

Notice of Meeting and Agenda



Local Review Body

Venue: Council Chambers/Hybrid,
Midlothian House, Dalkeith, EH22 1DN

Date: Monday, 11 December 2023

Time: 13:00

Executive Director : Place

Contact:

Clerk Name: Democratic Services
Clerk Telephone:
Clerk Email: democratic.services@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

1 Welcome, Introductions and Apologies

2 Order of Business

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

3 Declaration of Interest

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 of 13 November 2023 submitted for approval | 3 - 12 |
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5 Public Reports

Notice of Reviews - Determination Reports by Chief Officer Place

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| 5.1 | 23.00485.DPP - 31 Newton Village, Dalkeith LRB Report and Appendices | 13 - 32 |
|------------|--|---------|

6 Private Reports

No items for discussion

7 Date of Next Meeting

The next meeting will be held on Monday 5 February 2024 at 13.00pm.

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

Minute of Meeting

Local Review Body
Monday 11 December 2023
Item No 4.1



Local Review Body

Date	Time	Venue
Monday 13 November 2023	1.00pm	Council Chambers/Hybrid

Present:

Councillor Imrie (Chair)	Councillor Smail
Councillor Bowen	Councillor Cassidy
Councillor Drummond	Councillor McEwan

In Attendance:

Peter Arnsdorf	Planning, Sustainable Growth and Investment Manager
Hannah Forbes	Assistant Democratic Services Officer
Lucy Roddie	Democratic Services Officer

1 Welcome, Introductions and Apologies

Apologies for absence were received from Councillor Virgo, Councillor Milligan and Councillor McManus.

2 Order of Business

The order of business was as outlined in the agenda.

3 Declarations of interest

No declarations of interest were intimated at this stage of the proceedings.

4 Minute of Previous Meeting

The Minute of the Meeting of 25 September 2023 was submitted and approved as a correct record.

5 Reports

Notice of Reviews – Determination Reports by Chief Officer Place

Agenda No	Report Title	Presented by:
5.1	23.00332.PPP - Land at Fallhills Howgate Penicuik	Peter Arnsdorf, Planning, Sustainable Growth and Investment Manager
Outline of report and summary of discussion		
<p>Peter Arnsdorf, Planning, Sustainable Growth and Investment Manager, presented this report. The purpose of the report is to provide a framework for the Local Review Body (LRB) to consider a 'Notice of Review' for planning permission in principle for the erection of a dwellinghouse on land at Fallhills, Howgate, Penicuik.</p> <p>Peter Arnsdorf reported that planning application 23/00332/PPP for planning permission in principle for the erection of dwellinghouse on land at Fallhills, Howgate, Penicuik was refused on 24 July 2023.</p> <p>Peter Arnsdorf noted that elected members had attended a site visit on the morning of 13 November 2023.</p> <p>Councillor Imrie, the Chair, thanked Peter Arnsdorf for the report and opened it up to questions.</p> <p>The Local Review Body in discussing the proposed development gave careful consideration to the impact on the appearance of the surrounding area, noting that the location of the development site was such that it would be visible from the road. Councillor Smaill suggested mandated tree planting along the site boundaries to provide visual containment of the site.</p>		

Councillor Imrie, the Chair, noted that the report made reference to the applicant taking no extra measures to help address climate and nature crisis as required by National Planning Framework 4 (NPF4) policies, however, in another section of the report there seem to be several measures in place to address this. The Chair sought clarity on the requirements of NPF4 in this regard.

In response, Peter Arnsdorf noted that the primary focus of the NPF4 planning policies seek for developments to be sustainable and to give consideration to the global climate and nature crises. The application site is in a rural location not serviced by public transport and the majority of trips to and from the site are likely to be done by private car. The proposed development is therefore fundamentally unsustainable. Peter Arnsdorf noted that the applicant had endeavoured to contribute to the enhancement of sustainability and biodiversity, insofar as was in their control.

The Local Review Body noted that the proposed site is an external horse riding school area lying empty. Development would therefore enhance the setting and contribute to the visual amenity of the area.

The Local Review Body noted that the 5+1 guidance was relevant to this case. The Supplementary Guidance for Housing Development in the Countryside and Green Belt provides some support for the development of one house where there is a group of 5 or more existing dwellinghouses. There are 9 houses within the group to the south of the site at Fallhills and therefore potential for one further house in the current Midlothian Local Development Plan (MLDP) period.

Councillor McEwan, seconded by Councillor Cassidy, moved to uphold the review request and grant planning permission, subject to the conditions as detailed in the report and subject to the addition of a condition to plant trees for visual containment of the site, as suggested by Councillor Smail.

