



## **LOCAL REVIEW BODY**

### **APPLICATION NO.0240/FUL/21 – ERECTION OF A 284SQM RESTAURANT/BAR AND CAFÉ/HOT FOOD TAKEAWAY WITH BALCONY AND TERRACE, EXTERNAL TIMBER STAIR AND EXTENSION TO CAR PARK AT SITE AT BANKTON CENTRE, MURIESTON, LIVINGSTON**

## **REPORT BY CLERK AND LEGAL ADVISER TO THE LOCAL REVIEW BODY**

### **A PURPOSE OF REPORT**

This report describes the documents and other matters relevant to the consideration by the Local Review Body of this application for review of a decision by the Council's Appointed Person to refuse planning permission for the erection of a 284sqm restaurant/bar and café/hot food takeaway with balcony and terrace, external stair and extension to car park, at site at Bankton Centre, Murieston, Livingston.

### **B REVIEW DOCUMENTS**

The following documents form the review documents for consideration by the Local Review Body and are circulated to members with this report:

1. The Notice of Review submitted by the applicant, dated 19 July 2021. This also includes a supporting statement; a statement of reasons for the appeal; a design and access statement, a selection of plans and side elevations; a location plan, a copy of the original planning application; a copy of the Handling Report; and a selection of colour photographs of the site.
2. The Handling Report, prepared by the Planning Case Officer, dated 21 April 2021
3. The Decision Notice, issued by the Appointed Person, dated 21 April 2021

No representations to the proposal have been submitted to the council.

The applicant has stated in the review application that whilst no new matters have been raised they have included colour photographs of the site which did not form part of the original planning application

The applicant has stated in the review application that they consider that the review can be determined by either written procedure or by conducting a site visit.

**C SITE VISITS AND FURTHER PROCEDURE**

The Local Review Body first considered the review application at its meeting on 29 September 2021. At that meeting the Local Review Body agreed to continue consideration of the item of business to allow for a site visit to take place and for further written submissions from the council's Arborist in respect of the impact the proposed development would have on the Tree Preservation Order that is in place close to, or over, the application site. This information was outlined in a Procedure Note a copy of which is attached to this report along with the information requested.

Additionally, the Local Review Body agreed that a statement submitted by the applicant's agent after their initial review application had been lodged with the council was to be circulated with the report.

**D DEVELOPMENT PLAN POLICIES AND PLANNING GUIDANCE**

The Appointed Person refused the application in that it was contrary to policies DES1 (Design Principles); ENV1 (Landscape character and Special Landscape Areas); ENV9 (Woodland, Forestry, Trees and Hedgerows); ENV10 (Protection of Urban Woodland); ENV21 (Protection of Formal and Informal Open Space) of the adopted West Lothian Local Development Plan.

Further information can be obtained in the Decision Notice and Handling Report both of which are attached to this report.

**E PLANNING CONDITIONS, LEGAL AGREEMENTS AND GOOD NEIGHBOUR AGREEMENTS**

Without prejudice to the outcome of this review, to assist the Local Review Body in its deliberations and to assist the applicant and interested persons in securing a prompt resolution of the review, attached to the report are a set of draft planning conditions which the Local Review Body may wish to consider imposing should it be minded to grant planning permission.

Lesley Montague, Managing Solicitor, West Lothian Civic Centre

Email address:- [lesley.montague@westlothian.gov.uk](mailto:lesley.montague@westlothian.gov.uk)

Date: 10 November 2021

## NOTICE OF REVIEW

### (LOCAL DEVELOPMENT – DECISION BY APPOINTED PERSON)

This Form is for a review by the West Lothian Council Local Review Body under Section 43A(8) of the Town and Country Planning (Scotland) Act 1997 in respect of decisions by the appointed person on local development applications.

The review will be conducted under the Town and Country Planning (Schemes of Delegation and local Review Procedure) (Scotland) Regulations 2008.

Please read and follow the accompanying West Lothian Council Local Review Body Guidance Notes when completing this form. Failure to supply all the relevant information or to lodge the form on time could invalidate your notice of review.

Use **BLOCK CAPITALS** if you are completing the form by hand.

<b>PART A</b>	<b>APPLICANT'S DETAILS</b>	Name <u>ZI PROPERTIES LTD</u>
		Address <u>38 WESTCROFT COURT</u> <u>LIVINGSTON</u> Postcode <u>EH54 7EW</u> Telephone No. (1) <u>[REDACTED]</u> Telephone No. (2) <u>[REDACTED]</u> Fax : <u>[REDACTED]</u> E-mail : <u>[REDACTED]</u>
	<b>REPRESENTATIVE (if any)</b>	Name <u>KEN DUNCAN MCIAT</u> Address <u>3/1 GRAMS TERRACE</u> <u>LIVINGSTON</u> Postcode <u>EH54 7EX</u> Telephone No. (1) <u>[REDACTED]</u> Telephone No. (2) <u>[REDACTED]</u> Fax : <u>[REDACTED]</u> E-mail : <u>[REDACTED]</u>
Please tick this box if you wish all contact to be through your representative.		<input checked="" type="checkbox"/>
Do you agree to correspondence regarding your review being sent by e-mail? * YES/NO		<input checked="" type="checkbox"/> YES <input checked="" type="checkbox"/> NO

<b>PART B</b>	<b>APPLICANT REF. NO.</b>	<u>0240/FUL/21</u>
	<b>SITE ADDRESS</b>	<u>SITE AT BANKTON CENTRE, MURRIESTON</u> <u>LIVINGSTON</u>
	<b>DESCRIPTION OF PROPOSED DEVELOPMENT</b>	<u>ERECTION OF A 284 SQ.M. RESTAURANT/BAR AND</u> <u>CAFE/HOT FOOD TAKEAWAY WITH BALCONY &amp; TERRACE</u> <u>EXTERNAL STAIR &amp; EXTENSION TO CAR PARK.</u>
	<b>DATE OF APPLICATION</b>	<u>15 MARCH 2021</u>
	<b>DATE OF DECISION NOTICE (IF ANY)</b>	<u>21 APRIL 2021</u>

**Note:-** This notice must be served on the planning authority within three months beginning with the date of the decision notice or, if no decision notice was issued, from the date of expiry of the period allowed for determining the application.

**Type of Application** (please tick the appropriate box)

Application for planning permission (including householder application)	<input checked="" type="checkbox"/>
Application for planning permission in principle	<input type="checkbox"/>
Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition)	<input type="checkbox"/>
Application for approval of matters specified in conditions	<input type="checkbox"/>

<b>PART C</b>	<b>TYPE OF REVIEW CASE</b>	<input checked="" type="checkbox"/>
	Refusal of application by appointed officer	<input type="checkbox"/>
	Failure by appointed officer to determine the application within the period allowed	<input type="checkbox"/>
	Conditions imposed on consent by appointed officer	<input type="checkbox"/>



Page 3

If yes, you should now explain why you are raising new material, why it was not raised with the appointed officer before, and why you consider it should now be considered in your review.

	PHOTOS WERE NOT PART OF THE ORIGINAL APPLICATION
	BECAUSE IT WAS ASSUMED THE OFFICER WOULD VISIT SITE

#### List of documents and evidence

Please provide a list of all documents, materials and evidence which you wish to submit and rely on in your review. **Ten (10)** copies of these documents, materials and evidence must be lodged with this notice. If necessary, this can be continued or provided in full in a separate document.

1.	PLANNING APPLICATION
2.	SUBMITTED DRAWINGS
3.	DESIGN & ACCESS STATEMENT
4.	LOCATION PLAN
5.	ASSOCIATED PHOTOS
6.	
7.	
8.	
9.	
10.	
11.	
12.	

**PART D**

**REVIEW PROCEDURE**

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review.

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

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

WRITTEN SUBMISSION & SITE VISIT  
(ACCOMPANIED OR UNACCOMPANIED)

If you have selected "further written submissions" or "hearing session(s)", please explain which of the matters you have included in your statement of reasons you believe ought to be subject of those procedures, and why.

---

---

---

---

---

---

---

**SITE INSPECTION**

The Local Review Body may decide to inspect the land which is subject to the review.

Can the site be viewed entirely from public land?

☒ **\* YES/NO**

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

☒ **\* YES/NO**

If you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain why that may be the case.

---

---

---

---

PART E CHECKLIST	
Please mark the appropriate boxes to confirm you have provided all supporting documents and evidence relevant to your review. Failure to supply all the relevant information or to lodge the form on time could invalidate your notice of review.	
Full completion of all parts of this form	<input checked="" type="checkbox"/>
Statement of your reasons for requiring a review and matters to be raised	<input checked="" type="checkbox"/>
Statement of your preferred procedure	<input checked="" type="checkbox"/>
All documents, materials and evidence INCLUDING LOCATION PLANS AND/OR DRAWINGS which you intend to rely on. Copies must accompany this notice.	<input checked="" type="checkbox"/>
Where your case relates to another application (e.g. it is a renewal of planning permission or a modification, variation or removal of a planning condition, or an application for approval of matters specified in conditions), it is advisable to provide that other application reference number, approved plans and decision notice from that earlier consent.	

**\*\*\*DECLARATION\*\*\***

I, the applicant/agent\*, hereby require West Lothian Council to review the case as set out in this form and in the supporting documents, materials and evidence lodged with it and which includes those plans/drawings that were used by the Appointed Person when determining the original planning application.

I have been provided with a copy of the West Lothian Council Local Review Body Guidance Notes before lodging this notice.

Signed



Date

19/7/21

\* Delete as appropriate

Please email this completed form to :-

[committeeservices@westlothian.gov.uk](mailto:committeeservices@westlothian.gov.uk) or alternatively post to :-

Committee Services  
West Lothian Council  
West Lothian Civic Centre  
Howden South Road  
Livingston  
EH54 6FF





**ERECTION OF 284SQM RESTAURANT/BAR AND CAFE/HOT FOOD  
TAKEAWAY**

**WITH BALCONY AND TERRACE,**

**EXTERNAL TIMBER STAIR AND EXTENSION TO CAR PARK**

**(GRID REF: 306073,665941) AT SITE**

**BANKTON CENTRE, MURIESTON, LIVINGSTON, WEST LoTHIAN,**

**REASONS TO APPEAL DECISION OF LOCAL AUTHORITY**

1. The applicant feels aggrieved by this decision, particularly in view of the lack of public objection to the proposal. Not a single objection had been lodged against the application and neither have any negative comments been submitted by any of the statutory consultative bodies.
2. The applicant was at first fearful of some negative local opinion and objection following some complaints about the mess created by the construction of the new building they are currently constructing adjacent to the application site.

However, as progress materialised, and having the advantage of hindsight, the applicant realises that there is large proportion of the local community who are desirous of a good quality restaurant in the area.

The mess from construction (a temporary necessity of construction work) is largely cleared up and will be completely cleaned up on final completion which is due around the end of August.

The applicant has recently renewed the retail park's car park surface which has also quelled much of the complaint.

3. The applicant anticipated some queries as to the parking levels, although realised during his own viability appraisal of the development that this matter could be satisfied.

Subsequently, however, no objections were raised by Transportation, which is significant to consider in the review.

4. In consideration as to whether it was worth requesting a Local Review Body investigation, the applicant concluded that the only source of objection was raised by the Appointed Person handling the application.

While his handling of the application is respected and understandable, my client feels that a review of the proposal is worthy of consideration by members of the Review Body who will hopefully take a more in-depth analysis of the facts of this case as presented below.

5. Taking the Appointed Person's specific objections into account the Review Body are asked to reconsider the following statements: -

**Policy Assessment:**

*"Juxtaposition between the local centre area on the ground and character of the of the open space as the ground falls away"*

It is difficult to understand why this is seen as an objection since it would affect the area in only an exceedingly small manner. Viewed from the carpark level (**West Elevation on drawing 727-13**) the 'open space' would be impinged by a small and modest frontage of the new building and have little effect on the surrounding buildings or surrounding area.

It is considered, with respect but contrary to the report, that the new building would have the positive effect of balancing the small 'centre area' as a quaint small 'retail square'.

**Officer Assessment:**

*"The trees in this area are covered by TPO No.2 1965 Mid Lothian and the site lies within an area identified as protected open space in the adopted LDP."*

Unless it has been misinterpreted, the Appointed Person's main objection is focussed almost solely and largely on the loss of trees and open space, it is considered that the following pertinent matters should be considered by the Review Body: -

The applicant has much respect for both aspects which is why his building has been designed and positioned to minimise the impact on both the 'open space' and the 'loss of trees' on the proposed development site.

Indeed, on close examination, it is revealed that almost the entire bank of trees alongside Murieston East Road (**See photo 1**) could be retained and protected with little loss quite contrary to the Officer Assessment.

Whilst it is accepted that a small number of mature and valuable trees exist on the site, these are mainly on the bank of Murieston East Road mentioned above and not within the area of the building.

The ones to be removed are limited in both number and value in terms of tree health. It is therefore proposed that these would be more than adequately compensated by new trees as part of the proposed development.

Similarly..... *“The proposed extension of the car park will also result in a loss of the existing trees adjacent to Murieston East Road.”*

There is no proposal to lose any of the trees along the bank of Murieston East Road as part of the proposal.

As designed, (**See Site Plan drawing 727-10**) the preservation of the existing trees is an integral aspect of the design and layout and it is perfectly possible, given the distance from, and the level of the car park relative to these trees to protect both the stems and the root systems of this bank of trees during construction and thereafter.

The *“small triangular building has been constructed on the east side of the CO-OP building and as part of that consent, the area subject to this application would have seen additional tree planting carried out.”*

The applicant is fully aware of the need to supplement the existing trees with additional ones and, as seen from the original Design and Access Statement of this application it is his intention, not only to plant these additional trees required of the existing consent but would intend to carry out... **a landscaping regeneration over the entire length of his boundary adjacent to the existing Murieston Water Walkway.**

This would add significantly to the amenity of the whole site.

*“An over development of the area with a building of a scale and design inappropriate for the setting”*

The proposed building, seen from the car park level does not in any way dominate or detract from its surroundings and is clearly a modest addition to the centre. The design matches what the applicant was asked of him in the ‘triangular’ building. It is therefore difficult to synchronise this with “overdevelopment and inappropriate design”.

This then leads the applicant to reason that the Officer is mainly referring to the lower level.

However, at this level the design deliberately changes to dark brown cladding and timber arched screens which normally sits well in woodland areas.

It is therefore difficult to understand why the Officer takes the view that he has. If he is looking for a more transparent glass building, the applicant would be amenable to advice.

**SUMMARY:**

Having spoken to many people who love walking in the beautiful and extensive walkways in Livingston area there is a swell of opinion among walkers that a restaurant accessed directly from one of these walkways is a real improvement in amenity and far from being a detrimental one.

This location in particular, being in such close proximity to the South Station, would undoubtedly result in a more thriving retail community for the struggling retailers in the centre.

In summary, the applicant is asking for the decision to be reversed as the assessment by the reporting officer has failed to provide a balanced, fair and reasonable report of the evidence and the facts of the application.

The applicant would be amenable to a condition requiring him to identify the trees that could be retained and produce a report by a qualified arborist which could include a provision as to how these trees would be protected during the works and thereafter.



PROPOSED ERECTION OF RESTAURANT/BAR  
AND  
COFFEE SHOP/CAFÉ/FAST FOOD TAKEAWAY SHELL UNIT  
AT  
BANKTON CENTRE, MURIESTON,  
LIVINGSTON EH54 9DA

**DESIGN, ACCESS AND SUPPORTING STATEMENT**

DATED - 04/03/2021

**THE SITE**

The application site is at the east end of a small retail estate and would occupy the space that is made up of largely upfill land from previous developments of the site.

While the site has an established tree planted area it is intended to retain as many of the existing trees as possible and where trees are uprooted these would be replaced with an assortment of new tree standards such as Rowan, Birch or Cherry.

The applicant intends to implement a landscaping regeneration over the entire length of his boundary adjacent to the existing Murieston Water Walkway.

**ACCESS**

The site is accessible from the public road (Murieston Road) and currently has 27 car parking spaces. This would be extended to 35 spaces as shown on the site plan.

There are also currently 3 accessible spaces on the site which are largely unused by ambulant users. It is thus considered that these 3 spaces will be adequate for the needs of the completed development should consent be granted.

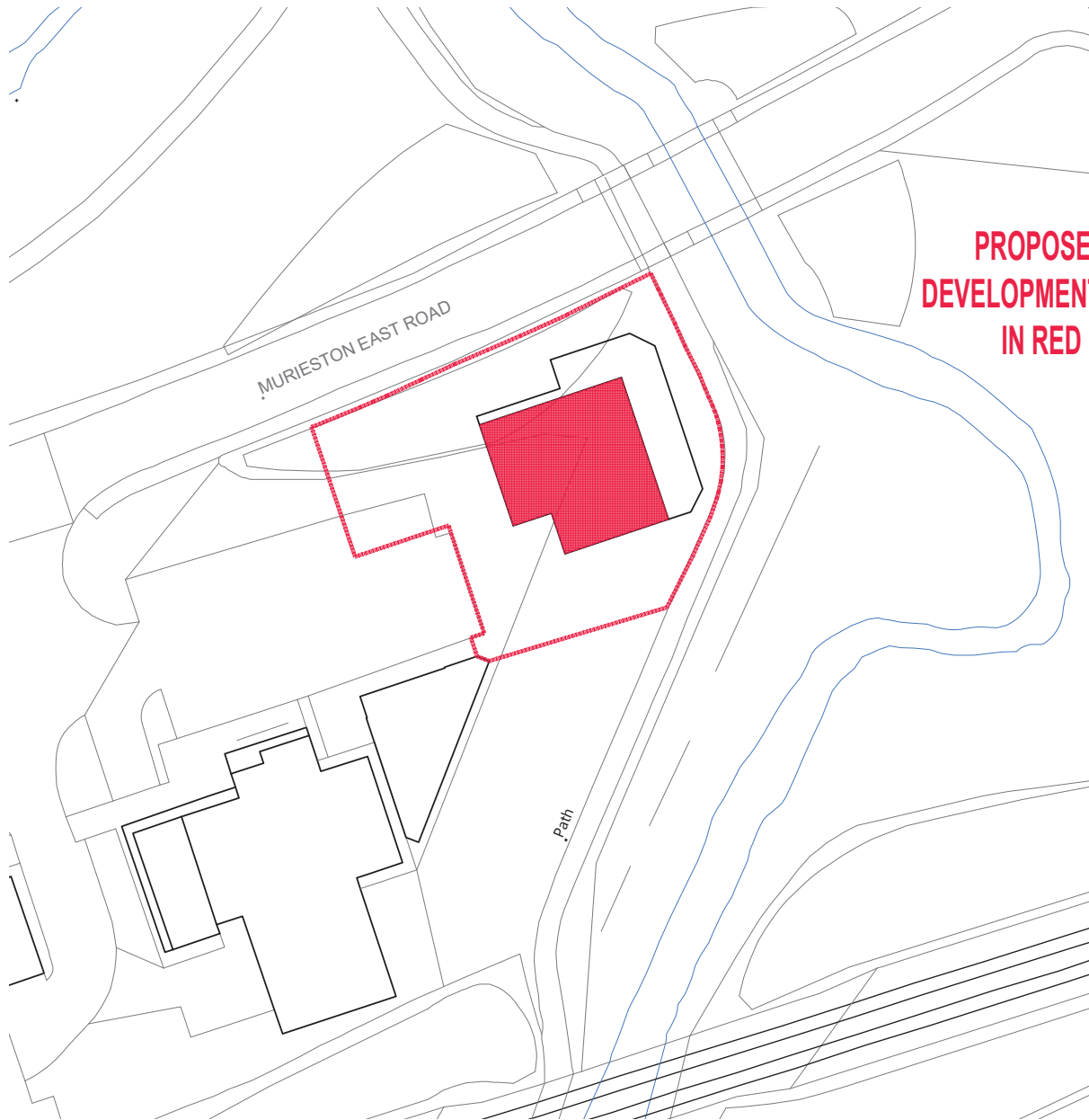
The two units proposed would be accessible to disabled users by way of the passenger hoist located in the foyer of the proposed building.

