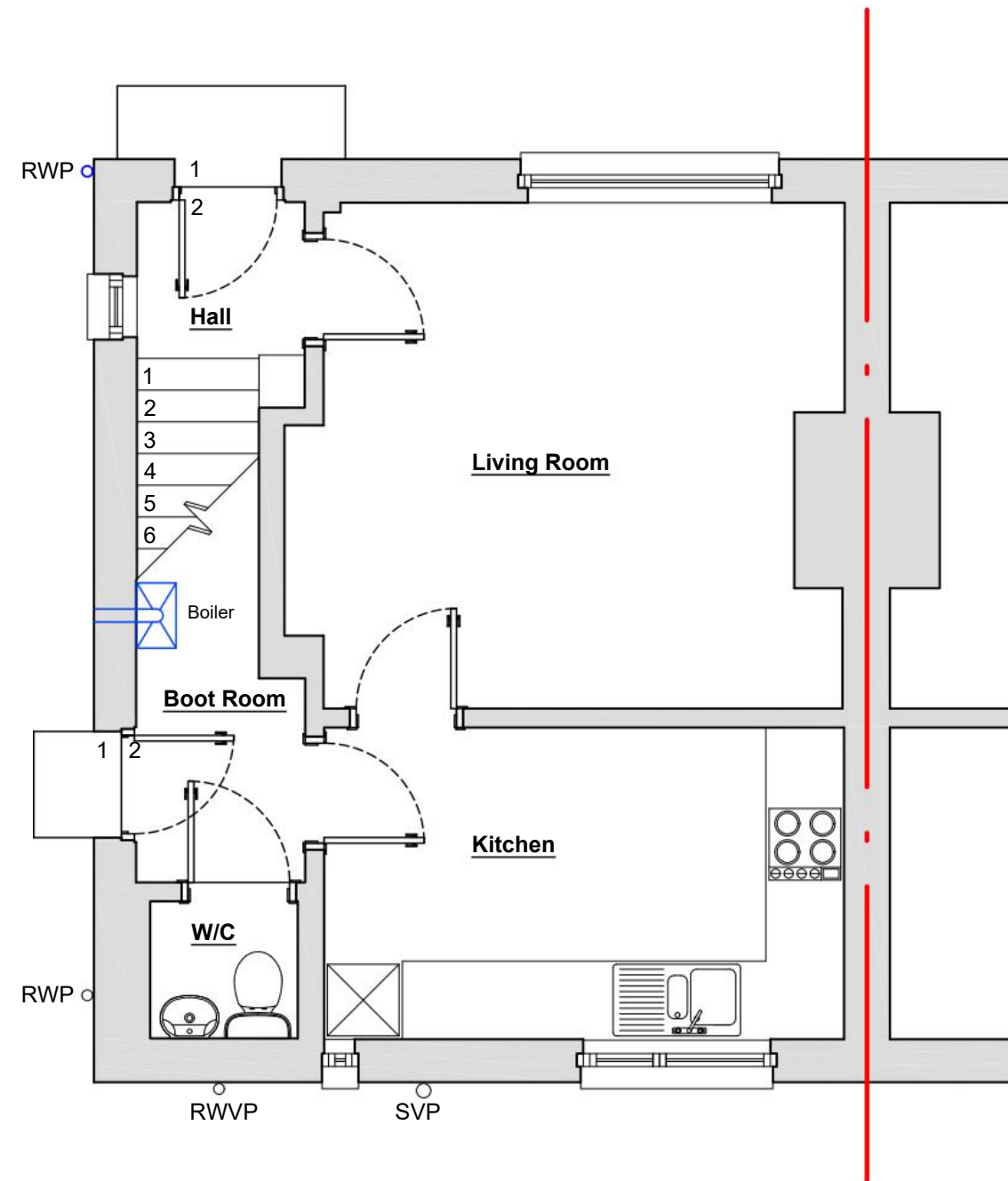
[illegible]

<b>CLIENT</b> Mr Steven Quinn	<b>PROJECT</b> Attic Conversion to Dwelling House at: 12 Dryden Terrace Loanhead, EH20 9JN	
	<b>DRAWING TITLE</b> Proposed Plans Elevations Location Plan	<b>DATE</b> December 2021
	<b>DRAWN</b> SA	<b>SCALE</b> 1:50 @ A1

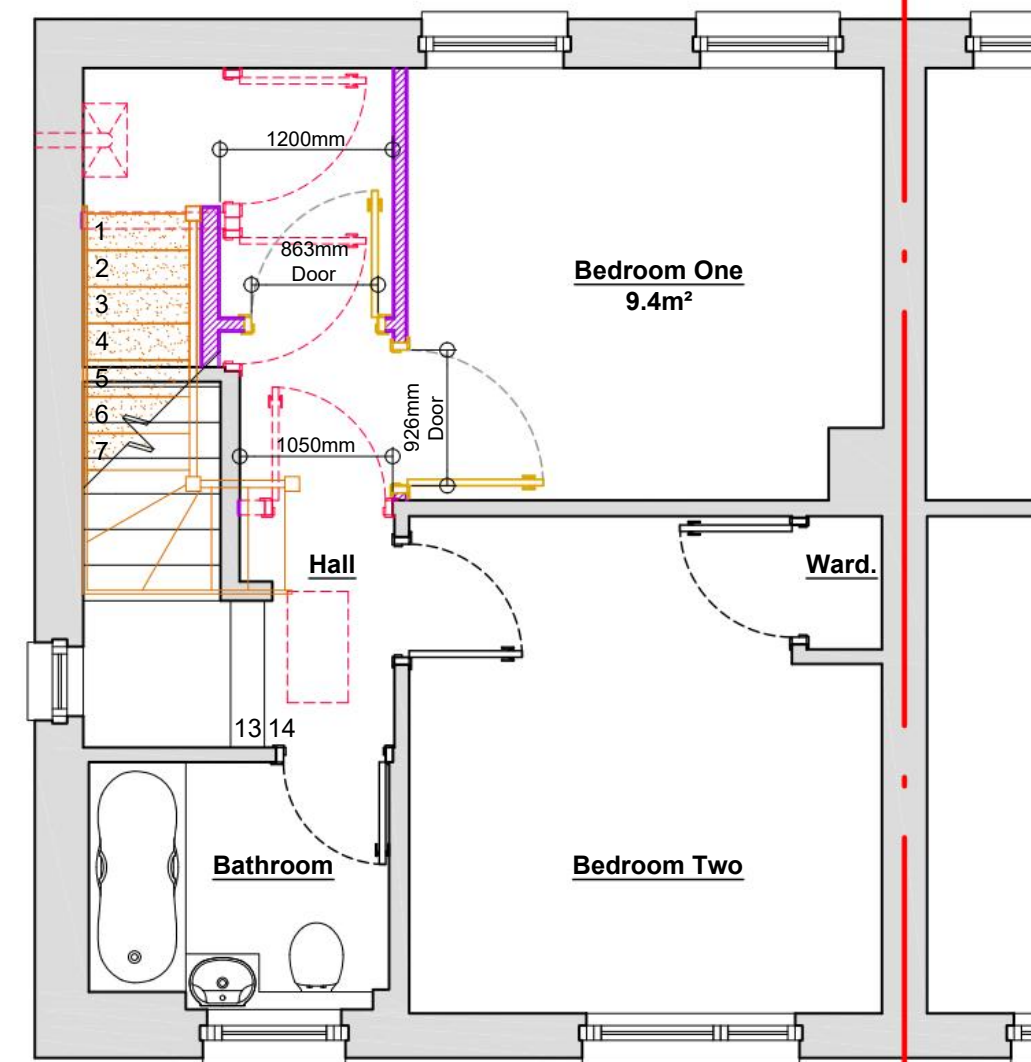
Chartered Architectural Technologists  
Established in 1981  
13 High Street, Loanhead,  
Midlothian, EH20 9RH.  
Telephone No. 0131 440 1213  
website: [www.davidpatonbc.co.uk](http://www.davidpatonbc.co.uk)  
e-mail: [davidpatonbc@btconnect.com](mailto:davidpatonbc@btconnect.com)



