

Notice of Review: 22 John Street, 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 alterations to shopfront including installation of roller shutter and fascia sign (part retrospective) at 22 John Street, Penicuik.

2 Background

- 2.1 Planning application 22/00006/DPP for alterations to shopfront including installation of roller shutter and fascia sign (part retrospective) at 22 John Street, Penicuik was refused planning permission on 10 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 10 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

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 31 representations received. As part of the review process the interested parties were notified of the review. One additional comment has been received reaffirming their objection to the application. All comments can be viewed online on the electronic planning application case file.
- 4.3 The next stage in the process is for the LRB to determine the review in accordance with the agreed procedure:
- Identify any provisions of the development plan which are relevant to the decision;
 - Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies;
 - Consider whether or not the proposal accords with the development plan;
 - Identify and consider relevant material considerations for and against the proposal;
 - Assess whether these considerations warrant a departure from the development plan; and
 - State the reason/s for the decision and state any conditions required if planning permission is granted.
- 4.4 In reaching a decision on the case the planning advisor can advise on appropriate phraseology and on appropriate planning reasons for reaching a decision.
- 4.5 Following the determination of the review the planning advisor will prepare a decision notice for issuing through the Chair of the LRB. A copy of the decision notice will be reported back to the LRB for noting.
- 4.6 A copy of the LRB decision will be placed on the planning authority's planning register and made available for inspection online.

5 Conditions

- 5.1 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 unauthorised roller shutter will be required 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 undertake the required works will result in the Council having to consider issuing an enforcement notice to resolve the breach of planning control.

6 Recommendations

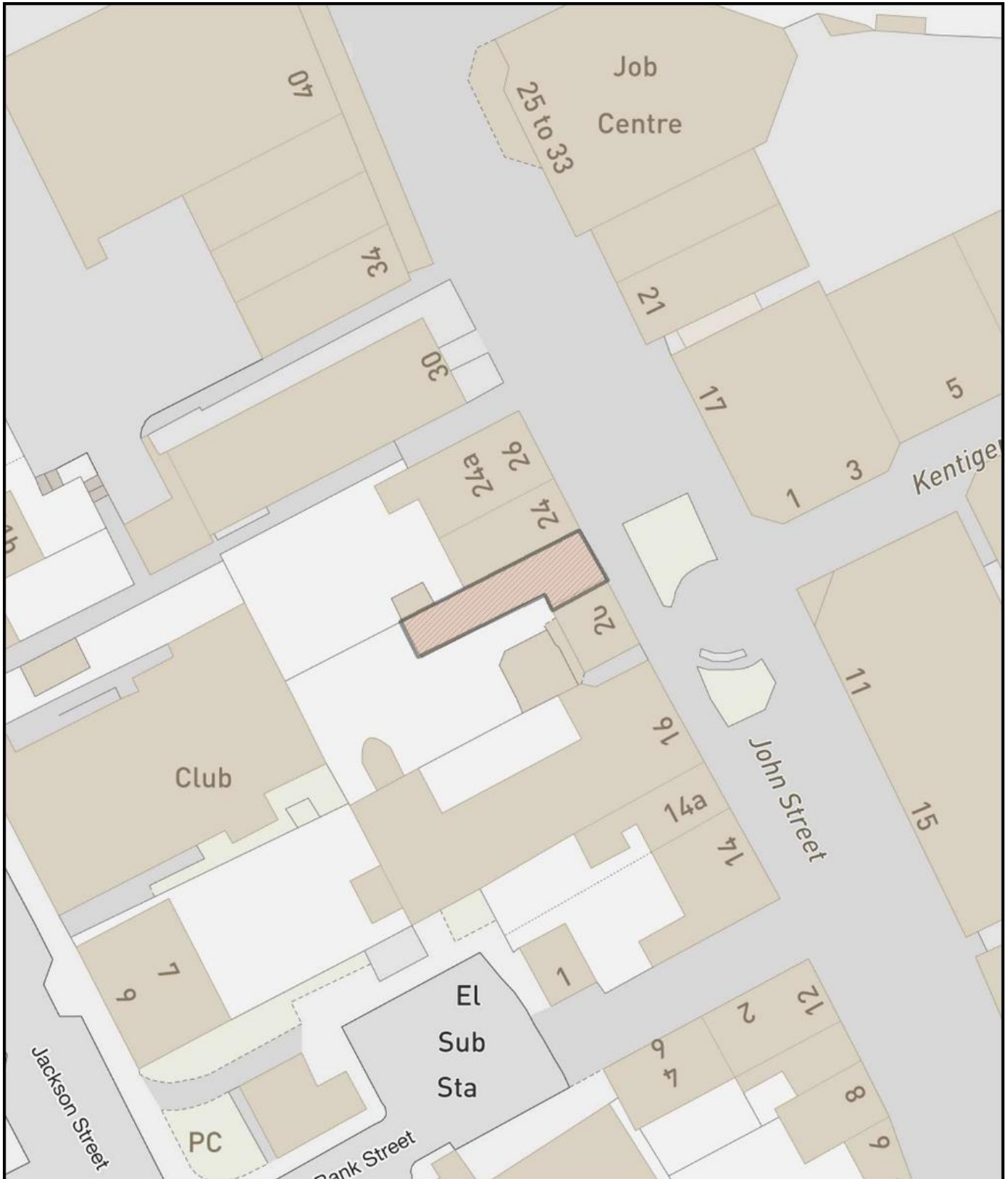
- 6.1 It is recommended that the LRB:
- a) determine the review; and
 - b) the planning advisor draft and issue the decision of the LRB through the Chair

