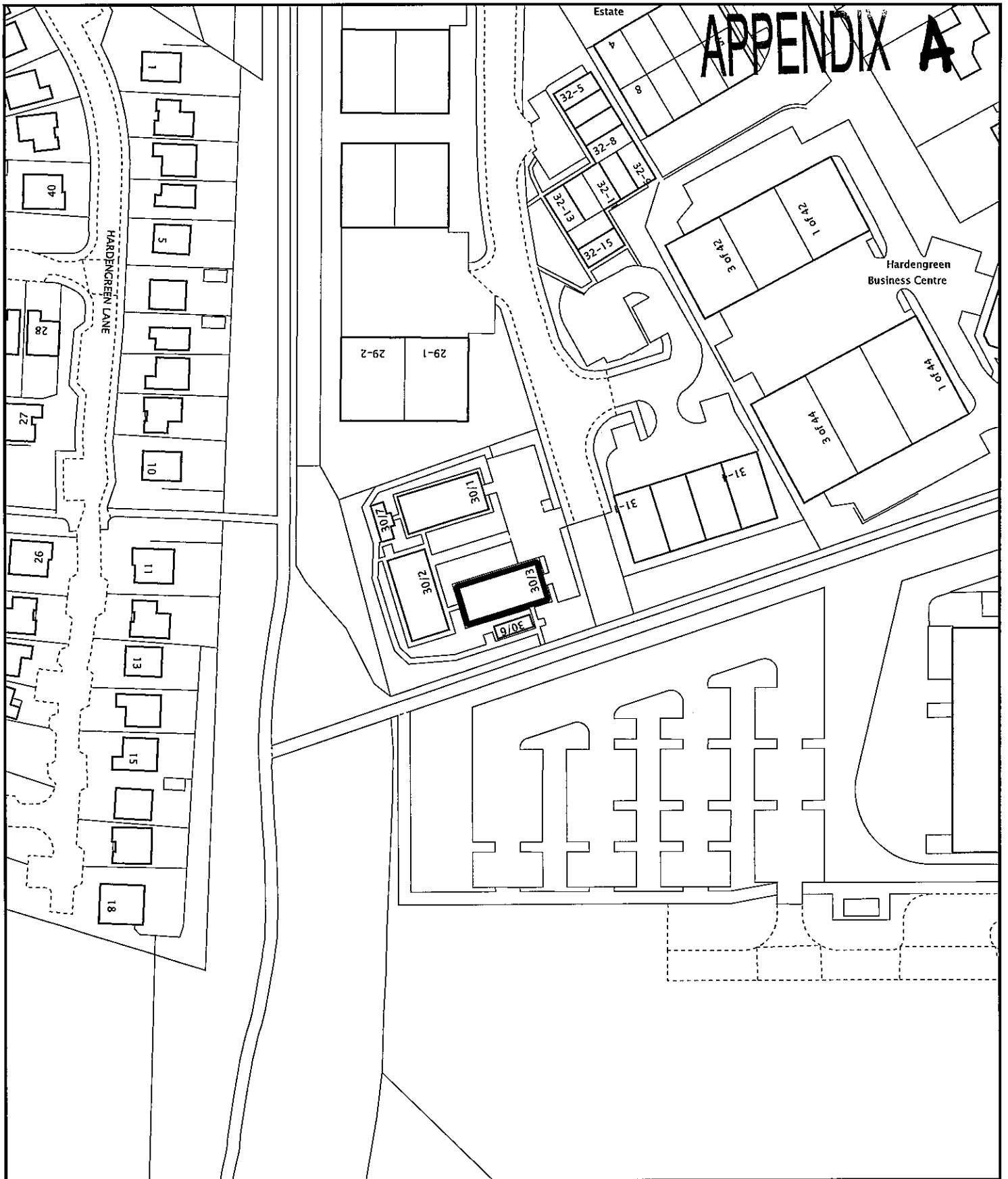


APPENDIX A



Corporate Resources
Midlothian Council
Fairfield House
8 Lothian Road
Dalkeith EH22 3ZQ

Change of use from office/light industry (class 4) to fitness studio (class 11) at 30/3 Hardengreen Industrial Estate, Dalkeith

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File No. 13/00161/DPP

Scale: 1:1,250



Midlothian

Fairfield House 8 Lothian Road Dalkeith EH22 3ZN

Tel: 0131 271 3302

Fax: 0131 271 3537

Email: planning-applications@midlothian.gov.uk

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

Thank you for completing this application form:

ONLINE REFERENCE 000063758-001

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

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:

Sorrell Associates

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

Ref. Number:

Building Name:

The Green House

First Name: *

Jim

Building Number:

41

Last Name: *

Sorrell

Address 1 (Street): *

St Bernard's Crescent

Telephone Number: *

0131 343 3643

Address 2:

Extension Number:

Town/City: *

Edinburgh

Mobile Number:

Country: *

UK

Fax Number:

0131 343 2649

Postcode: *

EH4 1NR

Email Address: *

jimsorrell@sorrellassociates.co.uk

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

Individual Organisation/Corporate entity



Applicant Details

Please enter Applicant details

Title:	<input type="text"/>
Other Title:	<input type="text"/>
First Name:	<input type="text"/>
Last Name:	<input type="text"/>
Company/Organisation: *	Pulse Fitness and Pilates Ltd
Telephone Number:	<input type="text"/>
Extension Number:	<input type="text"/>
Mobile Number:	<input type="text"/>
Fax Number:	<input type="text"/>
Email Address:	<input type="text"/>

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

Building Name:	<input type="text"/>
Building Number:	41
Address 1 (Street): *	Jarnac Court
Address 2:	<input type="text"/>
Town/City: *	Dalkeith
Country: *	Scotland
Postcode: *	EH22 1HU

Site Address Details

Planning Authority:	Midlothian Council
---------------------	--------------------

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

Address 1:	30/3 HARDENGREEN INDUSTRIAL ESTATE	Address 5:	<input type="text"/>
Address 2:	HARDENGREEN INDUSTRIAL ESTATE	Town/City/Settlement:	DALKEITH
Address 3:	ESKBANK	Post Code:	EH22 3NX
Address 4:	<input type="text"/>		

Please identify/describe the location of the site or sites.

Northing	666048	Easting	332418
----------	--------	---------	--------

Description of the Proposal

Please provide a description of the proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

Change of Use of Unit 30/3 Hardengreen Industrial Estate, Dalhousie Road, Eskbank from Office/Light Industrial (Class 4) to a Fitness Studio (Class 11)

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 of 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.

See Statement in Support of Review

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

Yes No

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)

Statement in Support of the Review (Sorrell Associates May 13)
Location Plan and Floor Plan
Letter from Applicant (7.3.13)
Letter from TEC Estates (6.3.13)
DPEA Reporters Guidance Note 16
Marketing Brochure
Consultation Responses from Council Roads and Economic Development
Officers Delegated Report
Decision Notice
Scottish Planning Policy
Midlothian Local Plan 2008

Application Details

Please provide details of the application and decision.

What is the application reference number? *

13/00161/DPP

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

07/03/13

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

07/05/13

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 conducted by a combination of procedures.

Please select a further procedure *

Holding one or more hearing sessions on specific matters

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

To enable members of the LRB to understand the benefits of the proposed use direct from the proprietors of the business. These include the benefits the business will provide in creating employment, in supporting other businesses at Hardengreen, enhancing its attraction as an industrial estate, and in providing a popular leisure facility for the local community.

Please select a further procedure *

Inspection of the land subject of the appeal. (Further details below are not required)

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)

To allow the LRB members to witness the features of the property which lend itself to a fitness studio, the difficulty in attracting Class 4 tenants, the discrete location of the property at the rear of the industrial estate, and the ease of access to the local community without disruption to industrial occupiers.

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)

There isn an access gate which needs to be unlocked. Also the internal layout of the property is a material consideration. Access can be provided by the property owner if the time of the site visit is indicated.

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: Jim Sorrell

Declaration Date: 17/05/2013

Submission Date: 17/05/2013

**UNIT 30/3 HARDENGREEN
INDUSTRIAL ESTATE,
DALHOUSIE ROAD, ESKBANK,
MIDLOTHIAN EH22 1HU**

**Statement in Support of a
Notice of Review Against a
Decision by Planning Officials of
Midlothian Council to Refuse
Planning Permission for a
Change of Use from Office/Light
Industrial (Class 4) Use to a
Fitness Studio (Class 11)**

On behalf of:

Pulse Pilates and Fitness Ltd

17th May 2013

Sorrell Associates

planning | development | consultancy

The Green House
41 St Bernard's Crescent
Edinburgh EH4 1NR
Tel: 0131 343 3643
www.sorrellassociates.co.uk

SECTION 1 INTRODUCTION

This statement is made on behalf of Pulse Pilates and Fitness Ltd (PPF) in support of a Notice of Review submitted to Midlothian Council. It seeks to demonstrate that the proposed change of use of Unit 30/3 Hardengreen Industrial Estate to a fitness studio is justified, and that the decision to refuse planning permission (ref 13/00161/DPP) by planning officials should be reversed by the Midlothian Local Review Body.

Procedural Issue

The Review is sought under Section 43A(8) of the 1997 Planning Act (as amended). In this regard Section 43B(1) requires that *"a party to proceedings is not to raise any matter which was not before the (Council) at the time the determination was made"*. Circular 6/2009 similarly restricts the introduction of any new "material". However the terms "matter" and "material" are not defined.

Clarification is given in Guidance Note 16 issued by the Scottish Government's Directorate for Planning and Environmental Appeals (DPEA). This is intended primarily for Reporters presiding over planning appeals. However as the procedure for appeals in Section 47 of the Act has identical wording to Section 43, it would be consistent to also apply this Guidance to Reviews under Section 43.

The Guidance considers (at para 8) that the intended restriction of the Act is to any "new matters" and that this is used in the sense of restricting the introduction of new "issues" or "topics". However it does not restrict the submission of updated or additional evidence on previously identified issues or topics. It must therefore follow that it is acceptable for PPF to give further opinion and information in this Review Statement on the matters which were available to, or taken into account by, Council planning officials in reaching their determination, and not to be restricted solely to the submissions they made with the planning application.

Reason for Refusal

The stated reason on the decision notice of 7th May 2013 is that :

"The proposal would result in the use of a modern purpose-built business unit within Hardengreen Business Estate for a non-industrial/office activity. The business estate has been identified as part of the Established Economic Land Supply in the adopted Midlothian Local Plan and the proposal would therefore conflict with the objectives of policies COMD1 and ECON4 of that plan."

Policy COMD1 "Committed Development" states that *"the Council will seek the early implementation of all committed development sites, related infrastructure and facilities, including those sites identified as part of the established economic land supply"*. This includes Hardengreen Industrial Estate for business and general industrial purposes.

The relevance of this policy is debatable because the development of the industrial estate has now been fully implemented, as has the adjacent Hardengreen Business Park which at the time of the plan's adoption was still zoned for development.

We accept it is generally anticipated that key industrial and business locations will be maintained in their intended uses to allow for market take up. However some context is provided by Scottish Planning Policy which, in its ambitions for Economic Development (para 45), states that :

“Authorities should respond to the diverse needs and locational requirements of different sectors and sizes of businesses and take a flexible approach to ensure that changing circumstances can be accommodated and new economic opportunities realised. Removing unnecessary planning barriers to business development and providing scope for expansion and growth is essential”.

Policy ECON 4 “Storage and Distribution and Other Non-residential Uses on Existing industrial Land and Buildings” states that:

“In exceptional circumstances and in locations close to the strategic road network, consideration may be given to a storage and distribution use (Class 6), or other non-residential use, on such sites and on existing industrial land and buildings, subject to the following criteria:

A. The level of employment arising from the proposed use is equivalent to Class 4 or Class 5.

B. There is no loss of land identified for research and development/knowledge based industries

C. Provision is made to accommodate traffic generated by the proposed use, and for suitable access, without adversely affecting the local area. ”

The Estate is close to the strategic road network (A7, City Bypass, etc), although Criterion B of the policy is not relevant to this proposal. We set out below our consideration of the remaining aspects of planning policy, and the manner in which these have been addressed in the officer’s report, by reference to a number of characteristics of the proposed fitness studio, the circumstances of Unit 30/3, and the potential benefits of the proposed use.

The Proposed Use

The undernoted provides information further to the letter (dated 7th March) submitted with the application by Pulse Pilates and Fitness.

PPF is a local business established by Robert and Janice Paterson only one year ago. In May 2012 they took occupation of a former office premises on the third and fourth floors at 41 Jarnac Court in Dalkeith town centre. The business has been a success, their customer numbers have grown and four qualified staff are now employed.

The short-medium term business plan is for further expansion of customer numbers, consolidating the existing popular evening fitness classes and building up classes during day time, which are presently less well attended. A particular ambition is to offer a specialised service for clinical pilates; for the elderly or overweight; and to introduce beautician and nutritional advice classes.

