

Notice of Meeting and Agenda



Local Review Body

Venue: Virtual Meeting,

Date: Tuesday, 30 March 2021

Time: 13:00

Executive Director : Place

Contact:

Clerk Name:	Mike Broadway
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Further Information:

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

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1 Welcome, Introductions and Apologies

2 Order of Business

Including notice of new business submitted as urgent for consideration at the end of the meeting.

3 Declaration of Interest

Members should declare any financial and non-financial interests they have in the items of business for consideration, identifying the relevant agenda item and the nature of their interest.

4 Minute of Previous Meeting

- | | | |
|------------|---|---------|
| 4.1 | Minutes of Special Meeting held on 23 November 2020 - For Approval. | 3 - 10 |
| 4.2 | Minutes of Meeting held on 30 November 2020 - For Approval. | 11 - 16 |
| 4.3 | Minutes of Special Meeting held on 14 December 2020 - For Approval. | 17 - 22 |

5 Public Reports

Notices of Review - Determination Reports by Chief Officer:
Place.

- | | | |
|------------|---|-----------|
| 5.1 | Land 250m North West of Fyrnlea, Penicuik (20/00472/PPP). | 23 - 66 |
| 5.2 | Land at 5 Golf Course Road, Bonnyrigg (20/00317/DPP). | 67 - 130 |
| 5.3 | 41-43 Main Street, Gorebridge (19/01022/DPP). | 131 - 188 |

6 Private Reports

No private reports to be discussed at this meeting.

7 Date of Next Meeting

The next meeting will be held on Monday 17 May 2021 at 1.00 pm.

Plans and papers relating to the applications on this agenda can also be viewed at <https://planning-applications.midlothian.gov.uk/OnlinePlanning>

Minute of Meeting



Special Meeting of the Local Review Body

Date	Time	Venue
Monday 23 November 2020	2.00pm	Virtual Meeting using MS Teams

Present:

Councillor Imrie (Chair)	Councillor Alexander
Councillor Cassidy	Councillor Curran
Councillor Lay-Douglas	Councillor Milligan
Councillor Muirhead	Councillor Smail

In Attendance:

Peter Arnsdorf, Planning Manager	Mhairi-Anne Cowie, Planning Officer
Mike Broadway, Democratic Services Officer	

1 Apologies

Apologies for absence were received from Councillors Baird and Munro.

2 Order of Business

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

3 Declarations of interest

No declarations of interest were intimated at this stage of the proceedings.

4 Reports

Agenda No	Report Title	Presented by:
5.1	Notice of Review Request Considered for the First Time – Kings Gate, Old Dalkeith Road, Dalkeith (20/00316/DPP).	Peter Arnsdorf
Executive Summary of Report		
<p>There was submitted report dated 16 November 2020 by the Chief Officer Place, regarding an application from Holder Planning, South Charlotte Street, Edinburgh seeking, on behalf of their client Buccleuch Estates Ltd, a review of the decision of the Planning Authority to impose a condition when granting planning permission (20/00316/DPP, granted on 28 July 2020) for alterations to existing access, formation of access paths and areas of hard standing, installation of walls and installation of bollards at Kings Gate, Old Dalkeith Road, Dalkeith.</p> <p>Accompanying the Notice of Review Form and supporting statement, which were appended to the report, was a copy of the report of handling thereon, together with a copy of the decision notice.</p>		
Summary of Discussion		
<p>In accordance with the procedures for the Local Review Body, the Planning Advisor gave a brief overview of the review hearing procedures and outlined the background to the case.</p> <p>Thereafter, oral representations were received firstly from the applicant's agent, Robin Holder, Holder Planning and Alison Burke, Park & Projects Manager, Dalkeith Country Park, on behalf of applicants and then from Mhairi-Anne Cowie, the local authority Planning Officer; following which they all responded to Members' questions/comments.</p> <p>The LRB then gave careful consideration to the merits of the case based on all the information provided both in writing and in person at the Hearing. In particular consideration was given to the impact that the proposed stone curved walls would have on the setting of the category A listed boundary walls to the estate. Members whilst acknowledging the applicants desire to better signpost this entrance to</p>		

Dalkeith Country Park debated whether or not this could be achieved by other means, or through possible adjustments to the current scheme, such as reducing the height of the proposed walls, or erecting only a single wall. The feeling on balance was it should through the use of matching materials be possible to accommodate the proposed wall without adversely impacting on the setting of the category A listed boundary walls.

Decision

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

The proposed works would formalise this entrance to the Dalkeith Estate and not have an adverse effect on the surrounding conservation area, designed landscape, listed structures, rural area or special landscape area or conflict with the aims of the Green Belt and so complies with policies RD4, ENV1, ENV6, ENV7, ENV19, ENV20 and ENV22 of the adopted Midlothian Local Development Plan 2017.

subject to the following conditions –

1. Prior to the commencement of development, the following details shall be submitted to and approved by the Planning Authority:
 - a) Details and samples of the finishing materials to be used on all roads, paths and areas of hardstanding;
 - b) Details and samples of the materials of the walls; and
 - c) Details of the proposed mortar for the walls.

Thereafter the materials hereby approved shall be used in the development unless alternatives are agreed in writing by the Planning Authority.

2. The bollards hereby approved shall be formed with natural stone to match the existing boundary walls within the application site.

Reason for Conditions 1 and 2: *These details were not submitted with the original application; in order to protect the visual amenity of the area and to ensure these materials are appropriate in proximity to important category A listed structures located within a conservation area and designed landscape.*

Action

Planning Manager

Agenda No	Report Title	Presented by:
5.2	Notice of Review Request Considered for the First Time – 11 Rosedale Neuk, Rosewell (19/00893/DPP).	Peter Arnsdorf

Executive Summary of Report

There was submitted report, dated 16 November 2020 by the Chief Officer Place, regarding an application from Mr D White, 11 Rosedale Neuk, Rosewell seeking a review of the decision of the Planning Authority to refuse planning permission (19/00893/DPP, refused on 27 November 2019) for the erection of an extension to the dwellinghouse at that address.

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

Summary of Discussion

The LRB, having heard from the Planning Advisor, gave careful consideration to the merits of the case based on all the written information provided. In discussing the proposed development and the reasons for its refusal, the LRB considered at length the potential impact that permitting the proposed development in its current form would have on the character and appearance of the area; it being noted that other neighbouring/nearby properties had extensions of comparable scale but varying design and appearance, which led Members to the conclusion that, on balance, the scheme should be supported.

Decision

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

The proposed extension by means of its design and form will complement the host dwellinghouse and will not have a detrimental impact on the amenity of the neighbouring properties. Furthermore, the proposed extension is comparable in scale to extensions on neighbouring/nearby properties.

subject to the following conditions –

1. The two windows at ground floor level on the south elevation of the extension shall be glazed with obscure glass which shall not be replaced with clear glass. Alternatively, a 2.2m high screen shall be erected along part of the boundary of the application property with no. 10 Rosedale Neuk in accordance with details (design, materials, length and timescale of erection) to be submitted to and approved by the planning authority. No work shall start on the extension until these details have been approved in writing by the planning authority.
2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (or any Order revoking and re-enacting that Order) no glazing shall be installed on the north elevation of the extension or on the south elevation including the roof plane of the pitched roof extension apart from that shown on the approved drawings unless planning permission is granted by the planning authority.

Reason for Conditions 1-2: In order to minimise overlooking and protect the privacy of the occupants of the adjoining properties.

Action
Planning Manager

Sederunt
Councillors Curran and Muirhead, both advise that they had other prior engagements and left the meeting at the conclusion of the foregoing item of business at 2.58pm and did not return.

Agenda No	Report Title	Presented by:
5.3	Notice of Review Request Considered for the First Time – 22 Dewartown, Gorebridge (19/00893/DPP).	Peter Arnsdorf

Executive Summary of Report
<p>There was submitted report, dated 16 November 2020 by the Chief Officer Place, regarding an application from Mrs M Gregory, 22 Dewartown, Gorebridge seeking a review of the decision of the Planning Authority to grant planning permission (20/00001/DPP, granted 21 February 2020) subject to a condition, for the replacement of windows and a door at that address.</p> <p>Accompanying the Notice of Review Form and supporting statement, which were appended to the report, was a copy of the report of handling thereon, together with a copy of the decision notice.</p>

Summary of Discussion
<p>The LRB, having heard from the Planning Advisor, gave careful consideration to the merits of the case based on all the written information provided. In discussing the proposed replacement of the door and windows, it was noted that a number of neighbouring and nearby properties had already had replacement windows and/or doors installed of varying materials, design and colour, so arguably the impact on the Conservation Area would be minimal. In addition, in terms the property itself the proposed replacement windows appeared to be in keeping with the character of the building.</p>

Decision
<p>After further discussion, the LRB agreed to uphold the review request, and grant planning permission for the following reason:</p> <p><i>The proposed replacement windows and door will not have a significant impact on the character of the host building or this part of the Dewartown Conservation Area and complies with the aims of policies DEV2 and ENV19 of the Midlothian Local Development Plan 2017.</i></p>

Action
Planning Manager

Agenda No	Report Title	Presented by:
5.4	Notice of Review Request Considered for the First Time – 77 Carnethie Street, Rosewell (20/00177/DPP).	Peter Arnsdorf
Executive Summary of Report		
<p>There was submitted report, dated 16 November 2020 by the Chief Officer Place, regarding an application from F.E.M. Building Design, Plantain Grove, Lenzie, Glasgow seeking, on behalf of their client Mr B Flanagan, 77 Carnethie Street, Rosewell, a review of the decision of the Planning Authority to refuse planning permission (20/00177/DPP, refused on 3 July 2020) for the erection of an extension to the dwellinghouse, alterations to increase the roof height and formation of dormer windows at that address.</p> <p>Accompanying the Notice of Review Form and supporting statement, which were appended to the report, was a copy of the report of handling thereon, together with a copy of the decision notice.</p>		
Summary of Discussion		
<p>The LRB, having heard from the Planning Advisor, gave careful consideration to the merits of the case based on all the written information provided. In discussing the proposed development and the reasons for its refusal, the LRB considered at length the potential impact that permitting the proposed development in its current form would have on the character and appearance of the area. Of particular concern was the proposed balcony to the rear, which was not supported as it increased the potential for overlooking. Otherwise the proposed development appeared comparable to others in the area in terms of its design and form.</p>		
Decision		
<p>After further discussion, the LRB agreed to uphold the review request, and grant planning permission for the following reason:</p> <p><i>The proposed extension by means of its design and form will complement the host dwellinghouse and will not have a detrimental impact on the amenity of the neighbouring properties. Furthermore, the proposed extension is comparable in scale to extensions on neighbouring/nearby properties.</i></p> <p>subject to the following conditions:-</p> <ol style="list-style-type: none"> 1. Prior to the commencement of development, the following details shall be submitted and approved in writing by the planning authority: <ol style="list-style-type: none"> a) Details of the materials of all window frames and doors; b) Details of the colour of all window frames and doors; c) Details of the materials of any areas of hardstanding; and 		

- d) Details of the design, dimensions, materials and colour finish of all new walls, gates, fences or other means of enclosure.

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

2. The external materials of the extension shall match the materials of the existing dwellinghouse.
3. The roof of the resultant house shall be finished in natural slate, a sample of which shall be submitted to and approved in writing prior to installation.

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

4. The proposed balcony on the rear elevation is not hereby approved. No balcony shall be erected or constructed on the rear elevation of the resulting building.

Reason: *To protect the residential amenity and privacy of neighbouring properties.*

Action

Planning Manager

6. Private Reports

No private business was discussed.

7. Date of Next Meeting

The next scheduled meeting will be held on Monday 30 November 2020 at 1.00pm.

The meeting terminated at 3.24pm.

Minute of Meeting



Local Review Body

Date	Time	Venue
Tuesday 30 November 2020	1.00pm	Virtual Meeting using MS Teams

Present:

Councillor Imrie (Chair)	Councillor Alexander
Councillor Cassidy	Councillor Curran
Councillor Lay Douglas	Councillor Milligan
Councillor Muirhead	Councillor Muirhead
Councillor Smail	

In Attendance:

Peter Arnsdorf, Planning Manager	
Gordon Aitken, Democratic Services Officer	

1 Apologies

Apologies for absence were received from Councillors Baird and Munro.

2 Order of Business

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

3 Declarations of interest

No declarations of interest were intimated at this stage of the proceedings.

4 Minute of Previous Meeting

The Minute of Meeting of 27 October 2020 was submitted and approved as a correct record.

5 Reports

Agenda No	Report Title	Presented by:
5.1	Notice of Review – 1-3 Buccleuch Street, Dalkeith	Peter Arnsdorf
Executive Summary of Report		
<p>There was submitted report dated 20 November 2020 by the Chief Officer Place, regarding an application from Format Design seeking a review of the decision of the Planning Authority to refuse planning permission (19/00905/DPP, refused on 19 December 2019) for the Change of Use from Restaurant (Class 3) to Public House at 1-3 Buccleuch Street, Dalkeith</p> <p>Accompanying the Notice of Review Form and supporting statement, which were appended to the report, was a copy of the report of handling thereon, together with a copy of the decision notice.</p>		
Summary of Discussion		
<p>Having heard from Mr Bob Tait of Format Designs as well as the Planning Advisor, the LRB gave careful consideration to the merits of the case based on all the information provided. In discussing the proposed development and the reasons for its refusal, the LRB considered the evidence that this building had historically been used as a Public House and that many of the objections with regard to environmental issues fell outwith the remit of this Committee and were matters for the Licensing Board to consider. The general feeling being that this building had operated for many years as a Public House and that, on balance, with the necessary safeguards in place it was unlikely to have a significantly detrimental impact on the surrounding area and those properties nearby.</p>		

Decision
After further discussion, the LRB agreed to uphold the review request, and thereby grant planning permission subject to the conditions contained within the report.
Action
Planning Manager

Agenda No	Report Title	Presented by:
5.2	Notice of Review -124A John Street, Penicuik	Peter Arnsdorf

Executive Summary of Report

There was submitted report, dated 20 November 2020 by the Chief Officer Place, regarding an application from Mr Antonio Cernicchiaro, seeking a review of the decision of the Planning Authority to refuse planning permission (20/0185/DPP, refused on 3 July 2020) for the Change of Use from a Betting Office to a Restaurant and Takeaway and Installation of Ventilation Equipment at 124A John Street, Penicuik

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

Summary of Discussion

The LRB, having heard from the Planning Advisor, gave careful consideration to the merits of the case based on all the written information provided. In discussing the proposed development and the reasons for its refusal, the LRB considered at length the potential benefits of the nature of the Restaurant and Takeaway as well as the measures to be put in place to negate any concerns with regard to the proximity to a neighbouring school.

Decision

After further discussion, the LRB agreed to uphold the review request, and thereby grant planning permission subject to the conditions contained within the report.

Action

Planning Manager

Agenda No	Report Title	Presented by:
5.3	Notice of Review – 16 George Terrace, Loanhead	Peter Arnsdorf

Executive Summary of Report
<p>There was submitted report, dated 20 November 2020 by the Chief Officer Place, regarding an application from H.A and Co Developments Ltd, Poltonhall Industrial Estate seeking a review of the decision of the Planning Authority to refuse planning permission (20/0002/DPP, refused on 3 July 2020) for the Change of Use from a Shop (Class 1) to 3 Dwellinghouses (Class 9) and associated external alterations at 16 George Terrace, Loanhead</p> <p>Accompanying the Notice of Review Form and supporting statement, which were appended to the report, was a copy of the report of handling thereon, together with a copy of the decision notice.</p>
Summary of Discussion
<p>The LRB, having heard from the Planning Advisor, gave careful consideration to the merits of the case based on all the written information provided. In discussing the proposed development and the reasons for its refusal, the LRB considered at length the potential benefits of providing appropriate 1 Bedroom accommodation within Midlothian.</p>
Decision
<p>After further discussion, the LRB agreed to uphold the review request, and thereby grant planning permission subject to the conditions contained within the report.</p>
Action
<p>Planning Manager</p>

Agenda No	Report Title	Presented by:
5.4	Notice of Review – 62 Royal Court, Penicuik	Peter Arnsdorf
Executive Summary of Report		
<p>There was submitted report, dated 20 November 2020 by the Chief Officer Place, regarding an application from Mr and Mrs David Muirhead seeking a review of the condition applied concerning the proposed new fence along the West side of the application property decision of the Planning Authority whilst granting planning permission (19/00977/DPP, on 7 January 2020) for the Change of Use from a Shop (Class 1) to 3 Dwellinghouses (Class 9) and associated external alterations at 16 George Terrace, Loanhead</p> <p>Accompanying the Notice of Review Form and supporting statement, which were appended to the report, was a copy of the report of handling thereon, together with a copy of the decision notice.</p>		
Summary of Discussion		
<p>The LRB, having heard from the Planning Advisor, gave careful consideration to the merits of the case based on all the written information provided. In discussing</p>		

the proposed development and the reasons for its refusal, the LRB considered at length the proposed visual impact on the surrounding area and associated matters.

Decision

After further discussion, the LRB agreed to uphold the review request, and thereby grant planning permission subject to the removal of the previous condition contained within the report with regard to the erection of this fence.

Action

Planning Manager

6. Private Reports

No private business was discussed.

7. Date of Next Meeting

The next scheduled meeting will be held on Monday 11 January 2021 at 1.00pm.

The meeting terminated at 2.05pm.

Minute of Meeting



Special Meeting of the Local Review Body

Date	Time	Venue
Monday 14 December 2020	2.00pm	Virtual Meeting using MS Teams

Present:

Councillor Imrie (Chair)	Councillor Alexander
Councillor Cassidy	Councillor Curran
Councillor Munro	Councillor Smail

In Attendance:

Peter Arnsdorf, Planning Manager	Mhairi-Anne Cowie, Planning Officer
Mike Broadway, Democratic Services Officer	

1 Apologies

Apologies for absence were received from Councillors Baird, Lay-Douglas Milligan and Muirhead. Councillor Lay-Douglas did attempt to join the meeting, however due to technical issues with her sound withdrew, there being sufficient other Members present for the meeting to proceed without her.

2 Order of Business

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

3 Declarations of interest

No declarations of interest were intimated at this stage of the proceedings.

4 Reports

Declaration of Interest/Sederunt

During the initial introductory overview by the Planning Advisor, Councillor Cassidy became aware that he knew the owners of one of the neighbouring properties and having declared a non-pecuniary interest left the meeting at 2.16 pm prior to the commencement of the oral presentations.

Agenda No	Report Title	Presented by:
5.1	Notice of Review Request Considered for the First Time – Land to the Rear of 180 Main Street, Pathhead (20/00353/DPP).	Peter Arnsdorf

Executive Summary of Report

There was submitted report dated 7 December 2020 by the Chief Officer Place, regarding an application from Block 9 Architects, Castle Street, Edinburgh seeking, on behalf of their client Mr S Duncan, a review of the decision of the Planning Authority to refuse planning permission (20/00353/DPP, refused on 28 July 2020) for the erection of dwellinghouse on land to the rear of 180 Main Street, Pathhead.

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

Summary of Discussion

In accordance with the procedures for the Local Review Body, the Planning Advisor gave a brief overview of the review hearing procedures and outlined the background to the case.

Thereafter, oral representations were received firstly from Bob Tait, Format Design, on behalf of the applicant's agent, and then from Mhairi-Anne Cowie, the local authority Planning Officer; following which they both responded to Members' questions/comments.

The LRB then gave careful consideration to the merits of the case based on all the information provided both in writing and in person at the Hearing. In particular consideration was given to the impact the proposed development would have on neighbouring properties due to its scale, design and positioning. Members also debated potential issues relating to the access, in particular the availability of space for vehicles to manoeuvre, the proposed inclusion of a first floor balcony, which was not supported, and where also mindful of the level of amenity space and how this might impact on the potential occupants. On balance the overall view was that the current scheme as it stood did not adequately address these issues albeit the overriding feeling was that they were not unresolvable and that with some work it should be possible to come forward with a scheme which would allow development on the site to proceed.

Decision

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

1. *The proposed development would result in a low standard of amenity for future occupants of the proposed dwellinghouse as inadequate amenity space and parking provision is proposed.*
2. *The proposed development would have a significant detrimental impact on the amenity and privacy of neighbouring properties.*
3. *For reasons 1 and 2 above the proposed development is an overdevelopment of the site and is contrary to policies STRAT2 and DEV2 of the Midlothian Local Development Plan 2017.*
4. *It has not been demonstrated to the satisfaction of the planning authority that the development can be served by a safe and appropriate vehicular access and as a result there would potentially be a detrimental impact on vehicle and pedestrian safety in the area.*

In reaching this decision, the LRB emphasised that without prejudice to any future application, they were not opposed to the site being developed for housing purposes, subject to the concerns raised during the Hearing being addressed.

Action

Planning Manager

Sederunt

Having earlier advised that they had other prior engagements, Councillor Munro, left the meeting during consideration of the foregoing item of business at 2.42 pm, and Councillor Curran left the meeting at the conclusion of the foregoing item of business at 2.52pm, neither returned. Councillor Cassidy re-joined the meeting at this stage.

Agenda No	Report Title	Presented by:
5.2	Notice of Review Request Considered for the First Time – Land South West of Cockmuir, Penicuik (19/01004/DPP).	Peter Arnsdorf
Executive Summary of Report		
<p>There was submitted report, dated 7 December 2020 by the Chief Officer Place, regarding an application from Geddes Consulting, Bernard Street, Edinburgh seeking, on behalf of their client Mr M Fisher, a review of the decision of the Planning Authority to refuse planning permission (19/01004/DPP, refused on 14 February 2020) for the erection of a dwellinghouse (retrospective) on land south west of Cockmuir, Penicuik.</p> <p>Accompanying the Notice of Review Form and supporting statement, which were appended to the report, was a copy of the report of handling thereon, together with a copy of the decision notice.</p>		
Summary of Discussion		
<p>The LRB, having heard from the Planning Advisor, gave careful consideration to the merits of the case based on all the written information provided. In discussing the proposed development and the reasons for its refusal, the LRB considered at length the planning history of the site and the potential implications that permitting the proposed development would have in policy terms. Of further concern was the departure from the approved location for the dwellinghouse consented by Scottish Borders Council, without apparent justification.</p>		
Decision		
<p>After further discussion, the LRB agreed that in light of the particular circumstances in this case, to uphold the review request, and grant planning permission for the following reason:</p> <p><i>The dwellinghouse sits comfortably within the existing cluster of rural dwellinghouses and other buildings and will not have a significant impact on the landscape or have a detrimental impact on the amenity of the neighbouring properties and therefore complies with the spirit of policy RD1 of the Midlothian Local Development Plan 2017.</i></p> <p>subject to the following conditions –</p> <ol style="list-style-type: none"> 1. A scheme to deal with any contamination of the site and/or previous mineral workings is submitted to and approved by the Planning Authority. The scheme shall contain details of proposals to deal with any contamination and/or previous mineral workings and include: <ol style="list-style-type: none"> a) The nature, extent and types of contamination and/or previous mineral workings on the site; b) 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; 		

<p>c) The condition of the site on completion of the specified decontamination measures.</p> <p>2. On completion of the decontamination/remediation works referred to in condition 1, a validation report shall be submitted to the planning authority confirming that the works have been carried out in accordance with the approved scheme.</p> <p><i>Reason for conditions 1 and 2: To ensure that any contamination on the site/ground conditions is adequately identified and that appropriate decontamination measures/ground mitigation measures are undertaken to mitigate the identified risk to site users and construction workers, built development on the site, landscaped areas, and the wider environment.</i></p>
Action
Planning Manager

Agenda No	Report Title	Presented by:
5.3	Notice of Review Request Considered for the First Time – 62 Gorton Road, Rosewell (20/00343/DPP).	Peter Arnsdorf
Executive Summary of Report		
<p>There was submitted report, dated 7 December 2020 by the Chief Officer Place, regarding an application from FEM Building Design, Plantain Grove, Lenzie, Glasgow seeking, on behalf of their client Mr & Mrs J Carroll, a review of the decision of the Planning Authority to refuse planning permission (20/00343/DPP on 10 July 2020) for the erection of extension and porch to dwellinghouse at 62 Gorton Road, Rosewell.</p> <p>Accompanying the Notice of Review Form and supporting statement, which were appended to the report, was a copy of the report of handling thereon, together with a copy of the decision notice.</p>		
Summary of Discussion		
<p>The LRB, having heard from the Planning Advisor, gave careful consideration to the merits of the case based on all the written information provided. In discussing the proposed development, Members debated the potential impact that the rear extension would have due to its scale, design and positioning.</p> <p>Thereafter, Councillor Cassidy, seconded by Councillor Alexander moved to uphold the review request and grant planning permission.</p> <p>As an amendment Councillor Smaill, seconded by Councillor Imrie moved to dismiss the review request and to uphold the decision to refuse planning permission for the reasons detailed in the case officer's report.</p>		

On a vote being taken 2 Members voted for the amendment and 2 for the motion. There being an equality of votes, the Chair used his casting vote for the motion which accordingly became the decision of the Committee.

Decision

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

The proposed extension and porch will not have a significant impact on the character of the host building or have a detrimental impact on the amenity of the neighbouring property at 64 Gorton Road and complies with the aims of policy DEV2 of the Midlothian Local Development Plan 2017.

Action

Planning Manager

6. Private Reports

No private business was discussed.

7. Date of Next Meeting

The next scheduled meeting will be held on Monday 11 January 2021 at 1.00pm.

The meeting terminated at 3.20pm.

Notice of Review: Land 250M North West of Fyrnlea, Penicuik 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 a dwellinghouse and formation of access at land 250M North West of Fyrnlea, Penicuik.

2 Background

- 2.1 Planning application 20/00472/PPP for planning permission in principle for the erection of a dwellinghouse and formation of access at land 250M North West of Fyrnlea, Penicuik was refused planning permission on 31 August 2020; a copy of the decision is attached to this report.
- 2.2 The review has progressed through the following stages:
- 1 Submission of Notice of Review by the applicant.
 - 2 The Registration and Acknowledgement of the Notice of Review.
 - 3 Carrying out Notification and Consultation.

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 31 August 2020 (Appendix D); and
 - A copy of the key plans/drawings (Appendix E).
- 3.2 The full planning application case file and the development plan policies referred to in the case officer's report can be viewed online via www.midlothian.gov.uk

4 Procedures

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

- Have determined to consider a visual presentation of the site instead of undertaking a site visit because of the COVID-19 pandemic restrictions; and
 - Have determined to progress the review by way of a hearing.
- 4.2 The case officer's report identified that there were three consultation responses and no representations 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 to the next LRB for noting.
- 4.6 A copy of the LRB decision will be placed on the planning authority's planning register and made available for inspection online.

5 Conditions

- 5.1 In accordance with the procedures agreed by the LRB at its meeting of 13 June 2017, and without prejudice to the determination of the review, the following conditions have been prepared for the consideration of the LRB if it is minded to uphold the review and grant planning permission.
1. 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 high speed fibre broadband connections for the houses;
- 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; and
- i) Details of a scheme of landscaping for the boundaries of the site and a plan showing the position, number, size and species of all trees and shrubs that are proposed to be planted; all trees on the site which are to be removed and retained; and details of the means of protection of all trees that are to be retained.

Reason: *Permission is granted in principle only. No details were approved with the application and detailed consideration is required for the siting, massing and design of the proposed dwellinghouse and site access arrangements; to ensure protected species are not adversely affected.*

2. The vehicular access details required in condition 1a) shall include the proposed vehicular access with a visibility splay of 215 metres by 2.4 metres.

Reason: *In the interests of road safety; to ensure that a safe access is provided for the future occupants of the house.*

3. The details of the hardstanding required in terms of condition 1d) shall be porous materials.

Reason: *In the interests of road safety; to prevent water run-off from the site into the surrounding countryside.*

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

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

5. Before the new house is occupied the installation of the means of drainage treatment and disposal approved in terms of condition 1h) 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. No development shall take place on site until the applicants or their successors have undertaken and reported upon a programme of archaeological (monitored soil strip) work in accordance with a written scheme of investigation to be submitted to and approved in writing by the Planning Authority.

Reason: *To ensure a proper archaeological evaluation of the site, which is within an area of potential archaeological interest, and that adequate measures are in place to record any archaeological finds.*

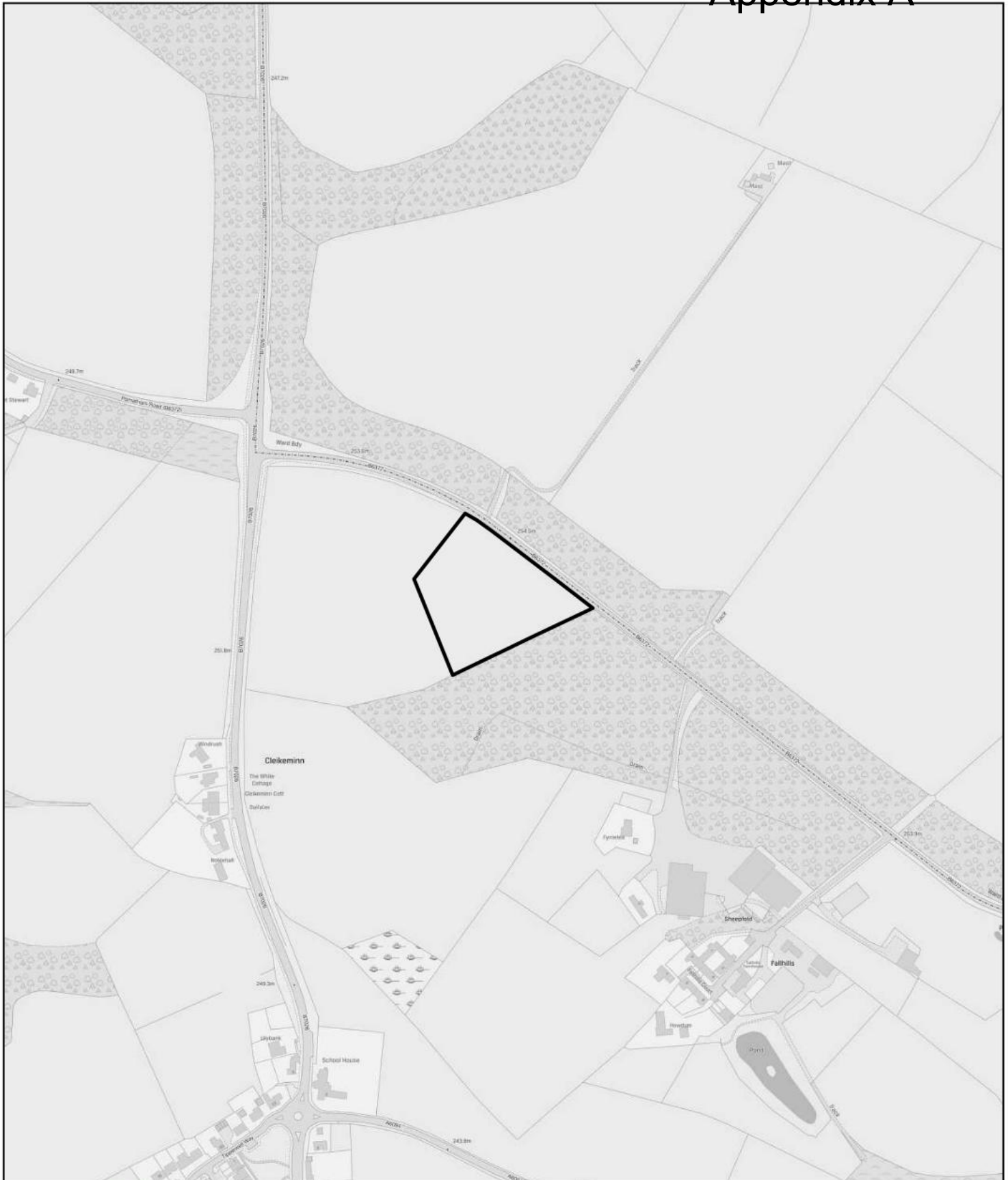
6 Recommendations

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

Date: 18 March 2021

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

Background Papers: Planning application 20/00472/PPP available for inspection online.



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

Planning permission in principle for the erection of a dwellinghouse and formation of access at Land 250M North West of Fyrnlea, Penicuik

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File No: 20/00472/PPP

Scale: 1:5,000
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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 100312098-001

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="Holder Planning"/>		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	<input type="text" value="Robin"/>	Building Name:	<input type="text"/>
Last Name: *	<input type="text" value="Holder"/>	Building Number:	<input type="text" value="5"/>
Telephone Number: *	<input type="text" value="07585 008650"/>	Address 1 (Street): *	<input type="text" value="South Charlotte Street"/>
Extension Number:	<input type="text"/>	Address 2:	<input type="text"/>
Mobile Number:	<input type="text"/>	Town/City: *	<input type="text" value="Edinburgh"/>
Fax Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
		Postcode: *	<input type="text" value="EH2 4AN"/>
Email Address: *	<input type="text" value="robin@holderplanning.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" 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="Stephen"/>	Building Number: <input type="text" value="4A"/>
Last Name: *	<input type="text" value="Lamb"/>	Address 1 (Street): * <input type="text" value="Glenfinlas Street"/>
Company/Organisation	<input type="text" value="Valley Landscaping Limited"/>	Address 2: <input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: * <input type="text" value="Edinburgh"/>
Extension Number:	<input type="text"/>	Country: * <input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: * <input type="text" value="EH3 6AQ"/>
Fax Number:	<input type="text"/>	
Email Address: *	<input type="text" value="valleylandscapingltd@gmail.com"/>	

Site Address Details

Planning Authority:	<input type="text" value="Midlothian Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text"/>
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

Land 250m North West Fyrnelea, Penicuik, Midlothian

Northing	<input type="text"/>	Easting	<input type="text"/>
----------	----------------------	---------	----------------------

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)

Planning permission in principle for the erection of a dwellinghouse and formation of access

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 statement

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

☐ Yes ☒ No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

Review Statement Road Safety Report by Andrew Carrie

Application Details

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

20/00472/PPP

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

23/07/2020

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

31/08/2020

Review Procedure

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

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

☐ Yes ☒ No

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)

A Hearing is considered necessary to fully explore the issues raised in this Review.