Peter Arnsdorf
Planning, Sustainable Growth and Investment Manager

Date: 26 August 2022
Report Contact: Whitney Lindsay, Planning Officer
whitney.lindsay@midlothian.gov.uk

Background Papers: Planning application 22/00006/DPP available for inspection online.

Appendix A



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

Alterations to shopfront (part retrospective) 22 John Street, Penicuik

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File No.22/00006/DPP

Scale: 1:500





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

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

Thank you for completing this application form:

ONLINE REFERENCE 100519005-004

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

Agent Details

Please enter Agent details

Company/Organisation:	<input type="text" value="Fred Walker Associates"/>		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	<input type="text" value="Peter"/>	Building Name:	<input type="text" value="19 Biggar Road"/>
Last Name: *	<input type="text" value="Walker"/>	Building Number:	<input type="text"/>
Telephone Number: *	<input type="text" value="01968 672588"/>	Address 1 (Street): *	<input type="text" value="Silverburn"/>
Extension Number:	<input type="text"/>	Address 2:	<input type="text"/>
Mobile Number:	<input type="text"/>	Town/City: *	<input type="text" value="Penicuik"/>
Fax Number:	<input type="text"/>	Country: *	<input type="text" value="Midlothian"/>
		Postcode: *	<input type="text" value="EH26 9LQ"/>
Email Address: *	<input type="text" value="peter@fredwalkerassociates.co.uk"/>		

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

☐ Individual ☒ Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	Mr	You must enter a Building Name or Number, or both: *
Other Title:		Building Name:
First Name: *	Marc	Building Number:
Last Name: *	Stuart	Address 1 (Street): *
Company/Organisation	Ying Peng Podiatry	Address 2:
Telephone Number: *	01968705097	Town/City: *
Extension Number:		Country: *
Mobile Number:		Postcode: *
Fax Number:		
Email Address: *	ying@penicuikpodiatrist.co.uk	

Site Address Details

Planning Authority:	Midlothian Council
Full postal address of the site (including postcode where available):	
Address 1:	22 JOHN STREET
Address 2:	
Address 3:	
Address 4:	
Address 5:	
Town/City/Settlement:	PENICUIK
Post Code:	EH26 8AB

Please identify/describe the location of the site or sites

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Northing	660012	Easting	323542
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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)

Proposal to install external metal roller shutter on shop street frontage.

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.

The applicant feels that a number of points were not fully addressed in the Planning Officer's report, so would like to request a review of the decision. A detailed explanation of grounds for appeal accompanies this application.

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

☒ Yes ☐ No

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

Re: Data Protection Issue and Entry Codes At time of application clinic was just opening, work on property ongoing & patient records stored in home office as had been procedure. So, technically not an issue at time of application. Also, did not anticipate taking on so many new customers. ~500 client records stored in paper format & accessible on 3 PCs in clinic. Potential risk of disclosing patient information through a break in due to the lack of roller shutters - security is paramount.

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)

- A report describing the special circumstances & details of the planning application which the applicant feels were not fully considered in the Planning Officer's report.

Application Details

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

22/00006/DPP

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

11/01/2022

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

10/03/2022

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: Mr Peter Walker

Declaration Date: 06/06/2022

Report describing the special circumstances & details of the planning application which the applicant feels were not fully considered in the Planning Officer's report.



The Penicuik Podiatrist Clinic

22 John Street

Penicuik EH21 8AB

www.penicuikpodiatrist.co.uk

01968 705097

Prepared by Marc Stuart Practice Manager

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Introduction

There are two categories of reasons which we feel requires this planning decision to be reversed.

First is because of nine special circumstances which have not been addressed in the planning officer's document. Second there are three essential errors or areas where information has been ignored and not addressed.

There are degrees of overlap, for example the numbers of patients who need the medical attention coming into the town centre having an economic impact and leading to job creation already now and soon. But we have tried to lay this out as a list of separate individual points under these two headings.

The Special Circumstances which were not fully addressed in the Planning Officer Document

First and foremost, the first category is the fact that the special circumstances of this appeal are not being considered. It is not enough to say only those comments were made, there are several special circumstances which were not even addressed in the document produced by the planning officer.