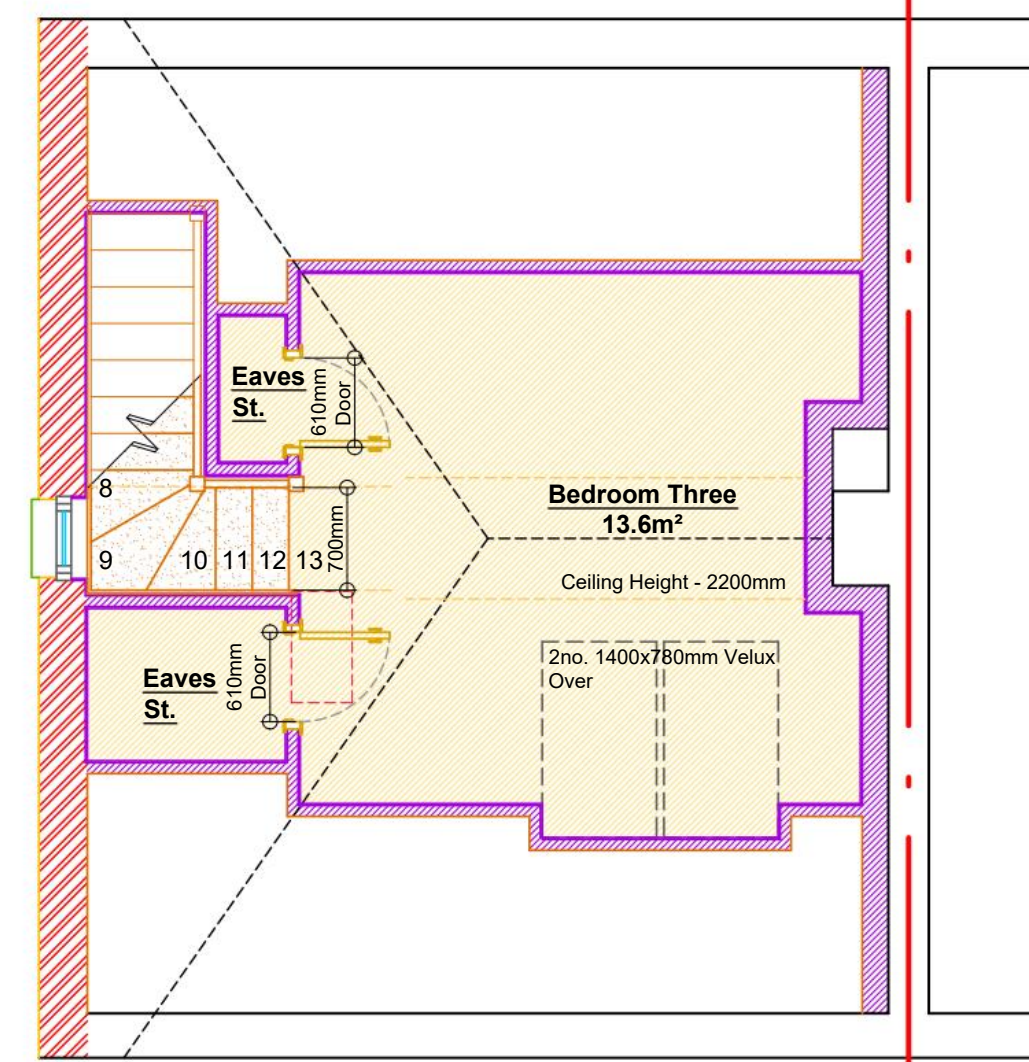
JOB NO. <b>21/25</b>	DRAWING NO. <b>Png1</b>
REVISION	



