

## **Notice of Review: Land at the Former Petrol Filling Station, Biggar Road, Hillend, Damhead**

### **Determination Report**

Report by Chief Officer Place

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

- 1.1 The purpose of this report is to provide a framework for the Local Review Body (LRB) to consider a 'Notice of Review' for the erection of nine dwellinghouses, formation of car park and associated works on land at the Former Petrol Filling Station, Biggar Road, Hillend, Damhead.

#### **2 Background**

- 2.1 Planning application 21/00148/DPP for the erection of nine dwellinghouses, formation of car park and associated works on land at the Former Petrol Filling Station, Biggar Road, Hillend, Damhead was refused planning permission on 6 August 2021; a copy of the decision is attached to this report.
- 2.2 The review has progressed through the following stages:
- 1 Submission of Notice of Review by the applicant.
  - 2 The Registration and Acknowledgement of the Notice of Review.
  - 3 Carrying out Notification and Consultation.

#### **3 Supporting Documents**

- 3.1 Attached to this report are the following documents:
- A site location plan (Appendix A);
  - A copy of the notice of review form and supporting statement (Appendix B). Any duplication of information is not attached;
  - A copy of the case officer's report (Appendix C);
  - A copy of the decision notice, excluding the standard advisory notes, issued on 6 August 2021 (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](http://www.midlothian.gov.uk)

#### **4 Procedures**

- 4.1 In accordance with procedures agreed by the LRB, the LRB by agreement of the Chair:

- Have determined to consider a visual presentation of the site and undertaking a site visit (elected members not attending the site visit can still participate in the determination of the review); and
  - Have determined to progress the review by way of a hearing.
- 4.2 The case officer's report identified that there were six consultation responses and one representation received. As part of the review process the interested parties were notified of the review. One additional comment has been received. Transport Scotland has maintained its objection to the application and as a consequence **if the LRB are minded to grant planning permission for the proposed development the decision would need to be referred to Scottish Ministers prior to any permission being issued** – the Scottish Ministers could then determine to intervene in the determination of the application (as set out in the Town and Country Planning (Notification of Applications) (Scotland) Direction 2009). 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 back to the LRB for noting.
- 4.6 A copy of the LRB decision will be placed on the planning authority's planning register and made available for inspection online.

## 5 Conditions

- 5.1 In accordance with the procedures agreed by the LRB at its meeting of 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. Development shall not begin until details of a scheme of hard and soft landscaping has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
  - i. existing and finished ground levels and floor levels for all buildings, garden ground and roads in relation to a fixed datum;
  - ii. existing trees, landscaping features and vegetation to be retained, removed protected during development and in the case of damage, restored;
  - iii. proposed new planting in communal areas, rain gardens, and open space, including trees, shrubs, hedging, wildflowers and grassed areas as well as root protection measures;
  - iv. location and design of any proposed walls, fences and gates, including retaining walls and those surrounding bin stores or any other ancillary structures;
  - v. schedule of plants to comprise species, plant sizes and proposed numbers/density;
  - vi. programme for completion and subsequent maintenance of all soft and hard landscaping;
  - vii. drainage details and sustainable urban drainage systems to manage water runoff;
  - viii. proposed car park configuration and surfacing; and
  - ix. proposed footpaths and cycle paths (designed to be unsuitable for motor bike use).

All hard and soft landscaping shall be carried out in accordance with the scheme approved in writing by the planning authority as the programme for completion and subsequent maintenance (1vi). Thereafter any trees or shrubs removed, dying, becoming seriously diseased or damaged within five years of planting shall be replaced in the following planting season by trees/shrubs of a similar species to those originally required.

***Reason:*** *To ensure the quality of the development is enhanced by landscaping to reflect its setting in accordance with policies ENV1, DEV6 and DEV7 of the 2017 Midlothian Local Development Plan (MLDP) and national planning guidance and advice.*

2. Development shall not begin until details of, and samples where required, of materials to be used on external surfaces of the buildings; boundary walls; retaining walls; hard ground cover surfaces; means of enclosure and ancillary structures have been submitted to and approved in writing by the planning authority. Development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the planning authority.

***Reason:*** *To ensure the quality of the development is enhanced by the use of quality materials and in the interest of protecting the character and appearance of the area so as to comply with policies ENV1 and DEV6 of the MLDP and national planning guidance and advice.*

3. Prior to the commencement of development, a Road Traffic Noise Assessment shall be undertaken to identify any mitigation measures that may be required. The Road Traffic Noise

Assessment Report shall be submitted to the planning authority for written approval. Any mitigation measures identified within the Road Traffic Noise Assessment Report shall be implemented prior to the occupation of any dwellinghouse. Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be agreed in writing with the planning authority.

***Reason:*** To ensure that the approved dwellings can be afforded an acceptable level of amenity in accordance with policy DEV6 of the MLDP.

4. Notwithstanding the plans hereby approved, details of the opening method and design of the windows shall be submitted to the planning authority for prior written approval. All glazing in the window openings fronting onto or facing the A702 shall be fitted with acoustic glazing, the specification of which shall be agreed in writing by the planning authority prior to work commencing on site.

***Reason:*** For sake of clarification and to ensure that the design of the windows reflect the design approach of the development and its setting in accordance with policy DEV6 of the MLDP. In order protect occupants from the noise of traffic using the A702, Biggar Road.

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

***Reason:*** To ensure the development accords with the requirements of policy DEV5 of the MLDP.

6. Parking spaces 05 and 14 identified on the site plan are hereby not approved. Details of a revised parking layout that includes the re-design and or location of spaces 05 and 14 shall be submitted for the prior written approval of the planning authority. Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be approved in writing with the, planning authority.

***Reason:*** In the interest of parking and road safety due to the locations of parking spaces 05 and 14 would require lengthy reversing manoeuvres for drivers using them.

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



**Reason:** *To ensure the development accords with the requirements of policy TRAN5 of the MLDP.*

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

**Reason:** *To ensure the quality of the development is enhanced by the provision of appropriate digital infrastructure in accordance with the requirements of policy IT1 of the MLDP.*

9. The development shall not begin until a scheme to deal with any contamination of the site and/or previous mineral workings has been submitted to and approved by the planning authority. The scheme shall contain details of the proposals to deal with any contamination and/or previous mineral workings and include:

- i. the nature, extent and types of contamination and/or previous mineral workings on the site;
- ii. measures to treat or remove contamination and/or previous mineral workings to ensure that the site is fit for the uses hereby approved, and that there is no risk to the wider environment from contamination and/or previous mineral workings originating within the site;
- iii. measures to deal with contamination and/or previous mineral workings encountered during construction work; and
- iv. the condition of the site on completion of the specified decontamination measures.

10. On completion of the decontamination/remediation works referred to in Condition 9, a validation report shall be submitted to the planning authority confirming that the works have been carried out in accordance with the approved scheme.

**Reason for conditions 9 and 10:** *To ensure that any contamination on the site is adequately identified and that appropriate decontamination measures are undertaken to mitigate the identified risk to site users and construction workers, built development on the site, landscaped areas, and the wider environment.*

11. Prior to the commencement of development, an updated Surface Water Management Plan shall be submitted to the planning authority for prior written approval. Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be approved in writing with the planning authority.

**Reason:** *So as to ensure that there is suitable drainage. The submitted Drainage Impact Assessment document indicates that a 'soakaway' system may be used for dealing with surface water runoff from the site, however, no details of the system or where it would be located within the site have been submitted. Furthermore,*

*the analysis appear to be based on a 14 flat + 2 house layout and not the layout proposed in the planning application.*

12. Prior to the commencement of development an invasive species survey shall be carried out and submitted to the planning authority for prior written approval. Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be approved in writing with the planning authority.

**Reason:** *The Council's Environmental Health Manager confirmed that from pictures included within the submitted drainage assessment that there is a significant growth of Giant Hogweed at the rear of the site. So as to ensure that appropriate mitigation measures are in place to deal with any invasive species.*

- 5.2 If the LRB is minded to uphold the review and grant planning permission for the proposed development it shall be subject to a legal agreement to secure developer contributions towards primary and secondary school education provision and school transport provision. The legal agreement shall be concluded prior to the issuing of the LRB decision. The legal agreement shall be concluded within 6 months of the resolution to grant planning permission, if the agreement is not concluded the review will be reported back to the LRB for reconsideration.

