

Notice of meeting and agenda



Local Review Body

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

Date: Tuesday, 22 May 2018

Time: 14:00

John Blair
Director, Resources

Contact:

Clerk Name: Mike Broadway

Clerk Telephone: 0131 271 3160

Clerk Email: mike.broadway@midlothian.gov.uk

Further Information:

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

Audio Recording Notice: Please note that this meeting will be recorded. The recording will be publicly available following the meeting. The Council will comply with its statutory obligations under the Data Protection Act 1998 and the Freedom of Information (Scotland) Act 2002.

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 Declarations 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 Minutes of Previous Meeting

- | | | |
|------------|--|---------------|
| 4.1 | Minute of Meeting held on 10 April 2018 - For Approval | 5 - 16 |
|------------|--|---------------|

5 Public Reports

Decision Notices:-

- | | | |
|------------|---|----------------|
| 5.1 | Land North West of Braidwood House, Penicuik 17/00872/PPP | 17 - 22 |
| 5.2 | 10 Broomhill Avenue, Penicuik 17/00801/DPP | 23 - 26 |
| 5.3 | 3 Bankmill View, Penicuik 17/00734/DPP | 27 - 30 |
| 5.4 | 75 Castlelaw Crescent, Bilston, 17/00828/DPP | 31 - 34 |

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

- | | | |
|------------|--|------------------|
| 5.5 | Land North West of Melville Gate Road, Dalkeith, 17/00587/DPP | 35 - 106 |
| 5.6 | Former Loanhead Ex Servicemens Club, 10 Academy Lane, Loanhead, 17/00905/S42 | 107 - 122 |
| 5.7 | Land West of 14-18 The Loan, Loanhead, 17/00930/DPP | 123 - 160 |
| 5.8 | Land to North West 3 Eskview Villas, Dalkeith, 17/00920/DPP | 161 - 194 |

No private reports to be discussed at this meeting.

Plans and papers relating to the applications on this agenda can also be viewed online at www.midlothian.gov.uk.

Minute of Meeting



Local Review Body

Date	Time	Venue
10 April 2018	2.00pm	Council Chambers, Midlothian House, Buccleuch Street, Dalkeith

Present:

Councillor Imrie (Chair)	Councillor Alexander
Councillor Baird	Councillor Cassidy
Councillor Muirhead	

1 Apologies

Apologies for absence were received from Councillors Lay-Douglas, Milligan, Munro and Smaill.

2 Order of Business

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

3 Declarations of interest

No declarations of interest were received.

4 Minutes of Previous Meetings

The Minutes of Meeting of 27 February 2018 were submitted and approved as a correct record.

5 Reports

Agenda No	Report Title	Presented by:
5.1	Decision Notice – Land at Airybank, Quarrybank, Cousland [17/00649/DPP].	Peter Arnsdorf
Executive Summary of Report		
With reference to paragraph 5.5 of the Minutes of 27 February 2018, there was submitted a copy of the Local Review Body decision notice dismissing a review request from Mr A Bennie, Andrew Bennie Planning Ltd, 3 Abbott's Court, Dullatur seeking on behalf of their clients, Midlothian Developments Ltd a review of the decision of the Planning Authority to refuse planning permission (17/00649/DPP, refused on 13 November 2017) for the erection of four dwellinghouses at Airybank, Quarrybank, Cousland and refusing planning permission.		
Decision		
To note the LRB decision notice.		

Agenda No	Report Title	Presented by:
5.2	Decision Notice – 16 School Green, Lasswade [17/00672/DPP].	Peter Arnsdorf

Executive Summary of Report

With reference to paragraph 5.6 of the Minutes of 27 February 2018, there was submitted a copy of the Local Review Body decision notice upholding a review request application from Mr T Thomas, APT Planning and Development Ltd, 6 High Street, East Linton seeking on behalf of their client Mr C McClung, a review of the decision of the Planning Authority to refuse planning permission (17/00672/DPP, refused on 23 October 2017) for the erection of a dwellinghouse at 16 School Green, Lasswade and granting planning permission.

Decision

To note the LRB decision notice.

Agenda No	Report Title	Presented by:
5.3	Decision Notice – 153 The Loan, Loanhead [17/00630/DPP].	Peter Arnsdorf

Executive Summary of Report

With reference to paragraph 5.7 of the Minutes of 27 February 2018, there was submitted a copy of the Local Review Body decision notice upholding a review request application from Mr J Sorrell, Sorrell Associates, The Green House, 41 St Bernard's Crescent, Edinburgh seeking on behalf of their clients Owners Group, a review of the decision of the Planning Authority to refuse planning permission (17/00630/DPP, refused on 22 December 2017) for the change of use of office to form two dwellinghouses and associated external alterations at 153 The Loan, Loanhead and granting planning permission.

Decision

To note the LRB decision notice.

Eligibility to Participate in Debate

In considering the following items of business, all the LRB Members present had attended the site visits on Monday 9 April 2018 and therefore they all participated in the review process.

Agenda No	Report Title	Presented by:
5.4	Notice of Review Request Considered for the First Time – Land North West of Braidwood House, Penicuik [17/00872/PPP].	Peter Arnsdorf

Executive Summary of Report

There was submitted report, dated 3 April 2018, by the Head of Communities and Economy regarding an application from Kirsty Scott, Niall Young Architecture Ltd, 32-12 Harden Green Business Park, Dalhousie Road, Eskbank seeking on behalf of their client, Mr I Walsh a review of the decision of the Planning Authority to refuse planning permission (17/00872/PPP, refused on 22 December 2017) for planning permission in principle for the erection of a dwellinghouse at land north west of Braidwood House, Penicuik.

Accompanying the Notice of Review Form and supporting statement, which were appended to the report, was a copy of the report of handling thereon, together with a copy of the decision notice.

The Local Review Body had made an accompanied visit to the site on Monday 9 April 2018.

Summary of Discussion

In accordance with the procedures for the Local Review Body, the Planning Advisor gave a brief overview of the review hearing procedures and outlined the background to the case. He then introduced Mr Ian Walsh (the applicant).

Thereafter, oral representations were received firstly from the applicant Mr Walsh, then from Mr King, the local authority Planning Officer; following which they both responded to Members' questions/comments.

The LRB then gave careful consideration to the merits of the case based on all of the information provided both in writing and in person at the Hearing. In discussing the proposed development, the vehicular access arrangements were debated at considerable length, with a number of question to the applicant about potential alternatives. Whilst the LRB were not opposed to the principle of the site being developed, some Members were concern about the potential creation of another access onto the trunk road.

After further discussion, Councillor Cassidy, seconded by Councillor Alexander, moved that the review request be upheld and planning permission granted subject to the conditions contained in the report.

As an amendment, Councillor Muirhead, seconded by Councillor Imrie, moved that the review request be dismissed and planning permission refused for the reasons outlined in the planning officers' decision.

On a vote being taken, two Members voted for the amendment and three for the motion, which accordingly became the decision of the meeting.

Decision

The LRB agreed to uphold the review request, and grant planning permission for the following reason:-

The proposed dwelling by means of its siting and its relationship to the existing properties at Braidwood House/Steading fits into the landscape and can be considered as part of the housing cluster in compliance with policy RD1 of the Midlothian Local Development Plan 2017.

subject to the following conditions:-

1. Development shall not begin until an application for the approval of matters specified in conditions for the following details has been submitted to and approved in writing by the Planning Authority:
 - a. A detailed layout plan of the site, showing the siting of the proposed house, details of vehicular access and parking provision within the site and details of all walls and fences to be erected;
 - b. Existing and finished ground levels and floor levels for all buildings, open space and access roads in relation to a fixed datum;
 - c. Detailed plans, sections and elevations of the proposed house, indicating the colour and type of materials to be used on the external walls, roof and windows;
 - d. Details of all hard surfacing and kerbing;
 - e. Details of the proposed water supply;
 - f. Proposals for the treatment and disposal of foul and surface water drainage from the proposed house. Unless otherwise approved in writing by the Planning Authority, the surface water drainage shall comply with the standards detailed in the SUDS Manual; and
 - g. Details of a scheme of landscaping for the site. Details shall include a plan showing the position, number, size and species of all trees and shrubs that are proposed to be planted; all trees on the site which are to be removed and retained; and details of the means of protection of all trees that are to be retained.

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

2. Prior to occupation of the house the vehicular access referred to in Condition 1 (a) above shall be completed to the satisfaction of the Planning Authority and the Roads Authority. The vehicular access shall comply with the following details:
 - a. The proposed access shall join the trunk road at a new junction which shall be constructed by the applicant to a standard as described in the Department of Transport Advice Note TD 41/95 (Vehicular Access to All-Purpose Trunk Roads) (as amended in Scotland) complying with layout 3. The junction shall be constructed in accordance with details that shall be submitted to and approved by the Planning Authority, after consultation with Transport Scotland, as the Trunk Roads Authority, before any part of the development is commenced;
 - b. The gradient of the access road shall not exceed 1 in 40 for a distance of 5 metres from the nearside edge of the trunk road carriageway, and the first 5 metres shall be surfaced in a bituminous surface and measures

- shall be adopted to ensure that all drainage from the site does not discharge onto the trunk road;
- c. Visibility Splays shall be provided and maintained on each side of the access to the satisfaction of the local Planning Authority, after consultation with Transport Scotland, as the Trunk Roads Authority. These splays are the triangles of ground bounded on 2 sides by the first 2.4 metres of the centreline of the access driveway (the set back dimension) and the nearside trunk road carriageway measured 215 metres (the y dimension) in both directions from the intersection of the access with the trunk road. In a vertical plane, nothing shall obscure visibility measured from a driver's eye height of between 1.05 metres and 2.00 metres positioned at the set back dimension to an object height of between 0.26 metres and 1.05 metres anywhere along the y dimension;
 - d. The width of the access shall be at least 5.5 metres wide for a distance of 10 metres from the nearest edge of the trunk road carriageway; and
 - e. There shall be no drainage connections to the trunk road drainage system.

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

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

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

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

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

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

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

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

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

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

Action

Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.5	Notice of Review Request Considered for the First Time – 10 Broomhill Avenue, Penicuik, [17/00801/DPP].	Peter Arnsdorf
Executive Summary of Report		
<p>There was submitted report, dated 3 April 2018, by the Head of Communities and Economy regarding an application from Mr P Alford, Peter Alford Architect, 19 Tipperwell Way, Howgate, Penicuik seeking on behalf of their clients Mr and Mrs A Hogg, a review of the decision of the Planning Authority to refuse planning permission (17/00801/DPP, refused on 31 January 2018) for the erection of two storey and single storey extension at 10 Broomhill Avenue, Penicuik.</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, together with a copy of the decision notice.</p> <p>The Local Review Body had made an unaccompanied visit to the site on Monday 9 April 2018.</p>		
Summary of Discussion		
<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. Whilst noting the reasons for refusal, the LRB discussed the proposed development at some length, in particular, consideration was given to the design of the proposed extensions and the potential impact that they might have. The debate amongst Members being whether the proposed development rather than detract from the character of the original building might actually prove beneficial. It was also suggested that if the roof height of the extension on the north side of the house could be lowered this might lessen its impact.</p>		

After further discussion, Councillor Muirhead, seconded by Councillor Imrie, moved that the review request be dismissed and planning permission refused for the reasons outlined in the planning officers' decision.

As an amendment, Councillor Cassidy, seconded by Councillor Baird, moved that the review request be upheld and planning permission granted subject to the conditions contained in the report.

On a vote being taken, two Members voted for the motion and three for the amendment, which accordingly became the decision of the meeting.

Decision

The LRB agreed to uphold the review request, and grant planning permission for the following reason:-

The proposed extensions by means of their design and form will complement the host dwellinghouse and will not have a detrimental impact on the amenity of the neighbouring property at 8 Broomhill Avenue, Penicuik.

subject to the following condition:-

1. A revised set of elevations of the proposed extensions to accurately show the height and size of the roof of the single storey hipped roof extension on the north side of the house shall be submitted to the Planning Authority and no work shall start on the extensions until these details have been approved in writing by the Planning Authority.

Reason: *For the avoidance of doubt as to what is approved; there is a discrepancy between the height of the hipped roof extension as shown on the rear elevation as compared to the front and side elevations.*

Action

Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.6	Notice of Review Request Considered for the First Time – 3 Bankmill View, Penicuik, [17/00734/DPP].	Peter Arnsdorf
Executive Summary of Report		
There was submitted report, dated 3 April 2018, by the Head of Communities and Economy regarding an application from Mr G McPherson, Bryant & Cairns Ltd, 2/3 Borthwick View, Pentland Industrial Estate, Loanhead seeking on behalf of their client Mr W Hall, for the removal of Conditions 1, 2 and 3 of planning permission 17/00734/DPP (granted on 10 November 2017) for the installation of replacement windows and doors at 3 Bankmill View, Penicuik.		

Accompanying the Notice of Review Form and supporting statement, which were appended to the report, was a copy of the report of handling thereon, together with a copy of the decision notice.

The Local Review Body had made an unaccompanied visit to the site on Monday 9 April 2018.

Summary of Discussion

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 proposed development the LRB acknowledged that the removal of the stated conditions would effectively result in a grant of planning permission for the installation of white uPVC windows and a red uPVC front door in what was a Conservation Area. The LRB discussed the sample green uPVC provided by the applicant and the considerable advances made in uPVC in recent years. Whilst it was accepted that this colouring was more acceptable and in keeping with the Conservation Area, concerns were expressed that it would set a precedent contrary to existing Policy.

Decision

After further discussion, the LRB agreed to dismiss the review request, and uphold the grant of planning permission for the following reason:

That because of the location of the property within a Conservation Area and because of the consistency of materials/colours used within the estate, in which the application site is situated, it is appropriate to retain the use of traditional materials (timber) for doors and windows on the front elevation of the dwellinghouse. Furthermore the colour of the doors and windows shall match those of the surrounding area to contribute the aesthetic quality of the estate.

subject to the following condition:-

1. Notwithstanding the plans hereby approved, the replacement windows within the front and side elevations are hereby not approved.

Reason: *The introduction of uPVC within the front and side elevation will result in an adverse visual impact upon the character and appearance of the dwellinghouse and conservation area, which is contrary to policy ENV19 of the adopted Midlothian Local Development Plan and Historic Environment Scotland policy and guidance.*

2. Notwithstanding the plans hereby approved, the replacement door within the front elevation is hereby not approved.

Reason: *The introduction of a red uPVC door within the front elevation will result in an adverse visual impact upon the character and appearance of the dwellinghouse and conservation area, which is contrary to policy ENV19 of the adopted Midlothian Local Development Plan and Historic Environment Scotland policy and guidance.*

3. Notwithstanding the plans hereby approved, the replacement windows within the rear elevation shall be green uPVC as per the sample provided on the 31st of October 2017.

Reason: *The installation of white uPVC fenestration within the rear elevation would result in an adverse visual impact upon the character and appearance of the dwellinghouse and conservation area, which is contrary to policy ENV19 of the adopted Midlothian Local Development Plan and Historic Environment Scotland policy and guidance.*

The LRB in reaching this decision also suggested that Officers review the Policy position on replacement windows to ensure that it took cognisance of the advances in uPVC technology.

Action

Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.7	Notice of Review Request Considered for the First Time – 75 Castlelaw Crescent, Bilston, [17/00828/DPP].	Peter Arnsdorf
Executive Summary of Report		
<p>There was submitted report, dated 3 April 2018, by the Head of Communities and Economy regarding an application from Mr L McCaskey, 18A Rothesay Place, Edinburgh seeking on behalf of their client Mr J Murphy, a review of the decision of the Planning Authority to refuse planning permission (17/00828/DPP, refused on 18 December 2017) for the erection of an extension at 75 Castlelaw Crescent, Bilston.</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, together with a copy of the decision notice.</p> <p>The Local Review Body had made an unaccompanied visit to the site on Monday 9 April 2018.</p>		
Summary of Discussion		
<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 proposed development and the reasons for its refusal, the LRB considered the potential impact that the proposed extension would have as a result of its scale and location on the character and appearance of the existing dwellinghouse and the surrounding streetscape. The general feeling being that the proposed extension did not compliment the character of the existing building and would negatively impact on the streetscape as a result of its scale and prominent positioning.</p>		

Decision

After further discussion, the LRB agreed to dismiss the review request, and uphold the decision to refuse planning permission for the following reasons:

1. *The proposed extension does not reflect the roof design, form or character of the existing dwellinghouse and would result in a significant adverse impact upon the character and appearance of the dwellinghouse and streetscape.*
2. *The prominent siting and excessive scale of the extension detracts from the character of the application dwelling and attached neighbouring property (particularly as they form a symmetrical pair), and results in an adverse visual impact upon the character and appearance of the streetscape/locale.*
3. *For the above reasons the proposal is contrary to policies DEV2 of the adopted Midlothian Local Development Plan 2017. If the application was approved it would undermine the principals set out within DEV2, which seeks to ensure that development does not materially detract from the existing character or amenity of the area.*

Action

Head of Communities and Economy

The meeting terminated at 3.12 pm.

Local Review Body: Review of Planning Application Reg. No. 17/00872/PPP

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

Midlothian Council, as Planning Authority, having considered the review of the application by Mr I Walsh, Braidwood House, Braidwood Farm, Silverburn, Penicuik, EH26 9LP, which was registered on 31 January 2018 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 North West of Braidwood House, Penicuik, in accordance with the application and the following plans:

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

Subject to the following conditions:

1. Development shall not begin until an application for the approval of matters specified in conditions for the following details has been submitted to and approved in writing by the Planning Authority:
 - a. A detailed layout plan of the site, showing the siting of the proposed house, details of vehicular access and parking provision within the site and details of all walls and fences to be erected;
 - b. Existing and finished ground levels and floor levels for all buildings, open space and access roads in relation to a fixed datum;
 - c. Detailed plans, sections and elevations of the proposed house, indicating the colour and type of materials to be used on the external walls, roof and windows;
 - d. Details of all hard surfacing and kerbing;
 - e. Details of the proposed water supply;
 - f. Proposals for the treatment and disposal of foul and surface water drainage from the proposed house. Unless otherwise approved in

writing by the Planning Authority, the surface water drainage shall comply with the standards detailed in the SUDS Manual; and

- g. Details of a scheme of landscaping for the site. Details shall include a plan showing the position, number, size and species of all trees and shrubs that are proposed to be planted; all trees on the site which are to be removed and retained; and details of the means of protection of all trees that are to be retained.

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

2. Prior to occupation of the house the vehicular access referred to in condition 1 (a) above shall be completed to the satisfaction of the Planning Authority and the Roads Authority. The vehicular access shall comply with the following details:
 - a. The proposed access shall join the trunk road at a new junction which shall be constructed by the applicant to a standard as described in the Department of Transport Advice Note TD 41/95 (Vehicular Access to All-Purpose Trunk Roads) (as amended in Scotland) complying with layout 3. The junction shall be constructed in accordance with details that shall be submitted to and approved by the Planning Authority, after consultation with Transport Scotland, as the Trunk Roads Authority, before any part of the development is commenced;
 - b. The gradient of the access road shall not exceed 1 in 40 for a distance of 5 metres from the nearside edge of the trunk road carriageway, and the first 5 metres shall be surfaced in a bituminous surface and measures shall be adopted to ensure that all drainage from the site does not discharge onto the trunk road;
 - c. Visibility Splays shall be provided and maintained on each side of the access to the satisfaction of the local Planning Authority, after consultation with Transport Scotland, as the Trunk Roads Authority. These splays are the triangles of ground bounded on 2 sides by the first 2.4 metres of the centreline of the access driveway (the setback dimension) and the nearside trunk road carriageway measured 215 metres (the y dimension) in both directions from the intersection of the access with the trunk road. In a vertical plane, nothing shall obscure visibility measured from a driver's eye height of between 1.05 metres and 2.00 metres positioned at the setback dimension to an object height of between 0.26 metres and 1.05 metres anywhere along the y dimension;
 - d. The width of the access shall be at least 5.5 metres wide for a distance of 10 metres from the nearest edge of the trunk road carriageway; and
 - e. There shall be no drainage connections to the trunk road drainage system.

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

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

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

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

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

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

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

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

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

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

The Local Review Body (LRB) considered the review of the planning application at its meeting of 10 April 2018. The LRB carried out a site visit on the 9 April 2018.

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

Development Plan Policies:

1. RD1 Midlothian Local Development Plan – Development in the Countryside
2. ENV6 Midlothian Local Development Plan – Special Landscape Areas

Material considerations:

1. The individual circumstances of the proposal

In determining the review the LRB concluded:

The proposed dwelling by means of its siting and its relationship to the existing properties at Braidwood House/Steading fits into the landscape and can be considered as part of the housing cluster in compliance with policy RD1 of the Midlothian Local Development Plan 2017.

Dated: 10/04/2018



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

Local Review Body: Review of Planning Application Reg. No. 17/00801/DPP

Peter Alford Architect
19 Tipperwell Way
Howgate
Pencuik
EH26 8QP

Midlothian Council, as Planning Authority, having considered the review of the application by Mr and Mrs Andrew Hogg, 14 Craigiebiel Crescent, Penicuik, EH26 9EQ, which was registered on 7 March 2018 in pursuance of their powers under the above Act, hereby **grant** permission to carry out the following proposed development:

Erection of two storey and single storey extension at 10 Broomhill Avenue, Penicuik, EH26 9EF, in accordance with the application and the following plans:

<u>Drawing Description.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	1721-LP01 1:1250	10.10.2017
Elevations, Floor Plan And Cross Section	1721-PL01 1:1250 1:200 1:100	10.10.2017

Subject to the following condition:

1. A revised set of elevations of the proposed extensions to accurately show the height and size of the roof of the single storey hipped roof extension on the north side of the house shall be submitted to the Planning Authority and no work shall start on the extensions until these details have been approved in writing by the Planning Authority.

Reason: *For the avoidance of doubt as to what is approved; there is a discrepancy between the height of the hipped roof extension as shown on the rear elevation as compared to the front and side elevations.*

The Local Review Body (LRB) considered the review of the planning application at its meeting of 10 April 2018. The LRB carried out a site visit on the 9 April 2018.

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

Material considerations:

1. The individual circumstances of the applicant

In determining the review the LRB concluded:

The proposed extensions by means of their design and form will complement the host dwellinghouse and will not have a detrimental impact on the amenity of the neighbouring property at 8 Broomhill Avenue, Penicuik.

Dated: 10/04/2018

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

Local Review Body: Review of Planning Application Reg. No. 17/00734/DPP

Bryant and Cairns Ltd
2/3 Borthwick View
Pentland Industrial Estate
Loanhead
EH20 9QH

Midlothian Council, as Planning Authority, having considered the review of the application by Mr W Hall, 3 Bankmill View, Penicuik, EH26 8NZ, which was registered on 9 February 2018 in pursuance of their powers under the above Act, hereby **grant** permission to carry out the following proposed development:

Installation of replacement windows and door at 3 Bankmill View, Penicuik, EH26 8NZ, in accordance with the application and the following plans:

<u>Drawing Description.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Existing Elevations	W7582/02 Rev A	18.09.2017
Proposed Elevations	W7582/03	18.09.2017
Location Plan/Inc Neighbours Notified	W7582/01	18.09.2017
Supporting Statement	Sample	31.10.2017

Subject to the following conditions:

1. Notwithstanding the plans hereby approved, the replacement windows within the front and side elevations are hereby not approved.

Reason: *The introduction of uPVC within the front and side elevation will result in an adverse visual impact upon the character and appearance of the dwellinghouse and conservation area, which is contrary to policy ENV19 of the adopted Midlothian Local Development Plan and Historic Environment Scotland policy and guidance.*

2. Notwithstanding the plans hereby approved, the replacement door within the front elevation is hereby not approved.

Reason: *The introduction of a red uPVC door within the front elevation will result in an adverse visual impact upon the character and appearance of the dwellinghouse and conservation area, which is contrary to policy ENV19 of the adopted Midlothian Local Development Plan and Historic Environment Scotland policy and guidance.*

3. Notwithstanding the plans hereby approved, the replacement windows within the rear elevation shall be green uPVC as per the sample provided on the 31st of October 2017.

Reason: *The installation of white uPVC fenestration within the rear elevation would result in an adverse visual impact upon the character and appearance of the dwellinghouse and conservation area, which is contrary to policy ENV19 of the adopted Midlothian Local Development Plan and Historic Environment Scotland policy and guidance.*

The Local Review Body (LRB) considered the review of the planning application at its meeting of 10 April 2018. The LRB carried out a site visit on the 9 April 2018.

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. ENV19 Midlothian Local Development Plan – Conservation Areas

Material considerations:

1. The individual circumstances of the applicant

In determining the review the LRB concluded that because of the location of the property within a Conservation Area and because of the consistency of materials/colours used within the estate, in which the application site is situated, it is appropriate to retain the use of traditional materials (timber) for doors and windows on the front elevation of the dwellinghouse. Furthermore the colour of the doors and windows shall match those of the surrounding area to contribute the aesthetic quality of the estate.

Dated: 10/04/2018



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

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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

Local Review Body: Review of Planning Application Reg. No. 17/00828/DPP

Les McCaskey
18A Rothesay Place
Edinburgh
EH3 7SQ

Midlothian Council, as Planning Authority, having considered the review of the application by Mr James Murphy, 75 Castlelaw Crescent, Bilston, EH25 9SR, which was registered on 7 February 2018 in pursuance of their powers under the above Act, hereby **refuse** permission to carry out the following proposed development:

Extension to dwellinghouse at 75 Castlelaw Crescent, Bilston, EH25 9SR, in accordance with the application and the following plans:

<u>Drawing Description.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Existing Elevations	1:100	19.10.2017
Proposed Cross Section	1:100	19.10.2017
Proposed Elevations	1:100	19.10.2017
Roof Plan (Proposed/Existing)	1:100	19.10.2017
Location Plan/Inc Neighbours Notified	1:1250	19.10.2017
Site Plan	1:200	19.10.2017
Proposed Floor Plan	Ground 1:100	19.10.2017
Site Plan	Site Layout 1:100	19.10.2017

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

- 1. The proposed extension does not reflect the roof design, form or character of the existing dwellinghouse and would result in a significant adverse impact upon the character and appearance of the dwellinghouse and streetscape.*
- 2. The prominent siting and excessive scale of the extension detracts from the character of the application dwelling and attached neighbouring property (particularly as they form a symmetrical pair), and results in an adverse visual impact upon the character and appearance of the streetscape/locale.*
- 3. For the above reasons the proposal is contrary to policies DEV2 of the adopted Midlothian Local Development Plan 2017. If the application was approved it would undermine the principals set out within DEV2, which seeks*

to ensure that development does not materially detract from the existing character or amenity of the area.

The Local Review Body (LRB) considered the review of the planning application at its meeting of 10 April 2018. The LRB carried out a site visit on the 9 April 2018.

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

Material considerations:

1. The individual circumstances of the applicant

Dated: 10/04/2018

A handwritten signature in dark ink, appearing to read 'Peter Arnsdorf', with a stylized, flowing script.

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

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

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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

Notice of Review: Land North West of Melville Gate Road, Dalkeith

Determination Report

Report by Ian Johnson, Head of Communities and Economy

1 Purpose of Report

- 1.1 The purpose of this report is to provide a framework for the Local Review Body (LRB) to consider a 'Notice of Review' regarding the non-determination of planning application 17/00587/DPP for the erection of residential care home with associated access, car parking, landscaping and works at land north-west of Melville Gate Road, Dalkeith.

2 Background

- 2.1 Planning application 17/00587/DPP for the erection of residential care home with associated access, car parking, landscaping and works at land north-west of Melville Gate Road, Dalkeith has not been determined within the statutory time periods (2 months as extended by agreement) and as such the applicant has exercised their rights to request the LRB to determine the application.
- 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 applicant's hearing statement (Appendix B);
 - A copy of the case officer's report - hearing statement (Appendix C); and
 - A copy of the relevant drawings/plans (Appendix D).
- 3.2 The full planning application/review case file, including the documents referenced in the applicant's submitted 'document list' 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 procedures agreed by the LRB, the LRB by agreement of the Chair:

- Have scheduled an accompanied site visit for Monday 21 May 2018; and
 - Have determined to progress the review by way of a hearing.
- 4.2 The case officer's report identified that eight consultation responses and one representation were 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 The specified matters that the LRB should consider are:
- The principle of development within a Class 4 business allocation;
 - The proposed siting of a residential care home outwith an established residential area/community and its proximity to local services and facilities;
 - The layout and form of the development;
 - The design of the proposed buildings and structures;
 - The boundary treatment and landscaping; and
 - The access.
- 4.5 In reaching a decision on the case the planning advisor can advise on appropriate phraseology and on appropriate planning reasons for reaching a decision.
- 4.6 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.
- 4.7 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 a revised scheme of hard and soft landscaping 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 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 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. The landscaping shall be completed prior to the buildings being occupied; and
 - vii drainage details and sustainable urban drainage systems to manage water runoff.

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 DEV6 and DEV7 of the Midlothian Local Development Plan 2017 and national planning guidance and advice.

2. Development shall not begin until temporary protective fencing is erected around all trees on the site to be retained. The fencing shall be positioned in circumference to the trunk at a distance from it which correlates to the trees canopy unless otherwise agreed in writing with the local planning authority. No excavation, soil removal or storage shall take place within the enclosed area.

Reason: To ensure the development does not result in the loss or damage of a tree which merits retention in accordance with policy ENV11 of the Midlothian Local Development Plan 2017 and national planning guidance and advice.

3. Development shall not begin until samples of materials to be used on external surfaces of the buildings; hard ground cover surfaces; means of enclosure and ancillary structures have been submitted to and approved in writing by the planning authority. Development

shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the planning authority.

Reason: *In the interest of protecting the character and appearance of the conservation area so as to comply with policy DEV6 of the Midlothian Local Development Plan 2017 and national planning guidance and advice.*

4. Development shall not begin until details of 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 and cycle ways in relation to a fixed datum;
 - ii proposed vehicular, cycle and pedestrian access;
 - iii proposed roads (including turning facilities), footpaths and cycle ways;
 - iv proposed visibility splays, traffic calming measures, lighting and signage;
 - v proposed construction traffic access and haulage routes;
 - vi a green transport plan designed to minimise the use of private transport and to promote walking, cycling and the use of public transport;
 - vii proposed car parking arrangements, including visitor parking; and
 - viii 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.*

5. Development shall not begin until 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 and the Coal 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.*

6. No house shall have an under-building that exceeds 0.5 metres in height above ground level unless otherwise agreed in writing by the planning authority.

Reason: *Under-building exceeding this height is likely to have a materially adverse effect on the appearance of a house.*

7. 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 Proposed Midlothian Local Development Plan 2017.*

8. 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 Proposed Midlothian Local Development Plan 2017.*

9. Development shall not begin until a programme of archaeological works (Trial Trench Evaluation) has been completed in accordance with a written scheme of investigation. The approved programme of works shall comprise a field evaluation by trial trenching reported upon initially through a Data Structure Report submitted to the planning authority and carried out by a professional archaeologist prior to any construction works or pre commencement ground works taking place. There shall be no variation therefrom unless otherwise agreed in writing by the planning authority.

Reason: *To ensure this development does not result in the unnecessary loss of archaeological material in accordance with*

10. Development shall not begin until details of a sustainability/biodiversity scheme for the site, including the provision of 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 Proposed Midlothian Local Development Plan 2017.*

6 Recommendations

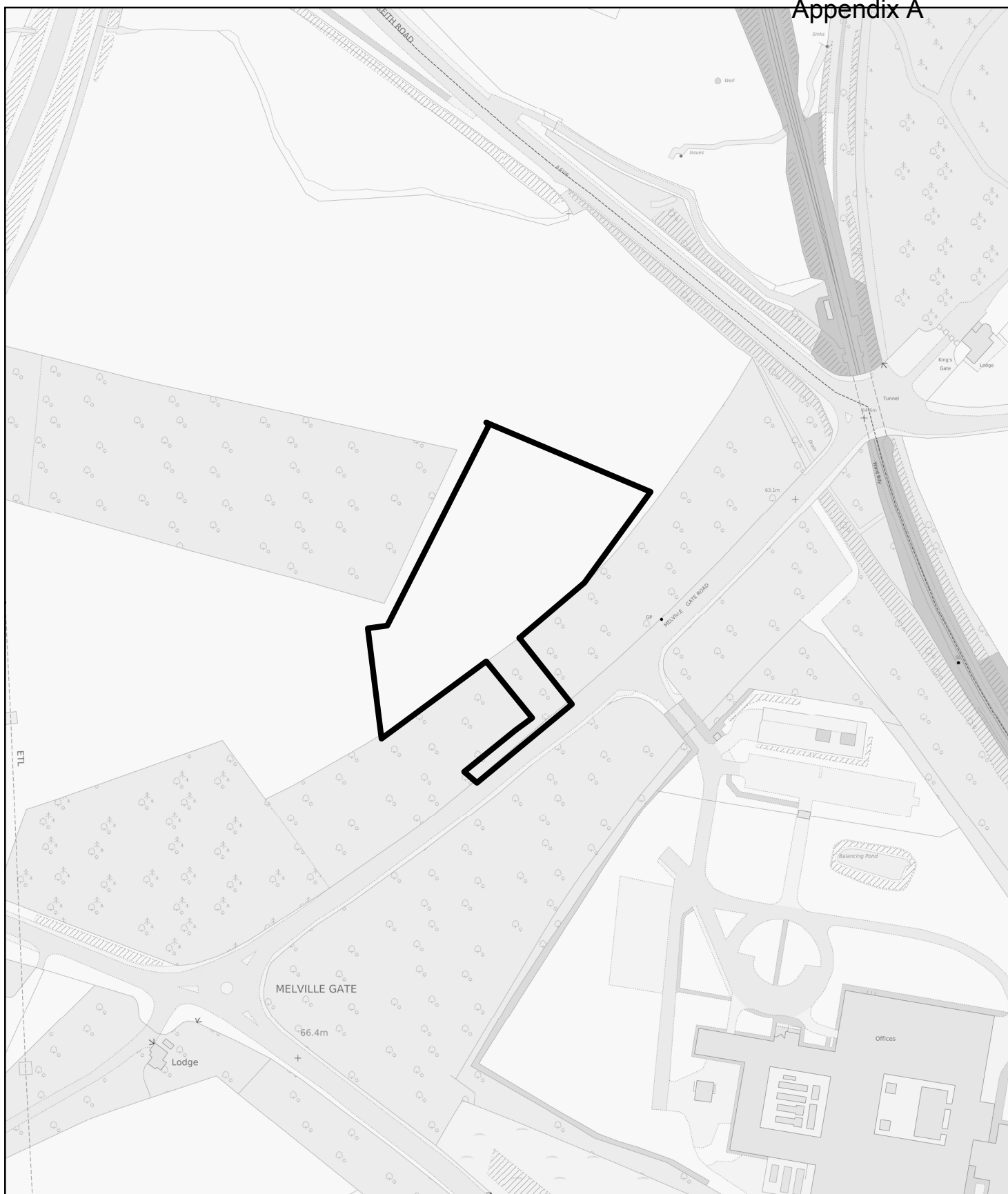
- 6.1 It is recommended that the LRB:
 - a) determine the review; and
 - b) the planning advisor draft and issue the decision of the LRB through the Chair

Date: 15 May 2018

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

Tel No: 0131 271 3310

Background Papers: Planning application 17/00587/DPP available for inspection online.