**1:50 SCALE PROPOSED GROUND FLOOR PLAN**

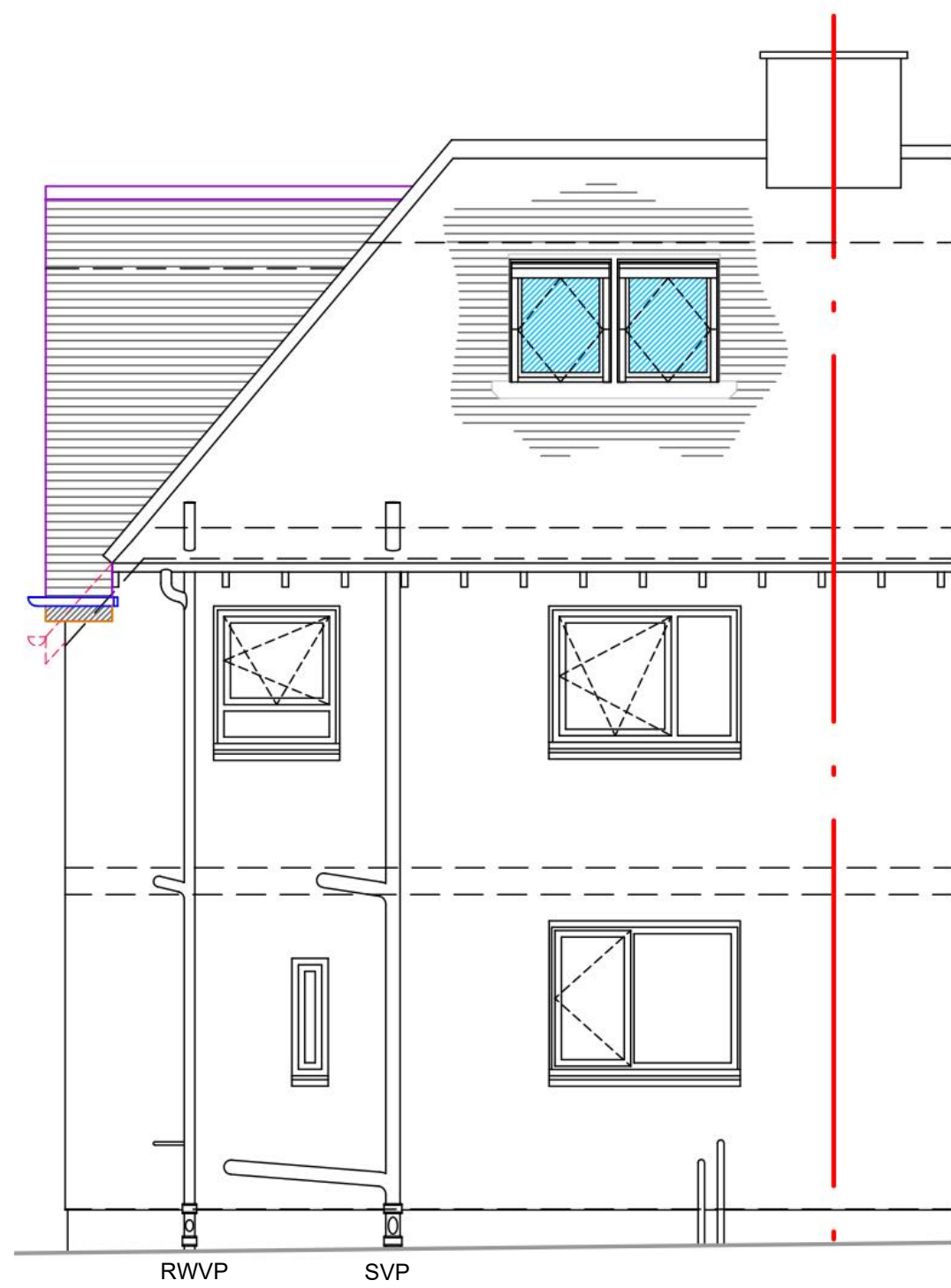


**1:50 SCALE PROPOSED FIRST FLOOR PLAN**

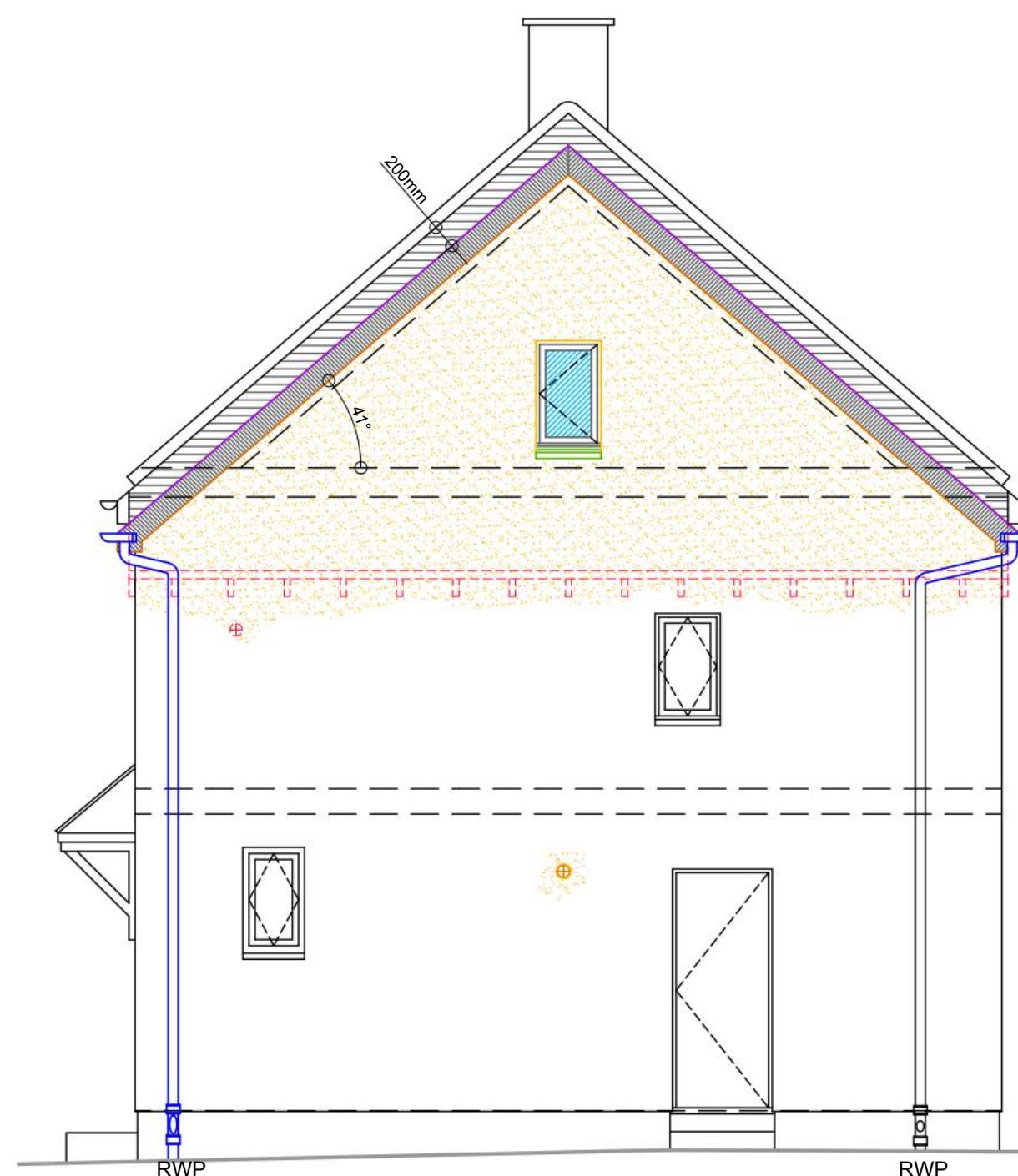


**1:50 SCALE PROPOSED ATTIC PLAN**

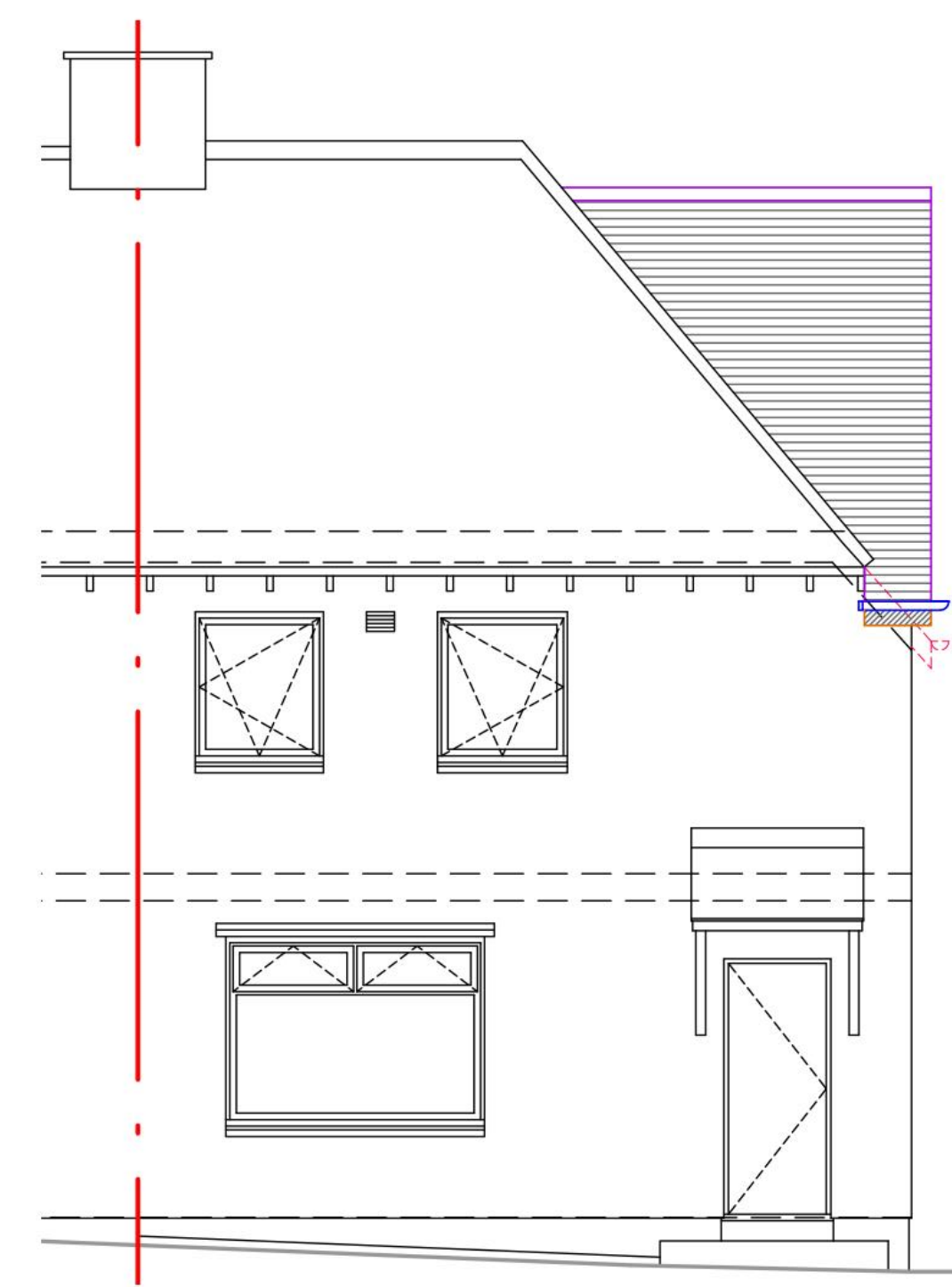
All new guttering and down pipes are to be C.I Coloured all to match existing house.



**1:50 SCALE PROPOSED REAR ELEVATION**



**1:50 SCALE PROPOSED SIDE ELEVATION**



**1:50 SCALE PROPOSED FRONT ELEVATION**



## **Notice of Review: 1 Tipperwell Way, Howgate, Penicuik**

### **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 installation of replacement windows at 1 Tipperwell Way, Howgate, Penicuik.

#### **2 Background**

- 2.1 Planning application 22/00056/DPP for the installation of replacement windows at 1 Tipperwell Way, Howgate, Penicuik was refused planning permission on 29 March 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 29 March 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](http://www.midlothian.gov.uk)

#### **4 Procedures**

- 4.1 In accordance with agreed procedures the LRB:

- 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 of written submissions.
- 4.2 The case officer's report identified that there were no consultations required and four 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. The profile of the window frames on the replacement windows shall match the square profile of the frames of the windows which are to be replaced .
  2. The design of the bedroom window at the rear and the bedroom window at the side of the house shall incorporate a mullion.
  3. The window frames shall not protrude beyond the outer face of the mullions where present or the case frames.