Decision

The Local Review Body agreed to uphold the review request and to grant planning permission in principle for the erection of a dwellinghouse on land at Fallhills, Howgate, Penicuik, subject to the conditions as detailed in the report and subject to the addition of a condition to include native tree and hedgerow planting along the site boundaries to provide visual containment of the site.

Action

Planning, Sustainable Growth and Investment Manager prepare a decision notice for issuing through the Chair of the LRB.

6. Private Reports

No private business was discussed.

7. Date of Next Meeting

The next meeting is scheduled for Monday 11 December 2023 at 13:00.

The meeting terminated at 13:17.

Grant of Planning Permission

Town and Country Planning (Scotland) Act 1997 as amended

Local Review Body: Review of Planning Application Reg. No. 23/00332/PPP

Ferguson Planning
38 Thistle Street
Edinburgh
EH2 1EN

Midlothian Council, as Planning Authority, having considered the review of the application by Mr Brian McPhillips, 1 Fallhills Court, Howgate, EH26 8QE, which was registered on 23 October 2023 in pursuance of their powers under the above Act, hereby **grant** permission to carry out the following proposed development:

Application for planning permission in principle for erection of dwellinghouse at land at Fallhills, Howgate, Penicuik, in accordance with the application and the following plans:

<u>Drawing Description.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	P00 1:1000	25.05.2023
Site Plan	P01 1:500	25.05.2023

Subject to the following conditions:

1. The development to which this permission relates shall commence no later than the expiration of three years beginning with the date of this permission.

Reason: To accord with the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended by the Planning (Scotland) Act 2019).

2. Development shall not begin until an application for the approval of matters specified in conditions for the following details has been submitted to and approved in writing by the planning authority:
 - a) A detailed layout plan of the site, showing the siting of the proposed house, details of vehicular access, parking provision and manoeuvring within the site and details of all walls, fences or other means of enclosure, including bin stores or other ancillary structures;

- b) Existing and finished ground levels and floor levels for all buildings, open space and access roads in relation to a fixed datum;
- c) Detailed plans, sections and elevations of the proposed house, indicating the colour and type of materials to be used on the external walls, roof and windows;
- d) Details of all hard surfacing and kerbing;
- e) Details of a sustainability/biodiversity scheme for the site, including the provision of house bricks and boxes for bats and swifts;
- f) Details of the provision of superfast broadband connections for the house;
- g) Details of the provision of electric vehicle charging stations for the house;
- h) Details of the proposed air source heat pump;
- i) Proposals for the treatment and disposal of foul and surface water drainage from the proposed house. Unless otherwise approved in writing by the planning authority, the surface water drainage shall comply with the standards detailed in the SUDS Manual; and
- j) Details of a scheme of existing and proposed landscaping at the site and a plan and planting schedule detailing the position, number, size and species of all trees and shrubs that are proposed to be planted; all trees on the site which are to be removed and retained; and details of the means of protection of all trees that are to be retained.

Reason: *Permission is granted in principle only. No details were approved with the application and detailed consideration is required for the siting, massing and design of the proposed dwellinghouse and site access arrangements; to ensure protected species are not adversely affected.*

- 3. The house approved in terms of conditions 2a) and 2c) shall be a maximum of two storeys high with the upper level of accommodation provided wholly within the roofspace.

Reason: *To be in keeping with the surrounding houses within the housing group; to protect the visual amenity of the surrounding rural area.*

- 4. The scheme of landscaping approved in accordance with condition 2j) shall include details of native tree and hedgerow planting along the site boundaries.

5. The scheme of landscaping approved in accordance with condition 2j) shall be carried out and completed within six months of the house either being completed or brought into use, whichever is the earlier date. Any trees removed, dying, severely damaged or becoming seriously diseased within five years of planting shall be replaced in the following planting season by trees of a size and species similar to those originally required.

Reason for conditions 4 and 5: To ensure the landscaping is appropriate to the rural surroundings and integrates the development into the area; to ensure that the landscaping is carried out and becomes successfully established.

6. Before the new house is occupied the installation of the means of drainage treatment and disposal approved in terms of condition 2i) above shall be completed to the satisfaction of the planning authority.

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

The Local Review Body (LRB) considered the review of the planning application at its meeting of 13 November 2023.