1. Insurance: it was clearly stated in the information provided that our insurance company has insisted that we have roller security for the value of the medical equipment now stored in the building. Without insurance we close or relocate.
2. Security. There are going to be up to 1,000 scalpels, expensive medical equipment and drugs stored on these premises. Without the rollers we will not get insurance (first point) and we could not afford to lose the money invested in this. The community would be severely exposed if the drugs and scalpels were stolen from the property. We approached the local police station who clearly stated that they would be "extremely concerned" if the shutters are removed. It should also be noted that this point was not even mentioned in the assessment that communication had been received by the police. (See final point for more detail).
3. Closing the Only Dedicated private podiatrist clinic in Penicuik. The fact that this is the only dedicated Podiatrist Clinic operating in Penicuik was ignored. All other Podiatrists are doing home visits or working out of other premises. This is currently the only main door clinic for patients. We are being overwhelmed by the number of new patients that approach us on almost a daily basis in the town. Demographically the town has a large elderly number of residents. Great care has been taken to choose this property because of its ease of access to a car park, and bus terminus. It's closeness to the NHS Podiatry clinic, one of the main Penicuik Medical practices as well made it a perfect spot. In the four months it has been open it has been fully booked on most days open. Now the Clinic is treating thirty new patients per month. If this rate of new patient acquisition continues, we will be on target to be employing five professional staff there within two years if we remain open of course.

4. Lost Employment to the Town Centre. One person has now started working at the clinic on a self-employed basis starting a new business. This is a Penicuik resident who we discovered on Facebook and was planning on going to set up her business in Edinburgh, now working in Midlothian or specifically Penicuik town centre. We have a second person who has accepted an offer to start working at the clinic from August providing Reflexology and we are now advertising for a third person who will be a qualified Podiatrist. If we can find a successful candidate this role would start in August. This position is being advertised with Queen Margaret University which teaches Podiatry.

A poster for a podiatrist position. The left side has a teal background with white text. The right side features a photograph of a person's feet being treated by a podiatrist. The text on the poster includes the title 'PODIATRIST POSITION AVAILABLE', a description of the clinic's growth, the location in Penicuik, and contact information including a phone number, email, website, Facebook page, and address.

**PODIATRIST
POSITION
AVAILABLE**

New and rapidly expanding clinic, growing by three days of appts. a month. Looking for a part time Podiatrist to grow with the practice possibly becoming full time by the year end.

The Clinic is in Penicuik, with Dom work. Penicuik is 11 minutes' drive from the Bypass.

01968 705097
ying@penicuikpodiatrist.co.uk
www.penicuikpodiatrist.co.uk
facebook.com/penicuikpodiatrist
22 John Street Penicuik EH26 8AB

If the clinic is forced to close or perhaps relocate out of Penicuik these positions will either be lost or leave the town.

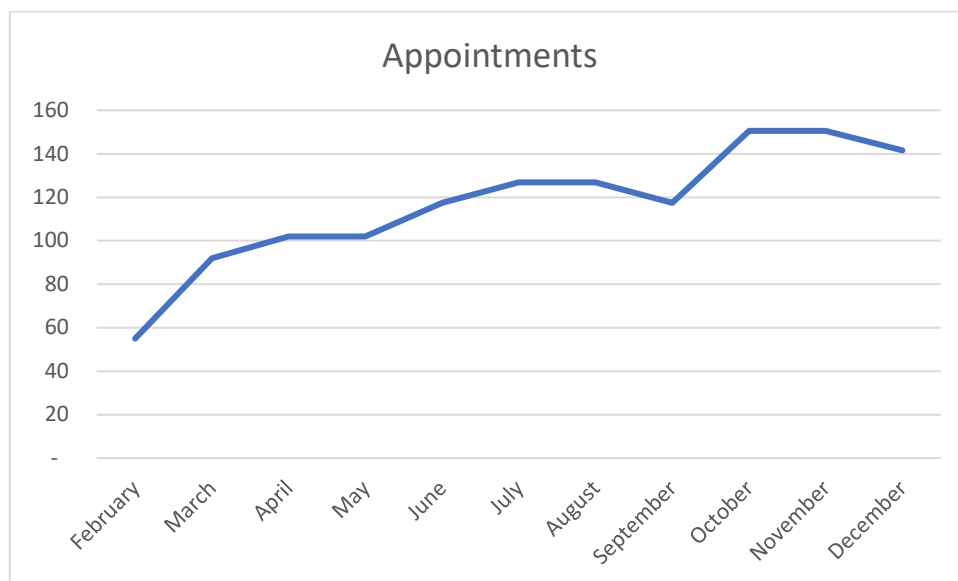
5. Negative Economic Impact If the Clinic Closes or Moves. In the time that we have been building the clinic and when open, only one word can be used to describe the pedestrian area in John Street, Ghost Town. Making the town look nice is a complete fallacy if no one goes there except for the few residents in the street. B&M faces the front and does not bring footfall into the area. Farm Foods have closed due to a planning issue as well. We have the potential long term to bring an approximate fifty people per day and create upwards of five professional jobs. We have already had one person turn down a role because of the uncertainty caused by waiting for the planning decision and the potential closure of the clinic. If the Council wish to revitalise the area, businesses like the Clinic are required that bring footfall. Without this simple economic fact, there is not future for the area as a retail centre for the town. Without adequate security, the clinic will close at a future point without insurance.

