



West Lothian
Council

Development Management Committee

West Lothian Civic Centre
Howden South Road
LIVINGSTON
EH54 6FF

20 September 2017

A meeting of the **Development Management Committee** of West Lothian Council will be held within the **Council Chambers, West Lothian Civic Centre** on **Wednesday 27 September 2017 at 10:00am.**

For Chief Executive

BUSINESS

Public Session

1. Apologies for Absence
2. Declarations of Interest - Members should declare any financial and non-financial interests they have in the items of business for consideration at the meeting, identifying the relevant agenda item and the nature of their interest.
3. Order of Business, including notice of urgent business and declarations of interest in any urgent business
4. Confirm Draft Minutes of Meeting of Development Management Committee held on Wednesday 30 August 2017 (herewith)

Public Items for Decision

5. Application No.0427/FUL/17 - Change of use of public open space to private garden ground (in retrospect) and relocation of boundary fence at 84 Oldwood Place, Eliburn, Livingston (herewith)
6. Application No.0458/FUL/17 - Erection of two dwelling houses with garages at Drovers Bank, Pardovan Farm Steading, Philipstoun (herewith)

7. Application No.0536/FUL/17 - Change of use from a nursery (class 10) to a house (class 9) at 5 Pardovan Holding, Philipstoun (herewith)
8. Application No.0586/FUL/17 - Application under S42 for the variation of condition 28 of planning permission 0463/FUL/07 to extend the use of the external terrace from 21.00 to 01.00 hours at Burgh Halls, The Cross, Linlithgow (herewith)
9. Application No.0592/P/17 - Planning permission in principle for the erection of a house at 5 Pardovan Holding, Philipstoun (herewith)
10. Application No.0593/P/17 - Planning permission in principle for the erection of a house at 5 Pardovan Holding, Philipstoun (herewith)

Public Items for Information

11. Consider list of delegated decisions on planning applications and enforcement actions for 25 August to 15 September 2017 (herewith)

NOTE **For further information please contact Val Johnston, Tel No.01506 281604 or email val.johnston@westlothian.gov.uk**

MINUTE of MEETING of the DEVELOPMENT MANAGEMENT COMMITTEE of WEST LOTHIAN COUNCIL held within COUNCIL CHAMBERS, WEST LOTHIAN CIVIC CENTRE, on 30 AUGUST 2017.

Present – Councillors Charles Kennedy (Chair), Tom Kerr, Stuart Borrowman, William Boyle, Harry Cartmill, Lawrence Fitzpatrick, Dom McGuire and David Tait

1. DECLARATIONS OF INTEREST

Agenda Item 8 (App No.0487/H/17) – Councillor Charles Kennedy declared a non-financial interest in that he knew the Planning Agent for the application but would participate in the item of business;

Agenda Item 8 (App No.0487/H/17) – Councillor Tom Kerr declared a non-financial interest in that he knew the Planning Agent for the application but would participate in the item of business;

Agenda Item 6 (App No.0203/FUL/15) – Councillor Lawrence Fitzpatrick declared a non-financial interest in that he was a council appointed member of the West of Scotland Archaeology Service who were a statutory consultee on the application but would participate in the item of business; and

Agenda Item 6 (App No.0203/FUL/15) – Councillor Dominic McGuire advised committee that he would not participate in the item of business because as he had not attended the meeting when the application had been previously discussed and continued.

2. MINUTE

The committee confirmed the Minute of its meeting held on 2 August 2017. The Minute was thereafter signed by the Chair.

3. APPLICATION NO.0255/P/13

The committee considered a report (copies of which had been circulated) by the Head of Planning, Economic Development and Regeneration concerning an application as follows :-

<u>Application No.</u>	<u>Proposal</u>	<u>Recommendation</u>
0255/P/13	Planning permission in principle for the erection of a 1.5ha residential development at the former Kirkton Business Centre, Kirk Lane, Livingston	Agree the amendments to the Heads of Terms for the Section 75 Legal Agreement

The committee noted that Mr George Gilbert, the applicant's agent, was in

attendance and did not wish to address committee but was available to answer questions from members.

Decision

To approve the terms of the report and agree the amendments to the Heads of Term for the Section 75 legal agreement and to remove the statement “where possible” from Section 3.1 of the draft conditions.

4. APPLICATION NO.0203/FUL/15

Councillor Dominic McGuire having made a statement on the application took no part in the following item of business

The committee considered a report (copies of which had been circulated) by the Head of Planning, Economic Development and Regeneration concerning an application as follows :-

<u>Application No.</u>	<u>Proposal</u>	<u>Recommendation</u>
0203/FUL/15	Formation of access road and plot layout to serve 58 houses on land at Woodmuir Road. Breich	Grant planning permission subject to conditions and the securing of relevant developer contributions

The committee heard local ward Councillor Pauline Clark speak in support of her objections to the application.

The committee then heard the applicant, Mr Iain Tod, speak in support of the application.

Decision

To approve the terms of the report and grant planning permission subject to conditions and to the securing of relevant developer contributions and that officers were to remind the developer of their obligations in terms of the Wildlife and Countryside Act 1981.

5. APPLICATION NO.0257/PO/17

The committee considered a report (copies of which had been circulated) by the Head of Planning, Economic Development and Regeneration concerning an application as follows :-

<u>Application No.</u>	<u>Proposal</u>	<u>Recommendation</u>
0257/PO/17	Application for the modification of planning obligation related to planning permission	Refuse the modifications

0694/FUL/12 in
respect of payment of
developer contributions
at 17 Raw Cottages,
Clifton Road, East
Calder

The committee heard from Mr Euan Robertson, the applicant, speak in support of the application.

Decision

To approve the terms of the report and refuse the modifications.

6. APPLICATION NO.0487/H/17

The committee considered a report (copies of which had been circulated) by the Head of Planning, Economic Development and Regeneration concerning an application as follows :-

<u>Application No.</u>	<u>Proposal</u>	<u>Recommendation</u>
0487/H/17	Application for a single storey rear extension to house at 131 Maryfield Park, Mid Calder	Grant planning permission

Decision

To approve the terms of the report and grant planning permission

7. LIST OF DELEGATED DECISIONS

The Head of Planning, Economic Development and Regeneration had delegated powers to issue decisions on planning applications and enforcement action.

A list (copies of which had been circulated) of delegated decisions and enforcement action for the period 28 July to 18 August 2017 was submitted for the information of the committee.

Decision

To note the list of delegated decisions.

8. APPEALS -

- 8.1 The committee noted that the following appeal which had been submitted to Scottish Ministers following refusal of planning permission had been dismissed :-

Application No.Proposal

0355/P/15

14.5ha residential development at
land at Murieston Road, Livingston

- 8.2 The committee noted that the following appeal had been submitted to Scottish Ministers following refusal of planning permission :-

Application No.Proposal

0381/H/17

Two storey extension to house at
6a Back Station Road, Linlithgow

DEVELOPMENT MANAGEMENT COMMITTEE

Report by Head of Planning, Economic Development and Regeneration

1 DESCRIPTION

Change of use of public open space to private garden (in retrospect) and relocation of boundary fence at 84 Oldwood Place, Eliburn, Livingston EH54 6US

2 DETAILS

Reference no.	0427/FUL/17	Owner of site	Mr Lee McLean
Applicant	Mr Stephen Guthrie	Ward & local members	Livingston North Cllr Alison Adamson Cllr Robert De Bold Cllr Dom McGuire Cllr Andrew Miller
Case officer	Steven McLaren	Contact details	01506 282404 steve.mclaren@westlothian.gov.uk

Reason for referral to Development Management Committee: Objection received from Eliburn Community Council.

3 RECOMMENDATION

Grant retrospective planning permission.

4 DESCRIPTION OF THE PROPOSAL AND PLANNING HISTORY

- 4.1 Retrospective planning permission is sought for the change of use of public open space to private garden ground including the relocation of the boundary fence on the north side of the property. The fence extends north from the original fence line by some 3.1m, returns west towards the rear of the house by 5.3m and then continues at an angle to meet the north west corner of the original fence line.
- 4.2 The applicant's property lies at the north west corner of the Oldwood Place development and is the last house in a cul-de-sac of 8 detached houses. To the rear (west) of the house is a mature woodland area leading towards Eliburn Reservoir and to the north and east is the Sustainable Urban Drainage System (SUDS) for Oldwood Place. The landscaping for the SUDS is now mature and protected by a post and wire fence.

- 4.3 The land immediately to the north of the new fence line contains no planting other than grass, and the garden extension does not extend into the adjacent woodland or SUDS landscaping.
- 4.4 A Certificate of Lawfulness for this development (Ref: 0342/CLU/17) was withdrawn and resulted in the submission of the current application.

5 PLANNING POLICY ASSESSMENT

5.1 The development plan comprises the Strategic Development Plan for Edinburgh South East Scotland (SESPlan) and the West Lothian Local Plan (WLLP). The council's West Lothian Local Development Plan (WLLDP)(proposed plan) is also a material consideration.

5.2 The following development plan policies are relevant:

Plan	Policy	Assessment	Conform
West Lothian Local Plan (WLLP)	COM2 – open space	<p>Proposals which will result in the loss of urban sports and recreation facilities, or formal and informal open space, will be resisted. These spaces include parks and formal gardens, wildlife habitats, civic spaces and allotments. Proposals to develop or change the use of open space areas will be assessed against the following criteria:</p> <ul style="list-style-type: none"> a. a locational justification for the development; b. the importance of the open space for recreation or amenity; c. disturbance and loss of trees, woodlands and wildlife habitats or green corridors; and d. the availability and accessibility of alternative suitable open space, including the suitability of any replacement provision proposed by a developer. <p>Whilst the garden extension does encroach onto public open space, it does not result in the loss of sports or recreational ground. It does not impact on woodland or wildlife and there are substantial areas of landscaping and open space in the vicinity. There is however, no locational justification for the development.</p>	In part
WLLP	HOU9 – residential and visual amenity	<p>Development proposals will be assessed against the need to protect the residential and visual amenity of existing residents and other occupiers. Developments shown to adversely impact on amenity to a significant degree will not be supported.</p> <p>The proposals do not impact adversely on the residential or visual amenity of the area or on adjacent neighbouring properties.</p>	Yes
WLLP	ENV11 – woodlands and trees	<p>There will be a presumption against development affecting woodlands and trees unless there is a proven locational need and where a sustainable environmental gain through replacement and additional tree planting appropriate to the area is provided.</p>	Yes

Plan	Policy	Assessment	Conform
		The development does not extend into the woodland behind and there are no trees affected.	
West Lothian Local Development Plan (proposed plan) (WLLDP)	ENV21 – protection of formal and informal open space	<p>Proposals which will result in the loss of open space and/or sports and recreation facilities, will not be supported unless it can be demonstrated that:</p> <ul style="list-style-type: none"> a. there is a specific locational justification for the development which outweighs the need to retain the open space, sport and/or recreation facilities; b. there is no significant adverse effect on the overall recreational amenity of the local area, taking account of the council's <i>Open Space Strategy</i>; c. the area is not of significant ecological value and disturbance and loss of trees, woodlands and wildlife habitats or green corridors is minimised; d. comparable open space or enhancement of existing open space can be provided and/or paid for by the developer at an appropriate alternative location where this will provide adequate and acceptable replacement for the open space lost as a result of the development; and e. connectivity within, and functionality of, the wider green network is not threatened and public access routes in or adjacent to the open space will be safeguarded. <p>Whilst the garden extension does encroach onto public open space, it does not result in the loss of sports or recreational ground. It does not impact on woodland or wildlife or affect connectivity of the wider green network and there are substantial areas of landscaping and open space in the vicinity. There is however, no locational justification for the development.</p>	In part

6 REPRESENTATIONS

- 6.1 The application was advertised in the local press and the period for receipt of representations has expired. One letter of objection was received from Eliburn Community Council. The full letter is attached to this report and summarised below.

Comments	Response
Public open spaces should be retained as accessible to the local community.	The change of use from public open space to private garden ground is not an uncommon proposal and each case requires assessment on its own merits. Where a grassed area is involved, the scale of the extension is not excessive and there is no significant impact on the overall amenity of a area then an extension may be acceptable. Where proposals extend into woodland, areas of landscape tree planting or structured landscaping then this type of proposal is unlikely to be acceptable.

7 CONSULTATIONS

- 7.1 There is no requirement to carry out consultation on this application.

8 ASSESSMENT

- 8.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended) requires planning applications to be determined in accordance with the development plan, unless material considerations indicate otherwise.

West Lothian Local Plan

- 8.2 Policies COM2 and ENV11 seek to protect both areas of open space and woodland. The garden extension as implemented does not extend into the woodland to the rear of the property. The ground immediately out with the garden extension is generally damp and soft underfoot and it is likely that the ground within the extended garden area would have been similar. It is therefore unlikely that this area of ground was of intrinsic leisure value to the occupiers of surrounding properties. Access to the woodland has not been affected nor any area of structured planting. Whilst there is no specific locational need for the extension beyond the applicant's desire to increase the size of the garden ground, the scale of the extension is not excessive and does not detract from the landscape nature as a whole. The development therefore complies in part with policy COM2 and does not depart from it to a significant degree. On balance therefore, and taking account of the scale and location of the extension, it is considered to be an acceptable departure from the terms of this policy.
- 8.3 HOU9 seeks to protect the residential and visual amenity of an area. The extension is also generally unseen by the majority of properties in the area and does not restrict access to the woodland. The development does not impact adversely on any of the immediate neighbours or the surrounding area. The development therefore accords with this policy.

West Lothian Local Development Plan (WLLDP) (proposed plan)

- 8.4 Policies ENV11 and ENV21 essentially replicate policies ENV11 and COM2 of the WLLP. The development therefore accords with ENV11 and in part ENV21 as described in the WLLP section above.

9 CONCLUSION AND RECOMMENDATION

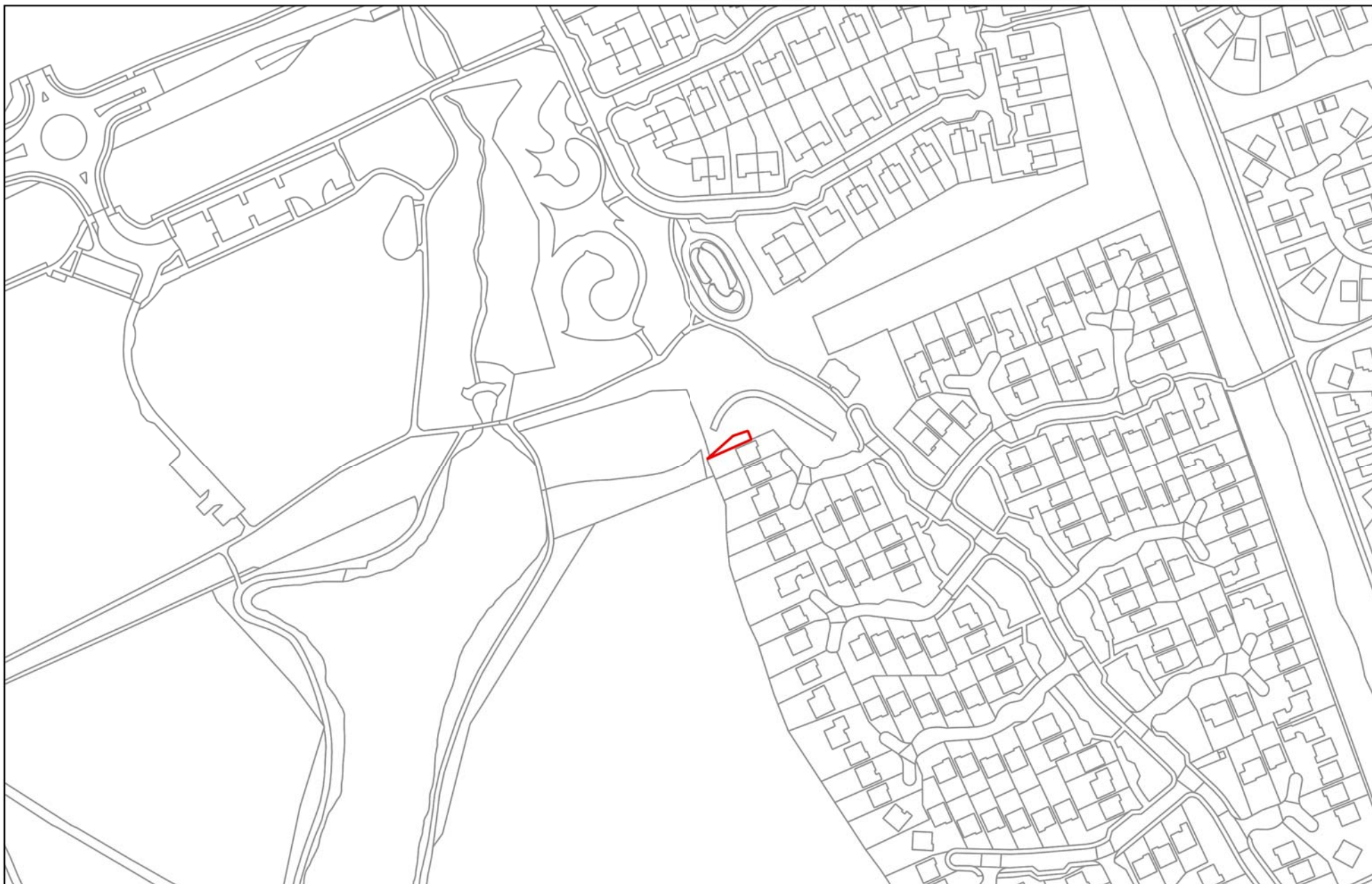
- 9.1 When taken in the context of the wider area, the applicant has incorporated a relatively small area of ground into the existing garden. There is no impact on the visual amenity of the area and the development has not removed valuable recreational space, trees or structural landscaping.
- 9.2 It is acknowledged that the applicant should have submitted an application for consideration prior to carrying out any works on site. Nevertheless, the retrospective works have been assessed in the context of the wider area and against the policies and provisions of the development plan. The recommendation is to grant retrospective planning permission.

10 ATTACHMENTS

- Location plan
- Aerial
- Objection from Eliburn Community Council
- Site visit photographs

Craig McCorriston
Head of Planning, Economic Development & Regeneration

Date: 27 September 2017





Comments for Planning Application LIVE/0427/FUL/17

Application Summary

Application Number: LIVE/0427/FUL/17

Address: 84 OLDWOOD PLACE, ELIBURN, LIVINGSTON, EH54 6US

Proposal: Change of use of public open space to private garden (in retrospect) and relocation of boundary fence (Grid Ref: 303277, 667967)

Case Officer: Steven McLaren

Customer Details

Name: Mr Stephen Egan

Address: 69 Aller Place Eliburn Livingston

Comment Details

Commenter Type: Other

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: As Chair of Eliburn Community Council I am objecting on behalf of the CC as we believe that Public Open Space should be protected. Despite this application being in retrospect it should not deviate from the fact that had the application been made in the proper manner the CC would have been objected as our stance on Public Open Spaces is that these should be kept as accessible to the local community.





DEVELOPMENT MANAGEMENT COMMITTEE

Report by Head of Planning, Economic Development and Regeneration

1 DESCRIPTION

Erection of two dwelling houses with garages at Drovers Bank, Pardovan Farm Steading, Philpstoun.

2 DETAILS

Reference no.	0458/FUL/17	Owner of site	Raeburn Developments Ltd
Applicant	Raeburn Developments Ltd	Ward & local members	Linlithgow Cllr Tom Conn Cllr Tom Kerr Cllr David Tait
Case officer	Steven McLaren	Contact details	01506 282404 steve.mclaren@westlothian.gov.uk

Reason for referral to Development Management Committee: Referred to committee by Councillor Tait.

3 RECOMMENDATION

Refuse planning permission.

4 DESCRIPTION OF THE PROPOSAL AND PLANNING HISTORY

- 4.1 Planning permission is sought for the construction of two 4 bedroom detached houses with integral garages on an area of land lying to the west of Drovers Bank. Drovers Bank is a steading conversion of five houses granted planning permission under application 0741/FUL/03.
- 4.2 The application site originally contained disused farm buildings which were demolished to allow for the Drovers Bank development to take place and was identified on the approved plans at that time as an undeveloped grassed area. The application site remains a grassed area but is not maintained and been allowed to go to seed.
- 4.3 The area around Drovers Bank is a mix of converted steadings to the east, the Victorian style villa of Pardovan House and ground to the west and south and farm buildings to the north. Access to the site is from an unclassified road which serves the properties at Drovers Bank, 10 Pardovan Holdings and farm buildings.

- 4.4 The proposed plan (attached) shows one house (House 1) set in the north west corner of the site, immediately adjacent to the access to Drovers Bank, and a garage for this house with access from this lane. House 1 is also 1.5m off the boundary wall with Pardovan House with the principle elevation facing north towards the adjacent farm buildings.
- 4.5 House 2 is located to the south east of the site with the principle elevation facing the Drovers Bank steading and lies within 18m of these properties and 1.3m from a former stable building at Pardovan House. This stable benefits from planning permission for conversion to a house. Windows on the principle elevation of House 2 are shown with obscure glazing to maintain privacy for the existing houses.
- 4.6 Materials for the houses include natural slate, natural salvage stone, masonry brick, wet dash render and timber window frames and doors. The overall design of the houses is acceptable and in keeping with the mix of materials in the immediate vicinity.
- 4.7 There has been a long history relating to the development of the area including the steading conversion and various applications for the current application site alone. These applications are summarised below:

Planning Applications			
Application Number	Description	Decision	Date
0917/P/93	Outline planning permission for rehabilitation of farm steading to form 7 houses	Refused	21/6/94
0018/P/95	Change of use of agricultural steading and proposed alterations to form houses	Withdrawn	8/8/95
0677/FUL/95	Conversion of steading to form 4 houses	Granted	19/12/95
1100/FUL/00	Renewal of planning permission for the conversion of existing farm buildings to form 4 houses	Granted	12/3/01
0741/FUL/03	Conversion of steading building to form 5 houses (Implemented)	Granted	9/10/03
1544/FUL/04	Erection of 3 houses	Refused	9/3/05
0633/FUL/05	Erection of 3 houses	Refused	16/9/05
0258/FUL/07	Erection of 2 houses	Withdrawn	17/5/07
0903/P/08	Outline planning permission for the erection of a house	Refused	14/11/08
0176/FUL/12	Erection of 6 houses	Withdrawn	29/5/12
0811/FUL/12	Erection of 2 houses	Withdrawn	9/5/13
0337/FUL/16	Erection of 2 houses	Refused	30/6/16
Appeal			
P/PPA/400/192 for 0633/FUL/05	Erection of 3 houses	Dismissed	29/6/06
Enforcement			
0186/ENF/07	Use of land for portable buildings and erection of a fence	Case closed	25/7/13
0080/ENF/13	Lack of landscaping creating adverse amenity issues	Amenity notice withdrawn. No further action taken	4/10/13

- 4.8 Planning application 0633/FUL/05 was considered by the DPEA in 2006 and the appeal was dismissed. This was partly on the basis of the loss of the area of open space as the Reporter concluded that it is a reasonable expectation of the residents that the area of ground in question would be grassed and set aside as amenity space, as detailed in the original planning permission for the steading conversion.
- 4.9 The lack of maintenance of the site was raised as an issue by residents in 2013. The matter was considered by the council's planning enforcement team and an Amenity Notice served. This notice was subsequently withdrawn following a meeting with the developer.

