



## ***Local Review Body***

West Lothian Civic Centre  
Howden South Road  
LIVINGSTON  
EH54 6FF

15 September 2020

A meeting of the **Local Review Body** of West Lothian Council will be held within the **Webex Virtual Meeting Room** on **Wednesday 23 September 2020 at 10:00am**.

For Chief Executive

### **BUSINESS**

#### **Public Session**

1. Apologies for Absence
2. Declarations of Interest - Members should declare any financial and non-financial interests they have in the items of business for consideration at the meeting, identifying the relevant agenda item and the nature of their interest
3. Order of Business, including notice of urgent business, declarations of interest in any urgent business and consideration of reports for information.

The Chair will invite members to identify any such reports they wish to have fully considered, which failing they will be taken as read and their recommendations approved.

4. Confirm Draft Minutes of Meeting of Local Review Body held on Wednesday 19 August 2020 (herewith).

#### **Public Items for Decision**

5. Notice of Review Application No.0092/FUL/20 - Erection of 300sqm building for use as a function and events venue (in retrospect) including entrance canopies, landscaping and associated works at Duntarvie Castle, Broxburn, West Lothian (herewith)
6. Notice of Review Application No.0117/FUL/20 - Erection of house at 3

DATA LABEL: Public

Calder House Road, Mid Calder, West Lothian (herewith)

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NOTE      **For further information please contact Val Johnston, Tel No.01506 281604 or email [val.johnston@westlothian.gov.uk](mailto:val.johnston@westlothian.gov.uk)**

## CODE OF CONDUCT AND DECLARATIONS OF INTEREST

This form is to help members. It is not a substitute for declaring interests at the meeting.

Members should look at every item and consider if they have an interest. If members have an interest they must consider if they have to declare it. If members declare an interest they must consider if they have to withdraw.

NAME	MEETING	DATE

AGENDA ITEM NO.	FINANCIAL (F) OR NON- FINANCIAL INTEREST (NF)	DETAIL ON THE REASON FOR YOUR DECLARATION (e.g. I am Chairperson of the Association)	REMAIN OR WITHDRAW

The objective test is whether a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your discussion or decision making in your role as a councillor.

Other key terminology appears on the reverse.

If you require assistance, please ask as early as possible. Contact Julie Whitelaw, Monitoring Officer, 01506 281626, [julie.whitelaw@westlothian.gov.uk](mailto:julie.whitelaw@westlothian.gov.uk), James Millar, Governance Manager, 01506 281695, [james.millar@westlothian.gov.uk](mailto:james.millar@westlothian.gov.uk), Carol Johnston, Chief Solicitor, 01506 281626, [carol.johnston@westlothian.gov.uk](mailto:carol.johnston@westlothian.gov.uk), Committee Services Team, 01506 281604, 01506 281621, [committee.services@westlothian.gov.uk](mailto:committee.services@westlothian.gov.uk)

## **SUMMARY OF KEY TERMINOLOGY FROM REVISED CODE**

### **The objective test**

“...whether a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your discussion or decision making in your role as a councillor”

### **The General Exclusions**

- As a council tax payer or rate payer or in relation to the council's public services which are offered to the public generally, as a recipient or non-recipient of those services
- In relation to setting the council tax.
- In relation to matters affecting councillors' remuneration, allowances, expenses, support services and pension.
- As a council house tenant, unless the matter is solely or mainly about your own tenancy, or you are in arrears of rent.

### **Particular Dispensations**

- As a member of an outside body, either appointed by the council or later approved by the council
- Specific dispensation granted by Standards Commission
- Applies to positions on certain other public bodies (IJB, SEStran, City Region Deal)
- Allows participation, usually requires declaration but not always
- Does not apply to quasi-judicial or regulatory business

### **The Specific Exclusions**

- As a member of an outside body, either appointed by the council or later approved by the council
- The position must be registered by you
- Not all outside bodies are covered and you should take advice if you are in any doubt.
- Allows participation, always requires declaration
- Does not apply to quasi-judicial or regulatory business

### **Categories of “other persons” for financial and non-financial interests of other people**

- Spouse, a civil partner or a cohabitee
- Close relative, close friend or close associate
- Employer or a partner in a firm
- A body (or subsidiary or parent of a body) in which you are a remunerated member or director
- Someone from whom you have received a registrable gift or registrable hospitality
- Someone from whom you have received registrable election expenses



MINUTE of MEETING of the LOCAL REVIEW BODY held within WEBEX VIRTUAL MEETING ROOM, on 19 AUGUST 2020.

Present – Councillors George Paul (Chair), Lawrence Fitzpatrick, Stuart Borrowman, William Boyle, Pauline Clark, David Dodds, Charles Kennedy, Tom Kerr and David Tait

1. DECLARATIONS OF INTEREST

Agenda Item 7 (App No.0433/FUL/19) – All nine members of the Local Review Body declared an interest in that they had all received an email from the applicant prior to the meeting, but none of them had responded to the email.

Agenda Item 7 (App No.0433/FUL/19) – Councillor Willie Boyle declared an interest in that prior to becoming an elected member he had conducted business with the family/applicant and therefore would not take any part in the item of business and would leave the meeting; and

Agenda Item 7 (App No.0433/FUL/19) – Councillor Stuart Borrowman declared an interest in that one of the objectors had contacted him about the application and whilst he had advised on the process he had not commented on the merits of the case so would participate in the item of business. He also declared that the agent for the application was a former elected member/colleague of West Lothian council.

2. MINUTE

The committee confirmed the minute of its meeting held on 26 February 2020. The minute was thereafter signed by the Chair.

3. NOTICE OF REVIEW APPLICATION NO.0003/FUL/20 – CHANGE OF USE FROM PUBLIC OPEN SPACE TO PRIVATE GARDEN GROUND, FORMATION OF DRIVEWAY AND ERECTION OF GARAGE AT 12 HARDHILL TERRACE, BATHGATE

The committee considered a report (copies of which had been circulated) by the Clerk to the Local Review Body regarding an application to review the decision by the Appointed Person to refuse planning permission for the change of use from public open space to private garden ground, formation of driveway and erection of garage at 12 Hardhill Terrace, Bathgate.

Attached to the report were the Notice of Review and other relevant documents. The documents identified the policies in the development plan and relevant guidance that had been referred to in the review documents.

The committee decided that the review documents in conjunction with a site visit, conducted in advance of the meeting, and the advice of the Planning Adviser provided sufficient information to enable the review to be

determined without any further procedure.

The committee then determined the review application in terms of the statutory test to have regards to the development plan unless material consideration indicated otherwise.

The Local Review Body also took account of the views expressed in the Notice of Review documents.

#### Motion

To uphold the review application and grant planning permission subject to conditions, as the loss of amenity was negligible, Transportation had not raised any concerns with regards to sightlines and the timings and costs associated with the moving of the speed limit pole were not material considerations to the review application.

- Moved by Councillor Willie Boyle and seconded by Councillor Pauline Clark

#### Amendment

To refuse the review application and uphold the position of the Appointed Person

- Moved by Councillor Lawrence Fitzpatrick and seconded by Councillor Tom Kerr

A roll call vote was taken. The result was as follows :-

#### Motion

Willie Boyle  
Pauline Clark  
David Tait

#### Amendment

Stuart Borrowman  
David Dodds  
Lawrence Fitzpatrick  
Charles Kennedy  
Tom Kerr  
George Paul

#### Decision

Following a vote the amendment was successful by six votes to three and was agree accordingly.

#### 4. NOTICE OF REVIEW APPLICATION NO.0131/H/20 - TWO STOREY EXTENSION TO HOUSE AT 43 BROOMYHILL PLACE, LINLITHGOW

The committee considered a report (copies of which had been circulated) by the Clerk to the Local Review Body regarding an application to exclude the balcony from the grant of planning permission for a two-storey extension to house at 43 Broomyhill Place, Linlithgow

Attached to the report were the Notice of Review and other relevant

documents. The documents identified the policies in the development plan and relevant guidance that had been referred to in the review documents.

The committee decided that the review documents in conjunction with a site visit, conducted in advance of the meeting, and the advice of the Planning Adviser provided sufficient information to enable the review to be determined without any further procedure.

The committee then determined the review application in terms of the statutory test to have regards to the development plan unless material consideration indicated otherwise.

The Local Review Body also took account of the views expressed in the Notice of Review documents.

#### Decision

To unanimously approve the review application and to grant planning permission for both the extension and balcony subject to the draft conditions.

5. NOTICE OF REVIEW APPLICATION NO.0433/FUL/19 - TARRAREOCH OLD FARMHOUSE, 1 TARRAREOCH, STATION ROAD, BATHVILLE, ARMADALE

The committee considered a report (copies of which had been circulated) by the Clerk to the Local Review Body regarding an application to review the decision by the Appointed Person to refuse planning permission for the siting of a mobile home at Tarrareoch Old Farmhouse, Station Road, Armadale (in retrospect)

Attached to the report were the Notice of Review and other relevant documents. The documents identified the policies in the development plan and relevant guidance that had been referred to in the review documents.

The committee decided that the review documents in conjunction with a site visit, conducted in advance of the meeting, and the advice of the Planning Adviser provided sufficient information to enable the review to be determined without any further procedure.

The committee then determined the review application in terms of the statutory test to have regards to the development plan unless material consideration indicated otherwise.

The Local Review Body also took account of the views expressed in the Notice of Review documents.

#### Decision

To refuse the review application and uphold the position of the Appointed Person.





## **LOCAL REVIEW BODY**

### **APPLICATION NO. 0092/FUL/20 – ERECTION OF 300SQM BUILDING FOR USE AS A FUNCTION AND EVENTS VENUE (IN RETROSPECT) INCLUDING ENTRANCE CANOPIES, LANDSCAPING AND ASSOCIATED WORKS AT DUNTARVIE CASTLE, BROXBURN**

## **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 300sqm building for use as a function and events venue (in retrospect) including canopies, landscaping and associated works.

### **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 17 July 2020. This also includes a supporting statement, location plans, a copy of the original planning application, an email and colour photographs.
2. The Handling Report, prepared by the Planning Case Officer, dated 27 April 2020.
3. The Decision Notice, issued by the Appointed Person, dated 27 April 2020; and
4. Location plans which form part of the online case file

One representation was received in relation to the planning application; this was from Mr Tommy Nimmo. Mr Nimmo was advised that the review application had been received and that he had 14 days in which to submit any further representations. He did so and these are attached to the report. The further representation was also copied to the applicant for comment and these comments are also attached to report.

The applicant has stated in the review application that they consider that the Local Review Body could decide the review case by a combination of a site visit and a hearing.

### **C DEVELOPMENT PLAN POLICIES AND PLANNING GUIDANCE**

The application for planning permission was assessed in terms of Local Development Plan Policies DES1 (Design Principles), EMP7 (Tourism), ENV3 (other development in the countryside), ENV28 (listed buildings) and ENV33 (Scheduled Monuments)

The Appointed Person was of the opinion that the building that had been constructed had an industrial appearance and was an inappropriate replacement for a previously temporary marquee. Also, that the type and design of the building was such that it detracted from the setting of the Scheduled Monument and Category A listed Duntarvie Castle and was out of keeping with the character of the countryside location, to the detriment to the visual amenity of the scheduled monument structure and the character of the countryside.

In addition, the Appointed Person considered that the shed, as constructed, did not meet the tourism criteria of EMP7 which supported new or expanded tourism development where it strengthened the appeal and attraction of West Lothian.

**D 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, the Planning Adviser has drafted planning conditions which the Local Review Body may wish to consider imposing should it be minded to grant planning permission. A copy is circulated with this report.

Winston Roberts, Solicitor, West Lothian Civic Centre

Tel No. 01506 283524, [winstonroberts@westlothian.gov.uk](mailto:winstonroberts@westlothian.gov.uk)

Date: 23 September 2020



West Lothian Civic Centre Howden South Road Howden Livingston EH54 6FF Tel: 01506 280000 (for general enquiries) Email: [planning@westlothian.gov.uk](mailto:planning@westlothian.gov.uk)

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

Thank you for completing this application form:

ONLINE REFERENCE 100230234-003

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

## Applicant or Agent Details

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

☒ Applicant ☐ Agent

## Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text" value="Bryerton House"/>
First Name: *	<input type="text" value="Jon"/>	Building Number:	<input type="text" value="129"/>
Last Name: *	<input type="text" value="Newey"/>	Address 1 (Street): *	<input type="text" value="High Street"/>
Company/Organisation	<input type="text" value="EKJN architects"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text" value="01506 847151"/>	Town/City: *	<input type="text" value="Linlithgow"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="EH49 7EJ"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="jnewey@ekjn.co.uk"/>		

## Site Address Details

Planning Authority:

West Lothian Council

Full postal address of the site (including postcode where available):

Address 1:

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

Post Code:

Please identify/describe the location of the site or sites

Northing

676537

Easting

309073

## Description of Proposal

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

Erection of 300sqm building for use as a function and events venue (in retrospect) including entrance canopies, landscaping and associated works

## Type of Application

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

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



What does your review relate to? * <input checked="" type="checkbox"/> Refusal Notice. <input type="checkbox"/> Grant of permission with Conditions imposed. <input type="checkbox"/> No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.							
<h3>Statement of reasons for seeking review</h3> <p>You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)</p> <p>Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.</p> <p>You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.</p> <div style="border: 1px solid black; padding: 10px; min-height: 60px;">         Please refer to the separate Statement of Review document.       </div>							
Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? * <span style="float: right;"> <input checked="" type="checkbox"/> Yes           <input type="checkbox"/> No         </span>							
If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters) <div style="border: 1px solid black; padding: 10px; min-height: 60px;">         Please refer to the Statement of Review where various concessions are offered in an effort to resolve the Planning Department's objections. The Planning Officer has been offered these concessions, but was not available for constructive dialogue during the course of this application. This may be partly the result of the coronavirus lockdown.         </div>							
Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters) <div style="border: 1px solid black; padding: 10px; min-height: 60px;">         Statement of Review         </div>							
<h3>Application Details</h3> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;">Please provide the application reference no. given to you by your planning authority for your previous application.</td> <td style="border: 1px solid black; padding: 5px;">0092/FUL/20</td> </tr> <tr> <td>What date was the application submitted to the planning authority? *</td> <td style="border: 1px solid black; padding: 5px;">03/03/2020</td> </tr> <tr> <td>What date was the decision issued by the planning authority? *</td> <td style="border: 1px solid black; padding: 5px;">27/04/2020</td> </tr> </table>		Please provide the application reference no. given to you by your planning authority for your previous application.	0092/FUL/20	What date was the application submitted to the planning authority? *	03/03/2020	What date was the decision issued by the planning authority? *	27/04/2020
Please provide the application reference no. given to you by your planning authority for your previous application.	0092/FUL/20						
What date was the application submitted to the planning authority? *	03/03/2020						
What date was the decision issued by the planning authority? *	27/04/2020						

## Review Procedure

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

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

☐ Yes ☒ No

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

Please select a further procedure \*

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

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

The refusal notice suggests that the building detracts from the setting of Duntarvie Castle which is a Category A listed building. The applicant does not agree. The applicant considers that the building enhances the setting of Duntarvie Castle. Under the circumstances it seems essential that the members of the review committee should visit the site to see the development for themselves, in order to make their own judgment of the building in its wider context.