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

National Planning Framework 4

1. Policy 1 Tackling the climate and nature crisis;
2. Policy 2 Climate mitigation and adaptation;
3. Policy 3 Biodiversity;
4. Policy 5 Soils;
5. Policy 11 Energy;
6. Policy 12 Zero waste;
7. Policy 13 Sustainable transport;
8. Policy 14 Design, quality and place;
9. Policy 15 Local Living and 20 minute neighbourhoods;
10. Policy 16 Quality homes;
11. Policy 17 Rural homes;
12. Policy 19 Heating and cooling;
13. Policy 20 Blue and green infrastructure;
14. Policy 22 Flood risk and water management;
15. Policy 23 Health and safety; and
16. Policy 24 Digital infrastructure.

Midlothian Local Development Plan Policies:

1. DEV5 Sustainability in new development;
2. DEV6 Layout and design of new development;

3. DEV7 Landscaping in new development;
4. TRAN5 Electric vehicle charging;
5. IT1 Digital infrastructure;
6. RD1 Development in the countryside; and
7. ENV7 Landscape character.

Supplementary guidance for housing development in the countryside and green belt.

Material Considerations:

1. The individual circumstances of the site and the application.

In determining the review the LRB concluded:

The proposed single dwellinghouse by means of its siting to the south/south west of the B6372 and proximity to other buildings in Fallhills will not be detrimental to the local landscape, residential amenity or the countryside and as such is considered an acceptable addition to the Fallhills housing cluster in accordance with the Midlothian Local Development Plan 2017.

In reaching its decision the LRB stated that the acceptability of the proposal is based on providing visual containment to the site by substantial planting and the proposed dwellinghouse being of high quality design and materials. These matters can be secured through the conditions.

Dated: 13/11/2023



Peter Arnsdorf
Planning, Sustainable Growth and Investment Manager
Advisor to the Local Review Body
Place Directorate
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, Sustainable Growth and Investment Manager via peter.arnsdorf@midlothian.gov.uk



**The Coal
Authority**

Any Planning Enquiries should be directed to:

Planning and Local Authority Liaison

Email: planningconsultation@coal.gov.uk

Website: www.gov.uk/coalauthority

Development Low Risk Area – Standing Advice

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

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

Standing Advice valid from 1st January 2023 until 31st December 2024

Notice of Review: 31 Newton Village, Dalkeith

Determination Report

Report by Chief Officer Place

1 Purpose of Report

- 1.1 The purpose of this report is to provide a framework for the Local Review Body (LRB) to consider a 'Notice of Review' for the erection of rear extension and front porch to flatted dwelling at 31 Newton Village, Dalkeith.

2 Background

- 2.1 Planning application 23/00485/DPP for the erection of rear extension and front porch to flatted dwelling at 31 Newton Village, Dalkeith was refused planning permission on 1 September 2023; a copy of the decision is attached to this report.
- 2.2 The review has progressed through the following stages:
- 1 Submission of Notice of Review by the applicant.
 - 2 The Registration and Acknowledgement of the Notice of Review.
 - 3 Carrying out Notification and Consultation.

3 Supporting Documents

- 3.1 Attached to this report are the following documents:
- A site location plan (Appendix A);
 - A copy of the notice of review form and supporting statement (Appendix B). Any duplication of information is not attached;
 - A copy of the case officer's report (Appendix C);
 - A copy of the decision notice, excluding the standard advisory notes, issued on 1 September 2023 (Appendix D); and
 - A copy of the key plans/drawings (Appendix E).
- 3.2 The full planning application case file and the development plan policies referred to in the case officer's report can be viewed online via www.midlothian.gov.uk.

4 Procedures

- 4.1 In accordance with agreed procedures, the LRB:

- Have determined to undertake a site visit (only elected members attending the site visit can participate in the determination of the review); and
 - Have determined to progress the review by written submissions.
- 4.2 The case officer's report identified that there were no consultations and no representations received.
- 4.3 The next stage in the process is for the LRB to determine the review in accordance with the agreed procedure:
- Identify any provisions of the development plan which are relevant to the decision;
 - Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies;
 - Consider whether or not the proposal accords with the development plan;
 - Identify and consider relevant material considerations for and against the proposal;
 - Assess whether these considerations warrant a departure from the development plan; and
 - State the reason/s for the decision and state any conditions required if planning permission is granted.
- 4.4 In reaching a decision on the case the planning advisor can advise on appropriate phraseology and on appropriate planning reasons for reaching a decision.
- 4.5 Following the determination of the review the planning advisor will prepare a decision notice for issuing through the Chair of the LRB. A copy of the decision notice will be reported back to the LRB for noting.
- 4.6 A copy of the LRB decision will be placed on the planning authority's planning register and made available for inspection online.