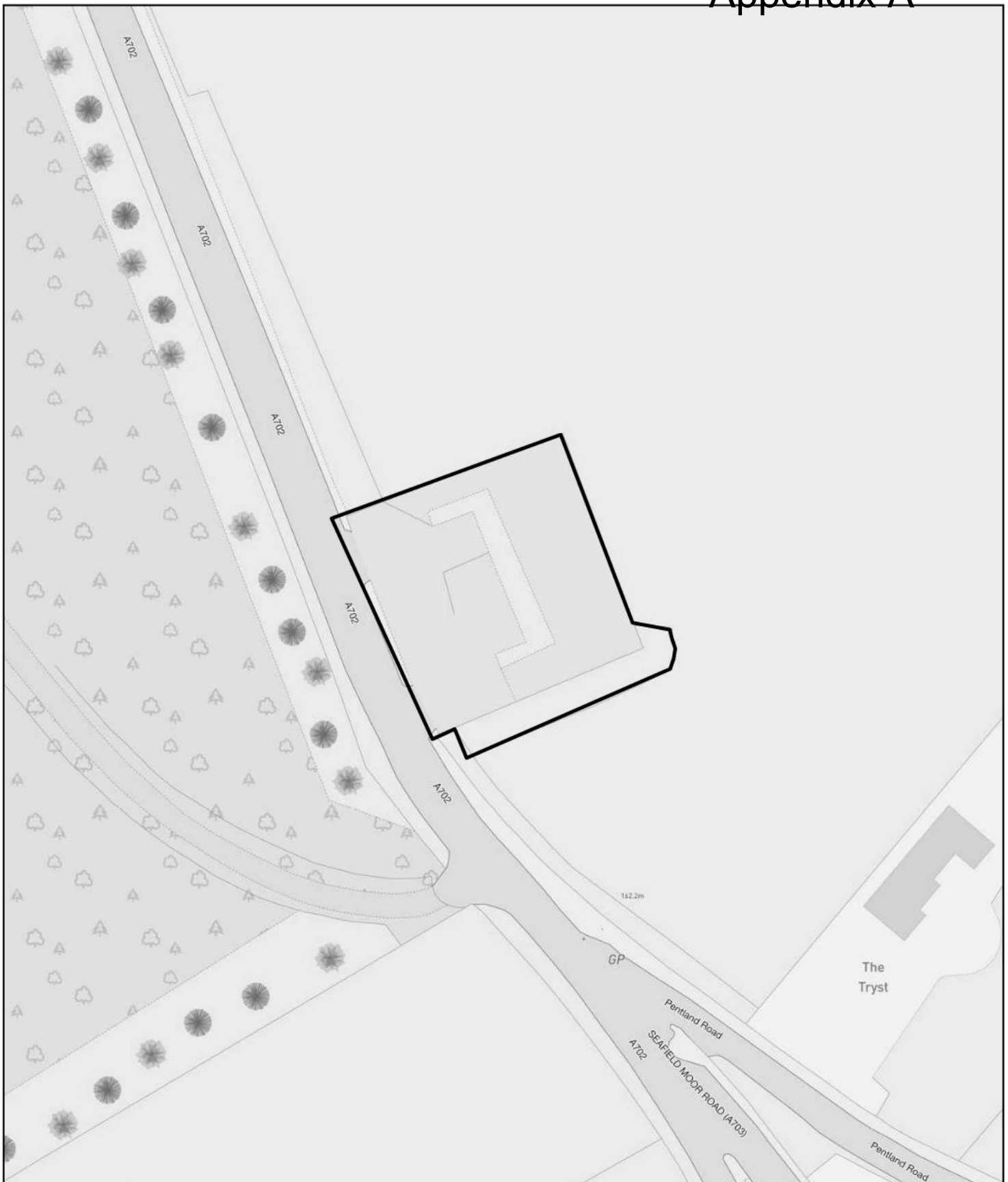
## **6 Recommendations**

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

**Peter Arnsdorf**  
**Planning, Sustainable Growth and Investment Manager**

**Date:** 19 November 2021  
**Report Contact:** Whitney.Lindsay, Planning Officer  
[Whitney.Lindsay@midlothian.gov.uk](mailto:Whitney.Lindsay@midlothian.gov.uk)

**Background Papers:** Planning application 21/00148/DPP available for inspection online.



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

Erection of 9 dwellinghouses; formation of car parking and associated works at Land At Former Filling Station, Biggar Road, Hillend,

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File No: 21/00148/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](mailto:planning-applications@midlothian.gov.uk)

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

Thank you for completing this application form:

ONLINE REFERENCE 100474740-001

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="Gilberts"/>		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	<input type="text" value="George"/>	Building Name:	<input type="text"/>
Last Name: *	<input type="text" value="Gilbert"/>	Building Number:	<input type="text" value="39"/>
Telephone Number: *	<input type="text" value="01312473100"/>	Address 1 (Street): *	<input type="text" value="Grassmarket"/>
Extension Number:	<input type="text"/>	Address 2:	<input type="text"/>
Mobile Number:	<input type="text" value="07831 595952"/>	Town/City: *	<input type="text" value="Edinburgh"/>
Fax Number:	<input type="text"/>	Country: *	<input type="text" value="GB"/>
		Postcode: *	<input type="text" value="EH1 2HS"/>
Email Address: *	<input type="text" value="gg@gilberts.co.uk"/>		

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

☐ Individual ☒ Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text"/>	Building Number:	<input type="text" value="120A"/>
Last Name: *	<input type="text"/>	Address 1 (Street): *	<input type="text" value="Straiton Road"/>
Company/Organisation	<input type="text" value="C M Roofing and Building Limited"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text" value=""/>	Town/City: *	<input type="text" value="Edinburgh"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="UK"/>
Mobile Number:	<input type="text" value=""/>	Postcode: *	<input type="text" value="EH20 9NP"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value=""/>		

## Site Address Details

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

Please identify/describe the location of the site or sites

Former Petrol Filling Station

Northing	<input type="text" value="666814"/>	Easting	<input type="text" value="325094"/>
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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)

Erection of 9 dwelling houses, formation of car parking and associated works at a former petrol filling station , Biggar Road, Hillend.

## 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 the statement in the 'Supporting Documents' section.

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)

Appellant's statement including appendices by the Transportation Consultant and the Drainage Consultant.

## Application Details

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

21/00148/DPP

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

10/03/2021

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

06/08/2021

## Review Procedure

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

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

☐ Yes ☒ No

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

Please select a further procedure \*

Holding one or more hearing sessions on specific matters

Please explain in detail in your own words why this further procedure is required and the matters set out in your statement of appeal it will deal with? (Max 500 characters)

The complexities surrounding land use description merit examination and debate in an open forum.

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 George Gilbert

Declaration Date: 17/09/2021



**APPEAL TO THE LOCAL REVIEW BODY OF MIDLOTHIAN COUNCIL  
AGAINST THE DELEGATED REFUSAL OF PLANNING APPLICATION 21/00148/DPP  
FOR THE ERECTION OF A RESIDENTIAL REDEVELOPMENT  
ON LAND AT THE FORMER PETROL FILLING STATION, BIGGAR ROAD, HILLEND.**

**1.0**

The Appellants would like to make out a case for the support of their application by the Local Review Body [LRB] contrary to the recommendation of the Head of Planning Service. It is acknowledged that this is a complex and challenging case for all parties. However, the Appellants would like to ask the LRB to reconsider the historic land use issues associated with this site and the benefits which could accrue from treating this application as comprising unique circumstances which, on balance, are worthy of support.

**2.0**

The Head of Planning Service has acknowledged that all issues except the matter of land use may be addressed by the Appellants.

However, in the refusal notice five reasons for refusal are quoted.

These are in summary,

- 1] Land use
- 2] Design of redevelopment
- 3] Amenity of redevelopment
- 4] Road Safety
- 5] Drainage

The Appellants set out to address all issues raised by the case officer during this application. This collaborative approach was declared at the outset of the application in the Applicant's Statement.

Specialist consultants were engaged to resolve potential transportation issues and to demonstrate that the redevelopment proposal was sustainable in terms of pedestrian and vehicular management, car parking, site servicing and road safety.

It is regretful that the case officer prematurely closed off the application prior to consideration being given to the final response of the Transportation Consultant.

The information contained in this correspondence further proved compliance with certain sight line configurations requested by Transport Scotland.

A response to the case officer's report on road safety by the Transportation Consultant is contained in Appendix 1.

Notwithstanding the fact that a Road Safety Audit commissioned from Transportation Scotland could have been requested as a condition, the Transportation Consultant is satisfied that the case officer has not promoted sufficient grounds for citing road safety as a reason for refusal of the application at this stage.

Specialist Consultants were also commissioned to demonstrate satisfactory water management arrangements associated with the redevelopment proposals.

A response to the case officer's report on drainage by the Consultant is contained in Appendix 2. The specialist's conclusion is that satisfactory drainage and water management of the redevelopment proposals is a viable proposition.

Accordingly, drainage issues should not be cited as a valid reason for refusal of this application.

### **3.0**

The Appellants would also like to contest certain statements made by the case officer in relation to design and amenity.

A]

The design proposals are clearly based on a traditional hamlet or steading site layout.

The mass forms of the buildings, particularly when viewed from the public domain, are traditional low rise, terraced cottages.

The purposely simple materials palette, which is clearly stated on the application drawings, derives from materials used locally and extensively.

It is inconceivable that these matters could be misconstrued by the case officer in a statement referring to the dwellings as being neither traditional nor contemporary.

B]

Eight of the nine properties currently have garden ground which exceeds the 110 sq.m. standard required by the Council.

A relatively modest realignment of garden fences could have seen full compliance achieved had this

issue been brought to the Applicant's attention during the application process.

Nine elevational cross sections were drawn across and through the site to demonstrate the quality of environment designed into this steading styled hamlet.

C]

Amenity concerns arising from the trunk road resulted in the location of the common car park and service facility being located at the front of the site and the two short terraces being turned gable on to the highway.

Acousticians' advice is that gable shielding from the highway will produce a satisfactory internal environment for the west most cottages.

Specially constructed acoustic garden fences will also result in satisfactory external private recreational space associated with the west most cottages.

The Appellant's conclusion is that design and amenity issues are not justified reasons for refusal of this planning application.

#### **4.0**

It had been the Appellant's objective to reduce the issues associated with this planning application down to only one consideration, that of land use.

It is hoped that the previous explanations and reasoned challenges to the case officer's report on the application achieve that objective for the LRB.

The land use history is complex and merits analysis.

The important considerations are as follows.

The site operated as a commercial petrol filling station with a significant 8 pump canopy from the 1970's until the sale of petrol in this location proved unviable around the year 1995.

The petrol filling station was subsequently marketed as a tenancy opportunity for approximately 8 years without any interest being secured.

During this period various alternative planning applications were tested to establish a viable alternative use for the site.

Of these, only a very few were credible and material.

In 1997 consent was granted for an hotel.

This consent was subsequently extended to increase the bedroom numbers and improve the theoretical viability of development.

Development funding continued to be an issue and the financial recession of 2008, together with the grant of competing consents in relatively close proximity, finally condemned this initiative to history.

From time-to-time enquiries are received about the hotel consent.

However, to date, none have been taken forward.

In fairness to the Planning Service, their advice has always been consistent in that they have regularly insisted any use on this site should acknowledge a green belt status.