**Reason for conditions 1 -3:** In order to reduce the visual impact of the replacement windows on the character and appearance of this part of the Howgate Conservation Area.

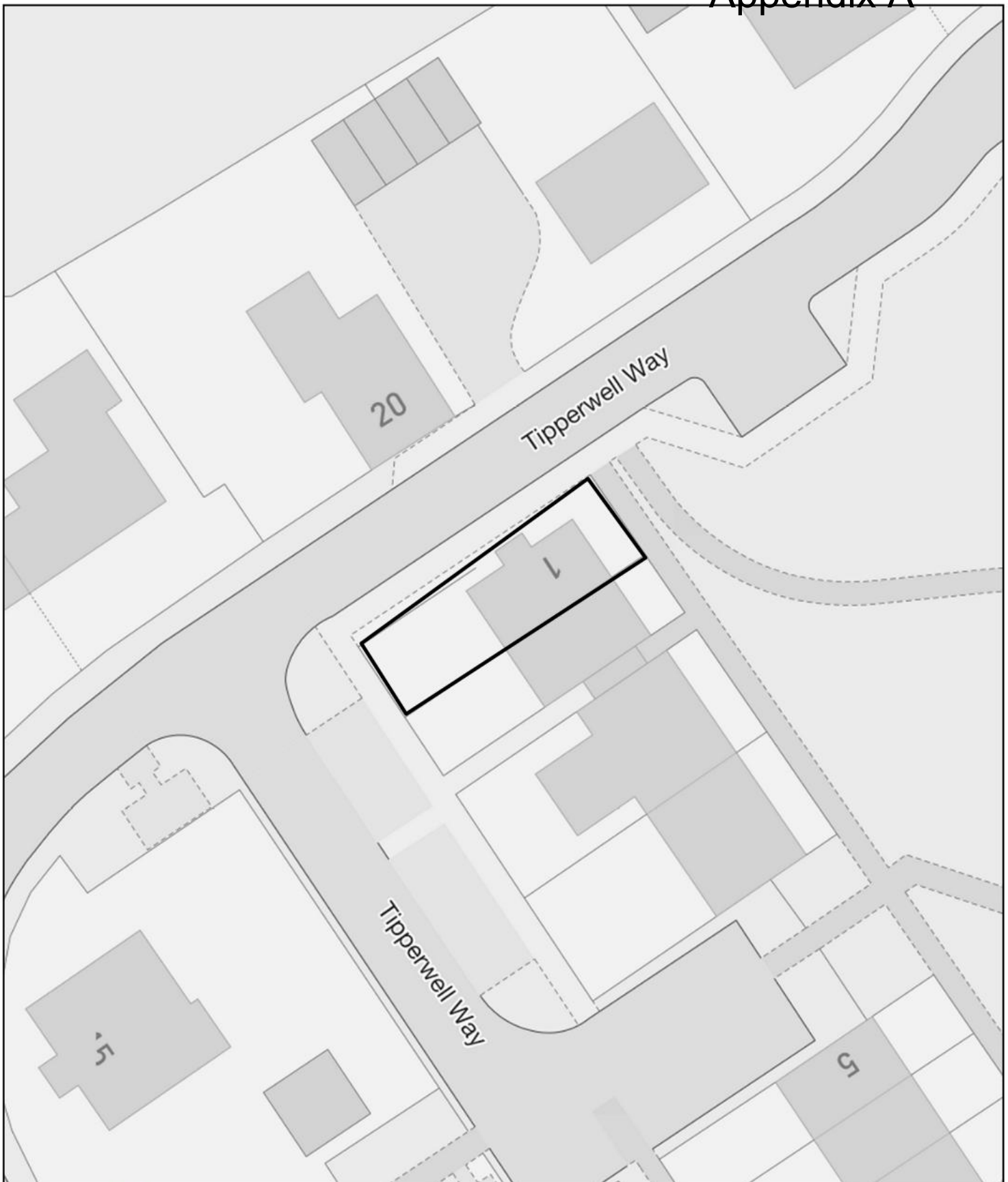
## **6 Recommendations**

- 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:** 10 June 2022  
**Report Contact:** Ingrid Forteath, Planning Officer  
[Ingrid.Forteath@midlothian.gov.uk](mailto:Ingrid.Forteath@midlothian.gov.uk)

**Background Papers:** Planning application 22/00056/DPP available for inspection online.



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

Installation of replacement windows  
at 1 Tipperwell Way, Penicuik, EH26 8QP

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Midlothian Council Licence No. 100023416 (2022)

File No: 22/00056/DPP

Scale: 1:400

Page 76 of 100





Fairfield House 8 Lothian Road Dalkeith EH22 3ZN Tel: 0131 271 3302 Fax: 0131 271 3537 Email: [planning-applications@midlothian.gov.uk](mailto:planning-applications@midlothian.gov.uk)

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

Thank you for completing this application form:

ONLINE REFERENCE 100524256-004

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

## Applicant or Agent Details

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

☒ Applicant ☐ Agent

## Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Other"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text" value="Dr"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text" value="Amy"/>	Building Number:	<input type="text" value="1"/>
Last Name: *	<input type="text" value="Fraser"/>	Address 1 (Street): *	<input type="text" value="Tipperwell Way"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text" value="Howgate"/>
Telephone Number: *	<input type="text" value="REDACTED"/>	Town/City: *	<input type="text" value="Penicuik"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="EH26 8QP"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="REDACTED"/>		

## Site Address Details

Planning Authority:

Midlothian Council

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

Address 1:

1 TIPPERWELL WAY

Address 2:

HOWGATE

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

PENICUIK

Post Code:

EH26 8QP

Please identify/describe the location of the site or sites

Northing

658131

Easting

324745

## 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)

Request to replace current timber frame windows and patio doors with upvc equivalent. Current frames are in poor condition, noting areas of rot, cracked woodwork and paint and are poorly insulated. The location of the property is exposed to the elements and condition is deteriorating quickly. The timber frames are unable to cope with the harsh weather conditions, thus the need to replace with upvc equivalent. Due to Conservation area requirements, would replace like for like.

## 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? * <div style="margin-top: 5px;"> <input checked="" type="checkbox"/> Refusal Notice.           <div style="margin-left: 20px;"><input type="checkbox"/> Grant of permission with Conditions imposed.</div> <div style="margin-left: 20px;"><input type="checkbox"/> No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.           </div> </div>	
<h3 style="margin: 0;">Statement of reasons for seeking review</h3> <p style="font-size: 0.9em; margin: 5px 0;">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)</p> <p style="font-size: 0.8em; margin: 5px 0;">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.</p> <p style="font-size: 0.8em; margin: 5px 0;">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.</p> <div style="border: 1px solid black; height: 60px; margin-top: 10px; padding: 5px;">         See supporting document "Notice of Review Supporting Statement"       </div>	
Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? * <div style="float: right;"> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No         </div>	
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) <div style="border: 1px solid black; height: 60px; margin-top: 10px;"></div>	
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) <div style="border: 1px solid black; padding: 5px; margin-top: 10px;">         1. Notice of Review Supporting Statement 2. Abcell Drawings 3. Image 1 4. Image 2 5. Brochure 1 6. Brochure 2 7. Image 3 8. Edinburgh Live Article       </div>	
<h3 style="margin: 0;">Application Details</h3> <div style="display: flex; justify-content: space-between; align-items: flex-start; margin-top: 10px;"> <div style="width: 60%;"> <p style="font-size: 0.8em; margin: 5px 0;">Please provide the application reference no. given to you by your planning authority for your previous application.</p> <p style="font-size: 0.8em; margin: 10px 0;">What date was the application submitted to the planning authority? *</p> <p style="font-size: 0.8em; margin: 10px 0;">What date was the decision issued by the planning authority? *</p> </div> <div style="width: 35%;"> <div style="border: 1px solid black; padding: 2px; margin-bottom: 10px; text-align: center;">22/00056/DPP</div> <div style="border: 1px solid black; padding: 2px; margin-bottom: 10px; text-align: center;">10/02/2022</div> <div style="border: 1px solid black; padding: 2px; text-align: center;">29/03/2022</div> </div> </div>	

## 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)

A site inspection would provide the planning authority with an opportunity to understand first-hand the severity of the current condition of the existing timber frame windows located within Tipperwell Way.