**DESIGN**

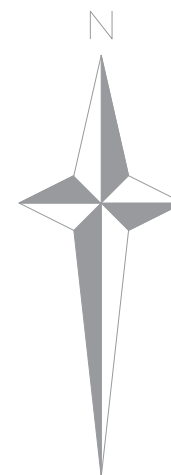
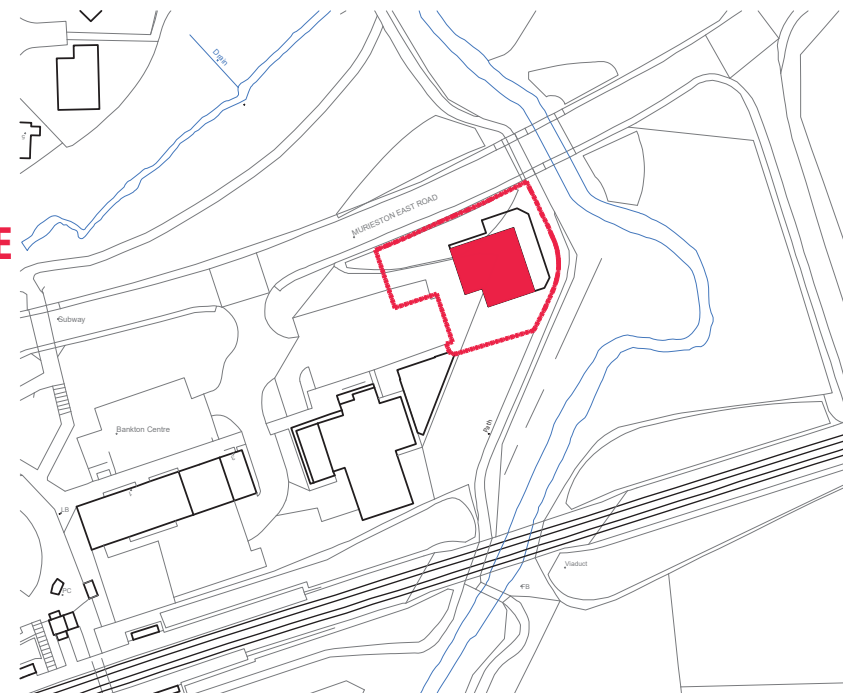
The design of the proposed building attempts to satisfy two aspects: -

(1) Matching the adjacent buildings at ground floor level using smooth buff coloured facing brick and aluminium framed doors and glazing. However, the main frontage of the west elevation is located to balance band of woodland along Murieston Road with the higher and more dominant façade of the new building on the SE corner which is nearing completion.

(2) The lower ground level seeks to be more sympathetic to the woodland and walkway area by the use of timber framed doors and screens and horizontal cladding. The balustrade of the balcony and new stair will also be in timber stained dark brown.



**PROPOSED  
DEVELOPMENT SITE  
IN RED**



BANKTON CENTRE, LIVINGSTON.

Proposed Erection of New Retail Unit

Topographic Survey Layout Plan

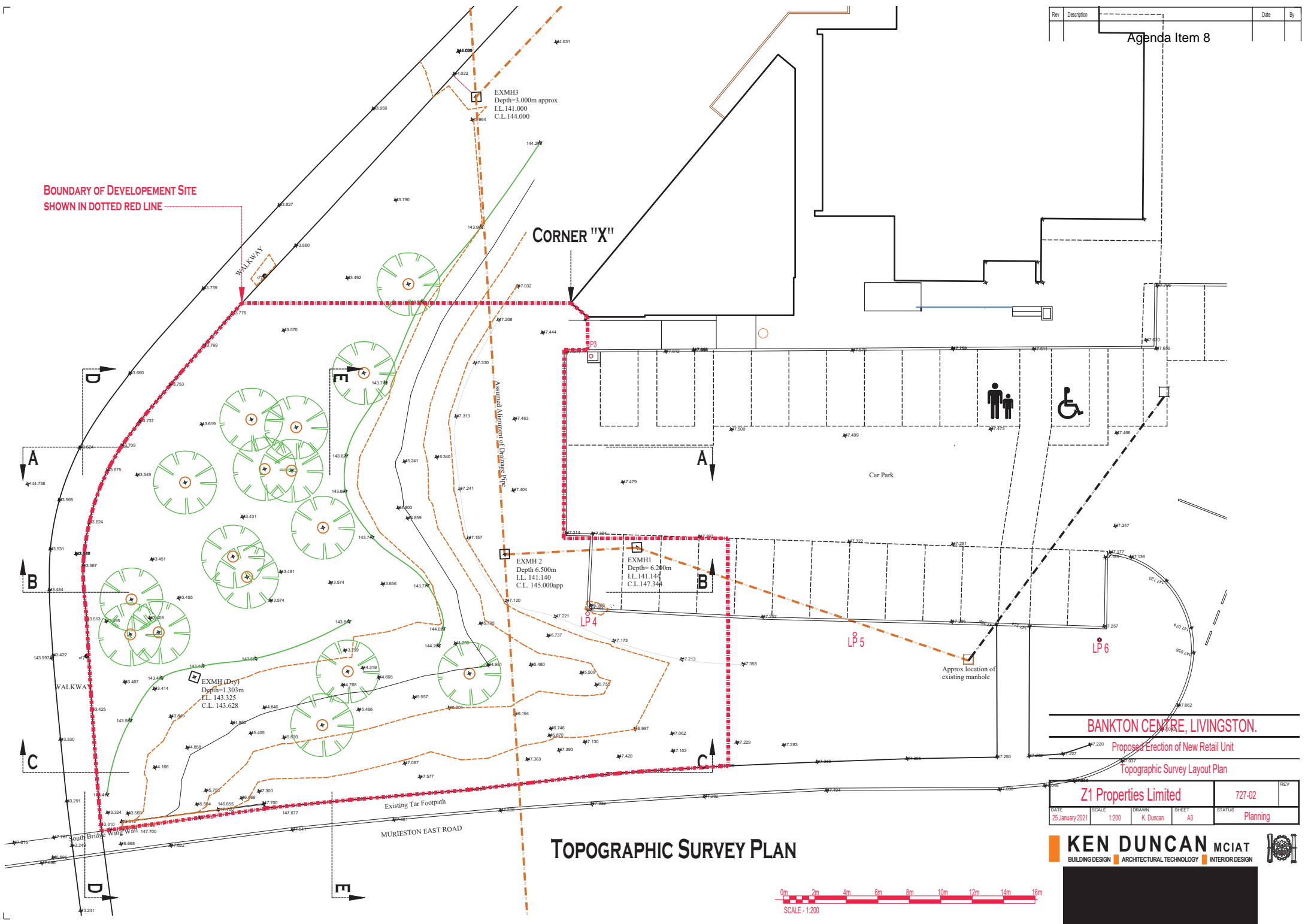
Z1 Properties Limited		727-02		
DATE 25 January 2021	SCALE 1:200	DRAWN K. Duncan	SHEET A3	STATUS Planning

KEN DUNCAN

BUILDING DESIGN ARCHITECTURAL TECHNOLOGY INTERIOR DESIGN

MCIAT

Rev	Description	Date	By
	Agenda Item 8		

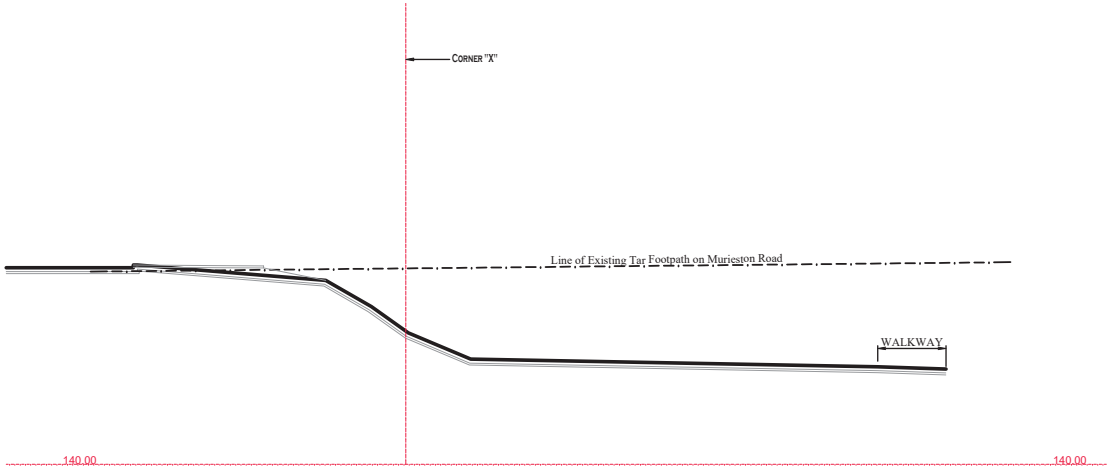


# TOPOGRAPHIC SURVEY PLAN

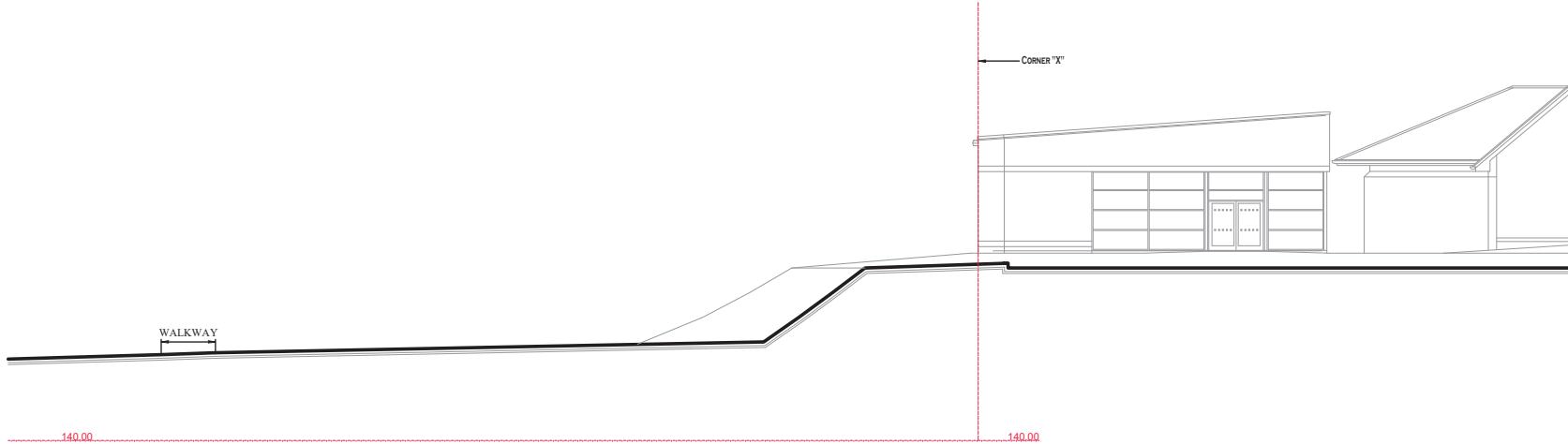


Z1 Properties Limited		727-02		REV	
DATE	SCALE	DRAWN	SHEET	STATUS	
25 January 2021	1:200	K. Duncan	A3	Planning	

**KEN DUNCAN** MCIAT  
BUILDING DESIGN | ARCHITECTURAL TECHNOLOGY | INTERIOR DESIGN



SECTION A-A



SECTION B-B

BANKTON CENTRE, LIVINGSTON.

Proposed Erection of New Retail Unit

Site Sections AA & BB

Z1 Properties Limited				727-03	REV
DATE 25 January 2021	SCALE 1:200	DRAWN K. Duncan	SHEET A3	STATUS Planning	

KEN DUNCAN

BUILDING DESIGN

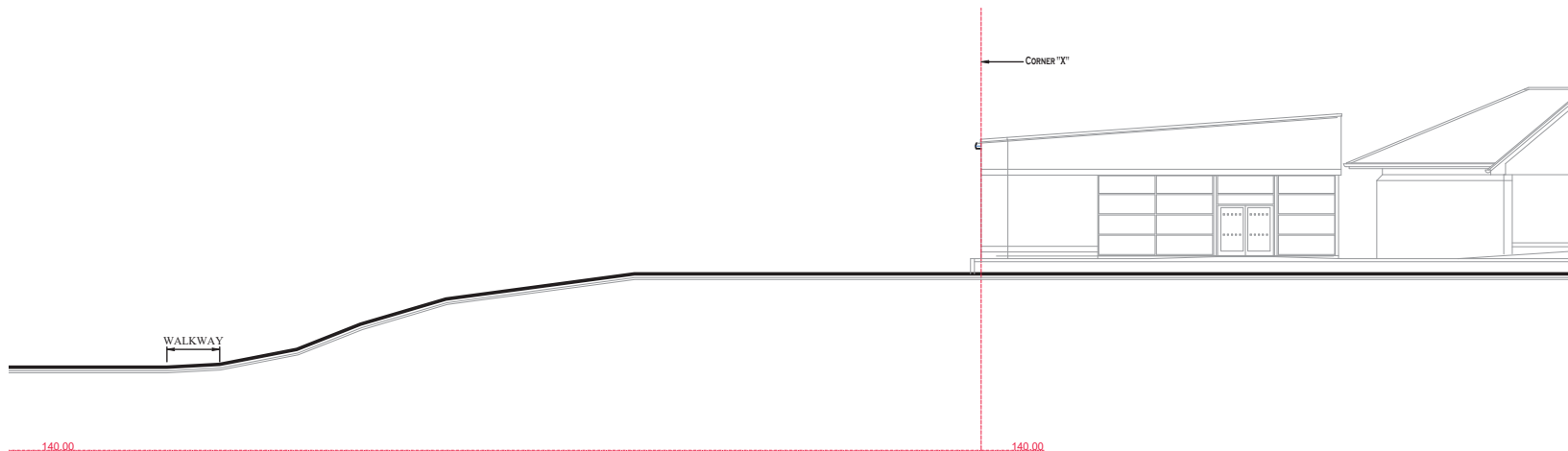
MCIAT

ARCHITECTURAL TECHNOLOGY

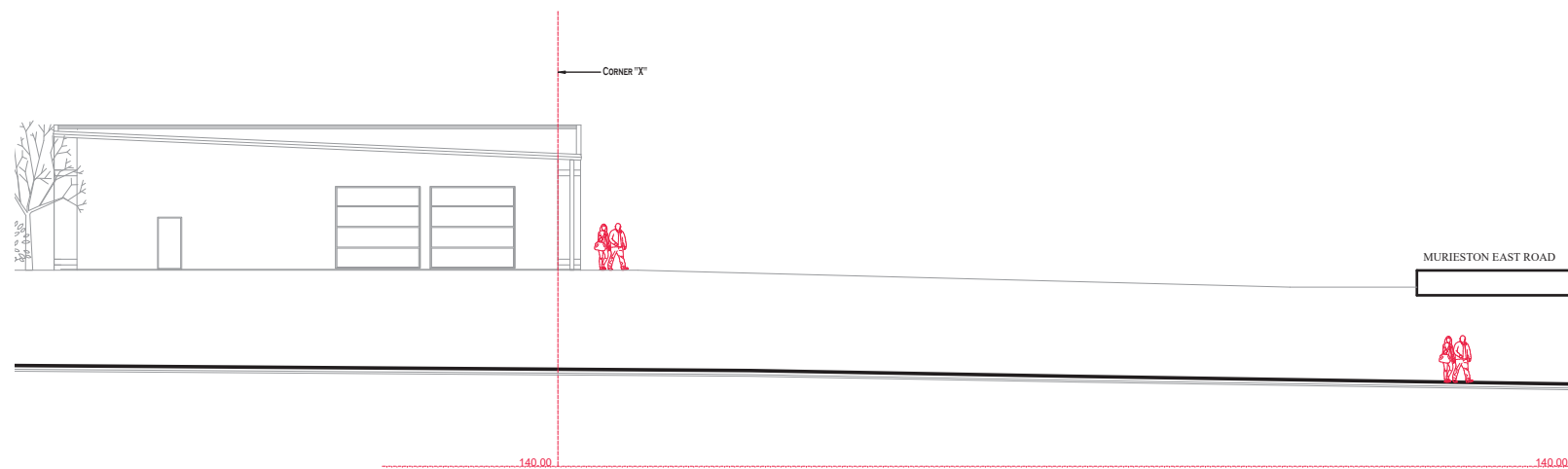
INTERIOR DESIGN







SECTION C-C



SECTION D-D

BANKTON CENTRE, LIVINGSTON.