Please select a further procedure \*

Holding one or more hearing sessions on specific matters

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

The site is a complex one involving a Scheduled monument, a category A listed building and multiple planning applications spanning a 30 year period. The opportunity for the applicant to speak at a hearing would be of great assistance to the Review Body, helping them to a full understanding of the various matters at hand.

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

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

☐ Yes ☒ No

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

☒ Yes ☐ No

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

The building stands on private property, part of which is an active construction site. All visitors should give prior notice and should be accompanied. there is ample space to observe 2m distancing.

## Checklist – Application for Notice of Review

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

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

☒ Yes ☐ No

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

☒ Yes ☐ No

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

☒ Yes ☐ No ☐ N/A

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

☒ Yes ☐ No

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

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

☒ Yes ☐ No

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

## Declare – Notice of Review

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

Declaration Name: Mr Jon Newey

Declaration Date: 17/07/2020



16-024

Proposed function venue, land to the rear of Duntarvie Castle, Winchburgh. July 2020. Application ref 0092/FUL/20

## Statement of Review

### Introduction

Duntarvie Castle is a Scheduled Monument and a Category A listed building located on the outskirts of Winchburgh. Consent was granted in July 1992 for renovation of the castle to create a hotel and for the construction of a courtyard annex.

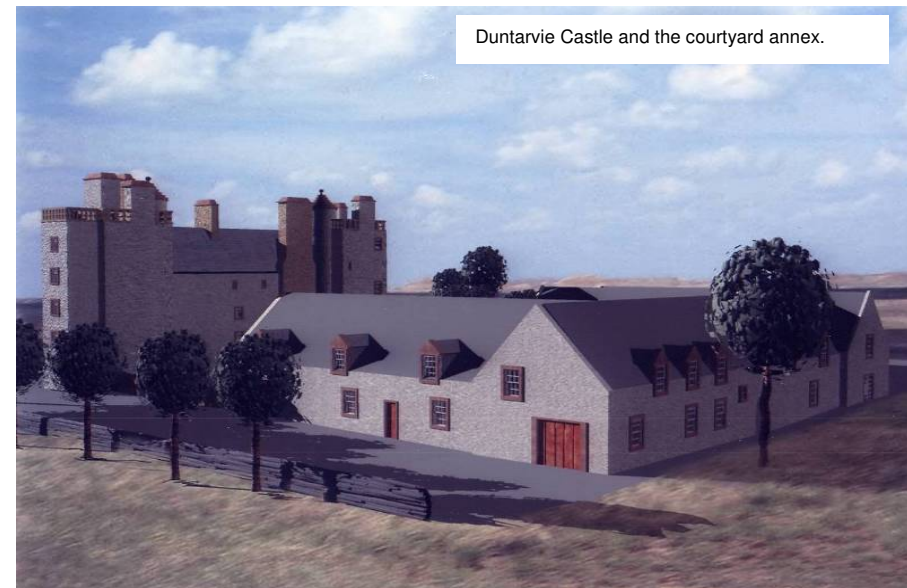
A subsequent consent was granted in July 2006 for permission to use the castle and annex as a corporate headquarters.

The owners, Geoff and Lorna Nicholsby, have been progressing with the renovation since 1992. The speed of work is slow because they are investing their own money in the project, not using any grant aid. They have now (July 2020) reached a point where the walls have been reconstructed up to roof level, the roof structure is complete and roof slating is in progress. The east tower, which collapsed shortly after they took ownership, is partly reconstructed and stonework repairs are ongoing throughout the castle's interior.

Geoff and Lorna currently run their established kilt-making business from temporary buildings which are set up in front of the castle. The kilt-making business will move into the castle/annex as soon as it is possible to do so, allowing the temporary buildings to be removed.

Work is set to begin on construction of the courtyard annex in 2021.

Consent has recently been granted for a small group of camping pods on land to the east of the castle. The pods will be grouped around a small lochan.



## The Marquee

In 2016 Geoff and Lorna applied for planning permission to erect a marquee on land a short distance behind the castle. The marquee is intended for use as a venue for weddings and other events. Temporary consent was granted on 9 March 2018, consent ref LIVE/0341/FUL/17

The intention of creating the Duntarvie Venue is to generate funds that can be invested in the renovation of the castle and the construction of the courtyard annex. If the cash-flow into the project could be increased in this way then the pace of construction work could also increase.

An archaeological watching brief took place as required by the planning conditions and erection of the marquee began in 2019.

The planning consent is a temporary one, granted for 3 years. It is therefore set to expire on 8 March 2021. At July 2020 the development is not yet complete and weddings/parties/functions are currently outlawed by social-distancing restrictions. It is hoped that the 3-year timescale can be reviewed at some stage or the project will cease to be viable.

The size, shape and location of the 'marquee' as constructed are exactly in accordance with the consent. The colour is exactly as approved, matching Valmex colour ref 712.

However, the development as constructed has diverged from the original intent in that the 'marquee' has been given a solid roof, not a fabric roof. This gives the structure an appearance more akin to an agricultural building than a marquee.

Planning Officer, Steve McLaren, visited the site on 21 November 2019 and raised an objection to the way the development was proceeding. His email to us states:

"The 'Marquee' as constructed bears no resemblance to the approved plans and looks to me like a clad portal framed building. There has also been fencing erected and some form of enclosure formed which was not on the approved plans."

A meeting was arranged for 3 December 2019 to discuss it. At the meeting two options were presented to us:

a) Dismantle the building as constructed and erect a fabric-roofed marquee in its place

or

b) Submit a new planning application for the building as constructed.

Option b seemed the simpler solution because this would also give an opportunity to refresh the 3-year time limit. Consequently a new planning application was submitted on 31 January 2020, ref 0092/FUL/20.

## Refusal of consent

Given the positive tone of the meeting with the Planning Officer on 3 December 2019 it was with some surprise that we received a notice of refusal of consent on 27 April 2020.

There had been no further correspondence with the Planners, no opportunity for further discussion and no prior intimation that this application might be refused.

Had there been further discussion we could have made some suggestions about how the situation might be improved. We might have been able to submit revised drawings or withdraw the application to replace it with a different proposal. It is unfortunate that these opportunities to resolve the situation have been denied to us.

#### Reasons given for refusal

“The building which has been constructed has an industrial appearance and is an inappropriate replacement for a previously approved temporary marquee”.

Traditionally marquees were erected with a central support pole, guy ropes, canvas roof and canvas walls. In modern times marquees use PVC fabric roofs and solid panels for the walls. They use steel portal frames for the structure to avoid the inconvenience of central poles and ropes. In this respect modern marquees are similar to industrial buildings.

The building as constructed conforms to all the same design parameters as a modern marquee with the only exception being the use of rigid roof panels rather than PVC fabric. The reason for this is a practical one: The applicants have been given only a short temporary permission and in order to make the project worthwhile it will be necessary to make use of it all year round, ie not just for summer weddings but for Christmas parties as well. Geoff and Lorna have established that there is a year-round demand, which could mean a year-round revenue-stream for funding the renovation of the castle. None of the marquee suppliers could recommend a PVC fabric roof for year-round use given the rigours of the winter weather in Scotland and the potential snow load. Thus a rigid roof seemed to be the best practical solution.

There has been no intention to create a permanent building by default. This is still the temporary structure envisaged in the original granting of planning consent, but made more robust for year-round use.

Concession 1: If it would please the Planners it would be possible for a marquee supplier to add a PVC fabric roof over the top of the rigid panels, giving the appearance of a marquee but still allowing for year-round use. We respectfully suggest that the Local Review committee might add this requirement as a condition of approval. In effect this would be a hybrid design, a pragmatic compromise between the approved consent and the refused application. A drawing and a photomontage showing the compromise are included in this report.

“The building is light in colour, reflective and is visible from some distance”.

The building is a close match to the colour approved in the planning consent for the marquee, which was Valmex 712 Steingrau.

Concession 2: If a PVC fabric roof was to be added over the top of the current rigid roof (as suggested above) the colour of the PVC could be chosen to be a darker shade of grey, if that was to be the Planning department's preference.

“The type and design of building is such that it detracts from the setting of the Scheduled Monument and Category A listed Duntarvie Castle and is out of keeping with the character of the countryside location, to the detriment of the visual amenity of the scheduled structure and the character of the countryside”.

An application for listed Building Consent for the marquee was submitted in May 2017, ref LIVE/0400/LBC/17. The Planners recommended the application be withdrawn because the marquee is deemed to be outside the curtilage of the listed building. Thus it seems

counter-intuitive that this is now given as a reason for refusal of the more-recent planning application.

The Planning Officer last visited the site before the Government-imposed lockdown. At that stage the new building and the landscape around it were partly constructed and incomplete. At that time the muddy construction site may well have looked like it was detrimental to the setting of the castle.

The project has moved forward since then. We strongly recommend that the members of the Local Review committee should visit the site for themselves to see the building in its current condition. A site inspection will allow the Committee members to judge for themselves whether the building and its landscape are a detriment to the countryside and whether the building as constructed is so significantly different from the marquee -which was granted consent - that refusal of the subsequent application and the ongoing threats of enforcement are truly justified.

Of passing note, the nearby redevelopment of the town of Winchburgh will encroach very close to Duntarvie on the north side of the motorway, involving a new motorway junction at Duntarvie and an industrial complex at the junction, all of which will radically change the 'countryside' setting of the Castle. In this context the significance of the marquee/building behind the castle will be less marked.

[“The shed, as constructed, also does not meet the tourism criteria of EMP7 which supports new or expanded tourism development where it strengthens the appeal and attraction of West Lothian. Any development being considered against policy EMP7 must ensure that it does not impact adversely on the natural and built environment including special historic environment assets, natural heritage designations or landscape interests. The development must also be unobtrusive and of a high quality design. The shed does not meet](#)

[these criteria and there are no material considerations that would justify departure from the terms of the adopted West Lothian Local Development Plan, 2018”.](#)

This reason for refusal seems to be at odds with the earlier consent. Permission for the marquee has already been granted for this very purpose, considered acceptable under policy EMP7. The building as constructed is the same size, shape and colour as the marquee previously approved, it is a temporary structure just the same as the marquee, and it fulfils exactly the same purpose as the marquee previously approved. We think there is room for debate over whether this reason for refusal is justified. If the marquee is acceptable under policy EMP7 then the current development should also be acceptable.

#### Enforcement action

The Planners have threatened enforcement action. If the Planners insist on pursuing this action it could mean that the money Geoff and Lorna have invested in the new venture has been wasted, including construction costs, design fees and two planning application fees (which add up to more than £3,300 in themselves). It will mean that the revenue-stream the venue was set to generate will be lost. All of that is money which could have been invested in the reconstruction of Duntarvie Castle.

This course of action by the Planners seems counter to their desire (matched by the applicant's desire) that funds from a successful venture should help to complete the renovation, not detract from it. The planning consent for the marquee states:

[Prior to the start of work on site, details of the mechanism to transfer profits from the venture into the redevelopment works for Duntarvie Castle shall be submitted for the consideration and written approval of the planning authority....Once these details have been agreed, and](#)



prior to the first use of the marquee, the developer shall provide written confirmation that bank account and money transfer processes are in place which direct profits to the Duntarvie Castle redevelopment.

*Reason To ensure the primary purpose of the development is established in that the marquee venture increases finances to the Duntarvie Castle redevelopment project.*

The primary purpose of the development remains unchanged, to increase finances to the Duntarvie Castle redevelopment project. This is the 'bigger picture' which may be a reason in itself to review the recent refusal of consent.

### The Landscape

The consent for the marquee did not include a condition requiring a landscape design to be submitted. None-the-less, Geoff and Lorna have commissioned a Landscape Designer to prepare a detailed plan for plants, paths and landscape features which they are happy to share with the Planners.

A draft copy of the Landscape Designer's plan is included in this report

Concession 3: If the Local Review committee is minded to allow consent for the development as constructed a condition could be added requiring landscape proposals to be submitted for approval, demonstrating the development's positive impact on the natural and built environment.

### The Fence

The castle is currently an active construction site. There is a perimeter security fence forming the construction site's enclosure. In 2021 Geoff and Lorna intend to commence construction of the courtyard annex behind the castle. This means that the contractor's compound needs to be enlarged. In preparation for this a security fence has been erected around the perimeter of the enlarged site area. The fence will prevent guests at the Venue from encroaching into the active construction site.

A contractor's site perimeter fencing does not generally require planning consent. As such, details of the fence were not included in the original application for the marquee.

Following our meeting with the Planning Officer on 3 December we agreed to include details of the fence in our subsequent application. With that application having been refused, Geoff and Lorna find themselves in the position where the construction site's security fence is not permitted.