This would require additional staff and could potentially double the existing number of jobs.

In the long term there is identified potential to become the centre of excellence for health and fitness in Dalkeith, providing a unique offering in Midlothian, and working closely with the local health authorities.

However any further growth is constrained by the present accommodation being over two floors and the steep stair access which makes it inaccessible to many potential clients, particularly the mobility-impaired. Ground floor premises have been urgently sought, including with the assistance of the Council's Economic Development team, but all identified units are either unsuitable or require change of use, usually from Class 4.

The Unit at 30/3 Hardengreen is an ideal size, quality and layout for the business to fulfil its intended expansion. The principle part of the building (Unit 3A) is an existing store with no windows and a shutter door. This is ideal for the fitness and pilates classes. The three small "pods" to the rear of the building (Unit 3B) will be used for administration and nutrition/beautician specialists.

Location at Hardengreen will enable PPF to remain local to Dalkeith and central to its catchment clientele. It is easily accessed by car with ample on and off-site parking available and, importantly, has direct wheelchair access.

PPF intend to provide an amenity for the staff of other companies at Hardengreen and are also hopeful a leisure use can enhance the attraction of the Estate to new occupiers. The location of the unit on the extreme edge of the Estate also provides opportunity to offer a community leisure facility direct to the adjacent residential areas and Edinburgh College. A high proportion of clients are therefore expected to walk.

This will be enhanced by the new footpath presently under construction immediately beside the unit which will provide direct links to adjacent communities and reduce the likelihood of pedestrians walking through the industrial estate. The proposed station on the Borders Railway adjacent to the estate will provide a public transport link to a wider catchment.

The proposal offers the opportunity to support a growing local business which is geared to offering community benefits but these benefits have been overlooked in the officer's report. The Local Plan is silent on the merits of commercial leisure activities such as that proposed. Without approval, this potential will remain stagnant.

We submit the intended fitness studio should be regarded as a business which contributes positively to the health and well being of the local community as well as jobs and economic benefits. Collectively these merit the flexibility promoted by Scottish Government in the SPP.

Property Market Issues

The letter (dated 6th March 2013) from TEC Estates, the owner of the premises, submitted with the application provides a clear indication of the lack of demand in recent years for Unit 30/3.

Notably, it has been empty since November 2011 during which time the only interest has been from transient companies attracted largely by the peppercorn rent offered by the landlord in a last resort to attract tenants in the face of the severe economic downturn. Despite this, there has been minimal interest for Class 4 use, and certainly none with a commercial covenant to reflect the quality of the building.

In 2012 the ownership of the storage area was separated from the office pods enabling their separate management and marketing. However the only interest has been from transient individuals for the small office units and the storage area has only been occupied for 1.5 weeks.

In the officer's report it is considered that this minimal interest from tenants is sufficient to indicate there is still a market appetite for the property. However this directly conflicts with the response to the best marketing efforts of three leading property agents employed by TEC Estates over this time. There was no further marketing report submitted in support of the application because there was little further to report.

The unit has a good specification and an attractive, relatively secluded immediate environment with the two other TEC Estates units adjacent. However it suffers from its location in the rear corner of the estate set behind the prominent industrial units developed by Smart and Midlothian Council. In fact all signage on the estate refers to it as an Industrial Estate and, other than the Hardengreen Business Centre at the entrance on Dalhousie Road, it has the character of an industrial location rather than an office location. This is in contrast to the mistaken reference in the officer's report as a business park.

All the above suggests there is little prospect of attracting tenants for the foreseeable future. Significantly, this scenario is confirmed by the response from the Council Economic Development Department (2nd May) who, whilst not wishing other non-Class 4/5 uses to be approved, consider the circumstances of Unit 30/3 to merit an exception. This is largely based on the position of the unit on the periphery of the estate and the lack of market take-up.

Job Creation

The officer's report also notes the Council's position is to refuse non-employment generating uses unless there is no realistic prospect of industrial/business use. We do not dispute the importance of the premises achieving job creation. However, the report underestimates the potential number of employees at the fitness studio. This is presently four and, as explained above, would be expected to double in the near future to some eight staff if consent is granted.

A comparison is then made in the officer's report between prospective jobs at the proposed fitness studio and possible office/industrial employment at the unit and it is concluded it will be less. However since the unit was built 15 years ago the actual number of staff from previous occupiers has been :

- | | | |
|-------------|----------------------------|--------------|
| • 1998-2000 | The Exhibition Company | 2 employees |
| • 2000-2005 | PM Solutions | 4 employees |
| • 2006 | Romulous Enterprises | 5 employees |
| • 2008-2011 | Scobie & McIntosh/Stangard | 16 employees |
| • 2011-2013 | no permanent tenants | 0 employees |

Thus experience shows that the fitness studio will actually achieve a comparable, or higher, number of jobs than the presently approved use. This satisfies Criterion A of Policy ECON 4.

Traffic/Access

The consultation response from the Council's Policy & Road Safety service confirms that the operation of the facility is not anticipated to have a major impact on the existing parking situation within the estate, particularly given the proposed opening hours and the scale of the business.

It is therefore not clear why the planning officer should regard traffic generation and parking as a concern. Classes during day time hours will be between 9am and 2pm - but not through the afternoon as is mistakenly suggested in the officer's report. During these times visitors can use the

four designated spaces adjacent to the unit and also the communal parking area opposite (capacity 12 spaces). If required additional roadside parking is also available on the estate road.

Access by car will also be reduced as it is anticipated many clients will walk from adjacent residential areas and use the new railway when it becomes operational. Daytime classes will also include those for mobility impaired for whom disabled access within the site is provided, and potentially classes for the adjacent Edinburgh College.

PPF anticipate building up their day time classes from a presently low rate, but the largest proportion of classes and highest attendances are still anticipated in the evening (6-9pm) by when other units at Hardengreen will generally have closed and parking is freely available.

Taking all the above into account, Criterion C of Policy ECON 4 is satisfied.

Amenity of the Industrial Estate

Local Plan Policy RP20 "Development within the Built-Up Area" states that development will not be permitted where it is likely to detract materially from the existing character or amenity of the area. This is referred to in the officer's report but no objection is made in this regard.

We agree with this conclusion. There is scope for PPF to provide a facility which will be complementary to the other estate occupiers and which can become part of the estate's overall attraction for new tenants. In any case its location at the periphery of the estate will limit any change to the perception of the estate's character.

There are examples in other significant business parks where leisure facilities are an intrinsic attraction and an important service to other occupiers (eg Edinburgh Park). At Hardengreen there are some non-industrial/Class 4 activities within some of the units which have been referred to in the TEC Estates submission and the officer's report. These trade with no apparent cause for concern to other businesses, which shows that alternative uses can provide a positive feature and facility.

It is not considered traffic and pedestrian flows from the fitness studio will cause concern to other occupiers. It is also relevant that noise insulation within the building is sufficient to prevent any disturbance to neighbours from music played during the classes. This has been tested to the satisfaction of the nearest neighbour in Unit 30/2.

Conclusion

Conversion of premises on the established industrial/office areas is not generally allowed. However in this case an exceptional case is merited:

1. Present market conditions suggest there is little prospect of Class 4 tenants being found for the Unit.
2. Employment generated by the fitness salon will be comparable or better than achieved by previous Class 4 tenants of the Unit
3. The proposal has the full support of TEC Estates (the property owner) and the Council's Economic Development team, based on the economic advantage it will achieve. No third parties of consultees have objected.

4. Pulse Pilates and Fitness is a young, expanding business that enhances the health and wellbeing of local communities and will extend this opportunity to disadvantaged groups
5. No anticipated disbenefit to the amenity of Hargengreen Industrial Estate with scope to provide an ancillary/complementary facility for other occupiers.
6. Parking is provided both on site and closeby in the estate. Location on the edge of Hardengreen with defined footpaths to neighbouring areas will minimise pedestrian activity through the estate. There is no objection from the Council Roads Department on these matters.
7. The criteria in Policy ECON 4 are satisfied and an exception to Policy COMP 1 is merited.

The character of the proposed use by Pulse is different to other possible occupiers as it offers a local service with a leisure facility that can add vitality to the local residential and business community. If any doubt remains, the severe economic conditions of recent years, which seem likely to resonate for the foreseeable period, in our view merits an imaginative approach being taken by owners, occupiers and the Council to encourage business initiatives.

A little over one year ago Midlothian Council granted planning permission for PPFs present fitness studio at 41 Jarnac Court by allowing a change of use away from the approved office/Class 4 function which applied to all upper floors of the property. One year later, in similar circumstances, the same approach should be taken again.

A site visit and hearing are requested in order for members of the LRB to fully appreciate the particular location and features of Unit 30/3 and also to best understand the positive merits of the Pulse Pilates and Fitness business.

REFUSED
08.05.2013



13/00161/DPP

Pulse Pilates & Fitness Studio

41 Jarnac Court Dalkeith Midlothian EH22 1HU

7th March 2013

Dear Sir/Madam

I would like to support my application with this letter explaining why I would like you to give my application serious consideration for change of Use at 30/3 Hardengreen Industrial Estate.

Pulse Pilates and Fitness Studio is currently located at 41 Jarnac Court, which is on the third floor of an office building in the centre of Dalkeith. To get to the third floor you have to climb 57 stairs, this is a major problem for our clients

To enable me to expand my business I need to have premises on ground level. The premises at Hardengreen would be an ideal fit. I started the business in May 2012 we have achieved the following

- Employ 4 part time Qualified Instructors
- Class sizes are around 8-12 people
- Operating hours 9 – 2 during the day 6 – 9 in the evening
- Current classes per week 25

To expand my business I would like to focus on more specialised service during the day

- Clinical Pilates
- Specialised Fitness classes for the obese/overweight
- Nutritional Advice Classes
- Classes for the elderly

RESOURCES
13/00161/DPP
- 7 MAR 2013

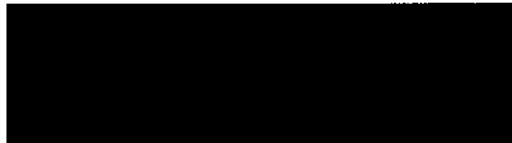
My long term plan is to become the centre of excellence for Health and Fitness in Dalkeith making this a unique offering in Midlothian, working closely with the local Health authorities. The hardengreen site offers wheelchair access which is a big plus

The parking facilities at Hardengreen are more suitable for my clients as they can park closer to the studio at night when most of the other businesses have gone home for the evening.

During the day there will only be a handful of cars looking for parking at any one time and this can be done in the gated area within the complex.

Please find attached a copy of the floor space at Hardengreen

Yours Faithfully

A solid black rectangular box used to redact the signature of Mr Robert Paterson.

Mr Robert Paterson

REFUSED
08.05.2013
13/00161/DPP

Planning Department
Midlothian Council
Fairfield House
8 Lothian Road
Dalkeith EH22 3ZN

6 March 2013

Dear Sirs,

30/3 Hardengreen Industrial Estate, Eskbank, Midlothian EN22 3NX

It may be useful when you are considering the application by Pulse Pilates Fitness Studio, in connection with the change of use in relation to the above property, if you were to take into account the following information.

Since November 2011, the premises have been empty, apart from a brief period last year, when we offered individual offices, on a short term License to Occupy basis, to four businesses. This proved to be impossible to manage and the licences were terminated after two months. One of the licensees occupied their office on a rent free basis and another licensee disappeared after 11/2 weeks without paying their staff. It has been difficult to find any tenant who requires class 4 use premises, far less any good tenants.

We have appointed three different letting agents to market the property. Graham & Sibbald are currently working hard to find a suitable tenant, without success. We have invested in our own website and high quality brochures. We are also listed on other national third party sites. Our prices are competitive and we are willing to offer good incentives.

Cyviz Ltd, our tenant at Pavilion 30/2, accepted a fifteen year lease, back in 2012, with a break option after year five. Their annual rent is £1 per annum for the first five years. We could have leased that pavilion for £26,500 + VAT in 2005 without difficulty. We approached numerous business and charities with the same offer, without success, before we signed up Cyviz. Unfortunately, that is the state of the commercial property market in this current economic climate.

The recent changes in empty business rates relief by the Scottish Government, has only helped to make matters much worse.

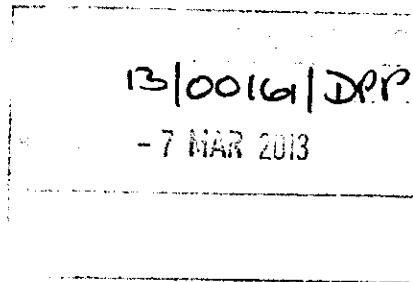
We have received a number of good enquiries from businesses such as dentists, dance schools and nurseries but none of these falls within the current permitted use.