Since the clinic opened in February the number of people coming monthly to the clinic has risen each month to 102 people a month at the present. The number of new and thus repeat patients has been approximately 32 for each of the last three months. If the number of new patients continues at this rate and factoring the level of repeat appointments at a three-monthly basis with a dropout rate of less than 5% for the business (determined over six years of historical data) we are predicting that this number of repeat visits to the Pedestrian area will rise as follows over the next 12 months:

Projected Appointments at the Clinic based on the first four months of being open:

Appointments	
February	55
March	92
April	102
May	102
June	117
July	127
August	127
September	117
October	151
November	151
December	142

	Actual
	Projected Based on
	1. Consistent number of New Patients
	2. Repeating after three months
	3. 5% drop out of Patients on average



Each appointment equals someone coming to the precinct and spending money. For example, there is a very high rate of people going to the new micro centre for example for a coffee after or pre visit to the clinic.

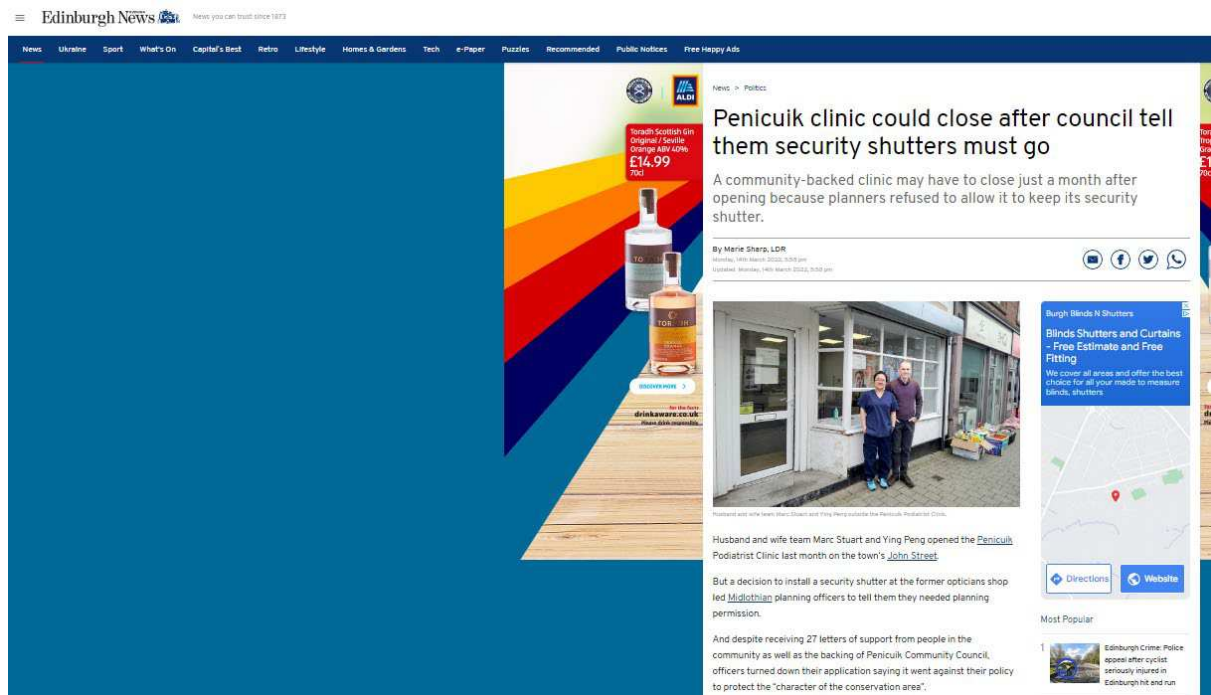
6. Impact on the Penicuik Residents. We will have to put in an alarm. We live so far from the premises to be able to attend if it goes off. One of us is a type one diabetic and usually is not able to drive in the evening due to low sugar levels, and both owners often have a glass of wine with a meal. Thus, under Scottish Law could not drive to get into the premises. This means that an alarm could potentially be ringing there for say up to 5-6 hours before we would be able to attend to it. Specifically, there are two extremely elderly people living above the clinic.
7. Data Protection Issues. It is a requirement of law that the registration contracts and documents are kept in paper. This contains medical records. This amounts to about 500 local Penicuik residents. These records are secured obviously, but if the added protection of rollers is removed then if someone broke in and was able to access or destroy the cabinet these documents are filed in then this is more than an inconvenience. All the information required to steal someone's identity plus for the extremely personal information covering health etc would be at risk. There are an extremely large number of patients for home visits where we have the entrance code to the properties also stored in the clinic, anyone breaking in and stealing these codes becomes an extremely high risk to many elderly and relatively helpless patients and residents. Thus the requirement for the highest level of security at the premises.
8. Overwhelming Public Support and Penicuik Feelings of Unfairness from the Council towards Penicuik. This has caused further unhappiness in the Penicuik Population or will do when the clinic closes or moves.

We have been running a video Facebook diary which gets on some of the posts just short of four thousand watches in some posts, so this is a well-known potential event re the proposed closure of the clinic subject to failure to get approval for these rollers. Many of our patients are extremely elderly and do not have or are able to access the internet. Many of these people have also approached local politicians directly.

