

Notice of Review: Land rear of 4 Hunter Court, Loanhead

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 planning permission in principle for the erection of dwellinghouse on land rear of 4 Hunter Court, Loanhead.

2 Background

- 2.1 Planning application 22/00324/PPP for planning permission in principle for the erection of dwellinghouse on land rear of 4 Hunter Court, Loanhead was refused planning permission on 18 January 2023; a copy of the decision is attached to this report.
- 2.2 The review has progressed through the following stages:
- 1 Submission of Notice of Review by the applicant.
 - 2 The Registration and Acknowledgement of the Notice of Review.
 - 3 Carrying out Notification and Consultation.

3 Supporting Documents

- 3.1 Attached to this report are the following documents:
- A site location plan (Appendix A);
 - A copy of the notice of review form and supporting statement (Appendix B). Any duplication of information is not attached;
 - A copy of the case officer's report (Appendix C);
 - A copy of the decision notice, excluding the standard advisory notes, issued on 18 January 2023 (Appendix D); and
 - A copy of the key plans/drawings (Appendix E).
- 3.2 The full planning application case file and the development plan policies referred to in the case officer's report can be viewed online via www.midlothian.gov.uk.

4 Procedures

- 4.1 In accordance with agreed procedures, the LRB:

- Have determined to undertake a site visit (only elected members attending the site visit can participate in the determination of the review); and
 - Have determined to progress the review by written submissions.
- 4.2 The case officer's report identified that there were three consultation responses and one representation received. As part of the review process the interested parties were notified of the review. No additional comments have been received. 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 20 June 2022, and without prejudice to the determination of the review, the following conditions have been prepared for the consideration of the LRB if it is minded to uphold the review and grant planning permission.
1. The development to which this permission relates shall commence no later than the expiration of five years beginning with the date of this permission.

Reason: *To accord with the provisions of Section 59(2) of the Town and Country Planning (Scotland) Act 1997 (as amended by the Planning (Scotland) Act 2019).*

2. Development shall not begin until an application for approval of matters specified in conditions for a scheme to deal with any contamination of the site and/or previous mineral workings has been submitted to and approved by the planning authority. The scheme shall contain details of the proposals to deal with any contamination and/or previous mineral workings and include:
 - i. the nature, extent and types of contamination and/or previous mineral workings on the site;
 - ii. measures to treat or remove contamination and/or previous mineral workings to ensure that the site is fit for the uses hereby approved, and that there is no risk to the wider environment from contamination and/or previous mineral workings originating within the site;
 - iii. measures to deal with contamination and/or previous mineral workings encountered during construction work; and
 - iv. the condition of the site on completion of the specified decontamination measures.

Before any part of the site is occupied for the use proposed, the measures to decontaminate the site shall be fully implemented as approved by the planning authority.

3. On completion of the decontamination/remediation works referred to in condition 2, and prior to any building on the site being occupied or brought onto use, a validation report or reports shall be submitted to the planning authority confirming that the works have been carried out in accordance with the approved scheme. No part of the development shall be occupied unless or until the planning authority have approved the required validation.

Reason for conditions 2 and 3: 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.

4. Development shall not begin until an application for approval of matters specified in conditions for a scheme of investigation and remediation to deal with previous mineral workings has been submitted to and approved in writing by the planning authority. The scheme shall include:
 - a) A scheme of intrusive site investigations to establish the risks posed to the development by past shallow coal mining activity;
 - b) A report of findings arising from the intrusive site investigations and the results of any gas monitoring; and
 - c) A scheme of remedial and/ or mitigation works to address land instability arising from coal mining legacy.

Before any work starts onsite on the erection of the dwellinghouse the investigation schemes and remediation/mitigation works shall

be fully implemented as approved by the planning authority and the Coal Authority and a verification report shall be submitted to and approved in writing by the planning authority and the house hereby approved shall not be occupied until this has been approved in writing by the planning authority. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

Reason: *To ensure that any risks posed by the coal mining history of the area are identified and addressed prior to development commencing.*

5. Development shall not begin until an application for the approval of matters specified in conditions for the following details has been submitted to and approved in writing by the planning authority:
 - a) A detailed layout plan of the site, showing the siting of the proposed house, details of vehicular access, parking provision and manoeuvring within the site and details of all walls, fences or other means of enclosure, including bin stores or other ancillary structures;
 - b) Existing and finished ground levels and floor levels for all buildings, open space and access roads in relation to a fixed datum;
 - c) Detailed plans, sections and elevations of the proposed house, indicating the colour and type of materials to be used on the external walls, roof and windows;
 - d) Details of all hard surfacing and kerbing;
 - e) Details of a sustainability/biodiversity scheme for the site, including the provision of house bricks and boxes for bats and swifts;
 - f) Details of the provision of superfast broadband connections for the house;
 - g) Details of the provision of electric vehicle charging stations for the house;
 - h) Proposals for the treatment and disposal of foul and surface water drainage from the proposed house. Unless otherwise approved in writing by the planning authority, the surface water drainage shall comply with the standards detailed in the SUDS Manual;
 - i) Details of a scheme of existing and proposed landscaping at the site and a plan and planting schedule detailing the position, number, size and species of all trees and shrubs that are proposed to be planted; all trees on the site which are to be removed and retained; and details of the means of protection of all trees that are to be retained; and
 - j) Details of any proposed zero or low carbon equipment.