ESTATES

30/7 Eskbank Office Complex
Hardengreen Estate
Dalhousie Road
Eskbank
Midlothian
EH22 3NX

0131 660 9840 telephone
0131 660 3621 fax

info@tec-estates.co.uk
www.tec-estates.co.uk



I understand Pulse Pilates Fitness Studio currently occupy premises in the centre of Dalkeith for which they successfully obtained a change of use from offices. Being on the fourth floor, I also understand that these premises are proving to be unsuitable for a number of their existing clients and deny people with accessibility issues from using the studio.

Currently, there are a number of businesses within the Hardengreen Estate and Business Park that carry out activities that appear to conflict with class four usages. These include a paper business that has a craft and coffee shop, a walk-in charity supporting ex service personnel, a physiotherapy clinic and a car valet.

I believe that a more relaxed approach to the use of the estate would fill empty premises and create more jobs. I also believe that there are a number of examples of this type of relaxation of the use regulations, both within Midlothian and Edinburgh.

Both my fellow business partner and I would be very pleased to have Pulse Pilates Fitness Studio as our tenant and I hope that you will give their application for change of use favourable consideration.

I would be happy to meet with you to discuss matters further if you require any further information from me.

Yours sincerely,



Bill McIntosh
Partner

Encl Marketing brochure
Copy Pulse Pilates Fitness Studio



TEC
The Eskbank Office Complex

We built a complex, but made it simple

for further information visit
www.tec-estates.co.uk

REFUSED

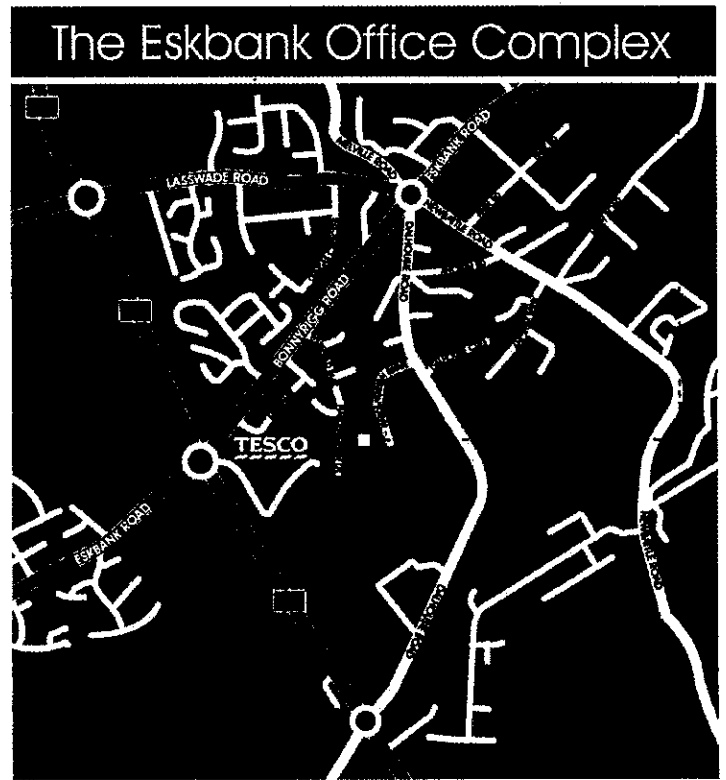
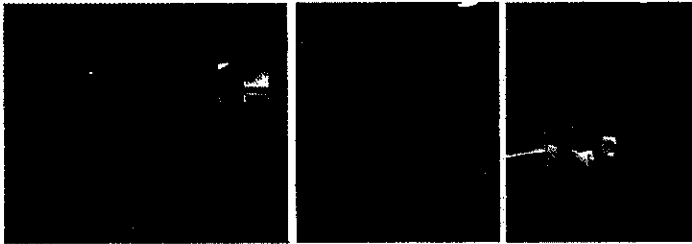
08.05.2013

13/00161/DPP

...traffic jams, parking fees, cramped offices that freeze in winter and swelter in summer, rocketing rents and rates. Not to mention that guddle of retro-fitted cabling under everyone's desks... only crazy people think old-style city buildings are the answer to business space needs.

Which is why we've created the smart person's office accommodation in the heart of Midlothian. Just minutes from the Edinburgh bypass, experience the pleasure of working in an affordable, comfortable, technically top-notch environment. You'll also be straight on the road to meeting destinations across the central belt and beyond.

The Eskbank Office Complex – the sane place for your business.



For more information or to arrange a viewing please contact Bill McIntosh on 07970 389239

TECESTATES

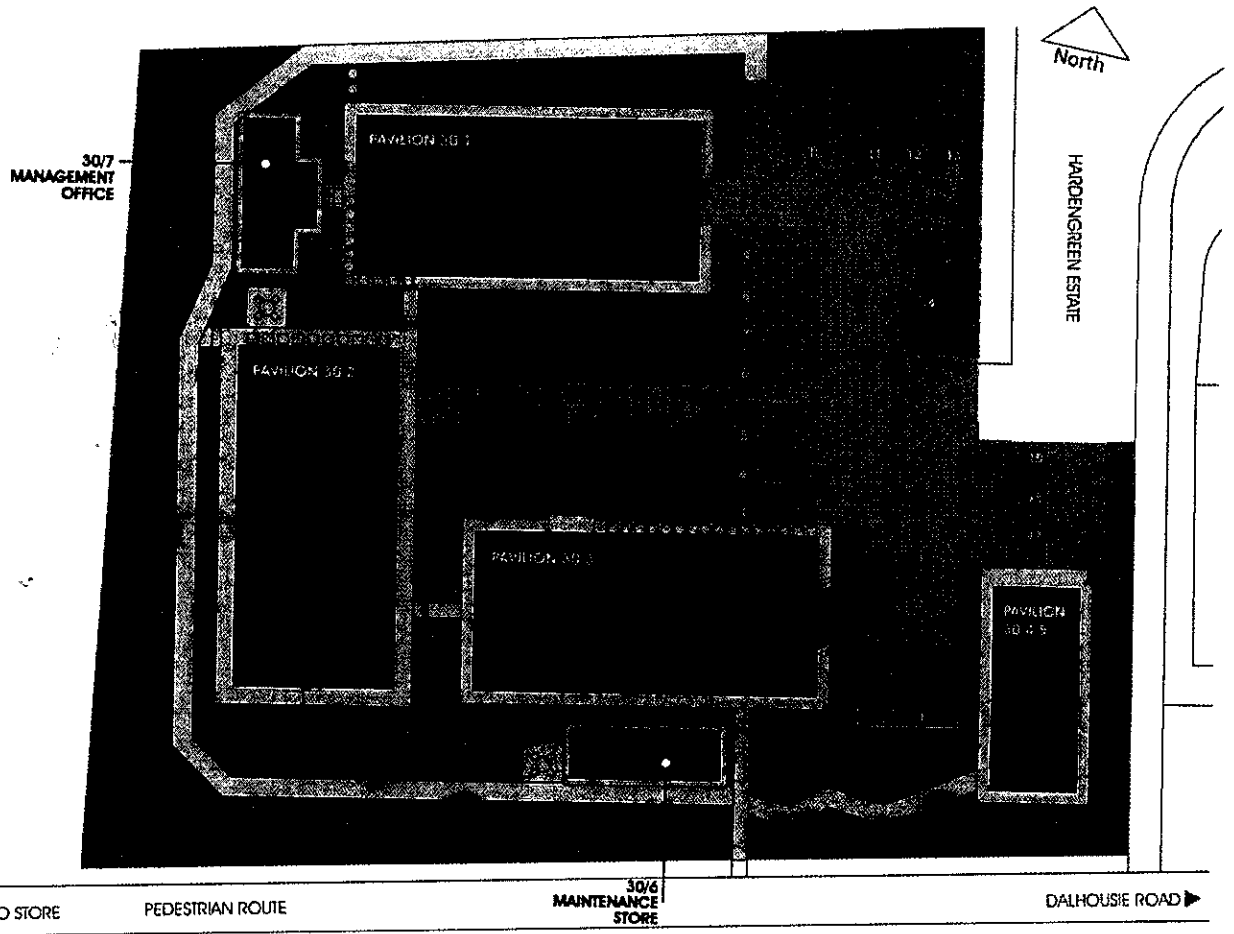
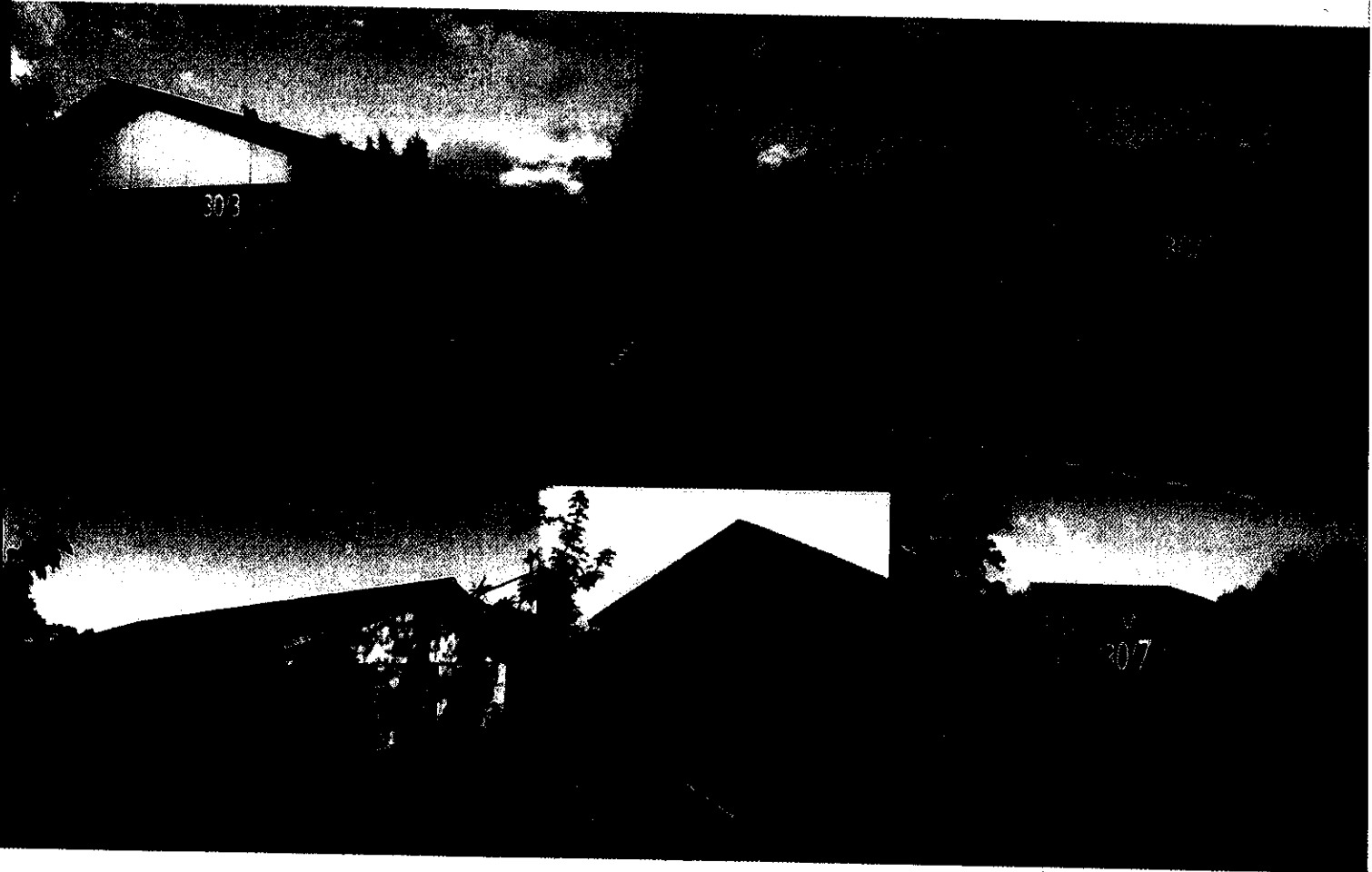
0131 660 9840 telephone | info@tec-estates.co.uk | www.tec-estates.co.uk