5 PLANNING POLICY ASSESSMENT

- 5.1 The development plan comprises the Strategic Development Plan for Edinburgh South East Scotland (SESPlan) and the West Lothian Local Plan (WLLP). The council's West Lothian Local Development Plan (WLLDP)(proposed plan) and the SPGs on development in the countryside and single plot and small scale infill residential development are also material considerations.
- 5.2 The following development plan policies are relevant:

Plan	Policy	Assessment	Conform
West Lothian Local Plan (WLLP)	ENV31 – new development in the countryside	<p>Proposals for new build development in the countryside will not normally be approved. Exceptions to this policy are:</p> <ul style="list-style-type: none"> (i) a house for a full-time worker in agriculture or other rural business; (ii) a house for a retired farmer who wishes to remain on the farm but vacate the existing farmhouse to accommodate his successor; (iii) development of a visually intrusive brownfield site where there is no realistic prospect of it being returned to agriculture or woodland use and the site has no significant natural heritage value in its current condition; (iv) replacement of an existing house in the countryside which is of a poor design or in a poor structural condition; (v) infill development within the curtilage of an existing building group or infilling of gaps between existing houses of a single plot width; (vi) a very small number of proposals for a house which by virtue of its design, location and landscape setting makes an exceptional contribution to the appearance of countryside; and (vii) small scale farm diversification projects or other business proposals appropriate to a rural area which would help sustain the rural economy or create significant social benefits. <p>In the case of the first and second policy exceptions above, approval of any new house must be linked to the business by a Section 75 Agreement.</p> <p>The proposal is located in the countryside where there is a presumption against development. From the above exclusions, item (v) is the most relevant. The site does not lie within the curtilage of a building group given the separation of the site with boundary walls and access roads. It cannot be considered as a gap site as there is an existing use set out in the original planning permission and the site cannot be considered as a single plot width. Whilst the site is technically brownfield, given that it was formerly the site of farm buildings, it is not visually</p>	No

Plan	Policy	Assessment	Conform
		intrusive.	
WLLP	HOU4 – cramming	<p>Developments, which result in town cramming, as defined in Supplementary Planning Guidance, <i>Single plot and small scale infill residential development in urban areas – how to avoid town cramming</i>, will be resisted in order to protect the character of an area and the residential amenity enjoyed by existing residents and others.</p> <p>Whilst not an urban area, the SPG on single plot and small scale housing developments which sets out the council's standards for plot ratio and privacy distances is relevant in this case, where the existing houses are in such close proximity. The loss of the open space and the need to design and orientate the houses to force compliance with the policy suggests that the development is crammed onto the site. The plot ratios may meet the requirements but the need to locate the houses in such close proximity to existing buildings and structures, and include obscure glazing as mitigation for overlooking as a design element, shows that the development cannot meet this policy.</p>	No
WLLP	HOU9 – residential and visual amenity	<p>Development proposals will be assessed against the need to protect the residential and visual amenity of existing residents and other occupiers. Developments shown to adversely impact on amenity to a significant degree will not be supported.</p> <p>The policy requires the amenity of existing residents to be protected. The area of open space was a design element as part of the original permission for the steading conversion and there was a requirement for this area to be grassed as a condition of that permission. The loss of this area will result in the loss of amenity space and the inclusion of additional houses increases the density of the development, resulting in a crammed feel to the area to the detriment of existing residents.</p>	No
WLLP	COM2 – loss of open space	<p>Proposals which will result in the loss of urban sports and recreation facilities, or formal and informal open space, will be resisted. These spaces include parks and formal gardens, wildlife habitats, civic spaces and allotments. Proposals to develop or change the use of open space areas will be assessed against the following criteria:</p> <ul style="list-style-type: none"> a. a locational justification for the development; b. the importance of the open space for recreation or amenity; c. disturbance and loss of trees, woodlands and wildlife habitats or green corridors; and d. the availability and accessibility of alternative suitable open space, including the suitability of any replacement provision proposed by a developer. <p>The development of this site would result in the loss of an area that was designed as amenity open space as part of the steading development approved in 2003. The loss of this space is therefore contrary to this policy.</p>	No
WLLP	IMP14 – policies and guidance	Developers must have regard to the planning policies guidance referred to in this local plan. In submitting a planning application, listed building consent or conservation area consent or	No

Plan	Policy	Assessment	Conform
		<p>advertisement consent application, a developer shall conform to supplementary guidance and planning briefs provided by the council, including the guidance referred to in Appendix 12.1.</p> <p>The council's supplementary planning guidance on new development in the countryside and small scale infill residential development set out the criteria for new development. The proposals do not fully comply with this guidance and therefore are contrary to this policy.</p>	
West Lothian Local Development Plan (proposed plan) (WLLDP)	DES1 – design principles	<p>All development proposals will require to take account of and be integrated with the local context and built form. Development proposals should have no significant adverse impacts on the local community and where appropriate, should include measures to enhance the environment and be high quality in their design. Development proposals which are poorly designed will not be supported. When assessing development proposals, the developer will be required to ensure that:</p> <ul style="list-style-type: none"> a. there is no significant adverse impact on adjacent buildings or streetscape in terms of layout, scale, massing, design, external materials or amenity; b. there is no significant adverse impact on landscape character, built heritage, habitats or species including European sites, biodiversity and Protected Species nor on amenity as a result of light, noise, odours, dust or particulates; c. the proposed development is accessible for all, provides suitable access and parking, encourages active travel and has no adverse implications for public safety; d. the proposal includes appropriate integrated and accessible infrastructure, open space, green infrastructure and landscape provision; e. sustainability issues are addressed through energy efficient design, layout, site orientation and building practices; f. the development does not result in any significant adverse impact on the water environment as required by the Water Framework Directive and related regulations and as appropriate, mitigation to minimise any adverse effects is provided; g. there are no significant adverse effects on air quality (particularly in and around Air Quality Management Areas), or on water or soil quality and, as appropriate, mitigation to minimise any adverse effects is provided; and h. risks to new development from unstable land resulting from past mining activities are fully assessed and, where necessary, mitigated prior to development. <p>Where appropriate, developers will be required to produce masterplans, design statements and design guides in support of their proposals.</p> <p>Development proposals must also accord with other relevant policies and proposals in the development plan and with appropriate supplementary guidance.</p> <p>The proposals adversely impact on adjacent properties in that the 2 substantial detached houses can be defined as being crammed on the site and result in the loss of an area of open space which was set aside in an earlier planning permission.</p>	No

Plan	Policy	Assessment	Conform
WLLDP	ENV2 – housing in the countryside	<p>Housing development in the countryside will only be permitted where:</p> <ul style="list-style-type: none"> a. the house is required for a full-time worker in agriculture, horticulture, forestry, countryside recreation or tourism or other rural business; or b. the house is required for a retired farmer who wishes to remain on the farm but vacate the existing farmhouse to accommodate his successor; or c. the proposal provides for the restoration of a brownfield site where there is no realistic prospect of it being returned to agriculture or woodland use and the site has no significant natural heritage value in its current condition; or d. the proposal is for the replacement of an existing house in the countryside which is of a poor design or in a poor structural condition; or e. the proposal is for infill development within the curtilage of an existing building group or infilling of gaps between existing houses of a single plot width; or f. the proposal involves the conversion or rehabilitation of existing rural buildings which the council deems worthy of retention because of their architectural or historic merit; or g. the proposal is supported by the council's lowland crofting policy. <p>Where a proposal by virtue of its design, location and landscape setting makes an exceptional contribution to the appearance of countryside an exception to policy may be justified. Proposals should make the best use of resources, integrate with services and facilities and demonstrate the highest standards in design and environmental quality to protect and enhance the established landscape character. The detailed of Supplementary Guidance on "<i>Development in the Countryside</i>" and "<i>Lowland Crofting</i>" will apply.</p> <p>The nearest exclusion from the above list is item (e) however, the site cannot be considered as infill as it does not meet the definition set out in the supplementary planning guidance. The proposals do not comply with the remainder of the exclusions as in this policy and reflects ENV31 of the WLLP</p>	

6 REPRESENTATIONS

- 6.1 The application was advertised in the local press and neighbour notification was carried out. 12 letters of representation have been received. Two letters are in support and ten are objections, including one from Philpstoun Community Council. The full content of the letters are attached to this report and summarised below.

Comments	Response
Increased urbanisation of the area	It is agreed that additional houses on this site would further urbanise and raise densities of Pardovan Holdings thus changing the character of the area.
Increased traffic	Additional housing at the site will increase traffic however, Transportation has raised no objections. Additional traffic will again detract from the setting and add to the urbanisation of the area.
Pressure on parking	There may be additional pressure on parking however, Transportation has raised no objections.

Impact on rural feel of the area	It is agreed that additional houses will impact on the rural nature of the area.
Over development	The layout and design of the houses on the site is such that they appear crammed rather than a natural infill. The need for obscure glazing as a design feature and the location of the houses on the site suggests there is insufficient space available to comfortably accommodate the houses within the site whilst meeting the necessary space and privacy standards.
Area should be classed as greenfield	It is agreed that previous planning permissions for the site show the area as open space and this was defended at appeal.
Account should be taken of the original consent	Agreed.
Cannot be considered as infill development	It is agreed that, given the requirements of the original permission and the definition of infill in the council's supplementary policy, the site cannot be considered as an infill development.
Impact on drainage infrastructure	It is the developer's responsibility to meet the foul and surface water requirements of the council, Scottish Water and SEPA.
No locational need	There is no locational need for this development.
Loss of privacy	House 2 lies within 18m of the converted properties at Drovers Bank. Obscure glazing has been incorporated to alleviate any privacy issue. The first floor windows on the south elevation are within 9m of the boundary which looks directly over land at Pardovan House, where the stable block has approval for the conversion to a house. The land adjacent would be garden ground for the extant consent. First floor windows of House 1 are within 1.5m of the boundary with Pardovan House. These bedroom windows look directly over garden ground of Pardovan House. Neither of the proposed houses comply with the council's privacy standards.
Loss of amenity space	It is agreed that this area was set aside in previous permissions as open space and the development would remove this area of open space.
Crammed living	It is agreed that the proximity of the houses to the periphery of the site, the overlooking of windows and the need to incorporate obscure glazing at the outset suggests the development is crammed.
Lack of outlook for new houses	It is agreed that House 1 in particular would have a poor outlook onto the existing farm sheds.
Contrary to council policy	Agreed.
Previously dismissed at appeal	Noted.

7 CONSULTATIONS

7.1 This is a summary of the consultations received. The full documents are contained in the application file.

Consultee	Comments	Planning response
Contaminated Land Officer	A Phase 1 Site Investigation Report is required to be submitted.	Noted. Should permission be forthcoming, a Phase 1 SI will be required and thereafter a Phase 2 if required.
Education	No objection subject to developer contributions.	Noted. Should planning permission be forthcoming, developer contributions will require to be secured through either S69 or S75 process.
Transportation	No objections	Noted.
Environmental Health	No objections.	Noted.
Flood Risk Management	No drainage information has been submitted. Drainage information for foul and surface	Noted. Should planning permission be forthcoming, drainage details will

Consultee	Comments	Planning response
	water is required.	require to be submitted for consideration and approval.
Scottish Water	Details of connections are required to be submitted directly to Scottish Water for consideration and approval.	Noted. It is the developer's responsibility to ensure safe connection to services.
SEPA	No objection. A variation of the current authorisation for connection to the existing septic tank may be required.	Noted. It is the developer's responsibility to arrange a variation to any SEPA approvals currently in place.

8 ASSESSMENT

- 8.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended) requires planning applications to be determined in accordance with the development plan, unless material considerations indicate otherwise.

West Lothian Local Plan

- 8.2 Policy ENV31 sets out exception criteria where the provision of housing in the countryside may be acceptable. The proposed houses are not for full time farm workers or for a retiring farmer. The site, while brownfield, is not visually intrusive when taken in context of the rural nature of the area. The proposed houses do not replace existing poor quality houses; the site does not meet the definition of an infill site and while of an attractive design, the houses do not make an exceptional contribution to the countryside. The proposals do not meet the requirements of small scale farm diversification. On each of these points the development fails and therefore does not comply with policy ENV31.
- 8.3 Policy HOU4 and the council's supplementary guidance on small scale and infill residential development seeks to prevent housing being constructed in a manner which constitutes cramming. The guidance sets out criteria for plot ratio, garden ground depth to adjacent properties and privacy distances and the guidance also is explicit in that it states infill developments will be resisted where they would adversely impact on adjacent uses and where there would be a loss of important open space.
- 8.4 It is clear that the layout has been designed to try and meet these criteria but the overall effect, especially for House 2, is that rather than comfortably sitting on the plot the houses have had to be pushed to the peripheries to meet certain standards. The result of this is that there are first floor windows very close to the boundary with Pardovan House and the overlooking of garden ground.
- 8.5 The open space assessment can be considered in a number of parts. Firstly, planning permissions 0677/FUL/95 and 1100/FUL/00 for the construction of 4 houses clearly showed an area of open space with screen planting. Secondly, planning permission 0741/FUL/03 continued to show an area of grassed amenity open space as part of that development and a condition was applied that a landscaping plan be submitted for consideration and approval and that this area be maintained until the landscaping becomes established. Thirdly, the vision for the development as set out in the sales material clearly shows an area of amenity open space as part of the overall development and finally, an appeal to develop this site was refused in part because of the loss of this open space.

- 8.6 The planning approvals and public perception have all confirmed this area as amenity open space. In this regard, the current proposals do not accord with policy HOU4, IMP14 or the council's supplementary guidance.
- 8.7 Policy COM2 seeks to protect areas of open space from development. There is no locational justification for the development and the importance of this area of open space has been discussed in points 8.3 to 8.6 above.
- 8.8 The loss of this open space and the construction of the proposed houses, albeit of appropriate design, will impact adversely on the amenity of the existing residents to an unacceptable degree through the loss of the open space and the increased urbanisation of an area within the countryside. In this respect the proposals do not accord with policy HOU9.

West Lothian Local Development Plan (WLLDP) (proposed plan)

- 8.9 Policy ENV2 reflects ENV31 of the WLLP and policy DES1 draws together a number of assessment criteria including scale, design and loss of amenity. These matters have been considered in respect of the WLLP policies above and there are no other factors which would suggest the development complies with the WLLDP(proposed plan). In this regard, the development does not accord with policies ENV2 or DES1 of the WLLDP(proposed plan).

9 CONCLUSION AND RECOMMENDATION

- 9.1 There is a long history to this site as a whole. Initially a development of 7 houses was submitted which would have resulted in the application site being developed. This initial application was refused.
- 9.2 Consent for 4 houses was then granted in 1995 and renewed in 2001 and these applications identified the current site as a landscaped open space. A further application was then approved in 2003 for 5 houses (the current steading development) and again, the application site subject to this report was shown as open space, with a condition requiring it to be landscaped.
- 9.3 The sales material for the steading properties also shows this as an area of open space associated with that development. It is therefore reasonable that the current proposals should be assessed against the policy provisions relating to the loss of open space.
- 9.4 A copy of the Title Deeds for the steading conversion shows that the residents have no maintenance responsibility or control over the application site and that a clause in the Title restrict residents from objecting to any further planning application: 'In particular no Proprietor shall have a right to object to any application for Planning Permission by the Developer or its successors in respect of any other part of the Development'.
- 9.5 Whilst this clause is not a material planning consideration it does show that the developer had aspirations to further develop the area. This, however, does not override the planning considerations of the site and the impact of the development on residents by way of increased urbanisation of the area and the loss of an area of open space which, through out the history of the development, has been seen as an integral part of the rural character of the steading conversion.

- 9.6 In terms of the enforcement case, given the planning condition does not specify continued annual maintenance and simply seeks to ensure that landscaping is implemented, there is no locus to require the site to be further maintained.
- 9.7 The site is grassed, as per the requirements of the planning permission and currently is not visually intrusive. It is simply an area of long grass within a development in the countryside. If permission is refused in line with recommendation then residents should be aware that there is little the council can do to require regular maintenance and unless the site deteriorates to such an extent that an Amenity Notice is required, the site will remain as an unmaintained area of wild grass.
- 9.8 Taking all of the above into consideration, the development does not comply with council policy on infill development within the countryside and is contrary to policies protecting areas of open space. Recommendation is therefore to refuse planning permission.

10 ATTACHMENTS

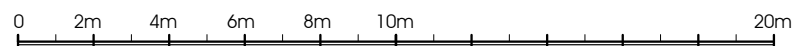
- Location plan
- Aerial
- Site plan
- Site plan from applications 0677/FUL/95 and 100/FUL/00
- Site plan from application 0741/FUL/03
- Brochure extract provided by an objector
- Artists 'Vision' impression provided by an objector
- Local Member referral form
- Letters of support
- Letters of objection
- Site visit photograph from 2013
- Site visit photograph from 2017

Craig McCorriston
Head of Planning, Economic Development & Regeneration

Date: 27 September 2017

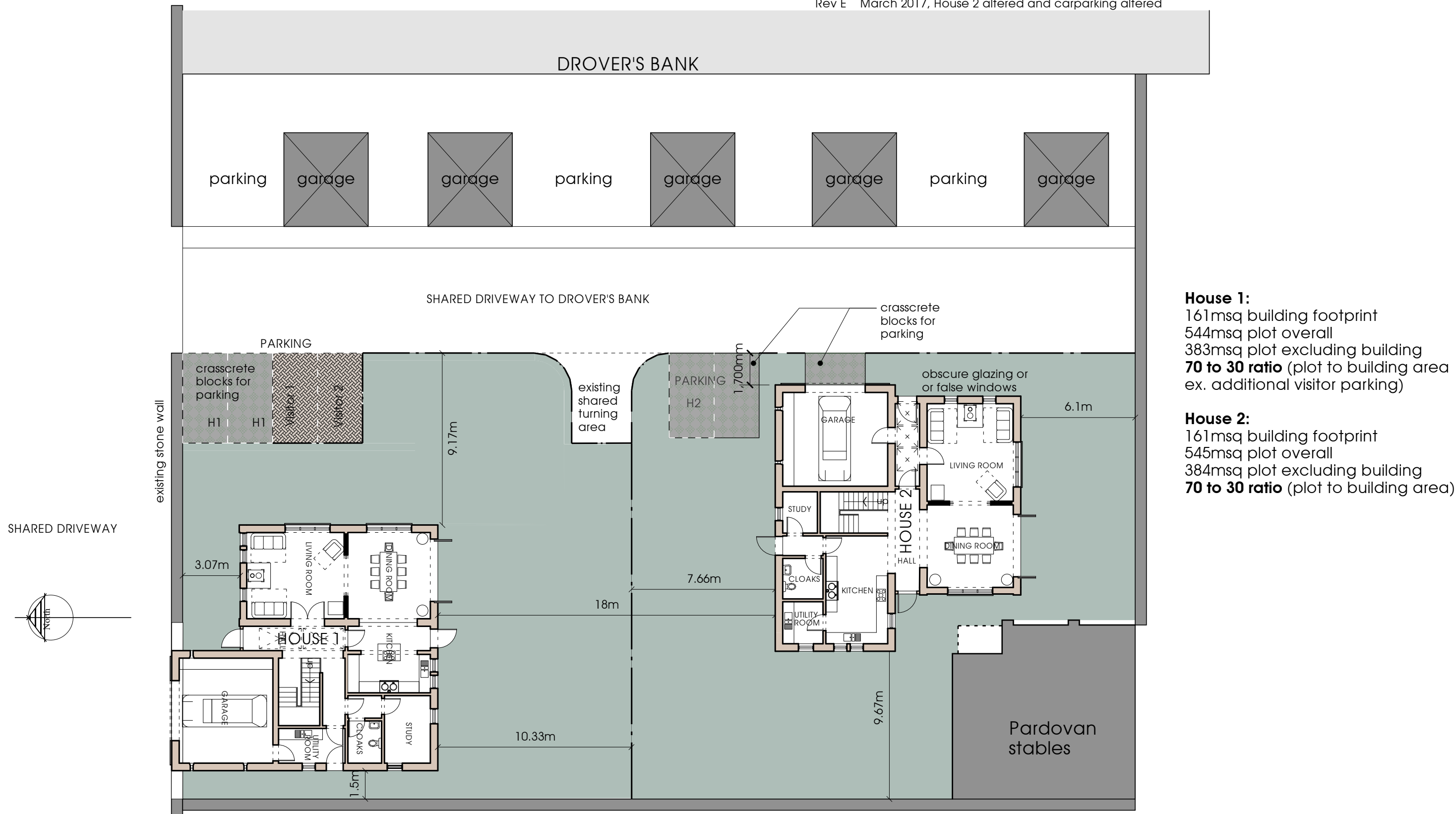






Drover's Bank, Pardovan Vacant Site Site Layout Option 2 Revised			POLLOCK HAMMOND LTD ARCHITECTS AND CONSERVATION CONSULTANTS GRANGE WEST, LINLITHGOW, WEST LoTHIAN EH49 7RH tel. 01506 847829 email - mail@pollockhammondarchitects.co.uk	R26 (ph2) D01 rev E
Feb. 2015	1:200	gbj		

Rev. A March 2016 Houses reduced and access altered
Rev. B August 2016 House plans reduced, boundary altered, parking increased
Rev. C August 2016 Additional Visitor parking added
Rev D November 2016 Boundary wall to Plott 1 added, plot ratio amended
Rev E March 2017, House 2 altered and carparking altered



GROUND LAYOUT 2, 1:200

Agricultural building belonging to N°8 holding

access

hay shed

cottage No9 holding

garden

West

NORTH

East

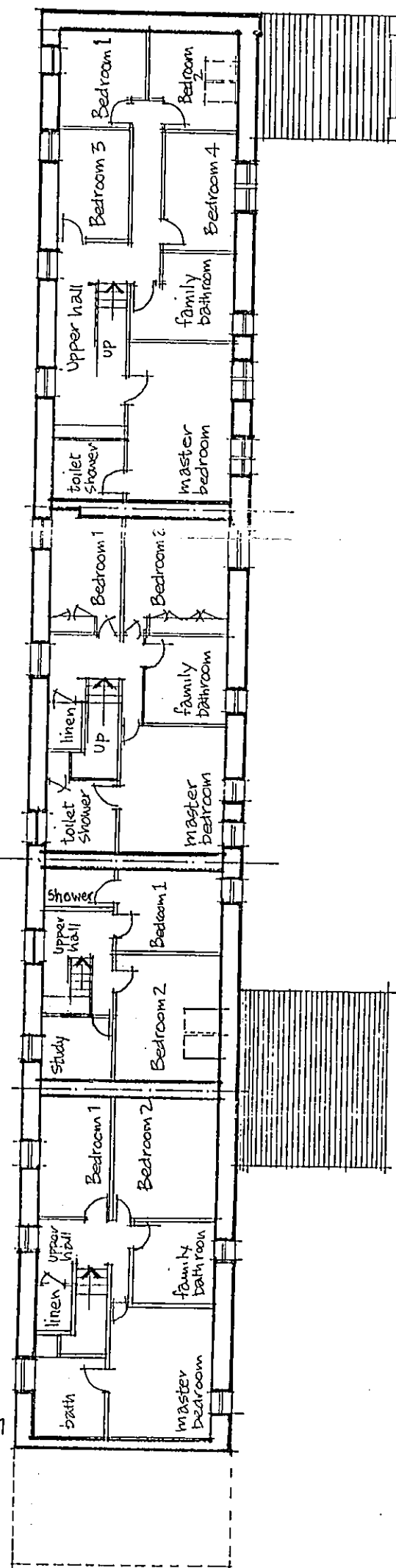
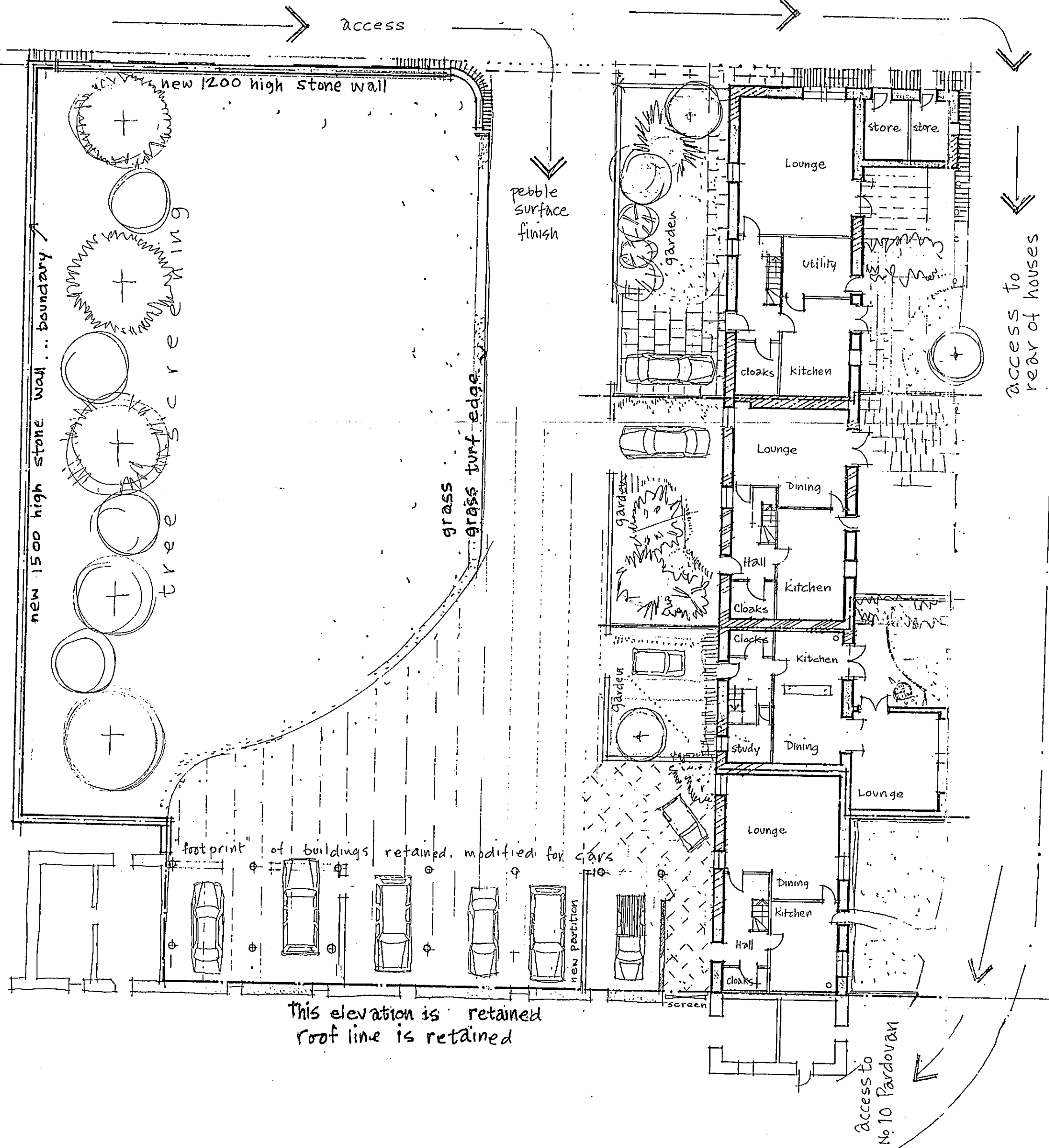
WEST LOTHIAN COUNCIL
Development Control
- 4 DEC 2000 11 00 / 00
Received Ref No.