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

Erection of residential care home with associated access, car parking, landscaping and works at Land North West Of Melville Gate Road, Dalkeith

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File No. 17/00587/DPP

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Page 41 of 194





Local Review Body Hearing Statement

PLANNING APPLICATION 17/00587/DPP
MAY 2018

PREPARED BY COLLILERS
INTERNATIONAL

PREPARED FOR MONTPELIER
ESTATES/BUCCLEUCH PROPERTY



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TABLE OF CONTENTS

SUMMARY	4
1 Introduction	6
1.1 Introduction	6
2 Proposals Subject to Review	7
2.1 Introduction	7
2.2 Appellant	7
2.3 Need and Site Selection	7
2.4 Site Characteristics	8
2.5 Site History	8
2.6 Development Proposals	9
3 Review Request	11
3.1 Introduction	11
3.2 Review Procedure	12
4 Grounds of Review	13
4.1 Timescales	13
4.2 Comments on the Application	14
4.3 Additional Information	17
4.4 Outcome	18
5 Statement of Fact	19
5.1 Site Location and Context	19
5.2 Key Facts of the Proposal	19
6 Assessment	20
6.1 Assessment	20
7 Summary and Conclusions	30
7.1 Summary and Conclusions	30



SUMMARY

A Class 8A care facility in the form of a two-building step-down care pathway approach is proposed on what is an allocated development site at Sheriffhall South. Montpelier Estates aim to develop the site for this much needed facility, while the operations will be by third party operator working in partnership with the NHS.

The proposals were discussed with the planning authority at informal pre-application stage in April 2017. The application was lodged in July 2017 and remained pending until March 2018 when the decision was taken to appeal on the grounds of non-determination.

The Local Development Plan does not allocate any site across the whole of Midlothian for a facility such as that proposed. However, there is an identified need for this type of development in this area. At present, those seeking to make use of such services travel to Glasgow and Ayr. Policy IMP4 of the Plan, Health Centres, states:

"The Council supports the development of new or extended health centre facilities where there is an identified need to enhance healthcare services within a community."

Economic growth is central of the aims and objectives of the adopted Local Development Plan. Scottish Planning Policy acknowledges that economic growth is key to unlocking potential and delivers benefits which include addressing matters of health and the creation of a supportive business environment. The site can be adequately serviced and accessed. Full technical and design information has been submitted as part of the application.

The site has been earmarked and marketed to potential class 4 and 5 users for a period of over 10 years with no take up. The marketing of the site has been described in detail as part of the application process. There has been interest from retail developers, residential developments, storage developers, dog walkers, soft play and stables. There have been no planning applications on the site in a period of 16 years, as far as can be determined from the public planning portal.

The proposed class 8A use is one which is not in the experience of the appellant or agent ever allocated for in a Development Plan. It is the case therefore that such proposals are always contrary to the planning policy framework in existence. While the land use may differ from that allocated in a Plan, the other merits of the proposal must therefore be given full consideration and due weight.

Irrespective of use classes, the development will generate both employment and investment. Circa 122 jobs will be created. Associated jobs from construction and spin-off impacts are also likely. proposal will invest circa £11m into the local economy. From experiences elsewhere the likely spin-off trade with local businesses would be in excess of £425,000 per annum.

The application has been live for over 10 months now, with limited dialogue on the merits of the case with the case officer. We respectfully request the Local Review Body take cognisance of all aspects of the development proposal in the course of this Review.





1 INTRODUCTION

1.1 INTRODUCTION

This Hearing Statement has been prepared by Colliers International on behalf of Montpelier Estates /Buccleuch Property (Sheriffhall South) Ltd in support of their request that the planning authority review the application under the provisions of Section 43A of the Town and County Planning (Scotland) Act 1997.

This Statement should be read in conjunction with the supporting information lodged.

Those parties participating at the hearing session are:

- John Horsman, Montpelier Estates (appellant)
- James McGarry, Montpelier Estates (appellant)
- Meabhann Crowe, Colliers International (planning agent)

2 PROPOSALS SUBJECT TO REVIEW

2.1 INTRODUCTION

On 17th July 2017 the appellant lodged a planning application (reference 17/00587/DPP) with Midlothian Council for the erection of a Class 8A low secure facility at Sheriffhall South, Midlothian. (MEDOC01)

The application was duly registered and validated on the 24th July 2017 and 25th July 2017, respectively. A letter of acknowledgment was issued by Midlothian Council on the 2nd August 2017.

2.2 APPELLENT

Montpelier Estates are seeking planning permission for the erection of a Class 8A low secure facility at Sheriffhall South, Midlothian. Montpelier Estates have been established for over 20 years and operates solely in the healthcare sector. They have, to date, provided over 1,000 specialist care beds and approximately double that figure in care of the elderly.

2.3 NEED AND SITE SELECTION

Montpelier Estates have, in liaison with the selected operator, determined that a need exists within the wider Midlothian area for a Class 8A low secure care facility.

Having considered and evaluated numerous other sites the subject site has been selected as it can meet this identified need in an appropriate manner and in a sustainable location, in close proximity to where that need stems from. It is best for all parties, the patient, their family and friends and the funder (NHS) if care delivered in close proximity to the user group. This allows families, friends and the patients extended clinical team easier access to visit and support those in care. It also allows for staffing to, in the main, be sourced locally and a more cost effective and economic delivery of that service.

The operators main focus will be to attract and employ local community staff and initiate an educational programme to train and secure the necessary specialist skills/staff for the successful and long term operation of the facility.

The facility will employ local staff with just a few managerial roles attracting specialist skills. These people will relocate into Midlothian and also therefore become locals.

Due to the 24-hour operation of the facility shift flexibility allows a wide range of working patterns. Particular attention is given to young working mothers whose family commitments can be accommodated by the amount of hours they work and when they work. Equally, there is a very broad range of skills required from cleaning, hotel services and care through to highly trained and experienced clinicians and management.

The hospital will seek to work in conjunction with local education institutions to provide a direct link to practical training. It will also provide direct training, offering the opportunity for staff to progress within the organisation and educational outreach to the community, police and schools.

2.4 SITE CHARACTERISTICS

The application site (i.e. the red-line boundary MEDOC1) is located within an agricultural field immediately north-east of the Gilmerton Roundabout. The application red-line boundary is 0.92ha in size.

The site comprises agricultural land.

There are no watercourses on the site.

There is no existing access into the site.

The wider site is relatively flat, falling gently to the north towards the Dean Burn which runs to the north.

The wider site is bound by the A7 to the west, and the B6392 Gilmerton Road to the south. Melville Gate Road runs to the east and the Dean Burn to the north, beyond which lies the A68 Old Dalkeith Road.

Tree belts exist within the wider site, to the west, east and middle of the site.

To the west, lies the Elginhaugh Farm (restaurant/public house with associated living accommodation). To the south-west lies Dobbies Garden Centre, the Melville Inn public house and restaurant and Edinburgh Butterfly World. Land immediately south of the site, across the B6392, is vacant farmland with Melville Castle lying slightly further east.

The application site is nestled in the south-east corner of the wider site, bound by a treebelt to Melville Gate Road to the east and a second to the south, beyond which runs the B6392 Gilmerton Road.

2.5 SITE HISTORY

The site forms part of a larger land parcel that has been marketed for development since 2009 (MEDOC02) are the original 2009 brochure and the updated version from 2015. Marketing boards have existed on the site since May 2009 also. Brochures were circulated to all office agents in Edinburgh and surrounding areas on numerous occasions. Despite the widespread and constant marketing campaign, interest in the site for Class 4 Business use has been limited with occupiers tending to prefer to locate closer to the City of Edinburgh or at West Edinburgh. The marketing agents Montague Evans have confirmed that the majority of interest in this site has come from outwith Class 4 uses sectors i.e. non-office developers/occupiers. There have been no planning applications on the site in the last 16 years, as far as can be determined from the public planning portal.

2.6 DEVELOPMENT PROPOSALS

The proposal is to develop a Class 8A low secure care facility, together with associated access, parking, landscaping and works.

The proposal is a two-phase hospital development, operated by an experienced care provider. Most patients will suffer from some form of physical and/or mental impairment and will have care needs of varying degrees. The 'step down' and care pathway approach to the patients care needs is reflected in the two buildings within the scheme, which responds to and reflects the patients progress towards repatriation. The objection is always patient recovery with their return to their family as a functioning and integrated member of society.

The development comprises two care buildings within the site – Phase A and Phase B (MEDOC01). The layout of the scheme has been arrived at through careful consideration of the site and facility requirements. The Phase A building is located in the northern section of the application boundary, with the Phase B building located in the southern section.

Building Details	Phase A Building	Phase B Building
GFA (m ²)	2,477.64m ²	2,105.06m ²
Floors	2 (ground, first)	3 (lower ground, ground, first)
Bedspaces	32	36
Enhanced Care Bedspaces	2	2
Car parking spaces	61 (including 6No disabled bays)	
Cycle parking spaces	6	
Refuse spaces	1	1

The Phase A building comprises ground and first floors. It is orientated to face the central parking area. The main entrance from the car park leads to the main reception area beyond which is located a variety of care facilities including gym, art room, café, therapy room, and secure visitors lobby. The western and northern wings of the building house a range of facilities including the main accommodation space, seclusion and enhanced care areas, dining and recreation area, lounge area, clinic and nurses station. 32 one-person bedrooms are proposed within the Phase A building. Communal and private garden space exist around the building, with small hardstanding patio areas. This building is surrounded by a weld mesh 4m hi-sec fence, which provides the secure line to the building entrance.

The Phase B building comprises lower ground, ground and first floors. The building is orientated to face the central car park, with access being taken from this area. The building is also enclosed however here by a slightly lower 2m high timber fence, reflecting the step-down to a lower form of secure facility. The lower floor contains the entrance lobby, offices, meeting room, kitchen and staff lounge. The laundry,

patient store, kitchen store and service/waste area is also located on this floor. At ground floor level, 19 bedrooms are provided, along with day space, recreation space, nurses station, enhanced care area, kitchen and multifunction room. The day space/breakout area opens out into the communal garden area to the west of the main building, which as noted earlier is secure by a 2m timber fence. The building accommodates 36 bedspaces, plus 2 enhanced care bedspaces, therefore 38 in total.

The scheme is built around a central parking area, with a total of 61 parking bays and 6 cycle spaces proposed.

Main entrances to each building are taken from this central parking area, north and south. The new site entrance formed off Melville Gate Road will include a new footpath, which will extend along the lower portion of Melville Gate Road to the existing bus stop.

Along the new entrance several existing trees have to be removed, however the loss is considered minimal in that only 29 trees will be removed in total, and tree planting is proposed as part of the wider scheme. The existing treebelts on the site have been used positively to create a setting for the facility, allowing it to be located within the existing mature landscape environment providing a sense of establishment, belonging and maturity.

The hospital will operate 24hrs, and staff will work over three shift patterns. Particular attention is given to young working mothers whose family commitments can be accommodated and those who can work for short periods within a flexible and job share employment rota.

Most traffic movement will be off peak and deliveries will be via van and small transport vehicles. Cycling to and from work will be encouraged and a bicycle grant scheme will be in place for staff to further support wellbeing through exercise and reduction of environmental impact.



3 REVIEW REQUEST

3.1 INTRODUCTION

The applicant moved to take the planning application 17/00587/DPP to Midlothian Council's Local Review Body (LRB) on 8th March 2018 on the grounds of non-determination (MEDOC03). This follows the Council's lack of decision making on the application in a timely, efficient manner despite numerous extensions to the determination period and no known issues from statutory consultees or significant public objection.

The development proposed is deemed 'local' in terms of the development hierarchy therefore a decision was expected in a 2-month period. The appellant has incurred significant delays and costs during this process. Equally important, the protracted process has resulted in substantial delay to much needed care services and employment in the area.

The appellant contends that the planning authority have consistently failed to deliver in respect of this proposal, which was expected to be on site in early 2018. They have, on numerous occasions as demonstrated here, attempted to work with the authority around workloads and capacity, however the lack of engagement, feedback or progress with the application has lead them to seek a decision from the Local Review Body.

A timeline of the application is set out below:

July 2017	Application lodged
August 2017	Application progress
September 2017	End of 2-month determination period. Extension until 13 th October 2017
October 2017	Extension until 27 th October 2017; Extension until 17 th November 2017
November 2017	Extension until 4 th December 2017
December 2017	Extension until 20 th February 2017
January 2018	Meeting with authority
February 2018	No extension agreed/sought on basis of application going to committee 3 rd April 2018
March 2018	Application scheduled for committee 3 rd April 2018; Agenda due 23 rd March 2018. Phone call 7 th March from MLC stating application now delegated. Decision to appeal lodged with MLC
April 2018	Review procedure altered to Hearing Session
May 2018	LRB site visit and Hearing Session scheduled

10 Months, 5 extensions

3.2 REVIEW PROCEDURE

The appellant sought to secure review via a combination of procedures (MEDOC03). Following receipt of the letter of procedure deemed appropriate by the authority (MEDOC04) which was a site visit and written submission, it was requested (MEDOC05) that the authority reconsider the proposed procedure for the following reasons:

- *There has been extremely limited dialogue with the planning authority in respect of the application, the majority of which took place in 2018 long after the targeted timescales, despite the planning application being lodged in July 2017.*
- *It is held that the type of development proposed is so specialist that it requires to be fully explored through a round-table hearing session. This is the most transparent and robust means by which the full merits of the proposed development can be translated to members of the Review Body.*
- *It is imperative that for the Review Body to determine the Review they give full consideration to the Development Plan but also material considerations. To that end the Review Body is considered to have a duty to comprehend the full details of this proposal, the need it responds to, and its contribution to the whole of the region both in terms of mental health services and in terms of economic impacts; matters which can only be explained in full via a hearing session.*

The authority subsequently confirmed that the Review could now proceed by way of a hearing session (MEDOC06).



4 GROUNDS OF REVIEW

4.1 TIMESCALES

The Review is lodged on the basis of the authority's failure to determine the planning application in the prescribed timescale as set out in Section 43A of the Act. The last agreed extension of time elapsed on the 21st February 2018.

It should be noted that the original timescale for determination of this 'local' planning application was 25th September 2017.

In total 5No extensions to this date were agreed between the appellant and authority (MEDOC03). These are set out below.

- 25th September 2017 – 13th October 2017
- 13th October 2017 – 27th October 2017
- 27th October 2017 – 17th November 2017
- 17th November 2017 – 4th December 2017
- 4th December 2017 – 20th February 2018

4.1.1 EXTENSION 01

The first extension to the determination period was agreed on the 21st September to run until the 13th October. At this stage, the appellant had received no feedback in respect of consultees received - Landscape, Scottish Water, Environmental Health and SNH. Consultations from Transport, Economic Development and Archaeology remained outstanding.

4.1.2 EXTENSION 02

The second relatively short extension was agreed until the 27th October. It was noted to the authority that a significant amount of time had passed and no feedback was received to allow the appellants to understand the content of the majority of the consultation responses (Landscape, Scottish Water, Environmental Health and SNH). Feedback was expected w/e 20th October, as intimated by the authority.

4.1.3 EXTENSION 03

Following an email of the 24th October to the case officer no feedback was received. On the 26th October it was suggested that in the absence of any feedback or dialogue a further extension until 17th November was believed necessary. In an email to the case officer of 15th November 2017 it was highlighted that very little feedback had been received and the project team were not aware of issues with the application delaying it from being progressed to decision.

4.1.4 EXTENSION 04

It was proposed by the case officer on the 17th November 2017 that there was time allocated to review the application and revert. Later that same day, the case officer suggested a further extension was required until 4th December 2017 and noted that *"I anticipate that I will be in a position to report on all three applications by that date."*

During this period the authority made known their view that they may not be in a position to support the proposals. On the 28th November 2017 the appellant consequently wrote to the authority setting out again their case and disappointment at learning this news (MEDOC03).

It was at this point in time that the appellant also sought to engage with local councillors. Letters from appellants to planning authority and local councillors (email 29th November 2017) (MEDOC07)

4.1.5 EXTENSION 05

On the 1st December 2017 with little to no feedback on the application the appellant offered a further extension until the 20th February 2018. This aligned with a targeted committee date of the 20th February which we anticipated being achievable given the Christmas break.

4.2 COMMENTS ON THE APPLICATION

4.2.1 STATUTORY CONSULTTEES

Consultation responses were requested from the authority as follows:

- Council Transportation
- Council Landscape
- Scottish Water
- Scottish Natural Heritage
- Environmental Health
- The Coal Authority
- Council Archaeologist
- Council Economic Development

Ultimately the following consultee responses were received to the application, summarised as: (MEDOC08)

- Scottish Natural Heritage – No objection. Conditions regarding a pre-construction survey for badgers; also a preliminary ground level bat roost assessment for bats once trees are felled/pruned.

- Environmental Health – No objection. Conditions regarding contamination and an air quality assessment.
- Roads Section – No objection. Conditions regarding vehicle access and visibility splays; SUDS; bus shelter detail; a Section 75 agreement.
- Coal Authority – No objection, Material Consideration. Condition for intrusive investigations and remedial works prior to commencement of development.
- Scottish Water – No objection.
- Scottish Environmental Protection Agency – No objection.

A response was noted from the Councils Economic Development Officer (dated 24th August 2017) however as it contained the reference '537DPP' and noted retail elements, we understand this does not relate to this application. (MEDOC08)

Subsequently, in preparing for this Review, the economic development section has responded citing several points and ultimately recommending refusal (MEDOC09). However, this was not raised prior to the Review notice being served and was not translated to the appellant in any way while the application was still pending. The response is not considered admissible and we have noted such to the authority (MEDOC09) (without response). However, for completeness should the LRB consider it relevant, we would respond as follows:

- The land is zoned for employment; this development will generate employment
- We have no evidence from the site owner or marketing agents to indicate that the popularity of the site for class 4 use is as deemed by the economic section.
- We have had no information from the authority despite requests to demonstrate a shortage industrial sites. Even if this is the case, our intel from industrial agents is that such occupiers are seeking to locate on main major travel routes and that speculative build is low; this is the market scenario.
- We welcome the acknowledgement that employment uses here could be accessed relatively easily.
- The Borders Railway does not run close to this site.
- The type of unit noted in the response is of no consequence if there is no speculative build taking place.
- We have no evidence to confirm a shortage of office space in Midlothian. Again, other areas are we understand proving more popular with those seeking to locate and to erect office accommodation which would generate the same number of jobs as the development proposal here, would mean a speculative build of circa 15,000sqft. This is simply not realistic.
- MLC suggest a lack of inward investment to Midlothian due to a lack of suitable sites which is somewhat ironic in the current circumstance where the authority is seeking to dissuade investment on what is a vacant site.

- The claim that any highly skilled jobs would not be filled from Midlothian is simply not accepted. Nor is it a land use consideration. Relative to a committed allocated development site which should have been generated employment for circa 10 years now, this is a strange argument for the authority to pursue.

Response to Consultee Comments

Ultimately then it is demonstrated that there are no statutory consultee objections to the application. The conditions suggested are considered to meet the terms of the Circular and the appellant is content to accept these.

4.2.2 PUBLIC COMMENT

During the period for comments on the application, no representations were made by members of the public. In November 2017 one objection was noted as follows:

"Miss H Tibbetts (Objects) - Comment submitted date: Wed 22 Nov 2017

I wish to object to this application on the grounds that it is contrary to at least two of the policies contained within the Midlothian Local Development Plan, namely Policy ENV4 (Prime Agricultural Land) and Policy RD1 (Development in the Countryside). Furthermore the proposed development would have a detrimental effect on the area's wildlife, something that developers never take into account. The area is known to be home to populations of badger, deer and fox. Wiping out these populations, or at the very least the destruction of their precious habitat, would be a great loss not only for them, but for Midlothian's residents."

Response to Objection Lodged

The site lies within a larger development parcel (e32). The site is within the green belt however is proposed for business/industry development. The Council have, therefore, by virtue of the development allocation removed the constraint on development in this location by the greenbelt designation per paragraph 52 of SPP which sets out that LDPs should describe the type and scale of development which would be appropriate within the green belt.

A Phase 1 Habitat Assessment and Badger Survey has been carried out for the application site. The site is found to be of low or moderate value overall, comprising an arable field area of low value and marginal land. The arable land around the application site was considered of overall low value to most taxa. The crop field is of no significant value to any species except for common bird species in winter and possibly a small number of wintering species. The woodlands adjacent, subject of a separate tree survey, was considered of high value in themselves for faunal species. However, no rare or notable plant species were recorded during the surveys. No active badger setts were found on the site or in adjacent woodlands. Disused setts were recorded in the woodlands and these are considered abandoned given the level of informal recreation nearby such as dog walking, camping and mountain biking. The removal of some trees under the proposal, necessary to create the new access into the site, may impact on bat and bird species in terms of roost removal,

loss of nesting habitat and foraging. The proposals also however include planting which could create ecological value on the site which could compensate or add value. Potential impacts are considered to be minor or moderate in nearly all instances except mature trees in relation to possible bat species, and measures are given in the specialist reports accompanying the application to reduce impacts further to negligible or low levels.

4.2.3 COUNCILLORS BRIEFINGS

Following a period of five months where there had been limited progress with the application, the appellant contacted local councillors Cllr Smaill, Baird, Hackett, Imrie and Milligan via email requesting it to be referred to committee thereby enabling the merits of the case to be openly debated. Cllr Baird and Cllr Smaill consequently requested such.

The appellant sent a follow-up email to local councillors requesting a meeting to discuss the proposals to as to ensure they had full facts prior to the application going to committee. (MEDOC10)

Due to the Christmas break the meeting was pushed back to early January 2018. On the 16th January 2018 the appellant met local councillors to allow the merits of the case and concern regarding lack of progress and full consideration of all issues. Those attending were:

- Cllr Cassidy
- Cllr Hackett
- Cllr Russell
- Cllr Imrie

Following this, Cllr Imrie suggested a meeting with the case officer would potentially be helpful. This was instigated by Cllr Imrie and a subsequent meeting was held on the 29th January 2018. Here the appellant met with representatives from the planning department to discuss the merits of the application.

4.3 ADDITIONAL INFORMATION

A planning considerations paper was presented at that meeting, and duly emailed to the authority. (MEDOC11) It set out clearly the key facts of the proposal and why it is felt it should be supported. The Scottish Government's Mental Health Strategy: 2017-2027 (MEDOC12), as had been touched on in the discussion, was also sent via email to the authority (MEDOC13). In addition, the appellant wrote to Cllr Imrie and the case officer on 31st January setting out the mental healthcare provision (MEDOC14) Montpellier deliver.

A staff breakdown was also sent to the case officer via email following the meeting on the 29th January 2018 (MEDOC15)

4.4 OUTCOME

On the 20th February 2018 the authority conveyed via email that they were not supportive of the application (MEDOC03):

"After giving considerable thought to all of the submissions made in relation to the planning application, we have decided that the application cannot be supported."

Following this, the appellants sought confirmation of timescales from the authority. It was confirmed via email on the 7th March 2018 from the case officer that the application would be presented to the April 3rd Committee. The agenda for this was due to be published on the 23rd March 2018. (MEDOC03)

Later that day however the case officer telephoned to confirm that as the call-in from Cllr Baird was not valid, the application would not go to committee and as such would remain a delegated decision.

5 STATEMENT OF FACT

5.1 SITE LOCATION AND CONTEXT

The site lies within a focus area for growth in the Midlothian Strategic Development Area (SDA) of the A7/A701/Railway corridor. The application site forms part of a wider development site, commonly known as 'Sheriffhall South' which has been marketed and allocated for Class 4 (Business) and 5 (General Industrial) uses for a significant period of time.

Within the statutory Midlothian Council Local Development Plan (2017) the application site is allocated for Class 4 uses only.

5.2 KEY FACTS OF THE PROPOSAL

The application is a direct result of the current, very real requirement for a step-down mental health facility in the central region of Scotland.

The applicant will construct the facility; it will be run by a dedicated experienced operator. The proposal has been discussed with the NHS and run by a third party operator.

The proposal comprises two distinct buildings. This is to serve the 'step down' approach to care.

The proposal proposes a single point of access from Melville Gate Road.

There are no technical, environmental or physical reasons to prevent the development from progressing.

There are no objections from statutory consultees, apart from that of economic development whose response to the application itself is a matter of debate.

It is expected that the number of jobs created will be to the tune of 122 (likely to increase) and substantial wider economic investment. The facility itself will deliver positions across senior clinicians and managers, clinical staff, administration and managerial and support staff. A full breakdown of staff was lodged with the case officer at their request (MEDOC15).

6 ASSESSMENT

6.1 ASSESSMENT

This section will assess the relevant planning considerations of the application. An overview of the legislation, government planning policy, development plan policy and material considerations will be provided and drawn upon as relevant.

The application is examined in the context of The Town and Country Planning (Scotland) Act 1997 (as amended), Scottish Planning Policy and the development plan pertinent to the site. At the time the application was lodged the previous 2008 Local Plan was in force as well as the South East Scotland Strategic Development Plan (SESplan) (2013). Since then the new Local Development Plan (2017) has come into force.

Paragraph 1 of the SPP promotes consistency in the application of planning policy in Scotland, whilst allowing sufficient flexibility to reflect local circumstances.

This directly relates to: (inter alia)

- The determination of planning applications and appeals.

Furthermore, the Core Values of the Planning Service as stated on page 4 paragraph 4 of the SPP advocates a;

"focus on outcomes, maximizing benefits and balancing competing interests"

as well as emphasising;

"make decisions in a timely, transparent and fair way to provide a supportive business environment and engender public confidence in the system."

In addition, a stated core value of the planning system is *"to be inclusive, engaging all interests as early and effectively as possible."* Planning is viewed as having a fundamental role in promoting *"strong, resilient and inclusive communities"*.

The planning system must therefore not simply be about scrutiny. Planning must be a means to create strong spaces, places and communities.

This proposal has been designed for the specialist provision of residential accommodation and personal care for people with an acquired mental illness, whether caused by disease, trauma or substance abuse. These people are some of the most vulnerable in our society. Society should make provision for high quality housing and personal care, as is indeed proposed in this application.

6.1.1 PRINCIPLE

The principle of development in this location is not debated, following the Council's existing and continued allocation of the land for development. The Development Plan allocation e32 negates the need to discuss the merits of development in this location in the context of policies relating to the green belt, countryside or agricultural land. The protection offered by these policies is considered removed by virtue of Policy ECON1 and the e32 allocation.

Midlothian Council have stipulated in their adopted Local Development Plan that the site is suited only to Class 4 uses, that is 'Business' (office, light industry, research and development). The site could therefore in theory be occupied by an office block, an industrial unit or shed. However, no such users have noted an interest in this site since being actively marketed since 2009.

The development of a Class 8A use on this site represents a departure from the Development Plan however it is not the appellants experience that Class 8A uses are present as an allocation within a Plan. Therefore applications for such will always have to overcome planning hurdles and must be considered in a broader context than simply that of a specific allocation use type or class.. We contend that the flexibility Scottish Planning Policy and the Strategic Development Plan SESplan seeks to deliver in order to stimulate and encourage development should be employed at this point. SPP calls for Local Development Plans to respond to market trends – that includes being responsive to what demand exists in an area and taking into account the economic benefits that come with meeting that demand in a timely manner. It specifically states *"Development Plans should positively seek opportunities to meet the development needs of the plan area in a way which is flexible enough to adapt to changing circumstances over time..."*. SESplan's Spatial Strategy *"aims to respond to the diverse needs and locational requirements of different sectors and sizes of businesses whilst being flexible to changing circumstances in order to accommodate new economic opportunities."* Therefore, all upper tiers of the planning system encourage a degree of flexibility to respond to realistic changes and demand. The Council must take this on board.

As an allocation rolled over from the 2003 Local Plan together with an extensive and unfruitful marketing campaign (MEDOC02), it is evident that Class 4 and 5 operators are not attracted to this location. Marketing material from the vendor (landowner) has highlighted this. development is now proposed which will meet other aims of the Development Plan such as investment, job creation and responding to the needs of a healthy and successful Midlothian.

The fact remains that should the Council be minded to refuse this application it is likely – given the historic lack of interest in the site by Class 4 users – that this committed site will remain undeveloped. Such a decision is deflecting inward investment from Midlothian, thereby going against the Council's own aims and objectives and failing to create inclusive communities.

The development being proposed here will provide employment opportunities and together with the adjacent proposal will enhance this location as a place to do business – whatever form it may take. The Local Development Plan allocation e32 sets out Development Considerations, including that the site e32 should be retained for employment opportunities. This development proposal will do this.

6.1.2 ECONOMIC BENEFITS

Job creation and economic investment is as set out earlier, a key consideration and driving force behind SESplans focus on this growth area and Midlothian Council's similar aims. Indeed, SPP directs the planning system to promote and increase business activity and allocate sites that meet the needs of a variety of sectors. Considering that this allocated site has been open to development for over 10 years now and has delivered zero jobs, it is considered sensible and responsive of

Midlothian Council to look favourably on a proposal which will finally see jobs created and generate further 'spin-off' employment opportunities.

The facility aims to employ staff from the local area, with only more senior managerial roles attracting specialist skills. The knock on effect is local job creation in Midlothian, where although the economically active figures are high, 21% of the population are considered inactive (students, caring for family, sick, retired). It is considered that at least some of those in that 21% may benefit from the ability to work on a shift basis; the facility being operational for 24hrs allows for a range of working patterns to exist. In relation to jobs and employment, SPP notes that a core value of the planning system is to *"play a key role in facilitating sustainable economic growth, particularly the creation of new jobs and the strengthening of economic capacity and resilience within communities..."* It is estimated that this development will generate circa £11m to the local economy over time. Trade with local businesses is expected to be in the region of £425,000 per annum. The Plan calls for creation and enhancement of jobs and investment across Midlothian, emphasised and Policy STRAT1– this site has been committed since 2008.

6.1.3 LAYOUT AND DESIGN

The scheme forms two phases – the Phase A building is located in the northern section of the application boundary, with the Phase B building located in the southern section. (MEDOC01) The requirement for two separate buildings within the scheme is a result of the type of care facility proposed. As the level of care changes, patients are moved to the Phase B building where recovery/rehabilitation continues. This approach is central to the scheme.

The character of the area outwith the site and wider area boundary are respected through a carefully considered approach to layout, design and landscaping.

The layout of the scheme (MEDOC01) has been arrived at through careful consideration of the site and facility requirements. The existing treebelts on the site have been used positively to create a setting for the facility, allowing it to be formed around the natural setting and using these features to create interest and setting.

The site sections (MEDOC01) illustrate that some cut and fill will be required across the site to deal with the existing levels on site. The resulting material is to be dealt with within the site and in landscape areas.

The Phase A building comprises a ground and first floor. The building is orientated to face the central parking area. The main entrance from the car park leads to the main reception area beyond which is located a variety of care facilities. Communal and private garden space exist around the building, with small hardstanding patio areas. This building is surrounded by a weld mesh 4m hi-sec fence, which provides the secure line to the building entrance. The entire site is enclosed by a timber post and rail fence.

The Phase B building comprises a lower ground, ground and first floor. The building is orientated to face the central car park, with access being taken from this area. The building is also enclosed however here by a slightly lower 2m high timber fence, reflecting the step-down to a lower form of secure facility. The day space/breakout area on the ground floor opens out into the communal garden area to the west of the main building, which as noted earlier is secure by a 2m timber fence.



The scheme includes a central parking area, with main entrances to both buildings located to the east and west. The new entrance formed off Melville Gate Road will include a new footpath, which extends along the lower portion of Melville Gate Road to the existing bus stop. The footpath will allow passengers and cyclists who have dismounted safe access into the site and main entrance points.

The Design and Access Statement produced in support of the application (MEDOC01) illustrates that:

- the layout works with the sites conditions, maintaining the boundaries to the main road, making use of the existing treebelt features and the setting they offer, and strengthens this by virtue of the building orientations, scale and landscaping.
- materials proposed are of the highest quality, tested and utilised elsewhere on similar site. They are durable and weather in a manner which does not adversely impact on the visual appearance of the buildings/spaces, or the character and landscape setting of the area. A contemporary palette of materials are used which have been chosen for their longevity and low maintenance properties. Roofs shall be finished in a dark grey interlocking concrete roof tile with a deep overhang to protect the wall head. Fascias and soffits shall be formed in dark grey pvc-u with a lining effect to the soffits. External walls are a mix of smooth white render and buff coloured facing brick. Curtain walling will be powder coated thermally broken dark aluminium. Fenestration throughout the development reflects a desire to flood internal rooms with daylight and ventilation whilst allowing views outward across the surrounding countryside. To assist in achieving visual interest to the elevations coloured render panels have been incorporated between windows to create contrasting vertical punctuation to the linear appearance of the elevations. Entrances to both Phases are identified by zinc canopies and return gable walls to encapsulate the glazed entrance doors and glass screens to reception. At this lower level, the soffits are treated with natural cedar lining to give warmth to the entrances. Please refer to the accompanying Design & Access Statement for more detail.
- existing pedestrian routes only exist on the east side of the Melville Gate Road, however proposals include to enhance connections in the area by provision of a footpath to the existing bus stop on the west side of the Road. Within the site footpaths and dropped kerbs allow for safe movement through the internal site.
- roads and lighting within the application site are considered to meet Council standards
- cycle parking and bin stores have been incorporated into the scheme.

Scottish Planning Policy requires high quality places to be delivered, centred around the design-led approach and six key qualities of successful places as follows:

1. Distinctive
2. Safe and pleasant
3. Welcoming



4. Adaptable

5. Resource efficient

6. Easy to move around in

It is held these are achieved in this proposal in the context of the specific type of development. At Development Plan level, SESplan Policy 1B continues this aim. Local Development Plan Policy DEV 5: Sustainability in New Development requires good design in both the overall layout of sites and their constituent parts. Sustainably is also highlighted as a requirement under this Policy and in this scheme this has been employed by responding to the site's characteristics, reduce energy consumption, provision of suitable landscaping, suitable access provision for both pedestrians and vehicles, and that waste recycling bins will be located within the site.

The proposed development will create a place which is welcoming and distinctive by virtue of its design and Euro Garages branding. It will be safe and pleasant ensuring ease of movement by virtue of its design and the ability of vehicles and pedestrians to enter/exit the site and move around the site in a clear and legible manner. The site is adaptable in that it is linked to the wider area by road and footpath links, with parking provided at various points across the site to suit a range of users. It is resource efficient making use of natural light by installing high level windows to allow light to filter into the units. LED lighting is employed across the site, together with manual and automatic switching and dimming facilities.

A building management system (BMS) shall be provided. A good control strategy is essential to maintain good levels of service, comfort and safety in an energy efficient manner. Comfort of the patients is highly important therefore simple, user friendly, local control switching and thermostats will be located in all resident areas. Energy meters and submeters will be provided to ensure that 90% of the estimated annual energy consumption of each fuel is accounted for. These will include boilers, water heaters, kitchen equipment, commercial laundry equipment, heat pumps, motor control centres, lighting and some final electrical distribution boards.

Planting on the site will be used to delineate spaces and used, be low maintenance but will be integrated with the existing landscaping around the site and use this to help create a setting for the development. Design of buildings employ the most up to date technical standards and creative design. Fenestration throughout the development reflects a desire to flood internal rooms with daylight and ventilation whilst allowing uninterrupted views over the countryside.

6.1.4 LANDSCAPING/TREES

Along the new entrance several trees have to be removed (MEDOC01) , however the loss is considered minimal in that only 29 trees will be removed in total, and tree planting is proposed as part of the wider scheme. The tree report (MEDOC01) carried out for the wider site identified three distinct treebelts in the wider site – A, B and C. A lies to the east of the development proposal, B to the west and C to the south. Only A therefore is affected by the access route to the proposed development. Within A, the report concludes that it encompasses a block of trees 80m in width in order to include a generous swathe of trees either side of this. It also includes a strip of trees to the west of this, to include all trees within 12m of the site boundary and at the interface with Area C. This area contains 145 trees and is described as being

"approximately 327m in length and 40m in width. This is identified in the Ancient Woodland Inventory as being of Long Established Plantation Origin (LEPO), suggesting that it has been continually wooded since 1840. The site currently supports an even aged plantation of mixed species approximately 60 to 70 years in age. Younger regeneration of beech and elm is present in the understorey in places. Beech and larch form the dominant species, with lesser amounts of oak, sweet chestnut, poplar and sycamore scattered throughout."

The area was considered to be in generally 'fair condition' however a range of issues were noted in relation to condition and management, including:

- Suppression – all trees
- Windblow – few instances
- Dead/Dying – several trees
- Mammal damage – several trees
- Poor form/structure – a proportion of trees
- Ivy encroachment – some trees (heavy)
- Elm trees – those recorded were considered small, suppressed and scrubby with limited future potential

Future management – the woodland has been established as a commercial plantation, approaching silvicultural maturity and becoming increasingly vulnerable to windblow.