Please select a further procedure *

By means of inspection of the land to which the review relates

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

As site visit is required, particularly to understand the issues relating to the visibility splay and the proposed landscaping.

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 Robin Holder

Declaration Date: 30/09/2020



MIDLOTHIAN COUNCIL LOCAL REVIEW BODY

APPLICANT STATEMENT

Development: Planning Permission in Principle for the erection of a dwellinghouse and formation of access.
(Application Reference 20/00472/PPP)

Location: Fallhills Farm, Howgate

Date: 30th September 2020

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1.0 INTRODUCTION AND SUMMARY OF REVIEW

- 1.1 Midlothian Council has refused planning permission in principle under delegated powers for a new house in association with a horticultural business at Fallhills Farm, near Howgate. The refusal reasons are as follows:
1. It has not been demonstrated to the satisfaction of the Planning Authority that the proposed house is required in connection with the furtherance of an established countryside activity or business. For this reason the proposed development is contrary to RD1 of the proposed Midlothian Local Development Plan and the related supplementary planning guidance.
 2. The proposal presents a significant threat to road safety as the required visibility splays for a vehicular access are not achievable either within the application site or on land under the control of the applicant.
 3. The proposal would have a detrimental impact on the landscape character of the area as any landscaping would need to be set back 2.4 metres from the roadside which would be out of keeping with the area.
- 1.2 We disagree with all three refusal reasons for the following reasons, in summary:
1. The proposed house is required in connection with the furtherance of an established countryside business. The business is not only established at Fallhills Farm but at 3 further locations across Scotland. The Planning Officer's Delegated Report on the matter is factually incorrect and, in our view, places a meaning on the relevant planning policy (Policy RD1) which is unjustified.
 2. The necessary visibility splays for the access are in the control of the applicant and the Roads Authority. The Planning Officer's refusal reason is not consistent with the advice received from the Policy & Roads Safety Officer, **who did not recommend refusal**. Moreover, the Planning Officer's refusal reason is based on a misunderstanding of road and traffic matters relevant to this application.
 3. In our view the provision of a hedge with a short setback of 2.4m to ensure traffic visibility will enhance the character of the area, particularly as there is no hedge at present. However, the applicant is content not to plant a hedge and would accept a condition precluding the hedge. Notwithstanding this point, given that this is a Planning in Principle application, in our view this is a matter which can be dealt with at the detailed planning stage.
- 1.3 We expand upon these points in the following sections of this statement.
- 1.4 The background to this proposal is straight forward. Mr Lamb operates a successful landscape contractor business – Valley Landscaping - employing 7 people. He now wishes to expand the business further, but his current working arrangements are impractical for this objective. Because of the incremental growth of business, it is currently operating out of 4 separate premises in disparate locations, one of which is Fallhills Farm. He now needs to consolidate the three locations in South East Scotland into a single location at Fallhills Farm where he is able to be present at all times. This consolidation will also provide the appropriate platform for further expansion and additional local employment.

-
- 1.5 The proposed new house will allow the necessary 24/7 supervision, and Mr Lamb is willing and able to accept a legal agreement that ties his occupation of the house to the business in accordance with the Council's policy for new homes associated with a business requiring a countryside location.
- 1.6 In pre-application communications, the planning officer initially indicated that neither the business related buildings or the house accorded with the Council's planning policies and would therefore be recommended for refusal. Mr Lamb did not think this was a plausible response in the context of planning legislation and policy and he asked Holder Planning to provide him with a second opinion.
- 1.7 Our review of planning policy and legislation concluded that the operation of the business and the buildings associated with it **did not require planning permission as it fell under the definition of permitted development**. The Planning Officer appears subsequently to have accepted this. If it had required planning permission, however, we cannot see any reason why officers would have wished to refuse it, given that planning policies support horticultural businesses in the countryside, and the applicant was already operating from Fallhills Farm in premises rented from the landowner.
- 1.8 We also advised Mr Lamb, as he already appreciated, that the new house associated with the business did require planning permission, and that the relevant planning policy (Policy RD1) supported such development in the countryside associated with an established horticultural businesses . However, the Planning Officer maintained the view that the house contravened Policy Policy RD1 because the established business is not established on the site in question, but elsewhere. **This is wrong for two reasons**. Firstly, the business is established on site and, secondly, Policy RD1 does not make the distinction as to whether the business is established on or off the site.

2.0 VALLEY LANDSCAPING AND THEIR PROPOSALS



- 2.1 Valley Landscaping is a successful and established rural business, currently operating rather inefficiently from the following scattered locations. The above photograph was recently taken at Fallhills Farm.

Office – Peebles

Storage & Distribution – near Carlops

Storage & Distribution – Fallhills Farm

Depot - Aberdeen

- 2.2 The depot in Aberdeen will be retained, but they are seeking to consolidate the other three into a single location at Fallhills Farm. This will facilitate an expansion of their client base and the ability to employ more local staff.

The company serves an expanding market, supplying the following business sectors with trees, shrubs and plants and undertaking ground maintenance:

- Building companies
- Factoring companies
- Commercial companies
- Retail Parks
- Woodland Trust
- Greenbelt Group

- 2.3 There are currently 7 employees in the business, and this is set to increase to 10-12 staff, the additional people being employed locally once the business has relocated.
- 2.4 They have now purchased land from the owner of Fallhills Farm to accommodate their horticultural activities and associated storage and distribution. The horticulture and storage can be implemented under permitted development rights, but the associated house requires planning permission.
- 2.5 The nature of the business is such that it requires constant on-site supervision, both to manage the growing of plants and trees, and to ensure the security of the storage

premises. The house is for the owner and manager of the business – Stephen Lamb – and he is willing to associate the house with the landscape business by way of an appropriate legal agreement.

- 2.6 The site will not have any public retail element.
- 2.7 It should be noted that the horticulture and storage uses do not require planning permission because they are either not development or are permitted development. For clarity, however, the indicative plan submitted with this application shows the new house and its relationship to the proposed storage sheds and growing areas.
- 2.8 It should be noted that the applicant's original approach to Midlothian Council Planning Department sought advice on the need for planning permission for the consolidation of the business at Fallhills Farm as well as the related house. The Planning Officer advised that neither proposal was acceptable. Holder Planning requested a discussion with the Planning Officer as this advice did not appear to be correct and we thought there may have been some misunderstanding. However, that request was declined on the basis that the Planning Officer indicated that he had no access to a work phone during the pandemic lockdown, but that he might be available in a few weeks' time.
- 2.9 It should also be noted that the applicant cannot proceed to relocate his business unless the associated house is permitted.
- 2.10 Also submitted with the application was an illustrative site layout, supported by a visual analysis, demonstrating how the development fits well into the local landscape. Although this is an application for Planning in Principle, where detailed plans will require to be approved by the Council in due course, the illustration below shows the appropriate arrangement of the house, the storage shed and the areas of land that will be cultivated for shrubs and trees.



3.0 ASSESSMENT OF REFUSAL REASONS

REFUSAL REASON 1

- 3.1 Refusal Reason 1 is stated as follows:

It has not been demonstrated to the satisfaction of the Planning Authority that the proposed house is required in connection with the furtherance of an established countryside activity or business. For this reason the proposed development is contrary to RD1 of the proposed Midlothian Local Development Plan and the related supplementary planning guidance.

- 3.2 The full text of the relevant part of Policy RD1 to which the refusal reason is referring is as follows:

Housing

Normally, housing will only be permissible where it is required for the furtherance of an established countryside 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.

- 3.3 The relevant section of the Planning Officer's Delegated Short Report commenting on the basis for Refusal Reason 1 is reproduced below:

"It is proposed to erect a house that relates to a landscape business. This is the justification for the house. The submitted site plan and associated documents are clear there is no landscape business currently operating from this site. The related business operates from a number of other locations and it is proposed to consolidate three of the existing operations to this site, with the fourth remaining elsewhere. It is submitted that the horticulture business is established and this demonstrates that this is a viable long term business. The related policies are clear that there is some policy support for houses required for the furtherance of an established countryside activity, where it is demonstrated that this meets the relevant policy criteria. The landscape business detailed as the justification for the house is not operational from the site, therefore the proposed house does not relate to the furtherance of an established business and there is therefore no policy support. The Planning Authority disagrees with the statement that as the business is established elsewhere, this provides justification for a house at this site. The

policy is clear that any house must further the countryside activity. At present, the site is used for livestock grazing. There are no horticultural operations taking place.

- 3.4 **Unfortunately, the section highlighted in yellow is incorrect and appears to be based on a fundamental misunderstanding of the circumstances.** At present the applicant rents storage space at Fallhills Farm and operates part of the business from that location. It is therefore established in that location. Notwithstanding this point, the Planning Officer has compounded this misunderstanding by concluding that the horticultural business cannot be considered to be established if it is established elsewhere from the application site. This, in our view, is an incorrect and unjustified interpretation of Policy RD1. The Planning Officer's interpretation depends on adding words to the policy which are not there e.g. *the furtherance of an established countryside activity....(in its existing location)*. However, the policy does not contain those additional words which the planning officer relies upon.
- 3.5 It is a well-established in planning law that the meaning of policies has to be taken at face value. To quote the well-known words of the Supreme Court in the Tesco v Dundee case ***"planning authorities do not live in the world of Humpty Dumpty: they cannot make the development plan mean whatever they would like it to mean"***.
- 3.6 So, in our view the proposals fully comply with Policy RD1 as stated. As a matter of fact the proposals are for an established countryside activity in this location and elsewhere, both of which provide a positive context for the application of Policy RD1. The furtherance of the established countryside activity will be achieved by consolidating three disparate parts of the business into a single southern Scotland operational base, with an associated house to provide the necessary 24/7 oversight of the horticultural operation as well as ensuring onsite security. In our view, this is exactly the kind of development that Midlothian should be encouraging in its countryside, to contribute to the countryside economy.

Refusal Reason 2

- 3.7 Refusal Reason 2 is stated as follows:

The proposal presents a significant threat to road safety as the required visibility splays for a vehicular access are not achievable either within the application site or on land under the control of the applicant.

- 3.8 We are concerned about the manner in which this refusal reason has been arrived at, as in our view it is unreasonable and does not appear to be based on the necessary professional expertise. It is important to note that the Midlothian Council's Policy & Road Safety response **did not object to the application**. Their response stated:

"I have no objection in principle to this proposal but would recommend that the following conditions be applied:

1. Details of the proposed vehicle access with visibility splay (215m by 2.4m for a 60mph road) should be submitted for approval.

2. Details of the parking and manoeuvring layout within the site should be submitted for approval.

3. Details of the proposed management of surface water within the site should be submitted for approval."

- 3.9 Unfortunately the Planning Officer chose not to contact the applicant to ascertain whether or not the visibility splay could be achieved (**which it can**), and then compounded this shortcoming by reaching conclusions that were not only wrong, but also we assume outwith their professional expertise. The Planning Officer's Delegated Short Report contains the following statement:

For new accesses onto a 60mph road, as currently proposed, visibility splays of 215 metres by 2.4 metres are required to provide a safe access. The roadside boundary of the site measures approximately 150 metres long. This means that the required visibility splay is not achievable within the application site or on land under the control of the applicant. It has not been demonstrated that a safe access can be provided for this proposal.

- 3.10 This statement is factually incorrect and Mr Lamb has had to bear the expense of procuring an expert traffic consultant to confirm the actual position. Submitted with this Review statement is the comprehensive report by Andrew Carrie Traffic & Transportation Ltd, from which we draw our comments below. We do, however, recommend that Mr Carrie's report is read in full.

- 3.11 The first important fact to note is that the visibility splay recommended by the Roads Officer is in the control of the applicant and the Roads Authority and can be achieved.** Unfortunately, the Planning Officer made no attempt to ascertain the actual position with the applicant. The applicant was not made aware of the Roads Officer's comment and within 3 days of it being sent to the Planning Officer, the application was refused.
- 3.12 The second important fact to note, contrary to that stated by the Planning Officer, is that the stated visibility splay of 215m x 2.4m is not necessarily required in order to achieve a safe access.** The 215m x 2.4m splay is a standard splay parameter for a 60mph road but, as explained in national guidance, is not necessary if it can be demonstrated that car speeds in the vicinity are less than that. Andrew Carrie's report, following his undertaking of a speed survey, demonstrates that because of the nearby junction, cars approaching from the left, as one leaves the proposed site access, have a speed significantly less than 60mph, and therefore a shorter visibility splay is required. In the normal course of events, this is the kind of issue that is subject to dialogue between the applicant and Roads Officer to reach a satisfactory agreement. However, the Planning Officer's apparent priority to refuse the application prevented such a dialogue.
- 3.13 The third important fact to note is that this application is for Planning in Principle, and it is not required or appropriate to provide a detailed drawing of the proposed visibility splay at this stage.** Instead, this is a matter that should be dealt with by a condition requiring it to be provided at the Approval of Matters Specified in Conditions stage of the planning process. Thus, if the Local Review Body is minded to grant Planning in Principle, we would recommend the following conditions.
- "Details of the proposed vehicle access with visibility splay should be submitted for approval."*
- 3.14** This has been amended from that recommended by the Roads officer to remove the specific reference to a splay of 215m x 2.4m, because Andrew Carrie's assessment demonstrates that this is not required. Further dialogue with the Roads Officer will establish what that length of splay should be and the condition allows for flexibility on that point. Ultimately the Council will make the decision, but we do know that the maximum splay of 215m x 2.4m is achievable if required and its maintenance is in the control of the applicant.

Refusal Reason 3

3.15 Refusal Reason 3 is as follows:

The proposal would have a detrimental impact on the landscape character of the area as any landscaping would need to be set back 2.4 metres from the roadside which would be out of keeping with the area.

3.16 The Delegated Short Report has the following text on this matter:

“Also, although the submission states that a hedge would be planted along this roadside boundary, the required visibility splay means this would need to be set back at least 2.4 metres from the road. Typically hedgerows in the countryside are either hard up to roads or are set back slightly. Setting a hedge at least 2.4 metres from the roadside is likely to have an adverse landscape visual impact on the surrounding area.

3.17 We disagree with this refusal reason. Firstly, and as a point of principle, roadside hedges are typical of Midlothian. They are an attractive feature of the landscape and good for biodiversity.

3.18 At present, there is no roadside hedge in the immediate vicinity and the applicant considers that it would be an attractive addition. The fact that it would be planted back from the verge for the purposes of maintaining the splay visibility would not, in our view, have a negative landscape impact. If the LRB disagrees with that but is minded to grant Planning in Principle for the new house, then it would be entitled to attach a condition that precludes a hedge. The applicant has no difficulty with that. All detailed landscaping matters are anyway subject to the approval of the Council at the Approval of Matters stage, and we would suggest that then is the appropriate time to deal with the matter.

4.0 CONCLUSION

- 4.1 Valley Landscaping are a successful horticultural contractor currently running part of their business from rented premises at Fallhills Farm. Currently they have three separate premises in South East Scotland, which is becoming increasingly impractical to operate and difficult to supervise as the business expands. Mr Lamb, the owner of the business therefore wishes to consolidate the business on the application site, which will provide the platform for further expansion and additional local employment. The scale and nature of the business requires 24/7 supervision and hence the proposal for an associated house. Mr Lamb accepts the need for an appropriate legal agreement to tie the house to the business.
- 4.2 The application is for Planning in Principle and therefore all detailed design matters and the road access should be addressed at the Approval of Matters Specified in Conditions stage of the process.
- 4.3 In refusing the application, the Planning Officer's Short Delegated Report indicates a misunderstanding of the location of the current business operation, an incorrect understanding of the relevant planning policy and an incorrect understanding of what is required to achieve a safe access. It also appears that little or no account has been taken of the fact that this is a Planning in Principle application, where detailed matters such as landscaping and road access can be controlled at the detailed planning stage.
- 4.4 We have explained in detail why, in our view, none of the three refusal reasons are justified, which can be summarised as follows:
- The application accords with Policy RD1, which supports new houses related to an established countryside use.
 - The applicant and the Roads Authority are in control of the land required to achieve the necessary access visibility splay.
 - The proposed hedge, indicatively shown as it is, will enhance the landscape character of the area. However, the applicant is content to accept a condition precluding the hedge. Notwithstanding, in our view this is an issue best dealt with at the detailed planning stage.

APPEAL TO LOCAL REVIEW BOARD

ERECTION OF A DWELLING HOUSE AND FORMATION OF ACCESS (IN PRINCIPLE) AT FALLHILLS FARM, PENICUIK

REPORT ON REASON FOR REFUSAL

September 2020

PO Box 2070, Livingston EH54 0EG

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Tel 07798 646844

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Email: ac@acarrie.net

Registered in Scotland No 414163

1.0 Introduction

- 1.1 Valley Landscaping Limited submitted an application for Planning Permission in Principle (Ref 20/00472/PPP) in July 2020 for a new dwelling houses on a site near Fallhills Farm, Penicuik. The site is currently unoccupied and its location is shown in red in Figure 1.



- 1.2 The dwelling house is part of a proposal to merge and relocate an existing and established landscaping and horticultural business which is currently located within Midlothian and the Borders Area in three separate locations, at Peebles, Macbiehill (near Carlops) and Howgate.
- 1.3 The site will not be open to the public, and will be used only by Valley Landscaping and employees, who will meet at the location in the morning then return mid-late afternoon. There are no plans for any regular deliveries to or from the site .
- 1.4 Access is proposed from the B6372, which runs from Penicuik to the north west to the B6046 to the east, The road crosses the B7026 at a staggered priority junction a short distance west of the proposed development. The B7026 continues south to join the B6046 at Howgate, where the route carries on south to join the A701 at Leadburn. To the north, the B6046 carries on past Rosewell to Bonnyrigg and beyond.

- 1.5 Planning Permission was refused on 31 August 2020, for 3 reasons. The second of those reasons was that :
- “The proposal presents a significant threat to road safety as the required visibility splays for a vehicular access are not achievable either within the application site or on land under the control of the applicant.”*
- 1.6 The Applicant has considered the Reasons for Refusal, and has appointed Andrew Carrie and Transportation Limited (ACTT) in September 2020, to examine the site and the surrounding road network, and to prepare this Report to accompany a Notice of Review to appeal against the decision to refuse planning permission.
- 1.7 This Report has been prepared by Andrew Carrie, Director of Andrew Carrie Traffic and Transportation Limited, a consultancy based in Livingston, West Lothian. The practice specialises in the examination of transportation impacts for development proposals.
- 1.8 Mr Carrie holds a Bachelor of Science (Honours) Degree in Civil Engineering, and is a Fellow of both the Institution of Civil Engineers and the Chartered Institution of Highways and Transportation. He has been registered as a Chartered Engineer since 1983. He has 30 years of experience specifically in the field of transportation impacts for a wide range of residential, retail, commercial, industrial and leisure developments.

2.0 Report of Handling

- 2.1 The application was determined by officers under delegated powers. The Delegated Worksheet sets out the background to the officer delegated decision, and states under “consultations” that *“The Council’s Policy and Road Safety Manager has no objection in principle but states that conditions be attached to any planning permission relating to parking and manoeuvring and surface water management. Also details of the access with visibility splays of 215 metres by 2.4 metres are required.”*
- 2.2 This reflects the consultation response dated 25 August 2020 from the Council’s Policy and Road Safety Manager, which states that:
1. *Details of the proposed vehicle access with visibility splay (215m by 2.4m for a 60mph road) should be submitted for approval.*
 2. *Details of the parking and manoeuvring layout within the site should be submitted for approval.*
 3. *Details of the proposed management of surface water within the site should be submitted for approval.*
- 2.3 It is notable that the Policy and Road Safety Manager does not consider these issues to be insurmountable, but simply requests further information to clarify the proposals.
- 2.4 Under “Planning Issues”, the worksheet states that *“For new accesses onto a 60mph road, as currently proposed, visibility splays of 215 metres by 2.4 metres are required to provide a safe access.”* That reflects the Policy and Safety Manager’s response.
- 2.5 The worksheet then goes on, however, to add that *“The roadside boundary of the site measures approximately 150 metres long. This means that the required visibility splay is not achievable within the application site or on land under the control of the applicant. It has not been demonstrated that a safe access can be provided for this proposal. Also, although the submission states that a hedge would be planted along*

this roadside boundary, the required visibility splay means this would need to be set back at least 2.4 metres from the road. Typically hedgerows in the countryside are either hard up to roads or are set back slightly. Setting a hedge at least 2.4 metres from the roadside is likely to have an adverse landscape visual impact on the surrounding area."

- 2.6 This summary is simply incorrect. The applicant does not need to control the whole length of the visibility splay, but only that part that would be outwith the existing road verge. If the existing verge is 2 metres wide, for example, then only one-sixth of the visibility length (or approximately 36 metres of the 2.4 metres specified) would be behind the verge, and could easily be accommodated within the site frontage.
- 2.7 The Applicant has purchased the application site from the farmer who owns the rest of the surrounding field, and the tree belt to the east. The farm owner is therefore supportive of the application proposals. Through agreement with the seller, the Applicant in this case controls all of the necessary land along the full length of both visibility splays, and could therefore have provided the visibility splay requested by the Council.
- 2.8 It is notable the Policy and Road Safety Manager's response is dated Tuesday 25 August, while the decision letter issued on Monday 31 August, only some 3 working days later. The Applicant was given no opportunity to consider or comment on the consultation response, when it would have been straightforward to demonstrate that the required visibility splay was readily achievable, if necessary.
- 2.9 The Council were therefore incorrect to conclude that the visibility splays were not achievable and including this as the second Reason for Refusal.
- 2.10 The following sections of this report therefore examine the necessary visibility in more detail, to clarify that adequate splays can readily be achieved, and this Reason for Refusal has no merit.

3.0 Junction Visibility Splays

- 3.1 Junction visibility splays are specified in the form "x metres by y metres", where "y" is the distance to which visibility should be available in both directions along the main road, and "x" is the distance along the centre line of the side road, from which the points at "y" should be visible.
- 3.2 Derivation of the relevant visibility standard is set out in the Design Manual for Roads and Bridges (DMRB), in two separate technical directives:
- (i) DMRB CD123 Geometric Design of At-Grade Priority and Signal-Controlled Junctions (Replaces Td42/95); and
 - (ii) DMRB CD109 Highway Link Design (Replaces TD9/93).
- 3.3 CD123 states that the "y-distance" (ie the length visible along the main road) should be dependent on the speed of approaching traffic (not necessarily the speed limit unless no other information is available), and should be sufficient to ensure both that drivers emerging from the side road are able to safely assess gaps in main road traffic, and that drivers on the main road are able to recognise the presence of the junction, and be able to stop safely if the emerging driver makes an error. This distance is therefore

specified as the “Stopping Sight Distance” for the main road traffic, and this in turn is directly related to the design speed of main road traffic.

- 3.4 Figure 3.1 below is extracted from DMRB CD123, and illustrates the format of these required visibility splays.

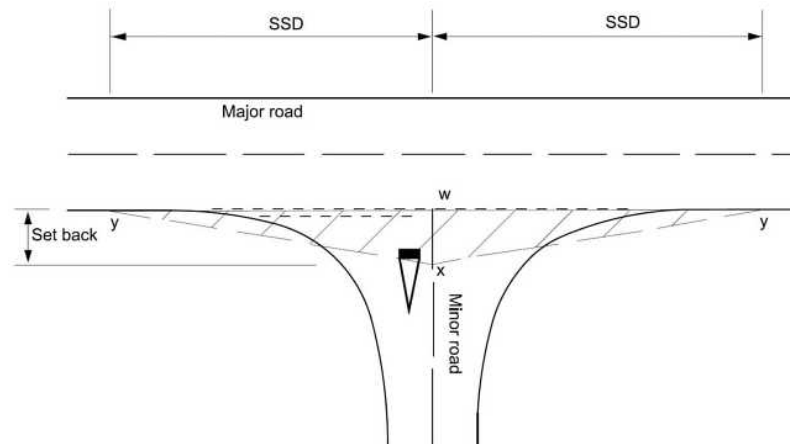


Figure 3.1 – Junction Visibility Splays

- 3.5 Table 3 of DMRB CD109 sets out appropriate “Stopping Sight Distances” for a range of design speeds.
- 3.6 The “design speed” is recommended in CD123 as the 85th percentile speed, that is to say, the speed exceeded by only 15% of the traffic on that approach.
- 3.7 The first step in a junction assessment is therefore to ascertain the appropriate Design Speed, on which junction visibility standards etc are based.
- 3.8 The visibility standard quoted by the Council is based on vehicles travelling at the speed limit of 60 miles per hour. In the absence of information on actual vehicle speeds, that would be a cautionary position to adopt.
- 3.9 In this particular case, however, it is evident that traffic speeds in the vicinity of the site access are significantly lower than the 60 miles per hour speed limit due to the geometry and characteristics of the road, and because traffic is leaving or approaching the junction with the B7026, only 250 metres or so to the west.
- 3.10 The road is very lightly trafficked, but ACTT measured the speed of vehicles that passed the site in a period of just over an hour. Speeds westbound (towards the B7026) past the site were in the region of 60 miles per hour, so at this stage, a visibility splay extending to 215 metres would appear to be appropriate.
- 3.11 In the eastbound direction, 20 vehicle speeds were recorded, ranging from 35 mph to 56 mph, as traffic was observed to be gaining speed as they left the B7026 junction, where turning speeds are around 20 mph. The full range of speeds are set out in Appendix A.
- 3.12 These results show that the recorded average speed eastbound was 42.36 miles per hour, and that, overall, the calculated 85th percentile speed was approximately 46.15 miles per hour eastbound.

- 3.13 This is not considered to be a full traffic speed survey, but it is indicative of the likely speeds, so the required splays would be much shorter than those quoted by the Council, which are based on the full speed limit.

Visibility Assessment

- 3.14 Taking account of those measured speeds, ACTT have examined the necessary junction visibility splay,
- 3.15 Table 3.1 below summarises the stopping site distances and junction visibility distances (which are the same) for a range of design speeds. In DMRB, the design speeds are quoted in kilometres per hour, so Table 3.2 includes a conversion to equivalent miles per hour, to facilitate comparison with other standards.

design speed		Visibility
kph	(Equivalent mph)	Distance
50	31.1	70
60	37.3	90
70	43.5	120
85	52.8	160
100	62.1	215
120	74.6	295

Table 3.1 – Visibility Distances from DMRB

- 3.16 Reference to Table 3.1 shows that the visibility splay requirement for a speed of 43.5 mph (approximately 2.5 mph slower than the design speed measured on site) would be 120 metres. For speeds up to 53mph, the required visibility splay should be 160 metres.
- 3.17 ACTT have carefully considered the physical parameters behind the derivation of Stopping Site Distance, and hence visibility splays, to derive a suitable and safe visibility splay that would retain much of the existing character of the site.
- 3.18 The physical relationship between speed and the distance needed to stop, ie Stopping Sight Distances (SSD), is dependent upon the following formula:

$$SSD = vt + v^2/2(d+0.1a)$$

Where:

v = initial speed (m/s)

t = driver reaction time (seconds)

d = deceleration rate (m/s²)

a = gradient

- 3.19 The visibility splays in DMRB are based on a driver reaction time of 2 seconds, and a rate of deceleration rate of 0.25g (or 2.45 m/s²).
- 3.20 Page 1 of Appendix B calculates the stopping sight distance required for a speed of 43.5 mph (70kph), using these parameters, to be 118.4 metres. This correlates closely to the DMRB splays set out in Table 3.1 of this report.

- 3.21 Page 2 of Appendix B calculates the stopping sight distance required for the measured design speed of 46.15 mph (74.27 kph), using these parameters, to be 130.4 metres. That would therefore be a suitable interpolation to be applied to the DMRB table, for the measured design speed.
- 3.22 With regard to the “x-distance” from which this visibility should be available, DMRB states, in paragraph 3.8 of CD123, that “*The minimum distances used to locate point X and therefore generating the visibility splay shall be:*
- 1) 2 metres for direct accesses;
 - 2) 2.4 metres for simple priority junctions; and
 - 3) 4.5 metres for all other priority junctions.”
- 3.23 The proposed development has a single direct private access, and is not therefore a “junction”, and in that case, the set-back distance should be reduced to 2 metres, in accordance with the clear advice of CD123.
- 3.24 For the purposes of this report, visibility has been primarily assessed from a set-back distance of 2.2 metres, i.e between the two possible requirements..
- 3.25 It should be pointed out that a visibility splay from 2.0 metres still allows gaps to be assessed safely. Larger x-distances can marginally improve the junction’s capacity, by allowing drivers to assess safe gaps in traffic without necessarily stopping, or permitting two drivers to more easily accept a single gap, but such a reduction is not detrimental to road safety.

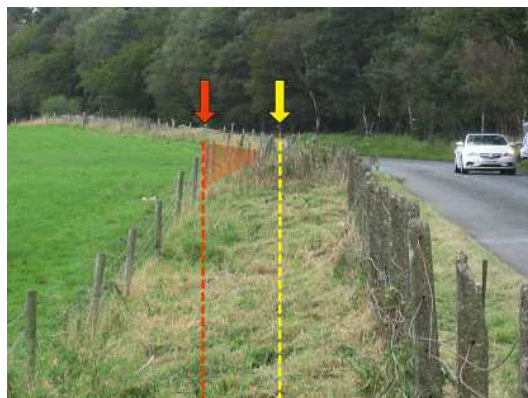
Measurement of Available Visibility Splays

- 3.26 This photograph shows the visibility available looking west along the B6372 from a point 2.2 metres back along the proposed access. The yellow arrow shows the location of a red and white ranging rod, located on the edge of the road, 215 metres from the access centre line. The pole is just visible through the existing foliage.



- 3.27 Some of that foliage is within the road verge and is therefore the responsibility of the roads authority. Nevertheless, the Applicant has control of all of the land behind the verge along the full length of the visibility splay, so can remove and maintain the foliage as required. This demonstrates that visibility is readily available to vehicles approaching from the west, subject to clearance of foliage within the applicants’ control.

- 3.28 This photograph shows the visibility available looking east along the B6372 from a point 2.2 metres back along the proposed access. In this case, the ranging rod highlighted by the yellow arrow is located on the edge of the road, 130 metres from the centre line of the proposed access.



- 3.29 It can be seen that there are two fences along this part of the frontage. The concrete post and wire fence on the right of the photograph signifies the rear of the road verge. The post and wide fence on the left of the photo is a stock fence along the edge of the cultivated field (although ownership extends to the rear of the verge). In this case, the visibility splay, denoted by the yellow line, falls between the two fences on land within the control of the applicant. The remainder (in front of the concrete post fence) is within the road verge and is therefore the responsibility of the roads authority.
- 3.30 The Applicant can remove and maintain the foliage as required, and realign the fence along the rear of the verge. This demonstrates that visibility is readily available to vehicles approaching from the east, for a design speed of 46.15 mph.
- 3.31 The photograph shows the visibility splay required for speeds up to 53 mph. In that case, the ranging rod highlighted by the red arrow is located on the edge of the road, 160 metres from the centre line of the proposed access.
- 3.32 The photograph highlights in red, the area of the existing field that would become road verge to meet that visibility requirement. Some regrading of levels would be required within that area, before placement of a new boundary fence or hedge.
- 3.33 This demonstrates that visibility can readily be made available to vehicles approaching from the east, for a design speed of up to 53 mph, if required. The applicant has the agreement of the landowner to provide and maintain the necessary visibility splays.
- 3.34 These visibility splays are illustrated in Drawing No L119/SK/01 in Appendix C. It is proposed that further discussions would take place with the Council when an application is made for reserved matters. At that stage, a full traffic speed survey could inform a detail design of the necessary splay. However, this report demonstrates at this stage, that a suitable visibility splay can be provided.

4.0 Road Safety

- 4.1 Road accidents usually occur when one or more road users, whether a driver, passenger, pedestrian or cyclist, makes an error in a decision relating to speed, layout, or the position or movement of other road users. These decisions can also be affected by external factors such as fatigue or alcohol. Vehicle failure can also lead to road accidents. Such errors or failures can occur at any point on the road network, although, in general, they tend to be focussed on points where drivers have to make a number of decisions, such as junctions or bends.

- 4.2 For these reasons, road safety requires careful consideration and is not readily quantifiable, in the same way that, for example, junction capacity or design standards are. Road safety depends on many factors, of which road layout and traffic flow are only two.
- 4.3 Accordingly, no guarantee can ever be given that any junction has been designed in a way to prevent the occurrence of any road accident over its design life. While it is regrettable, it is a simple fact of human nature that drivers will make mistakes and that some of these will lead to road accidents.
- 4.4 Best practice, therefore, is to design any particular junction to suitable standards, and ensuring that there are unlikely to be excessive queues which might cause drivers to become impatient and accept gaps which might not otherwise be suitable. Earlier sections have explained that the junction of Mill Road with the A761 Main Street meets current standards with regard to junction visibility.
- 4.5 The accident record on the surrounding road network has also been examined. The police are responsible for the collection of statistical data from recorded injury traffic collisions. Police attending all injury accidents record the relevant information in a standardised form, which has been agreed nationally as covering the factors important to road safety. The collected information includes the exact location of the incident, date and time of day, the number and nature of all casualties, prevailing light and weather conditions (for example dark / raining), road surface conditions (dry/wet), the directions of vehicles and/or pedestrians involved, and any other possible causation factors such as any vehicle skidding, excess speed, etc.
- 4.6 Although accident data is available over a longer period, it is generally accepted that the most recent 3-year or 5-year period is the most appropriate for examination, to determine current accident risk. Older accidents may have had causation factors which have since been addressed, for example by the introduction of new 20mph speed limits, enforcement of existing speed limits, introduction of new pedestrian crossings, or traffic calming or junction improvement schemes.
- 4.7 The injury accident for the five-year period ending December 2019 has been examined, and the location of all accidents is shown in Figure 4.1, by the marker tabs.



- 4.8 Figure 4.1 indicates that there have been no injury accidents on the B6372 in the vicinity of the site during that time.