Granted Planning Permission by West Lothian District Council, subject to the conditions contained in the attached Decision Notice.

Development and Building Control Manager
12/10/01

Planning Permission by West Lothian District Council, subject to the conditions contained in the attached Decision Notice of this date.

19/12/95
19/12/95
19/12/95



AMENDED PLANS

WEST LOTHIAN DISTRICT
RECEIVED

08 DEC 1995

APPN. NO. 6 77195

Department of Planning

Contract

Pardovan Holdings
Philpston West Lothian

Change of use of Agricultural Steading to form
4 Residential units by the conversion of existing
stone outbuildings

Title

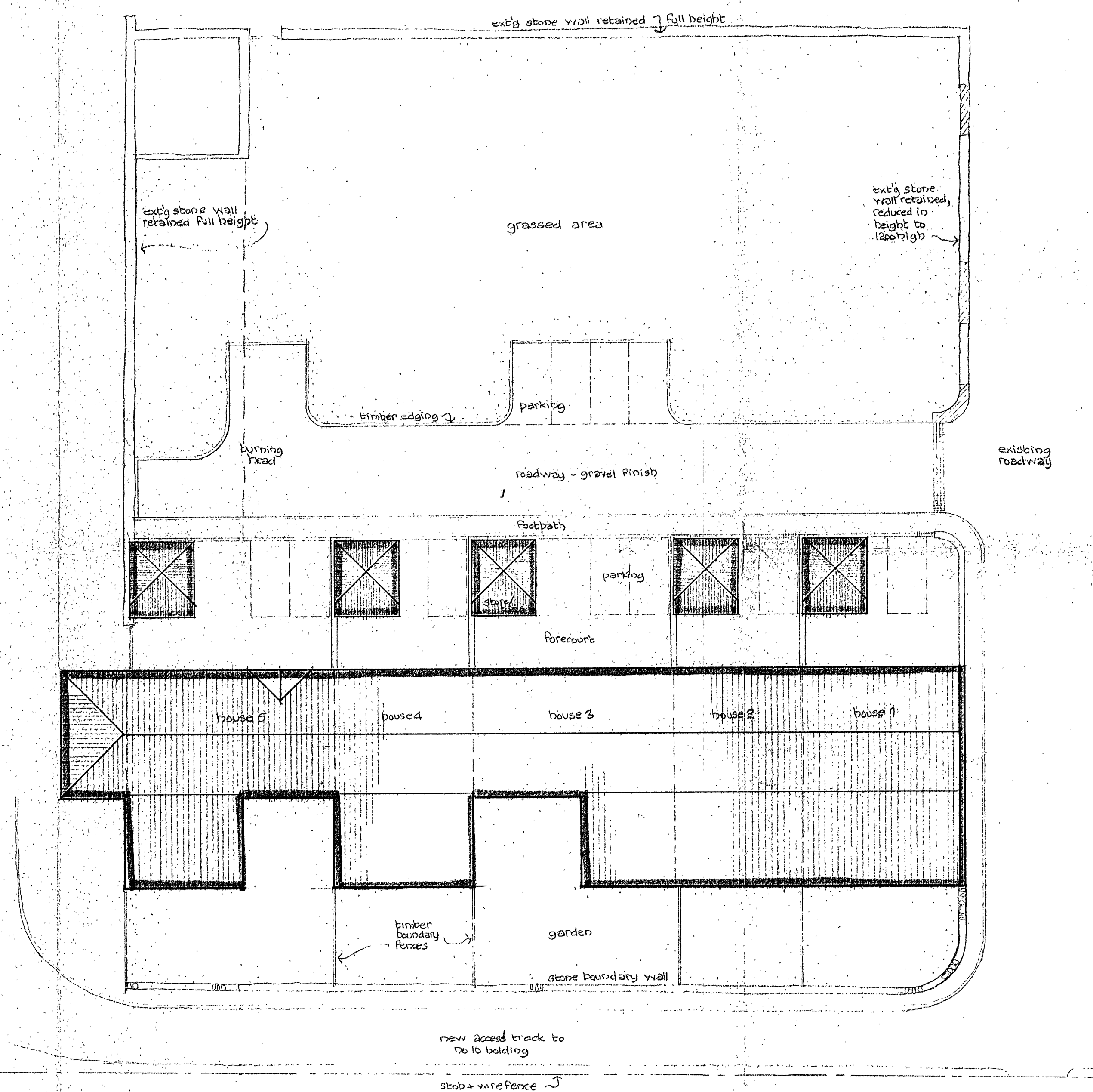
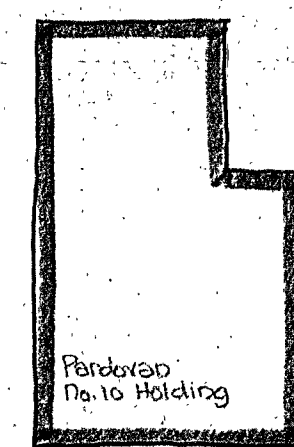
Plans showing site layout as proposed

Drawing number 92-135-12

Scale 1:200

Date August 1995

Received 8/11/95



WEST LoTHIAN COUNCIL
Development Control
08 JUL 2003 0741/03
Received Ref. No.

Granted Planning Permission by West Lothian Council, subject to the conditions contained in the attached Decision Notice.
Development and Building Control Manager
Date 12/09/03

THIS IS THE PLANNING TRUE COPY OF THE PLAN REFERRED TO IN APPLICATION FOR BUILDING REGULATION PLANNING PERMISSION/ LISTED BUILDING CONSENT.
DATED 12/09/03

THE POLLOCK HAMMOND PARTNERSHIP

scale	drawn	checked
1:200	TAJ	
	date	date
	06/03	

THE POLLOCK HAMMOND PARTNERSHIP
ARCHITECT AND CONSERVATION CONSULTANTS
GRANGE WEST, LINLITHGOW, WEST LoTHIAN
EH49 7BN
tel. 01506 847829 fax. 01506 670345

number	revision
R26.L02	/



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or at www.raeburndevelopments.co.uk



Countryside developments usually enjoy space and an open outlook. The proposed development will undermine that character.

05/07/17



Comments for Planning Application LIVE/0458/FUL/17

Application Summary

Application Number: LIVE/0458/FUL/17

Address: West of Drovers Bank, Pardovan Farm Steadings, Philpstoun, Linlithgow

Proposal: Erection of two dwelling houses (Grid Ref: 304449, 677328)

Case Officer: Steven McLaren

Customer Details

Name: Mrs Sheena Borthwick-Toomey

Address: Firbank Mauchline Road Ochiltree

Comment Details

Commenter Type: Other

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: I write with whole hearted support of this application to erect 2 dwellings on this site. It will finish off what is a lovely traditional refurbished development with well designed sustainable future-proof housing and provide much needed accommodation in the area. I have long wondered why this very obvious very unsightly area of ground was never developed and am delighted to see the planning application lodged. I did also notice the developer is the same, which gives great confidence in the quality of the build going forward. To be applauded.

Comments for Planning Application LIVE/0458/FUL/17

Application Summary

Application Number: LIVE/0458/FUL/17

Address: West of Drovers Bank, Pardovan Farm Steadings, Philpstoun, Linlithgow

Proposal: Erection of two dwelling houses (Grid Ref: 304449, 677328)

Case Officer: Steven McLaren

Customer Details

Name: Mrs Fiona Gould

Address: 79 Craigmount Avenue North Edinburgh

Comment Details

Commenter Type: Other

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: Great I have been looking to move into this area for a few years now.

Two new dwelling houses will be a positive impact in the area. It will enhance a derelict piece of ground and give life to two homes for families looking for a rural home

West Lothian Council
Development Management
17 BROOMHILL ROAD
4 JUL 2017 PENICUIK
Date..... MIDLOTHIAN
Ref No..... EH26 9EE
Ref To..... 0458/FUL/17
Ack'd..... STAR McLaren
Reply.....

13 July 2017

Dear West Lothian Council

Planning Application 0458/FUL/17

I am writing to you to lodge my objection to the recently submitted planning application reference number 0458/FUL/17

I apologise that this objection will arrive later than the arranged closing date and appreciate you may not be able to consider it.

Having perused and digested the planning application documents for the site in question at Drovers Bank, Pardovan, by Philpstoun, West Lothian, the reasons for my objection include the following points:

1. Consent for the original five house steadying conversion at Drovers Bank was granted by West Lothian Council on the basis that a specific condition of approval was that the site in question was to be landscaped and made available as common amenity. West Lothian Council served notice on the applicant requiring him to landscape the site; this was duly done. The site in question is therefore greenfield and as a matter of Council policy should not be developed on. You will note from the earlier appeal in 2006 re. planning application for this site, that the appointed Reporter expressly states that the landscaping of the site is a major condition of the original steadying conversion permission. Such a condition to landscape should override any future application to develop the site. The report of the 2006 appeal states:

'The proposal would also change the character of the approved rural steadying conversion scheme, which was based on small gardens framing east views of open countryside, that were to be augmented and supported by the site as open space, all in a logical sequence. As well as providing the steadying conversion with this much needed amenity space for semi private recreation, the site creates an open outlook and it acts as a buffer to Pardovan House, which is extremely close by. Hence, all the indications are that the site amounts to functional open space, compatible with the concept and location of the steadying conversion and there is no evidence to suggest that the new build houses were part of a planned comprehensive, coordinated,

cohesive overall design scheme, or that they were a phased progression of the steading conversion development'.

2. The proposed application would result in overdevelopment and urbanisation of the area. It would create a cramped appearance and an unacceptable spatial relationship with the existing houses. The current area possesses an important and valuable rural atmosphere; this would be destroyed if the proposed plans were to proceed. Any development would turn the area from rural to an urban style housing development. This would impact greatly on the amenity of existing residents and would destroy the existing character of the area and impinge on the area's important agricultural heritage.
3. The local development plan only accepts development in the countryside where it has an operational requirement or it entails a conversion. The proposed plan fits neither of these criteria and there is no specific locational need for such housing.
4. Traffic for the existing five house conversion and surrounding houses is already at an extremely high level – owing to limited parking space, a number of cars belonging to the existing houses already have to be parked on the adjoining road. An additional two houses would bring with them the potential for another possible four to six cars, in addition to visiting vehicles. There is not adequate enough parking provision as it is; four of the existing conversion houses only have single driveways. Residents currently have difficulty in parking and garage doors are often blocked as a result. The current turning space at Drovers Bank has to regularly be used to park cars – loss of this area would result in ever increased parking congestion and blocked traffic/access. The existing garages at Drovers Bank are too small for car parking use and interestingly very early plans for use of the land at Drovers Bank showed the siting of garages for the steading conversion houses actually on the piece of land currently in question. In hindsight this would probably have been the best use of land.
5. Increased traffic brings with it an impact on safety for pedestrians and children playing in the area. Increased traffic would bring with it an increased risk of serious accident.
6. The proposed site is on a working farm. Farm traffic such as tractors, bailers, etc. do not mix well with such dense housing – and with farm vehicles requiring daily access via the adjoining access road to the public road, there is no scope to park on this road.
7. The farm access road to the site presently has to be maintained on a monthly basis, including the repair of pot holes, etc. This access track can be extremely hazardous to travel on during winter months. The track would not cope with the extra traffic that would come with additional housing. I understand that local residents who have a duty of care to maintain this access track, would not support increased usage of this track by additional traffic. Any vehicles having to park on the main access road would cause an obstruction to farm machinery, delivery vehicles and most importantly would

impede access for emergency services vehicles. As it is, due to the very limited parking provision provided for the existing dwelling houses and the requirement for residents to park on the short section of road outside the current houses, on most days access for emergency services vehicles would likely be impeded – increased traffic would only exacerbate this problem.

8. The proposed design of the new houses would create a cramped and overbuilt location – toilet rooms with clear windows in existing houses currently look out to the existing grassed area – any new building on this land would impact on privacy of existing residents. With regards to Planning Policy HOU9 Residential Amenity – this policy requires the amenity of existing residents to be protected and this proposal would compromise the amenity of existing residents by removing an area of amenity open space. Similarly, Planning Policy COM2 Protection of Open Space would also be breached/compromised if this proposal were to proceed.
9. In section 2.4 of the submitted Planning Statement, the applicant's agent states with regards to the existing houses at Drovers Bank that "*These properties are converted steadings with substantial garden ground and wide open aspects on their eastern frontages*". By no means are the existing gardens of a substantial nature – rather they could be described as being 'miniscule'! Indeed I believe that the appointed Reporter at the related 2006 planning appeal stated in their report (Point 53) that:

The council's town cramming standards are urban standards, but they recommend no more than 25% coverage of a plot by built development. The appellant's own evidence shows that this has been exceeded by a considerable margin at the steading conversion, if the appeal site is not taken into account. All bar one of the gardens arising from the steading conversion are also less than the council's minimum standards. Therefore, as an open space, the site is an important element of the conversion permission and the issue is not just whether the proposed new build houses would be cramped onto the site and the effect of that on rural character of the area, but also what impact they would have on the planned density of the conversion.

Thus, as it stands, the existing gardens are smaller in size than would be expected for houses with such footprints – and as such the vacant land to the west of the existing buildings acting as an amenity, forms some form of compensation for the existence of such small gardens.

10. Also in Section 2.4 the Planning Statement details that 'Immediately to the east of the site lies the internal access road, which provides access to the rear of the five dwellings known as Drovers Bank'. This is incorrect, as this road does not provide access to the rear of the five dwelling houses, as these houses are enclosed by walls at their rear with no access to the mentioned road – and instead the road in question is the main form of access to the main farmhouse as part of the working farm at Pardovan – tractors and other vehicles using this road on a daily basis. I would even go as far as to suggest that having rear gardens with no means of accessible passage such as a gate

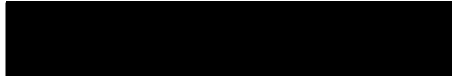
or doorway may even contravene regulations with regards to safe escape in the event of a house fire.

11. The additional burden on local school capacity, including secondary school provision, will be an important issue.
12. The proposed design would leave little outlook for the residents of any such new buildings – hemmed in by Pardovan House to the west and by the existing houses at Drovers Bank to the east, a high wall to the south and a view to an existing farm building to the north – resulting not in an open, rural environment but an enclosed crowded urban style development with no external views whatsoever.
13. Adjoining Pardovan House has already been granted planning permission for the conversion of existing stable buildings on their land. This building block is directly adjacent to the proposed development site and would result in houses being potentially just feet from each other – which again would contribute to a cramped, overbuilt, urban style development.
14. The proposed development would greatly impinge on the outlook of existing houses at Drovers Bank – blocking light and darkening the surrounds.
15. The proposed development would greatly impinge on the outlook of the residents at Pardovan House.
16. At Section 4.10 of the Planning Statement, the applicant states that with such a development, *'There will be economic benefit. The construction of houses will create employment and investment, both directly and indirectly. An increased local population will increase the support for local services, increasing spend and sustaining those services'*. Employment for construction is just as likely to come from outwith the West Lothian area – and there are next to no services in the surrounding area for an increased local population to spend their money on – Philpstoun has no shop, pub, medical services not even a school!
17. The submitted Planning Statement also states at Section 4.10 that the proposal will support the delivery of accessible housing and increase choice in the local area. Appraising the plans and size of proposed houses, and knowing the cost of existing housing in the area, the proposed houses are unfortunately not likely to be of an 'accessible' nature, cost-wise.
18. Also at Section 4.10 of the Planning Statement, the applicant states that *'the site is not proposed to be over-developed and will ensure the protection of the amenity of existing development'*. In light of the aforementioned issues and loss of amenity to existing residents, this statement can have no truth.
19. At Section 4.11 of the Planning Statement, the applicant states that *'Paragraph 40 of SPP supports the reuse and redevelopment of brownfield land, before new development takes place on greenfield sites'*. That might be the case but in this situation it appears that as the land in question is regarded

as 'amenity', in line with West Lothian Council guidelines the plot of land can be classed as 'greenfield'.

I strongly object to this planning application.

Yours faithfully

A solid black rectangular box used to redact the signature of Dr Nigel Johnston.

Dr Nigel Johnston

From: Abigail Ferguson
Sent: 05 July 2017 21:36
To: Planning

Subject: LIVE/0458/FUL/17 | Erection of two dwelling houses (Grid Ref: 304449, 677328) | West of Drovers Bank, Pardovan Farm Steadings, Philpstoun, Linlithgow

Dear Sir,

We are writing to object to the above planning application. This is the 7th application by Raeburn Developments on the same site. All of the previous reasons for declines and the decisions, including a 2 day appeal to the Scottish Executive in 2006, are still relevant and valid. Our objections are as follows:

1. When the original plans for 5 houses at Drovers Bank were approved the conditions attached to the approval were that the area in question should be amenity space and landscaped. We understand that the amenity area was agreed because the gardens for the houses currently at Drovers Bank do not meet the minimum sizes. As such this area should be considered greenfield. This was confirmed by the Scottish Executive appeal in 2006. The fact that the applicant has failed landscape this area despite an enforcement order from the council should not detract from the fact that this area cannot be considered infill or brownfield as the applicant claims. The applicant cannot take advantage of the fact that they have failed to meet the original conditions and submit an application for further houses on this land. The conditions of the original application must take precedent over any future requests to develop the site further. Amenity areas are protected in policies HOU4 and COM2 of the West Lothian Local Plan. Paragraph 49 of the Scottish Executive appeal states "The finalised local plan only accepts infill development of brownfield land, and if the landscaping work were complete, the site would no longer be truly brownfield. Further, as a planned landscaped area there would be no site to infill."
2. The barns that were on the site were demolished over 13 years ago therefore the applicant can no longer claim the area is infill.
3. The septic tank and reed bed originally installed by the applicant to support 5 houses are not up to standard. The tank has had to be emptied annually and the reed bed has been unable to cope with 5 houses never mind an additional 2 four bed houses.
4. The road that the applicant built is in very poor condition and is unable to cope with the current volume of traffic. It is not suitable for a further increase in traffic. Additionally parking at Drovers Bank is extremely limited. The area marked as a turning circle is currently used on a daily basis as parking for 2 cars as there are currently 11 cars for the 5 houses before any visitors. There is an overflow of cars parked along Drovers Bank on a daily basis. Additional homes would exasperate this problem and create serious road safety issues compromising access for both farm traffic and emergency vehicles. Each proposed house has plans for 2 parking spaces and a garage clearly reflecting the need for a car in this rural setting given the poor public transport links in the area. This detracts from the rural setting.
5. An additional 2 large houses would result in the Pardovan site being overdeveloped and losing its rural identity. Contrary to the applicant's point about a demand for new housing in this area it is the applicant who is creating the demand rather than satisfying an existing demand. There is no locational need for these houses. The area marked on the drawings as Pardovan Stables has permission granted subject to a section 69 agreement for a three bedroom house which immediately adjoins a house on the applicant's site.

6. The applicant states the local plan is outdated but we are of the understanding that the draft new plan has not shown any need for extra homes in this area.

In conclusion this application is contrary to numerous planning points. Further development at Drovers Bank would result in the area losing its rural identity and as such should be declined.

Mark and Abi Ferguson
2 Drovers Bank Steading
Pardovan
Nr Linlithgow
EH49 7RZ

**80 Crawford Road
Milngavie
Glasgow
G62 7LF**

West Lothian Council Development Management
- 6 JUL 2017
Date.....
Ref No. <u>0458/FUL/17</u>
Ref To <u>Steve</u>
Ack'd.....
Replied.....

To: West Lothian Council
Development Management
West Lothian Civic Centre
Howden South Road
EH54 6FF

Dear Sirs

I write to strongly object to Planning Application 0458/FUL/17

This is an important rural greenfield site which is part of the five steading houses situated at Drovers Bank. My understanding is that previously submitted planning permission to build houses on this land has already been rejected on the grounds that such development would have a negative impact on neighbouring houses, which currently have a rural character. The site was originally determined as being a common-use landscaped area and this fact was an important condition of permission when planning permission was granted for the above mentioned five houses. Indeed these five houses were marketed/illustrated in sales literature and sold at considerable prices to residents by the developer/builder, as having the site in question landscaped. Surely grounds for gross misrepresentation if such a situation is not upheld.

Any further building development would lead to the area becoming over-urbanised. The area would take on a cramped feeling with the addition of another two large houses. If such a development were to go ahead, it would become a mini housing estate situated on a working farm!

I was of the understanding that current planning policy was to reject such developments as they would go against West Lothian Council's cramming standards. The additional number of cars that would likely come with the building of two new houses would further add to a cramped and urbanised feeling to the area.

As the site in question is currently greenfield and grassed/landscaped, the proposed plan cannot be seen as a conversion of an existing building. But rather being greenfield, no new build developments can be permitted on such a site.

Such densely packed housing would create a poor living environment for both existing and future residents. There would be great problems created with increased traffic congestion, causing potential risk to the many young residents who currently reside at Drovers Bank.

I strongly object to application 0458/FUL/17 .

George Gray



From: andy gray
Sent: 06 July 2017 23:47
To: Planning
Subject: Objection to Planning Application Reference Number 0458/FUL/17

Dear West Lothian Council Planning Department

We are writing to you in strong objection to Planning Application 0458/FUL/17.

Planning permission for this particular site has been refused on a number of previous occasions for a variety of reasons, as laid down by planning policy. These comprehensive reasons still stand and as such this application should be rejected.

The five dwelling houses that constitute Drovers Bank were granted planning permission with a specific condition of permission being that the site in question would be landscaped/grassed and provided as amenity. While the site is not manicured landscape, it is nevertheless grassed (a number of years ago West Lothian Council served an order on the site developer requiring the site to be grassed as had been previously agreed) – and has now been grassed for a considerable number of years – and can thus be classed as greenfield. To build on this site with such a condition in place, would surely go against planning policy.

There is no locational need to build on this particular site.

The locale as it is – a mix of dwelling houses and working farm – is already heavily congested with parked cars/moving vehicles/working farm machinery and any additional housing with the resultant additional cars that such houses would bring, would lead to an extremely excessive number of vehicles, ever more congested parking/blocked road and an increased danger of accidents to the residents and particularly the many young children who live at the existing houses.

The area as it is, already suffers from a lack of adequate car parking with no nearby alternatives. The poor design nature of the existing garages means they are too small to park modern cars in, requiring that cars be parked outside on the road or in driveways (current houses each possess at least two cars and yet only one of the five houses has a double driveway, the others only possessing small single driveways). The remote nature of the location means that residents rely heavily on car transportation (local public transportation is spare at best) and construction of any new houses would increase car numbers to a dangerous congested level. Such congestion and lack of suitable visitor parking will also impact on safe access of emergency vehicles if ever required to attend the locale.

The current sewage/septic tank provision struggles to cope with the existing demand – with regular overflowing of excess waste – and would not cope with increased levels of waste/sewage that would arise from additional houses.

Adjoining Pardovan House already has planning permission in place for development of a three bedroomed house utilising an existing stables building, which would be situated within feet of the proposed two new houses as part of this application. Surely this would be an unfeasible situation in such a rural environment,

with the resultant loss of privacy, and cramped living nature that would arise from the siting of any additional new houses, etc.

Any new houses on the proposed site would have absolutely no outlook at all and would be hemmed in by existing Drovers Bank houses and Pardovan House and also by surrounding walls and a northerly outlook on another existing farm building. Not exactly idyllic rural living for any new residents!

The access road to this site is not currently fit for purpose (unpaved and potholed) and would not cope with additional resident/visitor traffic that would come with any new houses.

The applicant also states that 'immediately to the east of the site lies the internal access road, which provides access to the rear of the five dwellings known as Drovers Bank'. This is not a correct statement as there is no access to the rear of the five dwelling houses from this road. The rear gardens of the houses are enclosed by walls with absolutely no access whatsoever to the mentioned road (rather a bumpy unpaved track) – no gates, no doors, no open access. This complete lack of rear access is indeed a major drawback to residents in the existing houses, given that they are also of a terraced nature, meaning that there is not even any side or 'round the house' form of access.

Any new houses on the proposed site would greatly impact on our privacy and amenity with resultant loss of light to our west facing rooms/garden, etc.

The applicant states that the orientation of existing residential properties around the site and the fact that their main outward looking elevations point away from the site, means that there will be no significant impact on the visual amenity of existing residential property. This statement is utter rubbish and extremely disingenuous of the applicant to say so – existing residents spend a great bulk of their time outside the front of our houses enjoying the light, space and peace at the front of our properties (western side), and is where children play on a daily basis. From late morning until sunset the area in front of our houses and gardens is flooded with western light, in addition to great sunset views later in the day – any new building on this site would block this light/view and destroy our current amenity and quality of living. I spend much of my working week working at home, working in a room with a western facing window which allows me to enjoy expansive views through the trees and across surrounding fields, way beyond the boundaries of Drovers Bank – again, the building of any new houses on this site would block this view and greatly detract from our current amenity.

The site is part of an important rurally located working farm with considerable history and heritage. Construction on this site, in such close proximity to existing houses, would create an urbanised housing development and an unacceptable level of 'cramming' – leading to a strong loss of amenity for existing residents. The important rural state of the site would be lost forever.