One tree recommended for removal – number 156 – is included in those requiring removal under the proposed development.

The scheme includes a strong landscape framework to align with the framework being proposed by the owners of the site as part of their spine road application. The site owners, Buccleuch Property (Sheriffhall South) Ltd, has sought to ensure the landscaping established at this stage will also set the tone for future development plot landscaping. The have made clear to all future plot developers/occupiers that, as overall landowner, all future independent plot developers will be made required to adopt a strong approach to landscaping within the scheme

The layout includes private and communal garden space, located around each building. The entrance avenue will be set in the existing trees of treebelt 'A' and include a feature retaining wall of gabions, crib lock or similar. This will promote interest and as it is proposed to continue this into the site to a degree, will assist in the transition of space and sense of place.

The landscape framework seeks to enhance the sense of setting for the buildings within the site. The shape and mixture of landscaped areas within the site create interest, enhanced further by the mix of species proposed, as set out in drawing Acceber, ADL194 Rev A and landscape schedule. (MEDOC01).

A mixture of trees, native hedges, shrub, herbaceous plants and climbers are proposed across the site.



Additional tree planting within the site includes a range of trees species, with 28No. in total proposed.

Beech hedging is incorporated throughout the site, used in tandem with other types of landscape treatments, which create interest and a diversity of shapes across the site.

Tree planting along the car parking area delivers not only screening and setting but protects the private garden space to the front of the Phase A building. Trees are used on the perimeter of the site and in order pockets to create interest and create a sense of place for the development, while taking cognisance of the existing trees in the wider site.

Low maintenance amenity grass areas exist to the front of the buildings and around the built form. This is however enhanced in places with tree planting, shrubs planting, and double-staggered beech hedging.

The materials palette proposed includes:

- Timber post and rail fence around the perimeter of the site
- Gabion retaining walls in stone, crib lock or similar which line the vehicular access to the site
- Car Park surfacing; Tarmac and porous pavements

Landscaping has been employed within the site, aligning with that overall framework being rolled out across the wider site by the owners. The landscape character in this area is set to change under the existing and proposed Development Plan allocations, and the approach of the vendor to all development plots aims to ensure a strong context and setting for all development. This will assist in the creation of a sense of place, in accordance with SPP, SESplan and wider LP/LDP policies.

Minimal loss of trees is occurring as a result of this development (29No. in total), and none are covered by Tree Protection Orders. While the area affected by the proposals, Area A, is identified in the Ancient Woodland Inventory as being of Long Established Plantation Origin (LEPO), additional planting and sensitive landscape treatment which is robust in form equates to replacement planting of 28No. Trees. Taken together with the other range and mix of planting proposed, it is considered that Policy ENV 11: Woodland, Trees and Hedges is accorded with. It is also held that the development will not adversely affect the quality of the local landscaping, and indeed additional landscaping provided for within the application site which complements that proposed elsewhere will enhance the landscape therefore Policy ENV7: Landscape Character is accorded with.

6.1.5 ACCESS/MOVEMENT

The development is not considered a 'Major-travel generating development'. However, in line with the Policy the proposal is accompanied by a Transport Assessment (MEDOC01) and is accessible by safe and direct routes for pedestrian and cyclists. The development is not expected to generate significant trips in its own right, and visitor trips are typically mid-morning and mid-afternoon, plus with the planned development of a footpath from the bus stop on Melville Gate Road into the facility, will be accessible by means other than the private car.



It should be noted that with a total of 122 staff, working in three shifts, there will be a maximum of some 50 staff on site at any one time. It has reviewed existing traffic counts, speeds and accidents on Melville Gate Road.

The level of traffic predicted to be generated as a result of the development is low, with the results of the trip generation and assessment of the capacity of the access junction to be provided indicate that a safe and appropriate junction can be formed. Visibility splays of 4.5m by 120m will be allowed for in the junction design. The flows are considered modest and unlikely to cause capacity issues at existing junctions within the network.

It is proposed to form a new access from the Melville Gate Road which runs to the east of the site. This will necessitate the creation of a break in the treebelt as existing, however it is expected that only 29 trees will require to be removed, from what is a grouping of 145. The access road will comprise tarmac and form both the entrance and exit point for the scheme.

Access is proposed from Melville Gate Road which is a 40mph route, a bus route, with street lighting and a footway on the southern side.

Existing bus services which run along Melville Gate Road, Old Dalkeith Road and Gilmerton Road are: X95 (every hour), 33 (every 20mins), 49 (every 20mins) and 51 (one per day, each way).

A new footpath will be created to run along the southern side of this new access route providing safe access from the site to the bus stop on Melville Gate Road.

Pedestrian movement within the site is guided by dedicated footpaths at each building and a central area to allow safe traversing of the car park.

Once in the site, vehicles will be directed to a central parking area. A total of 61 parking bays are proposed, 6 of which are disabled bays (3 at each building). Dropped kerbs will allow ease of movement. Midlothian Council's standards show a requirements of 50 spaces for 66 residents and 16 spaces for staff, in addition to 6 cycle spaces. Visiting hours for relatives of residents would be flexible with no visiting during meal times, and staff operate over three shift patterns. There is no necessity to separate visitor and staff parking areas within the hospital. The level of parking being provided is therefore in line with Council Standards.

A Travel Plan is proposed, to include references to walking, cycling and public transport facilities in the area with details made available to those using and working at the facility. Car sharing is promoted, as well as the use of smart phone applications. The proposals are therefore considered acceptable in terms of Policy IMP1: New Development and DEV 5: Sustainably in New Development.

6.1.6 FLOOD RISK AND DRAINAGE

A Flood Risk Assessment has been lodged as part of the application pack as has a Surface Water Management Plan (MEDOC01). This includes an FRA checklist per SEPA's requirements. Ultimately the FRA concludes that the risk of flooding has been investigated as appropriate to the size and location of the site. With design actions taken as appropriate, no further action is required in this regard.

6.1.7 NOISE

Charlie Flemming Associates Ltd (MEDOC01) have undertaken an assessment of noise levels (2017) and conclude that during the night and day, there will be no adverse impact on the residents of the care unit and so the significance will be neutral. Therefore, the local traffic sound levels are considered to be within the limits given in current planning guidance Planning Advice Note 1/2011 and TA 2011. There are therefore no noise-related issues which would merit refusal of the application.

6.1.8 ARCHAEOLOGY

Midlothian is rich in archaeological heritage and as such a Desk Base Assessment (MEDOC01) has been undertaken in support of the application. Local Development Plan Policy ENV25: Site Assessment, Evaluation and Recording deal with archaeology and the historic environment. The DBA concluded that there are no scheduled monuments, listed buildings or history of archaeological finds on site. In their assessment of indirect impacts, the following conclusions were reached:

- No visual impacts of scheduled sites
- No visual impacts of listed buildings
- No visual impacts on gardens and designed landscapes and conservation areas

6.1.9 ECOLOGY

A Phase 1 Habitat Assessment and Badger Survey has been carried out for the application site, to include the site boundary and beyond to a minimum 30m buffer, including parts of the adjacent woodland and arable field which were subject to a botanical Phase 1 Habitat Assessment.

The site was considered of low or moderate value overall, comprising an arable field area of low value and marginal land. The arable land around the application site was considered of overall low value to most taxa. The crop field is of no significant value to any species except for common bird species in winter and possibly a small number of wintering species.

The woodlands adjacent, subject of a separate tree survey (MEDOC01), was considered of high value in themselves for faunal species. However, no rare or notable plant species were recorded during the surveys.

No active badger setts were found on the site or in adjacent woodlands. Disused setts were recorded in the woodlands and these are considered abandoned given the level of informal recreation nearby such as dog walking, camping and mountain biking.

The removal of some trees under the proposal, necessary to create the new access into the site, may impact on bat and bird species in terms of roost removal, loss of nesting habitat and foraging. The proposals also however include planting which could create ecological value on the site which could compensate or add value.

Potential impacts are considered to be minor or moderate in nearly all instances except mature trees in relation to possible bat species, and measures are given (refer Survey Report, Alpha Ecology, 2017) to reduce impacts further to negligible or

low levels. These measures included in the Survey Report include tree assessment by a tree climbing arboriculturist once any tree removal is confirmed. A protection plan for the works and for the completed Site generally would be appropriate and could include timing to avoid priority periods for species such as reproduction, pre-works checks for habitats, briefings to contractors and monitoring during key phases of work and post completion. It is therefore held that the proposal is in accordance with Policies DEV7: Landscaping in New Development, and ENV11: Woodland, Trees and Hedges.

6.1.10 COMMENTS TO THE APPLICATION

There is a clear aim of the development policy framework to encourage and enhance growth and development, jobs and investment, into Midlothian. In doing so, cognisance should be taken of the aims of national policy and guidance to utilise the planning system for the creation of successful places and strong communities. Inclusiveness is at the heart of this, as well as design and sustainability. We have demonstrated that there are no physical barriers to this development taking place. There are no concerns raised from statutory consultees on this matter. We have demonstrated that the design of the proposal is both fit for the specialist needs of the specific development but also suitable to this site and location, and is acceptable in policy terms. There are no statutory objections to indicate otherwise. The site can be serviced and accessed without issue; again there are no statutory objections in this regard. We have demonstrated that there is a very real need for this facility in this region and that it brings notable benefits not least care and rehabilitation but employment, investment and establishing use of a long-standing allocated development site in Midlothian. It therefore meets wider policy aims and objectives of the planning policy framework.

Therefore, the only matter which has lead the planning department to move to a potential refusal of the application is the allocated use of the site. The planning system is there to balance interests; to consider a wide range of aspects of a development proposal and serve each sector of society. Looking beyond the strictness of a Class 4 use, the development proposed clearly can be supported.

7 SUMMARY AND CONCLUSIONS

7.1 SUMMARY AND CONCLUSIONS

The authority has to date failed to make a decision on a valid planning application and have consistently delayed the process with a lack of meaningful engagement, dialogue, feedback or discussion regarding the application or any points of concern that may have arisen as a result of the pre-application meeting and/or submission.

On the 20th February 2018 – some 7 months after a valid 'local' application was lodged, the authority saw fit to set out their intention in writing. This despite a strong evidence base illustrating the need for such a facility, the economic benefits and the ability of this site to deliver such in a timely and sustainable manner.

In terms of the Development Plan position, it was highlighted again that land at Sheriffhall South has been allocated for at least a 10-year period for business and industry development. We assume that in the allocation of the site, the Council's aims were to attract investment and economic growth to the Midlothian. It seems from the 2008 Local Plan that the allocation was primarily to "build upon the success of this location in attracting economic investment." The appellants are a business and are part of a vital and vibrant care industry. The question must be asked – and answered by Midlothian Council - why should it be excluded from this allocation resulting in the loss of substantial employment and investment because of a narrow, inflexible and blinkered interpretation of what constitutes business and industry. If this takes effect, the application process is therefore not comprehensive and discriminates against the most vulnerable in our local society.

At Todhills, consent was granted for the Spire hospital on what was land allocated for Class 4 and 5 uses. Indeed, the application site was considered to be partially within the area allocated for economic purposes and partly within the area protected from development other than essential countryside uses. In considering that application the officer noted:

"The proposed hospital was not a use originally envisaged when either the Local Plan or Master Plan was prepared. Whilst such a use does not come within Use Class 4, it is not inherently incompatible with a business park location and will provide a significant employment generator."

The LDP states that the retention of the allocation e32 was for employment opportunities. Relevant Policy STRAT 1: Committee Development seeks early implementation of all committed development sites. The LDP goes on to state that the economic clusters (which includes Sheriffhall South) seek to attract primarily Class 4, 5 and 6 uses however "...ancillary support uses may be acceptable to help market the location and attract investment..." It is considered this point is relevant in the context of this application and that the lack of market interest from Class 4, 5 and 6 uses demonstrates that this is an instance where overarching aims of economic growth and the creation of health care facilities should be given due weight.

Scottish Planning Policy has sustainable economic growth at its core. It states *"The Government Economic Strategy indicates that sustainable economic growth is the key to unlocking Scotland's potential and outlines the multiple benefits of delivering the Government's purpose, including creating a supportive business environment, achieving a low carbon economy, tackling health and social problems, maintaining a high-quality environment and passing on a sustainable legacy for future generations."*

"The planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place; it is not to allow development at any cost." In summary what is directed is a comprehensive and cohesive strategy to providing a vibrant and sustainable community infrastructure. This facility will assist in meeting this.

The proposed development will deliver between circa 122 jobs across a wide spectrum of employment types. Due to the 24-hour operation of the facility shift flexibility allows a wide range of employment and working patterns. Particular attention is given to those specialist employment needs and young working mothers whose family commitments can be accommodated by the amount of hours they work and when they work. The hospital will seek to work in conjunction with local education institutions to provide a direct link to practical training. It will also provide direct training, offering the opportunity for staff to progress within the organisation and wider educational support within the community.

The planning systems permits decisions to be made contrary to the Development Plan where material considerations are such that the case can be made. This is the case here. The existing allocation of the site does not and has not for several years now responded to the Class 4 market which evidently do not wish to locate here. Economic development is based upon need and demand. There is demand for other uses which would result in economic investment and growth however and would serve to meet Policy IMP4 of the LDP. This project would represent an inward investment of £11m to the Midlothian economy. Spin off local trade is considered to be in excess of £425,00 per annum. These are material considerations in the determination of this planning application.

The proposal must be considered alongside other Development Plan considerations, specifically Policy IMP4: Health Centres which states:

"The Council supports the development of new or extended health centre facilities where there is an identified need to enhance healthcare services within a community."

The section of the Plan where this Policy exists, 'Delivering the Strategy', states "The MLDP provides a positive framework for supporting and managing sustainable economic growth but it is also expected to have a strong focus on delivering the development strategy." Furthermore, the LDP acknowledges that "The Council alone cannot fund this level of investment and acknowledges that it will require the cooperation of and collaboration with the Government, public sector, agencies, the private sector and in some cases, possibly the voluntary sector."

The Council acknowledge that independent care providers play a role in the Midlothian Health and Social Care Partnership and that together with GP's,

hospitals, health workers, social care staff and voluntary bodies, they will share information and co-ordinate planning and delivering services – all with the objective of putting people first. The stated vision is that;

"people will lead longer and healthier lives by getting the right advice, care and support in the right place, at the right time."

The Council are urged to look beyond the site-specific allocation on this parcel of land in isolation and look instead to their ability to meet wider Plan and long-term Midlothian objectives. This development can generate employment and create a facility, allowed for under Policy IMP4, which will help Midlothian achieve the Vision set out in their Plan.

And several of their stated Plan social and economic Objectives including

- Create local access to jobs, services and facilities
- Seek agreements and partnerships with developers and agencies to ensure delivery of infrastructure and facilities.
- Support Midlothian's growing economy by creating quality and sustainable business locations.
- Encourage the creation of new businesses
- Identify new economic and commercial opportunities to provide local jobs and help reduce out-commuting.

It is respectfully requested that the LRB take on board the content of this statement, discussion and supporting information and grant planning consent for this much-needed mental health facility.

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11 May 2018

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

Dear Peter,

THE TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED) – PLANNING APPLICATION 17/00587/DPP MONTEPELIER ESTATES

My clients have now considered the contents of the Delegated Report as made available on Midlothian Council's planning portal on 7th May 2018. The Appellant is astonished that the Report contains new information gleaned from council officers not previously consulted during the determination period of the planning application.

Of the 27 Development Plan Policies listed in the Delegated Report, 4 are included in the given reasons for refusal. While we contend that the given reasons are flawed and object to the recommendation, we are supportive of the agreement established in respect of those other 23 policies.

The site is allocated in the Local Development Plan for Class 4 business use, as allocation e32 i.e. office, research and development, any industrial process which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit. The allocation for development in this location has been longstanding. The officer considers that there is an argument – and a reason for refusal – for the proposed development being refused due to the Green Belt. The site is allocated for development. By virtue of that allocation the Green Belt designation is considered to fall away. The development of the Elginhaugh pub on a portion of this allocated site dilutes the officer's argument further. That planning application was approved (ref: 13/00848/DPP) and the planning officer reasoned that:

"The proposed commercial leisure facility will provide a valuable facility to the business land allocation which will enhance the attractiveness of the site to prospective businesses, whilst itself providing a comparatively high level of employment opportunities".

The allocation sets out that the site should be retained for employment opportunities. The LRB must acknowledge that the term 'employment generating uses' is wider than any single Use Class



definition. It is completely logical that Use Classes create employment; this includes Class 8A. This type of development requires a more specific definition in order to create distinction and, for instance, set criteria such as parking standards.

The Plan states that

"the site will remain in the Green Belt and only be removed once the entire site (all 3 parts) is developed..."

This is considered overly restrictive and unrealistic, particularly in light of the lack of market interest in developing a Class 4 Use on 11 acres of land. Market reports and self-evident lack of developer interest in building speculative office or light industrial space over the last 15 years demonstrates the market response to the Policy framework being employed; either there are no prospective new businesses or the site is in the wrong location. Either way, planned development has failed to transpire.

The overall objectives of the Green Belt set out in the Plan (Policy ENV 1) are to direct development to the most appropriate location; protect and enhance character and landscape setting; and protect and provide access to open space. The officers report cites landscape as a key issue. Landscaping is clearly not an issue with this application which nestles between existing robust woodland groupings on the site. The development proposed does not conflict with any of these objectives. The proposed use is to meet an identified need. Exhaustive site searches have been undertaken by the appellant over a three-year period to find a suitable location to meet this need. This was discussed in great depth and a site search plan was tabled during the only meeting with the planning officers. Even if the Planning Authority were to continue their view that the site is, in effect, some form of Green Belt this development could still be supported by virtue of criteria E of the relevant Policy ENV 1: *"development that meets a national requirement or established need if no other site is available."* To state that the Authority might de-allocate the site altogether from any development taking place does not align with other Development Plan policy which seeks to continue to support long standing allocated development sites.

The statement that the development of the Elginhaugh pub has not provided an impetus for further development is not accepted. Two applicants with two live planning applications deem this area a suitable, attractive location to develop. They had sought to move swiftly through the planning process to progress development on the ground however both have faced substantial delays in obtaining a decision from the Planning Authority. It is the case that, as the landowner and agents have stated frequently to the Planning Authority, the market has shifted away from speculative build of office and light industrial units. The level of interest from non-Class 4 Uses as submitted with the application clearly show this and the LRB are urged to take cognisance of this fact.

The Delegated Report includes a never previously issued consultee response from the Council's economic development section, which ultimately recommends refusal. However, this was not raised prior to the Review notice being served and was not translated to the Appellant while the application was still pending. The response is therefore not considered admissible. The Appellants are bemused by several of the comments made, which ultimately discourage development taking place rather than encouraging it into the Midlothian area. The issue of a



Class 8A Use on a site for Class 4 Business is not uncommon and has been accepted in other areas of the UK as it is acknowledged that care facilities are a strong generator of employment, serve a community and wider regional needs. We would draw to the LRB's attention the following key points:

- If the Council believe that there is a shortage of available industrial sites (Class 4, 5 and 6), they are tasked with bringing such sites forward. The issue is not the supply of land, it is how the land responds to market. Any shortfall – perceived or realistic – cannot be held against the Appellants who are expecting to create circa 120 jobs under this proposal. The response fails to take into account the market demand and viability of site development. Infrastructure costs associated with development of any site form part of the viability assessment and it is logical then that any potential occupiers will consider established serviced sites before considering greenfield locations. In addition, it is the case that the landowner is flexible in their approach to open up the development site, and consideration has been given to various developments models over the years in an attempt to move this site forward. 15 years of attempting such without success clearly demonstrates willingness on the part of the landowner, therefore the Council are urged to employ a similar willingness to get development moving.
- Between 2003-2012 there was an average annual take up of 3.48ha of employment land in Midlothian. In 2013 the total effective employment land supply was 125.08ha, meaning Midlothian had a 36-year supply¹. Midlothian Council's Planning Performance Framework Annual Report 2016-2017 states that the marketable employment land supply in the 2015-2016 period was 201ha however there was 0ha take up in that period. Furthermore, the only take up reported in the 2016-2017 year was 5.5ha which the Energy from Waste facility at Millerhill largely accounted for. Applying 5.5ha/year take up to 201ha of land equates to a 36-year supply of employment land in Midlothian. What these figures show is that development land exists, but there is no uptake.
- The claim that inward investment into Midlothian is low simply because of a lack of suitable sites and premises of sufficient sizes is somewhat ironic in the context of this application. A viable development is seeking planning consent yet there is a recommendation for refusal, meaning the site could well remain vacant. Property agents tell us that for out of town offices, activity is focused in West Edinburgh. If the market drivers wanted to locate in Midlothian, they would do so and would surely look to established functioning sites in the first instance such as Shawfair Park as opposed to the application site which is greenfield with no infrastructure in place. The Borders Railway has absolutely no direct relevance to this site.
- With regards to 'roller shutter' units the Planning Authority have had discussions with the landowner of the wider site to deliver elsewhere. In any event these could be classed as Class 5 or 6 uses therefore could not locate on this site under current Plan policy.
- It is not accepted that there is a shortage of high quality/serviced offices/co-working spaces. There is 5,000sqft of office space ready to let at Shawfair Park. Co-location by its very definition requires services and facilities in close proximity and as such, if space remains vacant at an established working location there is considered very little possibility of a vacant 11acre greenfield site at Sheriffhall South being attractive. Potential occupiers are more likely to seek out existing builds in established areas.

¹ Employment Land and Property Market Review, Ryden, 2013

- The assertion that the development will only result in ancillary and low wage/skill positions is completely unfounded and such a stance fails wholeheartedly to meet the aims of various policies, aims and ambitions of Midlothian Council as a whole. To suggest that ancillary positions are not valuable contributors to an economy as a whole is unfounded.
- If Midlothian Council are seeking to develop spaces for start-up companies, expand existing companies and build on the reopening of the Borders Railway they have the opportunity to engage. We are not aware that the Council have sought to facilitate any of these development scenarios with the landowner, during the last 15 years.

A further new matter of "...some discussion with the Head of Adult and Social Care..." has been included at Page 13 of the Delegated Report. This is informal, not a Consultees response and is an opinion given without access to the full facts. It was not obtained during the consultation period, nor in the 6-month period prior to the Appellants meeting the planning officer. At no point was this information shared or the Appellants given opportunity to engage. Midlothian provide Community Healthcare services. This proposal is for a Regional Secure service in accordance with Government Policy to provide mental health services closer to home. Patients will benefit from family support, local professional assistance and consequently will assimilate more quickly into their Community. Statistically there will be undoubtedly some residents from Midlothian that will need the use of this service and even more so the regional population of the south-east of Scotland. The proposed service is not competitive with those provided by Midlothian and staffing profiles are different to those required for a specialist service. It is accepted that safeguarding is a matter that will need some input from the Council, but that will already be necessary for patients from the area located elsewhere in Scotland. The issues raised appear to be Operational matters and outside of the Planning process.

The Delegated Report suggests that the development should be situated in an urban area. There is no justification for what appears as a personal view nor is there any operational reason to do so. It is completely unrelated to the matter under consideration. The Appellant has sought to locate here for a number of reasons and this is an attractive, wholly suitable site for the specialist care facility. Moreover, the suggestion that being located in a built up area would somehow negate the need to overcome non-conformity with policy is a far too simplistic view of matters. The other wider and more important considerations relevant to the proposal are being completely overlooked.

A full design and access statement was lodged with the application which demonstrates that a modern and contemporary approach has been taken to the design of the buildings in line with Scottish Government Policy – Creating Places. The development does not represent over development of the site as there is adequate public and private open space with the development benefitting from its mature landscape setting and open views to and from the site. Sun path diagrams were produced to indicate overshadowing of the private courtyards in the month of June. These prove that except for the east courtyard which loses sunlight at 6.00pm in the evening, all courtyards benefit from sunlight throughout the day. Criticism has been directed at some of the seating areas being in shade but there is a fine balance between constant exposure to sunlight and the ability to sit in shade which we believe the proposals address.



The buildings are carefully positioned between two existing mature tree belts and run parallel with the existing contours to ensure that their visual impact is minimised through the best possible relationship with the existing topography and landscape setting. The design of the buildings offers a more sensitive affiliation with the contours of the site than larger, square or rectangular industrial units which could demand a greater potentially damaging cut and fill exercise. The indicative landscape proposals deliberately attempt to integrate the buildings with the mature setting of trees through judicious planting around the peripheral edges of the building plots. The buildings deliberately incorporate a strong horizontal emphasis with deep overhanging eaves, re-enforcing and grounding the buildings within the topography and reducing visual impact. High quality materials are used throughout the development in the form of facing brick, smooth render, zinc canopies, profiled concrete roof tiles and powder coated aluminium curtain walling, windows and doors to ensure longevity, appearance and low maintenance. As noted a secure fence is a pre-requisite for this type of accommodation but a green, open mesh fence was deliberately chosen to blend with the landscape setting and backdrop of mature trees while also allowing views through it to the wider site and beyond.

The Delegated Report sets out two reasons for refusal:

1. The proposed land use is not in accordance with the site's allocation for Class 4 business uses in the Development Plan and as such the development is contrary to policy 2 of the Strategic Development Plan for Edinburgh and the South-East Scotland (approved in 2013), policies STRAT1, ECON1 and ENV1 of the Midlothian Local Development Plan 2017 and the Scottish Government's policy position set out in Scottish Planning Policy.
2. There are no material considerations that are considered to be of sufficient weight to indicate that the proposed development should be supported despite its non-compliance with development plan policy.

Section 25 of The Town and Country Planning (Scotland) Act 1997 (as amended) states that:

"Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise."

The development of a Class 8A use on this site represents a departure from the Development Plan in terms of the prescribed Use Class only. In terms of what 'business', 'research and development' and 'light industry' as stipulated under that Use Class actually do – i.e. generate jobs, investment and meet a defined need – this proposal is acceptable. SPP notes that a core value of the planning system is to *"play a key role in facilitating sustainable economic growth, particularly the creation of new jobs and the strengthening of economic capacity and resilience within communities..."* Flexibility exists in the material considerations of Scottish Planning Policy and the Strategic Development Plan in order to stimulate and encourage development. SPP calls for Local Development Plans to respond to market trends – that includes being responsive to what demand exists in an area and taking into account the economic benefits that come with meeting that demand in a timely manner. It specifically states *"Development Plans should positively seek opportunities to meet the development needs of the plan area in a way which is*

flexible enough to adapt to changing circumstances over time...". SESplan's Spatial Strategy "aims to respond to the diverse needs and locational requirements of different sectors and sizes of businesses whilst being flexible to changing circumstances in order to accommodate new economic opportunities." Therefore, all upper tiers of the planning system encourage a degree of flexibility to respond to realistic changes and demand. This is paramount in reaching a decision on this development proposal.

As a long-standing allocated site which has failed to attract market interest to date, despite a weighty marketing campaign, development is now proposed which will ensure delivery of a committed site, job creation and wider economic investment. It cannot be ignored that this site, just a small proportion of the overall 11 acres on this part of the 'Sheriffhall South' site, has been marketed unsuccessfully for its allocated use class. Should permission be granted, circa 8 acres of Class 4 land remains allocated at this location.

It is the case that if the LRB are willing to consider the true merits of the development proposal and the material considerations which demonstrate how a need can be viably and sustainably met, then this application should be granted planning consent without further delay thus allowing development to begin on site imminently.

Yours sincerely,

Meabhann Crowe, MRTPI
ASSOCIATE DIRECTOR

c.c Montpelier Estates

Document List

1. MEDOC01 – Planning Application 17/00587/DPP
 - a. Application forms
 - b. Planning Supporting Statement
 - c. Location Plan
 - d. Site Plan
 - e. Site Sections
 - f. Phase A elevations, sections, ground floor, lower floor plans
 - g. Phase B elevations, sections, ground floor, lower floor, first floor plans
 - h. Acoustic Report
 - i. Archaeological Report
 - j. Desktop SI Report
 - k. Design and Access Statement
 - l. Flood Risk Assessment
 - m. Landscaping Plan and Schedule
 - n. Phase 1 Habitat Assessment and Badger Survey
 - o. Surface Water Management Plan
 - p. Transport Statement
 - q. Tree Survey and Arboricultural Report
2. MEDOC02 – Marketing History
3. MEDOC03 – Review Request
 - a. Notice of Review
 - b. Email 08.03.2018 Review Procedure
 - c. Acoustic report
 - d. Application forms
 - e. Application summary
 - f. Arboricultural report
 - g. Archaeological report
 - h. Design and access statement
 - i. Ecology report
 - j. Email 20.09.2017 determination period
 - k. Email 29.01.2018 staff breakdown and economics
 - l. Email 07.03.2018 committee date chaser
 - m. Email 26.01.2018 A7 contribution
 - n. Email 20.02.2018 MLC position and timescales
 - o. Email 21.09.2017 determination period extension to 13.10.2017
 - p. Email 07.02.2017 feedback timescales

- q. Email 27.10.2017 determination period extension to 17.11.2017
 - r. Email 04.12.2017 determination period extension to 20.02.2018
 - s. Email 12.10.2017 determination period extension to 27.10.2017
 - t. Email 07.03.2018 committee date 3rd April 2018
 - u. Email 29.01.2018 summary of meeting, planning considerations paper and Mental Health Strategy
 - v. Floor Plans (1-5)
 - w. Elevations (1 -6)
 - x. FRA
 - y. Landscape schedule
 - z. Mental Healthcare Provision Statement
 - aa. Montpelier Letter 28.11.2017 to MLC
 - bb. Planning Considerations Paper January 2018
 - cc. Scottish Government Mental Health Strategy
 - dd. Sheriffhall South Strategic Planning Overview (Buccleuch)
 - ee. SI text
 - ff. Site Plan
 - gg. Statement of Appeal
 - hh. Surface Water Management Plan
 - ii. Transport Statement
-
- 4. MEDOC04 – MLC Letter regarding Procedure 19.03.2018
 - 5. MEDOC05 – Request for Change to Review Procedure Letter 10.04.2018
 - 6. MEDOC06 – MLC Confirmation of Change of Procedure Email 23.04.2018
 - 7. MEDOC07 – Montpelier Letter to Councillors (and MLC) Email 28.11.2017
 - 8. MEDOC08 – Statutory Consultee Responses to the Application
 - 9. MEDOC09 – MLC Economic Development Section Response and Query to MLC Planning
 - 10. MEDOC10 – Montpelier Letter to Councillors December 2017 (example Cllr Baird)
 - 11. MEDOC11 – Planning Considerations Paper (January 2018)
 - 12. MEDOC12 – Scottish Government's Mental Health Strategy 2017-2027
 - 13. MEDOC13 – Email 29.01.2018 to MLC including Planning Considerations Paper and Scottish Government Strategy
 - 14. MEDOC14 – Email 31.01.2018 to Cllr Imrie and MLC Planners including Montpelier Mental Healthcare Provision paper
 - 15. MEDOC15 – Email 29.01.2018 Staff Breakdown

MIDLOTHIAN COUNCIL**DEVELOPMENT MANAGEMENT
PLANNING APPLICATION DELEGATED WORKSHEET:****Planning Application Reference: 17/00587/DPP****Site Address:** Land North West of Melville Gate Road, Dalkeith

Site Description: The site is located to the north of Dalkeith and to the south of Sheriffhall Roundabout. It is located to the north of Melville Gate Road, with A68 to the east and the A7 to the west. The site forms part of an open area of land currently, in the main, in agricultural use. Immediately to the north west of the site boundary and to its south east boundary, there is woodland planting. The site slopes down to the north east towards the Dean Burn, the change in levels amounts to approximately 8m.

Proposed Development:

The proposed development is for the erection of a residential care home with associated access, car parking, landscaping and works. The main use of the site has been described by the applicant as an independent hospital and as an independent residential/rehabilitation hospital and as a use that is within Class 8A of the Town and Country Planning (Use Classes) (Scotland) Order 1997. Class 8 Relates to Residential institution and Class 8a is described as being *for the provision of residential accommodation and care to people in need of care other than a use within class 9 (houses)*.

Proposed Development Details:

Two phases of development are proposed on the site in two separate buildings. Phase A is to the north and B to the south. A total of 61 car parking spaces are shown on the site between the two buildings. The northern building has three areas of gardens (two described private and one communal, two to the north and one to the south of the building). The gardens are fenced with 4m high dark green security fencing. Retaining structures and walls are shown around the boundaries of the site. Boundary treatments are a mix of post and rail fencing and 2m high fencing. Gradients towards the boundaries of the site are noted as having 1:3 gradient.

The Phase A building is 2 storeys and has 34 en-suite bedrooms. In addition an enhanced care bedroom is proposed on each floor. The building is described as being fully self-contained with Day/Dining Space, Kitchen, Laundry, Offices and Learning Spaces for IT Sills, Arts, Personal Fitness, Health and Domestic Skills.

Cycle and refuse provision is made adjacent to Phase A building and noted on Phase B.

Access to the site is from the Melville Gate Road and is taken through existing woodland planting along this road boundary. A tree survey submitted with the application has been used to identify the trees on the site that are to be removed.

The proposal is described as a low traffic generator with flexible visiting hours, off peak staff and service movements and no resident car ownership. Finishes proposed are facing brick and smooth render with concrete tile roofs, zinc entrance canopies and aluminium windows.

The hospital is described as being set within a high quality landscape setting for the benefit and stimulation of the patients.

The Design and Access Statement submitted in relation to the planning application describes the use as being an Independent Residential/Rehabilitation Hospital. The document describes the number of schemes that the applicant has around the county as providing *investment, jobs and most importantly of all, improved patient care pathways with quicker and more successful outcomes.*

The Planning Supporting Statement describes the proposal as a *Class 8A Low Secure Care Hospital*. This Planning Statement includes the following:

- *The application is considered to be supported by a number of Development Plan Policies and the economic benefits it will bring to Midlothian is considered a weighty material consideration in the determination of this application.*
- *Montpelier Estates have, in liaison with the selected operator, determined that a need exists within the wider Midlothian area for a Class 8A low secure hospital facility.*
- *The subject site has been selected as it can meet this identified need in an appropriate manner and in a sustainable location, in close proximity to where that need stems from. It is best for all parties if care can be delivered in close proximity to the user group. This allows families and friends to visit and support those in care. It also allows for staffing to, in the main, be sourced locally.*
- *The facility is expected to generate circa 122 jobs, with spin-off requirements further boosting the schemes economic impacts.*
- *The facility will employ local staff with just a few managerial roles attracting specialist skills. These people will relocate into Midlothian and also therefore become locals.*
- *The hospital will seek to work in conjunction with local education institutions to provide a direct link to practical training. It will also provide direct training, offering the opportunity for staff to progress within the organisation.*

An explanation of secure settings in relation to this planning application is given as follows:

Secure mental healthcare accommodation is provided for patients detained under the Mental Health Act. They will have been placed under the care of Psychiatrist and a team of carers with a view to be treated for their illness and returned to living in their own community.

Healthcare is provided in a number of settings:

- *High Secure*
- *Medium Secure*
- *Low Secure*
- *Locked Rehabilitation*

- Open rehabilitation
- Monitored hostel type accommodation

At the highest two levels patient are considered to be potential danger to the public. It is quite probable that they will have been sectioned for a committable offence. Low secure accommodation, as proposed at Sherrifhall South, is appropriate when the patient is considered to be in danger of harming themselves. Locked rehabilitation provides for patients closer to integration into the community but still require constant nursing care and supervision. There will be some contact with the community in educational establishments, employment and home visits but these are on an escorted basis. Open rehabilitation facilities are set in communities – ideally in town centres – and provide a safe haven for patients who are gradually coming to terms with dealing with society before they are finally discharged.