5 Conditions

- 5.1 In accordance with the procedures agreed by the LRB at its meeting of 20 June 2022, and without prejudice to the determination of the review, the following conditions have been prepared for the consideration of the LRB if it is minded to uphold the review and grant planning permission.

1. The development to which this permission relates shall commence no later than the expiration of three years beginning with the date of this permission.

Reason: To accord with the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended by the Planning (Scotland) Act 2019).

2. The use of concrete roof tiles on the roof of the porch is not approved: the roof of the porch shall be covered in natural slate to match the colour, size, texture and profile of the slate on the roof of the existing building.

Reason: *To safeguard the character of the building as extended and the visual amenity of the surrounding area.*

3. Within 3 months of the rear extension being completed or brought into use whichever is the earlier date the existing garage in the back garden as indicated on the approved 1:200 existing block plan on drawing no. 23/McPhee/PP/001(-) shall be removed in its entirety.

Reason: *To ensure adequate private amenity space associated with the application property.*

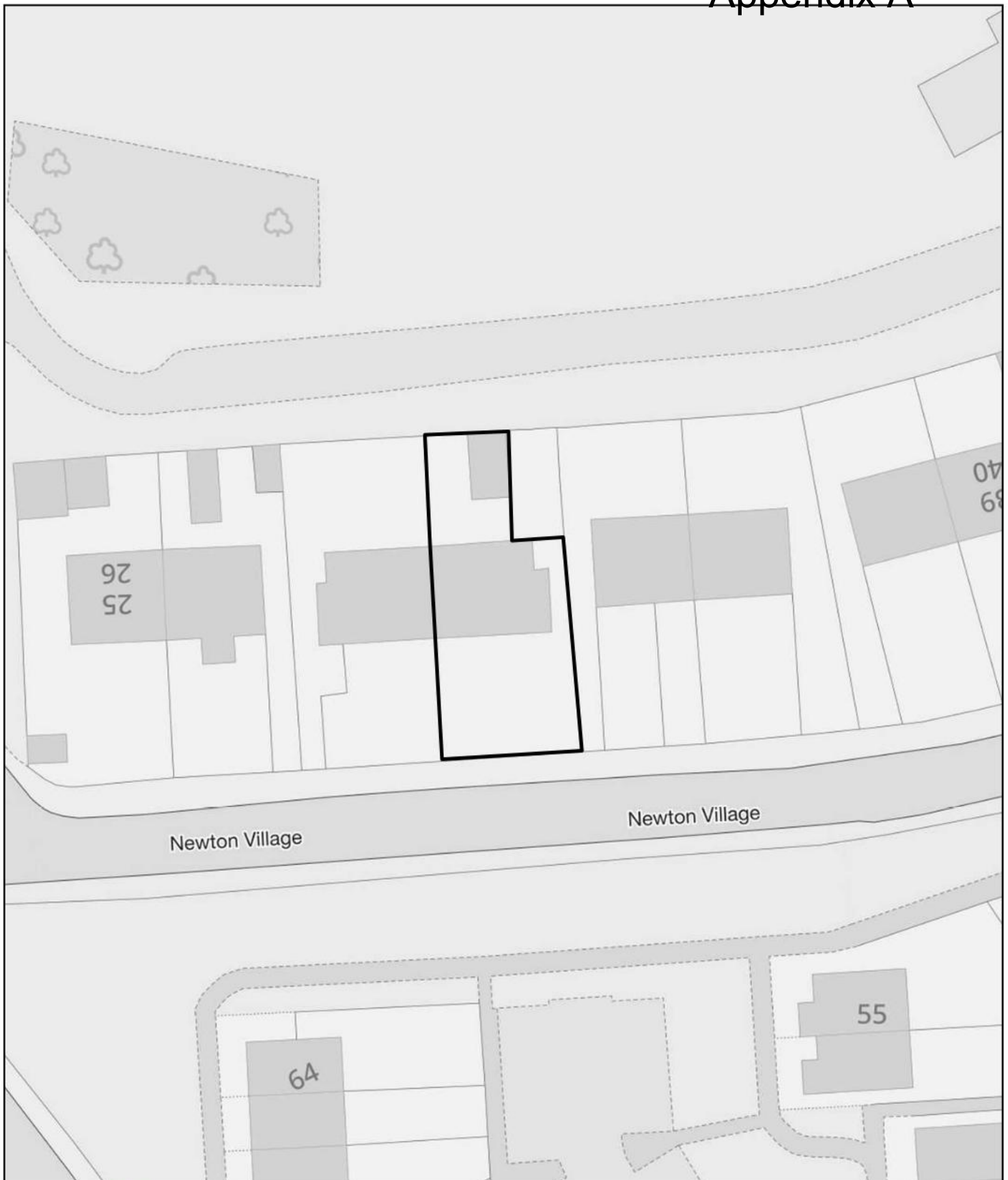
6 Recommendations

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

Peter Arnsdorf
Planning, Sustainable Growth and Investment Manager

Date: 1 December 2023
Report Contact: Ingrid Forteath, Planning Officer
Ingrid.Forteath@midlothian.gov.uk

Background Papers: Planning application 23/00485/DPP available for inspection online.



