

## **Notice of Review: Land North West of Braidwood House, Penicuik**

### **Determination Report**

Report by Ian Johnson, Head of Communities and Economy

#### **1 Purpose of Report**

- 1.1 The purpose of this report is to provide a framework for the Local Review Body (LRB) to consider a 'Notice of Review' for planning permission in principle for the erection of a dwellinghouse at land north west of Braidwood House, Penicuik.

#### **2 Background**

- 2.1 Planning application 17/00872/PPP for planning permission in principle for the erection of a dwellinghouse at land north west of Braidwood House, Penicuik was refused planning permission on 22 December 2017; a copy of the decision is attached to this report.
- 2.2 The review has progressed through the following stages:
- 1 Submission of Notice of Review by the applicant.
  - 2 The Registration and Acknowledgement of the Notice of Review.
  - 3 Carrying out Notification and Consultation.

#### **3 Supporting Documents**

- 3.1 Attached to this report are the following documents:
- A site location plan (Appendix A);
  - A copy of the notice of review form and supporting statement (Appendix B). Any duplication of information is not attached;
  - A copy of the case officer's report (Appendix C);
  - A copy of the decision notice, issued on 22 December 2017 (Appendix D); and
  - A copy of the relevant drawings/plans (Appendix E).
- 3.2 The full planning application case file and the development plan policies referred to in the case officer's report can be viewed online via [www.midlothian.gov.uk](http://www.midlothian.gov.uk).

#### **4 Procedures**

- 4.1 In accordance with procedures agreed by the LRB, the LRB by agreement of the Chair:
- Have scheduled an accompanied site visit for Monday 9 April 2018; and
  - Have determined to progress the review by way of a hearing.

- 4.2 The case officer's report identified that there was two consultation responses and one representation received. As part of the review process the interested parties were notified of the review. In response the representor advised that they wish their objection remain and be considered as part of the review. All the 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 to the next LRB for noting.
- 4.6 A copy of the LRB decision will be placed on the planning authority's planning register and made available for inspection online.

## **5 Conditions**

- 5.1 In accordance with the procedures agreed by the LRB at its meeting of 13 June 2017, and without prejudice to the determination of the review, the following conditions have been prepared for the consideration of the LRB if it is minded to uphold the review and grant planning permission.
1. Development shall not begin until an application for the approval of matters specified in conditions for the following details has been submitted to and approved in writing by the Planning Authority:
    - a. A detailed layout plan of the site, showing the siting of the proposed house, details of vehicular access and parking provision within the site and details of all walls and fences to be erected;
    - b. Existing and finished ground levels and floor levels for all buildings, open space and access roads in relation to a fixed datum;
    - c. Detailed plans, sections and elevations of the proposed house, indicating the colour and type of materials to be used on the external walls, roof and windows;

- d. Details of all hard surfacing and kerbing;
- e. Details of the proposed water supply;
- f. Proposals for the treatment and disposal of foul and surface water drainage from the proposed house. Unless otherwise approved in writing by the Planning Authority, the surface water drainage shall comply with the standards detailed in the SUDS Manual; and
- g. Details of a scheme of landscaping for the site. Details shall include a plan showing the position, number, size and species of all trees and shrubs that are proposed to be planted; all trees on the site which are to be removed and retained; and details of the means of protection of all trees that are to be retained.

***Reason:*** *Permission is granted in principle only. No details were approved with the application and detailed consideration is required for the siting, massing and design of the proposed dwellinghouses and site access arrangements.*

- 2. Prior to occupation of the house the vehicular access referred to in condition 1 (a) above shall be completed to the satisfaction of the Planning Authority and the Roads Authority. The vehicular access shall comply with the following details:
  - a. The proposed access shall join the trunk road at a new junction which shall be constructed by the applicant to a standard as described in the Department of Transport Advice Note TD 41/95 (Vehicular Access to All-Purpose Trunk Roads) (as amended in Scotland) complying with layout 3. The junction shall be constructed in accordance with details that shall be submitted to and approved by the Planning Authority, after consultation with Transport Scotland, as the Trunk Roads Authority, before any part of the development is commenced;
  - b. The gradient of the access road shall not exceed 1 in 40 for a distance of 5 metres from the nearside edge of the trunk road carriageway, and the first 5 metres shall be surfaced in a bituminous surface and measures shall be adopted to ensure that all drainage from the site does not discharge onto the trunk road;
  - c. Visibility Splays shall be provided and maintained on each side of the access to the satisfaction of the local Planning Authority, after consultation with Transport Scotland, as the Trunk Roads Authority. These splays are the triangles of ground bounded on 2 sides by the first 2.4 metres of the centreline of the access driveway (the set back dimension) and the nearside trunk road carriageway measured 215 metres (the y dimension) in both directions from the intersection of the access with the trunk road. In a vertical plane, nothing shall obscure visibility measured from a driver's eye height of between 1.05 metres and 2.00 metres positioned at the set back dimension to an object height of between 0.26 metres and 1.05 metres anywhere along the y dimension;
  - d. The width of the access shall be at least 5.5 metres wide for a distance of 10 metres from the nearest edge of the trunk road carriageway; and

- e. There shall be no drainage connections to the trunk road drainage system.

Unless otherwise approved in writing by the Planning Authority the above standards shall be adhered to for the duration of the vehicular access' use.

**Reason:** *To ensure that the standard of access layout complies with the current standards and that the safety of the traffic on the trunk road is not diminished.*

3. Before the new house is occupied the installation of the means of water supply approved in terms of condition 1(e) above shall be completed to the satisfaction of the planning authority.