Latterly and following a meeting with Council officers the applicants agent submitted an email stating that the number of jobs at the site had increased to around 125, it would generate inward investment of around £14 million and annual trading of £750,000. A breakdown of the jobs was provided, as follows:

Hospital director	1
Psychiatrist	2
Psychologist	2
PA to hospital director	1
Mental health officer	1
Medical secretary	2
Secretary	3
Finance	2
Reception	6
Senior nurse	12
Ward manager	4
Nurse	24
Health care assistant	40
Head of OT	1
OT therapist	6
Maintenance	4
Catering manager	1
Kitchen	6
Household manager	1
Laundry	3
Grounds	3
TOTAL.	125 full time equivalent posts.

A service strip and pumping station are shown out with the site boundary and to the west, between the boundary and the adjacent stand of tree planting. There is a bus stop adjacent to the site access.

The wider Sheriffhall South site includes the Elginhaugh Public House and Restaurant which was granted planning permission (13/00848/DPP) in February 2014 for the following reason:

The proposed commercial leisure facility will provide a valuable facility to the business land allocation which will enhance the attractiveness of the site to prospective businesses, whilst itself providing a comparatively high level of employment opportunities.

This remains the only development on the Sheriffhall South economic development land to date.

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

There are two further applications for the Sherrifhall South Economic Development Site which are currently under consideration. The first is for Infrastructure at the site – roads and drainage (17/00508/DPP). The second is for the Erection of a petrol filling station, retail provision and two Class 3 units 17/00537/DPP, both with a drive through element. The latter application is to be considered by the Planning Committee and the target date for the Planning Committee is 15 May 2018.

The applicant has submitted a Planning Supporting Statement, a Design and Access Statement, a Tree Survey and Arboricultural Constraints Report, a Transport Statement, a Surface Water Management Plan, a Phase 1 Habitat Assessment and Badger Survey, a Flood Risk Assessment, a Landscape Schedule, a desktop Site Investigation Survey, an Acoustic Report and an Archaeology Desk Based Assessment.

Consultations:

Transportation – No objections in principle but has concerns re aspects of the design and suggests conditions relating to vehicle access details, timing of the provision of SUDs, upgrading of existing bus stop by providing shelter and footpath link and the entering into of a S75 agreement with the applicant re the A7 Urbanisation/Environmental Scheme.
Some discrepancies are indicated on the plans.

SEPA – No objection on flood risk grounds. Comments relate to a review of the FRA and that as the Dean Burn is some 113m to the north and 6m below the site level, there is no significant risk of flooding.

Scottish Water- The proposed development will be fed from **Rosebery Water** Treatment Works. Unfortunately, Scottish Water is unable to confirm capacity at this time so to allow Scottish Water to fully appraise the proposals further submissions are required by the developer.

For reasons of sustainability and to protect our customers from potential future sewer flooding, Scottish Water will not normally accept any surface water connections into Scottish Water's combined sewer system.

Scottish Water's current minimum level of service for water pressure is 1.0 bar or 10m head at the customer's boundary internal outlet. Any property which cannot be adequately serviced from the available pressure may require private pumping arrangements to be installed, subject to compliance with Water Byelaws.

SNH - Badgers - The report has found no badger setts within or adjacent to the development site. However, given the recorded disused badger setts nearby SNH

recommend a pre-construction follow up survey. In addition, given the likely use of the area by badgers then we recommend that the measures outlined in the report to avoid harming badgers during construction are implemented.

Bats - Once the trees that require felling or pruning have been identified then we recommend that a preliminary ground level bat roost assessment is undertaken. Following this SNH may be able to advise on the need for further surveys and/or mitigation.

Environmental Health – No noise or light issues are anticipated.

Conditions are suggested in relation to contamination survey, reporting and mitigation measures.

Coal Authority - The Coal Authority concurs with the recommendations of the Phase 1: Desk Top Study Report; that coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site.

The Coal Authority recommends that the LPA impose a Planning Condition should planning permission be granted for the proposed development requiring these site investigation works prior to commencement of development.

In the event that the site investigations confirm the need for remedial works to treat the areas of shallow mine workings to ensure the safety and stability of the proposed development, this should also be conditioned to ensure that any remedial works identified by the site investigation are undertaken prior to commencement of the development.

A condition should therefore require prior to the commencement of development:

- * The submission of a scheme of intrusive site investigations for approval;
- * The undertaking of that scheme of intrusive site investigations (subject to agreement with the Coal Authority's Permitting Team);
- * The submission of a report of findings arising from the intrusive site investigations;

Archaeology – recommends an archaeological trial trench evaluation be undertaken of the proposed development site, prior to any development being undertaken, totalling 10% of the whole development site area. The archaeological work can be secured by a condition of consent.

Economic Development – Recommendation from Economic Development viewpoint would be to **refuse** this planning application.

- The land is currently zoned as employment land for business use [class 4].
- This site is highly important to the economic land supply in Midlothian. Its location is very good for industrial development, being situated on the A7 southwards and to the By-pass for east, north and central Scotland. The proposed future grade separation of Sheriffhall roundabout will further enhance this site as an industrial location.
- Midlothian is short of industrial sites.
- The site is served by public transport that links it to Dalkeith/Woodburn, Mayfield/Easthouses, Newtongrange and Gorebridge which means that employment opportunities here could be accessed by residents of our priority areas.

- Inward investment to Midlothian is low due to lack of suitable sites and premises of sufficient size. The Borders Railway [BR] is starting to have an effect of increasing the number of enquiries for suitable Industrial Premises and given that marketing efforts with regards to the BR are only now really stepping up we expect that trend to increase.
- Whilst we have requests for a variety of sizes of premises the largest number are for premises of 1 – 186m² [1 – 2,000ft²] with “roller shutters” that are suitable for a range of businesses.
- There is currently a lack of high quality office/co-working spaces in Midlothian suitable for start- up/spin off companies.
- There is also a lack of serviced office spaces within Midlothian.
- The higher skilled and paid jobs will be recruited via NHS procedures and the extent to which we can maximise the appointment of Midlothian residents to these posts will be limited. This means that the majority of new posts available will to Midlothian residents tend towards ancillary roles and/or entry level posts with lower wages and skill levels.
- We are aware that existing nursing homes/social care providers are having difficulty in recruiting and if the nursing posts were filled from within Midlothian it would likely be by displacement of existing employees rather than drawing from a pool of suitable candidates who are currently not working in the sector.
- In terms of economic growth we are looking to have spaces that variously allow for;
 - start-ups to be established and grow then moving on into larger premises [possibly on different sites in Midlothian or on the same site]
 - inward investment with companies seeking larger/more suitable premises in Midlothian to take advantage of the improved transport links including the Borders Railway
 - expansion with Midlothian with existing companies seeking larger/more suitable premises. None of these would happen with this proposal. Once established the size of the facility is highly unlikely to alter [indeed it may be inimical to the design and ethos of the facility for it to grow larger] therefore there is no provision for expansion or growth in turnover/employment etc. once established.
- The figures for Inward Investment and particularly “annual local trading” are stated without any supporting evidence. I am not aware that there are any planning conditions that can enforce these actions. It may be that the facility would cost £14m to build and that it might spend £750,000 p.a. on services and supplies of one type or another. However, as far as I am aware, there is no way of guaranteeing that such spend is made with Midlothian based companies.

Representations:

One letter of representation has been received in relation to the planning application. Miss H Tibbetts objects to the application on the grounds that it is contrary to at least two of the policies contained within the Midlothian Local Development Plan, namely Policy ENV4 (Prime Agricultural Land) and Policy RD1 (Development in the

Countryside). In addition the objector states that the proposed development would have a detrimental effect on the area's wildlife, something that developers never take into account. The area is known to be home to populations of badger, deer and fox. Wiping out these populations, or at the very least the destruction of their precious habitat, would be a great loss not only for them, but for Midlothian's residents.

Relevant Planning Policies:

The development plan is comprised of the Edinburgh and South East Scotland Strategic Development Plan (June 2013) and the Midlothian Local Plan, adopted in December 2008. The following policies are relevant to the proposal:

Policy STRAT1: Committed Development seeks the early implementation of all committed development sites and related infrastructure, including sites in the established economic land supply. Committed development includes those sites allocated in previous development plans which are continued in the MLDP.

Policy ECON1: Existing Employment Locations seeks to safeguard those sites allocated for economic land uses.

Policy ECON3: Ancillary Development on Business Parks supports the principle of ancillary uses (such as child day care services, banking, convenience, healthcare services) at Shawfair Park and Salter's Park where these are of a scale suitable to service the existing and expanding workforce and business community at these locations.

The provision of and for ancillary development will be considered subject to:

- A. an assessment of the proposed uses and scale of provision not having an adverse impact on the prospects for Shawfair (proposed) and Dalkeith (existing) town centres; and
- B. the preparation of a masterplan indicating the scale, location and timing of provision.

Where substantive development is yet to commence, support for ancillary uses will only be considered if it is likely to act as an enabler to attract further investment to that business location. In each case, planning obligations will be used to regulate the scale, nature, extent and timing of such facilities, including any advanced provision.

Policy DEV5: Sustainability in New Development sets out the requirements for development with regards to sustainability principles.

Policy DEV6: Layout and Design of New Development sets out design guidance for new developments.

Policy DEV7: Landscaping in New Development sets out the requirements for landscaping in new developments.

Policy TRAN1: Sustainable Travel aims to encourage sustainable modes of travel.

Policy TRAN5: Electric Vehicle Charging seeks to promote a network of electric vehicle charging stations by requiring provision to be an integral part of any new development.

Policy IT1: Digital Infrastructure seeks to ensure new business properties should be designed in such a way as to incorporate high speed broadband connections and other digital technologies that could optimise the energy efficiency and contribute to reducing the carbon footprint of the building.

Policy ENV1: Protection of the Green Belt which does not permit development unless for specific purposes, including *a form of development that meets a national or established need if no other site is available*. The overall objective of the policy includes *directing development to the most appropriate locations*.

Policy ENV4: Prime Agricultural Land does not permit the loss of prime agricultural land unless, and of particular relevance to this application, the site is allocated as part of the development strategy of the Midlothian Local Development Plan or where, in certain circumstances, the development is needed to meet an established need.

Policy ENV2: Midlothian Green Networks supports development proposals brought forward in line with the provisions of the Plan that help to deliver the green network opportunities identified in the Supplementary Guidance on the Midlothian Green Network.

Policy 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.

Policy 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.

Policy 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.

Policy 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 (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) and hedges which have a particular amenity, nature conservation, biodiversity, recreation, landscape, shelter, cultural, or historical value or are of other importance.

Policy ENV15: Species and Habitat Protection and Enhancement presumes against development that would affect a species protected by European or UK law.

Policy ENV 17 Air Quality states that the Council may require further assessments to identify air quality impacts where considered requisite.

Policy ENV18: Noise requires that where new noise sensitive uses are proposed in the locality of existing noisy uses, the Council will seek to ensure that the function of established operations is not adversely affected.

Policy 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.

Policy NRG 3 Energy Use and low and Zero Carbon Generating Technology identifies that demand for energy should be limited through good design and layout on a site. Compliance with Building Regulations is required and measures to achieve higher levels of sustainability are encouraged.

Policy NRG 4 Interpretation of Policy NRG3.

Policy NRG 6 Community Heating seeks to ensure developments deliver, contribute towards or enable the provision of community heating schemes.

Policy IMP1: New Development. This policy ensures 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.

Policy 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.

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

Strategic Development Plan (SDP) for Edinburgh and the South-East Scotland (approved in 2013) contains the following relevant policies:

The Spatial Strategy identifies the A7/A68/Borders Rail Corridor in Midlothian as a Strategic Development Area and in terms of growth and development. The emphasis is on additional employment opportunities to reduce the need to commute and implementation of the transport infrastructure to accommodate further phased growth.

Policy 2 Supply and Location of Employment Land states that the Strategic Development Plan supports the development of a range of marketable sites of the size and quality to meet the requirements of business and industry within the SESplan area. Local Development Plans will support the delivery of the quantity of the established strategic employment land supply as identified below. Local Development Plans should also ensure that this provides a range and choice of marketable sites to meet anticipated requirements....

Midlothian / Borders 124 hectares

The Proposed Strategic Development Plan for Edinburgh and South East Scotland dated October 2016 has been the subject of Enquiry and a report is likely to be issued in June 2018. The proposed plan continues to identify the Dalkeith area as being adjacent to the Long Term Growth Corridor, and as an area of Strategic Growth up to 2030+.

In relation to Employment Land Supply the Proposed Strategic Development Plan identifies the aim to achieve the vision of a thriving, successful and sustainable city region and that it is essential that there is sufficient employment land which is both available and situated in the right locations to provide jobs to meet the region's growing population. Local Development Plans, it states, will identify and safeguard a sufficient supply of employment land taking account of market demands and existing infrastructure. This land should be able to deliver sites which are serviced or are serviceable over the plan period.

The proposed Strategic Development Plan also states that Local Development Plans will identify and safeguard large scale employment sites where necessary in line with the spatial strategy and, where appropriate, within the significant business clusters. This is to ensure employment

opportunities are accessible by public transport and walking and cycling networks, to enable the regeneration of former sites and to strengthen the region's key economic sectors. The proposed Strategic Development Plan further states Local Development Plans will support diversification and re-categorisation of existing employment sites where this facilitates wider business opportunities, mixed-uses or an increased density of development, whilst ensuring an overall sufficient supply of employment land is maintained.

Scottish Planning Policy 2014 (SPP) includes policies in relation to creating a successful sustainable place – supporting economic growth, regeneration and the creating of well-designed places.

In relation to Supporting Business and Employment the following points are made in relation to what the planning system should do:

- promote business and industrial development that increases economic activity while safeguarding and enhancing the natural and built environments as national assets;
- allocate sites that meet the diverse needs of the different sectors and sizes of business which are important to the plan area in a way which is flexible enough to accommodate changing circumstances and allow the realisation of new opportunities; and
- give due weight to net economic benefit of proposed development.

SPP goes on to say that plans should align with relevant local economic strategies. These will help planning authorities to meet the needs and opportunities of indigenous firms and inward investors, recognising the potential of key sectors for Scotland with particular opportunities for growth, including:

- energy;
- life sciences, universities and the creative industries;
- tourism and the food and drink sector;
- financial and business services.

The SPP introduces a presumption in favour of development that contributes to sustainable development, however it is further stated that:

The planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place; it is not to allow development at any cost.

Planning Issues:

The main planning issue to be considered is whether the development complies with development plan policy and if not whether material considerations indicate that the development should be considered otherwise.

SESplan policy 2 supports the development of a range of marketable sites of the size and quality to meet the requirements of business and industry within the SESplan area. Local development plans are required to deliver the quantity of

strategic employment land as identified. The proposed development undermines the strategic objective of delivering business and industry development and the loss of Sheriffhall South to non-business uses could result in Midlothian not meeting its strategic land commitments.

The Scottish Government introduced a presumption in favour of development that contributes to sustainable development, however it is made clear in SPP (Paragraph 28) that:

"The planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place; it is not to allow development at any cost."

The proposed development is for a care hospital (Low secure setting) with one block being more secure than the second (the second phase being less secure). This use falls within the definition of Class 8 Residential Institutions (as defined in the Town and Country Planning (Use Classes) (Scotland) Order 1997. This class includes the following:

Use

- (a) for the provision of residential accommodation and care to people in need of care other than a use within class 9 (houses);
- (b) as a hospital or nursing home; or
- (c) as a residential school, college or training centre.

The site is identified as being within the Green Belt and it is identified as a site for Economic Development purposes in the Midlothian Local Development Plan (adopted in November 2017). Policy ENV1 Protection of the Green Belt identifies the site as being within this designation and the policy only allows development on sites that are within the green belt for purposes identified in the Local Development Plan.

The MLDP identifies that the site should remain in the green belt until it is fully developed. This approach was supported during the local plan examination by the Reporter appointed by the Scottish Government. This gives the site additional protection against non-business use development with the fallback position being that if the site is not developed for business uses the Council can determine through the local plan process to de-allocate the site and return it to agriculture/green belt. In short, if acceptable Class 4 employment uses do not materialise the development plan essentially requires the land to return ultimately to undeveloped green belt. There is no provision in the development plan to consider other alternative non Class 4 business uses.

Policy STRAT 1 seeks the early implementation of all committed economic development sites, of which, South Sheriffhall is one. Policy ECON 1 Existing Employment Locations, states that the introduction of non-business or industrial uses will not be permitted on these sites.

Policy ECON 3 Ancillary Development on Business Parks supports such ancillary uses (such as child daycare services, banking, convenience, healthcare services, etc.) at Shawfair Park and Salter's Park where they are of a scale suitable to service

the existing and expanding workforce and businesses at these locations. In addition ancillary development at these two locations will also be considered against the uses not having an impact on Dalkeith town centre or Shawfair. The provision of a masterplan showing the scale, location and timing of the provision is required by the policy. It is further stated that where substantive development is yet to commence, support for such ancillary uses will only be considered if it is likely to act as an enabler to attract further investment to that business location.

The Council granted planning permission for the Elginhaugh Pub Restaurant. The permission was granted in 2013 with development taking place shortly thereafter. No business uses have taken place on the site following the granting of this consent and its implementation.

The applicant states in support of the application that the development results in a number of material benefits to the local community as follows:

- The provision of a range of new employment opportunities during both the construction and operational phases.
- A development which acts as a catalyst and promotes Sheriffhall South Business Park as a desirable location.
- Over 2 phases, upwards of £9m of inward investment to Midlothian.
- Additional expenditure in local shops and services.
- The provision of accommodation that shall take pressure off hospital bed spaces.
- The provision of bespoke, registered hospital accommodation which shall release pressure on local GP services.
- Improved health for the community through the provision of secure, comfortable accommodation and companionship within a stimulating, caring environment.
- Employment for 90 full time equivalent members of staff working in shift patterns.

However having had some discussion with the Head of Adult and Social Care within the Council the following comments have been made in relation to the proposal:

- Lack of provision locally – this has been recognised and as part of the redesign of the Royal Edinburgh site there will be new low secure provision. This is preferable for us than utilising a private facility as our pathway from secure to community provision will be facilitated by the same team with a commitment to improving outcomes for the individual. Midlothian already has a low use of in-patient beds due to the way in which we work. The likelihood of Midlothian ever needing to use this resource is extremely slim.
- Employment – we are already struggling to recruit care staff within Midlothian. A resource of this size and scale which is not delivering services to Midlothian residents would have a significant impact on other services which are delivering for the people of Midlothian.
- Use of resource – as we would have very little input into the unit I would assume that the majority of people would come from out of area. If however there were concerns about the unit, e.g. Adult Support and Protection, responsibility for managing those concerns would sit with Midlothian which would have a significant impact upon us.

The applicant has put forward an argument that the proposed use is particularly relevant to Midlothian for a number of reasons and that these points should be taken into account as a persuasive argument and material consideration in relation to the proposal. In seeking some comment internally from colleagues it appears that much of what has been said is not persuasive in looking at a Midlothian specific provision or employment.

Economic Development land such as this site is allocated to secure employment growth for, in this case, business uses. It is made clear in the relevant policies that it is not acceptable to develop these sites for alternative purposes.

The Council's Economic Development Advisor recommends refusal of this application and that the site be safeguarded for the uses identified in the recently adopted Midlothian Local Development Plan. There is a demand, it is advised, for a variety of sizes of units, in particular 'roller-shutters' of 1-186m². It is also noted that there is a lack of high quality office/co-working spaces for start-up/spin off companies as well as serviced office spaces in Midlothian. Further concern is expressed in relation to the stated inward investment and annual trading figures with no supporting evidence. There is no way to ensure that spend is made with Midlothian based companies. The majority of new posts available to Midlothian residents tend towards ancillary roles and/or entry level posts with lower wages and skill levels. There are also difficulties in recruiting for nursing homes/social care providers and, it is advised, and that if nursing posts were filled from within Midlothian it is likely to be by displacement of existing employees rather than drawing from a pool of suitable candidates who are currently not working in the sector.

The applicant makes the point that Local Development Plans do not allocate sites for this type of use. If a use such as the care hospital facility has acceptable environmental impacts or impacts can be appropriately mitigated, such a use would be acceptable within the built up area.

Landscape and Visual Impact

The proposed development site is an irregular shape located between two areas of woodland planting (to the east and west) of the site. The northern elevation of Phase A building will be visually prominent owing to its location and also due to the proposed ground modelling which will raise ground levels up to 3 metres in some places. The site is located in proximity to the edge of Dalkeith Park, it is close to the category A listed King's Gate, walls and lodge. The development will be from the A6106 Old Dalkeith Road, thus affecting the perception of the setting of Dalkeith. Consideration should be given to the use of more sensitive cladding/fencing and additional appropriate screen planting would be required in order that the design of the proposed development would be considered acceptable. Additional appropriate screen planting to the south would soften the appearance of the building from this less sensitive southerly direction.

Owing to the building orientation and location the proposed communal garden and private garden areas to the north of the Phase A building would be predominantly in shade, especially the patio seating area by the building, whilst the car park area will receive good sunlight. If changes could be made to the building layout or relocation

of the communal and private gardens to improve this it would be to the benefit of the occupants. The applicant has indicated their resistance to such amendments. There is potential for therapeutic use of the outside areas, this could take the form of growing space and/or orchard and fruit tree planting.

The proposed development requires to be considered in relation to Policy DEV 6 – Layout and Design of New Development, which requires the layout of development proposals to complement or enhance the character of any adjoining or urban area and integrate the siting of buildings, landscaping, open space, boundary treatment and pedestrian/cycle/vehicular routes. In addition good quality materials should be used in the design. The proposed development comprises a first phase building which is almost entirely surrounded by a 4m high security fence. The building will be visible behind the security fencing which will be at a height on the building at just above the floor level of the first floor. Fence details can be secured by condition but the height of the fence and that it is of a secure design is a requirement of the proposed development.

The two buildings appear as an overdevelopment of the site, with the design utilising retaining structures to accommodate both buildings and the parking and associated development. The open garden areas to the north of the building on phase A will be over-shadowed by the building. The building on phase A will be viewed behind security fencing, in the main. Phase B has a 2m high timber fencing to the rear and sides of the building.

The proposed access to the site entails the removal of 29 trees, two of which are dead. There is a route adjacent which forms a gated access where trees have previously been felled, it would be better to re-locate the access to this location to minimise tree felling. In any event suitable re-planting for trees felled would be required to be secured by condition. A more general landscape condition (re soil management, tree protection, landscape provision and maintenance and management) can be secured, should the proposal be supported.

The inclusion of bird and/or bat boxes either within the building or within the woodland, would foster biodiversity in compliance with MLDP Policy DEV 5 Sustainability in new Developments, again this could be secured by condition.

Other Issues

Conditions could address issues relating to building materials, drainage, access, landscaping, archaeology, district heating, the provision of electric car charging points and high speed broadband and the protection of species. The site is identified for development and therefore there would be a loss of this agricultural land, should an appropriate Class 4 development be proposed for the site.

Developer Obligations

There has been some correspondence during the processing of this planning application in relation to the need or otherwise of developer contributions for this site. In particular the issue was raised by the Council's Transportation advisors suggesting that a contribution should be sought, by condition, for the A7 Urbanisation/Environmental Scheme. This scheme seeks to make the A7 between

the Hardengreen Roundabout and the roundabout to the west of the site into a more public transport/pedestrian/cycle friendly route. In discussions with the Developer Contributions Lead Officer it became apparent that the means of seeking the developer contributions for this Class of development (Class 8 Residential Institutions) was usually based on a trip rate generated by the number of resident on a site. In this case approximately half of the residents would be housed securely in the first phase of the development and would not be in a position to use the A7 Urbanisation/Environmental Scheme. Phase 2 of the development has residents in less secure accommodation however there is still a degree of supervision. The restricted use of the A7 Urbanisation/Environmental Scheme by residents of this class of development indicates that it is not appropriate to ask for a developer contribution for this purpose. Circular 3/2012 Planning Obligations and Good Neighbour Agreements, includes Policy Tests namely Necessity, Planning purpose, Relationship to proposed development, Scale and Kind, and Reasonableness.

It should be noted that although this development is within the Borders Rail Corridor, the site is so distant from any of the stations that the Lead Officer, developer contributions has not asked for a contribution to be made towards the Borders Rail Line.

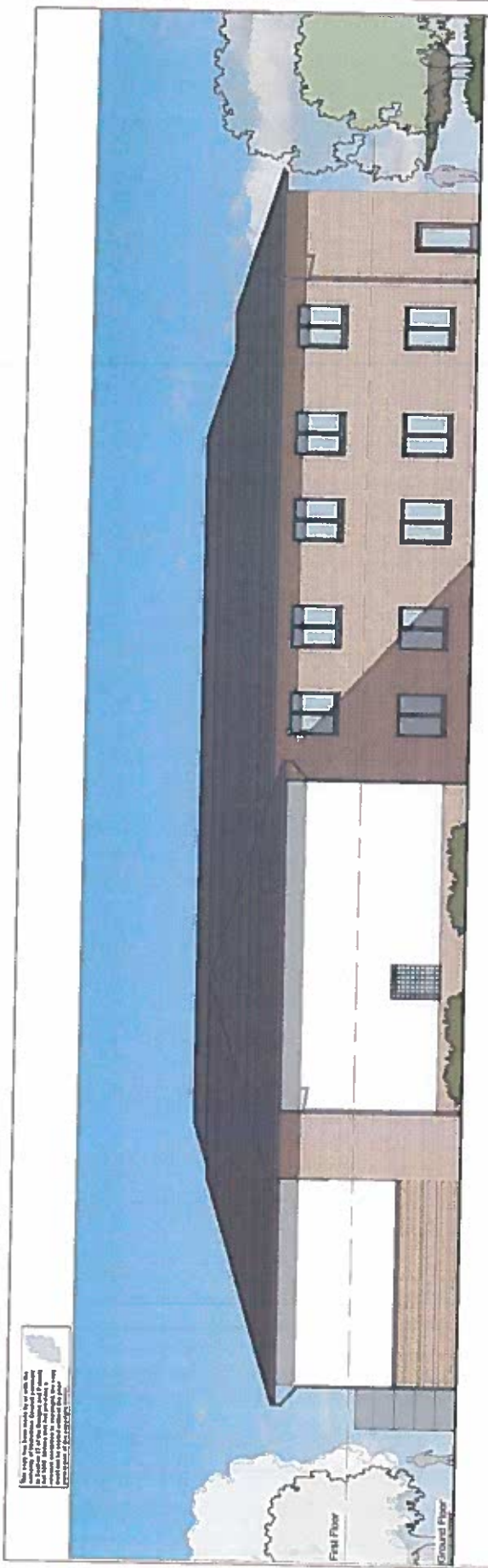
It should furthermore be noted that it would not be appropriate for a planning condition to seek the contribution, as suggested by the Transportation advisor. This would not meet the tests for conditions contained in Circular 4/1998 nor would it be compliant with the contents of Circular 3/2012, which states that developers should not be required to enter into a legal agreement.

Recommendation: It is recommended that the application is refused for the following reasons:

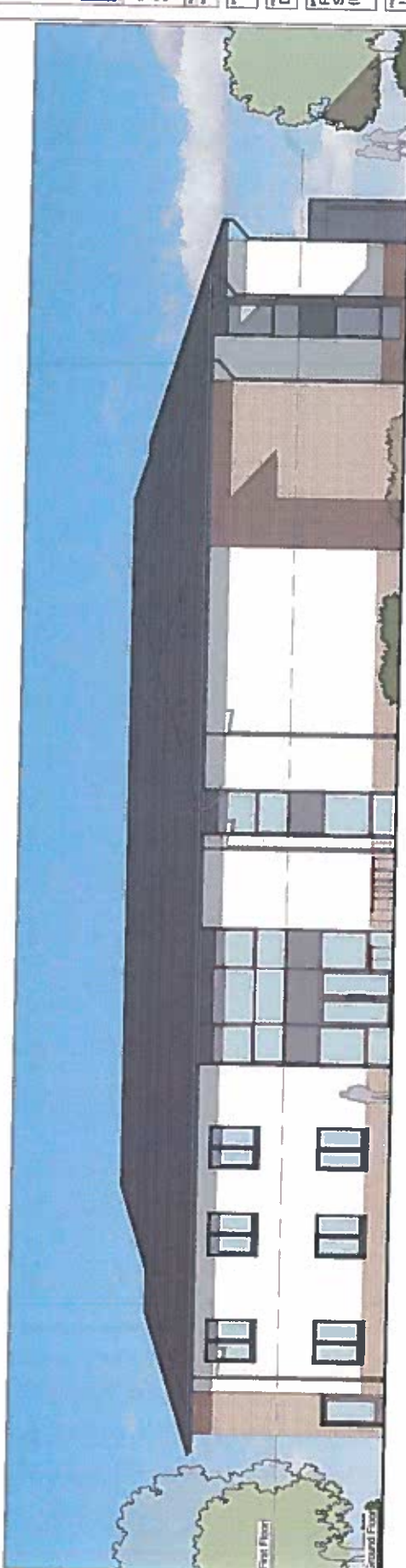
1. The proposed land use is not in accordance with the site's allocation for Class 4 business uses in the development plan and as such the development is contrary to policy 2 of the Strategic Development Plan for Edinburgh and the South-East Scotland (approved in 2013), policies STRAT1, ECON1 and ENV1 of the Midlothian Local Development Plan 2017 and the Scottish Government's policy position set out in Scottish Planning Policy.
2. There are no material considerations that are considered to be of sufficient weight to indicate that the proposed development should be supported despite its non-compliance with development plan policy.







1 Side Elevation 1
1:100



2 Side Elevation 2
1:100

INVESTOR IN PEOPLE

HEALTH AND SAFETY RISK ASSESSMENT

TABLE

Activity	1	2	3	4	5
1. Design	1	2	3	4	5
2. Construction	1	2	3	4	5
3. Operation	1	2	3	4	5
4. Maintenance	1	2	3	4	5
5. Decommissioning	1	2	3	4	5

FINISHES SCHEDULE

Roof

Dark grey pitched concrete slab

Canopy

Single ply membrane

Self-finish with zinc linings

External Walls

Smooth white render

Facing brick, with render on vertical joints as indicated

Windows

Double glazed dark grey aluminium

Dark grey PVC

External Walling & Screens

Powder coated externally brickwork dark grey aluminium

Doors

Powder coated aluminium doors in dark grey

Rampover Doors

Dark grey PVC

Montpelier

01203 671821

Item	Quantity	Unit	Price	Total
1. Design and Production Services	1	Day	1200.00	1200.00
2. Construction Services	1	Day	1200.00	1200.00
3. Operation and Maintenance Services	1	Day	1200.00	1200.00
4. Decommissioning and Removal Services	1	Day	1200.00	1200.00
5. Transport and Logistics Services	1	Day	1200.00	1200.00
6. Other Services	1	Day	1200.00	1200.00
Total	6	Days	7200.00	7200.00

Developed Design

Proposed Elevations

Sheet 2 of 2 (Phase A)

Project

Low Secure Residential Hospital

Sheriffhall South by Dalketh, Macdonald Montpelier Estates

Client

CM

Scale

1:100

Author

524033EL002

Revision

D

Project

Low Secure Residential Hospital

Sheriffhall South by Dalketh, Macdonald Montpelier Estates

Client

CM

Scale

1:100

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524033EL002

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D

Project

Low Secure Residential Hospital

Sheriffhall South by Dalketh, Macdonald Montpelier Estates

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Scale

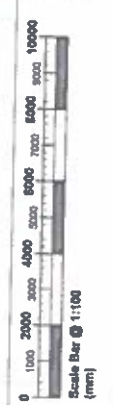
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Author

524033EL002

Revision

D

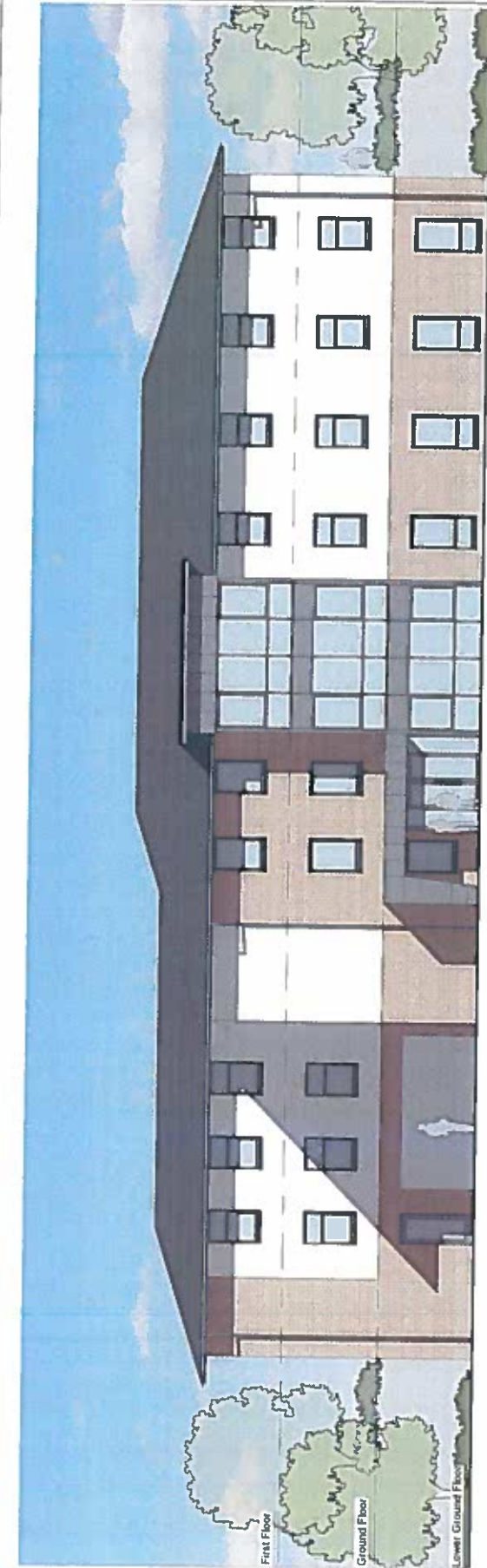


oliver + robb architects

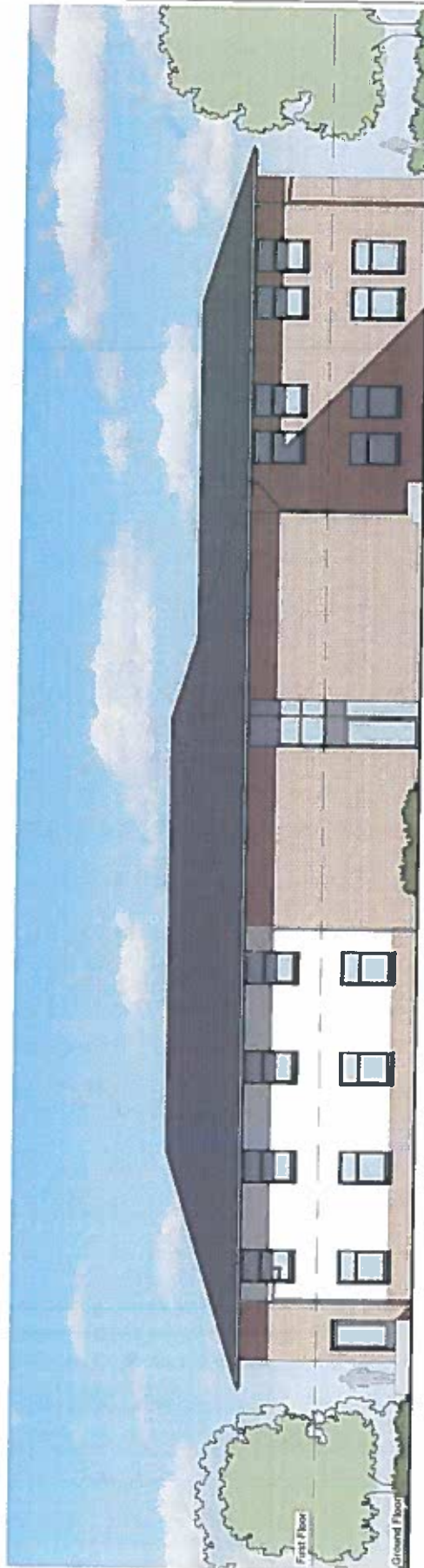
101-103, Darnley Road, Darnley, Glasgow G11 8JH