The Appellant would like to invite the LRB to consider the following arguments to achieve a constructive outcome to the management of this small but important gateway site to Midlothian.

A]

The grant of the hotel consent established the acceptability to Midlothian Council of a certain mass of built form on this sensitive site.

This same approval established that measures necessary to achieve road safety and drainage of the site were viable.

It is understood that the Planning Service would support a similar project if presented with an updated hotel application today.

B]

The Planning Service have promoted the argument that because the petrol filling station did not operate for an extended period, the land on which it was built reverted back to greenbelt.

This is despite the continuous attempts of the owner to achieve a tenancy to operate the facility.

C]

The Appellant's counter argument is that this land has remained visually a built-up brown field site even though operators could not be found for the petrol filling station or hotel.

Indeed, had the hotel consent been implemented, there is a distinct possibility that the economic situation would have forced closure of the complex and an alternative use may have had to be

found for the vacant structure.

The Appellant's understanding is that Midlothian Council may have been sympathetic to the former hotel building being converted to residential use under these circumstances rather than face the consequences of vacancy and deterioration.

D]

Given this relatively unique site history, the Appellants would like to ask the LRB to support a high quality custom built steading style residential redevelopment of the site.

It is highly likely that the Council could resist claims that they have permitted development of the greenbelt since the site has been continuously developed since in use as a petrol filling station.

For similar reasons, the Council should not be accused of setting an unhealthy precedent.

E]

The Appellants consider that their proposals represent an architecturally sensitive and simple traditional response to the to the redevelopment of this compact but important gateway site.

However, they would be pleased to work with the Planning Service to achieve further improvements in the design if this application was considered worthy of support.

## APPENDIX 1



## **Response to Refusal of Planning Permission – 21/00148/DPP – August 2021**

In response to item 2 of the refusal decision for 21/00148/DPP it is not considered, based on professional opinion, that this proposal will have a significant adverse impact on pedestrian and road safety at this location.

A Transport Statement (*ref 20031-MTS-00-XX-RP-TP-00001-P01-Transport Statement-issue*) was produced to support the proposals. It is noted that this Transport Statement is not listed on the supporting documents in the refusal notice.

The Transport Statement demonstrates that the proposed development is well located in terms of transport with good links for walking, cycling and public transport. Studies of recent accident history over the latest 5 years indicate no record of any safety issue with access to this site.

The proposed junction complies with relevant standards in terms of geometry and visibility requirements. The existing prohibition of right turns into the site will be maintained. The site layout is designed to accommodate the applicable movements of service vehicles and emergency vehicles. Appropriate drawings were submitted to Midlothian Council and Transport Scotland as appendices to the Transport Statement:

- *Drawing No 20031-MTS-00-XX-DR-TP-06001-P04 – Visibility Splay – Access Layout*
- *Drawing No 20031-MTS-00-XX-DR-TP-06010-P02 – Swept Path – Service Vehicle*
- *Drawing No 20031-MTS-00-XX-DR-TP-06011-P02 – Swept Path – Refuse Vehicle*
- *Drawing No 20031-MTS-00-XX-DR-TP-06012-P02 – Fire Access – 45m Extents*

Vehicle generation for the small number of residential units has been calculated using the industry standard TRICS database and is shown to be minimal.

There are expected to be a total of 1 people trip into and 4 leaving the development in the AM peak hour with 4 people trips into and 1 leaving the development during the PM peak hour. This equates to 1 vehicle trip into and 2 leaving the development in the AM peak hour with 2 vehicles into and 1 leaving the development during the PM peak hour. With the addition of the proposed development the travel movements are anticipated to be accommodated with negligible impact to existing infrastructure and transport services.

The impact of 3 vehicle movements over each peak hour is not considered to in any way result in a significant adverse impact on pedestrian and road safety.

It should be noted that the generation of vehicular traffic is less than the extant uses as a petrol station and subsequently as a seasonal retail outlet.

The Transport Statement demonstrated that for 8 dwellings there were sufficient car parking spaces as per the Midlothian Council Guidelines. As the TS assessed 8 units rather than 9 a revised calculation based on the Midlothian Council parking guidance suggests car parking levels as shown in Table 1.



Element	Parking Standard	No of Units	Spaces Required
1 or 2 bedroom	1 resident + 0.5 visitor	9	14.5

**Table 1 – Summary of parking provision guidelines**

The scheme provides 14 formalised car parking spaces, as identified on *Drawing No 1450-00-007*, which includes provision for 2 Electric Car Charging points. There is sufficient circulation space for an additional 1 or 2 waiting vehicles within the curtilage of the site.

The number of spaces provided for the development accords with the council standards, in line with similar developments elsewhere within Scotland, and will not in any way result in a significant adverse impact on road safety.

In light of the evidence presented there is no material consideration that would warrant refusal of the application in terms of transport or traffic matters.

Myles McGregor  
McGregor Traffic Solutions Ltd  
13 August 2021



## APPENDIX 2

## George Gilbert

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**From:** Neil Gordon <NGordon@envirocentre.co.uk>  
**Sent:** 17 September 2021 09:29  
**To:** George Gilbert  
**Subject:** RE: Old Hillend  
**Attachments:** Phase 1 Drainage Strategy Report - Old Hillend Road.pdf

Dear George,

EnviroCentre prepared a Phase 1 Drainage Strategy Report (document ref 774350/DS/003 – please see attached) for the site at Old Hillend, dated 2nd February 2021.

The Surface Water Strategy for the development proposed within the report will provide adequate attenuation storage up to the 1 in 200 year critical storm event (with an appropriate allowance for climate change), and it is proposed that surface water will be drained via a soakaway system mimicking existing conditions.

It is considered that a soakaway solution for the site would be an appropriate solution provided appropriate percolation testing is undertaken, in accordance with the latest Building Standards Technical Handbook guidance, in order to confirm whether or not infiltration characteristics on site are favourable.

If a soakaway solution for the site is deemed unfeasible, then investigation should be undertaken with regard to potential rainwater harvesting, and a possible connection to the closest watercourse to the site: the Lothian Burn.

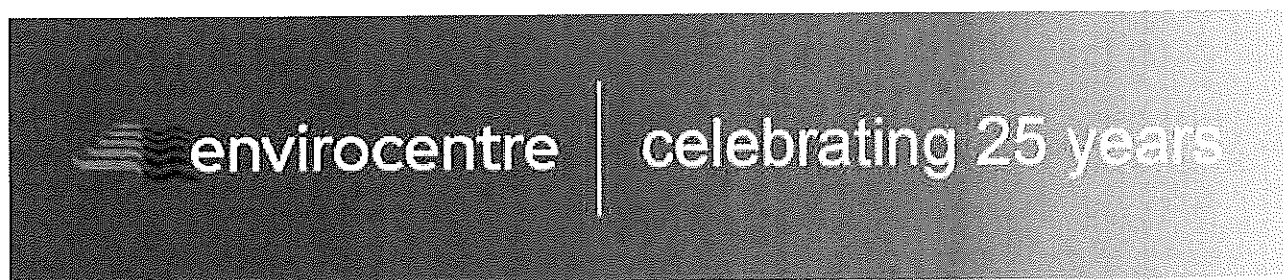
The conclusion is that potentially viable drainage proposals have been identified and should be considered further prior to any refusal of this planning application on the basis of drainage considerations.

Kind regards,

Neil

Neil Gordon BEng MSc CEng MICE  
Regional Manager (Edinburgh) & Principal Consultant

Direct dial: 0131 370 4071  
Email: [ngordon@envirocentre.co.uk](mailto:ngordon@envirocentre.co.uk)



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## MIDLOTHIAN COUNCIL

### DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

**Planning Application Reference:** 21/00148/DPP

**Site Address:** Land at Former Filling Station, Biggar Road, Hillend

**Site Description:**

The application site relates to approximately 2521 m<sup>2</sup> area of land located within the greenbelt as defined by the adopted Midlothian Local Development Plan.

The application site is located on the eastern side of the A702 trunk road, approximately 70 metres north of its junction with Pentland Road and the A703. The site was previously a petrol filling station, with subsequent uses for the occasional retail sale of Christmas trees, Scottish Water as a compound for works carried out on new water supply pipe and a temporary car wash. There are no permanent buildings on site.

There are two vehicle accesses to the application site taken from the A702 trunk road; these were formed to serve the temporary car wash use. The rear of the application site slopes down to the east.

**Proposed Development:** Erection of 9 dwellinghouses; formation of car parking and associated works

**Proposed Development Details:**

Planning permission is sought for the erection of 9 dwellinghouses; formation of car parking and associated works.

The development proposal comprises of the following:

The nine dwellinghouses are arranged into three blocks set out in a 'U' shape plan with car parking and bin storage located to the front of the application site; a row of five two storey terraced dwellinghouses that are set back to the rear of the application site and runs parallel with the A702, two semi-detached dwellings that sit perpendicular to the A702.

The terraced dwellings have a rectangular footprint and a pitched roof; the central dwelling has a gable end within the front and rear elevation. The terraced dwellings are set back approximately 34 metres from the main A702 trunk road. The terraced dwellings are approximately 43 metres long and measures approximately 9.7 metres at the widest point. The terraced dwellings overall, comprises of a two storey building which according to the submitted elevation plans will partly visually read as a single story building from the front and a two storey building to the rear due to the site sloping to the rear. The design of each of the two dwellings located at either side of the central terraced dwelling includes a two storey hipped extension to the rear elevation. Each dwelling being afforded a balcony at first floor level.

Each block of semi-detached dwellings faces gable end onto A702 trunk road and is set back approximately 14 metres from the A702. The semi-detached dwellings have a pitched roof and include a box dormer window within the front elevation and a single storey extension that has a hipped roof that connects into the main roof. The design of the semi-detached dwellings include two port hole windows within each gable side elevation. Both of the two block of semi-detached dwellings have a rectangular footprint with each dwelling includes a single storey extension to the rear. Each block of semi-detached dwellings is approximately 16 metres long and measures approximately 9.5 metres at the widest point.