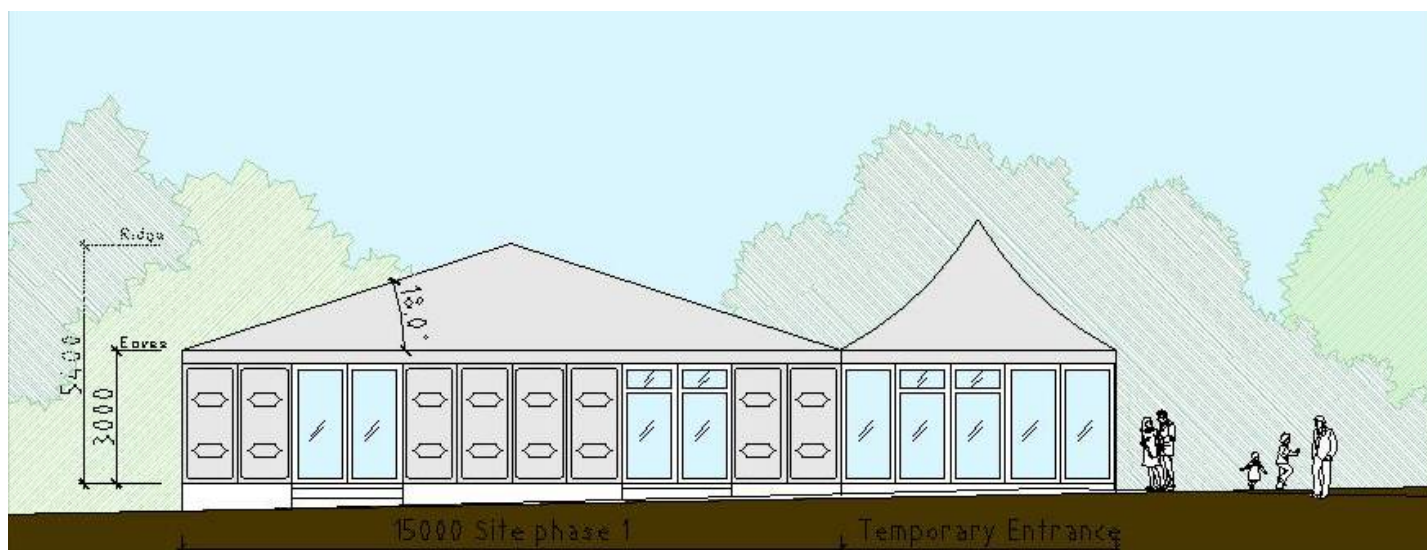
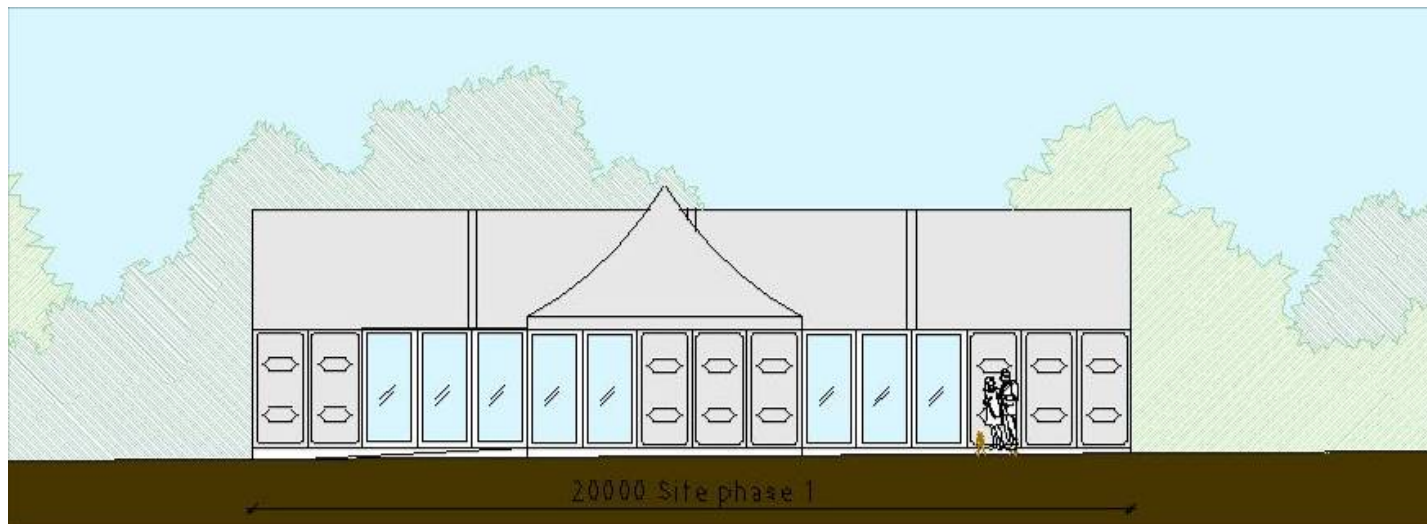
It is critically important that this situation is resolved for general site security and for compliance with health and safety legislation before construction work on the courtyard annex commences. The Local Review board's advice and recommendations are welcomed.

Jon Newey IMaPS RIAS  
Chartered Architect  
RIAS Accredited Sustainable Building Designer  
RIAS Accredited Conservation Architect  
APS registered Principal Designer

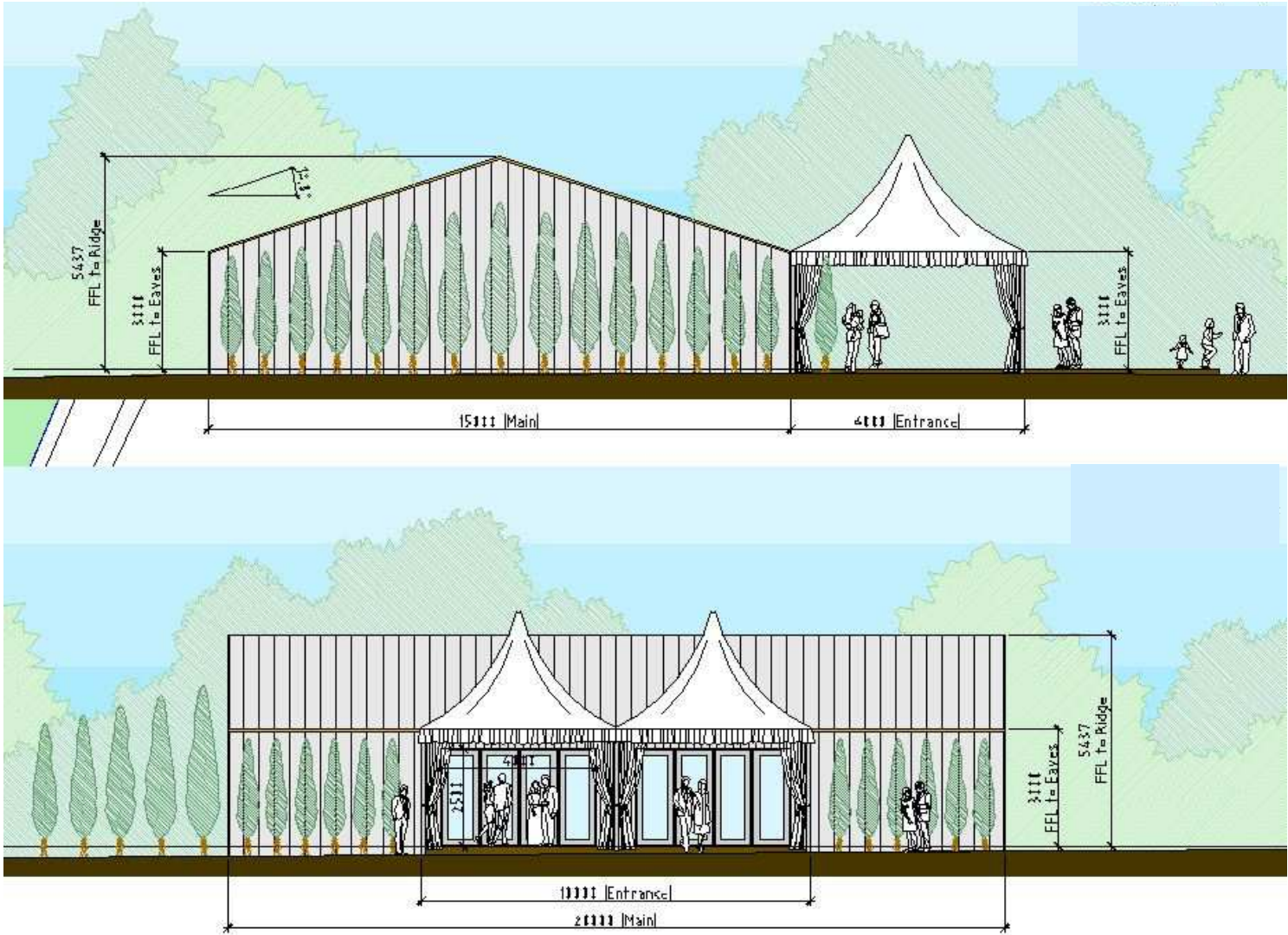
EKJN architects

## Appendix A: Drawings

A(i): Elevations of the development granted consent in March 2018.

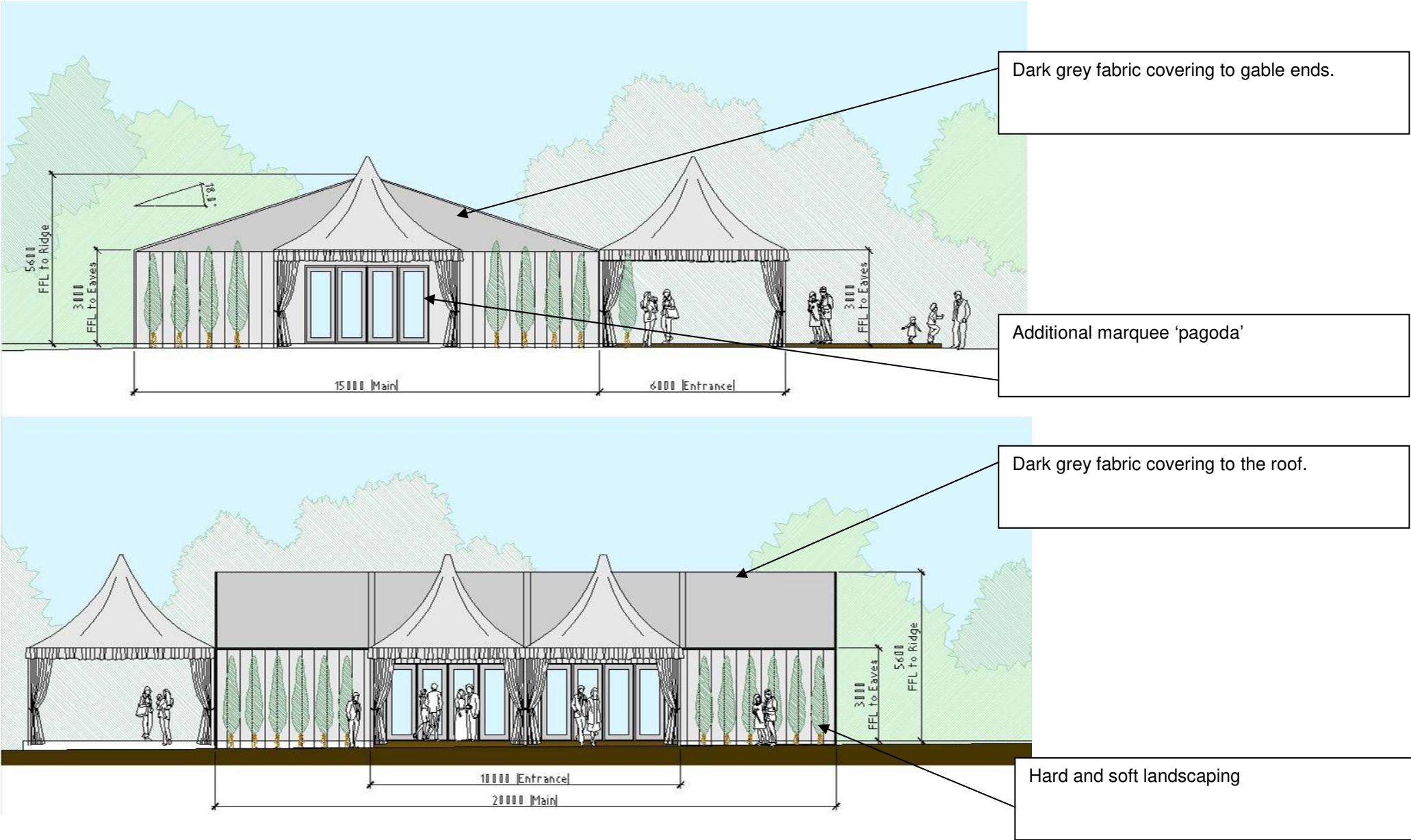


A(ii): Elevations of the development refused consent in April 2020.

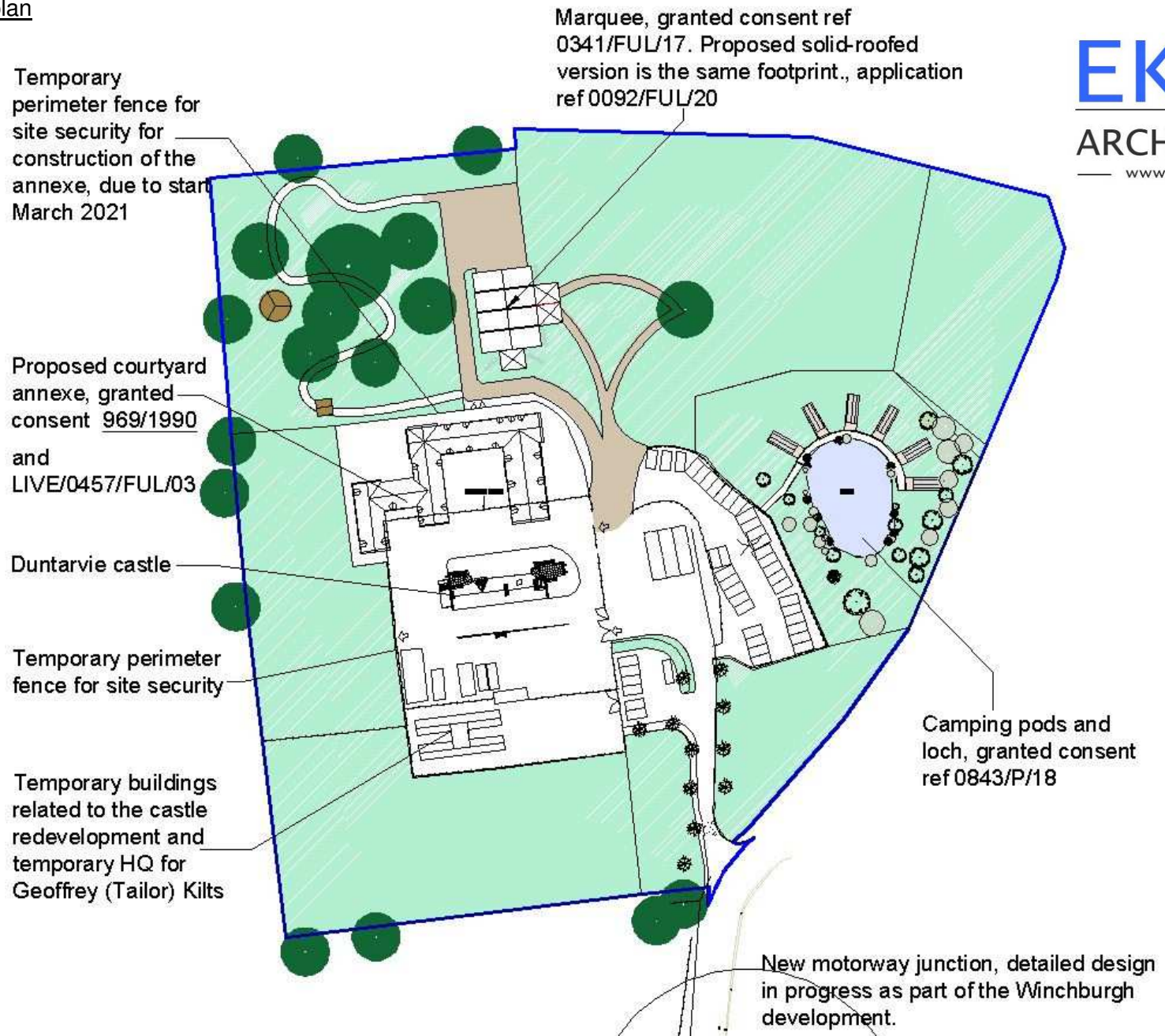




A(iii): Elevations of the development including the compromises mentioned in the report above.