T: 01381 671821

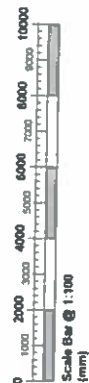
W: www.oliverrobb.co.uk



1 Front Elevation
1:100



2 Rear Elevation
1:100



INVESTOR IN PEOPLE

HEALTH AND SAFETY
MANAGEMENT
ASSESSMENT
CONFORMANCE
TABLE

Category	1	2	3	4	5
1. Management	5	4	3	2	1
2. People	5	4	3	2	1
3. Process	5	4	3	2	1
4. Performance	5	4	3	2	1
5. Improvement	5	4	3	2	1

FINISHES SCHEDULE

Roof
Dark grey precast concrete tiles

Cladding
Single ply membrane
Red felt with zinc
fibre and silt
fabric

External Walls
Oil White render
Facing brick
Dark grey aluminium
sill and lintel
indicated

Windows
Double glazed dark
grey powder coated
aluminium windows
aluminium window
sill and lintel
indicated

**External Walling
& Screens**
Powder coated
aluminium
sill and lintel
indicated

Doors
Powder coated
aluminium doors on
dark grey

**Rampover
Goods**
Dark grey PVC

Item	Material	Quantity	Unit
1	Roofing and Roof Eaves	1200	m ²
2	Cladding	1100	m ²
3	External Walls	1100	m ²
4	Windows	1100	m ²
5	External Walling & Screens	1100	m ²
6	Doors	1100	m ²
7	Rampover Goods	1100	m ²

Developed Design

Proposed Elevations
Sheet 1 of 2
(Phase B)

Rehabilitation Hospital at
Sheriffhall South by
Dalketh Midwestern for
Montpelier Estates

DATE ISSUED
26/08/17

PROJECT NO.
5240(0)EL501

PROJECT NO.
C

oliver + robb architects

Preserve Drive, Durham
CY11 6BH
01382 621821
www.oliverrobb.co.uk

Rehabilitation Hospital at
Sheriffhall South by
Dalketh Midwestern for
Montpelier Estates

Rehabilitation Hospital at
Sheriffhall South by
Dalketh Midwestern for
Montpelier Estates



DATE	DESCRIPTION	AMOUNT	BALANCE
1/1/01	Opening Balance		100.00
1/15/01	Deposit	50.00	150.00
2/1/01	Withdrawal	25.00	125.00
2/15/01	Deposit	75.00	200.00
3/1/01	Withdrawal	100.00	100.00
3/15/01	Deposit	50.00	150.00
4/1/01	Withdrawal	75.00	75.00
4/15/01	Deposit	25.00	100.00
5/1/01	Withdrawal	50.00	50.00
5/15/01	Deposit	25.00	75.00
6/1/01	Withdrawal	25.00	50.00
6/15/01	Deposit	25.00	75.00
7/1/01	Withdrawal	25.00	50.00
7/15/01	Deposit	25.00	75.00
8/1/01	Withdrawal	25.00	50.00
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11/15/01	Deposit	25.00	75.00
12/1/01	Withdrawal	25.00	50.00
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2/15/03	Deposit	25.00	75.00
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4/15/03	Deposit	25.00	75.00
5/1/03	Withdrawal	25.00	50.00
5/15/03	Deposit	25.00	75.00
6/1/03	Withdrawal	25.00	50.00
6/15/03	Deposit	25.00	75.00
7/1/03	Withdrawal	25.00	50.00
7/15/03	Deposit	25.00	75.00
8/1/03	Withdrawal	25.00	50.00
8/15/03	Deposit	25.00	75.00
9/1/03	Withdrawal	25.00	50.00
9/15/03	Deposit	25.00	75.00
10/1/03	Withdrawal	25.00	50.00
10/15/03	Deposit	25.00	75.00
11/1/03	Withdrawal	25.00	50.00
11/15/03	Deposit	25.00	75.00
12/1/03	Withdrawal	25.00	50.00
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1/15/04	Deposit	25.00	75.00
2/1/04	Withdrawal	25.00	50.00
2/15/04	Deposit	25.00	75.00
3/1/04	Withdrawal	25.00	50.00
3/15/04	Deposit	25.00	75.00
4/1/04	Withdrawal	25.00	50.00
4/15/04	Deposit	25.00	75.00
5/1/04	Withdrawal	25.00	50.00
5/15/04	Deposit	25.00	75.00

	Admission	Discharge	Transfer	Death	Total
1. Admitted	100	0	0	0	100
2. Discharged	0	100	0	0	100
3. Transferred	0	0	100	0	100
4. Died	0	0	0	100	100
5. Total	100	100	100	100	400

FINISHES SCHEDULE

Reef	Dart grey painted corals and sibs
Cavefish	Single grey mottled corals and sibs Social and soft
Marine Walls	DT White under f Dart grey aluminum soft pencils as indicator
Wendies	Double glazed dart grey pencil coated aluminum window corals and sibs side cells
Yellow Walling & Screens	Pencil coated grey aluminum yellow screen aluminum
Diets	Pencil coated aluminum stands in dart grey
Shoreline Ramp	Dart grey PVC

Montpellier

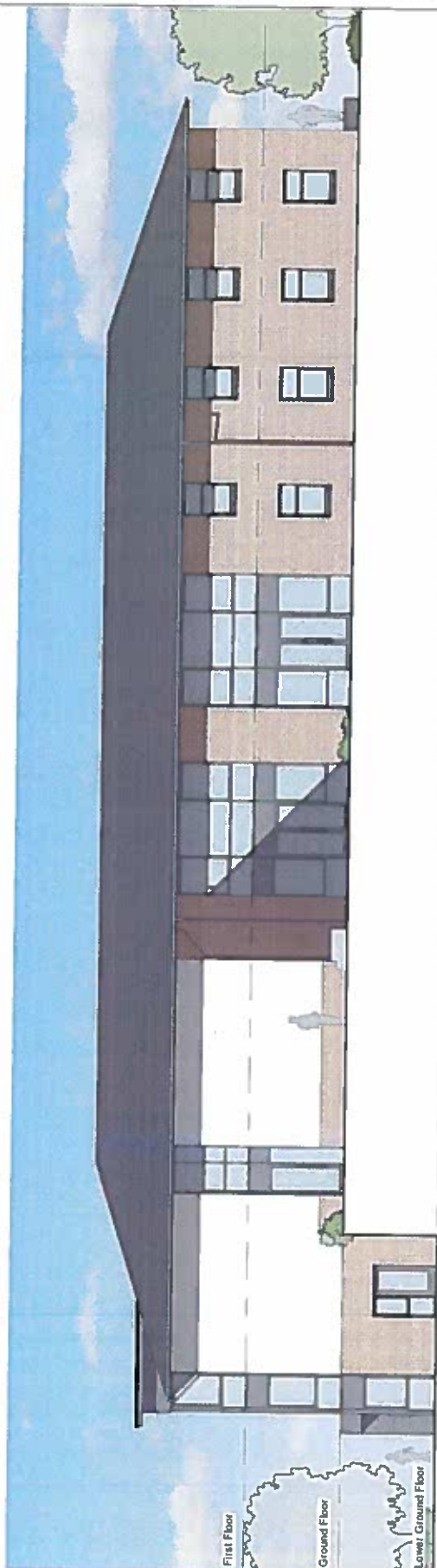
Item	Discontinuation	Auth	Date
1	Withdrawal and Return Certificate received	19/12/12	
2	10% loan advance issued and loan program initiated	11/07/12	
3	10% loan repaid and loan account of borrower adjusted	06/07/12	

Developed Design

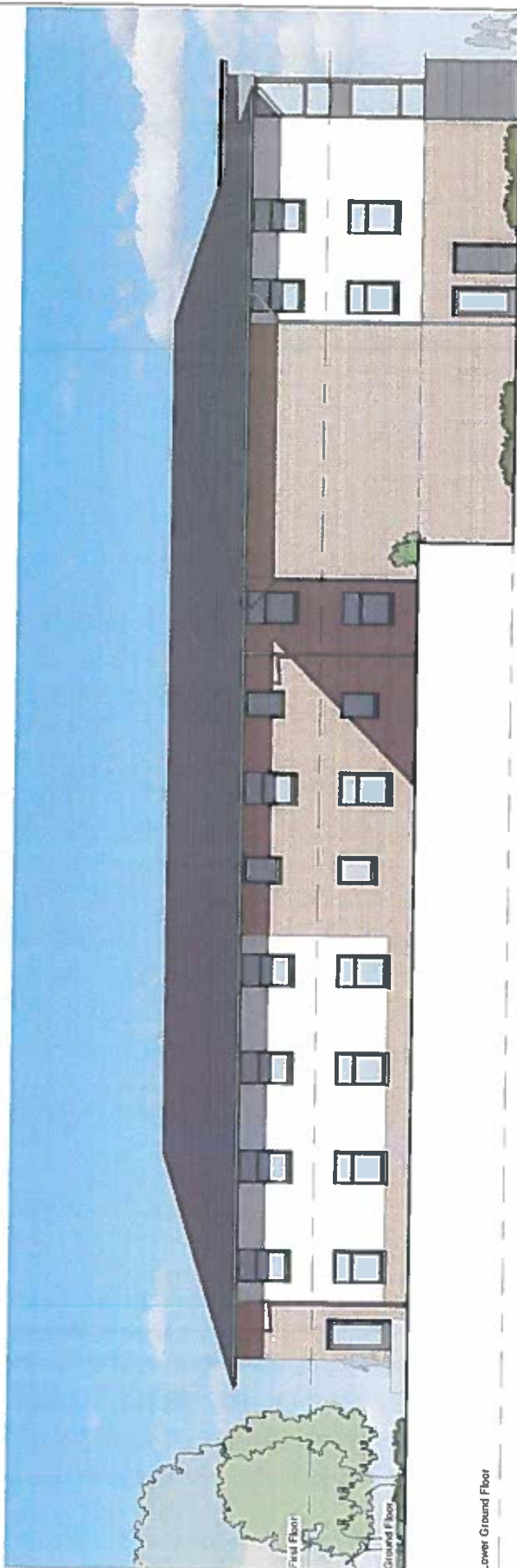
Proposed Elevations
Sheet 2 of 2
(Phase B)

Rehabilitation Hospital at
Shenithall South by
Dalkeith, Midlothian for
Montpelier Estates

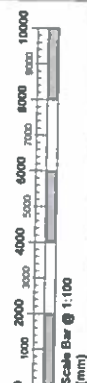
silver + robb architects
 Plazene Cove, Dartmouth
 RY1M 3H1
 Tel: 01-363-621621
 Fax: 01-363-621622
 Web: www.silverrobb.ca
 Members: Susan A. Apple, David M. Fisher

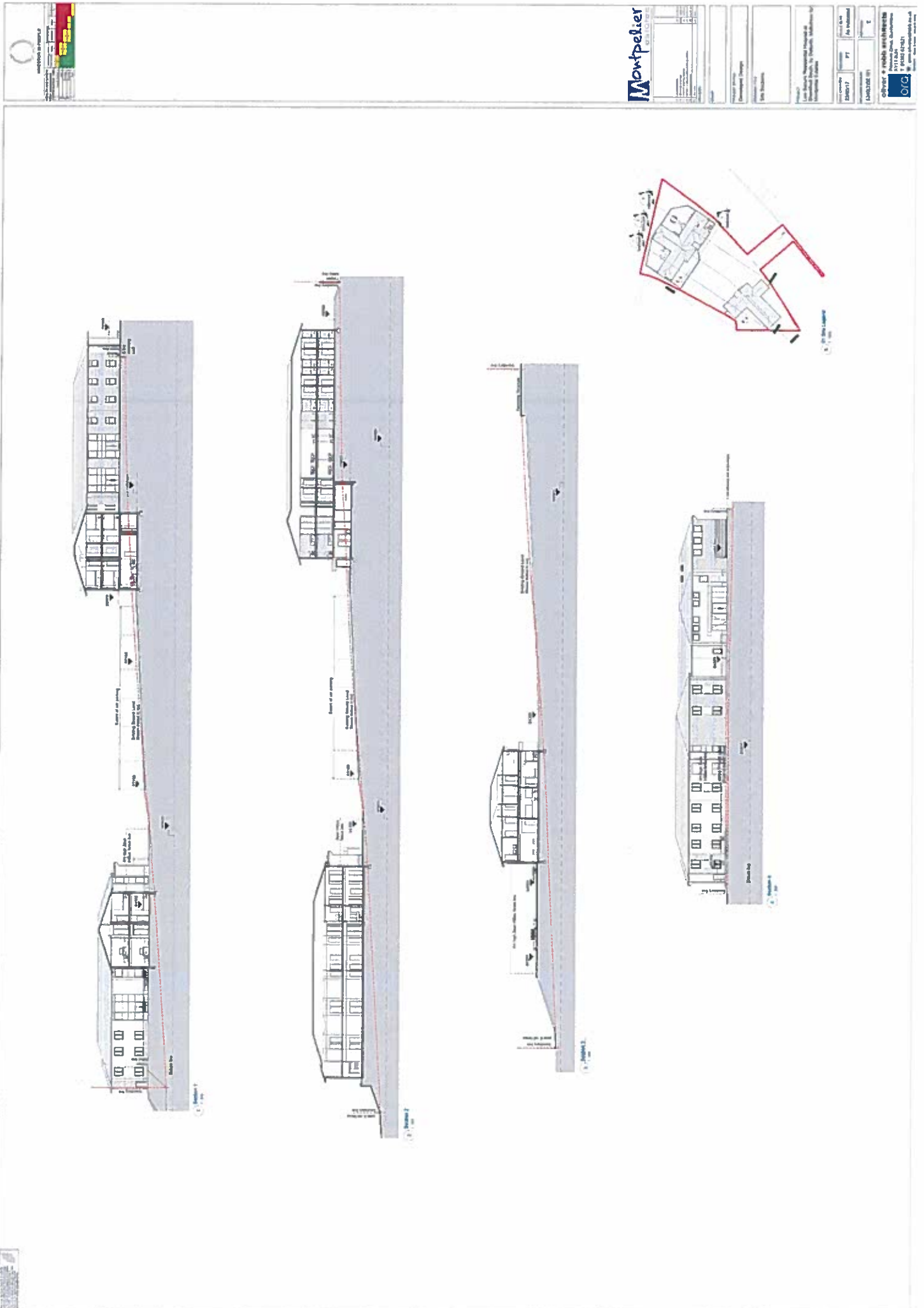


1 Side Elevation 1
1 100



2 Side Elevation 2
1 100





Notice of Review: Former Loanhead Ex Servicemens Club, 10 Academy Lane, Loanhead

Determination Report

Report by Ian Johnson, Head of Communities and Economy

1 Purpose of Report

- 1.1 The purpose of this report is to provide a framework for the Local Review Body (LRB) to consider a 'Notice of Review' to remove condition 2 of planning permission 17/00905/S42 at the Former Loanhead Servicemens Club, 10 Academy Lane, Loanhead.

2 Background

- 2.1 Planning application 15/00530/DPP for the change of use from ex servicemens club to nursery at the former Loanhead Ex Servicemens Club, 10 Academy Lane, Loanhead was granted permission in August 2015 subject to a condition restricting the number of children places to 50.
- 2.2 Planning application 17/00905/S42 to amend condition 3 of planning permission 15/00530/DPP (to increase the maximum number of children from 50 to 102) at the Former Loanhead Servicemens Club, 10 Academy Lane, Loanhead was granted planning permission on 11 January 2018; a copy of the decision is attached to this report. Condition 2 on planning permission 17/00905/S42 is as follows:
2. Permission is hereby granted for a period of 12 months from the date of this consent. The number of children attending the nursey at the end of this period shall revert to 50, unless the use has ceased prior to that date or the applicant has secured planning permission for an extended time period.
- Reason:** *To protect the amenity of the surrounding residential are in regard to noise and disturbance; to allow the Council to retain control over the use.*
- 2.3 Condition 1 on planning permission 17/00905/S42 restricted the number of children at the nursery to 80 (rather that the 102 applied for) after discussions with the applicant.
- 2.4 The review has progressed through the following stages:
- 1 Submission of Notice of Review by the applicant.
 - 2 The Registration and Acknowledgement of the Notice of Review.
 - 3 Carrying out Notification and Consultation.

3 Supporting Documents

- 3.1 Attached to this report are the following documents:
- A site location plan (Appendix A);
 - A copy of the notice of review form and supporting statement (Appendix B). Any duplication of information is not attached;
 - A copy of the case officer's report (Appendix C);
 - A copy of the decision notice, issued on 11 January 2018 (Appendix D); and
 - A copy of the relevant drawings/plans (Appendix E).
- 3.2 The full planning application/review 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 procedures agreed by the LRB, the LRB by agreement of the Chair:
- Have scheduled an accompanied site visit for Monday 21 May 2018; and
 - Have determined to progress the review by way of a hearing.
- 4.2 The case officer's report identified that three consultation responses and one representation were 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 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. Without the prior written agreement of the Planning Authority, the maximum number of children attending the nursery at any one time shall not exceed 80.
2. The hours of operation of the nursery hereby approved shall be 07.30 to 18.30 Mondays to Fridays.

Reason: *To protect the amenity of the surrounding residential area in regards to noise and disturbance.*

3. The building shall be used only as a children's nursery, and for no other purposes within Class 10 of the Schedule to the Town and Country Planning (Use Classes) (Scotland) Order 1997 or the equivalent class of any subsequent order amending or superseding it.

Reason: *To enable the Planning Authority to retain effective control over the future use of the building and to ensure that it is able to assess any such proposals in terms of their traffic generation, parking requirements and overall impact on the amenity of the 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: 15 May 2018

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

Tel No: 0131 271 3310

Background Papers: Planning application 17/00905/S42 available for inspection online.



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

Section 42 application to amend condition 3 of planning permission 15/00530/DPP (to increase the maximum number of children from 50 to 102) at Former Loanhead Ex-Servicemens Club, 10 Academy Lane, Loanhead

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File No. 17/00905/DPP

Scale: 1:1,000
Page 110 of 194



NOTICE OF REVIEW

Under Section 43A(8) Of the Town and Country Planning (SCOTLAND) ACT 1997 (As amended) In Respect
of Decisions on Local Developments

The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (SCOTLAND)
Regulations 2013

The Town and Country Planning (Appeals) (SCOTLAND) Regulations 2013

IMPORTANT: Please read and follow the guidance notes provided when completing this form. Failure to supply all the relevant information could invalidate your notice of review.

**PLEASE NOTE IT IS FASTER AND SIMPLER TO SUBMIT PLANNING APPLICATIONS
ELECTRONICALLY VIA <https://www.eplanning.scot>**

1. Applicant's Details		2. Agent's Details (if any)	
Title	MR & MRS	Ref No.	1570
Forename		Forename	COLIN
Surname	FARREN	Surname	YOUNG
Company Name	SLAWWAYS (CHILDREN'S)	Company Name	NIAH YOUNG ARCHITECTURE Ltd
Building No./Name	NURSERY	Building No./Name	32/12
Address Line 1	10 ACADEMY LANE	Address Line 1	MARDEN GREEN
Address Line 2		Address Line 2	BUSINESS PARK
Town/City	LOANHEAD	Town/City	ESKBANK
Postcode	EH20 9RP	Postcode	EH22 3NX
Telephone		Telephone	0131 660 6599
Mobile		Mobile	
Fax		Fax	
Email		Email	colin@nyarchitecture.co.uk
3. Application Details			
Planning authority		MIDLOTHIAN COUNCIL	
Planning authority's application reference number		17/00905/542	
Site address		<div style="border: 1px solid black; padding: 5px;"> CORPORATE RESOURCES FILE: 17/00905/542 APR RECEIVED 02 MAR 2018 MAC </div>	
<div style="border: 1px solid black; padding: 5px;"> 10 ACADEMY LANE LOANHEAD EH20 9RP </div>			
Description of proposed development			
<div style="border: 1px solid black; padding: 5px;"> SECTION 42 APPLICATION TO AMEND CONDITION 3 OF PLANNING PERMISSION 15/00530/DPP (TO INCREASE THE MAXIMUM NUMBER OF CHILDREN FROM 50 TO 102) AT FORMER LOANHEAD EX SERVICES CLUB, 10 ACADEMY LANE, LOANHEAD, EH20 9RP </div>			

Date of application

16/11/17

Date of decision (if any)

11/1/2018

Note. This notice must be served on the planning authority within three months of the date of decision notice or from the date of expiry of the period allowed for determining the application.

4. Nature of Application

Application for planning permission (including householder application)

☐

Application for planning permission in principle

☐

Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission and/or modification, variation or removal of a planning condition)

☐

Application for approval of matters specified in conditions

☐

5. Reasons for seeking review

Refusal of application by appointed officer

☐

Failure by appointed officer to determine the application within the period allowed for determination of the application

☐

Conditions imposed on consent by appointed officer

☒

6. 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.

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

Further written submissions

One or more hearing sessions

Site inspection

Assessment of review documents only, with no further procedure

☒
☒
☒
☐

If you have marked either of the first 2 options, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing necessary.

THE LOCAL REVIEW BODY (AS STATED) MAY REQUIRE FURTHER INFO.

7. Site inspection

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

Can the site be viewed entirely from public land?

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

☐
☒

BY APPOINTMENT WITH NURSE

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

8. Statement

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. Note: 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.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

PLEASE REFER TO ATTACHED DOCUMENT: 1570P2 - NOTICE OF REVIEW STATEMENT.

Have you raised any matters which were not before the appointed officer at the time your application was determined? Yes ☐ No ☒

If yes, please explain below a) why your are raising new material b) why it was not raised with the appointed officer before your application was determined and c) why you believe it should now be considered with your review.

9. List of Documents and Evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review

PLEASE REFER TO DOCUMENT ATTACHED: 1570P2 - NOTICE OF REVIEW STATEMENT.

Note. The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

10. Checklist

Please mark the appropriate boxes to confirm that you have provided all supporting documents and evidence relevant to your review:

Full completion of all parts of this form



Statement of your reasons for requesting a review



All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.



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 from that earlier consent.

DECLARATION

I, ~~the applicant~~/agent hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents. I hereby confirm that the information given in this form is true and accurate to the best of my knowledge.

Signature:



Name:

COLIN YOUNG

Date: 29/03/18

Any personal data that you have been asked to provide on this form will be held and processed in accordance with the requirements of the 1998 Data Protection Act.

SCALLYWAGS CHILDREN'S NURSERY 10 ACADEMY LANE, LOANHEAD, EH20 9RP

APPLICATION REF: 17/00905/S42

SECTION 42 APPLICATION TO AMEND CONDITION 3 OF PLANNING PERMISSION 15/00530/DPP (TO INCREASE THE MAXIMUM NUMBER OF CHILDREN FROM 50 TO 102) AT FORMER LOANHEAD EX SERVICEMENS CLUB, 10 ACADEMY LANE, LOANHEAD, EH20 9RP

The application was granted on 11/01/18 with 4no. Conditions with condition 2 being the subject of this Notice of Review application. Condition 2 limits the Granted application, for 80 children, to a period of 12 months after which the number reverts to 50 children.

Scallywags Children's nursery is a thriving community business which is having a positive impact on the local area. Condition 2 is restrictive to this growing business. If the condition was to remain, Scallywags would have to disclose to parents this stipulated restriction prior to any new children starting, that potentially within 12 months time a child may no longer have a space at the nursery. It is a significant decision for any family to choose a nursery and can involve many months of investigating and nursery tours. We believe that this would be a severe deterrent to any new parent in consideration of this nursery for their child or children.

The nursery has stated that to potentially abide by the condition they would have to operate a last in, first out policy. This will impact on the many parents who have more than one child at nursery age and could potentially lead to children of the same family going to different nurseries if a place was withdrawn. The reality would be that the parents would find a new nursery for all of their children to attend. Again this seems like an unreasonable situation for Scallywags Nursery to operate within.

We would also like to note the initial application was to increase numbers up to 102 children and a compromise was agreed to reduce this number to 80 children. In addition to this the building was previously used as an ex serviceman's social club. The club was licensed to accommodate many more people, 7 days a week, outwith normal working hours and staying open later at weekends with anti-social behaviour which upset neighbours.

A condition was applied to the original Change of Use application, applied for in 2015 (15/00530/DPP), where the Nursery would need to reapply after 12 months to maintain the change of use to a Children's Nursery. The restriction was removed for all the above reasons.

Scallywags have a paid partnership with Midlothian Council and are currently providing places for 3-5 year old children and also the Good Time to be Two scheme. In respect to Midlothian Council's increase in funded childcare provision in 2020 from 660 hours to 1140 hours, Scallywags could accommodate and assist when this increase comes to fruition, if the Condition is removed.

We wish to appeal for this condition to be removed as it is not workable and would be damaging to the business that Scallywags have developed.

Colin Young
For Niall Young Architecture Ltd.

MIDLOTHIAN COUNCIL**DEVELOPMENT MANAGEMENT
PLANNING APPLICATION DELEGATED WORKSHEET:****Planning Application Reference:** 17/00905/S42**Site Address:** Former Loanhead Ex Servicemens Club, 10 Academy Lane, Loanhead.**Site Description:** The application site comprises a detached two storey building adjacent to the Loanhead Town Centre. The walls are finished with white painted render and the roof is finished with grey metal sheeting. There is a single storey area to the rear of the building. There are residential properties to the south, east and west of the site and a commercial yard to the north. There is a public car park to the west of the site. The unit has been in use as a nursery since 2016.**Proposed Development:** Section 42 application to amend condition 3 of planning permission 15/00530/DPP (to increase the maximum number of children from 50 to 102).**Proposed Development Details:** It is proposed to increase the amount of children permitted to attend the nursery at any one time from 50, as previously approved, to 102. The number was previously restricted over concerns of noise and traffic generation. The applicant has stated that the outside play area is used by a maximum of 33 children between the hours of 9.30am to 5.30pm.**Background (Previous Applications, Supporting Documents, Development Briefs):**

Application site

15/00822/DPP External alterations to building and erection of fence. Consent with conditions – details of cycle shelter and colour of fence.

15/00530/DPP Change of use from ex servicemens club (sui generis) to nursery (class 10). Consent with conditions – details of boundary treatments and cycle parking; hours restriction; maximum number of 50; boundary treatments in place before use commences; nursery only and no other class 10 use.

Consultations:**The Policy and Road Safety Manager** states that while the proposed increase in children may result in some additional vehicle activity, they have no record of any traffic issues with the current operation and have no objection. The nursery is in a town centre with a large walking catchment and good public transport links which gives a variety of a number of travel options of the service.**The Environmental Health Manager** has concerns regarding the increase due to the proximity of nearby housing and the potential for noise complaints. The nursery has operated for 18 months with no noise complaints however the doubling of children in attendance has the potential to cause significant noise problems. They

suggest that a trial period be undertaken where 75 children be permitted to assess whether an increase would cause noise issues.

The **Loanhead & District Community Council** has objected on the grounds that the proposed 100% increase in numbers will cause a large increase in traffic for collecting and dropping off in a small area, causing nuisance in the street. They suggest a 50% increase to allow the impact of noise and increase traffic to be assessed.

Representations: One objection has been received (30/11) with concerns over the amount of traffic generated by the increase as this would exacerbate parking issues and road safety in the area.

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

DEV2 Protecting Amenity Within the Built-Up Area states development will not be permitted within existing and future built-up areas, and in particular in residential areas, where it is likely to detract materially from the existing character or amenity of the area; and

ENV18 Noise states that the Council will seek to prevent noisy development from damaging residential amenity or disturbing noise sensitive uses. Where new development with the potential to create significant noise are proposed, these may be refused or require to be modified to ensure that no unacceptable impact at sensitive receptors is generated.

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.

It is important to ensure that there have been no significant changes in circumstances since the earlier approval which would lead to the Planning Authority not being able to support the application on this occasion.

The main consideration is the potential for noise disturbance from the nursery due to the increase in children, particularly given the location within a predominantly residential area. It is for this reason that the previous permission was reduced from 90 children as originally proposed to 50 children. The nursery has been operating for 18 months without complaint to date, therefore it could be reasonable to allow some increase in numbers as current business appears to be operating successfully.

However it is proposed to more than double the amount of children in attendance, which has the potential to have a significant adverse effect on the amenity of the area. There is potential that some increase could be acceptable, however the impact of this cannot be fully assessed at this stage and still raises concerns with the Environmental Health Manager who has suggested that an increase to 75 children could be acceptable. Further to this response, the agent requested that the upper limit be increased to 80 children as this fits better with the business strategy for the business. The case officer discussed this increase with the Environmental Health Manager who has agreed to this on the basis of the information below.

In order to allow the nursery to demonstrate that it can operate with an increased number of children, it would be reasonable that permission be granted for a temporary period of one year at a reduced level. This would allow the Council to monitor the impact the amendment of the condition would have on the amenity of the neighbouring residents. After the year expires, the applicant could then apply for an increase in numbers, potentially on another temporary basis, or for the 80 places to be made permanent. If the use has had any detrimental impact on local amenity it could be assessed during any subsequent application.

Although the objector has raised concerns over parking and road safety, the Policy and Road Safety Manager has fully assessed the proposal and has no concerns. However the restriction on numbers for a temporary period will allow this aspect of the operation to be assessed.

Recommendation: Grant planning permission.

Planning Permission

Town and Country Planning (Scotland) Act 1997

Reg. No. 17/00905/S42



Niall Young Architecture Ltd
32/12 Hardengreen Business Park
Eskbank
EH22 3NX

Midlothian Council, as Planning Authority, having considered the application by Mr And Mrs Farren, 10 Academy Lane, Loanhead, EH20 9RP, which was registered on 16 November 2017, in pursuance of their powers under the above Acts, hereby grant permission to carry out the following proposed development:

Section 42 application to amend condition 3 of planning permission 15/00530/DPP (to increase the maximum number of children from 50 to 102) at Former Loanhead Ex Servicemens Club, 10 Academy Lane, Loanhead, EH20 9RP

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

<u>Document/Drawing</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	1570(PA2)01 1:1250 1:100	16.11.2017

This permission is granted for the following reasons:

The proposed development would not have a significant detrimental impact on the character and amenity of the surrounding area and so accords with policies DEV2 and ENV18 of the adopted Midlothian Local Development Plan 2017.

Subject to the following conditions:

- Without the prior written agreement of the Planning Authority, the maximum number of children attending the nursery at any one time shall not exceed 80.
- Permission is hereby granted for a period of 12 months from the date of this consent. The number of children attending the nursery at the end of this period shall revert to 50, unless the use has ceased prior to that date or the applicant has secured planning permission for an extended time period.

Reason for conditions 1 and 2: To protect the amenity of the surrounding residential area in regard to noise and disturbance; to allow the Council to retain control over the use.

- The hours of operation of the nursery hereby approved shall be 07.30 to 18.30 Mondays to Fridays.

Reason: To protect the amenity of the surrounding residential area in regards to noise and disturbance.

- The building shall be used only as a children's nursery, and for no other purposes within Class 10 of the Schedule to the Town and Country Planning (Use Classes) (Scotland) Order 1997 or the equivalent class of any subsequent order amending or superseding it.

Reason: To enable the Planning Authority to retain effective control over the future use of the building and to ensure that it is able to assess any such proposals in terms of their traffic generation, parking requirements and overall impact on the amenity of the area.

Dated 11 / 1 / 2018

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

Notice of Review: Land West of 14 - 18 The Loan, Loanhead Determination Report

Report by Ian Johnson, Head of Communities and Economy

1 Purpose of Report

- 1.1 The purpose of this report is to provide a framework for the Local Review Body (LRB) to consider a 'Notice of Review' for the erection of 3 flatted dwellings; change of use of existing garage to form dwellinghouse and installation of rooflight, door and windows at 14 - 18 The Loan, Loanhead.

2 Background

- 2.1 Planning application 17/00930/DPP for the erection of 3 flatted dwellings; change of use of existing garage to form dwellinghouse and installation of rooflight, door and windows at 14 - 18 The Loan, Loanhead was refused planning permission on 19 February 2018; a copy of the decision is attached to this report.
- 2.2 The review has progressed through the following stages:
- 1 Submission of Notice of Review by the applicant.
 - 2 The Registration and Acknowledgement of the Notice of Review.
 - 3 Carrying out Notification and Consultation.

3 Supporting Documents

- 3.1 Attached to this report are the following documents:
- A site location plan (Appendix A);
 - A copy of the notice of review form and supporting statement (Appendix B). Any duplication of information is not attached;
 - A copy of the case officer's report (Appendix C);
 - A copy of the decision notice, issued on 19 February 2018 (Appendix D); and
 - A copy of the relevant drawings/plans (Appendix E).
- 3.2 The full planning application/review 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 procedures agreed by the LRB, the LRB by agreement of the Chair:

- Have scheduled an unaccompanied site visit for Monday 21 May 2018; and
 - Have determined to progress the review by way of written submissions.
- 4.2 The case officer's report identified that three consultation responses and two representations were 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 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 and samples of all proposed external materials;
 - b) Details of the position, design, materials, dimensions and finish of all walls, fences, gates or other means of enclosure;
 - c) Proposals for the treatment and disposal of foul and surface water drainage; and
 - d) Details of secure cycle storage, including the design, dimensions, materials and position of any new building.

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: *These details were not submitted as part of the application: to ensure the buildings are finished in high quality materials; to protect the visual amenity of the surrounding area; to ensure the units are provided with adequate amenity; to help integrate the proposal into the surrounding area.*

2. Unless otherwise approved in writing by the Planning Authority, the roof of the flats shall be finished in natural slate.

Reason: *To ensure these are finished in materials appropriate to the surrounding area.*

3. Before the residential units are occupied, the installation of the means of drainage treatment and disposal in terms of condition 1c) shall be completed to the satisfaction of the Planning Authority.

Reason: *To ensure that these are provided with adequate drainage facilities prior to occupation.*

4. The existing vehicle dropped kerb at The Loan shall be removed and replaced with a standard footway.

Reason: *In the interests of road safety.*

5. Prior to the commencement of development, a programme of site investigation works shall take place to confirm coal mining legacy issues at the site. This programme shall include the submission of a scheme of intrusive site investigation works to be submitted to and approved in writing by the planning authority which, if approved, shall be undertaken. A further report of findings arising from the intrusive site investigations shall be submitted along with a scheme to address any remedial works necessary to be approved in writing by the planning authority which shall then be implemented.

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

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, or any subsequent order amending or superseding it, there shall be no openings formed on any elevations of nor any extensions to the converted garage to dwellinghouse hereby approved without the prior submission of a planning application and subsequent consent of the Planning Authority.