All of the dwellings are two bedroom dwellings. The design of all of the dwellings is neither traditional nor contemporary. The main form of the dwellings is fairly traditional; the fenestration and dormer windows are neither traditional nor contemporary. Details of the material finishes have not been detailed on the submitted plans; the plans are annotated to indicate that the dwellings would be finished in a render with a terracotta pan tile roofs and grey framed windows.

The application site will be accessible by a vehicle access that is to be taken from the A702 trunk road. A total of 14 parking spaces are proposed to the front of the application site; 12 spaces end-on parking bays that run along the front of the application site, the other two spaces are parallel spaces

A footpath is taken from the area of car parking to provide access to each dwelling. Bin storage is afforded at either side of the area of car parking.

**Background (Previous Applications, Supporting Documents, Development Briefs):** Planning history sheet checked.

This site has a long history of planning applications, the following having all been refused: the erection of a dwellinghouse in 1988 and 1992; a poultry run in 1993; erection of a hotel in 1997; change of use to garden centre in 1998 and 2001; change of use for the retail sale of Christmas trees for 28 days each year in 2004; change of use to car wash/valet service, in 2007. A certificate of lawfulness application for the former petrol station stating the lawful use as storage yard was refused in August 2007. Planning application 08/00250/FUL for the erection of four houses was refused and the decision was upheld at appeal. The reasons for refusal was the effect of the development on the purposes of the greenbelt and the character and appearance of the countryside; road safety; and the free flow of traffic.

Planning application 09/00588/DPP for the erection of hotel, associated access road, refuse/cycle store, car parking and landscaping was granted consent subject to conditions – which included road safety conditions relating to Transport Scotland's comments.

Planning application 10/00529/DPP for the Erection of hotel and associated access road, refuse store, car parking and landscaping and boundary wall (amendment to planning permission 09/00588/DPP) was refused planning permission due to concerns over design, parking and road safety. The decision was overturned at the Local Review Body – similar conditions to 09/00588/DPP were attached.

Planning application 11/00168/DPP for the Temporary change of use of former petrol filling station to car wash/valeting facility and associated access road was granted consent temporary planning permission subject to conditions – 36 months only; all buildings removed in 3 months; access and visibility splays implemented as approved; carriageway improvements; Traffic Regulation Order granted by Transport Scotland; gradient of road; overspill parking area in place; drainage; lighting; and no trees lopped, topped or felled. The applicant submitted an appeal to the Local Review Body to remove some of the conditions attached to the permission. The local Review Body refused the appeal.

Planning application 12/00126/DPP for the Amendment/deletion of conditions 3, 4, 5 and 6 of Planning Permission 11/00168/DPP (Temporary change of use of former petrol filling station to car wash/valeting facility and associated access road) was granted consent subject to conditions.

Planning application 13/00726/DPP for the Amendment of condition 1 of planning permission 11/00168/DPP (temporary change of use of former petrol filling station to car wash/valeting facility and associated access road) to extend duration of temporary permission was granted consent with conditions – temporary permission till 31/12/15; removal of buildings, etc in 3 months; access changed to be as per TS agreement.

Planning application 16/00704/DPP for the Temporary change of use of former petrol filling station to car wash/valeting facility was refused planning permission due to the adverse impact upon the green belt.

Planning application 20/00477/DPP for the Erection of 16 flatted dwellings; formation of car parking and associated works was refused planning permission for the following reasons:

1. *It has not been demonstrated that the flatted dwellings are required for the furtherance of an established Green Belt activity. The proposal is therefore contrary to policy ENV1 of the adopted Midlothian Local Development Plan 2017 and the adopted Supplementary Guidance: Housing Development in the Countryside and Green Belt.*
2. *It has not been demonstrated to the satisfaction of the Planning Authority or Transport Scotland that the development proposal will not result in a significant adverse impact upon pedestrian and road safety at this busy trunk road. In addition the proposal includes an insufficient level of off-street parking spaces, contrary to Midlothian Council's Parking Standards, which will result in a significant adverse impact on road safety. There are road safety concerns which are a material consideration that warrant refusal of the application.*
3. *The design of the flatted building is not of sufficient good quality for this sensitive area, being neither of a traditional design nor of a high quality contemporary design. The siting, scale and design of the development fails to adequately reflect the surrounding characteristics of the area, and fails to complement or enhance the character of the surrounding area. The siting,*

*scale and design issues are also material considerations that warrant refusal of the application. The proposal is therefore contrary to policy ENV1 of the adopted Midlothian Local Development Plan 2017 and the adopted supplementary Guidance: Housing Development in the Countryside and Green Belt.*

4. *It has not been demonstrated to the satisfaction of the Planning Authority that the proposed flatted dwellings will be afforded an adequate level of residential amenity and therefore does not comply with policy DEV6 of the adopted Midlothian Local Development Plan 2017.*

#### **Consultations:**

**Transport Scotland** initially requested that a Transport Statement/Assessment be submitted by the applicant so as to allow **Transport Scotland** assess the proposal. No adequate additional information has been submitted by the 24 June 2021. Therefore, Transport Scotland recommended the planning application be refused due to insufficient information being submitted to determine the application.

It is noted that the agent submitted additional information on the 30 June 2021 for consideration – this information was not taken into consideration in the assessment of the current planning application due to the application being determined and a decision already being circulated around members.

**Transport Scotland** provided an updated consultation response on the 24 June 2021 which advised that Transport Scotland recommended that the planning application be refused due to there being insufficient information to assess the proposal.

The **Council's Policy and Road Safety Manager** raised a number of concerns to the proposal and requested that the proposal be amended to address the location of two parking spaces; include electric vehicle charging point; and provide details of an updated surface water management plan.

No additional information has been submitted by the 24 June 2021 when the application was circulated around members. It is noted that the agent submitted additional information on the 30 June 2021 for consideration – this information was not taken into consideration in the assessment of the current planning application due to the application being determined and a decision already being circulated around members.

The **Council's Environmental Health Manager** raised serious concerns regarding the development proposal in terms of road noise from the adjacent A702. The **Council's Environmental Health Manager** recommended that an assessment of Road Traffic Noise be undertaken to identify any mitigation measures that may be required and ensure that the dwellings can be afforded an acceptable level of amenity. The **Council's Environmental Health Manager** also recommended that an invasive species survey is undertaken on the site as it is noted from pictures included in the drainage assessment that there is a significant growth of Giant Hogweed at the rear of the site. The **Council's Environmental Health Manager**

also recommended that if consent is to be granted then conditions should be attached to address contaminated land issues.

**Scottish Water** offered no objection to this planning application, but advised that the applicant should be aware that this does not confirm that the proposed development can currently be serviced. It is noted that Scottish Water is unable to confirm Waste Water Capacity and that **Scottish Water** will not accept any surface water connections into our combined sewer system. It is noted that the submitted drainage Impact Assessment also included a pre-development enquiry application – capacity review from Scottish Water, dated 11 December 2020; it was concluded that There are no issues currently identified within our **water** and **wastewater** network that would adversely affect the demands of your development (based on 16 units). Note this response is valid for 12 months.

The **Council's Education Manager** offered no response.

**Damhead & District Community Council (DHCC)** objected to the development proposal and raised the following concerns:

- Raised concerns regarding the dangerous access and egress to the application site and close proximity to the dangerous junction at Hillend where the A702/A703 and Old Pentland Road meet; and
- Noted that whilst some sort of development is required, nine additional houses is would increase the hazard on the road.

#### **Representations:**

One objection representation was received which object to the above planning application and can be viewed online. The objection representation raised concerns which can be summarised as follows:

- Concerns that construction of the proposal and the proposal would impair road safety and the poorly sighted A702/A703/Old Pentland Road junctions;
- Concerns the sites access results in danger for all road users and potential residents; and
- Concerned that erection of residential dwellings on contaminated ground and the removal of former fuel tanks poses an environmental hazard and prohibitive expense for both developer and residents.

#### **Relevant Planning Policies:**

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

Policy **ENV1: Protection of the Green Belt** advises that Development will not be permitted in the Green Belt except for proposals that;

- A. are necessary to agriculture, horticulture or forestry; or
- B. are for opportunities for access to the open countryside, outdoor sport or outdoor recreation which reduce the need to travel further afield; or
- C. are related to other uses appropriate to the rural character of the area; or
- D. provide for essential infrastructure; or

- E. form development that meets a national requirement or established need of no other site is available.

Housing will only be permissible where it is required for the furtherance of an established Green Belt Activity (see criterion A above). The applicant will be required to show the need for the new dwelling is permanent; cannot be met within an existing settlement; and that the occupier will be employed full-time in the associated countryside activity. A planning condition limiting the occupancy of the house is likely to be attached in the event of approval.

Details of exceptions for housing within the Green Belt are set out in the Housing Development in the Countryside and Green Belt Supplementary Guidance.

Policy **ENV4: Prime Agricultural Land** does not permit development that would lead to the permanent loss of prime agricultural land.

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

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

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

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

Policy **IT1: Digital Infrastructure** states that proposals for telecommunications developments will be supported where they are sited and designed to minimise environmental impact.

### **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.

### **Principle**

The Green Belt surrounding Edinburgh plays an important role in safeguarding and maintaining the landscape settings of the city and the individual settlements of Midlothian. The Green Belt helps to maintain the character and identity of individual settlements by restricting coalescence of neighbouring settlements. In order to ensure that the Green Belt is maintained and that settlements avoid coalescence planning policies do not support development within the Green Belt except where it is required for the furtherance of existing acceptable uses. The primary aim of Green Belt policy is to maintain separation between settlements.