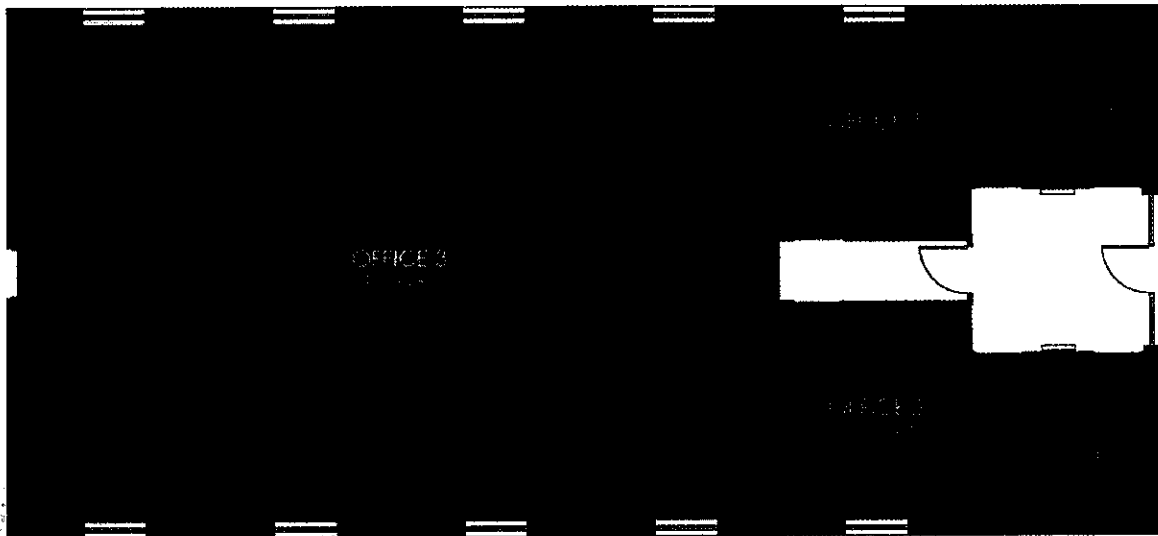
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The Eskbank Office Co

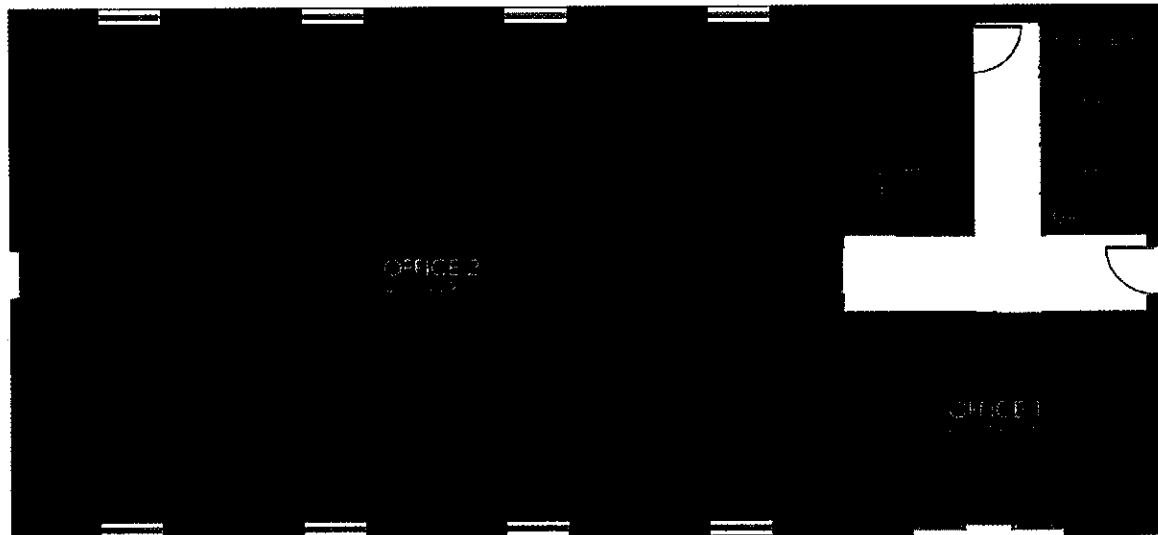
The smart place for
your business



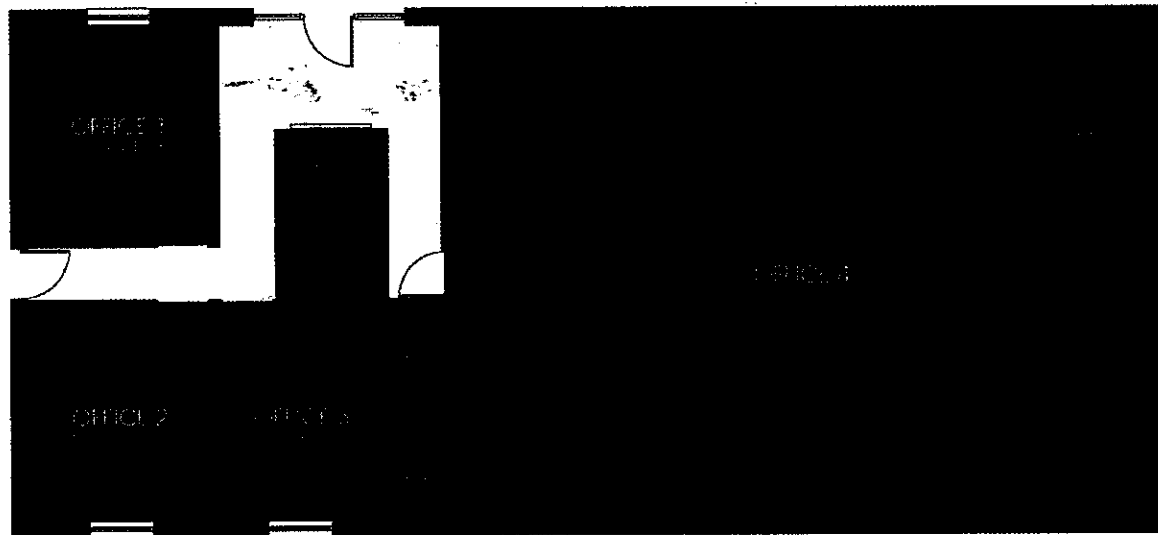
SITE LAYOUT PLAN



PAVILION 30/1



PAVILION 30/2



PAVILION 30/3

YOU'RE JUST A STEP AWAY

The Eskbank Office Complex is two minutes' drive from the A720 city bypass, giving fast access by road to central Edinburgh, the airport, the A1 south, and routes to the central belt and north.

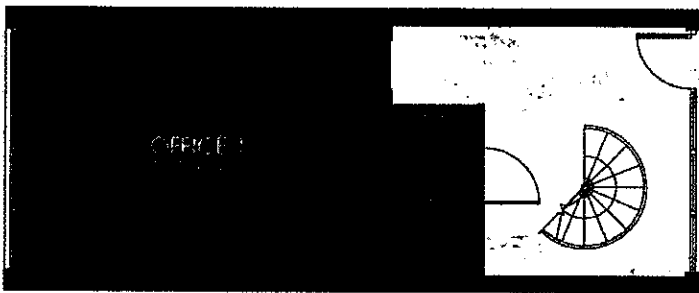
There are also frequent bus services to the city and surrounding areas. The Eskbank Office Complex is just a short walk from a planned rail station on the route of the regenerated Waverley line that will link Galashiels to Edinburgh.

More locally, our position in the desirable, mainly residential area of Eskbank, west of Dalkeith, puts you and your staff in walking distance, or a short drive or cycle ride, to many amenities. These include a Tesco store, choice of restaurants and hotels, health services and the Jewel and Esk College.

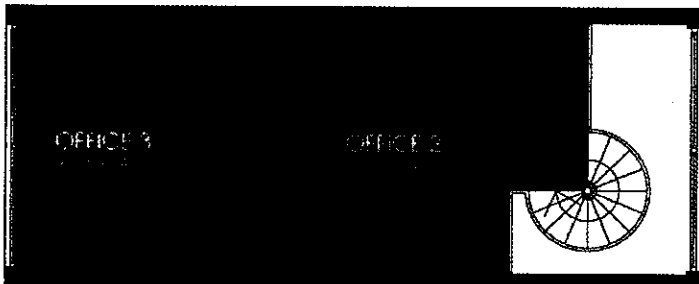
DIRECT MANAGEMENT, PERSONAL SERVICE

The Eskbank Office Complex is managed by the owner and developer, TEC Estates. Because we do not use an intermediary agent, you will always talk directly with someone who knows the site thoroughly. Our schedule of maintenance keeps everything in pristine condition, and even includes services such as snow clearing to help make your life 'business as normal'.

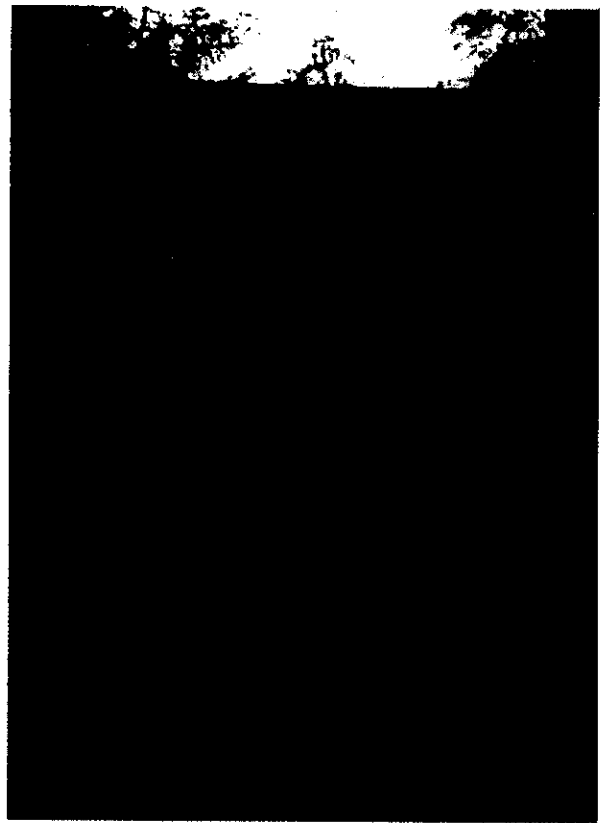
Our rents and service charges are competitive, and local business rates compare favourably with city centre costs. With our convenient, close-to-town yet close-to-country position, The Eskbank Office Complex is the perfect spot from which to build your success and prosperity.



PAVILION 30/4/5 GROUND FLOOR



PAVILION 30/4/5 FIRST FLOOR



ACCOMMODATION SCHEDULE

The complex consists of 3 single storey pavilions and 1 two storey pavilion.

OFFICE 1	12/10/91	133 SQM
OFFICE 2	11/10/91	140 SQM
OFFICE 3	10/10/91	140 SQM
OFFICE 4	10/10/91	140 SQM
OFFICE 5	10/10/91	140 SQM
OFFICE 6	10/10/91	140 SQM
OFFICE 7	10/10/91	140 SQM
OFFICE 8	10/10/91	140 SQM
OFFICE 9	10/10/91	140 SQM
OFFICE 10	10/10/91	140 SQM

* Includes WC, tea prep, boiler room, data/elec & circulation



TAKE A FRESH LOOK

If you're searching for premises that will give you the space to breathe as well as grow, The Eskbank Office Complex offers the perfect blend of high tech workspace in a setting that is semi-rural yet close to Edinburgh.

SMART TO LOOK AT, SMART TO RUN

The Eskbank Office Complex isn't simply good to look at. We've designed it with an eye to making great commercial sense for you, with low running and maintenance costs.

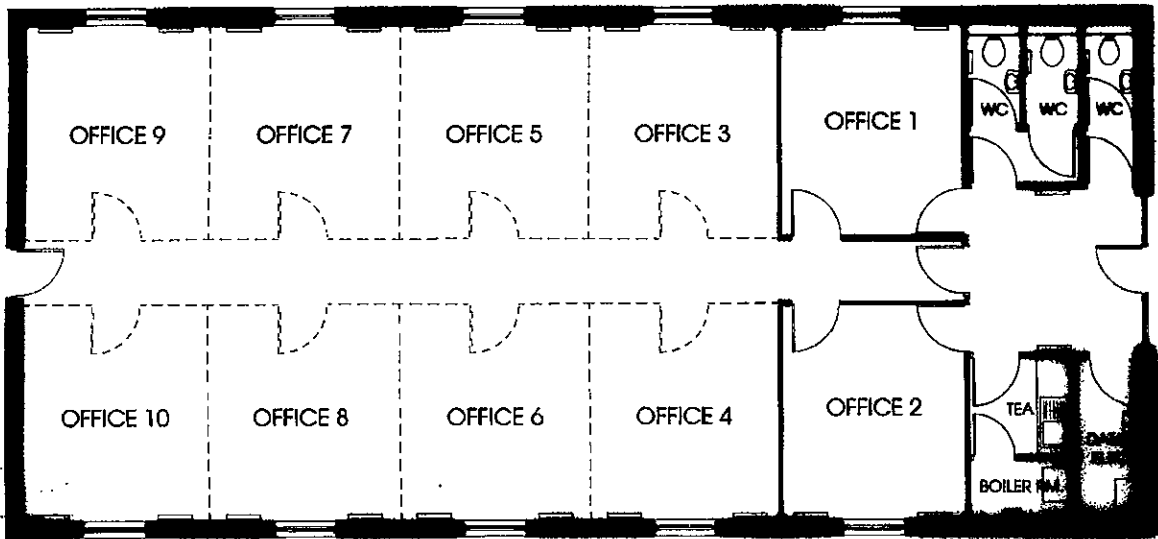
For example, each pavilion is insulated to a high standard. We've also installed energy meters, so you can check at a glance how much electricity your business is using. And we've put in place the little touches that add up to a lot - such as high efficiency condensing boilers, time-flow taps, dual flush lavatories and low energy lighting.