The applicant states that the existing houses at Drovers Bank are 'converted steadings with substantial garden ground and wide open aspects on their eastern frontages' – this is stretching the use of the word 'substantial' to extremes, as the

existing gardens could better be described as being 'tiny' in size. Indeed, it has already been determined that four out of the five gardens of the existing houses at Drovers Bank are less than West Lothian Council acceptable standards regarding size in comparison to corresponding house size, and as such the site in question has been determined to be a conditional amenity (even if only for its sense of space and visual amenity) for the already existing dwelling houses at Drovers Bank. As such, planning permission should not be granted.

As mentioned, rejection of previous applications for planning permission for this site has cited a variety of reasons as to why construction would be in breach of planning policy. Such reasons were intimated in great detail by a Scottish Government appointed Reporter as part of a lengthy appeals process in 2006. The reasons for rejection in the Reporters lengthy report still stand to this day.

For interest, the attached copy of the original sales brochure for houses at Drovers Bank depicts the site in question as being maintained landscaped grounds. We bought our house at Drovers Bank on the premise that this ground would indeed be landscaped or at least grassed to a suitable standard. Perhaps a serious case of misrepresentation/mis-selling on the developer's part?

Once again, we would like to express our strong objection to this application and would request that West Lothian Council refuse planning permission.

Yours faithfully.

Mr and Mrs A. Gray
3 Drovers Bank
Linlithgow
EH49 7RZ

WEST LoTHIAN COUNCIL PLANNING APPLICATION 0458/FUL/17
Proposal to build two dwelling houses at Drovers Bank, near Philpstoun

NOTICE OF OBJECTIONS BY NEIL HAY & COURTNEY MCLEOD (residents at No 1
Drovers Bank)

We object to the proposal by Raeburn Developments to build two dwelling houses at Drovers Bank for the following reasons:

1. LOSS OF RESIDENTS AMENITY SPACE

We understand that when the original plans for 5 houses at Drovers Bank were approved by the council the conditions attached to the approval were that the area in question should be amenity space. It is also understood that planning permission for the existing development was granted with specific conditions relating to the landscaping and upkeep of a recreational area by Raeburn Developments. Raeburn has failed to landscape and care for this area of recreational land and the area has been left looking rough and unsightly. Drovers Bank residents have also been denied access to it by the installation of a wire fence and six-foot high barrier (both of which are entirely unsuitable for a rural environment). The fact that the applicant has failed to landscape this area despite an enforcement order from the council should not detract from the fact that this area cannot be considered infill as the applicant claims. The applicant should not be rewarded for the failure to meet the original conditions and the conditions of the original application must take precedent over any future requests to develop the site further. Furthermore amenity areas are protected in terms of the West Lothian Local Plan. It is most unfortunate that the amenity of the grassed area envisaged in the original application has not been fulfilled by the Raeburn. This has been to the detriment of the residents at Drovers Bank. We wonder whether at the time of the original application, the developer ever had any intention of creating an amenity space on the site.

We understand that the amenity area was originally required by the council because the gardens for the houses currently at Drovers Bank do not meet the minimum size regulations. It is very misleading to suggest that the properties at Drovers Bank as having "substantial garden ground" (Planning Statement, paragraph 2.4). The gardens are small and we would invite the council to inspect the locus.

It is entirely misleading to describe the area of proposed land as a "vacant site" (Planning Application). The site is only vacant in the sense that it has been vacated by Raeburn developments themselves who have failed to landscape and upkeep the site. For the same reason it is also misleading to describe the site as "unused wasteland" (Planning statement, paragraph 2.3).

2. THE PROPOSED AREA OF DEVELOPMENT IS NOT 'INFILL' LAND

To assist the council in determining this application we have attached a copy of the first page of the Raeburn developments marketing brochure for the site (2005). The area of proposed development is clearly an integral part of the original steading conversion. This application should not be considered separate to the existing development at Drovers Bank. It is ludicrous to describe the area in question as 'infill' given the manner in which the site was marketed by Raeburn and given the conditions attached to the original grant of planning permission.

The opinion of council attached to the application is limited to the very discreet issue relating to what is or may be 'infill'. Curiously Counsel makes no reference to the West Lothian Council supplementary planning guidance *SPG new developments in the countryside (2009)*. We would refer to paragraphs 5.3 and 5.5 of that document. In particular paragraph 5.5 states "*Appropriate infill development, in the context of Policy ENV 31 of the adopted West Lothian Local Plan 2009, means sensitive development within small groups of houses or minor extensions to groups, depending on the character of the surroundings and the number of such groups in the area, and developing single plot width gaps, usually between existing houses, and in an otherwise continuous built-up frontage within a clearly identifiable cohesive group of houses in the countryside*". The proposed development is out of character in relation to the existing buildings at Pardovan Holdings, Pardovan House and Drovers Bank and is not between existing buildings in a continuous built-up frontage. Furthermore the proposed development does not satisfy the general criteria for acceptable building noted at paragraph 5.6.

3. DRAINAGE / SEPTIC TANK

The septic tank and reed bed originally installed by the applicant to support 5 houses are not up to standard. Problems have included overflow and poor drainage from the reed bed. The septic tank and sewage system is inadequate for needs of the existing sixteen residents. The tank has had to be emptied annually and the reed bed has been unable to cope with the existing 5 houses. The tank and reed bed will not cope with a further two family homes. Specialists who have been called upon to assist with the problem have indicated that the septic tank is barely adequate for the existing residents. Further housing (with perhaps a further eight to ten residents) will place an intolerable burden upon the tank and sewage system. It is entirely misleading for the Planning Statement to describe the drainage system as adequate (paragraph 2.11). We are highly dubious of the statement that the septic tank is designed to serve double the number of current homes (Planning Statement, paragraph 2.11). We would urge the council not to consider granting permission for these new homes until a full independent expert assessment of the current drainage has been undertaken, presented to the council and approved as suitable for the total number of homes at the site by SEPA / Scottish Water.

4. ROADWAY & ROAD SAFETY

The road that the developer built is in very poor condition and is unable to cope with the current volume of traffic. It is not suitable for a further increase in traffic. It is in a very poor state of repair. It is rough and uneven with many potholes. The heavy vehicles and machinery required for building houses will only lead to further significant damage to the road surface.

Road access to the site is not from a public road but from what is effectively a farm track and does not meet standards for adopted by local authority. No proper provision for full reconstruction of an access road by laying proper foundation with tarmac finish has been proposed by the developer.

Drovers Bank and the access road already accommodate family vehicles, farm vehicles (including farm machinery) and equestrian recreation. There are already eleven motor vehicles in use by the residents and six children (aged twelve or under) reside there. Further motor traffic cannot safely be accommodated at Drovers Bank, particularly in a family residential area in such a small space with no pavements.

5. LOCAL HOUSING PROVISION

An additional 2 large houses would result in the Pardovan site being overdeveloped and losing its rural identity. There is no local demand for housing in this area.

The proposed new West Lothian local plan (2017) does not envisage or refer to any demand for new residential housing in the Philpstoun area.

6. LOSS OF AMENITY & PRIVACY:

The elevation of the proposed new housing will lead to a loss of sunlight in the front garden at the front of No1 Drovers bank and a loss of privacy, particularly in the first floor bedroom and front garden.

7. SPATIAL DENSITY:

New housing will lead to overdevelopment of the site. It will become cramped and unpleasant. The spatial relationship with existing buildings will be unacceptable. Drovers Bank will no longer be in keeping with its rural and countryside surroundings.

8. NATURE OF THE DEVELOPMENT

The proposed new homes appear to be out of character with the existing homes, cottages and farm buildings in the immediate area. The houses are detached and suburban in nature, which is at odds to a small steading development.

Countryside developments usually enjoy space and an open outlook. The proposed development will undermine that character.

05/07/17



From: Kenneth McIntyre
Sent: 06 July 2017 23:14
To: Planning
Subject: planning application reference number 0458/FUL/17

planning application reference number 0458/FUL/17

Dear West Lothian Council

I am writing to you to register my objection to the recently submitted planning application – reference number 0458/FUL/17. This application relates to land at Drovers Bank, Pardovan, by Philpstoun. I object to the application with regards to the below points.

This is the latest in a long line of applications for development of this site, with all previous applications having been declined for a variety of valid reasons and I believe these reasons still stand.

If this latest application was to proceed it would lead to the destruction of an existing quiet rural area and would result in an overdeveloped and cramped area of housing, more befitting an urban location rather than the spacious rural site that it currently is.

Any new housing would greatly detract from the existing amenity enjoyed by current residents. Light to existing houses would be blocked.

The development of any new housing would add to the already congested traffic on this site. The site is on a working farm which sees regular movement of farm machinery. Existing residents already struggle with inadequate parking provision and any additional houses would only bring more parking congestion and risk of traffic accidents.

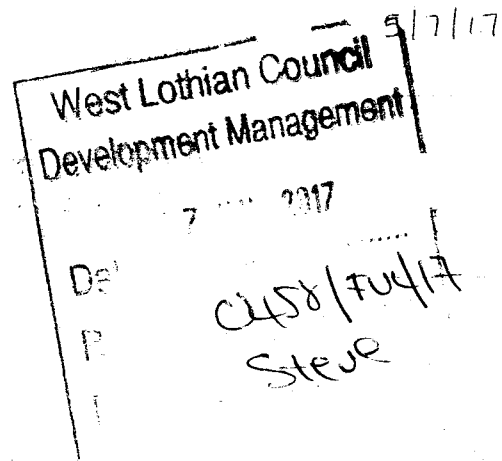
When original planning permission was granted for Drovers Bank it was on the condition that the site in question would be grassed and regarded as shared amenity. This condition should override all other criteria.

There does not appear to be any specific locational need for the proposed housing – it is my understanding that the local development plan only accepts new development in the countryside where it has an operational requirement and this application does not meet this criteria.

Please accept my objection to this application.

Mr Kenneth McIntyre

10 Pardovan Holdings
Philpstown,
By Linlithgow,
West Lothian
EH49 7RU.



PLANNING APPLICATION (0458/FUL/17)

Erection of 2 Houses at Drivers Bank, Pardovan.

I wish to object to the above planning application for 'exactly the same reasons as on 25/3/12 and 7/6/16' - once again with 'extra emphasis' on number 5 (copy enclosed) - The roadbed and septic tank which are on the land belonging to me!

Yours sincerely

[Redacted Signature]

Both previous objections enclosed for reference:

Can you please also note No 2 ~~also~~ - The 'access road' sits on a 'working farm' - so obviously used for all farm purposes by farm implements and machinery!

From: Paul Sexton
Sent: 04 July 2017 23:08
To: Planning
Subject: 0458/FUL/17

In reference to the recently lodged planning application (reference number 0458/FUL/17) to build two new houses on land located at Drovers Bank near the village of Philpstoun, I'm writing to inform you of my objection to the application.

As you will no doubt be aware, planning permission for this piece of land has previously been rejected on a number of different occasions by West Lothian Council.

I object to the recently submitted application on the grounds that the site in question is grassed amenity as part of the existing residential dwellings at Drovers Bank, and that the proposed development would result in increased urbanisation and traffic and would adversely affect the rural feel to the current area. As it is a small site, so close to neighbouring houses, the development of two large new houses would result in the area becoming over-built and crowded.

I understand that West Lothian Council originally granted permission for the construction of the adjoining conversion houses in Drovers Bank, the land relating to the current application, was required to be landscaped and maintained as the aforementioned shared amenity, as a major condition of the original steading conversion planning permission.

I propose that the West Lothian Council Planning Department decline this application.

Regards

Claire Sexton

Susan Porteous
18 Liberton Drive
Liberton
Edinburgh
EH16 6NN

3rd July 2017

West Lothian Council Development Management
- 6 JUL 2017
Date.....
Ref No. 0458/FUL/17
Ref To. Steer
Ack'd.....
Replied.....

West Lothian Council
Development Management
West Lothian Civic Centre
Howden South Road
Livingston
EH54 6FF

To West Lothian Council Planning Department

In reference to the recently lodged planning application (reference number 0458/FUL/17 to build two new houses on land located at Drovers Bank near the village of Philpstoun, I'm writing to inform you of my objection to the application.

As you will no doubt be aware, planning permission for this piece of land has previously been rejected by West Lothian Council, before subsequently going to an appeal stage which was overseen by a Scottish Executive Reporter. The decision handed down by the Reporter was a rejection of the appeal. I therefore refer you to this relevant report which you will no doubt have on file and which provides full details of why this site should not be developed.

I object to the recently submitted application on the grounds that the site in question is a grassed greenfield site meaning such development should be prohibited, and that such a development would result in increased urbanisation of an existing rural site and would adversely affect the rural feel to the current area.

As it is a small site, so close to neighbouring houses, the development of two large new houses (contrasting with the terraced house format of existing dwellings), would result in the area becoming overdeveloped and becoming like a small housing estate. It is my understanding that when West Lothian Council originally granted permission for the construction of the five houses in Drovers Bank, that the land relating to the current application was required to be landscaped and maintained as shared amenity as a major condition of the original steading conversion planning permission.

I urge that West Lothian Council Planning Department decline this application.

Yours faithfully.

S. Porteous

From: Rowena Robbie
Sent: 07 July 2017 07:39
To: Planning
Subject: Objection to application 0458/FUL/17

Dear Sir, Madam

I am writing to object to Planning Application 0458/FUL/17.

Any new development on this site would create a crowded urban-like situation. The site in question – which is greenfield – is an important amenity with regards to the existing dwelling houses at Drovers Bank. This point has already been determined in relation to previous planning applications regarding Drovers Bank.

The current location enjoys a peaceful rural setting – any new building would greatly diminish this and a crowded, congested locale would be created. Current residents would be negatively affected via increased traffic/car parking congestion, loss of space, loss of light, etc.

In my view there is no locational requirement to support any development at this site.

In addition I notice at point 3.3 in the design statement accompanying the application, that the “two houses will be accessed directly using the existing communal paved driveways” – plural. However, there is only one fully paved driveway at this site, that which is directly outside the existing five houses at Drovers Bank – the main approach track to the site from the nearest public road is not fully paved and instead in the main is a rough farm track.

Currently residents at Drovers Bank enjoy a peaceful westerly outlook to the grassed area that is the site in question. The site is also frequented by many species of birds and other forms of wildlife such as hedgehogs and field mice. Any proposed development would greatly detract from this visual amenity and destroy the spacious feel and outlook of existing residents. Any proposed development would adversely affect the rural nature of the site and as such I strongly object to this planning application.

Rowena Robbie

Castlepark
Philpstoun
West Lothian
EH49 6RA
6/7/17

0458/FUL/17 : Erection of two houses at Pardovan Steading

Dear Steven McLaren,

There is been a long planning history to this site, unfortunately. Planning application 0741/FUL/03, saw the granting of planing permission for this site as a “grassed area” intimately associated with the conversion of a old steading into five dwellings. The conditions for that planning application withdrew permitted development rights giving an indication of the sensitivity of the site to further development. Given the small to very small gardens of the steading conversion it is unsurprising that this “grassed area” was included. The site was an integral part of the planning application, not left out, or marked as a second phase. It is unfortunate that the conditions granted for this application were not robust enough to prevent the subsequent planning applications and has not allowed the residents of the steading conversion to enjoy the amenity of the grassed area envisaged in the original application. An open court at the centre of a steading group is often seen. This is not an urban site, it is outside a settlement envelope and very much rural location. With the conversion from farm use to dwellings, amenity does become a consideration. A lower density is expected and desired. The open “grassed area” meets this need in what would otherwise be a dense area of building, with an overbuilt and oppressive feeling if this scheme is granted.

From my research, 0917/P/93 was the first planning application for this site. The full details are not on the planning portal but it was for outline permission for a conversion to 7 houses. It was refused. However, 0677/FUL/95, outline permission for conversion to 4 houses was granted and renewed five years later, 1100/FUL/00. It would seem that the density of the site was a cause for concern from the start. Although, initially settling for 4 dwellings the number was upped to 5 with the full application 0741/FUL/03.

There then follows a quick succession of six applications 1455/FUL/04, 0633/FUL/05, 0258/FUL/07, 0903/P/08, 0176/FUL/12, 0811/FUL/12 and more recently 0337/FUL/16 for varying numbers of dwellings. None succeeded in being granted planning permission. One 0633/FUL/05 went to appeal; after an exhaustive investigation, the refusal was upheld. Although the pressure on school places has eased, there were other aspects that are still relevant. This appeal decision should be consulted as you consider this application.

The applicant in 0741/FUL/03 connected the site to the steading conversion, allowing the occupants with tiny gardens a bit more amenity space. The report dismissing the appeal for 0633/FUL/05 par 69, states how small the gardens are and considers whether they could be counted at all given the reduction in privacy from an access track. This is completely at odds with the Planning Statement submitted with this application that describes “converted steadings with substantial garden ground” par 2.4. The Design Statement and more extensively in the Planning Statement construct a fantasy of a “vacant site” that “is not usable open space” ignoring the use that the planning application 0741/FUL/03 gave the site.

It is only because of the defiance of the applicant to his previously granted application (0741/FUL/03) by fencing off the site that it is unusable as an amenity area.

The houses in the application seem to show more architectural ambition than in earlier schemes. The drawings indicate good architectural details and quality materials. There are several Pollock Hammond buildings in the area, so if the architects are involved beyond the planning stage there is a chance that this level of ambition should be translated into built form. However, the houses are detached and suburban in nature, which is at odds to a steading development that groups attached buildings together. This inappropriate site layout will lessen the feeling of being in a steading development.

The area around the site is congested. An out-building of Pardovan House has recently gained planning permission to be converted into a house (0778/FUL/12). There is also a surprising number of vehicle movements, in a tight area with many young children living in the surrounding houses. Parking, at times is a problem, that an additional two houses will exacerbate. The garage for House 1 does not have a parking area in front of it and House 2 does not have much of a parking space in front of it, will that pass building regs?

This site was integral to the original steading conversion. It is regrettable that the planning process has not been able to allow the occupants of the steading conversion to enjoy the amenity of the site envisaged in that planning application all those years ago. The applicant has given no reason why this site should be separated from the steading and treated as a separate scheme.

Philpstoun Community Council objects to Planning Application 0458/FUL/17.

Yours sincerely

Jonathan M. Harris
Philpstoun Community Council

Development Management
West Lothian Council
Civic Centre
Howden South Road
Livingston
West Lothian EH54 6FF

West Lothian Council
Development Management
- 4 JUL 2017
Date.....
Ref No... 0458/FUL/17
Ref To... Steve
Ack'd.....
Flopped.....

28, Bailielands
Linlithgow
West Lothian
EH49 7SU

01 July 2017

Dear Sirs,

**Planning Application 0458/FUL/17 West of Drovers Bank Pardovan Farm Steadings,
Philpstoun, Linlithgow, Erection of two dwelling houses.**

With respect to the above Linlithgow Civic Trust wish to object to this application for the following reasons.

1. The development is likely to generate additional demand on Linlithgow Academy which has no spare capacity until a new secondary school is provided at Winchburgh.
2. The proposals are for residential development of 'unspecified occupancy' on land designated for agricultural purposes.
3. The development would be accessed by means that would be designed a 'public road' under the terms of the Roads (Scotland) Act but would not meet adoptable road standards.

Yours sincerely,

David Timperley
Planning Spokesperson
Linlithgow Civic Trust







DEVELOPMENT MANAGEMENT COMMITTEE

Report by Head of Planning, Economic Development and Regeneration

1 DESCRIPTION

Change of use from a nursery (class 10) to a house (class 9) at 5 Pardovan Holding, Philpstoun

2 DETAILS

Reference no.	0536/FUL/17	Owner of site	Oakwell Nursery
Applicant	Oakwell Nursery	Ward & local members	Linlithgow Councillor Tom Kerr Councillor Tom Conn Councillor David Tait
Case officer	Matthew Watson	Contact details	01506 283536 matthew.watson@westlothian.gov.uk

Reason for referral to Development Management Committee: Referred by the Development Management Manager

3 RECOMMENDATION

Refuse planning permission.

4. DETAILS OF THE PROPOSAL AND BACKGROUND

- 4.1 Planning permission is sought for the conversion of an existing, stand-alone, nursery building, which is located on the west side of the main Oakwell Nursery building and car park.
- 4.2 The building in question is a one and a half storey building finished with grey roughcast render and a mono pitched roof. The roof itself is finished with profile metal sheeting.
- 4.3 An inner courtyard is located within the building with a gate at the eastern end currently controlling external access to this area.
- 4.4 No further details of the conversion have been provided beyond the site plan submitted with the application and attached to this report. As such, only the principle of the conversion of the nursery building can be assessed.

- 4.5 The application is linked to applications 0592/P/17 and 0593/P/17 at the same site.
- 4.6 Committee previously considered and refused an application for five houses on this site at the June 14th Development Management Committee. The refusal of that application has now been appealed to Scottish Ministers.

History

- 4.7 [0260/FUL/17](#): Erection of five dwellinghouses, Refused, 23/06/2017 (Appeal submitted to the DPEA)
- 4.8 0725/FUL/13: Erection of a 39 sqm extension to nursery, Granted, 19/12/2013
- 4.9 0452/FUL/09: Conversion of dog kennels to form extension to existing childrens nursery and formation of car park, Granted, 11/09/2009
- 4.10 1065/FUL/08: Continued siting of portacabin and siting of new portacabin, Granted temporary permission, 23/12/2008
- 4.11 1172/FUL/07: Erection of 210sqm extension to childrens nursery, Granted, 12/02/2008
- 4.12 0087/FUL/04: Erection of 107sqm boarding kennels with associated ancillary accommodation, Granted, 18/03/2004
- 4.13 1141/FUL/03: Erection of a dog boarding kennels with associated ancillary accommodation, Refused, 05/12/2003
- 4.14 0139/FUL/02: Part change of use from house (Class 9) to a childrens nursery (Class 10), Granted, 02/04/2002
- 4.15 0733/FUL/00: Change of use from domestic garage to childrens nursery (Class 10), Granted, 16/01/2001
- 4.16 0827/FUL/99: Erection of a house, formation of a small holding and erection of outbuildings, Granted, 25/07/2000

5. REPRESENTATIONS

No individual representations have been received. Philpstoun Community Council has objected, as set out in Section 6 below.

6. CONSULTATIONS

This is a summary of the consultations received. The full documents are contained in the application file.

Consultee	Objection?	Comments	Planning Response
West Lothian Council - Education Planning	No	No objections to the application subject to the securing of contributions	Noted. If planning permission is granted contributions will require to be sought towards education

		towards education infrastructure.	infrastructure through a legal agreement.
Flood Prevention	Yes	<p>The site is generally not at risk of flooding.</p> <p>Drainage details or summary report that covers surface water should be submitted prior to a permission being issued.</p> <p>Assuming that no public sewerage is available then foul drainage will require to be dealt with in an approved manner. This may require the approval of SEPA in the form of a CAR License.</p>	<p>Noted. This information has not been requested given that the application is not acceptable, as set out in the assessment section of the report.</p> <p>This information will require to be submitted via conditions if planning permission is granted.</p>
Contaminated Land Officer	No	No objections to the application subject to a Phase 1 and Phase 2 site investigation being submitted prior to determination. If remedial works are required these can be attached as a condition.	<p>Noted. Phase 1 and Phase 2 site investigations have not been requested given that the application is not acceptable.</p> <p>If planning permission is granted this information will require to be attached as a condition.</p>
Transportation	Yes	Holding objection lodged pending further information on visibility splays and whether the first six metres of access to development will be surfaced in a bituminous material.	<p>Noted. This information has not been requested given the application is not acceptable</p> <p>This information will require to be submitted via condition if planning permission is granted.</p>
Environmental Health	No	No objections to the application.	Noted.
Health and Safety Executive	No	HSE does not advise on safety grounds against granting planning permission.	Noted.
Philpstoun Community Council	Yes	<p>Objects to the development on the following grounds:</p> <p>The nursery is of a higher design aesthetic than some of the farmers sheds in the area but is not of exceptional merit. The nursery building is also not of local historic merit and should not be looked upon as a candidate for conversion</p> <p>The proposal does not meet the criteria of ENV 34 of the Local Plan.</p>	Noted and agreed. The proposal does not comply with Policy ENV 34.

7. ASSESSMENT

- 7.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the Development Plan, unless material considerations indicate otherwise.
- 7.2 The development plan comprises the Strategic Development Plan for South East Scotland (SESplan) and the West Lothian Local Plan
- 7.3 The relevant development plan policies are listed below:

Plan	Policy	Assessment	Conform ?
West Lothian Local Plan (WLLP)	ENV 34 Conversions, subdivisions and re-use of buildings in the countryside	This policy requires the council to consider favourably proposals that seek to convert, subdivide and re-use buildings in the countryside of architectural or historic merit. The building in question is not of architectural or historic merit. See assessment below.	No
WLLP	COM 9A Contributions for cemeteries	This policy requires financial contributions towards cemetery provision A contribution would be required to be paid prior to granting planning permission if committee were minded to grant the application.	Yes
WLLP	IMP 2 Denominational secondary provision	The policy requires developer contributions towards denominational secondary school provision A contribution would be required to be paid prior to granting planning permission if committee were minded to grant the application.	Yes
WLLP	IMP 3 Education Constraints	This policy states that in considering proposals for housing development legal agreements will be used to secure appropriate developer contributions. To allow the proposed	Yes

		development to proceed, contributions for non-denominational secondary, non-denominational primary and denominational primary would need to be secured prior to planning permission being granted if committee were minded to grant the application.	
WLLP	IMP 6 SUDS	This policy requires development to comply with current best practice on sustainable urban drainage practices. SUDS can be secured via a planning condition.	Yes
WLLP	IMP 14 Supplementary planning guidance	The following SPG apply: <ul style="list-style-type: none"> • Flood risk and drainage • Planning for education • Denominational school infrastructure • Development in the countryside 	In part
West Lothian Local Development Plan – Proposed Plan	ENV 2 Housing in the countryside	Criterion (f) of this policy states housing can be permitted in the countryside where the conversion or rehabilitation of existing buildings are of architectural or historic merit. The building in question is not of architectural or historic merit. See assessment below.	No

Principle of Development

7.4 The application site is located in the countryside and outside a settlement boundary. Policy ENV 34 of the West Lothian Local Plan (WLLP) sets out the policy on conversion of buildings in the countryside. Policy ENV 2 of the West Lothian Local Development Plan – Proposed Plan (LDP), the SPG on Development in the countryside and Scottish Planning Policy are material considerations in the assessment of this application.

