

Notice of Review: Land at 1A Kirkhill Terrace, Gorebridge Determination Report

Report by Dr Mary Smith Director of Education, Communities and Economy

1 Purpose of Report

- 1.1 The purpose of this report is to provide a framework for the Local Review Body (LRB) to consider a 'Notice of Review' for the erection of an industrial building at land at 1A Kirkhill Terrace, Gorebridge.

2 Background

- 2.1 Planning application 19/00336/DPP for the erection of an industrial building at land at 1A Kirkhill Terrace, Gorebridge was refused planning permission on 27 May 2019; 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 advisor notes, issued on 27 May 2019 (Appendix D); and
 - A copy of the relevant plans (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 scheduled a site visit for Tuesday 10 September 2019; and
 - Have determined to progress the review by way of written submissions.
- 4.2 The case officer's report identified that one consultation response was received. There were no representations received. As part of the review process the interested party was notified of the review. No additional comments have been received. All the comments can be viewed online on the electronic planning application/review case file.
- 4.3 The next stage in the process is for the LRB to determine the review in accordance with the agreed procedure:
- Identify any provisions of the development plan which are relevant to the decision;
 - Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies;
 - Consider whether or not the proposal accords with the development plan;
 - Identify and consider relevant material considerations for and against the proposal;
 - Assess whether these considerations warrant a departure from the development plan; and
 - State the reason/s for the decision and state any conditions required if planning permission is granted.
- 4.4 In reaching a decision on the case the planning advisor can advise on appropriate phraseology and on appropriate planning reasons for reaching a decision.
- 4.5 Following the determination of the review the planning advisor will prepare a decision notice for issuing through the Chair of the LRB. A copy of the decision notice will be reported to the next LRB for noting.
- 4.6 A copy of the LRB decision will be placed on the planning authority's planning register and made available for inspection online.

5 Conditions

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

1. Prior to the commencement of development, the following details shall be submitted to and approved in writing by the Planning Authority:
 - a) Details of the colour of the walls of the building;
 - b) Details of the design, materials, dimensions, finish and position of all walls, fences, gates or other means of enclosure;

Reason: *These details were not submitted as part of the application: to ensure the building is finished in high quality materials; to protect the visual amenity of the surrounding area and*

adjacent conservation area, designed landscape and special landscape area to help integrate the proposal into the surrounding area.

2. The use hereby permitted shall not open to the public outwith the following hours:

Mondays to Fridays: 8am to 6pm
Saturdays: 8am to 1pm

Reason: *To protect the character and amenity of the surrounding area and the occupants of nearby residential properties.*

3. The building hereby permitted shall be used for the purposes within Classes 4 (business) or 5 (general industrial) of the Schedule to the Town and Country Planning (Use Classes) (Scotland) Order 1997 (or any Order revoking and re-enacting that Order).

Reason: *In the interests of clarity; to confirm the approved uses of the building.*

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: 3 September 2019

Report Contact: Joyce Learmonth, Lead Officer Major Developments and Enforcement
joyce.learmonth@midlothian.gov.uk

Tel No: 0131 271 3311

Background Papers: Planning application 19/00336/DPP available for inspection online.



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

Erection of industrial building at Land At 1A Kirkhill
Terrace, Gorebridge

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File Nos. 19/00336/DPP

Scale: 1:1,250

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Midlothian



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 100161234-003

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

Applicant or Agent Details

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

☐ Applicant ☒ Agent

Agent Details

Please enter Agent details

Company/Organisation:	<input type="text" value="Liston Architects"/>		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	<input type="text" value="David"/>	Building Name:	<input type="text" value="3F2"/>
Last Name: *	<input type="text" value="Liston"/>	Building Number:	<input type="text" value="33"/>
Telephone Number: *	<input type="text" value="0131 556 5757"/>	Address 1 (Street): *	<input type="text" value="London 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="UK"/>
		Postcode: *	<input type="text" value="EH3 6LY"/>
Email Address: *	<input type="text" value="david@listonarchitects.co.uk"/>		

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

☒ Individual ☐ Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	Mr	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	
First Name: *	Eddie	Building Number:	1A
Last Name: *	Conroy	Address 1 (Street): *	Kirkhill Terrace
Company/Organisation		Address 2:	
Telephone Number: *		Town/City: *	Edinburgh
Extension Number:		Country: *	UK
Mobile Number:		Postcode: *	EH23 4LL
Fax Number:			
Email Address: *			

Site Address Details

Planning Authority:	Midlothian Council
Full postal address of the site (including postcode where available):	
Address 1:	1A KIRKHILL TERRACE
Address 2:	
Address 3:	
Address 4:	
Address 5:	
Town/City/Settlement:	GOREBRIDGE
Post Code:	EH23 4LL

Please identify/describe the location of the **site** or sites

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Northing	662106	Easting	333507
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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)

Construct industrial unit annex to existing house

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.