- 4.9 It cannot be denied that, as the number of users of any length of road increases, there is a greater likelihood that one or more of them will make an error which may lead to an accident. It would be unreasonable to assume otherwise. That in itself, however, does not constitute grounds to refuse any application which might lead to increased traffic flows, however marginal – if it did, it would effectively create a presumption against any increase in traffic or pedestrian flows, at any junction, anywhere. The test that must be applied, sensibly, is to ask whether any change in risk to road safety is real and / or significant.
- 4.10 While local and national policy aims to reduce the occurrence of injury accidents all over the road network, the 5-year accident record on the B7026, and on the B6372 itself, leading to and from the application site, is not indicative of a particular road safety difficulty.
- 4.11 This would suggest that road users are exercising the appropriate care in negotiating the existing road layout, and perhaps supports the argument that drivers are more aware of their surroundings than an approach based on “road standards” would suggest.
- 4.12 In any case, it is unlikely that the proposed relocation of the landscaping business, and the development of a dwelling house, would exacerbate that situation to an unacceptable degree.

5.0 Conclusions

- 5.1 This Report examines the matters raised by the Council’s second Reason for Refusal of an application for planning permission for a dwelling house on a site at Fallhills Farm, Penicuik, adjacent to the B6372.
- 5.2 The Council’s Policy and Road Safety Manager, when consulted on the application, requested details of the proposed vehicle access showing a visibility splay of 215m by 2.4m for a 60mph road, and details of the parking and manoeuvring layout within the site. The Policy and Road Safety Manager did not recommend refusal of the application, so clearly did not consider these issues to be insurmountable.
- 5.3 Nevertheless, the Council’s Delegated Worksheet suggests that the required visibility splay is not achievable within the application site or on land under the control of the applicant, and that in any case, the proposed boundary hedge would have to be set back too far.
- 5.4 Only 3 working days elapsed between the Policy and Road Safety Manager’s response and the issue of the decision letter, refusing the application. The Applicant was given no opportunity to demonstrate that the specified visibility splay was readily achievable, since in this case, the Applicant does own all of the necessary land.
- 5.5 The Council were therefore incorrect to conclude that the visibility splays were not achievable and including this as the second Reason for Refusal.
- 5.6 This report then goes on to examine the available visibility splays in more detail, and demonstrates that the specified visibility splay of 2.4 metres by 215 metres can be achieved if required.
- 5.7 This report examines the current Design Manual for Roads and Bridges CD123 “Geometric design of at-grade priority and signal-controlled junctions” and concludes

that, for a direct private access (as opposed to a full road junction), the set-back distance should be reduced to 2 metres.

- 5.8 This report also examines actual vehicle speeds in the vicinity of the proposed site access, and demonstrates that speeds are lower than the national speed limit of 60 miles per hour. For the speeds measured, a visibility distance of between 120 metres and 160 metres would be perfectly adequate.
- 5.9 The report therefore demonstrates that, while the full specified visibility splays are achievable, a visibility splay of 2m by 120 or 160 metres can be provided, without detriment to road safety, but preserving more of the existing character of the road.
- 5.10 This Report then examines the road injury accident record on surrounding roads, and shows that there have been no injury accidents in the immediate vicinity of the site in the last 5 years, the period normally used for road safety analysis. The accident record does not indicate any particular blackspot or difficulty requiring remedial action.
- 5.11 There are no grounds to refuse any application simply because it might lead to increased traffic flows, however marginal – if it did, it would effectively create a presumption against any increase in traffic or pedestrian flows, at any junction, anywhere. The test that must be applied, sensibly, is to ask whether any change in risk to road safety is real and / or significant.
- 5.12 It is proposed that further discussions would take place with the Council when an application is made for reserved matters. At that stage, a full traffic speed survey could inform a detail design of the necessary splay. However, this report demonstrates at this stage, that a suitable visibility splay can be provided.
- 5.13 In this case, the addition of traffic to and from the relocated landscaping business, plus one additional dwelling, is not a significant increased road safety risk.

APPENDIX A

Date: 14-Sep-20
Job No. L119
Project : Fyrnlea, Peniciok
Location: B6372
Weather - Dry, overcast
Time - 10.40 to 11.30

Surveyed by: Andrew Carrie

DIRECTION:		Westbound	
RECORD	SPEED(mph)	SPEED(mph)	RECORD
1	37		51
2	39		52
3	42		53
4	37		54
5	39		55
6	45		56
7	37		57
8	46		58
9	45		59
10	45		60
11	41		61
12	38		62
13	56		63
14	48		64
15	46		65
16	45		66
17	35		67
18	47		68
19	38		69
20	41		70
21			71
22			72
23			73
24			74
25			75
26			76
27			77
28			78
29			79
30			80
31			81
32			82
33			83
34			84
35			85
36			86
37			87
38			88
39			89
40			90
41			91
42			92
43			93
44			94
45			95
46			96
47			97
48			98
49			99
50			100

DIRECTION:		Eastbound	
RECORD	SPEED(mph)	SPEED(mph)	RECORD
1	30		51
2	60		52
3	61		53
4	55		54
5	44		55
6	33		56
7	35		57
8	32		58
9			59
10			60
11			61
12			62
13			63
14			64
15			65
16			66
17			67
18			68
19			69
20			70
21			71
22			72
23			73
24			74
25			75
26			76
27			77
28			78
29			79
30			80
31			81
32			82
33			83
34			84
35			85
36			86
37			87
38			88
39			89
40			90
41			91
42			92
43			93
44			94
45			95
46			96
47			97
48			98
49			99
50			100

Number of Records 20
 85th Percentile 46.15
 Average Speed 42.35
 Maximum Speed 56
 Minimum Speed 35
 Excess of 60 MPH 0
 Excess of 60 MPH (%) 0.0%

Number of Records 8
 85th Percentile 59.75
 Average Speed 43.75
 Maximum Speed 61
 Minimum Speed 30
 Excess of 60 MPH 1
 Excess of 60 MPH (%) 12.5%

Forward Visibility Calculator

APPENDIX B

Page 1 - DMRB Speed 43.5 mph (70 kph)

Formula $SSD = vt + \frac{v^2}{2(d+0.1a)}$

Vehicle Speed **43.5** mph
70.01 kph
19.45 v (m/s)
378.16 v^2

Driver Reaction time **2** t (sec)
38.89 (v x t)

Deceleration Rate **0.25** g
2.45 d (m/s)

Gradient **0.00** a
2.4525 d+0.1a
4.905 $2(d+0.1a)$

	vt	+	$\frac{v^2}{2(d+0.1a)}$	=	SSD
Stopping Site Distance =	38.89	+	77.10	=	115.99

SSD Bonnet Adjusted (SSD+2.4) 118.39

	Designing Streets		DMRB
	Lights	HGV/Bus	All
	(<5% HGV)	(>5% HGV)	
Reaction Time	1.5s	1.5s	2s
Deceleration rate	0.45g	0.375g	0.25g

Forward Visibility Calculator

Page 2 - DMRB 46.15 mph

Formula $SSD = vt + \frac{v^2}{2(d+0.1a)}$

Vehicle Speed **46.15** mph
 74.27 kph
 20.63 v (m/s)
 425.63 v^2

Driver Reaction time **2** t (sec)
 41.26 (v x t)

Deceleration Rate **0.25** g
 2.45 d (m/s)

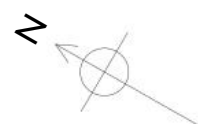
Gradient **0.00** a
 2.4525 d+0.1a
 4.905 $2(d+0.1a)$

	vt	+	$\frac{v^2}{2(d+0.1a)}$	=	SSD
Stopping Site Distance =	41.26	+	86.78	=	128.04

SSD Bonnet Adjusted (SSD+2.4) 130.44

	Designing Streets		DMRB
	Lights	HGV/Bus	All
	(<5% HGV)	(>5% HGV)	
Reaction Time	1.5s	1.5s	2s
Deceleration rate	0.45g	0.375g	0.25g

©



B6372

2.0m x 215m Visibility Splay

2.0m x 130m Visibility Splay

2.0m x 160m Visibility Splay

SITE ACCESS

SITE

DO NOT scale from this drawing

Rev.	Revision details	By Date	Checked Date
Client VALLEY LANDSCAPING LTD			
Project FALLHILLS FARM, PENICUIK			
Drawing Title JUNCTION VISIBILITY SPLAYS			
Drawn AC		Checked AC	
Date 15 SEP 20		Date 15 SEP 20	
Scale 1:1,250 @ A3		Drg. No. L119/SK/01	
ANDREW CARRIE TRAFFIC & TRANSPORTATION P.O. Box 2070 Livingston West Lothian EH54 0EG Tel: 07798 646844 Web www.acarrie.net			

MIDLOTHIAN COUNCIL

DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

Planning Application Reference: 20/00472/PPP

Site Address: Land 250M North West of Fyrnlea, Penicuik.

Site Description: The application site comprises an area measuring 1.34 hectares of agricultural land currently used for grazing sheep. The site is relatively level, with an area of woodland to the southeast and east. There is open countryside to all other boundaries. There is a field access from the B6372. The levels in the surrounding area mean the site is at a higher level from the B7026 to/from Howgate so this is not readily visible from this road, or Howgate to the southwest.

Proposed Development: Planning permission in principle for the erection of a dwellinghouse and formation of access.

Proposed Development Details: The application is for planning permission in principle, however the agent has submitted a site plan showing an indicative layout of a house, a barn and two plant/tree nursery areas within the site. They have submitted two supporting statements. It is proposed to relocate an existing landscape business currently operating from four locations (Aberdeen, the Borders, Carlops/West Linton and Howgate) and establish this business to this site. The Aberdeen depot would remain but the other three sites would close and the business would be operated from this site. The business cannot relocate to this site without the proposed house being approved as this is required for on-site supervision to manage plant growth and provide security. The applicant would enter into a legal agreement to link the house to the horticultural business. Additional landscaping is proposed along the roadside boundary. The house would connect to the public drainage system and water supply.

Background (Previous Applications, Supporting Documents, Development Briefs): No relevant history.

Consultations:

The Council's **Policy and Road Safety Manager** has no objection in principle but states that conditions be attached to any planning permission relating to parking and manoeuvring and surface water management. Also details of the access with visibility splays of 215 metres by 2.4 metres are required.

The Council's **Archaeological Consultant** recommends a condition be attached to any permission requiring a programme of archaeological works be submitted for approval before any works begin on site.

Scottish Water has no objection. They state that there is no waste water infrastructure in the area and that they will not accept any surface water connections to the combined sewer.

Representations: No representations have been received.

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

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;

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

RD1 Development in the Countryside states development in the countryside will only be permitted if: it is required for the furtherance of agriculture, including farm related diversification, horticulture, forestry, countryside recreation or tourism; it accords with other named policies; or it accords with the Council's Supplementary Guidance on Development in the Countryside and Green Belt. All such development will need to be: of a scale and character appropriate to the rural area and well integrated into the rural landscape; capable of being serviced with an adequate and appropriate access; capable of being provided with drainage and a public water supply at reasonable cost, or an acceptable private water supply, avoiding unacceptable discharge to watercourses; and accessible by public transport and services, within 1 mile of a bus route with a frequency of 1 bus per hour. In the case of businesses, these should not be primarily of a retail nature and do not harm the amenity of nearby residents through unacceptable levels of noise, light or traffic;

ENV7 Landscape Character states that development will not be permitted where it significantly and adversely affects local landscape character. Where development is acceptable, it should respect such character and be compatible in terms of scale, siting and design. New development will normally be required to incorporate proposals to maintain the diversity and distinctiveness of the local landscapes and to enhance landscape characteristics where they have been weakened.

Supplementary Guidance for Housing Development in the Countryside and Green Belt is adopted and expands policy RD1 and the criteria to be met in such proposals. There is some support for development that is required for the furtherance of an established countryside activity. The applicant must demonstrate compliance with the relevant policies. Any application shall be accompanied by an independent report prepared by a suitably qualified professional to support the need for a house and on the viability of the associated business and its operational requirement. In outlining the needs of the business, it should be apparent whether

the need can be met within an existing settlement and whether the occupier will be employed full-time in the associated activity.

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 Planning Authority has restrictive planning policies with regards to new housing proposals within the countryside. These restrictions aim to prevent the creeping suburbanisation of the countryside which is under significant pressure due to the convenient commuting distance to Edinburgh. However, there are enabling policies, within the adopted Midlothian Local Development Plan, which support residential developments within the countryside in some instances, subject to specific criteria. Policy RD1 and the related supplementary guidance includes several sections where houses in the countryside could be acceptable in planning terms.

It is proposed to erect a house that relates to a landscape business. This is the justification for the house. The submitted site plan and associated documents are clear there is no landscape business currently operating from this site. The related business operates from a number of other locations and it is proposed to consolidate three of the existing operations to this site, with the fourth remaining elsewhere. It is submitted that the horticulture business is established and this demonstrates that this is a viable long term business.

The related policies are clear that there is some policy support for houses required for the furtherance of an established countryside activity, where it is demonstrated that this meets the relevant policy criteria. The landscape business detailed as the justification for the house is not operational from the site, therefore the proposed house does not relate to the furtherance of an established business and there is therefore no policy support. The Planning Authority disagrees with the statement that as the business is established elsewhere, this provides justification for a house at this site. The policy is clear that any house must further the countryside activity.

At present, the site is used for livestock grazing. There are no horticultural operations taking place.

Notwithstanding the above that the principle of residential development here is not supported, the following comments are relevant.

The application site area is sufficiently large to be able to accommodate a dwellinghouse, garden ground, turning area and parking.

The land around the site is undulating meaning that any house may be screened by the surrounding ground levels from the south, west and east, to a point, depending on the design and scale. There is landscaping at present to the east and north of the site. The case officer has noticed when visiting the area over the previous year, large areas of woodland in the area have been felled, particularly to the east and northeast of the site. This may leave the site more exposed from views, particularly from the north, than at present. Should the principle of development be established,

this should ensure that additional landscaping be within the site to help integrate this into the surrounding area.

For new accesses onto a 60mph road, as currently proposed, visibility splays of 215 metres by 2.4 metres are required to provide a safe access. The roadside boundary of the site measures approximately 150 metres long. This means that the required visibility splay is not achievable within the application site or on land under the control of the applicant. It has not been demonstrated that a safe access can be provided for this proposal. Also, although the submission states that a hedge would be planted along this roadside boundary, the required visibility splay means this would need to be set back at least 2.4 metres from the road. Typically hedgerows in the countryside are either hard up to roads or are set back slightly. Setting a hedge at least 2.4 metres from the roadside is likely to have an adverse landscape visual impact on the surrounding area.

The application site area is sufficiently large to be able to accommodate a dwellinghouse, garden ground, turning area and parking.

The application form states that the house would connect to the public waste and water supply in the area. However Scottish Water has stated that there is no waste water infrastructure in the area. Should planning permission be granted, details of the drainage, both foul and surface water, would be required.

(As an aside, the application includes some information relating to the horticulture business that is not necessary for the assessment of this application but interesting to note. It is stated that the nursery will grow trees and plants for use by the business and will not be for public sale. Employees will arrive at the site in mornings, go on their jobs and then come back to the site in the afternoons. There will be no public access to the site. There will be few deliveries to the site. One supporting statement states that there will be up to twenty staff employed at the business in the future, with the other stating there are 7 current employees which will increase to 10-12 in the future.)

Recommendation: Refuse planning permission in principle.

Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

Reg. No. 20/00472/PPP

Yeoman McAllister Architects
Waterside Studios
64 Coltbridge Avenue
Edinburgh
EH12 6AH

Midlothian Council, as Planning Authority, having considered the application by Valley Landscaping Limited, Mr Stephen Lamb, 4A Glenfinlas Street, Edinburgh, EH3 6AQ, which was registered on 23 July 2020 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

Planning permission in principle for the erection of a dwellinghouse and formation of access at Land 250M North West of Fyrnlea, Penicuik

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

<u>Document/Drawing.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	LOC-001 1:2500	23.07.2020

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

- 1. It has not been demonstrated to the satisfaction of the Planning Authority that the proposed house is required in connection with the furtherance of an established countryside activity or business. For this reason the proposed development is contrary to RD1 of the proposed Midlothian Local Development Plan and the related supplementary planning guidance.*
- 2. The proposal presents a significant threat to road safety as the required visibility splays for a vehicular access are not achievable either within the application site or on land under the control of the applicant.*
- 3. The proposal would have a detrimental impact on the landscape character of the area as any landscaping would need to be set back 2.4 metres from the roadside which would be out of keeping with the area.*

Dated 31 / 8 / 2020



.....
Peter Arnsdorf/Joyce Learmonth/Duncan Robertson
Lead Officer – Local Developments Fairfield House, 8 Lothian Road, Dalkeith, EH22 3ZN



**The Coal
Authority**

Any Planning Enquiries should be directed to:

Planning and Local Authority Liaison

Direct Telephone: 01623 637 119

Email: planningconsultation@coal.gov.uk

Website:

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

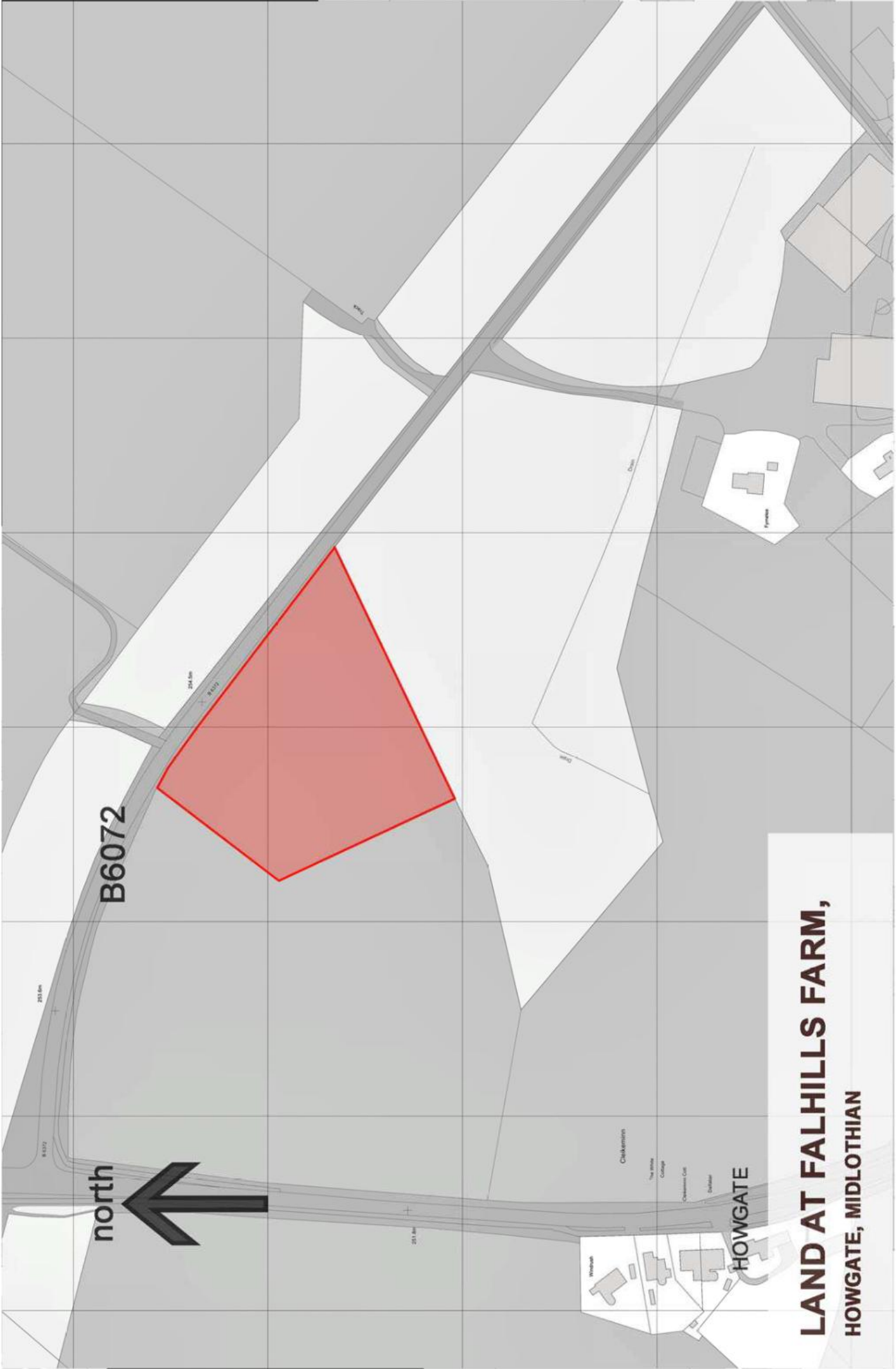
STANDING ADVICE - DEVELOPMENT LOW RISK AREA

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.

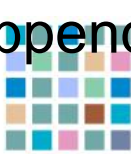
Further information is also available on the Coal Authority website at:

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

This Standing Advice is valid from 1st January 2019 until 31st December 2020



0	50	100
CLIENT	Valley Landscaping Limited	
JOB	Proposed Dwelling House, Falhills Farm, Howgate, Midlothian.	
DRAWING	Site Location Plan	
STATUS	PLANNING	
Drawn	Checked	Approved
DATE	July 20	JOB NO. S/4645 OR NO. LOC-001
REV	/	REV /
This drawing and its data are the copyright of Yeoman McAlister Architects and must not be used for any purpose other than that for which it is intended. Yeoman McAlister accepts no responsibility for any inaccuracy in printing of this drawing by any parties.		
SCALE		SHEET SIZE A3



yeomanmcallister

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SW19
Tel 07825186637
info@ym-london.com

Notice of Review: Land at 5 Golf Course Road, Bonnyrigg

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 dwellinghouse on land at 5 Golf Course Road. Bonnyrigg.

2 Background

- 2.1 Planning application 20/00317/DPP for the erection of dwellinghouse on land at 5 Golf Course Road, Bonnyrigg was refused planning permission on 29 September 2020; a copy of the decision is attached to this report.
- 2.2 The review has progressed through the following stages:
- 1 Submission of Notice of Review by the applicant.
 - 2 The Registration and Acknowledgement of the Notice of Review.
 - 3 Carrying out Notification and Consultation.

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 29 September 2020 (Appendix D); and
 - A copy of the key plans/drawings (Appendix E).
- 3.2 The full planning application case file and the development plan policies referred to in the case officer's report can be viewed online via www.midlothian.gov.uk

4 Procedures

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

- Have determined to consider a visual presentation of the site instead of undertaking a site visit because of the COVID-19 pandemic restrictions; and
 - Have determined to progress the review by written submissions.
- 4.2 The case officer's report identified that there were five consultation responses and seven representations 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 to the next LRB for noting.
- 4.6 A copy of the LRB decision will be placed on the planning authority's planning register and made available for inspection online.

5 Conditions

- 5.1 In accordance with the procedures agreed by the LRB at its meeting of 13 June 2017, and without prejudice to the determination of the review, the following conditions have been prepared for the consideration of the LRB if it is minded to uphold the review and grant planning permission.
1. A scheme to deal with any contamination of the site and/or previous mineral workings is submitted to and approved by the planning authority. The scheme shall contain details of proposals to deal with any contamination and/or previous mineral workings and include:
 - a) The nature, extent and types of contamination and/or previous mineral workings on the site;
 - b) 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;

- c) The condition of the site on completion of the specified decontamination measures.

- 2. On completion of the decontamination works referred to in Condition 1 above and prior to any residential property on the site being occupied, 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. None of the residential properties shall be occupied until the planning authority has approved, in writing, the submitted validation.

Reason for conditions 1 and 2: 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.

- 3. Development shall not begin until details 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:
 - i. A remediation scheme to afford public safety and the stability of the proposed development from the risks posed by the coal mining legacy within the surrounding area;
 - ii. A scheme of intrusive site investigations;
 - iii. A report of findings arising from the intrusive site investigations; and
 - iv. A scheme of remedial works for approval by the Coal Authority.
- 4. On completion of any required remediation works, referred to in Condition 3, and prior to any further development on site, a validation report shall be submitted to the planning authority confirming that the works have been carried out in accordance with the approved scheme. No further development on the site shall be undertaken unless or until the planning authority have approved the required validation.

Reason for conditions 3 and 4: To ensure that any risks posed by the coal mining history of the area are identified and addressed prior to further development commencing.

- 5. Prior to development commencing the following details shall be submitted to and approved in writing by the planning authority:
 - a) Details and, if requested, samples of all proposed external materials of the dwellinghouse;
 - b) Details and, if requested, samples of the proposed hardstanding materials;

- c) Details of the size, design, position and materials of all proposed walls, fences, gates or other means of enclosure;
- d) Details of scheme to deal with surface water drainage;
- e) Details of a scheme of landscaping for the site. Details shall include a plan showing the position, number, size and species of all trees and hedging that are proposed to be planted; all trees on or adjoining the site which are to be removed and retained; and details of the means of protection of all trees that are to be retained. Any tree felling or vegetation removal proposed as part of the landscaping scheme shall take place out with the bird breeding season (March-August); unless a suitably qualified ecologist has carried out a walkover survey of the felling/removal area in the 48 hours prior to the commencement of felling/removal, and confirmed in writing that no breeding birds will be affected;
- f) Details of a sustainability/biodiversity scheme for the site, including the provision of house bricks and boxes for bats and swifts; and hedgehog-friendly fencing;
- g) Details of the provision of electric vehicle charging stations;
- h) Details of the provision of high speed fibre broadband connections for the dwellinghouse; and
- i) A scaled site plan showing existing and finished ground levels and floor levels for all buildings, driveways and garden areas in relation to a fixed datum.

Unless otherwise approved in writing by the planning authority the development shall be completed in compliance with the approved details. Thereafter, should the trees referred to in condition 5 e) be removed, die, become seriously diseased or damaged within five years of planting they shall be replaced in the following planting season by trees of similar species to those originally required.

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

- 6. Any heat pump installed shall comply with MCS Product Certification Scheme Requirements or equivalent standards.

Reason: *To ensure that any heat pump complies with current standards.*

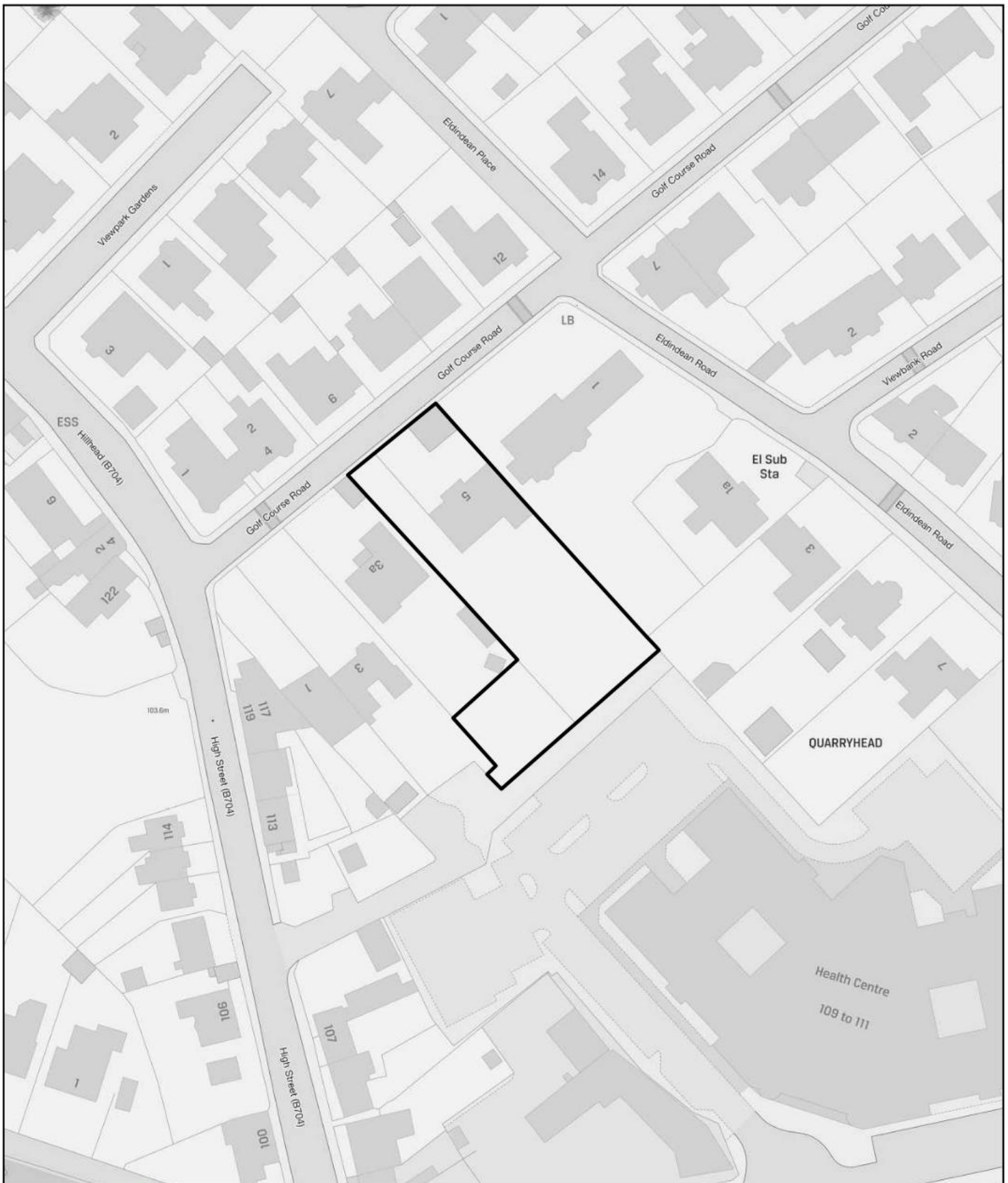
6 Recommendations

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

Date: 18 March 2021

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

Background Papers: Planning application 20/00317/DPP available for inspection online.



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

Erection of dwellinghouse and associated works at Land At 5,
Golf Course Road, Bonnyrigg

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File No: 20/00317/DPP

Scale: 1:1,000
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2



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 100213734-002

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

Applicant or Agent Details

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

☐ Applicant ☒ Agent

Agent Details

Please enter Agent details

Company/Organisation:	<input type="text" value="Slorach Wood Architects"/>		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	<input type="text" value="Sarah"/>	Building Name:	<input type="text" value="Slorach Wood Architects"/>
Last Name: *	<input type="text" value="Brown"/>	Building Number:	<input type="text"/>
Telephone Number: *	<input type="text" value="0131 319 1260"/>	Address 1 (Street): *	<input type="text" value="The Station Masters Office"/>
Extension Number:	<input type="text"/>	Address 2:	<input type="text" value="Station Road"/>
Mobile Number:	<input type="text"/>	Town/City: *	<input type="text" value="South Queensferry"/>
Fax Number:	<input type="text"/>	Country: *	<input type="text" value="UK"/>
		Postcode: *	<input type="text" value="EH30 9JP"/>
Email Address: *	<input type="text" value="sarah@swa.uk.net"/>		

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="Other"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text" value="Mr & Mrs"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text" value="M"/>	Building Number:	<input type="text" value="5"/>
Last Name: *	<input type="text" value="Reekie"/>	Address 1 (Street): *	<input type="text" value="Golf Course Road"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Bonnyrigg"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="UK"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="EH19 2EU"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="sarah@swa.uk.net"/>		

Site Address Details

Planning Authority:	<input type="text" value="Midlothian Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="5 GOLF COURSE ROAD"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="BONNYRIGG"/>
Post Code:	<input type="text" value="EH19 2EU"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="665690"/>	Easting	<input type="text" value="330818"/>
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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 dwellinghouse and associated works

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.

We would like a review of the decision notice on the basis that we do not feel that the reasons for refusal are justified and there is a neighbouring plot which has set precedent for the ability for a house to be built in the garden of an existing house in the area.
Please refer to our 'Statement of reasons for seeking review'

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

☐ Yes ☒ No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

19075 - P01 Location plan 19075 - P02 Existing plans and elevations 19075 - P03F Floor plan, site plan, elevations & sections
19075 - P04D 3D Images 19075 - Planning Statement 19075 - Mineral Risk Assessment 19075 - Statement of reasons for seeking review

Application Details

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

20/00317/DPP

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

13/05/2020

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

30/09/2020

Review Procedure

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

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

☐ Yes ☒ No

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

Please select a further procedure *

By means of inspection of the land to which the review relates

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

We would like the local review body to visit the site. The neighbour was allowed to erect a house in the garden of their property which has set a precedent. Our proposed dwelling is far more in keeping with the surrounding area and is not as visible as the neighbouring house.

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

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

☐ Yes ☒ No

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

☐ Yes ☒ No

If there are reasons why you think the local Review Body would be unable to undertake an unaccompanied site inspection, please explain here. (Max 500 characters)

To get a full view of the site, the garden would need to be accessed via the Client's house. The Client would be happy to arrange and allow them access.

Checklist – Application for Notice of Review

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

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

☒ Yes ☐ No

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

☒ Yes ☐ No

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

☒ Yes ☐ No ☐ N/A

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

☒ Yes ☐ No

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

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

☒ Yes ☐ No

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

Declare – Notice of Review

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

Declaration Name: Mrs Sarah Brown

Declaration Date: 27/10/2020

Midlothian Council
Planning Department
Fairfield House
8 Lothian Street
DALKEITH
Midlothian
EH22 3AA

27 October 2020
19075 / 3.1 / CL271020-14

Dear Sirs,

5 Golf Course Road, Bonnyrigg – Online Ref: 100213734-002 / Ref: 20/00317/DPP

We would like a review of the decision notice on the basis that we do not feel that the reasons for refusal are justified and there is a neighbouring plot which has set precedent for the ability for a house to be built in the garden of an existing house in the area.

The neighbouring plot (1 Eldindean Road) was given permission and erected a house (1a Eldindean Road) in the garden of their property. This sets a precedence that it is feasible to build a house in the garden of an existing house in this area. We are proposing something a little more in keeping with the surroundings and the proposed plot is not as visible from High Street as the neighbouring plot is from Eldindean Road. We have mirrored the neighbouring plot to allow the new plot to be in keeping with the typology.

The proposed plot would not have a major impact on the existing house as the house to garden ratio for the existing house (5 Golf Course Road) would have the same % of house to garden ratio as 3a Golf Course Road.

The surface drainage would have to be further designed therefore we feel this could have been a condition on the decision notice. We should be allowed to further demonstrate that this could be drained satisfactorily with consultation of Scottish Water.