## Appendix B: Site Masterplan





## Appendix C: Photo-montage

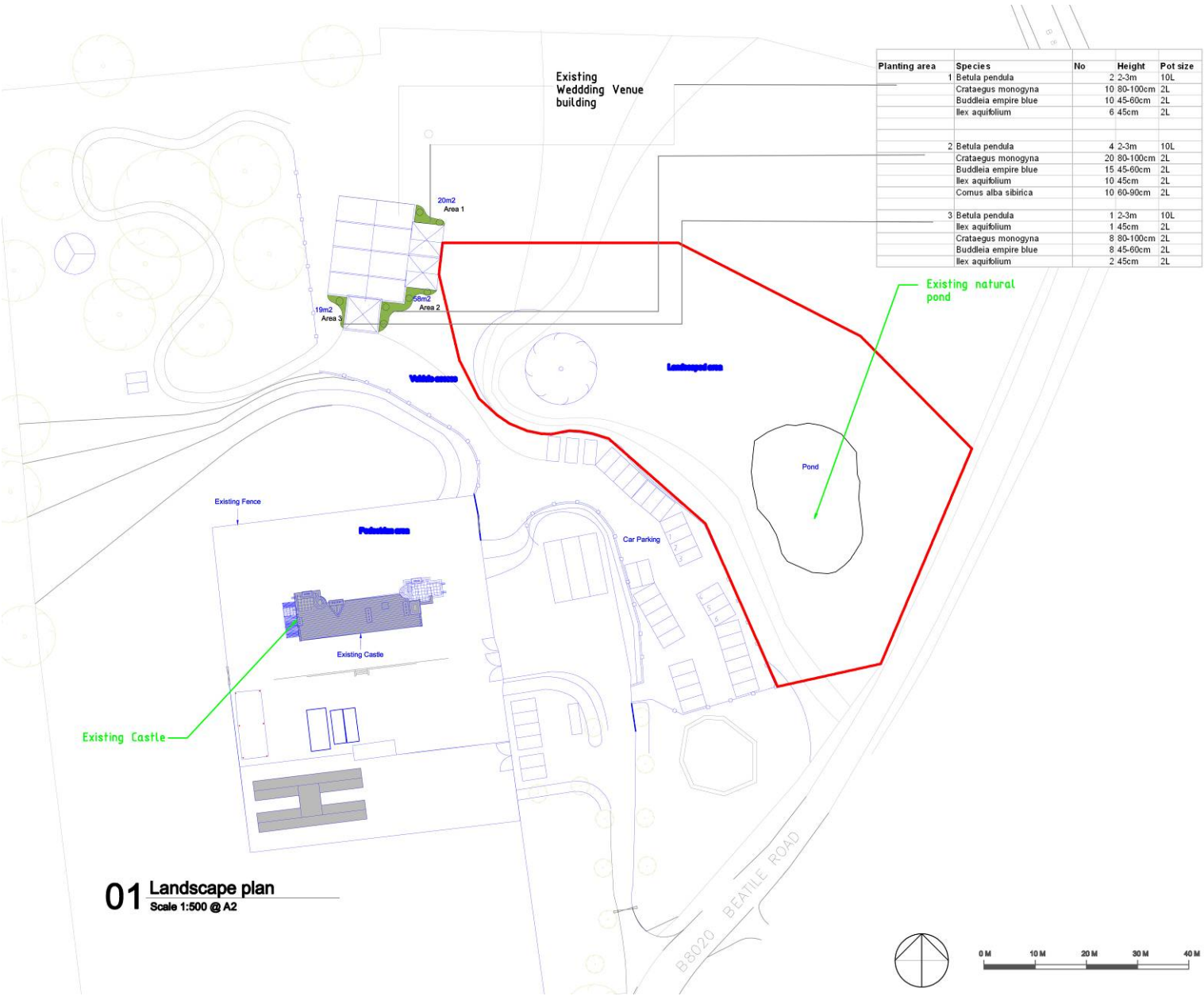
Photograph of the building as constructed, July 2020.



Photograph of the building with grey fabric roof added (photo-montage).



Appendix D: Landscape Plan



- Key:
- Existing Areas with Grass reinforcement mesh protection.
  - Existing road / compacted gravel surface.
  - Site Boundary
  - Land in clients ownership

Proposed planting  
See schedule

01 Landscape plan  
Scale 1:500 @ A2



DUNTARVIE CASTLE  
DDS1002/L1

Damhead Design studio  
Landscape Architects  
0131 445 4698

## Appendix E: Personal statement by the applicants

This letter is for the Local Review Board and is about Duntarvie Castle.

We are Geoffrey & Lorna Nicholsby, owners of Duntarvie Castle, Winchburgh by Broxburn, EH52 6QA.

A quick History of what we are doing:

I am sure you are aware that for many years Duntarvie Castle has been covered in scaffolding while major re-construction has been going on under the watchful brief of Historic Scotland (now Scottish Heritage). Up to date we have probably spent over £500,000.00, we have had no grants and it has all been funded by ourselves.

- The Structure is now sound
- The roof is on
- As we write the Roofers are busy slating the roof
- The West Tower now has all its floors installed
- The East Tower, which collapsed several years ago, is now rebuilt to 3 storeys with 2 more to go
- The Great Hall and the floors are all in and it is nearly usable for small functions

As you will appreciate to keep this project going it requires substantial money on a regular basis, hence 2 years ago we came up with the idea to earn money from the land to plough back into the building work which carries on. The idea was to erect a Marquee to rent out for weddings and other functions.

We were granted Planning Permission to erect a Marquee of 300 square metres – which we have done.

Unfortunately, when we approached the Marquee suppliers, they would not guarantee a canvas roof would survive in a winter environment due to the weight of snow etc... It

was suggested that we cover the roof in the same material as the walls which did comply with the drawings on the Planning permission. This would take the weight as it has a construction of PVC coated steel with a foam insulation making it very strong.

This is when we fell foul of the Planning Department. What happened was that the Planning Officer visited the site and felt that the building did not look like a marquee and said that it was more like an industrial shed. We felt this was a bit unfair as the job was not yet finished.

- The glass doors/windows were not in
- The 2 canvas entrance Gazebos were not yet attached to the front
- The Landscaping had not been started

I do admit that the lack of these did make the area a bit sparse and it did not yet look how it was envisaged when finished.

Our architect had a long conversation with the Planning Officer, and the Planning Officer felt that we would have to put in a new Planning Application to show these differences. This we did, showing the Gazebos and Landscaping that were going in. We felt that the extra details we put forward would change the look to more like the Marquee you would expect to hire for weddings etc... Incidentally – even though it is not finished, we have had a lot of interest and bookings from couples in the area, interested in hiring it for their functions. It has been very well received by the local community.

Out of the blue, without any further comment from the Planners, the Planning Permission was refused, we were very surprised by this as with past experience with Planning Officers – if they are not happy with what they are looking at they will come back to you and discuss it further.

You can look up the Planning Permission and see what has happened, the whole story is there on the portal, but what we find strange is that after giving permission their refusals this time refer to a lot of reasons that were never stated in the first planning and they still comment that it looks like a shed.

For the avoidance of doubt:

- The size is exactly as per the Planning Permission
- The colour is the exact shade the Planners asked for

So, it really boiled down to that which was passed in the original drawings was that the roof is not canvas and the drawings showed more windows than what we had put in

We have since spoken to the Marquee suppliers and it would not be difficult for them to make a canvas which would go over the top of the roof, this would still be solid and safe for the weight of the weather. Plus, if the Planners wanted a slightly darker shade of grey, the canvas can have this done at the same time.

**Our architect has offered all this to the Planning Officer, but he will not discuss it, so as time is of the essence, we have no option at this point, as our architect must put in an Appeal Submission by the 27 July 2020.**

We would like the appeal to grant the planning permission with conditions, these being:

- The canvas is added to the roof and if requested, it can be the darker colour (which would enhance the marquee giving it a two-tone, softer look with the walls being lighter)



- The Landscaping is done to the enclosed plans

What we are trying to create at Duntarvie Castle can only be an asset to West Lothian and if you can look up the plans you will see we also have permission to build a courtyard of cottages creating a lot more accommodation. Incidentally, this construction will be between the Castle and the Marquee and the size of the development will mean that the Marquee will not stand out at all.

We also have Planning Permission to create around the old pond, 6 upmarket glamping pods.

So, the whole project will greatly enhance the area and will boost the economy, bringing in jobs and revenue from functions. With the new junction of the motorway right at our door + the business park on the other side of the motorway

and all the new housing in Winchburgh our plans can only be a further benefit to the community in the area.

Duntarvie Castle will become a major attraction when complete. It is even known on Mars! To explain – a couple of years ago we were visited by scientists from NASA, these people were the operators of the Mars Rover Explorer and they came to design and order a MARS tartan with us. They were really impressed with the project that when they were given the opportunity to name areas on Mars, they chose a section to be called Duntarvie Castle, you may have seen this in the Newspapers.

By granting the Appeal to allow the Marquee to remain while the Castle is being re-built will mean that substantial revenue is generated to move the project on much quicker.

Our passions are high, we really want to get on with this and start holding functions as soon as the Lockdown is completely lifted. We hope that after you have visited the site you will appreciate the great opportunity this presents to West Lothian and will share our passion for the project.

Best Regards

Geoffrey & Lorna Nicholsby

[Redacted Signature]




PS. Councillors – think of this – Duntarvie Castle has been there for several hundred years; it lay in ruins and no-one was interested in it for over 100 years. Is it such a problem for a marquee/building to be there for several years? The use of which will enable the finishing of the Castle to allow it to be there for another several hundred years! Thank you.

DUNTARVIE CASTLE
WEDDINGS
RESTORATION PROJECT
GEORGE TAILOR KILTS
GALLERY
CONTACT
NEWS
FAQ

DUNTARVIE CASTLE
THE VENUE

8.5 acre event space nestled in the West Lothian countryside.

Whether you are looking to have an elegant formal affair, boho chic bash or a circus-themed extravaganza, The venue @ Duntarvie castle can accommodate all ideas allowing your day to be completely unique!



# DECISION NOTICE REFUSAL OF PLANNING PERMISSION

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

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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).

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**APPLICATION REFERENCE** 0092/FUL/20

**PROPOSAL** Erection of 300sqm building for use as a function and events venue (in retrospect) including entrance canopies, landscaping and associated works

**LOCATION** Duntarvie Castle, Broxburn, West Lothian, (GRID REF: 309051, 676478)

**APPLICANT** Mr Geoffrey Nicholsby, GTHC Pension Fund, Duntarvie Castle, B8020, Winchburgh, EH52 6QA

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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:**  
**27.04.2020**

**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 0092/FUL/20, for the reason(s) set out as follows:**

- 1 The building which has been constructed has an industrial appearance and is an inappropriate replacement for a previously approved temporary marquee. The building is light in colour, reflective and is visible from some distance. The type and design of building is such that it detracts from the setting of the Scheduled Monument and Category A listed Duntarvie Castle and is out of keeping with the character of the countryside location, to the detriment of the visual amenity of the scheduled structure and the character of the countryside.

The shed, as constructed, also does not meet the tourism criteria of EMP7 which supports new or expanded tourism development where it strengthens the appeal and attraction of West Lothian. Any development being considered against policy EMP7 must ensure that it does not impact adversely on the natural and built environment including special historic environment assets, natural heritage designations or landscape interests. The development must also be unobtrusive and of a high quality design. The shed does not meet these criteria and there are no material considerations that would justify departure from the terms of the adopted West Lothian Local Development Plan, 2018.

The shed, as constructed, is therefore contrary to the following policies of the adopted West Lothian Local Development Plan, 2018:

DES1 (design principles);

EMP7 (tourism);

ENV3 (other development in the countryside);

ENV28 (listed buildings);

ENV33 (scheduled monuments).

## **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: <http://www.westlothian.gov.uk/article/2078/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 <http://www.westlothian.gov.uk/article/2220/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](http://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 - 0092/FUL/20**

Docquetted Number	Drawing Description	Drawing Number
1	Location Plan	00 Rev C
2	Site Plan and Elevations	09 Rev A
3	Photograph	East
4	Photograph	South



## HANDLING REPORT

<b>Ref. No.:</b>	0092/FUL/20	<b>Email:</b>	steve.mclaren@westlothian.gov.uk
<b>Case Officer:</b>	Steven McLaren	<b>Tel No.:</b>	01506 282404
<b>Ward:</b>	Linlithgow	<b>Member:</b>	Tom Conn Tom Kerr David Tait

<b>Title</b>	Erection of 300sqm building for use as a function and events venue (in retrospect) including entrance canopies, landscaping and associated works(Grid Ref: 309051,676478) at Duntarvie Castle,Broxburn,West Lothian,
<b>Application Type</b>	Local Application
<b>Decision Level</b>	Delegated List
<b>Site Visit</b>	21.11.2019
<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>	13.03.2020

## Description of Proposals

Erection of 300sqm building for use as a function and events venue (in retrospect) including entrance canopies, landscaping and associated works

## Site History

The most relevant recent planning application:  
0341/FUL/17 - Erection of a 300 sqm marquee for use as a wedding and multi-use function venue, granted 9/3/18.