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

Extension to flatted dwelling and erection of porch at 31
Newton Village, Dalkeith, EH22 1SN

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File No: 23/00485/DPP

Scale: 1:500

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

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 100584547-003

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="F.E.M Building Design"/>		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	<input type="text" value="Douglas"/>	Building Name:	<input type="text"/>
Last Name: *	<input type="text" value="Mack"/>	Building Number:	<input type="text" value="8"/>
Telephone Number: *	<input type="text" value="07966201299"/>	Address 1 (Street): *	<input type="text" value="Plantain Grove"/>
Extension Number:	<input type="text"/>	Address 2:	<input type="text" value="Lenzie"/>
Mobile Number:	<input type="text"/>	Town/City: *	<input type="text" value="Glasgow"/>
Fax Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
		Postcode: *	<input type="text" value="G66 3NE"/>
Email Address: *	<input type="text" value="douglas@femdesign.co.uk"/>		

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

☒ Individual ☐ Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *
Other Title:	<input type="text"/>	Building Name: <input type="text"/>
First Name: *	<input type="text" value="Ross"/>	Building Number: <input type="text" value="31"/>
Last Name: *	<input type="text" value="McPhee"/>	Address 1 (Street): * <input type="text" value="Newton Village"/>
Company/Organisation	<input type="text"/>	Address 2: <input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: * <input type="text" value="Danderhall"/>
Extension Number:	<input type="text"/>	Country: * <input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: * <input type="text" value="EH22 1SN"/>
Fax Number:	<input type="text"/>	
Email Address: *	<input type="text" value="REDACTED"/>	

Site Address Details

Planning Authority:	<input type="text" value="Midlothian Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="31 NEWTON VILLAGE"/>
Address 2:	<input type="text" value="NEWTON"/>
Address 3:	<input type="text" value="DANDERHALL"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="DALKEITH"/>
Post Code:	<input type="text" value="EH22 1SN"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="669487"/>	Easting	<input type="text" value="331774"/>
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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 flatted dwelling and erection of porch at 31 Newton Village, Dalkeith, EH22 1SN

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 seek a review of the Planning Authority's decision as in this particular instance we feel that the reasons provided for refusal are, in our opinion unjustified and that the proposals should be approved Planning Permission.

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)

Planning Appeal Statement historic drawings

Application Details

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

23/00485/DPP

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

25/07/2023

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

01/09/2023

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 Douglas Mack

Declaration Date: 05/11/2023



APPEAL TO THE LOCAL REVIEW BODY IN RESPONSE TO REFUSAL OF PLANNING APPLICATION 23/00485/DPP AT 31 NEWTON VILLAGE, DANDERHALL

We are seeking a review of the refusal of Planning Permission by Midlothian Council for the rear extension and erection of porch to the above property. We will outline as part of this appeal that, in this particular instance we feel that the reasons provided for refusal are, in our opinion unjustified and that the proposals should be approved Planning Permission.

We would initially point out that in the street of Newton Village in which this property is located only one other Planning application for a single storey rear extension has been submitted to Midlothian Council. This was for a rear flat roof extension to 65 Newton Village approved under the Planning reference 17/00333/DPP which we will reference as part of this appeal.

The first reason for refusal, that '*The design of the proposed extension is out of character with and unsympathetic to the character and form of the original building and will detract from the character and appearance of the host building*' we would suggest is not correct in this particular case. The street of Newton Village is formed of '4 in a block' flatted properties which we would suggest aren't of any significant architectural interest. To use the terms in the above statement would suggest that we are proposing to harm the architectural integrity of a building of high design and interest, which we of course, are not. We will refer to the rear flat roof extension at 65 Newton Village, previously approved by Midlothian Council which is similar in terms of it's size to the proposal to which this appeal relates. We cannot agree with the reasoning that the proposed extension at 31 Newton Village is out of character and unsympathetic to the original building. The applicant specifically wanted the proposed extension to be in keeping with the original building hence the specification of render to match existing and white Upvc windows and doors, also to match existing. During the Planning application process, the Planning Officer Ms Forteath requested a change in the design of the extension to introduce a more contemporary look. While we understand that in some cases it may enhance the design to contrast a contemporary looking extension with the original building my client did not feel that a contemporary design complimented the original building. We would argue that the design of the proposed extension would in no way detract from the character and appearance of the host building and to suggest so would appear to be more Ms Forteaths personal opinion than any Council policy. We did offer to consider changing the roof of the proposed extension to pitched construction but Ms Forteath didn't feel that this enhanced the application.