Thereafter, the development hereby approved shall accord with the details agreed in terms of this condition and retained as such in perpetuity unless agreed in writing with the planning authority.

Reason: *Permission is granted in principle only. No details were approved with the application and detailed consideration is required*

for the siting, massing and design of the proposed dwellinghouse and site access arrangements.

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

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

7. Before the new house is occupied the installation of the means of drainage treatment and disposal approved in terms of condition 5h) above shall be completed to the satisfaction of the planning authority.

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

6 Recommendations

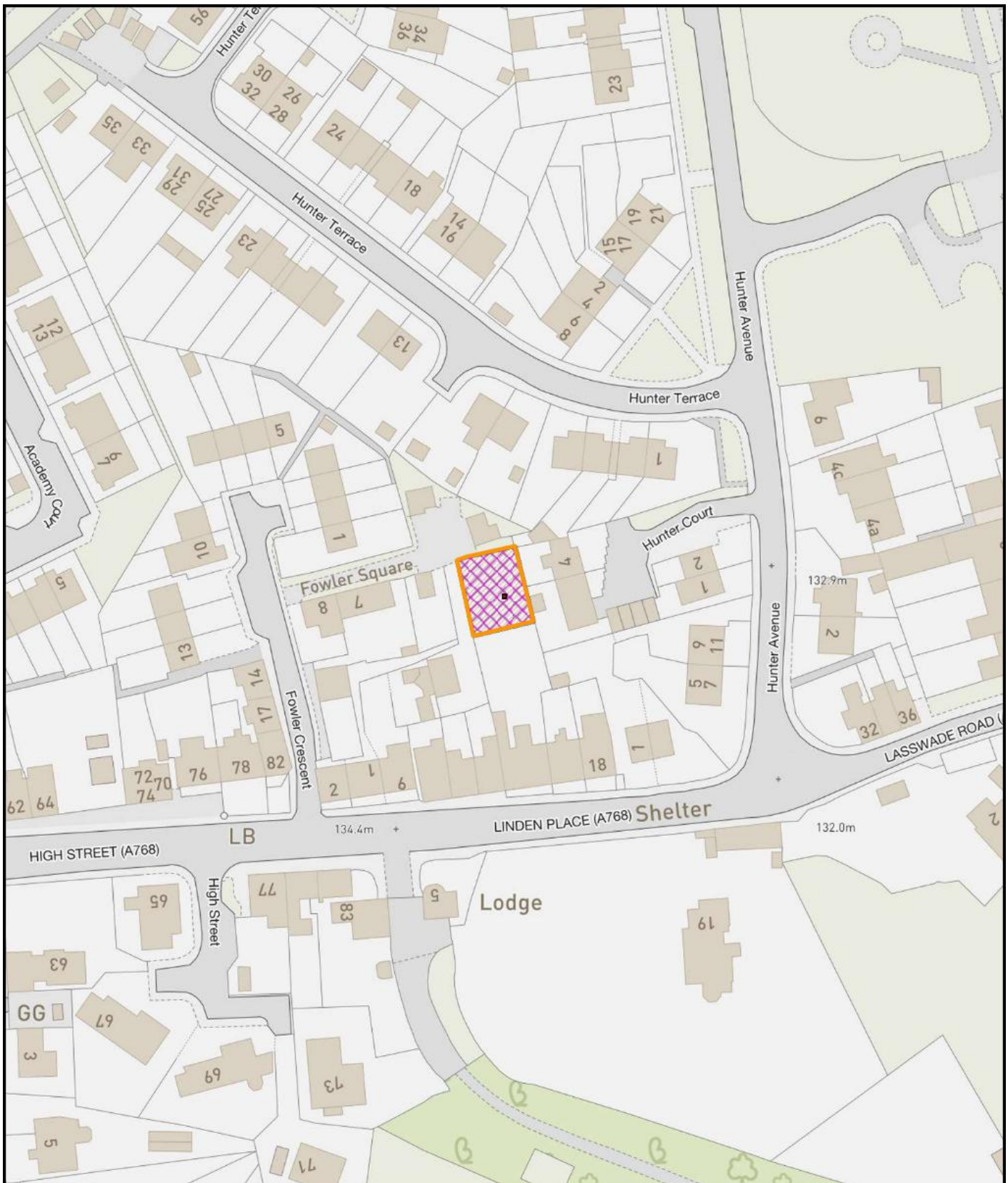
- 6.1 It is recommended that the LRB:
 - a) determine the review; and
 - b) the planning advisor draft and issue the decision of the LRB through the Chair

