

# Notice of Meeting and Agenda



## Local Review Body

**Venue:** Council Chambers - Please note this meeting will commence at 1.00pm, or on conclusion of the Special Midlothian Council meeting scheduled for 11.30am, whichever is the later,

**Date:** Tuesday, 10 September 2019

**Time:** 13:00

### Director, Resources

#### Contact:

Clerk Name: Mike Broadway

Clerk Telephone: 0131 271 3160

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

#### Further Information:

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

**Privacy notice:** Please note that this meeting may be recorded. The recording may be publicly available following the meeting. If you would like to know how Midlothian Council collects, uses and shares your personal information, please visit our website: [www.midlothian.gov.uk](http://www.midlothian.gov.uk)

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**1 Welcome, Introductions and Apologies**

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**2 Order of Business**

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

**3 Declaration of Interest**

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

**4 Minute of Previous Meeting**

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- 4.1** Minute of Meeting held on 16 April 2019 - For Approval 3 - 6

**5 Public Reports**

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- 5.1** Decision Notice - 70 Lothian Street, Bonnyrigg (18/00654/DPP) 7 - 10

Notice of Review Requests Considered for the First Time –  
Determination Reports by Director, Education, Communities and  
Economy:-

- 5.2** Land at Wester Cowden Farm, Wester Cowden, Dalkeith 11 - 100  
(18/00759/S42)

- 5.3** Land at 1A Kirkhill Terrace, Gorebridge (19/00336/DPP) 101 - 118

- 5.4** Middleton Limeworks, Gorebridge (18/00756/DPP) 119 - 162

- 5.5** 26 Mavisbank, Loanhead (19/00159/DPP) 163 - 186

- 5.6** 17 Tipperwell Way, Howgate, Penicuik (19/00326/DPP) 187 - 210

**6 Private Reports**

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No private reports to be discussed at this meeting.

**7 Date of Next Meeting**

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The next meeting will be held on Tuesday 22 October 2019 at 1.00 pm.

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

# Minute of Meeting

Local Review Body  
Tuesday 10 September 2019  
Item No 4.1



## Local Review Body

Date	Time	Venue
Tuesday 16 April 2019	1.00pm	Council Chambers, Midlothian House, Buccleuch Street, Dalkeith

### Present:

Councillor Imrie (Chair)	Councillor Alexander
Councillor Baird	Councillor Cassidy
Councillor Lay-Douglas	Councillor Muirhead
Councillor Munro	Councillor Smail

## 1 Apologies

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Apologies for absence were received from Councillors Curran and Milligan.

## 2 Order of Business

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The order of business was confirmed as outlined in the agenda that had been previously circulated.

## 3 Declarations of interest

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No declarations of interest were received.

## 4 Minutes of Previous Meetings

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The Minutes of Meeting of 5 March 2019 was submitted and approved as a correct record.

## 5 Reports

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Agenda No	Report Title	Presented by:
5.1	Decision Notice – 28-30 Buccleuch Street, Dalkeith [18/00643/DPP].	Peter Arnsdorf
<b>Executive Summary of Report</b>		
With reference to paragraph 5.3 of the Minutes of 14 January 2019, there was submitted a copy of the Local Review Body decision notice upholding a review request from Stuart Hannah, Stuart Hannah Architectural Services, 9 Bonaly Brae, Edinburgh seeking, on behalf of their clients Miss A Khan, a review of the decision of the Planning Authority to refuse planning permission (18/00643/DPP, refused on 5 November 2018) for the Change of Use from Flatted Dwelling to House in Multiple Occupancy (HMO); Formation of Dormer Window and New Window Opening and Installation of Rooflights at 28 – 30 Buccleuch Street, Dalkeith and granting planning permission subject to conditions.		
<b>Decision</b>		
To note the LRB decision notice.		

Agenda No	Report Title	Presented by:
5.2	Decision Notice – 36 Cowden Crescent, Dalkeith [18/00750/DPP].	Peter Arnsdorf



### Executive Summary of Report

With reference to paragraph 5.1 of the Minutes of 5 March 2019, there was submitted a copy of the Local Review Body decision notice dismissing a review request from Mrs C Moffat, 36 Cowden Crescent, Dalkeith, seeking a review of the decision of the Planning Authority to refuse planning permission (18/00750/DPP, refused on 6 November 2018) for the formation of driveway and erection of retaining walls at that address and refusing planning permission.

### Decision

To note the LRB decision notice.

Agenda No	Report Title	Presented by:
5.3	Decision Notice – Land at Sainsburys, Loanhead [18/00747/S42].	Peter Arnsdorf

### Executive Summary of Report

With reference to paragraph 5.1 of the Minutes of 5 March 2019, there was submitted a copy of the Local Review Body decision notice dismissing a review request from Hannah Munro, WYG Planning, 4<sup>th</sup> floor, Rotterdam House, 116 Quayside, Newcastle-Upon-Tyne seeking, on behalf of their clients Sainsbury's Supermarket Limited, a review of the decision of the Planning Authority to refuse planning permission (18/00747/S42, refused on 12 November 2018) to amend condition 2 of planning permission 18/00134/DPP, to not include landscaping along the south western area of the fence erected at Sainsbury's Supermarket, Straiton Mains, Loanhead and refusing planning permission.

### Decision

To note the LRB decision notice.

Agenda No	Report Title	Presented by:
5.4	Decision Notice – Land at 39 The Brae, Auchendinny, Penicuik [18/00581/DPP].	Peter Arnsdorf

### Executive Summary of Report

With reference to paragraph 5.1 of the Minutes of 5 March 2019, there was submitted a copy of the Local Review Body decision notice dismissing a review request from Douglas Mack, FEM Building Design, 8 Plantain Grove, Lenzie, Glasgow seeking, on behalf of their client Mr P McVey, a review of the decision of the Planning Authority to refuse planning permission (18/00581/DPP, refused on 23 October 2018) for the erection of a dwellinghouse at land at 39 The Brae, Auchendinny, Penicuik and refusing planning permission.

### Decision

To note the LRB decision notice.

#### Eligibility to Participate in Debate

In considering the following item of business, all the LRB Members present had attended the site visit and so participated in the review process.

Agenda No	Report Title	Presented by:
5.5	Notice of Review Request Considered for the First Time – 70 Lothian Street, Bonnyrigg [18/00654/DPP].	Peter Arnsdorf
<b>Executive Summary of Report</b>		
<p>There was submitted report dated 4 April 2019 by the Director, Education, Communities and Economy, regarding an application from Derek Scott, Derek Scott Planning, 21 Lansdowne Crescent, Edinburgh seeking, on behalf of their clients Scottish Midland Co-Operative Society Limited (Scotmid), a review of the decision of the Planning Authority to refuse planning permission (18/00654/DPP, refused on 20 December 2018) for the change of use from retail (Class 1) to hot food take away (sui generis) and installation of flue at 70 Lothian Street, Bonnyrigg.</p> <p>Accompanying the Notice of Review Form and supporting statement, which were appended to the report, was a copy of the report of handling thereon.</p> <p>The Local Review Body had made an unaccompanied visit to the site on Tuesday 16 April 2019.</p>		
<b>Summary of Discussion</b>		
<p>Having heard from the Planning Advisor, the LRB then gave careful consideration to the merits of the case based on all the written information provided. In discussing the reason for refusal, the LRB acknowledged that this was in accordance with the recently adopted Supplementary Guidance on Food and Drink and Other Non-Retail Uses in Town Centres, which was a material consideration. In addition, concerns about the potentially detrimental impact that the proposed change of use might have on the amenity of the surrounding predominately residential area and on road safety were also considered; some of the issues likely to arise in respect of the latter having been witness during the site visit.</p>		
<b>Decision</b>		
<p>After further discussion, the LRB agreed to dismiss the review request, and uphold the decision to refuse planning permission for the following reasons:</p> <ol style="list-style-type: none"><li><i>The proposed hot food takeaway would be within 400 metres of the Curtilage of Lasswade Primary School and so the proposal does not comply with the Supplementary Guidance for Food and Drink and Other Non-Retail Uses in Town Centres.</i></li></ol>		
<b>Action</b>		
Planning Manager		

The meeting terminated at 1.13 pm.

## Local Review Body: Review of Planning Application Reg. No. 18/00654/DPP

Derek Scott Planning  
21 Lansdowne Crescent  
Edinburgh  
EH12 5EH

Midlothian Council, as Planning Authority, having considered the review of the application by Scottish Midland Co-Operative Society Limited (Scotmid), Hillwood House, 2 Harvest Drive, Newbridge, Edinburgh, EH28 8QJ which was registered on 11 February 2019 in pursuance of their powers under the above Act, hereby **refuse** permission to carry out the following proposed development:

**Change of use from retail (Class 1) to hot food take away (sui generis) and installation of flue at 70 Lothian Street, Bonnyrigg, EH19 3AQ**, in accordance with the application and the following plans:

<u>Drawing Description.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	L(--)-001(A) 1:1250	31.08.2018
Floor Plan, Elevations	L(--)-002(B) 1:100	31.08.2018
Other Statements		31.08.2018

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

*The proposed hot food takeaway would be within 400m of the curtilage of Lasswade Primary School contrary to the Council's Food and Drink and Other Non-retail Uses in Town Centres Supplementary Guidance and as such would encourage school pupils to eat unhealthy food.*

The Local Review Body (LRB) considered the review of the planning application at its meeting of 16 April 2019. The LRB carried out a site visit on the 16 April 2019.

In reaching its decision the LRB gave consideration to the following development plan policies and material considerations:

### Development Plan Policies:

1. DEV2 Midlothian Local Development Plan - Protecting amenity within the built-up area

## 2. Food and Drink and Other Non-Retail Uses in Town Centres Supplementary Guidance

### Material considerations:

1. The individual circumstances of the proposal;
2. The potential impact on highway safety and amenity; and
3. The Council's healthy life styles/eating agenda.

Dated: 16/04/2019

A handwritten signature in dark ink, appearing to read 'Peter Arnsdorf', with a large, stylized initial 'P'.

Peter Arnsdorf  
Planning Manager (Advisor to the Local Review Body)  
Communities and Economy  
Midlothian Council

On behalf of:

Councillor R Imrie  
Chair of the Local Review Body  
Midlothian Council

## NOTICE TO ACCOMPANY REFUSAL ETC.

### TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

***Notification to be sent to applicant on refusal of planning permission or on the grant of permission subject to conditions, or***

***Notification to be sent to applicant on determination by the planning authority of an application following a review conducted under section 43A(8)***

1. 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 question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
2. 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 reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by 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.

*Advisory note:*

*If you have any questions or enquiries regarding the Local Review Body procedures or this decision notice please do not hesitate to contact Peter Arnsdorf, Planning Manager tel: 0131 2713310 or via [peter.arnsdorf@midlothian.gov.uk](mailto:peter.arnsdorf@midlothian.gov.uk)*



## Notice of Review: Land at Wester Cowden Farm, Wester Cowden, Dalkeith

### Determination Report

Report by Dr Mary Smith Director of Education, 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' to amend condition 1 of planning permission 16/00359/PPP at land at Wester Cowden Farm, Wester Cowden, Dalkeith.

#### 2 Background

- 2.1 Planning application 16/00359/DPP for planning permission in principle for residential development and formation of access road at land at Wester Cowden Farm, Wester Cowden, Dalkeith was granted permission in February 2018 subject to a condition limiting the number of residential units (condition 1):

1. The development shall adhere to the following constraints:
  - i. No more than 25 residential units shall be erected on the site; and
  - ii. No building erected on the site shall exceed two-stories in height.

**Reason for 1(i):** *To restrict the number of dwellings to that which the applicant has indicated will be erected on the site and which at this present time a developer contribution can be secured to increase the capacity within the local primary schools to accommodate the number of children likely to arise from that number of dwellings.*

**Reason for 1(ii):** *Buildings higher than two-storey erected on the site would appear unduly incongruous and intrusive in the landscape, harmful to the landscape character and amenity of the area.*

- 2.2 Planning application 18/00759/S42 to amend condition 1 of planning permission 16/00359/PPP, to remove the restriction on the number of residential units, was refused planning permission on 16 April 2019; a copy of the decision is attached to this report.
- 2.3 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); and
- A copy of the decision notice, excluding the standard advisor notes, issued on 16 April 2019 (Appendix D).

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 a site visit for Tuesday 10 September 2019; and
- Have determined to progress the review by way of a hearing.

4.2 The case officer's report identified that five consultation responses and 31 representations objecting to the application were received. As part of the review process the interested parties were notified of the review. Four representors reaffirmed their objection to the application. All the comments can be viewed online on the electronic planning application/review 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 condition has been prepared for the consideration of the LRB if it is minded to uphold the review and grant planning permission.

1. No building erected on the site shall exceed two-stories in height.

**Reason:** *Buildings higher than two-storey erected on the site would appear unduly incongruous and intrusive in the landscape, harmful to the landscape character and amenity of the area.*

2. The masterplans submitted with applications 16/00359/PPP and 18/00759/S42 are not approved.

**Reason:** *The permissions are for planning permission in principle and an amendment to planning permission in principle only and the details delineated within the masterplans are for illustrative purposes only.*

3. Development shall not begin until an application for approval of matters specified in conditions regarding the phasing of the development has been submitted to and approved in writing by the planning authority. The phasing schedule shall include the construction of each residential phase of the development, the provision of affordable housing, the provision of open space, structural landscaping and landscaping in communal areas, SUDS provision and transportation infrastructure. Development shall thereafter be carried out in accordance with the approved phasing plan unless agreed in writing with the planning authority.

**Reason:** *To ensure the development is implemented in a manner which mitigates the impact of the development process on existing land users and the future occupants of the development.*

4. Development shall not begin on an individual phase of development (identified in compliance with condition 3) until an application for approval of matters specified in conditions for a scheme of hard and soft landscaping works has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:

- i. existing and finished ground levels and floor levels for all buildings, open space and roads in relation to a fixed datum;
- ii. existing trees, landscaping features and vegetation to be retained; removed, protected during development and in the case of damage, restored;
- iii. proposed new planting in communal areas, road verges and open space, including trees, shrubs, hedging, wildflowers and grassed areas;

- iv. location and design of any proposed walls, fences and gates, including those surrounding bin stores or any other ancillary structures;
- v. schedule of plants to comprise species, plant sizes and proposed numbers/density;
- vi. programme for completion and subsequent maintenance of all soft and hard landscaping;
- vii. drainage details, watercourse diversions, flood prevention measures and sustainable urban drainage systems to manage water runoff;
- viii. proposed car park configuration and surfacing;
- ix. proposed footpaths and cycle paths (designed to be unsuitable for motor bike use); and
- x. details of existing and proposed services; water, gas, electric and telephone.

All hard and soft landscaping shall be carried out in accordance with the scheme approved in writing by the planning authority as the programme for completion and subsequent maintenance 4(vi). Any trees or shrubs removed, dying, becoming seriously diseased or damaged within five years of planting shall be replaced in the following planting season by trees/shrubs of a similar species to those originally required.

***Reason:*** *To ensure the quality of the development is enhanced by landscaping to reflect its setting in accordance with policies in the Midlothian Local Development Plan 2017 and national planning guidance and advice.*

- 5. Development shall not begin on any individual phase of development (identified in compliance with condition 3) until an application for approval of matters specified in conditions for the siting, design and external appearance of all residential units and other structures has been submitted to and approved in writing by the planning authority. The application shall include samples of materials to be used on external surfaces of the buildings; hard ground cover surfaces; means of enclosure and ancillary structures. These materials will also include those proposed in the area of improved quality (comprising no less than 20% of the proposed dwellings). Development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the planning authority.

***Reason:*** *To ensure the quality of the development is enhanced by the use of quality materials to reflect its setting in accordance with policies in the Midlothian Local Development Plan 2017 and national planning guidance and advice.*

- 6. Development shall not begin until an application for approval of matters specified in conditions for details, including a timetable of implementation, of 'Percent for Art' have been submitted to and approved in writing by the planning authority. The 'Percent for Art' shall be implemented as per the approved details.

**Reason:** To ensure the quality of the development is enhanced by the use of art to reflect its setting in accordance with policy IMP1 of the Midlothian Local Development Plan 2017.

7. Development shall not begin on an individual phase of development (identified in compliance with condition 3) until an application for approval of matters specified in conditions for the site access, roads, footpaths, cycle ways and transportation movements has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
- i. existing and finished ground levels for all roads, footways and cycle ways in relation to a fixed datum;
  - ii. the proposed vehicular, cycle and pedestrian accesses into the site;
  - iii. the proposed roads (including turning facilities), footpaths and cycle ways including suitable walking and cycling routes linking the new housing with the local primary school and the rest of Dalkeith;
  - iv. proposed visibility splays, traffic calming measures, lighting and signage;
  - v. proposed construction traffic access and egress and haulage routes;
  - vi. proposed car parking arrangements; and
  - vii. a programme for completion for the construction of access, roads, footpaths and cycle paths.

Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be agreed in writing with the planning authority.

**Reason:** To ensure the future users of the buildings, existing local residents and those visiting the development site during the construction process have safe and convenient access to and from the site.

8. Development shall not begin on an individual phase of development (identified in compliance with condition 3) until an application for approval of matters specified in conditions for a scheme to deal with any contamination of the site and/or previous mineral workings has been submitted to and approved by the planning authority. The scheme shall contain details of the proposals to deal with any contamination and/or previous mineral workings and include:
- i. the nature, extent and types of contamination and/or previous mineral workings on the site;
  - ii. measures to treat or remove contamination and/or previous mineral workings to ensure that the site is fit for the uses hereby approved, and that there is no risk to the wider environment from contamination and/or previous mineral workings originating within the site;
  - iii. measures to deal with contamination and/or previous mineral workings encountered during construction work; and,

- iv. the condition of the site on completion of the specified decontamination measures.

Before any part of the site is occupied for residential purposes, the measures to decontaminate the site shall be fully implemented as approved by the planning authority.

- 9. On completion of the decontamination/ remediation works required in condition 8 and prior to any dwellinghouses being occupied on site, a validation report or reports shall be submitted to the planning authority confirming that the works have been carried out in accordance with the approved scheme. No part of the development shall be occupied until this report has been approved by the planning authority.

***Reason for conditions 8 and 9:*** To ensure that any contamination on the site/ground conditions is adequately identified and that appropriate decontamination measures/ground mitigation measures are undertaken to mitigate the identified risk to site users and construction workers, built development on the site, landscaped areas, and the wider environment; to ensure the remediation works are undertaken.

- 10. Development shall not begin until an application for approval of matters specified in conditions for an updated Coal Mining Risk Assessment for the whole site has been submitted to and approved in writing by the applicant and approved by the planning authority.

***Reason:*** To ensure the site is suitable for development given the previous coal mining workings in the area.

- 11. Development shall not begin until an application for approval of matters specified in conditions for a programme of archaeological works has been undertaken and reported upon in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the planning authority. The programme of works shall comprise an appraisal level Historic Building Recording and a Monitoring Soil Strip which shall be reported upon initially through a Data Structure Report (DSR) submitted for the prior approval of the planning authority.

***Reason:*** To ensure this development does not result in the unnecessary loss of archaeological material in accordance with Policies ENV24 and ENV25 of the Midlothian Local Development Plan 2017.

- 12. Prior to the commencement of development, the scope of, and a subsequent report on, a feasibility study of the operation of a community heating scheme, and the installation of low and zero carbon generating technology, for the development hereby approved, and if practicable other neighbouring developments/ sites, in accordance with MLDP Policies NRG3, NRG4 and NRG6, shall be submitted for the prior written approval of the planning authority. Should the planning authority conclude, on the

basis of this study, that a scheme is viable, no dwellinghouses on the site shall be occupied until a community heating scheme, and/or low and zero carbon generating technology for the site, and, if practicable, other neighbouring developments/ sites, is approved in writing by the planning authority. There shall be no variation therefrom unless with the prior written approval of the planning authority.

**Reason:** *To ensure the provision of a community heating system for the site, to accord with the requirements of Midlothian Local Development Plan 2017 policy NRG6 and in order to promote sustainable development.*

13. Prior to works commencing on site the additional bat surveys, badger mitigation and breeding bird mitigation recommended in the conclusions section of the updated Extended Phase 1 Habitat Survey (updated September 2016) and the recommendations made in the Bat Survey Report (dated April-September 2016) both prepared by Acorna Ecology Ltd submitted as part of planning permission in principle 16/00359/PPP, shall be carried out in full. The scope of the additional surveys shall be agreed in advance in writing by the planning authority.

**Reason:** *In the interests of safeguarding European Protected Species.*

14. Development shall not begin until details of a sustainability/biodiversity scheme for the site, including the provision of house bricks and boxes for bats and swifts throughout the development has been submitted to and approved in writing by the planning authority. Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be approved in writing with the planning authority.

**Reason:** *To ensure the development accords with the requirements of policy DEV5 of the Midlothian Local Development Plan 2017.*

15. Development shall not begin until details, including a timetable of implementation, of high speed fibre broadband have been submitted to and approved in writing by the planning authority. The details shall include delivery of high speed fibre broadband prior to the occupation of each residential unit. The delivery of high speed fibre broadband shall be implemented as per the approved details.

**Reason:** *To ensure the quality of the development is enhanced by the provision of appropriate digital infrastructure.*

16. Development shall not begin until details of the provision and use of electric vehicle charging stations throughout the development have been submitted to and approved in writing by the planning authority. Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be approved in writing with the planning authority.

***Reason:*** To ensure the development accords with the requirements of policy TRAN5 of the Midlothian Local Development Plan 2017.

- 5.2 If the LRB is minded to uphold the review and grant planning permission for the proposed development it shall be subject to a legal agreement to secure developer contributions towards education provision, children's play provision, town centre improvements and public transport (Borders Rail) and the provision of affordable housing. The legal agreement shall be concluded prior to the issuing of the LRB decision. The legal agreement shall be concluded within 6 months of the resolution to grant planning permission, if the agreement is not concluded the review will be reported back to the LRB for reconsideration.

## **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

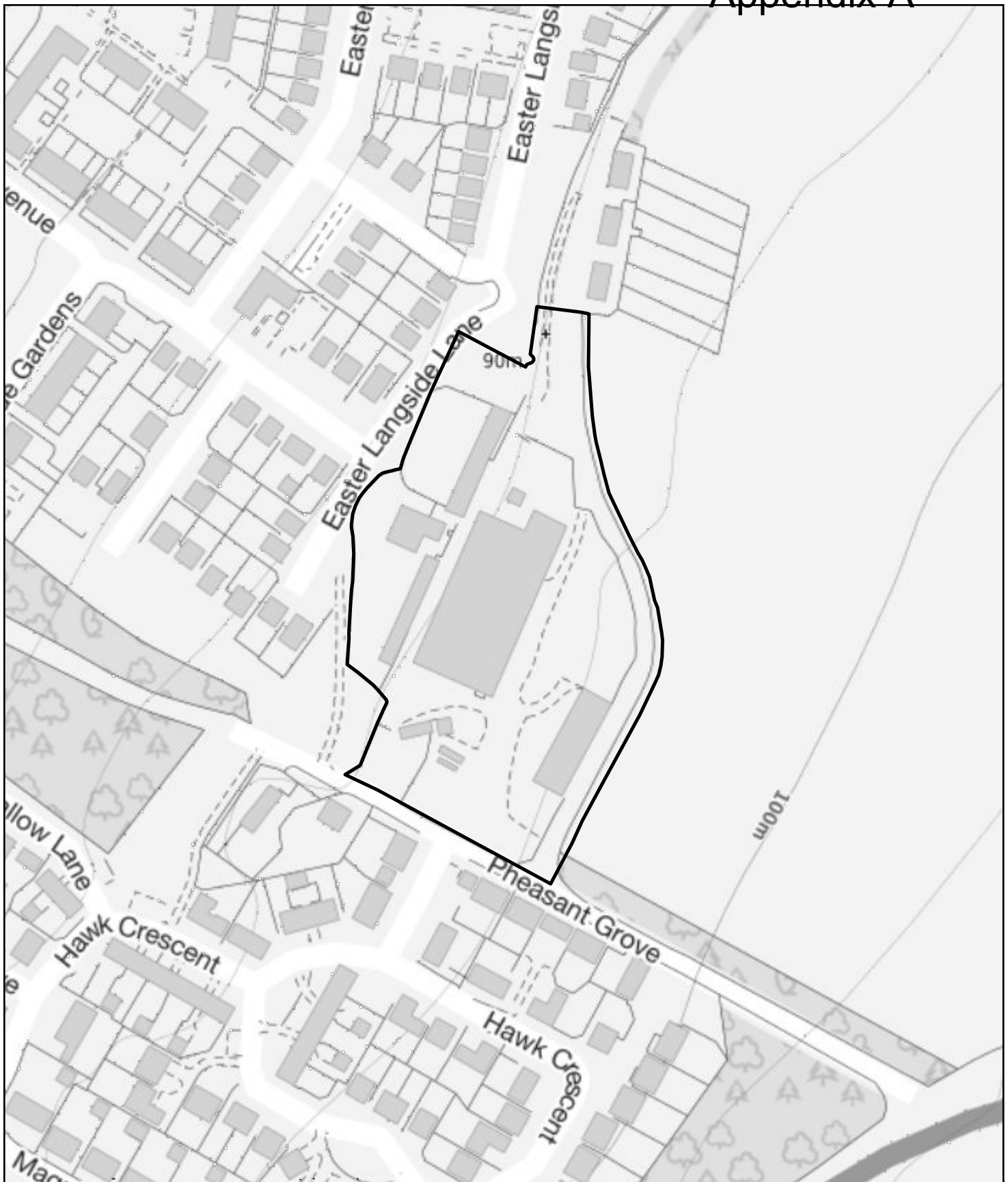
**Date:** 3 September 2019

**Report Contact:** Joyce Learmonth, Lead Officer Major Developments and Enforcement  
joyce.learmonth@midlothian.gov.uk

**Tel No:** 0131 271 3311

**Background Papers:** Planning application 18/00759/S42 available for inspection online.





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

Section 42 application to amend condition 1 (i) of planning permission 16/00359/PPP (to allow more than 25 dwellinghouses on the site) at Land At Wester Cowden Farm, Wester Cowden, Dalkeith

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File No. 18/00759/S42

Scale: 1:2,000  
Page 19 of 210



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 100169650-001

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:	Holder Planning		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	James	Building Name:	
Last Name: *	Wall	Building Number:	5
Telephone Number: *	07508607499	Address 1 (Street): *	South Charlotte Street
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Edinburgh
Fax Number:		Country: *	United Kingdom
		Postcode: *	EH2 4AN
Email Address: *	james.wall@holderplanning.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"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text" value="c/o Holder Planning"/>
First Name: *	<input type="text"/>	Building Number:	<input type="text" value="5"/>
Last Name: *	<input type="text"/>	Address 1 (Street): *	<input type="text" value="South Charlotte Street"/>
Company/Organisation	<input type="text" value="LAR Housing Trust"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Edinburgh"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="United Kingdom"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="EH2 4AN"/>
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"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text"/>
Post Code:	<input type="text"/>

Please identify/describe the location of the site or sites

Land at Wester Cowden Farm, Dalkeith

Northing

667139

Easting

335130

## 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)

Section 42 Application to alter condition 1 (l) on planning permission 16/00359/PPP to allow a greater number of residential units to be erected on the site.

## Type of Application

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

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

What does your review relate to? \*

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

## Statement of reasons for seeking review

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

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

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

A Review Statement has been submitted as a separate document in the Supporting Documents section which sets out the reasons we are seeking review of the refusal.

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)

Review\_Statement Appeal Document 1 - 18/00759/S42 Decision Notice Appeal Document 2 - 16/00359/PPP Decision Notice Appeal Document 3 - Ref.SK03 dated July 2018 Appeal Document 4 - Ref.SK42(PL)001 dated November 2018 Appeal Document 5 - Ref SK42(PL)002 dated December 2018 Appeal Document 6 - LAR's 2018 Review Appeal Document 7 - Planning Officer's Delegated Report Appeal Document 8 - Area Density Study Appeal Document 9 - Transport Letter Report

## Application Details

Please provide details of the application and decision.

What is the application reference number? \*

18/00759/s42

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

05/10/2018

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

16/04/2019

## 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)

There are disagreements between the applicant and Council officers on the correct interpretation of the submitted plans and planning policies. These issues are best considered through a hearing process so that parties may explain their position and answer any questions that the Local Review Body may have.

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)

Planning officers have indicated that the site has a countryside character and is divorced from the urban area. We disagree with this and a site visit is required to assess the matter.

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

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

☒ Yes ☐ No

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

☒ Yes ☐ No

## Checklist – Application for Notice of Review

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

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

☒ Yes ☐ No

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

☒ Yes ☐ No

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

☒ Yes ☐ No ☐ N/A

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

☒ Yes ☐ No

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

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

☒ Yes ☐ No

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

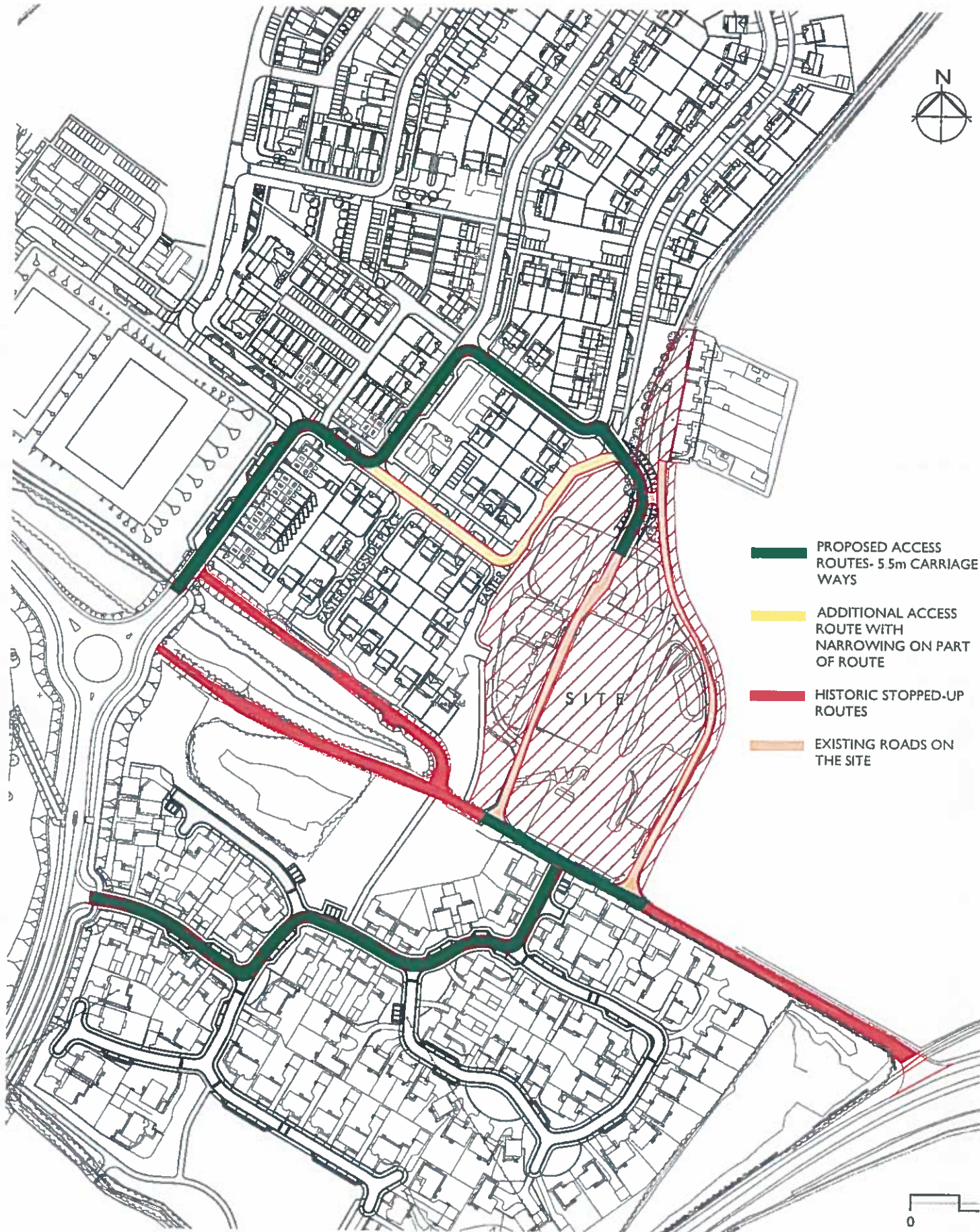
## Declare – Notice of Review


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

Declaration Name: Mr James Wall

Declaration Date: 19/06/2019





Drawing Title <b>INDICATIVE PLAN</b>	Drawing Number <b>(SK)004</b>	Revision -	LAR Housing Trust F3 Buchan House, Enterprise Way, Dunfermline, KY11 8PL Tel: 01383 630 190			
Project <b>WESTER COWDEN</b>	Drawn <b>PW</b>	Date <b>SEPT 2018</b>			Checked <b>✓</b>	Scale <b>1:2500@A4</b>
Status -	© LAR Housing Trust. All rights reserved					



Existing stone & brick building in poor condition and not suitable for retention. Replaced with 4 x 2 bed houses of same footprint.

Existing stone outbuilding retained where possible and converted to 2 x wheelchair accessible cottages

Existing Farmhouse and curtilage remains as existing

Existing outbuildings remains as existing

Existing outbuildings converted & extended to form 2 x wheelchair accessible cottages

Existing original stone wall reduced in height and retained to preserve the setting of the farmhouse & steading buildings

New houses set back to preserve character of farmhouse & steading

89.6m  
SUDS & open space

Existing road for adoption

Access to Wester Cowden Cottages

Existing track upgraded (permeable surface)

Existing hedge retained

2 storey 3 bed semi-detached houses

Unit Schedule	
Type	Number
Conversions (2 bed wheelchair accessible flats)	4
Replacement in existing footprint- 2 bed houses	11
3 bed houses	36
<b>TOTAL</b>	<b>44</b>



1 : 1000

Drawing Title <b>SITE LAYOUT PLAN</b>	Drawing Number <b>S42(PL)001</b>	Revision <b>A</b>	LAR Housing Trust Buchan House, Enterprise Way Dunfermline, KY11 8PL Tel: 01383 630 190
Project <b>WESTER COWDEN</b>	Drawn <b>PW</b>	Date <b>08.11.2018</b>	Checked <b>✓</b>
Status <b>PLANNING</b>	Scale <b>1:1000@A4</b>	LAR Housing Trust. All rights reserved	





Existing stone & brick building in poor condition and not suitable for retention. Replaced with 4 x 2 bed houses of same footprint.

