

Notice of Review: 41-43 Main Street, Gorebridge

Determination Report

Report by Chief Officer Place

1 Purpose of Report

- 1.1 The purpose of this report is to provide a framework for the Local Review Body (LRB) to consider a 'Notice of Review' for the change of use from post office (class 1 – shop) to flatted dwelling (sui generis); extension to building; installation of balustrade and stairs; installation of roof-lights; formation of window openings; re-rendering and replacement rain water goods at 41-43 Main Street, Gorebridge.

2 Background

- 2.1 Planning application 19/01022/DPP for the change of use from post office (class 1 – shop) to flatted dwelling (sui generis); extension to building; installation of balustrade and stairs; installation of roof-lights; formation of window openings; re-rendering and replacement rain water goods at 41-43 Main Street, Gorebridge was refused planning permission on 7 February 2020; 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.
- 2.3 41-43 Main Street, Gorebridge is a listed building. Separate to the planning application the subject of this review, listed building consent 19/01023/LBC for the demolition of existing extension; extension to building; installation of balustrade and access stairs; installation of roof-lights; formation of windows openings; re-rendering and installation of replacement rain water goods and internal alterations was granted consent on 7 February 2020.

3 Supporting Documents

- 3.1 Attached to this report are the following documents:
- A site location plan (Appendix A);
 - A copy of the notice of review form and supporting statement (Appendix B). Any duplication of information is not attached;
 - A copy of the case officer's report (Appendix C);
 - A copy of the decision notice, excluding the standard advisory notes, issued on 7 February 2020 (Appendix D); and

- A copy of the key plans/drawings (Appendix E).
- 3.2 The full planning application case file and the development plan policies referred to in the case officer's report can be viewed online via www.midlothian.gov.uk

4 Procedures

- 4.1 In accordance with procedures agreed by the LRB, the LRB by agreement of the Chair:
- Have determined to consider a visual presentation of the site instead of undertaking a site visit because of the COVID-19 pandemic restrictions; and
 - Have determined to progress the review by written submissions.
- 4.2 The case officer's report identified that there were two consultation responses and four representations received. As part of the review process the interested parties were notified of the review. Nine additional comments have been received objecting to the application (these comments include representations from parties who did not make comment during the determination of the planning application). All comments can be viewed online on the electronic planning application case file.
- 4.3 The next stage in the process is for the LRB to determine the review in accordance with the agreed procedure:
- Identify any provisions of the development plan which are relevant to the decision;
 - Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies;
 - Consider whether or not the proposal accords with the development plan;
 - Identify and consider relevant material considerations for and against the proposal;
 - Assess whether these considerations warrant a departure from the development plan; and
 - State the reason/s for the decision and state any conditions required if planning permission is granted.
- 4.4 In reaching a decision on the case the planning advisor can advise on appropriate phraseology and on appropriate planning reasons for reaching a decision.
- 4.5 Following the determination of the review the planning advisor will prepare a decision notice for issuing through the Chair of the LRB. A copy of the decision notice will be reported to the next LRB for noting.
- 4.6 A copy of the LRB decision will be placed on the planning authority's planning register and made available for inspection online.

5 Conditions

5.1 In accordance with the procedures agreed by the LRB at its meeting of 13 June 2017, and without prejudice to the determination of the review, the following conditions have been prepared for the consideration of the LRB if it is minded to uphold the review and grant planning permission.

1. Prior to the commencement of development, the following details shall be submitted and approved in writing by the Planning Authority:
 - a) Details and a sample of all external materials;
 - b) Plans to a scale of 1:20 showing details of the design of the new windows, including dimensions and cross sections of the windows;
 - c) Details of the materials of any areas of hardstanding; and
 - d) Details of the design, dimensions, materials and colour finish of all new walls, gates, fences or other means of enclosure.

Reason: *These details were not submitted with the application; in order to ensure that the development hereby approved does not detract from the character and appearance of this listed building and surrounding conservation area.*

2. The details of the windows required by condition 1b) shall include genuine timber astragals, which are not to be inserted between or planted on the panes of glass unless otherwise agreed in writing by the Planning Authority.
3. The proposed slate vent on drawing number 1906/09A is not approved: prior to the commencement of development, details of an alternative means of ventilating this area shall be submitted to and approved by the Planning Authority.

Reason for conditions 2 and 3: *To protect the character and appearance of the existing listed building and surrounding conservation area and ensure this maintains the visual quality of this sensitive site.*

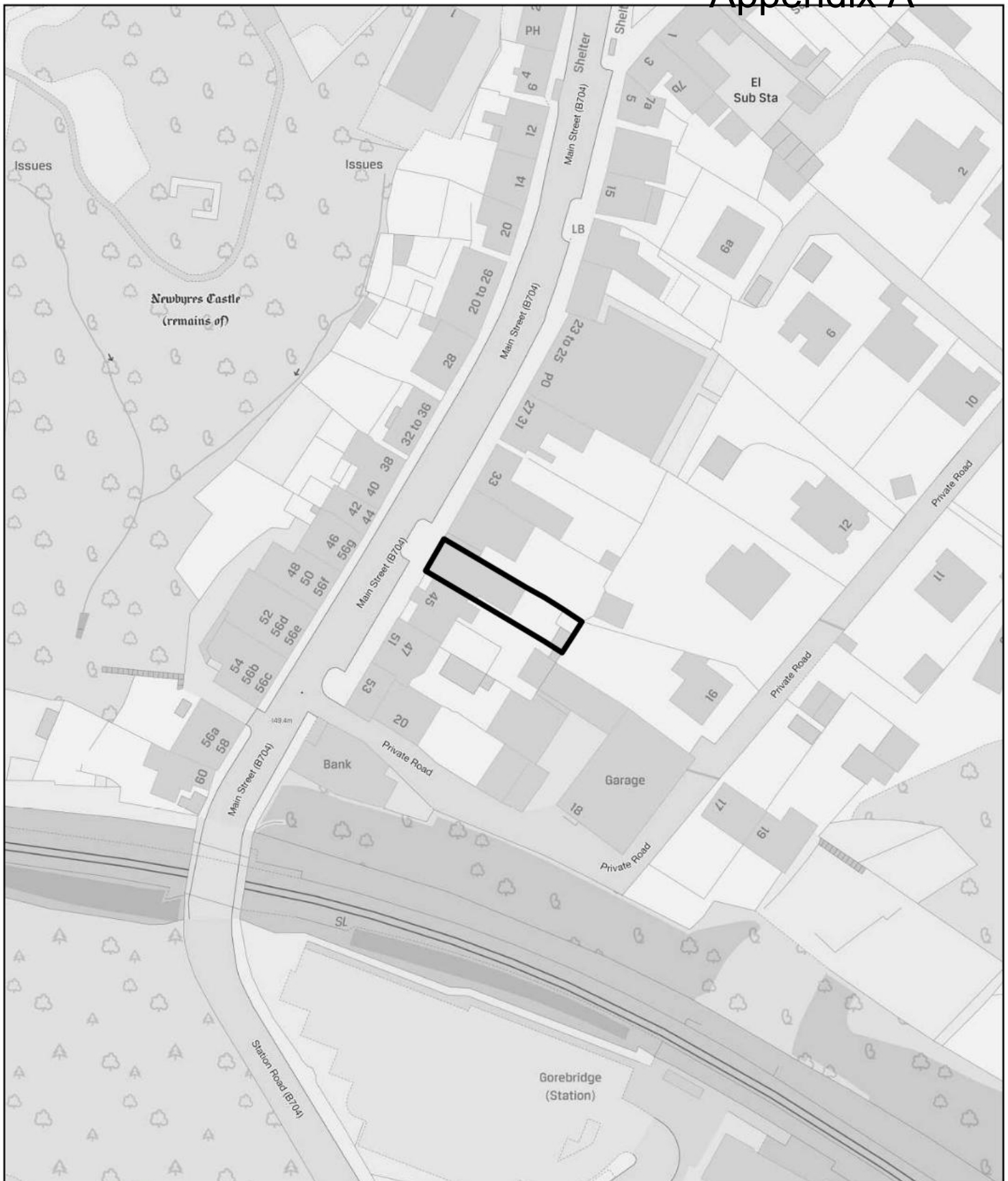
6 Recommendations

- 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: 18 March 2021

Report Contact: Peter Arnsdorf, Planning Manager
peter.arnsdorf@midlothian.gov.uk

Background Papers: Planning application 19/01022/DPP available for inspection online.



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

Change of use from post office (class 1) to flatted dwelling (sui generis); extension to building; installation of balustrade and stairs; installation of rooflight; formation of window openings; re rendering and replacement rain water goods at 41 - 43 Main Street, Gorebridge, EH23 4BX

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File No: 19/01022/DPP

Scale: 1:1,000



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 100253125-001

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

Applicant or Agent Details

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

☐ Applicant ☒ Agent

Agent Details

Please enter Agent details

Company/Organisation:	<input type="text" value="Rick Finc Associates Ltd"/>		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	<input type="text" value="Stuart"/>	Building Name:	<input type="text" value="Melford House"/>
Last Name: *	<input type="text" value="Szylak"/>	Building Number:	<input type="text" value="3"/>
Telephone Number: *	<input type="text" value="01312266166"/>	Address 1 (Street): *	<input type="text" value="Walker Street"/>
Extension Number:	<input type="text"/>	Address 2:	<input type="text"/>
Mobile Number:	<input type="text"/>	Town/City: *	<input type="text" value="Edinburgh"/>
Fax Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
		Postcode: *	<input type="text" value="EH3 7JY"/>
Email Address: *	<input type="text" value="stuart@rickfincassociates.com"/>		

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

☒ Individual ☐ Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *
Other Title:	<input type="text"/>	Building Name: <input type="text" value="Summerside"/>
First Name: *	<input type="text" value="David"/>	Building Number: <input type="text"/>
Last Name: *	<input type="text" value="Klan"/>	Address 1 (Street): * <input type="text" value="Old Dalkeith Road"/>
Company/Organisation	<input type="text"/>	Address 2: <input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: * <input type="text" value="Dalkeith"/>
Extension Number:	<input type="text"/>	Country: * <input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: * <input type="text" value="EH22 1RT"/>
Fax Number:	<input type="text"/>	
Email Address: *	<input type="text" value="stuart@rickfincassociates.com"/>	

Site Address Details

Planning Authority:	<input type="text" value="Midlothian Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="41-43 MAIN STREET"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="GOREBRIDGE"/>
Post Code:	<input type="text" value="EH23 4BX"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="661385"/>	Easting	<input type="text" value="334482"/>
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Description of Proposal

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

Change of use from post office (class 1) to flatted dwelling (sui generis); extension to building; installation of balustrade and stairs; installation of rooflight; formation of window openings; re rendering and replacement rain water goods.

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 see separate stand alone 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)

Original Application Form, Architectural Drawings, Planning Statement, Design and Access Statement, Decision Notices, Officer's Report. Notice of Review Statement with updated Sales/Letting particulars.

Application Details

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

19/01022/DPP

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

12/12/2019

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

07/02/2020

Review Procedure

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

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

☒ Yes ☐ No

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

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

☒ Yes ☐ No

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

☐ Yes ☒ No

Checklist – Application for Notice of Review

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

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

☒ Yes ☐ No

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

☒ Yes ☐ No

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

☒ Yes ☐ No ☐ N/A

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

☒ Yes ☐ No

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

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

☒ Yes ☐ No

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

Declare – Notice of Review

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

Declaration Name: Mr Stuart Szylak

Declaration Date: 06/05/2020

2020

NOTICE OF REVIEW

19/01022/DPP



41 - 43 MAIN STREET, GOREBRIDGE

SUPPORTING STATEMENT

**41 - 43 MAIN STREET
GOREBRIDGE
EH23 4BX**

**FULL PLANNING PERMISSION FOR CHANGE OF USE FROM POST OFFICE
(CLASS 1) TO FLATTED DWELLING (SUI GENERIS); EXTENSION TO
BUILDING; INSTALLATION OF BALUSTRADE AND STAIRS; INSTALLATION
OF ROOFLIGHT; FORMATION OF WINDOW OPENINGS; RE RENDERING AND
REPLACEMENT RAIN WATER GOODS**



**RFA DEVELOPMENT CONSULTANTS
ON BEHALF OF DAVID KLAN**

MAY 2020

**RFA Development Planning Ltd
3 Walker Street
Edinburgh
EH3 7JY
Tel 0131 226 6166
Email: rick.finc@rickfincassociates.com.**

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Executive Summary

A Full Planning Application, together with a related Listed Building Consent Application, was submitted to Midlothian Council for the proposals. The proposals were described as:

Change of use from post office (class 1) to flatted dwelling (sui generis); extension to building; installation of balustrade and stairs; installation of rooflight; formation of window openings; re rendering and replacement rain water goods.

The application for Listed Building Consent was GRANTED.

The applicant is aggrieved at the decision to refuse planning permission for the change of use from a long term vacant commercial unit to a residential property. The property, the former Gorebridge Post Office, **has not been in commercial use for almost 18 years** and **has not contributed to the vitality or vibrancy of the Town Centre since 2002**. Its change of use to a residential unit will not therefore harm the existing retail or service provision within the Town Centre.

The Reason for Refusal indicates the proposals would be contrary to Policy TCR 1, which states '*conversion of ground level retail space to residential uses will not be permitted*'. Supplementary Guidance does afford some flexibility to this rigid policy statement. However, the Case Officer stated that the decision to refuse the application was based on the lack of '*any adequate material justification*'.

The Planning Statement submitted in support of the application provided a compelling case for the change of use. It also provided the information requested in Appendix 2 of the relevant Supplementary Guidance. By way of an update, the ground floor commercial premises has now been **on the market for rent for OVER 12 MONTHS**, with very little interest. This is a similar story for other commercial units in Gorebridge, clearly demonstrating there is very little appetite by operators to open and run retail premises in these locations.