The second reason for refusal, that '*The proposed rear extension will have an overbearing impact on the outlook of the garden of the neighbouring property at 29 Newton Village with a detrimental impact on the amenity of the occupiers*' would appear to be unsubstantiated in

that the form of the approved extension at 65 Newton Village which was previously approved is very similar to that proposed in this application.

The application previously approved at no. 65 Newton Village includes a new external extension wall approximately 7100mm long running along the line of the garden boundary. We would suggest that this sets a precedence of a wall adjacent to the neighbouring garden which would have the same impact on the amenity of the neighbouring property. As part of the original design we provided a proposed rear elevation drawing which showed compliance with the '45 degree rule' in that the proposed extension would not impact on the daylight to the property at no. 29 Newton Village. The property at no. 29 Newton Village has a substantial rear garden. It should also be noted that there were no objections to the proposal during the Planning process.

Reason 3 for the refusal decision which is '*For the above reasons the proposals are contrary to the aims of policies 14 and 16 of NPF4 which presume against poorly designed development and development which has a detrimental effect on neighbouring properties and DEV 2 of the adopted Midlothian Development Plan 2017 which seeks to protect the character and amenity of the built up area*' is, in our opinion unjustified in this particular case due both to the precedence set of the rear extension at no. 65 Newton Village and also that the area in which the extension is proposed is not of any particular architectural value. NPF4 Policy 14 refers to 6 'qualities' those being, Healthy, Pleasant, Connected, Distinctive, Sustainable, Adaptable. To try and adapt these 'qualities' to a small rear extension to a property of the nature at 31 Newton Village is somewhat.

In summary, we feel that what we initially viewed as a reasonably straightforward Planning approval (suggestion reinforced by the previous approval at 65 Newton Village and numerous similar rear extensions throughout Midlothian) has been refused following a subjective view of the Case Officer rather than a council or national policy.

The proposed extension would in no way have any detrimental impact upon the property itself, it's immediate neighbours or the surrounding neighbourhood. We would request that that the information contained in this statement be carefully considered to allow a satisfactory outcome for my clients.

Reg. No. 23/00485/DPP

F.E.M Building Design
8 Plantain Grove
Lenzie
Glasgow
G66 3NE

Midlothian Council, as Planning Authority, having considered the application by Mr and Mrs Ross and Lisa McPhee, 31 Newton Village, Danderhall, EH22 1SN, which was registered on 25 July 2023 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

Extension to flatted dwelling and erection of porch at 31 Newton Village, Dalkeith, EH22 1SN

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

<u>Document/Drawing.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location plan and existing floor plans and elevations	23/McPhee/PP/001(-) 1:1250 1:200 1:50	25.07.2023
Location plan and proposed floor plans and elevations	23/McPhee/PP/002(-) 1:1250 1:50	25.07.2023

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

- 1. The design of the proposed rear extension is out of character with and unsympathetic to the character and form of the existing building and will detract from the character and appearance of the host building.*
- 2. The proposed rear extension will have an overbearing impact on the outlook of the garden of the neighbouring property at 29 Newton Village with a detrimental impact on the amenity of the occupiers.*
- 3. For the above reasons the proposals are contrary to the aims of policies 14 and 16 of NPF4 which presume against poorly designed development and development which has a detrimental effect on neighbouring properties and DEV 2 of the adopted Midlothian Local Development Plan 2017 which seeks to protect the character and amenity of the built-up area.*

Dated 1 / 9 / 2023

A handwritten signature in black ink, appearing to be 'DR' with a stylized flourish.