Existing stone outbuilding retained where possible and converted to 2 x wheelchair accessible cottages

Existing Farmhouse and curtilage remains as existing

Existing outbuildings remains as existing

Existing outbuildings converted & extended to form 2 x wheelchair accessible cottages

Existing original stone wall reduced in height and retained to preserve the setting of the farmhouse & steading buildings

New houses set back to preserve character of farmhouse & steading

SUDS & open space

SUDS & open space

SUDS & open space

Existing road for adoption

Access to Wester Cowden Cottages

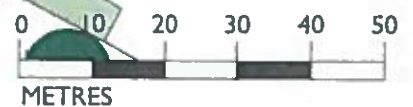
2 storey, 2 bed cottage flats

Existing track upgraded (permeable surface)

Existing hedge retained

2 storey 3 bed semi-detached houses

Unit Schedule	
Type	Number
Conversions (2 bed wheelchair accessible flats)	4
2 bed houses	4
3 bed houses	36
<b>TOTAL</b>	<b>44</b>



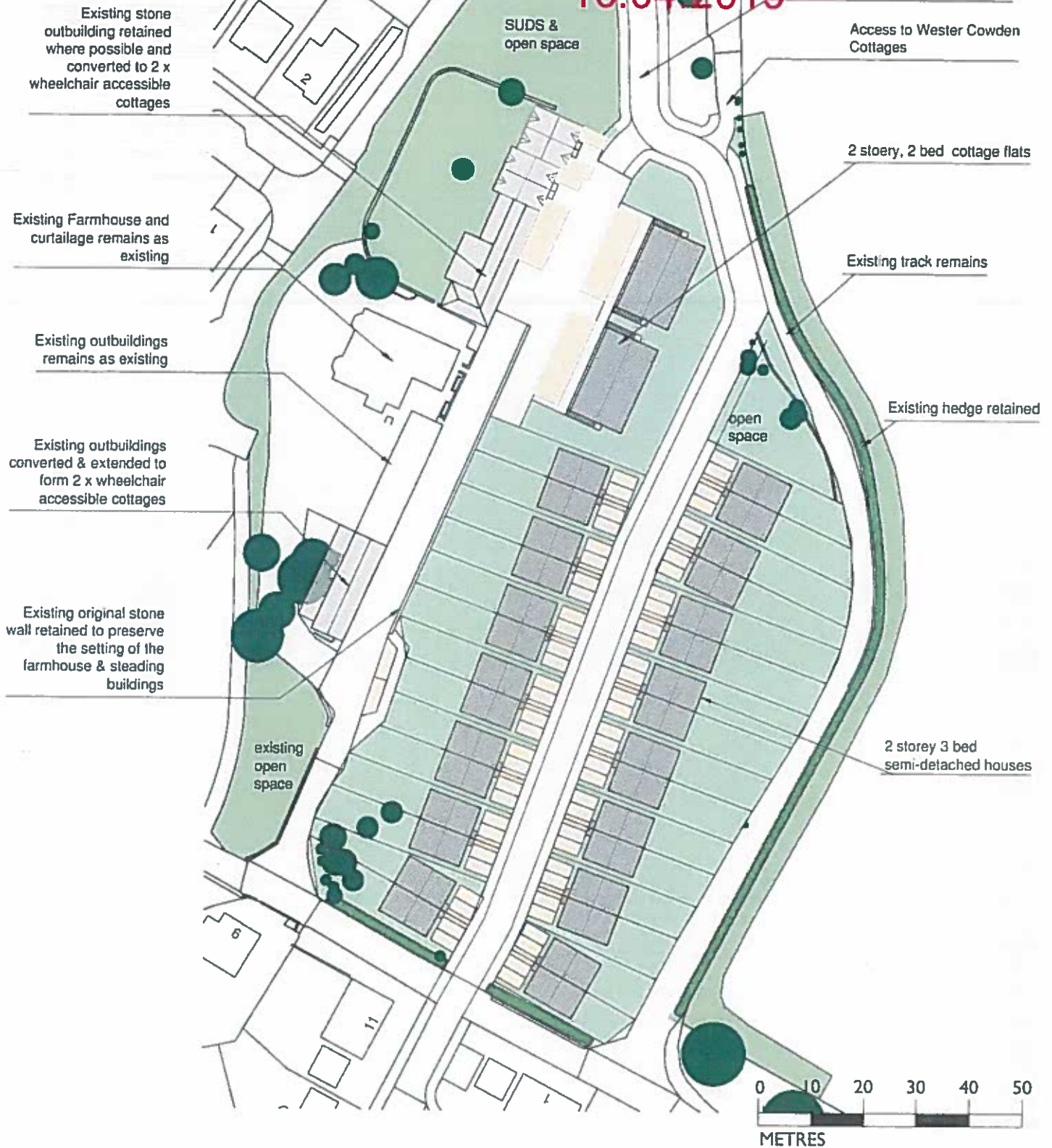
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Drawing Title <b>SITE LAYOUT PLAN</b>	Drawing Number <b>S42(PL)001</b>	Revision -	LAR Housing Trust Buchan House, Enterprise Way Dunfermline, KY11 8PL Tel: 01383 630 190
Project <b>WESTER COWDEN</b>	Drawn PW	Date 08.11.2018	Checked ✓
Status <b>PLANNING</b>	Scale 1:1000@A4	© LAR Housing Trust. All rights reserved	



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**REFUSED**  
**18.00759.S42**  
**16.04.2019**



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Drawing Title <b>SITE LAYOUT PLAN 2</b>	Drawing Number <b>S42(PL)002</b>	Revision -	LAR Housing Trust Buchan House, Enterprise Way Dunfermline, KY11 8PL Tel: 01383 630 190
Project <b>WESTER COWDEN</b>	Drawn PW	Date 17.12.2018	Checked ✓
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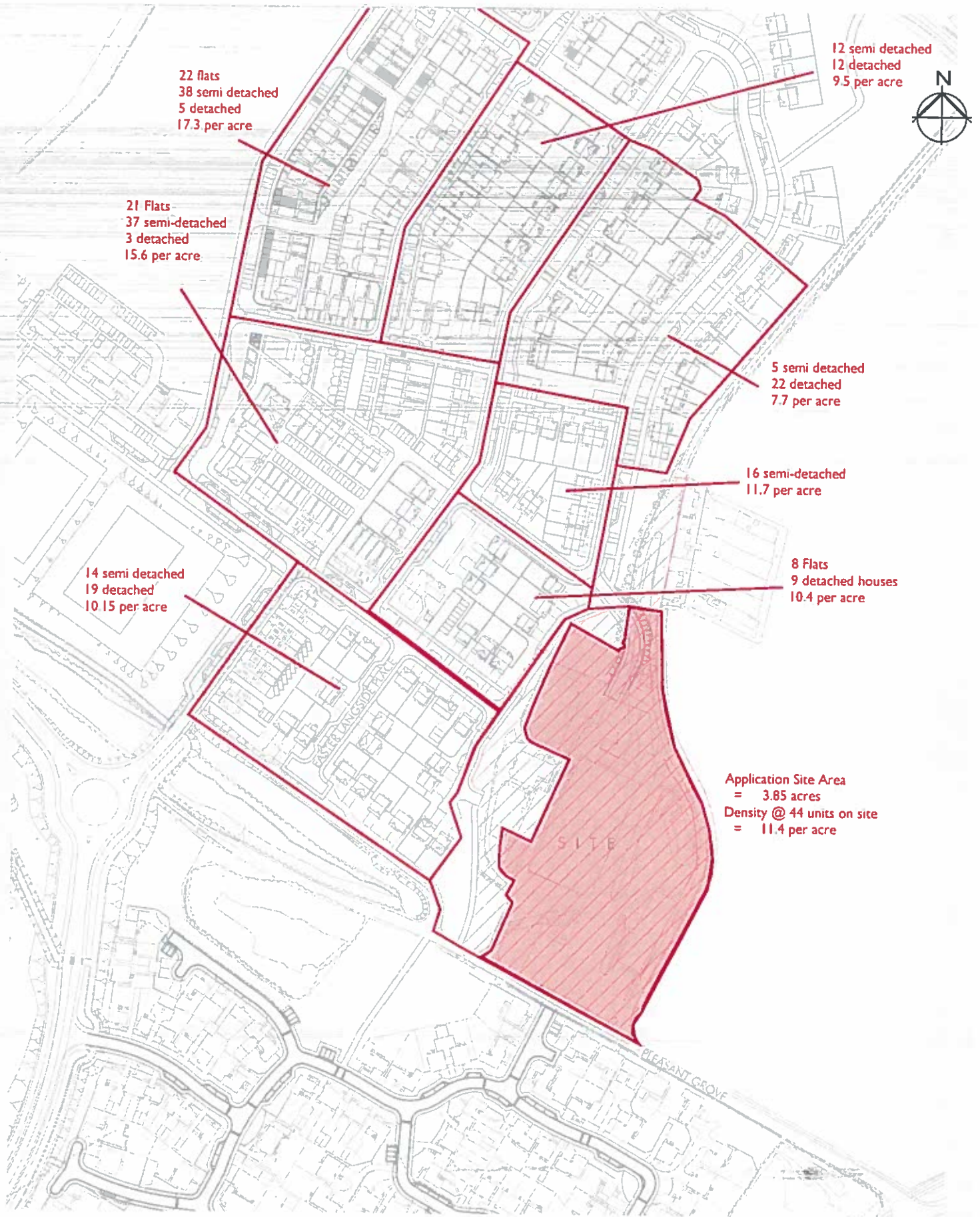


0 10 20 30 40 50  
METRES

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Drawing Title <b>INDICATIVE PLAN</b>	Drawing Number <b>(SK)003</b>	Revision -	LAR Housing Trust F3 Buchan House, Enterprise Way, Dunfermline, KY11 8PL Tel: 01383 630 190		
Project <b>WESTER COWDEN</b>	Drawn PW	Date JULY 2018			Checked ✓
Status -	Scale 1:1000@A4				© LAR Housing Trust. All rights reserved





Drawing Title  
Area density study  
Project  
Wester Cowden  
Status  
-

Drawing Number  
(SK)010

Revision  
A

Drawn	Date	Checked	Scale
PW	09.08.2018	✓	1:2000@A4

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LAR Housing Trust  
Buchan House, Enterprise Way  
Dunfermline, KY11 8PL  
Tel: 01383 630 190





## TRANSPORT PLANNING

James Gilfillan  
Consultant - Transport Policy  
Road Services  
Midlothian Council  
Midlothian House  
Dalkeith  
EH22 1DN

Our Ref TP588\_001  
Date 11th Feb 2019

Dear Jim

**Proposed Steading Development  
Land at Wester Cowden, Dalkeith  
Planning Application Number : 18/00759/S42  
SECTION 42 APPLICATION TO AMEND CONDITION 1 OF PP 16/00359/PPP (to allow more than  
25 dwellings on the site)**

We have been passed a copy of your comments in relation to the above project and this letter is intended to form a short Transport Statement to address the issues raised within your responses to date and our subsequent discussion. In addressing matters below, we have taken account of the nationally established hierarchy of travel modes and the issues identified within your comments primarily relating to parking and vehicle access.

### *Development Proposals*

As you are aware the site is currently occupied by a range of agricultural building associated with the Wester Cowden Farm. The site lies immediately to the north and east of new housing development areas to the south of Dalkeith. The site currently benefits from extant planning permission for the construction of some 25 homes within the site. The current proposals being brought forward by LAR housing trust would see the level of development increase from 25 homes to around 44 homes, with an indicative, updated, layout appended to this letter.

The site area remains the same as previously but there is a reconfiguration of the layout to provide the additional units.

It is noted that there were no adverse comments from transportation in relation to the extant scheme with the response indicating that:-

*"The existing access to the steading is presently from two points - from the north boundary of the site off Easter Langside Lane, and from a point on the south boundary of the site off Pheasant Grove via Hawk Crescent. The illustrative masterplan submitted with the application delineates the retention of both accesses to serve the new residential development. The accessing of a residential development on the site from either or both of the existing accesses is acceptable in transportation terms and the Council's Transportation Consultant raises no objection to this. The local road network; including the residential roads within the Wester Cowden development, are capable of accommodating the volume of traffic generated by the proposed residential development. In addition, the local road network and the proposed accesses are of an adequate standard of accommodating construction vehicles and service vehicles associated with the proposed development."*

#### *Trip Generation*

Therefore, in terms of assessing the updated proposals it is important to bear in mind the potential changes in traffic flow that may result. Adopting a robust peak hour trip generation of some 0.8 trips per home (0.6 departures and 0.2 arrivals in the AM and the reverse in the PM) the additional 20 units would potentially result in 16 additional vehicle trips in the peak hours. This is equivalent to one vehicle trip every 3-4 minutes.

#### *Access Arrangements*

The proposed layout retains the upgraded access link to Easter Langside Lane and, consistent with the transport response to the extant application, also provides a connection to the south to Pheasant Grove.

MC roads have raised a concern about the use of a connection to the south which crosses the shared cycle route adjacent to the site and potentially routes traffic through the residential areas around Hawk Crescent. However, the response to the original application indicated that "either or both" access routes would be suitable to serve 25 homes so the transport response appears to be content with traffic associated with 25 homes (circa 20 vehicles) routeing through either access and the adjacent road network connections.

The proposed construction of 44 homes with a choice of 2 routes would appear to also be accord with this initial advice with traffic able to distribute across the 2 access points as desired. We understand that concerns relate to the potential for all traffic to route through a single access and as such further consideration has been given to the routes available to drivers leaving the proposed development.

It is also important to bear in mind that a segregated pedestrian / cycle link is also available from the site connecting down adjacent to the existing bus stops on Easter Langside Avenue. Pedestrian connections can also be made along the site access to the existing footway on the south side of the residential road running north away from East Langside Lane.



### *Route Choices and Road Standards*

In order to assess the routes drivers will take it is important to understand both the standard of the adjoining roads and the likely destinations drivers are travelling to. The applicant has prepared a plan examining the layout and standard of the routes through Easter Langside Lane and Hawk Crescent which is appended to this letter.

This sets out that the road connections to the south through Hawk Crescent are all 5.5m wide and also have footways provided on both sides of the road, with a typical example of this shown below.



*Hawk Crescent*

This connects to the main distributor road connecting west to the A6106 or north towards Salter's Road.

The connections to the north towards Easter Landside Lane are also shown to be 5.5m wide. The road directly north of the access to the site is 5.5m wide with footway provision on the northern part of the route, with grassed verges and is constructed out of block paving, shown below.



*Road heading north from the access*

The road to the left is of a more traditional road carriageway appearance, again with no footway connection until the southern end of Easter Langside Avenue is met. Beyond here there are footway connections to the wider site.





*Route to west of access*

On both roads, were it considered desirable there would be space to incorporate a footway, within existing verge. There are also footway connections to the north/east alongside the housing road extending away from the site towards the Dalkeith School Campus.

#### *Travel Distances*

The driving distances using either of the available routes to the north are almost exactly the same to reach the main access roundabout with the B6414 being some 350m from the site boundary. The driving distance to reach this roundabout via Hawk Avenue from the southern site boundary is marginally longer at 400m.

Within the site there is around 250m of road length between the northern and southern access points.

Adopting a simple appraisal of the driving distances to reach the main external road network there is an identified 'threshold' point within the site where it becomes a shorter route for drivers to use the north or south access depending on their position within the site. This point is reached around 150m along the road into the site from the north and therefore it is reasonable to assume that drivers living in properties to the north of this point would generally route north to leave the site and vice versa for drivers living in homes to the south. This actually equates to a split of around 20 homes to the north of the threshold point and 24 homes to the south.

Therefore, it would be reasonable to expect that, given roads had no issue with 25 homes being accessed to either the north or the south the development, the 44 home proposal, with a relatively equal split of vehicle trips across the accesses to the north and south, would also be acceptable.

Interrogating potential trips further using the Datashine Commute information from the 2011 census shows that in the Thornybank area of Dalkeith some 85% of trips to work occur to the north, towards Edinburgh and Dalkeith. Some 10% of trips are to destinations to the west (i.e. Bonnyrigg, Mayfield, Gorebridge) with only 5% of trips to the south.

This would mean that there may be a desire for trips heading west or south to route via Hawk Avenue (as the perceived direction of travel) regardless of where in the development they reside and this would only account for 5 trips from the development.

Importantly it is also clear that the route created through the development site is of such a length and design that it would not be attractive as a short cut for any traffic in either of the residential areas to the north or south being significantly longer than the existing routes to reach the main road network.

#### *Shared surface routes*

Returning to the concern raised about the ability of the adjacent 'shared surface' roads to accommodate the likely uplift in traffic – based on the data above this is unlikely to be any different to a standalone scheme of 25 homes accessed solely to the north (or south) and hence would appear to be contrary to previous advice. In essence it appears that 2 developments of 25 homes would be acceptable if no connection through the site were provided but this would be contrary to current best practice to ensure a coherent, permeable road network within residential areas.

The sections of road considered to be 'shared surface' are only located to the north of the site and are only 'shared' for a distance of around 60m. In terms of the ability for these roads to carry the likely additional traffic there is little specific guidance in this regard with 'Designing Streets' indicating a position on managing the speed environment and making a sense of place, whilst being pedestrian friendly. Similarly, the National Roads Development Guide also comments on the design and layout of 'shared spaces' indicating they are suitable for low traffic volume, low speed environments but stopping short of providing capacities. Both of these documents point to the importance of a connected network of streets which in turn provide a choice of routes to drivers, which the proposed development provides. Interestingly the 'Manual for Streets' (guidance covering England and Wales) identifies that shared surface areas share most successfully in areas with a peak hourly flow of less than 100 vehicles per hour (vph). The development is expected to add at most 20 movements per hour to the north, which coupled with the existing traffic is unlikely to result in flows above 100 vph.

#### *Summary*

It has been established that, in providing 2 accesses and identifying the threshold point within the development where journeys are shorter via one access than the other, the effects of the development would be similar or less on the adjacent residential streets compared to the extant consent with a single access point. Therefore, the findings of the original transportation response remain valid insofar as *"The local road network; including the residential roads within the Wester Cowden development, are capable of accommodating the volume of traffic generated by the proposed residential development."*

I trust you will find the above in order, Jim. Meantime if you have any queries please do not hesitate to contact me directly.

Yours sincerely



Kenny Fearnside  
for Transport Planning Ltd  
e: [kenny@tranplanworld.co.uk](mailto:kenny@tranplanworld.co.uk)

## **MIDLOTHIAN COUNCIL LOCAL REVIEW BODY APPLICANT'S REVIEW STATEMENT**

---

Planning Application Reference: 18/00759/S42

Section 42 Application to amend Planning Condition 1  
of Planning Permission in Principle (16/00359/PPP) to  
allow more than 25 dwellinghouses

Land at Wester Cowden Farm, Dalkeith

19 June 2019

---



**HolderPlanning**

## CONTENTS

1.0	EXECUTIVE SUMMARY .....	2
2.0	INTRODUCTION .....	3
3.0	LAR HOUSING TRUST .....	6
4.0	CONSIDERATION OF REFUSAL REASONS .....	7
5.0	CONCLUSION AND RECOMMENDATIONS .....	19



## 1.0 EXECUTIVE SUMMARY

- 1.1 This Statement has been prepared to support a Review of the refusal of permission for a Section 42 application that seeks to amend the terms of an existing Planning Permission in Principle at Wester Cowden, Dalkeith.
- 1.2 The proposed amendment to Condition 1 of the Planning Permission in Principle seeks a greater number of houses on the site, to allow a medium rather than low density housing development.
- 1.3 The LAR Housing Trust intend to build and manage all of the houses for affordable rent.
- 1.4 It is of significant concern to LAR that the planning officer's assessment of the application has been based on a layout plan which was NOT submitted for that purpose. Quite the contrary – it was submitted to demonstrate why some of the planning officer's comments on the application would actually result in a poor form of development. In our view, if the planning officer had properly considered LAR's preferred layout, then this could well have resulted in the application being approved rather than refused. In our view, LAR's preferred layout accords with all of the Council's planning policies and will result in a high quality development.
- 1.5 The planning officer's assessment concludes that the development is not appropriate to a countryside location. However, this seems to ignore the fact that the site is derelict and unattractive and has a character which is more urban than rural. It also ignores the fact that planning permission has already been granted for a housing scheme and the site now in effect forms part of the existing urban area.
- 1.6 The application has been refused on the basis that at present the Council cannot provide education capacity for non-denominational primary school children for a development which has more than 25 houses. However, LAR is able to manage its lettings policy to ensure that school capacity thresholds are not exceeded. If required, LAR is prepared to accept a condition on the planning permission to agree an approach to lettings which is acceptable to the Council.
- 1.7 There are a number of refusal reasons which relate to what the planning officer considers to be a poor housing layout. These conclusions are based on the wrong plan, and none are relevant to LAR's preferred layout plan.
- 1.8 The application was refused on the basis that the additional houses proposed would have a significant impact on traffic safety. This conclusion is not justified and contradicts the evidence presented to the Council. The proposed development will not have any significant traffic safety impacts.
- 1.9 We therefore recommend that planning permission is granted with reference to LAR's preferred layout plan and an upper limit of 44 new homes.

## 2.0 INTRODUCTION

- 2.1 This Review Statement has been prepared on behalf of the LAR Housing Trust. The planning application (ref: 18/00759/S42) was made under Section 42 of the Planning Act, which is for the amendment of a condition attached to an existing planning permission (Appeal Document 1 – 18/00759/S42 Decision Notice). In this case, Planning Permission in Principle (ref: 16/00359/PPP) was granted in February 2018 for residential development at Wester Cowden, Dalkeith (Appeal Document 2 – 16/00359/PPP Decision Notice). The Planning Permission in Principle application did not specify the number of houses to be built, that being a matter which Midlothian Council was content to establish through the approval of matters specified in conditions.
- 2.2 However, Condition 1 of the Planning Permission in Principle requires that no more than 25 residential units be erected on the site. The only reason given for the imposition of this condition is stated in the decision notice, as follows:
- “To restrict the number of dwellings to that which the applicant has indicated will be erected on the site and which at this present time a developer contribution can be secured to increase the capacity within the local primary schools to accommodate the number of children likely to arise from that number of dwellings.”*
- 2.3 The Planning in Principle applicant (Buccleuch Property) was at the time content with this restrictive condition as they had expected a private housebuilder to purchase the site, who would be likely to develop it at relatively low density.
- 2.4 However, following marketing of the site last year, the LAR Housing Trust were the successful bidder. They wish to develop the site for 100% affordable housing. LAR have identified the demand for their housing to be predominantly 3-bedroom homes, with some 2-bedroom homes and also wheelchair accessible accommodation. Because of this, they are able to make more efficient and sustainable use of the site than a private housebuilder might, proposing to increase the capacity to 44 new homes.
- 2.5 This leads to a conflict with Condition 1 of the Planning Permission in Principle, and hence the reason that LAR submitted the Section 42 Application to amend the condition to allow for a greater number of homes to be built. Following the hoped-for approval of the Section 42 Application, it is LAR's intention to submit for the Council's approval all of the detailed information required by the conditions attached to the Planning Permission in Principle.
- 2.6 In support of the Section 42 Application, LAR submitted a proposed layout plan (Appeal Document 3 - Ref. SK003 dated July 2018) in order to assist the Council in assessing the impact of a development of 44 homes. This layout took account of pre-application advice given by officers, and was subsequently amended by way of an improved but similar layout (Appeal Document 4 - Ref.

S42(PL)001 dated November 2018). For the avoidance of any doubt, this plan is the one that the applicant wishes to be considered in the determination of this Review.

- 2.7 It is therefore of significant concern that the planning case officer based their assessment of the application on a different layout plan than either of the above plans. The confusion appears to have arisen because the planning case officer had criticised the applicant's preferred revised layout plan (S42(PL)001), and the applicant then prepared a third plan to demonstrate that if the planning case officer's comments were applied, then it would produce an inappropriate site layout (Appeal Document 5 - Ref S42(PL)002 dated December 2018).
- 2.8 The applicant was therefore dismayed that in deciding to refuse the application, the planning case officer decided to base their assessment on a plan which was never intended for that purpose. Indeed, the applicant considered it to be a poor layout, and had simply prepared it to demonstrate that point. At no stage did the applicant indicate that the plan had any formal status and the case officer therefore had no reason to treat the plan in the way they did.
- 2.9 We think the mistake made by the case officer has partly arisen because throughout the application determination process they refused to meet with the applicant despite multiple requests from the applicant to do so. Such a meeting would have clarified the position and might have led to an approval of the application rather than refusal.
- 2.10 As a result of the planning case officer assessing the wrong plan, most of the refusal reasons below are not relevant in our view.
- 2.11 The application was refused by officers for the following reasons:
  1. *There is not an education solution to accommodate the school children that would arise from the proposed increase in residential unit numbers at the site, in particular non-denominational primary school capacity, and as such the proposed development does not accord with policies IMP1 and IMP2 of the Midlothian Local Development Plan 2017.*
  2. *The size of the site does not provide adequate space for such an increase in the number of residential units proposed. It has not been demonstrated that adequate levels of private outdoor space, sufficient parking provision, capacity for a surface water drainage solution and adequate landscaping can be achieved at the application site based on the proposed residential unit numbers. Therefore the proposal represents an overdevelopment of this site.*
  3. *It has not adequately demonstrated that the proposed increase in residential unit numbers can be accommodated within the application site without having a detrimental impact on the privacy of neighbouring properties.*

*4. It has not adequately demonstrated that the proposed increase in residential unit numbers can be accommodated within the application site, which is located within the countryside, without having a detrimental impact on the landscape character of the area, due to the loss of landscaping and the lack of space to accommodate required landscaping.*

*5. For the above reasons the proposal represents a significant overdevelopment of the site and does not comply with policies RD1, DEV6, DEV7, ENV7 and ENV10 of the adopted Midlothian Local Development Plan 2017.*

*6. The proposed increase in residential units would result in a layout that does not meet the minimum transportation standards for new developments. The increase in unit numbers would result in a substantial increase in the number of vehicle trips at the site would have a significant detrimental impact on the safety of pedestrian and cycling activity in the local area.*

- 2.12 We explain in the Section 4.0 of this statement why we disagree with all of these refusal reasons.
- 2.13 As indicated above, the only reason given for the existing planning permission's restriction on house numbers was the limitation of primary education capacity. LAR requested a meeting with the planning case officer to discuss specifically how it would be able to control the number of primary school age children occupying the new homes by way of its lettings policy. However, this request was also declined.

### 3.0 LAR HOUSING TRUST

- 3.1 LAR, which stands for **Local Affordable Rent**, is a charity set up to build and then manage good quality affordable homes across Scotland in areas of high demand. LAR's first development in Midlothian was for 24 x 2 bedroom flats in Bonnyrigg, on a site brought to LAR by Midlothian Council Housing Team. LAR's second development in Midlothian is at Fordel, near Dalkeith, also for 24 x 2 bedroom flats. LAR hope to build on this to develop a strong relationship with both Midlothian Councillors and Officials to further assist in the delivery of affordable homes in Midlothian.
- 3.2 Of the 300 homes across Scotland that LAR has already built, LAR has 24 operational units in Midlothian. Of the 600 homes that LAR has in occupation or in its pipeline, only 48 are in Midlothian. LAR has found it difficult to source suitable sites for affordable housing in Midlothian but is keen to work with the Council on any opportunities which are available, and hopes that the Wester Cowden site can contribute to LAR's affordable housing in Midlothian.
- 3.3 LAR comes with its own money – they are funded by £120M of public and private loan finance and as such we do not seek any money or grant allocation from the Council.
- 3.4 LAR can deliver affordable housing on this site by 2021 without requiring any grant funding. This would be additional affordable housing which would count towards the Council's affordable housing completion figures.
- 3.5 LAR operates across Scotland and there are no targets on how many homes they build in any particular area. LAR specialises in providing developments which support local communities and it is perhaps of note that 90% of first lets in their most recent development were to people who originally came from or lived within 2-3 miles of the development.
- 3.6 All of LAR's rents are set at levels consistent with other providers of mid-market rent accommodation and are below local housing allowance rates. For further information, LAR's 2018 Review is submitted with this Review Statement (Appeal Document 6 – LAR's 2018 Review). Below is a picture of one of LAR's completed schemes.

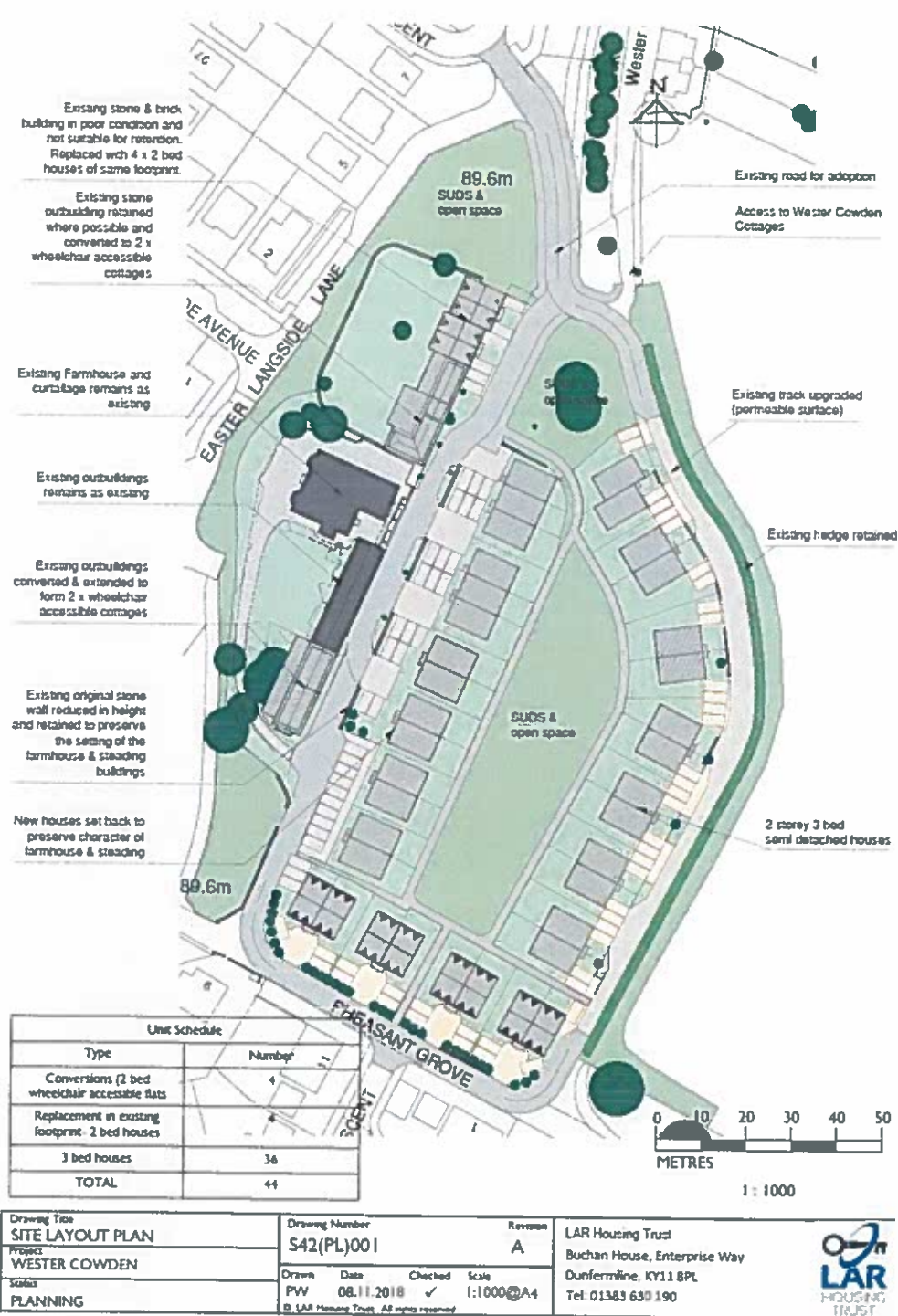




## 4.0 CONSIDERATION OF REFUSAL REASONS

- 4.1 As explained in our introduction, the application report and delegated decision has been made on the basis of the wrong plan for the site. The plan assessed by the planning officer is shown below, and on the following page is the plan which LAR intend for consideration. We refer to these plans, where relevant, in following paragraphs to explain why the concerns expressed in the planning officer's delegated report (Appeal Document 7 – Planning Officer's Delegated Report) and in the refusal reasons are not relevant.





#### 4.2 Refusal Reason 1 states that:

*There is not an education solution to accommodate the school children that would arise from the proposed increase in residential unit numbers at the site, in particular non-denominational primary*

*school capacity, and as such the proposed development does not accord with policies IMP1 and IMP2 of the Midlothian Local Development Plan 2017.*

- 4.3 In considering the Planning Permission in Principle Application, the Council's Head of Education advised that based on an estimated development of 25 dwellings there would arise a demand for 7 non-denominational and 1 denominational primary school pupils. In considering this Section 42 Application, the Head of Education estimated that 44 dwellings would give rise to a total of 14 primary school pupils, without distinguishing between the number of denominational and non-denominational pupils. Based on the figures given for the Planning Permission in Principle, our assumption is that the proposal for 44 homes would result in the following split:

Non-Denominational Primary: 12 pupils

Denomination Primary: 2 pupils

- 4.4 Consequently, the proposal for 44 homes would only produce 5 more pupils than that considered to be acceptable for the original planning permission. In our view that is a negligible number and well within the margin of error of the Council's calculation of children arising in the school catchment.
- 4.5 Notwithstanding that, unlike private houses for sale, LAR could, if required by Midlothian Council, apply a constraint to their lettings policy for this development to ensure that the number of primary school age children occupying the homes does not exceed the potentially available school capacity. LAR would accept a condition on the planning permission requiring agreement to be reached with Midlothian Council on that lettings policy, until such time as the Midlothian council are able to deliver the additional primary school capacity enabled by the S75 contribution from the site.
- 4.6 **Refusal Reason 2** states that:
- The size of the site does not provide adequate space for such an increase in the number of residential units proposed. It has not been demonstrated that adequate levels of private outdoor space, sufficient parking provision, capacity for a surface water drainage solution and adequate landscaping can be achieved at the application site based on the proposed residential unit numbers. Therefore the proposal represents an overdevelopment of this site.*
- 4.7 We fundamentally disagree with these conclusions. LAR have undertaken an Area Density Study (Appeal Document 8 – Area Density Study), which shows that the proposed density of the application site, assuming 44 units, is 11.4 units per acre. This is a typical medium density scheme for residential development, and by no stretch of the imagination can it be considered to be over-development. By way of comparison, the adjacent recently built housing estate, as shown in the Area Density Study, contains a mix of character areas ranging from 7.7 units/acre to 17.3 units/acre.

The average density of the area is 11.8 units/acre, which is slightly higher than that proposed by LAR.

- 4.8 In respect to garden ground, the planning officer's delegated report states in the 4<sup>th</sup> paragraph on page 13 that:

*"Only six of the proposed houses meet the required private garden ground provision. Whilst the Planning Authority can accept a reduction in the levels of gardens where it has been justified, such as in the creation of a high quality layout and the provision of other amenities within the site, for example as open space, play areas and access to such areas, this is not the case in the current layout. The lack of garden provision further indicates an overdevelopment of the site."*

- 4.9 These comments were made in respect of the wrong layout plan, and LAR's preferred layout shows the majority of new houses situated around a large area of communal open space. LAR's experience of the mid-market rental sector shows that tenants often do not want or use private garden of the size commonly specified by local authorities for private housing. Rather than create unused, unmaintained and potentially unsightly private garden ground spaces, the proposed design provides smaller private gardens which will be less work to maintain but of adequate size for normal outside garden activities. The site layout provides building separation distances in excess of the requirements to prevent overlooking. Some plots have larger gardens, which will allow tenants to choose suitable properties depending on how much private outside space they need and wish to maintain. The large common green will provide a space centrally within the development for use by all residents, with natural surveillance from houses and will be maintained by LAR Housing Trust. The overall ratio of building footprint to private and semi-private garden ground is 1:4 and exceeds the normal planning requirements for garden ground.

- 4.10 It is also the case that the Council's parking standards are achieved on LAR's preferred layout plan.

- 4.11 **Refusal Reason 3 states that:**

*It has not adequately demonstrated that the proposed increase in residential unit numbers can be accommodated within the application site without having a detrimental impact on the privacy of neighbouring properties.*

- 4.12 In this regard, the planning officer's delegated report states in the 3<sup>rd</sup> paragraph on page 10 that:

*"Any impact on existing houses, in regards overlooking, loss of privacy and loss of light, would be those to the south. There could potentially be overlooking if there are to be any windows on the gable elevations of the proposed houses to the houses on Hawk Crescent and Pheasant Grove. There is to be 13 metres between the house at 1 Pheasant Grove and the closest proposed house. This is closer than the required standards and may have some potential for the loss of light to the existing house. However the extent of the impact on the existing properties is difficult to assess in the*



*absence of proposed elevations. The loss of any hedgerow would require to be replaced by either new landscaping or appropriate boundary treatments to ensure there is not loss of amenity to existing residents or a detrimental impact on the surrounding area."*

4.13 These conclusions relate to the wrong layout plan, and all of these matters are dealt with satisfactorily in LAR's preferred site plan. The separation distance between the house at Hawk Crescent is 19 metres – wider than the minimum requirement. There are no overlooking windows on the side elevation on Hawk Crescent. Hedgerow loss will be avoided wherever possible and new planting provided. There are conditions on the existing Planning Permission in Principle that require satisfactory detailed plans to be submitted and approved by the Council before development can proceed.

4.14 **Refusal Reason 4 states that:**

*It has not adequately demonstrated that the proposed increase in residential unit numbers can be accommodated within the application site, which is located within the countryside, without having a detrimental impact on the landscape character of the area, due to the loss of landscaping and the lack of space to accommodate required landscaping.*

4.15 We do not consider that it is reasonable to characterise the site as being in the countryside, which in our view is illustrated in the aerial photograph below.





- 4.16 The planning officer's delegated report contains the following text in the final paragraph on page 13.

*"The site lies within the countryside. There is only support for housing here on the basis of the redevelopment and conversion of redundant buildings. Any development needs to respect this rural location and be of a scale appropriate to this. It is acknowledged that there are recent housing developments to the north, west and south of the site, however these are within the built up area and were allocated housing sites. There is, therefore, a significant distinction between the application site and the surrounding area, and what is appropriate elsewhere may not be appropriate at the application site."*

- 4.17 We strongly disagree with this conclusion. The aerial photograph of the site shows the site in relation to the neighbouring new housing estates to the north, west and south and the utilitarian and 'industrial' looking agricultural sheds on site. These can be clearly distinguished from the countryside to the east of the application site. It should also be taken into account that the application site already has planning permission for up to 25 homes, which will in any circumstances make it part of the urban area.

- 4.18 It is notable that the planning officer who approved the Planning Permission in Principle for the site, concluded in the site description of his delegated report that:

*"The site is fairly well contained in the local and wider landscape with limited short distance views in and out of the site."*

- 4.19 He also concluded later in his delegated report that:

*"New dwellings and associated development on the site would not be seen as a standalone isolated development in the countryside. Instead, the development would be seen in relation to the existing housing development at Wester Cowden and as an extension to that existing residential development."*

- 4.20 We agree with these conclusions.

- 4.21 **Refusal Reason 5 states:**

*For the above reasons the proposal represents a significant overdevelopment of the site and does not comply with policies RD1, DEV6, DEV7, ENV7 and ENV10 of the adopted Midlothian Local Development Plan 2017.*

- 4.22 For the reasons given above we do not agree that the proposal represents a significant overdevelopment of the site. The proposed density is medium at 11.4 units/hectare, which is slightly less than the adjacent new housing estate.

- 4.23 **Policy RD1** indicates 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; it accords with other named policies; or it accords with the Council's Supplementary Guidance on Development in the Countryside and Green Belt. All such development will need to be: of a scale and character appropriate to the rural area and well-integrated into the rural landscape; capable of being serviced with an adequate and appropriate access; capable of being provided with drainage and a public water supply at reasonable cost, or an acceptable private water supply, avoiding unacceptable discharge to watercourses; and accessible by public transport and services, within 1 mile of a bus route with a frequency of 1 bus per hour.
- 4.24 In our view this policy is no longer of any significant relevance in the context of planning permission already being granted for housing development on the site. It can no longer be described as a rural area and should not be considered in that context.
- 4.25 **Policy DEV6** indicates that good design and a high quality of architecture will be required in the overall layout of development proposals. This also provides guidance on design principles for development, materials, access, passive energy gain, positioning of buildings, open and private amenity space provision and parking.
- 4.26 The planning officer's delegated report is critical of the proposed development layout but, as we have explained, these comments are based upon the wrong site plan. The correct layout plan responds very well to the concerns expressed in the delegated report, locating development around a communal open space and relating well to the existing listed farmhouse. In contrast to some modern private housing estates the proposals contain terraces and semi-detached homes, as well as the conversion of existing old farm buildings, depending on viability. It is also intended to reinstate an old stone wall which will be an attractive feature of the development. As regards architecture, this will be a matter for approval by the Council through the submission of detailed plans in due course. LAR have a track record of building high quality architecture and look forward to further discussions with the Council on design matters in due course.
- 4.27 **Policy DES7** indicates that development proposals will be required to be accompanied by a comprehensive scheme of landscaping. This should: complement the existing landscape within and in the vicinity of the site; create landmarks in the development layout and use the landscape to emphasise these; provide shaded areas and shelter; make use of tree and shrub species that are of good appearance, hardy and low maintenance, with a preference for indigenous species; where a site abuts the countryside, incorporate tree belts to define the urban edge, allow for future growth of the trees and promote pedestrian access to the countryside beyond; ensure that where roads are to be lined with trees, these are given adequate room to grow and mature; make use of trees to define the edge of development areas; promote local biodiversity; and ensure that finishing

materials, surface textures and street furniture, together with the design of walls and fencing, combine with the landscaping to create an attractive environment.