A list of other planning applications at Duntarvie Castle is provided at the end of this report.

## Representations

One objection has been received:- White industrial shed out of keeping with setting,- Detrimental to setting of Duntarvie Castle,- Illumination at night inappropriate.

## 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	Technical comments made	Noted
Flood Risk Management			No comments received
West Of Scotland Archeology Service			No comments received. An archaeological assessment was carried out under the terms of the marquee decision.
Historic Environment Scotland			No comments received. Detailed comments were made by HES on the siting of the marquee under planning application 0341/FUL/17. At that time HES were clear that the marquee would have an adverse impact however, cross funding to repair the castle was taken into account on the basis this this was a temporary structure and that enabling works would have no adverse impact on the heritage asset.

## 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 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.
EMP7 - Tourism	New, or expanded tourism-related development, will be supported where it is capable of strengthening the appeal and attraction of West Lothian to a wide range of visitors, thereby contributing to the greater West Lothian economy. The council will also require to be satisfied that the proposals: a. would not adversely impact on the natural and built environment including any special historic environment assets, natural heritage designations or landscape interests; and b. would not adversely impact on local or residential amenity; and c. would be compatible with neighbouring land uses; and d. would be of a character and scale in keeping with the setting of the area, can be located in an unobtrusive manner and includes high quality design; and e. the proposed development site is or can be well served by public transport and other sustainable modes; and f. accord with all other relevant policies in the Local Development Plan. Additionally, where tourist accommodation is proposed on sites out with the settlement boundaries, a site specific business case/locational need justification will require to be submitted in support of any planning application for evaluation.
ENV3- Other Development in the Countryside	Development in the countryside will only be permitted where the following guiding principles are taken into account: or a. the development is justified for agriculture, horticulture, forestry, countryside recreation or tourism or other rural business use; or b. the proposal provides for the restoration of a brownfield site where there is no realistic prospect of it being returned to agriculture or woodland use and the site has no significant natural heritage value in its current condition; or c. the proposal is for the replacement of a building in the countryside which is of a poor design or in a poor structural condition; or d. the proposal is for infill development within the curtilage of an existing building group or infilling of gaps between existing buildings in the countryside; or e. the proposal involves the conversion or rehabilitation of existing rural buildings which the council deems worthy of retention because of their architectural or historic merit. Where a proposal by virtue of its design, location and landscape setting makes an exceptional contribution to the appearance of countryside an exception to policy may be justified. Proposals should make the best use of resources, integrate with services and facilities and demonstrate the highest standards in design and environmental quality to protect and enhance the established landscape character.
ENV28 - Listed Buildings	The council will protect listed buildings and will have particular regard for their special architectural, historic features and, where appropriate, archaeological interest in considering proposals for their alteration, extension or change of use. There is a presumption in

	<p>favour of the retention and sympathetic restoration, correct maintenance and sensitive management of listed buildings to enable them to remain in active use, and any proposed alterations or adaptations to help sustain or enhance a building's beneficial use should not adversely affect its special interest. Demolition of a listed building will only be permitted where it can be shown that at least one of the following criteria can be satisfied: a. the building is no longer of special interest; or b. the building is incapable of repair; or c. demolition is essential to delivering significant economic benefit for the community; or d. the repair of the building is not economically viable and it has been marketed at a price reflecting its location and condition to potential restoring purchasers. Supporting evidence, including a full economic appraisal, evidence that grant aid is not able to meet any funding deficit and evidence of marketing for a period of five years must be submitted to the council as planning authority. In considering proposals for development within the vicinity of listed buildings, the council will have particular regard to the setting of listed buildings. The layout, design, materials, scale, siting and use of any development which will affect a listed building or its setting should be appropriate to the buildings character, appearance and setting. The preservation of buildings of architectural or historic interest will be promoted through partnership working with interested parties and the use of powers including Compulsory Purchase Orders, Repair Notices, Building Preservation Notices or other statutory procedures. Enabling development, where essential to secure a viable long term future for a listed building at risk, may be considered favourably where the character or setting of the building is not adversely affected; where there are sound conservation or design reasons for the new development (such as the reinstatement of a missing wing or courtyard building); where the works are economically justified to ensure the survival of the building; and, on balance, where the benefits clearly outweigh any dis-benefits to the historic asset or its setting. In determining applications for planning permission and listed building consent relating to a listed building, the council will specify and require the fullest supporting information. Prior to the implementation of an approved alteration, recording shall be required in accordance with a schedule to be issued. Owners of major heritage assets will be encouraged to prepare and adopt management or conservation plans based on current best practice for their long-term guardianship. Additional controls (such as Article 4 Directions removing permitted development rights) will be introduced to protect the setting of listed buildings where such buildings are under threat from development.</p>
ENV33 - Scheduled Monuments	<p>There is a presumption against development which could have an adverse impact on a scheduled monument, or the integrity of its setting. Where appropriate, the council will introduce special controls such as Article 4 Directions removing 'permitted development' rights to protect scheduled monuments and their settings from unsympathetic development. Where Scheduled Monument Consent has been granted for works in connection with a planning permission, conditions will be applied to ensure that development is sympathetic to the monument and its setting. Developers may be required to make appropriate and satisfactory provision for archaeological and/or standing building investigation and recording, assessment, analysis, publication and archiving in advance of development. Detailed requirements will be determined on a case by case basis and clearly</p>

	specified.
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## **Policy Assessment**

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The proposals do not accord with the above policies of the adopted West Lothian Local Development Plan, 2018 as set out in the section below.

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## **Officer Assessment**

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Planning permission was granted for the siting of a temporary marquee within the grounds of Duntarvie Castle, a Scheduled Monument and Category A listed building, in March 2018 as a mechanism to generate additional income which would help progress the renovation of Duntarvie Castle. Taking on board Historic Environment Scotland's comments at that time, the consent given was temporary in nature until March 2021 with conditions attached requiring the submission of financial information on a 6 monthly basis once operational. This financial information, along with a summary of works carried out as a direct result of this income, was designed to ensure the venture had a significant impact on the pace of the development at Duntarvie Castle. The use of a marquee was also considered appropriate as this type of temporary structure is not uncommon in the grounds of hotels and guest houses to facilitate wedding parties and other functions. It would also be easily removed from site if no longer required and would be grey in colour to reduce the visual impact of the structure at the site. The applicant has however chosen to construct, without consent, a portal framed industrial building with cladding which appears white and reflective in sunlight. The building appears prominent on the site and is a more permanent structure. Two entrance canopies have been proposed and tree planting to screen the building. Whilst the tree planting will over time provide screening, the character of the building as constructed is significantly removed from that approved and is inappropriate for the setting, being detrimental to the visual amenity of the scheduled structure and the character of the countryside.

The shed, as constructed, also does not meet the tourism criteria of EMP7 which supports new or expanded tourism within West Lothian. The shed as constructed has a detrimental effect on the natural environment and the historic environment asset of Duntarvie Castle. The shed is also not unobtrusive or of a high quality design.

The development is therefore contrary to the following policies of the adopted West Lothian Local Development Plan. Recommendation is therefore to refuse planning permission and commence enforcement action following the expiry of the appeal period. DES1 (design principles); EMP7 (Tourism); ENV3 (other development in the countryside); ENV28 (listed buildings); ENV33 (scheduled monuments).

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## **Other Considerations**

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Consideration has been given to the detailed comments made by Historic Environment Scotland where the siting of the marquee was considered. The comments at that time set out that the marquee would have an adverse impact on the setting of the castle and that the council should consider its decision carefully, looking at mechanisms to identify how the venture would assist in the castle restoration and a limited time period. As a result, the marquee decision set strict conditions on the time period for the marquee and how the funding was to be reported. That venture never took place therefore there

is no background information on whether the funds raised would have been sufficient to see the marquee retained.

The council was prepared to support the applicant in bringing forward additional funds to speed the restoration on the basis of a low impact temporary structure. The industrial shed however goes beyond the level of impact the marquee would have had, and had the shed as constructed been submitted as the initial proposal, it would not have been supported.

---

### **Conclusions and Reasons for Decision**

---

The construction of the building, which has the appearance of an industrial shed, is unacceptable as an alternative to the approved marquee which was approved on a temporary basis to assist with raising funds for the castle refurbishment. Recommendation is therefore to refuse retrospective planning permission.

---

### **List of Review Documents**

---

Drawings schedule:

Docquetted Number	Drawing Description	Drawing Number
1	Location Plan	00 Rev C
2	Site Plan and Elevations	09 Rev A
3	Photograph	East
4	Photograph	South

Other relevant documents:

West Lothian Local Development;

Case Officer SM . Date: 27 April 2020

Reference	Status	Address	Proposal	Decision Issued
0006/S50/18	PREM	Duntarvie Castle By Broxburn	S50 application - Premises License Sought	25.06.2018
0092/FUL/20	PDE	Duntarvie Castle Broxburn West	Erection of 300sqm building for use as a	
0609/A/17	APAZ	Duntarvie Castle Broxburn West	Erection of a free standing advertisement	31.08.2017
0611/LBC/17	WD	Duntarvie Castle Chalet Broxburn	Erection of a sign board	07.08.2017
0707/P/19	WD	Duntarvie Castle Chalet Broxburn	Planning permission in principle for a	19.07.2019
0843/P/18	APPZ	Duntarvie Castle Winchburgh West	Planning permission in principle for the	05.12.2018
0909/MSZ/19	APMSZ	Duntarvie Castle Winchburgh West	Approval of matters specified in conditions	28.11.2019
LIVE/0050/FUL/11	GTP	Duntarvie Castle, By Winchburgh	Siting of temporary residential	25.03.2011
LIVE/0145/FUL/14	WD	Duntarvie Castle, U4 - A904 To	Change of use of temporary residential	01.04.2014
LIVE/0246/FUL/14	GTP	Duntarvie Castle, Winchburgh	Siting of temporary office/workshop	04.07.2014
LIVE/0252/FUL/17	GTP	Duntarvie Castle, Winchburgh, EH52	Retention of office/workshop building and	23.06.2017
LIVE/0341/FUL/17	APFULZ	Duntarvie Castle Broxburn West	Erection of a 300 sqm marquee for use as a	09.03.2018
LIVE/0400/LBC/17	WD	Duntarvie Castle Broxburn West	Listed building consent for the erection of	27.03.2018
LIVE/0457/FUL/03	GCP	Duntarvie Castle -, Winchburgh	Change of use of castle to corporate	26.07.2006
LIVE/0568/FUL/12	RP	Duntarvie Castle, Near Winchburgh	Proposed outdoor leisure facility,	31.07.2014
LIVE/0654/FUL/99	GCP	Duntarvie Castle -, Winchburgh	Temporary security accommodation	20.10.1999
LIVE/0862/FUL/03	GCP	- Duntarvie Castle, Winchburgh	Temporary residential accommodation	19.09.2003
LIVE/0923/FUL/99	GCP	Duntarvie Castle -, Winchburgh	Planning Permission and for the re-	06.04.2001
LIVE/0978/FUL/05	GCP	Duntarvie Castle -, Winchburgh	Renewal of planning permission for the	09.11.2005
LIVE/1255/FUL/06	GTP	Duntarvie Castle, Winchburgh	Renewal of temporary permission for the	29.01.2007



**Application Summary**

Application Number: 0092/FUL/20

Address: Duntarvie Castle Broxburn West Lothian

Proposal: Erection of 300sqm building for use as a function and events venue (in retrospect)

including entrance canopies, landscaping and associated works

Case Officer: Steven McLaren

**Customer Details**

Name: Mr Tommy Nimmo

Address: Duntarvie Farm Winchburgh Broxburn

**Comment Details**

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment:

I wish to lodge an objection to the proposed application on the following grounds. I do not wish to again state my concerns regarding Duntarvie Castle as I have done so, so often before regarding Mr Nicholsby's numerous planning applications.

This latest application, cunningly applied for retrospectively, is for an industrial style shed, white in colour which stands out like a sore thumb during daylight hours and is extensively lit up all night. It, added to the already unsuitable buildings around the Castle, further degrades the amenity.

In 2013 the Planning Department gave Mr Nicholsby planning approval for a Tank Track and 6 years to restore the Castle. In 2017 he applied for a 300sqm Marquee. Mr Nicholsby runs a business from the site, surely it is time for W.L.C.P.D. to lay down the law and halt the abuse of this historic site once and for all.

The whole history of Mr. Nicholsby's time at Duntarvie Castle has been a disaster. A lovely historic ruin has been desecrated and decimated. Part of Scotland's proud heritage ruined along with its surroundings. Local people I can assure you are horrified. He 'bought' the Castle ostensibly to restore it, fine words 30 years ago, according to the press cuttings. This should be implemented now and this eyesore of a shed taken down.

Dear Ms Johnston,

Thank you for your email of 31st July 2020 regarding the Notice of Review Application No.0092/FUL/20.

I confirm that I fully stand by my previous submissions against the granting of retrospective planning permission for the structure/shed at Duntarvie Castle, particularly now that tented appendages have been added on to it.

Further to that, I refute the incorrect information on page 4 of the application stating that the shed cannot be seen from the road. It can be very clearly seen from the B8020 road and the surrounding roads and land for quite some distance.

A common theme in the multiple applications spanning a thirty year period, supposedly to generate funds for restoration of the Castle, has been frequently used as a bargaining tool to obtain planning permission. However the Castle remains unfinished and looks worse now than it did as a ruin in a pasture field before it was purchased.

I am certainly not alone in thinking that this structure is totally out of keeping in what was such a lovely setting, placed in close proximity to this historic castle and is a complete eyesore for all that pass by.

Please forward this on to the Review Board and if you could acknowledge receipt I would be grateful.