There is little, if any, prospect of the property being rented or sold for a retail or commercial use. Being used for residential purposes is guaranteed, subject to this planning permission. There is significant Government and Local Authority support for residential uses in town centres. The Council's strict approach to not allowing the change of use of this ground floor property is stifling the opportunity to realise a whole range of other wider benefits.

A residential use is in keeping with the scale and character of the surrounding village and Town Centre and will not have a detrimental impact on residential amenity, historic assets, or the existing vitality or viability of the Town Centre.

It is respectfully requested that the LRB considers the evidence and merits of this change of use and grants planning permission.

1 Introduction

Purpose of this Statement

- 1.1 The applicant is aggrieved by the decision to refuse permission for the proposed development at 41-43 Main Street, Gorebridge (19/01022/DPP) and requests the Planning Authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997. This request has been made within three months beginning with the date of the decision notice.
- 1.2 The purpose of this Supporting Statement is to assist the Local Review Body (LRB) in the understanding, assessment and determination of the application. The application was made by Mr David Klan (hereafter referred to as the applicant). The applicant is proposing to change the use of a ground floor premises to a flatted dwelling along with associated alterations, together with alterations to an existing first/second floor flat above.
- 1.3 This Statement provides a summary of the application submission. It is not, however, a substitute for the important supporting documents and all supporting documents should be read in their entirety. It addresses comments made within the Case Officer's Delegated Worksheet, addresses the key policy issues and highlights material considerations in respect of the Reasons for Refusal. It presents a convincing and compelling case for permitting the proposed development and change of use.
- 1.4 **This Statement focusses primarily on the main point of contention, the change of use.** It is hoped that the LRB concurs with the Case Officer and Lead Officer's opinion that all design and neighbouring amenity matters are acceptable. This then will allow the LRB to focus on the main point of contention, changing the ground floor property from a commercial unit to residential dwelling.

Background

- 1.5 The building is category C listed and sits within the Gorebridge Conservation Area and Gorebridge Town Centre.
- 1.6 Midlothian Council has confirmed in the Delegated Worksheet that considerations such as design, neighbouring amenity, impact on listed building and impact on Conservation Area are acceptable. A listed building consent application was submitted in tandem with this application (19/01023/LBC) and consent was GRANTED on 07/02/20.
- 1.7 The Full Planning Application was supported by:
- Location, Site, Elevation and Floors Plans;

- Planning Statement; and
- Design and Access Statement.

1.8 The accompanying Planning Statement included appendices which provided:

- A Photographic Record of Internal Condition (Ground Floor); and
- Agent Opinion on Retail/Commercial Supply and Demand in Gorebridge.

Reasons for Refusal

1.9 The decision notice issued for the application noted that it was refused for the following reason:

‘The proposed change of use would result in the conversion of a ground level retail space to residential use and would therefore be contrary to Policy TCR1 of the adopted Midlothian Local Development Plan 2017 and the adopted Supplementary Guidance for Food and Drink and Other Non-retail Uses in Town Centres without any adequate material justification.’

The reason for refusal is considered and rebutted in the following section of this statement.

2 Grounds for Review

Introduction

- 2.1 This section of the Statement identifies the key issues which must be addressed when reviewing the decision to refuse application 19/01022/DPP. Reference will only be made to the principle of changing the use of the premises as all other elements regarding design, neighbouring amenity and impact on historic assets are considered acceptable to the Council.
- 2.2 In general, it is argued that the Case Officer's decision, specifically in relation to Policy TCR 1, showed no flexibility, contrary to the Planning Act and to Supplementary Guidance. The decision did not appear to take into consideration supply and demand for commercial property in this area, nor development economics. It is considered that these should be important material considerations in this case.

Material Considerations

National Legislation

- 2.3 Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended) specifies that determination of planning applications '*shall be made in accordance with the Development Plan unless material considerations indicate otherwise*'. It is supplemented by Section 37(2) which states that '*In dealing with an application the planning authority shall have regard to the provisions of the Development Plan as far as material to the application and **any other material considerations***'.
- 2.4 Section 25 therefore indicates that strict adherence to the detail of local development plan policy is not a requirement and that, should a justification be made for a proposal which does not comply, the planning authority can approve it as a departure from the local development plan.

Midlothian Local Development Plan 2017

- 2.5 The policy used to assess the principle of the change of the change of use is Policy TCR 1 Town Centres. One main purpose of Policy TCR 1 is to avoid any detracting from the range of services offered within a town centre. The Delegated Worksheet states that the Council seeks to protect and enhance Midlothian's Town Centres and the range of services provided to local communities. It is accepted by the applicant that this is an underlying objective of Policy TCR 1.
- 2.6 With the objective of Policy TCR 1 in mind it must be recognised that **the property in question has not offered any service to the community for the last 18 years**. This means that it has not contributed anything to the vitality or viability of the Town Centre for a lengthy period of time.

The fact that the proposal will bring a long-term vacant premises back into active use and improve town centre activity and footfall should be taken into consideration.

- 2.7 Contrary to legislation and guidance, and indeed Midlothian Council's own Supplementary Guidance, Policy TCR 1 presents an inflexible statement indicating '*conversion of ground level retail space to residential uses will not be permitted*'. However, the Council's Supplementary Guidance does afford some flexibility to this rigid policy statement.
- 2.8 'Planning Circular 3/2013: Development Management Procedures' states that the basic question which must be asked in assessing a proposal is **whether the proposal would unacceptably affect the amenity and existing use of land and buildings** which ought to be protected in the public interest. Whilst the wording of Policy TCR 1 is clear in stating that it does not allow the conversion of ground floor retail space to residential, Government guidance states **there must be flexibility in all Council determinations and a balanced view taken**. Given the length of time that the premises has been left vacant it cannot be argued that allowing it to remain this way will be of more benefit to the amenity of Gorebridge Town Centre.
- 2.9 The Policy text also states that "*change of use from retail will only be permitted if the subsequent use is one which contributes positively to footfall in, and the vitality of, the town centre*". Whilst this statement is intended to relate to change to other Class 1, 2 or 3 uses it could equally apply to a residential use in this case. For the last 18 years there has been **zero footfall** associated with the subject property. A change to residential use would clearly contribute positively and comply with this element of the policy.

Food and drink and other non-retail uses in Town Centres - Supplementary Guidance

- 2.10 This Supplementary Guidance states at the outset that "*planning's role in town centres should be proactive and reasonably flexible*". The applicant agrees with this statement.
- 2.11 The objective of the Supplementary Guidance is to encourage activities which attract significant numbers of people including shopping, commercial leisure uses, offices, community and cultural facilities. The Guidance also emphasises that having residential properties in town centres can contribute to their vitality.
- 2.12 It states that the conversion of ground level retail space to residential uses will not be supported "*as this would detract from the range of services offered within the town centre*". However, as discussed throughout this Statement, **the property in question does not currently offer a service or facility and hasn't done for 18 years**. It contributes nothing to the Town Centre economy and its change of use will have no impact at all on the existing provision and range of services offered.
- 2.13 With regards to 'change of use' from retail the Supplementary Guidance notes that the Council

will generally expect a retail unit to have been marketed for **no less than 12 months** before it can be demonstrated that there is no realistic prospect of it continuing in retail use. The property in question has indeed been marketed for rent by an agent for over 12 months, with no success (see Appendix 1 to this Statement for details).

2.14 Appendix 2 of the Supplementary Guidance indicates that applications for the change of use from retail to other uses should be accompanied by (*inter alia*):

- Details of how long the unit has been vacant;
- Details of how this has been marketed, including signage, medium, frequency and if target marketing has taken place; and
- Details if there have been interested parties and for what uses/purposes.

2.15 This evidence is provided within the original Planning Statement, but in summary, the property has been vacant and not in commercial use for 18 years. It is currently being marketed online for ground floor Class 1 retail premises by Abbey Forth Property Management and has been since April 2019. It is also featured on Rightmove. Only two enquiries have been forthcoming during this time, none of which led to a viewing. Low footfall and inappropriate retail window space were cited as main issues.

<https://abbeyforth.co.uk/property/486/?propInd=L&page=1&pageSize=10&orderBy=Price&orderDirection=DESC&toWn=5>).

<https://www.rightmove.co.uk/commercial-property-to-let/property-66382458.html>

2.16 The Case Officer cites the lack of ‘adequate material justification’ as the reason why a positive decision could not be made on the change of use. It is not made clear what would constitute ‘adequate material justification’, but it is considered by the applicant that it should specifically relate to the information requested in Appendix 2 of the Supplementary Guidance. This information was indeed provided and has been updated to accompany this Notice of Review exercise (see Appendix 1). The property has now been marketed for over 12 months with no real interest.

Support for Residential Uses in Town Centres

2.17 There is little, if any, realistic prospect of the property being rented or sold for a retail or commercial use. Being used for residential purposes is guaranteed, subject to this planning permission. There is significant Government and Local Authority support for residential uses in town centres. The Council’s strict approach to not allowing the change of use of this ground floor property (last used as retail some 18 years ago) is stifling the opportunity to realise a whole range of other wider benefits.

2.18 With regard to this some other extracts from the Supplementary Guidance which are worthy of

note in this case are as follows.

“The Scottish Government’s Town Centre Action Plan, which was its response to the National Review of Town Centres carried out by an External Advisory Group in 2012, sets out six key themes to support town centres: [the first being] Town Centre Living: To encourage more people to live in town centres”

“Residential accommodation within town centres is also encouraged as this will help the vitality and viability throughout the day and into the evening”

“The promotion of residential properties in town centres can add to the variety which improves the vitality of the centres, including in the evenings. This combination of uses would attract and maintain visitors whilst complementing a constant retail element.”

Summary

- 2.19 The ground floor property, the former Gorebridge Post Office, has not been in commercial use for almost 18 years and has not contributed to the vitality or vibrancy of the Town Centre since 2002. Its change of use to a residential unit will not therefore harm the existing retail or service provision within the Town Centre.
- 2.20 Bringing the ground floor property back into use would secure the long term future of the building and safeguard a local feature building. Use as a commercial premises may well allow compliance with a very rigid planning policy, but it must be acknowledged that the building has been empty for many many years. It has been marketed for commercial use for over a year, with no success. It should be evident that, given the size and location of the premises, and the length of time that the premises has been vacant, there is little, if any, prospect of a commercial operator being found.
- 2.21 Although the prospect of being used as a retail/commercial use is unlikely, the prospect of being used for residential purposes is guaranteed, subject to this planning permission. There is significant Government and Local Authority support for residential uses in town centres. The Council’s strict approach to not allowing the change of use of this ground floor property is stifling the opportunity to realise a whole range of other wider benefits.
- 2.22 A residential use is in keeping with the scale and character of the surrounding village and Town Centre and will not have a detrimental impact on residential amenity or the existing vitality or viability of the Town Centre.
- 2.23 It is respectfully requested that the LRB considers the evidence and merits of this change of use and grants planning permission.

Appendix 1

Commercial/Retail Unit - Comparisons Update

47 Main Street, Gorebridge



Agent: Culverwell

Listed To Let on 26th Feb 2019

14 MONTHS ON THE MARKET

Retail Unit with good window frontage onto Main Street.

Advertised @ £12,000 pa

57.52 sq m (£208.62 per sq m)

AVAILABLE, very little interest.

58 Main Street, Gorebridge



Agent: Shepherd Commercial

Listed To Let/For Sale October 2019 **7 MONTHS ON THE MARKET**

Retail Unit with good double window frontage onto Main Street.

89 sq m (£78.65 per sq m)

Advertised @ £7,000 pa. Or For Sale @ £85,000

AVAILABLE, very little interest.

60-64 Hunterfield Road, Gorebridge



Listed To Let October 2018

18 MONTHS ON THE MARKET

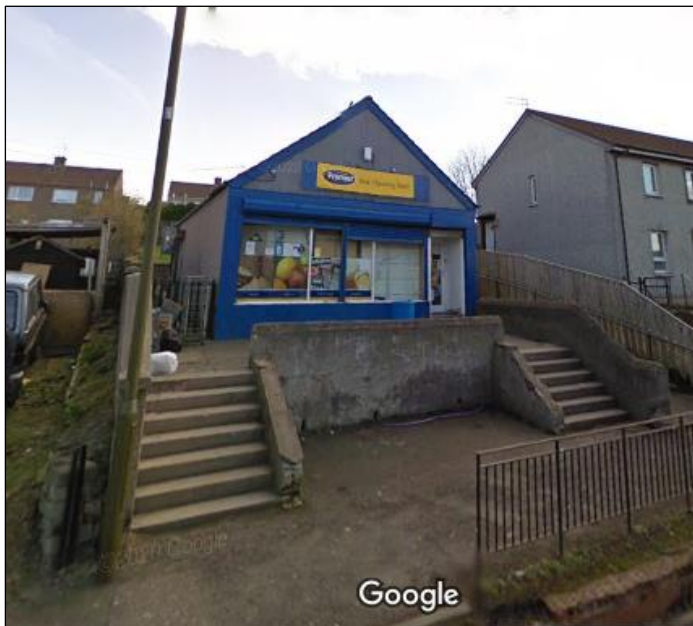
Large retail Unit with good double window frontage and parking available to front

1,267sq ft

Advertised For Sale @
£198,000

AVAILABLE, very little interest.

103a Burnside Road, Gorebridge



Agent - DM Hall

Recently removed from being LISTED

41 Main Street, Gorebridge (THE SUBJECTS)



Agent: Abbey Forth

Listed To Let on 29th April 2019 **OVER 12 MONTHS ON THE MARKET**

Advertised @ £12,000 pa

105 sq m (£114.28 per sq m)

AVAILABLE, very little interest, two speculative approaches in early months of listing, nothing since.