Peter Arnsdorf
Planning, Sustainable Growth and Investment Manager

Date: 10 April 2023
Report Contact: Mhairi-Anne Cowie, Planning Officer
Mhairi-Anne.Cowie@midlothian.gov.uk

Background Papers: Planning application 22/00324/PPP available for inspection online.

Appendix A



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

erection of a dwellinghouse Land to rear of 4 Hunter Court, Loanhead

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File No.22/00324/PPP

Scale: 1:1,250





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

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

Thank you for completing this application form:

ONLINE REFERENCE 100559089-003

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

Applicant or Agent Details

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

☐ Applicant ☒ Agent

Agent Details

Please enter Agent details

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

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

☒ Individual ☐ Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *
Other Title:	<input type="text"/>	Building Name: <input type="text"/>
First Name: *	<input type="text" value="Stewart"/>	Building Number: <input type="text" value="6"/>
Last Name: *	<input type="text" value="McLennan"/>	Address 1 (Street): * <input type="text" value="Spittal Gardens"/>
Company/Organisation	<input type="text"/>	Address 2: <input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: * <input type="text" value="Loanhead"/>
Extension Number:	<input type="text"/>	Country: * <input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: * <input type="text" value="EH20 9TG"/>
Fax Number:	<input type="text"/>	
Email Address: *	<input type="text"/>	

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

<input type="text" value="Land to Rear of 4 Hunter Court"/>

Northing	<input type="text" value="665607"/>	Easting	<input type="text" value="328585"/>
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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)

Application for Planning in Principle for erection of Dweelinghouse

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.

see attached document

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)

Supporting Statement

Application Details

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

22/00324/PPP

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

07/09/2022

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

18/01/2023

Review Procedure

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

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

☐ Yes ☐ No

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

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

☐ Yes ☐ No

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

☐ Yes ☐ No

Checklist – Application for Notice of Review

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

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

☐ Yes ☐ No

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

☐ Yes ☐ No

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

☐ Yes ☐ No ☐ N/A

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

☐ Yes ☐ No

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

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

☐ Yes ☐ No

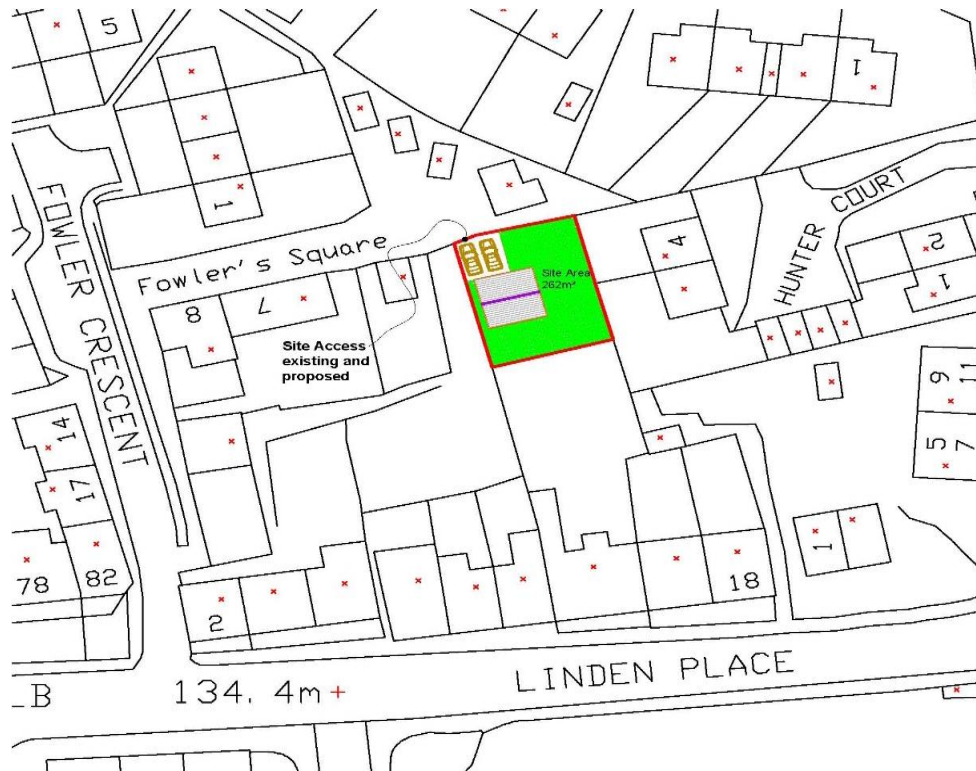
Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number,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