Proposed Erection of New Retail Unit

Site Sections CC & DD

Z1 Properties Limited				727-04	REV
DATE 25 January 2021	SCALE 1:200	DRAWN K. Duncan	SHEET A3	STATUS Planning	

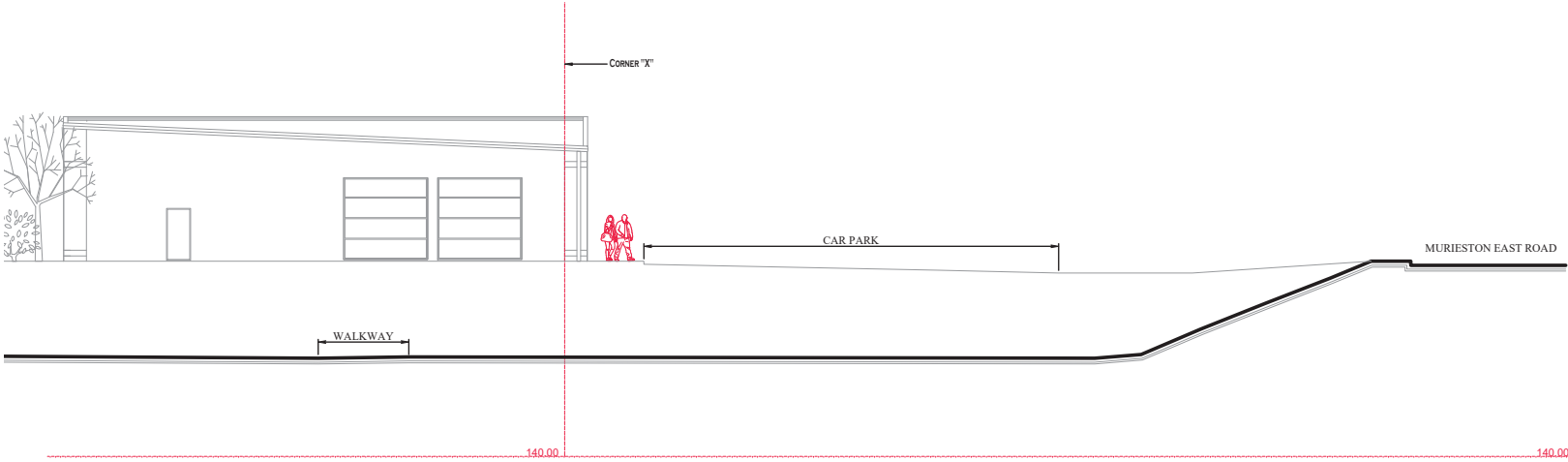
KEN DUNCAN

BUILDING DESIGN

ARCHITECTURAL TECHNOLOGY

INTERIOR DESIGN

MCIAT



SECTION E-E



BANKTON CENTRE, LIVINGSTON.

Proposed Erection of New Retail Unit

Site Section EE

Z1 Properties Limited				727-05	REV
DATE 25 January 2021	SCALE 1:200	DRAWN K. Duncan	SHEET A3	STATUS Planning	

KEN DUNCAN

BUILDING DESIGN

MCIAT

ARCHITECTURAL TECHNOLOGY

INTERIOR DESIGN

# EXTERNAL MATERIALS -

**Walls -** Ground floor level to be buff coloured facing brick to match adjacent new building  
Lower Ground Level and rear elevation to be dark brown horizontal cladding

**Roof -** Anthracite Grey coloured single ply roofing membrane

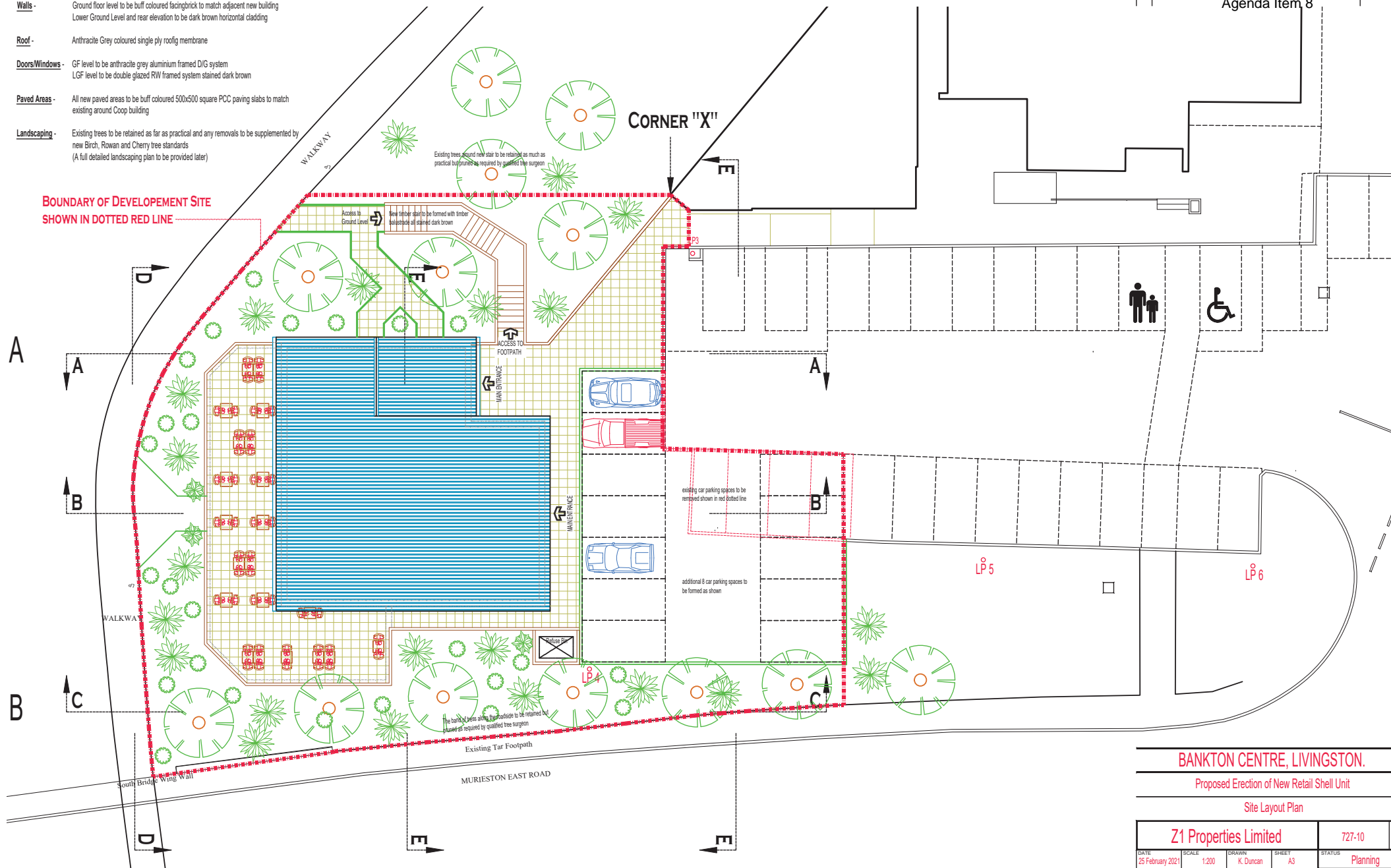
**Doors/Windows -** GF level to be anthracite grey aluminium framed D/G system  
LGF level to be double glazed RW framed system stained dark brown

**Paved Areas -** All new paved areas to be buff coloured 500x500 square PCC paving slabs to match existing around Coop building

**Landscaping -** Existing trees to be retained as far as practical and any removals to be supplemented by new Birch, Rowan and Cherry tree standards  
(A full detailed landscaping plan to be provided later)

Rev	Description	Date	By

Agenda Item 8



## SITE LAYOUT PLAN

**BANKTON CENTRE, LIVINGSTON.**

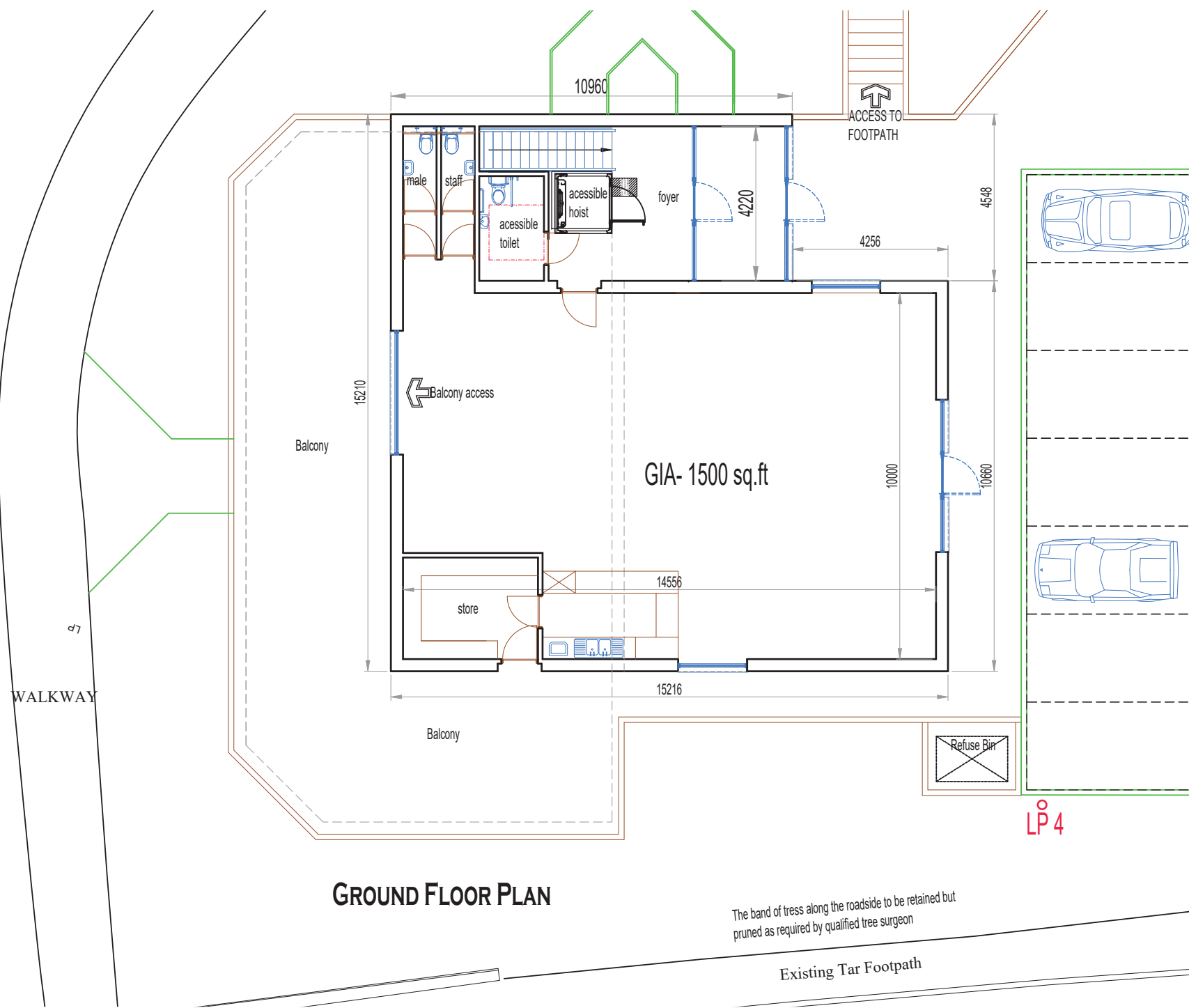
Proposed Erection of New Retail Shell Unit

Site Layout Plan

Z1 Properties Limited		727-10	
DATE 25 February 2021	SCALE 1:200	DRAWN K. Duncan	SHEET A3
STATUS Planning			

**KEN DUNCAN** MCIAT  
BUILDING DESIGN ARCHITECTURAL TECHNOLOGY INTERIOR DESIGN

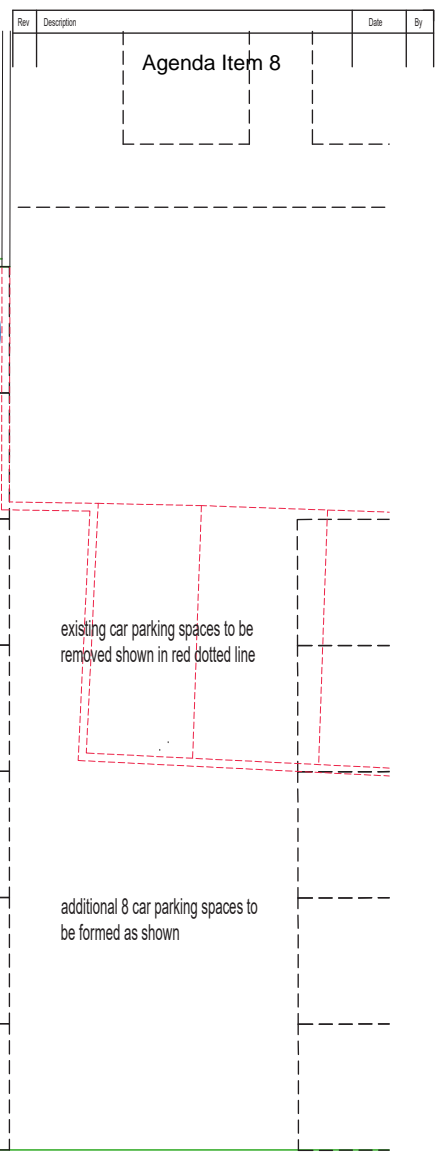




GROUND FLOOR PLAN

The band of tress along the roadside to be retained but pruned as required by qualified tree surgeon

Existing Tar Footpath



BANKTON CENTRE, LIVINGSTON.

Proposed Erection of New Retail Shell Unit

Ground Floor Plan

Z1 Properties Limited

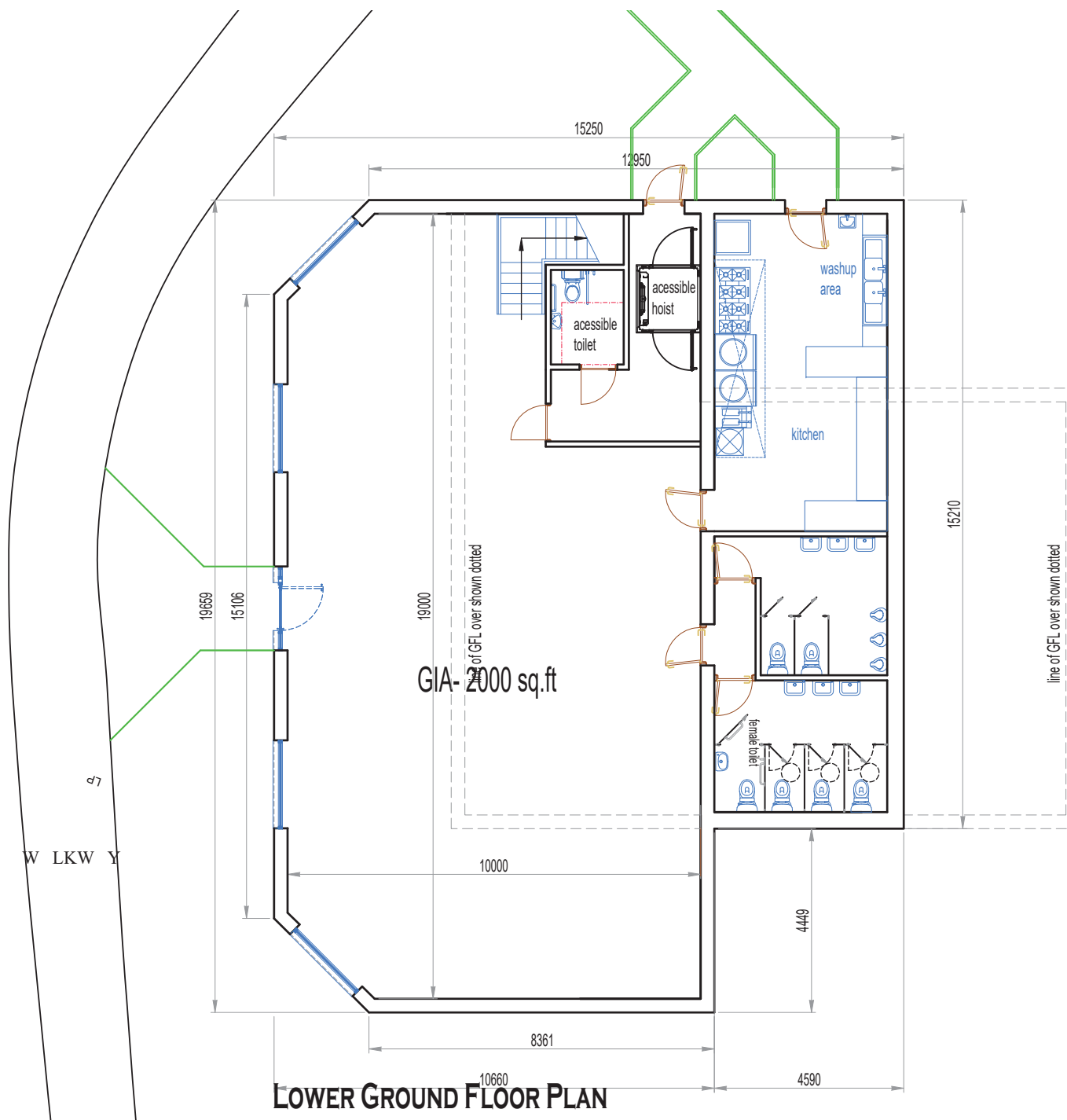
727-11

DATE	SCALE	DRAWN	SHEET	STATUS
25 February 2021	1:100	K. Duncan	A3	Planning

**KEN DUNCAN** MCIAT  
BUILDING DESIGN ARCHITECTURAL TECHNOLOGY INTERIOR DESIGN







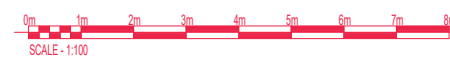
**BANKTON CENTRE, LIVINGSTON.**

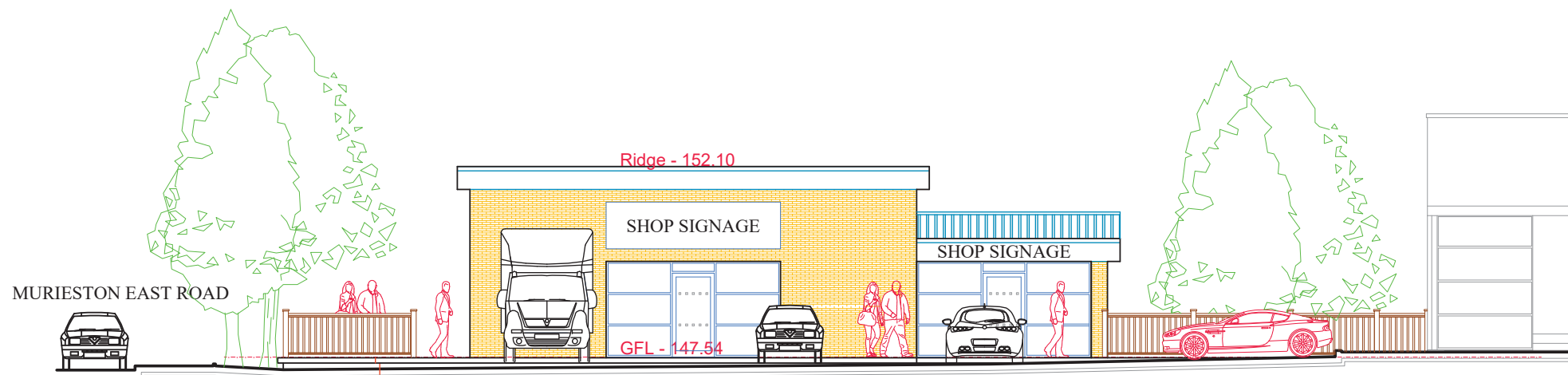
Proposed Erection of New Retail Shell Unit