7.5 Policy ENV 34 of the WLLP states:

“Proposals for the conversion, sub-division and re-use of existing buildings in the countryside which the council deems to be worthy of retention because of their architectural or historic merit will be considered favourably...”

- 7.6 The above from Policy ENV 34 is re-iterated in the SPG on Development in the countryside.
- 7.7 Policy ENV 2 (f) states housing development can be permitted in the countryside where *“the proposal involves the conversion or rehabilitation of existing rural buildings which the council deems worthy of retention because of their architectural or historic merit;”*
- 7.8 The building proposed for conversion was constructed in the mid-2000s as dog boarding kennels. It has no historic merit. The wall and roof finishes are roughcast render and profiled metal sheeting respectively. The design and materials of the building do not create a building that is of architectural merit. There is no policy justification for seeking retention and conversion of the building to a house.
- 7.9 Moreover, the site is in an unsustainable location without the benefit of a footpath connection to local services or public transport. There would be considerable reliance on using a car in this location. This does not accord with Paragraph 46 of Scottish Planning Policy, which looks to ensure development can link different means of travel and is well connected beyond the site boundary. The proposal is therefore not sustainable development.
- 7.10 No supporting information or policy justification has been submitted with this application. Supporting information was submitted with the previous application (reference: 0260/FUL/17). This justification centred on the need for housing development to cross-fund the nursery business which is being impacted on by new Scottish Government and Council policies relating to education provision.
- 7.11 Members will recall when the previous application was considered, whilst being sympathetic to the personal circumstances of the applicant; committee agreed that this did not justify overturning well established council policy in respect of development in the countryside. This justification did not hold material weight in the determination of that application. This remains the case for this application.
- 7.12 The proposal is therefore contrary to Policy ENV 34 of the WLLP, Policy ENV 2 of the Proposed LDP, the SPG on Development in the countryside and Scottish Planning Policy.

8. CONCLUSION AND RECOMMENDATION

- 8.1 The building proposed for conversion is neither of architectural nor historic merit. The proposed development is therefore unacceptable in principle and does not comply with Policy ENV 34 of the WLLP, Policy ENV 2 of the Proposed LDP, the SPG on Development in the countryside and Scottish Planning Policy.
- 8.2 Consequently, and in view of the above, it is recommended that planning permission is refused.

9. BACKGROUND REFERENCES & ATTACHMENTS

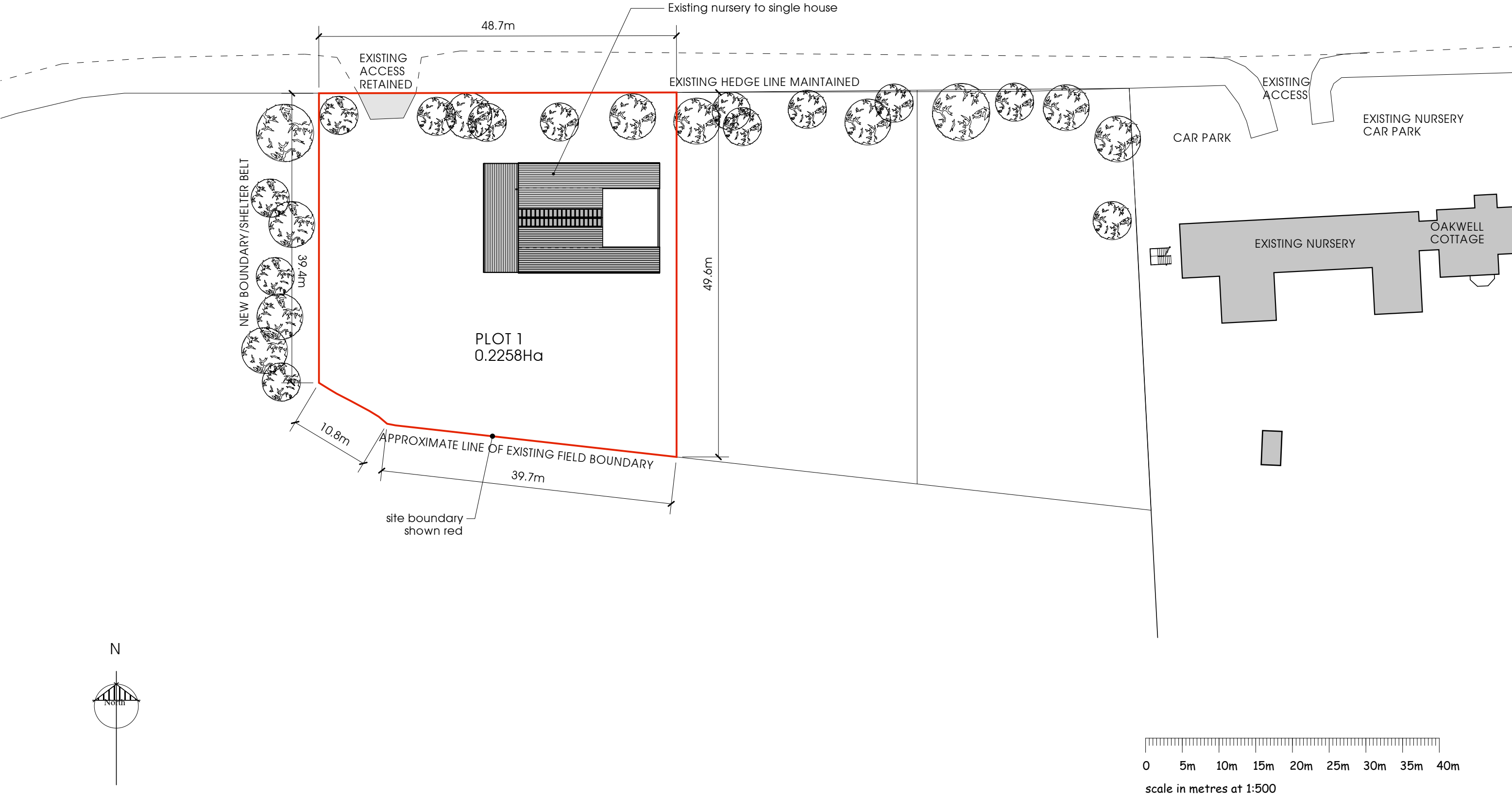
- Location Plan
- Aerial Plan
- Block Plan
- Representations
- Draft reasons for refusal

Craig McCorriston

Head of Planning, Economic Development and Regeneration **Date: 27 September 2017**







Watson, Matthew

From: jonathan harris [REDACTED]
Sent: 24 August 2017 11:36
To: Watson, Matthew
Cc: Philpstoun Community Council; andy gray; KirstySimon; Gillian McLean
Subject: Oakwell Applications

Follow Up Flag: Follow up
Flag Status: Flagged

Matthew Watson

0536/FUL/17 : Change of use from Nursery to House, 5 Pardovan Holdings

0592/P/17 : Erection of a house, 5 Pardovan Holdings

0593/P/17 : Erection of a house, 5 Pardovan Holdings

The above three applications have all been submitted by the same applicant and all relate to a site that was the subject of an earlier application 0260/FUL/17 for five houses. That application was refused. All the applications are for outline planning permission and do not go into any detail. It seemed appropriate to write one letter to cover all three applications.

The first application 0536/FUL/17 seeks a change of use from a nursery to a house. The current building was originally erected as a kennel for boarding dogs. That business soon failed; after that it was converted into a nursery. Although the nursery building has a higher design aesthetic than the sheds farmers are able to put up, it is not of exceptional merit. It is also not of local historic merit, so should not be looked upon as a candidate for conversion, as many stone built steadings are. It should be noted that the previous application, 0260/FUL/17, saw no merit in its retention and sought to demolish it. The application does not meet the criteria set out in Policy ENV34 of the Adopted Local Plan. Nor does it meet any of the criteria set out in Policy ENV31 if it was to be considered as new build housing. It is noted in the previous application that the immediate area is identified as an economic cluster (0260/FUL/17, Planning and Design Statement Page 1+2). Philpstoun Community Council would like this site to continue to have an economic role, rather than turned into a house. The recent application for a farrier business across the road from the site demonstrates the demand there is for such sites.

The other two applications 0592/P/17 and 0593/P/17 divide the area between the nursery and Oakwell into two house plots. No locational justification has been given for the houses and no case has been made to indicate how the applications would meet the criteria set out in Policy ENV31. Philpstoun Community Council is very supportive of the control placed on development in the countryside by Policy ENV31. If any development is allowed we would like a strong case to be made for the house so that it fully meets Policy ENV31. In addition that development needs to be sustainable in the long term and that the planning process will defend the Section 75 agreements that seem to result when an application is granted under Policy ENV31.

If the site of the existing nursery is now surplus to the requirements of the business, no justification has been given as to why the site can not be returned to agricultural use.

As the above three applications do not meet the criteria set out in the Adopted Local Plan that would allow housing in the countryside Philpstoun Community Council would like to object to all three applications.

Jonathan Harris

Philpstoun Community Council

Draft reasons for refusal – 0536/FUL/17

1. The proposed conversion of the existing nursery building is unacceptable in principle as it is neither a building of historic nor architectural merit. The proposed development is therefore contrary to Policy ENV 34 of the West Lothian Local Plan, the SPG on Development in the countryside and Policy ENV 2 of the West Lothian Local Development Plan – Proposed Plan.
2. The proposed development is not located in a sustainable location with there being no footpath for future occupiers which will cause considerable reliance on using a car to access local services. This does not accord with Paragraph 46 of Scottish Planning Policy, which looks to ensure development can link different means of travel and is well connected beyond the site boundary. The proposal therefore does not accord with the presumption in favour of development that contributes to sustainable development in Scottish Planning Policy.

DEVELOPMENT MANAGEMENT COMMITTEE

Report by Head of Planning, Economic Development and Regeneration

1 DESCRIPTION

Application under S42 for the variation of condition 28 of planning permission 463/FUL/07 to extend the use of the external terrace from 21:00 to 01:00 hours at Burgh Halls The Cross Linlithgow West Lothian EH49 7EY

2 DETAILS

Reference no.	0586/FUL/17	Owner of site	West Lothian Council
Applicant	Thirza Hockaday for West Lothian Council	Ward & local members	Linlithgow Cllr Tom Comm Cllr Tom Kerr Cllr David Tait
Case officer	Steven McLaren	Contact details	01506 282404 steve.mclaren@westlothian.gov.uk

Reason for referral to Development Management Committee: Objection received from Linlithgow and Linlithgow Bridge Community.

3 RECOMMENDATION

Grant temporary planning permission, subject to conditions.

4 DESCRIPTION OF THE PROPOSAL AND PLANNING HISTORY

- 4.1 Planning permission is sought to amend planning permission [0463/FUL/07](#) which granted consent for the restoration and refurbishment of the Burgh Halls community centre and hall, the erection of a 50sqm cafe/garden room and the formation of a garden terrace.
- 4.2 Condition 28 of that decision states 'the terrace accessed from the north hall shall not be used prior to 08:30 and after 21:00 and should not be used as an additional seating area for the cafe. The garden terrace shall not be used prior to 08:30 and after 21:00, unless otherwise agreed in writing with the planning authority. Reason, to protect nearby residents from nuisance resulting from noise/disturbance early in the morning or late in the evening.

- 4.3 The proposal under consideration is to allow this terrace area to be used as a smoking area only. (no drinks are allowed out with the premises) between 9pm and 1am. A previous temporary planning permission ([0763/FUL/16](#)) was granted earlier this year for the same hours extension. This temporary permission expired on 1 July 2017.
- 4.4 Planning application 0763/FUL/16 was not reported to committee previously as the community council did not raise objections at that time, and the application was determined under delegated powers.

5 PLANNING POLICY ASSESSMENT

- 5.1 The development plan comprises the Strategic Development Plan for Edinburgh South East Scotland (SESPlan) and the West Lothian Local Plan (WLLP). The council's West Lothian Local Development Plan (WLLDP)(proposed plan) is also a material consideration.
- 5.2 The following development plan policies are relevant:

Plan	Policy	Assessment	Conform
West Lothian Local Plan (WLLP)	HOU9 – residential and visual amenity	<p>Development proposals will be assessed against the need to protect the residential and visual amenity of existing residents and other occupiers. Developments shown to adversely impact on amenity to a significant degree will not be supported.</p> <p>The proposal relates to the use of the terrace area to the east of Burgh Halls as a smoking area only. No drink is permitted out with the building and in this respect, this reduces the likelihood that patrons will linger in the smoking area for longer than is necessary. The practice of allowing smokers in this area was tested up to the beginning July and during this time no complaints were received in Development Management or with Environmental Health in respect of late night noise.</p>	Yes – Subject to appropriate management by Burgh Halls staff.
WLLP	TC12 – other local centres in West Lothian	<p>Retail and other town centre uses will be supported within the town centre boundaries identified on the proposals map and commensurate with serving the catchment area of the town (but not wider). Such proposals out with the centres, other than those serving only local or neighbourhood needs, would not normally be permitted.</p> <p>The Burgh Halls lies just outside the town centre boundary as defined in the WLLP, however the WLLDP rectifies this by incorporating the Burgh Halls fully within the town centre allocation. As such, the Burgh Halls uses are commensurate with a town centre allocation</p>	Yes
West Lothian Local Development Plan (proposed plan) (WLLDP)	TCR2 – Location of New Retail and Commercial Leisure Developments	<p>New retail, commercial leisure, visitor attractions and other developments appropriate to town centres should be located in accordance with the following sequential approach, depending on the availability of suitable opportunities:</p> <p>Town Centres: Within an identified town centre as</p>	Yes

Plan	Policy	Assessment	Conform
		defined on the proposals map and in accordance with the town centre policy. The Burgh Halls lies within the Linlithgow Town Centre boundary as defined in the WLLDP.	

6 REPRESENTATIONS

- 6.1 The application was advertised in the local press and the period for receipt of representations has expired. Four letters of objection have been received including one from Linlithgow and Linlithgow Bridge Community Council and one from Linlithgow Civic Trust. The representations are summaries below with the full letters attached to this report.

Comments	Response
It is difficult to understand why a change in footprint is dependent upon the hours for which access to the terrace is allowed. A physical alteration cannot surely be dependent upon opening hours.	There is no physical change to the building. The application is required to vary the terms of the original consent for the redevelopment of the Burgh Halls which placed operating restrictions on the patio area outside the cafe.
Extending the access times to the terrace area will decrease the amenity currently enjoyed by those properties within the neighbourhood of the Halls.	There was a temporary consent granted for the use of the garden terrace as a smoking area until 1am. There is no record of any complaints as a result of this to either Development Management or Environmental Health.
No evidence appears to have been put forward by the applicant of a demand for the extended hours.	The use of the smoking area will be dependent on the frequency and operating times of functions hiring the Burgh Halls with a presumption that during the period of the hire the Burgh Halls staff can police those wishing to smoke in a controlled area rather than in the street.
Living very close to the Burgh Halls and the garden area behind the Burgh Halls we have concerns about noise disturbance if the request to extend the hours of the external smoking area is granted.	It is acknowledged that people congregating outside a facility late at night can result in noise disturbance. There was a temporary consent granted for the use of the garden terrace as a smoking area until 1am. There is no record of any complaints as a result of this to either Development Management or Environmental Health.
I believe that access to external smoking areas is usually limited to 21:00 by West Lothian Council to avoid disturbance to neighbours.	Each planning application is considered on its merits where appropriate restrictions can be applied. The licence for the use however can impose further restrictions over and above and planning permission.

It is my understanding that permission for smokers to use the patio area was a temporary arrangement that was to be reviewed after 6 months. To my knowledge, this review has not taken place.	This current application is essentially the review process. There is no record of complaints being raised with Development Management or Environmental Health. The issue of disturbance was raised with the Burgh Halls staff and no complaints were raised in respect of smokers using the terrace area.
Extension to 1am on seven days of the week appears unreasonable. An extension to 11pm on a Friday and Saturday night appears more reasonable.	The operating hours of the Burgh Halls is controlled through the appropriate licence for the premises. The operating times for the smoking area align with the operating times of the Burgh Halls. Environmental Health is not aware of any complaints received in respect of the operation of the smoking area during the previous period.
It appears that the primary reason for the application is to facilitate smoking, West Lothian Council should not be facilitating smoking.	Whether the council should be facilitating smoking or not is not a material planning consideration.
The community council's primary objection is that it has not been made clear that there has been a change in the reason for condition 28. Any change in this condition should be supported with evidence that residents will not be subject to nuisance resulting from noise.	There is no record of complaints being raised with Development Management or Environmental Health in respect of the smoking area. The issue of disturbance was raised with the Burgh Halls staff and no complaints were raised in respect of smokers using the terrace area. The community council also stated in further correspondence that residents had complained but it is not clear if this was in respect of the smoking area or the operation of the Burgh Halls in general.

7 CONSULTATIONS

- 7.1 This is a summary of the consultations received. The full documents are contained in the application file.

Consultee	Comments	Planning response
Environmental Health	There have been no complaints lodged with regards to the use of the garden patio as a smoking area.	Noted.

8 ASSESSMENT

- 8.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended) requires planning applications to be determined in accordance with the development plan, unless material considerations indicate otherwise.

West Lothian Local Plan and West Lothian Local Development Plan (proposed plan)

- 8.2 The Burgh Halls lies on the periphery of the Linlithgow town centre as defined on the WLLP proposals map and is fully incorporated into the allocated town centre in the WLLDP. Leisure uses such as the Burgh Halls are accepted as being appropriate uses for a town centre. In respect of policies TC12 of the WLLP and TCR2 of the WLLDP the use as proposed is in accordance with the development plan. Consideration however has to be given to the fact that residential properties are in close proximity to the site.
- 8.3 HOU9 therefore seeks to protect the residential and visual amenity of neighbours and the surrounding area. It is acknowledged that late night noise adjacent to residential properties will be detrimental to those living in the area and the conditions placed on the previous permission to vary condition 28 of application 0463/FUL/07 were imposed to mitigate against this.
- 8.4 The conditions applied to the previous permission allowed the use to operate until 1 July 2017 with a second condition stating 'prior to the extended hours being brought into effect, signage shall be prepared and displayed at the smoking area to remind patrons that there are residential properties nearby. The signage shall ask patrons to respect the amenity of the neighbours and keep any noise to a minimum whilst using the smoking area and state that, if it is considered by the management of the Burgh Halls that noise is excessive, patrons will be asked to vacate the smoking area. Reason: to ensure noise is kept to an acceptable level, in the interests of residential amenity'.
- 8.5 The initial temporary period appears to have operated without detriment to the adjacent neighbours therefore in this regard; the management of the site has accorded with policy HOU9 of the WLLP.

9 CONCLUSION AND RECOMMENDATION

- 9.1 It is acknowledged that the proposals have the potential to generate disturbance for neighbours however, the temporary period appears to have operated without concerns being raised with either the Burgh Halls or the regulatory functions of the council. Moreover, the Senior Venue Co-ordinator confirmed that during the trial period, the venue was open until 1am at least once per week and that Community Arts received no complaints during the smoking area trial period.
- 9.2 The use of a dedicated smoking area does allow staff at the Burgh halls to police/manage any noise created, unlike if smoking were in the public street only.
- 9.3 It is accepted that 1am is very late and if there is any noise created then this would be detrimental to those living nearby. In view of this and the concerns of both neighbours and the community council, it is recommended that permission be granted but for a further temporary period until 31 December 2018.

10 ATTACHMENTS

- Draft conditions
- Location plan
- Aerial
- Objections

- Comments from Community Council and Burgh Halls
- Notice to patrons
- Site visit photographs

Craig McCorriston
Head of Planning, Economic Development & Regeneration

Date: 27 September 2017

DRAFT CONDITIONS - APPLICATION 0586/FUL/17

1. The use authorised by this permission shall cease on 31 December 2018 unless a further planning permission is granted.

Reason To monitor the effect of this use on the amenity of the adjacent residential properties and the area in general.

2. Signage shall be prepared and displayed at the smoking area to remind patrons that there are residential properties nearby. The signage shall ask patrons to respect the amenity of the neighbours and restrict any noise while using the smoking area, if it is considered by the management of the Burgh Halls that noise is excessive, patrons will be asked to vacate the smoking area.

Reason To ensure noise is kept to an acceptable level and in the interest of residential amenity.





Comments for Planning Application 0586/FUL/17

Application Summary

Application Number: 0586/FUL/17

Address: Burgh Halls The Cross Linlithgow West Lothian EH49 7EY

Proposal: Application under S42 for the variation of condition 28 of planning permission 0463/FUL/07 to extend the use of the external terrace from 21:00 to 01:00 hours

Case Officer: Steven McLaren

Customer Details

Name: Dr Kenneth Macdonald

Address: 2 Market Lane Linlithgow

Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I wish to record my objection to the proposal to extend the hours of use of the Burgh Halls terrace area from up to 21:00 to up to 01:00.

The application states that changes to no-smoking area at the Burgh Halls are to be made but cannot be implemented until planning consent for use of the external terrace area after 21:00 is reviewed. It is difficult to understand why a change in footprint is dependent upon the hours for which access to the terrace is allowed. A physical alteration cannot surely be dependent upon opening hours. The argument used by the applicant is illogical.

Notwithstanding the above, extending the access times to the terrace area will only serve to decrease the amenity currently enjoyed by those properties adjoining or otherwise within the neighbourhood of the Halls, increasing the noise nuisance which they already experience. Moreover, it is wholly inappropriate for WLC to encourage smoking in properties owned by the authority which, in effect, this proposal does. No evidence appears to have been put forward by the applicant of a demand for the extended hours - as previously indicated, they put forward a spurious argument linking extended hours of access to the terrace to a physical modification to the smoking area.

Comments for Planning Application 0586/FUL/17

Application Summary

Application Number: 0586/FUL/17

Address: Burgh Halls The Cross Linlithgow West Lothian EH49 7EY

Proposal: Application under S42 for the variation of condition 28 of planning permission 0463/FUL/07 to extend the use of the external terrace from 21:00 to 01:00 hours

Case Officer: Steven McLaren

Customer Details

Name: Dr Natalie Polack

Address: 4 Market Lane Linlithgow

Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: My family and I live very close to the Burgh Halls and the garden area behind the Burgh Halls and we have concerns about noise disturbance if the request to extend the hours of the external smoking area is granted.

I believe that access to external smoking areas is usually limited to 21:00 by West Lothian Council to avoid disturbance to neighbours. If the request to extend access to the patio is extended to 01:00, I think there is a greatly increased risk of my family and I suffering disturbance from those using the patio/garden area, as the smoking area will still be open well after we have gone to bed.

It is also my understanding that permission for smokers to use the patio area outside the cafe until 21:00 was a temporary arrangement that was to be reviewed after 6 months to determine whether use of the patio was causing a disturbance to neighbours or any other issues. To my knowledge, this review has not taken place.



Linlithgow & Linlithgow Bridge Community Council

Please reply to:

Dr John Kelly
Planning Secretary
8 Pilgrims Hill
Linlithgow
EH49 7LN

25th August 2015

For the attention of:
Steven McLaren, Planning Officer
Development Management,
West Lothian Council,
Livingston, EH54 6FF.

Dear Mr McLaren,

**Application Number 0586/FUL/17 Variation of condition 28 of planning permission to extend the use of the external terrace from 21:00 to 01:00 hours
Objection by Linlithgow and Linlithgow Bridge Community Council**

This application relates to a variation of condition 28 of planning permission 0463/FUL/07 which states; "The terrace accessed from the north hall shall not be used prior to 0830 and after 2100 and should not be used as an additional seating area for the cafe. The garden terrace shall not be used prior to 0830 and after 2100, unless otherwise agreed in writing with the planning authority.

Reason *To protect nearby residents from nuisance resulting from noise/disturbance early in the morning or late in the evening".*

The Community Council has a number of objections:

1. It is not entirely clear that there has been a change in the reason for condition 28, i.e. that residents will not now be subject to nuisance resulting from noise.
2. From the plan it is assumed that this application relates to the terrace accessed from the North Hall although this is not clear. Certainly it is not clear whether this application relates to the garden terrace.
3. Given clarification of 1 & 2 above an extension to 1am on seven days of the week appears unreasonable. An extension to 11pm on a Friday and Saturday night appears more reasonable.

West Lothian Council
Development Management

1 1 SEP 2017

Date.....

Ref No. 0586/FUL/17 LINLITHGOW CIVIC TRUST

Ref To Steve McLaren

Ack'd.....

Replied.....