We also do not intend to impact the surrounding trees which should subsequently not impact the long-term vitality of the trees.

Yours faithfully,

Sarah Q Brown
For Slorach Wood Architects

slorach wood architects Ltd.
The Station Master's Office
Dalmeny Station
South Queensferry
EH30 9JP
Tel. 0131 319 1260

directors

Walter Wood Dip Arch RIAS RIBA
Sarah Q Brown Dip Arch RIAS RIBA
consultant
Caroline Slorach Dip Arch RIAS RIBA



**PLANNING APPLICATION FOR A DWELLING HOUSE
TO THE REAR GARDEN OF
5 GOLF COURSE ROAD, BONNYRIGG**

ADDITIONAL INFORMATION TO SUPPORT THE PLANNING APPLICATION IN RESPECT
OF THE ABOVE PROJECT.

GENERAL:

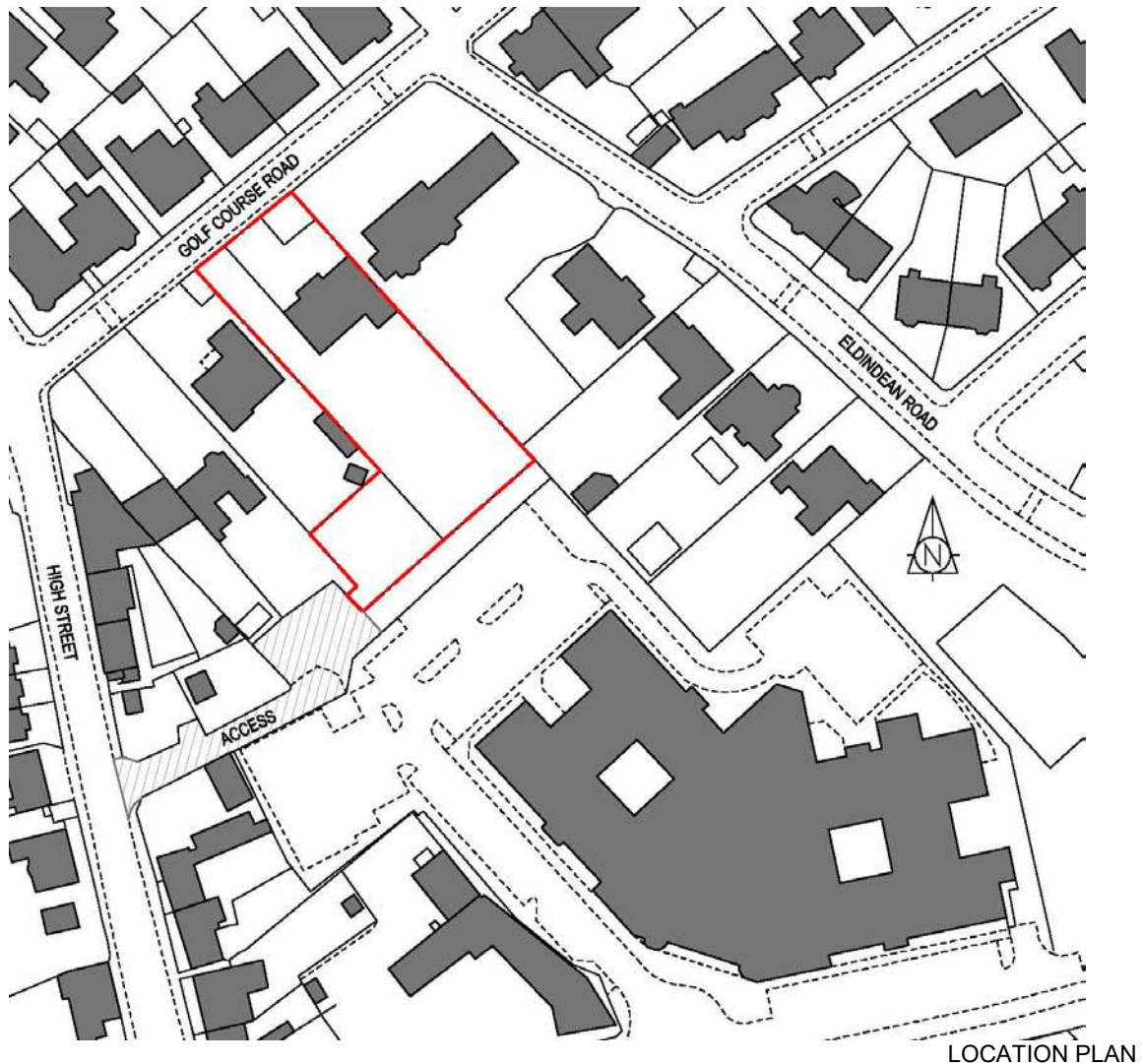
Further to our recent discussions with the Planning department, we understand the previous application number 19/01033/DPP was being considered for refusal, although we cannot understand the reasons for this recommendation. We wish to provide the following statement to clarify our thoughts on this proposal and justify the location of the house and why we feel this application should be recommended for approval in its own right.

This proposal is specifically designed for the applicants and occupiers of 5 Golf Course Road who are planning this development for their later years. We wish to make it clear that this development is not being carried out for profit and the use of high quality materials within the new build suggests that there will be a level cost between selling the existing house and the construction cost of the new house. The motivation for this development is to ensure sustainable and low cost living with little maintenance over the next 30 years and beyond.

The applicants moved from Roslin to this property in December 1987 and for the last 33 years have lived and brought up their family in this home. Both applicants have worked in Edinburgh at The University of Edinburgh and Scottish Futures Trust (a public sector company owned by Scottish Ministers). They have contributed to the local area and are heavily involved in the local church and country dancing clubs in Midlothian. Dr Reekie is Chairman of the Glencorse Association, a charitable volunteer-run leisure centre in Auchendinny, and he also teaches disadvantaged children in Dalkeith. Mrs Reekie was on the Board of the Zero-Waste project assisting Midlothian and the City of Edinburgh Councils (combined) and has worked with the Council on affordable housing projects.

The Applicants are passionate residents and wish to stay within the community in which they have lived for most of their lives. They simply see this as a stepping-stone to retain their life in the community, and by doing so, allow their existing home to become a family house again.

SITE:



MLC Policy DEV2 states:

Protecting Amenity within the Built-Up Area

Development will be permitted within existing and future built-up areas, and in particular within residential areas, unless it is likely to detract materially from the existing character or amenity of the area.

We assume that Midlothian Council's interpretation of 'Backland Development' is where a site is behind the line of the street. While our site may be behind the line of 5 Golf Course Road the proposal is neither accessed nor visible from Golf Course Road. The existing dwellings are large Victorian houses with large gardens and solely relate to Golf Course Road. The proposal solely utilises a private road which is shared for garaging by three other dwellings. This private road is accessed direct from the High Street and due to its clear visibility splays, access has not been questioned by the transportation department during the previous application.

There are examples of new developments that have already taken place in the garden grounds of neighbouring properties. A new dwelling, 1a Eldindean Road, now sits in what was once the garden of 1 Eldindean Road and is accessed directly from Eldindean Road. This example is similar to our application not only due to the scale of the house but also in its lack of relationship to Golf Course Road.

We request that the site should be considered as an infill development.

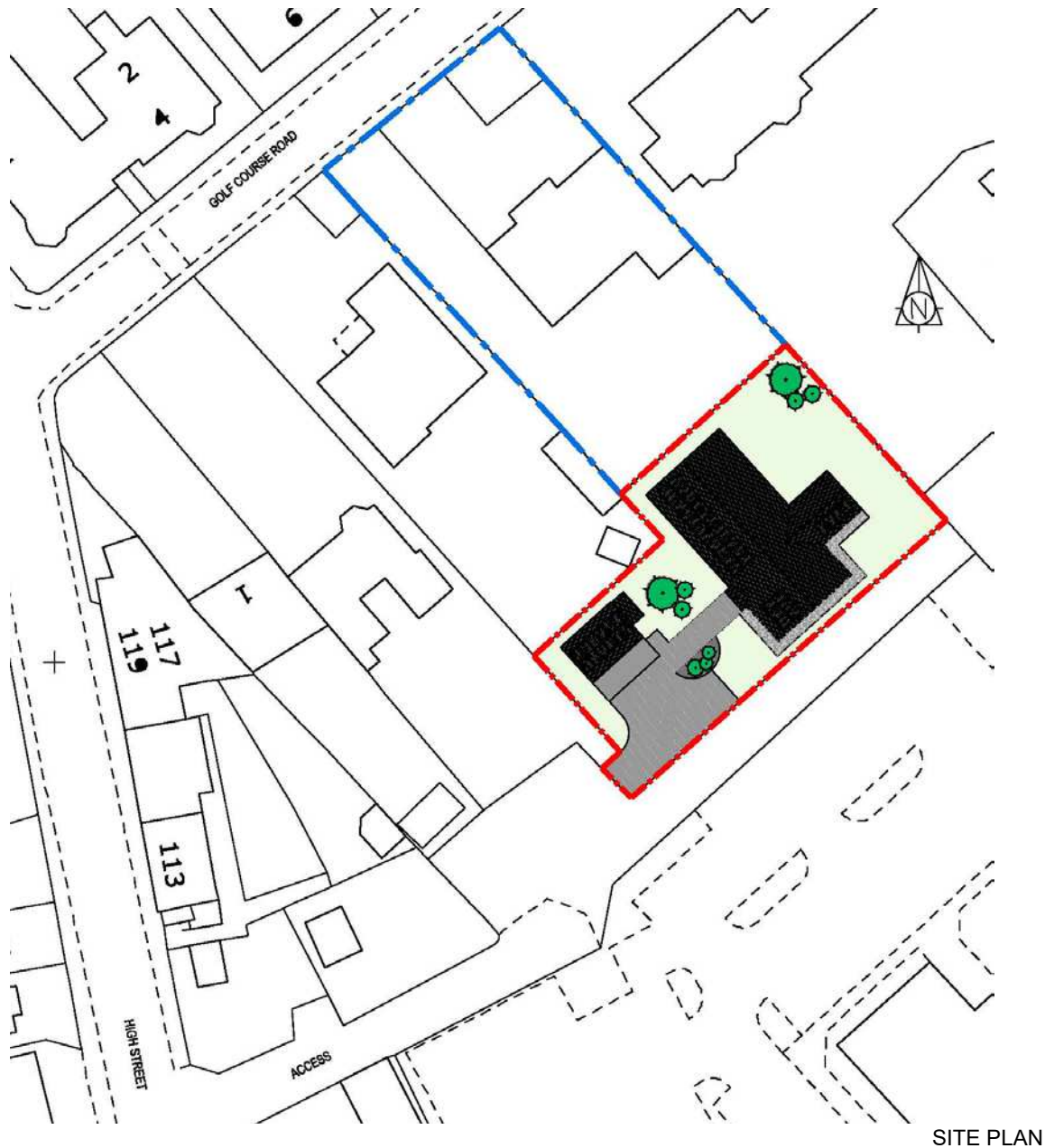
We understand Midlothian Council's interpretation of 'Infill Development' is where a site is developed within the curtilage of an existing building group. We feel this site is filling the gap in the cluster of houses to Golf Course Road, Eldindean Road and the High Street. As identified within Midlothian Council's Local Development Plan DEV2, stated above, the location of our site completes the grouping of houses in this cluster. Therefore we feel this is acceptable development for the character of the area.

As noted in with the SPG (Supplementary Planning Guidance) for 'Single Plot and Small Scale Infill Residential Development in Urban Areas', infill development can make a useful contribution to the housing land supply and add to the overall quality of the townscape. This is especially the case where a conscious effort has been made to complement the local area in terms of design, scale, building density and layout so that the new infill development appears to belong and looks as though it had been planned as part of the original area.'

This proposal takes account of the house at 1a Eldindean Road in scale and size and as a massing is similar. We are therefore complying with the SPG for 'Single Plot and Small Scale Infill Residential Development in Urban Areas' which requires that 'The scale, height and massing of new houses should reflect and be sympathetic to those around them'.

SCALE:

The sympathetic scale prevents the new dwelling from having any impact on the streetscape as the single storey is hidden from view. Due to the site's location on a private road and dense landscaping which on the main will be retained, there would be no impact of this house visually from any surrounding area and hence it would be completely concealed.



The scale of the house in relation to the garden is also more than adequate, as it exceeds the requirements outlined in the SPG for 'Single Plot and Small Scale Infill Residential Development in Urban Areas'. The optimum garden to building ratio of 70:30 is expected, whereas our ratio is 73:27, providing substantial amenity space. The large garden also means the house is over 17 metres away from the nearest neighbour, preventing any overshadowing or loss of privacy.

The site is located off a private road accessed from the High Street which is currently utilised by the rear of number 1 and 3 Golf Course Road as their means of access. The site has access onto this private road which will provide satisfactory vehicle and pedestrian access into the site which, in agreement with the SPG for 'Single Plot and Small Scale Infill Residential Development in Urban Areas', will not have 'an adverse effect on the amenity of the residents and road safety. Midlothian Council's Structure Plan also confirms it '*supports infill housing where infrastructure capacity exists*'.



SITE ENTRANCE AS EXISTING



SITE ENTRANCE AS PROPOSED

We are not proposing to establish a new road or access from a location that is not already being utilised for residential use. By providing a dwelling in this location we complete the cluster of houses in the area. As such we feel this proposal is appropriate to its setting, integrates well with its local context and built form and enhances the spatial character of the area.

DESIGN:

MLC Policy DEV5 states:

Sustainability in New Development:

The Council will expect development proposals to have regard to the following principles of sustainability:

- A. building in harmony with the site including optimising on orientation and relationships to contours, provision of shelter, and utilising natural features;*
- B. fostering and maintaining biodiversity;*
- C. treating and conserving water on site in line with best practice and guidance on sustainable urban drainage;*
- D. addressing sustainable energy in line with policies NRG3, NRG4, NRG5 and NRG6;*
- E. recycling of construction materials and minimising the use of non-renewable resources;*
- F. facilitating accessibility and adaptability;*
- G. providing for waste recycling in accordance with standards which will be set out in planning guidance on waste separation, collection and recycling requirements for new development;*
- H. incorporating high speed broadband connections and other digital technologies in line with policy IT1; and*
- I. where flood risk has been identified on a development site or where a development proposal will increase flood risk elsewhere, the layout of the site will be designed to reduce flood risk on or off site, in accordance with policy ENV9.*

Although this design need not follow all the points noted in MDC policy DEV5, we wish to state that this design has been carried out under detailed consultation with the Clients and does take account of this policy. This is a modest house made suitable for accessible living, including the site access. Its setting is low impact within the existing site, it sits on level ground, retaining most of the landscaping. It reflects the adjacent Eldindean house in scale and height, albeit with little visibility of that house. It will adhere to SUDs requirements. Environmental impact has been considered and therefore it will be heated by either ground or air source heat pumps and it will be fitted with 4kW of PV panels and 4m² of solar thermal panels. The construction will be of a higher quality than the building warrant requirements with a view to have annual heating and lighting bill of less than £250.00.



3D IMAGE



3D IMAGE

The building will use recycled material where possible, and all materials will be, where possible, from renewable resources. Storage for waste recycling will be provided all as required by Midlothian Council's planning guidance.

This house will be a valued addition to the housing stock within Midlothian.

E12064

5 Golf Course Road, Bonnyrigg Mineral Risk Assessment

1.0 Introduction

Mr & Mrs Reekie are proposing to erect a single storey residential dwelling and detached garage within garden ground to the rear of their existing dwelling at 5 Golf Course Road in the town of Bonnyrigg, Midlothian, Appendix A. The new development would be accessed via a lane to the west south-west.

Review of archive information indicated that the proposed development is located in a long-established former coal mining area with workings likely to be present at greater depth in the area and potentially economic coal seams at shallower depth. Shallow abandoned workings were known to the present on the site to the south-east.

As part of the planning process, a mineral risk assessment was requested by the local authority.

2.0 Site Setting

The development site is located in the Quarryhead area of Bonnyrigg and comprises existing garden ground which is essentially level and is grassed. Mature trees and heavily overgrown strip of ground fringe the southern boundary of the site adjacent to a stone wall. A shed structure is present on the south-western corner of the development plot. Land to the north, west and east is occupied by garden around associated with residential development. A health centre and car park area located to the south at lower elevation. Some small commercial units, accessed from High Street, are present further to the south-west of the site.

The site has remained undeveloped, forming part of an area of garden ground since the establishment of No 5 Golf Course Road during the late 19th Century. Land in the general area was in residential use from the mid-19th Century. A railway line in a cutting and a railway station, Broomieknowe were present from the late 19th Century around 100m to the south of the site whilst a telephone exchange was present south 50m to the east from the early half of the 20th Century. The railway line was dismantled during the 1960's with area to the south containing some small buildings which may have been in commercial usage. The railway cutting was infilled during the late 1990's or early 2000's prior to the development of the site to the south as Bonnyrigg Health Centre and associated areas of car parking.



Access lane leading towards development plot



Rear of plot from the health centre car park.

Significant made ground is not expected to be present within the site boundary. The site is located in an area referred to as Quarryhead and it is possible that some quarrying activity and infilling has occurred in the vicinity of the site. The natural drift deposits underlying the site are expected to consist of Devensian glacial till (boulder clay) with glaciofluvial sands and gravels in the area to the north-west. Review of borehole information in the area indicates drift thickness is not significant with rockhead expected to be present at depths of less than 5.0m.

3.0 Mineral Assessment

Solid strata underlying the drift deposits are anticipated to belong to the Carboniferous age Lower Coal Measures, which comprise a repeating sequence of sandstones, siltstones, mudstones and seatrocks, with seams of coal and ironstone some of which are of former economic importance.

The strata in this area have been folded into a large synclinal structure with its axis running north-east to south-west at Eskbank, further to the east of the site.

Strata therefore are expected to dip towards the east at angles of around 10° or less. Strata in the wider area have been disrupted by localised minor faulting although no evidence of faulting is noted within the site boundary.

A number of potentially economic coal seams are expected to underlie the health centre site immediately to the south-east with the lowest of these, the Jewel Coal of Whitehill, expected to outcrop at rockhead close to the south-eastern edge of the site although, with the dip of the strata this seam would not be expected to underlie the development site itself. The outcrop of this seam and the associated Whitehill Coals is reasonably well defined in this area as they were formerly visible within the old railway cutting to the south. The BGS recorded general sequence of coal seams in the area is shown in Table 1.

A further sequence of coals, the Melville Coals are present below the Jewel Coal, these are generally poorly developed in this area and are unlikely to be worked, particularly given the presence of thicker coal seams in close proximity which would have been more attractive in terms of their yields. The Melville Coals thicknesses, as noted in Table 1, are taken from a borehole located in the Melville area around one kilometre to the north-east of the site.

Notwithstanding the foregoing rockhead is present at shallow depth and there is the potential that highly localised unrecorded working may have occurred in the past, particularly if quarrying was undertaken within the wider area.

Table 1: Stratigraphic Sequence of Mineral Seams Beneath the Site

Seam	Recorded Thickness from BGS stratigraphic section & BGS Borehole	Approximate Depth Below Previous seam based upon BGS stratigraphic section
Whitehill Great	0.48m-1.93m	-
Whitehill Rough	0.76m	17.10m
Whitehill Splint	0.91m-1.83m	6.50m
Parrot Rough	0.84m	3.50m
Jewel Coal of Whitehill	0.76m-1.52m	5.00m
Coal	0.25m	12.60m
Coal	0.71m	5.01m
Coal	0.25m	3.20m
Coal	1.07m	2.13m
Coal	0.20m	4.27m

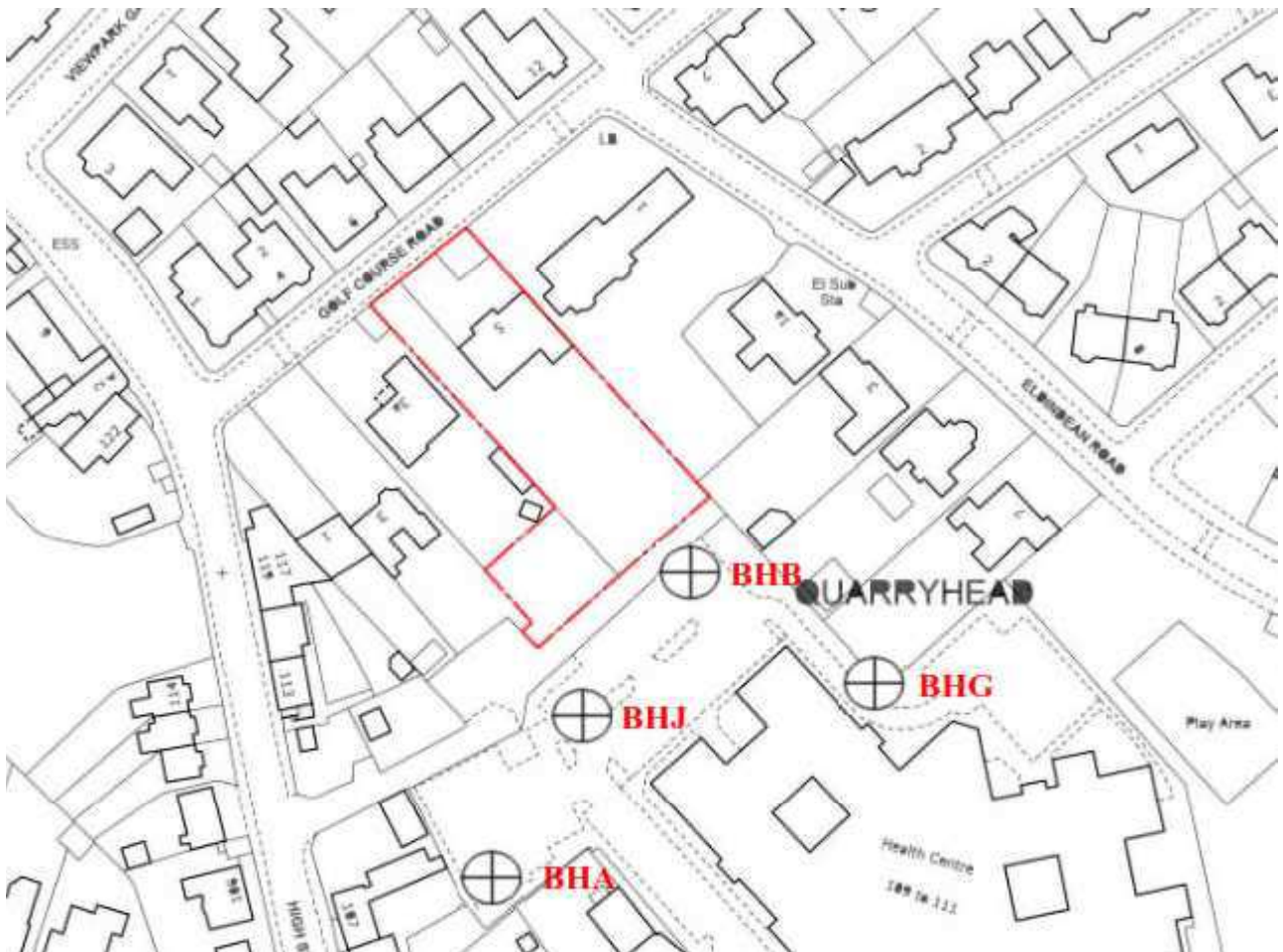
A Coal Authority Mining Report was obtained for the site, Appendix B, and is summarised below.

- *"The property is in a surface area that could be affected by underground mining in 3 seams of coal at 480m to 750m depth, and last worked in 1985".*
- *"In addition, the property is in an area where the Coal Authority believe there is coal at or close to the surface. This coal may have been worked at some point in the past. The potential presence of coal workings at or close to the surface should be considered prior to any site works or future development activity".*
- *"There are no recorded coal mine entries known to the Coal Authority within, or within 20 metres, of the boundary of the property." Based upon the Coal Authority's knowledge of the mining circumstances at the time of this enquiry, there may be unrecorded mine entries in the local area that do not appear on the Authority records."*
- *"The Authority is not aware of any evidence of damage arising due to geological faults or other lines of weakness that have been affected by coal mining."*
- *"The property is not in an area likely to be affected from any planned future underground coal mining".*
- *"No notices have been given, under Section 46 of the Coal Mining Subsidence Act 1991, stating that the land is at risk of subsidence".*
- *"The property is not within the boundary of an opencast site from which coal has been removed by opencast methods."*
- *"The Coal Authority has no record of a mine gas emission requiring action."*

The Coal Authority has therefore confirmed that they have no records of shallow underground workings beneath the site. However, seams are known to be present at shallow depth beneath the site that may have been subject to unrecorded extraction.

Prior to the erection of the health centre building located to the south-east of the site a series of boreholes were advanced by Soil Mechanics in 2002 to assess the depth to and condition of the mineral seams beneath the site, in particular, the Whitehill Group of coals.

A number of these boreholes did identify the presence of shallow mineral workings, conjectured to be within the Jewel Coal, it is presumed that any workings were consolidated prior to the erection of this building and formation of associated infrastructure. Of the mineral boreholes that were drilled, three (BHA, BHB and BHJ), were located close the site currently under consideration for development. The approximate locations of the boreholes are shown below along with BHG within which workings were encountered. It is conjectured that the outcrop of the Jewel Coal lies somewhere between BHB and BHG with the coal seam crop orientated north north-east to south south-west.



Approximate Locations of Boreholes Drilled in 2002.

The findings in these boreholes, Appendix C, are summarised in Table 2.

Table 2: Mineral seams encountered during investigation.

BH No.	Rockhead Depth (m.begl)	Summary		BH Base Depth (m.begl)
		Findings	Depth (thickness)	
BHA	2.60	Coal (Melvilles)	18.00m (0.40m)	27.00
		Coal (Melvilles)	23.10m (0.50m)	
BHB	4.60	Coal (Melvilles)	21.55m (0.25m)	25.30
BHJ	7.00	Coal (Melvilles)	7.15 (0.15m)	27.00
BHG	2.30	Coal (Parrot?)	2.70m (0.80m)	18.00
		Void (Jewel?)	6.30m (1.05m)	

m.begl – metres below existing ground level.

The boreholes BHA and BHJ encountered made ground directly overlying rockhead, indicating that some previous quarrying is likely to have occurred relatively close to the site.

It is apparent that the boreholes located closest to the site did not encounter any workings or coal seams of potentially economic thickness. Given the dip of the strata, the seams that were encountered in boreholes, BHA, BHB and BHJ, on the health centre site would be present at shallower depth below the proposed development area.

It is generally considered that risk to surface development from shallow open/partial extraction mine workings arises principally from collapse of the roof of the workings between supports or as a result of the failure of these supports themselves. Other modes of collapse can occur but are relatively uncommon.

In any event, they cannot be evaluated without detailed information on the spacing and sizes of the pillars (stoops) which is only available where old abandoned mine plans exist, and even then, such evaluation cannot be relied upon as stoops were often removed.

Progressive roof failure causes the mine void to migrate towards the surface and the hazard results from collapse of the ground surface into the void. Commonly such collapse features are identified as shallow depressions at ground surface called sittings.

It is common practice to allow for a safe ratio of rock cover thickness to worked seam thickness of 10:1. Therefore where ratios are less than this there is considered to be the potential for voids caused by any belated collapse/settlement of mineworkings to be able to migrate to ground surface. Therefore a 1.0m thick seam would require a minimum of 10m of rock cover if it had been worked.

On the basis of the findings in the boreholes drilled to the east, the maximum thickness of coal is likely to be 0.50m. A theoretical rock cover thickness of 5.00m would therefore be necessary, however, to account for the presence of roadways within workings around 15m of rock cover is generally allowed for.

Whilst it is unlikely that such a rock thickness would be present above the coal seams beneath the site area, it is equally as unlikely that seams would have been worked given that they are thin. Notwithstanding this, some confirmation should be obtained as drift is thin and quarrying has been undertaken within the general area.

We would therefore advise that, prior to development commencing, rotary drilled boreholes should be advanced to identify the depth to, and condition of, the shallow mineral seams underlying this site. One cored and up to two open hole boreholes should be advanced beneath the footprints of the structures proposed.

The Coal Authority would be contacted in advance of intrusive investigations being undertaken with a permit applied for which will contain details of the works proposed. The results of the investigations should be provided within an interpretative report for submission to the local authority and the Coal Authority.

In the unlikely event that shallow workings are encountered these would require to be consolidated by grout injection prior to the erection of any new built development within the site boundary. Under these circumstances a completion report validating the remedial works undertaken would be forwarded to local authority and the Coal Authority.

4.0 Conclusions

A number of coal seams underlie the site shallow depth. Although boreholes on an adjacent site identified these coal seams to be unworked and generally thin, due diligence intrusive investigation to assess the mineral position should be carried out prior to the erection of any new buildings within the site boundary.

If workings are absent, and similar seam thicknesses are replicated during the investigation, then there will be no requirement to undertake any further investigation or consolidation works within the site boundary and development can commence.

Although there are no recorded mineshafts on the site or within the immediate surrounding area, as with all sites located within mining areas particular attention should be paid during site works to ground variations, which may suggest the presence of unrecorded mine entries. However, the potential presence of unrecorded mine entries is unlikely at this site.

150 St John's Road, Edinburgh, EH12 8AY
Tel No 0131 334 0765
Fax No 0131 316 4540

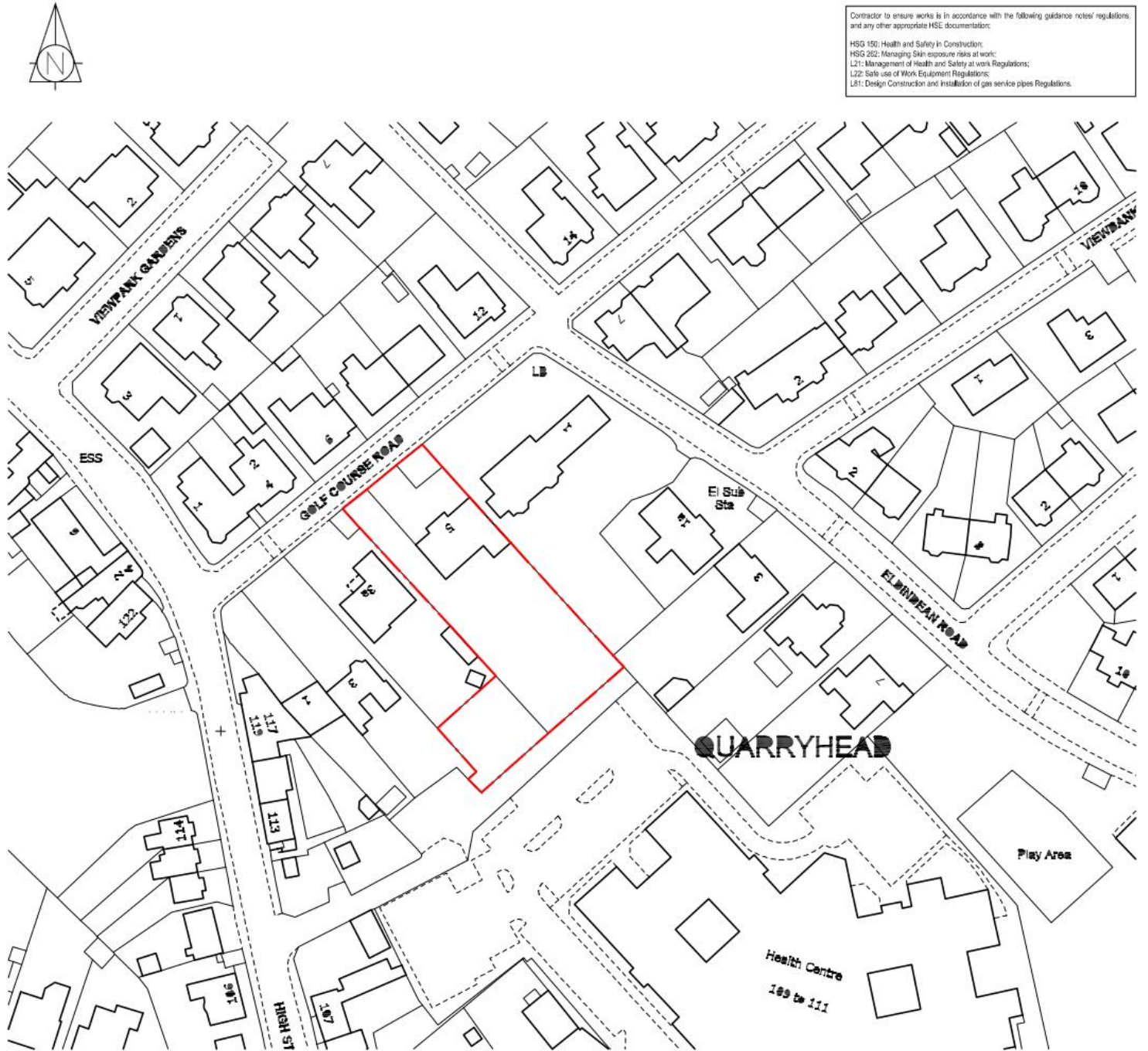
E-Mail drme@davidrmurray.co.uk

APPENDIX A

SITE LOCATION PLAN

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 Variations and modifications to work shown in this drawing should not be carried out without written permission of Slorach Wood Architects Limited, who accept no liability whatsoever for alterations made to this drawing by any third party other than themselves. All works to comply in every respect with the current Scottish Building Standards Regulations (Scotland) Regulations 2004, as amended 2015.
 All works to comply with the relevant Codes of Practice and British Standards and shall be carried out to the highest standard of craftsmanship by skilled and qualified persons of the respective trades and in accordance with good building practice.
 The contractor shall be responsible for making contact with the respective statutory authorities and establish the location of all existing services. The contractor shall ensure compliance with the Local Authority regulations.
 Do not scale from this drawing at any time. Use figured dimensions only. All setting out dimensions are to be confirmed prior to the commencement of any associated works, with any discrepancies reported to the architect immediately. All dimensions are to the structure and exclude any plaster / plasterboard finishes.