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: Dr Amy Fraser

Declaration Date: 30/04/2022



PLANNING APPLICATION REFERENCE: 22/00056/dpp

1 Tipperwell Way Penicuik

Installation of Replacement Windows

## NOTICE OF REVIEW SUPPORTING STATEMENT

### **Details of proposed flush sash uPVC windows**

The report highlights concerns that the design of the proposed windows is not in keeping with the current timber frames; therefore I have sourced Flush sash windows that address these concerns (see Abcell Drawings, Image 1, Image 2, Brochure 1 and Brochure 2). Designed to replicate the appearance of timber, Flush sash windows are distinguished by sashes that close into the frame and finish flush with the face of the window. Flush sash windows typically have frames that appear the same width known as 'equal sightlines.' This look is achieved using dummy sashes.

The supplier confirmed that they could not show the true position of the astragal bars using their system. They have confirmed that this would be measured to the correct positions when placing the order for the windows. For the proposed windows that have two panes, the one that is fixed is a false sash to replicate the look of an opening pane. This is shown in the drawings with an X on the window. Concerns were raised in the report about the ability to replicate the slim mullion detail in uPVC. This detail is replicated in the Flush sash windows sourced (see Image 3, Brochure 1 and Brochure 2), despite not being clear in the drawings due to supplier software limitations.

### **Use of uPVC in Conservation areas**

With regards to the use of uPVC, I reference the planning application 21/00745/DPP and the linked Edinburgh Live article (see Edinburgh Live Article) referring to a planning application for uPVC window replacement in a Conservation area in Dalkeith. In relation to this application the article quotes "Peter Arnsdorf, the council's planning boss, said that officers took the view that if they stepped back from the house and it looked the same with the different material then it was acceptable." With this in mind, we understand that the windows must look exactly like for like, and the proposed uPVC Flush Sash Windows (detailed above) fit this profile. With the quote from Peter Arnsdorf in mind, it would be unfair to reject the replacement of windows at 1 Tipperwell Way with uPVC where the design is visually exactly like for like.

### **Existing uPVC in Howgate conservation village**

Although the report discounts uPVC windows in numbers 6, 20, 22 and 25 of Howgate village, it has also been noted that uPVC windows have been installed in the garage window of number 5 located in a prominent position on the round-a-bout in Howgate village. We understand that 1 Tipperwell Way is publicly visible, but with the flush sash casement design in uPVC that are exactly like for like there would be no negative visual impact and therefore should not be rejected.

**Existing Timber frames**

The soft timber window frames installed in these houses at the time of building (16 years ago) were not fit for purpose. Despite having maintained these windows, the frames are cracking and rotten. This is consistent with other properties within Tipperwell Way, such as the rear elevations of houses 1-10 and 20 and the front elevations of 15 Tipperwell Way, which are exposed with little to no protection from the severe weather elements.

Historic Environment Scotland's guidance is based on historic buildings and therefore is not directly relevant to the Tipperwell Way houses, which were built in 2006. The historic timber frames are typically made from hard timber which can last for century's, however newer timber framed windows are made from soft timber and do not have the same long term durability, especially in areas like Tipperwell Way that are so exposed to harsh weather conditions. With this in mind, it is more likely that replacement timber frames will end up in the landfill in the next 10-15 years than replacement uPVC.



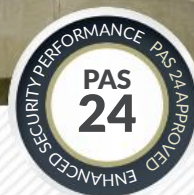
# TECHNICAL GUIDE

# HERITAGE FLUSH SASH

## HERITAGE WINDOW COLLECTION

BY DECEUNINCK

A++



Heritage flush sash looks great in any surrounding; modern townhouse or country cottage, its subtle charm and elegance transforms the building like no other.

With its flush external contours, something considered more in keeping on period

properties, satisfying the requirements of your local conservation officer just got a whole lot easier, especially when you add the all important Georgian bar for that archetypal chocolate box house you've always dreamed of.

**deceuninck**

**Deceuninck Limited**

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**January 2021**

Document No:  
82130 – 8104  
Heritage Flush Sash



## Weather Performance

Internally we've adopted our tried and tested high performance multifunctional weatherseal. With a continuous seal welded at the corners, air tightness is always maintained meaning no loss of comfort inside the home.

Externally a new dual seal combination maximises water tightness and conceals hardware.

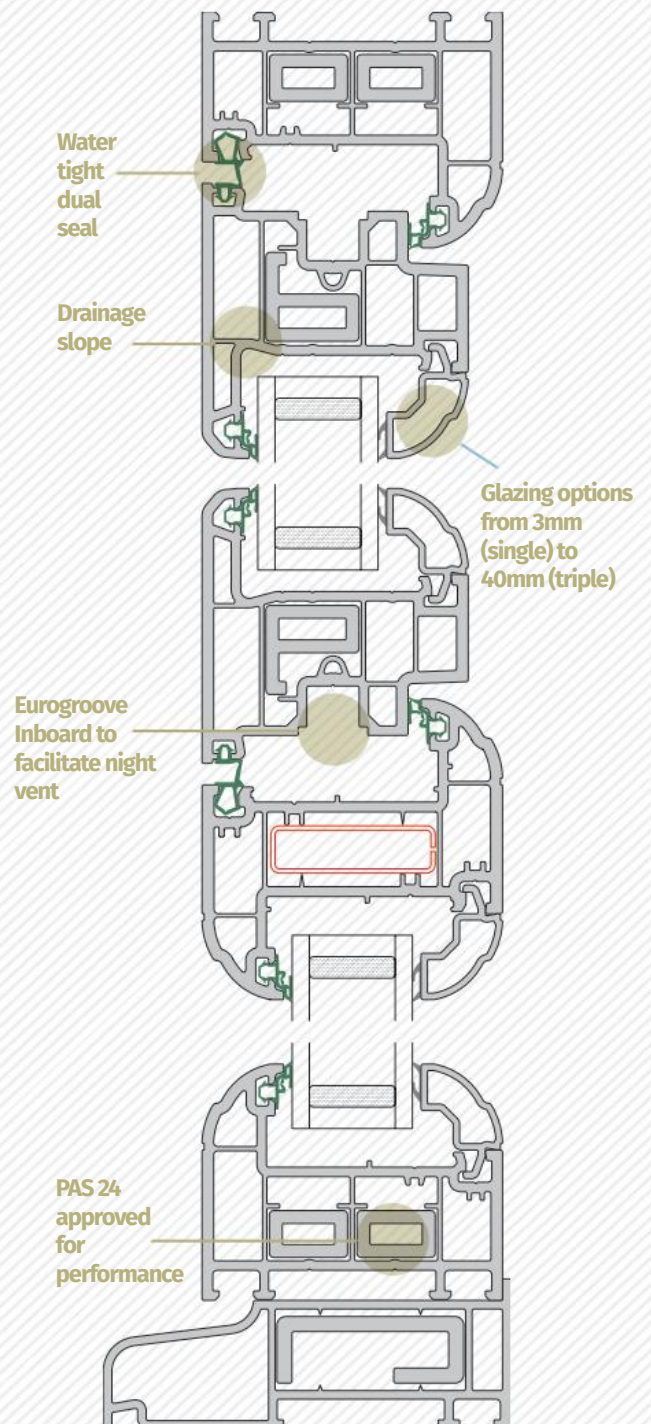
An integral drainage slope encourages water to drain away quickly and easily.

## Security

The Deceuninck flush sash had the homeowner in mind during its design, so unlike others there's no compromise when it comes to things like having a night vent locking position. The bespoke locking keep also means full hardware compatibility, giving the window unrivalled security for a product of this type... achieving PAS24 just got a whole lot easier.

## Insulation

With its core designed around Heritage 2800, the insulating properties of flush sash are even more impressive. A double glazed window U value of just 1.2 or noise reduction value as high as 43 dB epitomises this market-leading product.