- 4.28 The conditions on the Planning Permission in Principle require the submission and approval of detailed landscape plans prior to the commencement of development, which of course will be provided by LAR. The revised layout plan shows adequate space for landscaping to ensure that it is appropriately integrated into its surroundings.
- 4.29 **Policy ENV7** indicates that development will not be permitted where it significantly and adversely affects local landscape character. Where development is acceptable, it should respect such character and be compatible in terms of scale, siting and design. New development will normally be required to incorporate proposals to maintain the diversity and distinctiveness of the local landscapes and to enhance landscape characteristics where they have been weakened.
- 4.30 The existing character of the site is characterised by 2 large unattractive agricultural sheds, areas of disused hardstanding, and mounds of un-landscaped earth. The proposed development, as explained in previous paragraphs, will enhance the character of the area.
- 4.31 **Policy ENV10** indicates that new development pass surface water through a sustainable urban drainage system (SUDS) to mitigate against local flooding and to enhance biodiversity and the environment. The formation of new culverts is not supported.
- 4.32 The last paragraph on page 14 of the planning officer's delegated report states that:  
  
*"The applicant has stated that permeable roadways and small scale surface water soakaways are proposed throughout the development, rather than in a dedicated SUDs area. As detailed above, the site layout is constrained and unable to accommodate the required amenities for occupants. The Planning Authority is concerned that there will be insufficient land for any SUDs features which may be required to deal with the surface water run-off from the site. There is also a requirement to ensure that any proposed drainage at the site can deal with any water run-off from the adjacent field."*
- 4.33 These comments are based on the wrong layout plan. It is likely that SUDS can be accommodated without a dedicated SUDS area, but in order to satisfy the planning officers comment, LAR's preferred layout plan shows that there is plenty of open space within which to accommodate any required SUDS features. If a SUDS area is required, it would be designed to be multi-use space. The detailed design of this is a significant exercise which will be carried out in due course to comply with the condition on the Planning in Principle consent and which will be subject to the approval of the Council.
- 4.34 **Refusal Reason 6** states that:

*The proposed increase in residential units would result in a layout that does not meet the minimum transportation standards for new developments. The increase in unit numbers would result in a substantial increase in the number of vehicle trips at the site would have a significant detrimental impact on the safety of pedestrian and cycling activity in the local area.*

4.35 We completely disagree with this conclusion and LAR commissioned a respected and expert Transport Consultant to address the concerns raised by officers during the processing of the application. The Transport Consultant prepared a letter report (Appeal Document 9 – Transport Letter Report), which we refer to below.

4.36 The site area remains the same as previously but there is a reconfiguration of the layout to provide the additional units. It is noted that there were no adverse comments from transportation in relation to the extant scheme (the Planning Permission in Principle) with the response indicating that:-

*"The existing access to the steading is presently from two points - from the north boundary of the site off Easter Langside Lane, and from a point on the south boundary of the site off Pheasant Grove via Hawk Crescent. The illustrative masterplan submitted with the application delineates the retention of both accesses to serve the new residential development. The accessing of a residential development on the site from either or both of the existing accesses is acceptable in transportation terms and the Council's Transportation Consultant raises no objection to this. The local road network; including the residential roads within the Wester Cowden development, are capable of accommodating the volume of traffic generated by the proposed residential development. In addition, the local road network and the proposed accesses are of an adequate standard of accommodating construction vehicles and service vehicles associated with the proposed development."*

4.37 Therefore, in terms of assessing the updated proposals it is important to bear in mind the potential changes in traffic flow that may result. Adopting a robust peak hour trip generation of some 0.8 trips per home (0.6 departures and 0.2 arrivals in the AM and the reverse in the PM) the additional 20 units would potentially result in 16 additional vehicle trips in the peak hours. This is equivalent to one vehicle trip every 3-4 minutes.

4.38 The proposed layout retains an upgraded access link to Easter Langside Lane and, consistent with the transport response to the extant application, also provides a connection to the south to Pheasant Grove.

4.39 MC roads have raised a concern about the use of a connection to the south which crosses the shared cycle route adjacent to the site and potentially routes traffic through the residential areas around Hawk Crescent. However, the response to the original application indicated that "either or both" access routes would be acceptable to serve 25 homes so by definition the routing of traffic associated with 25 homes (circa 20 vehicles) through either access and the adjacent road network connections is also acceptable.

- 4.40 The proposed construction of 44 homes with a choice of 2 routes can be considered to accord with this initial advice as traffic is able to distribute across the 2 access points. However, we understand that concerns relate to the potential for all traffic to route through a single access and as such further consideration has been given to the routes available to drivers leaving the proposed development.
- 4.41 It is also important to bear in mind that appropriate pedestrian and cycle routes can be provided, with a segregated pedestrian / cycle link from the site connecting down adjacent to the existing bus stops on Easter Langside Avenue. Pedestrian connections can also be made along the site access to the existing footway on the south side of the residential road running north away from East Langside Lane.
- 4.42 In order to assess the routes that the traffic will take, it is important to understand both the standard of the adjoining roads and the likely destinations drivers are travelling to. The applicant has prepared a plan examining the layout and standard of the routes through Easter Langside Lane and Hawk Crescent which is appended to this letter.
- 4.43 This sets out that the road connections to the south through Hawk Crescent are all 5.5m wide and also have footways provided on both sides of the road. This connects to the main distributor road connecting west to the A6106 or north towards Salter's Road.
- 4.44 The connections to the north towards Easter Landside Lane are also 5.5m wide. The road directly north of the access to the site is 5.5m wide with footway provision on the northern part of the route, with grassed verges and is constructed out of block paving. The road to the left is of a more traditional tarmac road carriageway appearance, again with no footway connection until the southern end of Easter Langside Avenue is met. Beyond here there are footway connections to the wider site.
- 4.45 Adopting a simple appraisal of the driving distances to reach the main external road network there is an identified 'threshold' point within the site where it becomes a shorter route for drivers to use the north or south access depending on their position within the site. This threshold point is reached around 150m along the road into the site from the north and therefore it is likely that drivers living in properties to the north of this point would generally route north to leave the site and vice versa for drivers living in homes to the south. In practice this equates to a split of around 20 homes to the north of the threshold point and 24 homes to the south.
- 4.46 Therefore, it would be reasonable to expect that, given roads had no issue with 25 homes being accessed to either the north or the south the development, the 44 home proposal, with a relatively equal split of vehicle trips across the accesses to the north and south, would also be acceptable.



- 4.47 Interrogating potential trips further using the Datashine Commute information from the 2011 census shows that in the Thornybank area of Dalkeith some 85% of trips to work occur to the north, towards Edinburgh and Dalkeith. Some 10% of trips are to destinations to the west (i.e. Bonnyrigg, Mayfield, Gorebridge) with only 5% of trips to the south. This would mean that there may be a desire for trips heading west or south to route via Hawk Avenue (as the perceived direction of travel) regardless of where in the development they reside and this would only account for 5 trips from the development.
- 4.48 Importantly it is also clear that the route created through the development site is of such a length and design that it would not be attractive as a short cut for any traffic in either of the residential areas to the north or south being significantly longer than the existing routes to reach the main road network. The original roads response also indicated that a connection through the site would be acceptable with either of both accesses indicated as acceptable.
- 4.49 Returning to the concern raised about the ability of the adjacent 'shared surface' roads to accommodate the likely uplift in traffic, based on the data above, this is unlikely to be any different to a standalone scheme of 25 homes accessed solely to the north (or south) and hence would appear to be contrary to previous advice. In effect it appears that 2 developments of 25 homes would be acceptable if no connection through the site were provided but this would be contrary to current best practice to ensure a coherent, permeable road network within residential areas.
- 4.50 The sections of road considered to be 'shared surface' are only located to the north of the site and are only 'shared' for a distance of around 60m. In terms of the ability for these roads to carry the likely additional traffic there is little specific guidance in the 'Designing Streets' document which refers to managing the speed environment and making a sense of place, whilst being pedestrian friendly. Similarly, the National Roads Development Guide also comments on the design and layout of 'shared spaces' indicating that they are suitable for low traffic volume, low speed environments but is not specific on these points. Both of these documents point to the importance of a connected network of streets which in turn provide a choice of routes to drivers, which the proposed development provides. Interestingly the 'Manual for Streets' (guidance covering England and Wales) identifies that shared surface areas operate most successfully in areas with a peak hourly flow of less than 100 vehicles per hour (vph). The development is expected to add at most 20 movements per hour to the north, which coupled with the existing traffic is unlikely to result in flows above 100 vph.

### Summary

- 4.51 It has been established that, in providing 2 accesses and identifying the threshold point within the development where journeys are shorter via one access than the other, the effects of the development would be similar or less on the adjacent residential streets compared to the extant

consent with a single access point. Therefore, the findings of the MC transport response in respect to the Planning Permission in Principle application remain valid i.e. "The local road network; including the residential roads within the Wester Cowden development, are capable of accommodating the volume of traffic generated by the proposed residential development."

- 4.52 We appreciate that the above analysis by LAR's expert Transport Consultant is somewhat technical in parts, but it clearly demonstrates that Refusal Reason 6 is not justified.
- 4.53 Although the LAR's Transport Consultant's Letter Report was submitted to the Council's planning and roads officers, they do not appear on the planning portal and we are not aware if it was ever considered in advance of refusing the application.

## 5.0 CONCLUSION AND RECOMMENDATIONS

### Conclusion

- 5.1 The Council's officers have 4 main concerns regarding the Section 42 application:
1. There is insufficient education capacity to accommodate the children arising from 44 homes.
  2. The development is too dense for a countryside location.
  3. The proposed layout does not comply with the Council's policies on placemaking.
  4. The increase in housing numbers will create significant traffic safety problems.
- 5.2 As we have demonstrated in this statement, none of these concerns are valid.
- 5.3 On the first point, the number of additional non-denomination primary school children is estimated by the Head of Education as only 5 pupils. In our view, this is a negligible number in terms of the margin of error in calculating school capacities. Notwithstanding this point, LAR is prepared to accept amending its lettings policy to ensure that school capacities are not exceeded. A condition can be applied to this effect.
- 5.4 On the second point, it is not considered reasonable to address this as a countryside location. It already has planning permission for housing and is quite distinct from the adjacent countryside. It is currently derelict and unattractive, comprising large industrial looking sheds.
- 5.5 On the third point, the planning officer has assessed the wrong layout plan, which was submitted to demonstrate how some of the planning officer's comments would result in a poor layout. LAR's preferred layout plan satisfactorily addresses the Council's placemaking policies and objectives.
- 5.6 On the fourth point, a detailed assessment by a respected and expert Transport Consultant has demonstrated that there will be no significant impacts on traffic safety.

### Recommendations

- 5.7 It is important to understand the nature and effect of a Section 42 Application. Although this application seeks to amend Condition 1, if the application is permitted it creates a wholly new Planning Permission in Principle. This means that the Local Review Body is entitled to apply any new or amended conditions that it sees fit.
- 5.8 Condition 1 of the Planning Permission in Principle currently states:
- "The development shall adhere to the following constraints:*
- i. *No more than 25 residential units shall be erected on the site*
  - ii. *No building erected on the site shall exceed 2 stories in height*

- 5.9 LAR's Section 42 Application states that it seeks to amend this condition "to allow more than 25 dwellinghouses on the site".
- 5.10 In support of this application, LAR submitted a layout plan to show how this increase in numbers could be satisfactorily accommodated on the site. The result is that there is now sufficient information to approve the site layout plan and proposed unit numbers.
- 5.11 LAR is satisfied that their preferred layout is one they can implement and that it accords with all of the Council's planning policies.
- 5.12 It is therefore recommended that this plan is incorporated into the Planning Permission in Principle by way of the following amendment to Condition 1.
- "The development shall be generally in accordance with the layout and unit numbers shown on Site Layout Plan - S42(PL)001 Revision A. No more than 44 residential units shall be erected on the site, none of which should be more than 2 stories in height."*
- 5.13 Condition 2 of the existing Planning Permission in Principle states that the masterplan submitted with the original application is not approved. This condition can therefore be deleted because it is effectively superseded by the proposed revised terms of Condition 1.
- 5.14 LAR is content with all of the other conditions applied to the existing Planning Permission in Principle.



# **ANNUAL REVIEW** 2018

PROVIDING GOOD QUALITY AFFORDABLE LIVING



# WELCOME



**Andrew Robertson**  
Chair

☉ WE set high targets and standards at LAR and I am delighted to report that at the end of our second full financial year we have lived up to these high expectations.

It has been a particularly busy year of acquisition and development and you will read more detail of our various activities elsewhere in this review. However, I should like to highlight the fact we have recorded a number of 'firsts' during the last 12 months, most notably our:

- First design and build project
- First conversion of a commercial building into residential use
- First subsidiary, allowing us to purchase the building in which our head office is located. This will afford us a base from which we can grow and better serve our tenants.
- First Modern Apprenticeship appointment and our first Trainee Property Manager as we build for the future.

I pay tribute to our growing staff for their professionalism, commitment and energy. LAR remains under the excellent stewardship of Chief Executive Ann Leslie, as we continue to address the issue of a shortage of quality mid-market rental homes across Scotland.

Our endeavours are greatly enhanced by the excellent working relationships we have developed with the Scottish Government and our funders Bank of Scotland and Scottish Widows. We continue to receive tremendous support from Housing Minister Kevin Stewart, who has taken a keen interest in our work and visited some of our developments.

Finally, I thank LAR's Trustees for their wise counsel and support during the last year. In particular, thank you to Barry White who has left us to pursue new career opportunities south of the border and a warm welcome to his replacement Andrew Bruce, representing Scottish Futures Trust Investments.



**Ann Leslie**  
Chief Executive

☉ IT can be very instructive reflecting on 12 months of work and achievement, especially if you can refer back to the previous year in numbers. At this time in 2017, I highlighted a year of success noting that we had 14 sites across Scotland. A year on, and I am able to report that we now have 24 sites and 600 homes either occupied, under construction or in planning.

It is a source of great pride for all connected with LAR that this equates to buying a new home every other day since we launched. We are ahead of schedule and making an impact on the housing sector in Scotland. As such, we have now laid the groundwork to expand beyond our original business case, while keeping mid-market rent at the very core of our activities.

None of this would have been possible without a huge team effort and you will read elsewhere in this review about our growth as an organisation. Our staff complement now stands at 10 and we have brought all services in-house allowing us to better serve our tenants.

With all homes now under internal management, the team is seeing an increasing number of inter-development transfers, with tenants wishing to remain with LAR when their housing needs change. This is a very positive sign and is something that the team will build on in the future.

Finally, I should particularly like to praise the staff team for their commitment to taking on tasks, no matter how big or small, that fall outside of their recognised remit. Getting a site ready for a grand opening requires all hands on deck – perhaps a fitting analogy for our newest development at The Boatyard in Cockenzie (see pages 8 and 9).

@LARHousingTrust LARhousingtrust info@larhousingtrust.co.uk 01383 630190 larhousingtrust.co.uk

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LAR Housing Trust is a Scottish Charitable Incorporated Organisation (Scottish Charity number SC044825)

# A TALE OF TWO CITIES

Setting records as we sign significant deals in Edinburgh and Glasgow

☉ WE have signed our first two deals for developments in Edinburgh, including our first conversion of a commercial building into residential use.

Work is ongoing at Westwood House on the city's Gorgie Road to convert the former office block into 47 flats. We were delighted to have secured this building to add Edinburgh to our portfolio of homes in East Lothian and Midlothian.

This was a significant move for us and was at the time the biggest deal we had completed both in terms of the number of properties on one site and in purely financial terms.

The development will consist of 18 one bedroom, 27 two-bedroom and two three-bedroom flats and the aim is to complete the project and welcome the first tenants by summer 2019.

Hard on the heels of our first Edinburgh project came the second. A deal was concluded with Manchester based MCR Property Group to buy 40 units at Chesser House, just next door to Westwood House. This will consist of a range of one, two and three-bedroom homes in a superb location and is a



Above: The exterior of Westwood House and below, two interior images of the communal areas



most welcome addition to our portfolio.

A huge thank you to the City of Edinburgh Council for working with us on this project. Chesser (or Elfin House, as it is soon to be known) together with

Westwood House gives LAR a noticeable presence in a very popular area of the city.

Again, we expect our first tenants to move in during the summer of 2019.

## RECORD DEAL IN GLASGOW

☉ NO sooner had we concluded our biggest deal for Westwood House in Edinburgh, than an even bigger project and opportunity arose.

We were delighted to agree to purchase 64 homes at a site being developed by Cruden Estates Limited on Helenvale Street, just a short walk from the Sir Chris Hoy Velodrome in the east end of Glasgow.

This is just our second site in Scotland's largest city. Local housing associations and Glasgow City Council have been very welcoming to

us and we continue to be on the lookout for other sites in the city!

The 64 homes are all two-bedroom flats of varying sizes and construction work is now well under way. The work will be completed in phases and we expect our first tenants to move in by summer 2019. The last phase will be ready for occupation by late autumn 2019.

Our other Glasgow development is also in the east end, at the site of the former Belvidere Hospital and is proving to be in very high demand.



Construction at Helenvale Street, Glasgow





# “A RENTED PROPERTY THAT FEELS LIKE HOME”

Two residents of LAR’s Ocean Apartments in Aberdeen – now neighbours, colleagues and friends – give their new homes a huge thumbs up

## LISA AND KIRSTY’S STORY

© “THIS is my flat and for the first time I have a rented property that feels like home.” The words of 33-year-old Lisa Mathieson who moved into LAR’s Ocean Apartments in Aberdeen’s Park Road a year ago with her partner Stuart.

Her experience is very much mirrored by 25-year-old Kirsty Robertson: “I was in an awful house share and had to move

quickly. Within a week I’d moved into LAR’s Ocean Apartments and instantly felt like I could treat it as my own home.”

Kirsty and Lisa have a lot in common and not just their address. Not only do they have a shared love of the arts, they work for the same organisation, their families live three miles apart in the central belt and they both struggled to find suitable accommodation when they first moved to Aberdeen.

The pair work for Aberdeen Performing Arts, Kirsty running music education classes for children and outreach projects in areas of deprivation, and Lisa in the theatre learning team as a Creative Learning Manager. Both agree moving to a new city without family and friends was a challenge. However, a shared heritage in growing up near each other in Bothwell and Motherwell, and a love of the arts meant they struck up an instant friendship.





Lisa Mathieson (left) and Kirsty Robertson  
© Richard Frew Aberdeen Performing Arts

Kirsty's hasty retreat from her previous flat meant that she moved into her LAR home without any furniture. She said: "I lived a minimalist Japanese lifestyle at first and had to order stuff quickly. But the fact I could move in within a week was a godsend and the people at LAR were very easy to deal with."

The pair both admit not having family in the area was difficult at first, but now have each other as back up and in case of emergencies. Given the nature of the work they do, they are often late home and say having company on the walk home or sharing a taxi is ideal. Lisa said: "It's not just having Kirsty there but I do feel there is a sense of a proper community at Ocean Apartments. We're also just a 10 or 15-minute walk to the city centre yet we're in a very quiet neighbourhood. The whole process with LAR was a different experience to anything I'd had before."

Final verdict from them both? Ten out of 10!

## THE FINDLAY'S STORY

© "AS soon as I saw the view it was game over." Linda Findlay had lived her whole life in Berwick-upon-Tweed, but she and husband Donald were looking to relocate to East Lothian to be near their two daughters.

Linda wasn't 100 per cent sure about the move, but as soon as she saw the Cockenzie flat at LAR's Boatyard development she was sold on the idea. "How could you refuse this?" she enthused as she gazed out her sitting room window to a sea view.

And for Donald, born and brought up in Prestonpans, it was a homecoming after years away and a chance to be near his wider family, most of whom are still in the area.

LAR has become a feature in the lives of the Findlay family as one of their daughters, Justine, has also moved into the Cockenzie development and Donald's sister lives in the organisation's first completed site at Pinkie Mains.

He said: "It was Justine's idea for us all to move into the same development and it has worked out brilliantly for us. I'm retired, but seem to have taken on a new role as chauffeur to our four grandchildren."

Linda added: "We have obviously spent a lot of time with family in this area over the years and we enjoyed watching as the development progressed during construction. We always wandered round the site for a good nosey when we were here."

Donald was also well aware of the Cockenzie site's past as a working boatyard run by the Weatherhead family. A former welder he had worked at shipyards in Berwick and Eyemouth, both of which had, at some point, been owned by the Weatherheads. He said: "It's an added connection to the development and the mural depicting the site's past is right outside our window. I like that." Both are delighted with the move and described the LAR staff as "incredibly helpful and obliging". And the proximity to their family, particularly their grandchildren, has made this a hugely successful move. "We love it here," concluded Linda.



Donald and Linda Findlay



# A GROUND BRE



CHESSER



HELENVALE



FORDEL

## KEY



FULLY BUILT  
AND LET



UNDER  
CONSTRUCTION

HELENVALE  
Glasgow

BELVIDERE

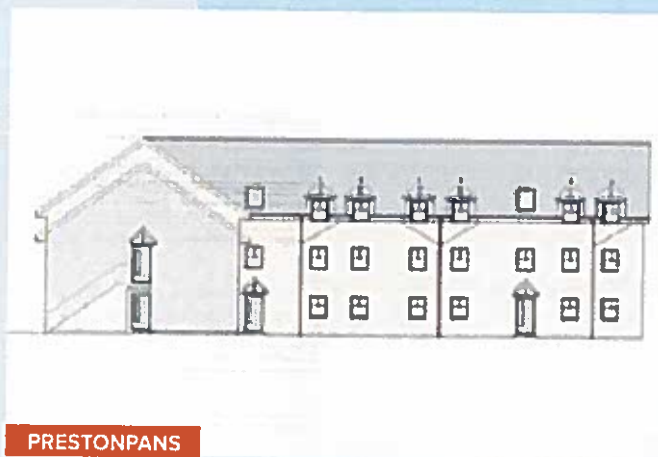


COCKENZIE



# MAKING YEAR

WE have been breaking new ground – literally – this year with a series of firsts and notable achievements. We've completed our first design-and-build project, we entered the Edinburgh city market for the first time and we started work on our biggest single development at a site in the east end of Glasgow. All of that on top of a series of other deals across Scotland as we do our part to address the shortage of good quality mid-market rental homes.





# ROOMS WITH A VIEW IN EAST LoTHIAN

📍 LAR'S development at Cockenzie, completed in September 2018, was a game changer for the organisation. At the official opening our Chair, Andrew Robertson, hailed the development as a flagship project, as it was LAR's first design-and-build development and the first to be called off its £5 million building framework.

It was officially opened by Scotland's Housing Minister, Kevin Stewart MSP, who had visited the site earlier in the year at the first stages of construction.

LAR had previously only been involved in turnkey projects and at sites already under construction. In this case, the team was actively involved in remediating the site, designing the homes and seeking planning permission, prior to appointing a builder.

The 26 new mid-market rental homes, built by Hart Builders, are on the site of a former boatyard and boast enviable harbour views. We were particularly delighted to welcome descendants of the original boatyard owners to the opening of this development and the positive feedback which we have received from them, the local community and residents has been marvellous to hear.

A huge thank you for the care, professionalism and hard work shown by the team at Hart and especially John Brotherston which has ensured that these homes are exceptional. LAR (Local, Affordable, Rent) was established to provide homes *within* communities and these are truly local homes for local people, with the vast majority of residents coming from the local area.

This latest project marks continued growth in East Lothian for LAR and is the organisation's third development to open in the area. LAR's growing presence in the area has been welcomed by East Lothian Council. Cabinet Member for Housing, Cllr Jim Goodfellow, described the Cockenzie site as, "a welcome addition to our affordable housing programme".

We look forward to working with East Lothian Council to continue to provide affordable homes in the area in the future.

Residents have their say on their new homes: Turn to pages 48/5







## A MARK OF RECOGNITION

⦿ LAR's Cockenzie development is at the site of a former boatyard originally run by the Weatherhead family for 70 years, but sadly closed down in 1969.

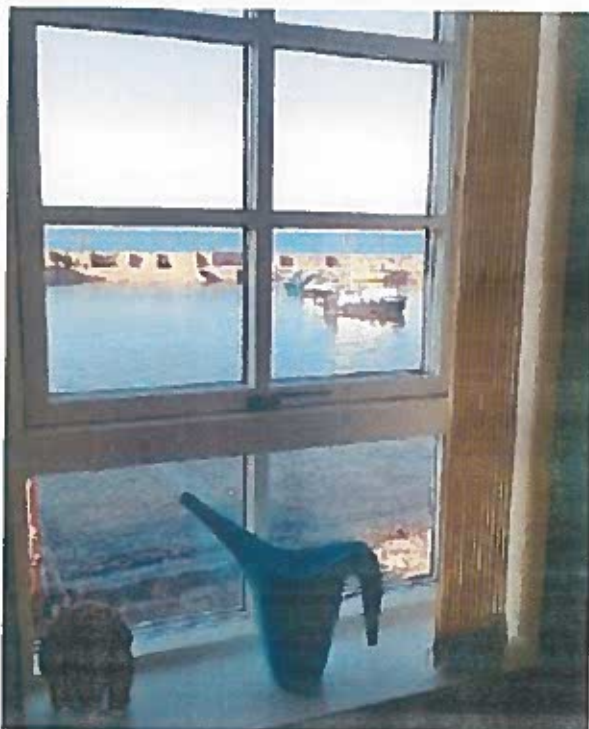
On hearing that the site was to be developed for housing, LAR was approached by a local Councillor and local heritage group, Boatie Blest, on behalf of the Weatherhead family, asking if some kind of recognition of the site's past could be incorporated into the development. In particular, the family was keen to see something to mark their history at the site.

Their hope was for a piece of work by local stonemason, Gardner Molloy, to be included somewhere in the development and the idea was floated for a mural to be incorporated into one of the buildings.

LAR then instructed Gardner Molloy and their beautiful carving is an excellent example of local community involvement in LAR's development plans. This is building for the future with a nod to the past.



Above: Chair Andrew Robertson (left) and Kevin Stewart MSP, Minister for Local Government, Housing and Planning  
Clockwise from far left: Cockenzie before work commenced; interior shot of one of the new properties; a coastal view; Cockenzie as viewed from the courtyard





# BUILDING FOR THE FUTURE

☉ We have continued to acquire homes and sites across Scotland with further new developments under way or planned in Aberdeen, Perth, Blairgowrie, East Lothian and Midlothian.

We have just completed our seventh development in Aberdeen at Balgownie, Bridge of Don, which brings the total number of LAR homes in the area to 142.

LAR has taken nine properties at the development in Balgownie, consisting of six two-bed and three one-bed flats. This is LAR's second collaboration with Cala in the city having completed a deal for 15 flats at Shaw Road in the city's west end last year.

We are still looking for more good quality homes in Aberdeen – particularly larger three-bedroom homes which our current tenants can move into as their housing needs change. As such, we would be interested in speaking to developers and construction companies who might have suitable properties for us.

It has been a busy time in Midlothian with developments at different stages at Petendrela Court in Bonnyrigg, Fordel in Dalkeith and Wester Cowden. We already have two completed blocks of flats at Petendrela Court and phase three, consisting of six two-bed flats, is now well under way and we hope to have tenants moved in by spring 2019.

In East Lothian we have another design-and-build project at Prestonpans where, subject to planning, we hope to be developing 26 homes in a very similar fashion to our successful development in

Cockenzie (see pages 8 and 9). Such was the demand for homes at our Cockenzie development we were very sorry to be turning away so many applicants, simply because we did not have enough homes. Hopefully this development will go some way to addressing a pressing local need for modern, good-quality, affordable homes.

Our final developments in East Lothian consist of 23 homes in Dunbar, 12 homes in Dolphinstone and 12 cottage flats in Old Craighall. We are delighted to be working with East Lothian Council again to provide homes on these sites for which there has already been significant interest. Both of these developments should be complete by late 2019.





LAR SITES  
AROUND  
SCOTLAND

600



HOMES  
IN TOTAL

249



HOMES OCCUPIED BY TENANTS

£1,270

AVERAGE RENT SAVING  
PER ANNUM



1351

HOMES UNDER CONSTRUCTION  
OR IN PLANNING



127



NEW HOUSEHOLDS TAKING UP  
TENANCIES IN THE LAST YEAR

## LAR IN NUMBERS

LAR is about people, but we also have some interesting facts and figures to shout about



£120M

DEVELOPMENT FUNDS



YEARS IN BUSINESS



NEW HEAD OFFICE



10

MEMBERS OF STAFF



NEW  
SUBSIDIARY  
SET UP



4

NEW  
MEMBERS  
OF STAFF  
THIS YEAR

190



JOBS SUPPORTED IN THE SCOTTISH  
ECONOMY BY LAR'S DEVELOPMENT ACTIVITY

3

STAFF  
BABIES!



15

DEVELOPERS LAR  
HAS WORKED WITH



# PERSONAL PERSPECTIVES FROM THE STAFF TEAM

## LEWIS YULE – MODERN APPRENTICE

⦿ **SINCE** starting my Modern Apprenticeship at LAR in April, I have been given the opportunity to experience a lot of the work LAR does across different teams, which has been an exciting new challenge for me. Working with the Property Managers, I have been able to learn firsthand what it is like to work with, and help, tenants and the different aspects of day-to-day property management.

From the Development team I have been able to view the sometimes complex process of what LAR looks for when purchasing new properties that tenants and LAR can be proud of. While working in the office, both in Dunfermline and Aberdeen, I have been able to see and be part of the day-to-day running of the business and have

become experienced in the hard work and effort it takes to make LAR a successful business and to make sure it keeps growing to meet its objectives.



My colleagues at LAR have been very kind and welcoming and have been an incredible help as I continue with my apprenticeship.

The Modern Apprenticeship Program is run by Skills Development Scotland (SDS), on behalf of the Scottish Government and aims to create a skilled workforce for the future tackling skills gaps across business sectors. I look forward to completing my modern apprenticeship with the hopes of having a bright future at LAR Housing Trust.

for a new challenge and it was quite a transition from dental nursing to property management. When my son and I were looking at apprenticeships for him, I noticed that LAR was advertising for an Administration Apprentice with potential to train as a Property Manager. As a landlord myself, I already had an interest in property and decided that my future lay in bricks and mortar not teeth and gums.



A couple of interviews later, I was taken on as a trainee property manager and am loving the challenge that this change of career brings. Early

on, I spent most of my time getting to grips with the various processes and procedures that were completely new to me and, although a bit daunting, I have embraced the challenge and have now been promoted to Property Manager.

Working at LAR is a continuous process of learning with the added benefit of meeting people from all walks of life.

## JILL HAMILTON – PROPERTY MANAGER

⦿ **I STARTED** working with LAR in April

## STAFF UPDATE

⦿ **WE** are proud to have increased our portfolio of homes around the country. And that growth has also meant an increased headcount in the office.

We are delighted to have welcomed four new members of the team in the last 12 months as we continue to provide support and assistance to our tenants in our developments across Scotland.

Mikko Ramstedt was appointed to the role of Director of Finance and Corporate Services.

A native of Finland, he was educated at Aberdeen University where he studied economic science and management studies, which included a year at Whitworth University in Washington State. He has also studied at Oxford University's Saïd Business School.

Jacky Macdonald joined the property management team at the beginning of the year from Stirling Council, where she worked in a variety of housing management roles for 34 years.

We were also delighted to welcome our first trainee property manager, Jill Hamilton and our first modern apprentice, Lewis Yule. You can read their reflections above as we train our next generation of property professionals.

**WOULD YOU BE INTERESTED IN RENTING FROM LAR?**

If so, please contact us  
[lettings@larhousingtrust.co.uk](mailto:lettings@larhousingtrust.co.uk)

**WHAT NEXT FOR LAR? WE WANT TO HEAR FROM YOU**

Do you have properties you would be interested in selling to LAR? If so:



What is their location?



What size of properties would be available?



How many would be available?



When might they be ready for tenants?

**Planning Permission  
Town and Country Planning (Scotland) Act 1997**

**Reg. No. 16/00359/PPP**



Ark Architecture and Design  
14 Royal Terrace  
Glasgow  
G3 7NY

Midlothian Council, as Planning Authority, having considered the application by Buccleuch Property, 27 Silvermills Court, Henderson Place Lane, Edinburgh, EH3 5DG which was registered on 9 May 2016, in pursuance of their powers under the above Acts, hereby grant permission to carry out the following proposed development:

**Planning permission in principle for residential development and formation of access road at Land at Wester Cowden Farm, Wester Cowden, Dalkeith**

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

<u>Document/Drawing</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	16-03 – Revised Planning Application Location Plan	07.12.2017
Coal Mining Risk Assessment		09.05.2016
Extended Phase 1 Habitat Survey		26.09.2016
Wester Cowden Final Updated September 2016		
Wester Cowden Bat Survey Report 2016		26.09.2016

**Please Note:** A legal agreement is associated with this Planning Permission and can be viewed on the online file.

This permission is granted for the following reason:

Subject to the recommended conditions on a grant of planning permission in principle, the proposed development does not conflict with policies of the adopted Midlothian Local Development Plan 2017. The proposal to retain both accesses to the site is acceptable in transportation terms. There would be no significant harm to the privacy or residential amenity of any existing neighbouring residence.

Subject to the following conditions:

1. The development shall adhere to the following constraints:
  - I. No more than 25 residential units shall be erected on the site; and,
  - II. No building erected on the site shall exceed two-stories in height.

**Reason for 1(i):** To restrict the number of dwellings to that which the applicant has indicated will be erected on the site and which at this present time a developer contribution can be secured to increase the capacity within the local primary schools to accommodate the number of children likely to arise from that number of dwellings.

**Reason for 1(II):** Buildings higher than two-storey erected on the site would appear unduly incongruous and intrusive in the landscape, harmful to the landscape character and amenity of the area.

2. The masterplan submitted with the application is not approved.

*Reason: The application is for planning permission in principle only and the details delineated within the masterplan are for illustrative purposes only.*

3. Development shall not begin until an application for approval of matters specified in conditions regarding the phasing of the development has been submitted to and approved in writing by the planning authority. The phasing schedule shall include the construction of each residential phase of the development, the provision of affordable housing, the provision of open space, structural landscaping and landscaping in communal areas, SUDS provision and transportation infrastructure. Development shall thereafter be carried out in accordance with the approved phasing plan unless agreed in writing with the planning authority.

*Reason: To ensure the development is implemented in a manner which mitigates the impact of the development process on existing land users and the future occupants of the development.*

4. Development shall not begin on an individual phase of development (identified in compliance with condition 3) until an application for approval of matters specified in conditions for a scheme of hard and soft landscaping works has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:

- i existing and finished ground levels and floor levels for all buildings, open space and roads in relation to a fixed datum;
- ii existing trees, landscaping features and vegetation to be retained; removed, protected during development and in the case of damage, restored;
- iii proposed new planting in communal areas, road verges and open space, including trees, shrubs, hedging, wildflowers and grassed areas;
- iv location and design of any proposed walls, fences and gates, including those surrounding bin stores or any other ancillary structures;
- v schedule of plants to comprise species, plant sizes and proposed numbers/density;
- vi programme for completion and subsequent maintenance of all soft and hard landscaping;
- vii drainage details, watercourse diversions, flood prevention measures and sustainable urban drainage systems to manage water runoff;
- viii proposed car park configuration and surfacing;
- ix proposed footpaths and cycle paths (designed to be unsuitable for motor bike use); and,
- x details of existing and proposed services; water, gas, electric and telephone.

All hard and soft landscaping shall be carried out in accordance with the scheme approved in writing by the planning authority as the programme for completion and subsequent maintenance 4(vi). Any trees or shrubs removed, dying, becoming seriously diseased or damaged within five years of planting shall be replaced in the following planting season by trees/shrubs of a similar species to those originally required.

*Reason: To ensure the quality of the development is enhanced by landscaping to reflect its setting in accordance with policies in the adopted Midlothian Local Development Plan and national planning guidance and advice.*

5. Development shall not begin on any individual phase of development (identified in



compliance with condition 3) until an application for approval of matters specified in conditions for the siting, design and external appearance of all residential units and other structures has been submitted to and approved in writing by the planning authority. The application shall include samples of materials to be used on external surfaces of the buildings; hard ground cover surfaces; means of enclosure and ancillary structures. These materials will also include those proposed in the area of improved quality (comprising no less than 20% of the proposed dwellings). Development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the planning authority.

*Reason: To ensure the quality of the development is enhanced by the use of quality materials to reflect its setting in accordance with policies in the Midlothian Local Development Plan and national planning guidance and advice.*

6. Development shall not begin until an application for approval of matters specified in conditions for details, including a timetable of implementation, of 'Percent for Art' have been submitted to and approved in writing by the planning authority. The 'Percent for Art' shall be implemented as per the approved details.

*Reason: To ensure the quality of the development is enhanced by the use of art to reflect its setting in accordance with policies IMP1 of the Midlothian Local Plan.*

7. Development shall not begin on an individual phase of development (identified in compliance with condition 3) until an application for approval of matters specified in conditions for the site access, roads, footpaths, cycle ways and transportation movements has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:

- i existing and finished ground levels for all roads, footways and cycle ways in relation to a fixed datum;
- ii the proposed vehicular, cycle and pedestrian accesses into the site;
- iii the proposed roads (including turning facilities), footpaths and cycle ways including suitable walking and cycling routes linking the new housing with the local primary school and the rest of Dalkeith;
- iv proposed visibility splays, traffic calming measures, lighting and signage;
- v proposed construction traffic access and egress and haulage routes;
- vi proposed car parking arrangements; and,
- vii a programme for completion for the construction of access, roads, footpaths and cycle paths.

Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be agreed in writing with the planning authority.

*Reason: To ensure the future users of the buildings, existing local residents and those visiting the development site during the construction process have safe and convenient access to and from the site.*

8. Development shall not begin until an application for approval of matters specified in conditions for a scheme to deal with any contamination of the site and/or previous mineral workings has been submitted to and approved by the planning authority. The scheme shall contain details of the proposals to deal with any contamination and/or previous mineral workings and include:

- i. The nature, extent and types of contamination and/or previous mineral workings on the site;
- ii. Measures to treat or remove contamination and/or previous mineral workings to ensure that the site is fit for the uses hereby approved, and that there is no risk to the wider environment from contamination and/or previous mineral

- workings originating within the site;
- iii. Measures to deal with contamination and/or previous mineral workings encountered during construction work; and,
- iv. The condition of the site on completion of the specified decontamination measures.

Before any part of the site is occupied for residential purposes, the measures to decontaminate/remediate the ground conditions of the site shall be fully implemented in accordance with the approved scheme to the approval of the planning authority.

*Reason: To ensure that any contamination on the site/ground conditions is adequately identified and that appropriate decontamination measures/ground mitigation measures are undertaken to mitigate the identified risk to site users and construction workers, built development on the site, landscaped areas, and the wider environment.*

9. Development shall not begin until an application for approval of matters specified in conditions for a programme of archaeological works has been undertaken and reported upon in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority. The programme of works shall comprise an appraisal level Historic Building Recording and a Monitoring Soil Strip which shall be reported upon initially through a Data Structure Report (DSR) submitted for the prior approval of the Planning Authority.

*Reason: To ensure this development does not result in the unnecessary loss of archaeological material in accordance with Policies ENV24 and ENV25 of the adopted Midlothian Local Development Plan.*

10. Prior to the commencement of development, the scope of, and a subsequent report on, a feasibility study of the operation of a community heating scheme, and the installation of low and zero carbon generating technology, for the development hereby approved, and if practicable other neighbouring developments/ sites, in accordance with MLDP Policies NRG3, NRG4 and NRG6, shall be submitted for the prior written approval of the planning authority. Should the planning authority conclude, on the basis of this study, that a scheme is viable, no dwellinghouses on the site shall be occupied until a community heating scheme, and/ or low and zero carbon generating technology for the site, and, if practicable, other neighbouring developments/ sites, is approved in writing by the planning authority. There shall be no variation therefrom unless with the prior written approval of the planning authority.