A PERFECT PACKAGE

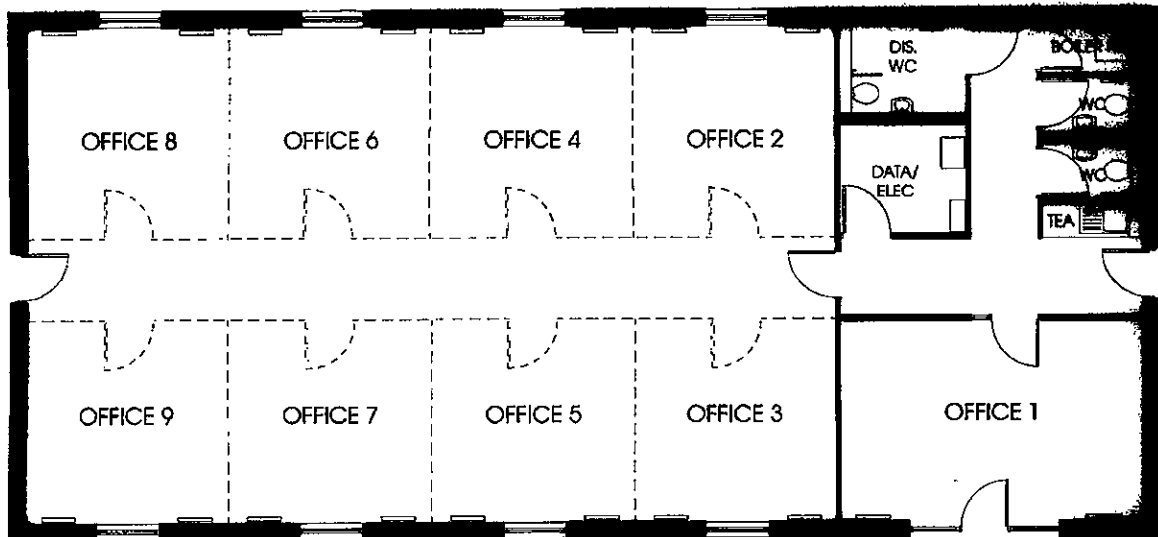
Integrated services include category 5E pre-wired voice and data telecommunications, managed from a central hub station. Underground cabling services each pavilion with broadband and direct dial telephone. Remote closed-circuit television and zoned fire and intruder alarm services are also independently programmable for each occupant.

You have the convenience of using four parking spaces dedicated to each pavilion, with their exclusivity maintained by an electric gate at the entrance to the complex. Each pavilion also comes ready fitted with a refreshment preparation area that includes refrigerator and counter-top microwave.

And when you need extra room for presentations or meetings, there's no need to go off-site. Instead, make use of our separate, larch-clad management office pavilion. Seating up to 12 people, it is free to use, subject to pre-booking, for all The Eskbank Office Complex occupiers.

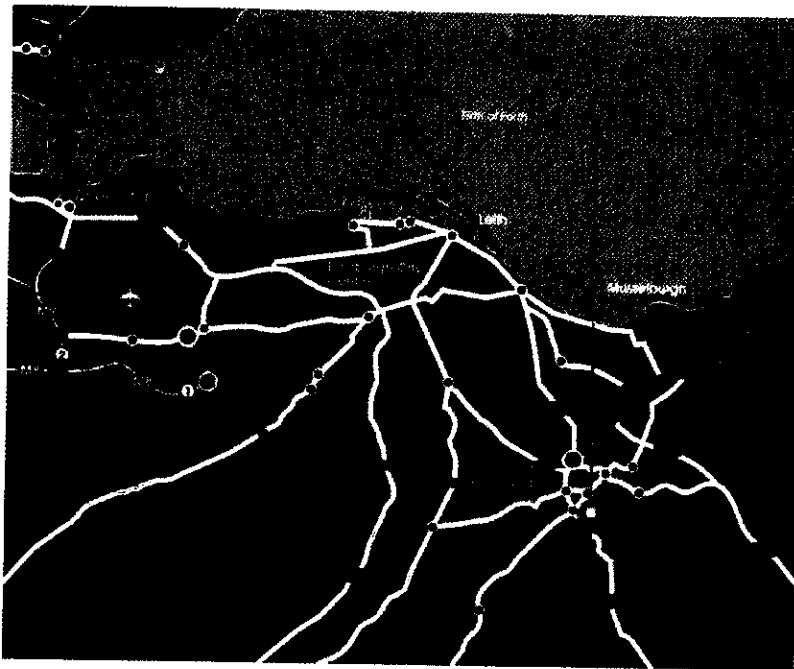


PAVILION 30/1



PAVILION 30/2

PLANS SHOWING POSSIBLE CELLULAR LAYOUT OF PAVILIONS

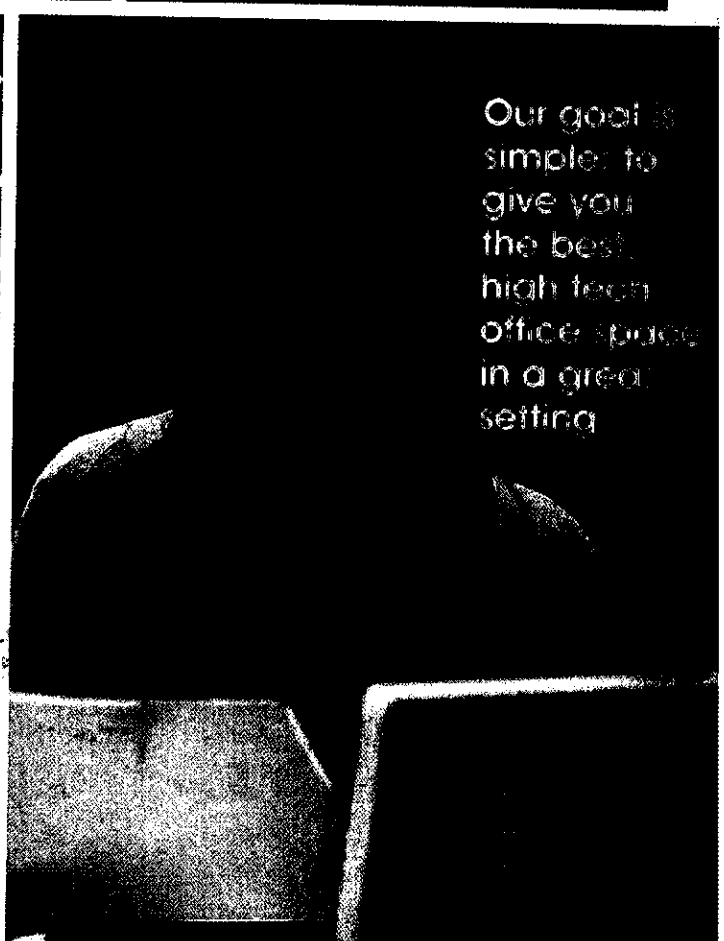
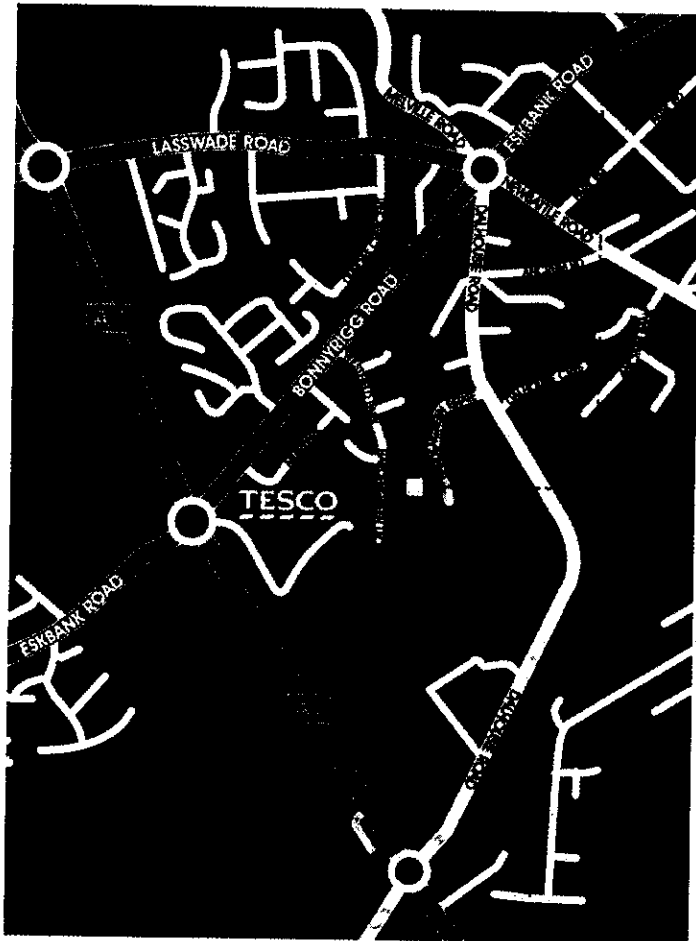


The Eskbank Office Complex

TRAVEL TIMES & DISTANCES

Edinburgh City Centre 10 miles
 Glasgow City Centre 35 miles
 Aberdeen City Centre 100 miles
 Dundee City Centre 100 miles
 London City Centre 400 miles
 Manchester City Centre 200 miles
 Birmingham City Centre 150 miles
 Bristol City Centre 150 miles
 Cardiff City Centre 150 miles
 Liverpool City Centre 150 miles
 Leeds City Centre 150 miles
 Newcastle City Centre 150 miles
 Nottingham City Centre 150 miles
 Sheffield City Centre 150 miles
 Southampton City Centre 150 miles
 Wolverhampton City Centre 150 miles

SAT NAV REF: EH22 3NY



Our goal is
 simpler: to
 give you
 the best
 high tech
 office space
 in a great
 setting

Property Misdescriptions Act 1991

Date of publication: January 2011

TECESTATES

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 info@tec-estates.co.uk
 www.tec-estates.co.uk

0131 660 9840 telephone

info@tec-estates.co.uk
 www.tec-estates.co.uk



Each case is unique and must be considered on its merits. It is for the person appointed to determine the case to satisfy him/herself that the application of the practice contained in this note is appropriate to the circumstances of the case. A reporter who intends to depart from the guidance should advise his/her SGL so issues emerging can be considered for future case work.

Guidance note: 16	New matters and the submission of documents, materials or evidence
Relating to:	This note relates to planning appeals submitted under section 47(1) of the Town and Country Planning (Scotland) Act 1997
Background/ legislative and policy framework:	<p><u>What is a new matter ?</u></p> <p>1. Section 47A of the 1997 Act restricts the circumstances in which a party to an appeal to Scottish Ministers may raise a matter that was not before the planning authority at the time the decision was made. The restrictions do not apply where the new matter is raised pursuant to a requirement or an entitlement to have regard to the development plan or any other material consideration. In addition, there is no restriction against a matter being raised on appeal where it was not possible to raise it before the planning authority or it was not raised before the planning authority due to exceptional circumstances. Section 47A does not apply to appeals against non-determination of an application made by virtue of section 47(2).</p> <p>2. 'Matter' is not defined in the Act. It is, however, a term used throughout the Act in various contexts. It is a term which denotes an issue or a topic rather than any particular item of evidence or any document¹. In particular, section 267(1B)(b) and (c) draw a clear distinction in the context of appeals between matters which may be raised in the course of an appeal and the documents which may be lodged in support of submissions.</p> <p>3. Para 20 of Circular 6/2009 states that section 47A restricts the introduction of new <i>material</i> in the appeal process. As section 47A imposes restrictions on the introduction of new matters, paragraph 20 must be read in that context of section 47A(1). The reference to 'material' might perhaps more accurately have been to 'any matters' but should be treated as a reference to material which relates to a new matter. The reference later in paragraph 20 to "any such matter" emphasises that there was no intention to make a distinction between 'matters' and 'materials'.</p> <p>4. So far as the Appeals Regulations are concerned, these</p>

¹ It is used for example in this way in section 265(3) in relation to inquiries. Section 15(5) sets out a list of 'matters'. Other examples include sections 31A(7), 59(1) and 128(1).