Reason: *To ensure that the converted dwellinghouse does not have a detrimental impact on the privacy and amenity of the occupiers of the adjacent properties as a result of overlooking.*

6 Recommendations

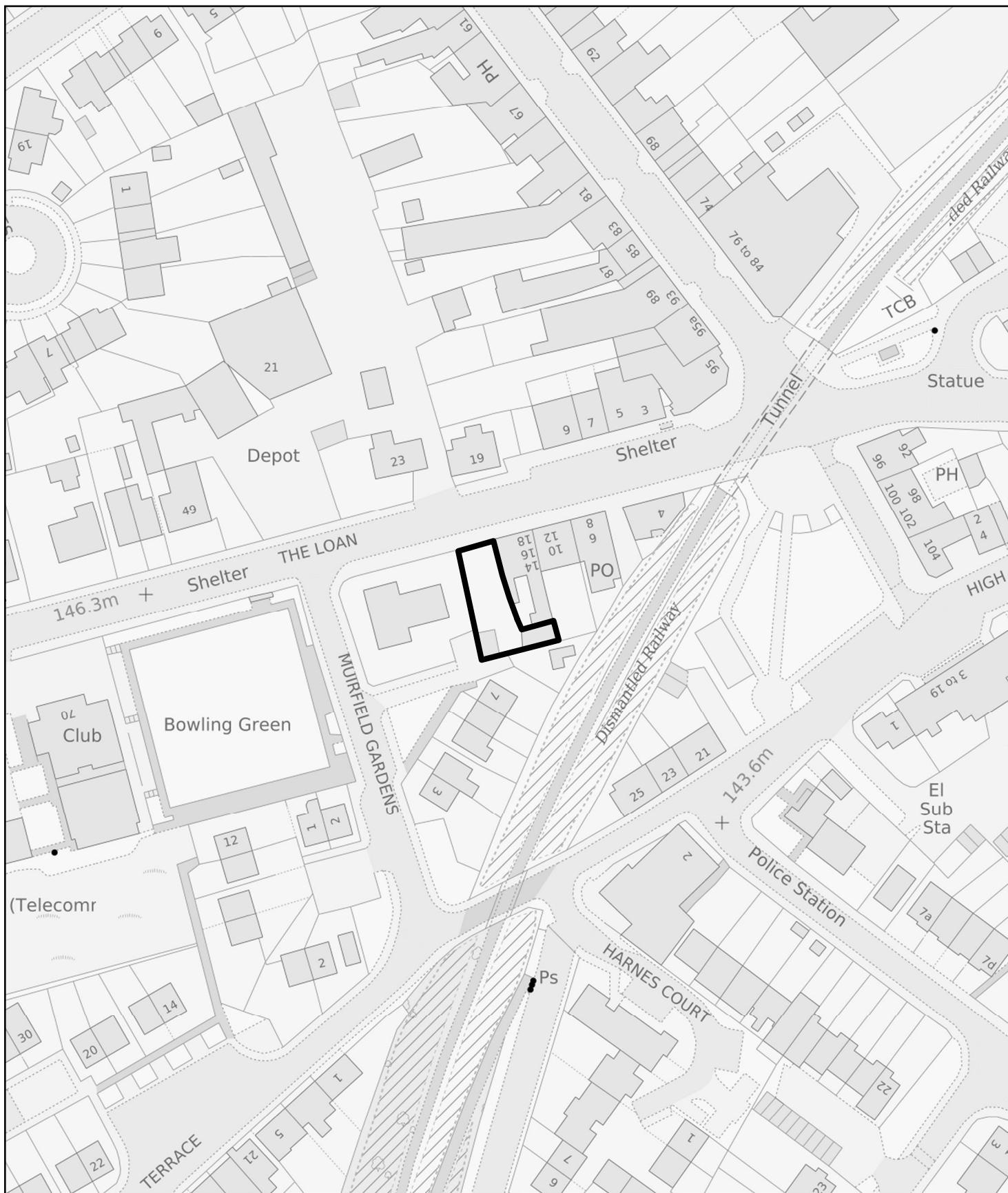
- 6.1 It is recommended that the LRB:
- a) determine the review; and
 - b) the planning advisor draft and issue the decision of the LRB through the Chair

Date: 15 May 2018

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

Tel No: 0131 271 3310

Background Papers: Planning application 17/00930/DPP available for inspection online.



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

Erection of 3 flatted dwellings; change of use of existing garage to form dwellinghouse and installation of rooflight, door and windows at Land West Of 14 - 18 The Loan Loanhead

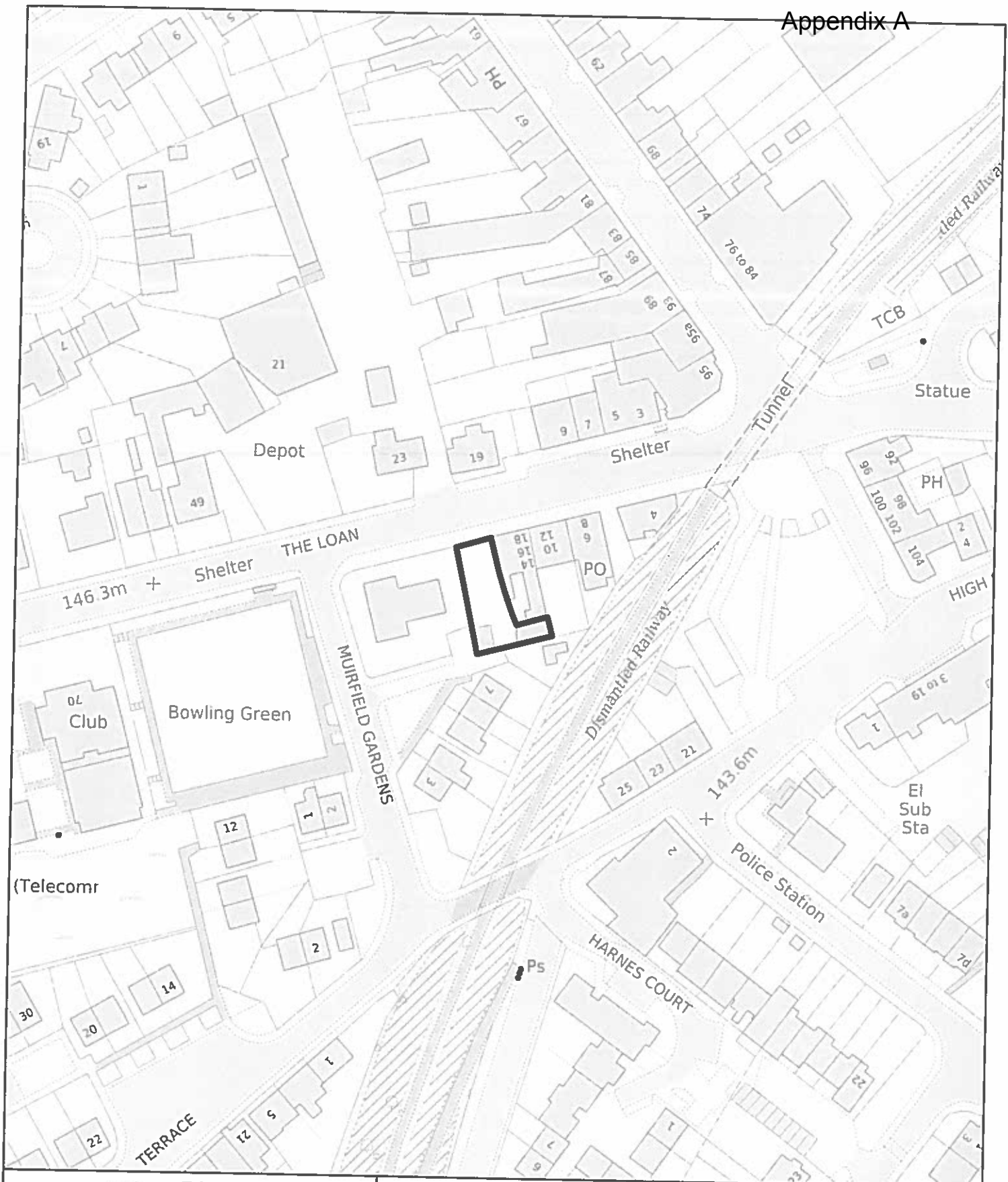
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File No. 17/00930/DPP

Scale: 1:1,250
Page 127 of 194





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

Erection of 3 flatted dwellings; change of use of existing garage to form dwellinghouse and installation of rooflight, door and windows at Land West Of 14 - 18 The Loan Loanhead

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Page 128 of 194





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 100076489-002

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="David Paton Building Consultancy"/>		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	<input type="text" value="Kevin"/>	Building Name:	<input type="text"/>
Last Name: *	<input type="text" value="McLellan"/>	Building Number:	<input type="text" value="13"/>
Telephone Number: *	<input type="text" value="0131 440 1213"/>	Address 1 (Street): *	<input type="text" value="High Street"/>
Extension Number:	<input type="text"/>	Address 2:	<input type="text"/>
Mobile Number:	<input type="text"/>	Town/City: *	<input type="text" value="Loanhead"/>
Fax Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
		Postcode: *	<input type="text" value="EH20 9RH"/>
Email Address: *	<input type="text" value="davidpatonbc@btconnect.com"/>		

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: *	Bryan	Building Number:	13
Last Name: *	Campbell	Address 1 (Street): *	High Street
Company/Organisation	c/o David Paton Building Consultancy	Address 2:	
Telephone Number: *	01314401213	Town/City: *	Loanhead
Extension Number:		Country: *	United Kingdom
Mobile Number:		Postcode: *	EH20 9RH
Fax Number:			
Email Address: *	stuart.dp@btconnect.com		

Site Address Details

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

Please identify/describe the location of the site or sites

--	--

Northing

665517

Easting

328181

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)

Erection of 3 flatted dwellings; change of use of existing garage to form dwellinghouse and installation of rooflight, door and windows at Land West Of 14 - 18 The Loan, Loanhead

Type of Application

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

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

What does your review relate to? *

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

Statement of reasons for seeking review

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

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

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

Please refer to separate Notice of Review Supporting Statement

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 refer to attached List of Supporting Documents.

Application Details

Please provide details of the application and decision.

What is the application reference number? *

17/00930/DPP

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

04/12/2017

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

19/02/2018

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)

To ensure that Local Review Body is aware of location and all relevant circumstances.

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 Kevin McLellan

Declaration Date: 22/03/2018

DESIGN AND ACCESS STATEMENT

PROPOSED DEVELOPMENT ON LAND WEST OF 14, 16 & 18 THE LOAN, LOANHEAD EH20 9AE

1 INTRODUCTION

This Design and Access Statement has been prepared by David Paton Building Consultancy on behalf of Bryan Campbell. It supports a detailed planning application for a Flatted development containing 2x three-bedroom Flats and 1x two bedroom Flat. Also, Conversion of existing large two storey Garage located on South-East corner of the site located on The Loan, Loanhead.

2 BRIEF

To provide a development solution for vacant site, for which planning permission in principle was obtained on 27th February 2017 for erection of 3 flatted dwellings. This proposal to provide a frontage on to The Loan, whilst being accessed from the rear, off Muirfield Gardens. In addition to this new build development, the Developer has considered that the existing large two storey Garage comprises of suitable size and materials for it to be converted to single dwelling house.

Previous applications for this site include;

Ref: 16/00106/PPP Application for planning permission in principle for erection of 3 flatted dwellings at Land West of 14 – 18 The Loan, Loanhead.

Ref: 17/00476/BNDE9 Building Warrant to demolish 3No. garages and 1No. outbuilding.

3 DESIGN PRINCIPLES

There are three Flats proposed to make this development viable to our client, with façade full width of the site and depth of building to align with existing traditional terraced buildings to the East at 14, 16 & 18 The Loan, excluding common stair to rear. In keeping with neighbouring buildings to East, dormers are proposed which will serve the top floor Flat. Also, consistent with these neighbouring buildings, the ridge is stepped between each property, following the rise in finished ground level when travelling East to West, it is proposed that the ridge level of proposed Flats will be approximately 300mm higher than the ridge of 14 – 18 The Loan.

4 MATERIALS AND EXTERNAL FINISHES

The existing Facing brick boundary wall, approximately 1.8m high, on The Loan will be removed to accommodate the Flats, which will not offer direct access from the public footpath.

4.1 WALLS

To be finished predominately with dry dash render to match the three flatted dwellings which were erected at the other end of the terrace, which have a more modern appearance;

- Cement render. Dry dash, with colour to be approved by planning department, like existing Flats at East end of terrace. It is intended that the Common Stair will also be finished in dry dash render.
- Facing brick on front elevation at Ground Floor level only, again colour to be like that of existing Flats at East end of terrace.
- As the dormers are wallhead dormers, it is proposed that these will be finished with render to match.

4.2 ROOF

To be finished with slate look-a-like fibre cement tiles by Marley or Redland. The dormers are proposed to be finished with proprietary single ply membrane, Grey colour.

4.3 DOORS AND WINDOWS

Flats and Common Stair; double glazed units with white uPVC frames, consistent with neighbouring buildings.

5 SUSTAINABLE APPROACH TO ACCESS

No new vehicular access required to be made, new pedestrian only access to be formed through existing boundary wall. Existing public footpath provides access off Muirfield Gardens.

6 CAR PARKING & AMENITY SPACE

No car parking proposed. The site benefits from good public transport links.

Flatted properties should be provided with a communal private garden with equivalent area of 50m² (half of requirement for terraced housing). The total remaining site area excluding footprint of proposed Flats, communal stair and large garage is 186m². There are two public parks in the nearby area.

7 SECURE ACCESS

All new build Flats will be accessed via Common Stair. Access will be controlled using a door entry system / keys.

8 ACCESSIBILITY

Pedestrian only access from the rear, via either concrete steps or platform lift, as indicated. Only the Ground Floor Flat or Garage Conversion would be fully accessible, via footpaths as indicated on Site Layout drawing 17-36-PL01.

9 CONCLUSION

Our proposal offers the opportunity to create a modern residential building and create a further residential unit from an existing building.

ERECTION OF 3 FLATTED DWELLINGS: CHANGE OF USE OF EXISTING GARAGE TO FORM
DWELLING HOUSE AND INSTALLATION OF ROOFLIGHT, DOOR AND WINDOWS AT LAND
WEST OF 14, 16 & 18 THE LOAN, LOANHEAD EH20 9AE
APPLICATION NO. 17/00930/DPP
REFUSED 19th FEBRUARY 2018

Introduction

On behalf of our client Mr Bryan Campbell, we would like to appeal against the refusal of Planning Permission. This application relates directly to the approval of Planning Permission in principle for the erection of 3 flatted dwellings (Application No. 16/00106/PPP). This current application was not submitted as a MSC (Approval of Matters Specified in Conditions) application as it proposed changes to that of the planning in principle permission, the changes are as follows;

1. The existing large garage located on the South and East boundaries of the site is to be retained and converted to single dwelling house.
2. Because of item 1 above, no car parking could be provided. Pedestrian access only, from the rear.
3. The gutter line and ridge of the proposed flats were drawn to be consistent with the adjacent buildings, meaning that they are 300mm higher than the gutter / ridge of next door (numbers 14-18). The Loan (A768) is going uphill when travelling West past the application site and adjacent buildings. The gutter and ridge step up from No.s 6 & 8 to No.s 10 & 12 and again from No.s 10 & 12 to No.s 14 - 18 (see attached photos).
4. Wallhead dormers were indicated to maximise floor space within the second floor flat. The adjacent building (14 - 18 The Loan) is traditional built with no dormers, 6 & 8 The Loan and 10 & 12 The Loan have dormers (flat roofed) that are set back from the front line of the roof. The newer flatted dwellings at 4 The Loan are of more modern design and contain wallhead dormers, this building does not adjoin 6 & 8 The Loan, separated by a driveway.

The reasons for the Council's decision are set out below along with our comment / statement:

1. *The design, proportions and subdivision of materials of the proposed flatted dwellings result in an incongruous building which would have a detrimental impact on the character and appearance of the surrounding area.*

Quoting directly from the short report written by the Council's Planning department when determining the original Planning in Principle Application (16/00106/PPP)

'Three flatted dwellings were erected at the other end of the terrace of the same scale as the terrace but with a more modern design. It would not be reasonable for the planning authority to restrict the design of the proposed flats given the mix of building designs in the area. Given the orientation of the site, it is unlikely that the proposed building would have a significant detrimental impact on the amenity or privacy of surrounding properties.'

2. *The proposed development would result in a low standard of amenity for future occupants as inadequate amenity space and parking is provided.*

Again, quoting directly from the short report written by the Councils Planning department when determining the original Planning in Principle Application (16/00106/PPP)

'Although only an indicative site plan has been submitted, there does not appear to be sufficient space within the site to accommodate the required garden ground for three flatted properties, or the required parking spaces, in terms of compliance with policy DP2 of the adopted local plan. The planning authority can accept reductions in levels of such amenity provided where the sites are within town centres and are afforded an otherwise high level of amenity. There are two public parks in the nearby area and the site benefits from good public transport links. Given the location within a town centre with easy access to local amenities and public transport, in this instance the planning authority consider the lack of amenity space within the application site is acceptable.'

3. *For the above reasons the proposed development is an overdevelopment of the site, contrary to policies STRAT2 and DEV2 of the adopted Midlothian Local Development Plan 2017.*

The Midlothian Council Local Plan Policies state;

STRAT 2 'Windfall Housing Sites'

'Within the built-up areas, housing development on non-allocated sites, including the reuse of buildings and redevelopment of brownfield land, will be permitted provided that:

- A. it does not lead to the loss or damage of valuable public or private open space;*
- B. it does not conflict with the established land use of the area;*
- C. it has regard to the character of the area in terms of scale, form, design and materials;*
- D. it meets traffic and parking requirements; and*
- E. it accords with other relevant policies and proposals, including policies IMP1, IMP2, DEV3, DEV5 - DEV10.'*

With reference to the above policy;

- A. This is a private site, last used for storage. No loss.
- B. The site is within Loanhead town centre. The site is within a mixed-use area with predominantly residential properties to the south and west comprising either flats or terraced or semidetached properties.
- C. The front elevation is onto a public footpath and is a continuation of existing terrace, albeit with modern design / materials, some of which to relate to number 4 The Loan, i.e. dry dash render to match, wallhead dormers etc.
- D. It does not meet traffic and parking requirements, but considering its location and the precedent set, is this relevant? (see under precedent for details)
- E. Other relevant policies;
IMP1 New Development and IMP2 Essential Infrastructure Required to Enable New Development to Take Place both identify where there are deficiencies in services, infrastructure and facilities as a result of developments that these should be resolved through those developments.

We don't consider that policies IMP1 & IMP2 are relevant to this application. Services, infrastructure and facilities are all considered good in this area.

DEV3 Affordable and Specialist Housing. Within residential sites allocated through this Local Development Plan, 25% of the total number of homes consented will require to be affordable homes

This policy does not apply. For sites of less than 15 homes (or less than 0.5 hectares in size), no affordable housing provision will be sought.

DEV5 Sustainability in New Development states it is expected that development proposals will have regard to the following principles of sustainability: building in harmony with the site including optimising on orientation and relationships to contours, provision of shelter and utilising natural features; fostering and maintaining biodiversity; treating and conserving water on site in line with best practice and guidance on sustainable urban drainage; addressing sustainable energy in line with other MLDP policies; recycling of construction materials and minimising the use of non-renewable resources; facilitating accessibility and adaptability; providing for waste recycling in accordance with standards which will be set out in guidance on waste separation, collection and recycling requirements for new developments; and incorporating high speed broadband connections and other digital technologies in line with other MLDP policies.

This policy is quite diverse. Consideration of sustainability is unavoidable with any development and this site is no different, where most of policy DEV5 would be incorporated.

DEV6 Layout and Design of New Development. Layout and Design of New Development

This policy is more applicable to large scale developments rather development on a restrictive gap site.

DEV7 Landscaping in New Development. Development proposals to be accompanied by a comprehensive scheme of landscaping.

This policy is more applicable to large scale developments rather development on a restrictive gap site.

DEV8 Open Spaces. The Council will seek to protect and enhance the open spaces identified on the Proposals Map.

This policy does not apply to this site.

DEV9 Open Space Standards. The Council will assess applications for new development against the open space standards.

This policy does not apply to this site.

DEV10 Outdoor Sports Facilities. The redevelopment of outdoor sports facilities for alternative uses will not be permitted.

This policy does not apply to this site.

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.

Development of this site including the conversion of garage would be an improvement to bring existing vacant site / storage space back into use by providing four residential units.

4. *The lack of parking provision within the site is likely to lead to a road safety issue over inconsiderate or inadequate parking in the area.*

Planning permission in principle application (16/00106/PPP) indicated three car parking spaces, note consultee response from Policy & Road Safety, Corporate Resources;

'I have no objection in principle to the application but would note that the following issues would require to be addressed at the detailed design stage:

- 1. The existing vehicle drop kerb on The Loan would require to be removed and replaced with standard footway.*
- 2. If the flats have no private garden areas then secure cycle parking will be required with one space being provided for each flat.'*

Precedent

We should like to draw your attention to other recent town center applications;

Ref: 17/00363/DPP Change of use from Chiropodist (class 2) to dwelling house (class 9) at 61A Clerk Street, Loanhead.

Refused permission. Allowed at LRB. Local Review Body concluded;

'The proposed residential development is an acceptable use within the town centre and would bring back into use a vacant building. The sites location close to facilities, public parks and public transport will provide amenity for the future occupants to compensate for its location next to a public house and the limited size of the garden.'

Ref: 17/00630/DPP Change of use of office to form two dwelling houses and associated external alterations at 153 The Loan, Loanhead.

Refused permission. Currently pending with LRB.

No car parking or amenity space provided. Quote from Case officer's delegated worksheet; The proposed houses will have no private or communal outdoor space...While the Planning Authority may choose to relax the standards in certain instances, for example flats in town centres, it would generally still be expected that, as a minimum, residential properties would have space for bin storage and cycle parking

Granted Planning Permission

This application site is the one at the other end of the block from the application site and was approved without any amenities nor any parking as it was deemed by the Council that the proximity of this development to the town centre and the many open spaces that it was not necessary to provide them.

Conclusion

This empty site within the town centre has approval for housing, the argument here is whether the development should need to provide levels of amenity that the council insist should be provided. We have demonstrated above that other developments within this town centre have been approved with less amenity than we are providing. We have also proved above that there is an inconsistent approach from The original application taken forward into this new application towards transport and amenity.

With regards to the design, we had designed the elevation frontage to match the natural stepped appearance of the existing buildings as they go up the hill. It is surely more harmful to the appearance of this frontage to go against this and make the roof level with the adjacent roof plane.

With the above in mind we ask that this refusal is overturned.

David Paton Building Consultancy
13 High Street
Loanhead
EH20 9RH

March 2018

Planning Permission

Town and Country Planning (Scotland) Act 1997

Reg. No. 16/00106/PPP



David Paton Building Consultancy
13 High Street
Loanhead
EH20 9RH

Midlothian Council, as Planning Authority, having considered the application by Mr Eric Thomson, 13 High Street, Loanhead, EH20 9RH, which was registered on 7 March 2016, in pursuance of their powers under the above Acts, hereby grant permission to carry out the following proposed development:

Application for planning permission in principle for erection of 3 flatted dwellings at Land West Of 14 - 18 The Loan, Loanhead

In accordance with the application and the following plans:

<u>Drawing Description.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	16-03-L01 1:1250	07.03.2016
Site Plan	16-03-L02 1:500	07.03.2016

This permission is granted for the following reason:

The proposed development complies with policies RP20, HOUS3 and DP2 of the adopted Midlothian Local Plan. The presumption for development is not outweighed by any other material considerations.

Subject to the following conditions:

1. Before work commences on site, an application (or applications) for the approval of matters specified in conditions shall be submitted to and approved in writing by the Planning Authority, together with the requisite details including:
 - a) A detailed layout plan of the site, showing the siting of the proposed flatted dwellings, details of vehicular access and vehicle and cycle parking provision and bin collection areas within the site;
 - b) Detailed plans, sections and elevations of the proposed flatted dwellings, indicating the colour and type of materials to be used on the external walls, roof and windows;
 - c) Details of all hard surfacing and kerbing;
 - d) Proposals for the treatment and disposal of foul and surface water drainage from the proposed house; and,
 - e) Details of walls, gates, fences and other means of enclosure.

Reason: *Permission is granted in principle only; detailed consideration is required for the siting, massing and design of the proposed flatted dwellings.*

2. Prior to the new flatted dwellings being occupied, the installation of the means of drainage treatment and disposal approved in terms of condition 1d) above shall be completed to the satisfaction of the Planning Authority.

Reason: To ensure that the flatted dwellings are provided with adequate drainage facilities prior to occupation.

3. The height of the building hereby approved, in terms of condition 1b above, shall be no higher than the adjoining building at 14-18 The Loan, Loanhead.

Reason: To protect the character and appearance of the surrounding area; to ensure the scale of the new building does not detract from the surrounding area.

4. The existing vehicle dropped kerb at The Loan shall be removed and replaced with a standard footway.

Reason: In the interests of road safety.

5. Prior to the commencement of development, a programme of site investigation works shall take place to confirm coal mining legacy issues at the site. This programme shall include the submission of a scheme of intrusive site investigation works to be submitted to and approved in writing by the planning authority which, if approved, shall be undertaken. A further report of findings arising from the intrusive site investigations shall be submitted along with a scheme to address any remedial works necessary to be approved in writing by the planning authority which shall then be implemented.

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

Dated 27 / 2 / 2017



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

MIDLOTHIAN COUNCIL

DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

Planning Application Reference: 16/00106/PPP

Site Address: Land west of 14-18 The Loan, Loanhead.

Site Description: The application site comprises an area of ground and outbuildings. There are two storey traditional terrace buildings to the east which have stone and harled walls and a slate roof. These are in use as either commercial premises or flats on the ground floor and flats above. There is some accommodation in the roofspace, served by dormer windows. The building to the west is a two storey flatted development set back from the road. There are residential properties to the south of the site. The site is within Loanhead Town Centre.

Proposed Development: Application for planning permission in principle for erection of 3 flatted dwellings.

Proposed Development Details: The application is for planning permission in principle and so no details have been submitted of the appearance of the building. An indicative site plan has been submitted showing the footprint of the proposed building in line with the neighbouring terraced properties and with vehicular access coming from Muirfield Gardens to the rear serving 3 parking spaces.

The agent has stated that due to the change in ground levels within the site and the proposed access it is proposed that the parking area will be raised. Three two bed flats are proposed. The existing buildings on site are to be demolished.

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

Application site

01/00471/FUL Erection of replacement garage and railings. Consent with conditions.

11/00652/DPP 16 The Loan Subdivision of existing dwellinghouse to form shop and flatted dwelling. Consent with conditions.

07/00136/FUL land to rear of 12 The Loan Erection of dwellinghouse. Refused.

06/00728/FUL 7 Muirfield Gardens Change of use from public open space to private garden ground and erection of fence and gates. Permitted.

05/00932/FUL 12 The Loan Formation of two dwellings from existing flat and installation of dormer windows. Consent with conditions.

05/00645/DUL 9 The Loan Change of use from shop to dwellinghouse and associated works. Consent with conditions.

04/00689/FUL 14 The Loan Change of use from retail shop (use class 1) to financial services office (use class 2). Consent with conditions.

03/00714/FUL 10 The Loan Alterations and change of use from retail unit (class 1) to flatted dwelling. Consent with conditions.

Consultations: The **Coal Authority** has no objection subject to conditions being attached requiring a scheme of intrusive site investigations, their undertaking, the submission of a report of the findings as a result of these investigations, the submission of a scheme of any necessary remedial works and the implementation of those remedial works, prior to the commencement of development.

The **Policy and Roads Safety Manager** has no objection subject to conditions being attached to any consent requiring the removal of the existing dropped kerb and secure cycle parking.

Representations: Three letters of representation have been submitted, two objecting and one neither objecting nor supporting. The objections are on the following grounds:

- No elevations have been submitted;
- The proposed building should continue the design and height of the existing buildings in the terrace;
- The proposed access is narrow and does not provide adequate space for cars to turn or pass;
- There is a drop in ground levels which will result in a ramp which will not afford visibility for the cars using it;
- Lack of parking provision;
- The demolition of walls and construction of any ramp would disrupt neighbouring properties and access to these;
- Additional car users will exacerbate road surfacing issues;
- There is no footpath access proposed, nor is there space for this;
- The removal of the walls, including retaining walls, could damage neighbouring properties;
- Disruption of parking for existing residents during construction; and
- The proposal could infringe on existing views.

The representor neither supporting nor objecting to the proposal thinks the principle of developing this brownfield site is sensible but has concerns that it will be much taller than the neighbouring buildings and the height should be carefully considered before a full application is submitted.

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

RP20 Development Within the Built-Up Area states that development will not be permitted within built up areas where it is likely to detract materially from the existing character or amenity of the area;

HOUS3 Windfall Housing Sites states that within the built-up areas, housing development on non-allocated sites and including the reuse of buildings and redevelopment of brownfield land, will be permitted provided that: it does not lead to the loss or damage of valuable public or private open space; it does not conflict with the established land use of the area; it respects the character of the area in terms of scale, form, design and materials; it meets traffic and parking requirements; and it accords with other relevant Local Plan policies and proposals, including policies IMP1, IMP2 and DP2;

SHOP1 Town Centres states that development proposals bringing about an improvement to the range and quality of retail facilities in town centres will be

considered favourably. Given the nature of the proposed development, it is not considered that this policy relates to this application;

IMP1 New Development advises that planning conditions will be applied and, where appropriate, legal agreements sought to ensure that, where new development gives rise to a need, appropriate provision is made for necessary infrastructure, community facilities and services (see list in local plan);

IMP2 Essential Infrastructure Required to Enable New Development to Take Place aims to ensure that development does not proceed until provision has been made for essential infrastructure and environmental requirements, related to the scale and impact of the proposal, imposed through planning conditions and legal agreements to secure the appropriate developer funding and the proper phasing of development; and

DP2 Development Guidelines sets out Development Guidelines for residential developments. The policy indicates the standards that should be applied when considering applications for dwellings.

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 application site is located within the built up area of Loanhead and as such the principle of a residential development is acceptable. The site is within a mixed use area with predominantly residential properties to the south and west comprising either flats or terraced or semidetached properties. The plot is a gap site which is large enough to accommodate the footprint of development as proposed, in keeping with the other properties in this terrace.

Given that the site is within, but at the edge of, the town centre with mainly two storey properties to the west and south it would be prudent to condition that any future building be no higher than the properties at 14-18 The Loan. This would continue the scale of the existing buildings, in keeping with the character and appearance of the surrounding area, whilst limiting the impact on the amenity of the surrounding properties. Three flatted dwellings were erected at the other end of the terrace of the same scale as the terrace but with a more modern design. It would not be reasonable for the planning authority to restrict the design of the proposed flats given the mix of building designs in the area. Given the orientation of the site, it is unlikely that the proposed building would have a significant detrimental impact on the amenity or privacy of surrounding properties.

Although only an indicative site plan has been submitted, there does not appear to be sufficient space within the site to accommodate the required garden ground for three flatted properties, or the required parking spaces, in terms of compliance with policy DP2 of the adopted local plan. The planning authority can accept reductions in levels of such amenity provided where the sites are within town centres and are afforded an otherwise high level of amenity. There are two public parks in the nearby area and the site benefits from good public transport links. Given the location within a town centre with easy access to local amenities and public transport, in this instance the planning authority consider the lack of amenity space within the application site is acceptable.

As noted above, the Policy and Roads Safety Manager has no objection to the proposal. Further details of the access would be conditioned should permission be granted. The applicant has stated that the proposed parking will be raised in height to match the proposed access. There is a pedestrian path close to the proposed access.

One of the existing outbuildings forms part of the boundary wall around the site. Further details of the proposed boundary treatments will be required should permission be granted.

The following considers comments made by representors not addressed above. No elevations were required to be submitted as the application is for planning permission in principle. Should this application be granted, further detailed drawings would need to be submitted as part of an MSC application, which would be subject to neighbour notification. The loss of a view is not a material planning consideration. The condition of road surfaces is not something that can be controlled by the planning authority but rather the roads section.

Planning Obligations

Given the scale of the development, developer contributions are required for one of the proposed residential units. The applicant has paid this through a one-off payment relating to Section 69 of the Local Government (Scotland) Act 1994, rather than entering into a Section 75 agreement, which is related to the Town and Country Planning (Scotland) Act 1997.

In relation to Midlothian Council, policies relevant to the use of such payments are set out in the 2008 Local Plan Policies 2015 Draft Midlothian Local Development Plan and Midlothian Council Developer Contributions Guidelines (Supplementary Planning Guidance) and Supplementary Planning Guidance on Affordable Housing both approved in March 2012.

This proposed development of which the principal element is the provision of three residential units has been assessed in relation to the above guidance and it is considered that a developer contribution is required in respect of the following areas;

Non Denominational Primary School Capacity

Additional capacity is required in Loanhead as a result of residential developments and therefore developer contributions towards this will be required.

Denominational Secondary School Capacity

The Midlothian- wide developer contribution requirement towards the provision of additional denominational capacity at the Dalkeith Schools Community Campus has been set at £135 per consented unit, following a previous Midlothian Council decision.

Non Denominational Secondary School Capacity

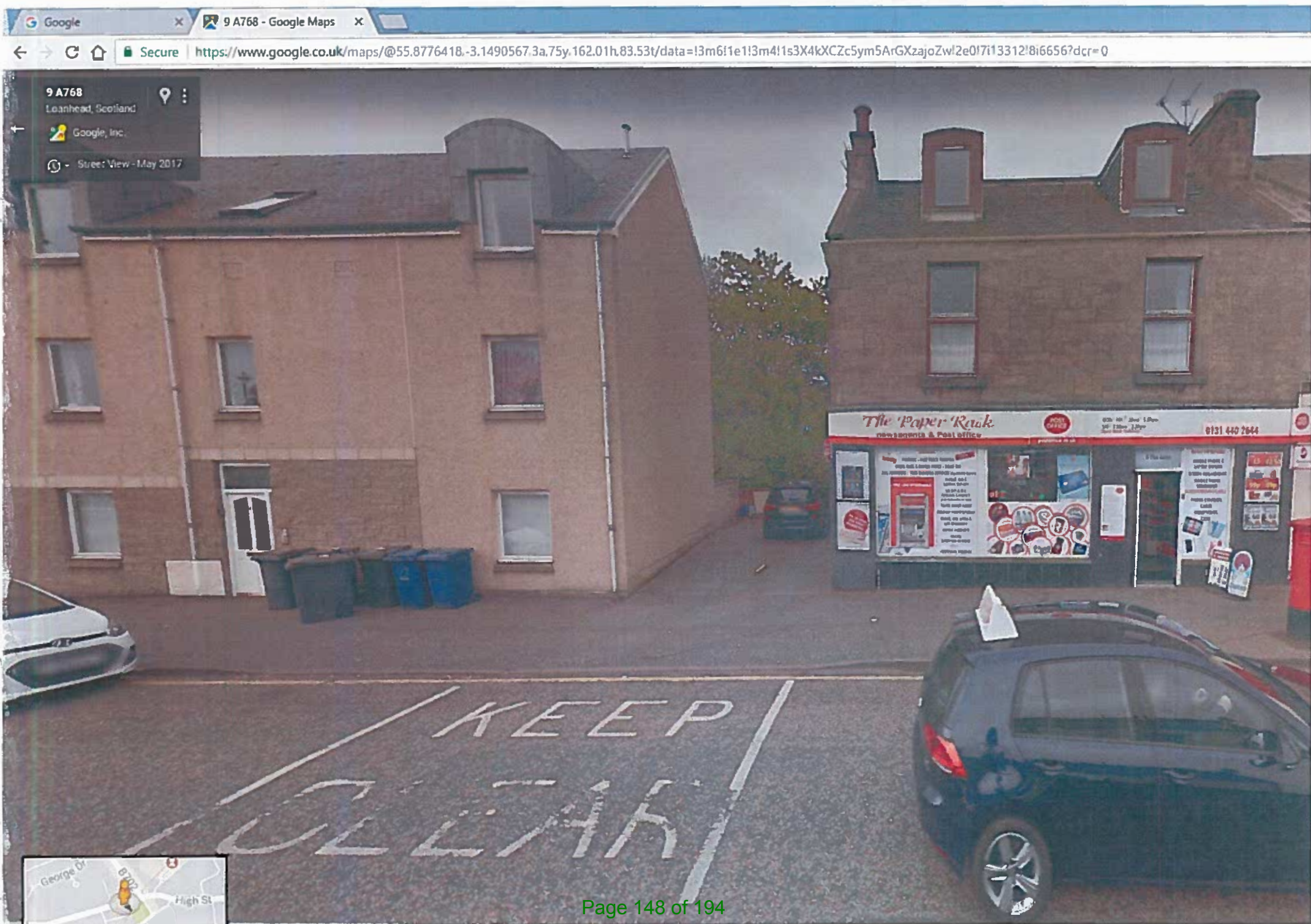
Additional capacity is required towards non denominational secondary educational provision at Lasswade High School.

Community Facilities

The 2008 Local Plan requires that this development provides contributions towards community facilities within Loanhead.

Recommendation:

Grant planning permission in principle.



MIDLOTHIAN COUNCIL**DEVELOPMENT MANAGEMENT
PLANNING APPLICATION DELEGATED WORKSHEET:****Planning Application Reference:** 17/00930/DPP**Site Address:** Land west of 14-18 The Loan, Loanhead.