*Reason: To ensure the provision of a community heating system for the site, to accord with the requirements of Midlothian Local Development Plan Policy NRG6 and in order to promote sustainable development.*

11. Prior to works commencing on site the additional bat surveys, badger mitigation and breeding bird mitigation recommended in the conclusions section of the updated Extended Phase 1 Habitat Survey (updated September 2016) and the recommendations made in the Bat Survey Report (dated April-September 2016) both prepared by Acorna Ecology Ltd, shall be carried out in full. The scope of the additional surveys shall be agreed in advance in writing by the Planning Authority.

*Reason: In the interests of safeguarding European Protected Species.*

12. Development shall not begin until details, including a timetable of implementation, of high speed fibre broadband have been submitted to and approved in writing by the planning authority. The details shall include delivery of high speed fibre broadband prior to the occupation of each residential unit. The delivery of high speed fibre broadband shall be implemented as per the approved details.



***Reason: To ensure the quality of the development is enhanced by the provision of appropriate digital infrastructure.***

Dated 14 / 02 / 18



.....  
Joyce Learmonth  
Lead Officer – Major Developments and Enforcement,  
Fairfield House, 8 Lothian Road, Dalkeith, EH22 3ZN

## HolderPlanning

Town Planning and Development Consultants

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

1<sup>st</sup> August 2019

Our ref:  
Your ref: 18/00759/S42

Dear Mr Arnsdorf,

### **LOCAL REVIEW BODY PLANNING APPLICATION 18/00759/S42**

I refer to your email dated 17<sup>th</sup> July requesting any further comments on representations made by Interested Parties in respect of the Notice of Review for Planning Application Ref 18/00759/S42 – Section 42 application to amend condition 1 (i) of planning permission 16/00359/PPP (to allow more than 25 dwellinghouses on the site) at Land at Wester Cowden Farm, Wester Cowden, Dalkeith.

A total of 5 representations from Interested Parties were uploaded onto the Council's Planning Portal following the Notice of Review which was submitted on 20 June 2019. We have reviewed these representations and provide responses on the following pages.

As there are points of repetition in the representations, we have summarised the comments under topic headings for ease of review.

Appellant's Response to Public Representations	
Site Layout/Density	
<i>Comment</i>	<i>Appellant's Response</i>
The layout the developers have submitted in advance of the LRB is different to the one which was refused at planning committee. If changes have been made surely these need to be considered at planning committee.	The application was refused under delegated powers by officers and was not considered by the planning committee. Also, the plan referred to in the delegated decision was not the most up-to-date plan submitted by LAR for determination.
Preferred layout shows a 76% increase of houses. We consider this to be an unacceptable level of development given the size of the site (1.56 hectares).	As explained in our Review Statement, the only reason why the planning permission in principle was restricted to 25 units was because of the lack of an agreed strategy by Midlothian Council to provide additional primary education capacity. It had nothing to do with design or layout issues. We have explained in our Review Statement that the density of development proposed is in fact less than the average density of neighbouring new housing development, which itself has not been built at a high density.
The site is semi-rural and not urban. LAR housing aerial photograph is misleading because it shows more of the urban area than the adjoining countryside.	It should be recognised that the new housing adjacent to the west of application site was countryside until it was developed for housing. Just because the application site has been in a countryside use before it was granted planning permission in principle for housing does not, in our view, mean that it should be developed at a lower density. That is not an approach taken by the Council elsewhere. Quite the contrary, it would make sense to develop the site at a similar density to the adjoining housing and make efficient use of the land.

<p>The LAR area density study fails to highlight that the part of the Easter Langside housing development which is most similar to the proposed development site has a density of only 7.7 units per acre. The shape and existing features of the site (natural and manmade) impacts on the layout options of the site and affects the number of units that can be accommodated.</p>	<p>The LAR area density study does show that one part of the Easter Langside development has a density of 7.7 units per acre. Other parts have much higher densities, as high as 17.3 units/hectare. This, in our view, has nothing to do with the similarity or otherwise between parts of the Easter Langside development and the application site. Rather, it simply reflects how the developer wanted to lay out the development.</p>
<p>The Site Layout Plan (8 November 2018) indicates a poor housing layout with almost all properties "outward-facing". There appears to have been no consideration given to creating a sense of community for future residents.</p>	<p>As we have explained, the layout being referred to is not that being proposed by LAR. The correct layout is a cohesive one that will engender a sense of community.</p>
<p><b>Impact on Environment/ Character of the Area</b></p>	
<p><i>Objection/Concern</i></p>	<p><i>Appellant's Response</i></p>
<p>The site contains an attractive, traditional stone-built farmhouse as well as other historic features. Far from being "derelict" the farmhouse is occupied and, we understand, operates as a thriving business. The proposed increase in</p>	<p>We disagree that the proposed layout will not be in keeping with the farmhouse. The proposed layout has been planned to respect the farmhouse and the wider steading site. The layout respects the fact that the circulation route around the perimeter of the site has been in place since prior to 1854 and the plan tries to retain this perimeter circulation. It also preserves and restores the existing stone wall facing the farmhouse, which is currently lost as part of a modern agricultural shed. This restored wall is used to provide a</p>

housing density, the proposed layout or the style of the proposed buildings would not be in keeping with the existing farmhouse and character or the area.	backdrop for the historic farm buildings, with new houses set back, and parking shielded from view by the restored stone wall. The removal of the modern wide-span agricultural buildings will enhance the character of the listed farmhouse and the site.
There would be material changes to the existing environment by removal of mature hedgerows and other vegetation which provide buffers as well as wildlife habitats. There are approximately 35-40 mature and mixed trees currently within the site.	<p>The site already has planning permission for housing. An extended phase 1 habitat survey was carried out in September 2016 in support of the original application for planning permission in principle. This confirmed that none of the habitats within the development area were notable for rarity, quality, or extent. Habitats and botanical species were not considered a constraint for development of the site.</p> <p>The mature hedgerow to the east of the site will be maintained, with additional planting if appropriate to protect and improve this as a habitat for wildlife. The majority of vegetation within the site is self-seeded and not of significant value, there are some larger trees which will be surveyed in due course. If these are in good health with a reasonable expected life span, they will be protected. If any changed are needed to the site plan to ensure this, these will be made.</p>
There is no doubt that the proposed over-development would be intrusive in the landscape, harmful to the landscape character and amenity of this semi-rural area. The proposed two storey buildings and the proposed layout would have an adverse effect on the residential amenity of neighbours including disturbance and loss of privacy with several properties directly overlooked.	The site already has planning permission for housing. For reasons we have explained in our Review Statement, we disagree that there will be an adverse impact on the character of the area or the amenity of neighbours. The proposed layout meets the Council's standards for privacy and distances between houses and windows.



Education	
<i>Objection/Concern</i>	<i>Appellant's Response</i>
<p>LAR Housing contend that they would be able to manage their letting policy to ensure that the number of primary aged children occupying the two-and three-bedroom properties would not exceed school capacity. We fail to see how this would work in practice and argue it could be subject to legal challenge. What if LAR changes its policy after the houses are built? Any couple would have to be told that while they live there they cant have children.</p>	<p>If it is necessary to ensure the demand for primary school places does not exceed the numbers already permitted by the existing planning permission in principle, LAR is keen to provide a proportion of much needed affordable accommodation for older people. This works in practice elsewhere. It is perfectly acceptable and legally correct for LAR to adopt such a policy.</p> <p>The council has been developing plans to address the shortage of primary school places since 2015 and once this additional school capacity is available any policy LAR has adopted could be altered.</p>
Transport	
<i>Objection/Concern</i>	<i>Appellant's Response</i>
<p>It has not been demonstrated that all parking spaces can be accessed in a safe manner. There are a number of changes in the horizontal alignment of the carriageway and areas where the carriageway width narrows. As such, there is insufficient space for cars to access and exist in a safe and efficient manner.</p>	<p>The proposed layout is indicative, as would be expected in relation to an application for Planning Permission in Principle. As explained in our Review Statement, the amended planning permission will continue to have conditions which require the submission of detailed plans which will require to demonstrate that sufficient car parking is achieved in a manner that meets standards and that car access is safe. The detailed design of the site will include areas of shared surface and will be designed to minimise traffic speed in line with the national Policy of Designing Streets.</p>
<p>There would be a significant and unacceptable increase of traffic flow onto the</p>	<p>We have explained in our Review Statement why this statement is incorrect. Leaving this aside, the concept of 'shared space' is that it is shared by road users.</p>

surfaces which are used by pedestrians, families with prams, joggers etc.	
The design of the site itself leads to questions of accessibility by larger vehicles including for emergency and refuse collection. It appears that roads within the development would not allow turning space and larger vehicles would have to reverse in or out of the development causing danger to pedestrians/road users.	The proposed layout is indicative, as would be expected in relation to an application for Planning Permission in Principle. As explained in our Review Statement, the amended planning permission will continue to have conditions which require the submission of detailed plans which will require to demonstrate that there is sufficient space for larger vehicles to manoeuvre safely. The correct proposed layout does not have any dead-ends and therefore does not require any turning or reversing for larger vehicles.
Safety of pedestrian and cycling activity in the local area was not considered in the Transport Assessment.	The detailed design will consider pedestrian and cycling routes in detail together with matters such as paving / contrast paving and kerb locations which feed into this matter. This is entirely normal and Designing Streets will be used with an emphasis on shared surfaces and reduced traffic speed.
The bus stops on Easter Langside Avenue are not served by any bus services. This statement within the transport statement is therefore incorrect.	The statement refers to bus stops and not services. It is reasonable to assume that greater population density will encourage service provision for the benefit of all. However, this comment provides the opportunity to note that the site is within walking distance of regular services on Dalkeith Heights and also Jean Armour Drive.
<b>Other</b>	
<i>Objection/Concern</i>	<i>Appellant's Response</i>
It is not for LAR to recommend planning conditions. The section 42 application was to increase the number of dwellings from 25 to 42.	As we explain in our Review Statement, a section 42 application, if granted, has the effect of establishing a new planning permission. The Council has the authority to add or amend any other conditions as it sees fit. LAR is entitled to recommend a new condition to the Local Review Body, and it is up to the Local Review Body to decide if it wishes to agree with that recommendation.
Attempt by the developer to maximise profit by trying to bump	LAR Housing Trust is a Charity registered with the Office of Scottish Charity Regulator (OSCR). LAR's activities are for

it up to make as much money as possible.	charitable purpose to provide public benefit to the local area.
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Yours sincerely,



Robin Holder

Director

HolderPlanning

## MIDLOTHIAN COUNCIL

### DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

**Planning Application Reference:** 18/00759/S42

**Site Address:** Land at Wester Cowden Farm, Wester Cowden, Dalkeith.

**Site Description:** The application site comprises a former farm complex in the countryside. There are a number of buildings within the site, including: a farmhouse and associated garden ground which is C listed; two traditional stone and slate barns; two large sheds/barns which are breezeblock, brick and timber with metal roofs; a garage; and two brick outbuildings. The site also includes an existing track which leads from north to south.

The land slopes down from east to west. To the west, south and north there is the existing residential development at Wester Cowden. These are a combination of single storey, single with accommodation in the roofspace and two-storey detached, semi-detached and terraced houses. There is an agricultural field to the east. There are some older cottages to the north and south which pre-date the recent housing developments. There is a footpath and an area of open space to the immediate west. There are three existing accesses to the site: one from Pheasant Grove to the south; one from Easter Langside Lane to the north; and one from the track running along the east of the site, close to Pheasant Grove.

**Proposed Development:** Section 42 application to amend condition 1 (i) of planning permission 16/00359/PPP (to allow more than 25 dwellinghouses on the site).

**Proposed Development Details:** It is proposed to amend condition 1 (i) of planning permission 16/00659/PPP which reads as follows:

The development shall adhere to the following constraints:

- i. No more than 25 residential units shall be erected on the site.

**Reason:** *To restrict the number of dwellings to that which the applicant has indicated will be erected on the site and which at this present time a developer contribution can be secured to increase the capacity within the local primary schools to accommodate the number of children likely to arise from that number of dwellings.*

The proposal is to increase the amount of houses. The application form does not state the proposed number, however the applicant initially stated this was for 49 units but has subsequently reduced this to 44 units. The proposed layout appears to show approximately 42 units. Some units are within converted buildings on site, with the majority being new builds. The applicant states that they need to investigate if



the conversions are viable. A number of site plans have been submitted, with the most recent showing a new road running through the site from north to south, with at least 62 parking spaces provided. The application will be assessed on the most recent site plan submitted, dated 17 December 2018, which the agent has confirmed is the preferred layout. This appears to show 42 units proposed, however the applicant's agent referred to 44 units at the site.

The applicant is a housing trust who state the following: *The proposal would result more affordable units than that previously approved. The number of children in the development can be controlled by the letting policy and therefore for exceed any educational constraint. The site is brownfield and the proposal could match the density of the nearby housing sites without harming the character of the area or neighbouring residents. Much of the walls, trees and hedges are to be retained. The development is to connect to the public drainage and public water supply. Permeable roadways and small scale surface water soakaways are proposed throughout the development, rather than in a dedicated SUDs area. Reduced garden grounds are proposed as their tenants do not want big gardens, plus there is proposed communal space.* They have also submitted a statement relating to transport at the proposal, addressing comments made by the Policy and Road Safety Manager. They consider that the traffic arising from the additional house numbers will not have a material impact compared to that already granted and is therefore acceptable

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

16/00359/PPP Planning permission in principle for residential development and formation of access road. Consent with conditions – limited to 25 houses; limited to two storeys; masterplan not approved; phasing; hard and soft landscaping; details of proposal and materials; per cent for art; road and access details; ground contamination; archaeology; community heating; ecological surveys; and broadband implementation. Also a legal agreement relating to developer contributions towards education, Borders Rail, Dalkeith town centre improvement, children's play and affordable housing.

There have been a number of permissions granted for the surrounding housing sites.

**Consultations:**

The **Dalkeith & District Community Council** objects on the following grounds:

- It is in contravention of the condition it seeks to amend;
- The almost doubling of houses on the site would be an unacceptable level of development in terms of scale and density for the size of the site which would materially change the character of the existing locality as well as put additional pressure on school capacity and services;
- The original application was for an inward facing courtyard type development with communal and landscaped areas which has changed significantly;

- The houses would be built up to the site boundary and include the removal of hedgerows and other vegetation to provide an extended access to properties;
- The loss of wildlife habitat and natural buffers between estates is not in keeping with planning standards;
- Lack of parking provision; and
- Overlooking to properties at Pheasant Grove and Hawk Crescent leading to loss of privacy and an adverse effect on residential amenity.

The Council's Policy and Road Safety Manager recommends refusal of the proposal, having considered all the information the applicant has submitted through the application process. Their initial comments consider the proposed increase in housing numbers would result in additional traffic flows on the roads leading to the site which would have an impact on the safety of pedestrian and cycling activity in the local area. This raised concern over the lack of required parking, the lack of land available to accommodate these additional parking spaces or to provide sufficient land for any SUDs features which may be required to deal with the surface water run-off from the site.

They subsequently considered two revised layouts, with the following concerns relating to the applicant's preferred layout:

- Lack of a formal vehicle turning area at the end of the road serving the 2 bed cottage flats;
- The introduction of a direct vehicle link between Hawk Crescent and Easter Langside Crescent;
- The lack of adequate visitor parking spaces within the layout; and
- The lack of information on the areas available within the site to accommodate the SUDs features.

The proposed numbers of units are well in excess of the 25 dwellings approved and would result in a substantial increase in the number of vehicle trips this development would generate. This increase in traffic movements would have an impact on the safety of pedestrian and cycling activity in the local area. I would not be supportive of an increase in the number of units allocated for this site and would note that the current layout does not meet the minimum transportation standards required for new developments. In regards the Transport Statement, they state that the proposal would still result in a substantial increase in the number of vehicle trips on these routes and as such they do not change their earlier view on the proposal.

The Council's Head of Education estimated that 44 dwellings would give rise to fourteen primary school pupils and eleven secondary school pupils. The Council's Head of Education has advised that the applicant will be required to make a developer contribution towards non-denominational primary school provision towards an extension to a school. A developer contribution will also be required towards secondary nondenominational provision and towards denominational secondary school capacity. At present the non-denominational primary school is at capacity and, although negotiations are taking place to acquire another primary school to serve the area, if this does not go ahead there is no support for any further developments in the area until a solution has been agreed.

**Scottish Water** has no objection in principle but does advise that they do not confirm that the proposed development can currently be serviced and would advise discussions about connections take place between themselves and the applicant.

**The Wildlife Information Centre (TWIC)**, the Council's ecology advisor, does not object to the application.

The following comments relate to the previous application, which was recently determined in February 2018:

**The Scottish Environment Protection Agency (SEPA)** informed that the development size falls below the threshold where they would provide bespoke advice. They therefore refer to SEPA standing advice for planning authorities and developers on development management consultations.

**The Council's Archaeology Advisor** informs that the Category C listed building on the site is of 19<sup>th</sup> Century date and may have earlier origins. Also, undated cropmark remains and 19<sup>th</sup> century industrial period features lie in the vicinity of the proposed development area. Accordingly, the steading buildings to be converted are regarded as having some local archaeological and historic significance and the proposed development area is regarded as being of potential archaeological significance. Therefore, she recommends that a programme of archaeological works comprising of a Historic Building Recording (appraisal) and a monitoring strip in accordance with a written scheme of investigation be secured by a condition imposed on a grant of planning permission in principle.

**The Council's Environmental Health Section** raise no objection to the application on the proviso that a condition be imposed on a grant of planning permission requiring a scheme to deal with decontamination of the site and/or previous mineral workings has been submitted to and approved by the Planning Authority.

**The Lothian Wildlife Information Centre** inform that 6 neighbouring buildings (occupied residential cottages) located nearby to the north of the application site could have bat roost potential. However, given that these buildings are located out with the application site there is no requirement for a further bat survey of these neighbouring buildings to be submitted with the application.

**Representations:** Thirty-one letters of representation have been received, all objecting on the following grounds:

- The proposal does not comply with the adopted Midlothian Local Development Plan or Designing Streets: A Policy Statement for Scotland;
- Some objectors had no objection to housing here provided it complements the environment and appropriate conditions attached to ensure there is sufficient infrastructure to accommodate the works;
- The scale of the approved permission was in keeping with the area, with a courtyard development, with landscape buffers around the site and a footpath link to the east of the site. This indicated a layout which complemented the

- area which would have encouraged a sense of community with residents which has been lost in the current proposal;
- The proposal seeks to almost double the approved plans and would no longer comply with the previous permission, be overbearing and out of scale and character with the surrounding area;
  - The proposal is contrary to the reasons in condition 1 of the planning permission in principle which sought to protect the area;
  - The proposal is unacceptably high density and is overdevelopment given the size and semi-rural location, which would be harmed as a result;
  - There will be a detrimental impact on existing residents in terms of disturbance, overlooking, loss of privacy and loss of light;
  - The loss of hedgerow means houses at Pheasant Grove and Hawk Crescent will be overlooked and the houses at Easter Langside Avenue may be overlooked;
  - The proposal has properties up to the site boundary;
  - Other new houses in the area were required to be different design and materials to blend with the nearby farm cottages, which has not been reflected in the current proposal;
  - The proposal will have a detrimental visual impact on the area;
  - The scale and density so close to C listed buildings would materially change the character of the locality;
  - The site at present is quiet but well used by walkers, joggers and dog walkers;
  - Could the site be open space rather than more housing;
  - Will the existing walls be retained and extended to include the houses and who will maintain this?;
  - Will the stone walls, trees and dense foliage be retained?;
  - Road safety concerns from traffic using Hawk Crescent, Pheasant Grove and Corbie Drive as these were designed as cul-de-sacs and not through routes;
  - Only one access is proposed, leading to road safety issues from construction traffic and future residents, causing disturbance and mess and may be blocked by construction traffic;
  - Inadequate parking is proposed which will exacerbate existing parking issues in the area;
  - The proposed parking is to the front curtilage. Recent other applications in Midlothian have welcomed within curtilage parking and in communal area which should be replicated here;
  - Would exacerbate traffic issues in the local and wider Dalkeith and surrounding areas;
  - There needs to be better access for emergency vehicles;
  - A number of objectors suggested the old A68 be re-opened for both construction works and for residents;
  - An alternative access could be from the former Thorny Crook-A68 road to link to the roundabout to the west, or from Salters Road;
  - Public transport in the area is poor;
  - The Council are unable to clear the existing road network in heavy snowfall and the current proposal will exacerbate this issue;
  - Will traffic calming measures be put in Easter Langside Avenue and Lane?;
  - Road safety concerns with agricultural traffic accessing the adjoining fields should permission be granted;



- Damage to properties from construction traffic, as well as mud/dust brought into/over existing properties;
- What will the construction route be?;
- No SUDs have been included in the site plan and the indicative site plan does not appear to accommodate these;
- Drainage concerns from the adjoining farm which already causes issues in the area. It should be ensured that overspill from the field is routed out of the new and existing estates, not through;
- Poor SUDs maintenance for existing equipment and concerns this will be the case in the current application;
- The loss of hedgerows would change the character of the area and remove wildlife corridors, and the loss of trees is a travesty;
- It is not clear who would maintain the trees shown on the site plan;
- Concern over access to the communally maintained land;
- The proposal would exacerbate capacity issues at local primary schools;
- Queries if the local amenities able to cope with the increase, including schools, doctors surgeries and local facilities;
- There are no playparks; post box or corner shops in the area, with no infrastructure for more housing;
- Affordable housing should be provided in mixed use schemes rather than large blocks;
- There is no concern for the health and safety of existing residents;
- The houses will led to an increase in crime and anti-social behaviour and the police service in the area is already overstretched and under-funded;
- The water pressure in the area is low and the internet connection poor which will be exacerbated by the proposal;
- The proposal will likely reduce the value of existing houses;
- There would be a loss of views form existing properties;
- Noise from construction;
- If approved, a review of Council tax rates will be required;
- Will existing damage caused by agricultural vehicles and HGVs be repaired after the farm closure?;
- What is a Gateway block?
- Why were all properties potentially affected by the proposal, within Corbie Drive, Hawk Crescent and Pheasant Grove not notified? Also complaints that some properties in the area were not notified of the current or previous applications;
- The application appears led by the applicant's desire to maximum housing at the site for profit;
- Is there provision to ring-fence the cost of maintaining the communal areas to ensure the factor does not increase upkeep costs to existing residents?;
- The current development in the area should be completed before new development is considered; and
- Neighbouring residents have lived in an area with building works for 10 years, how much longer do they need to endure the related disturbance?

**Relevant Planning Policies:** The development plan is comprised of the Edinburgh and South East Scotland Strategic Development Plan (June 2013) and the Midlothian Local Development Plan 2017 (MLDP). The following policies are relevant to the proposal:

## Edinburgh South East Scotland Strategic Development Plan 2013 (SESPlan)

**Policy 5 (HOUSING LAND)** requires Local Development Plans to allocate sufficient land for housing which is capable of becoming effective in delivering the scale of the housing requirements for each period.

**Policy 7 (MAINTAINING A FIVE YEAR HOUSING LAND SUPPLY)** states that sites for Greenfield housing development proposals either within or out with the identified Strategic Development Areas may be allocated in Local Development Plans or granted planning permission to maintain a five years' effective housing land supply, subject to satisfying each of the following criteria: (a) The development will be in keeping with the character of the settlement and local area; (b) The development will not undermine Green Belt objectives; and (c) Any additional infrastructure required as a result of the development is either committed or to be funded by the developer.

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

**DEV3 Affordable and Specialist Housing** provides the requirements for affordable housing provision within sites of 15 or more units of windfall sites. For sites between 15 and 49 units, there will be no provision sought for the first 14 units thereafter 25% of the remaining units will be for affordable housing. Allocated housing sites shall provide 25% of the total number of homes as affordable housing. For sites allocated in the Midlothian Local Plan (2003) that do not benefit from planning permission, the Council will require reasoned justification in relation to current housing needs as to why a 25% affordable housing requirement should not apply to the site;

**DEV5 Sustainability in New Development** sets out the requirements for development with regards to sustainability principles;

**DEV6 Layout and Design of New Development** states that good design and a high quality of architecture will be required in the overall layout of development proposals. This also provides guidance on design principles for development, materials, access, passive energy gain, positioning of buildings, open and private amenity space provision and parking;

**DEV7 Landscaping in New Development** states development proposals will be required to be accompanied by a comprehensive scheme of landscaping. This should: complement the existing landscape within and in the vicinity of the site; create landmarks in the development layout and use the landscape to emphasise these; provide shaded areas and shelter; make use of tree and shrub species that are of good appearance, hardy and low maintenance, with a preference for indigenous species; where a site abuts the countryside, incorporate tree belts to define the urban edge, allow for future growth of the trees and promote pedestrian access to the countryside beyond; ensure that where roads are to be lined with trees, these are given adequate room to grow and mature; make use of trees to define the edge of development areas; promote local biodiversity; and ensure that finishing materials, surface textures and street furniture, together with the design of walls and fencing, combine with the landscaping to create an attractive environment;

**DEV9 Open Space Standards** sets out the necessary open space for new developments. This policy requires that the Council assess applications for new development against the open space standards as set out in Appendix 4 of that Plan and seeks an appropriate solution where there is an identified deficiency in any of the listed categories (quality, quantity and accessibility). Supplementary Guidance on open space standards is to be brought forward during the lifetime of the plan;

**TRAN5 Electric Vehicle Charging** seeks to support and promote the development of a network of electric vehicle charging stations by requiring provision to be considered as an integral part of any new development or redevelopment proposals;

**IT1 Digital Infrastructure** supports the incorporation of high speed broadband connections and other digital technologies into new homes, business properties and redevelopment proposals;

**RD1 Development in the Countryside** states 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; it accords with other named policies; or it accords with the Council's Supplementary Guidance on Development in the Countryside and Green Belt. All such development will need to be: of a scale and character appropriate to the rural area and well integrated into the rural landscape; capable of being serviced with an adequate and appropriate access; capable of being provided with drainage and a public water supply at reasonable cost, or an acceptable private water supply, avoiding unacceptable discharge to watercourses; and accessible by public transport and services, within 1 mile of a bus route with a frequency of 1 bus per hour.

**ENV4 Prime Agricultural Land** does not permit development that would lead to the permanent loss of prime agricultural land unless there is appropriate justification to do so;

**ENV7 Landscape Character** states that development will not be permitted where it significantly and adversely affects local landscape character. Where development is acceptable, it should respect such character and be compatible in terms of scale, siting and design. New development will normally be required to incorporate proposals to maintain the diversity and distinctiveness of the local landscapes and to enhance landscape characteristics where they have been weakened;

**ENV9 Flooding** presumes against development which would be at unacceptable risk of flooding or would increase the risk of flooding elsewhere. It states that Flood Risk Assessments will be required for most forms of development in areas of medium to high risk, but may also be required at other locations depending on the circumstances of the proposed development. Furthermore it states that Sustainable urban drainage systems will be required for most forms of development, so that surface water run-off rates are not greater than in the site's pre-developed condition, and to avoid any deterioration of water quality;

**ENV10 Water Environment** requires that new development pass surface water through a sustainable urban drainage system (SUDS) to mitigate against local

flooding and to enhance biodiversity and the environmental. The formation of new culverts is not supported;

**ENV11 Woodland, Trees and Hedges** states that development will not be permitted where it could lead directly or indirectly to the loss of, or damage to, woodland, groups of trees and hedges (including trees covered by a Tree Preservation Order, areas defined as ancient or semi-natural woodland, veteran trees or areas forming part of any designated landscape) which have particular amenity, nature conservation, biodiversity, recreation, landscape, shelter or historical value or are of other importance;

**ENV15 Species and Habitat Protection and Enhancement** states that development that would affect a species protected by European or UK law will not be permitted unless: there is an overriding public need and there is no satisfactory alternative; a species protection plan has been submitted, which is based on survey results and includes details of the status of protected species on site and possible adverse impact of development; suitable mitigation is proposed and agreed; and the development is not detrimental to the maintenance of European protected species at a favourable conservation status;

**ENV22 Listed Buildings** states that development will not be permitted where it would adversely affect the character or appearance of a Listed Building; its setting; or any feature of special, architectural or historic interest;

**ENV25 Site Assessment, Evaluation and Recording** requires that where development could affect an identified site of archaeological importance, the applicant will be required to provide an assessment of the archaeological value of the site and of the likely impact of the proposal on the archaeological resource;

**NRG6 Community Heating** requires that, wherever reasonable, community heating should be supported in connection with buildings and operations requiring heat;

**IMP1 New Development** seeks to ensure that appropriate provision is made for a need which arises from new development. Of relevance in this case are education provision, transport infrastructure; contributions towards making good facility deficiencies; affordable housing; landscaping; public transport connections, including bus stops and shelters; parking in accordance with approved standards; cycling access and facilities; pedestrian access; acceptable alternative access routes, access for people with mobility issues; traffic and environmental management issues; protection/management/compensation for natural and conservation interests affected; archaeological provision and 'percent for art' provision;

**IMP2 Essential Infrastructure Required to Enable New Development to Take Place** states that new development will not take place until provision has been made for essential infrastructure and environmental and community facility related to the scale and impact of the proposal. Planning conditions will be applied and; where appropriate, developer contributions and other legal agreements will be used to secure the appropriate developer funding and ensure the proper phasing of development; and

**IMP3 Water and Drainage** require sustainable urban drainage systems (SUDS) to be incorporated into new development.



**Supplementary Guidance for Housing Development in the Countryside and Green Belt** has been prepared to expand this policy and the criteria to be met in such proposals. This provides some support for the conversion and/or redevelopment of redundant farm buildings or other non-residential buildings to houses. However it must be justified and demonstrated that these buildings are fully redundant and these will not be supported where these are still in use or where their loss may result in the requirement for a replacement building elsewhere. Buildings for conversion must be capable of being renovated and converted without substantial alteration or extension to the original fabric. Also, the building represents an example of traditional, architectural or historic interest, or the building makes a significant positive contribution to the character and appearance of the landscape. In the case of redevelopments, this may be supported where the building does not represent an example of traditional, architectural or historic interest, or make a significant positive contribution to the character and appearance of the landscape;

The **SPP (Scottish Planning Policy)** sets out Government guidance for housing. All proposals should respect the scale, form and density of their surroundings and enhance the character and amenity of the locality. The individual and cumulative effects of infill must be sustainable in relation to the social and economic infrastructure of a place, and must not lead to over-development.

The SPP encourages a design-led approach in order to create high quality places. It states that a development should demonstrate six qualities to be considered high quality, as such a development should be; distinctive; safe and pleasant; welcoming; adaptable; resource efficient; and, easy to move around and beyond. The aims of the SPP are developed within the local plan and local development plan policies.

The SPP states that *design is a material consideration in determining planning applications* and that *planning permission may be refused and the refusal defended at appeal or local review solely on design grounds*.

The SPP supports the Scottish Government's aspiration to create a low carbon economy by increasing the supply of energy and heat from renewable technologies and to reduce emissions and energy use. Part of this includes a requirement to guide development to appropriate locations.

The SPP notes that "high quality electronic communications infrastructure is an essential component of economic growth across Scotland". It goes on to state that:

*"Planning Authorities should support the expansion of the electronic communications network, including telecommunications, broadband and digital infrastructure, through the development plan and development management decisions, taking into account the economic and social implications of not having full coverage or capacity in an area"*.

The Scottish Government policy statement, *Creating Places*, emphasises the importance of quality design in delivering good places.

Designing Places, A Policy Statement for Scotland sets out the six key qualities which are at the heart of good design namely identity, safe and pleasant environment, ease of movement, a sense of welcome, adaptability and good use of resources.

The Scottish Government's Policy on Architecture for Scotland sets out a commitment to raising the quality of architecture and design.

**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. The representations and consultation responses received are material considerations.

### The Principle of Development

The demolition of existing buildings, redevelopment for housing and conversion of existing buildings on this site has been established through the grant of the previous Planning Permission in Principle (PPP). This complied with the related countryside policy. Permission was granted for no more than 25 units on site. It was considered that the site could accommodate up to 25 separate dwellings, along with the required road infrastructure, sustainable urban drainage (SUDS), open spaces and landscaping. This was also restricted in order to ensure that the necessary education provision could be provided. The new houses could be erected in a manner that would be of a scale and character appropriate to their immediate surroundings and that would make a significant and positive contribution to the landscape. Buildings no more than two-stories in height could be accommodated on the site. The PPP restricted this as the maximum height. The masterplan submitted with the PPP was an indicative plan only and illustrated a general layout and was not approved.

The current application purely seeks to increase the number of units at the site. The remainder of the conditions on the PPP will still apply. The application form does not specify the number of units proposed, however the initial site plan submitted showed 49 units. A further site plan, the applicant's preferred option which is to be assessed in this application, shows approximately 42 units, however the applicant has stated 44 are proposed.

### Scale of Development

The site lies within the countryside. There is only support for housing here on the basis of the redevelopment and conversion of redundant buildings. Any development needs to respect this rural location and be of a scale appropriate to this. It is acknowledged that there are recent housing developments to the north, west and south of the site, however these are within the built up area and were allocated housing sites. There is, therefore, a significant distinction between the application site and the surrounding area, and what is appropriate elsewhere may not be appropriate at the application site.

The proposed density of the site is more akin to a built up area than the countryside. The PPP allowed for 25 units as it was considered that this number of units could be accommodated alongside the necessary amenities and infrastructure whilst respecting the rural location. The significant increase in housing numbers, beyond that previously approved, would not respect the character of the surrounding area, creating a very dense development in an edge-of-settlement countryside location. Even if the application site were not in the designated countryside the number of units proposed in this application would be high for the size of site, as detailed below.

### Layout

The proposed layout, although submitted for illustrative purposes, is unimaginative, with two lines of semi-detached houses facing off across a straight road running centrally through the site. There is no sense of character created, with the layout purely appearing to maximise development on site in isolation to the surroundings. There is an opportunity to create a sense of place in the areas around the converted farm buildings and the listed farmhouse. A development could be formed around these buildings to make a more attractive layout and give character to the area. However, the proposed houses back onto these areas with no relationship between the two. The proposed cottage flats to the north do face a converted building, but this is divided by large parking areas and road, rather than creating a design solution which creates a successful place.

The layout is dominated by parking, with two parking spaces to the front of each of the semi-detached houses. This is the central route through the site and the current layout makes for an unimaginative and unattractive development which is contrary to Council and national policy. The design of a layout should create a sense of place and character, rather than be dictated by fulfilling the parking requirements. This should be an integral part of a considered design.

Only six of the proposed houses meet the required private garden ground provision. Whilst the Planning Authority can accept a reduction in the levels of gardens where it has been justified, such as in the creation of a high quality layout and the provision of other amenities within the site, for example as open space, play areas and access to such areas, this is not the case in the current layout. The lack of garden provision further indicates an overdevelopment of the site.

The application site includes a narrow area of land to the east, across an existing track, which forms the edge of the adjacent field. The plan states that the existing hedge is to be retained. No landscaping is proposed to the rear of the houses at the east, meaning the gardens would be hard up to the boundary with only the field landscaping as screening for the development. Effective screening is for developments is required and this is especially important where the site is within the countryside, where an effective tree belt is required. There is no room within the site to accommodate such landscaping amount the proposed houses and the strip of land at the edge of field appears too narrow to accommodate the buffer and allow this to become established. The lack of effective screening would be to the detriment of the character and appearance of the application site and surrounding countryside.

The proposal would result in the loss of all trees within the site, which contribute to the rural character of the area. The loss of these without adequate room for replacement planting would be to the detriment of the character and appearance of the application site and surrounding countryside.

The applicant has stated the increase in houses at the site would result in more affordable units than the previously approved scheme. Developments should be appropriate for sites regardless of the proposed occupants. It is not the case that the Planning Authority will accept a lower level of amenity if the units are for affordable or social housing. All occupants should be offered a standard and acceptable level of amenity. Whilst additional affordable units would be welcomed, this would not be at the expense of the amenity of future occupants or inappropriate developments.

Any impact on existing houses, in regards overlooking, loss of privacy and loss of light, would be those to the south. There could potentially be overlooking if there are to be any windows on the gable elevations of the proposed houses to the houses on Hawk Crescent and Pheasant Grove. There is to be 13 metres between the house at 1 Pheasant Grove and the closest proposed house. This is closer than the required standards and may have some potential for the loss of light to the existing house. However the extent of the impact on the existing properties is difficult to assess in the absence of proposed elevations. The loss of any hedgerow would require to be replaced by either new landscaping or appropriate boundary treatments to ensure there is not loss of amenity to existing residents or a detrimental impact on the surrounding area.

The Scottish Government clearly state that there should be a design-led approach to Development. Notwithstanding the overdevelopment of the site, it is clear that this approach has not been adopted in the proposal. Albeit being for illustrative purposes the indicative site plan only serves to illustrate that an unattractive, characterless, parking dominated overdevelopment can be achieved through the proposed unit numbers being accommodated on the application site.

#### Access and Transportation Issues

The principle of a development served by two access points, as currently proposed, was accepted in the PPP permission. The Policy and Road Safety Manager considered that the local road network, including the residential roads within the Wester Cowden development, was capable of accommodating the volume of traffic generated by the previous approval for 25 units. In addition the local road network and the proposed accesses are of an adequate standard of accommodating construction vehicles and service vehicles associated with the proposed development.

However the current proposal seeks to almost double the amount of units at the site. The Policy and Road Safety Manager raised concerns over this at an early stage, stating the proposed increase in housing numbers would result in additional traffic flows on the roads leading to the site which would have an impact on the safety of pedestrian and cycling activity in the local area. The applicant submitted a number



of different revisions of plans and a transport statement in an attempt to address these concerns, which the Policy and Road Safety Manager has considered.

The proposed significant increase in the numbers of units from that approved would result in a substantial increase in the number of vehicle trips this development would generate. This increase in traffic movements would have an impact on the safety of pedestrian and cycling activity in the local area. It is no longer the case that the local road network and accesses are of a standard to accommodate the proposed level of housing.

The proposed layout introduces a direct vehicle link between Hawk Crescent to the south and Easter Langside Crescent to the north. Whilst the principle of two access points at the site has been established, a direct connection between the housing developments to the north and south of the site was not approved. The introduction of a such a link raises road safety concerns.

There is a lack of a formal vehicle turning area at the end of the road serving the 2 bed cottage flats towards to the north of the site. There is also a lack of adequate visitor parking spaces within the layout.

The indicative layout does not demonstrate that the proposed increase in units can achieve an adequate level of open space.

Overall, the current layout does not meet the minimum transportation standards required for new developments and would have a detrimental impact on the local road network and accesses. Accessing the site from alternative local routes do not form part of the proposal and so have not been assessed. No road safety concerns have been raised about agricultural traffic accessing the adjoining fields.