28 Bailielands

Linlithgow

West Lothian EH49 7SU

tel. 01506 845623

mob. 07880 807 487

e-mail d.timperley@blueyonder.co.uk

date: 07 September 2017

Development Management Manager
Planning Services
West Lothian Council
Civic Centre
Howden South Road
Livingston
West Lothian EH54 6FF

Dear Sirs,

Planning Application 0586/FUL/17 Burgh Halls The Cross Linlithgow EH49 7EY

Linlithgow Civic Trust **object** to the proposed variation because of the noise intrusion to residents on Market Street during the unsociable hours to the detriment of the amenity of those properties.

Yours sincerely,

David Timperley
Planning Spokesperson
Linlithgow Civic Trust

4. It appears that the primary reason for the application is to facilitate smoking, West Lothian Council should not be facilitating smoking.
5. Is West Lothian Council absolutely sure that terrace accessed from the North Hall is not “substantially enclosed” and that smoke will not drift back into the North Hall? The majority being disturbed by a small minority.

The Community Council’s primary objection is that it has not been made clear that there has been a change in the reason for condition 28. Any change in this condition should be supported with evidence that residents will not be subject to nuisance resulting from noise.

Yours faithfully,

John R Kelly
Planning Secretary
Linlithgow and Linlithgow Bridge Community Council

Extract of correspondence with Linlithgow and Linlithgow Bridge Community Council

Hi Steven,

I confess to being slightly confused. In response to an email that I sent to residents I received this “Our neighbours have complained on a number of occasions. We have also complained to the Council, although not recently. Notwithstanding that, a situation where the licence ceases at 21:00 is not comparable with one which stops at 01:00 where the level of background noise is substantially lower. On the basis of this, our objections still stand”.

In your previous email you said:

There was a previous permission (Ref: 0763/FUL/16) which was for a six month period and expired on 1 July 2017. This allowed the external terrace on the east side of the Burgh Halls (ie. The terrace accessed off the café) to be used as a smoking area between the hours of 21:00 and 01:00.

Given that this area may well have been used until June for smokers until 1am, I am not aware that any complaints have been received regarding noise disturbance. It is possible that this area has been well managed and that no disturbance has been caused to nearby residents during this time.

The planning process cannot take account of the moral issue of whether the council is by default encouraging smoking.

My question is on how many occasions during the six month “trial” was the Burgh Halls used until 1am where smokers accessed the terrace? And were there any complaints?

Secondly, is it reasonable that this facility is available for 7 days a week – Friday night and Saturday night might be considered more reasonable.

Finally, can the permission be conditional on not receiving complaints?

Based on the reply I received from residents and the outstanding questions the Community Council objection still stands. If it goes to Development Management Committee the residents will have a chance to make their case.

Regards

John

Dr John R Kelly

Planning Secretary

Linlithgow and Linlithgow Bridge Community Council

8 Pilgrims Hill

Linlithgow

West Lothian

EH49 7LN

Tel: 01506 843160

e-mail john.kelly@llbcc.org.uk

From: McLaren, Steve [<mailto:Steve.McLaren@westlothian.gov.uk>]

Sent: 07 September 2017 11:50

To: john.kelly@llbcc.org.uk

Subject: Planning application 0586-FUL-17, Use of terrace area for smoking - [OFFICIAL]

DATA LABEL: OFFICIAL

Hi John,

I visited the Burgh Halls last Friday and spoke with staff there. I was informed that they had received no complaints about noise from people using the area for smoking. I have now had a response from Environmental Health and again no complaints regarding noise have been received.

If the use of this area is well managed and there has been no nuisance caused over the first six month period, does the community council still wish to object. If so, I will arrange for the application to be referred to the next Development Management Committee meeting later this month.

I look forward to hearing from you.

Regards

Steven McLaren

Planning Officer

01506 282404

Extract of correspondence with Burgh halls staff re specific queries – Responses in bold

DATA LABEL: OFFICIAL

Hi Steve,

1. During the trial period up to 1 July, how many times was the facility open until 1am and how many times until midnight; **During the trial period the venue was open until 1am at least once per week.**

2. Given there appears to be an ongoing issue with noise from the premises, is there really a need for the smoking area to be available until close at 1am, which I presume is the latest time for the license of the premises. Could the use of the smoking area be curtailed earlier eg. 11pm or midnight at the latest; Unfortunately not, smokers tend to smoke more as the night goes on - **I don't see how we can say to guests that they cannot go for a smoke after 11pm.**

3. Do you have a means of recording complaints from residents? If so, can you provide me with details of complaints received during the smoking area trial period to assess whether there is any correlation between the two; **Community Arts have received no complaints during the smoking area trial period**

4. There should be notices at the smoking area in compliance with the earlier temporary permission, please provide me with an example of this notice.

Notice attached

5. There is a question mark over the 7 day/1am operation of the premises. I have checked the 2007 permission and there are no operating times quoted other than for the garden terrace area. I presume therefore that the control of the operating times is through the appropriate licence. **Yes this is through the alcohol licence.**

I hope this helps,

Please let me know if you require any further information.

Many thanks

Thirza

-----Original Message-----

From: McLaren, Steve

Sent: 11 September 2017 16:57

To: Hockaday, Thirza

Subject: RE: Planning application 0586-FUL-17 to vary condition 28 - [OFFICIAL]

DATA LABEL: OFFICIAL

Hi Thirza,

I have had a further e-mail from the community council (John Kelly) where he states that residents have 'complained on a number of occasions' although it is not clear if these complaints have related to the general noise from the operation of the Burgh Halls or the use of the smoking area.

I am preparing my committee report and in order to put some substance to the requirement for the smoking area to be available until 1am can you provide me with the following:

1. During the trial period up to 1 July, how many times was the facility open until 1am and how many times until midnight;
2. Given there appears to be an ongoing issue with noise from the premises, is there really a need for the smoking area to be available until close at 1am, which I presume is the latest time for the license of the premises. Could the use of the smoking area be curtailed earlier eg. 11pm or midnight at the latest;
3. Do you have a means of recording complaints from residents? If so, can you provide me with details of complaints received during the smoking area trial period to assess whether there is any correlation between the two;
4. There should be notices at the smoking area in compliance with the earlier temporary permission, please provide me with an example of this notice.
5. There is a question mark over the 7 day/1am operation of the premises. I have checked the 2007 permission and there are no operating times quoted other than for the garden terrace area. I presume therefore that the control of the operating times is through the appropriate licence.

If you can get the information to me on the other points above then that will be useful.

Regards

Steven McLaren
Planning Officer
01506 282404

Development Management
West Lothian Civic Centre
Howden South Road
Howden
Livingston
EH54 6FF

When leaving the venue
please respect our neighbours
and keep noise to a minimum.
Thank you.





DEVELOPMENT MANAGEMENT COMMITTEE

Report by Head of Planning, Economic Development and Regeneration

1 DESCRIPTION

Planning permission in principle for the erection of a house at 5 Pardovan Holding, Philpstoun

2 DETAILS

Reference no.	0592/P/17	Owner of site	Oakwell Nursery
Applicant	Oakwell Nursery	Ward & local members	Linlithgow Councillor Tom Kerr Councillor Tom Conn Councillor David Tait
Case officer	Matthew Watson	Contact details	01506 283536 matthew.watson@westlothian.gov.uk

Reason for referral to Development Management Committee: Referred by the Development Management Manager

3 RECOMMENDATION

Refuse planning permission in principle.

4. DETAILS OF THE PROPOSAL AND BACKGROUND

- 4.1 Planning permission in principle is sought for erection of a house between the main nursery building at Oakwell Nursery and the nursery building at the west of the site.
- 4.2 The application is linked to applications 0536/FUL/17 and 0593/P/17 at the same site.
- 4.5 Committee previously considered and refused an application for five houses on this site at the June 14th Development Management Committee. The refusal of that application has been appealed to Scottish Ministers.

History

- 4.6 [0260/FUL/17](#): Erection of five dwellinghouses, Refused, 23/06/2017 (Appeal submitted to the DPEA)

- 4.7 0725/FUL/13: Erection of a 39 sqm extension to nursery, Granted, 19/12/2013
- 4.8 0452/FUL/09: Conversion of dog kennels to form extension to existing childrens nursery and formation of car park, Granted, 11/09/2009
- 4.9 1065/FUL/08: Continued siting of portacabin and siting of new portacabin, Granted temporary permission, 23/12/2008
- 4.10 1172/FUL/07: Erection of 210sqm extension to childrens nursery, Granted, 12/02/2008
- 4.11 0087/FUL/04: Erection of 107sqm boarding kennels with associated ancillary accommodation, Granted, 18/03/2004
- 4.12 1141/FUL/03: Erection of a dog boarding kennels with associated ancillary accommodation, Refused, 05/12/2003
- 4.13 0139/FUL/02: Part change of use from house (Class 9) to a childrens nursery (Class 10), Granted, 02/04/2002
- 4.14 0733/FUL/00: Change of use from domestic garage to childrens nursery (Class 10), Granted, 16/01/2001
- 4.15 0827/FUL/99: Erection of a house, formation of a small holding and erection of outbuildings, Granted, 25/07/2000

5. REPRESENTATIONS

No representations were received.

6. CONSULTATIONS

This is a summary of the consultations received. The full documents are contained in the application file.

Consultee	Objection?	Comments	Planning Response
West Lothian Council - Education Planning	No	No objections to the application subject to the securing of contributions towards education infrastructure.	Noted. If planning permission is granted contributions will be sought towards education infrastructure through a legal agreement.
Flood Prevention	Yes	The site is generally not at risk of flooding. Drainage details or summary report that covers surface water should be submitted prior to a permission being issued. Assuming that no public	Noted. This information has not been requested given that the application is not acceptable, as set out in the assessment section of the report. This information will require to be submitted via conditions if planning permission is granted.

		sewerage is available then foul drainage will require to be dealt with in an approved manner. This may require the approval of SEPA in the form of a CAR License.	
Contaminated Land Officer	No	No objections to the application subject to a Phase 1 and Phase 2 site investigation being submitted prior to determination. If remedial works are required these can be attached as a condition.	Noted. A Phase 1 site investigation has not been requested given that the application is not acceptable. If planning permission is granted this information will require to be attached as a condition.
Transportation	Yes	Holding objection lodged pending further information on visibility splays and whether the first six metres of access to development will be surfaced in a bituminous material. There are no alternative routes for potential occupants to move around other than use a car.	Noted. This information has not been requested given the application is not acceptable This information will require to be submitted via condition if planning permission is granted.
Environmental Health	No	No objections to the application.	Noted.
Health and Safety Executive	No	HSE does not advise on safety grounds against granting planning permission.	Noted.
Philpstoun Community Council	Yes	Objects to the development on the following grounds: No locational justification has been made and how the application meets the criteria in policy ENV 31. No justification has been given as to why the site cannot be returned to agricultural use.	Agree.

7. ASSESSMENT

- 7.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the Development Plan, unless material considerations indicate otherwise.
- 7.2 The development plan comprises the Strategic Development Plan for South East Scotland (SESplan) and the West Lothian Local Plan

7.3 The relevant development plan policies are listed below:

Plan			Policy	Assessment	Conform ?
West Plan	Lothian	Local	ENV 31 Development in the countryside	<p>This policy requires development in the countryside to have an appropriate justification.</p> <p>This proposal is not infill development and is not a visually intrusive brownfield site. The proposal would therefore not meet the requirements of policy ENV 31. See assessment below.</p>	No
West Plan	Lothian	Local	COM 9A Contributions for cemeteries	<p>This policy requires financial contributions towards cemetery provision</p> <p>A contribution would be required to be paid prior to granting planning permission if committee were minded to grant the application.</p>	Yes
West Plan	Lothian	Local	IMP 2 Denominational secondary provision	<p>The policy requires developer contributions towards denominational secondary school provision</p> <p>A contribution would be required to be paid prior to granting planning permission if committee were minded to grant the application.</p>	Yes
West Plan	Lothian	Local	IMP 3 Education Constraints	<p>This policy states that in considering proposals for housing development legal agreements will be used to secure appropriate developer contributions.</p> <p>To allow the proposed development to proceed, contributions for non-denominational secondary, non-denominational primary and denominational primary would need to be secured prior to planning permission being granted if committee were minded to grant the application.</p>	Yes
West Plan	Lothian	Local	IMP 6 SUDS	This policy requires development to comply with	Yes

		current best practice on sustainable urban drainage practices. SUDS can be secured via a planning condition.	
West Lothian Local Plan	IMP 14 Supplementary planning guidance	The following SPG apply: <ul style="list-style-type: none"> • Flood risk and drainage • Planning for education • Denominational school infrastructure • Development in the countryside 	In part
West Lothian Local Development Plan – Proposed Plan	ENV 2 Housing in the countryside	Criterion (f) of this policy states housing can be permitted in the countryside where the conversion or rehabilitation of existing buildings are of architectural or historic merit. The building in question is not of architectural or historic merit. See assessment below.	No

Principle of Development

7.4 The application site is located in the countryside and outside a settlement boundary. Policy ENV 31 of the West Lothian Local Plan (WLLP) and the SPG on New development in the countryside set out the policy exemptions that permit new housing in the countryside. Policy ENV 2 of the West Lothian Local Development Plan – Proposed Plan (LDP), the SPG on New development in the countryside and Scottish Planning Policy are material considerations in assessing new housing development in the countryside.

7.5 Policy ENV31 states there is a presumption against new development in the countryside. There are seven exceptions to this set out in policy ENV 31:

- *a house for a full-time worker in agriculture or other rural business;*
- *a house for a retired farmer who wishes to remain on the farm but vacate the existing farmhouse to accommodate his successor;*
- *development of a visually intrusive brownfield site where there is no realistic prospect of it being returned to agriculture or woodland use and the site has no significant natural heritage value in its current condition;*

- *replacement of an existing house in the countryside which is of a poor design or in a poor structural condition;*
 - *infill development within the curtilage of an existing building group or infilling of gaps between existing houses of a single plot width;*
 - *a very small number of proposals for a house which by virtue of its design, location and landscape setting makes an exceptional contribution to the appearance of countryside; and*
 - *small scale farm diversification projects or other business proposals appropriate to a rural area which would help sustain the rural economy or create significant social benefits.*
- 7.6 Scottish Planning Policy defines brownfield land as *‘Land which has previously been developed. The term may cover vacant or derelict land, land occupied by redundant or unused building and developed land within the settlement boundary where further intensification of use is considered acceptable.’*
- 7.7 The site in question would fall within this definition as it is previously developed, although the red line location plan marginally encroaches beyond the previously developed portion of the site.
- 7.8 In terms of assessment against policy ENV 31, the proposed development would need to satisfy the exception of the *‘development of a visually intrusive brownfield site where there is no realistic prospect of it being returned to agriculture or woodland use and the site has no significant natural heritage value in its current condition’.*
- 7.9 The site is still in use and cannot be described as ‘visually intrusive’ in its current state.
- 7.10 The SPG on ‘New development in the countryside’ gives further guidance on where proposals should be given favourable consideration by setting out five criteria:
- *There are significant environmental and / or community benefits to be gained as a consequence of existing buildings being demolished and the site re-developed;*
 - *The existing buildings can be evidenced as being beyond economic repair and retention;*
 - *The new development will be in keeping with the main features of the landscape and will have regard to the need to integrate with its surroundings;*
 - *There will be no significant detrimental impact on the amenity of existing neighbours as a consequence of the proposed new development;*
 - *There are no infrastructure constraints and the development does not require excessive resource commitment from the council.*
- 7.11 Although the proposal will not have a detrimental impact on neighbours or cause excessive resource commitment, there are no environmental or community benefits that would result from re-development.
- 7.12 The proposal looks to infill a two plot gap between the main nursery building and the nursery building to the west of the site.

- 7.13 The SPG defines infill development as *'sensitive development within small groups of houses or minor extensions to groups, depending on the character of the surroundings and the number of such groups in the area, and developing single plot width gaps, usually between existing houses, and in an otherwise continuous built-up residential frontage within a clearly identifiable cohesive group of houses in the countryside.'*
- 7.14 The site in question is not located within a small group of houses and is not a minor extension to a group of houses. The proposal, in combination with application 0593/P/17, seeks to develop a gap of two plot width and this gap is located between two nursery buildings and not existing houses. The application site is not part of a 'continuous built-up residential frontage within a clearly identifiable cohesive group of houses in the countryside'.
- 7.15 As such, the proposed development fails to fall within the definition of infill development.
- 7.16 Policy ENV 2 of the Proposed LDP broadly re-iterates the exceptions set out in Policy ENV 31 of the WLLP, though removing the reference to 'visually intrusive' in the redevelopment of brownfield sites, but does not outweigh non-compliance with Policy ENV 31 of the WLLP as the site is not located in a sustainable location because there is not the benefit of a footpath connection to local services or public transport. There would be considerable reliance on using a car in this location. This does not accord with Paragraph 46 of Scottish Planning Policy, which looks to ensure development can link different means of travel and is well connected beyond the site boundary. The proposal is therefore not sustainable development.
- 7.17 Although no details of the house types have been submitted, development of two plots of the form and scale shown would be out of keeping with the spatial character and pattern of development in the area, which is generally single houses attached to businesses.
- 7.18 No supporting information or policy justification has been submitted with this application. Supporting information was submitted with the previous application (reference: 0260/FUL/17). This justification centred on the need for housing development to cross-fund the nursery business which the applicant advises is being impacted by new Scottish Government and Council policies relating to education provision.
- 7.19 Members will recall when the previous application was considered, whilst being sympathetic to the personal circumstances of the applicant; committee agreed that this did not justify overturning well established council policy in respect of development in the countryside. This justification did not hold material weight in the determination of that application. This remains the case for this application.
- 7.20 In summary, the proposal does not meet the exceptions set out in policy ENV 31 of the WLLP as it is not a visually intrusive brownfield site nor is it infill development. Policy ENV 2 of the LDP does not change or outweigh this conclusion as the proposal is not sustainable development or of an acceptable spatial form. Therefore, the principle of development is unacceptable.

8. CONCLUSION AND RECOMMENDATION

- 8.1 The proposal is contrary to Policy ENV 31 of the West Lothian Local Plan and the SPG on New development in the countryside. Policy ENV 2 of the West Lothian Local Development Plan – Proposed Plan does not outweigh this conclusion. The proposal is also contrary to Scottish Planning Policy.
- 8.2 Consequently, and in view of the above, it is recommended that planning permission in principle is refused.

9. BACKGROUND REFERENCES & ATTACHMENTS

- Location Plan
- Aerial Plan
- Block Plan
- Representations
- Draft reasons for refusal

Craig McCorriston

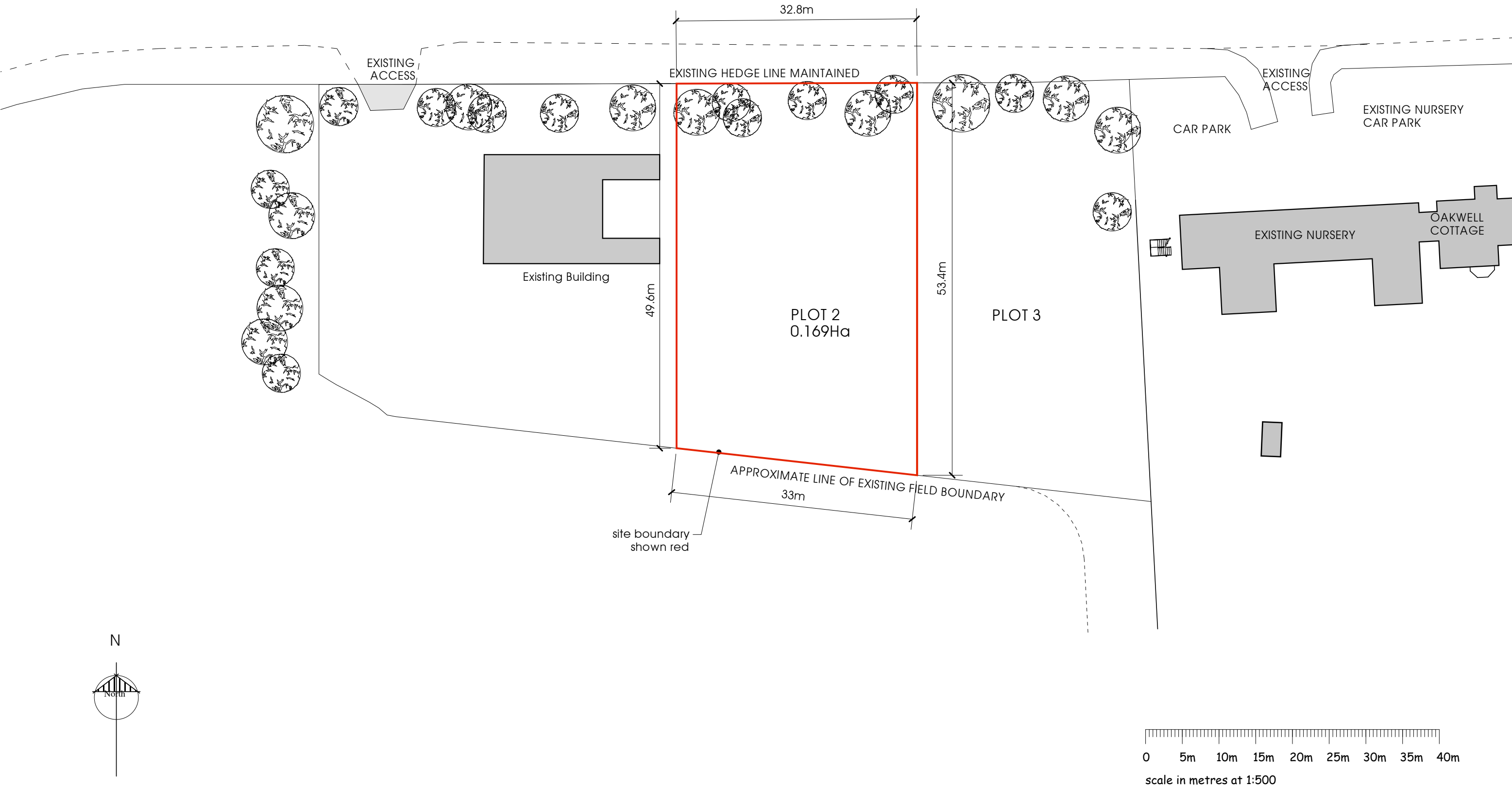
Head of Planning, Economic Development and Regeneration Date: 27 September 2017





Mr & Mrs Nock Oakwell, nr. Linlithgow Block Plan			POLLOCK HAMMOND LTD ARCHITECTS AND CONSERVATION CONSULTANTS GRANGE WEST, LINLITHGOW, WEST LOTHIAN EH49 7RH tel. 01506 847829 email - mail@pollockhammondarchitects.co.uk	N40 L02 rev A
1:500 apx	gbj	June 2017		

Amendment A) 24-07-17; Plot 3 removed



Watson, Matthew

From: jonathan harris [REDACTED]
Sent: 24 August 2017 11:36
To: Watson, Matthew
Cc: Philpstoun Community Council; andy gray; KirstySimon; Gillian McLean
Subject: Oakwell Applications

Follow Up Flag: Follow up
Flag Status: Flagged

Matthew Watson

0536/FUL/17 : Change of use from Nursery to House, 5 Pardovan Holdings

0592/P/17 : Erection of a house, 5 Pardovan Holdings

0593/P/17 : Erection of a house, 5 Pardovan Holdings

The above three applications have all been submitted by the same applicant and all relate to a site that was the subject of an earlier application 0260/FUL/17 for five houses. That application was refused. All the applications are for outline planning permission and do not go into any detail. It seemed appropriate to write one letter to cover all three applications.

The first application 0536/FUL/17 seeks a change of use from a nursery to a house. The current building was originally erected as a kennel for boarding dogs. That business soon failed; after that it was converted into a nursery. Although the nursery building has a higher design aesthetic than the sheds farmers are able to put up, it is not of exceptional merit. It is also not of local historic merit, so should not be looked upon as a candidate for conversion, as many stone built steadings are. It should be noted that the previous application, 0260/FUL/17, saw no merit in its retention and sought to demolish it. The application does not meet the criteria set out in Policy ENV34 of the Adopted Local Plan. Nor does it meet any of the criteria set out in Policy ENV31 if it was to be considered as new build housing. It is noted in the previous application that the immediate area is identified as an economic cluster (0260/FUL/17, Planning and Design Statement Page 1+2). Philpstoun Community Council would like this site to continue to have an economic role, rather than turned into a house. The recent application for a farrier business across the road from the site demonstrates the demand there is for such sites.

The other two applications 0592/P/17 and 0593/P/17 divide the area between the nursery and Oakwell into two house plots. No locational justification has been given for the houses and no case has been made to indicate how the applications would meet the criteria set out in Policy ENV31. Philpstoun Community Council is very supportive of the control placed on development in the countryside by Policy ENV31. If any development is allowed we would like a strong case to be made for the house so that it fully meets Policy ENV31. In addition that development needs to be sustainable in the long term and that the planning process will defend the Section 75 agreements that seem to result when an application is granted under Policy ENV31.

If the site of the existing nursery is now surplus to the requirements of the business, no justification has been given as to why the site can not be returned to agricultural use.

As the above three applications do not meet the criteria set out in the Adopted Local Plan that would allow housing in the countryside Philpstoun Community Council would like to object to all three applications.