Site Description: The application site comprises a vacant area of ground and garage. There is a change in ground levels from the front to the rear of the site, with the garage on a lower level. There are two storey traditional terrace buildings to the east, with stone and harled walls and a slate roof. These are either commercial premises or flats on the ground floor and flats above, with some accommodation in the roofspace served by dormer windows. There is a two storey flatted development set back from the road to the west and residential properties to the south. The site is within Loanhead Town Centre.

Proposed Development: Erection of 3 flatted dwellings; change of use of existing garage to form dwellinghouse and installation of rooflight, door and windows.

Proposed Development Details: A three storey building is proposed facing The Loan, following the building line of the adjacent buildings. The building is slightly higher than the adjacent buildings, with dormer windows rising from the wallhead. The walls are to be dry dash render and brick, with cement rooftiles. The garage is to remain largely as existing, with the existing rooflight replaced and windows fitted into the existing door opening, with timber cladding infill below. All window and doors are to be white uPVC. Due to the change in ground levels from The Loan to the rear of the site, a retaining wall is proposed by the pedestrian access to the converted garage.

The applicant has submitted a design and access statement explaining the rationale of the proposal. The wall to The Loan is to be removed, with pedestrian access from Muirfield Gardens to the rear. No parking spaces are proposed.

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

Application site

16/00106/PPP Application for planning permission in principle for erection of 3 flatted dwellings. Consent with conditions – standard PPP conditions, restriction on the height of the buildings to match adjoining building and coal information.

01/00471/FUL Erection of replacement garage and railings. Consent with conditions.

11/00652/DPP 16 The Loan Subdivision of existing dwellinghouse to form shop and flatted dwelling. Consent with conditions.

07/00136/FUL land to rear of 12 The Loan Erection of dwellinghouse. Refused.

06/00728/FUL 7 Muirfield Gardens Change of use from public open space to private garden ground and erection of fence and gates. Permitted.

05/00932/FUL 12 The Loan Formation of two dwellings from existing flat and installation of dormer windows. Consent with conditions.
 05/00645/DUL 9 The Loan Change of use from shop to dwellinghouse and associated works. Consent with conditions.
 04/00689/FUL 14 The Loan Change of use from retail shop (use class 1) to financial services office (use class 2). Consent with conditions.
 03/00714/FUL 10 The Loan Alterations and change of use from retail unit (class 1) to flatted dwelling. Consent with conditions.

Consultations:

The **Policy and Road Safety Manager** has no objection to the principle of development, however they state there is no parking proposed. The lack of parking would place additional pressure on the limited number of on-street parking available and may lead to inconsiderate or illegal parking to the detriment of road safety in the area. For these reasons they recommend refusal.

The **Loanhead and District Community Council** object due to the lack of parking proposed, with unsuitable on street parking.

The **Coal Authority** has no objection subject to conditions being attached requiring a scheme of intrusive site investigations, their undertaking, the submission of a report of the findings as a result of these investigations, the submission of a scheme of any necessary remedial works and the implementation of those remedial works, prior to the commencement of development.

Representations: Two letters of objection have been received on the following grounds:

- poor site access and damaged roads;
- lack of parking;
- difficulty for emergency vehicles access;
- access to the driveway of a blue badge holder;
- disturbance during construction; and
- queries how long development would take.

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

STRAT2 Windfall Housing Sites advises that within the built-up areas, housing development on non-allocated sites and including the reuse of buildings and redevelopment of brownfield land, will be permitted provided that: it does not lead to the loss or damage of valuable public or private open space; it does not conflict with the established land use of the area; it respects the character of the area in terms of scale, form, design and materials; it meets traffic and parking requirements; and it accords with other relevant Local Plan policies and proposals;

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;

DEV5 Sustainability in New Development states it is expected that development proposals will have regard to the following principles of sustainability: building in

harmony with the site including optimising on orientation and relationships to contours, provision of shelter and utilising natural features; fostering and maintaining biodiversity; treating and conserving water on site in line with best practice and guidance on sustainable urban drainage; addressing sustainable energy in line with other MLDP policies; recycling of construction materials and minimising the use of non-renewable resources; facilitating accessibility and adaptability; providing for waste recycling in accordance with standards which will be set out in guidance on waste separation, collection and recycling requirements for new developments; and incorporating high speed broadband connections and other digital technologies in line with other MLDP policies;

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

TCR1 Town Centres states proposals for retail, commercial leisure development or other uses which will attract significant numbers of people, will be supported in Midlothian's town centres, provided their scale and function is consistent with the town centre's role, as set out in the network of centres and subject to the amenity of neighbouring uses being preserved. The conversion of ground level retail space to residential uses will not be permitted. Residential units at ground floor level in retail units will not be permitted but the conversion of upper floors to housing and the formation of new residential space above ground-level structures in town centres is supported; and

IMP1 New Development and IMP2 Essential Infrastructure Required to Enable New Development to Take Plan both identify where there are deficiencies in services, infrastructure and facilities as a result of developments that these should be resolved through those developments.

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 application site is located within the built up area and as such the principle of residential development is acceptable. The site is within a mixed use area with predominantly residential properties to the south and west comprising either flats or terraced or semidetached properties. The proposed flats are in the area indicated for development in the previous approval at the site, which is acceptable in principle. The previous permission restricted the height of the flats to match the adjoining building to protect the character and appearance of the surrounding area and to ensure the scale of the building does not detract from this. The adjoining building is of traditional design and proportions.

The proposed building is to be slightly higher than the adjoining, with higher eaves and dormer windows rising from the wallhead. This has a somewhat bulky appearance, with unusual proportions that do not relate to the adjoining building. The proposed flats will adjoin this traditional building which will exacerbate the bulk of the dormer windows and proportions and be at odds with the buildings in the immediate area. There is to be a horizontal subdivision of materials between the ground and first floors with brick at lower level and harling above. Not only would this material treatment exacerbate the bulk of the building by giving a more

horizontal than vertical emphasis, it also includes the use of brick which is not a material which is used on any buildings facing onto The Loan in the surrounding area, although it is acknowledged that this relates the building to the outbuilding.

The design of the flats is similar to another block of flats situated to the other side of this row of buildings. This has dormers rising from the wallhead and unusual proportions, resulting in a relatively bulky building. However there is a degree of separation between that building and the traditional properties as it is detached. This separation makes it read as a standalone building which limits the visual impact on the traditional row.

The design of the proposed flats would be of a scale, design and bulk which would have a detrimental impact on the character and appearance of the surrounding area and result in a building which is incongruous in the surrounding area. The approach is neither traditional to reflect the adjoining building, nor of high quality contemporary design to allow support.

It is possible that a building which matches the proportions, height, roof pitch and eaves of the adjoining building may be appropriate. This could either be of a fully traditional design to reflect the adjoining building, or a more modern, contemporary approach whilst respecting the scale and form of the buildings in the area. Dormer windows fully within the roofspace could be acceptable. Given that the adjoining roof is finished in slate, should permission be granted it would be appropriate for the proposed roof to match.

The proposed change of use of the garage to a residential unit is acceptable in principle, given the uses in the surrounding area. The proposed alterations are in keeping with the character of the existing building and would be unlikely to result in any significant overlooking issues. Should permission be granted, it would be prudent to remove permitted development rights to restrict any new openings which may impact the privacy of the occupant or surrounding properties.

However notwithstanding the above, the combination of the provision of three flatted dwellings and the change of use of the garage raises strong concerns to the Planning Authority over the amount of amenity offered to the occupants. Residential properties require adequate amenity space and only 162 square metres is provided for four dwellings. No cross sections have been submitted so it is not clear how the change in levels is to be dealt with or how this would affect the provided amenity space.

A development of this size would require eight parking spaces and cycle parking, though none have been provided. The lack of parking has been raised as a concern by the Policy and Road Safety Manager, the Community Council and local residents, due to the limited parking in the area and over road safety issues.

In some cases the Planning Authority can accept reductions in levels of amenity, for example car parking and amenity ground, where sites are within town centres and are afforded an otherwise high level of amenity. The Planning Authority has already accepted a reduction in the required standards in the previous permission where three parking spaces were proposed and limited garden ground. It is now proposed

to retain the garage, which was to be removed in the previous proposal to offer more room within the site, and turn this into another residential unit. This would further reduce the amenity offered to the occupants and appears as overdevelopment given the low standard of amenity provided.

Overall, the Planning Authority are supportive of some form of development at the site, however the current proposal is considered to be overdevelopment and out of keeping with the surrounding area, to the detriment of its character, appearance and amenity.

Recommendation: Refuse planning permission.

Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997



Reg. No. 17/00930/DPP

David Paton Building Consultancy
13 High Street
Loanhead
EH20 9RH

Midlothian Council, as Planning Authority, having considered the application by Mr Bryan Campbell, 13 High Street, Loanhead, EH20 9RH, which was registered on 4 December 2017 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

Erection of 3 flatted dwellings; change of use of existing garage to form dwellinghouse and installation of rooflight, door and windows at Land West Of 14 - 18 The Loan, Loanhead

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

<u>Document/Drawing.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan, Site Plan	17-36-EX1 1:1250 1:100	04.12.2017
Floor Plan, Elevations	17-36-EX2 1:100 1:50	04.12.2017
Floor Plan, Elevations	17-36-PL01 1:100 1:50	04.12.2017
Floor Plan, Elevations	17-36-PL02 1:100 1:50	04.12.2017
Design and Access Statement		04.12.2017

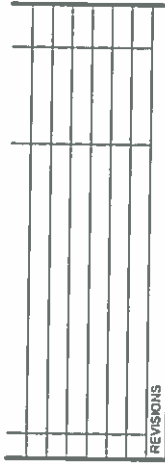
The reasons for the Council's decision are set out below:

- The design, proportions and subdivision of materials of the proposed flatted dwellings result in an incongruous building which would have a detrimental impact on the character and appearance of the surrounding area.*
- The proposed development would result in a low standard of amenity for future occupants as inadequate amenity space and parking is provided.*
- For the above reasons the proposed development is an overdevelopment of the site, contrary to policies STRAT2 and DEV2 of the adopted Midlothian Local Development Plan 2017.*
- The lack of parking provision within the site is likely to lead to a road safety issue over inconsiderate or inadequate parking in the area.*

Dated 19 / 2 / 2018



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



<p>CLIENT Mr Bryan Campbell % David Paton Building Consultancy</p>	<p>PROJECT Proposed Flats (3 No.) & Garage Conversion of 1000 sq ft West of 141/141B Main Loan, Leatherside EH20 9AE</p>	<p>DATE November 2017</p>	<p>DRAWN SM</p>	<p>SCALE As noted @ A1</p>
<p>david paton building consultancy Architectural Services & Building Consultants Established in 1981 by David Paton 11 High Street, Leatherside, Leithside, Leith, EH20 9EH. Tel 0131 449 7215 website www.davidpaton.co.uk e-mail davidpaton@btconnect.co.uk</p>				
<p>DRAWING TITLE Site Layout, Location Plan,</p>		<p>REVISION</p>		





CLIENT	PROJECT
Mr Bryan Campbell % David Patton Building Consultancy	Proposed Flats (J6) & Garage Conversion on land West of 14 to 18 The Loan, Loanhead EH20 9AE
DRAWING TITLE	DATE
Existing Two Storey Garage, Existing Floor Plans, Elevations & Roof Plan	November 2017
	DRAWN
	SM
	SCALE
	As noted @ A2

david paton building consultancy
Architectural Services & Building Consultants

Established in 1991 by David Paton

13 High Street, Leamford, Nottingham, EN7 2BH.

Fel 0131 498 1213 **web site** www.darwinproject.com

e-mail : david.stanbrook@btconnect.com UK

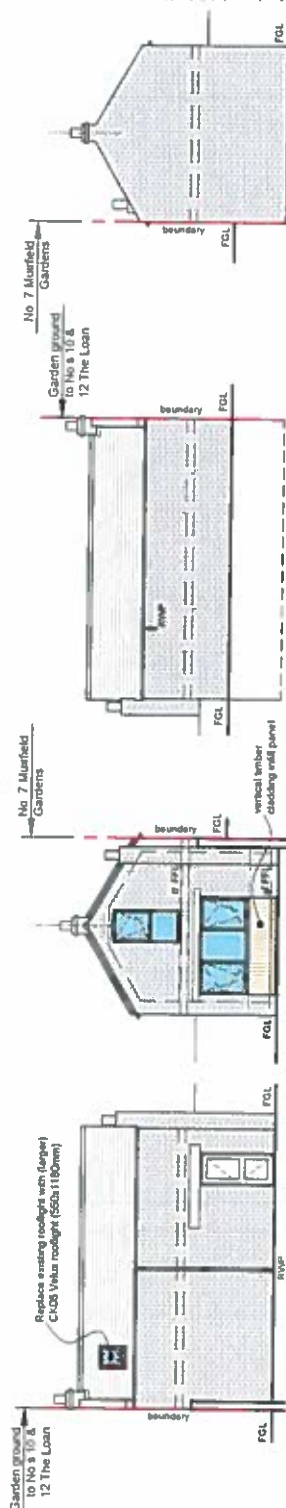


DRAWING NO.

17-36-EX2

Members of
the Chartered
Institute of
Architectural
Technologists

REVISION



1:100 Scale NORTH ELEVATION

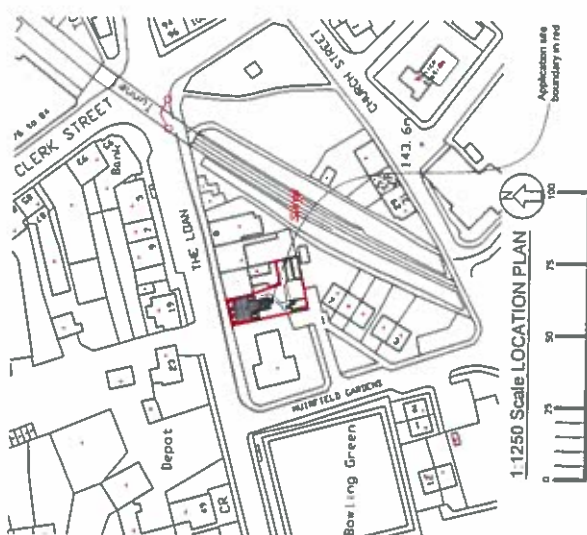
1:100 Scale SOUTH ELEVATION

1:100 Scale WEST (FRONT) ELEVATION

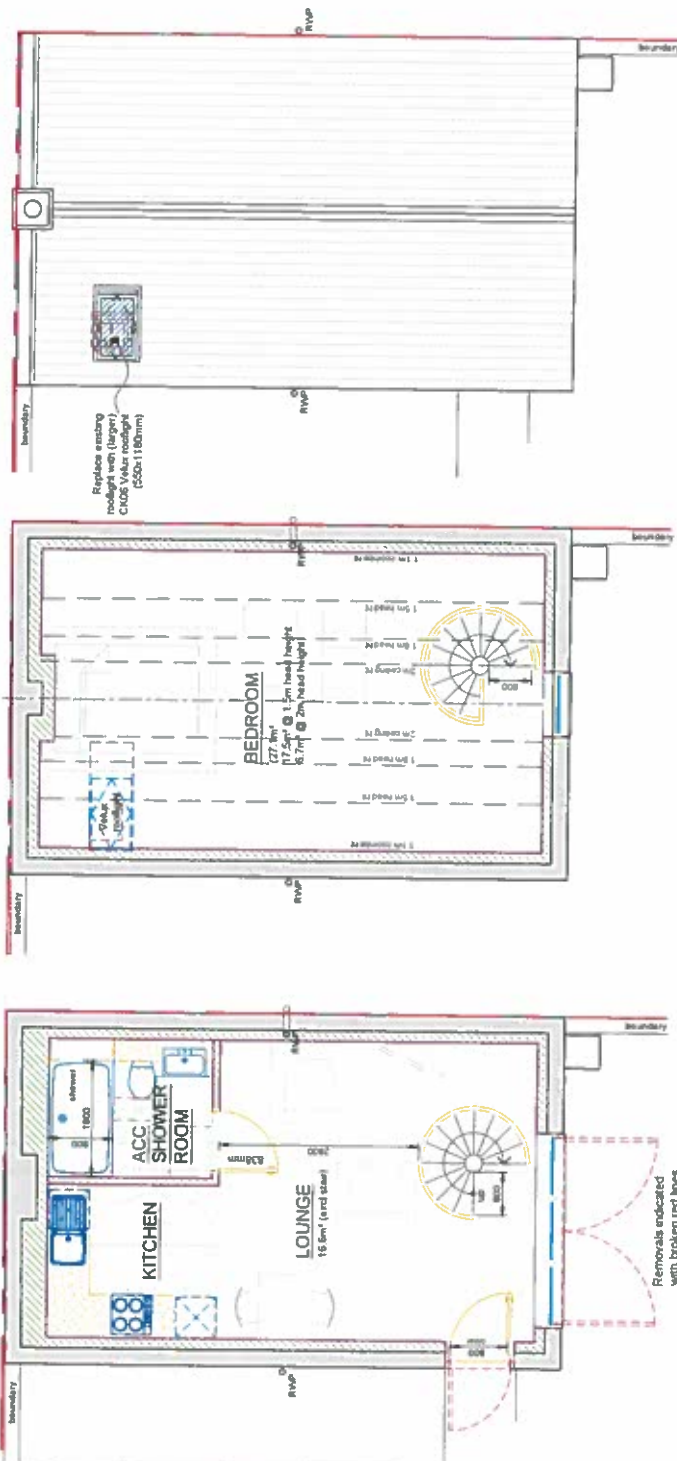
1:100 Scale EAST ELEVATION

EXTERNAL MATERIALS

- WALLS:
Existing unchanged (imperial brick)
- ROOF:
Existing unchanged (clay pantiles)
- DOORS & WINDOWS:
Double glazed with uPVC frames.
White externally (white internally)
- RAINFALL GOODS:
Black uPVC



1:1250 Scale LOCATION PLAN



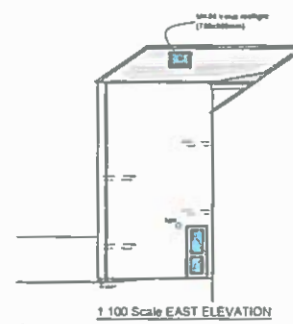
1:50 Scale GROUND FLOOR LAYOUT

1:50 Scale FIRST FLOOR LAYOUT

1:50 Scale ROOF PLAN

PLANNING APPLICATION DRAWING

CLIENT Mr Bryan Campbell % David Paton Building Consultancy	PROJECT Proposed Plans (310) & Garage Conversion on land West of 14 to 18 The Loan, Loanhead EH20 9AE		
	DATE	November 2017	
DRAWING TITLE Conversion of Existing Two Storey Garage, Proposed Floor Plans, Elevations, Roof Plan & Location Plan	DRAWN	SM	
	SCALE	As noted @ A2	
david paton building consultancy Architectural Services & Building Consultants Established in 1981 by David Paton 13 High Street, Loanhead, Midlothian, EH20 9AE Tel: 0131 448 1213 website: www.davidpaton.co.uk e-mail: davidpaton@btconnect.co.uk			
			
Members of the Chartered Institute of Architectural Technologists			
			
DRAWING NO. 17-36-PL02			REVISION



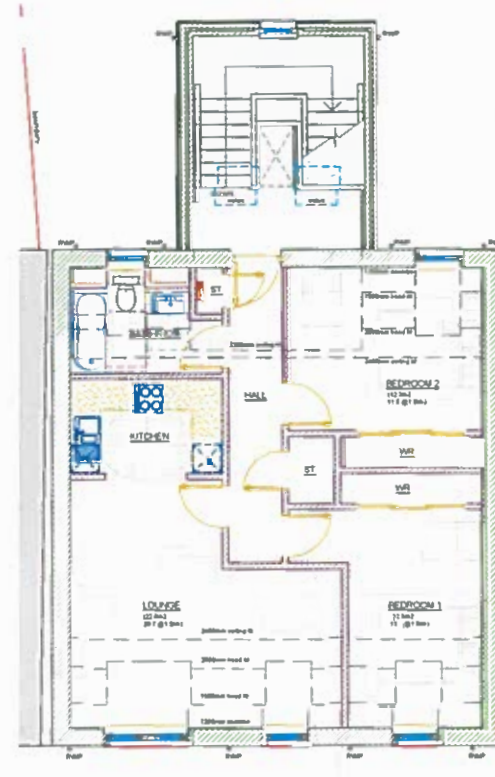
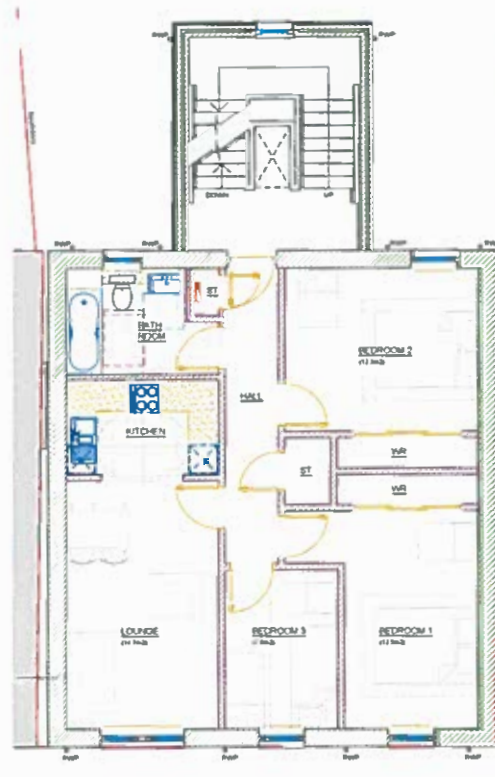
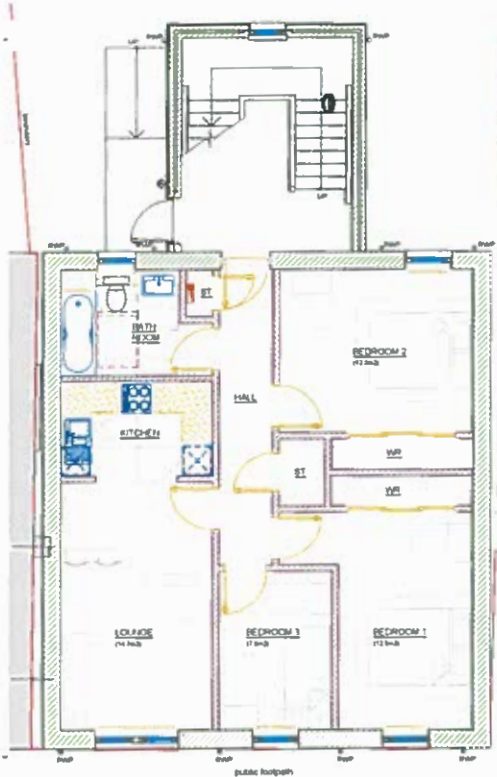
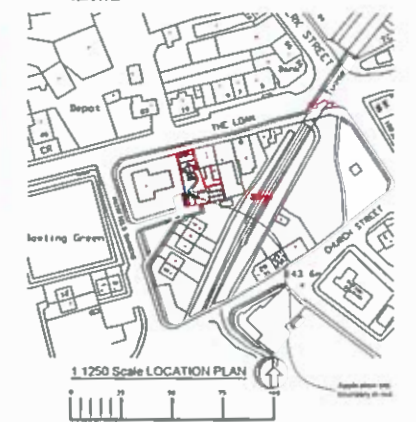
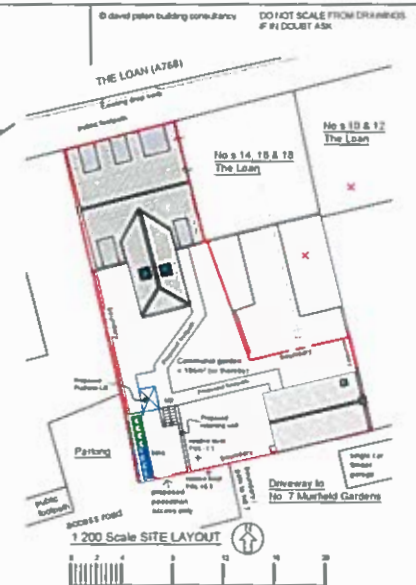
EXTERNAL MATERIALS

WALLS
Dry stone render with facing brick basecourse
Facing brick to First Elevation at ground floor level
Dormer cheeks. Render on proprietary handbrake

ROOF
Slate look o-lux stone cement tiles by Marley or Redland
Dormer roof. Gable end or eaves & approved single ply membrane

DOORS & WINDOWS
Double glazed with uPVC frames
Where externally visible internally

RAINWATER GOODS
Black uPVC



PLANNING APPLICATION DRAWING			
REVISIONS			
CLIENT	Mr Bryan Campbell	PROJECT	Proposed Plans (30m) on land west of 14 to 18 The Loan, Leamford, E100 8AE
DRAWING TITLE	Proposed Plans, Elevations, Site Layout & Location Plan	DATE	November 2017
SCALES	As noted @ A1	DRAWN	DM
david paton building consultancy			
Architectural Services & Building Consultancy			
Established in 1981 by David Paton			
13 High Street, Leamford, Leamford, Notts LE19 1JH			
Tel: 01533 448175 Website: www.davidpaton.co.uk			
e-mail: david@patonbuilding.co.uk			
Members of the Chartered Institute of Building Technology			
DRAWING NO. 17-36-PL01			
REVISION			

Notice of Review: Land to North West of 3 Eskview Villas, Dalkeith

Determination Report

Report by Ian Johnson, Head of Communities and Economy

1 Purpose of Report

- 1.1 The purpose of this report is to provide a framework for the Local Review Body (LRB) to consider a 'Notice of Review' for the erection of dwellinghouse and two flatted dwellings; formation of access, car parking and associated works at land to north-west of 3 Eskview Villas, Dalkeith.

2 Background

- 2.1 Planning application 17/00920/DPP for the erection of dwellinghouse and two flatted dwellings; formation of access, car parking and associated works at land to north-west of 3 Eskview Villas, Dalkeith was refused planning permission on 5 March 2018; a copy of the decision is attached to this report.
- 2.2 The review has progressed through the following stages:
- 1 Submission of Notice of Review by the applicant.
 - 2 The Registration and Acknowledgement of the Notice of Review.
 - 3 Carrying out Notification and Consultation.

3 Supporting Documents

- 3.1 Attached to this report are the following documents:
- A site location plan (Appendix A);
 - A copy of the notice of review form and supporting statement (Appendix B). Any duplication of information is not attached;
 - A copy of the case officer's report (Appendix C);
 - A copy of the decision notice, issued on 5 March 2018 (Appendix D); and
 - A copy of the relevant drawings/plans (Appendix E).
- 3.2 The full planning application/review 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 procedures agreed by the LRB, the LRB by agreement of the Chair:

- Have scheduled an unaccompanied site visit for Monday 21 May 2018; and
 - Have determined to progress the review by way of written submissions.
- 4.2 The case officer's report identified that three consultation responses and 15 representations from 11 different households were received. As part of the review process the interested parties were notified of the review. Six additional comments have been received from interested parties reinforcing 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 a scheme to deal with any contamination of the site has been submitted to and approved by the planning authority. The scheme shall contain details of the proposals to deal with any contamination and include:
 - i. the nature, extent and types of contamination on the site;
 - ii measures to treat or remove contamination to ensure that the site is fit for the uses hereby approved, and that there is

- no risk to the wider environment from contamination originating within the site;
- iii measures to deal with contamination 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.

Reason: *To ensure that any contamination on the site is adequately identified and that appropriate decontamination 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.*

2. Unless otherwise approved in writing by the planning Authority development shall comply with the Conclusions contained in the approved Coal Mining Risk Assessment.

Reason: *To ensure that the history of coal mining within the surrounding area is adequately addressed as part of the development process.*

3. Development shall not begin until temporary protective fencing is erected around all trees on the site to be retained. The fencing shall be positioned in circumference to the trunk at a distance from it which correlates to the trees canopy unless otherwise agreed in writing with the local planning authority. No excavation, soil removal or storage shall take place within the enclosed area.

Reason: *To ensure the development does not result in the loss or damage of trees which merit retention in accordance with local and national planning guidance and advice.*

4. Prior to any external finish materials, hard surface materials; and fences/boundary walls being installed details and, if requested, samples of the materials shall be submitted to and approved in writing by the Planning Authority. Thereafter development shall comply with the approved details unless otherwise approved in writing by the Planning Authority.

Reason: *To safeguard the character of the conservation area.*

- 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 and Borders Rail. 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

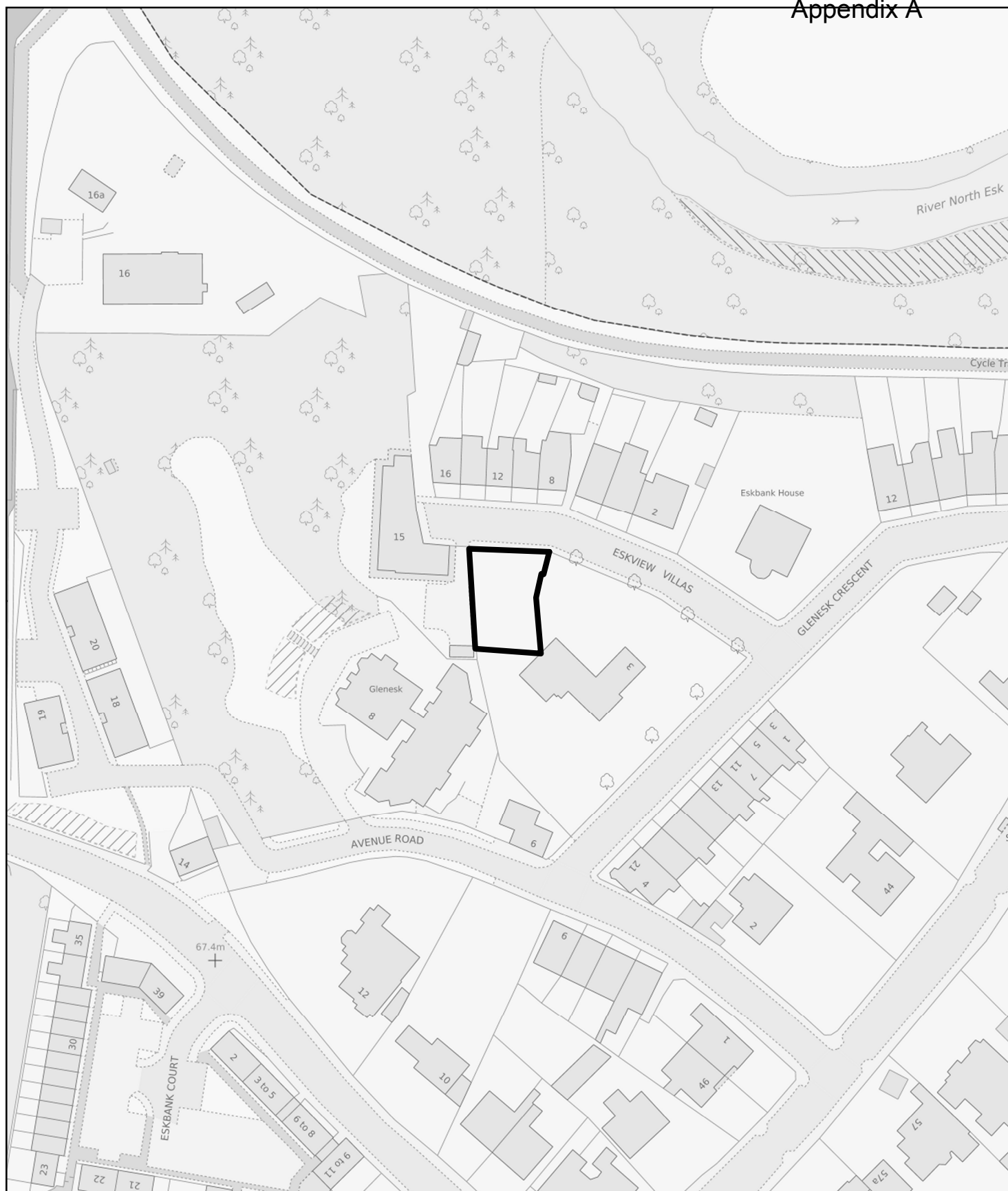
- 6.1 It is recommended that the LRB:
- a) determine the review; and
 - b) the planning advisor draft and issue the decision of the LRB through the Chair

Date: 15 May 2018

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

Tel No: 0131 271 3310

Background Papers: Planning application 17/00920/DPP available for inspection online.



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

Erection of dwellinghouse and two flatted dwellings; formation of access car parking and associated works at Land To North West Of 3 Eskview Villas, Dalkeith

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File No. 17/0920/DPP

Scale: 1:1,250
Page 165 of 194





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 100075985-002

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="HALVORSEN ARCHITECTS"/>		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	<input type="text" value="Gail"/>	Building Name:	<input type="text" value="Mountskip House"/>
Last Name: *	<input type="text" value="Halvorsen"/>	Building Number:	<input type="text"/>
Telephone Number: *	<input type="text" value="07956 247858"/>	Address 1 (Street): *	<input type="text" value="Mountskip House"/>
Extension Number:	<input type="text"/>	Address 2:	<input type="text"/>
Mobile Number:	<input type="text"/>	Town/City: *	<input type="text" value="Gorebridge"/>
Fax Number:	<input type="text"/>	Country: *	<input type="text" value="United Kingdom"/>
		Postcode: *	<input type="text" value="EH23 4NW"/>
Email Address: *	<input type="text" value="gail@halvorsenarchitects.co.uk"/>		

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

☐ Individual ☒ Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	Mrs	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	127
First Name: *	Christina	Building Number:	
Last Name: *	Walters	Address 1 (Street): *	High Street
Company/Organisation	Genesis J&T Ltd.	Address 2:	
Telephone Number: *	07889337053	Town/City: *	Dalkeith
Extension Number:		Country: *	Midlothian
Mobile Number:		Postcode: *	EH22 1BE
Fax Number:			
Email Address: *			

Site Address Details

Planning Authority:	Midlothian Council
Full postal address of the site (including postcode where available):	
Address 1:	3 ESKVIEW VILLAS
Address 2:	ESKBANK
Address 3:	
Address 4:	
Address 5:	
Town/City/Settlement:	DALKEITH
Post Code:	EH22 3BN

Please identify/describe the location of the site or sites

--	--

Northing

666843

Easting

332512

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)

A new block of two flats and one 2-storey house in the grounds of Happy Days nursery.

Type of Application

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

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

What does your review relate to? *

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

Statement of reasons for seeking review

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

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

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

Please refer to accompanying report - Reasons for notice of Review

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

☐ Yes ☒ No

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)

Reasons for notice of Review report

Application Details

Please provide details of the application and decision.

What is the application reference number? *

17/00920/DPP

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

21/11/2017

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

05/03/2018

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)

They are able to make a visit unaccompanied but should forewarn the nursery as it is an operating nursery with young children on-site.

Checklist – Application for Notice of Review

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

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

☒ Yes ☐ No

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

☒ Yes ☐ No

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

☒ Yes ☐ No ☐ N/A

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

☒ Yes ☐ No

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

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

☒ Yes ☐ No

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

Declare – Notice of Review

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

Declaration Name: Mrs Gail Halvorsen

Declaration Date: 15/03/2018

Reasons for notice of Review - New residential block of two flats and one house, 3 Eskbank Villas, Dalkeith

Reg. No. 17/00920/DPP

Background

Planning permission is sought for a new detached block of two flats and one house in the grounds of Happy Days nursery at 3 Eskview Villas. A pre-application enquiry - 17/00549/PREAPP - was made for the scheme and subsequent telephone conversations about the design held with Graeme King, planning officer at Midlothian Council.

Planning permission for the proposed building has only been refused on three counts, none of which object to the principle of the three dwellings on the site or the style of the proposed building. In fact in several conversations with Graeme King, we were told that Midlothian Council planning department looked favourably on the design, but had reservations about the size of the building.