#### Other material planning considerations

There are issues with Education provision as the non-denominational primary school in the surrounding area is at capacity. Part of the reason for restricting the number of houses at the site related to the number of children that could be accommodated within the local primary schools. Since the PPP was granted, the situation has developed to an extent that while the Council is working towards acquiring a site to accommodate a new school, there is at present no non-denominational primary capacity to accommodate the development. Without an education strategy in place an application for an increase in unit numbers at this site cannot be supported. Although the applicant's agent has stated the number of children who can be accommodated in the site can be controlled to an acceptable level through their letting process, this would be outwith the control of the planning permission as it would not be reasonable to attach such a restriction.

The applicant has stated that permeable roadways and small scale surface water soakaways are proposed throughout the development, rather than in a dedicated SUDs area. As detailed above, the site layout is constrained and unable to accommodate the required amenities for occupants. The Planning Authority is concerned that there will be insufficient land for any SUDs features which may be

required to deal with the surface water run-off from the site. There is also a requirement to ensure that any proposed drainage at the site can deal with any water run-off from the adjacent field.

#### Developer Contributions

The PPP permission secured contributions for off-site children's play and open space, Borders rail and Dalkeith Town Centre regeneration. Should any increase in the unit numbers be approved, a revised legal agreement will be required to increase the amounts secured.

#### Matters raised by Objectors not addressed above

A number of comments relating to the proposed layout refer to site plans which have since been revised, rather than the site plan dated 17 December which is that being assessed.

The situation regarding the provision and maintenance of soft and hard landscaping, including walls, are required by a condition on the PPP and is not considered in this application. The same is true for details of the construction traffic route and the provision of high speed fibre broadband.

As there is no support for the proposed increase in units at this site, there is no requirement for traffic calming measures at Easter Langside Avenue and Lane. There is no requirement for these as part of the approved PPP for 25 units.

Neighbour notification for this application was carried out as per the Council's notification procedures and the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013. All those neighbours within 20 metres of the application site boundary were notified. In addition, the application was advertised in the local press. The Council has therefore fulfilled its notification obligations.

The proposal is to increase the number of units from the 25 units previously approved. It has not been demonstrated that such an increase is acceptable in regards the proposed amenities offered to future and existing occupants, or in regards the infrastructure in the area.

Scottish Water has not raised any objection to the proposal in regards water pressure or provision.

There is reference to a gateway block which appears to relate to the PPP as this is not shown on any of the plans for the current application.

The loss of views from properties is not a material planning consideration, nor is the potential loss of value of existing properties.

The scale and nature of the proposed development is unlikely to result in extraordinary noise and disturbance during periods of construction. If noise nuisance were to arise it could be controlled through Environmental Health

legislation. Therefore there is no requirement for the Planning Authority to impose conditions on a grant of planning permission restricting the hours of construction or deliveries of materials and plant.

The scale of the development is unlikely to generate significant problems with mud being deposited on neighbouring public roads. Construction vehicles depositing mud onto public roads is a police matter and not a material consideration in the determination of this planning application.

Any provision to ring-fence the cost of maintaining the communal areas to ensure the factor does not increase upkeep costs to existing residents would not be a material planning consideration.

Any changes to Council tax rates would be outwith the control of the Planning Authority and application remit.

It is not clear how the proposal would lead to an increase in crime and anti-social behaviour. In any case, this is not a material planning consideration but a police matter.

The Planning Authority can only assess the proposal as submitted and cannot consider if this should be used for other uses, such as open space.

Any existing damage caused by agricultural vehicles or HGVs would be a private matter between the relevant parties and is not a material planning consideration.

It is appreciated that residents in the area have been surrounded by housing developments for a number of years. However with the exception of the existing site, other sites in the area were allocated housing sites where development has been directed. There is no requirement for other development to be complete before new development can begin.

Road safety concerns have been addressed above. Should planning permission be granted, any other health and safety issues should be directed to the appropriate bodies, such as the Council's Building Standards Team or the Health and Safety Executive.

**Recommendation:** Refuse planning permission.



## Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

**Reg. No. 18/00759/S42**

Holder Planning  
5 South Charlotte Street  
Edinburgh  
EH2 4AN

Midlothian Council, as Planning Authority, having considered the application by LAR Housing Trust, Buchan House, Enterprise Way, Dunfermline, KY11 8PL, which was registered on 5 October 2018 in pursuance of their powers under the above Acts, hereby refuse permission to carry out the following proposed development:

**Section 42 application to amend condition 1 (i) of planning permission 16/00359/PPP (to allow more than 25 dwellinghouses on the site) at Land at Wester Cowden Farm, Wester Cowden, Dalkeith**

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

<u>Document/Drawing.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	(LOC)001 A 1:1000	18.10.2018
Site Plan	S42(PL)002 1:1000	17.12.2018

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

1. *There is not an education solution to accommodate the school children that would arise from the proposed increase in residential unit numbers at the site, in particular non-denominational primary school capacity, and as such the proposed development does not accord with policies IMP1 and IMP2 of the Midlothian Local Development Plan 2017.*
2. *The size of the site does not provide adequate space for such an increase in the number of residential units proposed. It has not been demonstrated that adequate levels of private outdoor space, sufficient parking provision, capacity for a surface water drainage solution and adequate landscaping can be achieved at the application site based on the proposed residential unit numbers. Therefore the proposal represents an overdevelopment of this site.*
3. *It has not adequately demonstrated that the proposed increase in residential unit numbers can be accommodated within the application site without having a detrimental impact on the privacy of neighbouring properties.*
4. *It has not adequately demonstrated that the proposed increase in residential unit numbers can be accommodated within the application site, which is located within the countryside, without having a detrimental impact on the landscape character of*



*the area, due to the loss of landscaping and the lack of space to accommodate required landscaping.*

5. *For the above reasons the proposal represents a significant overdevelopment of the site and does not comply with policies RD1, DEV6, DEV7, ENV7 and ENV10 of the adopted Midlothian Local Development Plan 2017.*
6. *The proposed increase in residential units would result in a layout that does not meet the minimum transportation standards for new developments. The increase in unit numbers would result in a substantial increase in the number of vehicle trips at the site would have a significant detrimental impact on the safety of pedestrian and cycling activity in the local area.*

Dated 16 / 4 / 2019



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



## **Notice of Review: Land at 1A Kirkhill Terrace, Gorebridge Determination Report**

Report by Dr Mary Smith Director of Education, Communities and Economy

### **1 Purpose of Report**

- 1.1 The purpose of this report is to provide a framework for the Local Review Body (LRB) to consider a 'Notice of Review' for the erection of an industrial building at land at 1A Kirkhill Terrace, Gorebridge.

### **2 Background**

- 2.1 Planning application 19/00336/DPP for the erection of an industrial building at land at 1A Kirkhill Terrace, Gorebridge was refused planning permission on 27 May 2019; a copy of the decision is attached to this report.
- 2.2 The review has progressed through the following stages:
- 1 Submission of Notice of Review by the applicant.
  - 2 The Registration and Acknowledgement of the Notice of Review.
  - 3 Carrying out Notification and Consultation.

### **3 Supporting Documents**

- 3.1 Attached to this report are the following documents:
- A site location plan (Appendix A);
  - A copy of the notice of review form and supporting statement (Appendix B). Any duplication of information is not attached;
  - A copy of the case officer's report (Appendix C);
  - A copy of the decision notice, excluding the standard advisor notes, issued on 27 May 2019 (Appendix D); and
  - A copy of the relevant 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 a site visit for Tuesday 10 September 2019; and
  - Have determined to progress the review by way of written submissions.
- 4.2 The case officer's report identified that one consultation response was received. There were no representations received. As part of the review process the interested party was notified of the review. No additional comments have been received. All the comments can be viewed online on the electronic planning application/review 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 condition has been prepared for the consideration of the LRB if it is minded to uphold the review and grant planning permission.

1. Prior to the commencement of development, the following details shall be submitted to and approved in writing by the Planning Authority:
  - a) Details of the colour of the walls of the building;
  - b) Details of the design, materials, dimensions, finish and position of all walls, fences, gates or other means of enclosure;

**Reason:** *These details were not submitted as part of the application: to ensure the building is finished in high quality materials; to protect the visual amenity of the surrounding area and*



*adjacent conservation area, designed landscape and special landscape area to help integrate the proposal into the surrounding area.*

2. The use hereby permitted shall not open to the public outwith the following hours:

Mondays to Fridays: 8am to 6pm  
Saturdays: 8am to 1pm

***Reason:*** *To protect the character and amenity of the surrounding area and the occupants of nearby residential properties.*

3. The building hereby permitted shall be used for the purposes within Classes 4 (business) or 5 (general industrial) of the Schedule to the Town and Country Planning (Use Classes) (Scotland) Order 1997 (or any Order revoking and re-enacting that Order).

***Reason:*** *In the interests of clarity; to confirm the approved uses of the building.*

## **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 September 2019

**Report Contact:** Joyce Learmonth, Lead Officer Major Developments and Enforcement  
joyce.learmonth@midlothian.gov.uk

**Tel No:** 0131 271 3311

**Background Papers:** Planning application 19/00336/DPP available for inspection online.



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

Erection of industrial building at Land At 1A Kirkhill  
Terrace, Gorebridge

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File Nos. 19/00336/DPP

Scale: 1:1,250  
Page 104 of 210



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 100161234-003

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

## Applicant or Agent Details

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

☐ Applicant ☒ Agent

## Agent Details

Please enter Agent details

Company/Organisation:	<input type="text" value="Liston Architects"/>		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	<input type="text" value="David"/>	Building Name:	<input type="text" value="3F2"/>
Last Name: *	<input type="text" value="Liston"/>	Building Number:	<input type="text" value="33"/>
Telephone Number: *	<input type="text" value="0131 556 5757"/>	Address 1 (Street): *	<input type="text" value="London Street"/>
Extension Number:	<input type="text"/>	Address 2:	<input type="text"/>
Mobile Number:	<input type="text"/>	Town/City: *	<input type="text" value="Edinburgh"/>
Fax Number:	<input type="text"/>	Country: *	<input type="text" value="UK"/>
		Postcode: *	<input type="text" value="EH3 6LY"/>
Email Address: *	<input type="text" value="david@listonarchitects.co.uk"/>		

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

☒ Individual ☐ Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	Mr	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	
First Name: *	Eddie	Building Number:	1A
Last Name: *	Conroy	Address 1 (Street): *	Kirkhill Terrace
Company/Organisation		Address 2:	
Telephone Number: *		Town/City: *	Edinburgh
Extension Number:		Country: *	UK
Mobile Number:		Postcode: *	EH23 4LL
Fax Number:			
Email Address: *			

## Site Address Details

Planning Authority:	Midlothian Council
Full postal address of the site (including postcode where available):	
Address 1:	1A KIRKHILL TERRACE
Address 2:	
Address 3:	
Address 4:	
Address 5:	
Town/City/Settlement:	GOREBRIDGE
Post Code:	EH23 4LL

Please identify/describe the location of the site or sites

--	--

Northings	662106	Easting	333507
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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)

Construct industrial unit annex to existing house

## Type of Application

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

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

What does your review relate to? \*

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

## Statement of reasons for seeking review

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

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

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

The proposed industrial unit is for storage only, including a motorhome 8m long 3m high. The unit is an annex to the applicant's house. The council advised the side road (Engine Road) is to be blocked off ca. 60 metres from the A7 junction, beyond the proposed storage unit site. The site is set well back from the main road and hidden between the applicant's house and a steep, wooded bank. It sits well below the level of the closest house. Pedestrian traffic down Engine Road is very rare.

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)

1908\_C\_001\_Location Plan 1908\_C\_002\_Site Plan 1908\_C\_100\_Proposed Plan and Elevations View from A7 looking up Engine Road which is to be blocked

## Application Details

Please provide details of the application and decision.

What is the application reference number? \*

19/00336/DPP

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

19/04/2019

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

27/05/2019

## Review Procedure

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

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

☒ Yes ☐ No

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

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

☒ Yes ☐ No

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

☒ Yes ☐ No

## Checklist – Application for Notice of Review

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

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

☒ Yes ☐ No

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

☒ Yes ☐ No

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

☒ Yes ☐ No ☐ N/A

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

☒ Yes ☐ No

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

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

☒ Yes ☐ No

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

Page 108 of 210

## **Declare – Notice of Review**

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

Declaration Name: Mr David Liston

Declaration Date: 05/06/2019

## MIDLOTHIAN COUNCIL

### DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

**Planning Application Reference:** 19/00336/DPP

**Site Address:** Land at 1A Kirkhill Terrace, Gorebridge.

**Site Description:** The application site comprises a large detached dwellinghouse, garage, associated garden ground and part of an existing track outwith the curtilage of the house plot. There are houses to the north, recently erected houses to the north east with the track to the east, woodland to the south and countryside and a C listed lodge house to the west. The area to the west has been allocated as housing land. The track can accommodate service vehicles but appears to be used by pedestrians to an area of open space to the east. The track slopes down slightly from east to west. The site is adjacent to the Temple and Arniston Conservation Area, the Arniston Designed Landscape and a special landscape area.

**Proposed Development:** Erection of industrial building.

**Proposed Development Details:** The industrial building is to be sited on the track to the south of the house. The building is proposed to measure 11 metres long by 4.2 metres wide with a pitched roof, a maximum of 4.4 metres high, built onto the existing garden boundary wall. The walls and roof are to be green painted profile metal cladding, with four rooflights, and the building is to be sited on a concrete plinth, which is 1.5 metres from the site boundary. The application form states that the industrial building is an annexe to the existing house.

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

Application site

10/00261/DPP Extension to dwellinghouse and formation of ridged roof over existing flat roofed garage. Consent with conditions.

Land to east and north east

12/00272/DPP Erection of 8 dwellinghouses (amendment to the scheme of development approved in terms of Planning Permission 11/00679/DPP). Consent with conditions.

11/00679/DPP Erection of 28 dwellinghouses and associated work on part of Site S (amendment to the scheme of development the subject of planning application 07/00352/FUL). Consent with conditions.

07/00352/FUL Erection of 351 dwellinghouses and 192 Flats, roundabout access from A7 and Greenhall Road, open space, SUDS ponds and a site for a primary school. Consent with conditions.

04/00318/OUT Residential development with educational facilities, play and sports facilities, landscaping, internal roads, car parking and accesses. Withdrawn.

Land to west



14/00210/PAC Mixed use development including: erection of approximately 700 dwellinghouses; erection of primary school; formation of access roads; redevelopment of farm steading to include farm shop, business units and cafe; and provision of community services. Permitted.

15/00045/PPP Application for planning permission in principle for residential development; community facilities; primary school; playing field; office units (Class 4); farm shop (Class 1); cafe (Class 3) and rail halt with associated car parking; public open space; roads and drainage infrastructure. Consent with conditions.

### **Consultations:**

The **Policy and Road Safety Manager (PRSM)** has road safety concerns. They state that proposed industrial unit has no staff or customer parking identified to serve it and no HGV turning areas to accommodate any deliveries which may be required. As part of the nearby residential development this section of track is to be converted from a public road to a cycleway/footpath which will increase the number of cyclists and pedestrians using it. The PRSM states that this does not appear to be a good location for an industrial development.

**Representations:** No representations were received.

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

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

**ECON4 Economic Development Outwith Established Business and Industrial Sites** states that business and industrial proposals (class 4 and 5) within the defined urban area but outwith existing or allocated business and industrial sites will be supported if: it is demonstrated that there is no suitable alternative site available within established economic sites; the site is not identified for alternative use; the proposed development would be compatible with surrounding uses and there would be no adverse impact on local and, in particular, residential amenity as a result of development; the layout and design of buildings would be appropriate to the character of the site and surrounding area; and the transport impact of the proposal would be acceptable. The Council will give support to proposals that reuse brownfield or vacant of derelict land as opposed to greenfield locations;

**ECON6 Working from Home/Micro Businesses** states that home-based business operations will be supported where they accord with all relevant policies and proposals and the following criteria are met: the business can be conducted without detriment to local residents with regard to noise, disturbance, traffic movement, visual intrusion and other forms of pollution; suitable access, parking and services are available; and 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;

**ENV7 Landscape Character** states that development will not be permitted where it significantly and adversely affects local landscape character. Where development is acceptable, it should respect such character and be compatible in terms of scale, siting and design. New development will normally be required to incorporate proposals to maintain the diversity and distinctiveness of the local landscapes and to enhance landscape characteristics where they have been weakened; and

**ENV18 Noise** states that the Council will seek to prevent noisy developments from damaging residential amenity or disturbing noise sensitive uses. Where new developments with the potential to create significant noise are proposed, these may be refused or required to be modified so that no unacceptable impact at sensitive receptors is generated. Applicants may be required to carry out a noise impact assessment either as part of an Environmental Impact Assessment or separately. Where new noise sensitive uses are proposed in the locality of existing noisy uses, the Council will seek to ensure that the function of the established operation is not adversely affected.

The application site is adjacent to areas covered by the following policies:

**ENV6 Special Landscape Areas** states development proposals in such areas will only be permitted where they incorporate high standards of siting and design and where they will not have a significant adverse effect on the special landscape qualities of the area;

**ENV19 Conservation Areas** states within or adjacent to conservation areas, development will not be permitted which would have any adverse effect on its character and appearance. In the selection of site, scale, choice of materials and details of design, it will be ensured that new buildings preserve or enhance the character and appearance of the conservation area. Traditional natural materials appropriate to the locality or building affected will be used in new buildings; and

**ENV20 Nationally Important Gardens and Designed Landscapes** states development should protect, and where appropriate enhance, gardens and designed landscapes. Development will not be permitted which would harm the character, appearance and/or setting of a garden or designed landscape.

**Planning Issues:** The main planning issue to be considered is whether or not the proposal complies with the development plan policies and, if not, whether there are any material planning considerations which would otherwise justify approval.

The proposal is for the erection of an industrial unit. No supporting information was submitted with the proposal, such as employment numbers, hours of operation, or the type of use the unit would be used for.

There is housing to the north and northeast. The erection of an industrial unit in such close proximity to this is likely to have a detrimental impact on the amenity of

these residents, though noise, disturbance and traffic. The area is generally residential in nature with a character commensurate with a transition area between the built up town and a rural area. The erection of an industrial unit would be at odds with the current character of the area.

It would be more appropriate to site an industrial building within one of the many areas zoned for such a use within Midlothian. It has not been demonstrated that there are no suitable alternative sites available within established economic sites to accommodate this use.

The building is large and would visually dominate the character of this part of the track to the east. The design and materials give the proposed building a very industrial appearance which is significantly at odds with the character of the surrounding area. The building is outwith the curtilage of the associated house and sited on the existing track, albeit on land under the ownership of the applicant. The combination of the design and position of the building is such that it is not appropriate to the character of the site and surrounding area, including the special landscape area and conservation area to the west.

There is no parking associated with the building, nor is there any turning areas proposed. The building does not appear to be adequately served in regards access.

The track to the south of the site is to be converted to a cycleway and footpath which will increase the number of cyclists and pedestrians using it. The provision of an industrial unit here would create further road safety issues with vehicles accessing the unit coming into conflict with the users of the track.

**Recommendation:** Refuse planning permission.



## Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

**Reg. No. 19/00336/DPP**

Liston Architects  
3F2  
33 London Street  
Edinburgh  
EH3 6LY

Midlothian Council, as Planning Authority, having considered the application by Mr Edward Conroy, 1A Kirkhill Terrace, Gorebridge, EH23 4LL, which was registered on 19 April 2019 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

### **Erection of industrial building at Land At 1A, Kirkhill Terrace, Gorebridge**

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

<u>Document/Drawing.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	1908_D_001 1:1000	16.04.2019
Site Plan	1908_C_002 1:100	16.04.2019
Elevations, Floor Plan And Cross Section	1908_C_100 1:50	16.04.2019

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

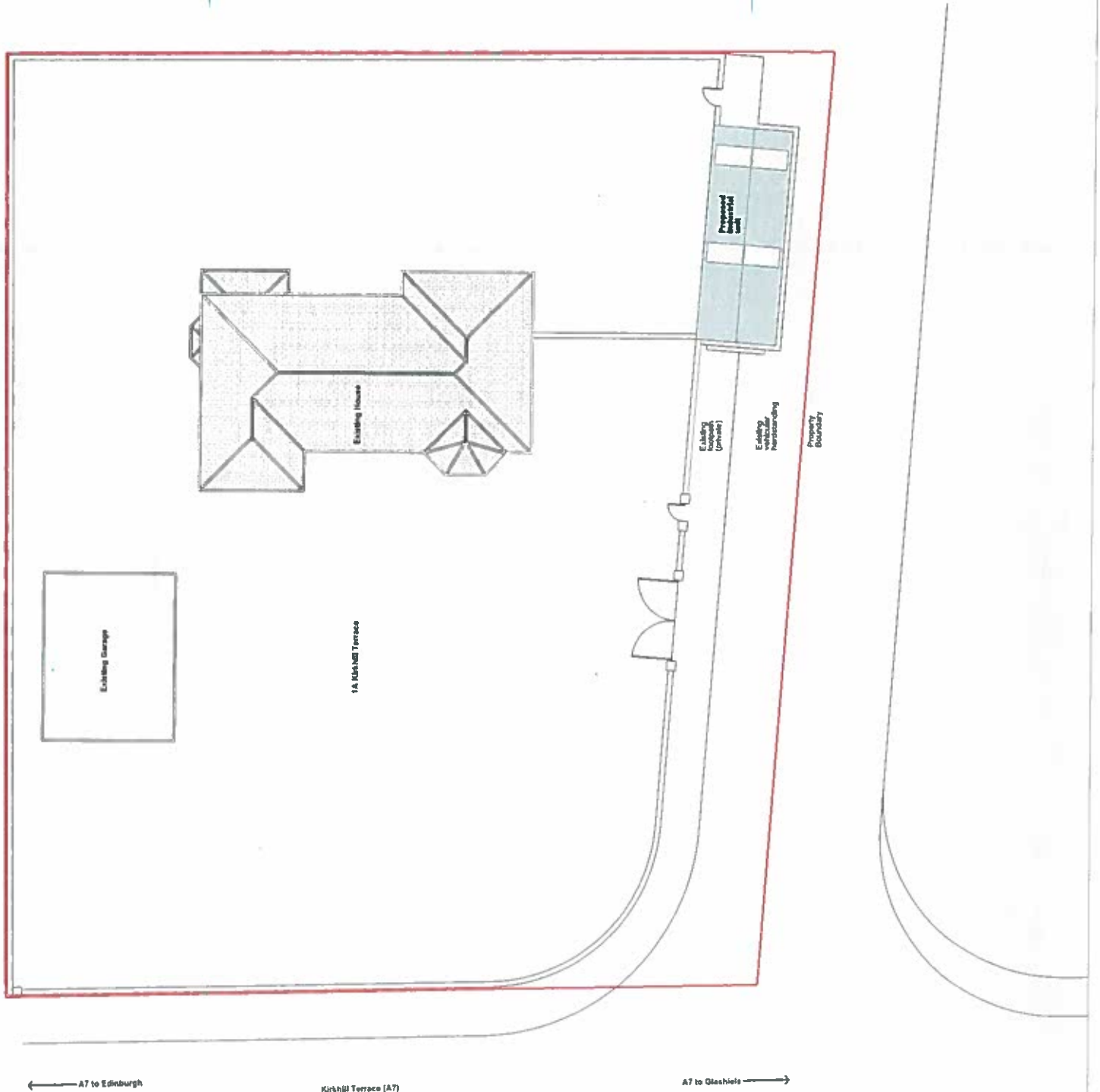
1. *The proposed industrial building would have a significant detrimental impact on the amenity of the occupants of the nearby residential units.*
2. *The proposed industrial building is outwith an established business or industrial estate and it has not been demonstrated that there are no suitable alternative sites available within established economic sites or that the proposed development would be compatible with surrounding uses.*
3. *The layout and design of building would be out of character with and significantly detract from this transition area between the built up area and countryside.*
4. *Inadequate parking and turning areas have been proposed to serve the industrial building and, therefore, there would be an adverse impact on highway and pedestrian safety.*
5. *For the above reasons, the proposal is contrary to policies DEV2, ECON4, ECON6 and ENV7 of the adopted Midlothian Local Development Plan 2017.*
6. *The proposed industrial building would have a detrimental impact on the setting of the adjacent conservation area and special landscape area, contrary to policies ENV6 and ENV19 of the adopted Midlothian Local Development Plan 2017.*

Dated 27 / 5 / 2019





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



1908 C\_002

Site Plan

1A Kirkhill Terrace

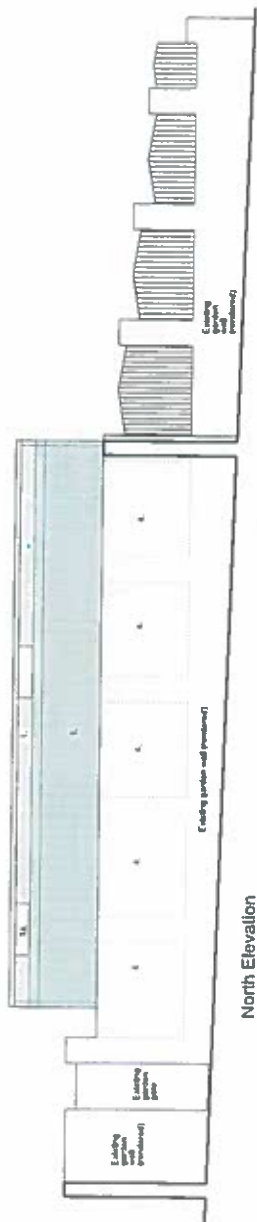
Scale 1:100 @ A1

Liston Architects

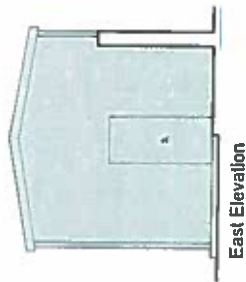
12.04.19

For all other drawings, dimensions not provided. All dimensions to be checked on site prior to building work. Drawings to be used in conjunction with structural engineer's calculations. No liability is accepted for any errors or omissions. Use of materials is subject to availability and price fluctuations. All materials to be specified in writing.

**PLANNING**



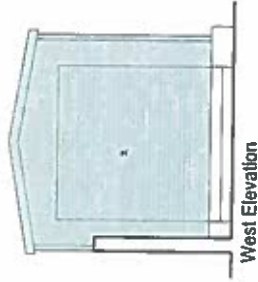
North Elevation



East Elevation

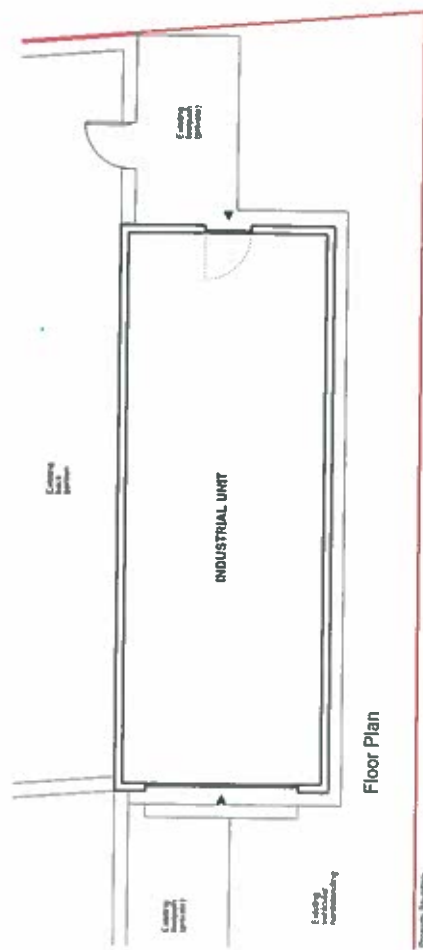


South Elevation



West Elevation

- Key:
- 1. Green painted parallel wood cladding
  - 2. Existing concrete path
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Floor Plan



# PLANNING

1908, C. 100  
Floor Plan and Elevation  
1/A Kirkhill Terrace  
Scale 1:50 @ A1  
Liston Architects  
20.04.19

This is a preliminary drawing. It is not to be used for construction or other purposes without the written consent of the architect. All dimensions are to the center of the wall unless otherwise stated. The client is responsible for obtaining all necessary permissions and consents. The architect is not responsible for any errors or omissions in this drawing. The client is responsible for obtaining all necessary permissions and consents. The architect is not responsible for any errors or omissions in this drawing.





## **Notice of Review: Middleton Limeworks, Gorebridge**

### **Determination Report**

Report by Dr Mary Smith Director of Education, Communities and Economy

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

- 1.1 The purpose of this report is to provide a framework for the Local Review Body (LRB) to consider a 'Notice of Review' for the change of use of former limeworks/temporary HGV depot to HGV depot and road surfacing and transport contractors depot at Middleton Limeworks, Gorebridge.

#### **2 Background**

- 2.1 Planning application 18/00756/DPP for the change of use of former limeworks/temporary HGV depot to HGV depot and road surfacing and transport contractors depot at Middleton Limeworks, Gorebridge was refused planning permission on 28 May 2019; 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 (incorporated into the applicant's supporting statement);
  - A copy of the decision notice, excluding the standard advisor notes, issued on 28 May 2019 (Appendix c); and
  - A copy of the relevant plans (Appendix D).
- 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 a site visit for Tuesday 10 September 2019; and
  - Have determined to progress the review by way of written submissions.
- 4.2 The case officer's report identified that four consultation responses and one representation were received. As part of the review process the interested parties were notified of the review. The representor reaffirmed their objection to the application. All the comments can be viewed online on the electronic planning application/review 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 condition has 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 details of a scheme of hard and soft landscaping have been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
    - i existing and finished ground levels and floor levels for all buildings, open space and roads in relation to a fixed datum;
    - ii existing trees, landscaping features and vegetation to be retained; removed, protected during development and in the case of damage, restored;

- iii proposed new planting, including trees, shrubs, hedging, wildflowers and grassed areas;
- iv location and design of any proposed walls, fences and gates, including those surrounding bin stores or any other ancillary structures;
- v schedule of plants to comprise species, plant sizes and proposed numbers/density;
- vi programme for completion and subsequent maintenance of all soft and hard landscaping;
- vii drainage details, watercourse diversions, flood prevention measures and sustainable urban drainage systems to manage water runoff; and
- viii proposed car park configuration and surfacing.

All hard and soft landscaping shall be carried out in accordance with the scheme approved in writing by the planning authority as the programme for completion and subsequent maintenance (vi). Thereafter any trees or shrubs removed, dying, becoming seriously diseased or damaged within five years of planting shall be replaced in the following planting season by trees/shrubs of a similar species to those originally required. Any tree felling or vegetation removal proposed as part of the landscaping scheme shall take place out with the bird nesting season (March-August) and bat roosting period (April – September).

**Reason:** *To ensure the quality of the development is enhanced by landscaping to reflect its setting in accordance with policies DEV2, DEV6 and DEV7 of the Midlothian Local Development Plan 2017 and national planning guidance and advice.*

2. There shall be no external storage of goods, materials, waste or other items on the site, unless details of containment and screening have been submitted to and approved in writing by the planning authority under condition 1.

**Reason:** *In the interests of visual amenity.*

## 6 Recommendations

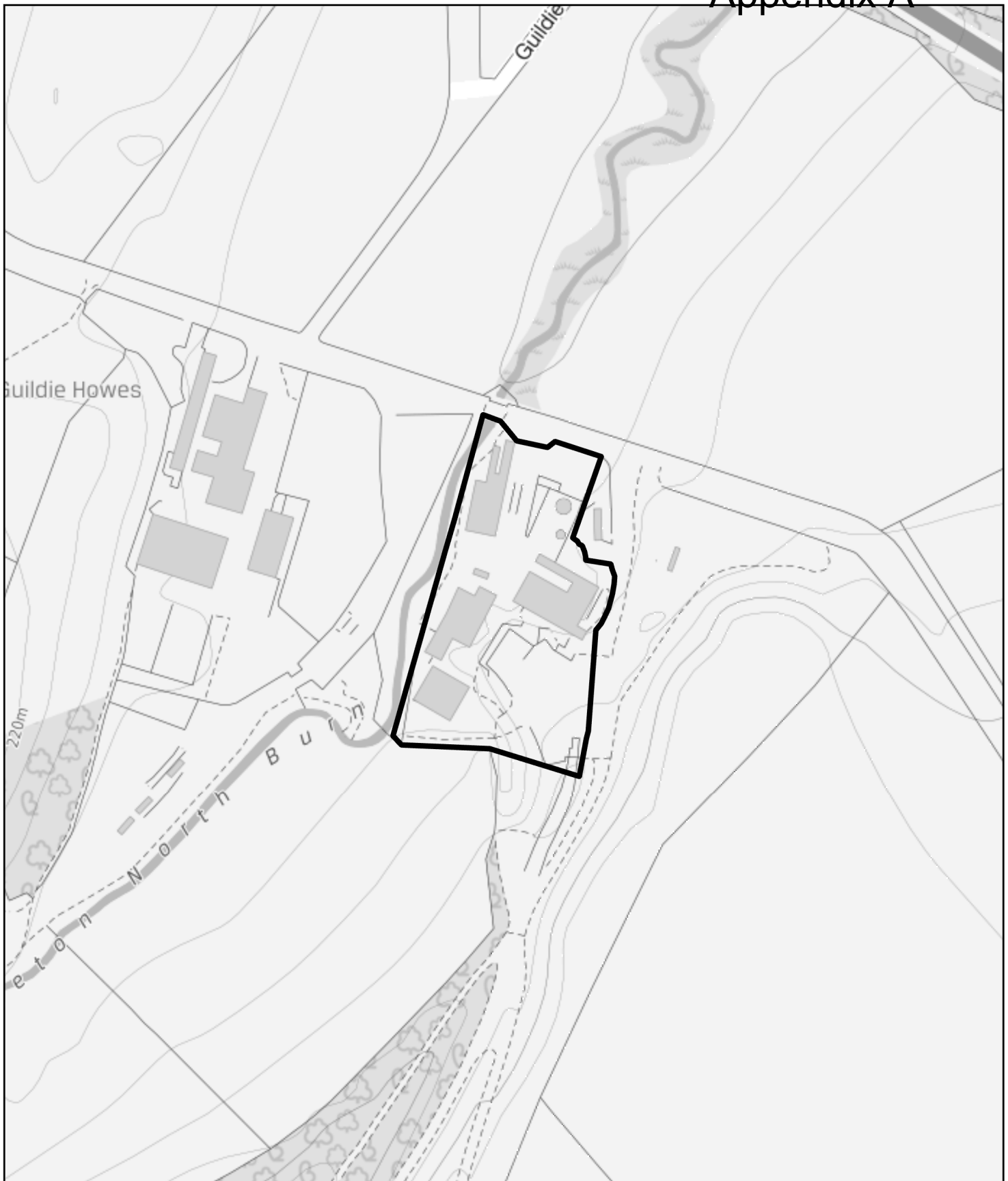
- 6.1 It is recommended that the LRB:
  - a) determine the review; and
  - b) the planning advisor draft and issue the decision of the LRB through the Chair

**Date:** 3 September 2019

**Report Contact:** Duncan Robertson, Lead Officer Local Developments  
duncan.robertson@midlothian.gov.uk

**Tel No:** 0131 271 3317

**Background Papers:** Planning application 18/00756/DPP available for inspection online.



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

Change of use from former limeworks/temporary HGV depot to a mixed use including HGV depot and road surfacing and transport engineering contractors yard with the retention of existing shed as mechanic/plant repair shop and storage at Middleton Limeworks, Gorebridge

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Midlothian Council Licence No. 100023416 (2019)

File No: 18/00756/DPP

Scale: 1:2,500  
Page 122 of 210



Midlothian



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

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

Thank you for completing this application form:

ONLINE REFERENCE 100169488-001

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:	Leiths (Scotland) Limited		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Colin	Building Name:	Rigifa
Last Name: *	Ortlepp	Building Number:	
Telephone Number: *	01224 293217	Address 1 (Street): *	Cove
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Aberdeen
Fax Number:		Country: *	UK
		Postcode: *	AB12 3LR
Email Address: *	cortlepp@leiths-group.co.uk		

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

☐ Individual ☒ Organisation/Corporate entity



## Applicant Details

Please enter Applicant details

Title:	Other	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	Rigifa
First Name: *		Building Number:	
Last Name: *		Address 1 (Street): *	Cove
Company/Organisation	Leiths (Scotland) Limited	Address 2:	
Telephone Number: *	01224 293217	Town/City: *	Aberdeen
Extension Number:		Country: *	UK
Mobile Number:		Postcode: *	AB12 3LR
Fax Number:			
Email Address: *	corlepp@leiths-group.co.uk		

## Site Address Details

Planning Authority:	Midlothian Council
Full postal address of the site (including postcode where available):	
Address 1:	MIDDLETON LIMEWORKS
Address 2:	NORTH MIDDLETON
Address 3:	
Address 4:	
Address 5:	
Town/City/Settlement:	GOREBRIDGE
Post Code:	EH23 4QP

Please identify/describe the location of the site or sites

--

Northing	658458	Easting	335651
----------	--------	---------	--------

## Description of Proposal

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

Change of use from former limeworks/temporary HGV depot to a mixed use including HGV depot and road surfacing and transport engineering contractors yard with the retention of existing shed as mechanic/plant repair shop and storage.

## 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.

See separate Supporting Document entitled 'Middleton Limeworks Local Review Body Appeal Statement July 2019 Final'

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)

Middleton Limeworks Local Review Body Appeal Statement July 2019 Final which includes Annexes

## Application Details

Please provide details of the application and decision.

What is the application reference number? \*

18/00756/DPP

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

03/10/2018

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

28/05/2019

## Review Procedure

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

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

☒ Yes ☐ No

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

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

☐ Yes ☒ No

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

☐ Yes ☒ No

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

1. Because of the nature of the ground conditions and the health and safety regime which operates within the site visitors will require to be accompanied. 2. A number of the site boundaries are not clearly defined relative to neighbouring land so would require to be identified to the Local Review Body.

## Checklist – Application for Notice of Review

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

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

☒ Yes ☐ No

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

☒ Yes ☐ No

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

☐ Yes ☐ No ☒ N/A

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

☒ Yes ☐ No

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

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

☒ Yes ☐ No

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

## Declare – Notice of Review

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

Declaration Name: Mr Colin Ortlepp

Declaration Date: 25/07/2019



Town and Country Planning (Scotland) Act 2007  
Section 43A(8) – Local Review

Request for a Review of the Refusal of Planning Application  
18/00756/DPP

Change of Use from former limeworks/temporary HGV depot to a  
mixed use including HGV depot and road surfacing and transport  
engineering contractors yard with retention of existing shed as  
mechanic/ plant repair shop and storage

at

Middleton Limeworks, Middleton, Midlothian

July 2019

Leiths (Scotland) Limited  
Rigifa  
Cove  
Aberdeen  
AB12 3LR



## Contents

1.	Introduction .....	2
2.	Background .....	2
3.	Review Site History .....	2
4	Planning History .....	6
5	Reasons for Refusal .....	7
6	Summary & Conclusion.....	12
Annex 1 Alternative Site Search.....		14
Annex 2 Delegated Report of Handling.....		15
Annex 3 Planning Permission 14/00868/DPP.....		16
Annex 4 Planning Permission 16/00796/S42.....		17

## **1. Introduction**

- 1.1 This statement is submitted in support of a request by Leiths (Scotland) Limited ('Leiths') to Midlothian Council's Local Review Body for a review of the decision to refuse planning application 18/00756/DPP. The planning application was submitted in October 2018 and sought permission for:

'Change of use from former limeworks/temporary HGV depot to a mixed use including HGV depot and road surfacing and transport engineering contractors yard with retention of existing shed as mechanic/ plant repair shop and storage at Middleton Limeworks, Middleton'.