Declare – Notice of Review

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

Declaration Name: Mr David Paton Building Consultancy

Declaration Date: 27/02/2023



David Paton Building Consultancy

Local Review Body Appeal

Land to Rear of 4 Hunter Court, Loanhead

February 2023

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PLANNING APPLICATION

Planning Application in Principle for Erection of Dwellinghouse at

Land to Rear of 4 Hunter Court, Loanhead

For Mr Stewart McLennan

Planning Application No. 22/00324/PPP - REFUSED 18 JANUARY 2023

INTRODUCTION

On behalf of our client Mr Stewart McLennan, we would like to appeal against the refusal notice above for the erection of a dwelling house in principle. The reasons for Refusal are as follows:

1. Insufficient information has been submitted to demonstrate that a dwelling house can be accommodated within the application site without having a significant adverse impact on the amenity of neighbouring residents.
2. Due to the ground levels in the area, there would be a significant overlooking from the application site to the houses at Hunter Court to the east, which has a lower ground level than the site. The erection of a boundary treatment of a suitable height within the site would be at least one meter higher from the neighbouring properties and would have a significant impact on their outlook, have an overbearing impact on the occupants and overshadow these gardens.
3. For the above reasons the proposals would have a significant detrimental impact on the amenity of nearby residents and be contrary to policy DEV2 of the adopted Midlothian Local Plan 2017

REASON FOR REVIEW

Taking the above points for refusal individually

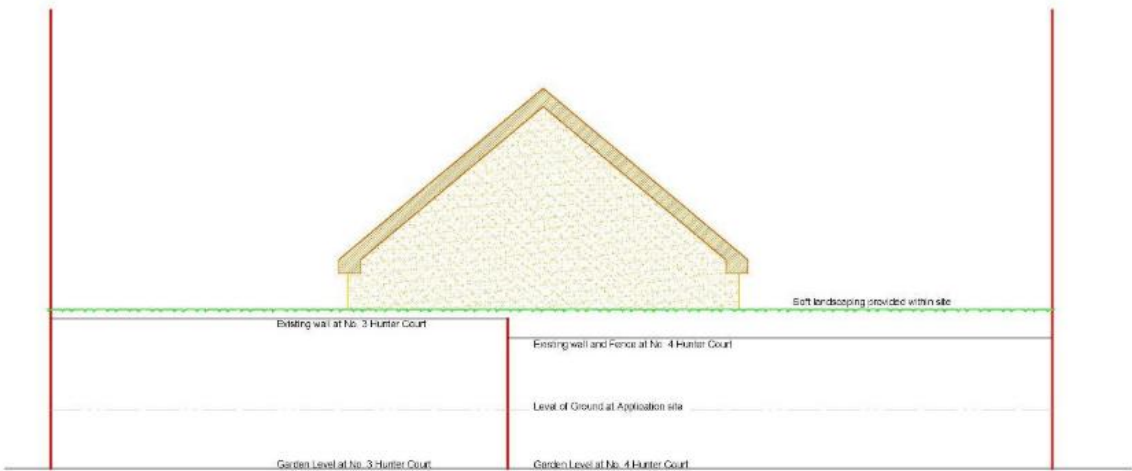
This is a Planning in Principle application not a full planning application, there is no requirement to provide any detail, as we are asking for the principle of being able to design and plan a house in this location. The details would come with a full planning application if the principle is approved. Though if we had been asked to provide any details during the planning application process we would have worked with the planners to allay their concerns.

There is a 1m difference in levels between the site and the adjacent houses, that said there is already an existing stone wall and fencing in place with the stone wall measuring 1.1m high from the application site. It would not take much additional screening on this boundary to make the boundary treatment up to the standard 1.8m high that the planning department normally ask for screening, so we would contend that the extra 700mm would not have the significant detrimental impact that the planners state, considering No 4 Hunter Court already has a Permanent structure over their hot tub adjacent to the boundary which extends above the height of the existing wall so acts as further screening to this boundary. We would also content that soft landscaping treatments would soften any impact to neighbours rather than harsh stone or timber fencing. It is also worth pointing out that there are numerous examples of housing throughout Midlothian where the houses to the rear are significantly higher than the situation we have here, two locally to this site are Copperwood in Loanhead (first picture shown below) and Burnbank at Straiton (second picture) In these situations the houses and their gardens overlook the much lower gardens below.