Lower Ground Floor Plan

Z1 Properties Limited		727-12		REV
DATE 25 February 2021	SCALE 1:100	DRAWN K. Duncan	SHEET A3	STATUS Planning

**KEN DUNCAN** MCIAT  
BUILDING DESIGN ARCHITECTURAL TECHNOLOGY INTERIOR DESIGN





LGEL - 143.80

DATUM - 140.00

## WEST ELEVATION

**BANKTON CENTRE, LIVINGSTON.**

Proposed Erection of New Retail Shell Unit

West Elevation

Z1 Properties Limited				727-13	REV
DATE 25 February 2021	SCALE 1:100	DRAWN K. Duncan	SHEET A3	STATUS Planning	

**KEN DUNCAN**

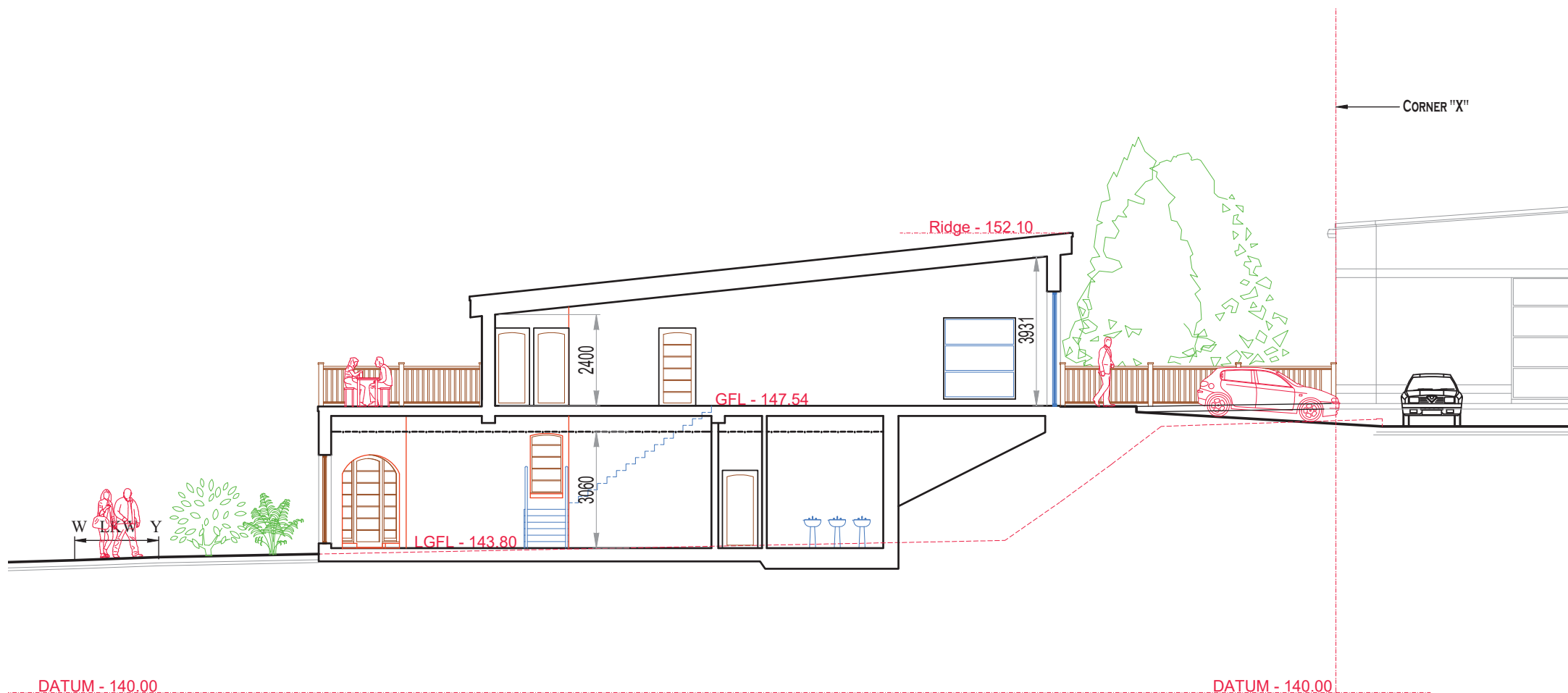
MCIAT

BUILDING DESIGN

ARCHITECTURAL TECHNOLOGY

INTERIOR DESIGN





SECTION B-B

**BANKTON CENTRE, LIVINGSTON.**

Proposed Erection of New Retail Shell Unit

Site Section BB

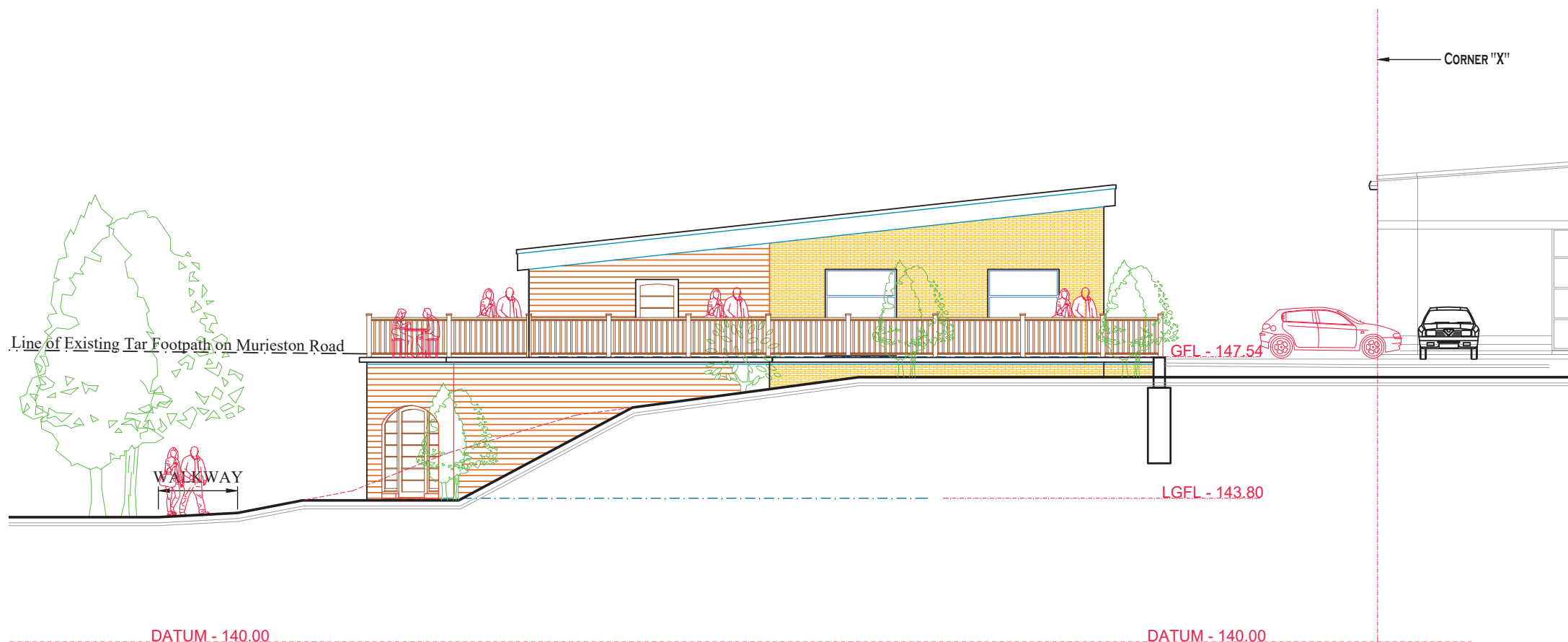
**Z1 Properties Limited**

727-14

DATE 25 February 2021	SCALE 1:100	DRAWN K. Duncan	SHEET A3	STATUS Planning	REV
--------------------------	----------------	--------------------	-------------	--------------------	-----

**KEN DUNCAN** MCIAT  
BUILDING DESIGN ARCHITECTURAL TECHNOLOGY INTERIOR DESIGN





SECTION C-C/NORTH ELEVATION

BANKTON CENTRE, LIVINGSTON.

Proposed Erection of New Retail Shell Unit

Site Section CC-North Elevation

Z1 Properties Limited				727-15	REV
DATE 25 February 2021	SCALE 1:100	DRAWN K. Duncan	SHEET A3	STATUS Planning	

KEN DUNCAN

BUILDING DESIGN

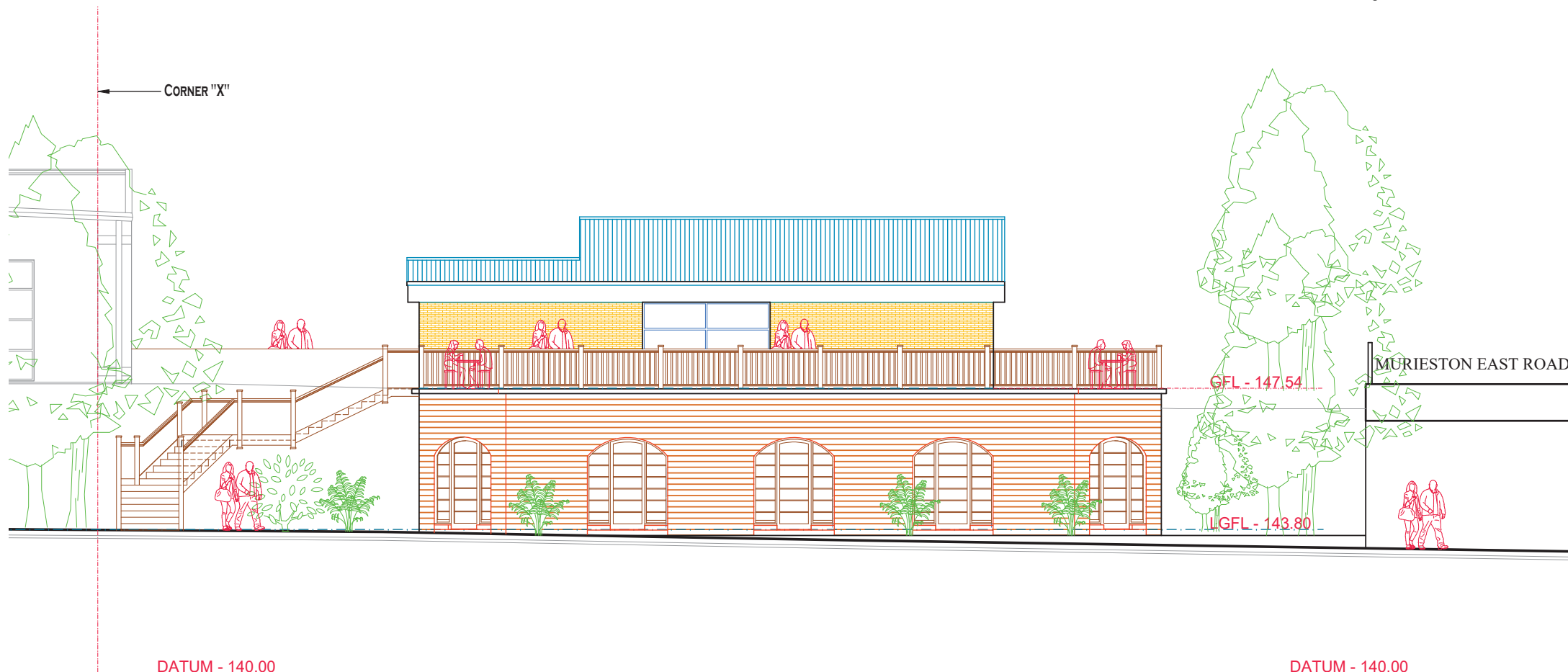
MCIAT

ARCHITECTURAL TECHNOLOGY

INTERIOR DESIGN







SECTION D-D/EAST ELEVATION

BANKTON CENTRE, LIVINGSTON.