Jonathan Harris

Philpstoun Community Council

Draft reasons for refusal – 0592/P/17

1. The proposed development is not acceptable in principle, as the site is not a visually intrusive brownfield site under policy ENV 31 clause (iii). The application is not an infill development under clause (v) and none of the other exceptions within policy ENV 31 are met. In addition, the proposal fails to accord with the SPG on New development in the countryside on this basis.
2. The proposed development is not located in a sustainable location with there being no footpath for future occupiers which will cause considerable reliance on using a car to access local services. This does not accord with Paragraph 46 of Scottish Planning Policy, which looks to ensure development can link different means of travel and is well connected beyond the site boundary. The proposal therefore does not accord with the presumption in favour of development that contributes to sustainable development in Scottish Planning Policy.

DEVELOPMENT MANAGEMENT COMMITTEE

Report by Head of Planning, Economic Development and Regeneration

1 DESCRIPTION

Planning permission in principle for the erection of a house at 5 Pardovan Holding, Philpstoun

2 DETAILS

Reference no.	0593/P/17	Owner of site	Oakwell Nursery
Applicant	Oakwell Nursery	Ward & local members	Linlithgow Councillor Tom Kerr Councillor Tom Conn Councillor David Tait
Case officer	Matthew Watson	Contact details	01506 283536 matthew.watson@westlothian.gov.uk

Reason for referral to Development Management Committee: Referred by the Development Management Manager

3 RECOMMENDATION

Refuse planning permission in principle.

4. DETAILS OF THE PROPOSAL AND BACKGROUND

- 4.1 Planning permission in principle is sought for erection of a house between the main nursery building at Oakwell Nursery and the nursery building at the west of the site.
- 4.2 The application is linked to applications 0536/FUL/17 and 0592/P/17 at the same site.
- 4.5 Committee previously considered and refused an application for five houses on this site at the June 14th Development Management Committee. The refusal of that application has been appealed to Scottish Ministers.

History

- 4.6 [0260/FUL/17](#): Erection of five dwellinghouses, Refused, 23/06/2017

- 4.7 0725/FUL/13: Erection of a 39 sqm extension to nursery, Granted, 19/12/2013
- 4.8 0452/FUL/09: Conversion of dog kennels to form extension to existing childrens nursery and formation of car park, Granted, 11/09/2009
- 4.9 1065/FUL/08: Continued siting of portacabin and siting of new portacabin, Granted temporary permission, 23/12/2008
- 4.10 1172/FUL/07: Erection of 210sqm extension to childrens nursery, Granted, 12/02/2008
- 4.11 0087/FUL/04: Erection of 107sqm boarding kennels with associated ancillary accommodation, Granted, 18/03/2004
- 4.12 1141/FUL/03: Erection of a dog boarding kennels with associated ancillary accommodation, Refused, 05/12/2003
- 4.13 0139/FUL/02: Part change of use from house (Class 9) to a childrens nursery (Class 10), Granted, 02/04/2002
- 4.14 0733/FUL/00: Change of use from domestic garage to childrens nursery (Class 10), Granted, 16/01/2001
- 4.15 0827/FUL/99: Erection of a house, formation of a small holding and erection of outbuildings, Granted, 25/07/2000

5. REPRESENTATIONS

No representations were received.

6. CONSULTATIONS

This is a summary of the consultations received. The full documents are contained in the application file.

Consultee	Objection?	Comments	Planning Response
West Lothian Council - Education Planning	No	No objections to the application subject to the securing of contributions towards education infrastructure.	Noted. If planning permission is granted contributions will be sought towards education infrastructure through a legal agreement.
Flood Prevention	Yes	<p>The site is generally not at risk of flooding.</p> <p>Drainage details or summary report that covers surface water should be submitted prior to a permission being issued.</p> <p>Assuming that no public sewerage is available then</p>	<p>Noted. This information has not been requested given that the application is not acceptable, as set out in the assessment section of the report.</p> <p>This information will require to be submitted via conditions if planning permission is granted.</p>

		foul drainage will require to dealt with in an approved manner. This may require the approval of SEPA in the form of a CAR License.	
Contaminated Land Officer	No	No objections to the application subject to a Phase 1 site investigation being submitted prior to determination. If remedial works are required these can be attached as a condition.	Noted. A Phase 1 site investigation has not been requested given that the application is not acceptable. If planning permission is granted this information will require to be attached as a condition.
Transportation	Yes	Holding objection lodged pending further information on visibility splays and whether the first six metres of access to development will be surfaced in a bituminous material. There are no alternative routes for potential occupants to move around other than use a car.	Noted. This information has not been requested given the application is not acceptable This information will need to be submitted via condition if planning permission is granted.
Environmental Health	No	No objections to the application.	Noted.
Health and Safety Executive	No	HSE does not advise on safety grounds against granting planning permission.	Noted.
Philpstoun Community Council	Yes	Objects to the development on the following grounds: No locational justification has been made or justification for how the application meets the criteria in policy ENV 31. No justification has been given as to why the site cannot be returned to agricultural use.	Agree.

7. ASSESSMENT

- 7.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the Development Plan, unless material considerations indicate otherwise.
- 7.2 The development plan comprises the Strategic Development Plan for South East Scotland (SESplan) and the West Lothian Local Plan

7.3 The relevant development plan policies are listed below:

Plan			Policy	Assessment	Conform ?
West Lothian Local Plan			ENV 31 Development in the countryside	<p>This policy requires development in the countryside to have an appropriate justification.</p> <p>This proposal is not infill development and is not a visually intrusive brownfield site. The proposal would therefore not meet the requirements of policy ENV 31. See assessment below.</p>	No
West Lothian Local Plan			COM 9A Contributions for cemeteries	<p>This policy requires financial contributions towards cemetery provision</p> <p>A contribution would be required to be paid prior to granting planning permission if committee were minded to grant the application.</p>	Yes
West Lothian Local Plan			IMP 2 Denominational secondary provision	<p>The policy requires developer contributions towards denominational secondary school provision</p> <p>A contribution would be required to be paid prior to granting planning permission if committee were minded to grant the application.</p>	Yes
West Lothian Local Plan			IMP 3 Education Constraints	<p>This policy states that in considering proposals for housing development legal agreements will be used to secure appropriate developer contributions.</p> <p>To allow the proposed development to proceed, contributions for non-denominational secondary, non-denominational primary and denominational primary would need to be secured prior to planning permission being granted if committee were minded to grant the application.</p>	Yes
West Lothian Local Plan			IMP 6 SUDS	This policy requires development to comply with	Yes

			current best practice on sustainable urban drainage practices. SUDS can be secured via a planning condition.	
West Lothian Local Plan	IMP 14 Supplementary planning guidance		The following SPG apply: <ul style="list-style-type: none"> • Flood risk and drainage • Planning for education • Denominational school infrastructure • Development in the countryside 	In part
West Lothian Local Development Plan – Proposed Plan	ENV 2 Housing in the countryside		Criterion (f) of this policy states housing can be permitted in the countryside where the conversion or rehabilitation of existing buildings are of architectural or historic merit. The building in question is not of architectural or historic merit. See assessment below.	No

Principle of Development

7.4 The application site is located in the countryside and outside a settlement boundary. Policy ENV 31 of the West Lothian Local Plan (WLLP) and the SPG on New development in the countryside set out the policy exemptions that permit new housing in the countryside. Policy ENV 2 of the West Lothian Local Development Plan – Proposed Plan (LDP), the SPG on New development in the countryside and Scottish Planning Policy are material considerations in assessing new housing development in the countryside.

7.5 Policy ENV31 states there is a presumption against new development in the countryside. There are seven exceptions to this set out in policy ENV 31:

- *a house for a full-time worker in agriculture or other rural business;*
- *a house for a retired farmer who wishes to remain on the farm but vacate the existing farmhouse to accommodate his successor;*
- *development of a visually intrusive brownfield site where there is no realistic prospect of it being returned to agriculture or woodland use and the site has no significant natural heritage value in its current condition;*

- *replacement of an existing house in the countryside which is of a poor design or in a poor structural condition;*
 - *infill development within the curtilage of an existing building group or infilling of gaps between existing houses of a single plot width;*
 - *a very small number of proposals for a house which by virtue of its design, location and landscape setting makes an exceptional contribution to the appearance of countryside; and*
 - *small scale farm diversification projects or other business proposals appropriate to a rural area which would help sustain the rural economy or create significant social benefits.*
- 7.6 Scottish Planning Policy defines brownfield land as *‘Land which has previously been developed. The term may cover vacant or derelict land, land occupied by redundant or unused building and developed land within the settlement boundary where further intensification of use is considered acceptable.’*
- 7.7 The site in question would fall within this definition as it is previously developed, although the red line location plan marginally encroaches beyond the previously developed portion of the site.
- 7.8 In terms of assessment against policy ENV 31, the proposed development would need to satisfy the exception of the *‘development of a visually intrusive brownfield site where there is no realistic prospect of it being returned to agriculture or woodland use and the site has no significant natural heritage value in its current condition’.*
- 7.9 The site is still in use and cannot be described as ‘visually intrusive’ in its current state.
- 7.10 The SPG on ‘New development in the countryside’ gives further guidance on where proposals should be given favourable consideration by setting out five criteria:
- *There are significant environmental and / or community benefits to be gained as a consequence of existing buildings being demolished and the site re-developed;*
 - *The existing buildings can be evidenced as being beyond economic repair and retention;*
 - *The new development will be in keeping with the main features of the landscape and will have regard to the need to integrate with its surroundings;*
 - *There will be no significant detrimental impact on the amenity of existing neighbours as a consequence of the proposed new development;*
 - *There are no infrastructure constraints and the development does not require excessive resource commitment from the council.*
- 7.11 Although the proposal will not have a detrimental impact on neighbours or cause excessive resource commitment, there are no environmental or community benefits that would result from re-development.
- 7.12 The proposal looks to infill a two plot gap between the main nursery building and the nursery building to the west of the site.

- 7.13 The SPG defines infill development as *'sensitive development within small groups of houses or minor extensions to groups, depending on the character of the surroundings and the number of such groups in the area, and developing single plot width gaps, usually between existing houses, and in an otherwise continuous built-up residential frontage within a clearly identifiable cohesive group of houses in the countryside.'*
- 7.14 The site in question is not located within a small group of houses and is not a minor extension to a group of houses. The proposal, in combination with application 0593/P/17, seeks to develop a gap of two plot width and this gap is located between two nursery buildings and not existing houses. The application site is not part of a 'continuous built-up residential frontage within a clearly identifiable cohesive group of houses in the countryside'.
- 7.15 As such, the proposed development fails to fall within the definition of infill development.
- 7.16 Policy ENV 2 of the Proposed LDP broadly re-iterates the exceptions set out in Policy ENV 31 of the WLLP, though removing the reference to 'visually intrusive' in the redevelopment of brownfield sites, but does not outweigh non-compliance with Policy ENV 31 of the WLLP with the site is not located in a sustainable location because there is not the benefit of a footpath connection to local services or public transport. There would be considerable reliance on using a car in this location. This does not accord with Paragraph 46 of Scottish Planning Policy, which looks to ensure development can link different means of travel and is well connected beyond the site boundary. The proposal is therefore not sustainable development.
- 7.17 Although no details of the house types have been submitted, development of two plots of the form and scale shown would be out of keeping with the spatial character and pattern of development in the area, which is generally single houses attached to businesses.
- 7.18 No supporting information or policy justification has been submitted with this application. Supporting information was submitted with the previous application (reference: 0260/FUL/17). This justification centred on the need for housing development to cross-fund the nursery business which the applicant advises is being impacted by new Scottish Government and Council policies relating to education provision.
- 7.19 Members will recall when the previous application was considered, whilst being sympathetic to the personal circumstances of the applicant; committee agreed that this did not justify overturning well established council policy in respect of development in the countryside. This justification did not hold material weight in the determination of that application. This remains the case for this application.
- 7.20 In summary, the proposal does not meet the exceptions set out in policy ENV 31 of the WLLP as it is not a visually intrusive brownfield site nor is it infill development. Policy ENV 2 of the LDP does not change or outweigh this conclusion as the proposal is not sustainable development or of an acceptable spatial form. Therefore, the principle of development is unacceptable.

8. CONCLUSION AND RECOMMENDATION

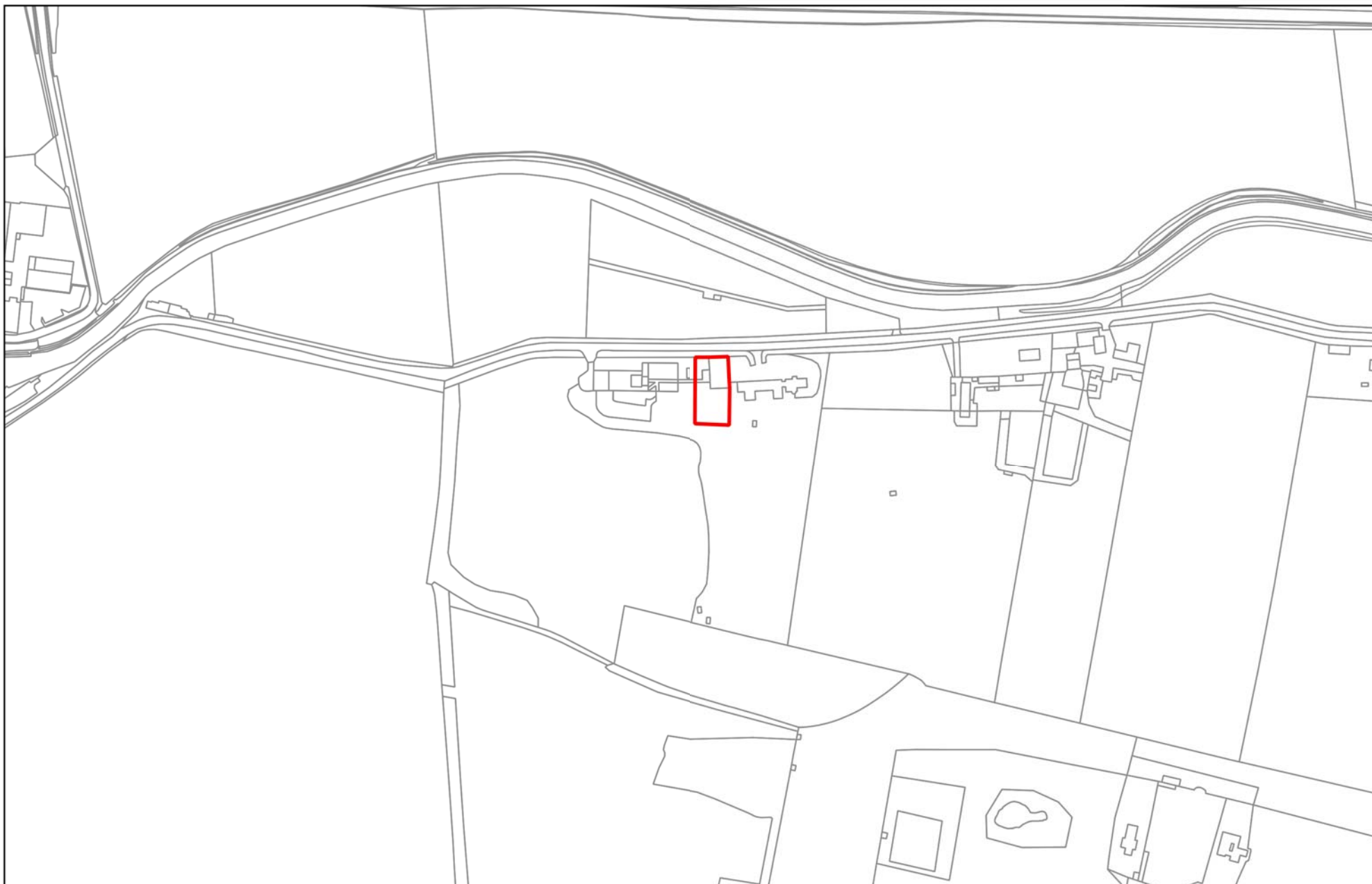
- 8.1 The proposal is contrary to Policy ENV 31 of the West Lothian Local Plan and the SPG on New development in the countryside. Policy ENV 2 of the West Lothian Local Development Plan – Proposed Plan does not outweigh this conclusion. The proposal is also contrary to Scottish Planning Policy.
- 8.2 Consequently, and in view of the above, it is recommended that planning permission in principle is refused.

9. BACKGROUND REFERENCES & ATTACHMENTS

- Location Plan
- Aerial Plan
- Block Plan
- Representations
- Draft reasons for refusal

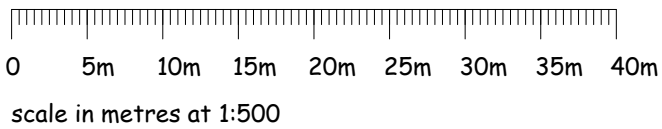
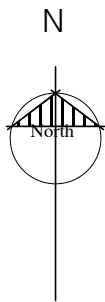
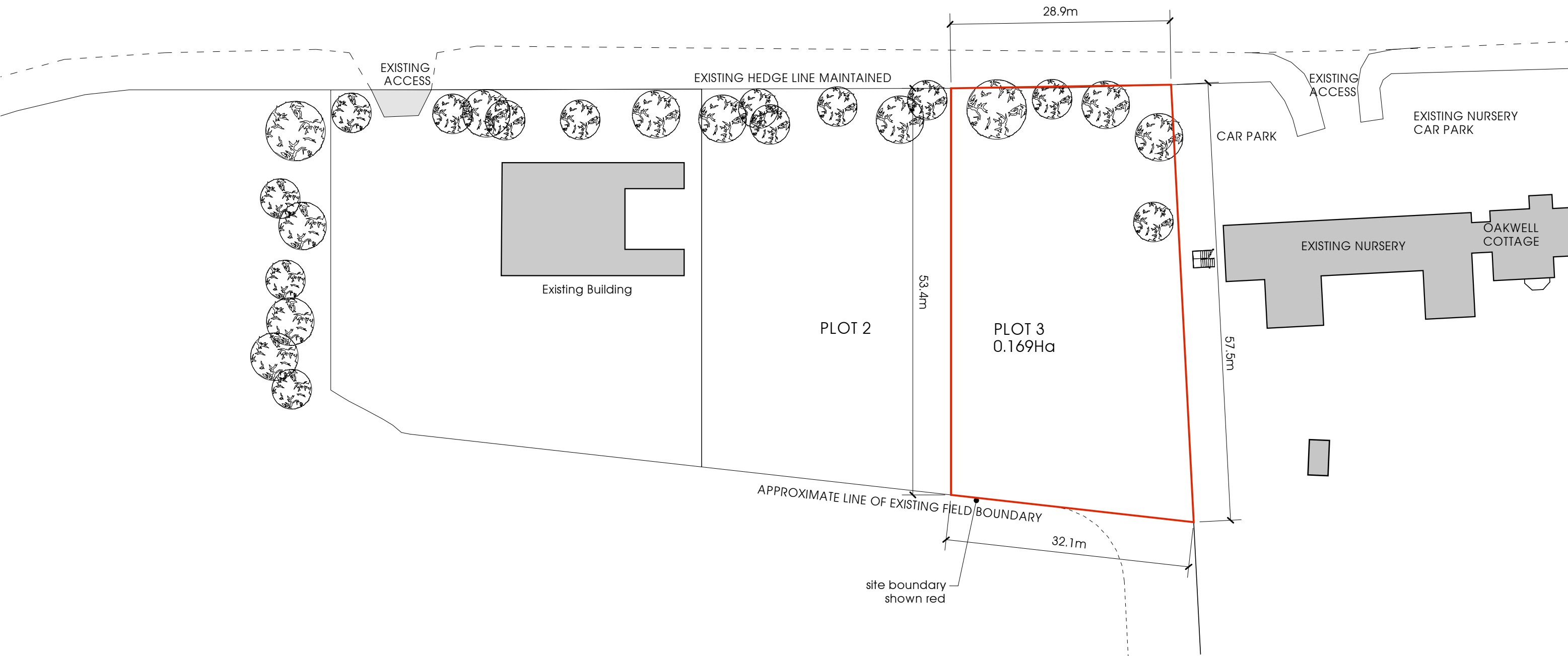
Craig McCorriston

Head of Planning, Economic Development and Regeneration Date: 27 September 2017





Mr & Mrs Nock Oakwell, nr. Linlithgow Block Plan			POLLOCK HAMMOND LTD ARCHITECTS AND CONSERVATION CONSULTANTS GRANGE WEST, LINLITHGOW, WEST LoTHIAN EH49 7RH tel. 01506 847829 email - mail@pollockhammondarchitects.co.uk	N40 L06 rev
1:500 apx	gbj	June 2017		



Watson, Matthew

From: jonathan harris [REDACTED]
Sent: 24 August 2017 11:36
To: Watson, Matthew
Cc: Philpstoun Community Council; andy gray; KirstySimon; Gillian McLean
Subject: Oakwell Applications

Follow Up Flag: Follow up
Flag Status: Flagged

Matthew Watson

0536/FUL/17 : Change of use from Nursery to House, 5 Pardovan Holdings

0592/P/17 : Erection of a house, 5 Pardovan Holdings

0593/P/17 : Erection of a house, 5 Pardovan Holdings

The above three applications have all been submitted by the same applicant and all relate to a site that was the subject of an earlier application 0260/FUL/17 for five houses. That application was refused. All the applications are for outline planning permission and do not go into any detail. It seemed appropriate to write one letter to cover all three applications.

The first application 0536/FUL/17 seeks a change of use from a nursery to a house. The current building was originally erected as a kennel for boarding dogs. That business soon failed; after that it was converted into a nursery. Although the nursery building has a higher design aesthetic than the sheds farmers are able to put up, it is not of exceptional merit. It is also not of local historic merit, so should not be looked upon as a candidate for conversion, as many stone built steadings are. It should be noted that the previous application, 0260/FUL/17, saw no merit in its retention and sought to demolish it. The application does not meet the criteria set out in Policy ENV34 of the Adopted Local Plan. Nor does it meet any of the criteria set out in Policy ENV31 if it was to be considered as new build housing. It is noted in the previous application that the immediate area is identified as an economic cluster (0260/FUL/17, Planning and Design Statement Page 1+2). Philpstoun Community Council would like this site to continue to have an economic role, rather than turned into a house. The recent application for a farrier business across the road from the site demonstrates the demand there is for such sites.

The other two applications 0592/P/17 and 0593/P/17 divide the area between the nursery and Oakwell into two house plots. No locational justification has been given for the houses and no case has been made to indicate how the applications would meet the criteria set out in Policy ENV31. Philpstoun Community Council is very supportive of the control placed on development in the countryside by Policy ENV31. If any development is allowed we would like a strong case to be made for the house so that it fully meets Policy ENV31. In addition that development needs to be sustainable in the long term and that the planning process will defend the Section 75 agreements that seem to result when an application is granted under Policy ENV31.

If the site of the existing nursery is now surplus to the requirements of the business, no justification has been given as to why the site can not be returned to agricultural use.

As the above three applications do not meet the criteria set out in the Adopted Local Plan that would allow housing in the countryside Philpstoun Community Council would like to object to all three applications.

Jonathan Harris

Philpstoun Community Council

Draft reasons for refusal – 0593/P/17

1. The proposed development is not acceptable in principle, as the site is not a visually intrusive brownfield site under policy ENV 31 clause (iii). The application is not an infill development under clause (v) and none of the other exceptions within policy ENV 31 are met. In addition, the proposal fails to accord with the SPG on New development in the countryside on this basis.
2. The proposed development is not located in a sustainable location with there being no footpath for future occupiers which will cause considerable reliance on using a car to access local services. This does not accord with Paragraph 46 of Scottish Planning Policy, which looks to ensure development can link different means of travel and is well connected beyond the site boundary. The proposal therefore does not accord with the presumption in favour of development that contributes to sustainable development in Scottish Planning Policy.

Development Management

List of Delegated Decisions - 25th August 2017

DATA LABEL: OFFICIAL

The following decisions will be issued under delegated powers unless any Member requests that an application is reported to the Development Management Committee for determination. Such requests must be made on the attached form, which should be completed and sent for the attention of the Development Management Manager to planning@westlothian.gov.uk no later than 12 Noon, 7 days from the date of this list.

Ref. No.:	LIVE/0829/FUL/16	Recommendation:	Grant Conditional Permission
Proposal:	Engineering operations and soil movement to recontour fields and installation of field drains (Grid Ref: 308913, 665415)		
Address:	Land At Lawheads Farm, Kirknewton,, , , (Grid Ref: ,)		
Applicant:	David Blain	Type:	Local Application
Ward:	East Livingston And East Calder	Case Officer:	Steven McLaren
<u>Summary of Representations</u> There has been one objection received in respect of lorries using Leyden Road. This is a finite project and only unladen lorries will leave the site via Leyden Road. The transport route and survey of road conditions will be carried out to the satisfaction of Transportation.			
<u>Reason for Recommendation</u> The proposal is to infill a low lying area of farm land on the southern boundary of Lawheads Farm. During heavy rain, this area ponds and remains wet for extended periods resulting in the ground being of poor quality and unable to be farmed along with the surrounding land. The ground has no ecological or biodiversity merit and by infilling this area, drainage can be incorporated and thus bring the ground into productive agricultural use. Recommendation is to grant planning permission subject to conditions relating to lorry movements and the prevention of mud depositions on roads.			