<https://abbeyforth.co.uk/property/486/?propInd=L&page=1&pageSize=10&orderBy=Price&orderDirection=DESC&town=5>

Design and Access Statement

Proposed Change of Use and Alterations to Form 2No. Flats

41-43 MAIN STREET, GOREBRIDGE, MIDLOTHIAN. EH23 4BX

Proposed Development Details

It is proposed to change the use of the ground floor unit from a post office to a flatted dwelling. The flatted dwelling at first and second storey level is to remain, with an altered layout.

The existing first floor extension and conservatory are to be removed and replaced with new designed lounge extension with access to the garden area to the rear. The two storey element is 6.1 metres high projecting 3.8 metres from the rear elevation of the building to be retained. The single storey extension, adjoining this, is 3.5 metres high. The walls are wet dash render to the sides and larch cladding to the rear, with wet dash render surround. The flat roofed areas are single ply membrane with proprietary edge trim. The new side door frame is grey painted timber (RAL 7016). Replacement and new sash and case windows are grey painted timber (RAL 7016) with astragals and frames to match existing double glazed with 'Slimlite' units. The new rear fixed glazed screens and bi-fold doors are aluminium framed double glazed – finish colour grey (RAL 7016).

The garden ground will be subdivided to provide amenity space for each flat. The upper flat accesses this from a galvanised steel stair. The handrail is timber.

In addition, the following works are proposed:

- Two new windows openings on the side (southwest) ground floor elevation with stone sills to match existing.
- Parts of the rear elevation are to be re-rendered with wet dash render;
- New cast iron rainwater goods where required painted RAL 7016.
- Replacement of the existing rooflight on the side (southwest) elevation with a conservation style rooflight
- New upper flat boiler to be flued via existing rear chimney.
- 2No. rear vents (extractor fans) are proposed on the rear elevation. A louvered vent is proposed through the wall at first floor level (RAL 7016) and a slate vent at roof level – see proprietary product information below under 'Building Design'
- A colour coded louvre vent (RAL 7016) is proposed on the side (southwest) elevation, this would serve 3No. extractor fans. In addition a boiler flue is adjacent to the louvre.

A number of internal alterations are proposed with new partition walls and some new openings formed in existing walls and some walls removed.

The proposal is to connect to the public drainage network and water supply.

The building (existing post office) is category C listed and lies within the 'Gorebridge Conservation Area'.

The post office has lain empty for 17 years (since 2002).

The proposals do not affect the existing front elevation.

It is proposed to retain the fireplace and historic post office pigeon holes within the ground floor flat.



Existing Pigeon Holes



Existing Fire Place (retained in ground floor kitchen)

Sun Path Analysis

The sun path analysis demonstrates that the new extension has a slightly less impact on the sunlight available in the neighbouring gardens.

Spring Equinox



21st March @ 08.00 hrs – Existing



21st March @ 08.00 hrs - Proposed



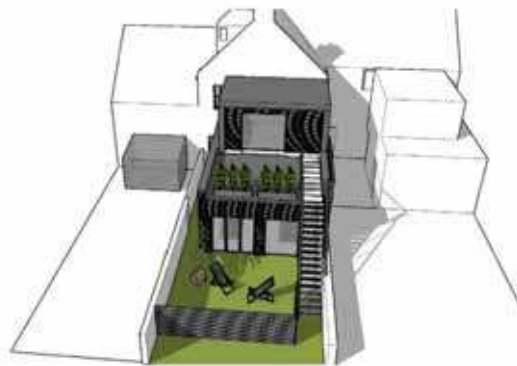
21st March @ 10.00 hrs – Existing



21st March @ 10.00 hrs - Proposed



21st March @ 12.00 hrs – Existing



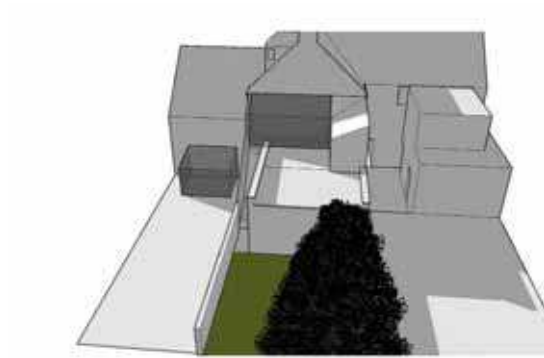
21st March @ 12.00 hrs - Proposed



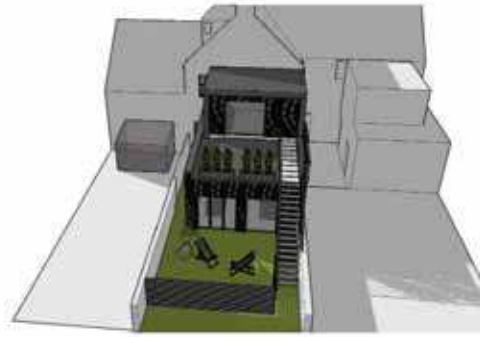
21st March @ 14.00 hrs – Existing



21st March @ 14.00 hrs - Proposed

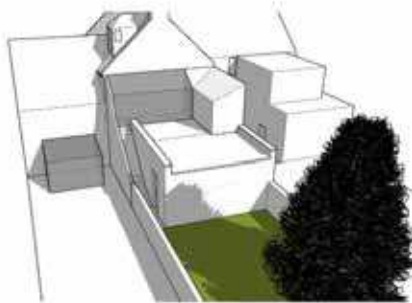


21st March @ 16.00 hrs – Existing



21st March @ 16.00 hrs – Proposed

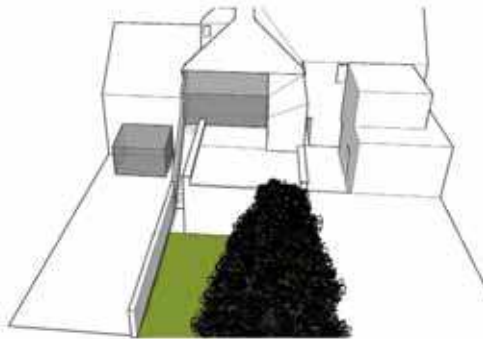
Summer Equinox



21st June @ 08.00 hrs – Existing



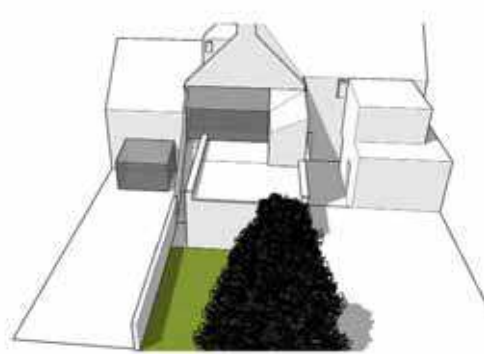
21st June @ 08.00 hrs - Proposed



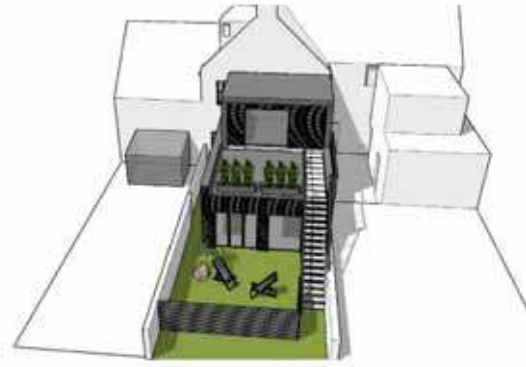
21st June @ 10.00 hrs – Existing



21st June @ 10.00 hrs - Proposed



21st June @ 12.00 hrs – Existing



21st June @ 12.00 hrs - Proposed



21st June @ 14.00 hrs – Existing



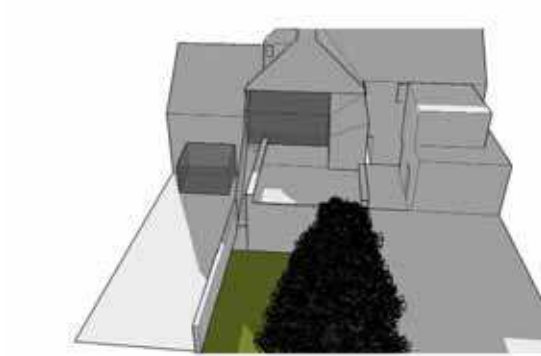
21st June @ 14.00 hrs - Proposed



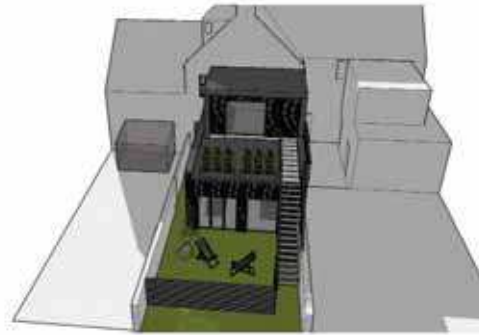
21st June @ 16.00 hrs – Existing



21st June @ 16.00 hrs – Proposed



21st June @ 18.00 hrs – Existing



21st June @ 18.00 hrs - Proposed

Building Design

It is proposed to replace the dilapidated first floor extension (kitchen and conservatory) with a modern extension creating a south facing sitting room to serve the reconfigured maisonette flat. The area in front of this extension will be used as a pedestrian access to the garden via new steps

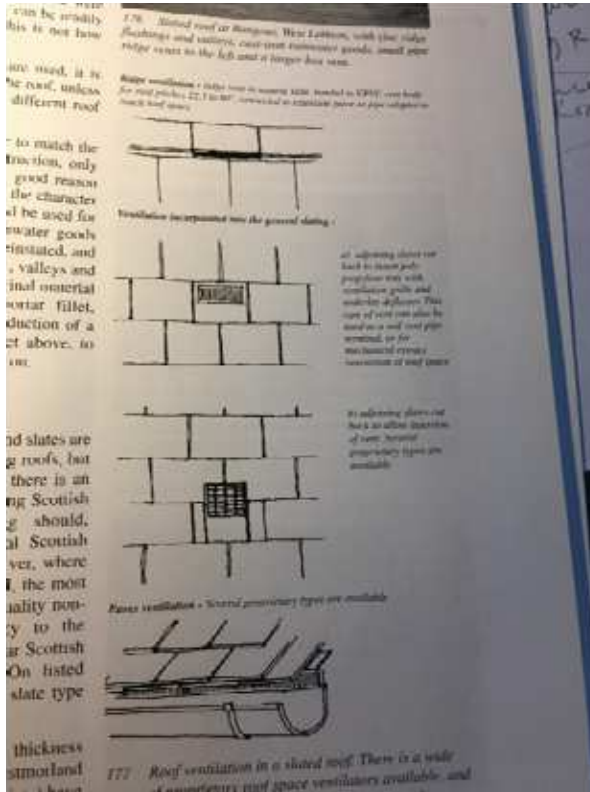


Example of cedar rainscreen cladding

The existing ground floor outshoot will be upgraded and reconfigured, using the same footprint.

The proposed new first floor flat gas boiler will be flued via the existing rear chimney.

It is proposed to use 'Ubbink UB11' slate vents (product literature below) to the roof to serve shower room and kitchen extract ductwork – see extract below from 'Rural Buildings of the Lothians – Conservation and Conversion' published by 'Historic Scotland'



➤ UB11 Vepac Roof Ventilating Slate



Design & Performance

The UB11 Vepac vent is an in-line unit with a multi-purpose base which will provide inconspicuous ventilation in natural and man-made slate roofs (suitable for 600mm x 300mm and 500mm x 250mm). Ubbink now also offer a larger unit which is only suitable for 600mm x 300mm slates.

UB11s are suitable for high or low level ventilation in roofs of 25° and over. Each vent has a slotted inhibitor to keep out large insects and vermin and provides a free vent area of 10,750mm².

This vent can be adapted for use as a service terminal with a vepac connector and lower pipe (100140294605) – See UB39 on page 20.

Material

UV stabilised high impact polystyrene

Colour

Anthracite

Site Access

Level thresholds will be provided at the ground floor rear door which would be suitable for wheelchair/ambulant access.

1600mm high slatted boundary fences will separate the garden ground (to match the proposed cladding).

The owner has right of access to take out bins via a rear walkway to 'Private Road'. The bins will be stored in each of the gardens.

Previous Changes to Retail Units



Illustration 1: Stone infill. Only property on the Main Street where a doorway was used to create an open access to 2 flats.



Illustration 2: New stone infill still not blending in with the old.



Illustration 3: Stone Infill. The 2No single inset doors on the Main Street



Illustration 4: Stone infill to doorway



Illustration 5: Change of Use. Windows not in keeping with the Conservation Area



Illustration 6: Stone infill with UPVC door onto Main Street Conservation Area



Illustration 7: Probably of a Commercial use - not in keeping with a Conservation Area



The front elevation of the converted post office will remain unchanged.

eskbank design studio ltd

Summary

HES Encourages listed buildings to be upgraded and brought back into use. This is very unlikely to come back into use as it is not cost effective as a retail unit. This is demonstrated by it being empty for 17 years and the number of retail units currently available nearby.

This development helps to address the shortage of new homes in Midlothian.

MIDLOTHIAN COUNCIL

DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

Planning Application Reference: 19/01022/DPP and 19/01023/LBC

Site Address: 41-43 Main Street, Gorebridge.

Site Description: The application site comprises a three storey building and associated garden ground. The building has stone walls and a slate roof, with white painted timber sash and case windows on the front elevation. The roof is pitched, with the ridge running parallel with Main Street, with a pitched roof two storey area to the rear perpendicular to this. This appears to be the original structure. There is a flat roofed single storey harled extension to the rear, with a timber framed conservatory and brick extension at first floor, both with monopitched roofs. There are stone walls around the rear garden. The ground floor unit was previously a post office, with one flat over the first and second floor. The site is within Gorebridge Town Centre. There are a variety of commercial uses in the area and residential units and houses to the rear. The building is C listed and within Gorebridge Conservation Area.