One underlying comment that has been made by many people is a feeling that Midlothian Council reacts badly against Penicuik. This is only comments and not an opinion poll, but a significant number of patients coming into the clinic complain about lack of expenditure in Penicuik versus Dalkeith. Talk about how no investment is made in the Precinct and businesses are encouraged to move away such as Farm Shops recent closure. When or if the clinic closes, given the level of support from local people, as in twenty-seven to one, this will very quickly be felt and looked at in the same way.

This is reflected in the total support of the Penicuik Community Council who based on comments of the Chair expected this to be passed.

This level of support should also be listed in the list of special circumstances at the start. This level of support caused this article to be posted in the Scotsman and evening News when they saw the level of support:



9. The Look of the Precinct Itself. Whilst the letter of the law may be being followed, it does not consider the look and feel of the area. There are already several businesses with rollers already in the precinct. The opinion of the Penicuik Community Council was perfectly clear on this subject, that **“Any decision made has to take the appearance of the whole of the Precinct into account, therefore it would be seen to be unfair on this particular business, if this application was refused.”** The look and feel included modern sand coloured building on one side, and a wide range of buildings on the side of the clinic many of which are in a terrible state and let the look and feel of the side down. When all our work is completed, it will dramatically cause an improvement on the side of the clinic and the rollers will obviously only be down at night. In fact, it will balance the rollers directly opposite as the same supplier was deliberately chose to accomplish this.

We have had the entire clinic front painted and the wood on the old sign replaced. It looks like a mess now as we have not been able to get a sign up and one will not go up until we have the planning permission approved.



Whereas the current decision leaves no balance whatsoever. Look simply at the two shops

The Errors in the Planning Officer's Report

There are three very specific errors in the planning officer's report.

1. Miscalculation of the Level of Support and Opposition: there has been a mis calculation not fully representing the overwhelming level of support the clinic has received from the residents of Penicuik.

It is stated that four objections were received. This is first inaccurate, only three were objections and one was listed as neutral. Of the three remaining objections, one is from a resident of Dalkeith. Whilst this person is certainly entitled to her opinion, the fact that she lives in a town with several Podiatrist Clinics means that her opinion is not representative of the people making positive comments who fully realises the consequences for Penicuik of a negative decision. One of the negatives is from an architectural organisation and not a resident.

So, to put this as simply as possible, this means that one resident of the town of Penicuik has objected and there have been twenty-seven positive comments. This level of Public Support is clearly reflected by both private comments from local politicians and public statements of support from the MSP and the Penicuik Community Council.

To emphasise this, it means that there is 2,700% in support as a measurement of these comments. I in my paid employment work for IPSOS and thus am used to Polling for a living often actually working on political Polls in Scotland and have never seen such a positive response in any form of survey even if you have to underplay this as a self-selecting poll.

As an example of this level of support look at the number of supportive comments that were made in a post on a Facebook group which involved a councillor making replies, which got up to 123 comments. Not one person was against the shutters.

2. Alternative Security Measures are Unsuitable for this Property: The document ignores the fact that we have already looked at alternative security systems and found them unsuitable for this premises. Simply ignoring and saying we should look at alternatives without going through and saying why the alternatives we have looked at and not being suitable is not acceptable, without addressing the reasons that they were rejected.
 - a. Removable Window Bars – When we took over the property the security was metal bars which could be removed. These were so heavy they could not be removed by either of the two owners of the property.
 - b. Internal Rollers were considered. The nature of the property makes these an extreme fire risk. There is no rear entrance to the property and no windows other than the front shop windows. So if there is a fire the Fire Brigade cannot access quickly and easily and would have in the case of a fire alarm to demolish the front of the shop to get in.
3. Police Support for the need for Rollers. As already stated, because up to 1,000 scalpels that are stored on the premises local police officers have contacted the planning officer.

This was not reported in the document produced. This is significant at this was the basis of one appeal being processed successfully last year in East Lothian.

Two officers that are based out of Penicuik station were met at the Penicuik Station. Situation regarding the store of Scalpels was fully discussed and they indicated that they would want the rollers to remain in place. They were clear that they could not in any way be involved in making any decision but indicated they would send an appropriately worded email expressing their local concern as local officers if the rollers were removed.

Again, to repeat this was ignored in the report from the planning officer.



Police Scotland called on: Date 24.12.21 at Time 1145

To speak with

Regarding (tick applicable)	Incident Reported	Witness Appeal	Pass on Information	Security	Enquiries
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Other

Please email in the first instance, however if unable to do so please call 101.

Officer/Staff Name: PC Polan/PC Hand Shoulder number:

Incident/Crime Number: Inc 24/12/21 Station: Penicuik

Please contact me at: 1210 @scotland.pnn.police.uk

Thank you – your assistance with this matter is very much appreciated

003-010 V4-A1117

Conclusion

The Pedestrian area of John Street could be described as a Ghost Town based on the lack of pedestrian shoppers and a lack of active businesses in the area. The street suffers from two issues a landlord charging overly high rents and from the restrictions of the planning applications.

In the four months we have operated we have seen two very successful businesses move out of the area and one open to support micro businesses which had one business move out and rent another retail unit.