## Weather test results

		Top Hung Casement	Side Hung Casement	French Casement
	Size Tested	1.2m x 1.2m	0.7m x 1.4m	1.41m x 1.31m
Air Permeability	Class	4	4	3
	Rating	600 Pa	600 Pa	600 Pa
Water tightness	Class	E900	E900	6A
	Rating	900 Pa	900 Pa	250 Pa
Wind Resistance	Class	(TCI) A5 (steel) AE	(TCI) A5 (steel) AE	(TCI) B5
	Rating	(TCI) 1600 Pa (steel) 2400 Pa	(TCI) 1600 Pa (steel) 2400 Pa	(TCI) 2000 Pa

Applicable to mechanically joined and welded windows

## U-Values

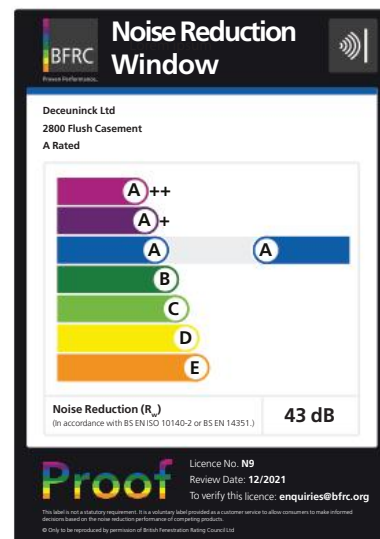
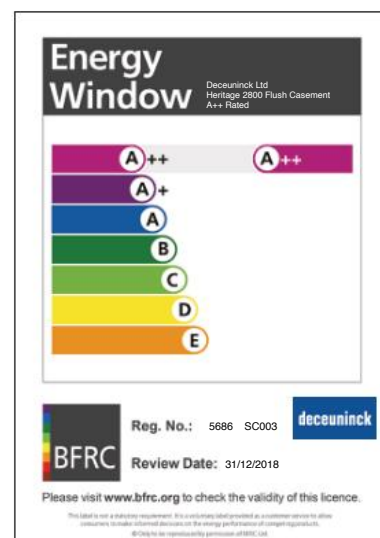
4/20/4 Argon Cavity		4/14/4/14/4 Argon Cavity	
$U_g$ 1.219	$U_g$ 1.070	$U_g$ 0.683	$U_g$ 0.591
$U_w$ 1.4	$U_w$ 1.2	$U_w$ 0.94	$U_w$ 0.90

## WER's

4/20/4 Argon Cavity	4/14/4/14/4 Argon Cavity
A+ 12	A++ 23

## Sound Insulation

$R_w$	C	$C_{TR}$	IGU	Interlayer
35	-1	-5	4/20/4	-
39	-2	-6	6.8/18/4	PVB
43	-2	-5	8.8/16/10	Optiphon



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**January 2021**  
Document No:  
82130 – 8104  
Heritage Flush Sash



# 30 COLOURWAYS IN STOCK

## Heritage Colour Range - Surcharge applies.

ANTHRACITE SMOOTH / HERITAGE WHITE	BLACK ASH / HERITAGE WHITE	AGATE GREY / HERITAGE WHITE	NUT TREE / WHITE PVC	NUT TREE BOTH SIDES	BLACK SMOOTH MATT / WHITE PVC
ENGLISH OAK / HERITAGE WHITE	ENGLISH OAK BOTH SIDES	HERITAGE WHITE / ENGLISH OAK	BLACK ASH / WHITE PVC	BLACK ASH BOTH SIDES	GOLDEN OAK / WHITE PVC
ICE CREAM / HERITAGE WHITE	HERITAGE WHITE BOTH SIDES	GREY ALUMINIUM / WHITE PVC	GOLDEN OAK BOTH SIDES	IRISH OAK / WHITE PVC	IRISH OAK BOTH SIDES
ANTHRACITE SMOOTH MATT / WHITE PVC	ANTHRACITE SMOOTH MATT BOTH SIDES	ANTHRACITE GRAINED / WHITE PVC	CHARTWELL GREEN / WHITE PVC	CHARTWELL GREEN BOTH SIDES	CLASSIC CREAM / WHITE PVC
ANTHRACITE GRAINED BOTH SIDES	ROSEWOOD / WHITE PVC	ROSEWOOD BOTH SIDES	CLASSIC CREAM BOTH SIDES	WHITE GRAIN / WHITE PVC	WHITE GRAIN BOTH SIDES

A unique range of woodgrain foil colours in 30 colourways in stock, complete with matching ancillaries, trims and accessories.

- Beautiful authentic 'wood like' finish
- Extremely durable
- 10 year manufacturer's guarantee
- Each colour has its own matching ancillaries, trims and accessories
- Available from stock



**HERITAGE**  
COLOUR COLLECTION



**deceuninck**

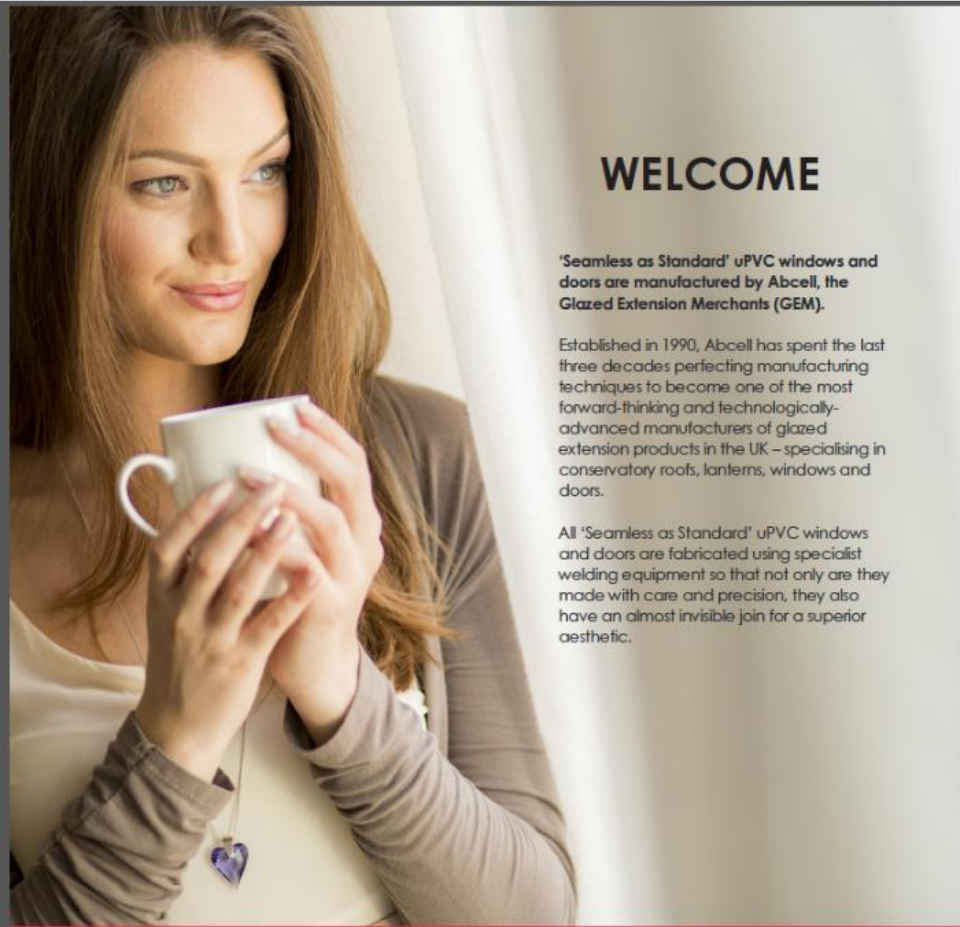
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**January 2021**

Document No:  
82130 – 8104  
Heritage Flush Sash





## WELCOME

'Seamless as Standard' uPVC windows and doors are manufactured by Abcell, the Glazed Extension Merchants (GEM).

Established in 1990, Abcell has spent the last three decades perfecting manufacturing techniques to become one of the most forward-thinking and technologically-advanced manufacturers of glazed extension products in the UK – specialising in conservatory roofs, lanterns, windows and doors.