Proposed Development:

19/01021/DPP Change of use from post office (class 1) to flatted dwelling (sui generis); extension to building; installation of balustrade and stairs; installation of rooflight; formation of window openings; re rendering and replacement rain water goods.

19/01023/LBC Demolition of existing extension; extension to building; installation of balustrade and access stairs; installation of rooflights; formation of windows openings; re rendering and installation of replacement rain water goods and internal alterations.

Proposed Development Details: It is proposed to change the use of the ground floor unit from a post office to a flatted dwelling. The flatted dwelling at first and second storey level is to have the layout altered.

The plans show the existing ground floor extension is to be altered and a two storey extension erected above. The single storey extension is 8.2 metres long, 6 metres wide and 3.5 metres high. The two storey extension is 3.8 metres long, 5.5 metres wide and 6 metres high, covering part of the single storey extension. The bi-fold doors are to be aluminium framed coloured RAL 7016, anthracite grey. The fixed windows and door frames are to be aluminium RAL 7016. The walls are wet dash render to the sides and larch cladding to the rear. The flat roofed areas are single ply membrane with proprietary edge trim.

The garden will be subdivided with 1.6 metre high fences to provide amenity space for each flat. The upper flat accesses this from a galvanised steel stair with a timber

handrail from the single storey roofed extension, across a paved area of the roof. There is a 0.9 metre high timber slatted screen by this paved area to the north.

The following works are also proposed:

- Four new windows will be timber framed with two panes over two panes, painted grey (RAL 7016) with stone sills;
- An existing door opening infilled with a glazed unit on the ground floor rear elevation, with a grey aluminium frame;
- A new timber door painted RAL 7016 to be installed in an existing opening;
- Parts of the rear elevation are to be re-rendered with wet dash render;
- New cast iron rainwater goods painted RAL 7016;
- Replace an existing rooflight on the side (southwest) elevation with a conservation style rooflight;
- A flue is directed through the existing chimney;
- Three vents are proposed: one slate vent on the roof to the rear; one on the southwest elevation; and one the rear elevation; and
- A galvanised steel louvre on side (southwest) elevation at ground floor coloured RAL7016.

A number of internal alterations are proposed, including the relocation of the existing pigeon holes. Partition walls are proposed, with some new openings formed in existing walls and some walls removed.

The proposal is to connect to the public drainage network and water supply. There is an access to the rear of the site, through 16 Private Road, which can be used to take bins for kerbside collection. No parking is proposed.

A Design and Access Statement has been submitted, providing a rationale for the proposed extensions and alterations and sunlight details. A Planning Statement has also been submitted, which states the ground floor commercial unit has been vacant for 17 years. The unit has been marked since April 2019 with only two interested parties, neither of which visited the site. The listed building application included a quote to bring the commercial unit up to a usable condition.

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

19/00248/DPP Change of use from post office (class 1) to flatted dwelling (sui generis); extension to building; formation of roof terrace and associated balustrade and access stairs; installation of rooflight; formation of window openings; re rendering and replacement rain water goods. Refused – change of use from retail to residential contrary to policy; inappropriate materials and vents; inappropriate internal alterations; contrary MLDP and HES policy; impact on neighbours.

19/00249/LBC Demolition of existing extension; extension to building; formation of balcony and associated balustrade and access stairs; installation of rooflight; formation of window openings; re rendering and installation of replacement rain water goods and internal alterations. Refused – design and scale of extension would have significant detrimental impact on listed building; inappropriate materials and vents; inappropriate internal alterations; contrary MLDP and HES policy.

14/00413/LBC Stone cleaning, replacement of stone, re-slating and installation of replacement windows. Consent with conditions.

14/00410/DPP Installation of replacement windows and stone mullion; stone repairs; and re-slating of roof. Consent with conditions.

45A Main Street

17/00827/LBC Installation of double glazing into existing window frames. Consent with conditions.

17/00826/DPP Installation of double glazing into existing window frames. Consent with conditions.

12/00828/LBC Installation of replacement window. Consent with conditions.

Consultations:

The **Policy and Road Safety Manager** states whilst this type of proposal can place additional pressure on the limited number of on-street spaces available which could lead to an increase in inconsiderate or illegal parking in the surrounding area, the development is a change of use of an existing building and would only result in the creation of one additional flat. They consider any parking impact should be relatively minor and so have no objection.

The Council's **Biodiversity Officer** states due to the roof works the need for a bat survey should be considered.

Representations: Four objections have been received (one of which to the Listed Building application) on the following grounds:

- Overlooking from the proposed extension;
- Concern of overlooking from the proposed roof terrace, as well as noise;
- The terrace is out of keeping with the surrounding conservation area;
- The proposal would exacerbate parking issues in the area;
- There is no provision for refuse bins and there would be an increase in the number of bins on Main Street which would be unsightly in the conservation area which has recently been upgraded;
- There are a number of properties on Main Street with multiple residents and this additional unit would be to the detriment to the area;
- The increase in occupancy would adversely affect neighbouring properties;
- There is no formal right of access from the site to Private Road;
- This is not a windfall site;
- The wheelchair access does not acknowledge the slope on Main Street;
- Loss of amenity during demolition and construction and the applicant should protect against dust and rubble to neighbouring properties; and
- The boundary wall between the site and 45 and 45A Main Street should be rebuilt to a height and standard no less than the existing and remaining wall.

Two objectors state the Planning Statement contains inaccuracies and make the following comments:

- This does not consider the impact of the proposal on Private Road;
- No reference is made to the recent consultation of including Private Road into the Gorebridge Conservation Area;
- No placement aspect is included;

- The footfall study lacks a credible methodology;
- The commercial unit has been left vacant as a choice of the occupier of it who also lived in the flat above, not through a lack of commercial interest;
- The commercial unit has also been used for office and storage in relation to a local solicitor for a period; and
- There is not clear explanation of the reference to the Redheugh development.

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

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

DEV6 Layout and Design of New Development requires good design and a high quality of architecture, in both the overall layout of developments and their constituent parts. The layout and design of developments are to meet listed criteria;

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. The conversion of upper floors to housing and the formation of new residential space above ground-level structures in town centres is supported;

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

ENV22 Listed Buildings states that development will not be permitted where it would adversely affect the character or appearance of a Listed Building; its setting; or any feature of special, architectural or historic interest. The change of use of a listed building will only be permitted where it can be shown that the proposed use and any necessary alteration can be achieved without detriment to the character, appearance and setting of the building.

Supplementary Guidance: Food and Drink and Other Non-Retail Uses in Town Centres provides guidance regarding the acceptability of a range of uses in town centres and other areas. This states the conversion of ground level retail space to residential uses will not be supported as this would detract from the range of services offered within the town centre.

Historic Environment Policy for Scotland (HEPS) states that decisions affecting the historic environment should ensure that its understanding and enjoying are secure for present and future generations. Changes should be managed in a way that protects the historic environment.

Historic Environment Scotland Managing Change in the Historic Environment Guidance Notes – Use and Adaption of Listed Buildings states that any change

in use should be considered carefully and avoid harming the building's special interest. Such proposals could include one, or a mix of, the following approaches: minimal intervention; adaptation; extension; selective demolition; and enabling.

Historic Environment Scotland Managing Change in the Historic Environment Guidance Notes – Extensions states that extensions must protect the character and appearance of the building, should be subordinate in scale and form, should be located on a secondary location and be design in a high quality manner using appropriate materials. This also sets out options for design approaches when extending listed buildings, including complementary additions, deferential contrast and assertive contrast and provides general guidance for extending such buildings.

Historic Environment Scotland Managing Change in the Historic Environment Guidance Notes – Interiors set out the principles that apply to the alterations to the interiors of listed buildings. Principle spaces are more sensitive to change as these are the spaces that normally make the most significant contribution to a building's character. Where the original plan form or a later plan form of special interest survives, particularly in regard to the entrance hall, main stair, common spaces and principal rooms or spaces, these spaces should normally be retained without subdivision, because of their inherent significance.

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.

Change of use

The change of use from a post office to residential is contrary to the town centre policy and adopted Supplementary Guidance. The Planning Authority seeks to protect and enhance Midlothian's Town Centres and the range of services provided to local communities, with an aim to support activities which attract good levels of footfall. The loss of a commercial unit to residential use would detract from the range of services offered within the town centre.

The applicant's agent has submitted details of the history of the unit, including that this has not been in use for at least 17 years. Objectors have stated this was due to the choice of the owner, rather than for commercial reasons. In any case, the SG is clear where it states the conversion of ground level retail space to residential will not be supported as this would detract from the range of services offered within the town centre. The applicant's agent has submitted details to do with marketing and footfall surveys for the area. This information would be more relevant if the proposed change of use was to a low footfall use, as there can be provision within the SG to support this should sufficient detail be submitted. There is a clear distinction between a residential use and a low footfall level use in the SG.

Even if the principle of residential being a low footfall level use, which the SG does not consider it is, the Planning Statement includes a letter from a chartered surveyor who has considered the future use of the unit for commercial purposes. This states there has been little interest to date, having been marketed since April 2019. The letter goes on to state that 'It is our expert opinion that the unit will remain vacant for the

foreseeable future if an alternative use cannot be found and accordingly, 41/43 Main Street in our opinion would require to be actively marketed for at least 24 months'. The statement notes the unit has been marketed since April 2019, which is far below the timescale noted in the letter. No details of how this has been marketed has been submitted. The information submitted is not sufficient to depart from the very clear policy and SG to support the case for changing the use of the building. The proposed change of use is not considered acceptable.

The Planning Statement makes reference to HES policy which seeks to bring vacant listed buildings into use to protect the fabric of these and ensure their retention. The Planning Authority support this position, however this shall not override other policies and considerations where a proposal is not acceptable. There could be other uses that would be appropriate in this unit that could comply with the SG which would allow the occupation of the site. The refusal of these application does not mean that the site is not capable of other uses and therefore protecting the fabric and historic interest of the listed building.

Internal alterations

A number of internal alterations are proposed including partition walls, with some new openings formed in existing walls and some walls removed. The alterations to the first and second floors will not have an adverse impact on the historic character of the building. The ground floor contains features of the former post office, including counter and pigeon holes. However the applicant's agent has stated that the counter is in poor condition. The ground floor layout includes the pigeon holes relocated within the unit, to be used as shelving. The retention of this would maintain some historic interest and reference to the previous use. This is considered acceptable. The ground floor alterations would change the character of this listed shop, however the partition walls could be removed and the changes reversible. Given this, these are acceptable.

Extension and external alterations

The application site and the surrounding area have been part of a previous CARS scheme which aimed to improve the appearance of the Conservation Area through repairs and improvements to existing buildings. The permissions in 2014 at this site were part of, and so the site has benefitted from, this scheme. Although the current proposal does not include works to the front elevation, the site remains a C listed building and part of the wider conservation area and so any alterations and extensions should take these sensitivities into consideration.

The proposed extension would replace existing extensions which are clearly additions to the original building. These do not positively contribute to the appearance of this listed building. The design is modern, with glazed openings on the rear elevation and the materials reflect the modern design. Historic Environment Scotland guidance states there are a number of ways historic and listed buildings can be extend, with one approach being an assertive contrast.

The scale of the proposed extensions are similar to the existing situation on site and it could be argued this is an improvement on the existing extensions to the building. The

design would appear considered and, if carried out with high quality materials, could maintain and improve the appearance of the rear elevation of this listed building.

Any overlooking from the extensions would not be significantly worse to neighbouring properties than the existing situation. This would not have an overbearing impact on neighbouring units in comparison to the existing situation and due to the position of the extension at first floor level. The impact on light to neighbouring properties would not be significant different from the existing situation.

As the site is C listed and within a conservation area which has recently undergone a significant scheme of works to improve the appearance of the area, which is the application site has benefitted from, the choice of materials for any works are of great importance. Wet dash render and larch cladding are generally acceptable materials in a modern-designed extension in a historic context, provided these enhance the design of the proposal. Timber framed windows and doors, stone sills and cast iron rain water goods are acceptable traditional materials. Aluminium framed doors and windows are also appropriate within the extended area, as these will enhance the design and finish.

The installation of two window openings on the side elevation would not detract from the character or historic nature of this listed building. There is 1 metre between the windows and a stone boundary wall which would ensure no overlooking to the neighbouring property.

The infilling the existing door opening on the rear elevation with a large glazed opening with aluminium frames is acceptable.

The re-rendering of part of the rear elevation is acceptable in principle, subject to a sample of the render being approved.

The replacement of the existing rooflight with a conservation style rooflight is acceptable.

It has not been demonstrated to the satisfaction of the Planning Authority that other means of ventilating the roof of the building, such as ridge or eaves vents, were not possible solutions before proposing the installation of a more obtrusive slate vent. Details of the means of ventilating the roof shall be submitted. The remainder of the vents proposed are acceptable.

The installation of a flue through the existing chimney is acceptable.

The galvanised steel louvre is on the extension rather than the original building. Due to the contemporary design of the extension, this would not have a detrimental impact on the appearance or historic character of the listed building.

A number representors have made reference to a roof terrace, which was included in the original description of the applications. However this reference has been removed as no roof terrace is proposed. It is assumed this was a reference to the flat roof area on the single storey extension which is forward of the two storey extension. The plans show this as a roof and not a terrace. There is no opening to this from the flat, but a gate is shown to allow access for maintenance. Should

planning permission be approved, it would be conditioned that this area is not used as a roof terrace, as this could have an adverse impact on the amenity and privacy of neighbouring properties in regards overlooking and potential noise.