	<p>provide that all <i>matters</i> which the appellant intends to raise in the appeal must be set out in the notice of appeal² and that all documents, materials and evidence upon which the appellant relies must accompany the notice.³ In addition to the matters set out in the appeal and supporting documents the appellant may raise <i>matters</i> and submit further documents, materials or evidence only in accordance with the rules relating to the rights of other parties to respond to the appeal, the reporter's ability to ask for further information and the hearing and inquiry session rules.⁴ The planning authority is to send a note of those <i>matters</i> it considers require to be taken into account in determining the appeal⁵; and a copy of the documents which were before the planning authority and which were taken into account in reaching their decision.⁶ The appellant has a right to comment on any <i>matters</i> raised in the planning authority's response which had not been raised in the decision notice⁷ and to send any documents, materials or evidence on which it relies in support of those comments.⁸</p> <p>5. Under regulation 10 the reporter may call for further written submissions by way of a procedure notice which sets out the <i>matters</i> upon which further representations or information is requested.</p> <p>6. The hearing and inquiry session rules provide that only specified <i>matters</i> are to be considered at that session; notice of a hearing or inquiry session is to be given to an interested party which made representations in relation to the specified <i>matters</i>; and the reporter may seek further information or representations from any body or person on the specified <i>matters</i>.⁹</p> <p>8. It appears, therefore, from the drafting of both the Act and the Appeals Regulations that 'matter' is being used in the sense of 'issue' or 'topic'. Reporters should interpret 'new matter' as a new issue or topic that was not before the planning authority</p>
DPEA practice:	<p><u>What happens if a new matter is raised ?</u></p> <p>9. Although there are some restrictions on an appellant's ability to introduce new matters in an appeal, neither section 47A nor the Appeals Regulations prevent the appellant from submitting updated or additional evidence on any matters which may be raised in the appeal, provided that all the documentation is lodged in accordance with the Appeals Regulations. This might, however, amount to</p>

² Regulation 3(4)(a)

³ Regulation 3(4)(b)

⁴ Regulation 3(5)

⁵ Regulation 4(2)(a)

⁶ Regulation 4(2)(b)

⁷ Regulation 4(3)(a)

⁸ Regulation 4(3)(b)

⁹ Rule 1 of both the hearing session and inquiry session rules

unreasonable behaviour for the purpose of a claim for an award of expenses unless there are good reasons for the evidence not having been submitted to the planning authority at the appropriate time.

10. If an appellant raises a new matter (i.e. topic or issue) that was not before the planning authority at the time of their decision, the reporter must decide whether the appellant is entitled raise the matter or if the reporter is required to consider it.

11. If, in its response to the appeal a planning authority raises a matter which was not dealt with in the decision notice then regulation 4(3) applies and the appellant would have the opportunity to comment on this. If the matter raised by the planning authority was one which had not been before the authority at the time of the decision, section 47A would apply.

12. If, in the course of an appeal, an appellant, planning authority or other party to the appeal seeks to raise a new matter then the reporter would have to consider whether this was prohibited by section 47A and, if not, the reporter would also have to consider, applying the usual rules of natural justice, whether it was fair to other parties to allow the matter to be raised at that stage of the appeal.

Submission of further documents, materials or evidence in the course of an appeal on matters that were before the planning authority

13. The Appeals Regulations set out strict time limits for the submission of documents, materials or evidence in support of an appeal, the planning authority's response to an appeal or representations made by interested parties. If, in the course of an appeal, an appellant, planning authority or any other party to the appeal seeks to submit further documents, materials or evidence (other than in response to a procedure notice) DPEA practice is to return the document, drawing attention to the time limits for submission of documents set out in the rules, and ask for an explanation of why the document was not submitted at the appropriate time. Further information is given on this procedure in DPEA Guidance Note 11. In deciding whether or not to accept the document the reporter will consider whether there is a satisfactory reason for the late submission, whether the representations or documentation would be material to the decision, and whether the acceptance of the late representations or documentation would prejudice other parties or cause an undue delay in determining the appeal.

14. For the reasons given above, if the representations or documents are about issues that were considered by the planning authority, DPEA does not regard these as raising 'new matters' within the meaning of section 47A, even though the representation

	or document was not before the planning authority at the time of its decision.
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MIDLOTHIAN COUNCIL

DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

Planning Application Reference: 13/00161/DPP

Site Address: 30/3 Hardengreen Industrial Estate, Dalkeith.

Site Description: The application site comprises a vacant single storey light industrial/office building located within Hardengreen Industrial Estate. The building has buff brick walls and a pitched roof finished with concrete tiles. The site is located to the rear of the industrial estate. There are two similar buildings located within the immediate area of the application site which are currently occupied. As the application site is located in a corner of the industrial/business estate the rest of the industrial/business buildings are located to the east and north of the site. Jewel and Esk Valley College is to the south and the line of the Borders Rail Link runs along the western boundary.

Proposed Development: Change of use from office/light industry (class 4) to fitness studio (class 11).

Proposed Development Details: It is proposed to change the use of the existing vacant building from office/light industry to a fitness centre. The applicant currently operates from Dalkeith Town Centre but needs to move for operational reasons. They state that: they will employ 4 part time workers; classes are for 8-12 people; operating hours are 9am – 2pm and 6pm to 9pm; there will be 25 classes per week. They also state there is adequate parking within the site for clients during the day and there is on street parking during the evening classes.

A supporting statement has been submitted by the land owner. This states the unit has been vacant since 2012. Three different letting agents are marketing the property. They have received enquiries from other businesses which do not fall within class 4 use and note that there are other uses within Hardengreen Industrial Estate which do not fall within class 4.

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

11/00184/ADV Unit 3/30 Display of internally illuminated signage (retrospective). Permitted.

30 Hardengreen Industrial Estate

09/00274/FUL Erection of storage building. Consent with conditions.

08/00810/FUL Erection of storage building and erection of gate (retrospective). Consent with conditions.

08/00668/FUL Erection of office. Consent with conditions.

05/00817/FUL 29-30 Hardengreen Industrial Estate Erection of office unit and alterations to existing office unit. Consent with conditions.

Consultations: The Policy and Road Safety Manager has no objection.

Representations: No letters of representation have been received.

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

RP20: Development within the built up area – this states that development will not be permitted where it is likely to detract materially from the existing character or amenity of the area;

COMD1: Established economic land supply - this policy identifies Hardengreen Industrial Estate as an established economic land supply for use as business/general industry;

ECON4: Storage and distribution and other non-residential uses on existing industrial land and buildings – this policy is committed to the retention and development of established economic development sites. The policy does allow for consideration of storage and distribution uses provided that the level of employment arising from the proposal is equivalent to a class 4 or 5 use.

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.

Policy RP20 states that development will not be permitted within existing built up areas where it is likely to detract materially from the existing character or amenity of the area. Policy COMD1 identifies Hardengreen Business Estate as an established economic land supply for business.

Policy ECON4 of the local plan states that in exceptional circumstances, and in appropriate locations, non-residential uses can be considered on industrial land where the employment arising from the proposed use is equivalent to a class 4 or 5 use, and provision is made to accommodate traffic generated by the proposed use, and for suitable access without adversely affecting the local area.

It is proposed to change the use of an existing business unit, which is located within an established and active business estate.

In normal circumstances, the use of this premises for anything other than an office/light industrial type use (classes 4 and 5 of the Use Class Order) would not be acceptable and should not be supported. The planning authority must consider, through this report, whether there are 'exceptional' circumstances which could result in the proposal being supported.

The planning authority position on this type of application is that proposals for non-employment generating uses will not generally be permitted in established industrial estates unless it has been demonstrated that the premises has no realistic prospect of development for industry/business use. The supporting statement, submitted by the applicant, states that the property was in use as an office until last year and since then three different letting agents have been involved in marketing the property, without success. The applicant states that there have been a number of enquiries for uses other than those within class 4. However, there has been no detailed information submitted regarding levels of interest for class 4 uses and the amount of

time the units have been marketed. Although there is some evidence that the unit has been difficult to let, the applicant has not submitted sufficient information to demonstrate that the application site has no realistic prospect for industrial or business use. It appears that the unit was occupied for a short period within the time the applicant states that it was empty. Although this was ultimately an unsuccessful lease it does demonstrate that there is still some, if limited, appetite for this type of purpose built unit in an established business estate.

The supporting information submitted with the application states that there will be 4 part time employees at the site. This number of employees is below that which would be expected with a class 4 or 5 use operating from this size of unit.

With regards the comments that there are other businesses in the industrial estate which conflict with class 4 use, the planning authority accepts that there are a wide variety of businesses located at the estate. However, the predominant use is class 4.

The supporting statement notes that there is a walk-in charity and physiotherapy clinic. Although these are not class 4 uses, they are located within the small office units in a building at the entrance to the industrial estate. The size of units and types of businesses are such that these operate within the industrial estate without giving cause for concern over employment numbers. It is noted that the walk-in aspect of the charity has now been relocated to Dalkeith town centre.

The cafe mentioned in the applicant's supporting statement is operating ancillary to the primary use of the premises, which is as a stationary business.

Having identified all of the existing active uses within the industrial estate, the case officer is unable to locate the car valet noted on the supporting statement. Overall, although there may be other businesses, out with classes 4 and 5, operating within the business estate these are either ancillary to an acceptable use or have been justified as being acceptable on their own merits. In some cases these are uses that cannot be satisfactorily accommodated elsewhere without significant adverse impacts on neighbouring uses.

The proposed application differs as it is proposed to use a relatively large detached unit in a use which is low in employment numbers.

Whilst there has been no objection to the application from the Policy and Road Safety Manager it is clear that the applicant intends on providing fitness classes through the day, as well as in the evening. The numbers of customer's vehicles arriving at the site may exceed the available parking and inconsiderate parking could impact on the freeflow of vehicles (particularly larger service vehicles) through the business estate.

The proposed use of the unit as a fitness studio would result in an uncomfortable mix of uses within an established business estate. The planning authority has significant concerns regarding the compatibility of pedestrians within an active and busy business estate. It raises safety concerns for both the pedestrians and vehicles accessing the unit as well as the operators of the existing businesses at the site and their vehicles.

Having increased numbers of pedestrians accessing the site may impact on the desirability of the industrial estate to businesses.

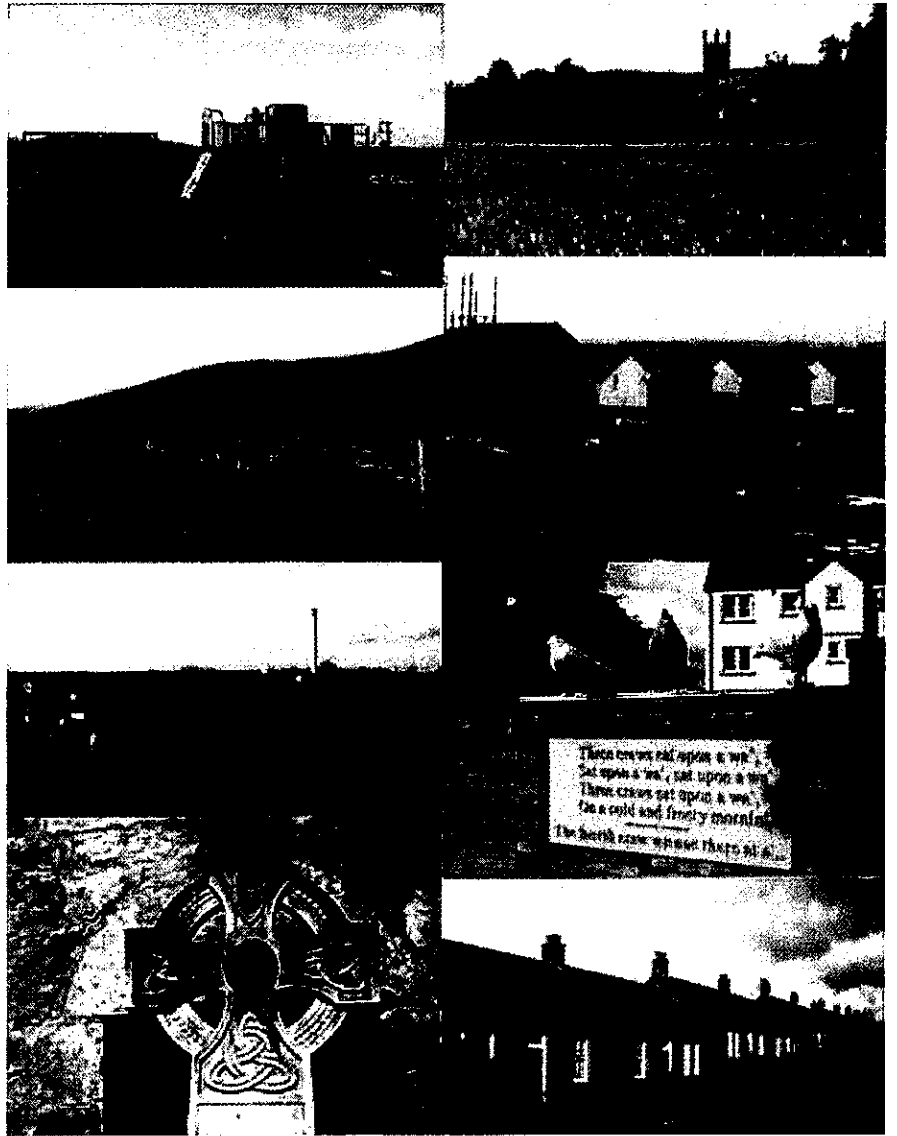
It is essential to consider the broader picture when determining this type of application. Whilst it would seem a quick fix to allow this application, it would result in the loss of a good purpose built unit which could accommodate a decent level of employment. In allowing the application the Council could open the estate up to very low employment generating businesses at a time when it is essential to try and maximise on employment.