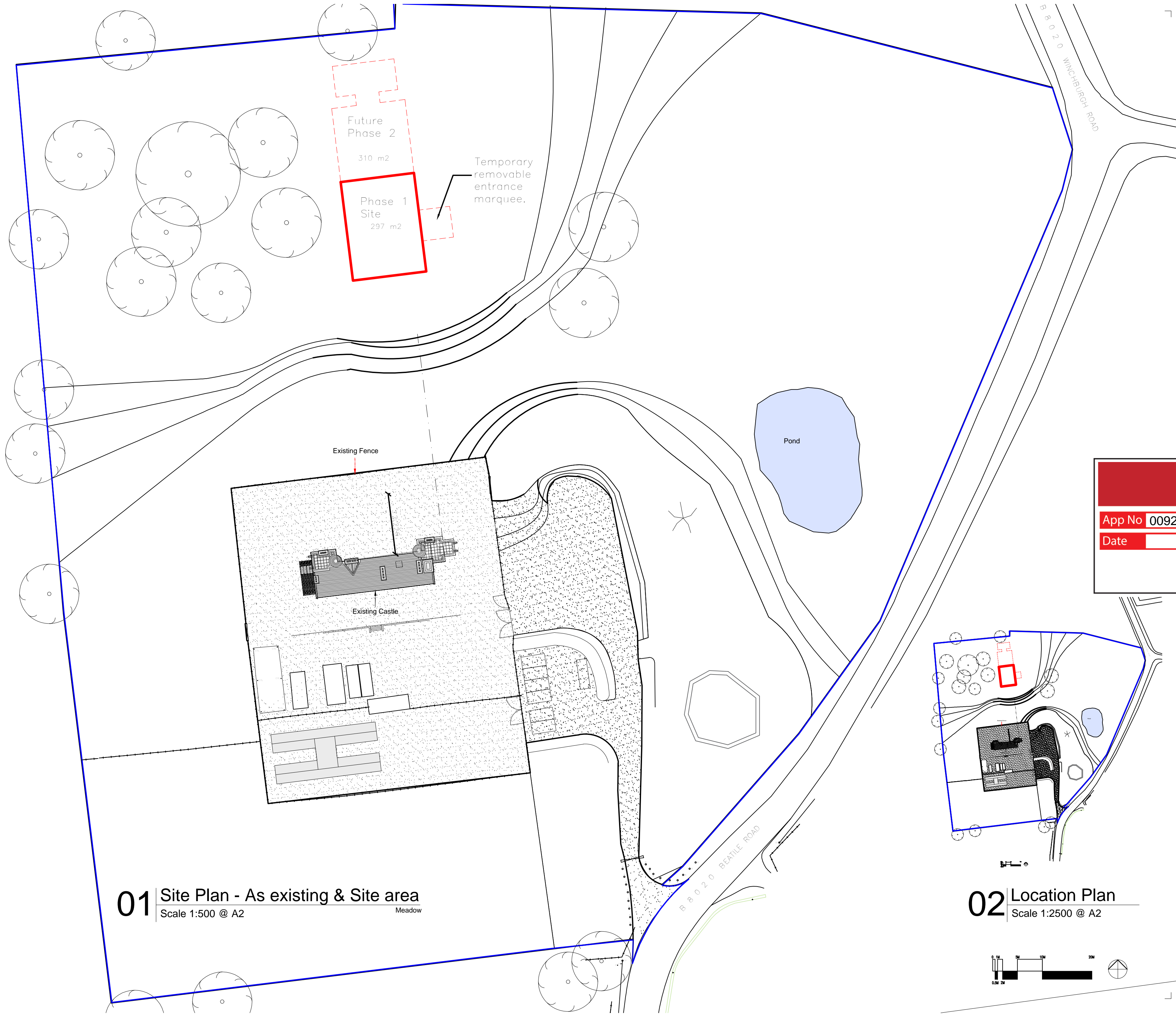
Yours sincerely,

Tommy Nimmo.

Duntarvie Farm,

Winchburgh.





Do not scale this drawing. Use figured dimensions only. All dimensions given are in millimetres unless otherwise stated. All levels are in metres. All dimensions, levels shown on this drawing are to be verified by the contractor prior to the commencement of work. This drawing is to be read in conjunction with all relevant architectural, structural, services drawings and specifications. The copyright of this drawing and all relevant information appearing on this drawing is reserved by EKJN Architects LLP. Use or disclosure to any third party either wholly or in part is prohibited unless expressly authorised by EKJN Architects LLP. Variations and modifications to work shown on this drawing shall not be carried out without prior permission of EKJN Architects LLP, who accept no liability for alterations made to this drawing by any other party.

- Notes
- Site Boundary
  - Temporary Entrance and Phase 2 - Site Boundaries
  - Land in clients ownership

**REFUSED**

App No 0092-FUL-20 1 of 4  
Date 27 Apr 2020



Rev C: 03.05.17: Road Names added location plan added  
Rev B: 20.02.17: Phased options shown  
Rev A: 21.12.16: Graphic changes  
Revisions

Drawing Category PLANNING

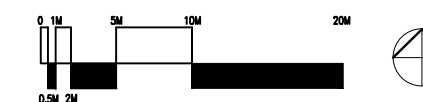
Project  
Duntarvie Castle  
West Lothian  
Drawing  
Location Plan &  
Site plan - As existing

**EK:JN** ARCHITECTS  
Project Managers and CDM Coordinators  
EKJN Architects LLP  
Bryerton House  
129 High Street  
Linlithgow EH49 7EJ  
Tel 01506 847151  
Fax 01506 846209  
Web www.ekjn.co.uk  
E mail@ekjn.co.uk

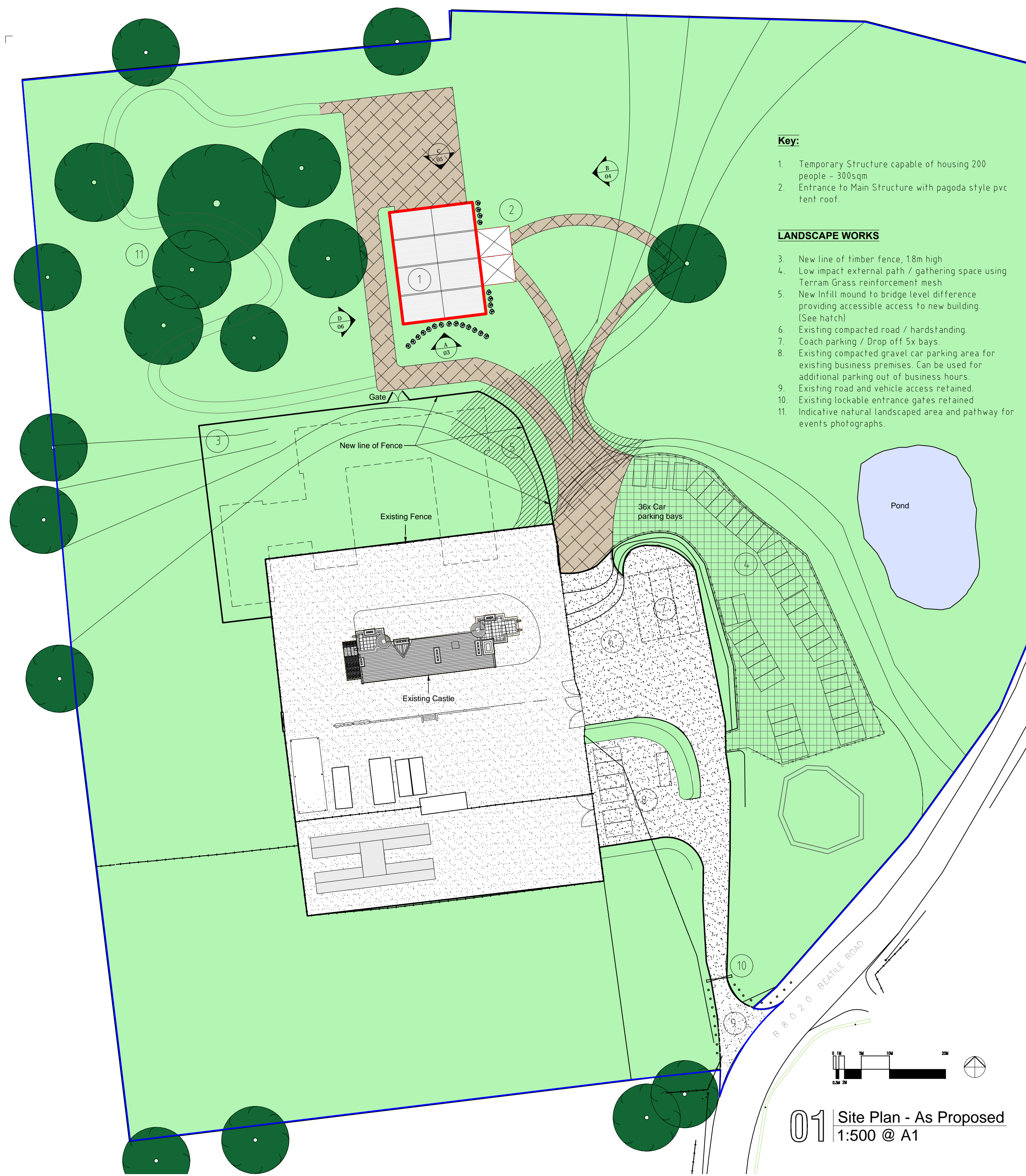
Scale 1:500	Date November 2016	By AH
Job no 16-024	Drawing no 00	Rev C

**01** Site Plan - As existing & Site area  
Scale 1:500 @ A2

**02** Location Plan  
Scale 1:2500 @ A2







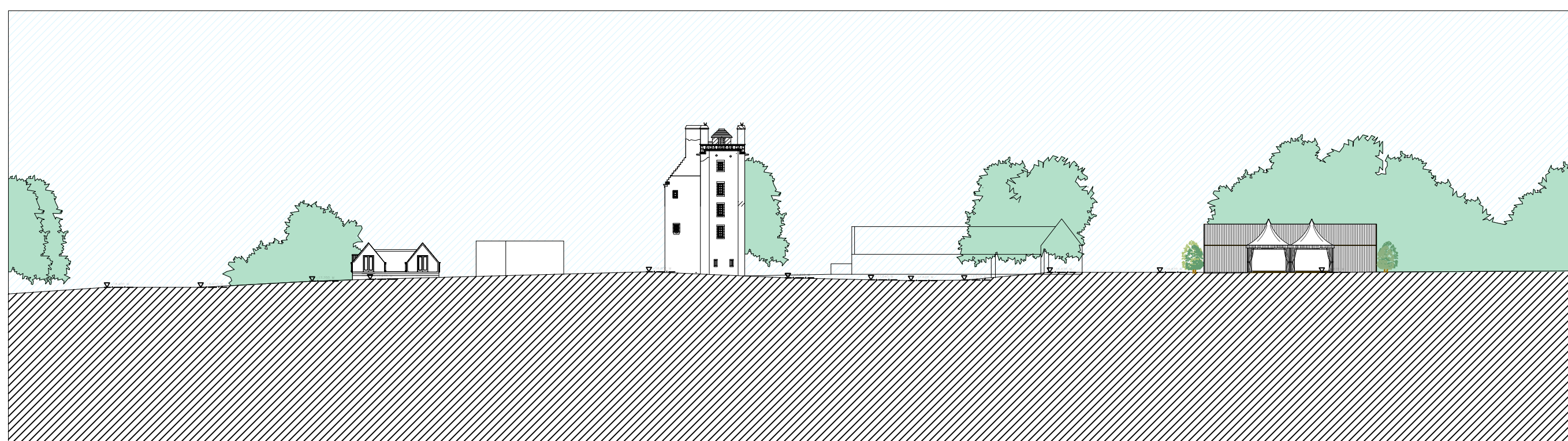
**Key:**

1. Temporary Structure capable of housing 200 people - 300sqm
2. Entrance to Main Structure with pagoda style pvc tent roof.

**LANDSCAPE WORKS**

3. New line of timber fence, 1.8m high
4. Low impact external path / gathering space using Terran Grass reinforcement mesh
5. New infill mound to bridge level difference providing accessible access to new building (See hatch)
6. Existing compacted road / hardstanding
7. Coach parking / Drop off 5x bays.
8. Existing compacted gravel car parking area for existing business premises. Can be used for additional parking out of business hours
9. Existing road and vehicle access retained.
10. Existing lockable entrance gates retained
11. Indicative natural landscaped area and pathway for events photographs.

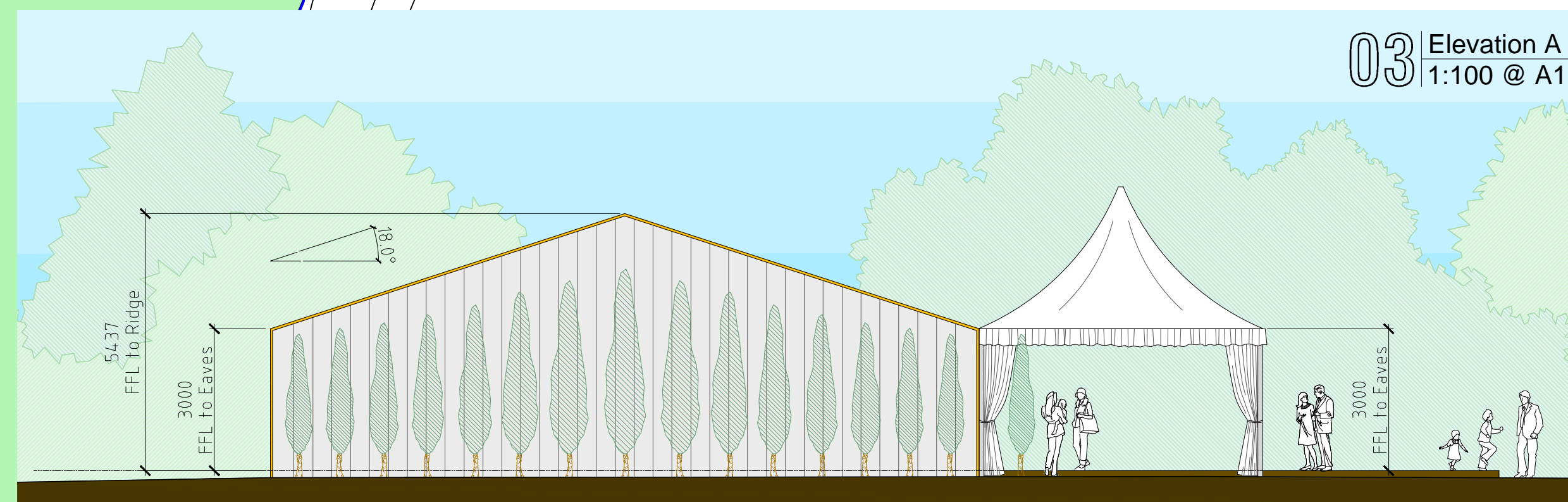
**01 Site Plan - As Proposed**  
1:500 @ A1