We are having a direct impact on people coming into the street. We are providing an essential service for the town which was not being addressed for about eight months since the sale of the previous clinic in 2021.

It is the responsibility of the council to encourage economic activity to bring economic activity and jobs. Not to mention the very specific requirement that the town of Penicuik needs a Podiatry Clinic. It has an aging population and when we announced that we would not be able to stay open look at the reaction and support.

The clinic is literally at the edge of the Conservation area. It is facing into an area of shops directly facing another with an identical shutter. We even propose to cover the shutter to hide it when closed. It was pointed out by the Community Council that the entire look and feel must be taken into account when making this decision and that not to do so was unfair to our business.

We will either close or relocate the clinic. We are in a perfect location for multiple business reasons and will leave the shop standing empty if required, we own the property with no mortgage, and campaign and appeal to get the decision we need.

List of Illustrations

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MIDLOTHIAN COUNCIL

DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

Planning Application Reference: 22/00006/DPP

Site Address:

22 John Street, Penicuik, EH26 8AB

Site Description:

The application site is located within the Penicuik Town Centre which comprises of mixed commercial, retail and residential uses. The site is located on John Street, a pedestrianised area within the Penicuik Conservation Area. The property comprises of a two storey building with a pitched slate roof with dormer windows. The application site, the ground floor commercial unit presents white framed windows and a recessed door.

Proposed Development:

Alterations to shopfront including installation of roller shutter and fascia sign (part retrospective).

Proposed Development Details:

The application is part retrospective with regards to the installation of the roller shutter already in place at the property. New signage is proposed to be fixed on and above the roller shutter box.

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

Consultations: The Penicuik and District Community Council support the application. The representation submitted noted support based on the view that the shutters are required for security purposes due to the materials and equipment kept on-site. Further it is noted that there are other premises within the area which have similar shutters and this should be considered as part of the assessment of the application. The Community Council also comment that they are pleased to see the unit being occupied due to it being vacant previously.

Representations:

There are 27 representations of support for the application. These representations are based on the following grounds;

- Needs of the community due to the absence of such a podiatrist service within Penicuik.
- The economic benefit due to the creation of jobs and increased footfall within the local vicinity.
- Safety and security concerns due to the materials and equipment kept on-site as part of the business operations.
- Supporting local businesses and the vitality of the town centre.

There are four objections received based on the grounds of the impact of the shutters on the Penicuik Conservation Area, the impact of the visual appearance on the urban realm and the subsequent negative perception of the Town Centre.

Further, the applicant has also submitted four additional representations. The information references the need for a podiatrist service in Penicuik, the need for security measures due to medical equipment on-site and their understanding that there is no viable alternative security measure other than the roller shutters already installed. The Applicant has also noted support for the application from MSP Christine Grahame. As per planning procedures, these will not be counted within the total number of neighbour representations, however each of these additional statements of information have been taken into account.

Relevant Planning Policies:

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

Policy DEV2 – Protecting Amenity within the Built-up Area

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 and amenity of the area.

Policy TCR1 – Town Centres, Penicuik

Proposals for retail, commercial leisure development or other uses which will attract significant numbers of people, will be supported in Midlothian's town centres, provided their scale and function is consistent with the town centre's role, as set out in the network of centres and subject to the amenity of neighbouring uses being preserved.

Policy ENV19 – Conservation Areas, Penicuik

Within or adjacent to a Conservation Area, development will not be permitted which would have any adverse effect on its character and appearance. In assessing proposals, regard will be had to any relevant Conservation Area Character Appraisal.

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 establishment of a new local business in Penicuik is supported and the Planning Authority acknowledges the contribution this can make to footfall and the vitality of the town centre. Policy TCR1 is therefore relevant. The principle of the opening of the business or its use is not the planning issue being considered with regards to this application. Furthermore protecting and securing the business and its assets is not in question should the Applicant wish to do so. It is in fact, the measure in which they have chosen to do this and have put in place, in this instance the roller shutters. As such, this is the planning matter being considered given the location of the property within the Conservation Area of Penicuik town centre.

To highlight, this is a retrospective application following enforcement action being taken against the Applicant regarding the installation of the roller shutters. The

Applicant did not seek advice from the Planning Authority previous to the installation of the shutters.

The application site is located within the Penicuik Conservation Area Regeneration Scheme (CARS). Significant investment has been made, and continues to be made, to assist with the repair and restoration of the Conservation Area. One of the key aims of the CAR Scheme is to improve the attractiveness through shopfront restoration and improvement, and public realm improvements.

As noted in the Penicuik Conservation Area Management Plan, 'good design can enhance the shop front, make a positive contribution to the street scene and improve retail operations.' The plan also notes, 'Aluminium or other "standard" shopfront systems that do not respect the historic patterns of bays, recesses and the like will not normally be acceptable, particularly for listed and traditional buildings.' It is therefore noted that security measures should not have a detrimental effect on an appearance of a property and its surrounding environment, particularly within the Conservation Area.