The applicant is currently operating within a town centre location. This type of business is better suited to a town or local centre rather than within an active industrial/business estate. It has not been adequately demonstrated that there are exceptional circumstances which would lead the planning authority to be able to support this proposal.

Recommendation: Refuse planning permission.

APPENDIX D

Midlothian Local Plan



Midlothian



Midlothian Local Plan

ADOPTED BY RESOLUTION OF
MIDLOTHIAN COUNCIL
ON 23 DECEMBER 2008

This Plan has been produced by the
Planning Unit Strategic Services

Midlothian Council
Fairfield House
8 Lothian Road
Dalkeith
Midlothian
EH22 3ZN

2.2 The Built Heritage

Policy Title

RP20 DEVELOPMENT WITHIN THE BUILT-UP AREA

2.2.1 National Planning Policy National policy as set out in SPP 1 *The Planning System* states that one of the three general objectives of development plans and development control is “to maintain and enhance the quality of the natural heritage and built environment”. In addition, the importance of good design is highlighted as a priority for the planning system, given that “mistakes cannot be easily or cheaply rectified”.

2.2.2 SPP 3 Planning for Housing (now replaced by SPP 3 *Planning for Homes* – see para. 3.2.6) encourages the full and effective use of land within existing built areas, giving priority to reusing derelict and vacant land. However, it also requires that “infill development respects the scale, form and density of its surroundings and enhances rather than detracts from the character and amenity of existing residential areas”. It indicates that this should be an important consideration for planning authorities when preparing development plans and in determining applications, and for developers when preparing proposals.

2.2.3 Structure Plan Policy The ELSP 2015 recognises the importance of protecting and

enhancing the amenity of all urban areas to safeguard and improve the quality of life of residents of the Lothians. Policy ENVIG requires local plans, in encouraging the development of infill sites, the redevelopment of brownfield land and the conversion of existing buildings, to promote a high quality of design in all new development.

2.2.4 Local Plan Policy Midlothian is not characterised by large areas of brownfield land ripe for redevelopment. It follows therefore that the main areas of new development will be on greenfield sites on the edge of the built-up areas. There will, however, be opportunities for new development within the existing urban areas, including conversion, intensification, infill or redevelopment.

2.2.5 Policy RP20 applies to the existing built-up area of all towns and villages, and the areas of new housing allocations. The Local Plan Proposals Map defines the urban boundaries of the main settlements and also identifies village envelopes. The purpose of the policy is to ensure that new development does not damage or blight land uses which are already established in the neighbourhood, particularly where residential amenity will be affected. Sections 3.7 and 4 contain guidance with regards to wind turbines (policies NRG1 and NRG2), energy for buildings (policy NRG3), the form and layout of development on greenfield sites (policy DP2), extensions to existing housing (policy DP6) and control over advertising (policy DP8), which may be relevant to proposals for development within the built-up area.

RP20 DEVELOPMENT WITHIN THE BUILT-UP AREA

Development will not be permitted within existing and future built-up areas, and in particular within residential areas, where it is likely to detract materially from the existing character or amenity of the area.

3.1 Committed Development

Policy Title

COMD1 COMMITTED DEVELOPMENT

3.1.1 Background. In 2003, the now superseded Midlothian and Shawfair Local Plans were adopted. These plans allocated land for about 9,000 houses and over 70 hectares of economic development land, and included the creation of a new community at Shawfair as part of the South-East Wedge strategic release of Green Belt in accordance with the Lothian Structure Plan 1994. The policies and proposals contained in the 2003 Local Plans were the subject of consultation and major public local inquiries prior to adoption. As well as allocating land to meet the strategic requirements of the Lothian Structure Plan 1994, they set out a framework for the delivery of affordable housing, infrastructure, facilities and a wide range of other key developments.

3.1.2 Para. 1.3.6 explains that delays have occurred in the commencement of development on a number of these sites. This has been linked to factors such as the need to resolve complex infrastructure constraints and to finalising legal agreements. However, good progress is being made, and the housing audit process confirms that house completion rates have risen.

3.1.3 These committed development proposals remain important to Midlothian's future. Given that the policies and proposals of these two Local Plans were the subject of detailed scrutiny, and they continue to be afforded support by the ELSP 2015, these committed proposals are rolled forward in this replacement Local Plan. The purpose of policy COMD1 and Appendices 1 and 2, as explained in para 1.3.13, is to confirm that all committed development proposals, the developer contributions required in association with them, and the existing policies and proposals which apply specifically to the Shawfair new community and the expansion of Danderhall, continue as commitments in the context of this Local Plan.

COMD1 COMMITTED DEVELOPMENT

Midlothian Council will continue to seek the early implementation of all committed development sites, and related infrastructure, facilities and affordable housing requirements, as listed in Appendix 1 and identified on the Local Plan Proposals Map*. These include:

- ◆ sites in the established housing land supply, including the provision of affordable housing as specified for inclusion within particular sites in the base land supply (Appendix 1A.1-1A.3)**;
- ◆ sites in the established economic land supply (Appendix 1B) (refer also to policy ECON4);
- ◆ the Shawfair new community, and expansion of Danderhall, as detailed in the Shawfair Masterplan and Design Guide, and including Shawfair town centre and the redevelopment of the former Monktonhall Colliery site (refer to the Local Plan Proposals Map for the defined area and Appendix 2 for relevant detailed policies and proposals);
- ◆ the site for the Midlothian Community Hospital at Bonnyrigg/Eskbank;
- ◆ sites allocated for new primary schools as listed in Appendix 1C;
- ◆ consented sites for the provision of park and ride facilities at Sheriffhall (extension);
- ◆ the extension of the Drummond Moor landfill site in connection with the provision of a Waste Management Complex (provided it can be shown to contribute to the Best Practicable Environmental Option for Municipal Waste);
- ◆ essential infrastructure required to enable development sites included in the established housing and economic land supply to be implemented (Appendix 1D); and
- ◆ leisure and community facilities to meet deficiencies exacerbated by the additional housing arising from sites included in the established housing land supply (Appendix 1E).

* Shown on Local Plan Proposals Map.

** For housing sites listed in Appendix 1A.2, there is a requirement for the provision of 5 -10% affordable housing units, an estimate of which is included in the site capacities identified. For sites listed in Appendix 1A.3, there is a requirement for the provision of 20% affordable housing units, included in the site capacities identified. Levels of affordable housing provision will be agreed through negotiation between the Council and the developer/ landowner. These may be adjusted where the Council is satisfied that this has been fully justified.

APPENDIX 1B ESTABLISHED ECONOMIC LAND SUPPLY As at March 2006

Map Ref	Site Name	Town	Class
General industry/business use			
e1	Eastfield Industrial Estate	Penicuik	Business/General Industry*
e2	Eastfield Farm Rd Industrial Estate	Penicuik	Business/General Industry*
e3	Bilston Glen	Loanhead	Business/General Industry
e4	Pentland Industrial Estate	Loanhead	Business/General Industry*
e5	Edgefield Industrial Estate	Loanhead	Business/General Industry*
e6	Engine Road	Loanhead	Business/General Industry*
e7	Straiton	Loanhead	Business Use
e8	Nivensknowe	Loanhead	Business/General Industry ²
e9	Burghlee	Loanhead	Business Use ³
e10	Thornycroft Industrial Estate	Dalkeith	Business/General Industry ⁷
e11	Hardengreen Industrial Estate	Dalkeith	Business/General Industry
e12	Whitehill Business Centre	Dalkeith	Business Use*
e13	Grannies Park	Dalkeith	Business Use*
e14	Salter's Road/Thornycroft	Dalkeith	Business/General Industry
e15	Sherwood Industrial Estate	Bonnyrigg	Business/General Industry
e16	Hopefield	Bonnyrigg	Business/General Industry
e17	Mayfield Industrial Estate	Mayfield	Business/General Industry
e18	Easthouses Industrial Estate	Easthouses	General Industry
e19	Butlerfield Industrial Estate	Newtongrange	Business/General Industry
e20	Lady Victoria Business Centre	Newtongrange	Business/General Industry
e21	Stobhill Road	Newtongrange	Business/General Industry
e22	Redheugh	Gorebridge	Business/General Industry
e23	Engine Road	Gorebridge	Storage
e24	Gorton Road	Rosewell	Business/General Industry ⁸
e25	Millerhill Marshalling Yards/ Monktonhall Colliery	Shawfair	Business/General Industry/ Storage and Distribution ⁴
e26	Whitehill Mains	Shawfair	Business/General Industry
e27	Shawfair Park	Danderhall	Business/General Industry ⁶
e28	Hunter's Yard	Danderhall	Business/General Industry

Policy Titles

ECON3 WORKSHOP HOMES**ECON4 STORAGE AND DISTRIBUTION AND OTHER NON-RESIDENTIAL USES ON EXISTING INDUSTRIAL LAND AND BUILDINGS****ECON5 INDUSTRIES WITH POTENTIALLY DAMAGING IMPACTS****ECON6 OFFICES**

3.3.23 Structure Plan Policy The ELSP 2015 recognises that a range of employment opportunities arises from a broad economic base. This requires the availability of premises and sites to cater for a wide range of business and industrial needs.

3.3.24 The Structure Plan allows for the emergence of secondary office/business centres within the northern end of Midlothian's CDAs. It also considers that office development can be supported on business or industrial land identified as suitable in local plans.

3.3.25 Local Plan Policy Policy ECON3 makes provision for a type of small business enterprise which can make an important contribution to local job prospects. Workshop homes can foster such small-scale businesses, including those that can be operated successfully from the home with some provision for storage or operational premises.

3.3.26 Policies ECON4 and ECON5 address the problems of identifying sites capable of accommodating storage and distribution uses (Class 6) or other operations with special requirements which may be classed as 'bad neighbour'. Whilst promoting the implementation of all sites within the established economic land supply (refer to Appendix 1B for details), policy ECON4 recognises that, with certain provisos, there may be some scope to identify opportunities for storage and distribution uses within the established supply. Policy ECON5 sets out the parameters for assessing development proposals which may potentially have damaging impacts in environmental terms.

3.3.27 Policy ECON6 directs the provision of office accommodation to the main communities of Midlothian.

ECON3 WORKSHOP HOMES

Workshop home proposals will be permitted where they accord with all relevant Local Plan policies and proposals and the following criteria are met:

- A.** the business can be conducted without detriment to local residents with regard to noise, disturbance, traffic movement, visual intrusion and other forms of pollution;
- B.** suitable access, parking, and services are available; and
- C.** the proposal does not include any retail use.

Permission will be subject to appropriate conditions and, where necessary, legal agreements, to prevent any intensification of business use which may result in problems for the surrounding area. In exceptional circumstances, planning permission may be made personal to a particular applicant, because of the specific circumstances of his/her proposed business use.

ECON4 STORAGE AND DISTRIBUTION AND OTHER NON-RESIDENTIAL USES ON EXISTING INDUSTRIAL LAND AND BUILDINGS

Policy COMD1 continues to seek the early implementation of all committed development sites in the established economic land supply (as listed in Appendix 1B). In exceptional circumstances and in locations close to the strategic road network, consideration may be given to a storage and distribution use (Class 6), or other non-residential use, on such sites and on existing industrial land and buildings, subject to the following criteria being met:

- A. the level of employment arising from the proposed use is equivalent to Class 4 or Class 5 uses;
- B. there is no loss of land identified for research and development / knowledge-based industries; and
- C. provision is made to accommodate traffic generated by the proposed use, and for suitable access, without adversely affecting the local area.

ECON5 INDUSTRIES WITH POTENTIALLY DAMAGING IMPACTS

Proposals for industrial developments of a kind which may give rise to environmental problems will be assessed with regard to relevant Local Plan policies and proposals, and to expected economic benefits and any benefits of locally harmful industrial operations to the wider environment. The Council will require to be satisfied that any such site is either uniquely suitable for technical reasons or has been selected with a view to minimising environmental impact, and not primarily because of the availability of the land to the intended developer or operator. Developments of this nature will require to be screened and operational conditions are likely to be imposed.