**Reason:** *To ensure the appropriate supply of potable water to the development in, compliance with Midlothian Local Development Plan policy RD1, and to ensure that the addition of the new house has no adverse impact upon the quality or reliability of the water supply for existing residents in the area.*

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

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

5. The scheme of landscaping approved in accordance with condition 1 (g) above shall be carried out and completed within six months of the building either being completed or brought into use, whichever is the earlier date. Any trees removed, dying, severely damaged or becoming seriously diseased within five years of planting shall be replaced in the following planting season by trees of a size and species similar to those originally required.

**Reason:** *To ensure the landscaping is carried out and becomes successfully established.*

6. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 or any subsequent order amending or superseding it, no external alterations to or extensions to the dwellinghouse, nor the erection of any new buildings within the application boundary, shall be permitted without the prior written consent of the Planning Authority.

**Reason:** *In order that the visual impact of the development is controlled and that the concept of the development is not compromised by improper extensions or alterations, and that the quality and form of development remains to a high standard.*

## **6 Recommendations**

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

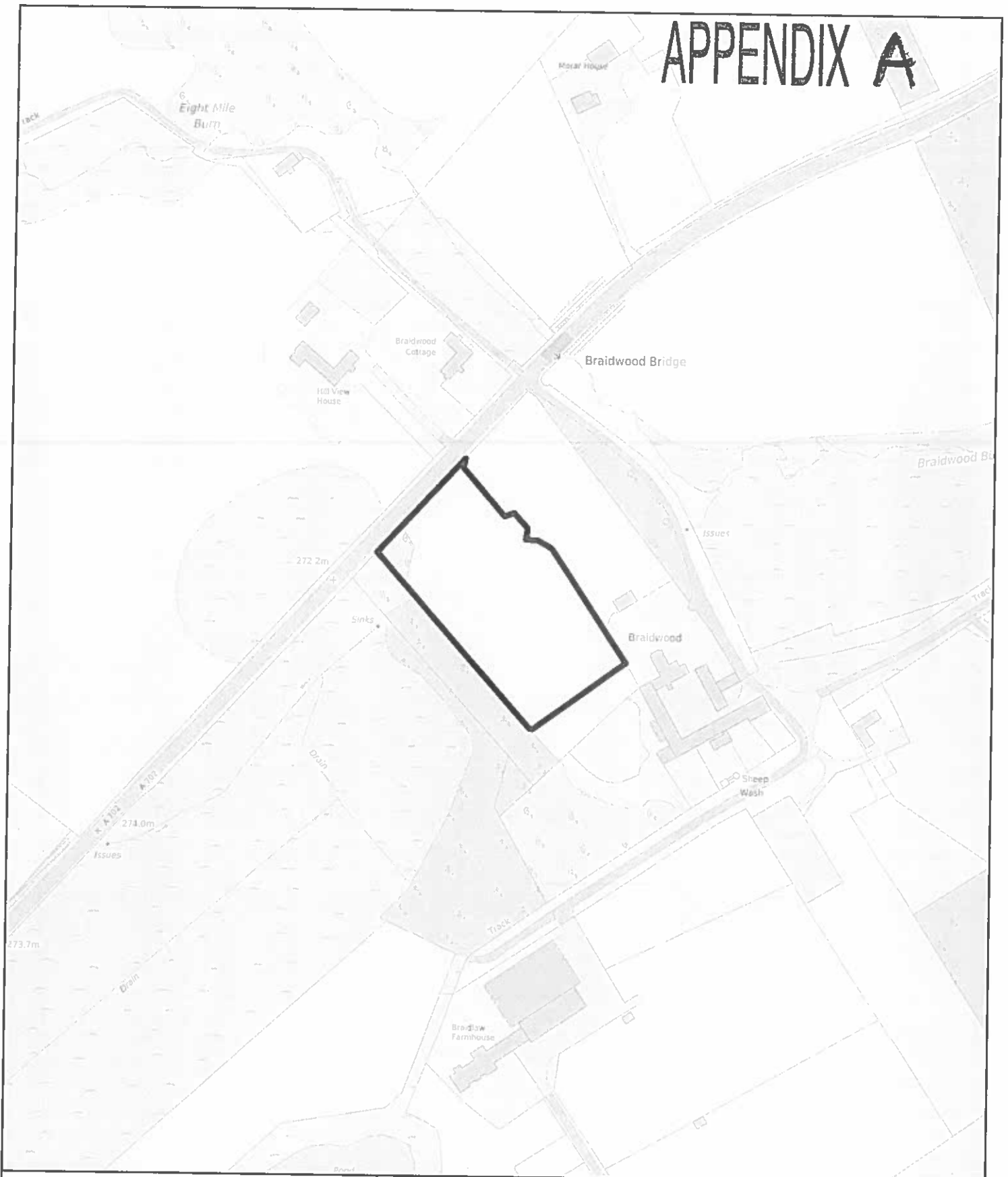
**Date:** 3 April 2018

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

**Tel No:** 0131 271 3310

**Background Papers:** Planning application 17/00872/PPP available for inspection online.

# APPENDIX A



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

Application for planning permission in principle for erection  
of dwellinghouse at Land North West Of Braidwood House,  
Penicuik

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File No. 18/00872/PPP

Scale: 1:2,500



Midlothian

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

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

Thank you for completing this application form:

ONLINE REFERENCE 100081169-001

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

## Applicant or Agent Details

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

☐ Applicant ☒ Agent

## Agent Details

Please enter Agent details

Company/Organisation:	Niall Young Architecture Ltd.		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Kirsty	Building Name:	
Last Name: *	Scott	Building Number:	32-12
Telephone Number: *	01316606599	Address 1 (Street): *	Harden Green Business Park
Extension Number:		Address 2:	Dalhousie Road
Mobile Number:		Town/City: *	Eskbank
Fax Number:		Country: *	Midlothian
		Postcode: *	EH22 3NX
Email Address: *	kirsty@nyarchitecture.co.uk		