Contractor to ensure works is in accordance with the following guidance notes/ regulations, and any other appropriate HSE documentation:
 HSG 150: Health and Safety in Construction;
 HSG 262: Managing Skin exposure risks at work;
 L21: Management of Health and Safety at work Regulations;
 L22: Safe use of Work Equipment Regulations;
 L81: Design Construction and Installation of gas service pipes Regulations.



location plan [1:1250]

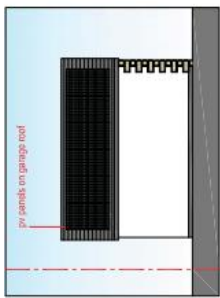
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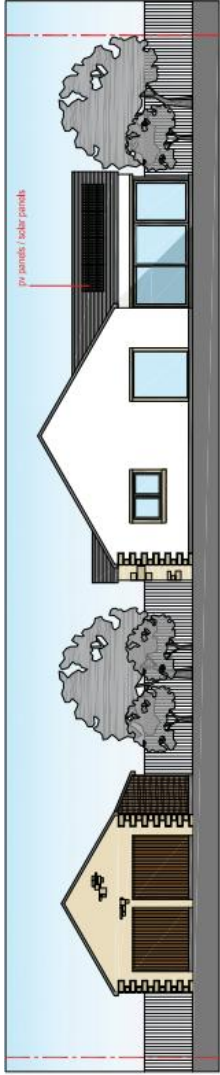
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drawing	19075 / P01	scale 1:1250 (A4)
plotted	ref. SOB	
project	5 GOLF COURSE ROAD BONNYRIGG	
title	LOCATION PLAN	
 slorach wood architects		
contact	The Station Master's Office, Dalmeny Station, South Queensferry, EH30 9JP. Tel: 0131 319 1260 Email: info@swa.uk.net Website: www.swa.uk.net	



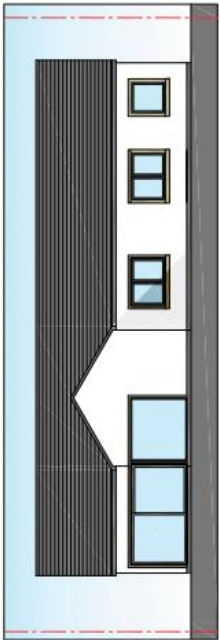
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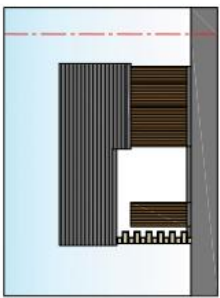
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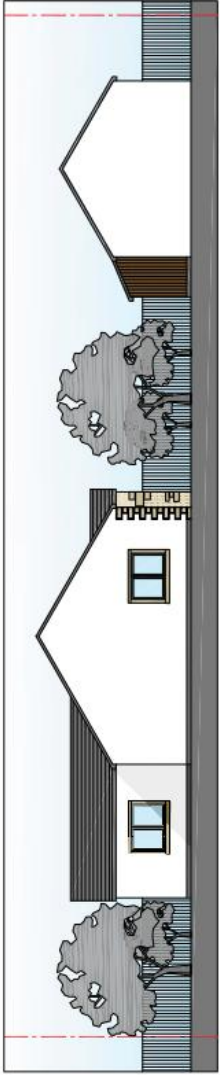
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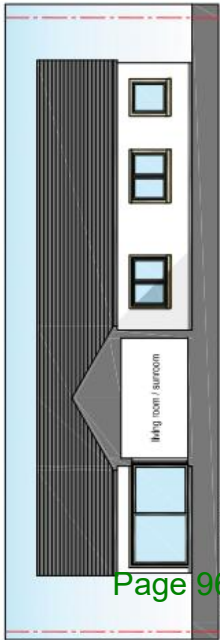
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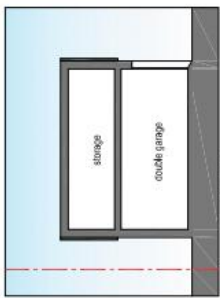
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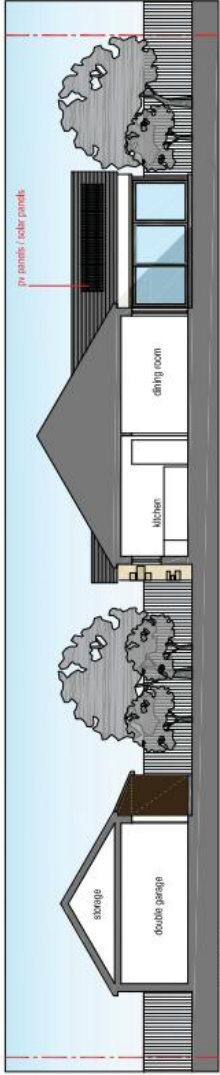
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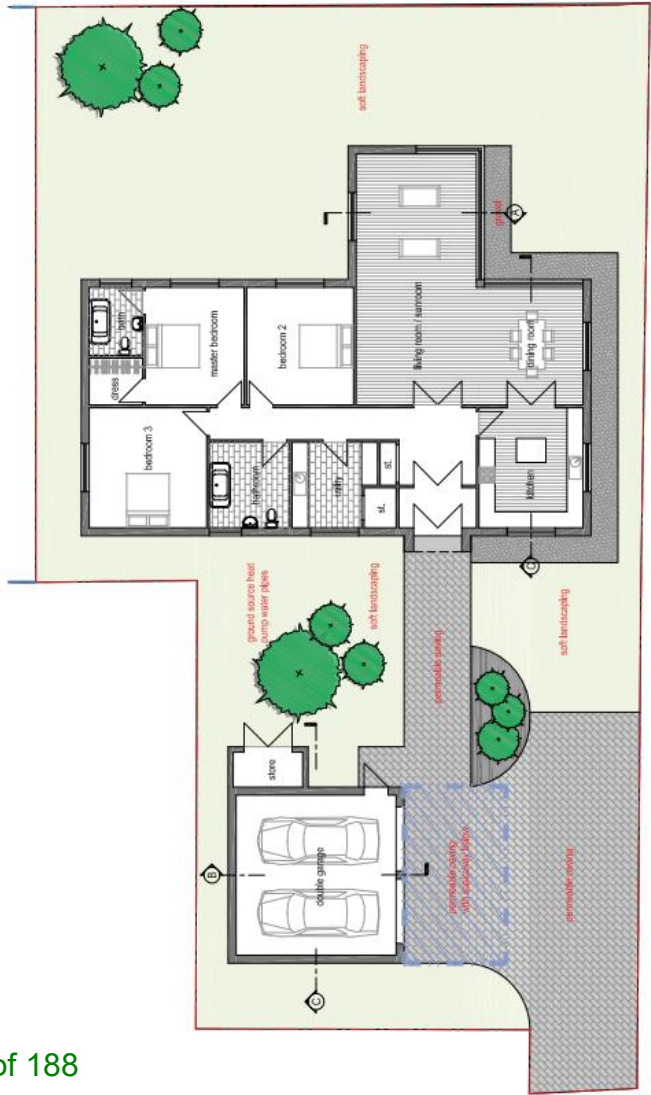
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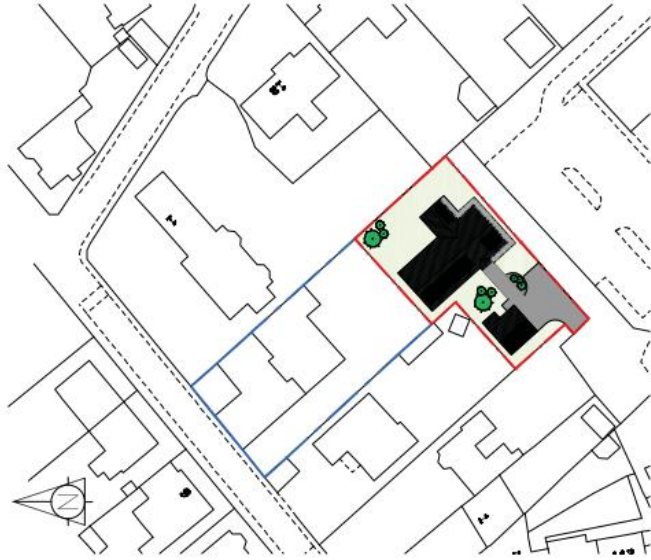
section b-b [1:100]



section c-c [1:100]



ground floor plan [1:100]



site plan [1:500]

Unless stated otherwise, the drawings are to be used for the purpose of obtaining planning permission only. They are not to be used for any other purpose. The drawings are the property of the architect and shall remain his/her property. The drawings are not to be used for any other purpose without the written consent of the architect. The drawings are not to be used for any other purpose without the written consent of the architect. The drawings are not to be used for any other purpose without the written consent of the architect.

Consider to ensure that the drawings are to be used for the purpose of obtaining planning permission only. They are not to be used for any other purpose. The drawings are the property of the architect and shall remain his/her property. The drawings are not to be used for any other purpose without the written consent of the architect. The drawings are not to be used for any other purpose without the written consent of the architect. The drawings are not to be used for any other purpose without the written consent of the architect.

19075 / P03 E
5 GOLF COURSE ROAD
BONNYRIGG

FLOOR PLAN, SITE PLAN,
ELEVATIONS AND SECTIONS

slorach wood architects

The Slorach Wood Office,
Dunfermline, Fife KY11 1JF,
Tel: 0131 120 1200 Email: info@slorach.co.uk
Website: www.slorach.co.uk

APPENDIX B

COAL AUTHORITY REPORT



The Coal
Authority

CON29M

coal mining report

5, GOLF COURSE ROAD, BONNYRIGG, MIDLOTHIAN, EH19 2EU



Known or potential coal mining risks

Past underground coal mining	Page 4
Future underground coal mining	Page 4
Mine entries	Page 5



Further action

No further reports from the Coal Authority are required. Further information on any next steps can be found in our Professional opinion.

For more information on our reports please visit
www.groundstability.com



Professional opinion

According to the official mining information records held by the Coal Authority at the time of this search, evidence of, or the potential for, coal mining related features have been identified. In view of the coal mining circumstances we would recommend that any planned or future development should follow detailed technical advice before beginning work on site. Please see **page 3** for further details on **Future development**.

Your reference: **230192057_2|E12064**
Our reference: **51002233899001**
Date: **10 January 2020**

Client name:
**LANDMARK INFORMATION
GROUP LIMITED**

If you require any further assistance please
contact our experts on:
0345 762 6848

groundstability@coal.gov.uk

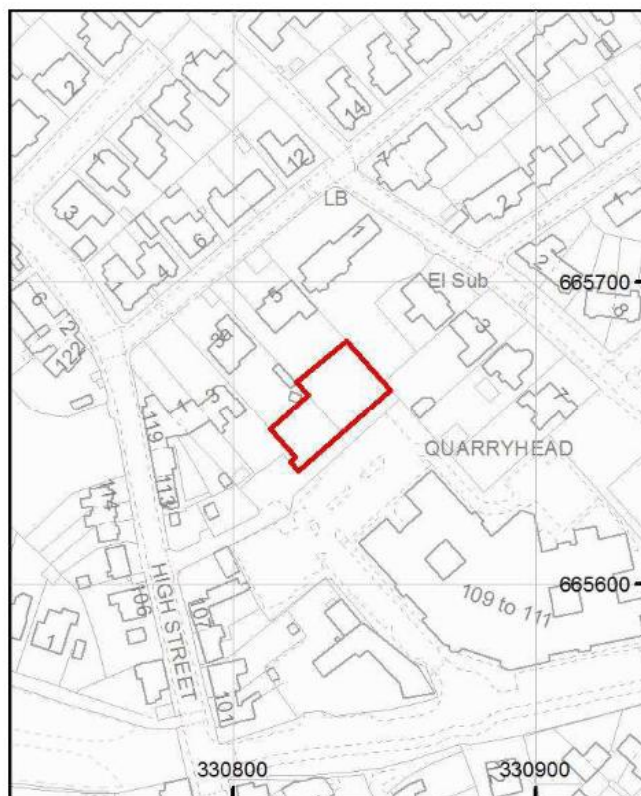
Enquiry boundary

Key

Approximate position of enquiry boundary shown



We can confirm that the location is
on the coalfield



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This report is prepared in accordance with the latest Law Society's Guidance Notes 2018, the User Guide 2018 and the Coal Authority's Terms and Conditions applicable at the time the report was produced.



Accessibility

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Our reference: **51002233899001**
Date: **10 January 2020**

Client name:
**LANDMARK INFORMATION
GROUP LIMITED**

If you require any further assistance please
contact our experts on:
0345 762 6848

groundstability@coal.gov.uk

Professional opinion



Future development

If development proposals are being considered, technical advice relating to both the investigation of coal and former coal mines and their treatment should be obtained before beginning work on site. All proposals should apply specialist engineering practice required for former mining areas. No development should be undertaken that intersects, disturbs or interferes with any coal or coal mines without first obtaining the permission of the Coal Authority. Developers should be aware that the investigation of coal seams, mine workings or mine entries may have the potential to generate and/or displace underground gases. Associated risks both to the development site and any neighbouring land or properties should be fully considered when undertaking any ground works. The need for effective measures to prevent gases migrating onto any land or into any properties, either during investigation or remediation work, or after development must also be assessed and properly addressed.

If you are looking to develop, or undertake works, within a coal mining development high risk area your Local Authority planning department may require a Coal Mining Risk Assessment to be undertaken by a qualified mining geologist or engineer. Should you require any additional information then please contact the Coal Authority on **0345 762 6848** or email **cmra@coal.gov.uk**.



Site investigations

The following site investigation(s) took place in the location area:

A site investigation was carried out in January 2004 by Groundshire Ltd, Hill House Farm, The Green, Washington as, specified by and under the supervision of DLM Mining Consultants Ltd, 47 Martin Brae, Livingston, West Lothian. As instructed by Bielski Associates on behalf of Miller Construction..

Additional information regarding these investigations may be available from the company or companies listed above.

Detailed findings

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1 Past underground coal mining

The property is in a surface area that could be affected by underground mining in 3 seams of coal at 480m to 750m depth, and last worked in 1985.

Any movement in the ground due to coal mining activity associated with these workings should have stopped by now.

In addition the property is in an area where the Coal Authority believes there is coal at or close to the surface. This coal may have been worked at some time in the past. The potential presence of coal workings at or close to the surface should be considered, particularly prior to any site works or future development activity, as ground movement could still be a risk. Your attention is drawn to the Professional opinion sections of the report.

2 Present underground coal mining

The property is not within a surface area that could be affected by present underground mining.

3 Future underground coal mining

The property is not in an area where the Coal Authority has received an application for, and is currently considering whether to grant a licence to remove or work coal by underground methods.

The property is not in an area where a licence has been granted to remove or otherwise work coal using underground methods.

The property is not in an area likely to be affected from any planned future underground coal mining.

However, reserves of coal exist in the local area which could be worked at some time in the future.

No notices have been given, under section 46 of the Coal Mining Subsidence Act 1991, stating that the land is at risk of subsidence.

4 Mine entries

There are no recorded coal mine entries known to the Coal Authority within, or within 20 metres, of the boundary of the property.

This information is based on the information that the Coal Authority has at the time of this enquiry.

Based on the Coal Authority's knowledge of the mining circumstances at the time of this enquiry, there may be unrecorded mine entries in the local area that do not appear on Coal Authority records.

5 Coal mining geology

The Coal Authority is not aware of any damage due to geological faults or other lines of weakness that have been affected by coal mining.

6 Past opencast coal mining

The property is not within the boundary of an opencast site from which coal has been removed by opencast methods.

7 Present opencast coal mining

The property does not lie within 200 metres of the boundary of an opencast site from which coal is being removed by opencast methods.

8 Future opencast coal mining

There are no licence requests outstanding to remove coal by opencast methods within 800 metres of the boundary.

The property is not within 800 metres of the boundary of an opencast site for which a licence to remove coal by opencast methods has been granted.

9 Coal mining subsidence

The Coal Authority has not received a damage notice or claim for the subject property, or any property within 50 metres of the enquiry boundary, since 31 October 1994.

There is no current Stop Notice delaying the start of remedial works or repairs to the property.

The Coal Authority is not aware of any request having been made to carry out preventive works before coal is worked under section 33 of the Coal Mining Subsidence Act 1991.

10 Mine gas

The Coal Authority has no record of a mine gas emission requiring action.

11 Hazards related to coal mining

The property has not been subject to remedial works, by or on behalf of the Coal Authority, under its Emergency Surface Hazard Call Out procedures.

12 Withdrawal of support

The property is not in an area where a notice to withdraw support has been given.

The property is not in an area where a notice has been given under section 41 of the Coal Industry Act 1994, cancelling the entitlement to withdraw support.

13 Working facilities order

The property is not in an area where an order has been made, under the provisions of the Mines (Working Facilities and Support) Acts 1923 and 1966 or any statutory modification or amendment thereof.

14 Payments to owners of former copyhold land

The property is not in an area where a relevant notice has been published under the Coal Industry Act 1975/Coal Industry Act 1994.

Statutory cover



Coal mining subsidence

In the unlikely event of any coal mining related subsidence damage, the Coal Authority or the mine operator has a duty to take remedial action in respect of subsidence caused by the withdrawal of support from land or property in connection with lawful coal mining operations.

When the works are the responsibility of the Coal Authority, our dedicated public safety and subsidence team will manage the claim. The house or land owner ("the owner") is covered for these works under the terms of the Coal Mining Subsidence Act 1991 (as amended by the Coal Industry Act 1994). Please note, this Act does not apply where coal was worked or gotten by virtue of the grant of a gale in the Forest of Dean, or any other part of the Hundred of St. Briavels in the county of Gloucester.

If you believe your land or property is suffering from coal mining subsidence damage and you need more information on what to do next, please use the following link to our website which sets out what your rights are and what you need to consider before making a claim.

www.gov.uk/government/publications/coal-mining-subsidence-damage-notice-form



Coal mining hazards

Our public safety and subsidence team provide a 24 hour a day, 7 days a week hazard reporting service, to help protect the public from hazards caused by past coal workings, such as a mine shaft or shallow working collapse. To report any hazards please call **01623 646 333**. Further information can be found on our website: www.gov.uk/coalauthority.

Glossary



Key terms

adit - horizontal or sloped entrance to a mine

coal mining subsidence - ground movement caused by the removal of coal by underground mining

Coal Mining Subsidence Act 1991 - the Act setting out the duties of the Coal Authority to repair damage caused by coal mining subsidence

coal mining subsidence damage - damage to land, buildings or structures caused by the removal of coal by underground mining

coal seams - bed of coal of varying thickness

future opencast coal mining - a licence granted, or licence application received, by the Coal Authority to excavate coal from the surface

future underground coal mining - a licence granted, or licence application received, by the Coal Authority to excavate coal underground. Although it is unlikely, remaining coal reserves could create a possibility for future mining, which would be licensed by the Coal Authority

mine entries - collective name for shafts and adits

payments to owners of former copyhold land - historically, copyhold land gave rights to coal to the copyholder. Legislation was set up to allow others to work this coal, but they had to issue a notice and pay compensation if a copyholder came forward

shaft - vertical entry into a mine

site investigation - investigations of coal mining risks carried out with the Coal Authority's permission

stop notice - a delay to repairs because further coal mining subsidence damage may occur and it would be unwise to carry out permanent repairs

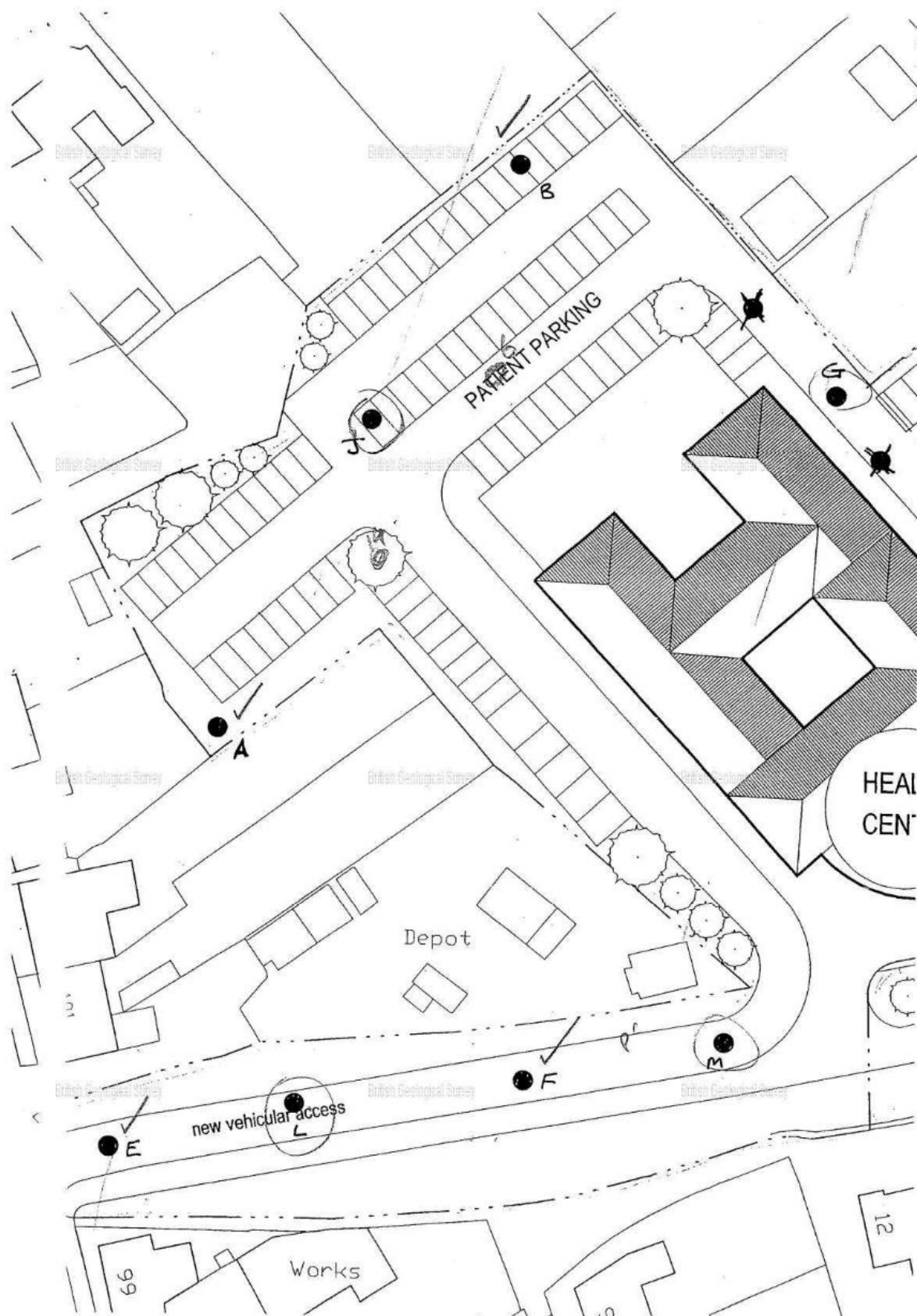
subsidence claim - a formal notice of subsidence damage to the Coal Authority since it was established on 31 October 1994

withdrawal of support - a historic notice informing landowners that the coal beneath their property was going to be worked

working facilities orders - a court order which gave permission, restricted or prevented coal mine workings

APPENDIX C

BOREHOLE LOCATION PLAN & AVAILABLE RECORDS



NICHOLSON

Equipment & Methods

Carried out for

ACCESSION NUMBER

SI 20201

DATE

Borehole No. **A**

Sheet 1 of 3

Location No. **191032 A**

Location **BONNYRIGG**

Ground Level

Coordinates

Date **23.1.02**

COMMERCIAL IN CONFIDENCE

Description	Reduced Level	Legend	Depth & (Thickness)	Samples/Tests			Field Records
				Depth	Sample Type	Sample No	
RUBBLE FILL + CLAY							
SANDSTONE							
<p>Mudstone + strong, cross bedded off white + pale buff medium + coarse grained SANDSTONE, slightly - most weathered, highly rust stained throughout; some very coarse banding from 7.20; sharp base</p>			260				
			320				
			3 00	280	215	230	
			to 300				
			6 00				
			6 00	300	255	275	
			to 300				
			9 00				
			9 00	275	200	215	
			to 12 00	300			
<p>Weak grey silt mudstone slightly weathered, broken.</p> <p>Strong cross bedded, grey fine medium grained SANDSTONE</p>							
<p>Remarks: slightly weathered, some open rust stained subvertical joints.</p>							

11.80 to 12.00 gritty with some concretions

1200

1220

1300

Logged by

Scale

Fig.

Equipment & Methods		Location No.		Location		Sheet 2 of 5		
Carried out for		Ground Level		Coordinates		Date		
Description	Reduced Level	Legend	Depth & Thickness	Samples/Tests			Field Records	
				Depth	Type	No	Test	
Mudstone, grey, SEAT mudstone faintly bedded, fine grained pale grey sandstone, fine grained bedding, grainy, silty fine SANDSTONE				9 00 to 12 00	as above			
Mudstone + weak grey SEAT MUDSTONE, not stained at top, below				12 00 to 13 00	280 300	125	150	
Mud strong & strong irregular cross & ripple laminated, pale grey & brownish grey fine grained SANDSTONE, full, silty laminae				13 50 to 15 00				
Mud weak, poorly bedded, grey brownish, SILTY MUDSTONE, full, rock				15 00 to 16 40	300 300	170	215	
Weak, dark grey SEAT MUDSTONE, full, coarse, stains at base				16 40 to 17 80				
COAL, full, bright with dull, fusiform & muddy laminae; broken recovery				17 80 to 18 40				
Mud strong, cross bedded pale grey fine grained SANDSTONE full; becoming grey from 20 20.	18 40 to 18 55	Silty, rocky.		18 40 to 21 00	250 300	165	200	
Remarks								Logged by
								Scale
								Fig.

NICHOLSON SITE INVESTIGATION LIMITED

NICHOLSON

Borehole No. **A**Sheet **3** of **3**

Equipment & Methods		Location No.		Location		Ground Level		Coordinates		Date	
				BONNY RIGG							
Carried out for											
Description		Reduced Level	Legend	Depth & (Thickness)	Samples/Tests			Field Records			
					Depth	Sample Type	No	Test			
Mudstone, poorly bedded brownish grey SLTSTONE. Fair; irregular sandy bands & laminae bedded highly disturbed in places by roots.				21 00							
				22	21 00 to 24 00	300	180	200			
				23 10							
COAL, fair, bright with dull, furrowed laminae 100% intactness dip 8°				23 60							
Mudstone, poorly to fairly well bedded grey SLTSTONE, fair, irregular sandy bands & laminae, roots				24	24 00 to 27 00	300	260	290			
				25							
				26							
Strong, cross bedded, off-white medium to coarse grained SANDSTONE, fair				26 50							
				27 00							
TD 27.00											
Remarks									Logged by		
									Scale		
									Fig.		

NICHOLSON (SITE INVESTIGATION) LIMITED, BATHGATE ROAD, ARMADALE

NICHOLSON		Borehole No. 191032 A		Sheet 1 of 3				
Equipment & Methods		Location						
Carried out for		Ground Level		Coordinates				
Description		Reduced Level	Legend	Depth & (Thickness)	Samples/Tests	Field Records		
				Depth	Sample Type	No	Test	
CLAY & BONNERS				1				
				2				
				3				
				4				
				4.60				
SILTSTONE				5				
				5.50				
Mod strong-stony, cross bedded off-white to medium coarse grained SANDSTONE, slightly mod weathered, rust stained throughout a few short sharp open rust stained joints; sharp wave base				6	5 50			
				7	to	300	260	270
				8 50				
				8 50	300	250	280	
				11 50				
Remarks						Logged by		
						Scale		
						Fig.		


NICHOLSON (SITE INVESTIGATION) LIMITED, BATHGATE ROAD, ARMADALE

NICHOLSON (SITE INVESTIGATION) LIMITED, BATHGATE ROAD, ARMADALE

Sheet 5 of 5

Equipment & Methods		Location No.		Location			
				BONNY RIGG			
Carried out for		Ground Level		Coordinates			
				Date			
Description	Reduced Level	Legend	Depth & Thickness	Samples/Tests			Field Records
				Depth	Sample		
					Type	No	
Medial - mudstone, gr v brownish grey, SEAT MUDSTONE, silty in places; furl; spherosiderite			21	20 50	180	30	105
			21 40	to	180		
Weak dark grey SEAT MUDSTONE furl; coaly laminae			21 55				
			21 75	22 30	100	14	58
CORAL furl, bright white shell laminar dip approx 5°			22				
Strong brown fine-grained SANDSTONE, furl, rooty marking broken v jointed, sharp base			22 10	22 30			
			22 35	to	300	140	200
Weak, dark grey furl well bedded MUDSTONE, furl, coaly laminae broken			24 10	25 30			
Medial - weak, poorly bedded brownish grey MUDSTONE, furl, rooty, silty to base			25				
Strong - mudstone brown, fine v medium grained SANDSTONE, furl; rooty silty base band partly			25 30				
TJ 25 30							

Remarks	Logged by
	Scale
	Fig.

Location No. 191032A		Soil Mechanics DRILLING JOURNAL				Borehole No. 5		
Site. Bennyrigg						Sheet No. 1		
Rig. T30		J.M. No.				Day Mon		
Pumps Air-Cont		J.M. Nos				Date. 28.1.02		
Start of Shift	Time	Hole Depth		Casing Depth		Depth to Water	13.70	
		Hole Size		Casing Size		Time		
Core Size	From (m)	To (m)	Recovery (m)	Brief Description of Strata		Depth of Stratum Change	Water Returns Colour/%	Coring time (min.)
	CL	7.15		Rubble Fill & Clay				
	7.15	7.30		Coal				
	7.30	14.10		SANDSTONE			YELLOW	
	14.10	17.40		SANDSTONE			GREYISH WHITE	
	17.40	27		SANDSTONE			YELLOW	
(BH SET 13.70)								
CASING DRILLED					PACKER TESTS			
From (m)	To (m)	Size	Hole Depth (m)	Penetration Time	From (m)	To (m)	Size	Remarks
CL	7.15	P.D.						
DIAMOND TOOLS		Size	Type	Tool No.	Shift Meterage	Cumulative Meterage		
Corebit								
Reaming Shell								
Casing Shoe								
End of Shift	Time	Hole Depth		Casing Depth		Depth to Water	13.70	
		Hole Size		Casing Size		Time		
REMARKS. Brief Work Details Hand-Dig inspection for CL - 1.20 In - Situ Testing. groom up BH. CL - 27m								Foreman's Signature 

MIDLOTHIAN COUNCIL

DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

Case Officer: Graeme King **Site Visit Date:** 01/06/2020

Planning Application Reference: 20/00317/DPP

Site Address: Land at 5 Golf Course Road, Bonnyrigg

Site Description: The house at 5 Golf Course Road is a large 2 storey detached dwellinghouse dating from the early 19th Century. The rear elevation of the house faces towards Golf Course Road and the principal elevation faces South Eastwards towards a 39m long garden. The garden is L-shaped and includes a 16m by 16m area of garden that is situated to the rear of the garden of the house at 3A Golf Course Road; this area of the garden was at one point associated with no. 3A.

Golf Course Road is a predominantly residential street. The North Western edge of No.5's curtilage faces into Golf Road. To the North East of the curtilage is a detached house (a category B listed building) with garden. To the South East there is a wooded strip that sits on raised ground above the car park of Bonnyrigg Medical Centre. To the South West the site bounds onto the gardens of 3A and 3 Golf Course Road. At the Southern corner of the site a 4m long section of the South West boundary bounds onto a communal access area that provides vehicular access to the rear of the properties at 1 and 3 Golf Course Road; the access area exits onto Bonnyrigg High Street via an unsurfaced lane.

Proposed Development: Erection of dwellinghouse and associated works

Proposed Development Details: A single storey 3 bed dwellinghouse is proposed for the Southern portion of no. 5's garden. The remaining garden length for no. 5 will be reduced to 16m in length. Access for the proposed house is via the shared access lane. The proposed house is 19.1m wide and 14.6m deep. The eaves height is 3.05m and the ridge height is 5.75m. The house will be oriented with a side elevation facing towards the principal elevation of no. 5 and the front elevation of the house facing South Westwards towards the shared access lane.

A single storey detached double garage will be erected to the South West of the house. No details for the finish materials of the house or garage other than reference in the planning statement to the materials being "recycled material where possible". The elevation drawings and visualisation images suggest that the front elevations of the house and garage will be finished with stone and remaining elevations will be white render; the roof appears to be slate.

Background (Previous Applications, Supporting Documents, Development Briefs): 0126/92 – Outline planning consent for the erection of one dwellinghouse at Whitehill Villa, Eldindean Road, Bonnyrigg. Consent with conditions

670/93 – Proposed erection of dwellinghouse and integral garage at Whitehill Villa, Eldindean Road, Bonnyrigg. Consent with conditions

04/00408/FUL - Erection of conservatory at 5 Golf Course Road, Bonnyrigg. Consent with conditions

19/01033/DPP - Erection of dwellinghouse and associated works at land at 5 Golf Course Road, Bonnyrigg. Withdrawn

Consultations: Bonnyrigg and Lasswade Community Council objects to the application. The grounds for objection are as follows:

- This stretch of Golf Course Road has a local character that is important to maintain. The houses here must be seen in the context of the rest of Broomieknowe and should be part of that Conservation area. Traditional Georgian and Victorian houses with large gardens with mature trees is a character worth preserving. Without the larger gardens the trees are lost. This plan is an overdevelopment and it leaves 5 Golf Course Road without its historic setting, its large garden.
- This is no infill site but a pocket put together by using the lower parts of the original gardens of numbers 3 and 5 Golf Course Road. There is no street frontage or meaningful outdoor space except a couple of car parking spaces. Egg Farm Lane will not accommodate visitor parking or even larger delivery vehicles. Construction traffic access would be difficult over the common land.
- The remaining large maple tree at the entry point to the plot is on the common ground adjacent to the Egg Farm Lane. Without its removal no vehicular access to the plot is possible. This large mature tree is a keystone specimen in its locality and should be retained. See attached photo. When the Egg Farm site was used for the development of the Health Centre, Midlothian Council found it necessary to issue a Tree Preservation Order (TPO no 2 1997) thus illustrating that it considered the trees in this part of Bonnyrigg to be important.
- On the opposite boundary of the site there is a Listed Building of significance beyond its Category B listing (Whitehill Villa, Eldindean Road) as the home of the renowned artist William McTaggart, grandfather of Sir William MacTaggart who lived at Loanhead. The setting of the listed building and the historical connection with 1 and 3 Golf Course Road (lived in by McTaggart family members) requires protection. A full understanding of the Bonnyrigg area cannot be reached if the setting of Broomieknowe which historically includes this part of Golf Course Road is undermined.

