

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



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	HARDEN 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>	
10 ACADEMY LANE			
LOANHEAD			
EH20 9RP			
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 NURSER

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 you 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.

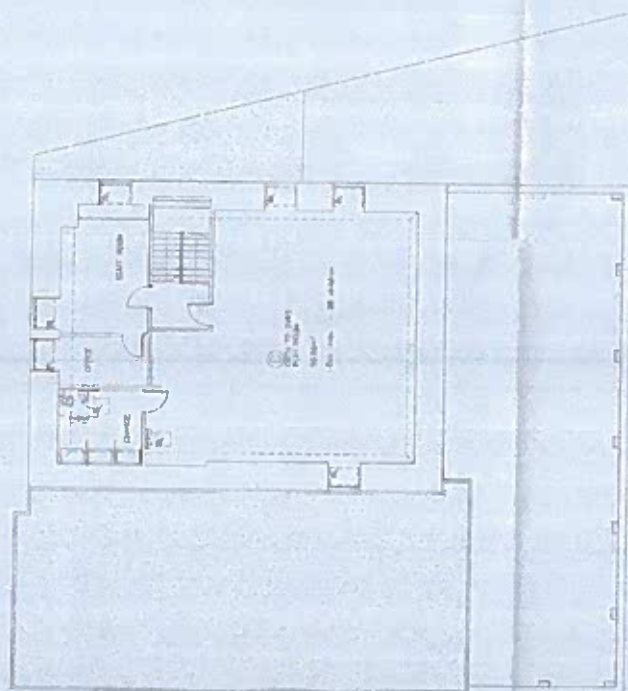
- The building shall be used only as a children's nursery, and for no other purposes within Class 10 of the Schedule to the Town and Country Planning (Use Classes) (Scotland) Order 1997 or the equivalent class of any subsequent order amending or superseding it.

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.*

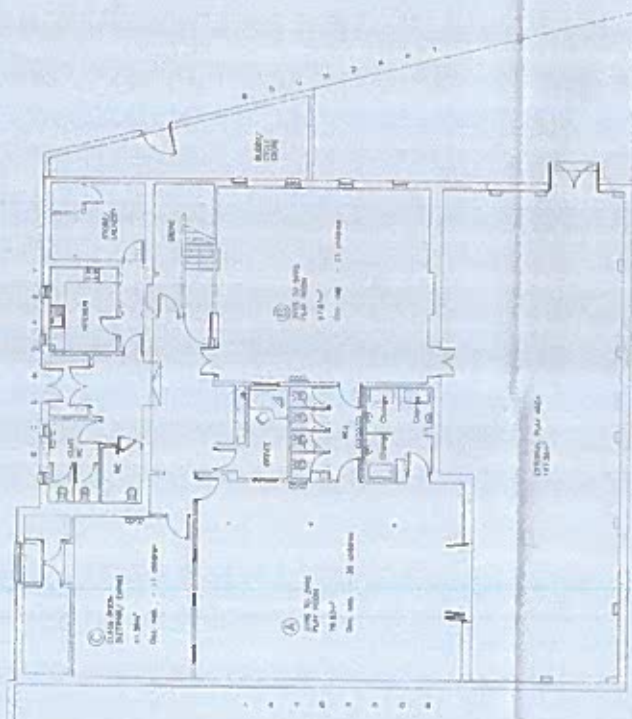
Dated 11 / 1 / 2018

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



11



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0893-3200/97/\$12.00
DOI: 10.1037/0893-3200.10.4.535

- Figure 11:** *new England Fisheries*;
Figure 12: *total G-g*;
Figure 13: *total G-g*



1999



1

PLANNING APPLICATION

SCALLYWAGS CHILDREN'S NURSERY
PROPOSED DEVELOPMENT
LOANHEAD ERSERVATIONS CLUB
10 ACADEMY LANE
LOANHEAD, EH20 8PS

1-000A1	Classified	NSY	09/11/12	DO NOT SCALE
1570(PA2)01				

1570(PA2)01