The proposed industrial unit is for storage only, including a motorhome 8m long 3m high. The unit is an annex to the applicant's house. The council advised the side road (Engine Road) is to be blocked off ca. 60 metres from the A7 junction, beyond the proposed storage unit site. The site is set well back from the main road and hidden between the applicant's house and a steep, wooded bank. It sits well below the level of the closest house. Pedestrian traffic down Engine Road is very rare.

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)

1908_C_001_Location Plan 1908_C_002_Site Plan 1908_C_100_Proposed Plan and Elevations View from A7 looking up Engine Road which is to be blocked

Application Details

Please provide details of the application and decision.

What is the application reference number? *

19/00336/DPP

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

19/04/2019

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

27/05/2019

Review Procedure

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

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

☒ Yes ☐ No

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

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

☒ Yes ☐ No

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

☒ Yes ☐ No

Checklist – Application for Notice of Review

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

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

☒ Yes ☐ No

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

☒ Yes ☐ No

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

☒ Yes ☐ No ☐ N/A

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

☒ Yes ☐ No

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

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

☒ Yes ☐ No

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

Declare – Notice of Review

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

Declaration Name: Mr David Liston

Declaration Date: 05/06/2019

MIDLOTHIAN COUNCIL

DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

Planning Application Reference: 19/00336/DPP

Site Address: Land at 1A Kirkhill Terrace, Gorebridge.

Site Description: The application site comprises a large detached dwellinghouse, garage, associated garden ground and part of an existing track outwith the curtilage of the house plot. There are houses to the north, recently erected houses to the north east with the track to the east, woodland to the south and countryside and a C listed lodge house to the west. The area to the west has been allocated as housing land. The track can accommodate service vehicles but appears to be used by pedestrians to an area of open space to the east. The track slopes down slightly from east to west. The site is adjacent to the Temple and Arniston Conservation Area, the Arniston Designed Landscape and a special landscape area.

Proposed Development: Erection of industrial building.

Proposed Development Details: The industrial building is to be sited on the track to the south of the house. The building is proposed to measure 11 metres long by 4.2 metres wide with a pitched roof, a maximum of 4.4 metres high, built onto the existing garden boundary wall. The walls and roof are to be green painted profile metal cladding, with four rooflights, and the building is to be sited on a concrete plinth, which is 1.5 metres from the site boundary. The application form states that the industrial building is an annexe to the existing house.

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

Application site

10/00261/DPP Extension to dwellinghouse and formation of ridged roof over existing flat roofed garage. Consent with conditions.

Land to east and north east

12/00272/DPP Erection of 8 dwellinghouses (amendment to the scheme of development approved in terms of Planning Permission 11/00679/DPP). Consent with conditions.

11/00679/DPP Erection of 28 dwellinghouses and associated work on part of Site S (amendment to the scheme of development the subject of planning application 07/00352/FUL). Consent with conditions.

07/00352/FUL Erection of 351 dwellinghouses and 192 Flats, roundabout access from A7 and Greenhall Road, open space, SUDS ponds and a site for a primary school. Consent with conditions.

04/00318/OUT Residential development with educational facilities, play and sports facilities, landscaping, internal roads, car parking and accesses. Withdrawn.

Land to west

14/00210/PAC Mixed use development including: erection of approximately 700 dwellinghouses; erection of primary school; formation of access roads; redevelopment of farm steading to include farm shop, business units and cafe; and provision of community services. Permitted.

15/00045/PPP Application for planning permission in principle for residential development; community facilities; primary school; playing field; office units (Class 4); farm shop (Class 1); cafe (Class 3) and rail halt with associated car parking; public open space; roads and drainage infrastructure. Consent with conditions.

Consultations:

The **Policy and Road Safety Manager (PRSM)** has road safety concerns. They state that proposed industrial unit has no staff or customer parking identified to serve it and no HGV turning areas to accommodate any deliveries which may be required. As part of the nearby residential development this section of track is to be converted from a public road to a cycleway/footpath which will increase the number of cyclists and pedestrians using it. The PRSM states that this does not appear to be a good location for an industrial development.