In fact, we have now added a modest house to the plan and created a real view elevation (from eye height) from the rear elevation of the houses in Hunter Court to show that given the opportunity we could have proved that a new house in this location can comfortably be accommodated on the site without impacting on the existing houses (see below).



CONCLUSION

We are asking for the Local Review Body to overturn the refusal notice and approve the Planning Permission in Principle for a new Dwelling house for the following reasons;

1. We are asking for permission in principle to plan / design a house and the details that the planners are asking for are not relevant at this stage. Having said that we have shown above that a house can be provided on the site sympathetically.
2. The site whilst higher than the neighbouring properties would not have a detrimental impact on them. Again, as shown above the house could be designed to not have detrimental effect and would have no overlooking windows onto them.
3. Soft landscaping to the boundary would enhance the relationship between the properties.
4. Examples of similar or worse situations throughout Loanhead are provided
5. Site is larger than some of the house sites round it so is an obvious gap site to be developed.
6. If site is not suitable for a house, then what will the planning department allow this land to be used for.

MIDLOTHIAN COUNCIL

DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

Planning Application Reference: 22/00324/PPP

Site Address: Land to Rear of 4 Hunter Court, Loanhead.

Site Description: The application site comprises an overgrown area of land which is backed onto by the rear of the houses at Hunter Court to the east, Hunter Terrace to the north and Linden Place to the south. There is a 1.8 metre high fence along the north and west boundaries, with a 1 metre high wall and fence along the south and east boundaries. The site is at a higher ground level than the houses at Hunter Court. There are domestic garages to the north, west and south of the site. There is an access track from Fowler Crescent to the west which provides access to the site and the garages in the area. The site is in a predominantly residential area with a variety of housetypes including two storey terraced and semi-detached, as well as single storey cottage style houses.

Proposed Development: Application for planning permission in principle for erection of dwellinghouse.

Proposed Development Details: It is proposed to erect one house at the site. No further details have been submitted, except that the house will connect to the public drainage network and water supply and the vehicular access will remain as existing.

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

To east

4 Hunter Court 18/00926/CL Certificate of lawfulness for an existing use (garden ground). Permitted.

3 Hunter Court 17/00203/DPP Two storey extension to dwellinghouse. Consent with conditions.

To west

Garage site 5 Fowler Square 05/00540/FUL Erection of garage. Consent with conditions.

Consultations:

The Council's **Senior Manager Neighbourhood Services (Roads)** has no objection in principle but states if permission is approved, conditions should be attached relating to the proposed vehicle access and parking provision and the proposed surface water drainage for the new house.

The Council's **Senior Manager Protective Services** does not object, subject to conditions being attached to planning permission ensuring that ground contamination remediation works are undertaken and the hours of construction are limited to reasonable working times. They have concerns if air or source heat pumps are

proposed as these could result in noise nuisance. Conditions should be attached to any permission to restrict the noise levels of this equipment, as well as a Construction Environment Management Plan (CEMP).

The **Coal Authority** has considered the submissions and has no objection subject to further site investigations being required as a condition to any permission.

Representations: One representation neither objecting to nor supporting the application has been submitted. It is not clear how or if the existing access from the rear of 5 Hunter Terrace to Fowler's Square (to the east of the site) would be affected. More information is required before they can support the proposal.

Relevant Planning Policies:

Planning policy currently comprises National Planning Framework 3 and Scottish Planning Policy, SESPlan and the adopted Midlothian Local Development Plan 2017. On 8 November the Revised Draft National Planning Framework 4 was submitted to the Scottish Parliament for approval along with an Explanatory Report that outlines the changes from Draft NPF4 to the Revised Draft. The Planning Act requires that NPF4 must be approved by the Scottish Parliament before it can be adopted by Scottish Ministers. On adoption the provisions in the Planning Act will commence to make NPF4 part of the statutory development plan. The existing National Planning Framework 3 and Scottish Planning Policy remain in place until NPF4 has been adopted by Scottish Ministers. As the Revised Draft NPF4 is at an advanced stage and represents the settled view of the Scottish Government in terms of its planning policy it is a material consideration of significant weight in the assessment of the application. The following policies are relevant to the proposal:

- Policy 1 Tackling the climate and nature crises
- Policy 2 Climate mitigation and adaptation
- Policy 3 Biodiversity
- Policy 9 Brownfield, vacant and derelict land and empty buildings
- Policy 13 Sustainable transport
- Policy 14 Design, quality and place
- Policy 16 Quality homes
- Policy 24 Digital infrastructure