We believe that the site, so near Dalkeith town centre, with all its amenities and good transport links make this an ideal site for development. The residential block is small, each of the three units only having one open-plan reception room and two bedrooms. Good bus routes are available on Eskbank Road, a three minute walk away, and it is a 15 minute walk to Eskbank Station on the Borders Railway. Kings Park is five minutes walk away.

I will address the three points of objection, all of which we believe are relatively minor issues or not as detrimental as they might appear from the report by Duncan Robertson.

Points raised in DPP report of 5/3/2018 addressed below:

DPP Point 1.

The site has insufficient space to accommodate the necessary levels of private outdoor space.

Both the front and rear gardens of the proposed development are to be shared. Therefore the cumulative area of three individual properties is not relevant in this case. Policy DP2 of the Midlothian Local Plan states that terraced houses should have a private outdoor garden space (i.e. rear garden space) of 100 sq.m., and flats 50 sq.m. per flat. The rear garden is just above 100 sq.m., above the largest required size of garden required for any of the three properties individually.

The front garden is a large (186 sq.m.) shared vehicular space that can act as a hard-surfaced garden for children's activities etc. It will be a very green space with the existing trees, mature hedge and the proposed low-level planting around the edges. It is envisaged that these homes will

be sold to people who are not looking for a large garden of which there are ample types of accommodation in Eskbank.

The site has insufficient space to accommodate the necessary levels of car parking provision.

One house and two flats would require 4.5 parking spaces to conform to Midlothian Council's parking standards - 3 spaces for the residents and 1.5 (in effect 2) for visitors. The proposal has 4 parking spaces. As stated earlier, the local public transport is excellent and cars should be discouraged. There is however normally parking provision on Eskbank Villas.

Midlothian Parking Strategy 2017 refers to the Scotland Regional Transport Partnership's Parking Management Strategy that encourages:

"Lifestyles that are less car-dependent" and says that:

"It is becoming accepted that the unlimited growth of car use cannot be tolerated".

DPP Point 2.

The external stairs would be an unattractive feature.

The stairs are barely visible from the street as they are at the furthest point from the gap in the hedge where the proposed new entrance to the property will be. Please refer to the diagram below.

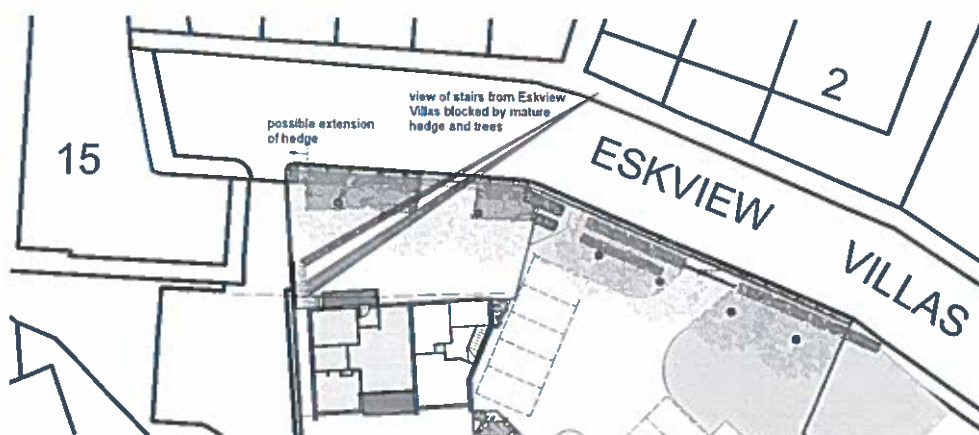


Diagram 1

They are also quite discreet because they are in the shadow of the brick boundary wall. The gap at the end of the hedge could be filled in with an extension of the hedge (see above) and pedestrians could have access through the main entrance.

The stairs are not visible from the adjacent properties due to the boundary fence / wall.

The stairs and balcony have been designed in as light a way as possible using steel as the individual members can be much smaller in steel than in for example, timber. The steel would be finished in a dark grey to match the window frames.

DPP Point 3.

The external stairs and rear balcony would create an unacceptable loss of privacy for properties in the surrounding area.

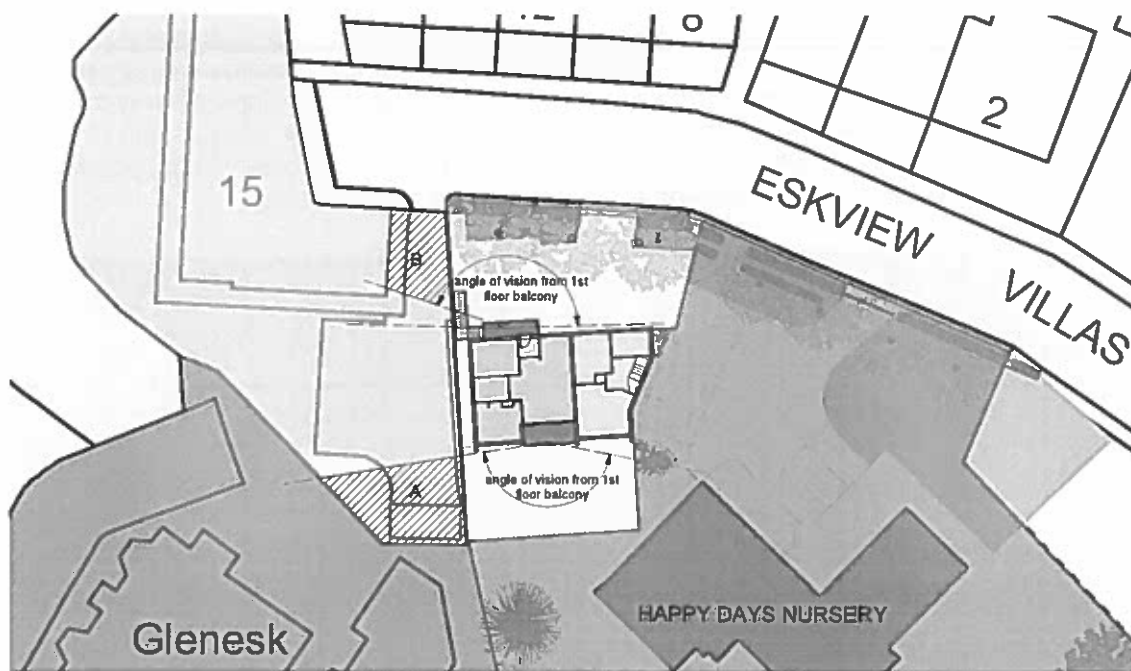


Diagram 2

FRONT - At the front of the property the view towards 15, Eskview Villas (the property shown in yellow in diagram 2) from the stairs themselves is blocked by the timber screens above the brick wall. The only property that the first floor front *balcony* overlooks is 15, Eskview Villas, but because of the screens, only a very small area of the front garden, namely the drive (shown hatched 'B'), is overlooked - see photos below.



View from stair landing towards 15, Eskview Villas showing screens.
(Photo taken from ground level + 3600mm - eye level on landing).



View from front balcony towards 15, Eskview Villas showing screens.
(Photo taken from ground level + 4650mm - eye level on balcony).

REAR BALCONY - There is one balcony at the rear - on the first floor. It was deliberately positioned in the centre of the block so that it did not adversely overlook neighbouring properties. Please refer to diagram 2. The property shown in blue is the existing Happy Days nursery that does not mind being overlooked. The property shown in yellow, 15, Eskview Villas, is only overlooked for a very small proportion of the end of the garden (shown hatched 'A') but because of the high boundary wall it is barely overlooked at all - please see photos below.



View from rear balcony towards Glenesk House - RHS cut off by wall of proposed building.
(Photo taken from ground level + 4650mm - eye level on balcony).

The property shown in purple, Glenesk House, similarly is barely overlooked at all - please see photos above.

Policy and Road Safety

Please find the points made by road safety addressed below:

1. The landscape architects' layout drawing does show a dropped kerb verge at the vehicle entrance.
2. No gates are proposed, but if this changes they will open inwards.
3. The number of parking spaces is addressed above.

Representations

The following points address the relevant objections of the neighbours:

4. Direct sunlight into the houses in Eskview Villas will not be affected. Please see the shadow diagrams in Appendix 2. The shade of the trees is much more detrimental.
5. *The materials and design are considered out of character with the properties surrounding it.*
The buildings on this side of Eskview Villas, including Glenesk House, 15 Eskview Villas and Happy Days nursery, are an eclectic mix of sizes, styles and materials between them - brick, stone, harling, tile-clad walls and full height glazed walls; slate and zinc roofs of varying pitches. The new house will be read more in context with these buildings than the houses opposite as it is set back considerably from the road and has the vegetation screening it on this side. The planners do not object to the style and materials. Please see Appendix 1.
6. There are no burdens on this property.
7. Vehicular access to the site has been calculated and considered adequate by landscape architects Rankin Fraser.
8. It is considered good practice now to have "shared spaces" for vehicles and people when the vehicles will be driving slowly - hence the reference to children playing in the front garden,
9. The way in which Happy Days use the remainder of their grounds is not a planning issue, however it should be pointed out that Happy Days have a very strong ethos of encouraging children to play outside and have won numerous awards including:
 - 2014 NMT (Nursery Management Today) UK Award - 'Best Outdoor Learning Environment'
 - 2015 NMT (Nursery Management Today) UK Award- 'Best Green Nursery in the UK'
 - 2016 NMT (Nursery Management Today) UK Award - 'Best Outdoor Learning Environment'
 - Green Flag award - Happy Days, Dalkeith 2014
 - Green Flag award - Happy Days, Hardengreen 2016

Appendix 1

Photos of adjacent properties



3 Eskview Villas: From proposed new building



From side



15 Eskview Villas: From street



From proposed stairs (if no screens)

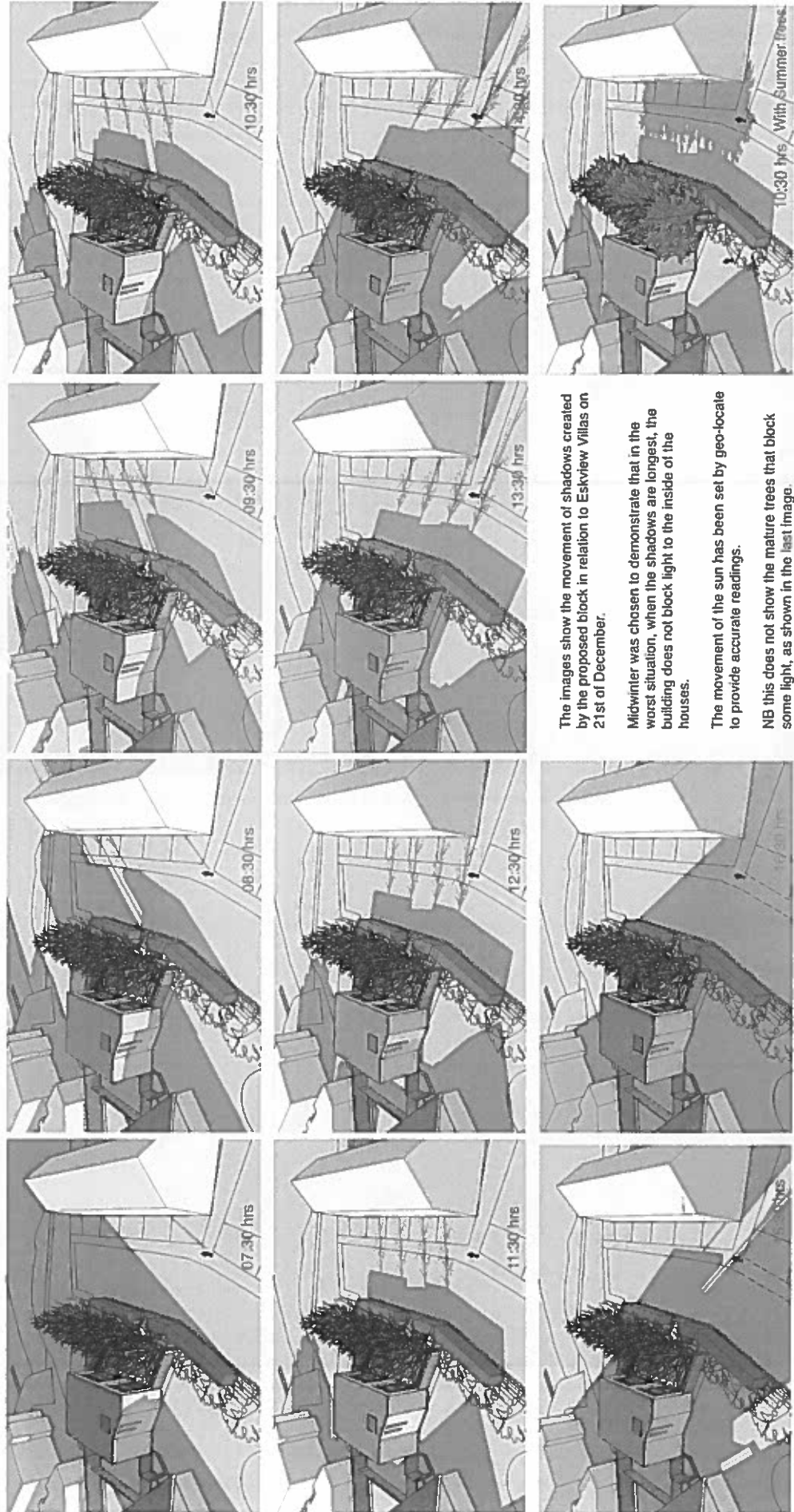
Glenesk House: From car park of 3 Eskview Villas



Appendix 2

Shadow movement 21st December

Proposed block of two flats and one house - 3, Eskview Villas



Appendix 3

Additional photos



Tree foliage blocks views of proposed building in Summer months



View on approach in Eskview Villas blocked by mature trees, even in the Winter months



View of building and entrance from Eskview Villas in Winter

Please note that this is the only view of the entire stairs. Being to the North of the building and tucked away in the corner the front garden, beside the existing boundary wall, it is nearly always in shadow. The balcony is at the top of the stairs behind the tree.

MIDLOTHIAN COUNCIL PLANNING APPLICATION DELEGATED WORKSHEET:**Case Officer:** Graeme King **Site Visit Date:** 30/11/2017**Planning Application Reference:** 17/00920/DPP**Site Address:** Land to North West of 3 Eskview Villas, Dalkeith

Site Description: The application site is an area of open ground measuring approximately 430 sqm. The site was formerly used as garden ground associated with the building at 3 Eskview Villas; the building was originally built in the mid 1980's as a house and was converted to a children's nursery in the late 1990's. The land is not presently being used by the nursery.

The surrounding area is predominantly residential. To the North the plot is bounded by a line of trees and hedges which separate it from Eskview Villas; a street of 19thC two storey terraced houses. To the West the plot is bounded by a 2.8m high brick boundary wall beyond which is a care home. To the South the site is bounded by the garden ground associated with the nursery; there is no physical boundary demarcating this boundary at present. To the East the site is bounded by car parking spaces and pedestrian circulation space associated with the nursery; at present there is a timber fence and a brick wall that run close to the Eastern edge of the plot, although the proposed plot extends beyond the line of the fence and wall. The site is within Eskbank and Ironmills Conservation Area.

Proposed Development: Erection of dwellinghouse and two flatted dwellings

Proposed Development Details: It is proposed to erect a two storey flat roofed building measuring 15.1m wide, 9.2m deep and 6.6m tall. The building will incorporate a 2 bed house and two 2 bed flats. The building will be of a modern design with a flat roof; large areas of full height glazing; and a contemporary palette of finish materials including white render, timber cladding stained mid brown and grey coloured aluminium clad doors and windows. Access to the upper flat will be via an external stair on the front elevation of the building; the upper flat will have a balcony on the rear elevation.

The house and flats will have a vehicular access from Eskview Villas which will provide access to a shared parking area, finished with concrete paving, providing 4 parking spaces. The properties will share a rear garden of 105 sqm.

Background (Previous Applications, Supporting Documents, Development Briefs):**3 Eskview Villas**

262/83 – Erection of one dwellinghouse at Glenesk Crescent, Eskbank, Dalkeith.
Consent with conditions

22/85 – Change of proposed roofing material from artificial asbestos slate to small grey concrete tile (265mm x 165mm) at Glenesk Crescent, Eskbank, Dalkeith.
Consent with conditions

585/91 – Installation of velux roof lights at 3 Eskview Villas, Eskbank. Consent with conditions

0215/97 – Change of use from dwellinghouse to a children's nursery at 3 Eskview Villas, Eskbank. Consent with conditions

0577/97 – Erection external stair at children's nursery at 3 Eskview Villas, Dalkeith. Permitted

99/00713/FUL – Installation of 2 windows at 3 Eskview Villas, Dalkeith. Consent with conditions

Surrounding area – Land owned by Eskbank House

04/00396/FUL - Erect two storey outhouse for use as garage, workshop and art studio at Eskbank House, 14 Glenesk Crescent, Eskbank. Refused

07/00337/FUL - Erection of garage, workshop and studio at Land Adjacent to 3 Eskview Villas, Eskbank. Application withdrawn

08/00297/FUL - Erection of garage, workshop and studio at Land Adjacent to 3 Eskview Villas, Eskbank. Consent with conditions

12/00340/DPP - Erection of garage, workshop and studio at Land Adjacent to 3 Eskview Villas, Eskbank. Granted consent with conditions via appeal

13/00282/DPP - Erection of garage, workshop and studio (Amendment to design approved in planning permission 12/00340/DPP) at Land Adjacent to 3 Eskview Villas, Eskbank. Consent with conditions

Surrounding area – Glenesk House (Enhanced sheltered housing)

0411/96 - Extension to existing dwellinghouse to provide 10 amenity flats, 8 high care bedsit flats, wardens flat and ancillary accommodation; the erection of 14 amenity flats, 2 group care homes and greenhouse at Glenesk, 8 Avenue Road, Dalkeith. Consent with conditions

0307/98 - Erection of two group care houses and a workshop (amendment to planning permission no 0411/96, dated 28 February 1997) at Glenesk, 8 Avenue Road, Dalkeith. Consent with conditions

01/00052/FUL - Erection of extension to provide 18 residential units for the elderly (amendment to planning permission no 0411/96, dated 28.2.97) and refurbishment and extension to existing cottage at Glenesk, 8 Avenue Road, Dalkeith. Consent with conditions

02/00021/FUL - Removal of condition 16 of planning permission 0411/96 which requires the provision of a pedestrian path between the new access road and

Melville Road in association with the construction of 14 amenity flats at Glenesk, 8 Avenue Road, Dalkeith. Consent with conditions

Consultations: The Coal Authority has considered the Coal Mining Risk Assessment submitted in support of the application and has no objection to the proposal.

The Council's **Policy and Road Safety** Manager has no objection to the principle of residential development on the site but has concerns over the limited number of parking spaces proposed. The proposal provides 4 off-road parking spaces rather than the 5 spaces required by current council parking standards. The response notes that some general on-street parking is available, however as most existing properties do not have private driveways and the adjacent children's nursery will generate a number of staff and customer vehicle trips, on-street parking can be at a premium. The current proposal would put additional pressure on the limited number of on-street spaces available.

The Council's **Head of Education** has provided information on education capacity in the surrounding area and the proposed development's forecasted impact on capacity.

Representations: The application has received 15 objections from 11 different addresses. The grounds for objection are as follows:

- Road Safety – The surrounding roads are congested and prone to speeding; the proposal will exacerbate this situation.
- Parking – The proposed development has insufficient parking and the surrounding streets do not have sufficient spare capacity to accommodate further demand for parking.
- Visibility from vehicular access – The width of the proposed access and its location, between 2 trees, will result in restricted visibility for vehicles using the access.
- Design and materials – The design and finish materials are out of character with the character of the neighbouring houses and the surrounding conservation area.
- Site layout – The development would result in buildings on both sides of Eskview Villas and this will be out of character with the surrounding area.
- Loss of daylight and sunlight – The development would result in a loss of daylight and sunlight to existing properties on Eskview Villas.
- Loss of privacy – The development would result in overlooking of existing properties on Eskview Villas and loss of privacy.
- Errors in the Design Statement – The Design Statement includes various factual errors including using incorrect names for local streets.
- Alternative uses for site – The site would be better used as land associated with the nursery; this would enhance the learning experience of the children.
- Neighbour notification – Additional neighbour notification should have been carried out.

- Impact on setting of Listed Building – The development would have a detrimental impact on the setting of the category A listed building at Eskbank House.
- Restrictive burden – The land was formerly associated with Eskbank House. When the land was sold in the late 1970's/early 1980's the sale was subject to a restrictive burden which restricted the number of houses that could be built to one house.

Due to the number of objections received (and the fact that the application could only be approved subject to the applicant entering onto a suitably worded legal agreement) Council Members were notified of the intention to issue a decision. The application was not called to planning committee.

Relevant Planning Policies: The adopted development plan is the **Midlothian Local Development Plan 2017 (MLDP)**. The following policies are relevant to this application:

Policy STRAT2 Windfall Housing Sites advises that within the built-up areas, housing development on non-allocated sites and including the reuse of buildings and redevelopment of brownfield land, will be permitted provided that: it does not lead to the loss or damage of valuable public or private open space; it does not conflict with the established land use of the area; it respects the character of the area in terms of scale, form, design and materials; it meets traffic and parking requirements; and it accords with other relevant Local Plan policies and proposals.

Policy DEV2: Development within the Built-up Area states that development will not be permitted within existing and future built-up areas where it is likely to detract materially from the existing character or amenity of the area.

Policy DEV6: Layout and Design of New Development sets out design guidance for new developments.

Policy ENV19: Conservation Areas states that development will not be permitted within or adjacent to conservation areas where it would have any adverse effect on its character or appearance.

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

Principle of development

The application site is situated within the built-up area of Dalkeith and Eskbank. Policies DEV2 and STRAT2 support the principle of development within the built-up area subject to the details of the proposal being acceptable. The broad principle of residential development at this location is acceptable. The overall acceptability of the proposal must be determined via consideration of the detail of the proposal.

Some of the representations have made reference to the fact that the land now known as 3 Eskview Villas, which includes the application site, was for many years an orchard associated with Eskbank House; and that when it was sold off in the late 1970's/early 1980's the deeds contained a restrictive burden restricting development to one house. The enforcement of burdens in title deeds is a legal matter rather than a planning matter. The original planning permission (application reference 0262/83) for the property now known as 3 Eskview Villas does not include any planning conditions restricting the number of units on the site. The applicant's agent has been made aware of this issue and has been advised that it would be beneficial to seek advice on this matter from a solicitor.

Parking and Road Safety

The proposed development includes a parking layout with 4 car parking spaces. The Council's Parking Standards specify that private 2 bed properties, such as those proposed in the application, should be provided with 1 private space allocated to the individual property and 0.5 communal visitor spaces per unit. A development of three 2 bed units should have a minimum of 4.5 spaces; in such instances it is Midlothian Council's standard practice to round up the minimum provision so that a development of the scale proposed should be provided with 5 spaces (3 allocated spaces and 2 communal visitor spaces). While it is acknowledged that the surrounding streets benefit from unrestricted on-street parking, anecdotal evidence indicates that there is already significant demand for the existing provision. Approving a scheme without adequate levels of parking would exacerbate a known local issue.

A number of representations have made reference to the proposed vehicular access arrangements from Eskview Villas. It is proposed that access to the development will be formed in the space between two existing trees; the access will be 4.5m wide. The arrangement is similar to the existing arrangement that serves the nursery at 3 Eskview Villas, although that access is slightly narrower at 4m wide. The Council's Policy and Road Safety Manager has not raised any objection to the detail of the access arrangements and the Council therefore considers the access arrangements to be acceptable.

Amenity of proposed development

The proposed development will have a shared area of courtyard parking at the front of the building. The proposed site plan refers to this space as "hard landscaped shared front garden" and the supporting Design Statement refers to it as "a shared vehicular space that can act as a hard-surfaced garden for children's activities etc."; despite these comments it clear that the "front garden" would function only as parking space and as an overshadowed North facing space it cannot be considered as amenity space.

It is proposed that the house and the two flats will share a rear garden space of 105 sqm. Policy DEV6 of the MLDP states that "private open space should be provided on a scale appropriate to the relevant dwelling type"; further detail on the space standards for private open space will be provided in the Supplementary Guidance on Quality of Place that is currently under preparation. The former Midlothian Local Plan

2008 specified that 2 bed semi-detached houses should have a minimum private rear garden space of 110 sqm and terraced houses should have a private rear garden area of at least 100 sqm. Flats should be provided with outdoor space equivalent to half of the terraced house provision; in some cases this could be communal space although for most cottage flat scale developments the garden space is individually allocated. These space standards have been successfully incorporated within developments throughout Midlothian for more than 10 years; it is likely that the Quality of Space Supplementary Guidance will carry these standards on. It is clear from the proposed site plan that the 3 proposed units will have a provision of outdoor space that is significantly below the standards expected by Midlothian Council; this would result in a development with a sub-standard level of amenity for the occupants.

Design, Finish Materials and Character of the area

There are modern extensions in the surrounding area, both at the neighbouring care home and at various dwellinghouses; and these have successfully added modern development to the area which has respected the scale and form of the area while being representative of the time in which they were built. The proposed building is an obviously modern flat roofed design; its form reflects the scale and character of the blocks of 2 storey terraces that are a feature of the surrounding area. It utilises a simple palette of contemporary finish materials that have been successfully used in historic urban areas throughout Scotland. The design seeks to create a well detailed modern design that does not mimic the exact design and finish of the surrounding buildings but instead creates a deferential contrast to the buildings on the opposite side of Eskview Villas.

The intention of a crisp modern design is undermined by the access arrangements for the upper flat which are via an external stair formed from metal. The stair would be an incongruous feature that would detract from the character and appearance of the principal elevation and the surrounding streetscape. While it is acknowledged that there is an existing galvanised steel external at 3 Eskview Villas this stair is an unfortunate addition to the building that detracts from the character of the surrounding area. The existing stair should not be regarded as a precedent to justify the proposed external stair but instead as a clear demonstration of why such an approach would be unacceptable.

A number of representations have referred to the fact that the various terraces in the surrounding area (2 on Eskview Villas, 2 on Glenesk Crescent and 1 on Avenue Road) are single sided and do not face towards houses on the opposite side of the road. While this is largely the case, although the terrace at Avenue Road does in part face towards housing of a similar age; it does not appear to be a conscious design decision. The different terraces reflect the piecemeal nature of development in the area, with the terraces being formed at a later date on plots that were no longer considered desirable for the detached dwellinghouses that originally characterised the area.

Amenity of neighbouring properties

As is noted above the proposed development would include a prominent external stair on the front elevation of the building. In addition there would also be a balcony on the rear elevation of the building. Both of these features will create the potential for significant overlooking of existing neighbouring properties and would result in an unacceptable loss of amenity for existing residents.

The proposed building will be due South of the houses at 8 to 16 Eskview Villas; this could potentially result in a loss of sunlight to the existing houses. The widely recognised industry standard for assessing the impact of new development on daylight and sunlight for existing properties is the BRE Trust's publication "Site Layout Planning for Daylight and Sunlight, A Guide to Good Practice". The Guide states that a simple rule of thumb for determining whether or not a proposed building will result in a significant loss of sunlight or daylight to an existing house facing within 90 degrees of South is to carry out a 25 degree test. A section drawing of the existing and proposed buildings is used; if a line at 25 degrees to the horizontal is projected from the mid-point of the window being assessed, the window will receive sufficient daylight and sunlight if the line passes above the highest point of the proposed building. A 25 degree test for the proposal clearly indicates that the existing houses at Eskview Villas will not be impacted upon by the proposed building, although the existing trees may have an impact on them.

Other matters raised in representations

Neighbour notification was sent to all notifiable properties within 20 metres of the boundary of the application site. The neighbour notification complies with the standard specified by the Scottish Government in the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013.

Developer Contributions

For developments of 3-9 units the first two units are not required to contribute towards developer contributions. A development of the proposed scale would incur developer contributions for 1 unit. As the recommended decision is for refusal of the application draft Heads of Terms have not been prepared.

Recommendation: Refuse Planning Permission

1. The site has insufficient space to accommodate the necessary levels of private outdoor space and the necessary levels of car parking provision. The proposal is therefore contrary to policies STRAT2, DEV2 and DEV6 of the adopted Midlothian Local Development Plan 2017.
2. The external stairs would be an unattractive feature that would have a detrimental impact on the character of the surrounding area. The proposal is therefore contrary to policies DEV2 and ENV19 of the adopted Midlothian Local Development Plan 2017.
3. The external stairs and rear balcony would create an unacceptable loss of privacy for properties in the surrounding area. The proposal is therefore

contrary to policy DEV2 and DEV6 of the adopted Midlothian Local Development Plan 2017.



Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

Reg. No. 17/00920/DPP

Halvorsen Architects
Mountskip House
Gorebridge
EH23 4NW

Midlothian Council, as Planning Authority, having considered the application by Mrs Christina Walters, 127 High Street, Dalkeith, EH22 1BE, which was registered on 27 November 2017 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

Erection of dwellinghouse and two flatted dwellings; formation of access car parking and associated works at Land To North West Of 3, Eskview Villas, 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	HD ESK01 1:1250	27.11.2017
Block Plan	HD ESK02 1:500	27.11.2017
Site Plan (Existing)	HD ESK 03 1:100	27.11.2017
Site Plan (Proposed)	HD ESK 04 1:100	27.11.2017
Proposed Floor Plan	HD ESK 05A 1:100	27.11.2017
Proposed Floor Plan	HD ESK 06A 1:100	27.11.2017
Roof Plan	HD ESK 07 1:100	27.11.2017
Proposed Elevations	HD ESK 08 1:100	27.11.2017
Proposed Elevations	HD ESK 09A 1:100	27.11.2017
Proposed Elevations	HD ESK 10A 1:100	27.11.2017
Proposed Elevations	HD ESK 11 1:100	27.11.2017
Root Protection Details	1712.L.G(92)003 1:100	27.11.2017
Access Statement		27.11.2017
Coal Mining Risk Assessment		27.11.2017
Design Statement		27.11.2017
Other Statements (Landscaping)		27.11.2017

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

1. *The site has insufficient space to accommodate the necessary levels of private outdoor space and the necessary levels of car parking provision. The proposal is therefore contrary to policies STRAT2, DEV2 and DEV6 of the adopted Midlothian Local Development Plan 2017.*
2. *The external stairs would be an unattractive feature that would have a detrimental impact on the character of the surrounding area. The proposal is therefore contrary to policies DEV2 and ENV19 of the adopted Midlothian Local Development Plan 2017.*

3. *The external stairs and rear balcony would create an unacceptable loss of privacy for properties in the surrounding area. The proposal is therefore contrary to policy DEV2 and DEV6 of the adopted Midlothian Local Development Plan 2017.*

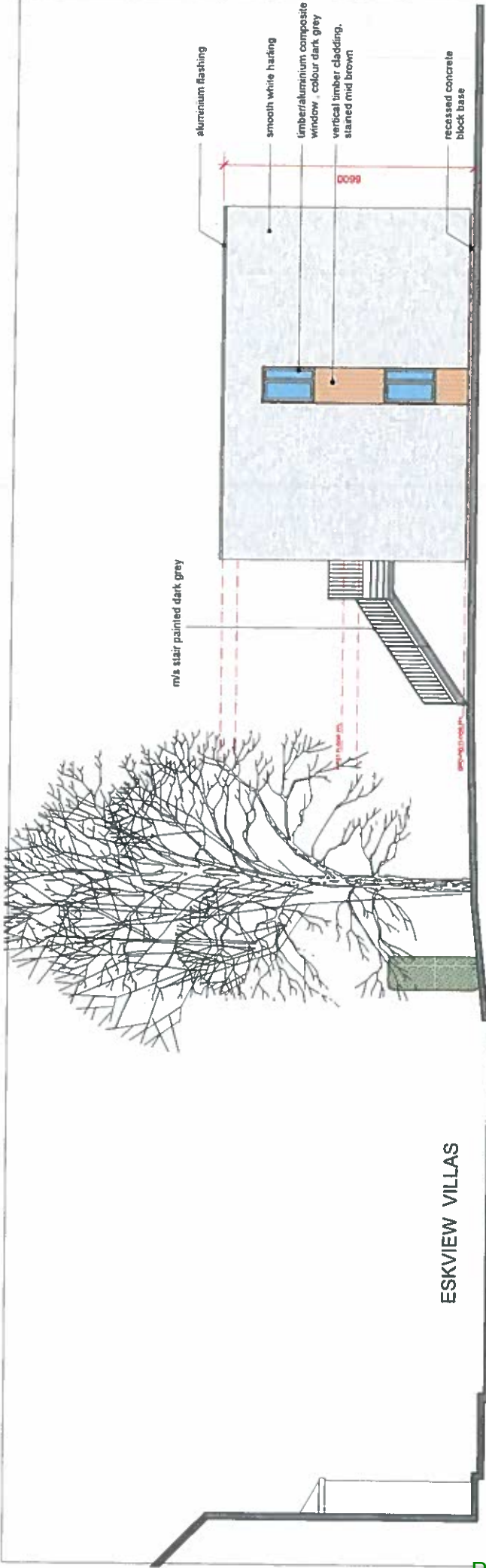
Dated 5 / 3 / 2018



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



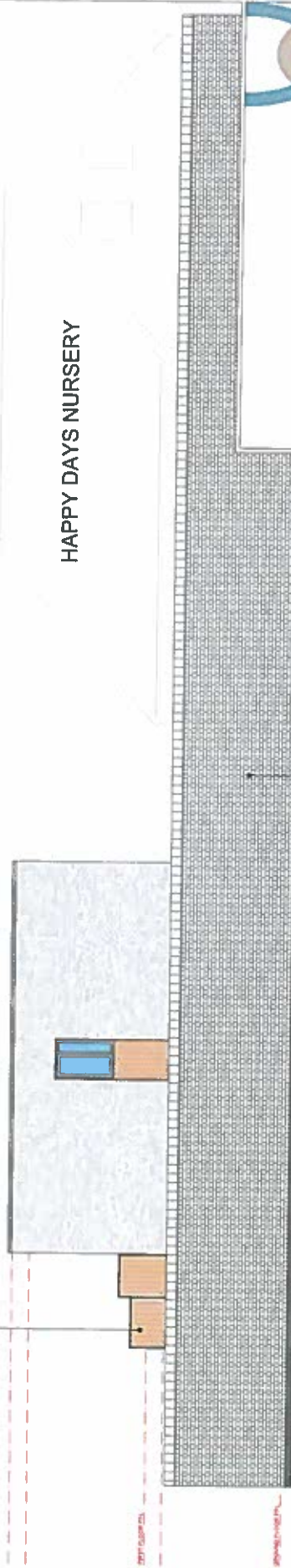
ESKVIEW VILLAS



ELEVATION WITHOUT BOUNDARY WALL

HAPPY DAYS NURSERY

screen to adjacent garden:
vertical timber cladding, stained mid brown
+ m/s frame painted dark grey



ELEVATION WITH BOUNDARY WALL

Halvorsen

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www.halvorsen_architects.co.uk

Project title	NEW FLATS, ESKBANK	Ref.	HD ESK FL
Drawing title	WEST ELEVATION	Date	15/11/17
Drawing no.	HD ESK 08	Purpose	PLANNING
		Scale	1:100



 Halvorsen t. 07956247853 e. info@halvorsenarchitects.co.uk www.halvorsen_architects.co.uk		Project title	Ref
NEW FLATS, ESKBANK		HD ESK FL	
Drawing title		Date	
NORTH ELEVATION		15/11/17	
Drawing no.		Purpose	Scale
HD ESK 09 A		PLANNING	1:100



 Halvorsen t: 07956247858 e: info@halvorsenarchitects.co.uk www.halvorsen_architects.co.uk		Ref	HD ESK FL
Project title	NEW FLATS, ESKBANK	Date	15/11/17
Drawing title	SOUTH ELEVATION	Scale	1:100
Drawing no.	HD ESK 10 A	Purpose	PLANNING