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

☒ Individual ☐ Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text" value="Braidwood House"/>
First Name: *	<input type="text" value="I"/>	Building Number:	<input type="text"/>
Last Name: *	<input type="text" value="Walsh"/>	Address 1 (Street): *	<input type="text" value="Braidwood Farm"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text" value="Silverburn"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Penicuik"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="EH26 9LP"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text"/>		

## Site Address Details

Planning Authority:	<input type="text" value="Midlothian Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="BRAIDWOOD HOUSE"/>
Address 2:	<input type="text" value="BRAIDWOOD FARM"/>
Address 3:	<input type="text" value="SILVERBURN"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="PENICUIK"/>
Post Code:	<input type="text" value="EH26 9LP"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="659070"/>	Easting	<input type="text" value="319381"/>
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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)

This dwelling would form part of the Baidwood Community. The dwelling will be located close to Braidwood House and Steading, enabling the development to relate to the buildings grouping. New access from the A702, should have no adverse safety implication, previously advised from Transport Scotland. Shelter landscaping is provided to ensure the dwelling would have no adverse impact on the great landscape value.

## Type of Application

What type of application did you submit to the planning authority? \*

- ☐ Application for planning permission (including householder application but excluding application to work minerals).
- ☒ Application for planning permission in principle.
- ☐ Further application.
- ☐ Application for approval of matters specified in conditions.

What does your review relate to? \*

- ☒ Refusal Notice.
- ☐ Grant of permission with Conditions imposed.
- ☐ No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

## Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: \* (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

Please refer to Supporting Documents.

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

☐ Yes ☒ No

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

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: \* (Max 500 characters)

1799\_Planning Appeal Document

## Application Details

Please provide details of the application and decision.

What is the application reference number? \*

17/00872/PPP

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

02/11/2017

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

22/12/2017

## Review Procedure

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

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

☐ Yes ☒ No

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

Please select a further procedure \*

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)

Please refer to Supporting Documentation.

Please select a further procedure \*

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

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

Please refer to Supporting Documentation.

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

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

☒ Yes ☐ No

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

☒ Yes ☐ No

## Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant? \*

☒ Yes ☐ No

Have you provided the date and reference number of the application which is the subject of this review? \*

☒ Yes ☐ No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? \*

☒ Yes ☐ No ☐ N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? \*

☒ Yes ☐ No

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

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review \*

☒ Yes ☐ No

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

## Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mrs Kirsty Scott

Declaration Date: 31/01/2018



## **Planning Appeal Statement**

This report provides the grounds of Appeal against the decision to refuse Planning Permission in Principal for the erection of dwelling house at Land North of Braidwood House, Penicuik – Planning Reference No. 17/00872/PPP.

The reasons for the Councils decision to refuse were stated as follows:

*"The proposed development requires the formation of a new access to the A702; this will create a house that will have a separate access arrangement from the 5 existing units within the housing group. The proposed house will have a poor physical relationship with the housing group and will appear as ribbon development when viewed from the A702. The proposal is therefore contrary to policy RD1 of the adopted Midlothian Local Development Plan 2017."*

Firstly, we would like to point out that building group referred to by the planning officer is just the steading and not the Farm Group. The Braidwood Community or more accurately The Braidwood Farm Group actually consists of 8 properties South of the A702: Braidwood House; Braidwood Steadings No. 1, 2 (in progress), 3, 4, and 5; Braidlaw Farm and Braidwood Farm. The community straddles the A702 with 5 other properties located North of the A702. These are now named Morar House; Rose Cottage; Braidwood Cottage; a New Build and an in-progress New Build. The area North of the A702 lies within the Pentland Hills Regional Park. The location of this application site does not lie within the park. The Braidwood Community actually consists of the above and historically always has been. Please see Appendices for evidence.

We refute the claim by the planning officer that this proposed dwellinghouse would constitute to 'Ribbon Development'. Reasons for this are:

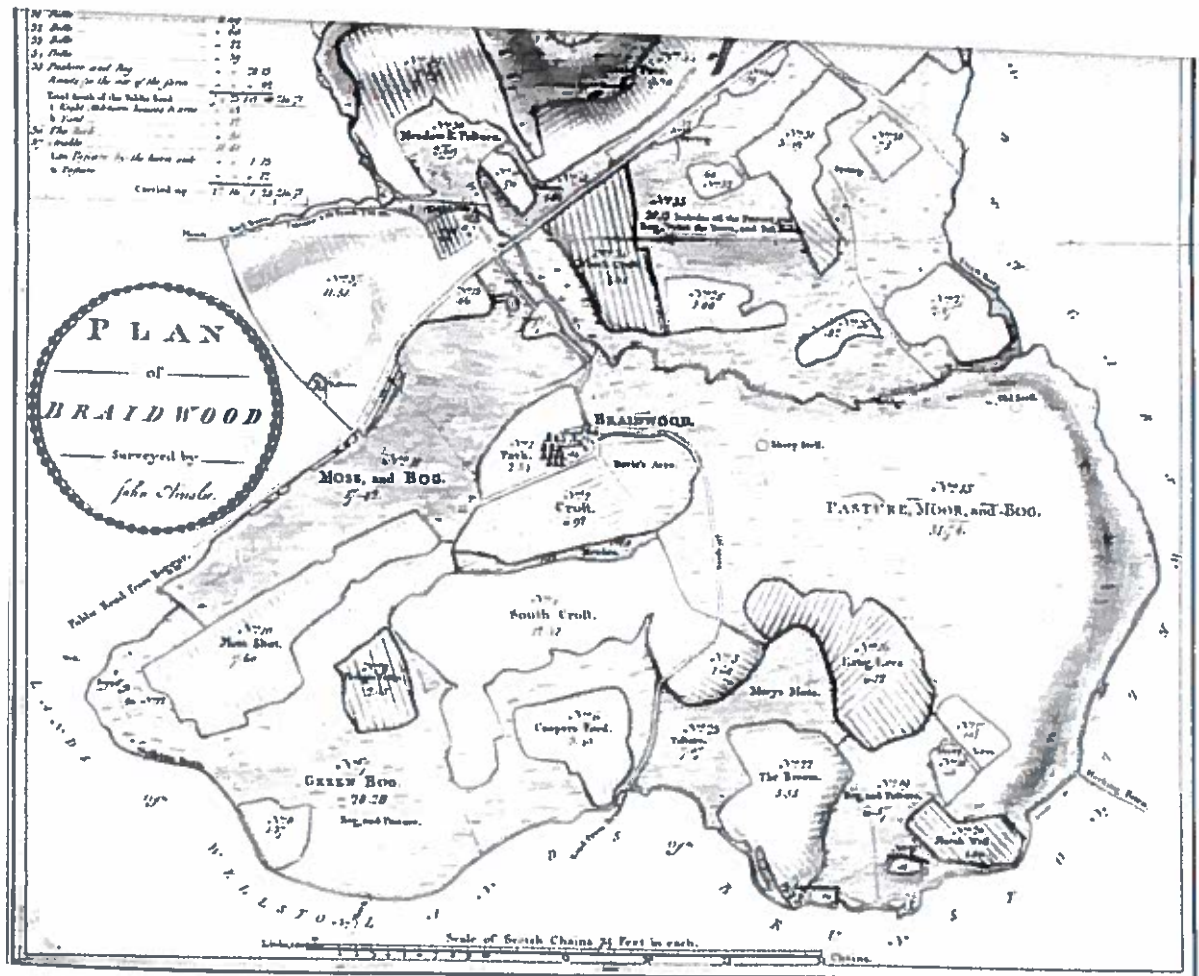
- The proposed dwelling house is set back over 150 metres from the A702.
- There is currently only 1 access; a single track road on the South side of the A702 which provides the only access by all 8 of the properties listed above, making this a heavy utilised access. However, there are 3 access roads to serve only the 5 properties located North of the A702. Therefore, the proposed access road would only mirror the existing opposite site and would not constitute as a Ribbon Development and would not significantly alter the character of the area.

We would also like to highlight that the grounds of decline being the proximity of the proposed dwellinghouse to the existing group, was not mentioned in any previous correspondence with the planning officer. The proposed alternative plan provided by the planning officer, did not indicate any change of location of the dwellinghouse itself.

The planning officer's proposal of utilising the existing access to the Braidwood Farm Group would not be possible as this is not owned by the applicant and the applicant has already received a verbal decline to use this road for a new build access, therefore we need to create direct access from the A702. We would also like to highlight that Transport Scotland have already given a positive response to the proposed new access. Also, our client would like to draw attention to the two large new builds, mentioned above, to the North of the A702, directly opposite the site of this proposal. They were awarded planning permission (12/00033/DPP) with additional access from the A702 despite being closer to the road and lying within the Pentland Hills National Park.

To conclude, we would request an appeal to this decision by means of an accompanied site visit of the Local Review Body. Also, our client Mr Ian Walsh, would like to request a hearing at the Local Review Body meeting to determine the outcome of this appeal.

# **Appendix 1 – Braidwood Farm Map 1796**



## Appendix 2 – Braidwood Farm Map 1796

Copied 1956  
 33786  
 RCAMS  
 Braidwood Farm  
 Surveyed by John Ansche (1796)  
 and permission to reproduce from: Sir John Clark of Perreux Bt.

# Appendix 3 – Thomas Murray Census 1901

31/03/1901 MURRAY, THOMAS (Census 1901 697/00 001/00 010)											
The undermentioned Houses are shown within the boundaries of the											
Civil Parish of	Town Ward of	Subdivided Parish of	Grand-County-District of	School Board District of		Parliamentary Election					
Braidwood	Braidwood	Braidwood	Braidwood	Braidwood		Braidwood					
House No. and Name of House	NAME and Surname of each Person	RELATION to Head of Family	SEX	AGE	PROFESSION or OCCUPATION	Place of Birth	WEEKS DONE	Years of Schooling	Years of University	Years of Technical	Years of Artistic
Braidwood Farm 1	Thomas Murray	Head	Man	81	Farmer	Penicuik					
	Joanna Murray	Wife	Woman	82		Penicuik					
	Thomas P. Steven	Servant	Unm	21	Ploughman	Penicuik					
	Robina May	Servant	Unm	19	General servant	Currie, Midlothian					
	John Gallagher	Servant	Unm	18	Cattleman	Ireland					
	James Gallagher	Servant	Unm	35	Farm servant	Ireland					
Braidwood Farm 1 Cottage No. 1	John Gilroy	Head	Man	30	Ploughman	Penicuik					
	John Gilroy	Wife	Woman	28		Penicuik					
	John J. Gilroy	Son	Man	10		Penicuik					
	James Watt	Boarder	Man	30	Quarry man	Penicuik					
Braidwood Farm 1 Cottage No. 2	James H. Veitch	Head	Man	36	Farm Grieve	Penicuik					
	Mary Veitch	Wife	Woman	36		Penicuik					
	James Veitch	Son	Man	14	Farm labourer	Penicuik					
	Robert Veitch	Son	Man	12		Penicuik					
	John Veitch	Son	Man	10		Penicuik					
	John Veitch	Son	Man	8		Penicuik					
	John Veitch	Son	Man	6		Penicuik					
Braidwood Farm Cottage No. 3											