Proposed Erection of New Retail Shell Unit

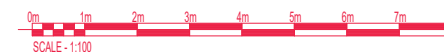
Site Section DD - East Elevation

Z1 Properties Limited

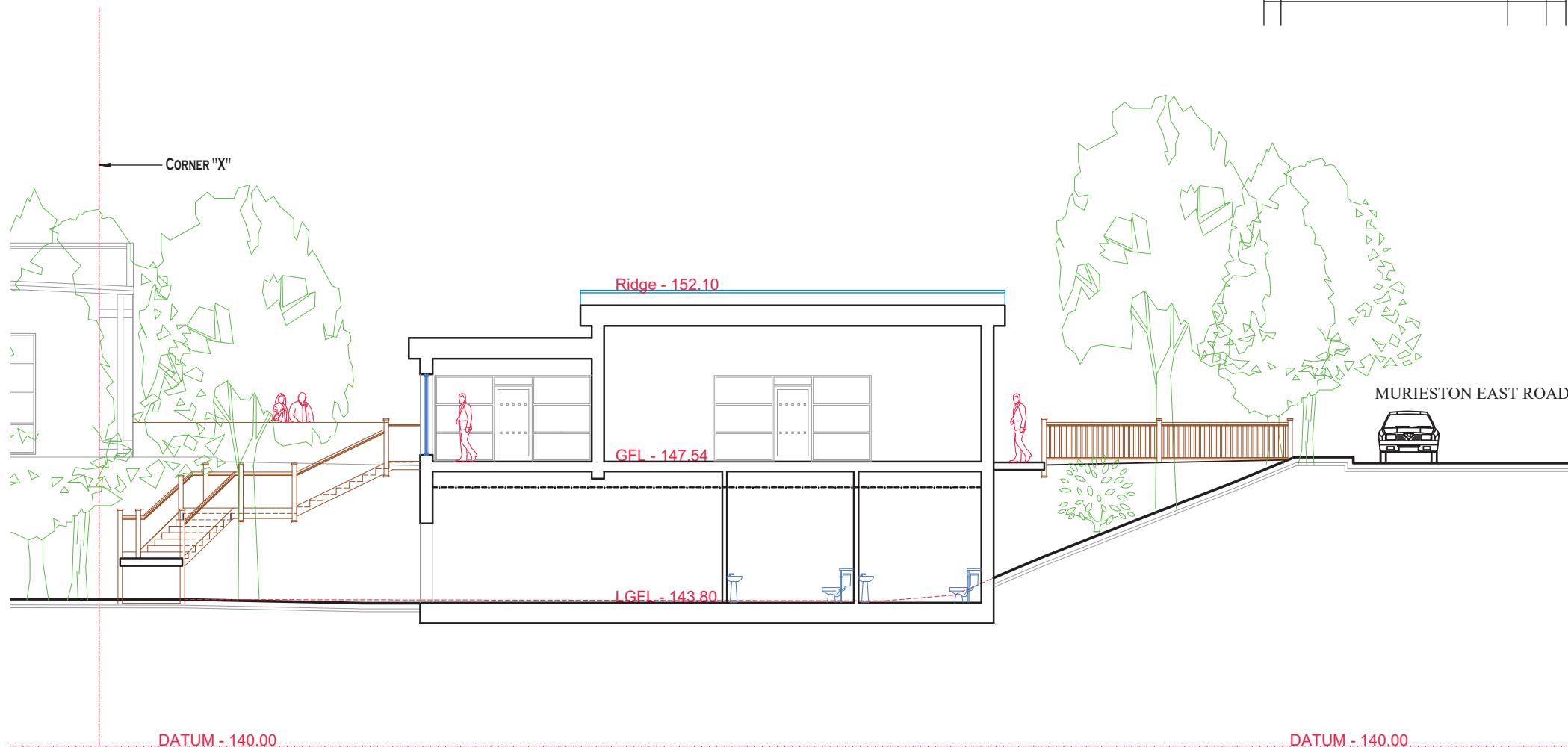
727-16

DATE	SCALE	DRAWN	SHEET	STATUS	REV
25 February 2021	1:100	K. Duncan	A3	Planning	

**KEN DUNCAN** MCIAT  
BUILDING DESIGN | ARCHITECTURAL TECHNOLOGY | INTERIOR DESIGN



Rev	Description	Date	By



SECTION E-E

**BANKTON CENTRE, LIVINGSTON.**

Proposed Erection of New Retail Shell Unit

North & South Elevations

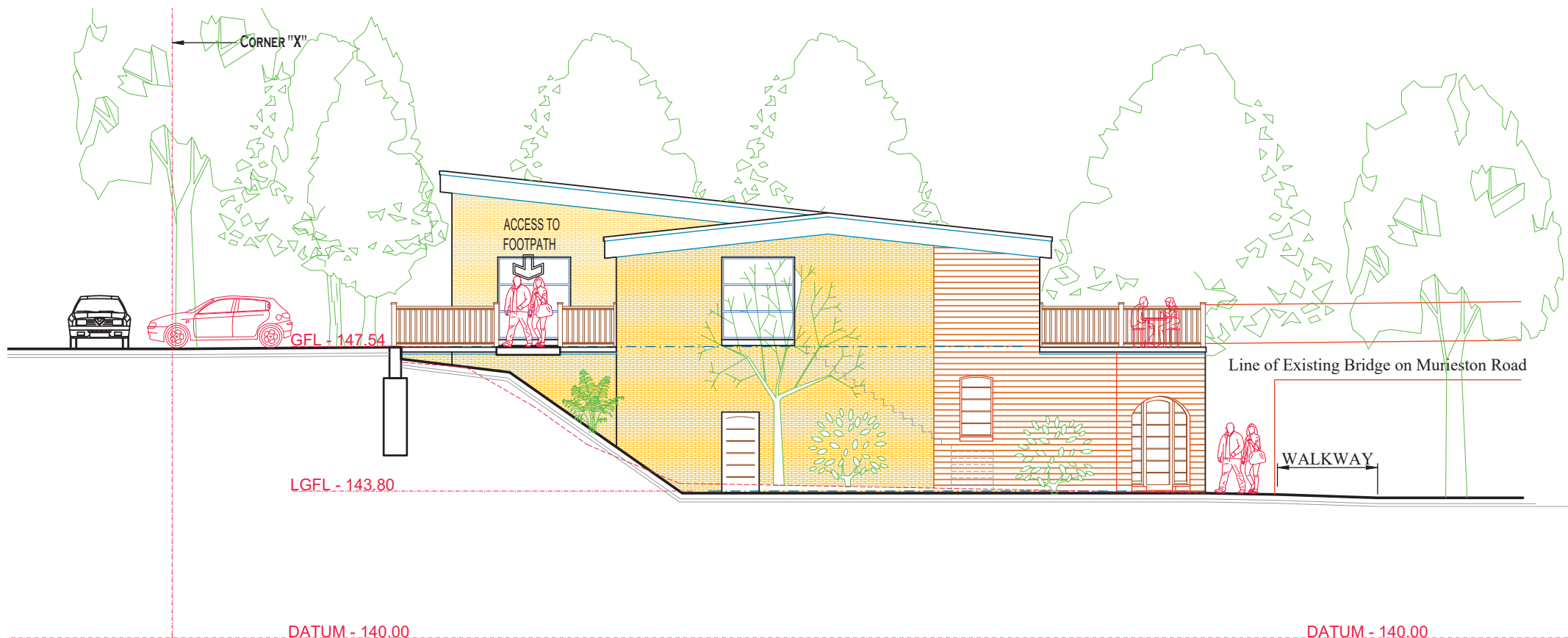
**Z1 Properties Limited**

727-17

DATE	SCALE	DRAWN	SHEET	STATUS	REV
25 January 2021	1:100	K. Duncan	A3	Planning	

**KEN DUNCAN** MCIAT  
BUILDING DESIGN ARCHITECTURAL TECHNOLOGY INTERIOR DESIGN





SECTION A-A/SOUTH ELEVATION

BANKTON CENTRE, LIVINGSTON.

Proposed Erection of New Retail Shell Unit

Site Sections AA - South Elevation

Z1 Properties Limited				727-18	REV
DATE 25 February 2021	SCALE 1:100	DRAWN K. Duncan	SHEET A3	STATUS Planning	

KEN DUNCAN

BUILDING DESIGN

ARCHITECTURAL TECHNOLOGY

MCIAT

INTERIOR DESIGN





Ä !"#%\$%'()\*+,-.#/0123456789:;<=>?@===#AB%#C)Q2-'!D##5E('<#  
F:())4G/I!'"&'(H4%+H2#

ÄFF;','("%)!#,(%)%"#J #+;'0(" 0#2)""#;(,;#"& #) , !!(-K#0%,2E )"("%)#&(!#J )#!2JE"" 0#()0#"& #- C2'- 0#B #&(!#J )#F('0H

```
:&()!#K%2#B%-#,%EF;"')4#"&!FF;',(("%)#B%-E<
```

LM\$NM5#359535M\*5 &gt;==OP87=?Q==&gt;

```

: & # %;)' # - B - ),      # !"# # #2)'C2 # - B - ), # B % - K %2 # %;)' - E %;)' ;KH# # # #R;())'4#2 # % - "K#";#;,:,( " # (# #ÄFF;'('"% # #EJ - #/ & )#
K %2 # B % - E # !# + (:'0 " 0H#R; #C2% " # # !# - B - ), # B #K %2# )0 % %)'(," # # F;())'4#Ä2 # % - "K#J %2 # # !# (FF;'('"% )H

```

## Type of Application

Ä&("#!#"&'!#(FF:.'(""%)#B%-S#R: (!! : ,"#%) #B#"& #B%::%<#T

☒ ##ÄFF:('"%#B%-F:())'4#F-E'!!"%#A'):20'4#&()4 I!%B#2! #()0#12-B(.##E')-(:#/%-I')4DH

☐##ÃFF:'.(("%)#B%-#F:())'')#E!!"%)#')#F-').'F: H

□##92-"& -#(FF;'('"%U#A'),;20')4- )/(:#%B#F;())'4#F -E'!!"% )U#E%0'B',('"%U#+(-('"%)#%E-%+(:#%B#(F#F;())'4#,%0""%)#D

```

□##ÄFF:.'(("%)#B%-#ÄFF-%#B#V('' -!#f.'B' 0##.% )0""%)!H

```

## Description of Proposal

R: (! #0 !.-'J #"& #F-%F%!(;#').:20")4#()K#.&()4    %B#2! <#T#W#6==#.&(-(" -!D

R-%F%! 0# - ,""%)#%B#- !" (2-() "[J(-#("#%/ -#4-%2)0#; + ;#( )0# ,%BB #!&%F[, (B|B(B%#%0#" ( (/ (K#!& ; ;#2)""#( )0# (-#F(-

N!#"&'!#(#" EF%-(-K#F -E'!!"% )S#T

☐ #X !# ☒ #M%

NB#(#,&)(4 #%B2! #'!"%#J #')::20 0#)#"& #F-%F%!(;#&(!0K#"(I )#F(; S

☐ #X !# ☒ #M%

AÄ)!! -#YM%Z# 'B#"&amp; - #'!##)%&amp;()4 # %B#2! HD#T

.(!#"& #/%-l#(:- (OK#J )#!"("- 0#()0[%-# ,%EF; " 0S#T

☒#M%☐#X!#/#1"(-" 0 #☐#X!#Q#\*%EF:" 0

## Applicant or Agent Details

Ä- #K%2#()#(FF:;>()#"%-#()#(4 )"S#T#AÄ#(4 )"##()#(-,," "U#,%)!2:>()#"%-#!%E %) # ;! #(),")4  
%)#J & ;B#%B##&F:;>()#"#)#,%) . ""%#/"##& #&#!#(FF:;>()#"#)D

☐#ÄFF;',( )"#☒Ä4 )"

## Agent Details

R; (! # )" -#Ã4 )" #0 "(" ;!

\*%EF()K[L-4()!(!"%)<

\_5M#`aM\*ÃM#\$:'

3 BH#M2EJ -<

X%2#E2!"# )" -#(^2';0')4#M(E #-#M2EJ -U#%-#J%T&<#

9'-!"#M(E <#T

\_5M

^2';0')4#M(E <

\$(!"#M(E <#T

`aM\*ÃM

^ 2';0')4#M2EJ -<

OQ>

: ; F&%) #M2EJ -<#T

Ã00- !!#>  
A1"- "D<#T

8

5W" )!"% )#M2EJ -<

Ã00- !!#?<

\_'(E!#: --(,

V%J'; #M2EJ -<

:%/) [\*""K<#T

\$'+')4!"%)

9(W#M2EJ -<

\*%2)"-K<#T

a)"" 0#\_')40%E

R%!";%0 <#T

5.67#P5d

5E(';#Ã00- !!<#T

N!#"& # (FF; ; )"#()#)0'+ '02( ; #-#()#%-4()!(!"%)[,%-F%-( " # )"KS#T

☒ ##N)0'+ '02( ; ☐ ##L-4()!(!"%)[\*%-F%-( " # )"KS#T

## Applicant Details

R; (! # )" -#ÃFF;' ,() " #0 "(" ;!

: "" ; <

V-

X%2#E2!"# )" -#(^2';0')4#M(E #-#M2EJ -U#%-#J%"&<#T

L"& -#:" ; <

^2';0')4#M(E <

9'-!"#M(E <#T

Ã!4&(-

^2';0')4#M2EJ -<

O@

\$(!"#M(E <#T

Ã;'

Ã00- !!#>  
A1"- "D<#T

Ã !";-%B"#\*%2-"

\*%EF()K[L-4()!(!"%)

f>#R-%F -" !#\$"0

Ã00- !!#?<

: ; F&%) #M2EJ -<#T

:%/) [\*""K<#T

\$'+')4!"%)

5W" )!"% )#M2EJ -<

\*%2)"-K<#T

a)"" 0#\_')40%E

V%J'; #M2EJ -<

R%!";%0 <#T

5.67#P5Ã

9(W#M2EJ -<

5E(';#Ã00- !!<#T

## Site Address Details

R;(())'4#Ã2"&%-"K<#

Ä !"#\$\$%"&'(#\*%2),;

92;;#F%!(;(#00- !#%B#"& #!" #A'),;20')47%!",%0 #/& - #(+('; (J; D<

Ã00- !#><#

Ã00- !#?<

Ã00- !#O<

Ã00- !#7<

Ã00- !#6<

:%/)[\*\*"K[1 ""; E )" <

R%!"#\*%0 <

R; (! #0 )"BK[0 !,-'J # "& #,%,(%"#%B#"& #!" #%-#!" !

\$()0B';;[/%%0;()0#!"

M%-"&')4

886Ob@

5(!"4

O=8?67

## Pre-Application Discussion

.(+ #K%2#0'!,2!! 0#K%2-#F-%F%!(#/"&#"& #F;())'4#(2"&%-"KS#T

☐#X !# ☒#M%

## Site Area

R; (! #!#" "& #!" #(- (<

>=8OH==

R; (! #!#" "& #E (!2- E )" # "KF #2! 0<

# "KF #2! 0<

☐#., "(- !#A&(D## ☒#1C2(- #V "- !#A!CHED

## Existing Use

R; (! #0 !,-'J #"& #,2-- )" #%-#E%!"#- , )" #2! < #T##AV(W#6==#,&(-, " -!D

\$()0B';;[/%%0;()0#(- (

## Access and Parking

Ã- #K%2#F-%F%!)4#( #/(<," - 0#+ &;; #(<, !!"%# %-#B-%E#(#F2#%(OS#T

☐#X !# ☒#M%

NB#X !#F; (! #0 !,-'J #()0#1&%/#%)# K%2-#0-(!)4#"& #F%!"%"#B#(K# W'!"")4H#Ã;" - 0#%-#) (# !!#F%')!U#&'4&;'4&""4#"& #&()4 !# K%2#F-%F%! #"%"#E(! H#X%2!&#(2#&!/ W'!"")4#B%"#F(#0#)% " #B#"& - #/#J #()K#EF(,"#%)#"& ! H



[illegible]

NB#X !#%-#M%U#F; (! #F-%+'0 #B2-"& -#OT#AV#W#6==#,&(-,!"-!D

Ä(!" #/";#J #!"%- 0#')#( #;(-4 #j/& ;' #J')#J &' )0#0(-l#J-%/) #!"(') 0#!;('' 0#"EJ -#!,- )!

## Residential Units Including Conversion

`% !#K%2-#F-%F%!(;#');20 #) /#%-#(00""%)(;#&%2! W0[%-#B;(!S#T

☐#X !##☒#M%

## All Types of Non Housing Development – Proposed New Floorspace

`% !#K%2-#F-%F%!(;#;" -#%-#,- (" #)%Q- !'0 )"(" ;#B;%%-!F(, \$#

☒#X !##☐#M%

## All Types of Non Housing Development – Proposed New Floorspace Details

9%-#F;())'4#F -E!!"%#)# F-'),F; # (FF;,'('')!U#B#K%2#(- #X/(- #-%B#"& # W(,"#F-%F%! 0#B;%%-!F(, #0'E )!"%)!#F; (! #F-%+0 #())# !""E(" #/& - #) , !!(~K#)0#F-%+'0 #(#B2;; -# WF;())('"%#)#"& #Y`%)Z"#\_)%/Z#" W%#V#J ;%/H

R; (! #!"(" #"& #2! #"KF #())0#F-%F%! 0#B;%%-!F(, #A%-#)2EJ##7#BE!#B#K%2#(- #F-%F%#84# ;#%-#- !'0 )"(;#;"2""%)D<#T

\*;(!#O#3 !" (2-())[, (B

g-%!!#AF-%F%! 0D#B;%%-!F(N)#C2(- #E " -!U#!CHED#%-#)2EJ%#B#) /#A(00""%)(;D 3%%E!#ANB#;(!#FJ#@@<D<#T

770

NB#\*;(!#>U#F; (! #+ #0 "(;'!#%B#)" -)(;#B;%%-!F(, <

M "#"- (0')4#F(, !<

M%)Q"- (0')4#F(, <

:%";<

NB#\*;(!#YM%#7#2! #;,(!Z#%-#Y`%)Z"#!)%/Z#!#! ; , " 0#F; (! #4'+ #E%- #0 "(;'!<#AV(W#6==#,&(-,!"-!D#

## Schedule 3 Development

`% !#"& #F-%F%!(;#')%+;+ #(#B%#4#0 + ;%FE )"#!;" 0#')#1,& 02; #O#%B#"& #:;%/)#( )0%2)"-K R;())'4#A` + ;%FE )"#V()(4 E )"#R-%, 02- #A1,%";()0D#3 42;('"% )!#?=>O#T

☐#X !##☒#M%☐#`%)Z"#\_)%/

NB#K !U#K%2-#F-%F%!(;#')%(00""%)(;K#&( + #""%#J # (0+ -""! 0##( #) /!F(F -#;'-,2;('')4#)"#& #(- (#%B#"& #0 + ;%FE )"H#X%2-#F;())'4# (2"&%-""K#";#0%#&'!#%)#K%2-#J &(B#J2"#"';#J%2#(B#H#R; (! #,& ,l#"& #F;())'4#(2"&%-""KZ!# J!" #B%-#(0+ , # %)##& # (00""%)(;# B #())0#(00#"&'!#%"#K%#2;())'4#B H

NB#K%2#(- #2)l2- #/& "& -#K%2-#F-%F%!(;#')%(#B%-E#%B#0#FE )"#!;" 0#')#1,& 02; #OU#; (! #,& ,l#"& #. ;F#: W"# # ( )0#g2 '0(, # )%" !#J B%- #,%)"(,"')4#K%2-#F;())'4#(2"&%-""KH

## Planning Service Employee/Elected Member Interest

N!#"& # (FF;,'())"U#%-#"& # (FF;,'())"Z!F%2! [F(-) -U# '"& -#(#E EJ -#%B#!"(BB#"'"&"& #F;())'4#! -+', #%-#( ; , " 0#E EJ -#%B#"& #F;())'4#(2"&%-""KS#T

☐#X !##☒#M%

## Certificates and Notices

\*53:N9N\*Ã:5#ÃM`#ML:N\*5#aM`53# 35ga\$Ã:NLM #>6#/#:LÃM#ÃM`#\*LaM:3X#R \$ÃMMNMg#A`5h5\$LRV5M:#VÃMÃg5V5M:#R3L\*5`a35D# A1\*L:\$ÃM`D#35ga\$Ã:NLM #?=>O

L) #\* -'"B',(" #E2!#J #,%EF; " 0 #()0#!2JE"" 0#(;%4#/"&#"& #FF;','(("%)B%-EH#:&'!#!#E!"#2!2(;;K#\* -'"B',("ÃU#9%-E#>U  
\* -'"B',(" #ÃU#\* -'"B',(" #\*#%-#\* -'"B',(" # 5H

Ã- #K%2["& # (FF;','( )"#"&#!%; #%/ ) -#%B#Ã\$##( )OS#T ☒#X !## ☐#M%

N!#()K#%B#"& #;()0#F(-"#%B#()#(4-' ,2;'&%;#')4S#T ☐#X !## ☒#M%

## Certificate Required

:& #B%;;%/ )4#\$( )0#L/ ) -!&'F# \* -'"B',(" #!#- C2'- 0 #"%#,%EF;#"&'!#! , ""%)#%B#"& #F-%F%!(;<

\* -'"B',(" #Ã

## Land Ownership Certificate

\* -'"B',(" #()0#M%"" , #2) 0 -#3 42;(""%)# >6#%B#"& #:#%/ )#()0#\*%2)K#R;())'4#A` + ;%FE )"#V()(4 E )"#R-%, 02- D#A1,%";()0D#3 42;(""%)!#?=>O

\* -'"B',(" #Ã

N#& - JK#, -'"BK#"&(" #\

A>D#Q#M%#F -!%)#%"& -#K( )#"& # (FF;','( )"#/(! #()#%/ ) -#AÃ)K#F -!%)#/#%U#)#- !F ,"%B#()K#F(-"#&B#()0U#!"&%/ ) - #%-#!#"& #  
; !! #2)0 -#( ; (! #"& - %B#%B#/#&'& #) #"& ; !!#"&()#P#K (-!#- E(')#2) WF'- 0HD#%B#()K#F(-"#%B#"& #(#0& ,&#"& # (FF;','( )"?)#- ;(" !#("#  
"& #J 4'))4#%B#"& #F -"%0#B#?>#0(K!# )0')4#/"&#"& #0(" #%"&B#(,,%EF()K')4#(FF;','( ""%)H

A?D#Q#M%) #%B#"& #(#0&%)& # (FF;','( ""%)#- ;(" !#,%!)!""2" ! #%-#B%-E!#F(-"#&B# ,2-;(#&%;0')4

1'4) 0< \_5M#`aM`ÃM

L)#J &( ;B#%B< V-#Ã!4&(-#Ã;'