The proposed dwellings are not required in order to support the furtherance of an existing Green Belt activity such as agriculture, horticulture or forestry; the dwellings



will be private dwellings intended solely as a development opportunity. There is no support in planning policy for the fundamental principle of a development of the proposed type at this location.

Overall, the proposal is contrary to adopted policy ENV1 Protection of the Green Belt and the adopted Supplementary Guidance: Housing Development in the Countryside and Green Belt. There are no other material considerations that would warrant the approval of dwellings contrary to adopted policy ENV1.

A supporting statement was submitted with the application submission which noted that the current planning application looks to address the reasons that the previous planning application, 20/00477/DPP, was refused and seeks consent for residential properties at the application site. Whilst the supporting statement notes that the current planning application looks to address the previous reasons for refusal, the fundamental issue remains, there is no policy support for the principle of housing at this application site.

The following matters were also assessed, it is noted that the applicant may be able to address some of the following matters by providing additional information or revising the proposal, however, it is fundamental to note that there still would be no policy support for the principle of housing at this application site.

No additional information has been submitted by the 24 June 2021 when the application was circulated around members and the agent was also notified by email of this. It is noted that the agent submitted additional information on the 30 June 2021 for consideration – this information was not taken into consideration in the assessment of the current planning application due to the application being determined and a decision already being circulated around members.

### **Design**

As stated above, there is no policy support in principle for a house on this site and the applicant's agent was informed of this during the assessment of this planning application.

Within the applicants supporting statement, it is noted that the application for the residential dwellings has been submitted in an attempt to address the reasons for refusal of planning application, 20/00477/DPP, for the erection of 16 flatted dwellings; formation of car parking and associated works.

Whilst the design approach of the development proposal has been significantly amended to the previously refused scheme and consent hotel, the resultant residential remains incompatible with the surrounding area. Whilst a dwellings that visually read as single storey dwellings may be considered as acceptable form of dwelling in terms of character of the wider area, the proposal comprises of nine dwellings that results in the overdevelopment of the site.

Whilst the re-development of the application site may result in the application site being tidied up, the resultant development is contrary to policy and would result in an adverse visual impact upon the area. The design approach to the dwellings is neither traditional nor contemporary and is not of significant high quality design for what

would be a prominent development within the Green Belt. The overall development will not complement or enhance the character of the surrounding area.

It is noted that even if there was policy support for the principle of housing, the siting, scale, over-development and design issues are also material considerations that warrant refusal of the application.

### **Amenity**

It is noted that policy DP2 Development Guidelines, from the now superseded 2008 Midlothian Local Plan, sets out design guidance for new developments. The guidance provided in this policy has been successfully applied to development proposals throughout Midlothian and will be echoed within the Council's Supplementary Guidance on Quality of Place which is currently being drafted.

Detached, semi-detached and terraced dwellings should each be provided with a private outdoor space that is free from direct overlooking from public areas and neighbouring property as far as possible. Private open space attached to the dwelling is required for all non-flatted properties. The Council's standard requires that houses of 3 apartments to have useable garden ground no less than 110m<sup>2</sup>.

The submitted site plan indicates that each terraced dwelling will be afforded a limited amount of private garden ground and a balcony. The land to the rear of the application site slopes down to the east. No existing /proposed topographical plans and limited proposed site section plans were submitted to allow for this to be fully assessed. It is not clear from the submitted plans what the amount, quality and usability of the private garden ground would be.

The submitted site plan indicates that each of the semi-detached dwellings will be afforded useable private garden ground approximately ranging from 40m<sup>2</sup> to 77m<sup>2</sup> to the rear of each property; there are also areas of garden ground to the front of the dwellings.

Based on the submitted plans, it has not been demonstrated to the satisfaction of the Planning Authority that any of the proposed dwellings will not be afforded an adequate quality of useable private garden ground.

Spaces between houses may vary depending on the types of houses and the nature of the sites. The Council's applied standard requires a back to back distance of 25 metres, a gable to rear distance of 16 metres and front to front distance of 22 metres.

There is approximately 6 metres between the front elevations of the terraced dwellings and the gable end of the semi-detached dwellings. There is approximately 18 metres between the front elevations of the semi-detached dwellings. It is considered that the dwellings would be afforded a reasonable outlook.

The proposed dwellings will be located in close proximity to the busy A702 trunk road and may be subjected to noise from vehicles passing by. As noted above, the Council's Environmental Health Manager raised serious concerns regarding the development proposal in terms of road noise from the adjacent A702. It has not been

demonstrated to the satisfaction of the Planning Authority that the dwellings can be afforded an acceptable level of amenity.

Overall, it has not been demonstrated to the satisfaction of the Planning Authority that the dwellings will be afforded an acceptable level of residential amenity and therefore do not comply with adopted policy DEV6.

### **Road Safety/Drainage**

The Council's Policy and Road Safety Officer raised concerns and noted that the locations of parking spaces 05 and 14 would require lengthy reversing manoeuvres for drivers using them and these spaces should be redesigned as end-on rather than parallel parking spaces.

The Council's Policy and Road Safety Officer also raised a number of concerns to the proposal and requested that the proposal be amended to address the lack of compliance with the location of two parking spaces; include electric vehicle charging point; and provide details of an updated surface water management plan. No additional information has been submitted to address any of the concerns

It is also noted that the Transport Statement submitted by the applicant has been based on the impact of an eight house development while the actual proposal is for a nine house development. This will have an impact on trunk road traffic.

It is also noted that the development layout indicates that a banded right turn into the site would be promoted on the A702 trunk road. Restricting access to a development can be problematic and banned turns rely on driver cooperation and legal enforcement. The banned turn would also require any northbound vehicles wishing to enter the site to proceed northward and then turn at some suitable point and drive back to the site.

As the application site is accessed via the A702 which forms part of the National Trunk Road network and responsibility for Highway matters will lie with the Scottish Executive and their private consultant. Comments on the suitability of this site for this use and any requirements for improvements to the existing access and visibility splays would be provided by these bodies.

Transport Scotland recommended the refusal of the current planning application due to the lack of information to allow the application to be determined.

It is noted that even if there was policy support for the principle of housing, there are significant outstanding road safety issues which are also material considerations that warrant refusal of the application.

The Drainage Impact Assessment document indicates that a 'soakaway' system may be used for dealing with surface water runoff from the site however no details of the system or where it would be located within the site have been given. Also the analysis relates to a scheme for 14 flatted dwellings and 2 houses and not the layout proposed in the planning application. An updated Surface Water Management plan is required. It has not been demonstrated to the satisfaction of the Planning Authority

that the surface water drainage from the development proposal will adequately be addressed.

### **Summary**

Whilst it is noted that some of the concerns/matters raised above could be addressed by the applicant, it is noted that there is no policy support or other material considerations to warrant the approval of dwellings at the application site.

Should the application have been recommended for approval there would have been a requirement for developer contributions towards essential infrastructure improvements.

Overall, all relevant matters have been taken into consideration in determining this application. It is considered that the proposal does not accord with the principles and policies of the adopted Midlothian Local Development Plan 2017 and is not acceptable in terms of all other applicable material considerations. Therefore, it is recommended that the application is refused.

**Recommendation:** Refuse planning permission

### Reg. No. 21/00148/DPP

George Gilbert  
Gilberts  
39 Grassmarket  
Edinburgh  
EH12HS

Midlothian Council, as Planning Authority, having considered the application by C M Roofing and Building Limited, 120A Straiton Road, Edinburgh, EH20 9NP, which was registered on 10 March 2021 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

#### **Erection of 9 dwellinghouses; formation of car parking and associated works at Land at Former Filling Station, Biggar Road, Hillend**

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

<u>Document/Drawing.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	1450-00-006 1:2500	10.03.2021
Site Plan	1450-00-007 1:100	10.03.2021
Proposed Floor Plans and Sections	1450-00-008 1:100	10.03.2021
Proposed Elevations 1	1450-00-009 1:100	10.03.2021
Proposed Elevations 2	1450-00-009 1:100	10.03.2021
Proposed Elevations 3	1450-00-010 1:100	10.03.2021
Proposed Elevations 4	1450-00-010 1:100	10.03.2021
Proposed Elevations 5	1450-00-011 1:100	10.03.2021
Design and Access Statement		10.03.2021

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

- 1. It has not been demonstrated that the dwellings are required for the furtherance of an established Green Belt activity. No alternative acceptable justification has been provided for the proposed development in the Green Belt. The proposal is therefore contrary to policy ENV1 of the adopted Midlothian Local Development Plan 2017 and the adopted Supplementary Guidance: Housing Development in the Countryside and Green Belt.*
- 2. It has not been demonstrated to the satisfaction of the Planning Authority or Transport Scotland that the development proposal will not result in a significant adverse impact upon pedestrian and road safety at this busy trunk road. In addition the proposal includes an inadequate off-street parking spaces, contrary to Midlothian Council's Parking Standards, which will result in a significant adverse impact on road safety. There are road safety concerns which are a material consideration that warrant refusal of the application.*
- 3. The design of the dwellings are not of sufficient good quality for this sensitive area, being neither of a traditional design nor of a high quality contemporary design. The*

*siting, scale, density and design of the development fails to adequately reflect the surrounding characteristics of the area, and fails to complement or enhance the character of the surrounding area. The proposal is therefore contrary to policy ENV1 of the adopted Midlothian Local Development Plan 2017 and the adopted Supplementary Guidance: Housing Development in the Countryside and Green Belt.*

4. *It has not been demonstrated to the satisfaction of the Planning Authority that the proposed dwellings will be afforded an adequate level of residential amenity and therefore does not comply with policy DEV6 of the adopted Midlothian Local Development Plan 2017.*
5. *It has not been demonstrated to the satisfaction of the Planning Authority that the surface water drainage from the development proposal will adequately be addressed.*

Dated 6 / 8 / 2021



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

Website: [www.gov.uk/coalauthority](http://www.gov.uk/coalauthority)