All 'Seamless as Standard' uPVC windows and doors are fabricated using specialist welding equipment so that not only are they made with care and precision, they also have an almost invisible join for a superior aesthetic.



## Seamless as Standard

When it comes to selecting the right uPVC products to enhance and protect your home, you want to be sure you're making the right choice. Beautiful, stylish and expertly made, our Flush windows and residential doors, and sculptured windows and French doors, strike the perfect balance between energy efficiency, security and design.

**So, which is the right fit for your home?**



### FLUSH SASH

Flush casement windows are characterised by openers that close into the frame and finish flush with the face of the window to replicate timber-style windows.



### SCULPTURED SASH

Sculptured sash windows feature a rounded finish and outward opening sashes, which stand proud of the face of the window frame and are the more typical style found in houses today.



## What makes our windows so **unique?**

### Seamless as Standard



#### STYLE

'Seamless as Standard' windows and doors combine the elegance and styling of traditional timber windows with all the benefits of uPVC. They are virtually maintenance free, keeping the warmth in and unwelcome visitors out.

The range is ideal for period properties and for those who want to add or restore character to their homes – as well as being equally suited for modern, contemporary homes. With unique, unrivalled aesthetics and sympathetic symmetrical design, a 'Seamless as Standard' window or door will give your home perfect balance and harmony.

#### SECURITY

There's no compromise when it comes to security as the bespoke locking keep has a useful night vent locking position.

Our wide range of modern, contemporary and period style windows incorporate the latest built-in safety features, including internal glazing beads and multipoint locking systems.

To provide enhanced resistance to forced entry, our windows can be fitted with a hinge protector device between the frame and the sash opener. For doors, the latest anti-bump, anti-snap, key locking cylinders can also be installed to further enhance performance.

#### PERFORMANCE

To keep out the wind and rain, we use our patented high-performance, multi-functional weatherseals. The airtight seal this creates helps to maintain your comfort inside your home.

The Flush sash dual seal is exceptionally watertight, with the added benefit of concealing any hardware. Any water that has found its way inside is quickly evacuated due to the intelligently designed integral drainage gutter.

#### CONSERVATION

Flush and Sculptured sash windows look great in any surrounding, from country cottages to modern townhouses. Their subtle charm and elegance will transform your home.

If you live in a Conservation Area, home improvements such as replacing your windows and doors will require planning consent as there are strict guidelines to ensure that architectural features are preserved.

'Seamless as Standards' windows & doors have been designed with this in mind; replicating the appearance and style of traditional timber windows with features such as our authentic woodgrain finish and Georgian Bar options. However, you should always obtain consent from a planning or conservation officer before proceeding with an installation.





SEAMLESS AS STANDARD WINDOWS & DOORS



### FLUSH SASH WINDOW

Designed to replicate the appearance of timber, Flush sash windows are distinguished by sashes that close into the frame and finish flush with the face of the window. Flush sash windows typically have frames that appear the same width, known as 'equal sightlines'. This look is achieved using dummy sashes, something that undoubtedly improves the overall appearance of your property.



6

SEAMLESS AS STANDARD WINDOWS & DOORS



### SCULPTURED SASH WINDOW

Sculptured sash windows feature outward opening sashes which stand proud of the face of the window frame and are the more typical style used in homes you see today. For that period property look, both Sculptured sash windows can also feature a dummy sash. This simple but effective upgrade to achieve 'equal sightlines' can really enhance the beauty of your home.



7

## MIDLOTHIAN COUNCIL

### DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

**Planning Application Reference:**22/00056/dpp

**Site Address:** 1 Tipperwell Way, Penicuik

**Site Description:**

The application property comprises an end terraced two storey dwellinghouse and its associated garden located within a residential area. The house is finished externally in wetdash render with a slate roof and white timber framed windows.

The application property is located within the Howgate Conservation Area.

**Proposed Development:**

Installation of replacement windows

**Proposed Development Details:**

It is proposed to replace two windows at first floor level on the side of the property and one window at first floor level and one at ground floor level at the rear of the property with white upvc framed windows of a similar style to the existing windows.

The application form mentions the replacement of the patio doors at the rear also however this is not indicated on the submitted photos although it is stated that they would be replaced on a like for like basis albeit with upvc frames.

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

History sheet checked.

19/00326/dpp - Extension to dwellinghouse; infilling of window opening and installation of replacement windows and door at 17 Tipperwell Way – approved subject to conditions including that the proposed upvc replacement windows on the front of the building were not approved. Condition upheld at Local review Body on grounds of the individual circumstances of the proposal and, the unacceptable visual impact of the proposed replacement windows in the front elevation of the dwellinghouse and the unacceptable visual impact of these windows on the conservation area. The windows proposed on the front elevation will result in an adverse visual impact upon the character and appearance of the dwellinghouse and conservation area contrary to policy ENV19 of the adopted Midlothian Local Development Plan 2017, therefor condition 2 is retained.

In support of the application the applicant states that the current window frames have areas of rot, cracked wood work and paint and are poorly insulated. It is also stated that the property is exposed to the elements and that the timber frames are unable to cope with the harsh weather conditions, thus the need to replace with upvc equivalent.

**Consultations:**

None required.

### **Representations:**

Four representations have been received in relation to the application one neither objecting to or in support and the other three in support nor are summarised as follows:

- Changes suggested if upvc is to be approved in order to get a better match, including the use of mock sashes, square profile window frames noting that 1 Tipperwell Way is a prominent building in the site context of the Tipperwell Way development and, as such, it is considered that all elevations should be regarded with equal importance (except perhaps for the ground floor rear elevation which is screened by fencing).
- Many residents in Tipperwell Way have problems with the existing wooden window frames with maintenance being difficult.
- uPVC windows will provide significant improvements in energy efficiency, lower maintenance, better durability and weather resistance and is more sustainable than replacing with wooden windows which currently have not lasted 15 years.

### **Relevant Planning Policies:**

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 places a duty on planning authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

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

DEV2 – Protecting amenity within the built-up area - seeks to protect the character and amenity of the built-up area.

ENV 19 - Conservation Areas - seeks to preserve or enhance the character and appearance of conservation areas.

It is noted that policy DP6 House Extensions, from the now superseded 2008 Midlothian Local Plan, set out design guidance for new extensions requiring that they are well designed in order to maintain or enhance the appearance of the house and the locality. The policy guidelines contained in DP6 also relate to size of extensions, materials, impact on neighbours and remaining garden area. It also states that front porches to detached or semi-detached houses are usually acceptable provided they project less than two metres out from the front of the house. It also allowed for novel architectural solutions. The guidance set out within this policy has been successfully applied to development proposals throughout Midlothian and will be reflected within the Council's Supplementary Guidance on Quality of Place which is currently being drafted.

### **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.

Albeit the house is of relatively recent construction the timber frames of the windows are in keeping with the traditional finishes used on the houses at Tipperwell Way. In general the use of uPVC fenestration is not encouraged within conservation areas. All of the dwellings at Tipperwell Way appear to have timber framed fenestration of a similar design which contributes towards the character of this part of the conservation area. The use of white uPVC fenestration, in particular on the publicly visible side elevation and at first floor level on the rear elevation is out of character for the immediately surrounding area and will result in a negative visual impact on the dwelling and conservation area. Also the existing larger windows appear to comprise of two opening lights with a slim central timber mullion. This detail is not replicated on the proposed replacement windows with one fixed pane and one opening light with the windows having a different profile to existing. It is unlikely that the slim mullion detail could be replicated in upvc.

It is the property owner's responsibility to maintain the window frames and there is no reason that timber window frames per se which have been properly manufactured, fitted and maintained cannot be energy efficient and last for years. Historic Environment Scotland's guidance for homeowners' states that many timber windows in Scotland are in their second century and that modern plastic units may well end up in landfill after just 20 years.

In relation to the application at no. 17 it was noted in the case officer's report that upvc framed windows had been installed at some of the older properties in Howgate specifically nos 6, 20, 22 and 25 Howgate however there was no record of planning permission having been granted for these back to 1975 and as such they should not be considered to set a precedent for upvc windows at Tipperwell Way.