31 March 1901 Census: Penicuik

Braidwood Farm

Thomas Murray	Head	Marr	81yrs	Farmer, employer	Innerleithen, Peeblessh.
Joanna Murray	Wife	Marr	82yrs		Penicuik
Thomas P. Steven	Serv	Unm	21yrs	Ploughman	Penicuik
Robina May	Serv	Unm	19yrs	General servant	Currie, Midlothian
John Gallagher	Serv	Unm	18yrs	Cattleman	Ireland
James Gallagher	Serv	Unm	35yrs	Farm servant	Ireland

Rooms with one or more windows: 8

Braidwood Farm Cottage No. 1: Ploughman John Gilroy & family plus boarder James Watt 30yrs Quarry man

Braidwood Farm Cottage No. 2: James Veitch 36yrs Farm Grieve and family of 6, the oldest, 14 a farm labourer

Braidwood Farm Cottage No. 3: uninhabited



Planning Ref. No. – 17/00872/PPP  
Planning Appeal - Further Evidence for the Hearing  
To be Held on the 9th and 10th April 2018

The reasons for the Councils decision to refuse planning were stated as follows:

*"The proposed development requires the formation of a new access to the A702; this will create a house that will have a separate access arrangement from the 5 existing units within the housing group. The proposed house will have a poor physical relationship with the housing group and will appear as ribbon development when viewed from the A702. The proposal is therefore contrary to policy RD1 of the adopted Midlothian Local Development Plan 2017."*

We appeal on this decision citing the following separate points, namely:

1. The proposed dwelling house does not constitute "ribbon development"
  2. Access to the A702; cognisance requires to be taken of the decisions taken in respect of the most recent planning permission granted for a new dwelling to the east of Braidwood Steading 09/00503/PPP and Ref No: 10/00519/MS.
  3. The proposed house has an appropriate physical relationship with the housing group.
  4. Finally, and most importantly: Recent planning permissions granted in the immediate vicinity 12/00033/DPP and Ref. No. 15/00411/DPP
- 
1. The proposed dwelling house does not constitute "ribbon development"
    - The proposed dwelling house is set back over 150 metres from the A702, adjoins the existing Housing Group and is capable of being screened by landscaping.
    - Further development on this route is curtailed by inappropriate building land.
    - The proposal for a new dwelling, would have a lesser impact and comply with planning policy more than the permission Ref No: 12/00033/DPP granted for two dwellings immediately to the north of the A702, the proposed access road would only mirror the existing opposite site and would not constitute a ribbon development and would not alter the character of the area.
  2. Access to the A702
    - Transport Scotland has NO objection to a new access from the A702 serving the subject property.
    - The existing access to Braidwood is in separate ownership and is therefore not capable of being utilised to access the subject property. This fact is also highlighted within the planning permission granted for a new dwelling to the east of Braidwood Steading Ref No: 09/00503/PPP and Ref No: 10/00519/MS, (oddly missing from the Property History Sheet). It is a condition that the new dwelling was required to have a separate access from the A766 and not the A702 so as not to add additional traffic to the existing access road. The recommendation for refusal on this point is therefore in error on this point given the previous decision as stated.
  3. The proposed house has an appropriate physical relationship with the housing group.
    - We would also like to highlight that the grounds of decline being the proximity of the proposed dwelling house to the existing group, was not mentioned in any previous correspondence with the planning officer. The proposed alternative plan provided by the planning officer, did not indicate any change of location of the dwelling house itself.

- Housing in the countryside policy i.e. the one that states one additional house can be built where there's a grouping of 5 or more during any Local Development Plan period, so we are compliant with this policy (RD1).
- As referenced by the case officer, Policy DP1, Section 1.2 was supported by Supplementary Planning Guidance (SPG) Development in the Countryside: Policy DP1, Section 1.2: Housing Groups and represents current best practise with regard to the siting of housing within housing groups in the countryside and as such can be considered as a material consideration in the assessment of the current application.
- The guidance on acceptable plots states that:
  - Gap sites within groups will generally take precedence over other locations. *There are no gap sites within the Braidwood Housing Group, therefore this cannot be taken account of.*
  - Where no gaps sites are present, sites adjoining the group are preferable. The site of the current proposal is adjoining the Braidwood Housing Group.
  - Proposals which adjoin a group should either be contained within an existing physical or visual feature which contains the group, or have potential for a feature, in keeping with the scale and appearance of the group, to be created.
  - The landscaping for the proposed dwelling has the potential to continue the tree belt that forms the northern boundary of Braidwood Houses' garden in order to provide screening.
  - Proposals located in open fields adjoining a group, which have no physical features to provide containment will not be acceptable. The fields are in the private ownership of the applicant and as per the comment above are capable of incorporating a landscape tree belt in front.
  - Proposals located on the opposite side of physical features which form strong boundaries for a group (e.g. main roads, burns, substantial tree belts, etc.) will not be acceptable. The proposed dwelling is on the same side of the burn in front of Braidwood House as the remainder of the Housing Group.

Therefore, with respect to the observations above in relation to the guidance points within the SPG, we would respectfully suggest that the proposed dwelling is compliant.

4. Finally, but Importantly: Recent planning permissions granted in the immediate vicinity.

- We would like to draw attention to the two large new builds, mentioned above, to the North of the A702, directly opposite the site of this proposal.
- This development was awarded planning permission 12/00033/DPP and Ref No.15/00411/DPP with additional access from the A702 despite being:
  - Closer to the road (ribbon development? And,
  - Located within the Pentland Hills National Park.