`(" < =8[=O[?=?>

☒#R; (! #"" ,!#& - #"%# , -'"BK#&'!#\* -'"B',(" H#T

## Checklist – Application for Planning Permission

:%/ )#()0#\*%2)"-K# R;())4#A1,%";()0D#Ã,"#>bbP

:& #:#%/ )#()0#\*%2)"-K#R;())4#A` + ;%FE )"#V()(4 E )" #R-%, 02- D#A1,%";()0D#3 42;(""%)!#?=>O

R; (! #"(! #B / #E%E )"#!"%#,%EF; " #"& #B%;;%/ )4#& ,!;"#%#-0 -#"%# )!2- #"&("#K%2#&F-%+'0 0#(;#"& #) , !!(-K#)B%E(""%)#  
' )#!2FF%- "#%B#K%2-#(FF;','( ""%)H#9("2#JE""#!2BB;' )" #B%-E(""%)#/"& #K%2-#(FF;','( ""%)#E(K#- !2; #K%2-#(FF;','( ""%)#')4#0 E 0#  
' )+(:'0H#& #F;())'4 # (2"&%-"K#';;)%#)#F-%, !!)'4#K%2-#FF;','( ""%)#2)"";#"#!#+(:'0H

(D#NB#"&#B2-"& -#(FF;','( ""%)#/#& - #!"& - #!#( #+(-('"%)#%B#,% )0""%)!#"(" ,& 0#"#F- +'%2!#,%!) )"U#&( + #K%2#F-%+'0 0#(;#"& #) , !!(-K#)B%E(""%)#  
" &(" # BB ,"S#T

☐#X !## ☐#M% ☒#M%"#(FF;','(J; #"%#&FF;','( ""%)

JD#NB#"&#B2-"& -#(FF;','( ""%)#B#%F;())'4#F -E!!'%)#%-#F;())' 4#F -E!!'%)#%) #F-') ,F(;#/#& - #!"& - #!#( #,-%/ ) #)" - !"#)#" & #;()0U#&( + #  
K%2#F-%+'0 0#(#!)"(" E )"#"#%"&(" # BB ,"S#T

☐#X !## ☐#M% ☒#M%"#(FF;','(J; #"%#&FF;','( ""%)

,D#NB#"&#B2-"& -#(FF;','( ""%)#B#%F;())'4#F -E!!'%)#%-#F-') ,F; #%-#(B2-"& -#(FF;','( ""%)#()0#"& # (FF;','( ""%)#)!#B#-#  
0 + ;%FE )" #J ;;%4')4#"#%"& #,(" 4%-!' !#%B#"&%)#( #%-#E(i%-#0+ ;%FE )" #A%"& -#&(#%) #2)0 -#1 ,""#7?#%B#"& #F;())'A#DJ#&( + #  
K%2#F-%+'0 0#(R- QÃFF;','( ""%)#2;(""%)#3 F%- "S#T

☐#X !## ☐#M% ☒#M%"#(FF;','(J; #"%#&FF;','( ""%)

☐#X !##☒#M[Ā

## Declare – For Application to Planning Authority

NU#"& # (FF;,) "[ (4 )" #, -"BK#"& ("#"&!"#) # (FF;,( ""%)#""%#& #F;())' )4#(2"&%-"K#(!#0 !,-'J 0 #)"&'!#B%-EH#:& # (, %EF())4  
R;()![0-(/ )4!#()0#(00""%(;#')B%-E('"%)# (- #F-%+'0 0#(!#(#F(-"%#B#"&'!#(FF;,( ""%)H

` ,;(-('"%)#M(E < V-#\_5M#`aM\*ÃM

` ,;(-('"%)#`" < =8[=O[?=??>  
#

## Payment Details

R(K#`'- ,"# #####

\*- (" 0<# =8[=O[?=??>#>7<?P



DATA LABEL: PUBLIC

## HANDLING REPORT

<b>Ref. No.:</b>	0240/FUL/21	<b>Email:</b>	steve.mclaren@westlothian.gov.uk
<b>Case Officer:</b>	Steven McLaren	<b>Tel No.:</b>	01506 282404
<b>Ward:</b>	Livingston South	<b>Member:</b>	Peter Heggie Moir Shemilt Lawrence Fitzpatrick Maria MacAulay

<b>Title</b>	Erection of a 284sqm restaurant/bar and cafe/hot food takeaway with balcony and terrace, external timber stair and extension to car park (Grid Ref: 306073,665941) at Site At Bankton Centre, Murieston, Livingston, West Lothian,
<b>Application Type</b>	Local Application
<b>Decision Level</b>	Delegated List
<b>Site Visit</b>	20.03.2021
<b>Recommendation</b>	Refuse Permission
<b>Decision</b>	Refuse Permission
<b>Neighbour Notification</b>	Neighbour notification procedures have been carried out correctly - case officer verification. YES
<b>Advertisement</b>	25.03.2021
<b>EIA Screening</b>	Does the development require EIA screening - No

## Description of Proposals

Erection of a 284sqm restaurant/bar and cafe/hot food takeaway with balcony and terrace, external timber stair and extension to car park

## Site History

0573/FUL/09 – Erection of a 172sqm retail unit, granted 28/9/09.

0833/FUL/12 – Erection of a 150sqm commercial unit to form a restaurant (Class 3), refused 4/3/13.

0201/FUL/14 – Erection of a 112sqm commercial unit to form a Class 2 (financial, professional and other services), granted 12/5/14.



0564/FUL/17 – Erection of a 112sqm hot food take-away building and associated works, granted 1/12/17.

0723/FUL/20 - Application for use of substantially complete hot food take-away unit (sui generis) as a coffee shop/cafe (Class 3) with ancillary take-away and minor building alterations, granted 30/9/20

## Representations

There have been no representations made on this application.

## Consultations

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

Consultee	Objection?	Comments	Planning Response
Transportation	No	No objections	Noted
Environmental Health	No	Standard construction restrictions	Noted
Mr Craig Sinclair (Arborist)			No comments received. The development does however encroach into an area protected by a Tree Preservation Order

## Policies Considered

Policy Title	Policy Text
DES1 - Design Principles	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: 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 landscaping; 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

	<p>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. Where appropriate, developers will be required to produce masterplans, design statements and design guides in support of their proposals. Development proposals must also accord with other relevant policies and proposals in the development plan and with appropriate supplementary guidance.</p>
ENV1 - Landscape Character and Special Landscape Areas	<p>Development will not be permitted where it may significantly and adversely affect local landscape character. Where development is acceptable it should respect this landscape character and be compatible in terms of scale, siting and design. New rural development will be required to incorporate design elements to maintain the diversity and distinctiveness of local landscapes and to enhance landscape characteristics where they have been weakened. Within the Special Landscape Areas (SLAs) shown on the proposals map there is a presumption against development which would undermine the landscape and visual qualities for which the areas were designated. Development proposals 'out with' these areas which would affect its setting from strategic viewpoints will be subject to detailed visual appraisal and will not be supported if it adversely affects the designated area. Development proposals which are likely to have a significant landscape impact must be accompanied by a landscape and visual impact assessment demonstrating that, with appropriate mitigation, a satisfactory landscape fit can be achieved. The council will seek to protect and enhance landscape character and local landscape designations in accordance with Supplementary Guidance Landscape character and local landscape designations' and 'Green Networks.</p>
ENV9 - Woodland, Forestry, Trees and Hedgerows	<p>There will be a presumption against development adversely affecting woodlands 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 and accords with the Scottish Government "Control of Woodland Removal" policy (2009) and the Forestry Commission Scotland's policy "The right tree in the right place" (2010). Where the removal of woodlands or forestry is sanctioned, the practical implications of timber removal from the site will require to be considered and thereafter managed in order to minimise damage to the road network. Details must be provided to and agreed with the council prior to the commencement of the works. The council recognises that woodlands, hedgerows and individual trees can have significant ecological and biodiversity value and make a substantial contribution to landscape character and quality and that they can also be of economic and recreational value. Scottish Planning Policy (SPP 2014) encourages Local Development Plan policies to protect and enhance areas of woodland which are of high nature conservation and/or landscape character value. Accordingly: a. there will be a presumption against development proposals which involve the loss of, or damage to, woodland, groups of trees (including trees covered by Tree Preservation Order (TPO), areas defined as ancient or seminatural woodland, veteran trees or areas forming part of designated and designed landscapes) and hedgerows, which have particular amenity, nature conservation, biodiversity, recreation, landscape, shelter belt, cultural, historical value or are of other importance; b. proposals that involve the removal of</p>

	<p>woodland will only be supported where it would achieve significant and clearly defined public benefits and the criteria for determining the acceptability or otherwise of any proposed woodland removal is set out in the Scotland's Control of Woodland Removal Policy document; c. approval for woodland removal will be conditional on the undertaking of actions to ensure full delivery of the defined additional public benefits; d. planning conditions and agreements will be used to mitigate the environmental impacts arising from development and developers will generally be expected to provide compensatory planting; e. where felling is permitted but woodland removal is not supported, conditions conducive to woodland regeneration will require to be maintained through adherence to good forestry practice as defined in the UK Forestry Standard; f. as an irreplaceable resource, it is unlikely that benefits can be demonstrated for removal of ancient woodland. Exceptions for ancient woodland will therefore not be considered; g. development which is likely to affect individual trees and groups of trees considered important for amenity or their cultural or historic interest should comply with Supplementary Guidance Protection and promotion of woodland, trees and hedges including the undertaking of a Tree Survey, indicating constraints and tree protection requirements including BS 5837:2012; h. the enhancement and management of existing woodland, trees and hedgerow will be encouraged and supported. Where retention of a woodland area is integral to a development proposal, developers will be required to prepare and implement an appropriate Management Plan; and i there will be a preference for the use of appropriate local native species in new and replacement planting schemes, or non-native species which are integral to local and/or historic landscape character.</p>
ENV10 - Protection of Urban Woodland	<p>Urban woodlands within settlements that contribute to townscape, landscape, amenity, biodiversity, cultural or historic value, particularly where their loss would jeopardise ongoing contribution to place-making and/or green network objectives, will be protected from development. Proposals that involve the removal of urban woodland in part or in its entirety will only be supported where it would achieve significant and clearly defined public benefits and the criteria for determining the acceptability or otherwise of any proposed woodland removal as set out in Scotland's Control of Woodland Removal Policy document. Proposals to remove urban woodland must be accompanied by an independent aboricultural report.</p>
ENV21 - Protection of Formal and Informal Open Space	<p>Proposals which will result in the loss of open space will not be supported unless it can be demonstrated that: a. there is a specific locational justification for the development which outweighs the need to retain the open space; b. there is no significant adverse effect on the overall recreational amenity of the local area, taking account of the council's Open Space Strategy; 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>

---

## Policy Assessment

---

The proposals have been assessed against the above policies and whilst the development also lies within an identified local centre area as defined on the local plan maps, there is a juxtaposition between the clearly identified local centre area on the ground and the character of the open space as the ground falls away from the centre's parking area towards Murieston Water and the wooded area. The overlap in the identified local centre and the protected open space is likely to have been a drafting error therefore policies TCR1 (town centres) and TCR2 (town centre first sequential approach) are not considered relevant in this context.

---

## Officer Assessment

---

The applicant seeks to build a split-level building containing a restaurant/bar and cafe with hot food take away and balcony on a tree covered embankment on the eastern edge of the Bankton Centre local centre. A timber staircase is proposed on the embankment and the existing car parking is to be extended into existing landscaping. Whilst the local centre is identified in the adopted local development plan for a variety of uses including restaurants etc. the proposals extend from the car park at the local centre down the embankment to the Murieston Water footpath. The intention is to provide access to the building from both the upper level local centre and the lower level footpath. Setting aside the design of the building in the first instance, which would potentially be finished in buff facing brick at the upper level and dark cladding at the lower level, the trees in this area are covered by TPO No.2 1965 Mid Lothian and the site lies within an area identified as protected open space in the adopted LDP. As a result, the structure impacts on both these designations. The proposed extension to the car park will also result in the loss of existing trees adjacent to Murieston East Road, to the detriment of the visual and environmental amenity of the area. Moreover, a small triangular building has been constructed on the east side of the CO-OP building and as part of that consent, the area subject to this application would have seen additional tree planting carried out. The proposals therefore results in an over development of the area with a building of a scale and design inappropriate for the setting and resulting in tree loss within a TPO and area protected as open space. The proposals are therefore contrary to the following policies of the adopted West Lothian Local Development Plan, 2018 and recommendation is to refuse planning permission. DES1 (design principles)ENV1 (character and special landscape areas)ENV9 (woodland, forestry, trees and hedgerows)ENV10 (protection of urban woodland)ENV21 (protection of formal and informal open space)

---

## Other Considerations

---

Consideration has been given to previous applications to develop land at Bankton Centre and the fact that tree planting is required as part of planning permissions 0564/FUL/17 and 0723/FUL/20 to augment the transition between the developed are and the protected trees/open space to the east.

---

## Conclusions and Reasons for Decision

---

Recommendation is to refuse planning permission.

---

**List of Review Documents**


---

Drawings schedule:

Docquetted Number	Drawing Description	Drawing Number
1	Location Plan	727-02
2	Site Plan	727-10
3	Floor Plan (proposed)	727-11 (ground)
4	Floor Plan (proposed)	727-12 (lower ground)
5	Proposed Elevations	727-15 (north)
6	Proposed Elevations	727-16 (east)
7	Proposed Elevations	727-18 (south)
8	Proposed Elevations	727-13 (west)
9	Sections	727-14 (BB)
10	Sections	727-17 (EE)
11	Sections	727-03 (AA & BB)
12	Sections	727-04 (CC & DD)
13	Sections	727-05 (EE2)

Other relevant documents:

West Lothian Local Development Plan, 2018;

Case Officer

SM

Date: 21 April 2021

























## DECISION NOTICE REFUSAL OF PLANNING PERMISSION

Town and Country Planning (Scotland) Act 1997, as amended

---

West Lothian Council, in exercise of its powers under the Town & Country Planning (Scotland) Act 1997 (as amended), **refuses full planning permission for the development described below**, and in the planning application and docquetted plan(s).

---

**APPLICATION REFERENCE** 0240/FUL/21

**PROPOSAL** Erection of a 284sqm restaurant/bar and cafe/hot food takeaway with balcony and terrace, external timber stair and extension to car park

**LOCATION** Site At Bankton Centre, Murieston, Livingston, West Lothian, , (GRID REF: 306073, 665941)

**APPLICANT** Mr Asghar Ali, 38 Westcroft Court, Livingston, EH54 7EW

---

The above **local application was determined by an officer appointed by the council in accordance with its scheme of delegation**. Please see the advisory notes for further information, including how to request a review of any conditions.

Docquetted plans relative to this decision are identified in Annex 1, Schedule of Plans.

**Dated:**  
**21.04.2021**

**Craig McCorriston**  
**Head of Planning, Economic Development and Regeneration**

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

**Signature:**



DATA LABEL: PUBLIC

**The council in exercise of its powers under the Town and Country Planning (Scotland) Act 1997 (as amended) refuses planning permission for planning application 0240/FUL/21, for the reason(s) set out as follows:**

- 1 The building would be two storeys in height as seen from the public footpath along Murieston Water, an area designated as land safeguarded for open space in the adopted West Lothian Local Development Plan, 2018. The scale and design of the proposed building is out of character with the setting given the wooded nature of the area and the building would be seen as sitting out with the context of the local centre. The proposals would therefore be detrimental the landscape character and visual amenity of this area of Livingston and would detract from the natural setting. The proposals are therefore contrary to the following policies of the adopted West Lothian Local Development Plan, 2018:

DES1 (design principles)

ENV1 (landscape character and special landscape areas)

- 2 A large proportion of the development extends to the east from the existing local centre development and would be built on an embankment and ground forming part of the protected Murieston Water corridor. The result of this development is that it would extend into an area designated as land safeguarded for open space and which is covered by Tree Preservation Order No.2 1965 Mid Lothian. The development would result in the loss of trees within the site to the detriment of the landscape and visual character of this area of Livingston. The extension to the car park would also result in the loss of trees, again to the detriment of the visual amenity of the area. The proposals are therefore contrary to the following policies of the adopted West Lothian Local Development Plan, 2018:

ENV1 (landscape character and special landscape areas);

ENV9 (woodland, forestry, trees and hedgerows);

ENV10 (protection of urban woodland);

ENV21 (protection of formal and informal open space).

- 3 The applicant has failed to convince the Council that there are justifiable reasons to depart from the provisions of the development plan which by virtue of Section 25 of the Town and Country Planning (Scotland) Act 1997 is to be afforded primacy in decision making.