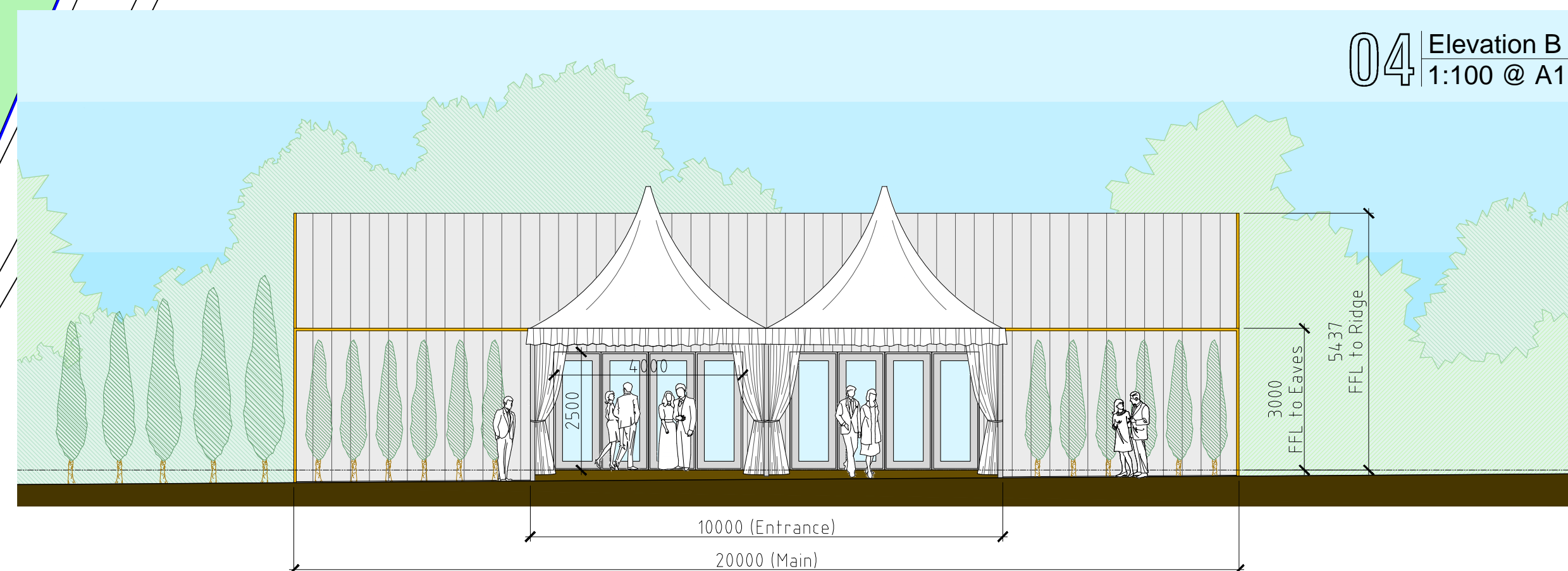
**02 Site Section**  
1:500 @ A1

**KEY:**

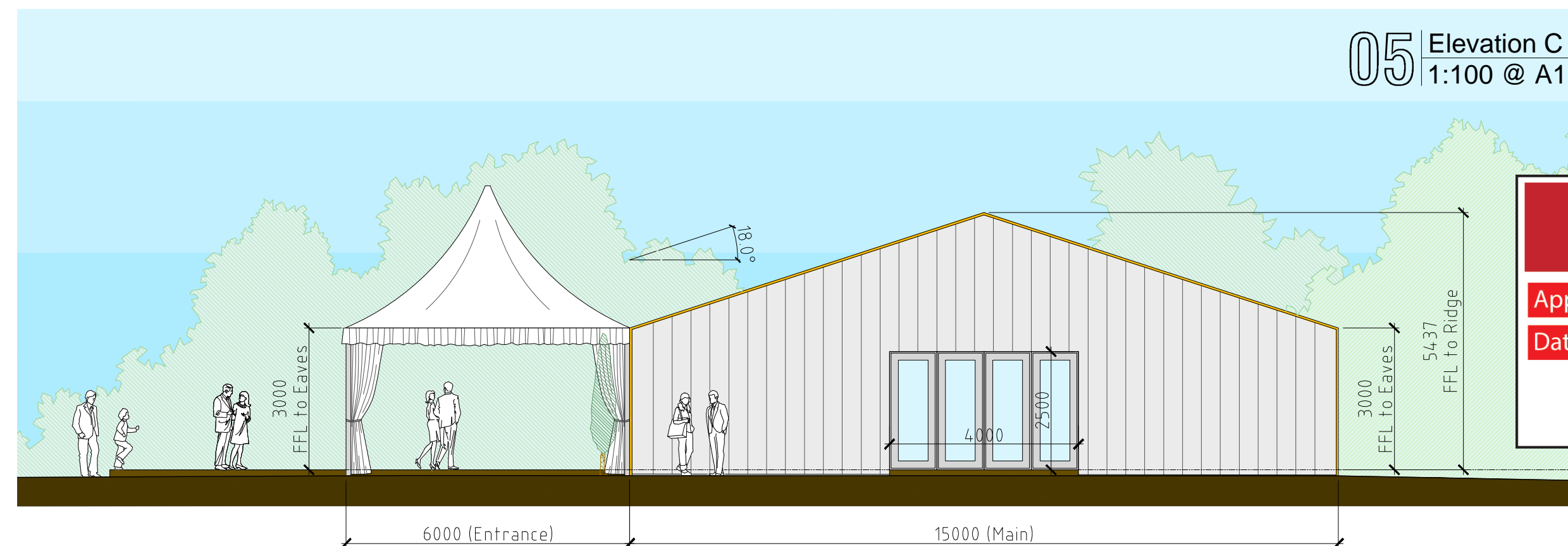
- Existing Trees retained.
- New trees.
- Areas with Grass reinforcement mesh protection.
- Grass.
- Slate chips on well compacted hardcore.
- Existing road / compacted gravel surface.
- Site Boundary.
- Land in clients ownership.



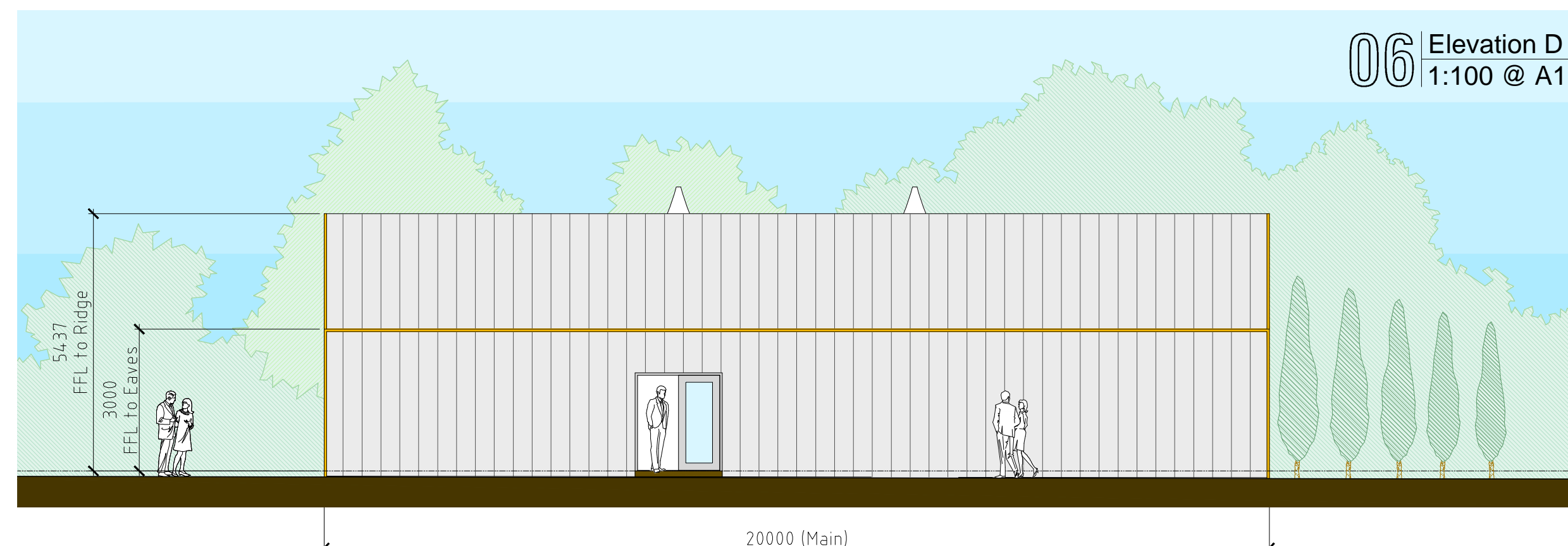
**03 Elevation A**  
1:100 @ A1



**04 Elevation B**  
1:100 @ A1



**05 Elevation C**  
1:100 @ A1



**06 Elevation D**  
1:100 @ A1

Do not scale this drawing. Use figured dimensions only. All dimensions given are in millimetres unless otherwise stated. All levels are in metres. All dimensions, levels shown on this drawing are to be verified by the contractor prior to the commencement of work. This drawing is to be read in conjunction with all relevant architectural, structural, services drawings and specifications. The copyright of this drawing and all relevant information appearing on this drawing is reserved by EKJN Architects. Use or disclosure to any third party either wholly or in part is prohibited unless expressly authorised by EKJN Architects. Variations and modifications to work shown on this drawing shall not be carried out without prior permission of EKJN Architects, who accept no liability for alterations made to this drawing by any other party.

**Notes**

The temporary structure is modular and will use high quality off site manufactured materials. Non insulated building 15m wide x 20m long x 3m to eaves, 18° roof.

The building will comprise of:

- A steel frame structure
- Metal sheet panels
- Lightweight galvanised steel (FR) Single skin, box profile metal cladding for wall and roof cladding. Colour: Light Grey.
- High quality white pvc roof cover material for the entrance structure.

**REFUSED**

App No **0092-FUL-20 2 of 4**  
Date **27 Apr 2020**



Rev A: Jan 2020: Shadows removed

**Revisions**

Sheet	Drawing Category	PLANNING
A1		

Project  
**Duntarvie Castle**  
**West Lothian**

Drawing  
**Temporary Structure - As Proposed**  
**Site Plan & Site Section 1:500**  
**Temporary Structure Elevations 1:100**

**EKJN** ARCHITECTS  
Project Managers and Principal Designers

EKJN Architects  
Bryerton House  
129 High Street  
Linlithgow EH49 7EJ  
Web: [www.ejkn.co.uk](http://www.ejkn.co.uk)  
Tel: 01506 847151  
Fax: 01506 846209  
E: [mail@ejkn.co.uk](mailto:mail@ejkn.co.uk)

Scale	1:500, 1:100	Date	January 2020	By	AH/MP
Job no	16-024	Drawing no	09	Rev	A





**REFUSED**

App No 0092-FUL-20 3 of 4

Date 27 Apr 2020





**REFUSED**

App No 0092-FUL-20 4 of 4

Date 27 Apr 2020





## **Draft conditions for LRB case 0092/FUL/20:-**

1. Unless a further planning application has been submitted and approved, the building and its associated use shall cease on 23 September 2023. The building shall be removed from site and the ground reinstated to its original condition, to the satisfaction of the planning authority.

*Reason To ensure a further assessment of the benefit of this venture in respect of the redevelopment of Duntarvie Castle.*

2. The mechanism to transfer profits from the venture into the redevelopment works for Duntarvie Castle as agreed for planning permission 0341/FUL/17 shall be reviewed and details submitted for the consideration and written approval of the planning authority. The information to be provided shall include details of the partner organisation, expected initial set up costs including building purchase and installation costs including the cost of ground works, rental of toilet facilities and other expected ongoing costings. The financial information shall also detail the split in profits between the developer and partner organisation with the majority of all profits being directed into the Duntarvie Castle redevelopment works. Once these details have been reviewed and agreed, and prior to the first use of the building, the developer shall provide written confirmation that bank account and money transfer processes are in place which direct profits to the Duntarvie Castle redevelopment.

*Reason To ensure the primary purpose of the development is established in that the marquee venture increases finances to the Duntarvie Castle redevelopment project.*

3. At the end of each 6 monthly period following the first event held at the site, a financial balance summary of the development shall be submitted for the consideration of the planning authority. These details shall show income received from events, gross profit and the amount of that profit transferred into the Duntarvie Castle redevelopment project.

*Reason To allow the planning authority to track the financial benefits of the venture to the redevelopment of Duntarvie Castle.*

4. On 31st March each year, the developer shall submit a summary of works carried out which have been directly funded by the profits from the events venture and an update of the overall estimated timescale for the Duntarvie Castle redevelopment project.

*Reason To allow the planning authority to track the physical benefits of the venture to the redevelopment of Duntarvie Castle.*

5. Prior to the first event taking place, a noise management plan must be submitted for the consideration and written approval of the planning authority. It shall detail how the source noise level of amplified music as detailed in the final noise report by Sharps Redmore, dated 8th February 2018 (Job No. 1717416), will be controlled. Once the noise management plan is agreed, the operator of the venue shall ensure that noise from the development is managed in accordance with that plan.

*Reason In the interest of residential amenity and to ensure noise from the development is controlled to the satisfaction of the planning authority.*

6. Fireworks displays are not permitted at this venue at any time.

*Reason In the interest of residential amenity*

7. Prior to the first event taking place, the parking for the venue shall be completed to the satisfaction of the planning authority. During events, a member of staff shall ensure that patrons park within the site and that traffic is appropriately managed, ensuring that there is no parking on the public road. Should complaints be received regarding on street parking and traffic management issues, within 4 weeks of the date of the first complaint being received, the operator shall submit mitigation measures for the consideration and written approval of the planning authority. Once approved, these measures shall be implemented thereafter to the satisfaction of the planning authority.

*Reason In order to control traffic entering/leaving the site and in the interest of road safety.*

8. Within 1 month of the date of this decision notice, a detailed landscaping plan shall be submitted for the consideration and written approval. The landscaping shall include both tree and shrub planting and be designed with fast growing species. The location of the trees shall be designed to provide appropriate screening of the building from various view points and shall also be designed with native species to complement the existing landscape. Once agreed, the landscaping shall be carried out within the first planting season and in advance of the first event taking place, to the satisfaction of the planning authority.