The above reasons are set out to show that this proposal is completely compliant with policy RD1 of the adopted Midlothian Local Development Plan 2017.

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

**Case Officer:** Graeme King    **Site Visit Date:** 08/11/2017

**Planning Application Reference:** 17/00872/PPP

**Site Address:** Land North West of Braidwood House, Penicuik

**Site Description:** The application site is a grazing field to the West of the garden of Braidwood House. The site measures 0.7 hectares in area. The majority of the site is level; there is an area of sloping ground in the Southern portion of the plot where the land slopes upwards towards the existing buildings at Braidwood Steading. A small burn passes through the site, from West to East, and divides the site approximately in half. The site is bounded to the South West by an established tree belt. To the North West the site is bounded by the verge of the A702 trunk road; on the North side of the A702 there is a grouping of 3 houses, of which 2 are currently built and occupied. To the North East the site is bounded by an area of grazing field and the garden of Braidwood House. To the South East the site is bounded by an area of former grazing field that has been fenced off and is now attached to the garden of Braidwood House.

The house is a 19thC two storey former farm house with a large garden with an established belt of trees along the Northern edge; there is a small agricultural shed immediately North of the belt of trees. The walls are finished with stone and render, the roof is slate and the windows are uPVC. The steading that was formerly associated with the farm was converted to housing in the 1980's/1990's. The steading buildings are currently occupied by 4 dwellinghouses; planning permission for a 5<sup>th</sup> house has been implemented but not yet completed. The house, the steading conversion and a separate farmhouse to the South West of the steading share a private access road from the A702. The access road is situated 55m North East of the application site boundary.

**Proposed Development:** Application for planning permission in principle for erection of dwellinghouse

**Proposed Development Details:** It is proposed to erect a single dwellinghouse on the plot. A new access road from the A702 is proposed. The indicative layout submitted shows a house situated at the South Eastern boundary of the application site and an access road of 125m length situated along the North Eastern boundary of the plot. No supporting information has been provided with the application.

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

0180/98 - Outline permission for the erection of a dwellinghouse at Braidwood House. Refused. Appeal dismissed

02/00041/FUL - Change of use and alterations of stable block to form dwellinghouse at 1 Braidwood Steading. Consent with conditions

02/00864/FUL - Erection of detached dwelling at Lansik Stud, Braidwood. Consent with conditions

09/00503/PPP - Application for planning permission in principle to erect a dwellinghouse at Land to East of Braidwood Steading. Consent with conditions

10/00229/PPP - Application for Planning Permission in Principle for erection of dwellinghouse at Land To The South-west Of Braidwood Steading. Refused

10/00519/MS - Erection of dwellinghouse (approval of matters specified in conditions attached to planning permission 09/00503/PPP) at land to East of Braidwood Steading. Consent with conditions

14/00348/PNAG – Erection of agricultural building at land North of Braidwood House. Permitted (This notification relates to the shed situated North of the tree belt)

16/00298/PNAG – Erection of agricultural building Land North East of Braidwood House. Permitted (The building that this notification relates to has not been erected)

**Consultations:** The A702 is a trunk road and therefore it was necessary to consult **Transport Scotland**. They have no objection to the proposal subject to any decision notice including conditions relating to the dimensions and specification of the access road; the dimensions of the visibility splay; and no drainage connections being made to the trunk road drainage system.

East Lothian Council **Archaeology** service has no objection to the proposal subject to any decision notice including a condition to secure a programme of archaeological (Monitored Soil Strip) work.

**Representations:** One objection has been received from a resident of the steading. The grounds for objection are that the development will be detrimental to the amenity and value of the representor's property. It is also stated that the new access will be hazardous due to its proximity to the existing access to the steading and the access to the 3 houses on the North side of A702.

**Relevant Planning Policies:** The adopted development plan is the **Midlothian Local Development Plan 2017 (MLDP)**. The Plan was adopted by Midlothian Council on 7<sup>th</sup> November 2017. The following policies are relevant to this application:

**Policy RD1: Development in the Countryside** states that development in the countryside will only be permitted if:

- it is required for the furtherance of agriculture, including farm related diversification, horticulture, forestry, countryside recreation or tourism; or
- it accords with policies RD2, MIN1, NRG1 or NRG2; or
- It accords with the Council's Supplementary Guidance on *Development in the Countryside and Green Belt*.

With regard to Housing in the countryside policy RD1 lists 4 exceptions to the requirement to demonstrate that housing is for the furtherance of a countryside activity. The exceptions are as follows:

- Housing groups (allowing 1 new dwelling during the plan period where there are 5 existing units);
- Conversions of redundant farm buildings or other non-residential buildings;
- Redevelopment of redundant farm buildings or other non-residential buildings; or
- Enabling development where it can be clearly shown to be the only means of preventing the loss of a heritage asset and securing its long-term future.

The details of these exceptions will be set out in the Supplementary Guidance; the Council is in the process of preparing the guidance and at present it has still to be published.

**Policy ENV6: Special Landscape Areas** states that development proposals will only be permitted where they incorporate high standards of siting and design and where they will not have significant adverse effect on the special landscape qualities of the area.

**Planning Issues:** The main planning issue to be considered in determining this application is whether the proposal complies with development plan policies unless material planning considerations indicate otherwise. Any representations and consultation responses received are material considerations.