The relevant policies of the **2017 Midlothian Local Development Plan** are; **STRAT2 Windfall Housing Sites** advises that within the built-up areas, housing development on non-allocated sites and including the reuse of buildings and redevelopment of brownfield land, will be permitted provided that: it does not lead to the loss or damage of valuable public or private open space; it does not conflict with the established land use of the area; it respects the character of the area in terms of scale, form, design and materials; it meets traffic and parking requirements; and it accords with other relevant Local Plan policies and proposals;

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

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

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

DEV7 Landscaping in New Development requires development proposals to be accompanied by a comprehensive scheme of landscaping. The design of the scheme is to be informed by the results of an appropriately detailed landscape assessment;

TRAN5 Electric Vehicle Charging seeks to support and promote the development of a network of electric vehicle charging stations by requiring provision to be considered as an integral part of any new development or redevelopment proposals; and

IT1 Digital Infrastructure supports the incorporation of high speed broadband connections and other digital technologies into new homes, business properties and redevelopment proposals.

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

The site is in a residential area within the built up area of Loanhead where there is a presumption in favour of compatible developments and so the principle of development is generally supported, provided this does not detract materially from the character or amenity of the area or local residents.

The site measures 262 square metres which of a sufficient size to accommodate a house, associated garden ground and parking. This is also comparable to other plot sizes in the area.

The houses at Hunter Court to the east are relatively close to the site, with short back gardens with only 7 metres between the rear elevations and the site boundary. The site has a ground level approximately 1 metre higher than these neighbouring houses. The planning authority are concerned over the impact on these properties by the proposed house, including loss of light to and overshadowing of these houses and gardens, outlook from these properties and the new house being overbearing. There may also be overlooking as the existing 1.8 metre high boundary treatment in these neighbouring properties only appear 1 metre high from the application site. This allows clear overlooking between the two.

The concerns over the impact on light and overbearing impact on the neighbouring houses could be addressed by limiting the area where a house could be positioned to the west of the site, furthest area away from Hunter Court. There could be sufficient distance between this part of the site and the houses to the north and east meaning a house in the position would not impact the amenity of these. This could also allow for a vehicular access into the site. This could be covered by condition.

In positioning a house at this part of the site, there could be overlooking from windows on the south or east elevations to the neighbouring garden grounds. Given this, it would be appropriate for any house to be single storey as this would limit overlooking to that which could be controlled by suitable boundary treatments. This could also be covered by condition.

The issue over the change in levels from the site to the houses at Hunter Court cannot be easily addressed by condition. Erecting a 1.8 metre high boundary treatment within the site, to stop overlooking to these neighbouring properties, would appear almost 3 metres high from these gardens. These gardens are already very short at 7 metres long. Although a 1.8 metre high boundary treatment would prevent overlooking and a significant detrimental impact on privacy, this would have a significant overbearing impact on the outlook of these properties and detrimentally affect the outlook. This could also cause considerable overshadowing. This would have a significant detrimental impact on the amenity of these residents.

The Senior Manager Neighbourhood Services (Roads) has no objection in terms of road safety. The applicant's agent has confirmed the vehicular access to the proposed house would be in the same position as existing. Further details of the site access and parking are required to ensure this is safe for existing and proposed residents. These further details will also clarify any impact on existing accesses in the area.

Details of the proposed surface water drainage are required to ensure this is adequate and does not have a detrimental impact on the surrounding area.

With regards to the construction at the site, mitigation measures regarding ground conditions and contamination and/or previous mineral workings must be considered. The Council's Senior Manager Protective Services has no objection to the proposal but recommends that conditions be attached to protect future occupants of the site and neighbouring land from the potential impact of contaminated land. A scheme mitigating any contamination of the site and/or previous mineral workings, and the submission of a validation report(s) confirming the approved works have been carried out shall be required by planning condition.

Although they also recommended a condition restricting the hours of construction at the site, this is better controlled by their own legislation rather than through planning measures and so this condition will not be attached. Due to the scale of the proposal being for only one house, it is not the usual practice of the planning authority to condition a CEMP. These restrictions could be controlled through other legislation.

Details of the low carbon equipment shall be submitted to ensure that these are in keeping with and do not detract from the character, appearance or amenity of the surrounding area.

While the principle of a house at this site may be acceptable, this would need to be heavily restricted to ensure there is no adverse impact on the surrounding area. This would limit the position of the house within the site and the height of the house to prevent adverse impacts on the surrounding area. However the levels at the site and neighbouring properties are a major issue. There is not the amount of detail of the levels between the site and the houses at Hunter Court to show there is no detrimental impact on these neighbouring properties. It could be the case that a significant amount of ground excavation or other remediation works could be carried out to address this significant change in levels and impact on amenity of neighbouring properties. However this has not been submitted. It may be that this

could be considered as part of a detailed planning application, but, due to the limited information submitted, this cannot be assessed in the current application for planning permission in principle.