Representations: No representations were received.

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;

ECON4 Economic Development Outwith Established Business and Industrial Sites states that business and industrial proposals (class 4 and 5) within the defined urban area but outwith existing or allocated business and industrial sites will be supported if: it is demonstrated that there is no suitable alternative site available within established economic sites; the site is not identified for alternative use; the proposed development would be compatible with surrounding uses and there would be no adverse impact on local and, in particular, residential amenity as a result of development; the layout and design of buildings would be appropriate to the character of the site and surrounding area; and the transport impact of the proposal would be acceptable. The Council will give support to proposals that reuse brownfield or vacant of derelict land as opposed to greenfield locations;

ECON6 Working from Home/Micro Businesses states that home-based business operations will be supported where they accord with all relevant policies and proposals and the following criteria are met: the business can be conducted without detriment to local residents with regard to noise, disturbance, traffic movement, visual intrusion and other forms of pollution; suitable access, parking and services are available; and the proposal does not include any retail use. Permission will be subject to appropriate conditions and, where necessary, legal agreements, to prevent any intensification of business use which may result in problems for the

surrounding area. In exceptional circumstances, planning permission may be made personal to a particular applicant, because of the specific circumstances of his/her proposed business use;

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; and

ENV18 Noise states that the Council will seek to prevent noisy developments from damaging residential amenity or disturbing noise sensitive uses. Where new developments with the potential to create significant noise are proposed, these may be refused or required to be modified so that no unacceptable impact at sensitive receptors is generated. Applicants may be required to carry out a noise impact assessment either as part of an Environmental Impact Assessment or separately. Where new noise sensitive uses are proposed in the locality of existing noisy uses, the Council will seek to ensure that the function of the established operation is not adversely affected.

The application site is adjacent to areas covered by the following policies:

ENV6 Special Landscape Areas states development proposals in such areas will only be permitted where they incorporate high standards of siting and design and where they will not have a significant adverse effect on the special landscape qualities of the area;

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; and

ENV20 Nationally Important Gardens and Designed Landscapes states development should protect, and where appropriate enhance, gardens and designed landscapes. Development will not be permitted which would harm the character, appearance and/or setting of a garden or designed landscape.

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 proposal is for the erection of an industrial unit. No supporting information was submitted with the proposal, such as employment numbers, hours of operation, or the type of use the unit would be used for.

There is housing to the north and northeast. The erection of an industrial unit in such close proximity to this is likely to have a detrimental impact on the amenity of

these residents, though noise, disturbance and traffic. The area is generally residential in nature with a character commensurate with a transition area between the built up town and a rural area. The erection of an industrial unit would be at odds with the current character of the area.

It would be more appropriate to site an industrial building within one of the many areas zoned for such a use within Midlothian. It has not been demonstrated that there are no suitable alternative sites available within established economic sites to accommodate this use.

The building is large and would visually dominate the character of this part of the track to the east. The design and materials give the proposed building a very industrial appearance which is significantly at odds with the character of the surrounding area. The building is outwith the curtilage of the associated house and sited on the existing track, albeit on land under the ownership of the applicant. The combination of the design and position of the building is such that it is not appropriate to the character of the site and surrounding area, including the special landscape area and conservation area to the west.

There is no parking associated with the building, nor is there any turning areas proposed. The building does not appear to be adequately served in regards access.

The track to the south of the site is to be converted to a cycleway and footpath which will increase the number of cyclists and pedestrians using it. The provision of an industrial unit here would create further road safety issues with vehicles accessing the unit coming into conflict with the users of the track.

Recommendation: Refuse planning permission.



Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

Reg. No. 19/00336/DPP

Liston Architects
3F2
33 London Street
Edinburgh
EH3 6LY

Midlothian Council, as Planning Authority, having considered the application by Mr Edward Conroy, 1A Kirkhill Terrace, Gorebridge, EH23 4LL, which was registered on 19 April 2019 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

Erection of industrial building at Land At 1A, Kirkhill Terrace, Gorebridge

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

<u>Document/Drawing.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	1908_D_001 1:1000	16.04.2019
Site Plan	1908_C_002 1:100	16.04.2019
Elevations, Floor Plan And Cross Section	1908_C_100 1:50	16.04.2019