Amenities to the flats

The applicant has submitted information to show they have a right of access to remove bins to Private Road as shown on the plans. This has been disputed by the neighbouring residents, who state this is no longer valid. In any case, the ownership and right of access over land is not a material planning consideration, but would be a private legal matter should planning permission be granted.

Whilst the provision of private outdoor space for new residential development is required, where an existing building is to be reused it can be appropriate to make allowance for the constraints of the particular site, especially within a town centre, if the amenity of the property created is otherwise of a high standard. The proposed flat would have an adequate outlook and sufficient levels of daylight would be provided. The location of the property, in the town centre, provides a high level of amenity in terms of the facilities available with easy access to public open space. In these circumstances, the absence of private open space would not warrant refusal, particularly given the limited private space available to other flats on the street.

From a transportation perspective, the proposal does not fully address the issues of residential and visitor parking which would arise from the provision of the additional residential accommodation. Notwithstanding these reservations, exceptions can be made for the conversion of existing buildings where the site is within an area of high amenity. The site is located in close proximity to public transport and local services. As such, refusal of the application on these grounds would not be warranted.

Other matters not addressed above

The previous application included a bat survey which was considered by the Council's Biodiversity Consultant, met all the standard requirements and found no evidence of bats in the areas examined. This did note that as an existing skylight to be replaced, there is a small chance of bats using the flashings or slates around this fixture. Given this survey was prepared in May 2019, the case officer did not request an updated survey as these findings are still relevant, as are the comments of the Biodiversity consultant. However, as with any works which might affect bats, should they be found during construction, the guidance from SNH should be followed.

Details of any walls, fences, or other means of enclosure, including boundary walls, would be required should permission be granted.

The following section addresses the comments made by the objector not addressed above.

It is not clear how the proposal, with multiple residents, would be to the detriment of the surrounding area or neighbouring properties.

Any issues over dust and rubble, loss of amenity and damage during development and reinstatement of works is outwith planning control and would be a private legal matter between the relevant parties.

The supporting statements submitted with the applications are prepared by the applicant's agent and only relevant planning matters are taken into account in the assessment of the applications.

Conclusion

The listed building application purely assesses the impact the proposed works would have on the character, appearance and setting of the listed building. This does not assess any other matters. As the internal and external alterations are acceptable, listed building consent can be granted.

However the proposed change of use of the retail unit to residential is not acceptable and so the detailed application cannot be supported.

Recommendation: Refuse planning permission and grant listed building consent.

Reg. No. 19/01022/DPP

Rick Finc Associates Ltd
Melford House
3 Walker Street
Edinburgh
EH3 7JY

Midlothian Council, as Planning Authority, having considered the application by Mr David Klan, Summerside, Old Dalkeith Road, Dalkeith, EH22 1RT, which was registered on 12 December 2019 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

Change of use from post office (class 1) to flatted dwelling (sui generis); extension to building; installation of balustrade and stairs; installation of rooflight; formation of window openings; re rendering and replacement rain water goods at 41 - 43 Main Street, Gorebridge, EH23 4BX

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

<u>Document/Drawing.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	1906/13 1:1250	12.12.2019
Existing Floor Plan	1906/01 1:50	12.12.2019
Existing Floor Plan	1906/02 1:50	12.12.2019
Existing Floor Plan	1906/03A 1:50	12.12.2019
Existing Elevations	1906/05 1:50	12.12.2019
Existing Elevations	1906/04 1:50	12.12.2019
Proposed Site Plan	1906/12A 1:50	12.12.2019
Proposed Floor Plan	1906/06A 1:50	12.12.2019
Proposed Floor Plan	1906/07A 1:50	12.12.2019
Proposed Floor Plan	1906/08A 1:50	12.12.2019
Proposed Elevations	1906/09A 1:50	12.12.2019
Proposed Elevations	1906/10A 1:50	12.12.2019
Proposed Elevations	1906/11A 1:50	12.12.2019

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

The proposed change of use would result in the conversion of a ground level retail space to residential use and would therefore be contrary to policy TCR1 of the adopted Midlothian Local Development Plan 2017 and the adopted Supplementary Guidance for Food and Drink and Other Non-retail Uses in Town Centres without any adequate material justification.

Dated 7 / 2 / 2020

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

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



**The Coal
Authority**

Any Planning Enquiries should be directed to:

Planning and Local Authority Liaison

Direct Telephone: 01623 637 119

Email: planningconsultation@coal.gov.uk

Website:

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

INFORMATIVE NOTE

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

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

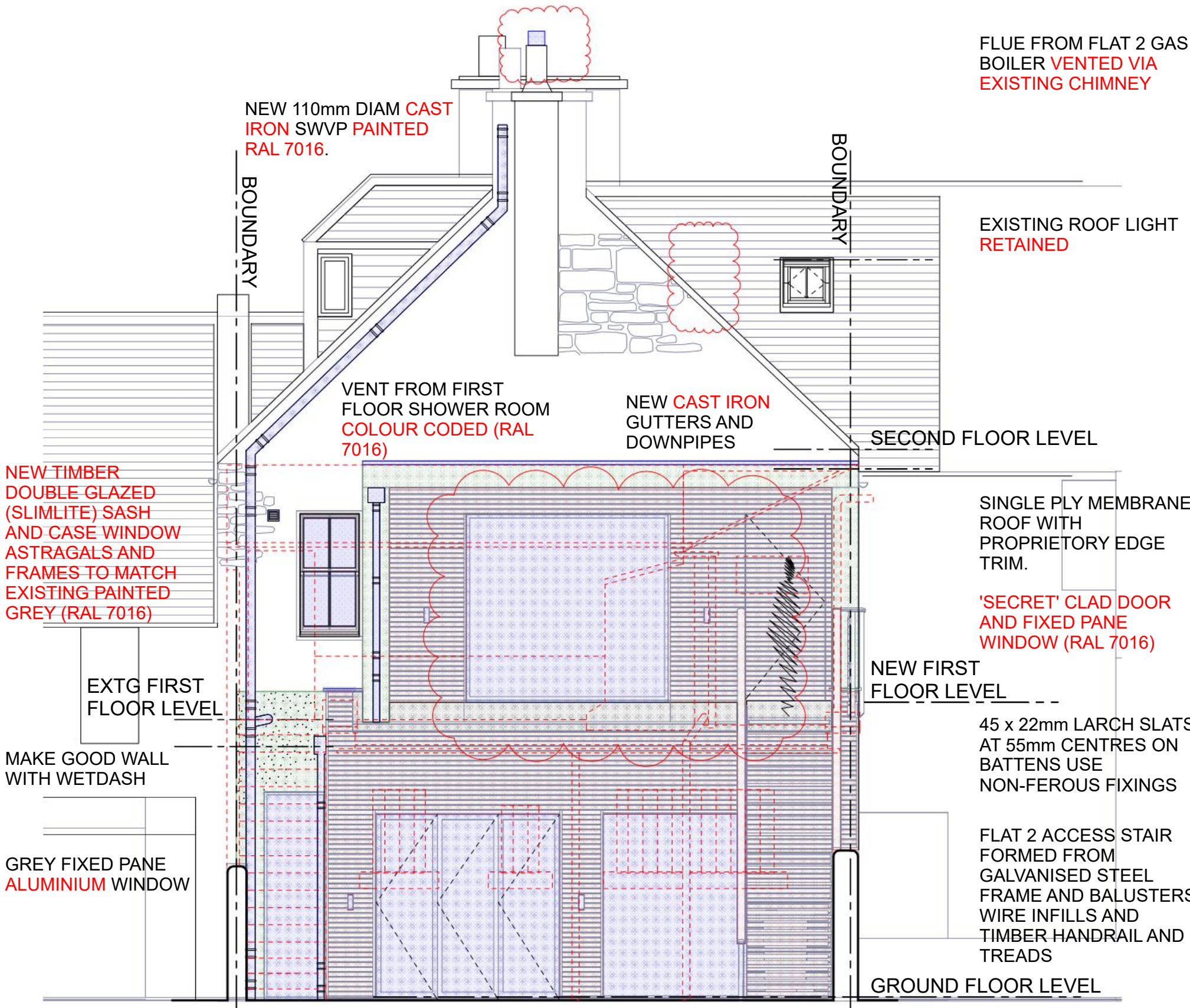
<https://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries>

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

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

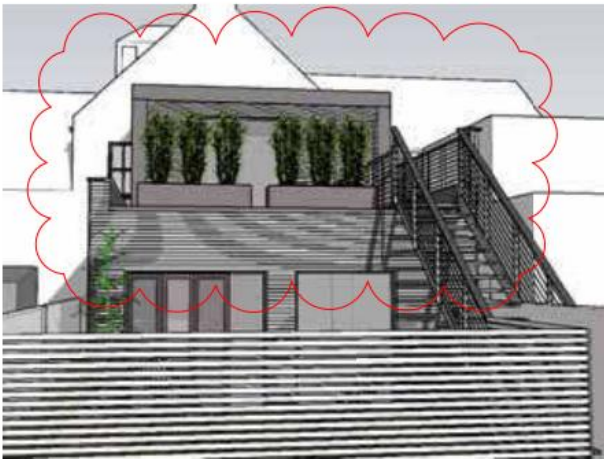
If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority

This Informative Note is valid from 1st January 2019 until 31st December 2020



PROPOSED REAR (SOUTH EAST) ELEVATION 1:50

REMOVALS SHOWN
DOTTED RED



A. FIRST FLOOR EXTENSION REDUCED IN SIZE AND DECKING OMITTED. PLANNING CHANGES. (HIGHLIGHTED IN RED). CD 11/11/19 REVISIONS:

PROPOSED REAR (SOUTH EAST) ELEVATION

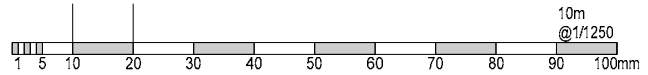
PROPOSED CHANGE OF USE AND ALTERATIONS

41-43 MAIN STREET, GOREBRIDGE, MIDLOTHIAN. EH23 4BX

FOR Mr. DAVID KLAN

DATE: MAR 2019	SCALE: 1:50	DRWN:CD	DRG. No:1906/10A
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SCALE
BAR



LOCATION PLAN 1:1250

REVISIONS:

LOCATION PLAN

PROPOSED CHANGE OF USE AND ALTERATIONS

41-43 MAIN STREET, GOREBRIDGE, MIDLOTHIAN. EH23 4BX

FOR Mr. DAVID KLAN

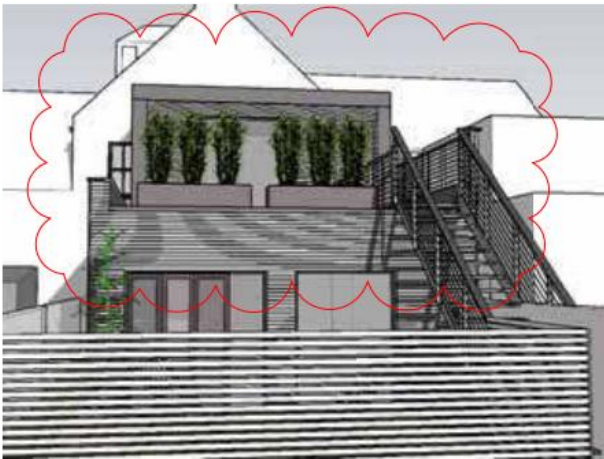
DATE: DEC 2019

SCALE: 1:1250

DRWN:CD

DRG. No:1906/13

A4



A. FIRST FLOOR EXTENSION REDUCED IN SIZE AND DECKING OMITTED. PLANNING CHANGES. (HIGHLIGHTED IN RED). CD 11/11/19 REVISIONS:

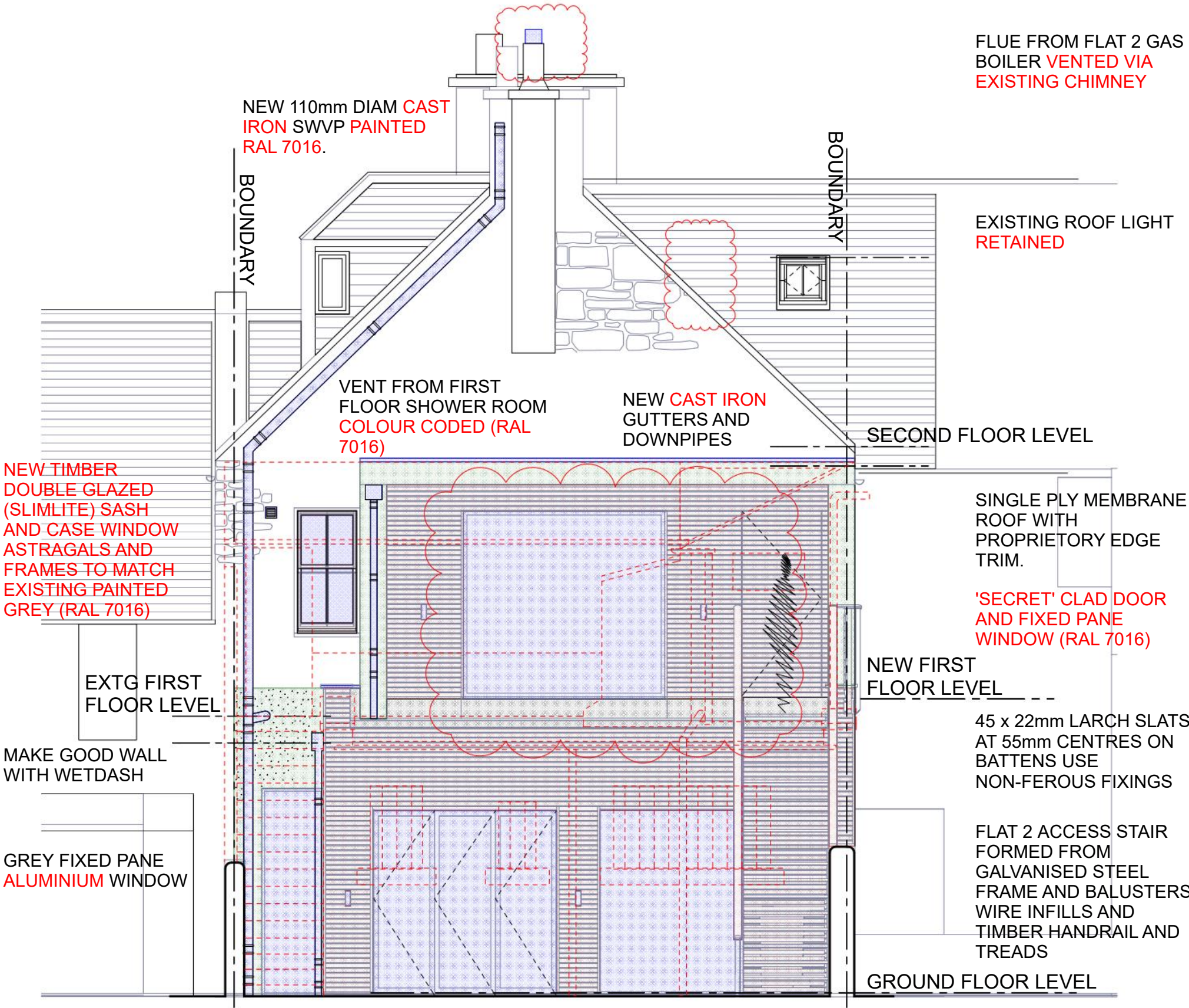
PROPOSED REAR (SOUTH EAST) ELEVATION

PROPOSED CHANGE OF USE AND ALTERATIONS

41-43 MAIN STREET, GOREBRIDGE, MIDLOTHIAN. EH23 4BX

FOR Mr. DAVID KLAN

DATE: MAR 2019	SCALE: 1:50	DRWN:CD	DRG. No:1906/10A
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PROPOSED REAR (SOUTH EAST) ELEVATION 1:50