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



**The Coal
Authority**

Any Planning Enquiries should be directed to:

Planning and Local Authority Liaison

Direct Telephone: 01623 637 119 (Planning Enquiries)

Email: planningconsultation@coal.gov.uk

Website: www.gov.uk/coalauthority

INFORMATIVE NOTE

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

Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant land stability and public safety risks. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design which takes into account all the relevant safety and environmental risk factors, including mine gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at:

www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries

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

If any coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at:

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

Informative Note valid from 1st January 2023 until 31st December 2024

MIDLOTHIAN COUNCIL

DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

Planning Application Reference: 23/00485/dpp

Site Address: 31 Newton Village, Dalkeith

Site Description:

The application property comprises a ground floor flat within a four in a block building, and its associated garden, located within a residential area. The building is finished externally in drydash render with a painted blockwork base course and has white upvc window frames at the application property and a slate hipped roof. There is a flat roof garage within the back garden of the application property with a footprint measuring 6.1m by 3.8m.

Proposed Development:

Extension to flatted dwelling and erection of porch

Proposed Development Details:

It is proposed to erect a porch extension at the front of the property measuring 2m deep and 3m wide with a monopitch roof. It is also proposed to erect a single storey flat roof extension at the rear of the property measuring a maximum of 6.3m deep and a maximum of 5.4m wide. External materials are to match existing. The submitted plans indicate the removal of the existing garage from the back garden.

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

History sheet checked.

22/00553/dpp - Extension to flatted dwelling and erection of porch at 31 Newton Village – refused 05.09.22 on grounds of design, overdevelopment, and impact on neighbour and as being contrary to development plan policy.

Further to refusal of planning permission the agent contacted the Planning Authority and was advised that an alternative scheme would need to address the reasons for refusal.

In relation to policy 1 of NPF4 the agent has advised: where possible materials will be sustainable and sourced locally; consideration will be given to the use of bee and nest bricks and where required local trades will be used.

Consultations:

None required.

Representations:

None received.

Relevant Planning Policies:

Planning policy currently comprises National Planning Framework 4 and the adopted Midlothian Local Development Plan 2017. The following policies are relevant to the proposal:

NPF4

Policy 1 Tackling the climate and nature crises

When considering all development proposals significant weight will be given to the global climate and nature crises.

Policy 14 Design, quality and place

- a) Development proposals will be designed to improve the quality of an area whether in urban or rural locations and regardless of scale.
- c) Development proposals that are poorly designed, detrimental to the amenity of the surrounding area or inconsistent with the six qualities of successful places, will not be supported.

Policy 16 Quality homes

- g) Householder development proposals will be supported where they:
 - i. do not have a detrimental impact on the character or environmental quality of the home and the surrounding area in terms of size, design and materials; and
 - ii. do not have a detrimental effect on the neighbouring properties in terms of physical impact, overshadowing or overlooking.
- h) Householder development proposals that provide adaptations in response to risks from a changing climate, or relating to people with health conditions that lead to particular accommodation needs will be supported.

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

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

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

Planning Issues:

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

Given that recently published building regulations require increased insulation in house extensions, which helps reduce heat loss and can reduce energy consumption in the home, along with the measures outlined by the agent, the proposed development will contribute to addressing the global climate crises. The proposed development will not exacerbate the global nature crises. Therefore the proposed development complies with the aims of policy 1 of NPF4.

Extensions to the fronts of houses are generally approved if they are small and sympathetically designed; in these cases the existing character of the individual house and of the street scene is retained. The majority of such extensions are front porches, a main purpose of which is to give added protection to the entrance door to the house, and usually these do not project more than 2 metres from the front wall of the original house.

The size of the porch has been reduced since the previously refused scheme. Whilst the porch will still be quite a prominent feature at the front of the building it will not appear overly dominant on the principal elevation or in the street scene. The porch will not have a significant impact on the amenity of neighbouring properties. The submitted plans are annotated that the roof of the porch is to be covered in concrete tiles. It is the usual practice of the Planning Authority to require matching materials on extensions in order that they integrate better with the existing building rather than appearing stuck on. Should planning permission be forthcoming a condition should be attached requiring slate on the roof of the porch to match the existing roof covering on the building.

As stated above further to refusal of planning permission for the previous scheme the agent contacted the Planning Authority and was advised that an alternative scheme would need to address the reasons for refusal. The rear extension has not been amended since the previously refused scheme. The flat roof design of the rear extension is unsympathetic to the character of the existing building and neither does it constitute a high quality example of contemporary design. The extension is not well designed and will detract from the character of the original building.

Whilst the existing garage is to be removed from the back garden there will be quite a small back garden area remaining after the erection of the extension. However whilst this is a flatted property the permitted development regulations for dwellinghouses allow for extensions which cover 50% of rear gardens and the rear extension falls within this site coverage criterion.

Set off the boundary the extension will not have a significant impact on the amenity of the occupiers of the first floor flat at no. 32.