Ref. No.:	LIVE/0277/H/17	Recommendation:	Grant Conditional Permission
Proposal:	Erection of a garden room extension (Grid Ref: 300350, 677150)		
Address:	66 High Street, Linlithgow, EH49 7AQ,, , (Grid Ref: ,)		
Applicant:	Shirley Watson	Type:	Local Application
Ward:	Linlithgow	Case Officer:	Lindsey Patterson
<p><u>Summary of Representations</u></p> <p>Overshadowing Height of houses/ground level shown on plans not fully representative of the site</p>			
<p><u>Reason for Recommendation</u></p> <p>The application is for a two storey extension to the rear of a two storey, category C listed building.</p> <p>The objection relates to the proposed height of the extension and the potential overshadowing of the windows of the neighbouring property. The drawings have been amended to take account of the difference in ground levels and overshadowing drawings provided indicate that there would be minimal additional overshadowing as a result of the extension, the majority of which is contained within the applicants own garden. The plans have however been amended to reduce the length of the extension by 600mm in order to reduce the visual impact of the extension on neighbouring properties and alleviate any possible overshadowing issues.</p> <p>In addition the finishing materials have also been amended to show white render surrounding the existing stonework in order to retain the character of the building while also introducing a modern feature.</p> <p>The proposal will not be detrimental to visual or residential amenity and accords with council policy HOU 9 of the local plan and the council's House Extension and Alteration Design Guide 2015.</p>			

Ref. No.:	0529/P/17	Recommendation:	Refuse Planning Permission in Principle
Proposal:	Planning permission in principle for the erection of a house		
Address:	152 Uphall Station Road,Pumpherstons, Livingston, West Lothian, EH53 0PD (Grid Ref: 306618,669514)		
Applicant:	Mr Darren Bailey	Type:	Local Application
Ward:	East Livingston And East Calder	Case Officer:	Steven McLaren
<u>Summary of Representations</u>			
There have been no representations received on this application.			
<u>Reason for Recommendation</u>			
<p>Planning permission in principle was previously refused for the construction of a house on this site on 5 July 2016. There is no significant change to these revised proposals where the applicant is again seeking planning permission in principle for the construction of a house in the rear garden of 152 Uphall Station Road. The proposed property will share a driveway with 152 Uphall Station Road and, excluding the shared driveway, be sited in an area of ground of approximately 450sqm which forms the rear half of the existing garden ground. The proposed development therefore constitutes tandem development as defined in the council's supplementary planning guidance for small scale and infill housing developments. The proposal may result in the loss of privacy and residential amenity for adjacent neighbours and would set an undesirable precedent for other similar developments. It is acknowledged that a house has been constructed in the rear garden of the adjacent property and is 146a Uphall Station Road. This development however is pre 1990s and would not comply with current policies on space standards, privacy and tandem development. The proposal is therefore considered to be town cramming and contrary to the following policies of the West Lothian Local Plan (WLLP) and Supplementary Planning Guidance (SPG):</p> <p>HOU2 (General guidance for development within settlement boundaries) HOU4 (Avoiding town cramming) HOU9 (Residential and visual amenity) IMP14 (Supplementary planning guidance)</p> <p>SPG: Single Plot and Small Scale Infill Residential Development in Urban Areas (how to avoid town cramming)</p> <p>The proposals also do not accord with the following policies of the West Lothian Local Development Plan (proposed plan): DES1 (design principles) HOU3 (infill/windfall housing development within settlements)</p>			

Development Management

List of Delegated Decisions - 1st September 2017

DATA LABEL: OFFICIAL

The following decisions will be issued under delegated powers unless any Member requests that an application is reported to the Development Management Committee for determination. Such requests must be made on the attached form, which should be completed and sent for the attention of the Development Management Manager to planning@westlothian.gov.uk no later than 12 Noon, 7 days from the date of this list.

Ref. No.:	LIVE/0292/FUL/17	Recommendation:	Refuse Permission
Proposal:	Erection of a side extension to dwellinghouse for use as a canine hydrotherapy business (Grid Ref: 305604, 671549)		
Address:	5 Millbank Place, Uphall, EH52 5DU,, , , (Grid Ref: ,)		
Applicant:	Ms Carol Nicol	Type:	Local Application
Ward:	Broxburn, Uphall And Winchburgh	Case Officer:	Matthew Watson

Summary of Representations

Material objections

- Traffic impact and impact on parking in Millbank Place
- Visual impact of the building
- Noise. Not clear from the plans that noise mitigation measures have been included and noise from any pumping may be disruptive, as well as there being increased noise from greater footfall in the street

Non-material objections

- Potential loss of property value
- Title deeds in the area potentially prohibit the running of a business

Reason for Recommendation

The applicant has failed to provide adequate information with regard to the type of pump proposed for the canine hydrotherapy building and a data sheet specifies noise levels of the pump, specifically, 3rd octave noise levels.

Environmental health has objected to the development in the absence of such information.

The proposal is therefore unacceptable as it has not been demonstrated that residential amenity will be protected in accordance with policy HOU9 of the West Lothian Local Plan. No material considerations outweigh this conclusion.

Ref. No.:	0598/H/17	Recommendation:	Refuse Permission
Proposal:	Remodelling of elevations and extension to dormer		
Address:	15 Rockville Grove, Linlithgow, EH49 6BZ,, , (Grid Ref: 300321,676788)		
Applicant:	Jonathon Gaskell	Type:	Local Application
Ward:	Linlithgow	Case Officer:	Tiwaah Antwi
<u>Summary of Representations</u>			
There have been no representations received for the application.			
<u>Reason for Recommendation</u>			
<p>The proposal will be detrimental to residential and visual amenity.</p> <p>The extension is to replace an existing dormer, increasing it to 5.3 metres wide and 3.7 metres high. Although the proposed dormer will not give rise to overshadowing and privacy issues, it will dominate the roof and be overbearing and visually detrimental to the property itself and the wider area.</p> <p>The proposed west elevation will face onto a public park, from where it would be highly visible. The scale of the proposed dormer would dominate the overall appearance of the existing property. The width of the proposed dormer would be almost the same as the width of the house itself, contrary to the Council's house extension and alteration design guide 2015, which states that extensions should be of a size which does not overdominate the existing building.</p> <p>The proposal does not comply with policy HOU9 of the West Lothian Local Plan (WLLP), DES1 of the LDP and the Council's house extension and alteration design guide 2015 and is considered to be detrimental to the building itself and the amenity of the surrounding area. Refusal is therefore recommended.</p>			

Ref. No.:	0547/H/17	Recommendation:	Grant Conditional Permission
Proposal:	Extension to rear of house		
Address:	51 West Cairn View, Murieston, Livingston, West Lothian, EH54 9FF (Grid Ref: 306038,664161)		
Applicant:	Mr & Mrs Stewart and Susan McLean	Type:	Local Application
Ward:	Livingston South	Case Officer:	Tiwaah Antwi
<p><u>Summary of Representations</u></p> <p>One representation have been received in objection to the application - Overshadowing</p>			
<p><u>Reason for Recommendation</u></p> <p>The proposal will not be detrimental to residential and visual amenity.</p> <p>The proposed development will see the erection of a single storey structure of 3.1 metres in height within the back garden of the dwelling house where it will not be visible from the street. The property and neighbouring properties have established 2 metre high boundary fences which will screen a significant section of the extension. There will be no privacy or overshadowing issues for neighbouring properties as a result of the proposal.</p> <p>The extension will have aluminium patio glass doors, a flat roof with roof light and will be finished with white render, timber and stone basecourse. The proposed finishing materials are complementary to the existing dwelling house and the wider area.</p> <p>The proposal is acceptable in scale and design and complies with policy HOU9 of the WLLP, DES1 of the LDP and the House Extension and Alterations Design Guide. Approval is recommended.</p>			

Ref. No.:	0600/H/17	Recommendation:	Refuse Permission
Proposal:	Garage conversion and extension		
Address:	14 Lawson Glade, Adambrae, Livingston, West Lothian, EH54 9JT (Grid Ref: 304360,665250)		
Applicant:	Mr & Mrs Scott Mclean	Type:	Local Application
Ward:	Livingston South	Case Officer:	Tiwaah Antwi
<u>Summary of Representations</u>			
There have been no representations received for the application.			
<u>Reason for Recommendation</u>			
<p>The application is for a five room extension intended to be used as a separate annexe to the main house. The extension would incorporate the existing garage and would measure 6.1 metres high, 11.4 metres in length and 9.7 metres wide, making it larger than the existing house. This would result in overbearing and overshadowing issues for the neighbouring property to the north, as the extension would only be 1.5 metres away from the boundary and 4.1 metres higher than the boundary fence.</p> <p>The scale, size and location of the extension would dominate the existing property and would be detrimental to the visual amenities of the surrounding area and the character of the street scene.</p> <p>The proposal would be detrimental to the appearance of the property, the surrounding area and the overall street scene, resulting in a loss of residential and visual amenity. The proposal is therefore contrary to Policy HOU9 of the WLLP, DES1 of the LDP and the terms of the House Extensions and Alterations Design Guide.</p> <p>The application is recommended for refusal.</p>			

Development Management

List of Delegated Decisions - 8th September 2017

DATA LABEL: OFFICIAL

The following decisions will be issued under delegated powers unless any Member requests that an application is reported to the Development Management Committee for determination. Such requests must be made on the attached form, which should be completed and sent for the attention of the Development Management Manager to planning@westlothian.gov.uk no later than 12 Noon, 7 days from the date of this list.

Ref. No.:	LIVE/0409/FUL/17	Recommendation:	Grant Conditional Permission
Proposal:	Landscape improvements to existing park including tree thinning, planting, footpaths, new play and outdoor gym equipment, replacement of BMX track, street furniture, fencing and ancillary works (Grid Ref: 306037, 667864)		
Address:	Craigspark, Nr Victoria Street, Craigshill, Livingston EH54 5BG		
Applicant:	West Lothian Council, NETs Land Services	Type:	Local Application
Ward:	East Livingston And East Calder	Case Officer:	Steven McLaren

Summary of Representations

A petition objecting to development was received from nine residents of Etive Walk who cited concerns over: noise from the creation of the 'BMX track etc'; there is an existing 5-a-side pitch which generates noise and unwelcome behaviour; an increase in footfall behind the houses; an increase in traffic causing parking issues and the creation of a green area with benches will encourage anti-social behaviour.

NETS, Land & Countryside Services met with the objectors and a revised scheme was submitted. This reduces the size of the bike track and locates it to the western periphery of the site, further away from the nearest houses; the kick pitch goals have been reduced in size and additional screen planting has been provided within the application site and behind Etive Walk, all as requested by the residents. The main signatory to the petition was lettered regarding these amendments, requesting a response, but no response has been received.

Reason for Recommendation

The proposal is to renovate and upgrade the Craigspark area within Craigshill, Livingston. The application site lies to the west of Craigs Farm which is undergoing redevelopment. The proposals include landscaping, signage, street furniture, the installation of outdoor gym equipment and the construction of a grass kick about area and bike track on an area formerly used as a tennis courts. The original proposals located the kick about pitch and bike track on the former tennis courts. Concern was raised by residents of Etive Walk and following discussions between them and NETs, Land & Countryside Services officers, the proposals were revised to relocate the bike track further away from the nearest houses at Etive Walk, and to include additional landscaping to the north of Etive Walk. There have been no objections raised from Transportation or Environmental Health, or from local residents to the revised layout. It is recommendation that planning permisison is granted for the revised proposals.

Development Management

List of Delegated Decisions - 15th September 2017

DATA LABEL: OFFICIAL

The following decisions will be issued under delegated powers unless any Member requests that an application is reported to the Development Management Committee for determination. Such requests must be made on the attached form, which should be completed and sent for the attention of the Development Management Manager to planning@westlothian.gov.uk no later than 12 Noon, 7 days from the date of this list.

Ref. No.:	LIVE/0049/FUL/16	Recommendation:	Grant Conditional Permission
Proposal:	Erection of 87 flats and houses (as amended from 99) with associated roads and landscaping (grid ref. 302490 666992)		
Address:	Kirkton North, Livingston,, , , (Grid Ref: ,)		
Applicant:		Type:	Major Application
Ward:	Livingston North	Case Officer:	Wendy McCorriston

Summary of Representations

Density and design of layout
 Loss of trees
 Traffic impacts and need for traffic calming
 Impacts on education and health care infrastructure
 Drainage impacts
 The developer should tie the foul drainage from the adjacent cottage into any new system (this is a legal/civil matter that the parties are investigating).

Reason for Recommendation

This is an allocated housing site in the West Lothian Local Plan (HLv111) and in the emerging LDP. The indicative housing number supported on the site is 90 units. The original submitted layout showed 99 units. This has been amended to 87 units to take into account the comments of representees, council officers and consultees. The application has been submitted with supporting documents covering contaminated land, drainage, tree retention and transportation. Initially the full tree belt at the front (north side) of the site was shown as being removed. Following a tree survey and assessment, only the western part, which contains fewer trees of value, is to be removed. New tree planting is to be undertaken. This layout allows for houses to front onto the existing road which is a no-through road adjacent to Toll roundabout. This improves the natural surveillance and gives street frontages on 3 sides of the development. Initial central open space has had to be reduced to accommodate Scottish Water connections along the south of the site. The retained woodland and open space to the southeast of the site ensure that there is adequate amenity space as part of the development. Following amendments, Livingston Village Community Council has withdrawn its initial objection. Conditions will be required to cover transport, drainage, tree protection and SI mitigation measures, including traffic calming. Education Planning also

requires a condition imposed that houses cannot be occupied until August 2020, in view of capacity issues in the Livingston secondary school sector. The applicant has agreed to this condition and to entering into a legal agreement to meet developer contribution and affordable housing land transfer requirements. The amended proposals are acceptable and meet the policy requirements of the development plan. Approval is recommended, subject to the applicant entering into a planning obligation with the council.

Ref. No.:	LIVE/0458/FUL/17	Recommendation:	Refuse Permission
Proposal:	Erection of two dwelling houses (Grid Ref: 304449, 677328)		
Address:	Land At Drovers Bank, Pardovan Farm Steadings, Philpstoun, West Lothian, (Grid Ref: 304449, 677322)		
Applicant:	Raeburn Developments Ltd C/O	Type:	Local Application
Ward:	Linlithgow	Case Officer:	Steven McLaren

Summary of Representations

There have been 12 representations received, two of which are in support of the development. The ten objections received cite the following matters: Demand on education capacity; standard of the access road; the area was intended as amenity space for the Drovers Bank development of 5 houses; increased urbanisation; increased traffic; pressure on parking; impact on the rural feel of the area; over development; area should be classed as greenfield; previous refusals and a failed appeal; conditions of original consent should take precedence; cannot be considered as infill development; impact on drainage infrastructure; no locational need; loss of privacy; loss of amenity space; cramped living; lack of outlook for the new houses; contrary to council policy.

Reason for Recommendation

This is a revised application for the construction of two houses on land at Drovers Bank (Ref: 0337/FUL/16), which was refused on 30 June 2016 under delegated powers. The proposal is for two detached 4 bedroomed houses on ground which was originally intended as amenity space for the converted properties to the east as set out in planning permission 0741/FUL/03. The plot to house ratios meet the required 70:30 ratio as set out in the SPG on "how to avoid town cramming" however, House 2 on the southern most plot has windows of habitable rooms facing the converted properties at Drovers Bank and which lie within the required 18m privacy distance as set out in the SPG. These 4 windows have been shown with obscure glazing to rectify this problem. House 2 lies around 1.3m from a stable building at Pardovan House, which was previously granted consent to be converted to a house, and House 1 is located 1.5m from the boundary wall with Pardovan House. The nature of the layout is such that the houses appear pushed to the periphery in order to meet aspects of council guidance and as such appear cramped onto the site. The site is outwith the settlement boundaries defined in the WLLP. The development would remove one visitors' parking spaces for the existing steading development. The two houses are speculative and whilst the overall design is commensurate with the setting, there is no locational justification for the proposed development being located in the countryside. The site can be classed as brownfield in that it previously was the site of disused farm buildings prior to the steading development however, there are no significant environmental and/or community benefits to be gained from the redevelopment of the site and in this respect the proposals do not accord with SPG 'New development in the countryside'

The proposal is contrary to:

ENV31 (new development in the countryside) WLLP;

HOU4 (cramming) WLLP;
HOU9 (residential and visual amenity) WLLP;
COM2 (loss of open space) WLLP;
IMP14 (policies and guidance) WLLP;
DES1 (design principles) WLLDP
ENV2 (housing in the countryside) WLLDP;
SPG 'Single plot and small scale infill residential development in urban areas (how to avoid town cramming)';
SPG 'New development in the countryside'.

Ref. No.:	0547/H/17	Recommendation:	Grant Conditional Permission
Proposal:	Extension to rear of house		
Address:	51 West Cairn View, Murieston, Livingston, West Lothian, EH54 9FF (Grid Ref: 306038,664161)		
Applicant:	Mr & Mrs Stewart and Susan McLean	Type:	Local Application
Ward:	Livingston South	Case Officer:	Tiwaah Antwi
<u>Summary of Representations</u> One representation has been received: - Overshadowing			
<u>Reason for Recommendation</u> The proposal will not be detrimental to residential and visual amenity. The proposed development will see the erection of a single storey structure of 3.1 metres in height within the back garden of the dwelling house where it will not be visible from the street. The property and neighbouring properties have established 2 metre high boundary fences which will screen a significant section of the extension. There will be no privacy or overshadowing issues for neighbouring properties as a result of the proposal. The extension will have aluminium patio glass doors, a flat roof with roof light and will be finished with white render and timber with a stone basecourse. The proposed finishing materials are complementary to the existing dwelling house and the wider area. The proposal is acceptable in scale and design and complies with policy HOU9 of the WLLP, DES1 of the LDP and the House Extension and Alterations Design Guide. Approval is recommended.			

Ref. No.:	0553/H/17	Recommendation:	Grant Conditional Permission
Proposal:	Extension to house		
Address:	43 Albyn Drive, Murieston, Livingston, West Lothian, EH54 9JN (Grid Ref: 305108,664190)		
Applicant:	Mr Alex McKenna	Type:	Local Application
Ward:	Livingston South	Case Officer:	Tiwaah Antwi
<p><u>Summary of Representations</u></p> <p>There has been one representation received.</p> <p>-Overshadowing</p>			
<p><u>Reason for Recommendation</u></p> <p>The proposal will not be detrimental to the visual or residential amenity.</p> <p>The proposed extension is of a suitable scale and would be established to the rear of the property where it is not visible from the street. The scale and location of the proposed extension will not significantly overshadow or overbear any neighbouring property. The proposal will not be detrimental to the appearance of the property or the overall street scene.</p> <p>Whilst the extension has patio doors and windows to the rear of the property, they look directly onto the applicant's own garden grounds. The extension features bi-fold doors and windows which will be conditioned to match the existing dwelling house.</p>			

Ref. No.:	0626/P/17	Recommendation:	Refuse Permission
Proposal:	Planning permission in principle for residential development		
Address:	Land At Slackend, Cathlaw Lane, Torphichen, West Lothian, (Grid Ref: 297126,672252)		
Applicant:	Mrs Jessie Johnston	Type:	Local Application
Ward:	Armadale & Blackridge	Case Officer:	Mahlon Fautua

Summary of Representations

There were 15 representations, 14 were objections including from the Torphichen Community Council and 1 neutral. Note there was a 76 signature petition in support of the application that was received after the close of the notification period therefore is out of time.

Summary of Objections

- Local Plan policy
- Impact on Torphichen Conservation Area.
- Biodiversity/Wildlife
- Effect on amenity
- Design and layout
- Inconsistency of building line
- The area is within the designated Area of Great Landscape Value.
- Flooding capacity.
- No provision for Affordable homes.
- Road safety and accessibility
- Sewage capacity
- There is significant noise from the road in the lower parts of the field.

Reason for Recommendation

The proposal does not satisfactorily meet the criteria of policy ENV 31 and therefore there is a presumption against development.

The applicant has put forward a case that the Council does not have an effective 5-year housing land supply, therefore development of this greenfield land is acceptable. However it is the position of the council that there is a 5-year effective housing land supply and as such release of the site is not justified and must be considered against current local plan policy.

Additionally, the applicant has not demonstrated that the site is not at risk from flooding.

Therefore it is considered that the development of a greenfield/countryside site is not justified and therefore it is recommended to refuse the application.

Ref. No.:	0663/H/17	Recommendation:	Grant Conditional Permission
Proposal:	Erection of decking (in retrospect)		
Address:	42 Northfield Cottages, West Calder, West Lothian, EH55 8EE, (Grid Ref: 301340,663081)		
Applicant:	Mrs Stacey Aitken	Type:	Local Application
Ward:	Fauldhouse And The Breich Valley	Case Officer:	Tiwaah Antwi
<u>Summary of Representations</u> Two representations have been received: -Privacy -Overshadowing			
<u>Reason for Recommendation</u> Planning permission is sought, retrospectively, for the erection of timber decking to the rear of an end terrace, two storey house. The decking is not visible from the street. The scale and location of the proposed decking will not overshadow any neighbouring property. The proposal will not, in addition, be detrimental to the appearance of the property or the overall street scene. The decking is one metre high and has resulted in privacy issues to the neighbouring properties to the west and east. These issues would not be resolved should the platform be reduced to 0.5 metres, at which point it would constitute permitted development. The structure is on the boundary with the property to the east, but is separated from the neighbouring property to the west by a public footpath. The property to the west is at right angles to the application property, so an issue exists regarding views from the decking into rear windows of the property. The deck also gives views into the garden of the neighbouring property to the east, over the existing garden fence which separates the properties. In order to resolve these privacy issues the applicant has agreed to establish a 1.8 metre high bamboo screen on the western boundary of the decking, and install a planter along the eastern boundary, adjacent to the fence with the neighbour's garden, in which screen planting will be placed, creating a privacy screen which will resolve the overlooking issue for the adjoining neighbour without giving rise to the overshadowing that raising the existing fence would. The application has been conditioned to ensure the plant screening is established within a month of approving the plant detail, which is required to be submitted within two weeks of the approval of the application.			

Ref. No.:	0664/FUL/17	Recommendation:	Grant Conditional Permission
Proposal:	Alterations to shop front and installation of external air conditioning unit on rear elevation.		
Address:	65 West Main Street, Whitburn, Bathgate, West Lothian, EH47 0QD (Grid Ref: 294454,664941)		
Applicant:	CO-OP FUNERALCARE	Type:	Local Application
Ward:	Whitburn And Blackburn	Case Officer:	David Allan

Summary of Representations

One representation has been received in objection to this applicaiton. The main reasons for objection relate to concerns over parking provision, accessibility, and impacts to operations of the contributors neighbouring business premises.

Reason for Recommendation

The proposed alterations include the removal of shutters, and the stripping out and replacment of the existing entrance to the principal elevation of an existing commercial premises. These are minor alterations and in keeping with street frontages for commercial premises. To the rear elevation, the proposed small-scale external air conditioning unit is acceptable in terms of its visual impact and is considered unlikely to have any adverse impact to the amenity of neighbouring uses. Further alterations to the rear include replacment of the existing entrance and remedial work to the existing paving and wall. These have been cited in public representation as potentially impacting on the accessibilty of the neighbouring business. However, the alterations are minor, are within the boundary of the application site and considered to be in keeping with the commercial nature of the premises.

Other considerations:

The application site is an established commercial premises considered to fall within Class 1. As per and subject to the provisions of the Town and Country Planning (Use Classes) (Scotland) Order 1997, changes of use within the same use class do not constitute development. Therefore, whilst it is acknowledged that there is a proposed change in the operational use of the premises, this change is not under the control of this application for planning permission.

It is acknowledged that concern has been raised in relation to access and in particular parking provision. Given that this application is concerned only with minor external alterations, for the reason stated above, access and parking provision are not material considerations in this instance. However, it is noted that there is parking provision to the rear of the premises which appears to have no restrictions on use. Given the town centre location it is also considered that the business can reasonably be accessed by other modes of transport including walking, cycling and public transport. A public footpath also exists to the side and front of the premises.

Further to this, it is noted that a further applicaiton for advertisement consent will be required for the installation of any advertisements.

Proposed Enforcement Actions - 25/08/2017

Ref. No.	Owner/ Developer	Location & Alleged Breach of Planning Control & location	Ward	Proposed action	Reasons for decision and summary steps to comply if applicable
ENF/0137/17	Mohammed Iqbal	Change of use from open space to private garden ground	Broxburn, Uphall & Winchburgh	Serve an Enforcement Notice	<p>The rear fence has been removed and re-erected incorporating an area of open space to the rear of the property. Therefore an unauthorised change of use has occurred. The owner has been asked to remove the fence but is not complying.</p> <p><u>Steps to comply</u></p> <ul style="list-style-type: none"> ➤ Remove the fence and re-instate the ground to its original condition.

Proposed Enforcement Actions - 8 September 2017

Ref. No.	Owner/ Developer	Location & Alleged Breach of Planning Control & location	Ward	Proposed action	Reasons for decision and summary steps to comply if applicable
0136/17	Owner	14 Woodmuir Road Breich EH55 8JN	Fauldhouse & Breich Valley	Serve Amenity notice	Owner is keeping numerous vehicles on the property in poor condition affecting visual amenity of the area Steps to comply– remove all vehicles and materials
0137/17	Owner	18 Globe Park, Broxburn, EH52 6EF	Broxburn, Uphall & Winchburgh	Serve Enforcement Notice	Owner has erected fence at the rear of the garden and has changed the use of open space to private garden ground Steps to comply – reposition fence in original position, restore ground to former condition