The **Coal Authority** has no objection to the proposal subject to any consent including conditions to secure intrusive site investigations and, if required, remediation works.

Scottish Water has no objection to the proposal. The water supply will be fed from Rosebery Water Treatment Works. The foul water drainage will be dealt with by the Edinburgh PFI Waste Water Treatment Works. Both have sufficient capacity at present, however it is not possible to reserve capacity for future developments.

For reasons of sustainability and to protect Scottish Water customers from potential future sewer flooding, Scottish Water will not accept any surface water connections into the combined sewer system. There may be limited exceptional circumstances where we would allow such a connection for brownfield sites only, however this will require significant justification from the customer taking account of various factors including legal, physical and technical challenges.

In order to avoid costs and delays where a surface water discharge to the combined sewer system is anticipated, the developer should contact Scottish Water at the earliest opportunity with strong evidence to support the intended drainage plan prior to making a connection request. The evidence will be assessed in a robust manner and any decision will reflect the best option from environmental and customer perspectives.

The Council's **Environmental Health** Manager has no objection to the principle of the proposal. Environmental Health has concerns about the potential for noise from an air source or ground source heat pump; noise conditions are proposed. Conditions are also proposed for construction hours; and to secure a scheme of investigation and, if necessary, remediation/mitigation to deal with any contaminated land issues.

The Council's **Policy and Road Safety** Manager has no objection in principle to the proposal but has concerns over the proposal for dealing with surface water run-off from the site. Further details of the soakaway design would be required and evidence would need to be provided that the area of ground proposed for the soakaway is suitable to provide adequate drainage for the proposal. Failure to provide adequate surface water drainage could result in an increased risk of flooding to nearby properties.

With regard to the vehicle access arrangements the Manager notes that access will be via a private, unadopted lane leading for the High Street. The lane currently provides access to a number of properties and appears to be functioning satisfactorily with the current traffic loading. The introduction of one additional house does not raise any major road safety issues.

Representations: The application has received 6 objections and 1 neutral representation. The grounds for objection are as follows:

- The proposed development will detract materially from the existing character and amenity of the area.
- It will have a significant adverse effect on neighbours.
- It will lead to the loss of trees.
- The site is adjacent to Broomieknowe Conservation Area and will have an adverse effect on the character and appearance of the conservation area.
- It will adversely affect the character and appearance of the neighbouring listed building (Whitehill Villa, Eldindean Road).
- It does not respect the scale, form and density of the surroundings or enhance the character and amenity of the community.
- The development will have a detrimental impact on residential neighbours due to loss of privacy, noise and overshadowing.

- The development is an over-development of the site and will result in the loss of garden space and open aspect.
- The proposed development is overbearing and out of scale with development in the surrounding area.
- The development will result in a loss of views for neighbouring properties.
- The loss of garden space will have a detrimental impact on local biodiversity.
- Construction will cause disruption to local residents and will damage the shared access road.
- Increased use of the shared access road will add to existing traffic problems.
- The house at 5 Golf Course Road was the home of the significant Scottish painter William McTaggart.
- Further information should be provided on the impact of a ground source heat pump on mineral stability within the site.
- The applicants have not sought permission from the co-owners of the access road.
- The design of the house is out of keeping with the character of the surrounding area.

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

Policy **DEV2: Development within the Built-up Area** states that development will not be permitted within existing and future built-up areas where it is likely to detract materially from the existing character or amenity of the area.

Policy **ENV9: Flooding** sets out guidance to ensure that flood risk is minimised. Sustainable drainage systems will be required for most forms of development, so that surface water run-off rates are not greater than in the site's pre-developed condition.

Policy **ENV10: Water Environment** requires that new development pass surface water through a sustainable urban drainage system (SUDS) to mitigate against local flooding and to enhance biodiversity and the environmental.

Policy **ENV11: Woodland Trees and Hedges** does not permit development that would lead to the direct or indirect loss of woodland which has a particular value in terms of amenity, nature conservation, recreation, landscape character or shelter.

Policy **ENV22: Listed Buildings** does not permit development which would adversely affect the character or appearance of a listed building, its setting or any feature of special architectural or historic interest.

Planning Issues: In dealing with a planning application the Planning Authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations. Any representations and consultation responses received are material considerations.

Principle of development

The application site is situated within the built-up area of Bonnyrigg. Policy DEV2 supports the principle of development within the built-up area subject to the details of the proposal being acceptable. The broad principle of residential development at this location is acceptable. The overall acceptability of the proposal must be determined via consideration of the detail of the proposal

Character of surrounding area

A distinctive factor that distinguishes the character of the property at 5 Golf Course Road is its orientation; the property was oriented to ensure that the principal elevations faced away from the road and instead maximised the views afforded by the elevated position. Midlothian's proximity to Edinburgh and its steeply incised river valleys with surrounding countryside made it an ideal location for wealthy Edinburgh business owners to indulge in such development in the 19th century. There are examples in many of Midlothian's towns, including Bonnyrigg where such orientation is a distinctive feature of the Broomieknowe conservation area. The house at 5 Golf Course Road and the neighbouring property at Whitehill Villa, Eldindean Road are outwith Broomieknowe conservation area but are contemporaneous to many of the houses at Broomieknowe; both houses have principal elevations facing away from the road and provide a link to a period of prestige development within Bonnyrigg.

Whilst the views of the landscape have been lessened due to surrounding development in the intervening years, the existing garden at 5 Golf Course Road provides a large area of open space that enhances the setting of the property and creates a sense of spaciousness that benefits the character of the surrounding area. The length of the garden is key to this sense of spaciousness. The importance of the garden length is clearly demonstrated by the house erected at 1A Eldindean Road, on a site that was originally part of the garden ground of Whitehill Villa. This development could be considered to have established a precedent for development of the type proposed, however it can just as easily be considered to be a clear demonstration of the impact that unsympathetic development can have on the setting of an historic building. The impact at Whitehill Villa, Eldindean Road is mitigated by the fact that the original garden was much larger than that at 5 Golf Course Road and therefore it was still possible to retain the original garden length in front of some of the principal elevation; no such mitigation would be possible at the application subjects.

The proposed development would have a detrimental impact on the character and setting of the existing property at 5 Golf Course Road which by virtue of its age, design and setting makes a significant positive contribution towards the overall character of Bonnyrigg.

Surface water drainage

The drawing submitted in support of the application indicate that surface water drainage would be dealt with via permeable paving for the parking/manoeuvring space between the house and the garage. A soakaway area is indicated, below an area of paving in front of the garage, however no supporting information has been provided on ground porosity. The Council's Policy and Road Safety Manager has

concerns over this proposal for dealing with surface water run-off from the site and the lack of adequate supporting information. Failure to provide adequate surface water drainage could result in an increased risk of flooding to nearby properties.

Loss of Trees

The trees within the wooded strip that separates the South Eastern boundary of the application site from the car park of the medical centre add to the character and visual amenity of the surrounding area. Whilst the trees are outwith the application site and the plans submitted do not provide any details of tree felling; the groundworks required to build the house and vehicular access would create significant disruption within the root protection area of the trees. If the trees survived the development period it would be likely that their lifespan would have been diminished. The character of the wooded strip has already been diminished by the felling of trees and the loss of further trees would have a significant detrimental impact on the character and landscape value of this area of Bonnyrigg.

There is a Tree Preservation Order (2 of 1997) that applies to the land where the Medical Centre is situated and includes the wooded strip. Tree Preservation Orders (TPO) broadly fall into 2 categories: those that protect individual trees identified on a plan and schedule within the TPO document; and those that protect all trees within an area of woodland identified on a plan and schedule within the TPO document. In this instance the TPO relates to 8 specific trees, of which 7 were in a line running across the centre of the plot and 1 was at the Southern edge of the plot. The 7 across the centre of the plot were felled to facilitate the construction of the medical centre; the remaining tree is a Sycamore and it may be the tree to the West of the mini-roundabout at the entrance of the medical centre car park. The TPO does not apply to the trees at the wooded strip. Notwithstanding this fact, the trees adjacent to the application site add to the amenity and landscape character of Bonnyrigg; their loss would be contrary to policy ENV11 of the Midlothian Local Development Plan.

Design and finish materials

The proposed house is of a conventional design and form; whilst lacking in individual character the design is typical of modern single storey housing and would not be out of keeping with the character of Bonnyrigg. Limited details have been provided on finish materials, were the Planning Authority minded to grant the application it would be prudent to condition the use of natural stone, wetdash render and slate to reflect the historic character of the surrounding area.

Road Safety

The existing house has vehicular access from Golf Course Road and the proposal would see this access being retained for the existing house. The area of garden ground where the house is proposed is almost entirely landlocked, however a 4m long section of the site adjoins the communal parking/access area that serves the rear of numbers 1 and 3 Golf Course Road. This is where the proposed vehicular access for the new house would be situated. The legal status of any rights of access for the new house to the communal area is a private legal matter between the parties involved and is not a material planning consideration.

The communal parking/access area measures approximately 270sqm in area and is accessed from the High Street via an unsurfaced lane measuring approximately 35m in length and width of between 4.6m and 6m. The junction with the High Street is 9.1m wide at its widest point. The lane serves the properties at Golf Course Road and 2 properties on the High Street. The existing vehicle access arrangements are sub-standard when compared to standards for modern developments, however they are long established and are functioning satisfactorily. The Council's Policy and Road Safety Manager is satisfied that the proposed access arrangements would not create road safety concerns that would merit refusal of the application.

Setting of Listed Building

The neighbouring property at Whitehill Villa, Eldindean Road is a category B listed building. It is separated from the garden of 5 Golf Course Road by a 2m high stone boundary wall of similar age to the 2 houses. The proposed house would be visible from Whitehill Villa, however it would be further away than the existing house at 1A Eldindean Road and would not be visible in any key views of the Villa. The impact on the setting of the listed building would be considerably less than that of the existing house at 1A Eldindean Road.

Amenity of proposed house and garden

Midlothian Council expects minimum separation distances of 25 m between rear elevations, 22m between front elevations and 16 m between gable and rear elevations. Whilst the Council does not have an expected separation distance between a principal elevation and a gable elevation, which would be the relationship between the house at 5 Golf Course Road and the proposed house; the relationship is analogous to that between gable and rear elevations. The proposed house would have a separation distance of 18m from the principal elevation of the house at 5 Golf Course Road; this would ensure that the proposed house would have an adequate level of privacy.

The supporting statement submitted with the application makes reference to the guidance on plot ratios contained within the "Single plot and small scale infill residential development in urban areas" SPG. Midlothian Council has not produced an SPG of this name and it would appear that the SPG referred to was adopted by West Lothian Council. Plot ratios are not an assessment widely used by Midlothian Council instead the Council relies on minimum standards for the area of private (i.e. rear) garden space. A detached house of the 3 bedrooms or more is expected to have a minimum of 130sqm of private garden space; the proposed garden layout provides 210sqm. The proposed house would have a more than adequate provision of private garden space.

Amenity of neighbouring residents

The height of the house and its separation distances from neighbouring properties would ensure that there would be no loss of sunlight or daylight that would be significant enough to warrant refusal of the application.

When assessing planning applications in existing residential gardens one of the factors considered by the Planning Authority is the permitted development rights that apply to the property. The property at 5 Golf Course Road is not situated within a conservation area and benefits from a large garden; within the existing garden it would be possible to install a ground source heat pump (without any conditions), a water source heat pump (without any conditions) or an air source heat pump (subject to conditions) without the need for a planning application. It would also be possible to build a similarly sized outbuilding to the proposed garage (although with a slightly revised roof design) without requiring planning permission. Neither a heat pump nor the garage would have a significant enough impact on the amenity of neighbouring residential properties to warrant refusal of the application.

The loss of views from the buildings and gardens at neighbouring residential properties is not a material planning consideration and would not be grounds on which to refuse an application. The scale and location of the house would ensure that it would not be overbearing when viewed from neighbouring gardens.

Biodiversity

The Council screens all planning applications against a range of biodiversity constraints such as Nature Conservation Sites, areas of Ancient Woodland and areas with recorded sitings of protected species. If the screening process identifies constraints within an application site the Council may ask an applicant to submit reports demonstrating that the constraints have been considered and, if necessary, mitigation measures prepared. Where appropriate mitigation measures will be secured via condition. The biodiversity screening process did not identify any biodiversity constraints that apply to this application site.

Other matters

The association of 5 Golf Course Road with the painters William McTaggart and his grandson Sir William Mactaggart is undoubtedly of local historical interest, however the building is not listed and there are no policies within the MLDP that would support refusal of the application on the grounds of its historical associations.

Recommendation: Refuse Planning Permission

Reasons for Refusal:

1. The proposed development will have a detrimental impact on the character and setting of the existing property at 5 Golf Course Road. By virtue of its age, design and setting this building makes a significant positive contribution towards the character of Bonnyrigg. The proposal is therefore contrary to policy DEV2 of the Midlothian Local Development Plan 2017.
2. It has not been satisfactorily demonstrated that the site can be drained of surface water in a manner that complies with Scottish Planning Policy, Scottish water guidance and the CIRIA SuDS Manual (C753). The proposal is therefore contrary to policy ENV10 of the Midlothian Local Development Plan 2017.

3. The location of the proposed development will threaten the long-term viability of trees that by virtue of their location have a landscape value that enhances the amenity of the surrounding area. The proposal is therefore contrary to policy ENV11 of the Midlothian Local Development Plan 2017.

Reg. No. 20/00317/DPP

Slorach Wood Architects
The Station Masters Office
Station Road
Dalmeny Station
South Queensferry
EH30 9JP

Midlothian Council, as Planning Authority, having considered the application by Dr and Mrs Martin Reekie, 5 Golf Course Road, Bonnyrigg, EH19 2EU, which was registered on 22 May 2020 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

Erection of dwellinghouse and associated works at Land At 5, Golf Course Road, Bonnyrigg

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

<u>Document/Drawing.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	19075/P01 1:1250	22.05.2020
Site Plan	19075/P02 1:500	22.05.2020
Elevations, Floor Plan And Cross Section	19075/P03F 1:500, 1:100	22.05.2020
Illustration/Photograph	19075/P04D	22.05.2020
Planning Statement		22.05.2020
Coal Mining Risk Assessment		22.05.2020

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

- The proposed development will have a detrimental impact on the character and setting of the existing property at 5 Golf Course Road. By virtue of its age, design and setting the building makes a significant positive contribution towards the character of Bonnyrigg. The proposal is therefore contrary to policy DEV2 of the Midlothian Local Development Plan 2017.*
- It has not been satisfactorily demonstrated that the site can be drained of surface water in a manner that complies with Scottish Planning Policy, Scottish water guidance and the CIRIA SuDS Manual (C753). The proposal is therefore contrary to policy ENV10 of the Midlothian Local Development Plan 2017.*
- The location of the proposed development will threaten the long-term viability of trees that by virtue of their location have a landscape value that enhances the amenity of the surrounding area.. The proposal is therefore contrary to policy ENV11 of the Midlothian Local Development Plan 2017.*

Dated 29 / 9 / 2020



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

PLEASE NOTE

If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town & Country Planning (Scotland) Act 1997 within 3 months from the date of this notice. The notice of review should be addressed to The Planning Manager, Planning, Midlothian Council, Fairfield House, 8 Lothian Road, Dalkeith EH22 3ZN. A notice of review form is available from the same address and will also be made available online at www.midlothian.gov.uk

If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonable beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.

Prior to Commencement (Notice of Initiation of Development)

Prior to the development commencing the planning authority shall be notified in writing of the expected commencement of work date and once development on site has been completed the planning authority shall be notified of the completion of works date in writing. Failure to do so would be a breach of planning control under section 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended by the Planning etc (Scotland) Act 2006). A copy of the Notice of Initiation of Development is available on the Council's web site www.midlothian.gov.uk

IMPORTANT NOTE REGARDING PUBLIC ACCESS TO INFORMATION

Making an application

Please note that when you submit a planning application, the information will appear on the Planning Register and the completed forms and any associated documentation will also be published on the Council's website.

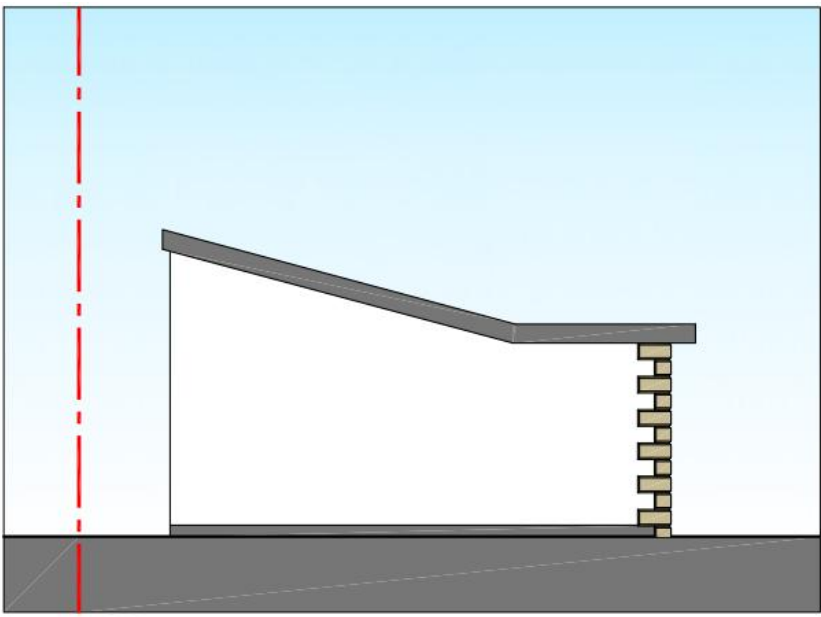
Making comment on an application

Please note that any information, consultation response, objection or supporting letters submitted in relation to a planning application, will be published on the Council's website.

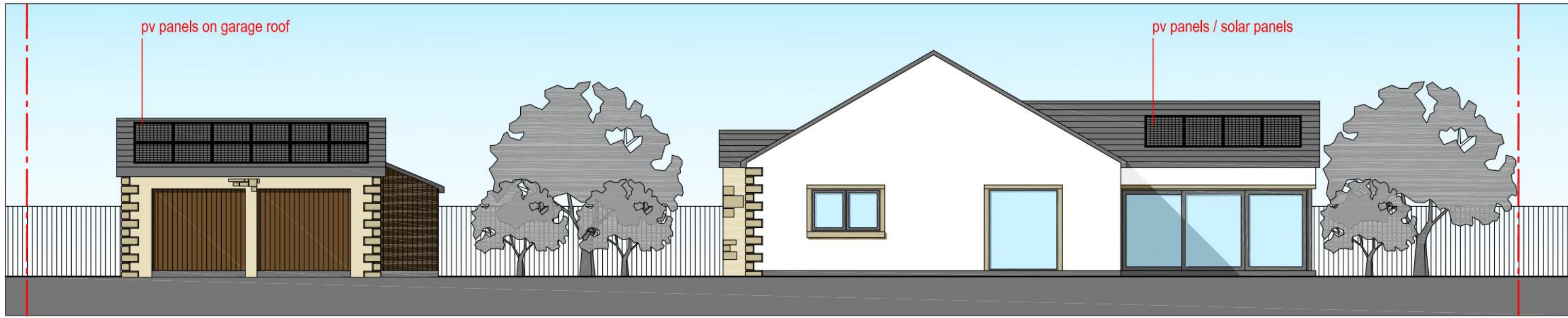
The planning authority will redact personal information in accordance with its redaction policy and use its discretion to redact any comments or information it considers to be derogatory or offensive. However, it is important to note that the publishing of comments and views expressed in letters and reports submitted by applicants, consultees and representors on the Council's website, does not mean that the planning authority agrees or endorses these views, or confirms any statements of fact to be correct.



south west elevation [1:100]



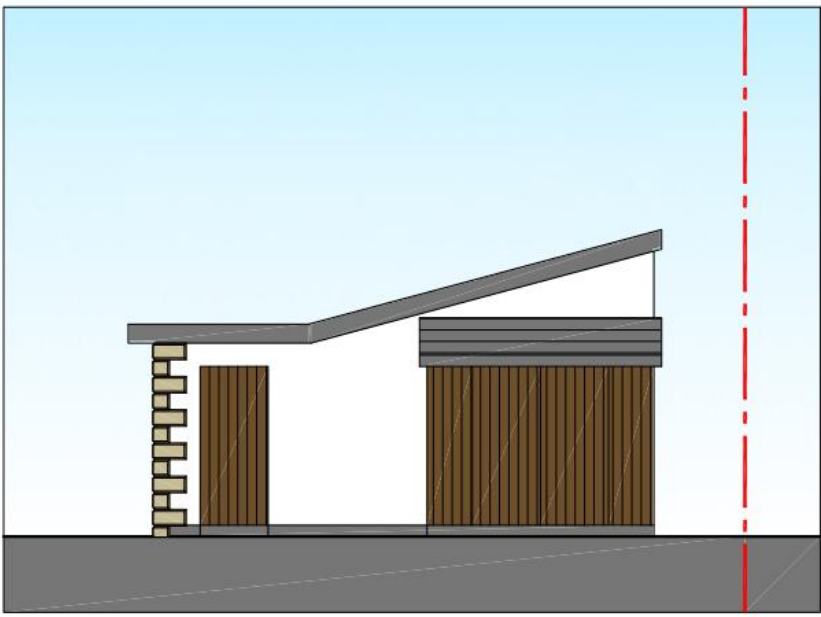
south west elevation [1:100]



south east elevation [1:100]



north east elevation [1:100]



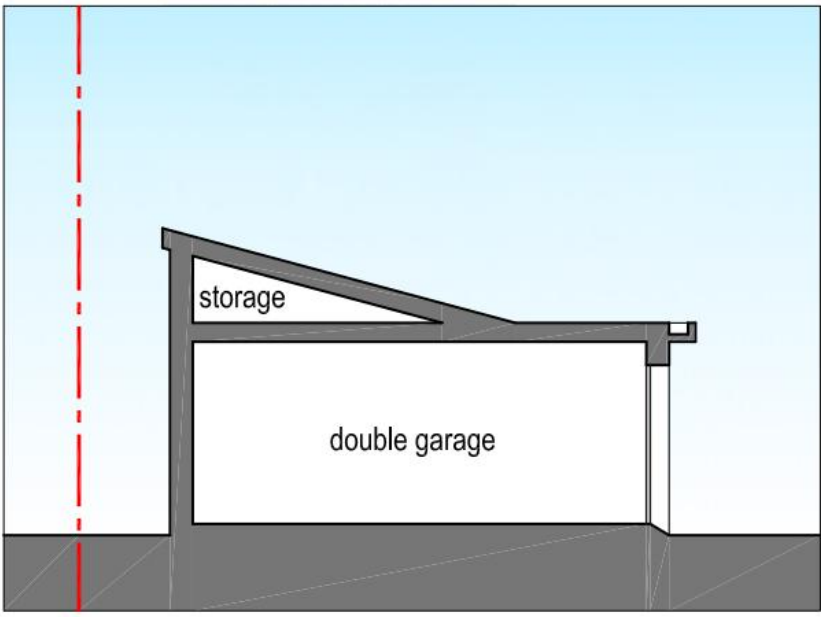
north east elevation [1:100]



north west elevation [1:100]



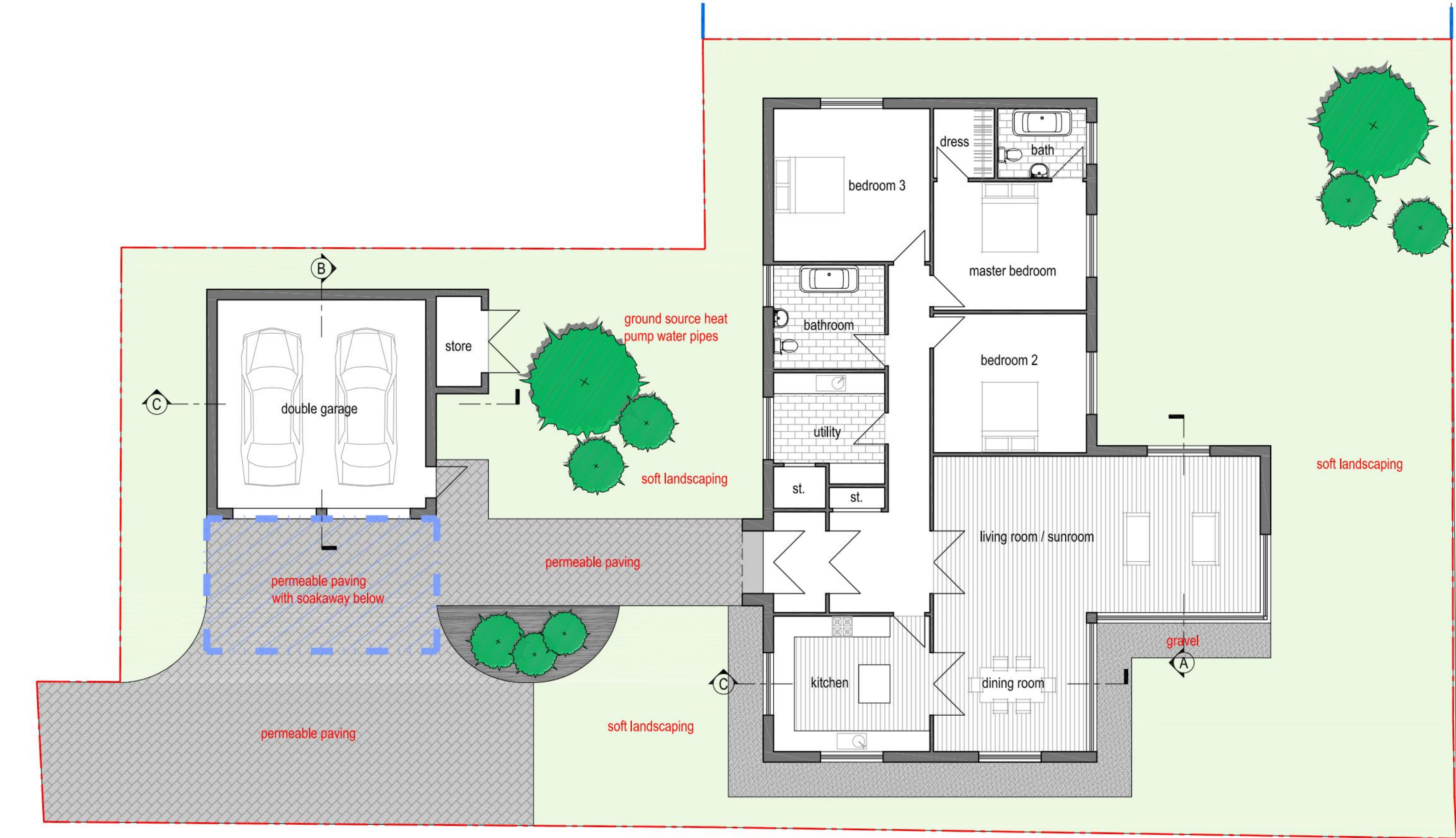
section a-a [1:100]



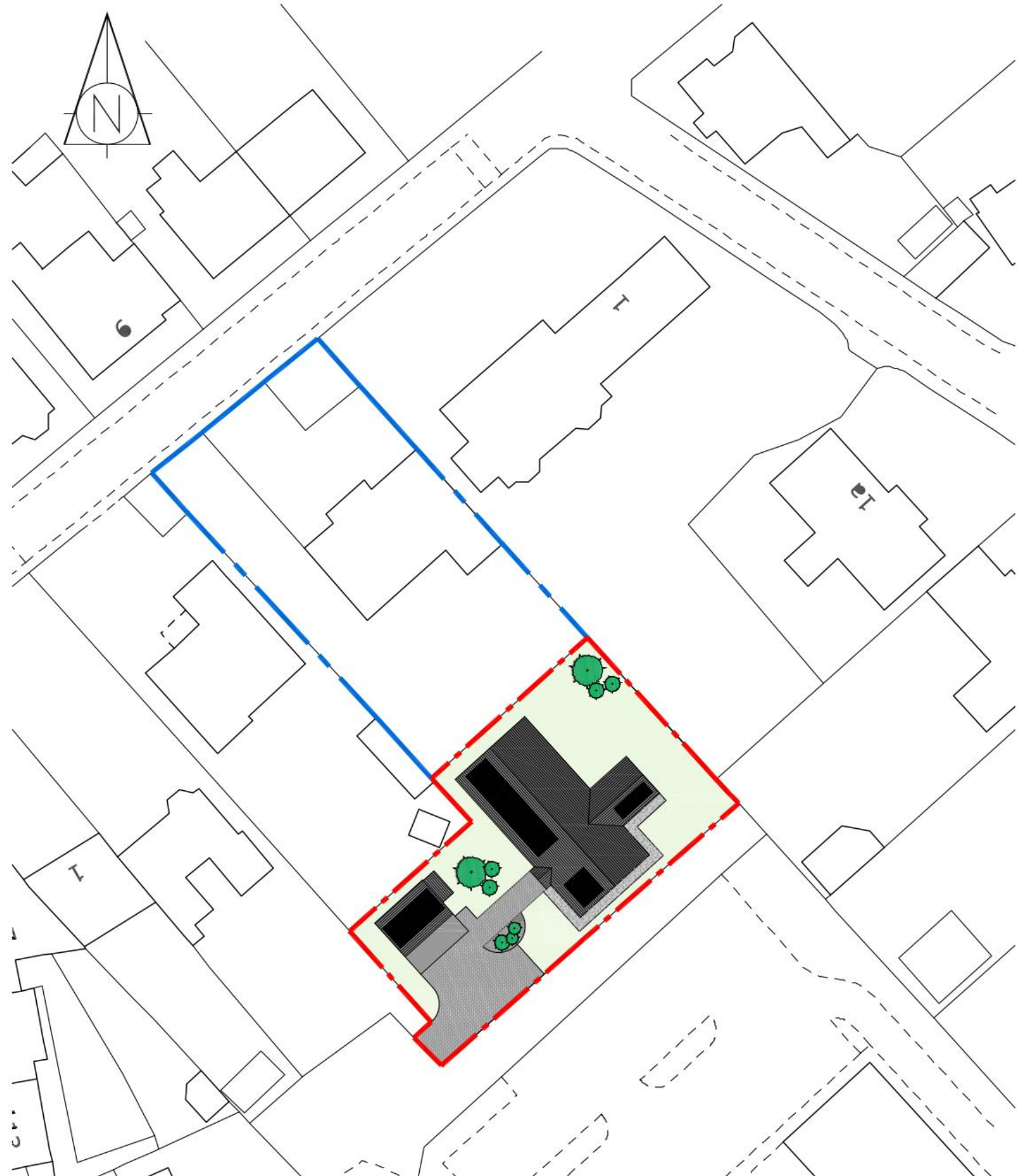
section b-b [1:100]



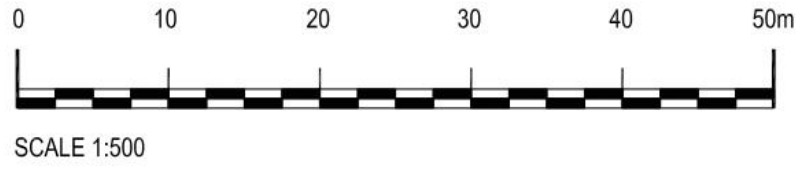
section c-c [1:100]



ground floor plan [1:100]



site plan [1:500]



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All works to comply with the relevant Codes of Practice and British Standards and shall be carried out to the highest standard of craftsmanship by skilled and qualified persons of the respective trades and in accordance with good building practice.
The contractor shall be responsible for making contact with the respective statutory authorities and establish the location of all existing services. The contractor shall ensure compliance with the Local Authority regulations.
Do not scale from this drawing at any time. Use figured dimensions only. All setting out dimensions are to be confirmed prior to the commencement of any associated works, with any discrepancies reported to the architect immediately. All dimensions are to the structure and exclude any plaster / plasterboard finishes.

Contractor to ensure works is in accordance with the following guidance notes/ regulations, and any other appropriate HSE documentation:

- HSG 150: Health and Safety in Construction;
- HSG 262: Managing Skin exposure risks at work;
- L21: Management of Health and Safety at work Regulations;
- L22: Safe use of Work Equipment Regulations;
- L81: Design Construction and installation of gas service pipes Regulations.

F	GARAGE ROOF AMENDED	APR '20
E	AMENDMENTS FROM CLIENT COMMENTS DATED 14/12/19	DEC '19
D	AMENDMENTS FROM CLIENT COMMENTS DATED 13/12/19	DEC '19
C	AMENDMENTS FROM CLIENT COMMENTS DATED 13/12/19	DEC '19
B	AMENDMENTS FROM CLIENT COMMENTS DATED 12/12/19	DEC '19
A	AMENDMENTS FROM CLIENT COMMENTS DATED 08/12/19	DEC '19

status **PLANNING**

drawing	19075 / P03 F	scale	1:100 (A1)
plotted		ref.	SOB
project	5 GOLF COURSE ROAD BONNYRIGG		

title	FLOOR PLAN, SITE PLAN, ELEVATIONS AND SECTIONS		
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slorach wood architects			
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contact	The Station Master's Office, Dalmeny Station, South Queensferry, EH30 9JP. Tel: 0131 319 1260 Email: info@swa.uk.net Website: www.swa.uk.net		
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south elevation [1:100]



east elevation [1:100]



north elevation [1:100]

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All works to comply with the relevant Codes of Practice and British Standards and shall be carried out to the highest standard of craftsmanship by skilled and qualified persons of the respective trades and in accordance with good building practice.
The contractor shall be responsible for making contact with the respective statutory authorities and establish the location of all existing services. The contractor shall ensure compliance with the Local Authority regulations.
Do not scale from this drawing at any time. Use figured dimensions only. All setting out dimensions are to be confirmed prior to the commencement of any associated works, with any discrepancies reported to the architect immediately. All dimensions are to the structure and exclude any plaster / plasterboard finishes.