### **STANDING ADVICE**

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

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

Standing Advice valid from 1st January 2021 until 31st December 2022



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authorities and in accordance with the British, EN & ISO Standards.  
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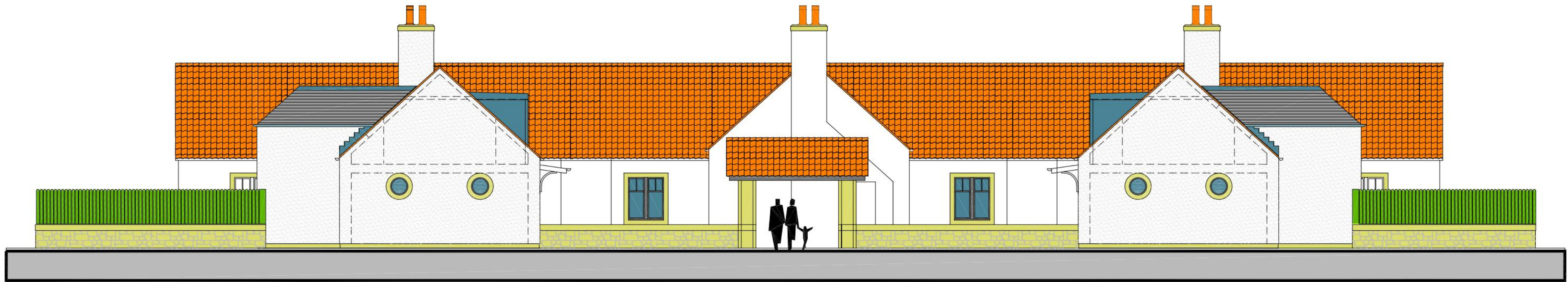
# SITE LAYOUT PLAN

[Site Area = 2730 sq.m.]



revision	date	revision by	checked by
drawing revision			
PLANNING APPLICATION			
client			
C M ROOFING & BUILDING LTD			
27 LAURISTON STREET, EH3 9DQ			
project title			
RESIDENTIAL REDEVELOPMENT			
LAND AT FORMER FILLING STATION			
BIGGAR ROAD, HILLED			
MIDLOTHIAN			
drawing title			
SITE LAYOUT PLAN			
drawing number			
1450-00-007			
date drawn			
02-03-2021			
drawn by			
GG			
scale			
1:100			
gilberts architects			
39 Grassmarket, Edinburgh, EH1 2HS • t: 0131 2473100 • www.gilberts.co.uk			





WEST ELEVATION



INNER SOUTH ELEVATION



NORTH ELEVATION

revision	date	revision by	checked by

drawing number

PLANNING APPLICATION

client

C M ROOFING & BUILDING LTD

27 LAURISTON STREET, EH3 9DQ

RESIDENTIAL REDEVELOPMENT

LAND AT FORMER FILLING STATION

BIGGAR ROAD, HILLEN

MIDLOTHIAN

drawing title

ELEVATIONS [SHEET 1]

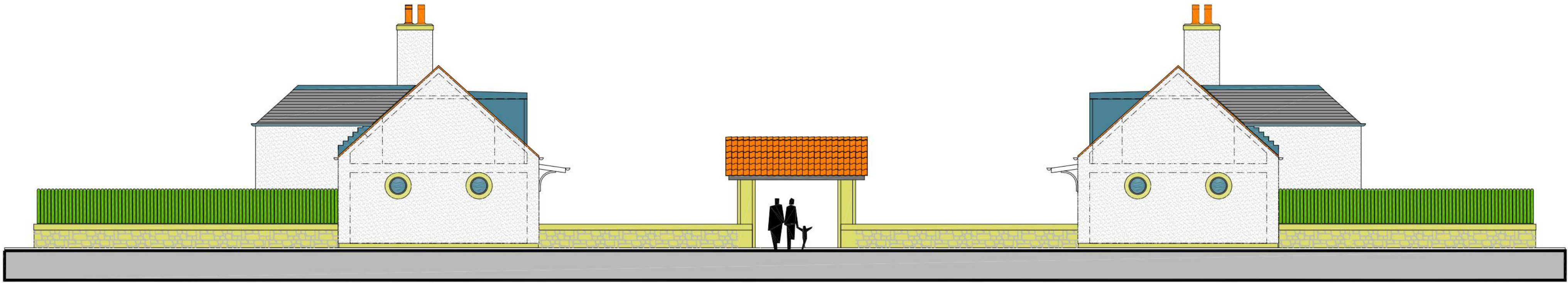
project/drawing number	revision
1450-00-009	

date issued	drawn by	scale
02/03/2021	GG	1:100

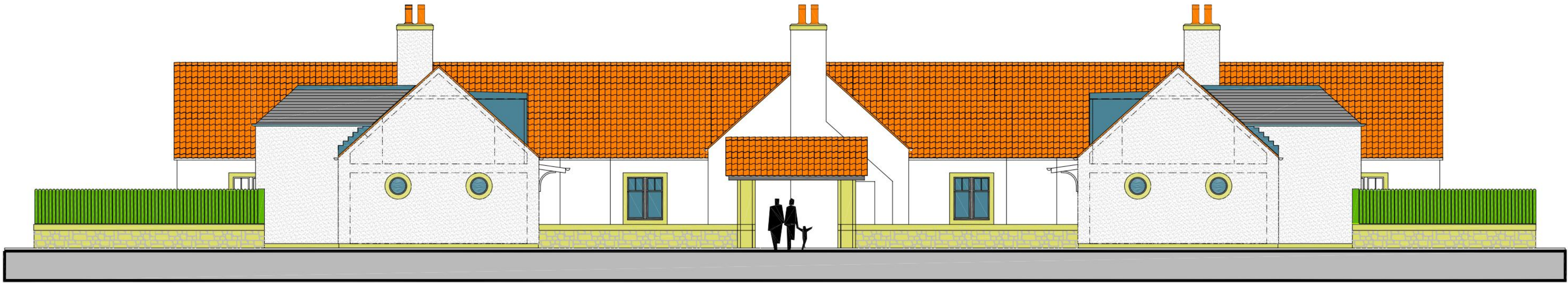
gilberts architects

39 Grassmarket, Edinburgh, EH1 2JG • T: 0131 2473100 • www.gilberts.co.uk





INNER EAST ELEVATION  
EAST ELEVATION OF HOUSES 3 AND 4



WEST ELEVATION  
WEST ELEVATION OF HOUSES 1 AND 2



INNER SOUTH ELEVATION  
SOUTH ELEVATION OF HOUSE PLOTS 1 AND 3

revision	date	revision by	checked by
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drawing revisions

PLANNING APPLICATION

C M ROOFING & BUILDING LTD  
27 LAURISTON STREET, EH3 9DQ

PROJECT SITE  
RESIDENTIAL REDEVELOPMENT  
LAND AT FORMER FILLING STATION  
BIGGAR ROAD, HILLEND  
MIDLOTHIAN  
DRAWING FILE  
ELEVATIONS [SHEET 1]

PROJECT NUMBER 1450-00-009	DATE DRAWN 02-03-2021	DRAWN BY GG	SCALE 1:100
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**gilberts** architects  
39 Grassmarket, Edinburgh, EH1 2HS • T: 0131 2473100 • www.gilberts.co.uk





NORTH ELEVATION  
NORTH ELEVATION OF HOUSE PLOTS 1 AND 3



EAST ELEVATION



INNER WEST ELEVATION

revision date revision by checked by

drawing revisions

PLANNING APPLICATION

C M ROOFING & BUILDING LTD

27 LAURISTON STREET, EH3 9DQ

PROJECT NO:

RESIDENTIAL REDEVELOPMENT

LAND AT FORMER FILLING STATION

BIGGAR ROAD, HILLEND

MIDLOTHIAN

drawing title

ELEVATIONS [SHEET 2]

PROJECT NUMBER

1450-00-010

DATE DRAWN

02-03-2021

DRAWN BY

GG

SCALE

1:100





EAST ELEVATION



INNER WEST ELEVATION

revision	date	revision by	checked by
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drawing number

1450-00-010

client

C M ROOFING & BUILDING LTD  
27 LAURISTON STREET, EH3 9DQ

RESIDENTIAL REDEVELOPMENT  
LAND AT FORMER FILLING STATION  
BIGGAR ROAD, HILLEN  
MIDLOTHIAN

drawing title

ELEVATIONS [SHEET 2]

revision	date	revision by	checked by
1450-00-010	02/03/2021	GG	1:100





INNER NORTH ELEVATION  
NORTH ELEVATION OF HOUSE PLOTS 2 AND 4



SOUTH ELEVATION  
SOUTH ELEVATION OF HOUSE PLOTS 2, 4 AND 9



NORTH ELEVATION  
NORTH ELEVATION OF HOUSE PLOTS 1, 3 AND 5

revision	date	revision by	checked by
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drawing revisions

drawing status

PLANNING APPLICATION

client

C M ROOFING & BUILDING LTD

27 LAURISTON STREET, EH3 9DQ

project site

RESIDENTIAL REDEVELOPMENT

LAND AT FORMER FILLING STATION

BIGGAR ROAD, HILLEND

MIDLOTHIAN

drawing title

ELEVATIONS [SHEET 3]

project reference number	revision
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1450-00-011	
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date drawn	drawn by	scale
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02-03-2021	GG	1:100
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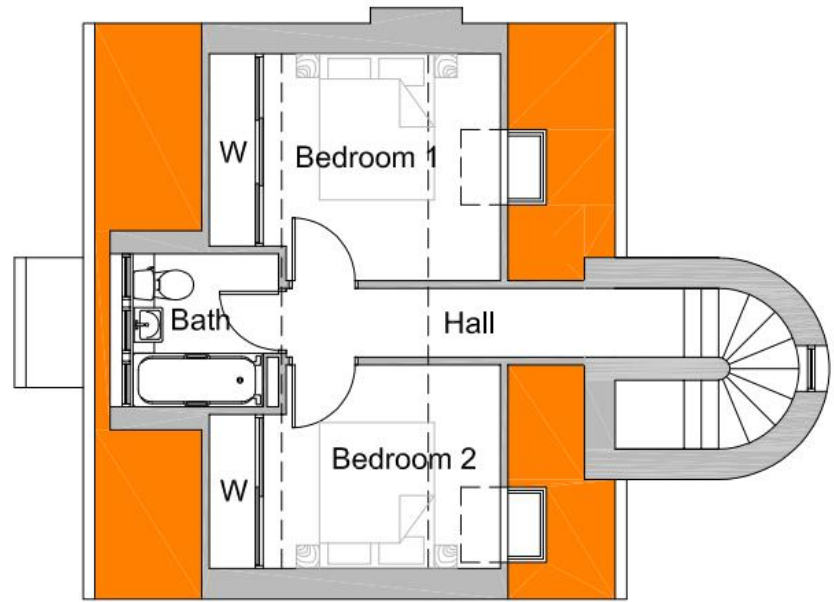
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39 Grassmarket, Edinburgh, EH1 2HS • t: 0131 2473100 • www.gilberts.co.uk