**ADVISORY NOTES TO DEVELOPER**

***How to challenge the council's Decision***

*If your application was determined under delegated powers as a local application by an officer appointed by the council and you disagree with the council's decision on your application, or one or more of the conditions attached to the decision, you can apply for a review by the council's Local Review Body. If the application was heard at a committee and in any other case you can seek an appeal of that decision to the Government's Directorate for Planning and Environmental Appeals. You can find information on these processes and how to apply for a review, or to appeal, here: <https://www.westlothian.gov.uk/article/33128/Decisions-Reviews-and-Appeals>*

***If the decision of the council is overturned by the Local Review Body or the Directorate for Planning and Environmental Appeals, the developer of the land should be made aware of the following notes.***

### ***Notification of the start of development***

*It is a legal requirement that the person carrying out this development must notify the planning authority prior to work starting on site. The notification must include full details of the name and address of the person carrying out the development as well as the owner of the land and must include the reference number of the planning permission and the date it was granted. If someone is to oversee the work, the name and contact details of that person must be supplied. The relevant form is available online on the council web site under Planning and Building Standards. Please ensure this form is completed and returned accordingly.*

### ***Notification of completion of development***

*The person who completes this development must, as soon as practicable after doing so, give notice of completion to the planning authority. The relevant form is available online on the council web site under Planning and Building Standards. Please ensure this form is completed and returned accordingly.*

### ***Contaminated land procedures***

*In the event that contamination is found at any time when carrying out the approved development that was not previously identified, work on site shall cease and the issue shall be reported in writing to the planning authority immediately. The developer is required to follow the councils Supplementary Planning Guidance Development of land potentially affected by contamination. This document provides developers and their consultants with information on dealing with the planning process in West Lothian when development is proposed on land which is suspected of being affected by contamination. This document and further guidance is provided via the Councils web pages at <https://www.westlothian.gov.uk/article/34731/Contaminated-Land>*

### ***Liaison with the Coal Authority***

*As the proposed development is within an area which could be subject to hazards from current or past coal mining activity, the applicant is advised to liaise with the Coal Authority before work begins on site, to ensure that the ground is suitable for development.*

*Any activities which affect any coal seams, mine workings or coal mine entries (shafts) require the written permission of the Coal Authority. Failure to obtain such permission constitutes trespass, with the potential for court action. The Coal Authority is concerned, in the interest of public safety, to ensure that any risks associated with existing or proposed coal mine workings are identified and mitigated.*

*To contact the Coal Authority to obtain specific information on past, current and proposed coal mining activity you should contact the Coal Authority's Property Search Service on 0845 762 6848 or at ***www.groundstability.com***.*

### ***Advisory note to developer - General***

*Please note that it is the developer's responsibility to ensure that all relevant consents and certificates are in place prior to starting work on site and that it is the developer's responsibility to speak with service authorities to ensure safe connection is possible to allow the development to proceed.*



**Annex 1, Schedule of Plans - 0240/FUL/21**

Docquetted Number	Drawing Description	Drawing Number
1	Location Plan	727-02
2	Site Plan	727-10
3	Floor Plan (proposed)	727-11 (ground)
4	Floor Plan (proposed)	727-12 (lower ground)
5	Proposed Elevations	727-15 (north)
6	Proposed Elevations	727-16 (east)
7	Proposed Elevations	727-18 (south)
8	Proposed Elevations	727-13 (west)
9	Sections	727-14 (BB)
10	Sections	727-17 (EE)
11	Sections	727-03 (AA & BB)
12	Sections	727-04 (CC & DD)
13	Sections	727-05 (EE2)



DATA LABEL: PUBLIC

## HANDLING REPORT

<b>Ref. No.:</b>	0240/FUL/21	<b>Email:</b>	steve.mclaren@westlothian.gov.uk
<b>Case Officer:</b>	Steven McLaren	<b>Tel No.:</b>	01506 282404
<b>Ward:</b>	Livingston South	<b>Member:</b>	Peter Heggie Moir Shemilt Lawrence Fitzpatrick Maria MacAulay

<b>Title</b>	Erection of a 284sqm restaurant/bar and cafe/hot food takeaway with balcony and terrace, external timber stair and extension to car park (Grid Ref: 306073,665941) at Site At Bankton Centre, Murieston, Livingston, West Lothian,
<b>Application Type</b>	Local Application
<b>Decision Level</b>	Delegated List
<b>Site Visit</b>	20.03.2021
<b>Recommendation</b>	Refuse Permission
<b>Decision</b>	Refuse Permission
<b>Neighbour Notification</b>	Neighbour notification procedures have been carried out correctly - case officer verification. YES
<b>Advertisement</b>	25.03.2021
<b>EIA Screening</b>	Does the development require EIA screening - No

## Description of Proposals

Erection of a 284sqm restaurant/bar and cafe/hot food takeaway with balcony and terrace, external timber stair and extension to car park

## Site History

0573/FUL/09 – Erection of a 172sqm retail unit, granted 28/9/09.  
 0833/FUL/12 – Erection of a 150sqm commercial unit to form a restaurant (Class 3), refused 4/3/13.  
 0201/FUL/14 – Erection of a 112sqm commercial unit to form a Class 2 (financial, professional and other services), granted 12/5/14.

0564/FUL/17 – Erection of a 112sqm hot food take-away building and associated works, granted 1/12/17.

0723/FUL/20 - Application for use of substantially complete hot food take-away unit (sui generis) as a coffee shop/cafe (Class 3) with ancillary take-away and minor building alterations, granted 30/9/20

## Representations

There have been no representations made on this application.

## Consultations

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

Consultee	Objection?	Comments	Planning Response
Transportation	No	No objections	Noted
Environmental Health	No	Standard construction restrictions	Noted
Mr Craig Sinclair (Arborist)			No comments received. The development does however encroach into an area protected by a Tree Preservation Order

## Policies Considered

Policy Title	Policy Text
DES1 - Design Principles	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: 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 landscaping; 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

	<p>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. Where appropriate, developers will be required to produce masterplans, design statements and design guides in support of their proposals. Development proposals must also accord with other relevant policies and proposals in the development plan and with appropriate supplementary guidance.</p>
ENV1 - Landscape Character and Special Landscape Areas	<p>Development will not be permitted where it may significantly and adversely affect local landscape character. Where development is acceptable it should respect this landscape character and be compatible in terms of scale, siting and design. New rural development will be required to incorporate design elements to maintain the diversity and distinctiveness of local landscapes and to enhance landscape characteristics where they have been weakened. Within the Special Landscape Areas (SLAs) shown on the proposals map there is a presumption against development which would undermine the landscape and visual qualities for which the areas were designated. Development proposals 'out with' these areas which would affect its setting from strategic viewpoints will be subject to detailed visual appraisal and will not be supported if it adversely affects the designated area. Development proposals which are likely to have a significant landscape impact must be accompanied by a landscape and visual impact assessment demonstrating that, with appropriate mitigation, a satisfactory landscape fit can be achieved. The council will seek to protect and enhance landscape character and local landscape designations in accordance with Supplementary Guidance Landscape character and local landscape designations' and 'Green Networks.</p>
ENV9 - Woodland, Forestry, Trees and Hedgerows	<p>There will be a presumption against development adversely affecting woodlands 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 and accords with the Scottish Government "Control of Woodland Removal" policy (2009) and the Forestry Commission Scotland's policy "The right tree in the right place" (2010). Where the removal of woodlands or forestry is sanctioned, the practical implications of timber removal from the site will require to be considered and thereafter managed in order to minimise damage to the road network. Details must be provided to and agreed with the council prior to the commencement of the works. The council recognises that woodlands, hedgerows and individual trees can have significant ecological and biodiversity value and make a substantial contribution to landscape character and quality and that they can also be of economic and recreational value. Scottish Planning Policy (SPP 2014) encourages Local Development Plan policies to protect and enhance areas of woodland which are of high nature conservation and/or landscape character value. Accordingly: a. there will be a presumption against development proposals which involve the loss of, or damage to, woodland, groups of trees (including trees covered by Tree Preservation Order (TPO), areas defined as ancient or seminatural woodland, veteran trees or areas forming part of designated and designed landscapes) and hedgerows, which have particular amenity, nature conservation, biodiversity, recreation, landscape, shelter belt, cultural, historical value or are of other importance; b. proposals that involve the removal of</p>

	<p>woodland will only be supported where it would achieve significant and clearly defined public benefits and the criteria for determining the acceptability or otherwise of any proposed woodland removal is set out in the Scotland's Control of Woodland Removal Policy document; c. approval for woodland removal will be conditional on the undertaking of actions to ensure full delivery of the defined additional public benefits; d. planning conditions and agreements will be used to mitigate the environmental impacts arising from development and developers will generally be expected to provide compensatory planting; e. where felling is permitted but woodland removal is not supported, conditions conducive to woodland regeneration will require to be maintained through adherence to good forestry practice as defined in the UK Forestry Standard; f. as an irreplaceable resource, it is unlikely that benefits can be demonstrated for removal of ancient woodland. Exceptions for ancient woodland will therefore not be considered; g. development which is likely to affect individual trees and groups of trees considered important for amenity or their cultural or historic interest should comply with Supplementary Guidance Protection and promotion of woodland, trees and hedges including the undertaking of a Tree Survey, indicating constraints and tree protection requirements including BS 5837:2012; h. the enhancement and management of existing woodland, trees and hedgerow will be encouraged and supported. Where retention of a woodland area is integral to a development proposal, developers will be required to prepare and implement an appropriate Management Plan; and i there will be a preference for the use of appropriate local native species in new and replacement planting schemes, or non-native species which are integral to local and/or historic landscape character.</p>
ENV10 - Protection of Urban Woodland	<p>Urban woodlands within settlements that contribute to townscape, landscape, amenity, biodiversity, cultural or historic value, particularly where their loss would jeopardise ongoing contribution to place-making and/or green network objectives, will be protected from development. Proposals that involve the removal of urban woodland in part or in its entirety will only be supported where it would achieve significant and clearly defined public benefits and the criteria for determining the acceptability or otherwise of any proposed woodland removal as set out in Scotland's Control of Woodland Removal Policy document. Proposals to remove urban woodland must be accompanied by an independent aboricultural report.</p>
ENV21 - Protection of Formal and Informal Open Space	<p>Proposals which will result in the loss of open space will not be supported unless it can be demonstrated that: a. there is a specific locational justification for the development which outweighs the need to retain the open space; b. there is no significant adverse effect on the overall recreational amenity of the local area, taking account of the council's Open Space Strategy; 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>

---

## Policy Assessment

---

The proposals have been assessed against the above policies and whilst the development also lies within an identified local centre area as defined on the local plan maps, there is a juxtaposition between the clearly identified local centre area on the ground and the character of the open space as the ground falls away from the centre's parking area towards Murieston Water and the wooded area. The overlap in the identified local centre and the protected open space is likely to have been a drafting error therefore policies TCR1 (town centres) and TCR2 (town centre first sequential approach) are not considered relevant in this context.

---

## Officer Assessment

---

The applicant seeks to build a split-level building containing a restaurant/bar and cafe with hot food take away and balcony on a tree covered embankment on the eastern edge of the Bankton Centre local centre. A timber staircase is proposed on the embankment and the existing car parking is to be extended into existing landscaping. Whilst the local centre is identified in the adopted local development plan for a variety of uses including restaurants etc. the proposals extend from the car park at the local centre down the embankment to the Murieston Water footpath. The intention is to provide access to the building from both the upper level local centre and the lower level footpath. Setting aside the design of the building in the first instance, which would potentially be finished in buff facing brick at the upper level and dark cladding at the lower level, the trees in this area are covered by TPO No.2 1965 Mid Lothian and the site lies within an area identified as protected open space in the adopted LDP. As a result, the structure impacts on both these designations. The proposed extension to the car park will also result in the loss of existing trees adjacent to Murieston East Road, to the detriment of the visual and environmental amenity of the area. Moreover, a small triangular building has been constructed on the east side of the CO-OP building and as part of that consent, the area subject to this application would have seen additional tree planting carried out. The proposals therefore results in an over development of the area with a building of a scale and design inappropriate for the setting and resulting in tree loss within a TPO and area protected as open space. The proposals are therefore contrary to the following policies of the adopted West Lothian Local Development Plan, 2018 and recommendation is to refuse planning permission. DES1 (design principles)ENV1 (character and special landscape areas)ENV9 (woodland, forestry, trees and hedgerows)ENV10 (protection of urban woodland)ENV21 (protection of formal and informal open space)

---

## Other Considerations

---

Consideration has been given to previous applications to develop land at Bankton Centre and the fact that tree planting is required as part of planning permissions 0564/FUL/17 and 0723/FUL/20 to augment the transition between the developed are and the protected trees/open space to the east.

---

## Conclusions and Reasons for Decision

---

Recommendation is to refuse planning permission.

---

**List of Review Documents**


---

Drawings schedule:

Docquetted Number	Drawing Description	Drawing Number
1	Location Plan	727-02
2	Site Plan	727-10
3	Floor Plan (proposed)	727-11 (ground)
4	Floor Plan (proposed)	727-12 (lower ground)
5	Proposed Elevations	727-15 (north)
6	Proposed Elevations	727-16 (east)
7	Proposed Elevations	727-18 (south)
8	Proposed Elevations	727-13 (west)
9	Sections	727-14 (BB)
10	Sections	727-17 (EE)
11	Sections	727-03 (AA & BB)
12	Sections	727-04 (CC & DD)
13	Sections	727-05 (EE2)

Other relevant documents:

West Lothian Local Development Plan, 2018;

Case Officer

SM

Date: 21 April 2021

## Planning Consultation Response

Our reference: /171377

Direct Dial:

Email:

22 March 2021

Environmental Health & Trading Standards  
West Lothian Civic Centre  
Howden South Road  
Livingston  
EH54 6FF

Tel: 01506 280000

[Environmentalhealth@westlothian.gov.uk](mailto:Environmentalhealth@westlothian.gov.uk)  
[Tradingstandards@westlothian.gov.uk](mailto:Tradingstandards@westlothian.gov.uk)

### For the attention of Mr McLaren

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

**Environmental Health &  
Trading Standards Manager**  
Craig Smith

### **PREMISES: Murieston East Road, Murieston Planning Consultation Response 0240/FUL/21**

I refer your consultation of 17/03/2021 regarding this application.

Environmental Health has no objections to make on the application.

### **Observations on Planning Application**

### **Recommendations on Planning Application**

If the application is granted, I recommend the following conditions:

#### 1. Noise (Construction)

- Any work required to implement this planning permission that is audible within any adjacent noise sensitive receptor or its curtilage shall be carried out only between the hours of 0800 and 1800 Monday to Friday and 0800 and 1300 on a Saturday and at no time on a Sunday, unless otherwise agreed in writing with the planning authority. This includes deliveries and operation of on site vehicles and equipment.

Should you wish to discuss the matter further, please contact me.

Yours faithfully





OPERATIONAL SERVICES  
ROADS & TRANSPORTATION  
DEVELOPMENT MANAGEMENT & TRANSPORTATION PLANNING

## ROADS & TRANSPORTATION CONSULTATION RESPONSE TO PLANNING APPLICATION

This proposal is (tick as appropriate)		Signing Off	
Acceptable without conditions	<input checked="" type="checkbox"/>	DM & TP Officer Roads & Transportation	Chris Nicol
Acceptable with conditions noted below	<input type="checkbox"/>	DM & TP Manager Roads & Transportation	
Not acceptable & should be refused	<input type="checkbox"/>	Date Issued to Development Management Officer	06 April 2021
HOLDING OBJECTION – The application is not acceptable in current format and applicant requires to submit additional information to enable the proposals to be fully assessed.			

Recommendation & Proposed Conditions	From a Roads & Transportation view, this application is approved no conditions
--------------------------------------	--------------------------------------------------------------------------------

DM Case Officer	Steve McLaren	Applicant	Z1 Properties Ltd
Application Ref	0240/FUL/21	Date Issued	16 March 2021
Proposal	Erection of restaurant/bar and coffee shop/café/fast food takeaway with balcony and terrace		
Location	Site at Murieston East Road, Livingston		

Legislation & Guidance Applicable (tick as appropriate)	Constraints (tick as appropriate)
Roads (Scotland) Act 1984 <input type="checkbox"/>	Public Footpath / Rights of Way <input type="checkbox"/>
Designing Streets <input type="checkbox"/>	Core Path Plan <input type="checkbox"/>
SCOTS National Roads Development Guide <input checked="" type="checkbox"/>	<input type="checkbox"/>
SUDS for Roads <input type="checkbox"/>	Control of Advertisements (Scotland) 1984 <input type="checkbox"/>
Sewers for Scotland <input type="checkbox"/>	<input type="checkbox"/>
	Other (please specify) <input type="text"/>

<b>Site Description</b>	Local centre this site has had many applications so not an issue.
<b>Quality Plan</b>	N/A
<b>Road Safety Audit</b>	N/A
<b>Transport Assessment or Statement</b>	N/A
<b>Does the red line boundary reach the adopted public road</b>	Yes
<b>Is there a footway or footpath connecting the site to the existing adopted road network</b>	Yes
<b>Drawings &amp; documents assessed</b>	Design and access statement Site Layout
<b>Does Road Layout comply with WLC Standards</b>	Yes
<b>Does Parking comply with WLC Standards (including disabled provision)</b>	Yes extra parking provided

<b>Sightline Requirements</b>	N/A
<b>Do the proposals affect any existing TRO's (e.g) waiting restrictions, speed limits) or bus stop locations</b>	No
<b>Do the proposals affect any Core Paths, NCR's or Rights of Way</b>	No
<b>SUDS Details</b>	
<b>Site History including any previous planning applications</b>	

**ROADS & TRANSPORTATION MANAGER**  
Operational Services  
Whitehill Service Centre  
4 Inchmuir Road  
Whitehill Industrial Estate  
Bathgate  
West Lothian  
EH48 2EP

## **Draft Conditions for 0240/FUL/21 – Local Review Body**

### **This permission is granted subject to the following conditions:-**

#### **1 Part 1**

Prior to the start of development, a contaminated land site investigation and risk assessment has been completed and a written report submitted to and approved in writing by the planning authority. The site investigation and risk assessment must be undertaken by suitably qualified, experienced and competent persons. The written report of the findings must include:

- (a) A Phase 1 desk study report incorporating an initial conceptual model of the site.
- (b) A Phase 2 report incorporating a survey of the extent, scale and nature of contamination, and an updated conceptual model of the site;
- (c) An assessment of the potential risks to:
  - o human health,
  - o property (existing and proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - o adjoining land,
  - o the water environment,
  - o ecological systems,
  - o archaeological sites and ancient monuments
  - o flora and fauna associated with the new development;
- (d) An appraisal of remedial options, and proposal of the preferred options(s).

This must be conducted in accordance with the Environment Agency's Contaminated Land Report 11, Model Procedures for the Management of Land Contamination, CLR11. If it is concluded by the written report that remediation of the site is not required, and this is approved in writing by the planning authority, then parts 2 and 3 of this condition can be disregarded.

#### **Part 2**

The development shall not begin until a remediation statement to bring the site to a condition suitable for the intended use by removing unacceptable risks to all relevant and statutory receptors has been submitted to and approved in writing by the planning authority. The remediation statement shall include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The remediation statement shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land following development.

#### **Part 3**

Thereafter the remediation statement as approved shall be carried out in accordance with its terms. Following completion of the remediation measures, a verification report that demonstrates the effectiveness of the remediation carried out shall be prepared. The development shall not be occupied until the verification report has been submitted to and approved in writing by the planning authority.

*Reason: To identify any contamination present on site and ensure appropriate remediation is carried out.*

- 2** Prior to the start of works on site, full drainage details for the development shall be submitted for the consideration and written approval of the planning authority. These details shall also include any outfall to Murieston Water and provide details on filtration and treatment methods to ensure drainage from the development does not impact adversely on the ecology of the watercourse. Once approved, the drainage shall be implemented in accordance with those details.