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

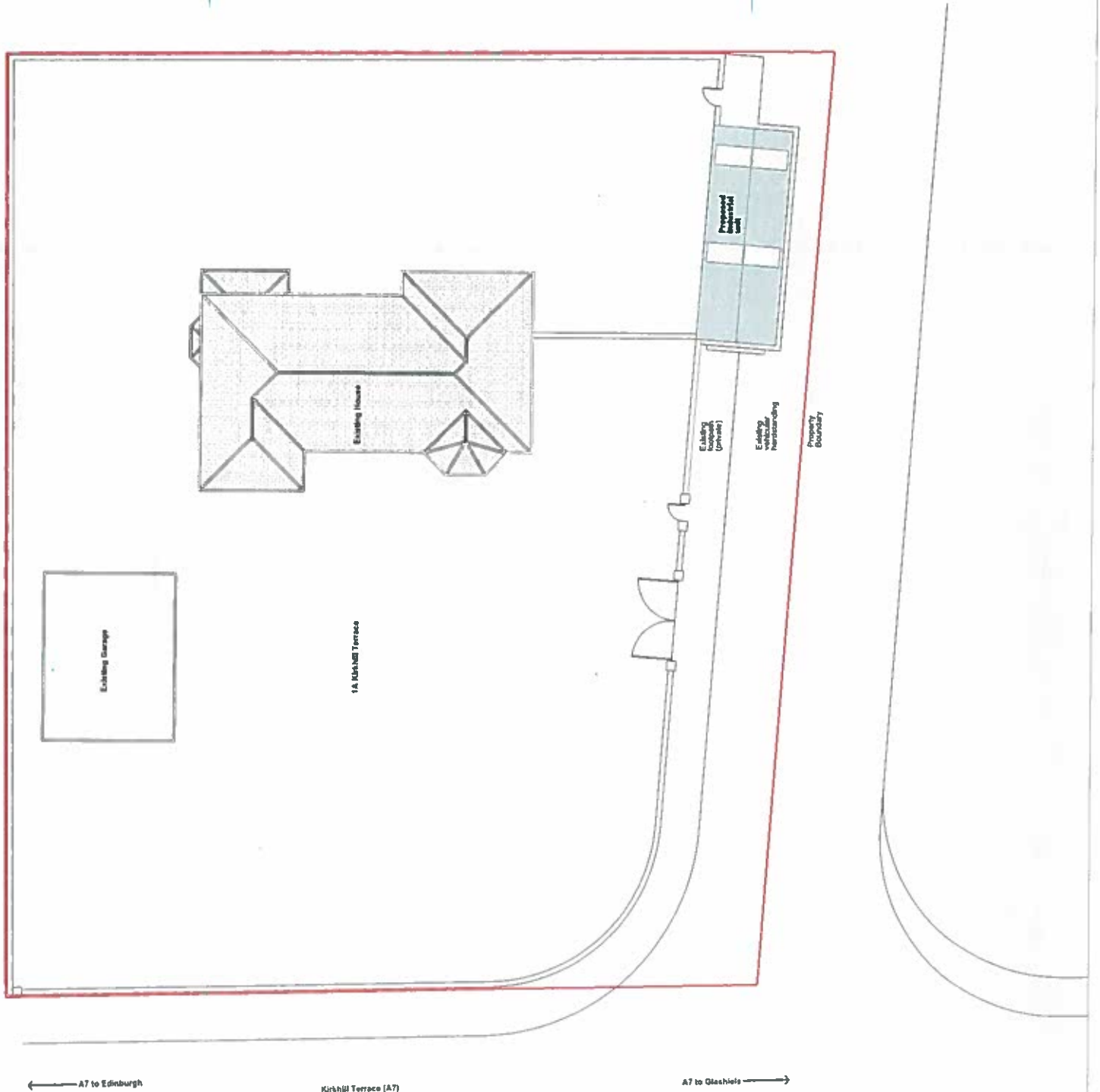
- The proposed industrial building would have a significant detrimental impact on the amenity of the occupants of the nearby residential units.*
- The proposed industrial building is outwith an established business or industrial estate and it has not been demonstrated that there are no suitable alternative sites available within established economic sites or that the proposed development would be compatible with surrounding uses.*
- The layout and design of building would be out of character with and significantly detract from this transition area between the built up area and countryside.*
- Inadequate parking and turning areas have been proposed to serve the industrial building and, therefore, there would be an adverse impact on highway and pedestrian safety.*
- For the above reasons, the proposal is contrary to policies DEV2, ECON4, ECON6 and ENV7 of the adopted Midlothian Local Development Plan 2017.*
- The proposed industrial building would have a detrimental impact on the setting of the adjacent conservation area and special landscape area, contrary to policies ENV6 and ENV19 of the adopted Midlothian Local Development Plan 2017.*