REMOVALS SHOWN
DOTTED RED

FLAT 2 ACCESS STAIR
FORMED FROM
GALVANISED STEEL
FRAME AND BALUSTERS
WIRE INFILLS AND
TIMBER HANDRAIL AND
TREADS

SINGLE PLY MEMBRANE
ROOF WITH
PROPRIETARY EDGE
TRIM

FLUE FROM FLAT 2 GAS
BOILER VENTED VIA
EXISTING CHIMNEY

REMOVALS SHOWN
DOTTED RED

PROPOSED SIDE (NORTH EAST) ELEVATION 1:50

A. FIRST FLOOR EXTENSION REDUCED IN SIZE AND DECKING OMITTED. PLANNING CHANGES. (HIGHLIGHTED IN RED). CD 11/11/19 REVISIONS:

PROPOSED SIDE (NORTH EAST) ELEVATION

PROPOSED CHANGE OF USE AND ALTERATIONS

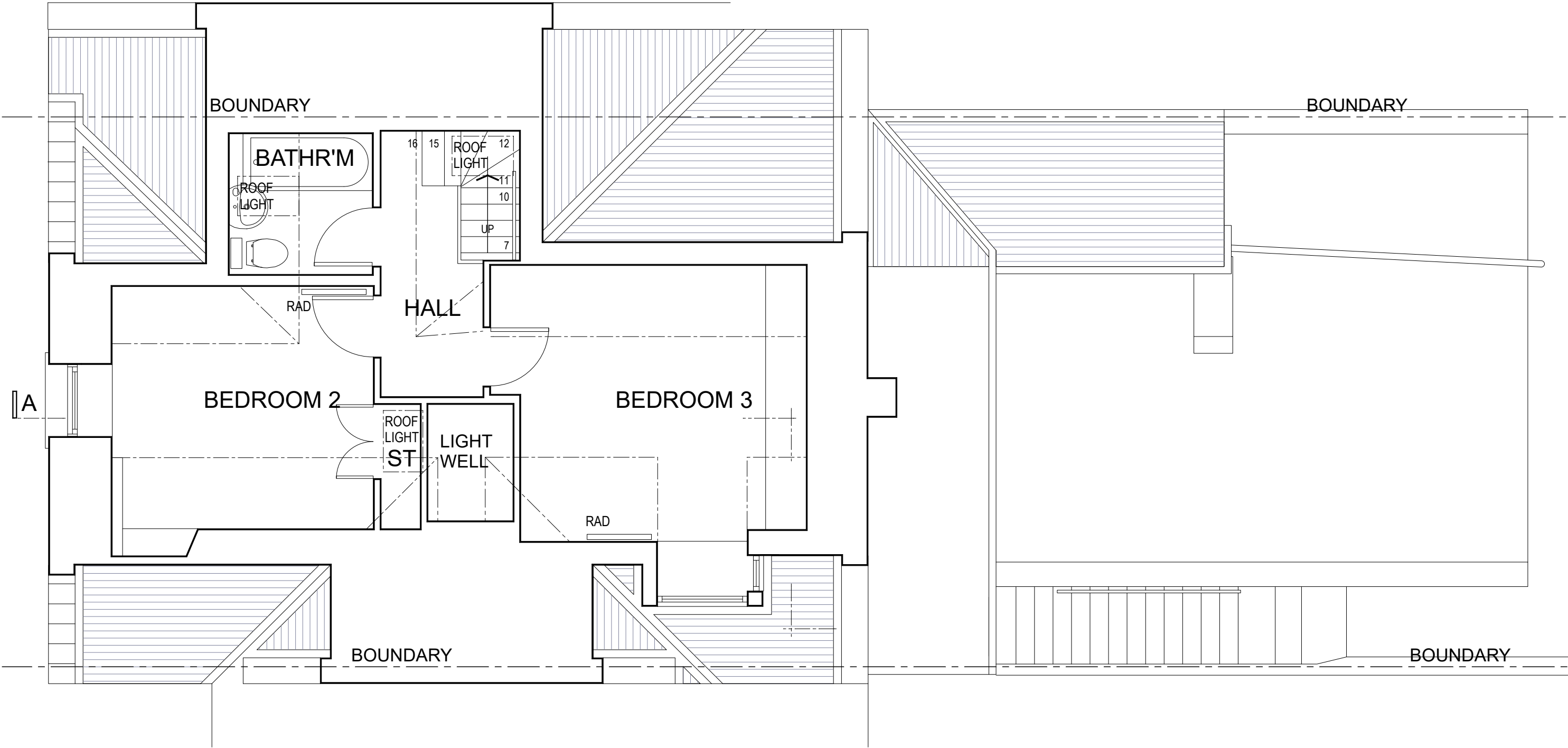
41-43 MAIN STREET, GOREBRIDGE, MIDLOTHIAN. EH23 4BX

FOR Mr. DAVID KLAN

DATE: MAR 2019 | SCALE: 1:50

DRWN:CD	
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DRG. No:1906/11A

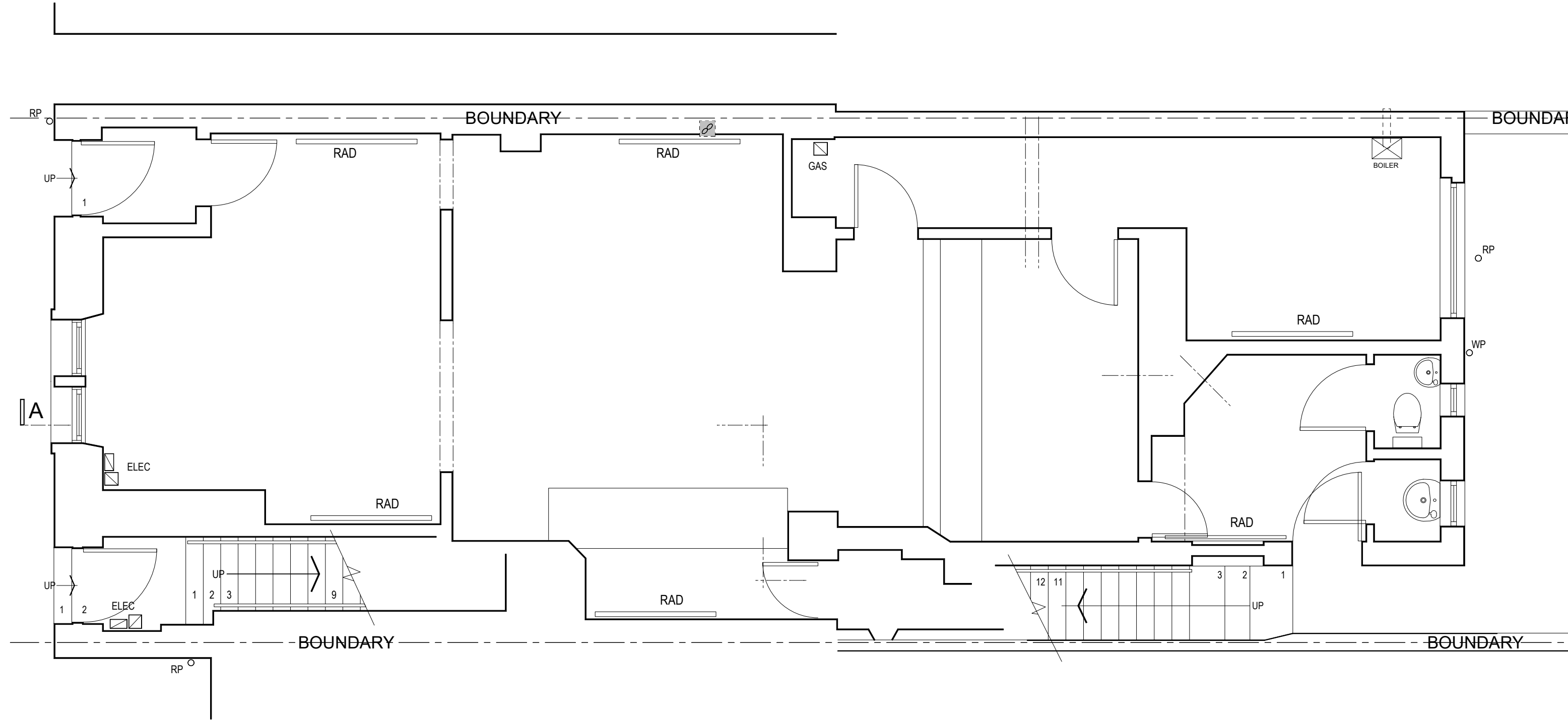


EXISTING SECOND FLOOR PLAN 1:50

A. LOCATION PLAN MOVED TO 1906/13. CD 11/12/19.
REVISIONS:

EXISTING SECOND FLOOR AND LOCATION PLANS
PROPOSED CHANGE OF USE AND ALTERATIONS
41-43 MAIN STREET, GOREBRIDGE, MIDLOTHIAN. EH23 4BX
FOR Mr. DAVID KLAN

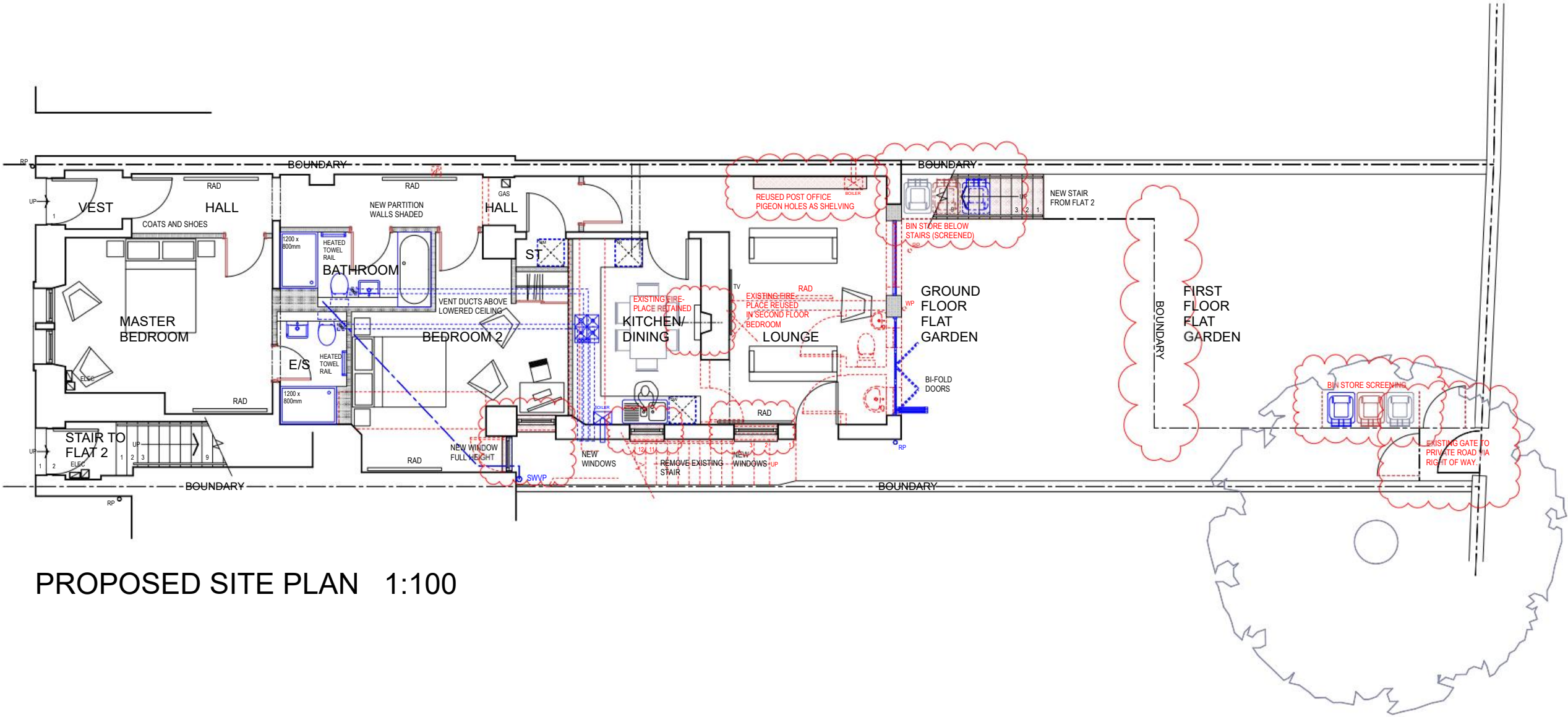
DATE: FEB 2019	SCALE: 1:50	DRWN:CD	DRG. No:1906/03A
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EXISTING GROUND FLOOR PLAN 1:50