*Reason In the interest of watercourse ecology and to tackle climate change.*

- 3 Prior to the start of work on site, a tree survey shall be carried out in accordance with BS 5837:2012 (trees in relation to design, demolition and construction) which shall identify all trees affected by the development works. The survey shall also provide details of a tree protection plan ensuring limiting the loss or damage to trees as a result of the development. Once approved, the development shall be carried out in accordance with these measures and to the satisfaction of the planning authority.

*Reason To ensure loss or damage to trees within the designated Tree Preservation Order Area is minimised.*

- 4 Prior to the start of work on site, a landscaping plan shall be submitted for the consideration and written approval of the planning authority. The plan shall provide details of replacement tree planting on a 3 for 1 basis and of appropriate native species. The ground cover shall also be enhanced within the land under the control of the applicant by use of native shrubs and low level planting. Once approved, the landscaping shall be maintained for a minimum of 5 years to allow the trees and shrubs to become established with any which die or are removed within that period being replaced with the same species and of a similar maturity. Thereafter, the landscaping shall be maintained indefinitely and to the satisfaction of the planning authority.

*Reason In the interests of landscape and visual amenity and for the benefit of the ecology of the area.*

- 5 The timber stairs to be formed between the local centre site and the Murieston Water footpath shall be installed and made available for public use prior to the opening of the units. The stairs shall be maintained by the applicant or the occupiers of the units hereby approved in perpetuity and to the satisfaction of the planning authority. Any damage resulting in the closure of the stairs for public use shall be rectified within 1 month of the issue being raised and the stairs again made available to the public.

*Reason To ensure the safety and visual amenity of the stairs is maintained in the longer term and in the interest of providing a public benefit as a result of the development.*

- 6 Prior to the completion of the building hereby approved, the extension to the car park as shown on drawing number 727-10 (site layout plan) shall be implemented and made available for public use, to the satisfaction of the planning authority.

*Reason To ensure sufficient parking is available within the site for all customers to the Bankton Centre facility.*

- 7 Prior to the start of works on site, a sample of materials to be used on the roof and walls of the building hereby approved shall be submitted for the consideration and written approval of the planning authority, this shall also include consideration of the use of the proposed cladding on the two-storey section of the south elevation. Details shall also be provided of the proposed balcony balustrade for consideration and approval. Once the materials have been agreed, they shall be used on the construction of the building to the satisfaction of the planning authority.

*Reason In the interest of visual amenity.*

- 8 The following restrictions shall apply to the construction of the development:

Noise (Construction)

o Any work required to implement this planning permission that is audible within any adjacent noise sensitive receptor or its curtilage shall be carried out only between the hours of 08:00 and 18:00 Monday to Friday and 08:00 and 13:00 on a Saturday and at no time on a Sunday. This includes deliveries and operation of on site vehicles and equipment.

o No generators shall be audible within any residential properties between the hours of 20:00 and 08:00.

Noise (Vehicles/Plant)

o All site vehicles (other than delivery vehicles) must be fitted with non-tonal broadband reversing alarms.

#### Vibration (Construction)

o Where piling or other significant vibration works are likely during construction which may be perceptible in other premises, measures must be in place (including hours of operation) to monitor the degree of vibration created and to demonstrate best practice. Prior to any piling or other significant vibration works taking place, a scheme to minimise and monitor vibration affecting sensitive properties shall be submitted to and approved in writing by the planning authority. Thereafter the development shall be implemented in accordance with the details as approved.

#### Site Compound

o The development shall not begin until the location and dimensions of any site compound and means of access to same have been submitted to and approved in writing by the planning authority. Thereafter the development shall be implemented in accordance with the details as approved.

#### Waste

o Effective facilities for the storage of refuse, building debris and packaging shall be provided on site. The facilities shall be specifically designed to prevent refuse, building debris and packaging from being blown off site. Any debris blown or spilled from the site onto surrounding land shall be cleared on a weekly basis. For the purposes of this condition, it shall be assumed that refuse, debris and packaging on surrounding land has originated from the site if it is of the same or similar character to items used or present on the site.

#### Wheel Cleaning

o All construction vehicles leaving the site shall do so in a manner that does not cause the deposition of mud or other deleterious material on surrounding roads. Such steps shall include the cleaning of the wheels and undercarriage of each vehicle where necessary and the provision of road sweeping equipment.

*Reason: In the interests of visual and environmental amenity.*

## **bennett** *Developments and Consulting*

10 park Court,  
Glasgow, G46 7PB  
[don@bennettgroup.co.uk](mailto:don@bennettgroup.co.uk)

### **PLANNING STATEMENT**

19.8.2021

**APPLICATION REF: 0240/FUL/21**  
**SITE AT BANKTON CENTRE, MURIESTON, LIVINGSTON**

#### **ADDITIONAL COMMENTS IN SUPPORT OF THE APPEAL IN RESPECT OF THE ABOVE SUBJECT.**

**I have been retained by the appellant Mr Ashgar Ali as planning consultant and directed to submit observations in support of the application which I would ask be considered in your deliberations.**

Having had the opportunity to review the original application I note that the Handling Report identifies the following policies within the local development plan as being relevant in this case.

Namely:

**Policy DES1**-Design Principles

**Policy ENV1**-Character and Special Landscape Areas

**Policy ENV9**-Woodland, Forestry, Trees and Hedgerows

**Policy ENV10**-Protection of Urban Woodland

**Policy ENV21**- Protection of Formal and Informal Open Space

Collectively these policies offer guidance and direction across a number of topic areas, and seek to ensure that all developments have regard to the natural and built environment particularly in areas where they coalesce such is the case on this site.

The topography is interesting in that there is a clear change in level from Murieston Road down to the waterway which has created small scarp feature.

Atop the scarp is a small retail development with car park and access roads, which is defined as a local centre, and in which restaurant use would be acceptable. While this no doubt provides some local services, in terms of the impact on the natural environment it fails to take the opportunity presented by the changes in level to deliver a development which was of the landscape rather than simply placed upon it.

In addition the linear nature of the buildings has left an “open” edge with the car parking area effectively dissipating into the scrub at the site of the proposed development. The car park lacks definition and the existing group of buildings is not, in townscape terms properly integrated into the site.

The proposed development has recognised the opportunities missed in the creation of the existing building group and has recognised the potential of the level changes across the site to create something which is more organic and integrated into the landscape such that there is no tension between the natural forms and the built forms. In addition it utilises the fall across the site to deliver an interesting building form permitting access from different levels, introducing viewing decks and a building which engages with the natural landscape around.

If we consider each of the aforementioned policies, it is evident that **Policy DES1** provides an overarching view establishing the aims and objectives which all developments must address. In that respect the policies are much more than simply the written word. A policy is an amalgam of the written words which by necessity need be brief and cannot possibly address all circumstances, the spirit of the policy in that what is meant by the policy what is it designed to achieve, the interpretation of the policy and finally the application of the policy.

The proper application of policy should be a combination of all these considerations.

From a review of the Handling Report it would appear that the case officer has elected to adopt a fairly rigid interpretation of the policies which in a number of instances has resulted in the failure to consider the bigger picture. In essence it is possible to consider and apply the same policy as a tool to prevent and inhibit, or as a tool to encourage, promote and deliver. Perhaps the development should have been considered in a more open minded manner which permits the fact that some aspects of policy have not been addressed or implemented but on the other hand the resultant product has a merit which is to be grasped. It is not necessary for all policies to be fully adhered to for a proposal to be of merit.

There is no doubt that the development will encroach on existing woodland, but a critical examination of that woodland would reveal that much of it is of poor quality and forms a barrier rather than a landscape edge. In the main it has grown wildly as a result of wind borne propagation and does not appear to form part of any woodland walk or wildlife trail.

The proposed development recognised that some tree loss would result but included proposals to plant replacement trees which could be planted to create an attractive woodland edge which would be used to define the area and to provide a landscape context for the proposed building.

It is claimed within the Handling Report that the proposed new build will impact on existing land use designations and this may be true but a fuller consideration might conclude that the development on offer has the potential to deliver a more meaningful local centre one with more gravitas and one which would encourage the visitor or resident alike to linger and to enjoy the area.

Contrary to the view expressed in the Handling Report, it has not been demonstrated that the proposed development is in conflict with **Policy ENV1**. The simple act of merely saying something will have a negative impact does not make it so. It has to be substantiated and there is no substantive evidence that this development will have any negative impact. While an opinion may carry some persuasion, facts carry authority and no factual evidence has been produced that supports the contention that this development will have a negative impact.

A similar situation pertains with **Policy ENV9** in that the mere fact that the proposal will involve the removal of some trees has prompted resistance and the context within which this will occur, has not been considered neither has the proposal to plant new trees.

The same negative approach has been taken in the application of **Policy ENV10** which develops the themes within **Policy ENV9**. The focus has been solely on the physical impact on a number of trees



with no consideration of the benefits which may arise from the proposed development. There seems little holistic thinking or “big picture” thinking, considering how the new development will enhance the area, will create business, will provide job opportunities, will create a new wining and dining venue and will create a more welcoming and dynamic place than exists at present .

Reference is also made to the need to protect and retain open spaces and this is addressed in **Policy ENV21**. Again the policy is interpreted in a negative manner and appears to blindly accept that all open spaces must be protected, rather than appreciate that it is the quality of the open spaces which is the issue. In the context of this proposal, the new tree cover and the open spaces which are part of the proposal create meaningful elements in the landscape and contribute to the visual experience.

The timber and brick materials selected for the building and the split level design will ensure that it will blend seamlessly into the landscape and contribute to, rather than detract from the landscape.

The notion that the addition of this new build will constitute over development does not stand up to critical examination. The simple fact that a new building will be located within close juxtaposition to others already there is nothing more than a statement of fact but in no way can be considered to prove overdevelopment. The Bankton Centre Local Centre does not appear to function as a local centre. In reality it lacks the scale to perform this function. It needs to be animated, to deliver a product which will attract the visitor and resident alike. Currently it fails on all accounts. Yet it sits on a site with great potential. The level changes in themselves contribute to an interesting interplay of activity and this has been realised in the proposed development where movement between levels and activities will animate the development and provide linkage between the harder urban edge of the upper level and the car parking and the softer woodland edge at the lower level.

The proposed development has so much to offer, but it has to be considered in the whole and not assessed against a set of boxes to be ticked which loses the essential vitality of the proposed use and how that use will contribute to the ambience of the area. The issues with trees and open space and the fear that these are somehow being abandoned in supporting this proposal is I believe to fail to grasp the essential role of the development plan. The development should not be considered solely on those elements which appear to be contrary to the policies but in a more contextual sense when the value of what is proposed can be properly appreciated for the added value it brings.

The raft of policies, guidance and direction in the development plan can only offer the broadest tableau against which developments can be assessed. There is no substitute for the intellectual input of the practitioner and an open mindedness willing to embrace and consider all aspects of a development proposal and to take from that exercise a more rounded experience and a correspondingly more considered appreciation of what is being offered.

In respect of this development proposal, the opportunity exists to create a more meaningful and engaging local centre, and to do so without materially impacting on the very landscape qualities which the development plan seeks to protect. The proposed development offers a balance between the existing “two dimensional” buildings which offer little by way of a visual or physical experience and the possibilities inherent in this two level scheme which engages with the topography of the site, the nature of the tree cover and the possibilities to open up this centre to a wider audience and to foster and nurture a sense of place in this exciting location.

This is a proposal which deserves the fullest support and should have been supported at the outset. The opportunity now exists to redress this wrong and to rescind the refusal and approve this development proposal.

**bennett** *Developments and Consulting*  
19.8.2021



## LOCAL REVIEW BODY

## PROCEDURE NOTICE

### **APPLICATION NO.0240/FUL/21 – ERECTION OF A 284SQM RESTAURANT/BAR AND CAFÉ/HOT FOOD TAKEAWAY WITH BALCONY AND TERRACE, EXTERNAL TIMBER STAIR AND EXTENSION TO CAR PARK AT SITE AT BANKTON CENTRE, MURIESTON, LIVINGSTON**

The Local Review Body at its meeting on 29 September 2021 decided under Regulation 15(1) of the Town and Country Planning (Schemes of Delegation and Local Review Body Procedure) (Scotland) Regulations 2013 that further information should be provided to it by means of written submissions.

The Local Review Body agreed to continue the review to request the following information to be provided by the council's Arborist (Craig Sinclair) [[craig.sinclair@westlothian.gov.uk](mailto:craig.sinclair@westlothian.gov.uk)] (all submissions to be made in writing via email):-

- The impact the proposed development would have on the Tree Preservation Order that is in place close to, or over, the application site.

The information is to be sent to the Clerk to the Local Review Body and to the other parties noted below so that they have the opportunity to make comments in response :-

- Applicant Mr Asghar Ali at email address asghar ali [aa@z1properties.com](mailto:aa@z1properties.com)

### **That information is to be provided on or before Friday 16 October 2021**

The other parties will have 14 days from the date of receipt of any such information to make comments on it, but not to raise new matters (all comments to be submitted in writing via email) to the Clerk to the Local Review Body at [[val.johnston@westlothian.gov.uk](mailto:val.johnston@westlothian.gov.uk)]. The other parties must provide a copy of their comments to the council's Arborist.

A copy of this Procedure Notice has been sent to the Applicant

Lesley Montague  
Clerk to the Local Review Body  
West Lothian Council, West Lothian Civic Centre, Howden South Road, Livingston, EH54 6FF

4 October 2021

[Lesley.montague@westlothian.gov.uk](mailto:Lesley.montague@westlothian.gov.uk)

Dear Val (received via email on 7 Oct 2021 at 11:44am)

Thanks for your enquiry

Please see below my assessment of the 'application material' available to me via the WLC Planning portal, I provide this information as the Tree and Woodland Team Leader (Arboriculture) WLC's senior Arboriculturalist – I have been working in this role within WLC for approximately 15 years

I work with the councils Operational Services directive within our Parks and Woodlands section and act as an independent advisor to Planning when required

My comments are as follows:-

- Within the application there is no information regarding the trees present within the site (Tree Survey) – tree species, position, height spread, age class etc – I would need that information to assess the application including whether or not the trees would have 'protected status' under the extant 1965 Tree Preservation Order
- No mention of BS5837 Trees in Relation to Design Demolition and Construction – this document should be the reference point regarding the application to provide RPA's (Root Protection Areas) for retained trees
- The application illustrates 'level changes' which would clearly have an impact of any trees present. It is worth consideration that a trees root plate will only go down to a depth of approximately 60cm therefore any level changes within the root plate (which can spread much more than the height of the tree approximately height + 1/3 ) can have a serious impact on a trees health, vitality and stability – again this should be clearly illustrated on an application where trees are to be considered

Summary

In brief, I cannot support the application with the information available to me due to a lack of necessary information, but would be happy to provide any assistance where necessary

Please forward this information to any interested parties and should you require any further information please feel free to contact me at your convenience

Kind regards

Craig J Sinclair  
Trees and Woodland Team Leader (Arboriculture)  
HND Arb/Urban Woodland Management, NCH Arb

# SPECIAL ARBORICULTURAL SERVICES



## A HOLISTIC APPROACH TO TREE CARE

**Tree Inspection carried out on 20<sup>th</sup> October 2021 at:**

**Bankton Centre, Murieston, Livingston EH54 9DA**

**RE Application Ref: 0240/FUL/21**

I have been asked by the appellant, Z1 Properties Limited, as a consulting arborist to respond to the WLC Arboriculturist assessment of the 'application material' and submit observations to balance the current negative influence that his report provides the Local Review Body as to the trees and their viability at the above mentioned site.

As a consulting arborist, it is my obligation to view trees as a valuable asset not only to the landscape, but also to the wellbeing of those who would frequent the area.

Having said that, there are circumstances where a tree or trees have to be looked at critically as to their viability, health and the impact on their location.

The site has been developed to the west of the woodland with car parking and the Bankton Centre on a raised elevation. Upon my initial inspection of the area, I was disappointed by the majority of the trees present.

I have submitted some photos of general defects that are present in at least 95% of the trees on site that will be affected by this development. This area of woodland has not been managed in the past as regards the trees and they have been left damaged by natural and man-made occurrences. Many have been damaged by other fallen trees; these being damaged by storms or strong winds. In a number of cases damage has occurred to trees within the application site by trees falling from the opposite side of the Murieston Water footpath. A minor number have been damaged by previous developments, ie soil levels being raised dramatically and subsequently will cause those trees to die.

Taking into account all of the observations I have made about the site, I would have no reservations about the proposed felling of the trees highlighted in the development plans. It is my recommendation that management of the remaining trees on the development site take place to protect the health and aesthetic value of them and their surroundings.

There is a narrow belt of trees running along Murieston East Road that offer screening and noise reduction for the properties. Some removals will be warranted due to soil levels being raised when the car park was installed. The remaining trees should be 'health' pruned to remove any dead or dangerous material and to ensure that they are in good health moving forward.

**Mike Delaney BSC FOR MSC ARB ISA CERT CON ARB. 68 Cowal Crescent, Glenrothes, Fife KY6 3PS**

I would recommend that the same 'health' pruning be carried out on the surviving trees located on the development site. This will ensure the safety of those using the area and also pedestrians using the footpath located to the Eastern edge of the site.

There is a lovely area to the East side of the public path that is owned and managed by the local authority. This area has some very mature Beech trees and a stream. I propose that this area, with the council's blessing, be tidied up with the removal of fallen timber and the spreading of chippings from any removals be spread to create mulched areas for the protection of specimen trees left on site or to the adjacent council area.

Any tree removals from the development site should be supplemented by the planting of 'half standard' (6 foot tall) trees of varying species to maintain the aesthetic value of this area and comply with tree preservation requirements. I would be happy to provide recommendations of species that would complement the site.

**SUMMARY: -**

I am confident that the three bullet points in the council arboriculturist report can be satisfied.

I am similarly confident that a professionally managed tree restoration programme to be agreed with him could not only avert further damage to the trees in this area but provides an opportunity to improve the amenity of the length of this part of the beautiful public footpath adjacent to the site.

Please do not hesitate to contact me regarding any further questions or advice.

Mike Delaney

BSC for MSC Arb

Consulting Arborist



Mike Delaney BSC FOR MSC ARB ISA CERT CON ARB. 68 Cowal Crescent, Glenrothes, Fife KY6 3PS