There are 5 existing houses that form a housing group at Braidwood; namely Braidwood House and the 4 houses within the steading conversion. Braidlaw Farmhouse is situated 165m South West of the steading and the clear visual separation, when viewed on the ground, means that the Planning Authority does not consider it to be part of the grouping, for the purposes of assessing policy RD1. The 3 consented houses at Braidwood Cottage on the North side of the A702 are situated 175m North West of the steading; the separation distance and the obvious physical boundary of the A702 means that there is no obvious visual connection with the housing group at Braidwood. While there are another 2 houses North of the A702, they have their own separate access points and the positioning of the houses means that they appear as individual houses with no obvious visual connection with either the 3 houses at Braidwood Cottage or the housing group at Braidwood. For the purposes of assessing policy RD1 the only housing group that is being considered is the 5 houses at Braidwood.

As is noted above the MLDP was recently adopted by the Council on 7<sup>th</sup> November 2017. Prior to that date the adopted development plan was the Midlothian Local Plan 2008 (MLP). The housing group element of policy RD1 carries forward a policy (DP1, Section 1.2: Housing Groups) that was introduced in the MLP. Policy DP1, Section 1.2 was supported by Supplementary Planning Guidance (SPG) Development in the Countryside: Policy DP1, Section 1.2: Housing Groups which was adopted by the Council on 6<sup>th</sup> October 2009. While the SPG does not specifically relate to the adopted development plan it represents current best practise with regard to the siting

of housing within housing groups in the countryside and as such can be considered as a material consideration in the assessment of the current application.

The SPG identifies provides guidance on the criteria used for identifying acceptable plots; identifies housing groups which the Planning Authority considers to have potential to accommodate additional units; and includes guidance on where development could be accommodated within the identified housing groups. The housing group at Braidwood is identified as a housing group that could accommodate one additional unit. The guidance notes that the fields to the South, East, North West and North East are very open with no physical features to provide containment. It also notes that any new dwelling should complement the steading design and that landscaping may be required to mitigate the negative visual impacts of development when viewed from the A702.

The guidance on acceptable plots states that:

- Gap sites within groups will generally take precedence over other locations.
- Where no gaps sites are present, sites adjoining the group are preferable.
- Proposals which adjoin a group should either be contained within an existing physical or visual feature which contains the group, or have potential for a feature, in keeping with the scale and appearance of the group, to be created.
- Proposals located in open fields adjoining a group, which have no physical features to provide containment will not be acceptable.
- Proposals located on the opposite side of physical features which form strong boundaries for a group (e.g. main roads, burns, substantial tree belts, etc.) will not be acceptable.

As noted above the new Supplementary Guidance is in the process of being prepared. The Council intends to provide guidance on the identification of acceptable housing groups and plots within the groups; it is not intended replicate the previous approach of identifying specific housing groups and providing specific comments on the identified groups.

The housing group at Braidwood is a visually well contained group that relates well to its surroundings and sits comfortably in the surrounding landscape. The group is visible from the A702 but it is sited 135m from the road and the scale of the group is not discernible from the road. The successful visual containment of the Braidwood group is achieved due to a number of factors: as a former farmhouse and steading the buildings have a very close physical relationship; the grouping shares one common access road which diminishes the visual impact of the grouping when viewed from the A702 and establishes a unifying physical feature; the open fields between the grouping and the A702 help to create a physical boundary that mitigates against the ribbon development to the North; and the tree planting to the North and West of the grouping creates visual containment and physical boundaries. The housing group at Braidwood is a successful example of a well contained housing group of the type that Midlothian Council wishes to encourage and support via policy RD1.

The applicant wishes to create a new access road as the existing access road is jointly owned and the applicant is of the view that individual co-owners will not agree

to further development that could prejudice the co-owners chances of achieving planning permission for sites that they own. A new house that relied on its own distinct access would remove one of the key features that unifies the existing group and would reduce the sense of open space which exists between the A702 and the grouping; this would fundamentally alter the character of the Braidwood housing group. The fact that Transport Scotland has no objection to the access road merely indicates that the technical specification of the access is likely to be achievable; it is not an assessment of the planning merits of the principle of a new access.

The Planning Authority is aware that policy RD1 is intended to allow some flexibility with regard to development in the countryside and having assessed the site on the ground the case officer has suggested an alternative scheme that would take access from the existing access road at the existing access to the shed and would create a landscape buffer to the South of the burn. The applicant was given the option of withdrawing the current application and pursuing the alternative proposal, but has declined this option and wishes to continue with the current application.

The applicant is of the view that the co-owners will not agree to a further house accessing from the shared access and is concerned that withdrawing the application would mean that another applicant would be able to seek permission for an alternative site. As policy RD1 allows for only one house to be granted within the current plan period, this would create a significant delay for the applicant. While the Planning Authority does not dispute the validity of the applicant's concerns it must be noted that these concerns are not material planning considerations. The Planning Authority must consider what is the most appropriate solution for the character and appearance of the housing group rather than what is convenient for the applicant's aspirations. The fact that the proposed alternative approach is inconvenient for the applicant does not remove the fact that an acceptable, from a planning perspective, solution is available.

The proposed development would not appear as a logical extension to the existing grouping, but would instead appear as ribbon development that happened to be sited close to the existing grouping. The housing North of the A702 clearly demonstrates the drawbacks of ribbon development which lacks the physical and visual containment that policy RD1 seeks to support and encourage. The existing housing group is a successful example of a housing group; the proposed development would fundamentally alter the character of the group and undermine its success.

#### **Recommendation: Refuse Planning Permission**

**Reason for Refusal:** The proposed development requires the formation of a new access to the A701; this will create a house that will have a separate access arrangement from the 5 existing units within the housing group. The proposed house will have a poor physical relationship with the housing group and will appear as ribbon development when viewed from the A701. The proposal is therefore contrary to policy RD1 of the adopted Midlothian Local Development Plan 2017.

## Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

**Reg. No. 17/00872/PPP**

Niall Young Architecture Ltd  
32-12 Harden Green Business Park  
Dalhousie Road  
Eskbank  
EH22 3NX

Midlothian Council, as Planning Authority, having considered the application by Mr I Walsh, Braidwood House, Braidwood Farm, Silverburn, Penicuik, EH26 9LP, which was registered on 3 November 2017 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

**Application for planning permission in principle for erection of dwellinghouse at Land North West Of Braidwood House, Penicuik**

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

<u>Document/Drawing.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan (Existing)	1799(PE)01 1:1250	03.11.2017
Location Plan (Proposed)	1799(PE)02 1:1250	03.11.2017

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

- The proposed development requires the formation of a new access to the A701; this will create a house that will have a separate access arrangement from the 5 existing units within the housing group. The proposed house will have a poor physical relationship with the housing group and will appear as ribbon development when viewed from the A701. The proposal is therefore contrary to policy RD1 of the adopted Midlothian Local Development Plan 2017.*

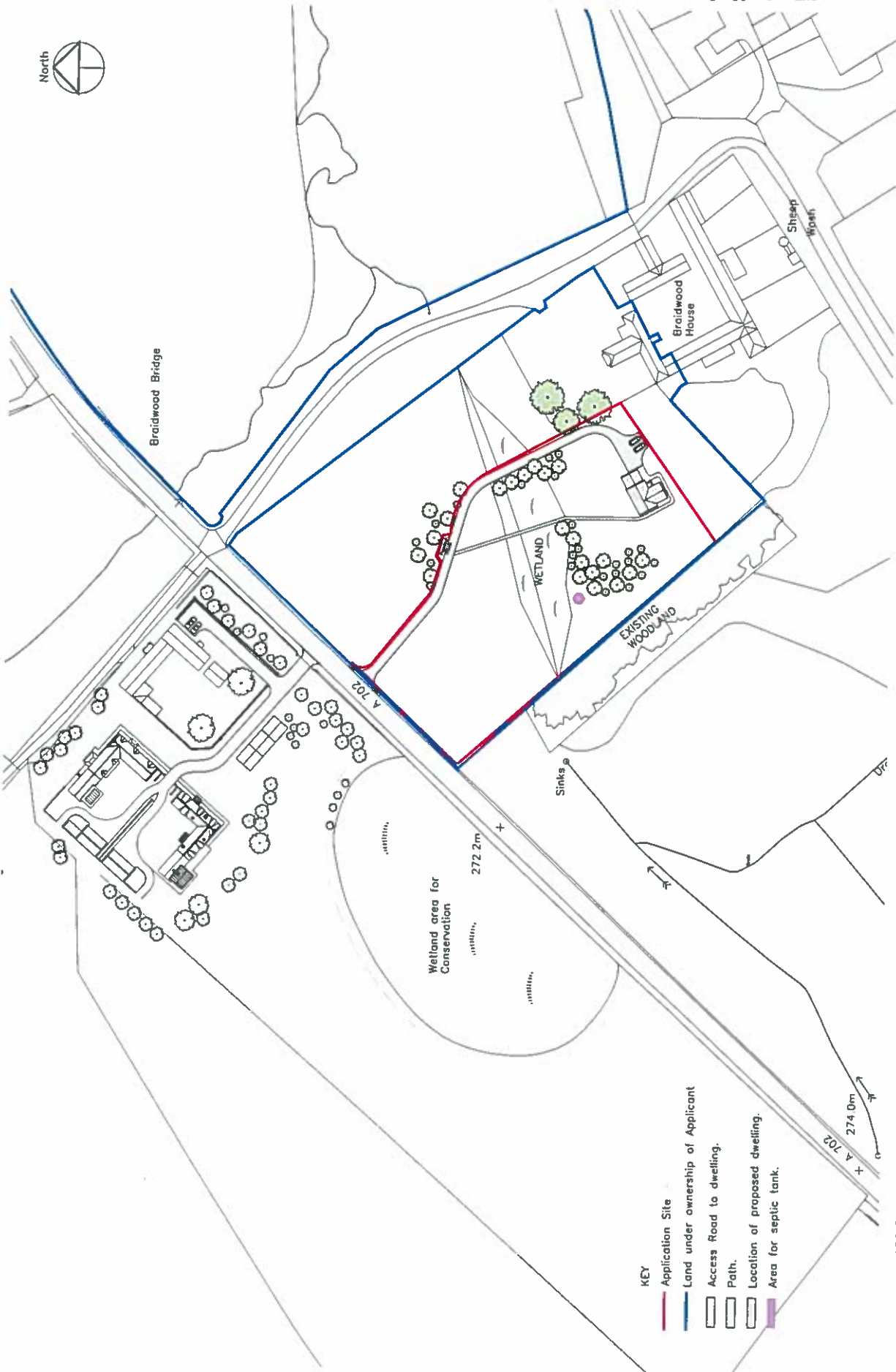
Dated 22 / 12 / 2017



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



# APPENDIX E



- KEY**
- Application Site
  - Land under ownership of Applicant
  - Access Road to dwelling.
  - Path.
  - Location of proposed dwelling.
  - Area for septic tank.

LOCATION PLAN AS PROPOSED 1:1250



revisions

LOCATION PLAN AS PROPOSED

I WALSH  
PROPOSED DEVELOPMENT  
BRAIDWOOD HOUSE  
PENICUIK, EH26 8LP

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32/12 Haddington Business Park  
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Scale  
Drawn KS  
Checked NSY  
Date 01/11/17

1799(PE)02