- 1.2 The statement sets out various matters which are material to the consideration of the review and the 3 reasons for refusal given in the decision notice.

## **2. Background**

- 2.1 The Review Site is a former limeworks associated with the former Middleton limestone quarries situated south of Gorebridge and approximately 300m south of the village of North Middleton, close to the A7. For over 5 years the former limeworks has been used by Leiths, on a temporary basis, as an HGV depot for lime distribution lorries, road surfacing vehicles and the storage of plant and materials.
- 2.2 Leiths' long established road construction & surfacing business was based within commercial premises at Sighthill in Edinburgh. With the lease of those premises coming to an end there has been a need for the business to find alternative premises in a location which would enable it to continue to serve its established customer base in Edinburgh and Lothians, including Midlothian and Edinburgh City Councils for whom a significant amount of road works are undertaken.
- 2.3 A search for alternative premises was undertaken which considered of a range of opportunities. Annex 1 provides details of some of the locations considered, the general criteria being a site with a suitably sized workshop building, ancillary welfare accommodation and a yard for the open storage of HGVs, plant and equipment. For various reasons including site characteristics; availability date; site size and rental costs none of the premises examined proved suitable. This then led to the consideration of the premises at Middleton. Given the Review Site's location relative to the A7; the historical use of the site and its ownership/availability (it is owned by Leiths), the Review Site met the criteria for the company's needs.

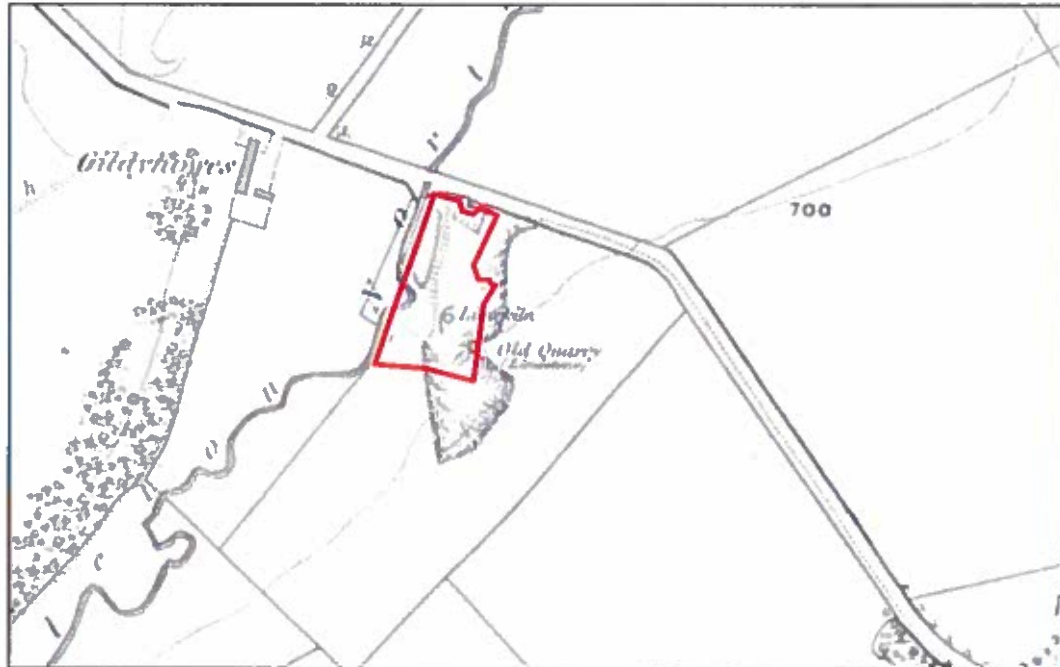
## **3. Review Site History**

- 3.1 Middleton Limeworks, of which the Review Site forms the greater part, has a lengthy history of mineral-related industrial use. A review of historical maps and records shows there to have been a limeworks on this site since at least the late 19<sup>th</sup> century. The

following figures are extracts from historical maps which evidence that longstanding use (the Review Site boundary is shown, approximately, edged red on those maps).

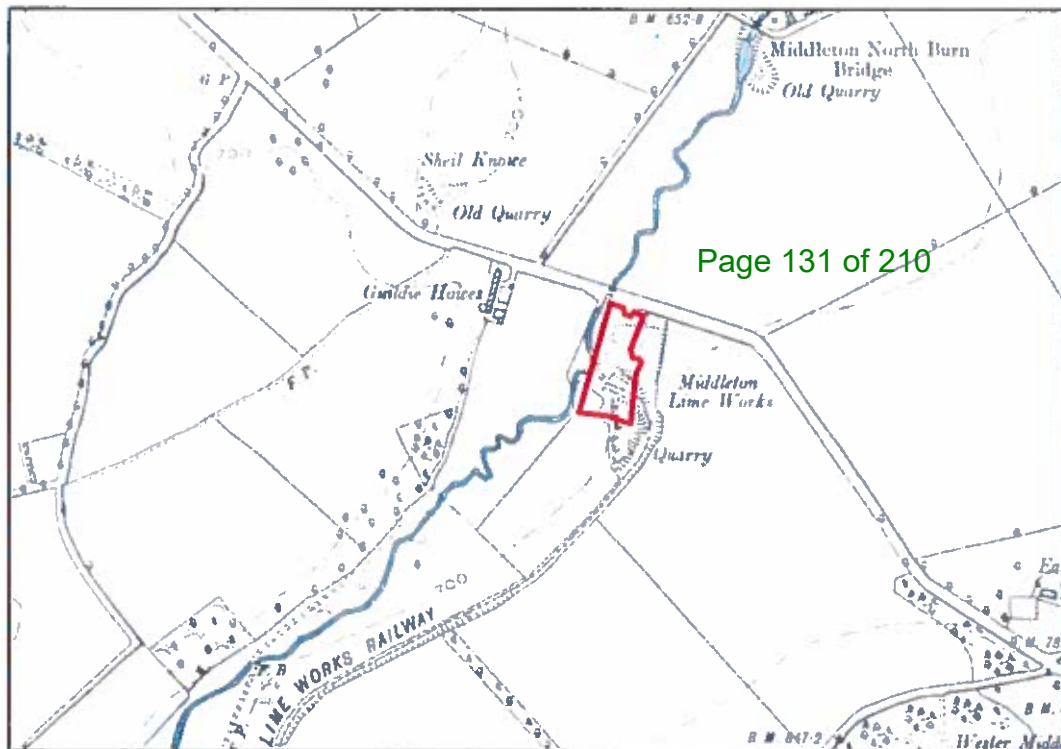
**Figure 1 - Ordnance Survey Six Inch 1843 – 1882**

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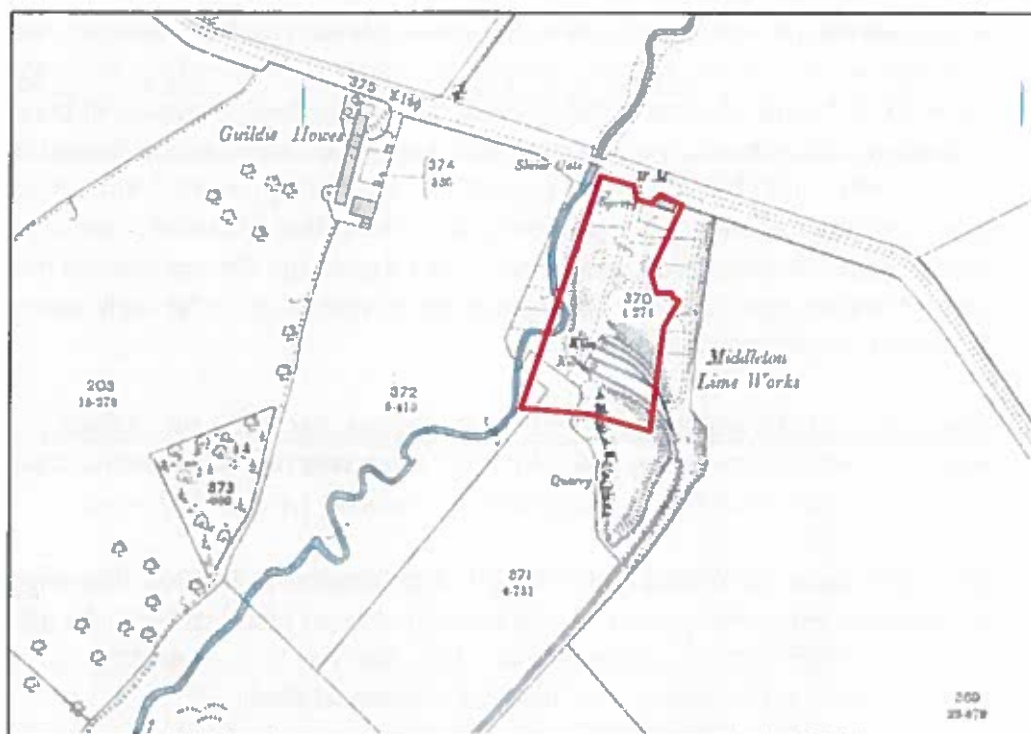
**Figure 2 - Ordnance Survey Six Inch 1888 – 1913** Surveyed 1892 Published 1895

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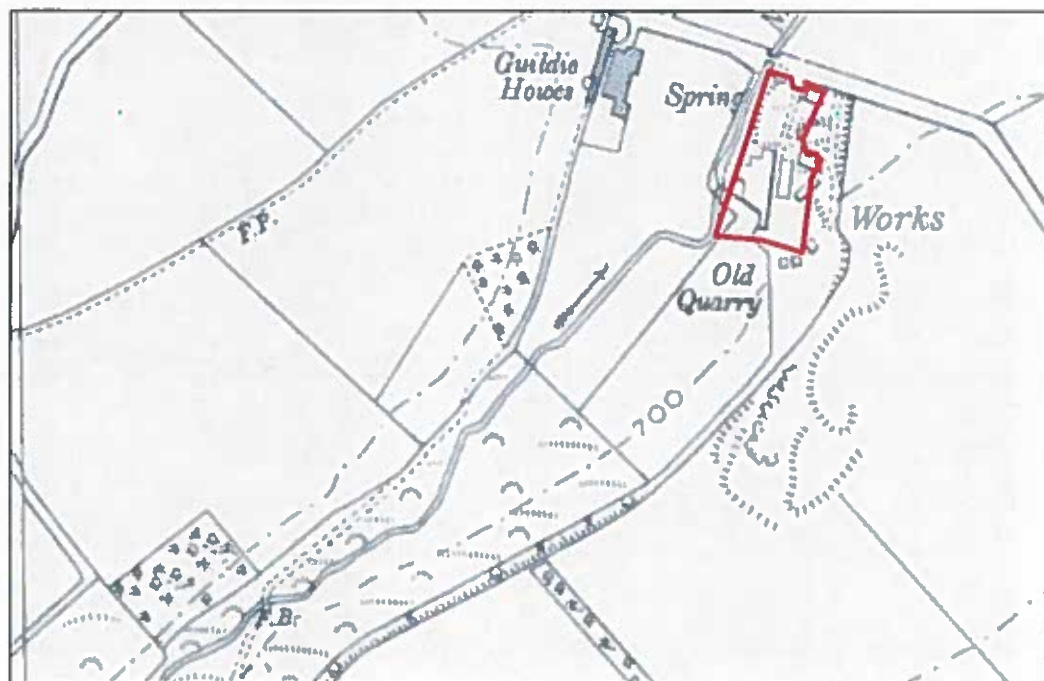


Page 131 of 210

**Figure 3** - OS 25 Inch 1892 - 1905 Surveyed 1892 Published 1893  
Reproduced with the permission of the National Library of Scotland



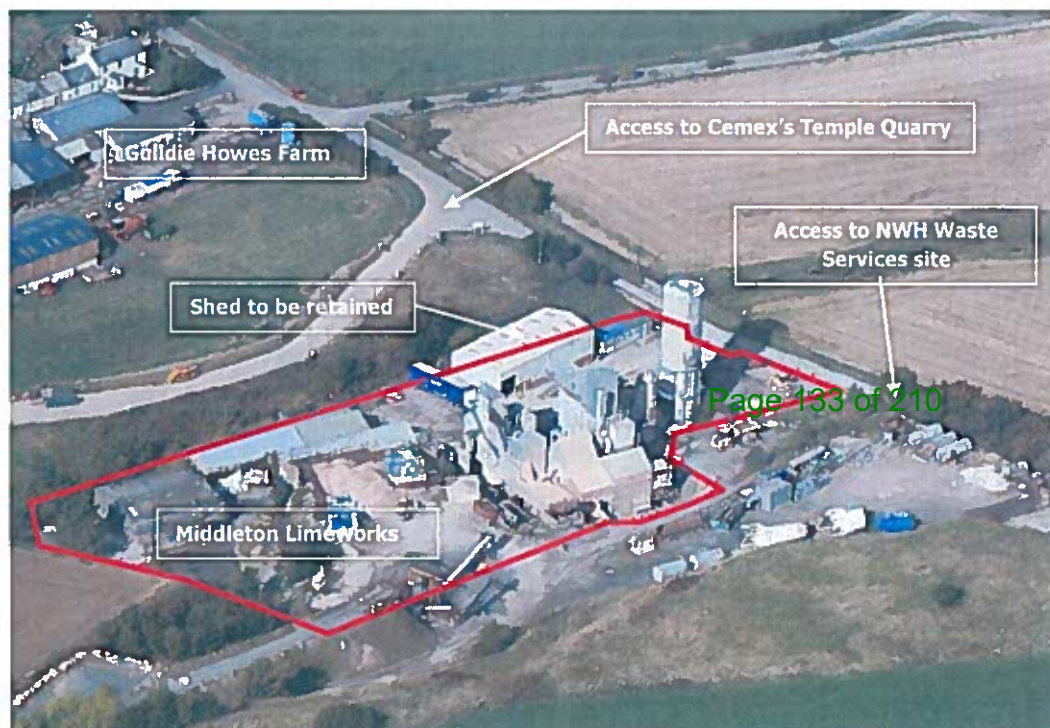
**Figure 4** - OS 10,560 1949-1968 Surveyed pre-1930-1957 Published 1957  
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- 3.2 It is acknowledged that the limeworks is located here simply because it was associated with the adjoining and nearby limestone quarries which supplied the raw material. Those quarries are now exhausted so the primary reason for the limeworks has gone. It is also acknowledged that as demand increased and technology developed the limeworks infrastructure increased in scale over those years. However, in the context of these historical maps, it is important and material to note that the Review Site has never been a 'greenfield site' or in agricultural use in living memory; it has functioned as an industrial activity alongside nearby quarries within the wider rural landscape. Importantly, the soils which would have once covered the Review Site are no longer present having most probably been lost or taken elsewhere in the early years of the limeworks development.
- 3.3 Whilst in Local Development Plan terms the Review Site has been defined as falling within a rural area covered by Policy RD1, the limeworks has, in increasing scale, been a developed feature of the local area and its character for over 120 years.
- 3.4 The figure below comprises a photograph of the limeworks in 2009. The majority of the buildings and infrastructure shown have since been removed by Leiths and some land reprofiling works implemented. The Review Site boundary is shown, approximately, in red. Other local features are also labelled.

**Figure 5 – Middleton Limeworks 2009**





## 4 Planning History

- 4.1 The planning history of the Review Site is material to the consideration of the review.

### Planning Permissions – Middleton Quarries

- 4.2 As noted in the officer's Delegated Report of Handling (**Annex 2**), planning permission was granted in 1982 (ref. 198/81) to a predecessor company for an extension to Middleton lime quarry. That permission included various restoration obligations which appear to have covered the limeworks area. The permission required limestone extraction to cease by 2002 and the quarries to be restored by 2006.
- 4.3 Leiths acquired the Middleton quarries and limeworks in 2008 by way of the purchase of the then operating company, Howie Minerals. Subsequently, in 2013, Leiths sold the Middleton quarries to NWH Waste Services who then secured planning permission (ref. 15/00503/DPP) to infill the lower quarry with inert materials. Leiths retained the limeworks area.

### Change of Use of Limeworks to HGV Depot etc

- 4.4 Planning permission was granted in 2015 to Leiths (ref. 14/00868/DPP – see Annex 3) for a temporary change of use of the former limeworks buildings to an HGV depot including the storage and supply of materials from the site, as noted in the planning application form. This temporary consent was renewed in 2018 (ref. 16/00796/S42 – see Annex 4) which allowed continuation of the use until 31 December 2018. A condition of that consent required the whole site to be permanently restored to agriculture and/or forestry by 31 August 2024. As noted earlier, the limeworks site has not been in agricultural use or in a non-industrial condition for over 120 years and any soils which may have been present on the land have long since gone.
- 4.5 The following commentary is noted in the decision notices referenced above:
- (i) That the use is operating without significant harm to the amenity of the area including neighbouring properties and the road infrastructure is of a standard capable of coping with the scale of development; and
  - (ii) That whilst the temporary use is contrary to Policy RP1 it would not conflict with the strategic aims and objectives of the Local Development Plan.

### Permanent Change of Use of Limeworks

- 4.6 The planning application which is subject of this review was submitted on 3 October 2018. As noted earlier, it sought permission for a permanent change of use for the former limeworks/HGV depot to a mixed-use including HGV depot and road surfacing contractors yard with the retention of the existing workshop, in essence the

continuation of the majority of uses already on site. The reasons for refusal of this application are addressed in Section 5 of this statement.

- 4.7 This planning application followed submission of an earlier application for a similar permanent use (ref. 18/00407/DPP). That application was withdrawn following discussion with the then case officer on the use class for which that first permanent permission had been sought. Helpfully, the case officer visited Leiths former Sighthill premises and took time to understand what was being sought. We appreciate that officer advice does not prevent the Council corporately from taking a different position on a development proposal but we understand there was no intimation at the time that a re-submission of the application for a permanent use would, in principle, be unacceptable and thus should be dissuaded.
- 4.8 It should be noted that the application was refused some 7 months after its submission. During this time no communication was received from the determining case officer on the matters which the refusal notice suggests are deficient e.g. employment information.

## 5 Reasons for Refusal

- 5.1 This section addresses the specific reasons for refusal noted in bold below taking into account the material considerations identified earlier.

### Reason for Refusal 1

**The application site is part of a wider area of development. The site has been the subject of mineral extraction and conditions require the restoration of the site and adjacent extraction areas. Granting planning permission for development would result in the site remaining un-restored and becoming visually incongruous within the rural landscape.**

- 5.2 The Review Site has functioned primarily as the mineral processing area for limestone quarrying which has taken place in the locality and not as a quarry in its own right. In landownership & planning terms the former adjoining Middleton limestone quarries are now operating under the separate planning permission for infilling using inert materials granted to NWH Waste Services. The 1982 minerals permission no longer has applicability to the Review Site given that more than 10 years have elapsed since the reinstatement end date of 31 December 2006.
- 5.3 As part of the development for which planning permission is being sought Leiths were not intending to leave the Review Site in its current condition. Whilst this may not have been fully expressed in the planning application documents, had planning permission been granted a programme of works would have taken place to complete the earlier removal of the remaining limeworks infrastructure and reinstate the southern half of the site not required for the permanent development.

- 5.4 The programme of works would have included the following:
- Removal of the two storage silos and associated infrastructure.
  - Removal of the remaining steelwork on the higher part of the site.
  - Reprofiting of the graded boundary areas on the south and east side of the Review Site
  - Removal of hardstanding areas
  - Removal of residual infrastructure and debris.
  - Road frontage landscaping
- 5.5 Were the Local Review Body minded to allow the Review and grant planning permission for the permanent change of use Leiths are happy to accept a planning condition requiring the submission of a reinstatement and landscaping scheme for the Review Site which includes the bullet point items listed above. Noting the absence of soil or soil making material within the Review Site that condition would need to permit the importation of such material.
- 5.6 In terms of the Review proposal being visually incongruous within the rural landscape, the proposal is exceptionally modest in scale in comparison to the limeworks infrastructure which used to exist within the Review Site – see Figure 5 earlier in this statement. Moreover, it is not dissimilar in scale and characteristics to some of the agricultural buildings and infrastructure which are located at Guildie Howes Farm nearby, parts of which can be seen in Figure 5. While it is fully acknowledged that the Guildie Howes farm buildings are associated with an active farm and thus benefit from permitted development/prior notification rights, the retention of the existing workshop building (shed) and use of open ground within the Review Site in the context of the nearby farm buildings and the reinstatement and landscaping scheme noted above would not lead to something which is alien or incongruous in the local landscape.
- 5.7 We note that a little further north on the A7 the Council's Fushiebridge roads depot falls within the rural area covered by Policy RD1, but from appearance this is not a visually incongruous feature within the rural landscape.

### **Reason for Refusal 2**

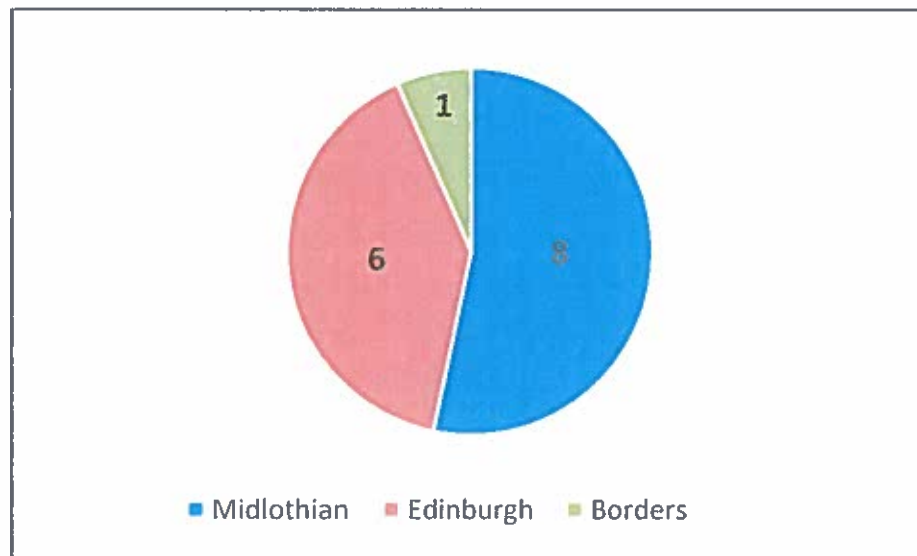
**The justification put forward by the applicant is not considered to be sufficient to conclude that planning permission should be granted contrary to the Development Plan.**

- 5.8 As noted earlier, Leiths has undertaken a search for a replacement site to accommodate the development for which planning permission has been sought, namely a road construction and surfacing depot use. No suitable site has been identified for this type of use hence the decision to seek to locate the business at the

Review Site. The site is well positioned for such as use being close to the A7; being a non-greenfield site and having few sensitive receptors in the locality.

- 5.9 In terms of employment, 15 staff will work from the Review Site. Figure 6 below illustrates their home locations from which it can be seen that over 50% live with Midlothian. So, Leiths operation at Middleton will be a Midlothian based business with the majority of the employees living within Midlothian. The Review proposal therefore allows for economic activity within Midlothian.

**Figure 6 - Middleton Limeworks Employee Residency**



- 5.10 Leiths appreciate that the temporary consents previously granted have been just that, temporary. However, these temporary activities have taken place over a period of over 5 years without, to our knowledge, any complaint and it is noted from the Report of Handling that neither Roads nor Environmental Health have any objection to the Review Proposal.

- 5.11 As noted earlier in this statement, the Review Site is not a greenfield site but rather one with a longstanding development history. It is material that the site has not been in a greenfield use e.g. agriculture for a significant length of time. There are currently no soils or soil making material on site which would allow it to be restored to agriculture of forestry.

Page 137 of 210

### **Reason for Refusal 3**

**Allowing the existing employment uses to be retained as the expense of restoring the site would be contrary to policies RD1, MIN 2 and ENV7 of the Midlothian Local Plan 2017.**

#### **Policy RD1 – Development in the Countryside**

- 5.12 The longevity of development on the Review Site has been established earlier in this statement from which it's clear that, despite the Review Site falling within the rural area covered by Policy RD1, it has hosted limeworks activity for at least 120 years. The current change of use proposal will not leave an un-restored site as has been explained earlier.
- 5.13 In terms of the three principle limbs of **Policy RD1** (A to C) it is acknowledged that:
- A. the change of use is not associated with any of the types of development listed, although in terms of scale and character the development is, in many respects, not dissimilar to the buildings and infrastructure at Guildie Howes Farm nearby;
  - B. the change of use does not fall within the categories of development in policies NRG1, NRG2, MIN1 and RD2; and
  - C. although the supplementary guidance has still to be formally adopted it relates to housing development in the rural area so is not directly relevant to the Review proposal.
- 5.14 Policy RD1 allows for development opportunities in the countryside which enhance rural economic development, subject to compliance with four criteria. No definition is given of 'rural economic development' in the supporting text to the policy but, by virtue of the fact that the Review Site lies within an area covered by Policy RD1, it must by definition lie within a rural area albeit with the former limeworks characteristics described earlier. The change of use proposal does provide for economic development as it allows for the continued employment of 15 people and the associated economic activity the business located here will generate. In terms of the four criteria that require to be satisfied:
- (a) the development is of a scale and character which is not inappropriate to the rural area and the site will be landscaped;
  - (b) the Review Site is served by existing access arrangements which are entirely adequate and appropriate. We note that the Roads Dept did not object to the proposal;
  - (c) the Review Site is already has a suitable public water supply and foul drainage arrangements which do not require alteration; and



(d) the X95 bus service operated by Borders Buses serves North Middleton by way of bus stops at the A7 Middleton Crossroads, approximately 300m from the site. The bus service is operated hourly.

5.15 We therefore believe the change of use proposal complies with Policy RD1.

#### **Policy MIN 2 – Surface Mineral Extraction**

5.16 It's unclear how the proposal is contrary to Policy MIN 2. The policy assessment in the Delegated of Report of Handling (page 6) says:

*'The quarry only exists due to planning consent being granted for the extraction of minerals, which was only acceptable on the condition that the site would be restored in this manner. This would be contrary to policy MIN 2 which requires restoration of sites following the removal of minerals.'*

5.17 Policy MIN 2 deals exclusively with the assessment of new surface mineral extraction proposals and lists, in bullet point fashion, a number of factors to be considered. The current proposal is not a new surface mineral extraction site so the policy can't be of relevance. Moreover, the 1982 permission can be of no relevance to the policy in that Policy MIN 2 wasn't in existence when the minerals application was determined.

5.18 Moreover, the Report of Handling is also misleading: the quarries and limeworks do not exist only because of the 1982 permission – the quarries and limeworks were here long before the 1982 permission was granted.

5.19 In Leiths view, Policy MIN 2 is not relevant to the consideration of the Review.

#### **Policy ENV7 – Landscape Character**

5.20 Policy ENV 7 deals with landscape character. It is useful to quote the supporting text to the policy which says:

*'Many localities contain areas of a diverse and distinctive landscape character, both within and outside SLAs, which enhance the attractiveness of Midlothian as a whole. Policy ENV 7 aims to afford protection to these local landscape character areas and to encourage sensitive landscape planning and management. Landscape character can include a variety of natural and built heritage features including woodland, hedges, field patterns, stone walls and historical sites.'*

5.21 The policy itself says:

*'Development will not be permitted where it may have an unacceptable effect on landscape character. Where development is acceptable, it should respect such character and be compatible in terms of scale, siting and design. New developments*

*will normally be required to incorporate proposals to maintain the diversity and distinctiveness of local landscape and to enhance landscape characteristics where they have been weakened’.*

- 5.22 The Delegated Report of Handling doesn't explain clearly and concisely how this policy is offended i.e. how distinctive landscape character would be harmed by the development, especially considering what has already been noted about the history of the Review Site. It's clear that the policy is not simply a landscape protection policy – it's been crafted to deal with character features such as stone walls, woodland, hedges, field patterns and so on. No such features will be affected by the Review proposal.
- 5.23 At risk of labouring the point, the limeworks site has been part of the character of the local landscape for over a century. We don't believe it a correct approach to consider the Review proposal on the basis that the Review Site is/will be greenfield farmland. Rather, if the review is allowed and permission granted a programme of works including landscaping will implemented to assist in ensuring that the retained workshop building and open areas which remain are not 'incongruous' in the landscape and that no 'un-restored' areas remain. Moreover, Guildie Howes Farm nearby has a range of buildings and open storage areas which are not dissimilar in character to the Review Site. Whilst it is appreciated that these are for agricultural purposes the key point is their character, not their use.
- 5.24 It hasn't been demonstrated how the change of use proposal would have an unacceptable effect on the character on the landscape contrary to Policy ENV7. Rather, Leiths believe that given the nature of the Review Site; the scale and characteristics of the building and open yard and the proposed landscaping the landscape character will not be unacceptably affected.

## **6 Summary & Conclusions**

- 6.1 The proposal for which permission is sought is not development on a greenfield site within the rural area. As noted earlier, the Review Site has a lengthy history of industrial type development connected with limestone quarrying.
- 6.2 The analysis in Section 5 demonstrates that the Review proposal is not contrary to policies MIN 2 and ENV 7. It is acknowledged that the development is not one listed in Policy RD1 Parts A to C but is nonetheless acceptable economic development in the rural area. Furthermore, there are material considerations which do need to be considered in the overall planning assessment, namely:
- (i) Alternative Sites - Despite undertaking a site search Leiths have been unable to find an alternative site suitable for this development given the need to have a suitably sized and located workshop building, welfare accommodation and yard. Development of a similar nature has already been undertaken on the Review Site on a temporary consent basis without adverse impact on amenity or roads;

- (ii) Employment – The change of use proposal will support the employment of 15 people, just over half of whom live within Midlothian. It therefore provides local employment and local economic benefit and allows Leiths to continue to serve its existing customer base in Midlothian and Edinburgh;
  - (iii) Site Characteristics – It is not a greenfield site and has never been in living memory.
  - (iv) Restoration – Allowing the Review proposal and granting permission will not lead to an un-restored site. Leiths is committed to reinstating that part of the site not within the physical footprint of the change of use area. If the Local Review Body is minded to allow the Review and grant planning permission Leiths are happy to accept a planning condition which allows the use of soils/soil forming materials to allow the 'greening' of that part of the site not being used for the permanent development and secures an earlier programme of reinstatement works and landscaping.
- 6.3 The Review Site has a development & planning history and characteristics which are unique to this area. Leiths believes that the proposal is compliant with policies of the development plan but there are nevertheless material considerations which support the granting of planning permission.
- 6.4 If the Review Body concludes that a permanent change of use of the Review Site is not acceptable Leiths would ask that they grant permission for the continued temporary change of use of the Review Site until 31 August 2024, which reflects the date specified for site reinstatement set out in the most recent of the temporary permissions granted to Leiths (Annex 4). This date also aligns closely with the permitted end date for the infilling and reinstatement of the adjoining Middleton Quarry by NWH Waste Services.

## **Annex 1**

### **Alternative Site Search**

**Alternative Site Search**  
**Selection of Sites Considered**

<b>Area</b>	<b>Location</b>	<b>Reason for Not Pursuing</b>
Borthwick View, Pentland Industrial Estate	Loanhead	Unit and yard too small.
West Edinburgh Business Park	Edinburgh	Unit only, no yard
R6, Newbridge	Edinburgh	Unit too small, no yard
Imex Business Centre	Loanhead	No suitable units with yard space.
West Craigs Industrial Estate	Edinburgh	Yard too small. Roller shutter door too small.



## **Annex 2**

### **Delegated Report of Handling**

## DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

**Site Address:** Middleton Limeworks, Gorebridge

This 1.2 hectare site comprises the former Middleton Limeworks, previously part of a wider complex with the adjacent former Middleton Quarry, and currently used as a temporary HGV depot.

The former Middleton Quarry 'No.1' (the 'lower' or 'bottom' quarry) bounds the site to the east and extends south, with Middleton Quarry 'No.2' (the 'upper' or 'top' quarry) located further south beyond the unclassified road. Temple Quarry is to the west of the site. Middleton Quarry No.2 aside, these sites are accessed off the same minor road as the application site. The area surrounding the site is otherwise in agricultural use.

### Proposed Development:

### Proposed Development Details:

The applicant states that the existing metal shed is to be retained for use as a mechanics/plant repair shop with general storage of tools and equipment. It is proposed to remove the existing silos and buildings.

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

In March 1982, planning permission 198/81 was granted for continued limestone working at Middleton Quarry, including associated processing on the current application site, subject to the whole complex being restored to agricultural use by 31 December 2002. A Breach of Condition Notice was served on 19 December 2012 requiring infill and restoration to agricultural use of the former Middleton Quarry No.2 only (i.e. not including the current application site or the former Middleton Quarry No.1 to the east) by 19 December 2015, with restoration work currently being undertaken.

The former Middleton Quarry No.1, which adjoins the application site to the east, is currently being infilled under planning permission 15/00503/DPP, granted on 1 February 2016. Restoration is to be completed within seven years of commencement of operations, which began on 1 May 2017.

In January 2015, planning permission 14/00868/DPP was granted for *Change of use from former quarry buildings to HGV depot* on the current application site, for the following reasons and subject to the following conditions:

*"The development is presently operating without any significant harm to the amenity of the area, including the amenity of neighbouring properties. The existing road infrastructure is of a standard to cope with the development of this scale being operated. A temporary planning permission is justified and would not conflict with the strategic objectives of Local Plan Policy RP1 or jeopardise the future restoration of the site to agricultural use, which is a requirement of planning permission ref. 198/82 [sic] for the lime quarry.*

.....

1. *The HGV lorry depot use and the associated storage of tools in the metal clad shed on the northern part of the site hereby approved shall cease operating on the land by the 1st December 2016. All vehicles, equipment, tools and storage sheds shall be removed from the site by 1st December 2016.*

*Reason: The use is within the countryside and is [sic] allowed long term it would be a source of unsightliness, harmful to the character and amenity of the countryside.*

2. *Unless otherwise approved in writing by the planning authority no more than 8 HGV tankers and/or road surfacing HGVs shall be parked on the site at any time.*

*Reason: To restrict the scale of the HGV depot to that applied for in the interests of safeguarding the amenity of the countryside and in the interests of road safety."*

On 28 March 2018, planning permission 16/00796/S42 was granted under Section 42 for continuation of use the subject of planning permission 14/00868/DPP (HGV depot) without compliance with Condition 1 (cease operating by 1 December 2016), to allow operation until 1 December 2018, for the following reasons and subject to the following conditions:

*"The use is currently operating without significant harm to the amenity of the area, including the amenity of neighbouring properties. The existing road infrastructure is of a standard able to cope with the use. The proposed continuation of the temporary use, while contrary to Policy RD 1 of the adopted Midlothian Local Development Plan 2017, would not conflict with the strategic aims and objectives of the plan. Subject to conditions, planning permission would now provide for full restoration of the site in tandem with that of Middleton Quarry No.1, in accordance with Policy ENV 7 of the plan.*

.....

1. *Unless otherwise approved in writing by the planning authority, no more than eight HGV tankers and/or road surfacing HGVs shall be parked on the site at any time.*

**Reason:** *To restrict the scale of the HGV depot to that applied for, in the interests of safeguarding the amenity of the countryside and in the interests of road safety.*

2. *Except for the metal clad shed on the northern part of the site and the silos, all duntakings shown in the docketed drawing shall have been permanently removed from the site within three months of the date of this consent.*

**Reason:** *To ensure the timeous removal of plant and other buildings to be demolished, in the interests of safeguarding the character and amenity of the countryside.*

3. *The metal clad shed on the northern part of the site, all duntakings shown in the docketed drawing, and all hardcore and hard surfaces, shall have been permanently removed from the site by 1 April 2019.*

**Reason:** *To ensure timeous removal of plant and other buildings to be demolished, and of all hardcore and hard surfaces, in the interests of safeguarding the character and amenity of the countryside.*

4. *The whole site shall have been permanently restored to agricultural and/or forestry use by 31 August 2024 in accordance with detailed plans which shall have been submitted for the written approval of the planning authority.*

**Reason:** *To ensure effective restoration of the site in the interests of safeguarding the character and amenity of the countryside.*

The applicant has submitted a Supporting Statement to provide justification for the proposal, which states:

- There are four tankers at the site with a maximum of 2 vehicle movements per day, though an additional four vehicles utilise the site;
- The application is to retain the status quo but without the architectural blight of the work-shed, lime mills and siles;
- Design of buildings are similar to those that are approved in the countryside for agriculture (with Guildieknowes Farm given as an example);
- The benefits of returning site to agricultural use compared with the existing does not equate as the existing provides opportunity to support existing jobs and offer new employment;
- Will allow M&M Road Surfacing to remain in local area after moving out of Sighthill Industrial Estate;
- Location of site reduces travel distances for distribution of Leith's products and reduces impact on environment through reduced traffic movement;
- Once Middleton Quarry has been restored, traffic movements in the area will reduce dramatically;
- Robust landscaping design would allow the site to be integrated with the immediate surroundings.

**Consultations:**

**Moorfoot Community Council** submits that the application should be refused because:

- Consent would remove a long-standing requirement for the site to be restored to agricultural use. Supports restoration of the site and has previously expressed concern about the granting of permissions for separate activities;
- Proposal is contrary to the Council's policies on Development in the Countryside;
- The proposal does not represent the 'status quo' as stated by the applicant as it would result in a permanent change of use;
- Applicants comment comparing proposal to prior notification applications for agricultural use are highly misleading. Separate process exists due to the recognition that agriculture is an acceptable use in the countryside;
- Claims over jobs should be dismissed by the Council as no evidence has been submitted stating how many jobs there are or how many will be for those in the local area and because this does not justify determining an application contrary to policy.

The **Council's Group Manager Environmental Health** was consulted on the previously submitted application and made no comment.

The **Council's Policy & Roads Safety Officer** raised no objection to the previously submitted application.

The **Council's Economic Development team** was consulted on the previously submitted application and made no comment.



## Representations:

One representation has been received in relation to this application, stating:

- Previous planning notices and conditions have been disregarded and there is an expectation that the Planning Authority will uphold these;
- Concern about an increase in traffic once all of the business has relocated to the application site from Sighthill Industrial Estate, Edinburgh;
- Concern that the hours of work for road surfacing will go beyond those for the existing neighbouring uses;
- Proposal will form a visible eyesore in the landscape;
- Assertion that continued use of the site would not be detrimental is unsubstantiated with no views sought from the local community.