While securing an appropriate design for the house would be possible through the use of planning conditions, insufficient information has been submitted to demonstrate that a dwellinghouse could be accommodated within the application site without having a significant adverse impact on the amenity of neighbouring residents. The issue of the impact of the proposed development on the amenity of neighbouring properties cannot be adequately covered by planning conditions in this case.

(It is suggested that a PPP application is not the appropriate process for achieving planning permission for this site. Due to the constrained nature of the site a much more detailed scheme should be submitted in order that the Planning Authority can fully assess the likely impacts.)

Recommendation: Refuse planning permission in principle.

Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

Reg. No. 22/00324/PPP

David Paton Building Consultancy
13 High Street
Loanhead
EH20 9RH

Midlothian Council, as Planning Authority, having considered the application by Mr Stewart McLennan, 6 Spittal Gardens, Loanhead, EH20 9TG, which was registered on 7 September 2022 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

**Application for planning permission in principle for erection of dwellinghouse at
Land to Rear of 4 Hunter Court, Loanhead**

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

<u>Document/Drawing.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan, Site Plan	Pn1 A 1:500/1250	16.11.2022

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

- 1. Insufficient information has been submitted to demonstrate that a dwellinghouse can be accommodated within the application site without having a significant adverse impact on the amenity of neighbouring residents.*
- 2. Due to the ground levels in the area, there would be significant overlooking from the application site to the houses at Hunter Court to the east, which have a lower ground level than the site. The erection of a boundary treatment of a suitable height within the site would be at least one metre higher from the neighbouring properties and would have a significant detrimental impact on their outlook, have an overbearing impact on the occupants and overshadow these gardens.*
- 3. For the above reasons, the proposal would have a significant detrimental impact on the amenity of nearby residents and be contrary to policy DEV2 of the adopted Midlothian Local Development Plan 2017.*

Dated 18 / 1 / 2023



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



**The Coal
Authority**

Any Planning Enquiries should be directed to:

Planning and Local Authority Liaison

Direct Telephone: 01623 637 119 (Planning Enquiries)

Email: planningconsultation@coal.gov.uk

Website: www.gov.uk/coalauthority

Informative Note

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

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

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

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

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

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

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



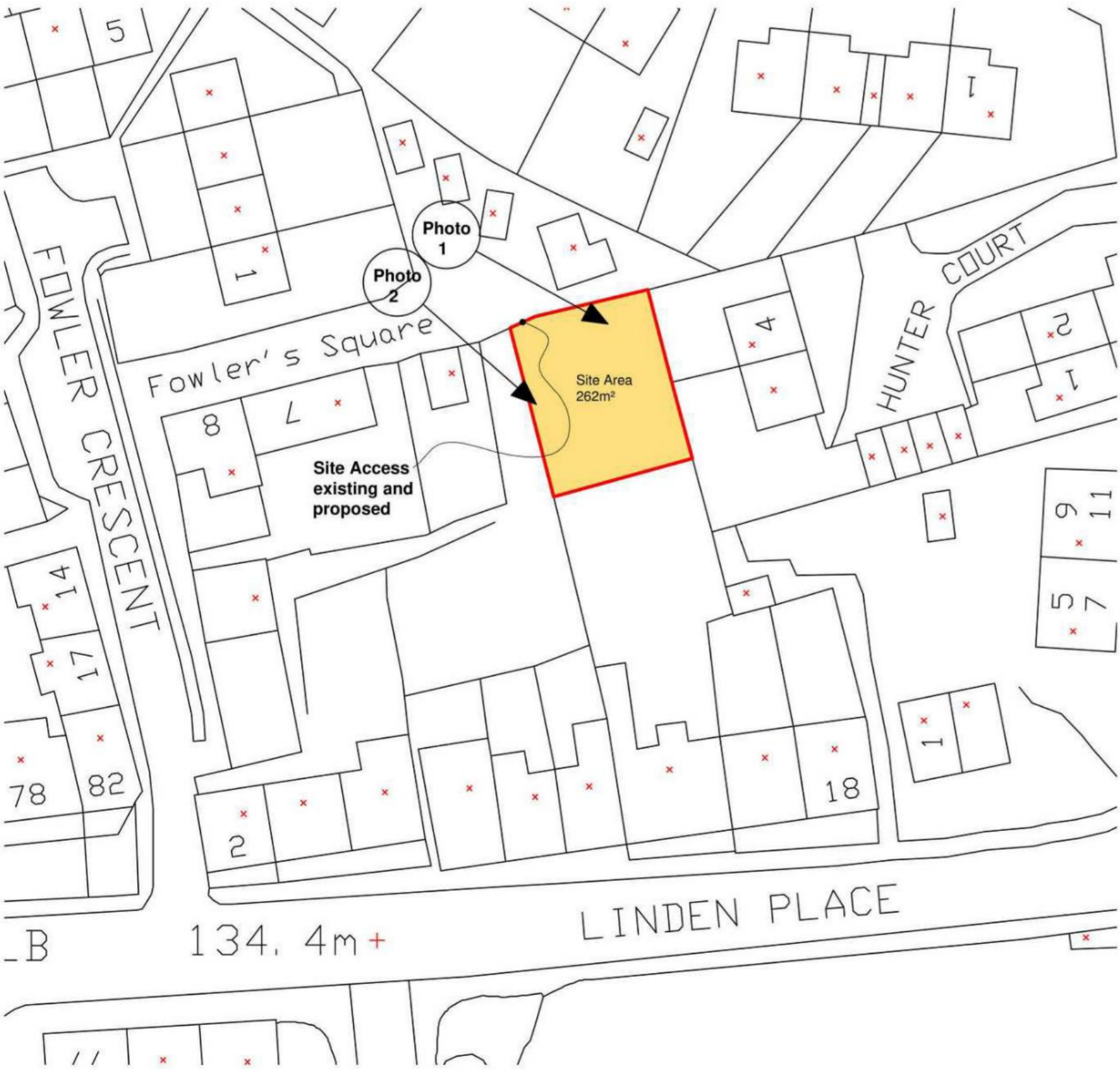
PHOTO 1 Site Access existing and proposed