ECON6 OFFICES

Office development will be permitted on appropriate sites within the main communities of Midlothian, providing the proposal accords with all relevant Local Plan policies and proposals and there is satisfactory access to public transport.



Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

Reg. No. 13/00161/DPP

Pulse Pilates and Fitness Limited
41 Jarnac Court
Dalkeith
EH22 1HU

Midlothian Council, as Planning Authority, having considered the application by Pulse Pilates And Fitness Limited, 41 Jarnac Court, Dalkeith, EH22 1HU, which was registered on 7 March 2013 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

Change of use from office/light industry (class 4) to fitness studio (class 11) at 30/3 Hardengreen Industrial Estate, Dalkeith, EH22 3NX

In accordance with the application and the following plans:

<u>Drawing Description.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan		07.03.2013
Proposed floor plan		07.03.2013
Other statements		07.03.2013
Other statements		07.03.2013
Other statements		07.03.2013

The reason for the Council's decision is set out below:

The proposal would result in the use of a modern purpose built business unit within Hardengreen Business Estate for a non-industrial/office activity. The business estate has been identified as part of the Established Economic Land Supply in the adopted Midlothian Local Plan and the proposal would therefore conflict with the objectives of policies COMD1 and ECON4 of that plan.

Dated 7 / 5 / 2013

.....
Duncan Robertson
Senior Planning Officer; Local Developments,
Fairfield House, 8 Lothian Road, Dalkeith, EH22 3ZN

PLEASE NOTE

If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town & Country Planning (Scotland) Act 1997 within 3 months from the date of this notice. The notice of review should be addressed to The Development Manager, Development Management Section, Midlothian Council, Fairfield House, 8 Lothian Road, Dalkeith EH22 3ZN. A notice of review form is available from the same address and will also be made available online at www.midlothian.gov.uk

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

Prior to Commencement (Notice of Initiation of Development)

Prior to the development commencing the planning authority shall be notified in writing of the expected commencement of work date and once development on site has been completed the planning authority shall be notified of the completion of works date in writing. Failure to do so would be a breach of planning control under section 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended by the Planning etc (Scotland) Act 2006). A copy of the Notice of Initiation of Development is available on the Council's web site www.midlothian.gov.uk

IMPORTANT NOTE REGARDING PUBLIC ACCESS TO INFORMATION

Making an application

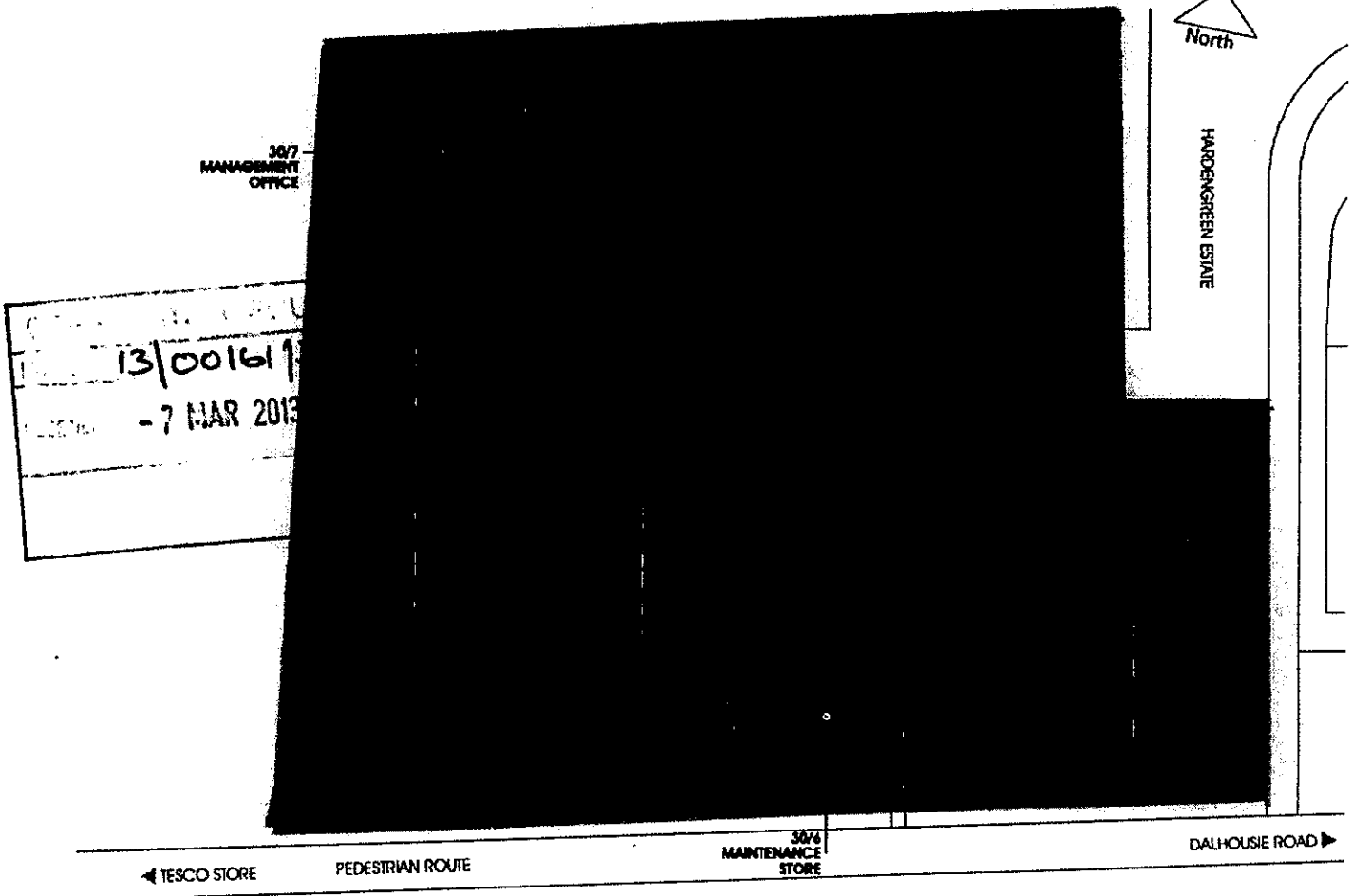
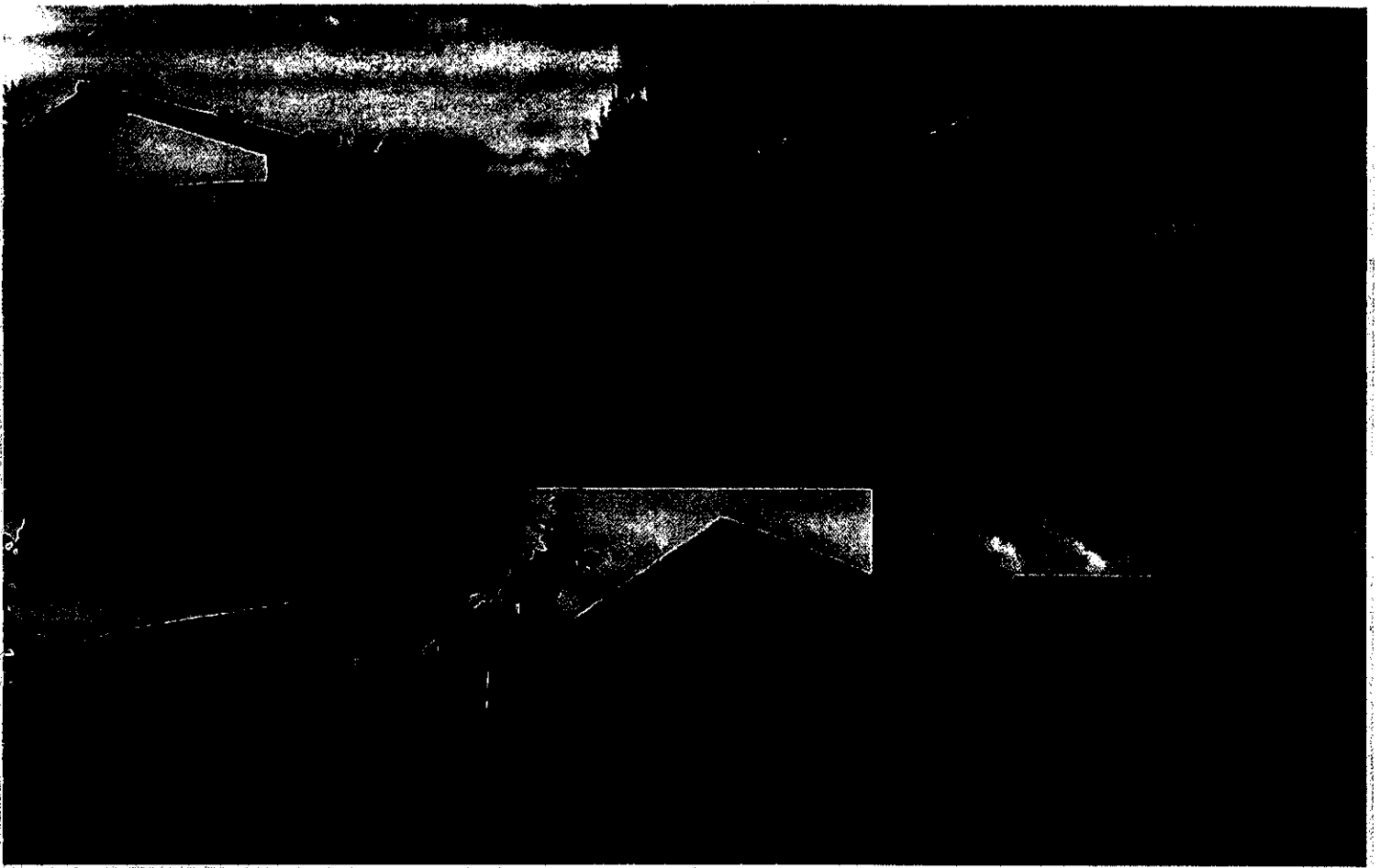
Please note that when you submit a planning application, the information will appear on the Planning Register and the completed forms and any associated documentation will also be published on the Council's website.

Making comment on an application

Please note that any information, consultation response, objection or supporting letters submitted in relation to a planning application, will be published on the Council's website.

The planning authority will redact personal information in accordance with its redaction policy and use its discretion to redact any comments or information it considers to be derogatory or offensive. However, it is important to note that the publishing of comments and views expressed in letters and reports submitted by applicants, consultees and representors on the Council's website, does not mean that the planning authority agrees or endorses these views, or confirms any statements of fact to be correct.

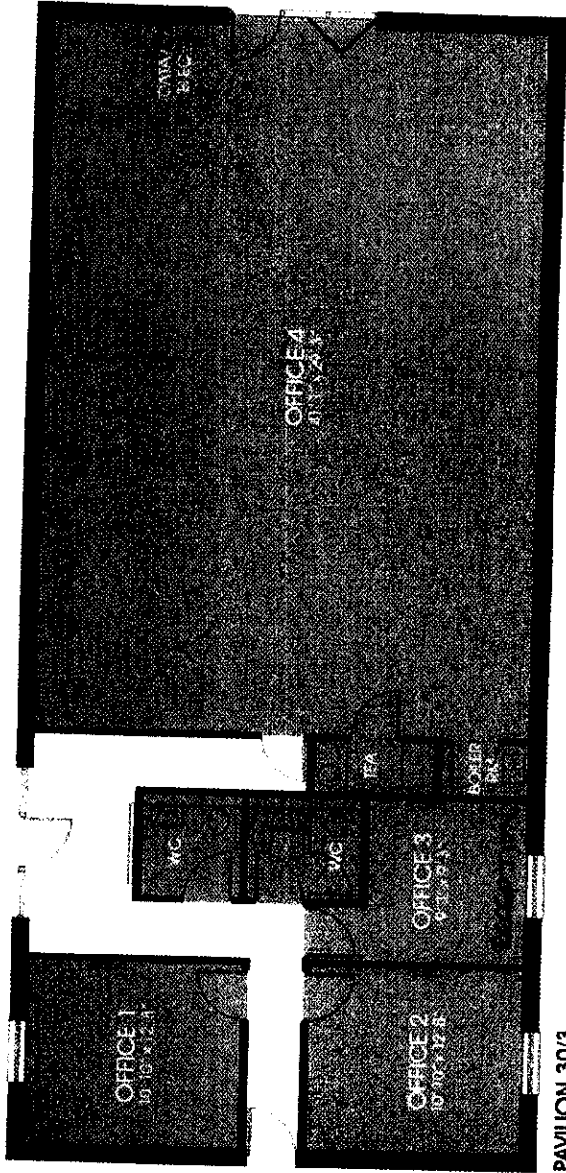
APPENDIX F



SITE LAYOUT PLAN

LOCATION PLAN

PAVILION 30/2



PAVILION 30/3

B/00161/DPK
- 7 FEB 1983