Also in relation to the application at no. 17 it should, be noted that the proposed window did not match the design of the original windows. 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, a condition was prepared for the consideration of the LRB if it was minded to uphold the review and grant planning permission that whilst allowing upvc frames the design of the replacement windows proposed on the front elevation of the application property should match that of the existing windows which they are to replace. However as noted above the Local review Body decided to uphold the original condition i.e. not allowing upvc frames whether of a matching design or not.

**Recommendation:**

Refuse planning permission



**Reg. No. 22/00056/DPP**

Dr Amy Fraser  
1 Tipperwell Way  
Howgate  
Penicuik  
EH26 8QP

Midlothian Council, as Planning Authority, having considered the application by Dr Amy Fraser, 1 Tipperwell Way, Howgate, Penicuik, EH26 8QP, which was registered on 10 February 2022 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

**Installation of replacement windows at 1 Tipperwell Way, Penicuik, EH26 8QP**

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

<u>Document/Drawing.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	1:2500	10.02.2022
Illustration/Photograph		10.02.2022
Illustration/Photograph		10.02.2022
Illustration/Photograph		10.02.2022

The reason(s) for the Council's decision are set out below:

*The windows proposed on the side elevation and at first floor level on the rear elevation will result in an adverse visual impact upon the character and appearance of the dwellinghouse and conservation area contrary to policy ENV19 of the adopted Midlothian Local Development Plan 2017.*

Dated 29 / 3 / 2022



.....  
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](mailto:planningconsultation@coal.gov.uk)  
Website: [www.gov.uk/coalauthority](http://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](http://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](http://www.gov.uk/government/organisations/the-coal-authority)

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



Rear bedroom  
window

Rear kitchen  
window



Side en-suite  
window

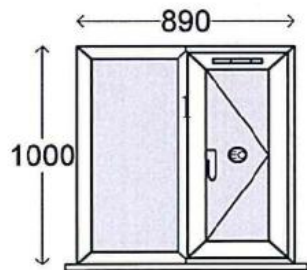


Side bedroom  
window



Existing timber frame kitchen window to rear of house, on ground floor.  
South West facing.  
Proposed replacement details below.

**O/A Sizes 890mm x 1030mm (25)**



#### Specification

Frame (Head)	LSW011 57mm Sculpt Frame
Frame (Cill)	LSW011 57mm Sculpt Frame
Mock sash horn	No mock sash horn
Mullion	LSW021/022 67mm T/Z Sect
Cill	LSL150 150mm Cill
Drainage	Concealed/Base
Add-on (Head)	No add-on
Add-on (Cill)	No add-on
Add-on (Left jamb)	No add-on
Add-on (Right jamb)	No add-on
Ventilator (Sash)	2000 Night Vent
Colour	White
Sash colour	White
Handle	Chrome Casement Handle
Friction stay	Easy-Clean Stays
Open in/out	Open out
Product WER Rating	Casement A

BFRC Rating  
**A**

U Value  
**1.3**

#### Glazing Details & Apertures

4-20-4 Clear/Low E : 20mm Thermal Spacer

Edit this new ex

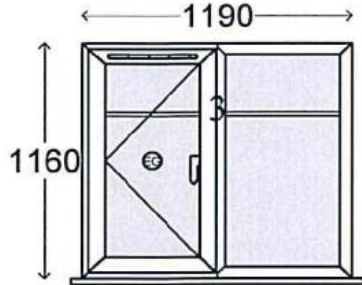
Argon Gas Filled



Existing timber frame bedroom window to rear of house, on first floor.  
South West facing.  
Proposed replacement window details below.

**O/A Sizes 1190mm x 1190mm (25 [R**

#### **Specification**



Frame (Head)	LSW011 57mm Sculpt Frame
Frame (Cill)	LSW011 57mm Sculpt Frame
Mock sash horn	No mock sash horn
Mullion	LSW021/022 67mm T/Z Sect
Cill	LSL150 150mm Cill
Drainage	Concealed/Base
Add-on (Head)	No add-on
Add-on (Cill)	No add-on
Add-on (Left jamb)	No add-on
Add-on (Right jamb)	No add-on
Ventilator (Sash)	4000 Night Vent
Colour	White
Sash colour	White
Handle	Chrome Casement Handle
Friction stay	Egress Easy Clean Stays
Open in/out	Open out
Product WER Rating	Casement A

BFRC Rating

**A**

U Value

**1.3**

#### **Glazing Details & Apertures**

4-20-4 Clear/Low E : 20mm Thermal Spacer 4207 Plant On Bar Back to  
Back Spacer White Std Join Argon Gas Filled \*\*\* Edit this new ex



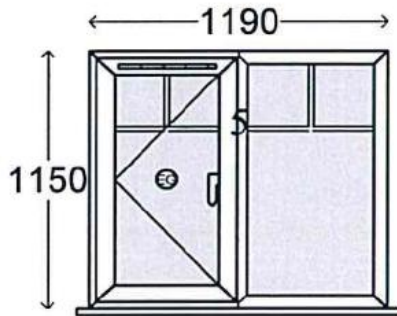


Existing timber frame bedroom window to side of house, on first floor.

North West facing.

Proposed replacement window details below.

**O/A Sizes 1190mm x 1180mm (25 [R**

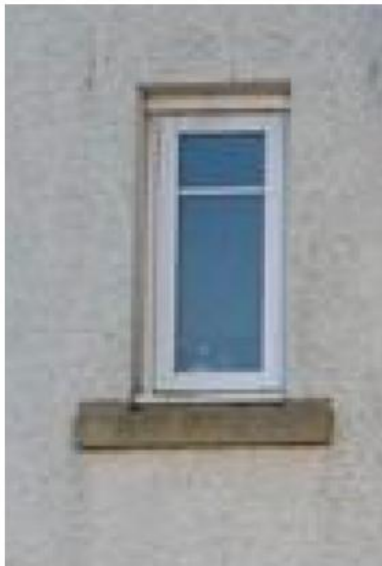


### Specification

Frame (Head)	LSW011 57mm Sculpt Frame
Frame (Cill)	LSW011 57mm Sculpt Frame
Product WER Rating	Casement A
Mock sash horn	No mock sash horn
Mullion	LSW021/022 67mm T/Z Sect
Cill	LSL150 150mm Cill
Drainage	Concealed/Base
Add-on (Head)	No add-on
Add-on (Cill)	No add-on
Add-on (Left jamb)	No add-on
Add-on (Right jamb)	No add-on
Ventilator (Sash)	4000 Night Vent
Colour	White
Sash colour	White
Handle	Chrome Casement Handle
Friction stay	Egress Easy Clean Stays
Open in/out	Open out

### Glazing Details & Apertures

4-20-4 Clear/Low E : 20mm Thermal Spacer 4207 Plant On Bar Back to  
Back Spacer White Std Join Argon Gas Filled \*\*\* Edit this new ex

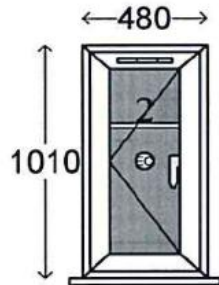


Existing timber frame en-suite window to side of house, on first floor.

North West facing.

Proposed replacement window details below.

**O/A Sizes 480mm x 1040mm (3)**



### Specification

Frame (Head)	LSW011 57mm Sculpt Frame
Frame (Cill)	LSW011 57mm Sculpt Frame
Mock sash horn	No mock sash horn
Cill	LSL150 150mm Cill
Drainage	Concealed/Base
Add-on (Head)	No add-on
Add-on (Cill)	No add-on
Add-on (Left jamb)	No add-on
Add-on (Right jamb)	No add-on
Ventilator (Sash)	2000 Night Vent
Colour	White
Sash colour	White
Handle	Chrome Casement Handle
Friction stay	Easy-Clean Stays
Open in/out	Open out
Product WER Rating	Casement A

BFRC Rating  
**A**

U Value  
**1.3**

### Glazing Details & Apertures

4-20-4 Obs/Low E : 20mm Thermal Spacer Cotswold 4207 Plant On Bar  
Back to Back Spacer White Std Join Argon Gas Filled  
this new ex