PHOTO 2

REFUSED
22.00324.PPP
18.01.2023



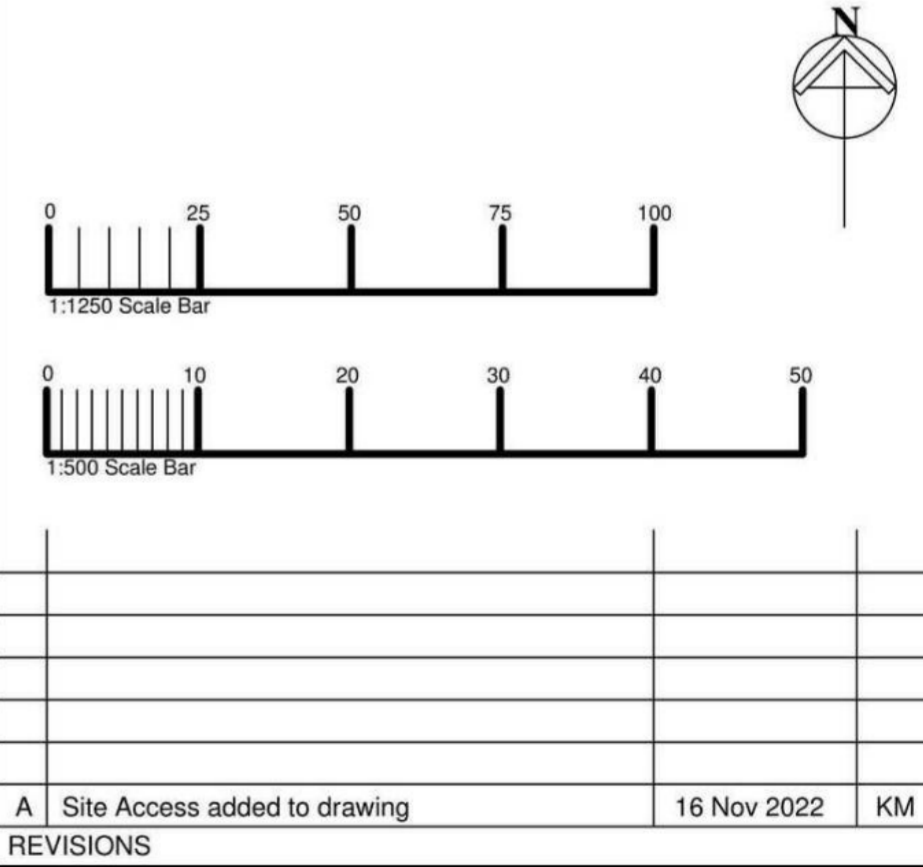
1:1250 SCALE LOCATION PLAN



1:500 SCALE SITE PLAN

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PLANNING APPLICATION DRAWING



CLIENT	Stewart McLennan 6 Spittal Gardens Loanhead EH20 9TG	PROJECT	Proposed New House at: Land to Rear of 4 Hunter Court Loanhead.
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DRAWING TITLE	Site and Location Plan	DATE	March 2022
		DRAWN	KM
		SCALE	as shown @ A2

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dpbc



JOB NO.	22/23	DRAWING NO.	Pn1
REVISION			A