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HSG 150: Health and Safety in Construction;
HSG 262: Managing Skin exposure risks at work;
L21: Management of Health and Safety at work Regulations;
L22: Safe use of Work Equipment Regulations;
L81: Design Construction and installation of gas service pipes Regulations.

D	BOUNDARY TREATMENT REVISED	MAY '20
C	GARAGE ROOF AMENDED	MAY '20
B	AMENDMENTS FROM CLIENT DATED 14/12/19	DEC '19
A	AMENDMENTS FROM CLIENT DATED 08/12/19	DEC '19
status		PLANNING
drawing	19075 / P04 D	scale NTS (A3)
plotted		ref. SQB
project	5 GOLF COURSE ROAD BONNYRIGG	
title	3D IMAGES	
slorach wood architects		
contact	The Station Master's Office, Dalmeny Station, South Queensferry, EH30 9JP. Tel: 0131 319 1260 Email: info@swa.uk.net Website: www.swa.uk.net	

Notice of Review: 41-43 Main Street, Gorebridge

Determination Report

Report by Chief Officer Place

1 Purpose of Report

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

2 Background

- 2.1 Planning application 19/01022/DPP for the change of use from post office (class 1 – shop) to flatted dwelling (sui generis); extension to building; installation of balustrade and stairs; installation of roof-lights; formation of window openings; re-rendering and replacement rain water goods at 41-43 Main Street, Gorebridge was refused planning permission on 7 February 2020; a copy of the decision is attached to this report.
- 2.2 The review has progressed through the following stages:
- 1 Submission of Notice of Review by the applicant.
 - 2 The Registration and Acknowledgement of the Notice of Review.
 - 3 Carrying out Notification and Consultation.
- 2.3 41-43 Main Street, Gorebridge is a listed building. Separate to the planning application the subject of this review, listed building consent 19/01023/LBC for the demolition of existing extension; extension to building; installation of balustrade and access stairs; installation of roof-lights; formation of windows openings; re-rendering and installation of replacement rain water goods and internal alterations was granted consent on 7 February 2020.

3 Supporting Documents

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

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

4 Procedures

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

5 Conditions

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

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

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

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

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

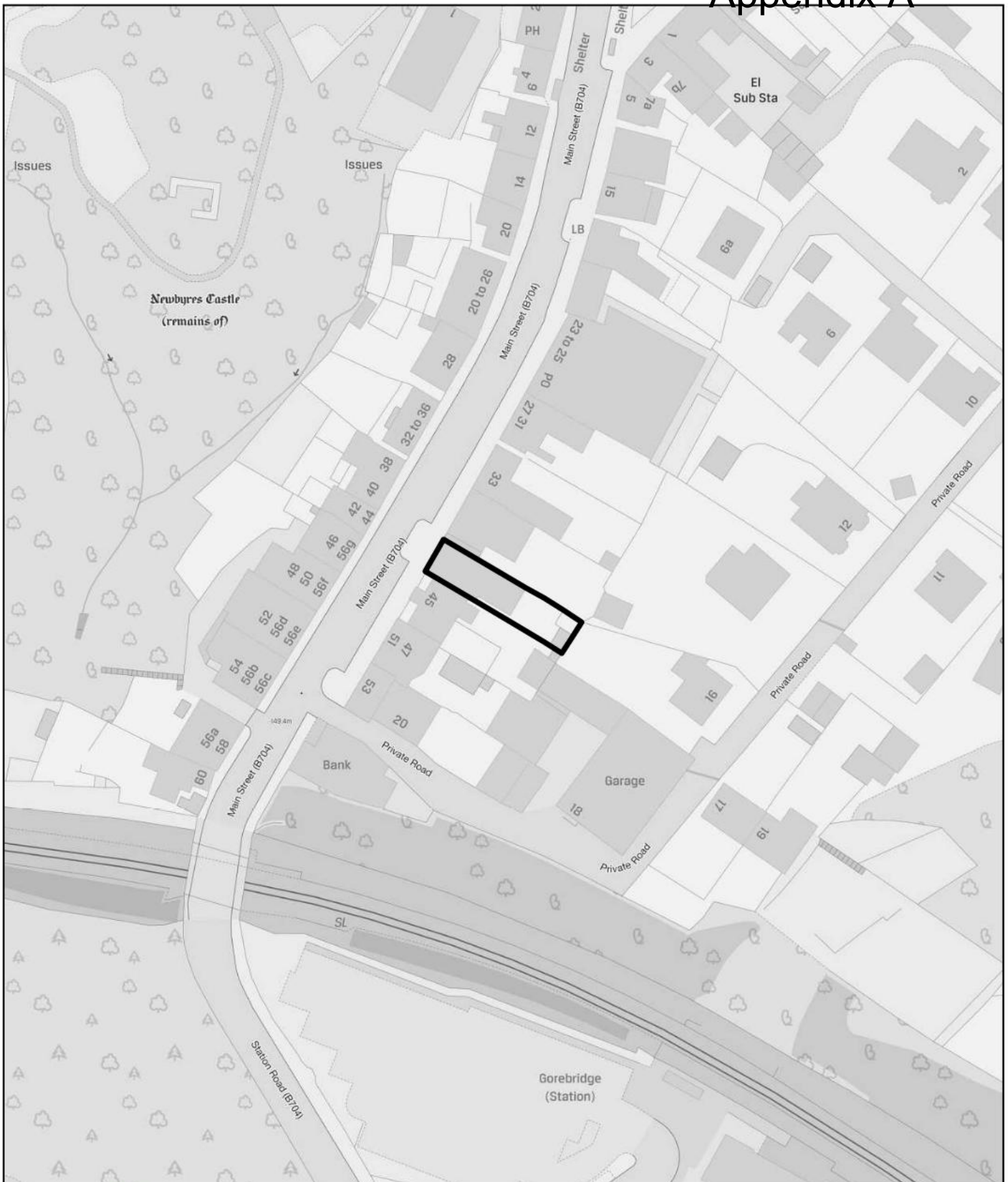
6 Recommendations

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

Date: 18 March 2021

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

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



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

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

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File No: 19/01022/DPP

Scale: 1:1,000
Page 134 of 188



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

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

Thank you for completing this application form:

ONLINE REFERENCE 100253125-001

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

Applicant or Agent Details

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

☐ Applicant ☒ Agent

Agent Details

Please enter Agent details

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

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

☒ Individual ☐ Organisation/Corporate entity

Applicant Details

Please enter Applicant details

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

Site Address Details

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

Please identify/describe the location of the site or sites

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

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

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

Type of Application

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

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

What does your review relate to? *

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

Statement of reasons for seeking review

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

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

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

Please see separate stand alone Statement.

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

☐ Yes ☒ No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

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

Application Details

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

19/01022/DPP

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

12/12/2019

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

07/02/2020

Review Procedure

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

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

☒ Yes ☐ No

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

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

☒ Yes ☐ No

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

☐ Yes ☒ No

Checklist – Application for Notice of Review

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

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

☒ Yes ☐ No

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

☒ Yes ☐ No

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

☒ Yes ☐ No ☐ N/A

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

☒ Yes ☐ No

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

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

☒ Yes ☐ No

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

Declare – Notice of Review

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

Declaration Name: Mr Stuart Szylak

Declaration Date: 06/05/2020

NOTICE OF REVIEW

19/01022/DPP



41 - 43 MAIN STREET, GOREBRIDGE

SUPPORTING STATEMENT

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

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



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

MAY 2020

**RFA Development Planning Ltd
3 Walker Street
Edinburgh
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Executive Summary

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

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

The application for Listed Building Consent was GRANTED.

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

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

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

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

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

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

1 Introduction

Purpose of this Statement

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

Background

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

- Planning Statement; and
- Design and Access Statement.

1.8 The accompanying Planning Statement included appendices which provided:

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

Reasons for Refusal

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

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

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

2 Grounds for Review

Introduction

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

Material Considerations

National Legislation

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

Midlothian Local Development Plan 2017

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

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

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

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

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

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

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

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

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

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

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

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

Support for Residential Uses in Town Centres

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

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

note in this case are as follows.

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

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

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

Summary

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

Appendix 1

Commercial/Retail Unit - Comparisons Update

47 Main Street, Gorebridge



Agent: Culverwell

Listed To Let on 26th Feb 2019

14 MONTHS ON THE MARKET

Retail Unit with good window frontage onto Main Street.

Advertised @ £12,000 pa

57.52 sq m (£208.62 per sq m)

AVAILABLE, very little interest.

58 Main Street, Gorebridge



Agent: Shepherd Commercial

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

Retail Unit with good double window frontage onto Main Street.

89 sq m (£78.65 per sq m)

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

AVAILABLE, very little interest.

60-64 Hunterfield Road, Gorebridge



Listed To Let October 2018

18 MONTHS ON THE MARKET

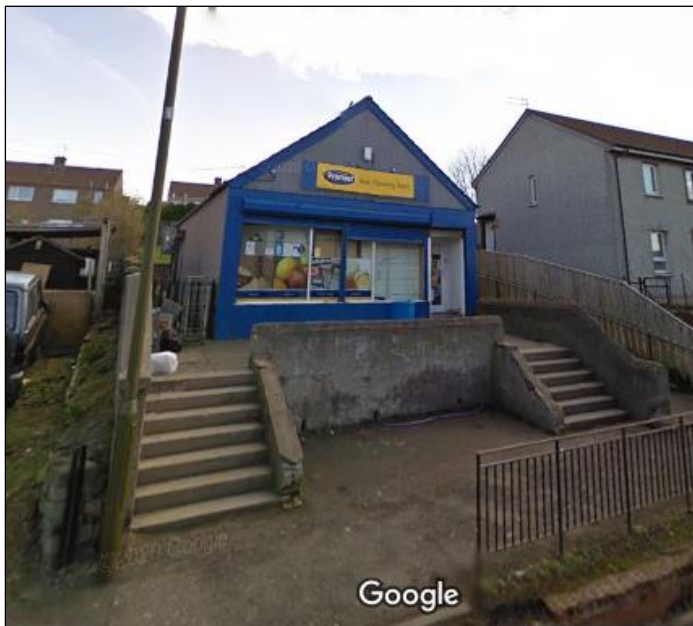
Large retail Unit with good double window frontage and parking available to front

1,267sq ft

Advertised For Sale @
£198,000

AVAILABLE, very little interest.

103a Burnside Road, Gorebridge



Agent - DM Hall

Recently removed from being LISTED

41 Main Street, Gorebridge (THE SUBJECTS)



Agent: Abbey Forth

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

Advertised @ £12,000 pa

105 sq m (£114.28 per sq m)

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

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

Design and Access Statement

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

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

Proposed Development Details

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

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

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

In addition, the following works are proposed:

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

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

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

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

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

The proposals do not affect the existing front elevation.

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



Existing Pigeon Holes



Existing Fire Place (retained in ground floor kitchen)

Sun Path Analysis

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

Spring Equinox



21st March @ 08.00 hrs – Existing



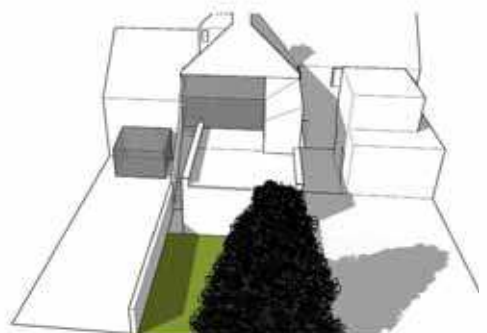
21st March @ 08.00 hrs - Proposed



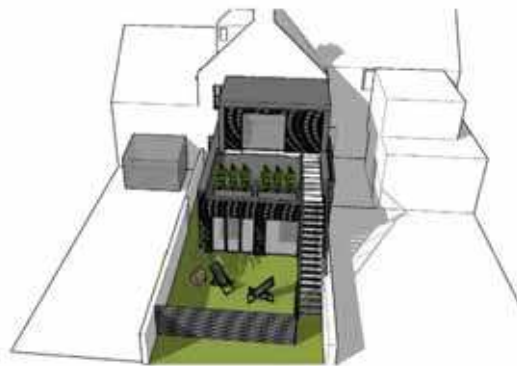
21st March @ 10.00 hrs – Existing



21st March @ 10.00 hrs - Proposed



21st March @ 12.00 hrs – Existing



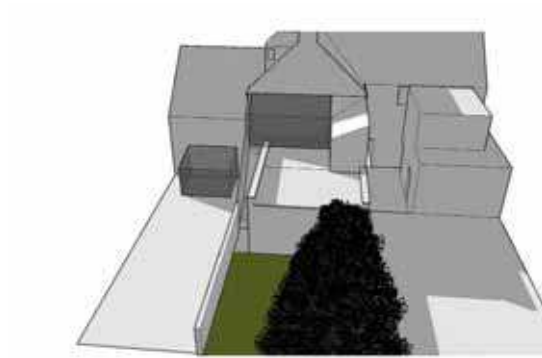
21st March @ 12.00 hrs - Proposed



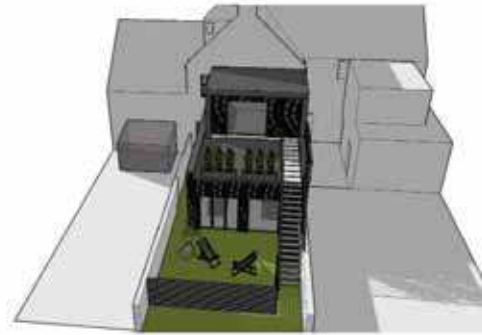
21st March @ 14.00 hrs – Existing



21st March @ 14.00 hrs - Proposed



21st March @ 16.00 hrs – Existing



21st March @ 16.00 hrs – Proposed

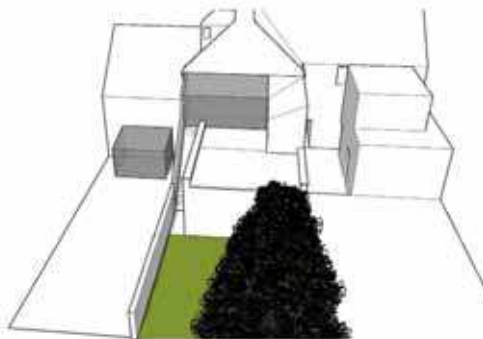
Summer Equinox



21st June @ 08.00 hrs – Existing



21st June @ 08.00 hrs - Proposed



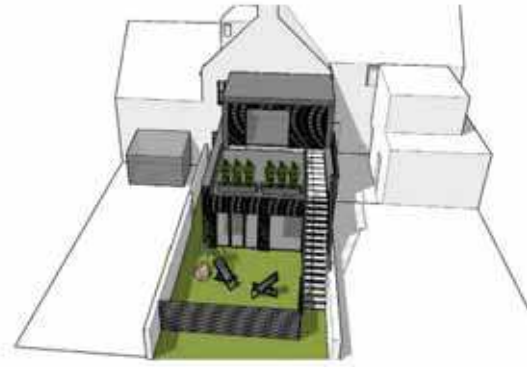
21st June @ 10.00 hrs – Existing



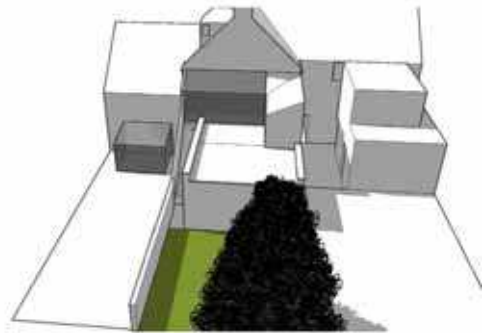
21st June @ 10.00 hrs - Proposed



21st June @ 12.00 hrs – Existing



21st June @ 12.00 hrs - Proposed



21st June @ 14.00 hrs – Existing



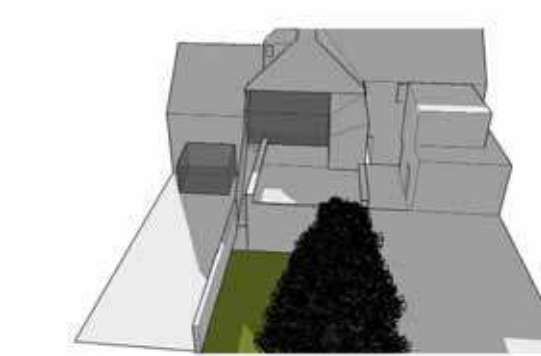
21st June @ 14.00 hrs - Proposed



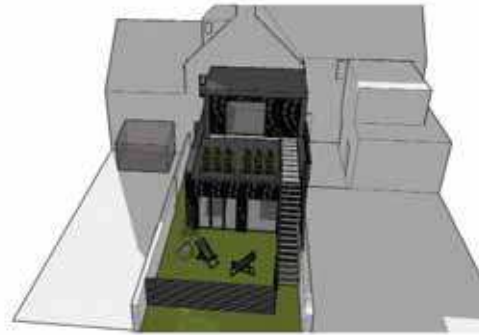
21st June @ 16.00 hrs – Existing



21st June @ 16.00 hrs – Proposed



21st June @ 18.00 hrs – Existing



21st June @ 18.00 hrs - Proposed

Building Design

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

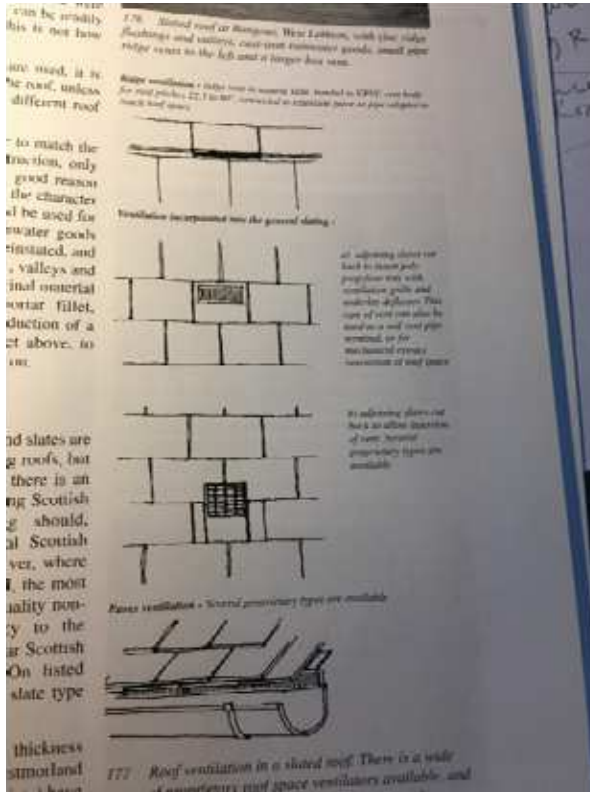


Example of cedar rainscreen cladding

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

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

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



➤ UB11 Vepac Roof Ventilating Slate



Design & Performance

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

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

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

Material

UV stabilised high impact polystyrene

Colour

Anthracite

Site Access

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

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

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

Previous Changes to Retail Units



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



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



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



Illustration 4: Stone infill to doorway



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



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



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



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

eskbank design studio ltd

Summary

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

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

MIDLOTHIAN COUNCIL

DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

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

Site Address: 41-43 Main Street, Gorebridge.

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

Proposed Development:

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

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

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

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

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

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

The following works are also proposed:

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

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

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

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

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

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

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

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

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

45A Main Street

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

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

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

Consultations:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Change of use

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

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

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

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

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

Internal alterations

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

Extension and external alterations

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Amenities to the flats

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

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

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

Other matters not addressed above

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

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

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

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

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

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

Conclusion

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

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

Recommendation: Refuse planning permission and grant listed building consent.

Reg. No. 19/01022/DPP

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

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

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

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

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

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

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

Dated 7 / 2 / 2020

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

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



**The Coal
Authority**

Any Planning Enquiries should be directed to:

Planning and Local Authority Liaison

Direct Telephone: 01623 637 119

Email: planningconsultation@coal.gov.uk

Website:

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

INFORMATIVE NOTE

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

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

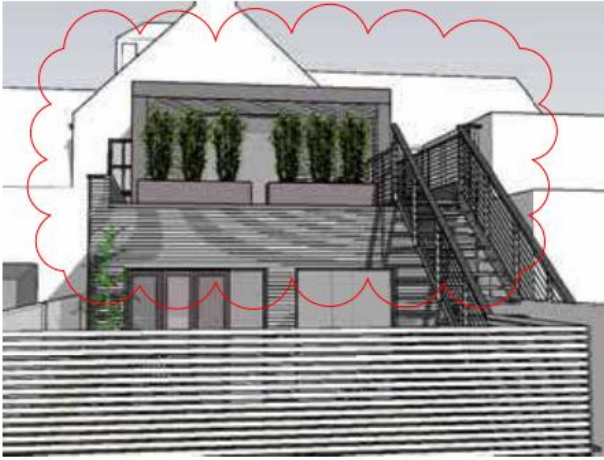
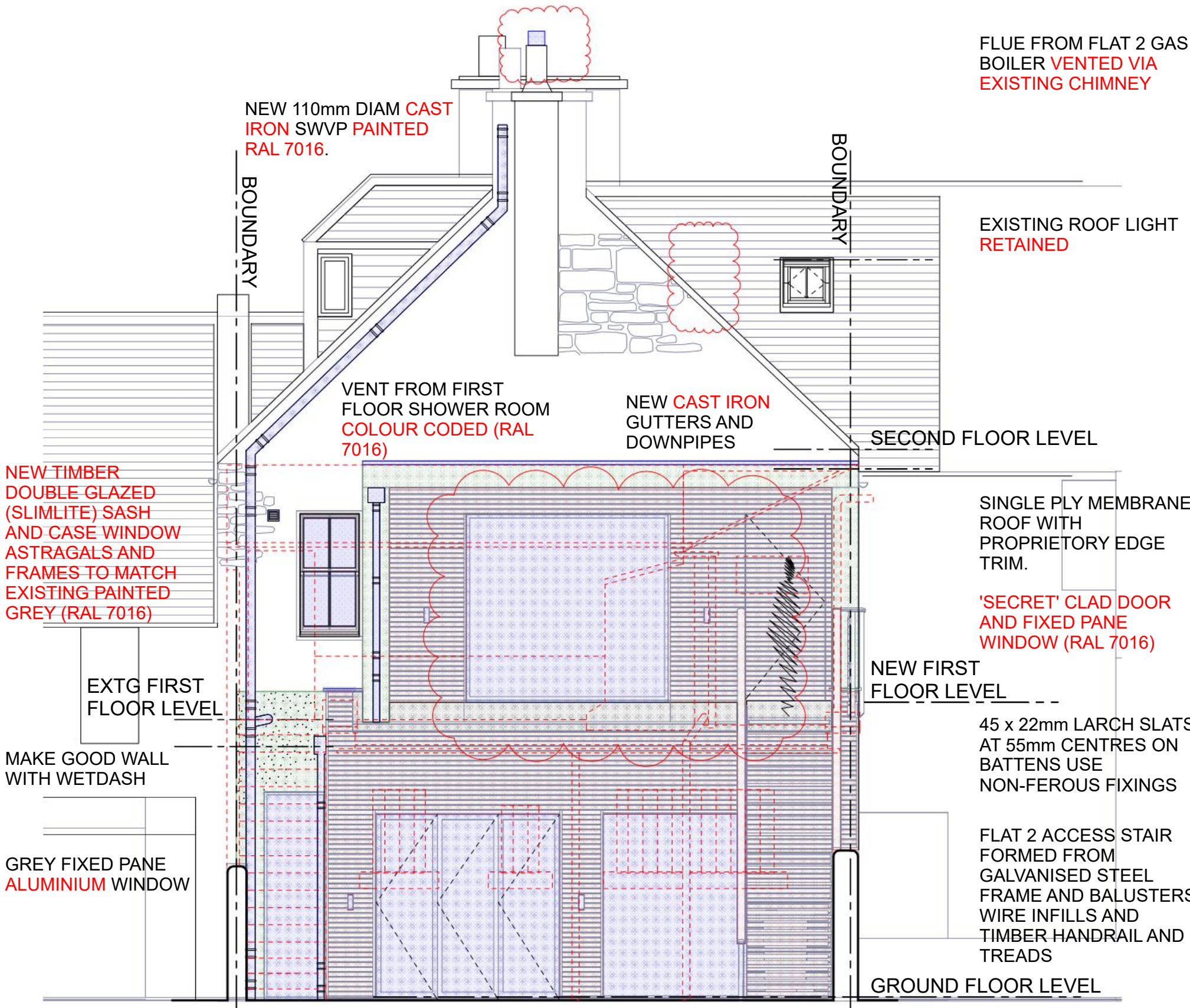
<https://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries>

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

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

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

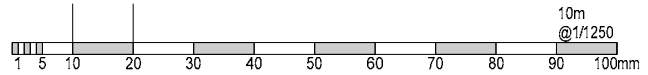
This Informative Note is valid from 1st January 2019 until 31st December 2020



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

PROPOSED REAR (SOUTH EAST) ELEVATION			
PROPOSED CHANGE OF USE AND ALTERATIONS			
41-43 MAIN STREET, GOREBRIDGE, MIDLOTHIAN. EH23 4BX			
FOR Mr. DAVID KLAN			
DATE: MAR 2019	SCALE: 1:50	DRWN:CD	DRG. No:1906/10A

SCALE
BAR



LOCATION PLAN 1:1250

REVISIONS:

LOCATION PLAN

PROPOSED CHANGE OF USE AND ALTERATIONS

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

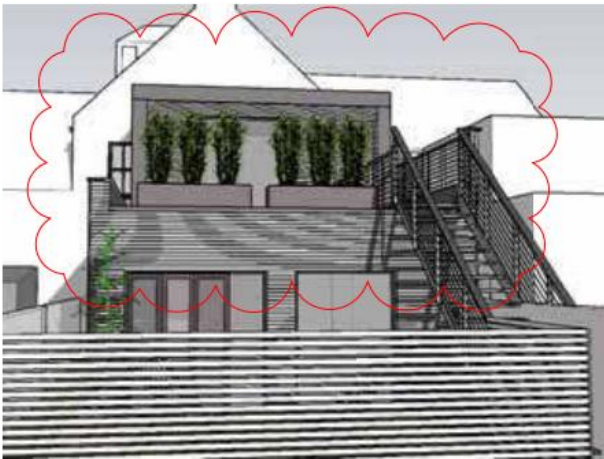
FOR Mr. DAVID KLAN

DATE: DEC 2019 SCALE: 1:1250

DRWN:CD

DRG. No:1906/13

A4



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

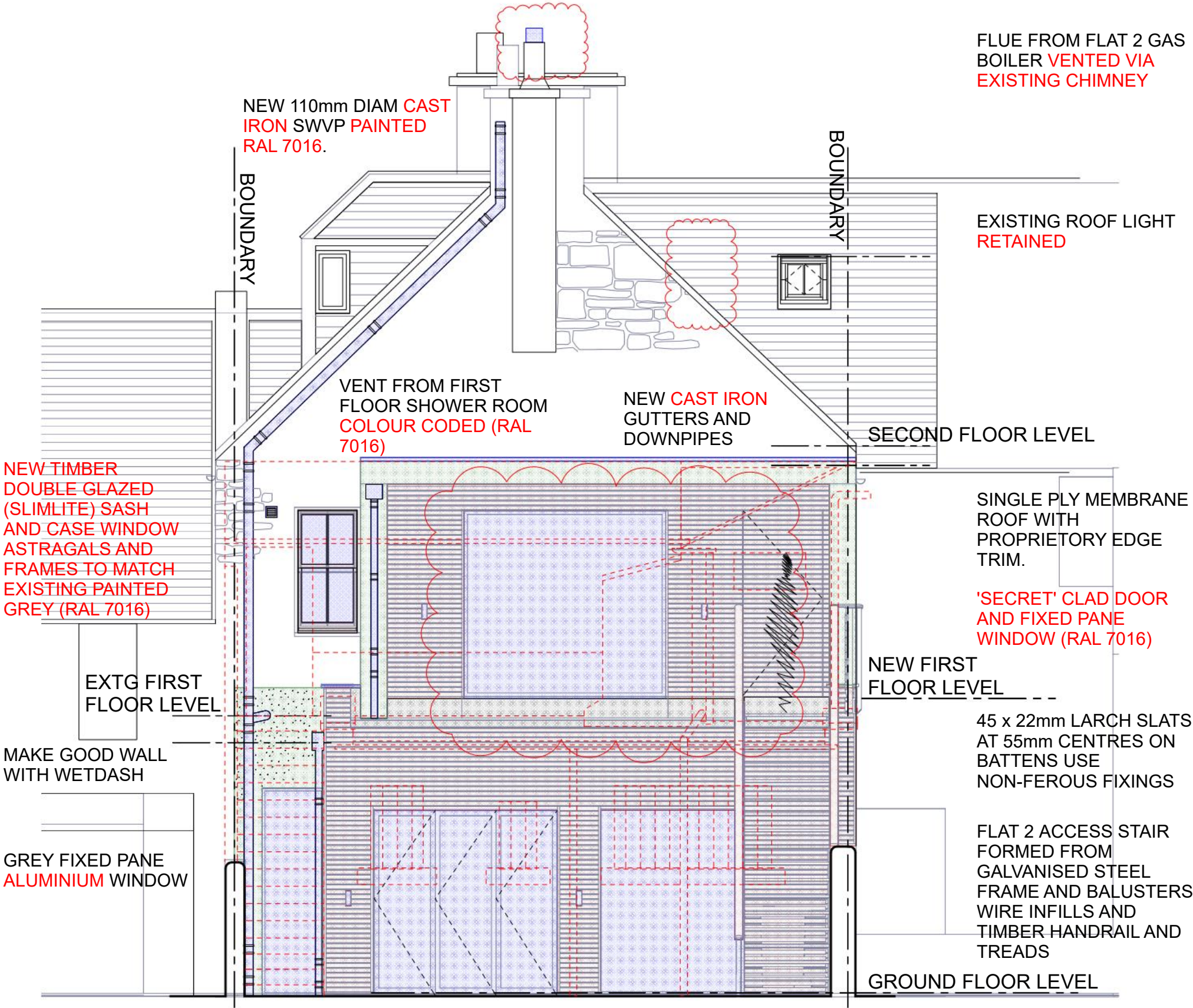
PROPOSED REAR (SOUTH EAST) ELEVATION

PROPOSED CHANGE OF USE AND ALTERATIONS

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

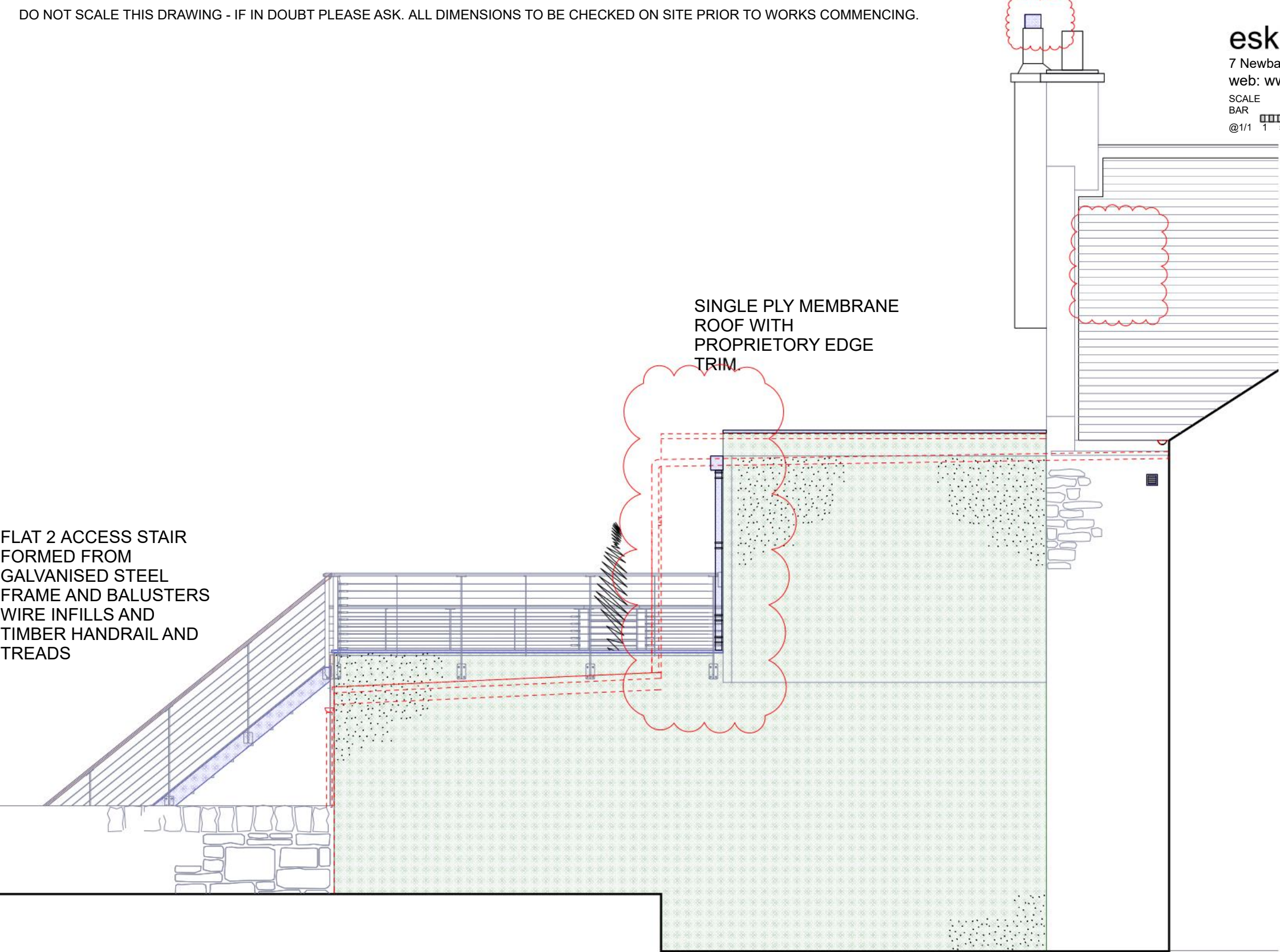
FOR Mr. DAVID KLAN

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

REMOVALS SHOWN
DOTTED RED



PROPOSED SIDE (NORTH EAST) ELEVATION 1:50

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

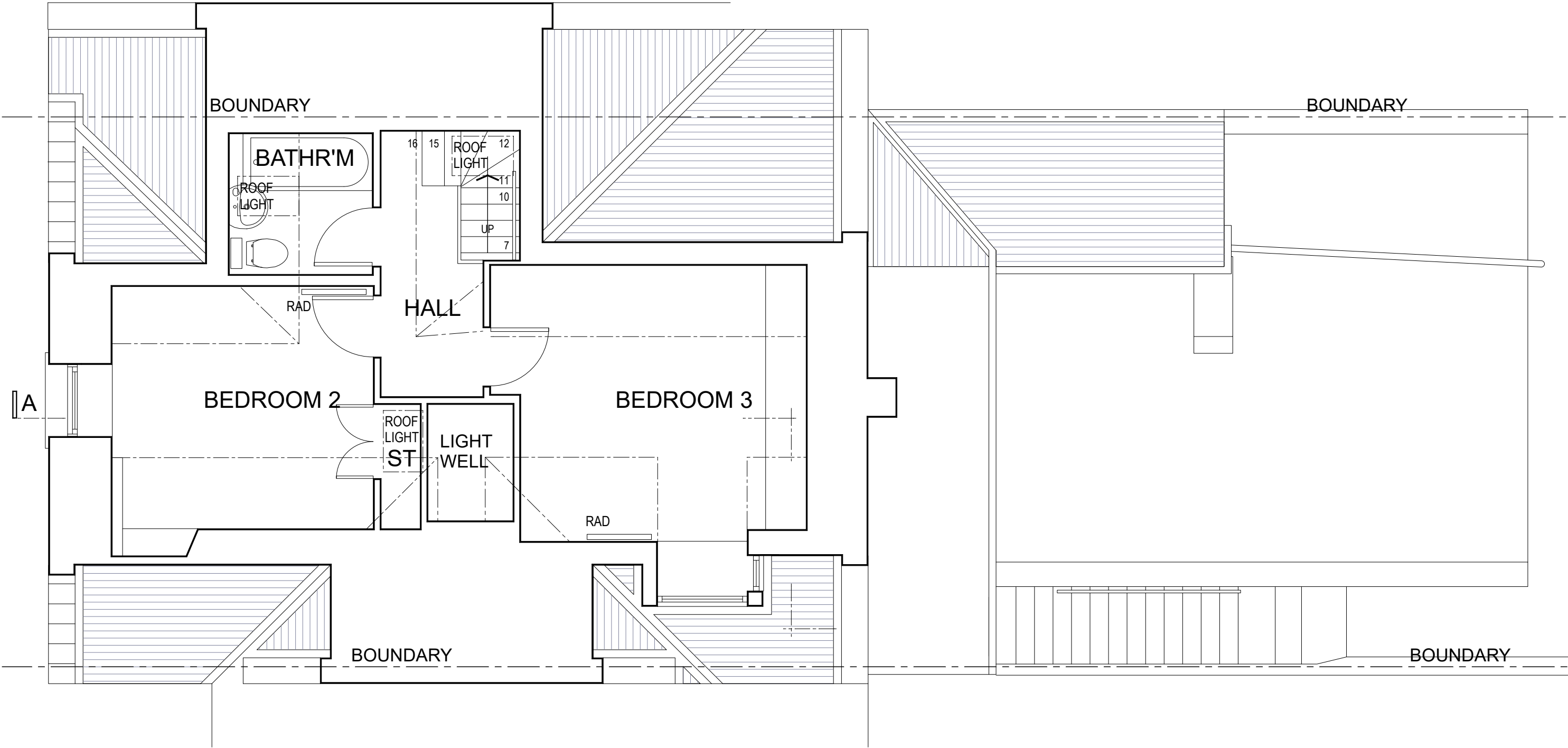
PROPOSED SIDE (NORTH EAST) ELEVATION

PROPOSED CHANGE OF USE AND ALTERATIONS

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

FOR Mr. DAVID KLAN

DATE: MAR 2019	SCALE: 1:50	DRWN:CD	DRG. No:1906/11A
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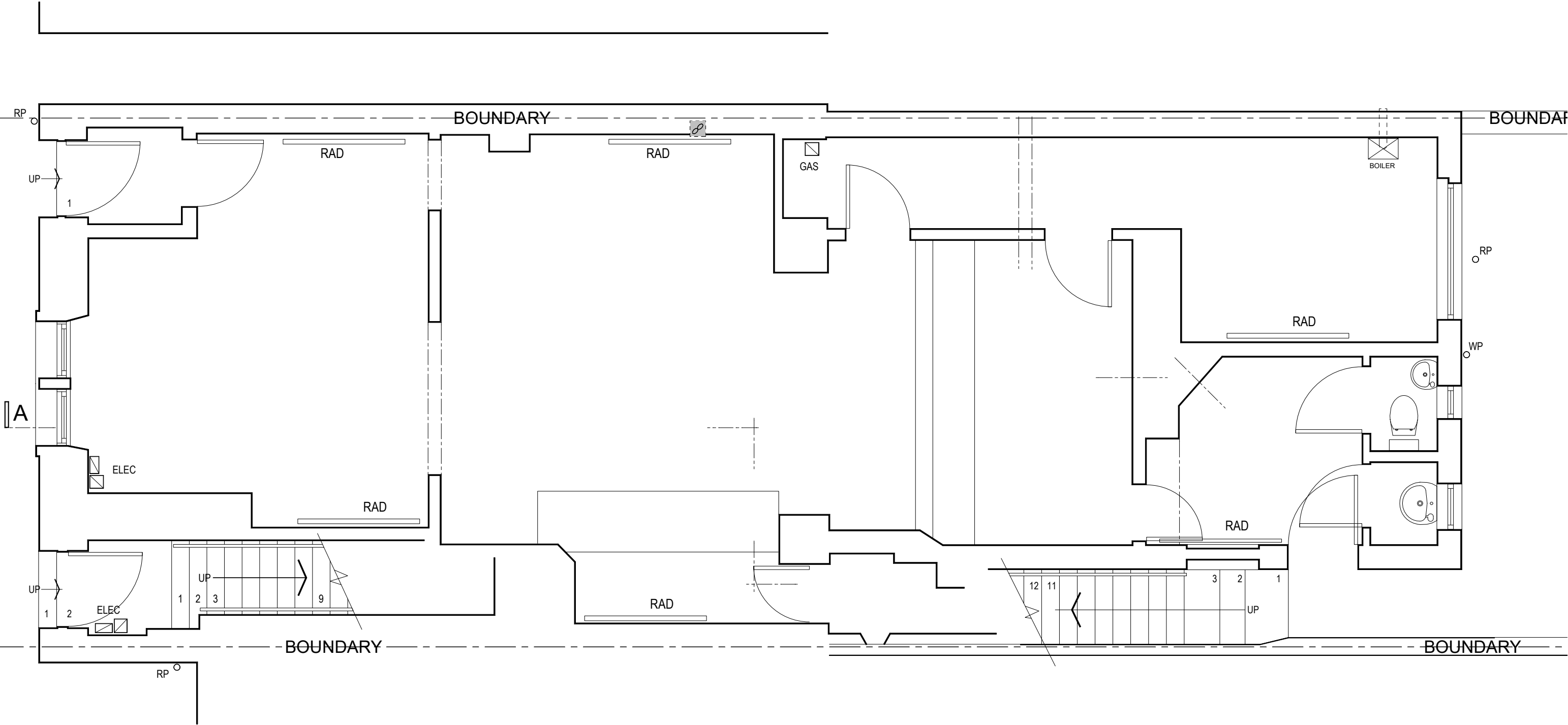


EXISTING SECOND FLOOR PLAN 1:50

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

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

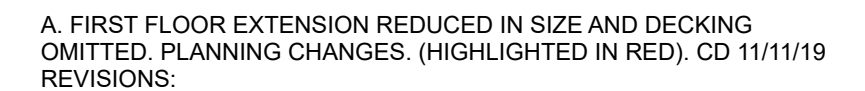
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EXISTING GROUND FLOOR PLAN 1:50

A3

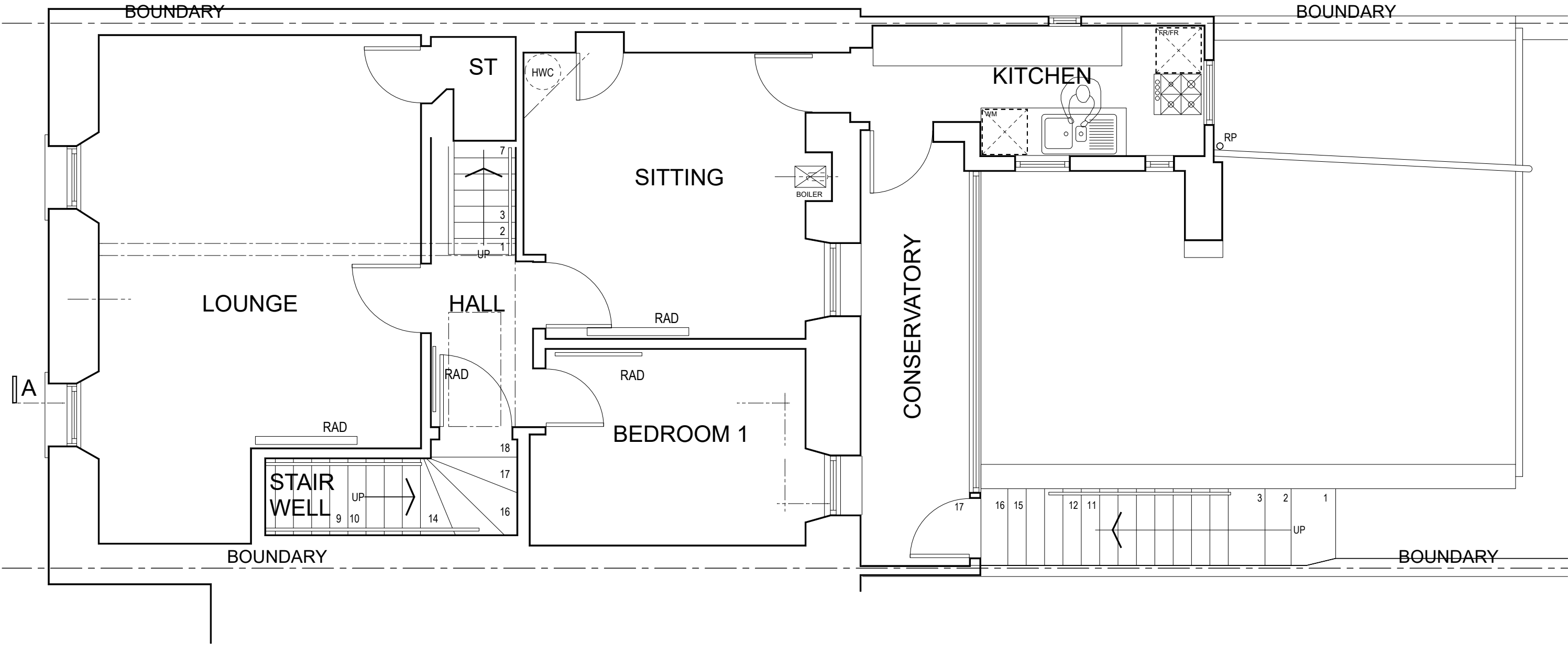
REVISIONS:			
EXISTING GROUND FLOOR PLAN			
PROPOSED CHANGE OF USE AND ALTERATIONS			
41-43 MAIN STREET, GOREBRIDGE, MIDLOTHIAN. EH23 4BX			
FOR Mr. DAVID KLAN			
DATE: FEB 2019	SCALE: 1:50	DRWN:CD	DRG. No:1906/01



PROPOSED CHANGE OF USE AND ALTERATIONS

FOR Mr. DAVID KLAN

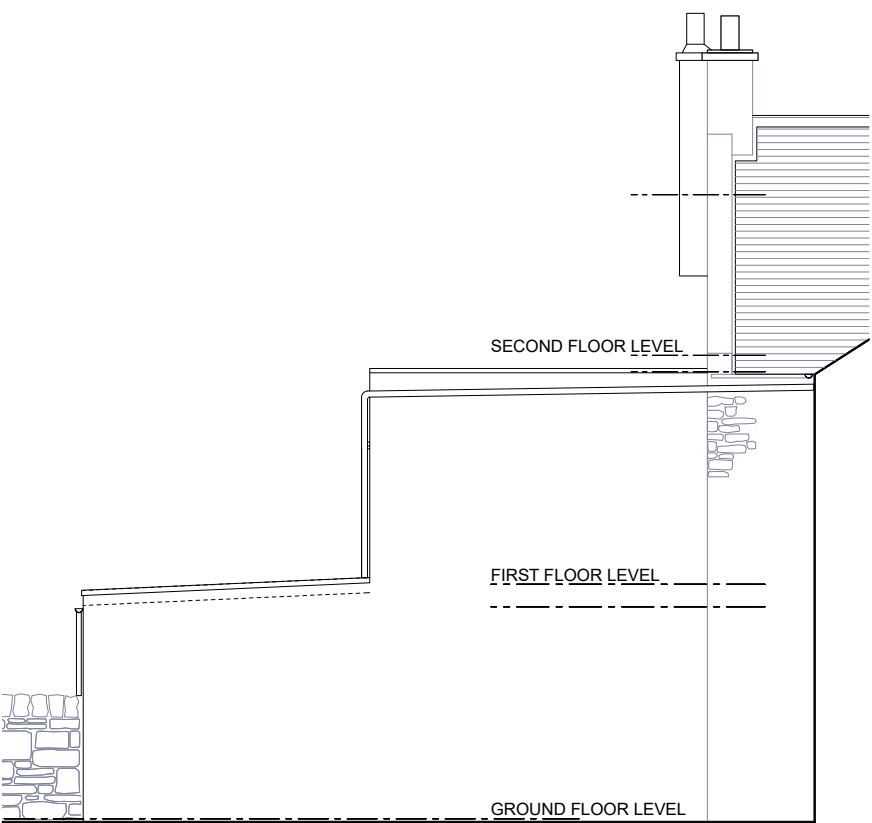
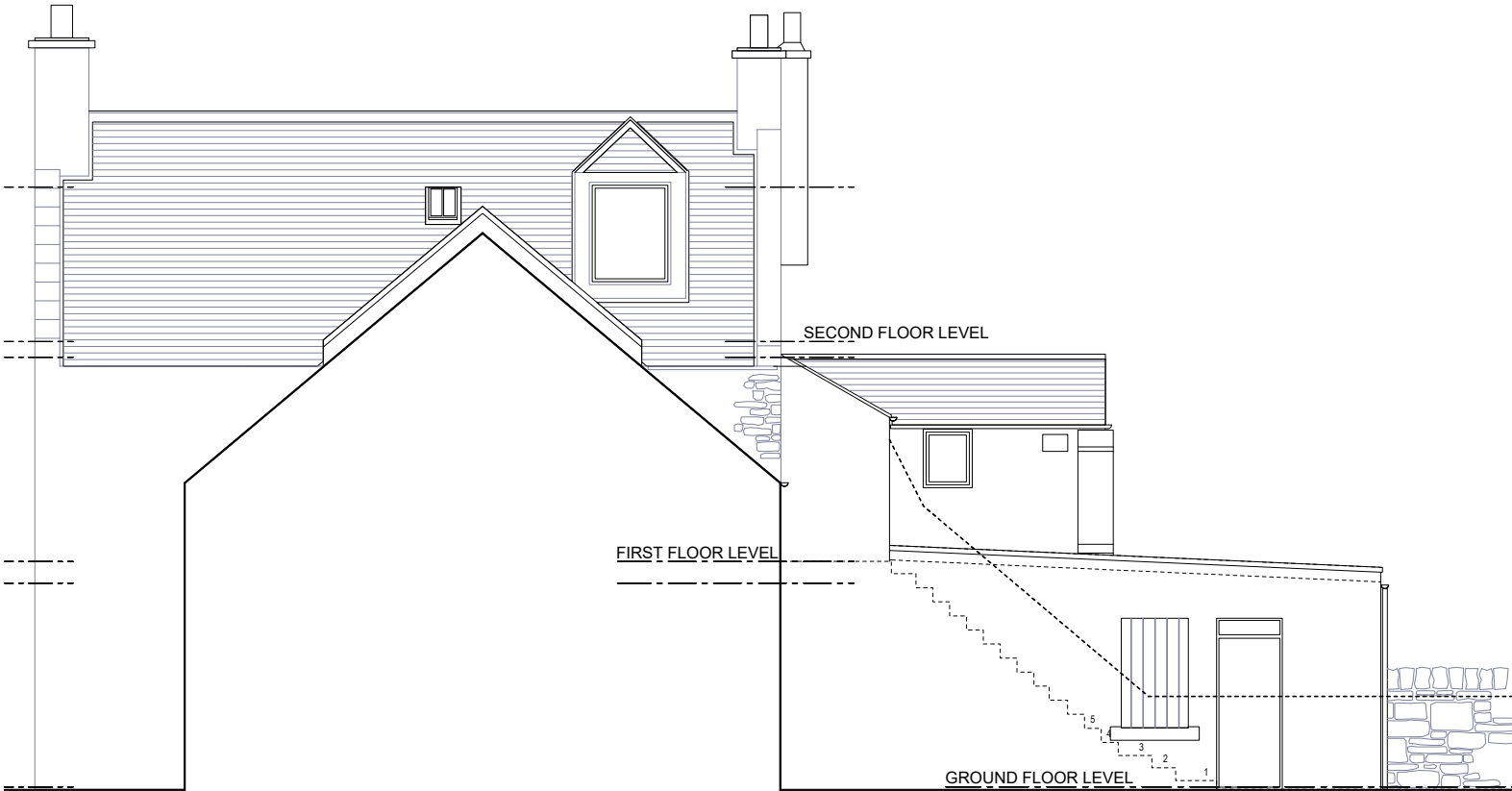
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EXISTING FIRST FLOOR PLAN 1:50

A3

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

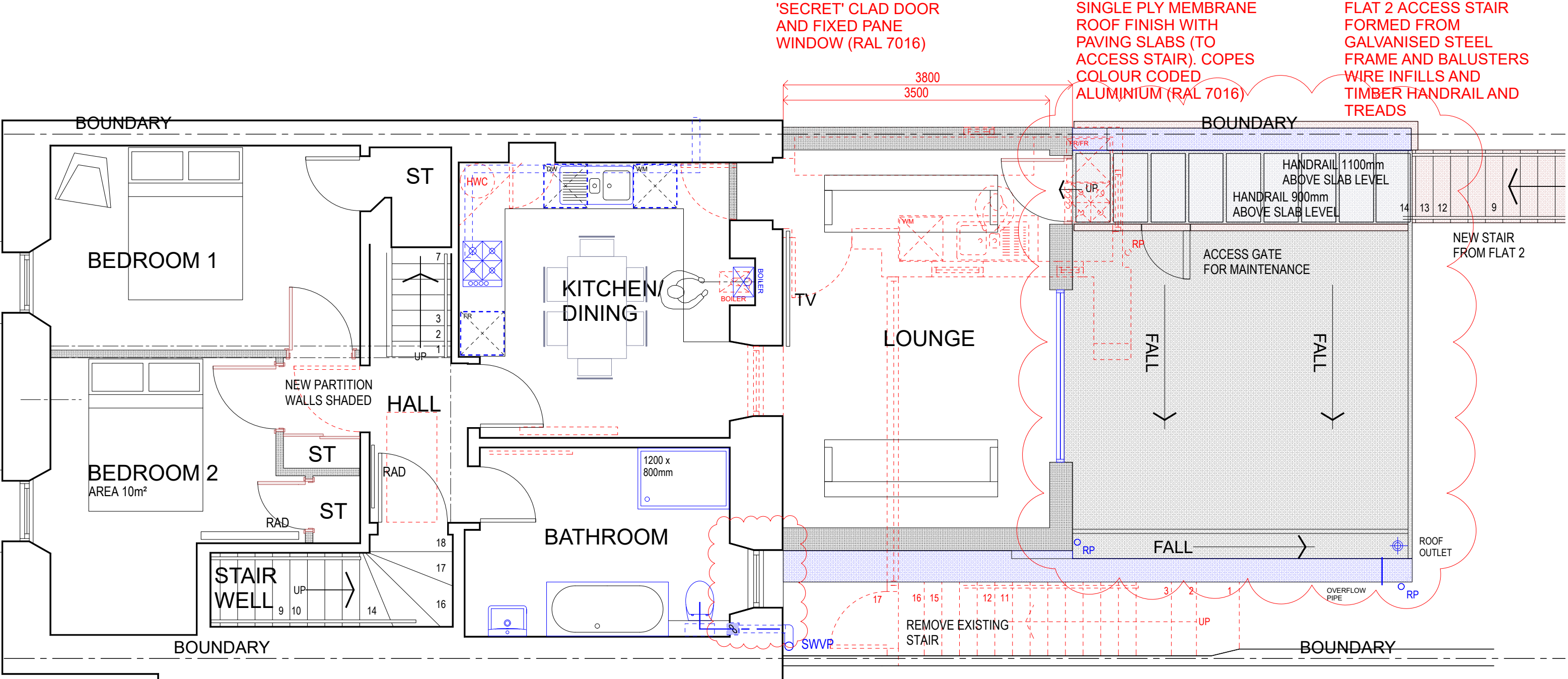


EXISTING SIDE (SOUTH WEST) ELEVATION 1:100

EXISTING SIDE (NORTH EAST) ELEVATION 1:100



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



PROPOSED FIRST FLOOR PLAN 1:50

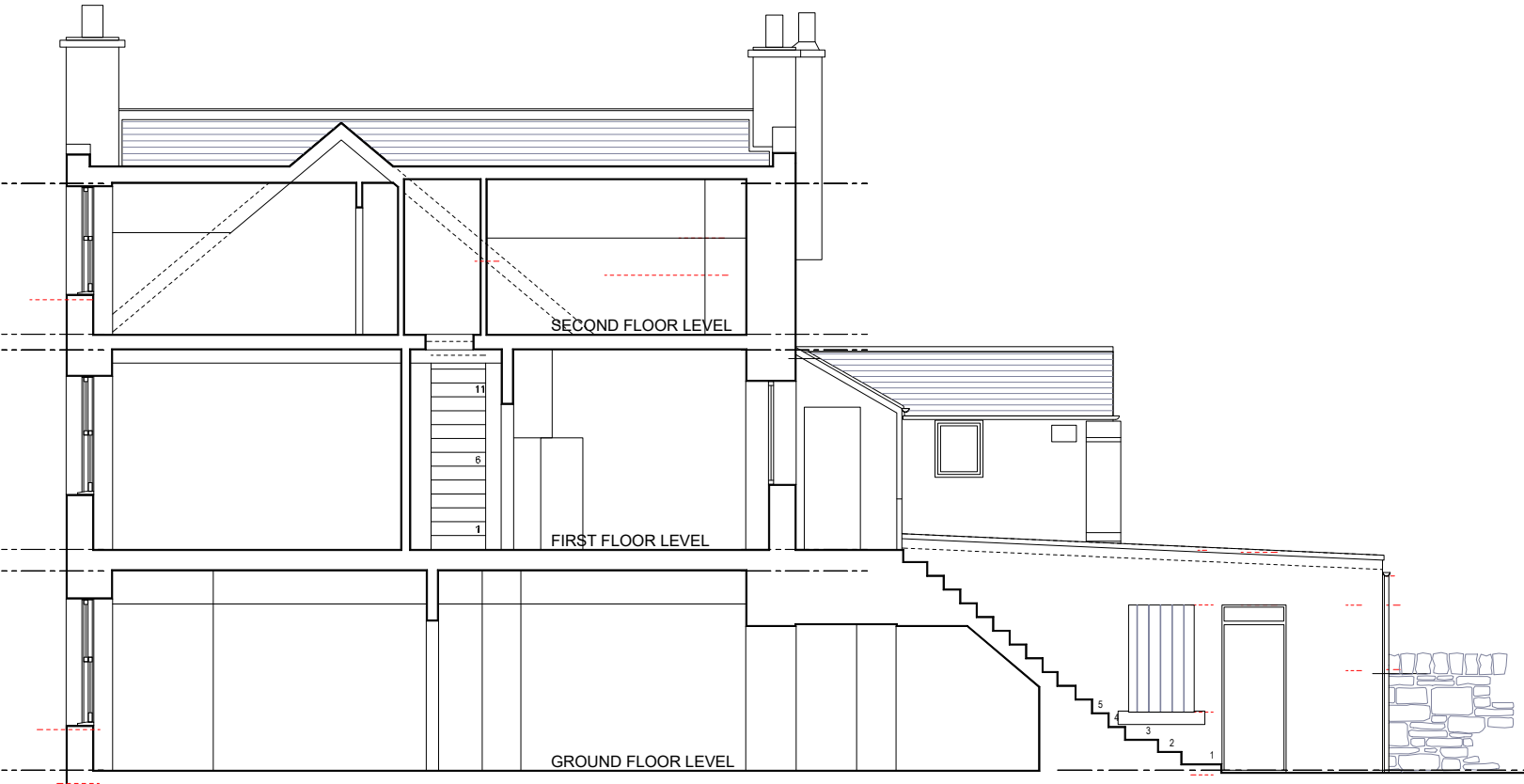
REMOVALS SHOWN
DOTTED RED

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

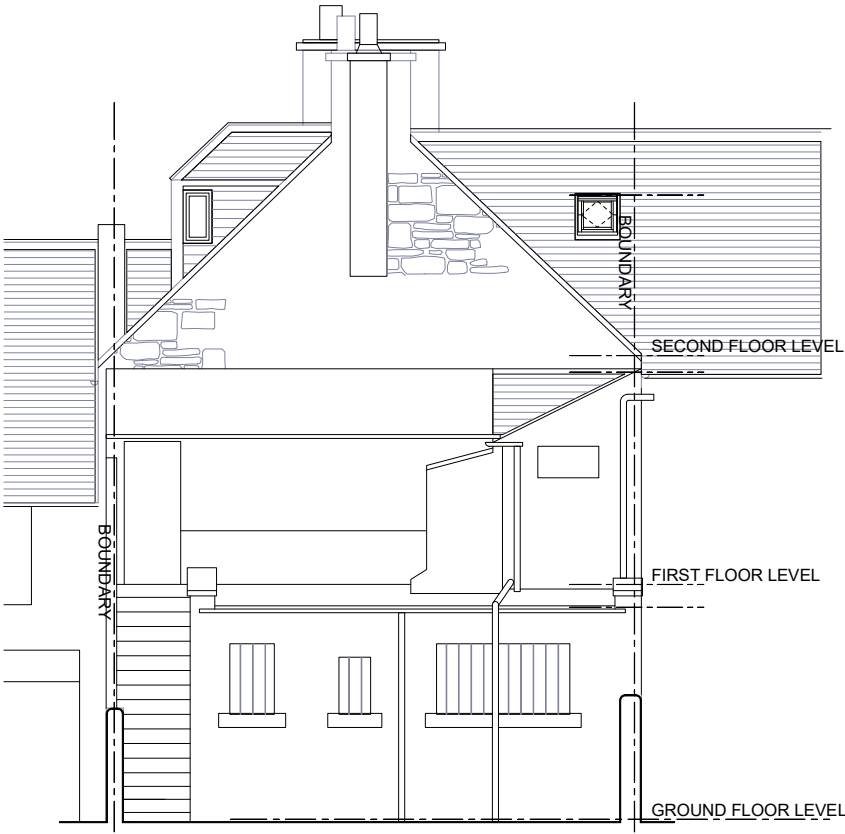
GALVANISED STEEL
LOUVRE FROM FIRST
FLOOR BATHROOM AND
KITCHEN EXTRACT
DUCTS

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

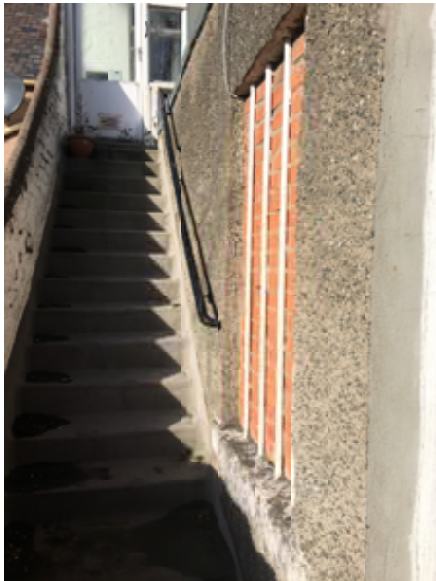
PROPOSED FIRST FLOOR PLAN			
PROPOSED CHANGE OF USE AND ALTERATIONS			
41-43 MAIN STREET, GOREBRIDGE, MIDLOTHIAN. EH23 4BX			
FOR Mr. DAVID KLAN			
DATE: FEB 2019	SCALE: 1:50	DRWN:CD	DRG. No:1906/07A



EXISTING SECTION A-A 1:100



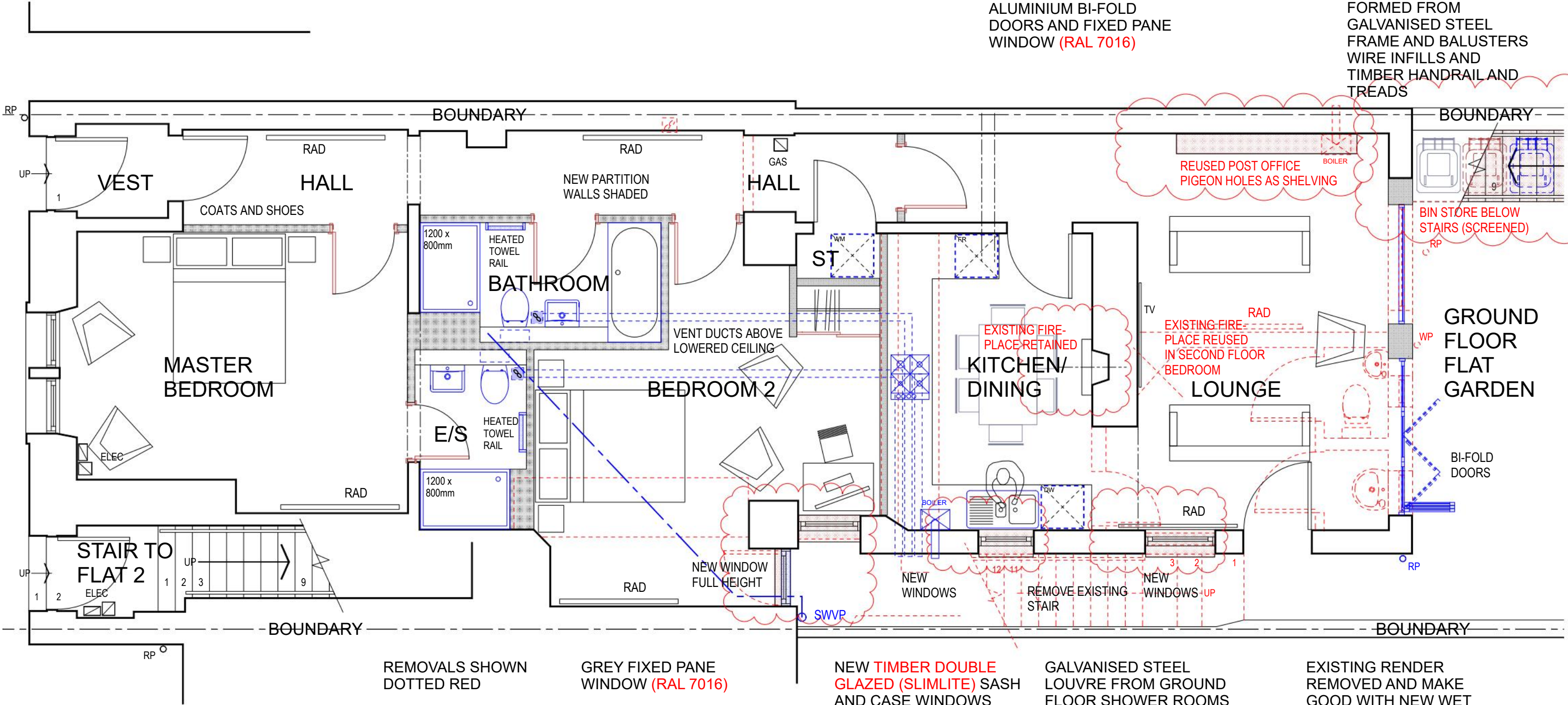
EXISTING REAR (SOUTH EAST) ELEVATION 1:100



REVISIONS:			
EXISTING SECTION A-A AND REAR ELEVATION			
PROPOSED CHANGE OF USE AND ALTERATIONS			
41-43 MAIN STREET, GOREBRIDGE, MIDLOTHIAN. EH23 4BX			
FOR Mr. DAVID KLAN			
DATE: MAR 2019	SCALE: 1:100	DRWN:CD	DRG. No:1906/04

GREY DOUBLE GLAZED
ALUMINIUM BI-FOLD
DOORS AND FIXED PANE
WINDOW (RAL 7016)

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



PROPOSED GROUND FLOOR PLAN 1:50

A3

A. FIRST FLOOR EXTENSION REDUCED IN SIZE AND DECKING OMITTED. PLANNING CHANGES. (HIGHLIGHTED IN RED). CD 11/11/19 REVISIONS:			
PROPOSED GROUND FLOOR PLAN			
PROPOSED CHANGE OF USE AND ALTERATIONS			
41-43 MAIN STREET, GOREBRIDGE, MIDLOTHIAN. EH23 4BX			
FOR Mr. DAVID KLAN			
DATE: FEB 2019	SCALE: 1:50	DRWN:CD	DRG. No:1906/06A



A3

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

PROPOSED SECOND FLOOR PLAN

PROPOSED CHANGE OF USE AND ALTERATIONS

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

FOR Mr. DAVID KLAN

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