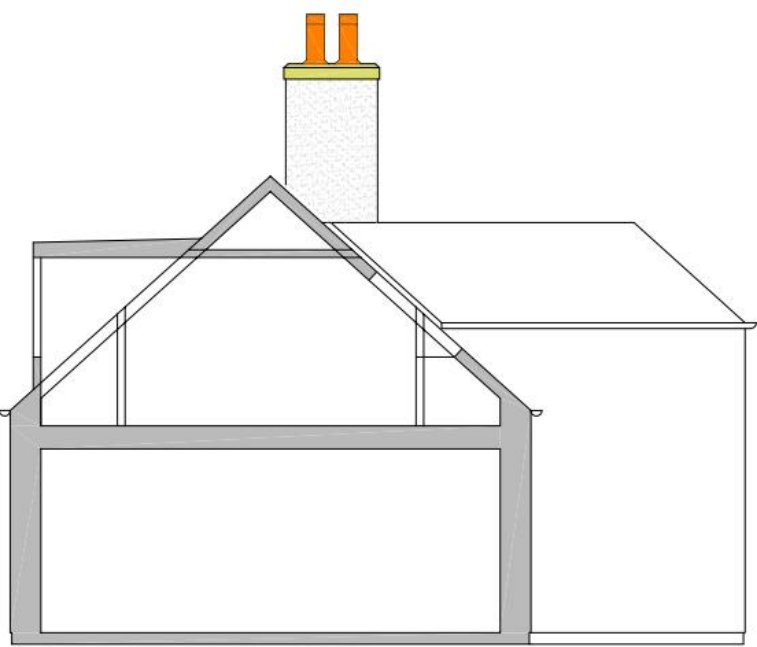




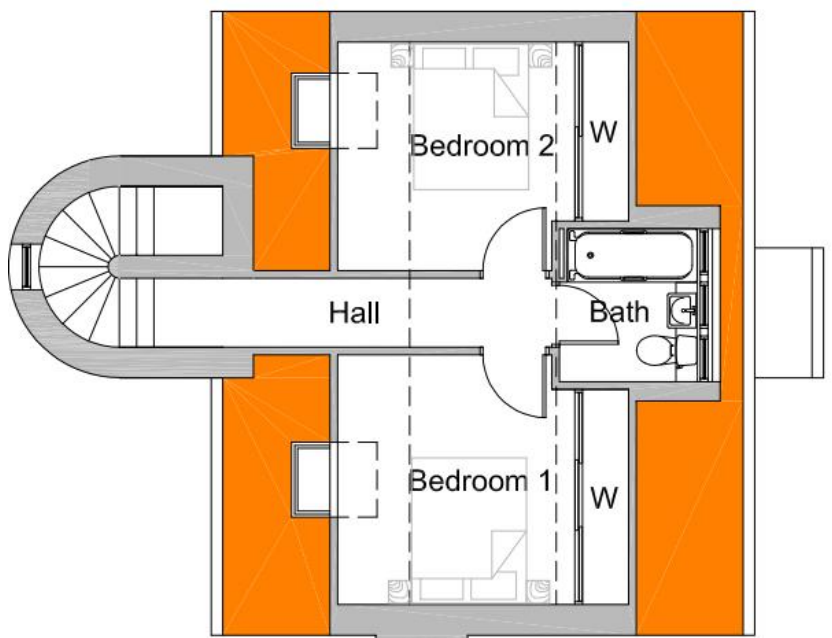
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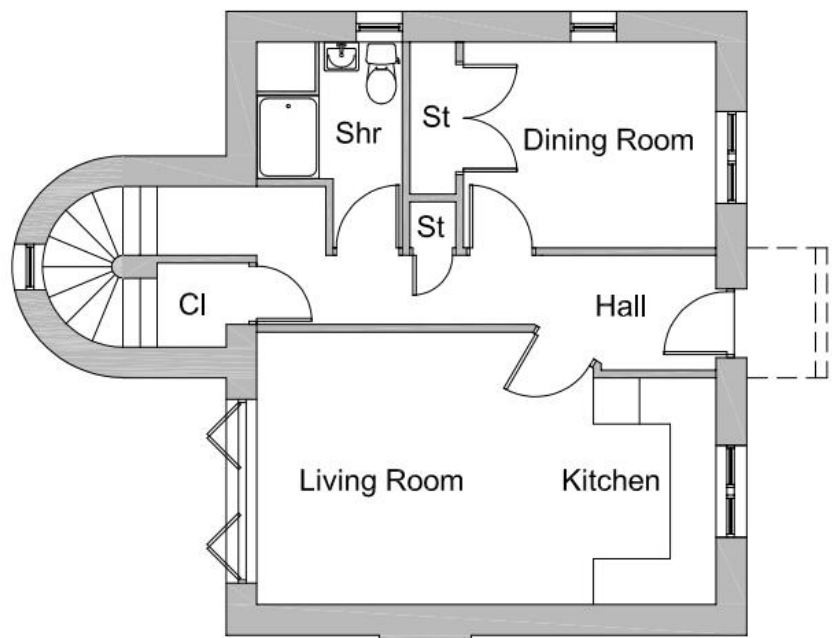
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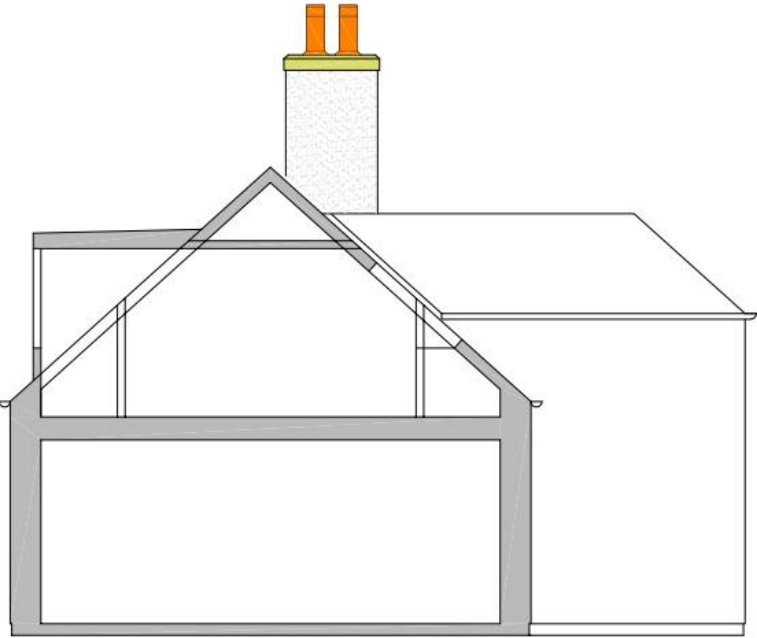
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Cross section



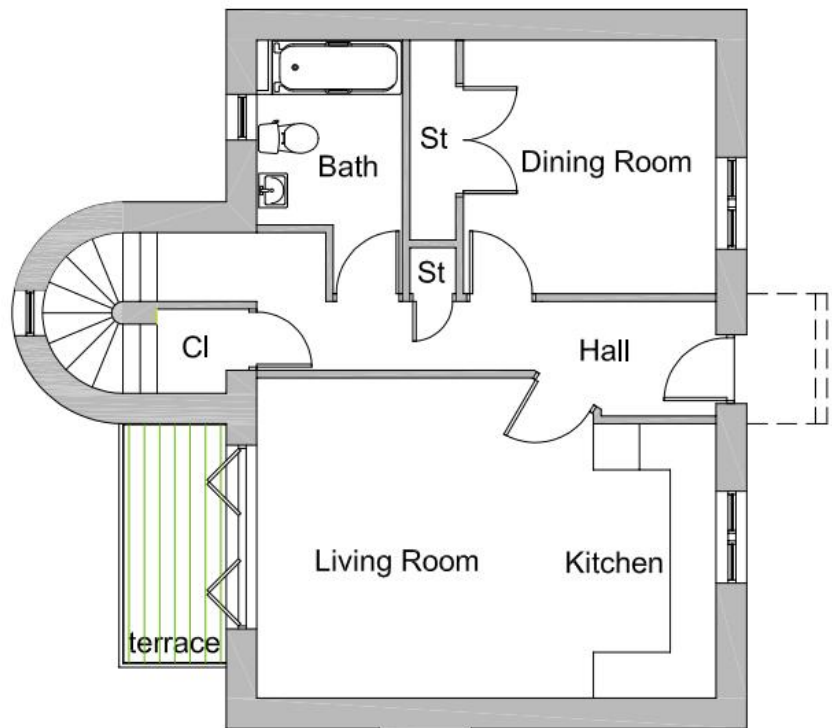
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First Floor Plan