The proposed extension will be a dominant feature with an overbearing impact as viewed from the garden of the neighbour at no. 29. It will also be very prominent to the outlook of a kitchen door at the rear of no. 29 but not so prominent from the kitchen window at the rear. The extension will not have a significant impact on sunlight to the flatted dwelling at no 29. It will impact on sunlight to the rear garden of no. 29 in the morning however not to a significant extent as compared to the existing situation. The extension fails the standard 45° daylight test to the glazing on

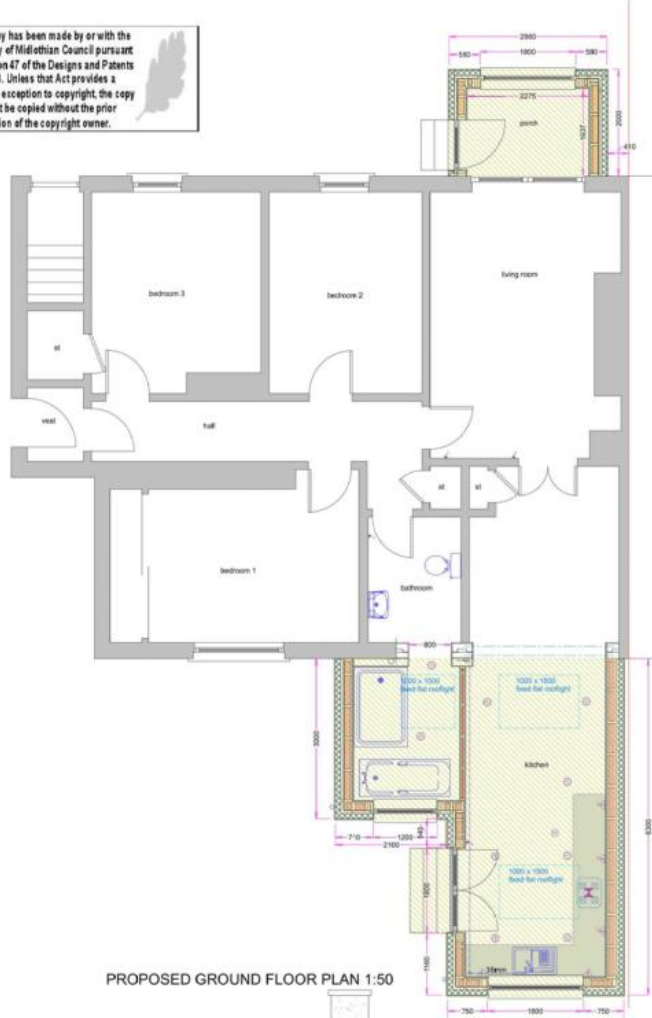
the kitchen door at no 29 however satisfies the same test to the larger kitchen window.

Recommendation:

Refuse planning permission

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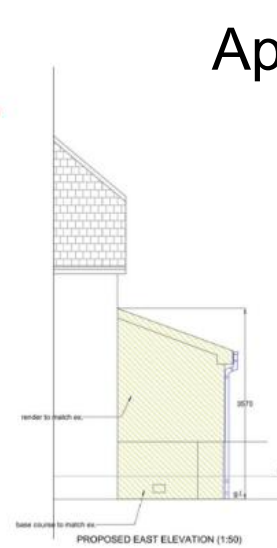
Appendix E



PROPOSED GROUND FLOOR PLAN 1:50



PROPOSED FRONT ELEVATION 1:50



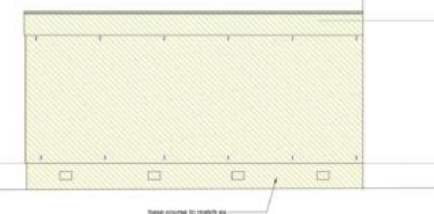
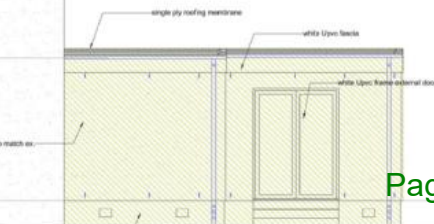
PROPOSED EAST ELEVATION 1:50



PROPOSED REAR ELEVATION 1:50



PROPOSED END (WEST) ELEVATION 1:50



PROPOSED END (WEST) ELEVATION 1:50

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All dimensions to be checked on site prior to work commencing.
Drawings shall not be printed, all dimensions are to be checked by contractor.

Client:
Mr & Mrs McPhee
31 Newton Village
Danderhall

Project:
Extend dwellinghouse
and erect porch

Drawing number:
23/McPhee/PP/002(-)