A3

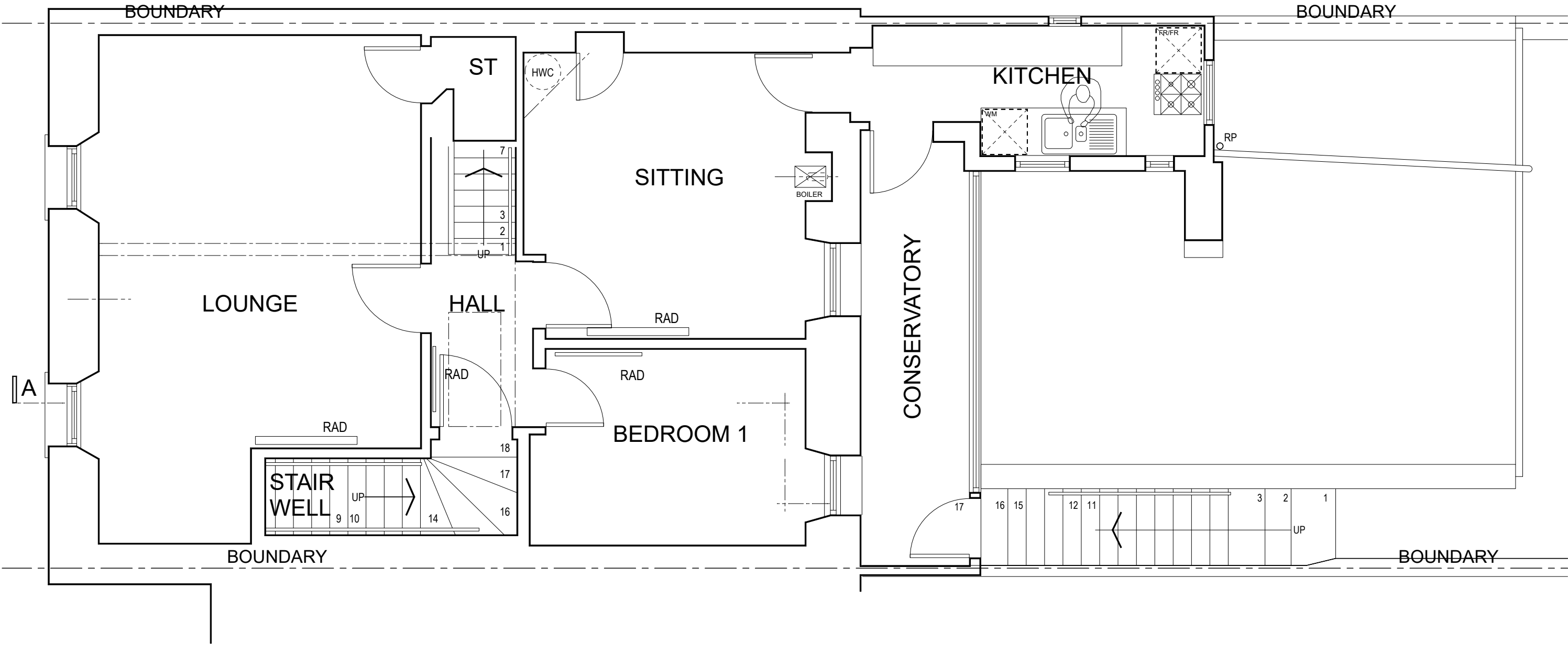
REVISIONS:			
EXISTING GROUND FLOOR PLAN			
PROPOSED CHANGE OF USE AND ALTERATIONS			
41-43 MAIN STREET, GOREBRIDGE, MIDLOTHIAN. EH23 4BX			
FOR Mr. DAVID KLAN			
DATE: FEB 2019	SCALE: 1:50	DRWN:CD	DRG. No:1906/01



PROPOSED SITE PLAN 1:100

A. FIRST FLOOR EXTENSION REDUCED IN SIZE AND DECKING OMITTED. PLANNING CHANGES. (HIGHLIGHTED IN RED). CD 11/11/19 REVISIONS:

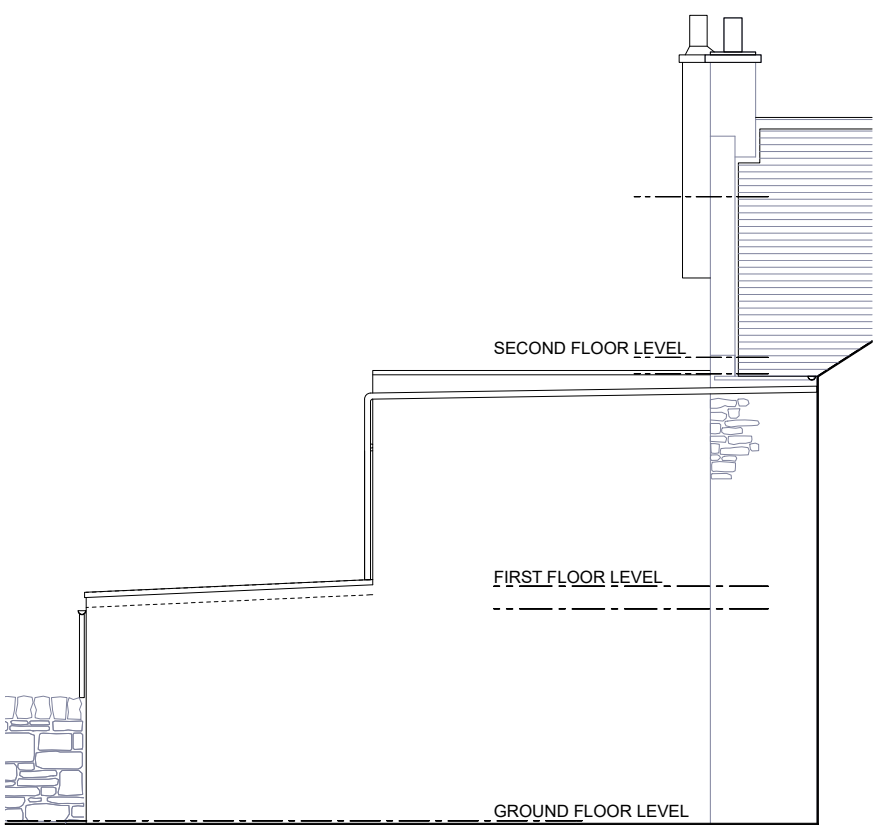
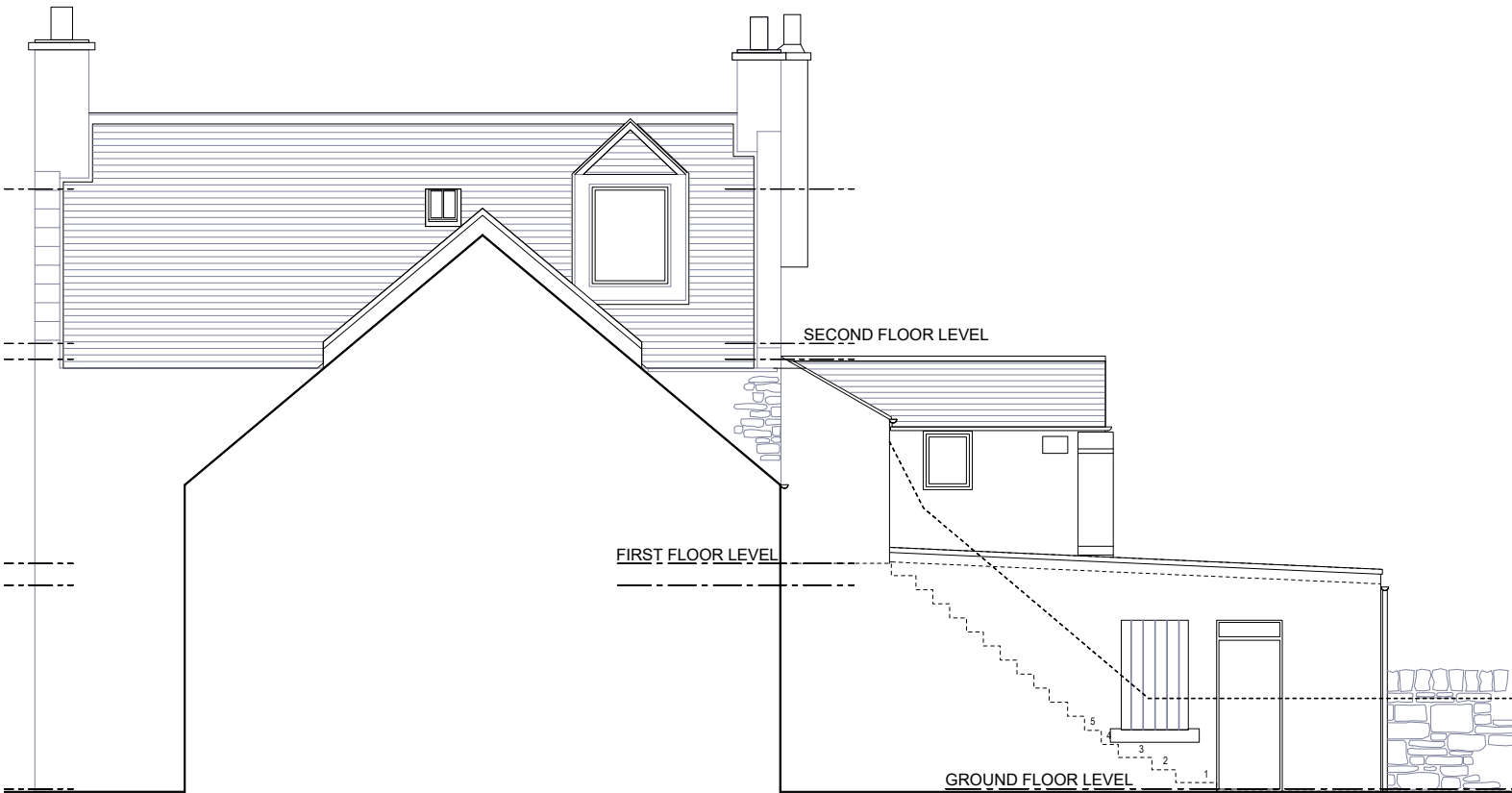
PROPOSED SITE PLAN			
PROPOSED CHANGE OF USE AND ALTERATIONS			
41-43 MAIN STREET, GOREBRIDGE, MIDLOTHIAN. EH23 4BX			
FOR Mr. DAVID KLAN			
DATE: MAR 2019	SCALE: 1:100	DRWN:CD	DRG. No:1906/12A



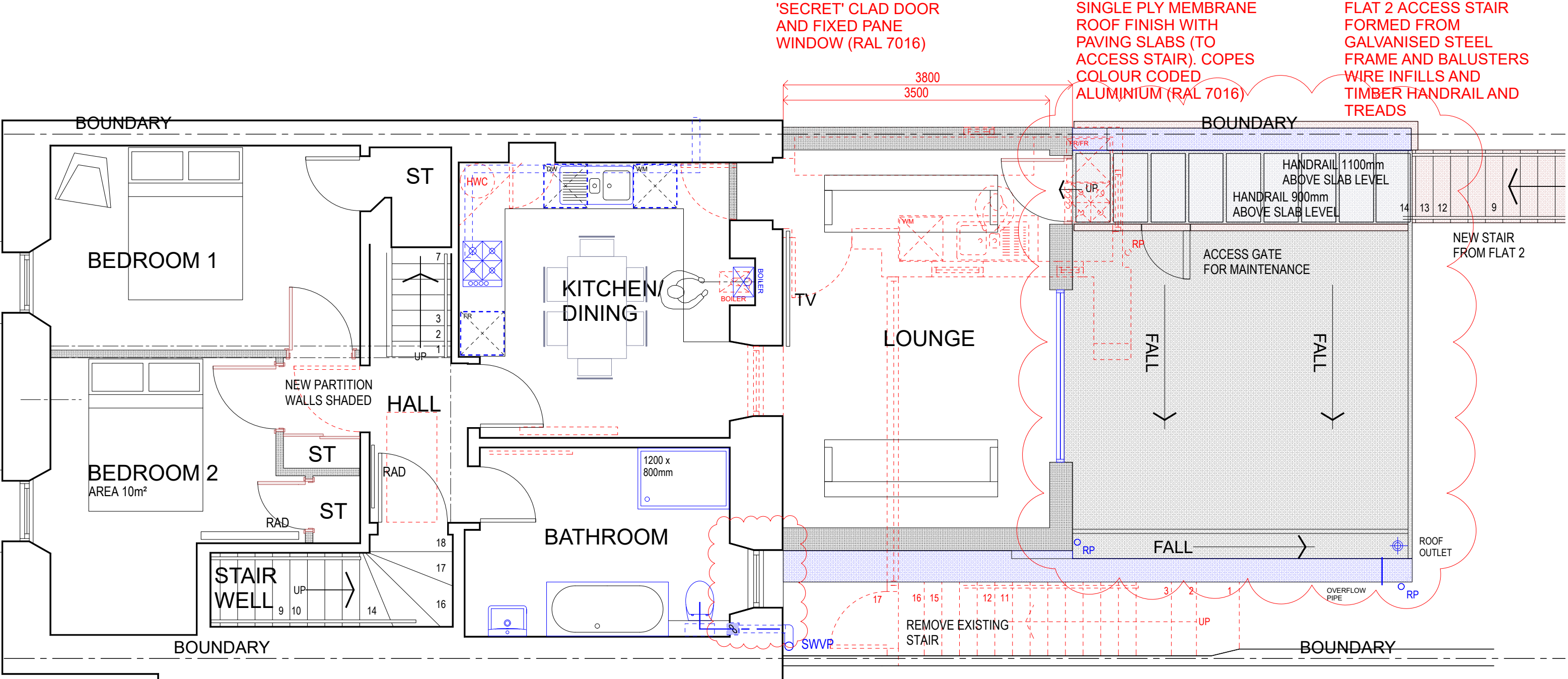
EXISTING FIRST FLOOR PLAN 1:50

A3

REVISIONS:			
EXISTING FIRST FLOOR PLAN			
PROPOSED CHANGE OF USE AND ALTERATIONS			
41-43 MAIN STREET, GOREBRIDGE, MIDLOTHIAN. EH23 4BX			
FOR Mr. DAVID KLAN			
DATE: FEB 2019	SCALE: 1:50	DRWN:CD	DRG. No:1906/02