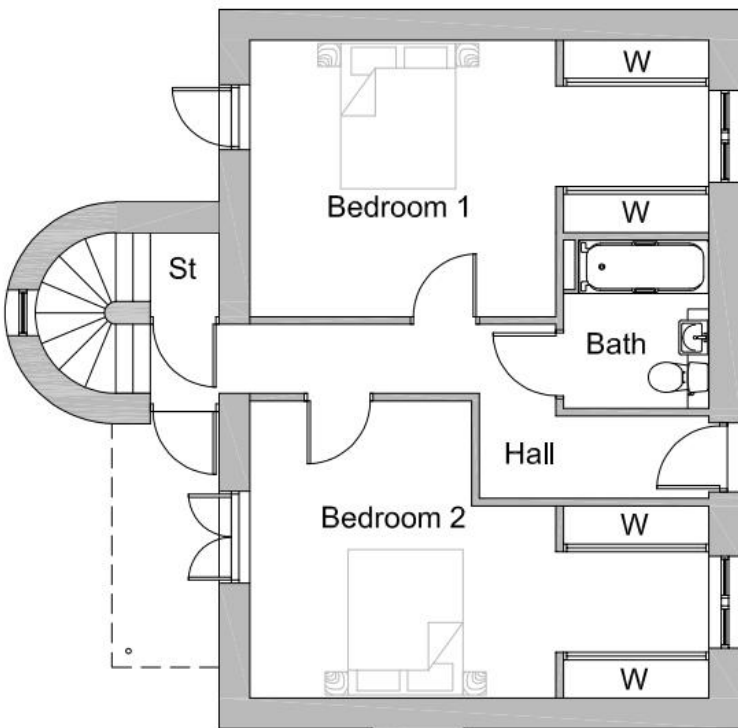
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Ground Floor Plan



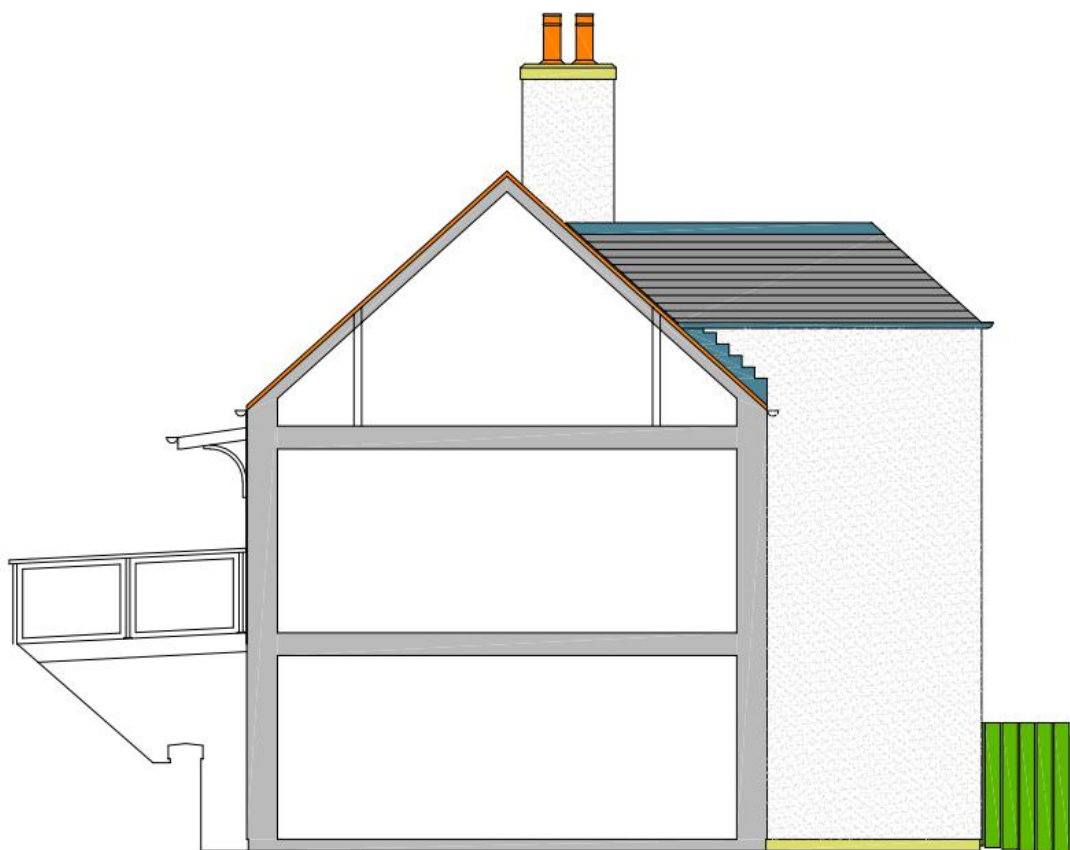
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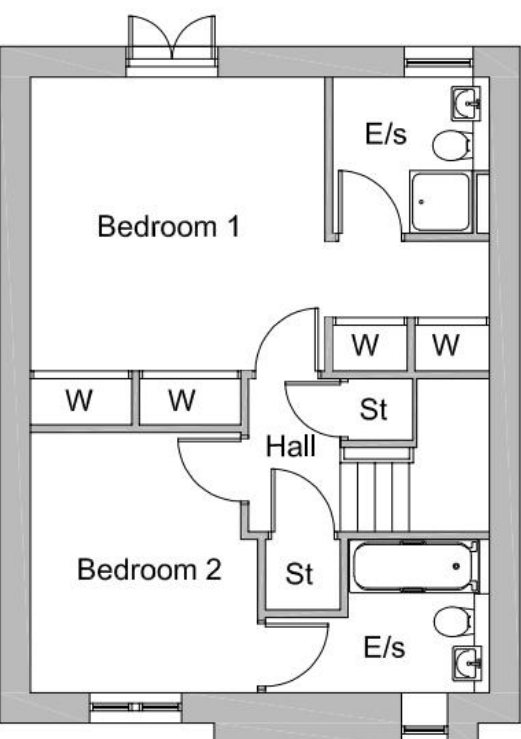
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Ground Floor Plan



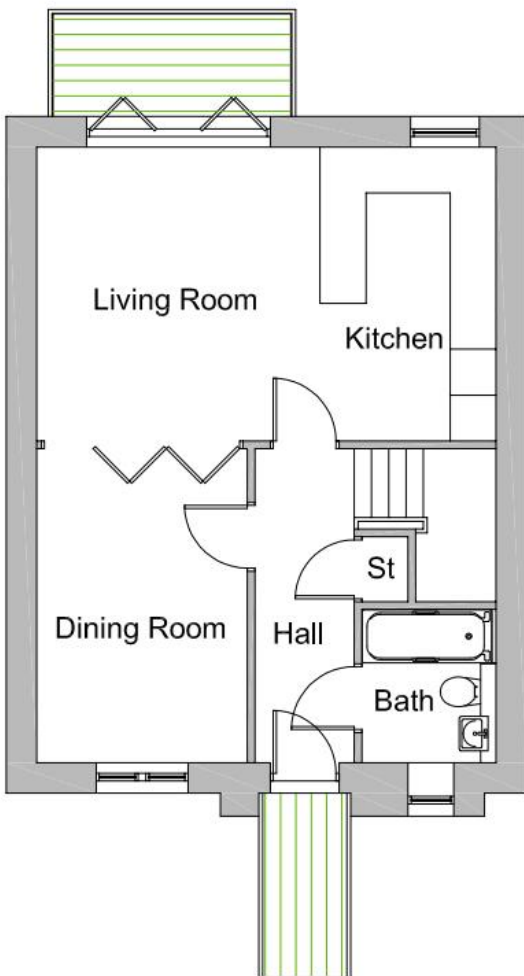
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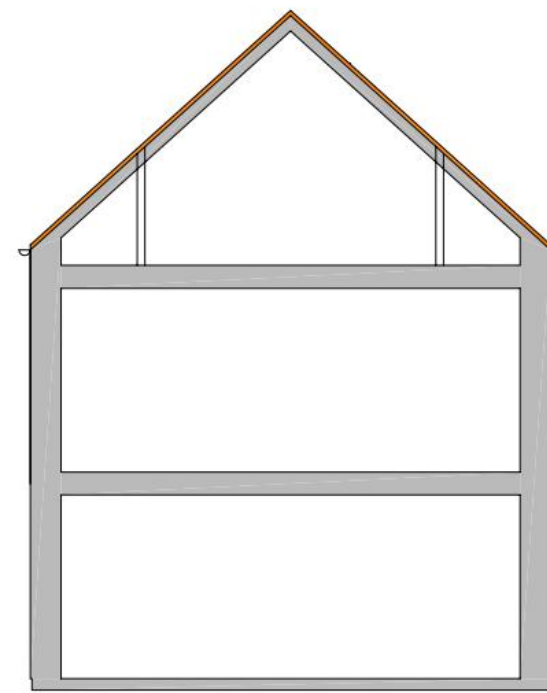
HOUSE TYPE 3  
Cross section



HOUSE TYPE 4  
Garden Floor Plan



HOUSE TYPE 4 [gifa 109.12sq.m.]  
Ground Floor Plan



HOUSE TYPE 3  
Garden Floor Plan

revision	date	revision by	checked by
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drawing number

PLANNING APPLICATION

client

C M ROOFING & BUILDING LTD

27 LAURISTON STREET, EH3 9DQ

project

RESIDENTIAL REDEVELOPMENT

LAND AT FORMER FILLING STATION

BIGGAR ROAD, HILLEND

MIDLOTHIAN

drawing title

HOUSE TYPES

project/drawing number	revision
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1450-00-008

date drawn

02/03/2021

drawn by

GG

scale

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