## Relevant Planning Policies:

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

**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*.

**Policy MIN2 Surface Mineral Extraction** makes provision for the extraction of minerals outwith Areas of Search and their subsequent restoration.

**Policy ENV7 Landscape Character** expects that new developments incorporate proposals to maintain the diversity and distinctiveness of local landscapes and enhance landscape characteristics where they have been weakened.

## Planning Issues:

The main planning issue to consider is whether the proposal accords with the provisions of the development plan, and if not whether material considerations justify departing from it.

The delegated report for 14/00868/DPP notes that the proposal does not accord with Policy RP1 of the then adopted Midlothian Local Plan 2008 (provisions cited above from Policy RD1 of MLDP being identical) and sets out the following:

- Commercial use on the site here is long-established, bringing economic benefits;
- It would be reasonable for the planning authority to grant a temporary planning permission for the HGV depot on the proviso that this does not prejudice future restoration of the site;

- Until now the unauthorised HGV depot use appears to be operating without significant detriment to the amenity of the area, including the amenity of neighbouring properties. The Council's Policy & Road Safety Officer raises no objection;
- Storage of tools and equipment associated with the HGV depot use in the metal clad shed on the northern part of the site is acceptable and would not harm the amenity of the countryside on the proviso that that use ceases by the end of the temporary period granted for the planning permission;
- If it were to become a permanent use it would be a source of unsightliness in the countryside and thus it not a suitable use in the long term;
- The site is over a hundred metres away from the nearest noise sensitive property. The use, as proposed, would not give rise to significant harmful noise nuisance and disturbance to neighbouring noise sensitive properties including residences;
- To allow the proposed HGV depot use to continue on the site for a temporary period of time would not conflict with the strategic objectives of Local Plan Policy RP1.

The proposal does not accord with Policy RD1 of the MLDP. While the above considerations are pertinent in the consideration of a time extension for a temporary use, the weight they are accorded changes when considering an application for a permanent use.

The planning authority has not been presented with justification that a HGV depot use on the site is an acceptable use in the countryside. While matters such as employment can be a material consideration in the determination of planning applications, the weight of this alone does not justify making a determination contrary to policy RD1, particularly where there is no indication of the level of employment likely to occur as part of the proposal. Furthermore, there is currently in excess of 200 Ha of vacant employment land allocated in Midlothian therefore there is not a lack of alternative locations in the area.

Allowing the continuation of the current use on a permanent basis would prevent the restoration of the site to being suitable for agricultural purposes. The quarry only exists due to planning consent being granted for the extraction of minerals, which was only acceptable on the condition that the site would be restored in this manner. This would be contrary to policy MIN2, which requires the restoration of sites following the removal of minerals.

With regards to the design of the building at Guildieknowes Farm, it is considered that the design of this building is fairly typical of modern agricultural buildings in Midlothian and it is therefore not out of character with the rural area.

The former Middleton Quarry No.1 is currently being infilled under planning permission 15/00503/DPP, granted on 1 February 2016. Restoration is to be completed within seven years of commencement of operations, which began on 1 May 2017, resulting in a final restoration date of 1 May 2024. Temple Quarry to the west of the site is due to be restored by 31 December 2025. While public views of

the site are currently set in the context of the neighbouring sand and gravel quarry, upon completion of the restoration projects, the appearance of the application site will be anomalous within the wider landscape and contrary to policy ENV7 of the LDP.

In relation to road safety concerns submitted by Moorfoot Community Council (MCC), the Council's Policy & Roads Safety Officer has reviewed the situation and continues to offer no objection. With regard to noise, dust and other amenity matters, the Council's Environmental Health Department have raised no concerns.

In relation to the other concerns raised by MCC and the representor, it should be noted that the Breach of Condition Notice, served on 19 December 2012, sought restoration of the former Middleton Quarry No.2 only, with work currently underway. The restoration of Temple Quarry and Middleton Quarry No. 1 is currently being undertaken under the auspices of planning applications 05/00378/FUL (as amended) and 15/00503/DPP respectively. Enforcement action has not been taken on the application site as this application was submitted prior to 1 December 2018, when the current operations are to cease or the 31 August 2024, when the site is to be restored under planning application 16/00796/S42.

The Middleton Limeworks site is part of a wider scheme required as a condition of the original planning permission allowing for the extraction and working of limestone. Permissions and restoration details have been agreed for the adjoining sites, which would result in the application site becoming visually incongruous within the rural landscape. Insufficient justification has been provided to conclude that permission be granted contrary to the Development Plan. Allowing the existing employment uses to be retained at the expense of restoring the site would be contrary to policies RD1, MIN2 and ENV7 of the Midlothian Local Development Plan 2017.

**Recommendation:**

It is recommended that planning permission be refused.

### **Annex 3**

#### **Middleton Limeworks – Planning Permission 14/00868/DPP**

# Planning Permission

Town and Country Planning (Scotland) Act 1997

Reg. No. 14/00868/DPP



Stewart Associates Building Consultants  
Rigifa  
Cove  
Aberdeen  
AB12 3LR

Midlothian Council, as Planning Authority, having considered the application by Leiths (Scotland) Limited, Rigifa, Cove, Aberdeen, AB12 3LR, which was registered on 1 December 2014, in pursuance of their powers under the above Acts, hereby grant permission to carry out the following proposed development:

**Change of use from former quarry buildings to HGV depot at Middleton Limeworks, Gorebridge, EH23 4QP**

in accordance with the application and the following plans:

<u>Drawing Description.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Site plan, location plan and elevations	2293.01	01.12.2014
Negotiation Correspondence/General	EMAIL FROM AGENT	05.01.2015
Negotiation Correspondence/General	EMAIL FROM AGENT	20.01.2015

This permission is granted for the following reasons:

*The development is presently operating without any significant harm to the amenity of the area, including the amenity of neighbouring properties. The existing road infrastructure is of a standard to cope with the development of this scale being operated. A temporary planning permission is justified and would not conflict with the strategic objectives of Local Plan Policy RP1 or jeopardise the future restoration of the site to agricultural use, which is a requirement of planning permission ref. 198/82 for the lime quarry.*

Subject to the following conditions:

1. The HGV lorry depot use and the associated storage of tools in the metal clad shed on the northern part of the site hereby approved shall cease operating on the land by the 1<sup>st</sup> December 2016. All vehicles, equipment, tools and storage sheds shall be removed from the site by 1<sup>st</sup> December 2016.

**Reason:** *The use is within the countryside and is allowed long term it would be a source of unsightliness, harmful to the character and amenity of the countryside.*

2. Unless otherwise approved in writing by the planning authority no more than 8 HGV tankers and/or road surfacing HGVs shall be parked on the site at any time.

**Reason:** *To restrict the scale of the HGV depot to that applied for in the interests of safeguarding the amenity of the countryside and in the interests of road safety.*



Dated: 26/01/2015

A handwritten signature in black ink, appearing to read 'Peter', with a large, stylized initial 'P' and a trailing flourish.

.....  
Peter Arnsdorf  
Development Management Manager  
Fairfield House, 8 Lothian Road, Dalkeith, EH22 3ZN

## PLEASE NOTE

This permission does not carry with it any necessary consent or approval to the proposed development which may be required under the Building (Scotland) Acts and Regulations or under any other Statutory Enactment.

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](http://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.

### Duration of Planning Permission and/or Listed Building Consent

The permission hereby approved lapses on the expiration of a period of either:

- three years from the date of this decision notice, if the permission is for **detailed planning permission (DPP)** or **listed building consent (LBC)** as specified in Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended by Planning etc (Scotland) Act 2006); or
- two years from the date of approval by the planning authority of the last application for matters specified in conditions to be approved if the permission is for **planning permission in principle (PPP)** as specified in Section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended by Planning etc (Scotland) Act 2006). Applications for approval of matters specified in conditions shall be made to the planning authority within three years from the date of this permission.

Prior to any work taking place on site all pre commencement conditions attached to a grant of planning permission must be agreed in writing with the planning authority. Failure to do so could result in any development works taking place being unauthorised and undertaken at your own risk and expense.

### The Felling of Trees

Where full planning permission authorises the felling of trees on a development site, no further consent is required under the Forestry Act 1967 (as amended). However, developers should note that any tree felling not expressly authorised by full planning permission, and not exempted, requires a felling licence granted under the Forestry Act 1967 (as amended).

Developers should note that any felling carried out without either a licence or other valid permission is an offence. This can mean, on conviction, a fine of up to £2,500 (level 4 on the standard scale) or twice the value of the trees, whichever is higher with the conviction being recorded.

Contact your local Forestry Commission Scotland Office if you are not certain whether exemptions apply. You can get an application form for a felling licence from the Forestry Commission website [www.forestry.gov.uk](http://www.forestry.gov.uk) or any Forestry Commission Scotland Office.

### 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](http://www.midlothian.gov.uk)

Page 155 of 210

## 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.

## **Annex 4**

### **Middleton Limeworks – Planning Permission 16/00796/S42**

# Planning Permission

Town and Country Planning (Scotland) Act 1997

Reg. No. 16/00796/S42



Leiths (Scotland) Ltd  
Rigifa  
Cove  
Aberdeen  
AB12 3LR

Midlothian Council, as Planning Authority, having considered the application by Mr Philip Leith, Rigifa, Cove, Aberdeen, AB12 3LR, which was registered on 17 November 2016, in pursuance of their powers under the above Acts, hereby grant permission to carry out the following proposed development:

**Section 42 application for continuation of use the subject of planning permission 14/00868/DPP (HGV depot) without compliance with Condition 1 (cease operating by 1 December 2016), to allow operation until 1 December 2018 at Middleton Limeworks, Gorebridge, EH23 4QP**

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

<u>Document/Drawing</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	229 03 1:500	17.11.2016
Negotiation Correspondence	Email from Agent	05.01.2015
Negotiation Correspondence	Email from Agent	20.01.2015

This permission is granted for the following reasons:

*The use is currently operating without significant harm to the amenity of the area, including the amenity of neighbouring properties. The existing road infrastructure is of a standard able to cope with the use. The proposed continuation of the temporary use, while contrary to Policy RD 1 of the adopted Midlothian Local Development Plan 2017, would not conflict with the strategic aims and objectives of the plan. Subject to conditions, planning permission would now provide for full restoration of the site in tandem with that of Middleton Quarry No.1, in accordance with Policy ENV 7 of the plan.*

Page 157 of 210

Subject to the following conditions:

1. Unless otherwise approved in writing by the planning authority, no more than eight HGV tankers and/or road surfacing HGVs shall be parked on the site at any time.

*Reason: To restrict the scale of the HGV depot to that applied for, in the interests of safeguarding the amenity of the countryside and in the interests of road safety.*

2. Except for the metal clad shed on the northern part of the site and the silos, all downtakings shown in the docketed drawing shall have been permanently removed from the site within three months of the date of this consent.

*Reason: To ensure the timeous removal of plant and other buildings to be demolished, in the interests of safeguarding the character and amenity of the countryside.*

3. The metal clad shed on the northern part of the site, all downtakings shown in the

docketed drawing, and all hardcore and hard surfaces, shall have been permanently removed from the site by 1 April 2019.

**Reason:** *To ensure the timeous removal of plant and other buildings to be demolished, and of all hardcore and hard surfaces, in the interests of safeguarding the character and amenity of the countryside.*

4. The whole site shall have been permanently restored to agricultural and/or forestry use by 31 August 2024 in accordance with detailed plans which shall have been submitted for the written approval of the planning authority.

**Reason:** *To ensure effective restoration of the site in the interests of safeguarding the character and amenity of the countryside.*

Dated 28 / 03 / 18



.....  
Joyce Learmonth  
Lead Officer – Major Developments and Enforcement,  
Fairfield House, 8 Lothian Road, Dalkeith, EH22 3ZN



## PLEASE NOTE

*This permission does not carry with it any necessary consent or approval to the proposed development which may be required under the Building (Scotland) Acts and Regulations or under any other Statutory Enactment.*

*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 Planning Manager, Planning, 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](http://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.*

### Duration of Planning Permission and/or Listed Building Consent

*The permission hereby approved lapses on the expiration of a period of either:*

- a) three years from the date of this decision notice, if the permission is for **detailed planning permission (DPP)** or **listed building consent (LBC)** as specified in Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended by Planning etc (Scotland) Act 2006); or*
- b) two years from the date of approval by the planning authority of the last application for matters specified in conditions to be approved if the permission is for **planning permission in principle (PPP)** as specified in Section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended by Planning etc (Scotland) Act 2006). Applications for approval of matters specified in conditions shall be made to the planning authority within three years from the date of this permission.*

*Prior to any work taking place on site all pre commencement conditions attached to a grant of planning permission must be agreed in writing with the planning authority. Failure to do so could result in any development works taking place being unauthorised and undertaken at your own risk and expense.*

### The Felling of Trees

*Where full planning permission authorises the felling of trees on a development site, no further consent is required under the Forestry Act 1967 (as amended). However, developers should note that any tree felling not expressly authorised by full planning permission, and not exempted, requires a felling licence granted under the Forestry Act 1967 (as amended).*

*Developers should note that any felling carried out without either a licence or other valid permission is an offence. This can mean, on conviction, a fine of up to £2,500 (level 4 on the standard scale) or twice the value of the trees, whichever is higher with the conviction being recorded.*

*Contact your local Forestry Commission Scotland Office if you are not certain whether exemptions apply. You can get an application form for a felling licence from the Forestry Commission website [www.forestry.gov.uk](http://www.forestry.gov.uk) or any Forestry Commission Scotland Office.*

### 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](http://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 representatives 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.*



## Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

**Reg. No. 18/00756/DPP**

Leiths (Scotland) Ltd  
Rigifa  
Cove  
Aberdeen  
AB12 3LR

Midlothian Council, as Planning Authority, having considered the application by Mr Phil Leith, Rigifa, Cove, Aberdeen, AB12 3LR, which was registered on 4 October 2018 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

**Change of use from former limeworks/temporary HGV depot to a mixed use including HGV depot and road surfacing and transport engineering contractors yard with the retention of existing shed as mechanic/plant repair shop and storage at Middleton Limeworks, Gorebridge, EH23 4QP**

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

<u>Document/Drawing.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	1:2500	04.10.2018
Site Plan	Existing Site Layout	04.10.2018
Other Statements	NA	04.10.2018

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

- 1. The application site is part of a wider area of development. The site has been the subject of mineral extraction and conditions require the restoration of this site and adjacent extraction areas. Granting planning permission for the development would result in the site remaining un-restored and becoming a visually incongruous within the rural landscape.*
- 2. The justification put forward by the applicant is not considered to be sufficient to conclude that planning permission should be granted contrary to the Development Plan.*
- 3. Allowing the existing employment uses to be retained at the expense of restoring the site would be contrary to policies RD1, MIN2 and ENV7 of the Midlothian Local Development Plan 2017.*

Dated 28 / 05 / 19

.....  
Joyce Learmonth  
Lead Officer Major Developments and Enforcement,



**The Coal  
Authority**

Planning and Local Authority Liaison

Direct Telephone: 01623 637 119

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

Website:

[www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

**Any Planning Enquiries should be directed to:**

### **INFORMATIVE NOTE**

The proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

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

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

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

If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at: [www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

*This Informative Note is valid from 1<sup>st</sup> January 2019 until 31<sup>st</sup> December 2020*

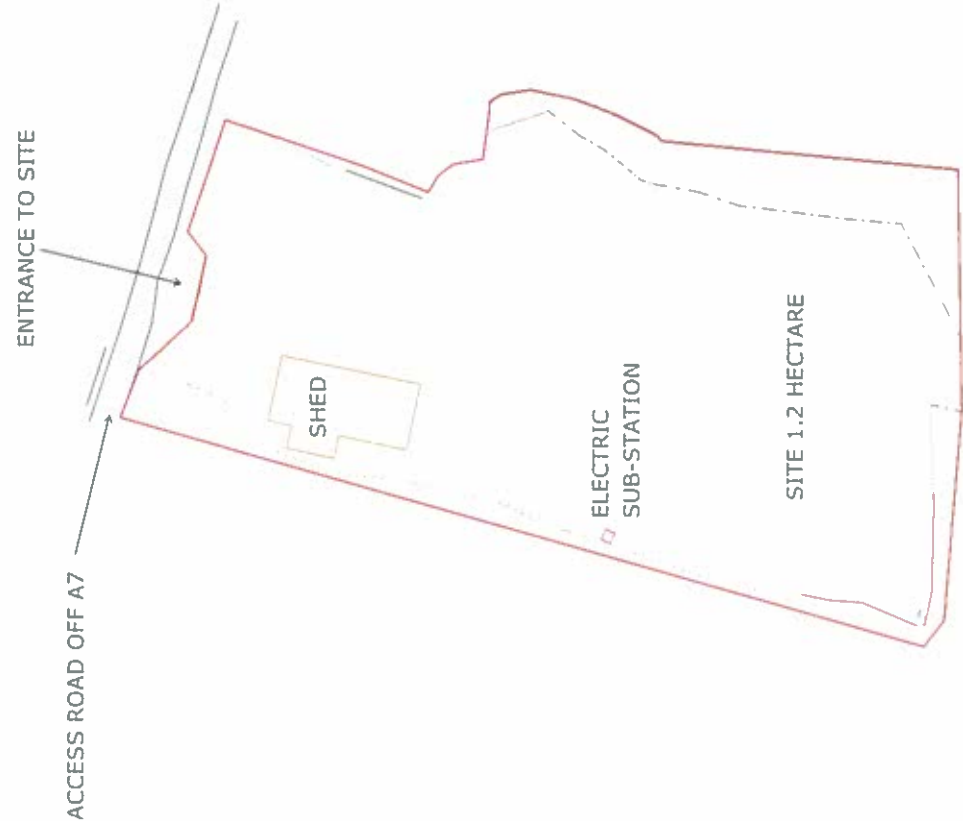


LOCATION PLAN 1:10,000



LEGEND

— EXTENT OF BOUNDARY



## **Notice of Review: 26 Mavisbank, Loanhead**

### **Determination Report**

Report by Dr Mary Smith Director of Education, Communities and Economy

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

- 1.1 The purpose of this report is to provide a framework for the Local Review Body (LRB) to consider a 'Notice of Review' for the erection of fencing at 26 Mavisbank, Loanhead.

#### **2 Background**

- 2.1 Planning application 19/00159/DPP for the erection of fencing at 26 Mavisbank, Loanhead was refused planning permission on 3 April 2019; 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 (the applicant has also submitted photographs of the fencing, but on the basis that the development is in situ and will be seen during the LRB site visit the photographs are not included in the papers):

- 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); and
- A copy of the decision notice, excluding the standard advisor notes, issued on 3 April 2019 (Appendix D).

- 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 a site visit for Tuesday 10 September 2019; and
  - Have determined to progress the review by way of written submissions.
- 4.2 The case officer's report identified that one consultation response and one representation was received. As part of the review process the interested parties were notified of the review. No additional comments have been received. All the comments can be viewed online on the electronic planning application/review 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 The nature of the proposal is such that it is considered that no conditions would be required if the LRB is minded to grant planning permission.

## **6 Recommendations**

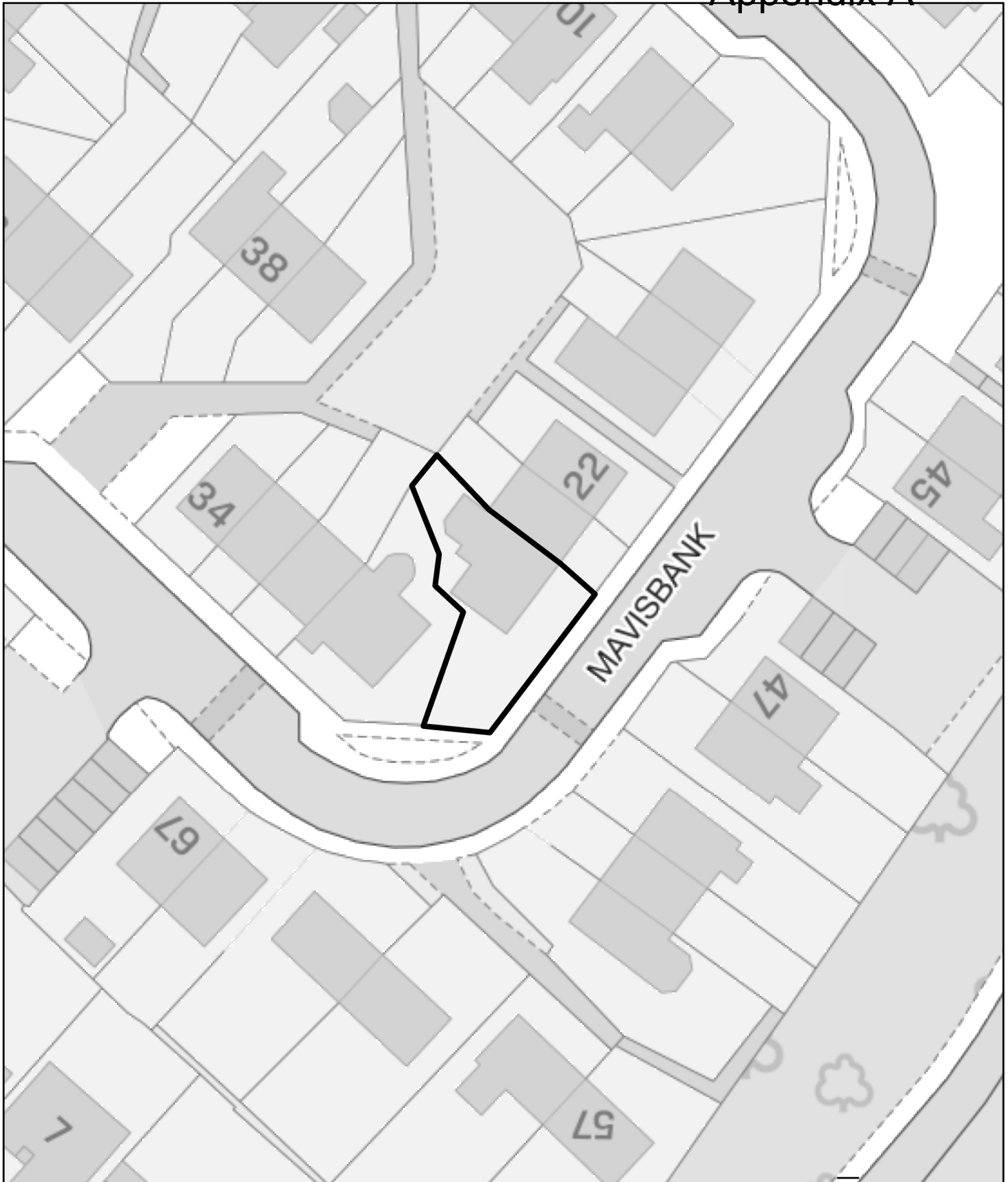
- 6.1 It is recommended that the LRB:
- a) determine the review; and
  - b) the planning advisor draft and issue the decision of the LRB through the Chair

**Date:** 3 September 2019

**Report Contact:** Joyce Learmonth, Lead Officer Major Developments and Enforcement  
joyce.learmonth@midlothian.gov.uk

**Tel No:** 0131 271 3311

**Background Papers:** Planning application 19/00159/DPP available for inspection online.



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

Erection of fence (retrospective) at 26 Mavisbank, Loanhead

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File No. 19/00159/DPP

Scale: 1:500  
Page 166 of 210



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 100151535-003

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

## Applicant or Agent Details

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

☒ Applicant ☐ Agent

## 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="26 Mavisbank"/>
First Name: *	<input type="text" value="paul"/>	Building Number:	<input type="text" value="26"/>
Last Name: *	<input type="text" value="black"/>	Address 1 (Street): *	<input type="text" value="26 Mavisbank"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text" value="REDACTED"/>	Town/City: *	<input type="text" value="LOANHEAD"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="United Kingdom"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="EH20 9DD"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="REDACTED"/>		

## Site Address Details

Planning Authority:

Midlothian Council

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

Address 1:

26 MAVISBANK

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

LOANHEAD

Post Code:

EH20 9DD

Please identify/describe the location of the site or sites

Northing

665249

Easting

328305

## 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)

NOTICE OF REIVEW mavisbank security fence Fence to surround a corner and side of 26 mavisbank to provide security and storage for household waste bins. Stone covered driveway (lanes) to be replaced by monoblock.

Page 168 of 210

## 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.

I have to do this from a hotel room and using a mobile phone. I submitted Sunday morning. Not sure why the application can't be forward to LRB? — THE FOLLOWING PLUS ATTACHED DOCUMENTS FORM THE APPEAL — Support for fence from residents - signatures Already precedence for fences of similar style and location going back to 1975 Addressed the health concern raised Addressed points made re DEV2 Addressed conflicting / subjective use of term 'Amenity'

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)

please see attached documents 1. document reviewing the response to my planning application 2. scanned photos of the signatures in support of residents 3. template document used for signatures

## Application Details

Please provide details of the application and decision.

What is the application reference number? \*

19/00159/DPP

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

26/02/2019

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

03/04/2019

## Review Procedure

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

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

☒ Yes ☐ No

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

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

☒ Yes ☐ No

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

☒ Yes ☐ No

## Checklist – Application for Notice of Review

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

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

☒ Yes ☐ No

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

☒ Yes ☐ No

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

☐ Yes ☐ No ☒ N/A

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

☒ Yes ☐ No

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

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

☒ Yes ☐ No

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

## Declare – Notice of Review

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

Declaration Name: Mr paul black

Declaration Date: 01/07/2019

Page 170 of 210

## **Appeal - Retrospective Planning Application for security fence**

### **Context**

A retrospective planning application for a security fence was refused.

The fence is tall, neatly built and owner was encouraged to complete the work by consistently positive comments from residents of Mavisbank. There was no intention to break any planning guides, or policy.

The owner contacted the planning officer and discussed the intention to remove the fence. If there was clearly issues against the fence, it would be removed. However, the owner was persuaded that the application had a high probability of success and that "even if refused it can be appealed."

A policy known as DEV2 was not mentioned during discussions before the application was submitted. The term amenity used in DEV2 was brought to the attention of the owner at the point the application was refused. **Therefore, the criteria relied upon for refusal were not visible when the application was drafted;** The owner argues that the criteria used for rejection is subjective, not consistent, and out of step with the residents and existing fences and 'frontage' of Mavisbank.

- The owner has spoken to residents of over 12 properties, and full support has been given for the appeal;
- The fence is practical, modern and fits in with improvements to the area;
- Refusal is based on subjective interpretation of the term amenity;
- The area has many examples of tal fences; and therefore there is already a precedence;
- Confirmed with residents that there is no impact on character or amenity - which was also (confusingly) stated in the refusal response.

The owner hopes that the application decision is reviewed and the fence is allowed to remain.

## Review of application

In the following text, *Italic text* is quoted from the response to the retrospective planning application.

**"Relevant Planning Policies:** The relevant policy of the **Midlothian Local Development Plan 2017** is;

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

- The owner was not made aware of the policy DEV2 during discussions with the planning manager. Therefore the application was written without that information. The application would have been significantly different, if this policy was highlighted as relevant.
- Within the response narrative amenity is used in contradictory context for and against the construction of the fence. Therefore this highlights that...
- ...Amenity is a highly subjective term and is unhelpful in this context. It is argued the construction does not impact amenity. Supported by 14+ residents (so far).

**"Consultations: Policy and Road Safety Manager – no objection. The erection of the fence does not raise any road safety issues."**

- The owner agrees with this comment. This is based on fact.

**"Representations: One representation has been received in relation to the application from the occupier of 28 Mavisbank raising concern regarding the height of the fence and the enclosed garden area being used as a dumping ground for rubbish attracting vermin and causing health issues."**

Page 172 of 210

- The actual comment was that the height of the fence would permit use as a 'dumping ground'. The concern was the use of the garden. There is also no evidence to back up this comment.
- Intention of the fence is for security and privacy. The rear of the property has very limited space. The corner / side garden provides much needed outdoor space, for the owners family. The contents of the garden are also visible from the front gate entrance via the trellis fence panels - therefore any 'dumping' could not be hidden by a tall fence. There is no basis for the health issue concern, the comment is invalid.

**"The applicant has responded to the above representation reiterating that several**

*neighbours have voiced support for work done to his garden and that the work was carried out to improve the appearance and function of the garden."*

- Agreed, additionally, over 14 neighbours in the area have confirmed their support. See attached signature list.

***"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."*

- [https://www.planningportal.co.uk/faqs/fag/4/what\\_are\\_material\\_considerations](https://www.planningportal.co.uk/faqs/fag/4/what_are_material_considerations)
- There are no negative material considerations. The fence provides a neat 'frontage' to the corner and does not impact highway or safety, traffic parking etc. The benefits are aesthetic, practical in terms of maintenance, security and privacy. As per the application response, the fence also does not impact amenity. There are also other tall fences in the area; there is already a precedence.

*"The surrounding area is predominantly characterised by houses set back from the road behind front and side gardens with 1m high fences or walls along the street frontage. The relatively open front and side gardens contribute to the pleasant character of the area."*

- Disagree; Mavisbank has a wide variety of 'frontage', namely:- various driveways, fenced, neat gardens, etc.
- Trellis sections ensure the garden is still visible. My garden is one of the more mature gardens in Mavisbank and has several trees etc. Construction of the fence, has ensured the garden is more maintainable, and presentable.
- During initial correspondence with the planning manager; there was no disclosure of policy DEV2.. If this information was noted, it would have impacted the application for retrospective planning permission.
- The owner believes policy DEV2 leaves open to personal interpretation the term 'amenity'. However, all the signatures agree the fence has a positive impact on amenity.

*"Located at a corner plot, at its current height and position, including close to the pavement and extending beyond the front building line of the application property, the fence is very prominent in the streetscape."*

- The property is lined with trees. The trees add to the character of the area and soften any man-made structure, including fences.



- Since the fence was constructed to contain the existing trees, etc it is unquestionably neater and more maintainable than previous. This is backed by the signature list. The fence additionally provides security and privacy for the owner and family, with no detrimental impact on the amenity of the street or other properties in Mavisbank (as also noted in the application response narrative).
- Many other properties in Mavisbank have tall fences that provide similar privacy and security. It is correct that number 26 is a 'corner plot' - this should not be a cause to refuse the ability to secure and provide privacy in a similar fashion (ie. a tall neat fence).

*"It is not disputed that the fence is of neat construction however it is out of character with and presents a harsh frontage in the street scene with a detrimental impact on the visual amenity of the surrounding area."*

- The names of the signature list strongly disagree that the fence is harsh and detrimental to the visual amenity or character of the area. In fact, the consensus is the fence is a hugely positive improvement. Mavisbank has undergone improvements over the last few years, such as renewed of wall cladding etc; the fence ties in closely with the updated modern look of the street; it's an understated charcoal black. There are also many other fences of similar colour.
- Confirmed with several residents if a colour change would be more pleasing; all have indicated the current colour is perfectly suitable and in line with the character of Mavisbank. Several other fences in the area are also black.
- Many residents did not realise that they could have indicated support for the fence during the initial application. This is relevant since many would have wished to officially note support for the work carried out.

*"If approved, the fence, including the trellis, could set an undesirable precedent for other similar fences along the street frontage which would lead to the degradation of the character and appearance of the street."*

Page 174 of 210

- Disagree. The owner has spoken at length with several neighbours, none agree that the fence is undesirable or would promote a (new) precedence. Each property has different needs in terms of privacy and security. There is no degradation of character or appearance to the street.
- Many residents have indicated, they use similar colour schemes. There are in fact already several fences that are similar scale and colour in the street, including trellis fence sections. See below for a sample list.
- The location of the garden dictates that additional security is required.
- The other corners on Mavisbank have mature driveways or fences and are all very different in style, and all contribute to the character of the area;

- There are many different styles throughout the area. Therefore, my fence does not degrade the character or appearance of the street.

*"The applicant has mentioned other fences at Mavisbank although has not made clear their exact location. There is a 1.8m (approx.) high fence along the side and rear boundary of no. 69 Mavisbank. There is no record of planning permission having been granted for this back to 1975. He mentions a fence at the entrance to Mavisbank. There is a 1.8m (approx.) high fence along the side and northeast boundary of 22 Polton Road. Whilst prominent it is set back from the pavement behind a grassed area at the side. There is no record of planning permission having been granted for this back to 1975."*

- The following properties have tall fences, similar construction, visibility and many are painted black
  - **Number [37]** → the fence here encloses a corner garden and provides privacy and security. Very similar to the fence under review.
  - **[2]** → as per 37, also on corner. Significant structure. More impact on coverage and visibility than fence under review.
  - **[10] and [12]** → tall security panel fences; similar construction to fence under review.
  - **[115]** → trellis fence; Similar to section fence under review.
  - **[45]** → tall fence panel at front of house. It's the remainder of a more substantial fence (from a few years ago); Not as neat construction, however similar visibility and 'amenity'.
  - **[48] and [81]** → significant fences. Similar impact to the fence under review.
  - **Number [69]** → has a considerably larger structure than the fence under review. The fact that there's no planning permission record since 1975 and obviously no complaints, making a retrospective application necessary; suggests that tall enclosing security fences have been part of the Mavisbank area since it's development - 44 years ago :-
    - Therefore the fence under review is not degrading appearance or character of the street. See supporting signatures.
    - This also suggests that the precedence already exists.
  - It is relevant that there are other fences of varying styles throughout Mavisbank and that my fence does not impact the diversity, amenity or character of the area.

*"Whilst not as immediate, a densely planted hedge could provide a barrier to trespassers and would appear as a softer feature in the street scene more in keeping with the character of the area and, dependent on the species, would only require trimming once or twice a year. A smaller bin store would prevent bins being blown over."*

- The owner can confirm that the previous densely packed hedge/bushes did not provide adequate security from trespassers ( including using my garden for 'dog walking').
- An enclosed area with gated bin store secures and ensures that the bins are not open to vandalism or the elements.
- See the list of signatures - all agree the fence is practical and achieves the desired objectives of security and keeping to desirable aesthetics of the area.

The following text is taken directly from the response to the planning application:-

***"The fence does not have a significant impact on the amenity of neighbouring properties. Any issues in relation to vermin and health arising from the use of the garden should be reported to the Council Environmental Health section. "***

- This text is contradictory relating to the point that the fence impacts the amenity of the street (stated previously section in the response). This contradiction highlights that the term amenity is highly subjective and used against and in support for the fence in the same narrative.
- Neighbours have confirmed that the fence has a positive impact to the street. Much improved over the overgrown bushes etc that where previously. They also did not provide any deterrent to trespassers.
- The street has benefitted from the fence since there's now not possible for rubbish bins to tip via the wind.
- Comment regarding a vermin issue. Provide evidence. Environmental health would have been involved if an issue for the neighbours or the area of Mavisbank. The claim has no backbone, it is fabricated

## Summary

A neatly constructed fence was constructed to improve privacy, security, appearance and amenity of the garden area at number 26. The fence aligns to the existing character and improvements to modernise Mavisbank.

Concerns over impact on Mavisbank have been positively addressed. The construction was discussed with residents; There is overwhelming support for the fence - signatures included<sup>1</sup>.

The policy DEV2 criteria mentioned in the planning application response were not made visible at the time of application. Use of the term amenity in DEV2 is subjective and also inconsistently used in the original application response. The points raised to back up a refusal decision were subjective and do not align with the survey of over 14 long term residents of Mavisbank.

The fence has been visible for over 8 months to date; there has been just one unfounded concern raised over 'health' / 'Vermin' - however, the same comment made regarding 'dumping' states that the fence itself is not an issue.

There are existing tall security fences and enclosed gardens in Mavisbank therefore the fence under review is not setting a precedence. If the location of the fence is the issue this is discriminatory, preventing adequate security for number 26. The survey of residents has indicated they are in support of the work carried out, and believe the fence should be permitted to remain. The council is welcome to contact the owners to confirm.

A significant amount of work was undertaken to improve the garden, including the fence. The owner wishes the decision to be reviewed and points detailed above to be taken into consideration.

The owner hopes that this narrative provides sufficient information to make a positive decision to allow the fence to remain. If further information is required please contact the owner via post or email.

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<sup>1</sup> I could survey more residents, if necessary

Support for fence from residents - signatures

Already precedence for fences of similar style and location going back to 1975

Addressed the health concern raised

Addressed points made re DEV2

Addressed conflicting / subjective use of term 'Amenity'



### Appeal - Retrospective Planning permission for security fence

The following residents of Mavisbank support the appeal to retain the fence at number 26.

- We do not feel the fence changes the character of Mavisbank
- The fence improves the aesthetics and amenity of the property /street
- The fence provides practical privacy and security for the owner / family
- The fences does not detract from the pleasant character of the street
- The fence is a positive enhancement to number 26 and should be allowed to remain

House	Name	Date
20	Louise Puerman	6/6/19
24	Ricky Munn	8/6/19
53	LARA MORRIS	16/6/19
51	JACQUELINE ROBERTSON.	16/6/19
47	P. Leland	23-6-19
61	Joyet Phillips	23-6-19
55	M. McKean	23-6-19
23	T. Parnia	23-6-19
18	M. Wilson	26-6-19
32	J. [unclear]	26-6-19
40	R. [unclear]	26/6/19
30	M. Connelly	28/6/19

5/6/2019

### Appeal - Retrospective Planning permission for security fence

The following residents of Mavisbank support the appeal to retain the fence at number 26.

- We do not feel the fence changes the character of Mavisbank
- The fence improves the aesthetics and amenity of the property /street
- The fence provides practical privacy and security for the owner / family
- The fences does not detract from the pleasant character of the street
- The fence is a positive enhancement to number 26 and should be allowed to remain

House	Name	Date
49	PAMLA DOBBIE	30 June 2019

## MIDLOTHIAN COUNCIL

### DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

**Planning Application Reference:**19/00159/dpp

**Site Address:** 26 Mavisbank, Loanhead

**Site Description:**

The application property comprises a two storey end terraced dwellinghouse and its associated garden. It appears to have been extended at the side at two storey and there is a conservatory to the rear of the house. There is a 0.95m high brick wall incorporating railings along the site frontage.

The application property is located within a residential area.

**Proposed Development:**

Erection of fence (retrospective)

**Proposed Development Details:**

Planning permission is being sought retrospectively for a horizontal boarded timber fence ranging in height between 1.8m and 2.1m above ground level. The fence has been erected around the side garden of the application property running parallel to the pavement along the south east and south west boundaries and running along the boundary with the side garden of no. 28 next door. The fence is set back 30cm behind the 0.9m high wall and railings along the site frontage. A trellis a maximum of 1.9m high has been erected in the front garden adjacent to the drive to screen dustbins. The fence and trellis have been painted black.