REVISIONS:			
EXISTING SIDE ELEVATIONS			
PROPOSED CHANGE OF USE AND ALTERATIONS			
41-43 MAIN STREET, GOREBRIDGE, MIDLOTHIAN. EH23 4BX			
FOR Mr. DAVID KLAN			
DATE: MAR 2019	SCALE: 1:100	DRWN:CD	DRG. No:1906/05



PROPOSED FIRST FLOOR PLAN 1:50

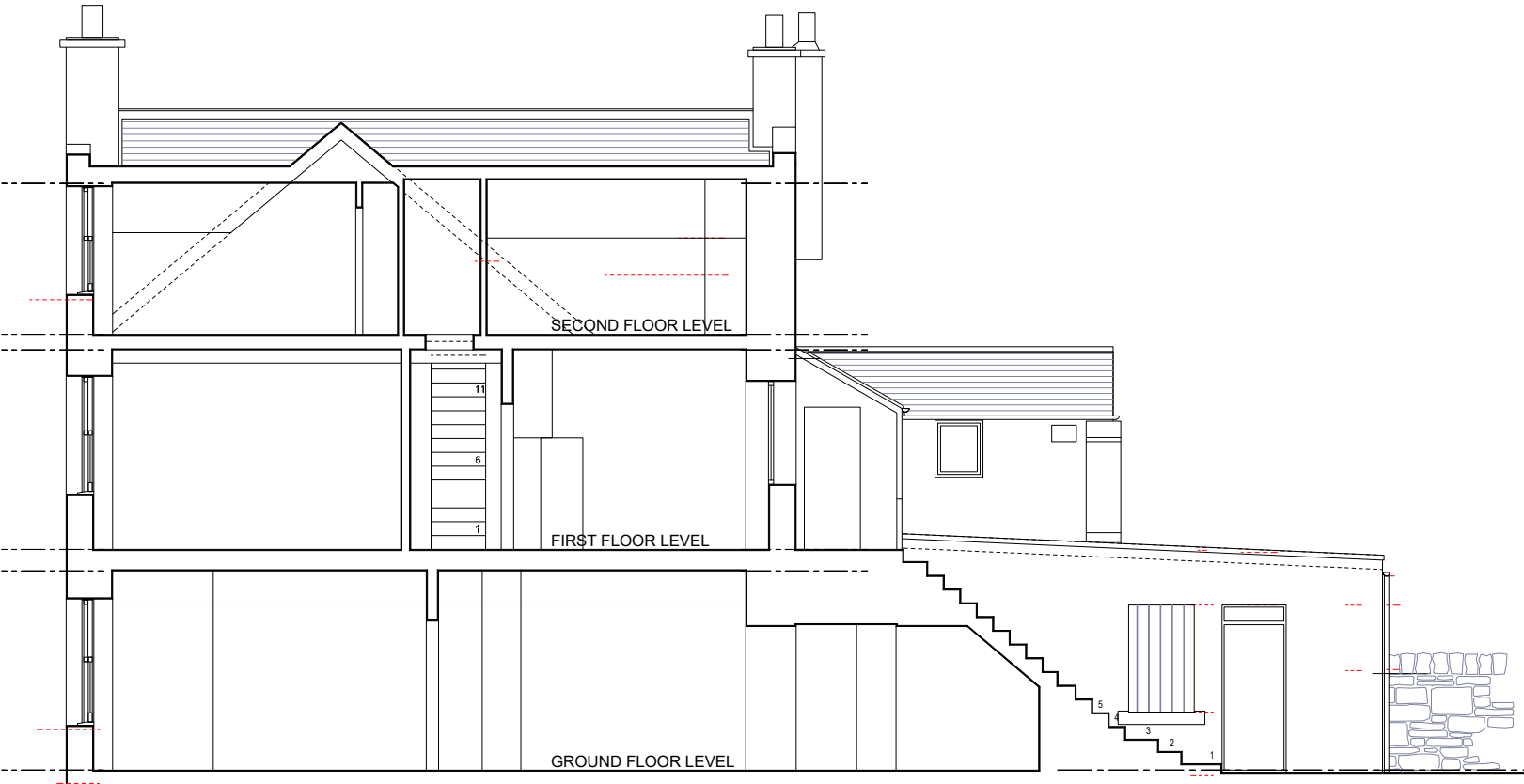
REMOVALS SHOWN
DOTTED RED

NEW TIMBER DOUBLE
GLAZED (SLIMLITE) SASH
AND CASE WINDOWS
ASTRAGALS AND
FRAMES TO MATCH
EXISTING PAINTED GREY
(RAL 7016).

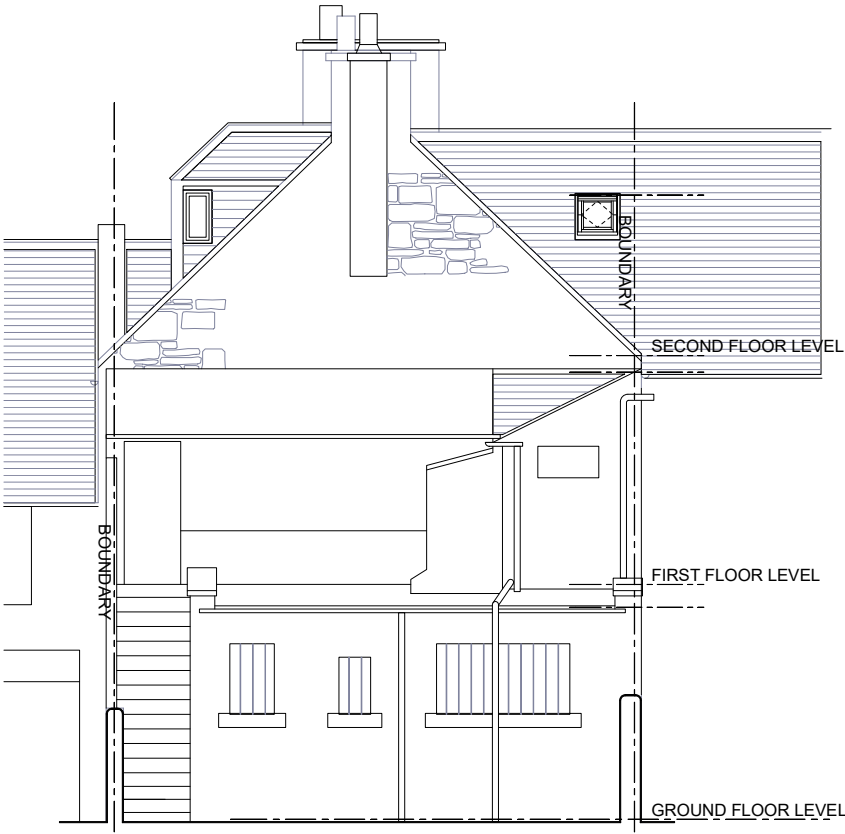
GALVANISED STEEL
LOUVRE FROM FIRST
FLOOR BATHROOM AND
KITCHEN EXTRACT
DUCTS

A. FIRST FLOOR EXTENSION REDUCED IN SIZE AND DECKING
OMITTED. PLANNING CHANGES. (HIGHLIGHTED IN RED). CD 11/11/19
REVISIONS:

PROPOSED FIRST FLOOR PLAN			
PROPOSED CHANGE OF USE AND ALTERATIONS			
41-43 MAIN STREET, GOREBRIDGE, MIDLOTHIAN. EH23 4BX			
FOR Mr. DAVID KLAN			
DATE: FEB 2019	SCALE: 1:50	DRWN:CD	DRG. No:1906/07A



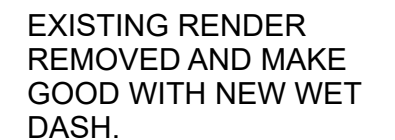
EXISTING SECTION A-A 1:100



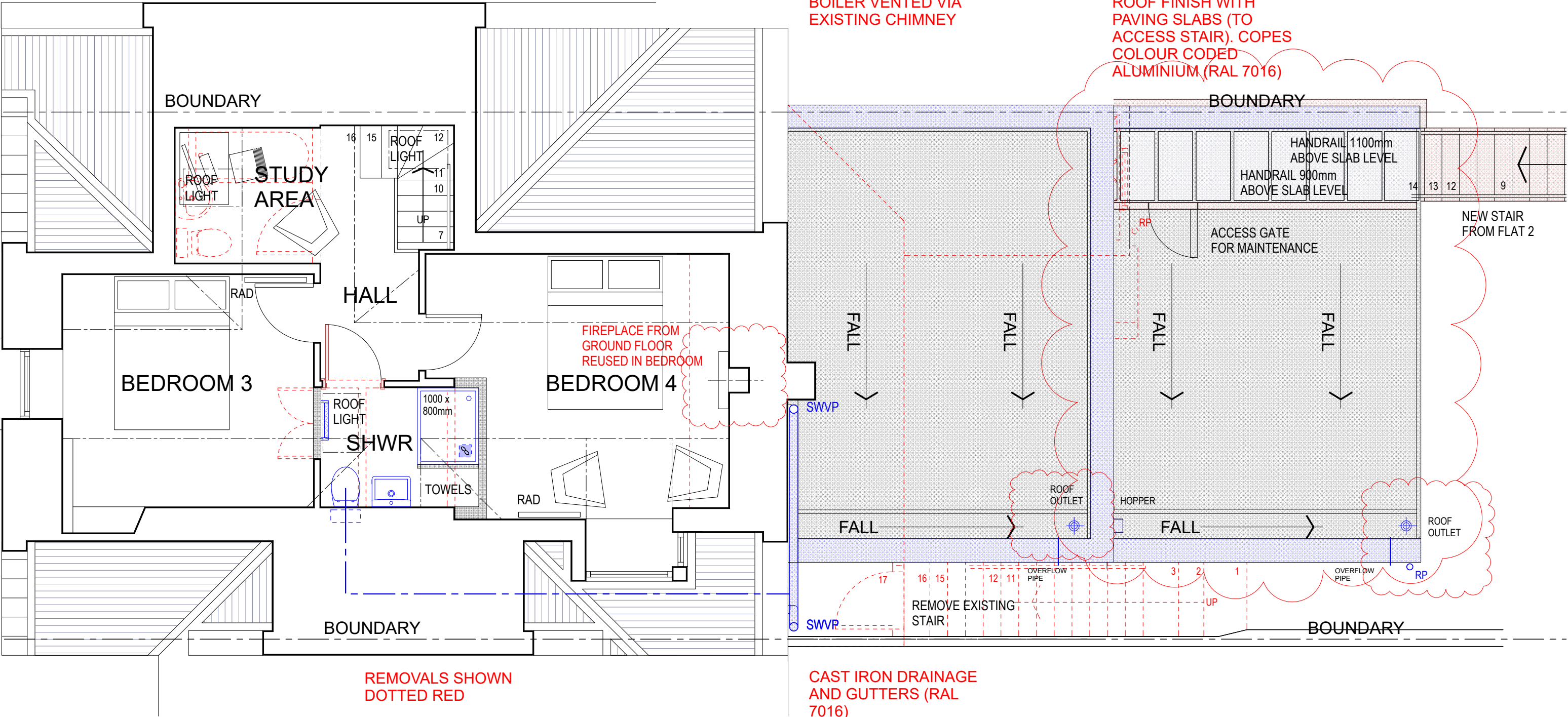
EXISTING REAR (SOUTH EAST) ELEVATION 1:100



FLAT 2 ACCESS STAIR
FORMED FROM
GALVANISED STEEL
FRAME AND BALUSTERS
WIRE INFILLS AND
TIMBER HANDRAIL AND
TREADS



DATE: FEB 2019	SCALE: 1:50	DRWN:CD	DRG. No:1906/06A
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PROPOSED SECOND FLOOR PLAN 1:50

A. FIRST FLOOR EXTENSION REDUCED IN SIZE AND DECKING OMITTED. PLANNING CHANGES. (HIGHLIGHTED IN RED). CD 11/11/19 REVISIONS:

PROPOSED SECOND FLOOR PLAN

PROPOSED CHANGE OF USE AND ALTERATIONS

41-43 MAIN STREET, GOREBRIDGE, MIDLOTHIAN. EH23 4BX

FOR Mr. DAVID KLAN

DATE: FEB 2019	SCALE: 1:50	DRWN:CD	DRG. No:1906/08A
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