The Penicuik Shop Front Design Guide has been produced as part of the Penicuik Townscape Heritage and Conservation Area Regeneration Scheme and offers guidance to support efforts in improving the attractiveness of shop fronts, town centres and the public realm. The guide particularly notes careful consideration should be given towards implementing security measures for retail and commercial units. 'Solid external security shutters are not acceptable. They require a permanent bulky housing attached to the fascia which is unsightly and when rolled down they give the street a deadening effect which can encourage crime.'

In particular DEV2 Protecting Amenity within the Built-Up Area, does look to support development unless it is likely to detract materially from the existing character or amenity of the area. With regards to 22 John Street, the concern is that the chosen security measure, in the shutter box, which projects out from the property and the roller shutters, significantly impacts upon the visual appearance of the property and how this presents onto the street front and subsequent character of the area.

The integrity of the Conservation Area and Penicuik town centre must be safeguarded and in doing so the location, setting and appropriate planning policy must be respected. It is the Council's duty to preserve and enhance the character and appearance of conservation areas within Midlothian Council and in supporting this retrospective application for roller shutters, this would appear to contradict with the efforts by the Council to protect, enhance and promote Penicuik town centre and the CAR Scheme.

Recommendation:

Refuse Planning Permission

Reg. No. 22/00006/DPP

Fred Walker Associates
19 Biggar Road
Silverburn
Penicuik
EH26 9LQ

Midlothian Council, as Planning Authority, having considered the application by Ying Peng Podiatry, Mr Marc Stuart, 22 John Street, Penicuik, EH26 8AB, which was registered on 11 January 2022 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

Alterations to shopfront including installation of roller shutter and fascia sign (part retrospective) at 22 John Street, Penicuik, EH26 8AB

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	1 1:100/1250 Location Plan	11.01.2022
Illustration/Photograph	Proposed Signage	11.01.2022
Location Plan	LP 1:1000	11.01.2022
Other Statements	Supporting Statement	11.01.2022

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

- This proposal is a retrospective application for roller shutters in Penicuik Town Centre where significant investment has been made in recent years as part of the CAR Scheme, to assist with the attractiveness and restoration of shop fronts. The roller shutters are contrary to the efforts by the Council to protect and enhance amenity within the built-up area and to enhance and promote the character and appearance of the conservation area, as per policies DEV2 and ENV19 of the adopted Midlothian Local Development Plan 2017.*

Dated 10 / 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

Email: planningconsultation@coal.gov.uk

Website: 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.

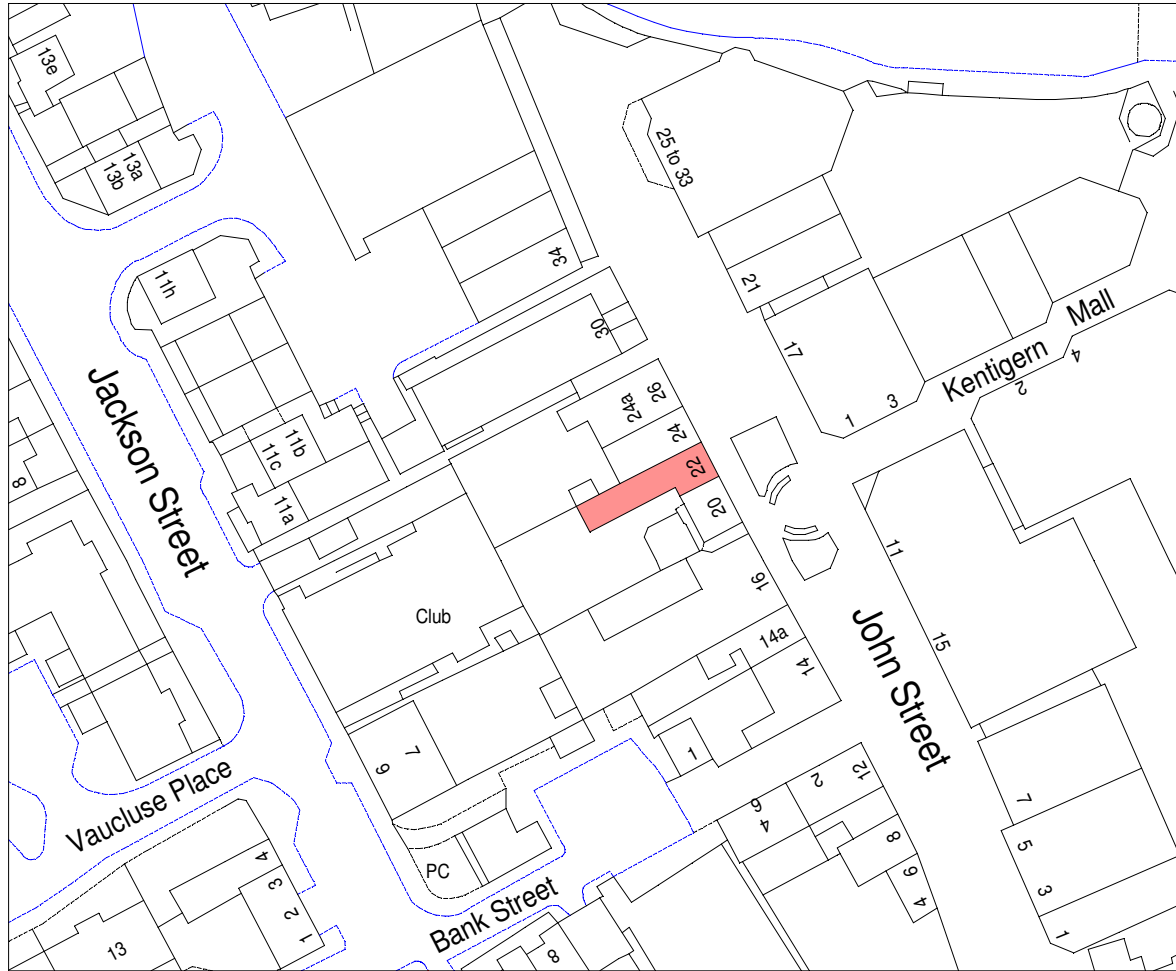
Further information is also available on the Coal Authority website at:

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

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

Appendix E

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LOCATION PLAN 1:1000 SCALE

0 10 20 30 40 50 metres

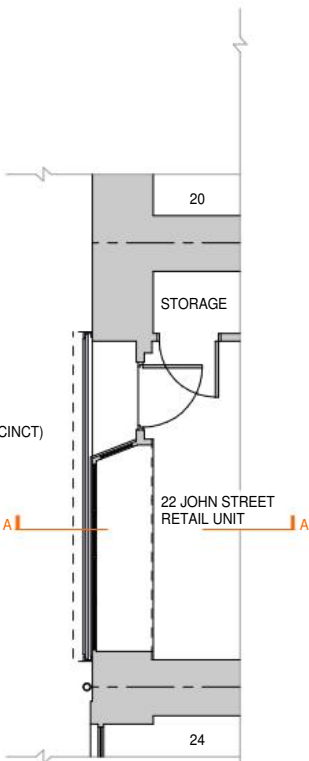


Premises belonging to applicant

suffix	revision	date 28/12/21	
NAME		MR STUART	
ADDRESS		YING PENG PODIATRY 22 JOHN STREET PENICUIK EH26 8AB	
job title		EXTERNAL SHUTTER INSTALLATION	
drawing		LOCATION PLAN	
774		drg. no.	/ / /
		LP	/ / /
			/ / /
			/ / /
scale (at A4) 1/ 1000	date	drawn	checked
FWA		FRED WALKER ASSOCIATES ARCHITECTS 19 BIGGAR ROAD SILVERBURN PENICUIK MIDLOTHIAN EH26 9LQ TEL / FAX : 01968 672588 INFO@FREDWALKERASSOCIATES.CO.UK	



EAST (JOHN STREET) ELEVATION



GROUND FLOOR PLAN (PART)

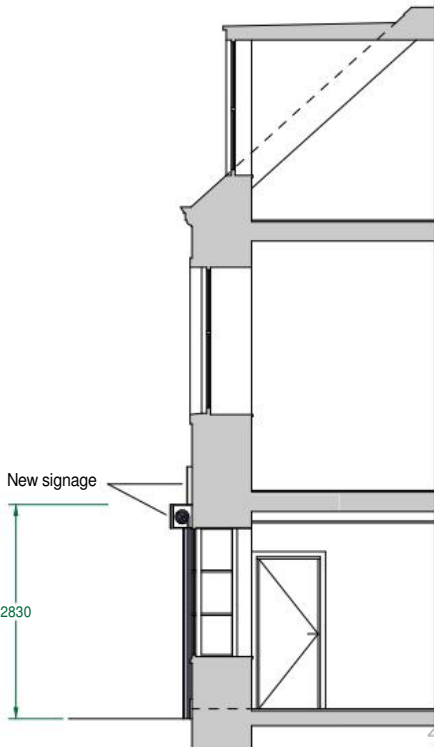


PROPOSED EAST (JOHN STREET) ELEVATION 1:100 SCALE

0 1 2 3 4 5 metres



Proposed external metal roller shutter
New signage to be fixed both on & above roller mechanism casing



PROPOSED SECTION A-A (PART)

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LOCATION PLAN 1:1250 SCALE

0 10 20 30 40 50 metres



VIEWS FROM JOHN STREET



PREVIOUS METAL GRILL SHUTTERS

suffix	revision	date	28/12/21
NAME	MR STUART		
ADDRESS	YING PENG PODIATRY 22 JOHN STREET PENICUIK EH26 8AB		
job title	EXTERNAL SHUTTER INSTALLATION		
drawing	PLAN, LOCATION PLAN, SECTION & ELEVATIONS		
774	drg. no.	1	/ / /
			/ / /
			/ / /
			/ / /
scale (at A3)	date	drawn	checked
1/			
FWA FRED WALKER ASSOCIATES ARCHITECTS 19 BIGGAR ROAD SILVERBURN PENICUIK MIDLOTHIAN EH26 9LQ TEL / FAX : 01968 672588 INFO@FREDWALKERASSOCIATES.CO.UK			



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