Gates are also proposed in the gaps between the fence and the house to enclose the garden.

The submitted details state that stone chips at the driveway have been replaced with mono blocks which is shown on the submitted photographs. However this was not included in the description of the development on the planning application form and does not form part of the development under consideration in terms of the current planning application.

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

History sheet checked.

The applicant has submitted an e-mail in support of the application the points raised in which are summarised as follows:

- The fence provides security to stop trespassing in to the side and rear garden;
- The street suffers from a wind tunnel effect - with the erection of the fence and trellis there is less risk of bins being blown over and rubbish blown around the street;

- Ease of maintenance as opposed to previous overgrown shrubs and trees some of which have now been removed;
- He has received positive feedback from neighbours regarding the fence;
- There are other tall fences in Mavisbank;
- The fence does not change the character or appearance of the street and is in keeping with other improvements in the street and is less permanent than other developments in the street eg porches;
- The fence prevents the bushes and trees at the site from spilling over on to the pavement and helps maintain visibility at the corner.

#### **Consultations:**

Policy and Road Safety Manager – no objection. The erection of the fence does not raise any road safety issues.

#### **Representations:**

One representation has been received in relation to the application from the occupier of 28 Mavisbank raising concern regarding the height of the fence and the enclosed garden area being used as a dumping ground for rubbish attracting vermin and causing health issues.

The applicant has responded to the above representation reiterating that several neighbours have voiced support for work done to his garden and that the work was carried out to improve the appearance and function of the garden.

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

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

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

#### **Planning Issues:**

The main planning issue to be considered is whether or not the proposal complies with the development plan policies and, if not, whether there are any material planning considerations which would otherwise justify approval.

The surrounding area is predominantly characterised by houses set back from the road behind front and side gardens with 1m high fences or walls along the street frontage. The relatively open front and side gardens contribute to the pleasant character of the area.

Located at a corner plot, at its current height and position, including close to the pavement and extending beyond the front building line of the application property, the fence is very prominent in the streetscape.

It is not disputed that the fence is of neat construction however it is out of character with and presents a harsh frontage in the street scene with a detrimental impact on the visual amenity of the surrounding area.

The trellis is set behind, and screened from public view in part by, the fence and is less solid as compared to the fence. It does not have such a significant impact on the visual amenity of the area as compared to the fence, however with the removal of the fence it would be prominent in the street scene similarly appearing as an incongruous feature.

If approved, the fence, including the trellis, could set an undesirable precedent for other similar fences along the street frontage which would lead to the degradation of the character and appearance of the street.

The applicant has mentioned other fences at Mavisbank although has not made clear their exact location. There is a 1.8m (approx.) high fence along the side and rear boundary of no. 69 Mavisbank. There is no record of planning permission having been granted for this back to 1975. He mentions a fence at the entrance to Mavisbank. There is a 1.8m (approx.) high fence along the side and northeast boundary of 22 Polton Road. Whilst prominent it is set back from the pavement behind a grassed area at the side. There is no record of planning permission having been granted for this back to 1975.

Whilst not as immediate, a densely planted hedge could provide a barrier to trespassers and would appear as a softer feature in the street scene more in keeping with the character of the area and, dependent on the species, would only require trimming once or twice a year. A smaller bin store would prevent bins being blown over.

The fence does not have a significant impact on the amenity of neighbouring properties. Any issues in relation to vermin and health arising from the use of the garden should be reported to the Councils Environmental Health section.

**Recommendation:**

Refuse planning permission





## Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

**Reg. No. 19/00159/DPP**

Mr Paul Black  
26 Mavisbank  
Loanhead  
EH20 9DD

Midlothian Council, as Planning Authority, having considered the application by Mr Paul Black, 26 Mavisbank, Loanhead, EH20 9DD, which was registered on 27 February 2019 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

**Erection of fence (retrospective) at 26 Mavisbank, Loanhead, EH20 9DD**

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

<u>Document/Drawing.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	1:1250	27.02.2019
Site Plan		27.02.2019
Site Plan		27.02.2019
Illustration/Photograph		27.02.2019
Illustration/Photograph		27.02.2019
Illustration/Photograph		27.02.2019
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Illustration/Photograph		27.02.2019
Illustration/Photograph		27.02.2019
Illustration/Photograph		27.02.2019
Illustration/Photograph		27.02.2019
Other Statements		27.02.2019

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

1. The fence is a very prominent feature, out of character with, and presenting a harsh frontage in, the street scene with a detrimental impact on the visual amenity of the surrounding area and character of Mavisbank.
2. For the above reason the fence is contrary to the aims of policy DEV 2 of the adopted Midlothian Local Development Plan 2017 which seeks to protect the character and amenity of the built-up area.

Dated 3 / 4 / 2019



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



## Notice of Review: 17 Tipperwell Way, Penicuik Determination Report

Report by Dr Mary Smith Director of Education, Communities and Economy

### 1 Purpose of Report

- 1.1 The purpose of this report is to provide a framework for the Local Review Body (LRB) to consider a 'Notice of Review' for the extension to dwellinghouse; infilling of window opening and installation of replacement windows and door at 17 Tipperwell Way, Howgate, Penicuik.

### 2 Background

- 2.1 Planning application 19/00326/DPP for the extension to dwellinghouse; infilling of window opening and installation of replacement windows and door at 17 Tipperwell Way, Howgate, Penicuik was granted planning permission subject to two conditions on 27 May 2019; a copy of the decision is attached to this report. Condition 2 on planning permission 19/00326/DPP is as follows:

2. Notwithstanding the plans hereby approved, the replacement windows proposed on the front elevation are hereby not approved.

**Reason:** *The windows proposed on the front elevation will result in an adverse visual impact upon the character and appearance of the dwellinghouse and conservation area contrary to policy ENV19 of the adopted Midlothian Local Development Plan 2017.*

The applicant is requesting that this condition is removed from the grant of planning permission.

- 2.2 The review has progressed through the following stages:

- 1 Submission of Notice of Review by the applicant.
- 2 The Registration and Acknowledgement of the Notice of Review.
- 3 Carrying out Notification and Consultation.

### 3 Supporting Documents

- 3.1 Attached to this report are the following documents:

- A site location plan (Appendix A);
- A copy of the notice of review form and supporting statement (Appendix B). Any duplication of information is not attached;
- A copy of the case officer's report (Appendix C);

- A copy of the decision notice, excluding the standard advisor notes, issued on 27 May 2019 (Appendix D); and
  - A copy of the relevant 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 a site visit for Tuesday 10 September 2019; and
  - Have determined to progress the review by way of written submissions.
- 4.2 The case officer's report identified that no consultations were required and no representations have been received.
- 4.3 The next stage in the process is for the LRB to determine the review in accordance with the agreed procedure:
- Identify any provisions of the development plan which are relevant to the decision;
  - Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies;
  - Consider whether or not the proposal accords with the development plan;
  - Identify and consider relevant material considerations for and against the proposal;
  - Assess whether these considerations warrant a departure from the development plan; and
  - State the reason/s for the decision and state any conditions required if planning permission is granted.
- 4.4 In reaching a decision on the case the planning advisor can advise on appropriate phraseology and on appropriate planning reasons for reaching a decision.
- 4.5 Following the determination of the review the planning advisor will prepare a decision notice for issuing through the Chair of the LRB. A copy of the decision notice will be reported 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 condition has been prepared for the consideration of the LRB if it is minded to uphold the review and grant planning permission.



1. Details of the material and colour of the frames of the windows on the extension and of the proposed new door at the rear of the house shall be submitted to the Planning Authority and they shall not be installed until these details have been approved in writing by the planning authority.

***Reason:*** *For the avoidance of doubt as to what is approved: in order to safeguard the character of the existing building.*

2. The design of the replacement windows proposed on the front elevation of the application property shall match that of the existing windows which they are to replace.

***Reason:*** *In order that the design of the windows is in keeping with surrounding properties in order to reduce their visual impact on the character and appearance of this part of the Howgate Conservation Area.*

## **6 Recommendations**

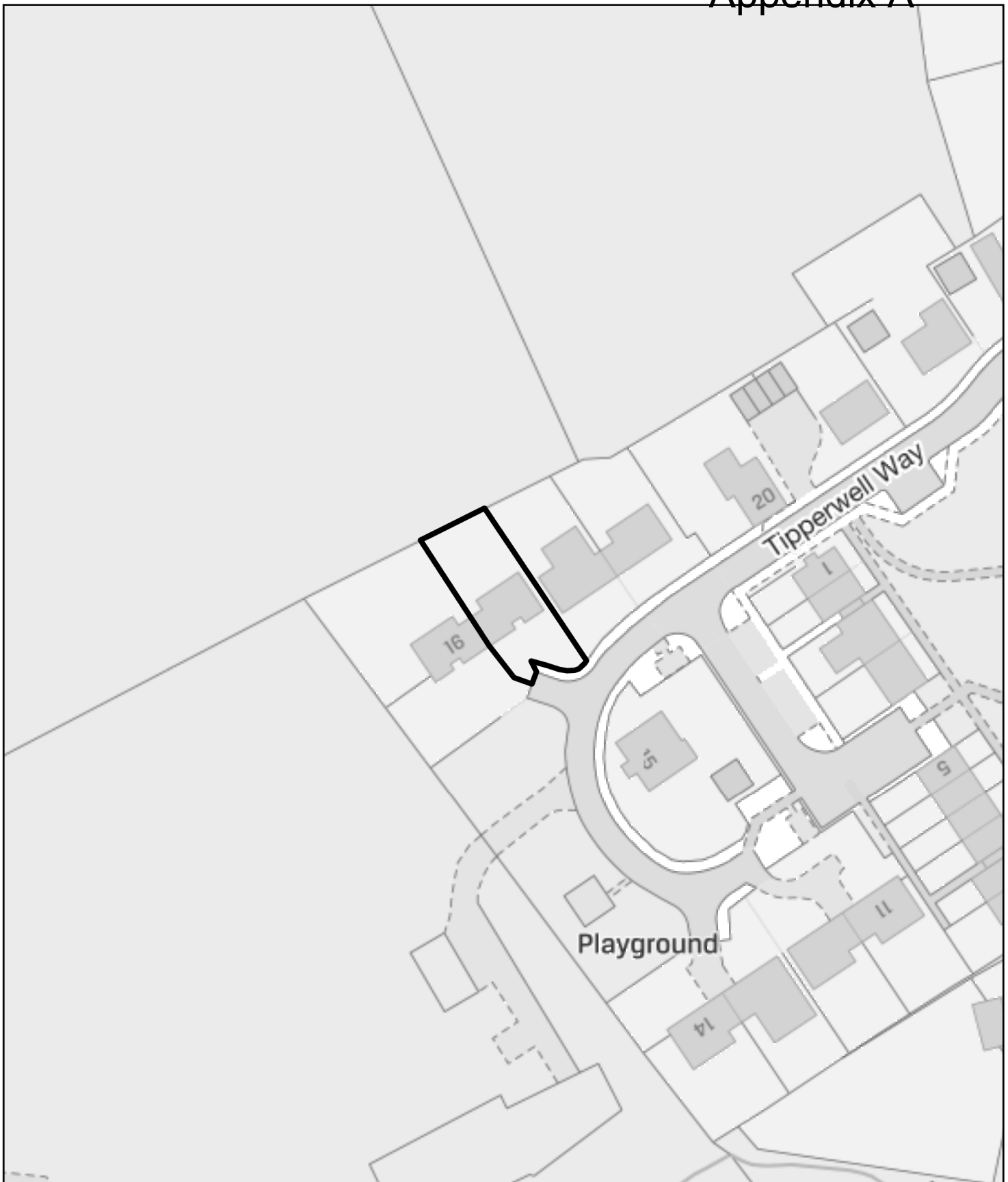
- 6.1 It is recommended that the LRB:
  - a) determine the review; and
  - b) the planning advisor draft and issue the decision of the LRB through the Chair

**Date:** 3 September 2019

**Report Contact:** Joyce Learmonth, Lead Officer Major Developments and Enforcement  
joyce.learmonth@midlothian.gov.uk

**Tel No:** 0131 271 3311

**Background Papers:** Planning application 19/00326/DPP available for inspection online.



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

Extension to dwellinghouse; infilling of window opening and installation of replacement windows and door at 17 Tipperwell Way, Penicuik

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File No 19/00326/DPP

Scale: 1:1,000  
Page 190 of 210



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 100160666-003

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

## Applicant or Agent Details

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

☐ Applicant ☒ Agent

## Agent Details

Please enter Agent details

Company/Organisation:

Ref. Number:

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

First Name: \*

Scott

Building Name:

Last Name: \*

Ritchie

Building Number:

1

Telephone Number: \*

07501020909

Address 1 (Street): \*

Bullfinch Row

Extension Number:

Address 2:

Mobile Number:

Town/City: \*

Edinburgh

Fax Number:

Country: \*

United Kingdom

Postcode: \*

EH17 8XE

Email Address: \*

ritchie121284@gmail.com

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

☒ Individual ☐ Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mrs"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text" value="Donna"/>	Building Number:	<input type="text" value="17"/>
Last Name: *	<input type="text" value="Drew"/>	Address 1 (Street): *	<input type="text" value="Tipperwell Way"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Howgate"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="EH26 8QP"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text"/>		

## 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="17 TIPPERWELL WAY"/>
Address 2:	<input type="text" value="HOWGATE"/>
Address 3:	<input type="text"/>
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 8QP"/>

Please identify/describe the location of the site or sites

Northings	<input type="text" value="658124"/>	Easting	<input type="text" value="324684"/>
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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)

Extension to dwellinghouse; infilling of window opening and installation of replacement windows and door at 17 Tipperwell Way, Penicuik, EH26 8QP

## 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.

We are appealing against the decision to refuse the replacement windows to the front elevation..There are several of the cottages within the conservation village of Howgate which have PVC windows which are clearly visible from the main road. All proposed replacement windows will be a replica of the existing window frames with slimline white PVC frames and astragals. The current window frames are not fit for purpose and the overall reason to change to PVC is to be more energy efficient.

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)

Photographs of uPVC window frames within Howgate.

## Application Details

Please provide details of the application and decision.

What is the application reference number? \*

19/00326/DPP

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

15/04/2019

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

27/05/2019

## Review Procedure

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

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

☐ Yes ☒ No

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

Please select a further procedure \*

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

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

Inspection of all properties in Howgate which have uPVC windows.

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? \*

Page 194 of 240 ☒ Yes ☐ No

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

☒ Yes ☐ No

## Checklist – Application for Notice of Review

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

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

☒ Yes ☐ No

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

☒ Yes ☐ No

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

☒ Yes ☐ No ☐ N/A

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

☒ Yes ☐ No

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

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

☒ Yes ☐ No

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

## Declare – Notice of Review

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

Declaration Name: Mr Scott Ritchie

Declaration Date: 31/07/2019

PLANNING REFERENCE - 19/00326/DPP.  
17 Tipperwell Way, Howgate  
Replacement of Existing Windows to Front Elevation

## NOTICE OF REVIEW SUPPORTING STATEMENT

Further to receiving the approved planning permission for the above property, I have discussed the decision not to approve the replacement windows to the front elevation with the client who would like to appeal this decision.

As per my clients telephone conversation with Ingrid Forteath, we would advise that several of the cottages within the conservation village of Howgate have PVC windows which are clearly visible from the main road.

Please see attached images for your information.

I do not see why this cannot be approved given the fact many other properties within the conservation area have PVC windows.

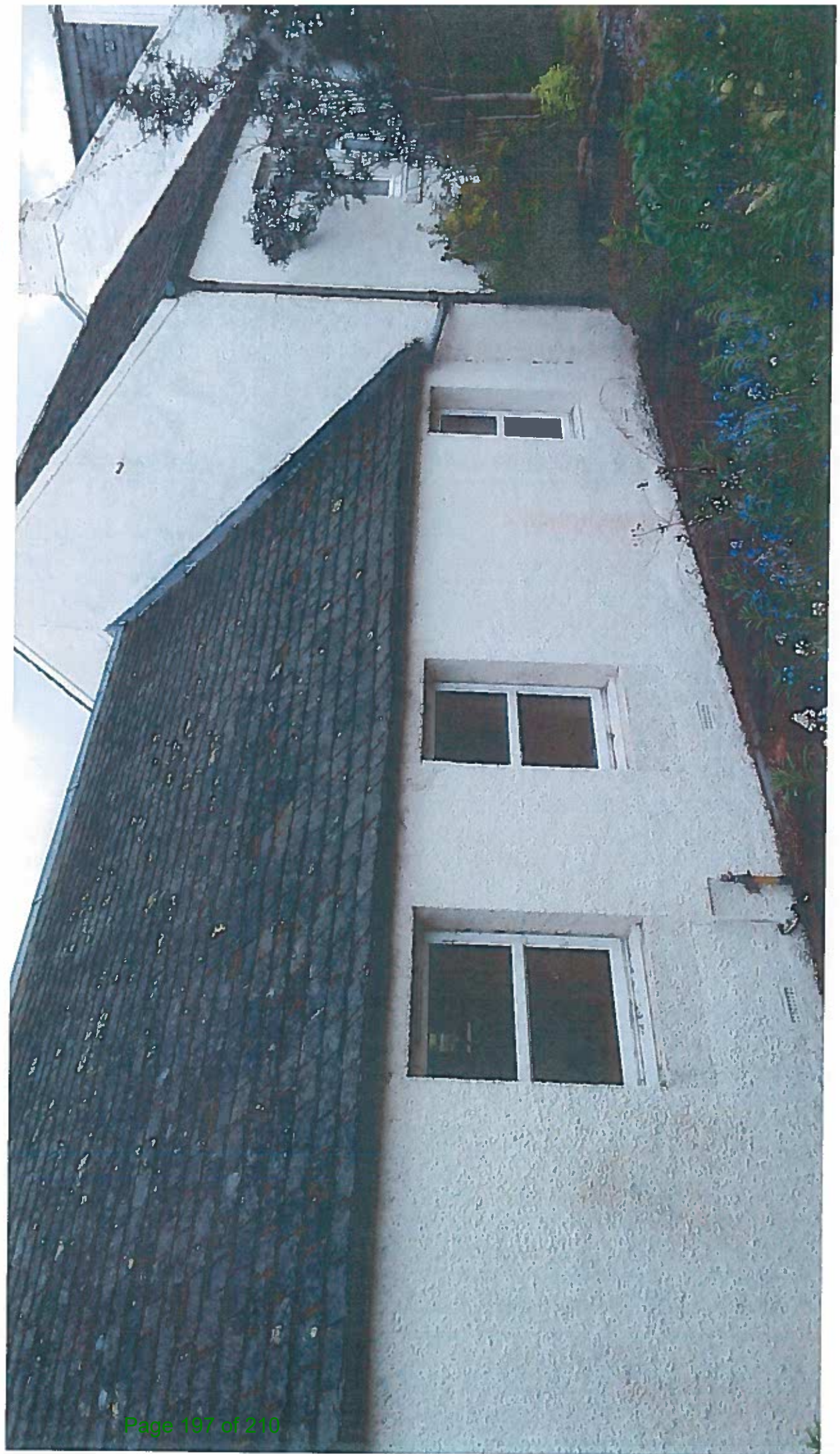
We would also like to add that all proposed replacement windows will be a replica of the existing window frames with slimline white PVC frames and astragals and would not have an adverse visual impact upon the character and appearance of the dwelling house and conservation area.

On closing, the current window frames are not fit for purpose and the overall reason to change to PVC is to be more energy efficient.

Kind regards,

Scott Ritchie





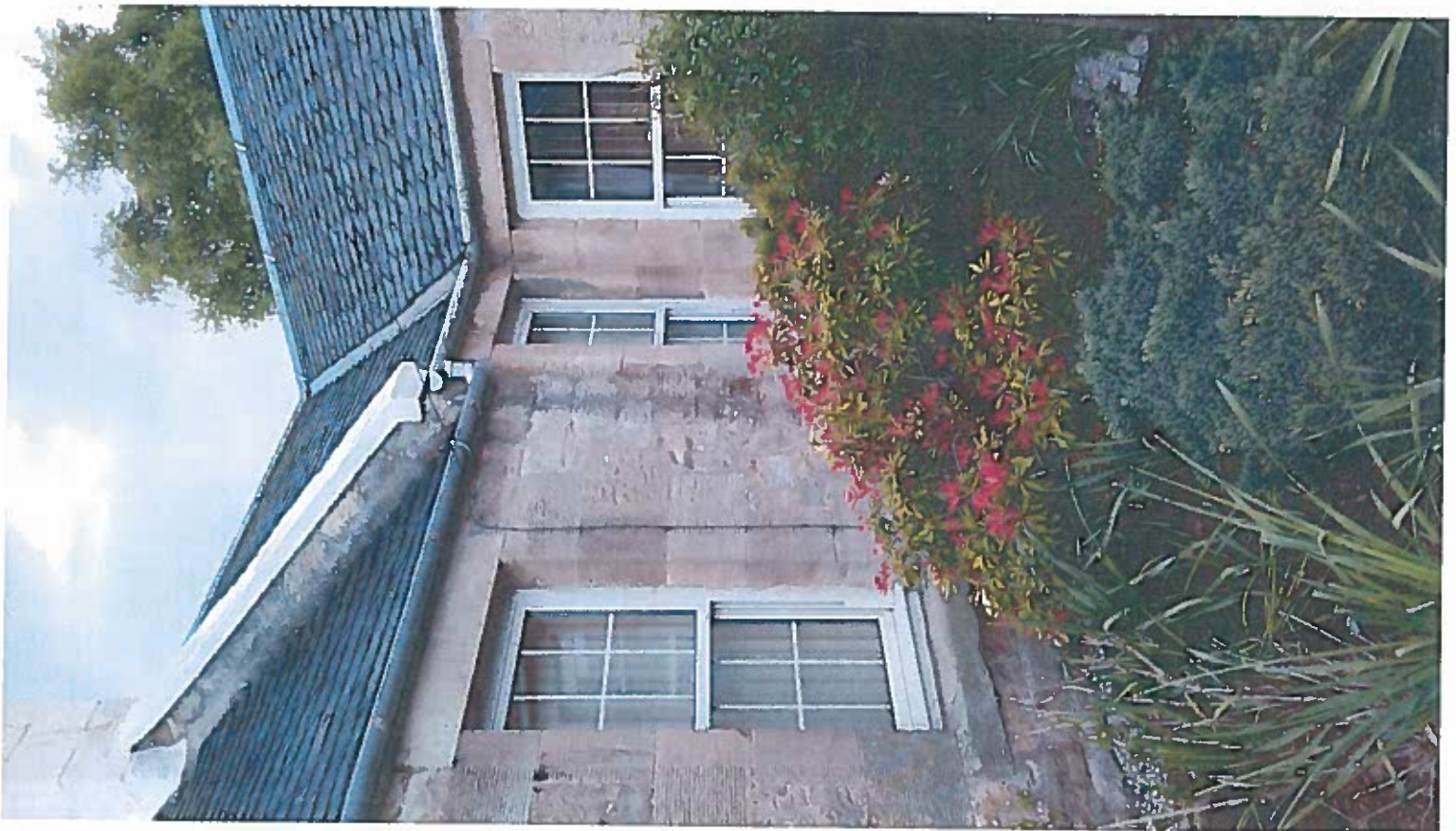














## MIDLOTHIAN COUNCIL

### DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

**Planning Application Reference:** 19/00326/dpp

**Site Address:** 17 Tipperwell Way, Howgate, Penicuik

**Site Description:**

The application property comprises a semi-detached two storey dwellinghouse. It is finished externally in cream coloured wetdash render with a stone basecourse with a slate roof and white painted timber framed windows incorporating astragals on the front elevation.

Tipperwell Way comprises of two storey dwellings finished in similar materials.

The application property is located within the Howgate Conservation Area.

**Proposed Development:**

Extension to dwellinghouse; infilling of window openings and installation of replacement windows and door

**Proposed Development Details:**

It is proposed to erect a single storey flat roof extension at the rear of the house measuring 5.7m wide and 3.8m deep. It is to be finished externally in render to match existing. The material of the frames of the windows on the extension have not been specified.

It is also proposed to infill a ground floor window on each of the side elevations of the existing building.

It is proposed to replace the existing timber framed windows on the front of the house with white upvc framed windows without astragals. It is also proposed to replace a door at the rear of the house the materials of which have not been specified.

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

History sheet checked.

**Consultations:**

None required.

**Representations:**

None received.

**Relevant Planning Policies:**



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

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

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

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

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

#### **Planning Issues:**

The main planning issue to be considered is whether or not the proposal complies with the development plan policies and, if not, whether there are any material planning considerations which would otherwise justify approval.

The flat roof design of the extension is unsympathetic to the character of the existing building and neither does it constitute a high quality contemporary design. However on balance at single storey the extension will appear subservient to the existing building and will not have a significant impact on the overall character of the building and located at the rear will not have a significant impact on the character and appearance of the conservation area. Also the extension is not dissimilar to what could ordinarily be erected as permitted development had the site not been located within the conservation area.

Page 204 of 210

The existing windows contain double glazing; the use of double glazing within the windows is acceptable and won't have a harmful impact on the conservation area. Albeit the house is of relatively recent construction the timber frames of the windows are in keeping with the traditional finishes used on the houses at Tipperwell Way. The use of uPVC fenestration is not encouraged within conservation areas. All of the dwellings at Tipperwell Way appear to have timber framed fenestration of a similar design which contributes towards the character of this part of the conservation area. The use of white uPVC fenestration is out of character for the immediately surrounding area and will result in a negative visual impact on the dwelling and conservation area. Also the lack of astragals is out of keeping with the surrounding properties. During her site visit the case officer noted upvc windows at some of the older properties in Howgate specifically nos 6, 20, 22 and 25 Howgate.

There is no record of planning permission having been granted for these back to 1975 and as such they should not be considered to set a precedent for upvc windows at Tipperwell Way. The proposed replacement windows at the front of the house should be deleted from the scheme. This can be covered by condition.

The infilling of the windows on the side of the existing building and the new door proposed on the rear will not have a significant impact on the character of the house or conservation area.

Sufficient garden area will remain after the erection of the extension.

Set off the boundary the extension will not have a significant impact on the amenity of the occupiers of no. 16 next door.

The extension will be prominent to the outlook of both the garden and a ground floor bedroom window at the rear of no. 18 however on balance will not be overbearing. It will also be prominent to the outlook from glazing on the side of a dining room extension at the rear of no. 18. However this room also has glazing on the rear elevation with unobstructed views over the garden associated with this property. The extension will not overshadow no 18's garden to a significant degree or have a significant impact on sunlight or daylight to the house at no. 18. An existing 1.8m high fence on the boundary with the application property will minimise overlooking from the side windows on the extension.

**Recommendation:**

Grant planning permission

## Planning Permission

Town and Country Planning (Scotland) Act 1997

Reg. No. 19/00326/DPP



Scott Ritchie  
5 Kilngate Brae  
Edinburgh  
EH17 8UU

Midlothian Council, as Planning Authority, having considered the application by Mrs Donna Drew, 17 Tipperwell Way, Howgate, EH26 8QP, which was registered on 15 April 2019, in pursuance of their powers under the above Acts, hereby grant permission to carry out the following proposed development:

**Extension to dwellinghouse; infilling of window opening and installation of replacement windows and door at 17 Tipperwell Way, Penicuik, EH26 8QP**

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

<u>Document/Drawing</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	1:1250	15.04.2019
Floor Plan	160/01 1:50	15.04.2019
Elevations	160/02 1:50	15.04.2019

This permission is granted for the following reason:

*The proposed extension, infilling of windows and the new door will not have a significant impact on the character of the house or this part of the Howgate Conservation Area or the amenity of neighbouring properties and comply with the aims of policies DEV2 and ENV19 of the adopted Midlothian Local Development Plan 2017.*

Subject to the following conditions:

1. Details of the material and colour of the frames of the windows on the extension and of the proposed new door at the rear of the house shall be submitted to the Planning Authority and they shall not be installed until these details have been approved in writing by the Planning Authority.

*Reason: For the avoidance of doubt as to what is approved: in order to safeguard the character of the existing building.*

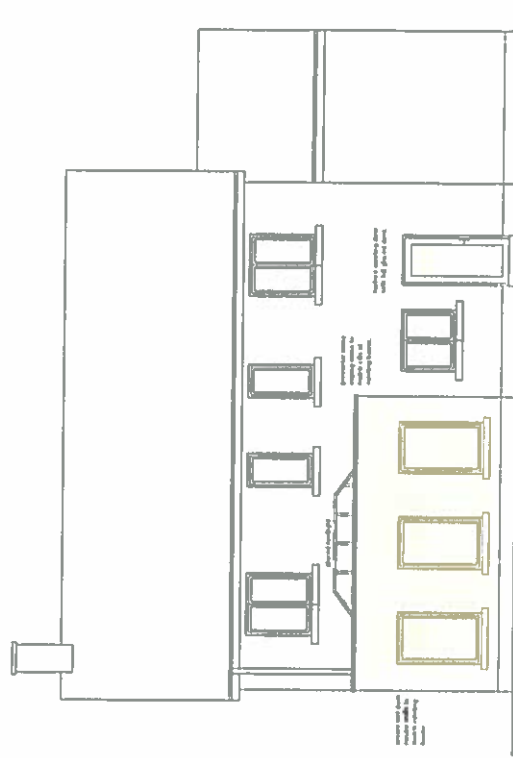
2. Notwithstanding the plans hereby approved, the replacement windows proposed on the front elevation are hereby not approved.

*Reason: The windows proposed on the front elevation will result in an adverse visual impact upon the character and appearance of the dwellinghouse and conservation area contrary to policy ENV19 of the adopted Midlothian Local Development Plan 2017.*

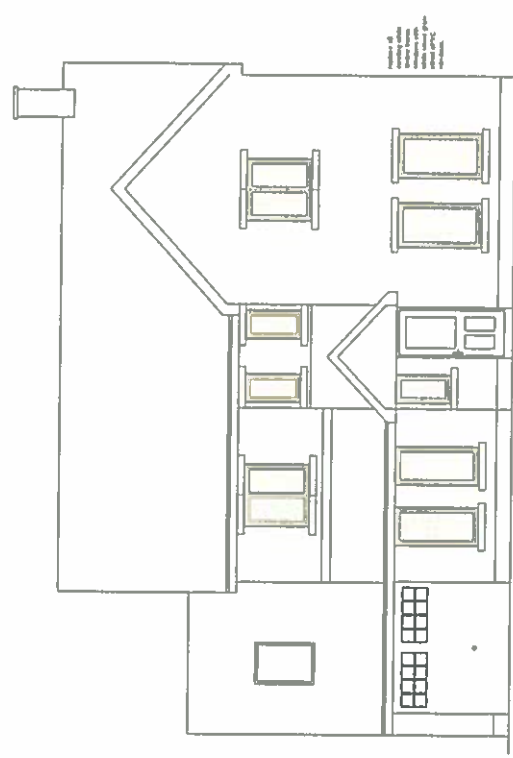
Dated 27 / 5 / 2019

A handwritten signature in black ink, consisting of a stylized 'D' and 'R'.

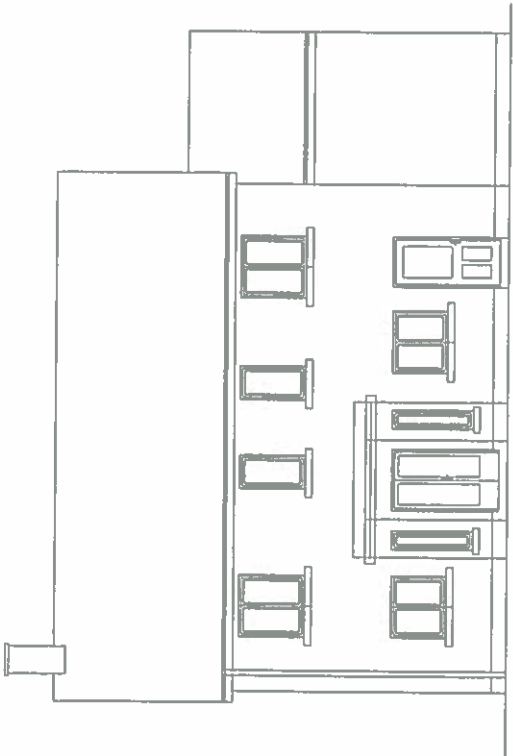
.....  
Duncan Robertson  
Lead Officer – Local Developments,  
Fairfield House, 8 Lothian Road, Dalkeith, EH22 3ZN



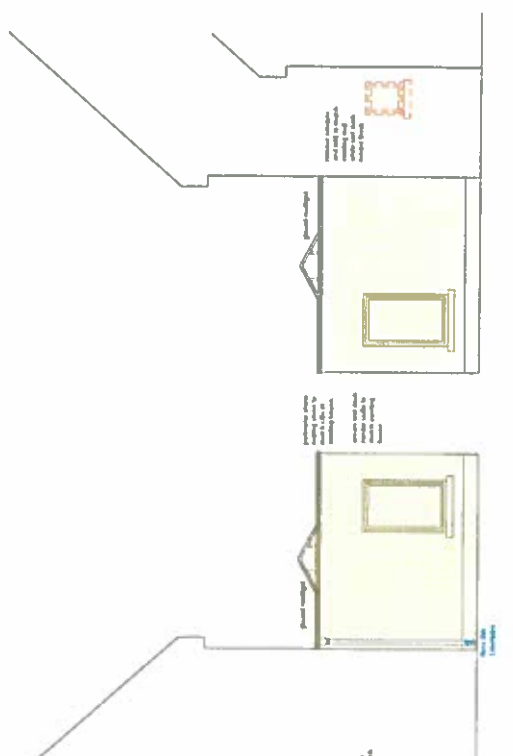
PROPOSED NORTH WEST ELEVATION



PROPOSED SOUTH EAST ELEVATION



EXISTING NORTH WEST ELEVATION



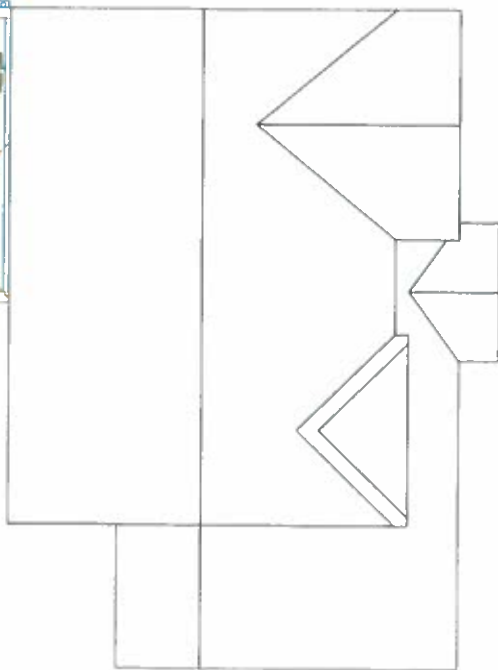
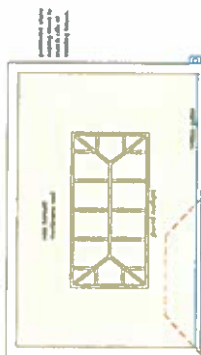
PROPOSED NORTH EAST ELEVATION

PROPOSED SOUTH WEST ELEVATION

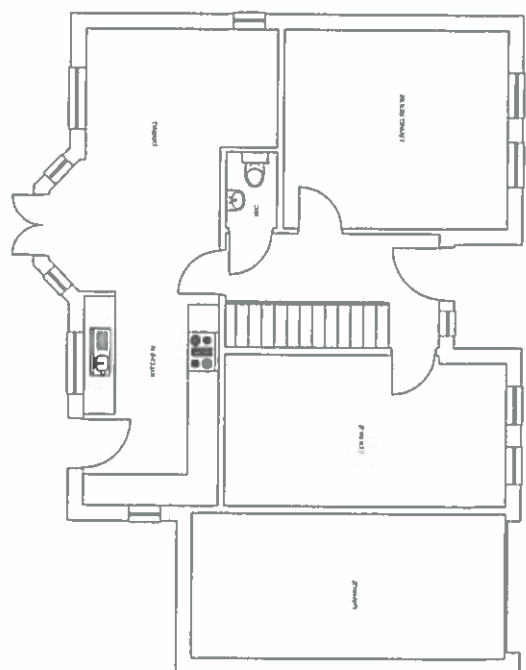
No.	Description	By	Date	Rev.
1	Scott Radcliffe 15 Kingsway House Edinburgh EH1 1RT Tel: 0171 918 2099 Email: radcliffe11114@gmail.com			
Client	Steven Winkel & Donna Drew			
Project	Extension to 17 Tipperwell Way Hawgate			
File	Existing & Proposed Elevations			
Scale	1:50			
Drawn	18/01/02			
Checked	18/01/02			
Approved	18/01/02			
Drawing Number	160/02			
Rev.				



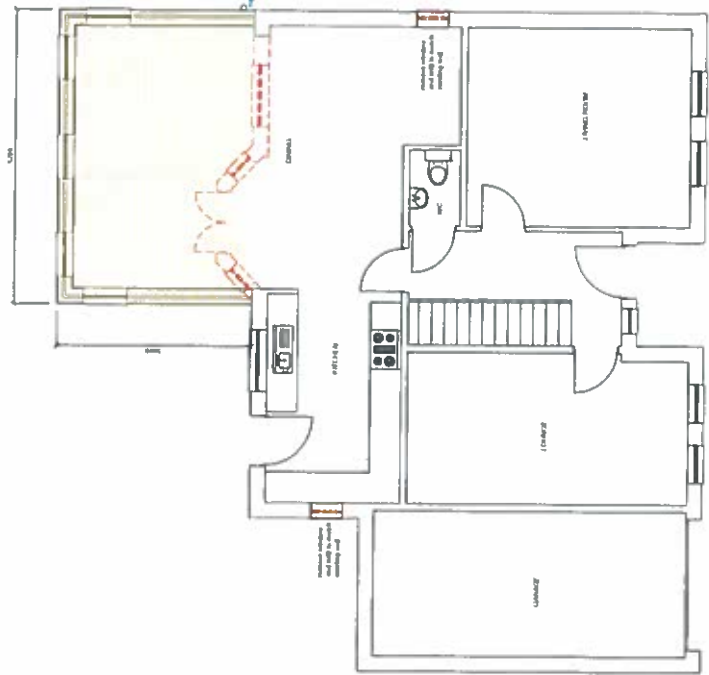




PROPOSED ROOF PLAN



EXISTING GROUND FLOOR PLAN



PROPOSED GROUND FLOOR PLAN



Scott Babbie  
5 Skipton Lane  
Ealing  
W5 3TU  
Tel: 0181 875 2999  
Email: info@scottbabbie.co.uk

Steven Winkel &  
Donna Draw

Project  
Extension to  
17 Tipperwell Way  
Howgate

Title  
Existing & Proposed Floor Plans,

Scale  
1:50  
Drawing Number  
160/01