Dated 27 / 5 / 2019



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

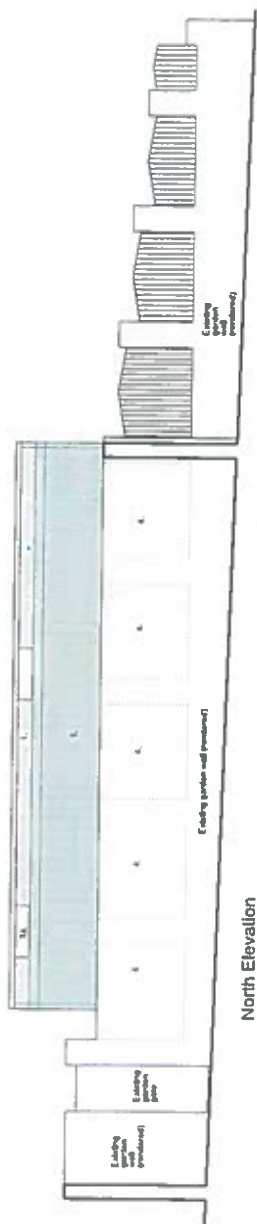
Appendix E



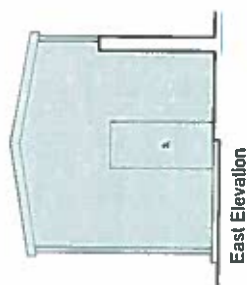
1908 C_002
 Site Plan
 1A Kirkhill Terrace
 Scale 1:100 @ A1
 Liston Architects
 12.04.19

For all other drawings dimensions not provided.
 All dimensions to be checked on site prior to building work.
 Drawings to be used in conjunction with structural engineer's
 drawings. No liability is accepted for any errors or omissions.
 No liability is accepted for any errors or omissions.
 No liability is accepted for any errors or omissions.

PLANNING



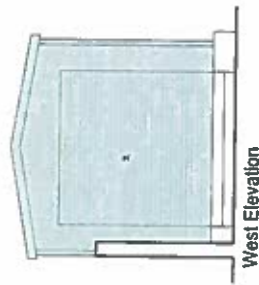
North Elevation



East Elevation

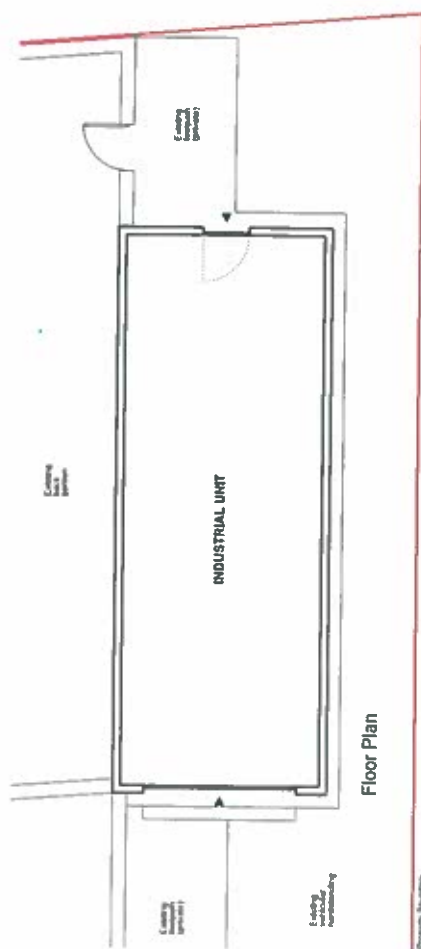


South Elevation



West Elevation

- Key:
- 1. Green painted parallel wood cladding
 - 2. Existing concrete path
 - 3. Concrete path
 - 4. Existing garden wall (proposed)
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Floor Plan



PLANNING

1908, C. 100
Floor Plan and Elevation
1/A Kirkhill Terrace
Scale 1:50 @ A1
Liston Architects
20.04.19

This plan is a preliminary drawing and is not to be used for construction purposes. It is intended to show the general layout and dimensions of the proposed development. All dimensions are to be confirmed by the client and the architect. The client is responsible for obtaining all necessary planning permissions and consents. The architect is not responsible for any errors or omissions in this plan.