*Reason In the interest of visual amenity.*

. Prior to the first event taking place, a noise management plan must be submitted for the consideration and written approval of the planning authority. It shall detail how the source noise level of amplified music as detailed in the final noise report by Sharps Redmore, dated 8th February 2018 (Job No. 1717416), will be controlled. Once the noise management plan is agreed, the operator of the venue shall ensure that noise from the development is managed in accordance with that plan.

*Reason In the interest of residential amenity and to ensure noise from the development is controlled to the satisfaction of the planning authority.*





**LOCAL REVIEW BODY****APPLICATION NO. 0117/FUL/20 – ERECTION OF HOUSE AT 3 CALDER HOUSE ROAD, MID CALDER, WEST LOTHIAN****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 house at 3 Calder House Road, Mid Calder.

**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 25 July 2020. This also includes a supporting statement.
2. The Handling Report, prepared by the Planning Case Officer, dated 28 April 2020.
3. The Decision Notice, issued by the Appointed Person, dated 28 April 2020; and
4. Location plans which form part of the online case file.

Two representations were received in relation to the planning application. Both were contacted to advise that the review had been received and they could make further representations within 14 days of receipt. One of the objectors (Mr Paul Cyphus) submitted a further representation which was copied to the applicant/agent for comment. The agent has responded to these additional comments and these are attached to the review papers.

The applicant has stated in the review application that they consider that the Local Review Body could decide the review case by a site inspection and a hearing.

**C DEVELOPMENT PLAN POLICIES AND PLANNING GUIDANCE**

The application for planning permission was assessed in terms of Local Development Plan Policies DES1 (Design Principles), HOU3 (Infill and Windfall Housing Development), ENV21 (Protection of Formal and Informal Open Space) and INF1 (Infrastructure Provision and development). The council's Residential Development Guide Supplementary Guide was also taken into consideration.

The Appointed Person was of the opinion that the proposal would have a detrimental impact on the visual and residential amenity, through the enclosure of an area of informal open space that contributes positively to the character of the area. Additionally, the proposed footprint of the house was greater than the other houses in the terrace and would project forward towards Calder House Road than the opposite terrace to the west and as such would not integrate with its local context and built form.

**D 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, the Planning Adviser has drafted planning conditions which the Local Review Body may wish to consider imposing should it be minded to grant planning permission. A copy is circulated with this report.

Winston Roberts, Solicitor, West Lothian Civic Centre  
Tel No. 01506 283524, [winstonroberts@westlothian.gov.uk](mailto:winstonroberts@westlothian.gov.uk)

Date: 23 September 2020

## 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>MR E MILLER &amp; MS M GATENSBY</u>
	Address <u>Nº3 CALDER HOUSE ROAD</u> <u>MID CALDER</u>	Postcode <u>EH53 0JZ</u>
	Telephone No. (1) <u>[REDACTED]</u>	
	Telephone No. (2) <u>N/A</u>	
	Fax : <u>N/A</u>	
	E-mail : <u>N/A</u>	
	<b>REPRESENTATIVE (if any)</b>	Name <u>AFH CONSULTING &amp; ENGINEERING LTD.</u>
	Address <u>20 BRAESIDE PARK</u> <u>MID CALDER</u>	Postcode <u>EH53 0SN</u>
	Telephone No. (1) <u>[REDACTED]</u>	
	Telephone No. (2) <u>N/A</u>	
	Fax : <u>N/A</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? * <b>YES/NO</b>		



<b>PART B</b>	APPLICANT REF. NO.	0117/FUL/20
	SITE ADDRESS	N <sup>o</sup> 3 CALDER HOUSE ROAD MID CALDER, EH53 0JZ
	DESCRIPTION OF PROPOSED DEVELOPMENT	ERECTION OF A HOUSE
	DATE OF APPLICATION	02/03/2020
	DATE OF DECISION NOTICE (IF ANY)	28/04/2020

**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>
Refusal of application by appointed officer	<input checked="" 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"/>

**Statement of reasons and matters to be raised**

You must state, in full, the reasons for requiring a review of your case. You must also set out and include with your application all the matters you consider require to be taken into account and which you intend to raise in the review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

State here the reasons for requiring the review and all the matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. **You may also submit additional documentation with this form of which ten copies must be provided.**

PLEASE REFER TO THE DOCUMENTS

1. SUMMARY REPORT

2. APPEAL REPORT

3. ALL APPENDIX'S FROM 1-11

PLEASE ALSO NOTE THAT WE INTEND  
TO HAVE THE FOLLOWING TALKING AT  
THE HEARING :-

1. ALASTAIR HOOD AFH CONSULTING LENDING LTD

2. CLLR CARL JOHN

3. CLLR DAMIEN TIMSON

4. MR E MILLER (CLIENT)

5. MS M GATESBY (CLIENT)

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

\* YES/NO



If yes, you should 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.


#### 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.	SUMMARY REPORT
2.	APPEAL REPORT
3.	APPENDIX 1 PHOTO EVIDENCE
4.	APPENDIX 2 LETTER OF SUPPORT FROM N° 11
5.	APPENDIX 3 LETTER OF SUPPORT FROM N° 7
6.	APPENDIX 4 LETTER OF SUPPORT FROM N° 17
7.	APPENDIX 5 LETTER FROM CLLR JOHN
8.	APPENDIX 6 LETTER FROM CLLR TIMSON
9.	APPENDIX 7 EMAILS WITH MATHEW WARREN 28.04.20
10.	APPENDIX 8 EMAILS WITH WENDY MCCORRISTON 15/05/20
11.	APPENDIX 9
12.	APPENDIX 10 NEW RESIDENTIAL DEVELOPMENT GUIDE
13.	APPENDIX 11 REFUSAL REPORT 28.04.2020
14.	2020-001-0100, 2020-001-0101A, 2020-001-102C, <del>2020-001-0200</del> 2020-001-0200, 2020-001-0201

**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 ask for further information or representations. The procedure adopted will be one or a combination of meetings; adjourned meetings; written submissions; hearing sessions and inspecting the land which is the subject of the review.

Please indicate what procedure (or combination of procedures) you think is most appropriate. You may tick more than one box if you wish the review to be conducted by a combination of procedures.

Further written submissions

Hearing sessions(s)

Site inspection

Assessment of review documents only, with no further procedure

✓
✓

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.

WE BELIEVE ALL POINTS IN THE 'SUMMARY  
REPORT' & THE 'APPEAL REPORT' INC ALL  
APPENDIX'S AS ALL MATTERS COVERED ARE  
RELEVANT

**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



Statement of your reasons for requiring a review and matters to be raised



Statement of your preferred procedure



All documents, materials and evidence INCLUDING LOCATION PLANS AND/OR DRAWINGS which you intend to rely on. Copies must accompany this notice.



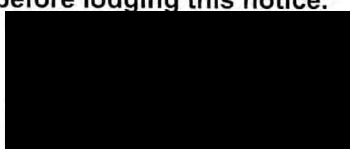
Where your case relates to another application (e.g. it is a renewal of planning permission or a modification, variation or removal of a planning condition, or an application for approval of matters specified in conditions), it is advisable to provide that other application reference number, approved 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

25/07/2020

\* Delete as appropriate

Please return this completed form to :-

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

3 Calder House Road - 0117/FUL/20 - [OFFICIAL]

SUMMARY REPORT:-



This report is to be read in conjunction with

1. Appeal report
2. Appendix's 1 to 11

The proposal is to build a 3bed family home for the Miller & Gatensby family on their own land next to their existing property No.3 Calder house road.

The application was refused on the 28.04.2020 by WLC Planning Department.

In this summary we will note the reasons for refusal and touch on our disputes on key facts (farther depth is provided in the APPEAL REPORT provided and subsequent appendix's.

1.

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**Officer Assessment**

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The application proposes the subdivision of a plot and erection of a house on land at 3 Calder House Road. The proposed house would form an end terrace. The main garden space is proposed to the side of the house. The majority of the site currently forms part of a landscaped area of informal open space

We dispute the fact that the main garden space is provided to the side of the property as there is 56.05m<sup>2</sup> of private garden space to rear of property and only 51.5m<sup>2</sup> of private garden space to side of property as clearly annotated on drawing 2020.001.0102 Rev 'C' which was received by WLC planning well before the refusal date and uploaded on to their system. It would appear they have failed the application based on an outdated drawing which we have no explanation for.

2.

Policy HOU 3 (a) of the West Lothian Local Development Plan (LDP) supports housing development within settlement boundaries where development is in keeping with the character of the settlement. Policy DES 1 of the LDP requires development to be integrated with its local context and built form.

We are of the opinion that our design complies with the above as it is simply an extension of an existing terrace house built to the same principles of what already exists using the same materials and styles.

3.

Policy ENV 21 of the LDP requires there to be a locational justification that outweighs the need to retain formal or informal open space; there is no adverse impact on recreational amenity or green networks as a result of loss of open space; and the proposal will not result in significant ecological impacts through loss of trees, woodland and wildlife.

We are of the opinion that the fact there was a house previously on the ground in which the client proposes to build on and that the current property numbers start at No.3 and that there is currently no No.1 in the street that there is local justification for the proposed house. We are also of the opinion that there is certainly no loss of recreational amenity or green networks nor impact on ecological factors. In fact we propose the opposite, with the client looking to establish a large beach hedge around the side perimeter of the property it will provide new habitat for songbirds, insects, hedgehogs and such like not to mention its carbon capture effect.



4.

The character of the local area is one of terraced housing set around landscaped areas. There is an open character to these areas of landscaping. Low boundary fences face onto Calder House Road. Gardens are set to the rear of houses in the terraces.

We dispute the above. There is many examples in calder house road and mid calder also that we have provided evidence of in Appendix No.1 (please refer)

Also please see attached example of No13 with full height hedge surrounding garden (please note this is not the only example but simply the closest)



5.

Policy HOU 3 (a) of the West Lothian Local Development Plan (LDP) supports housing development within settlement boundaries where development is in keeping with the character of the settlement. Policy DES 1 of the LDP requires development to be integrated with its local context and built form.

We believe we have more than complied with the above as the proposal is a new house created by extending the existing terrace comprising of houses No.3, No.5, No.7 using the same materials and style. We would once more like to add that there is currently no No.1 in the street.

6.

Policy ENV 21 of the LDP requires there to be a locational justification that outweighs the need to retain formal or informal open space; there is no adverse impact on recreational amenity or green networks as a result of loss of open space; and the proposal will not result in significant ecological impacts through loss of trees, woodland and wildlife.

We believe the fact that there is currently no No.1 in the street at present currently outweighs the need to retain formal or informal open space as the street numbering system is currently broken. There will also be no adverse impact on recreational amenity as the ground is non public and privately owned, nor will it significantly impact the green network in fact we believe with the planting of the new hedge it will improve it.

We would also like to state that the client has privately agreed to take ownership of the dilapidated garage (subject to planning being granted) currently belonging to No.9. This garage is dilapidated and a severe public hazard due to structural failings of lintels and the breaking down of the corrugated asbestos sheet roof (please see photo where chunks of broken asbestos are clearly visible on ground of garage entrance shedding hazardous fibres into the local environment) Should the appeal be successful and planning granted the client will be having the garage demolished and the asbestos suitably disposed off thus contributing & improving to the local environment.





7.

The character of the local area is one of terraced housing set around landscaped areas. There is an open character to these areas of landscaping. Low boundary fences face onto Calder House Road. Gardens are set to the rear of houses in the terraces.

The character of the street is not just simply terraced houses. There are blocks of flats, semi detached and detached houses all within the confines of Calder house road. We dispute that all gardens are to the rear as there is many examples within the street of houses with significant gardens to the side and fencing hard up to the boundary/pavement of 6ft please refer to Appendix No.1.

8.

The proposal would enclose an area of what is currently open space. This area proposed for enclosure contributes positively to the open character of the landscaping in the area. As such, its enclosure would result in a detrimental impact on visual amenity. The footprint of the proposed house being greater than the other houses in the terrace and projecting further forward towards Calder House Road than the opposite terrace to the west will result in an adverse impact on visual amenity and a house that does not integrate with its local context and built form, contrary to the provisions of Policies HOU 3 (a) and DES 1. In addition, the proposal will result in an unacceptable break from the spatial pattern of development in the area by having a garden to both the side and rear. The rear portion of the garden of the proposed house reduces the existing garden of 3 Calder House Road and will result in a significant break from the prevailing spatial character of the area.

While the proposal would enclose an area of INFORMAL open space i would like to point out that this space is privately owned by the clients and as such the clients would be within their rights to enclose by means of a hedge without planning consent being required as No.13 has already done please see photo at point 4 above

(Deed plan below, red & blue belonging to client & yellow public highway)



Although the foot print would be larger than that of the existing 3 houses within the terrace if any of the aforementioned houses were to extend even within the realms of permitted development the difference would be marginal, There is evidence of other terrace houses in the immediate square that have had 2No. Extensions for example No.13 calder house road (one to side and other to rear of property) which will have a foot print of similar area to that of our clients proposal. Our proposal projects 3.5ft past that of opposite terrace house No.19 and between them is two large mature birch trees of heights circa 100ft (see below) We put it that this small overlap is so insignificant that it would not be noticeable. The fact the above states that the spatial pattern will be broken by having a garden to both side and rear, this we whole heartedly dispute with houses No. 7, No.9 , No.13 & No.19 all having gardens both rear and to side (although No.13 has chosen to put an extension in their area of side garden. There is also evidence of other houses in calder house road having side and rear gardens in Appendix No.1 (please refer). As for the statement that the reducing of the garden on No.3 will result in a significant break from spatial pattern we dispute this also as No.3 will have more rear garden space than some other mid terraces in the street (please refer to appeal report for details) and the space provided is well within the limits of the new residential development guide for a terraced house.



9.

Due to the proposal failing to integrate with its local context and built form, there is no locational justification that outweighs the need to retain this area of informal open space. The proposal is therefore contrary to Policy ENV 21 (a) of the LDP. The loss of open space will not result in an adverse impact on recreational amenity or green networks, and will not result in a significant ecological impact.

We dispute this statement for reasons stated above please refer to the Appeal report and subsequent appendix's for further technical details.

10.

The Residential Development Guide Supplementary Guidance (RDG SG) specifies a 60:40 garden to building ratio for new build terraced houses. The proposal will result in a ratio of 70:30 for the proposed house. The proposed house complies with the RDG SG in this respect.

Overall, the proposal is contrary to policies HOU 3, DES 1 and ENV 21 of the LDP.

Although the above statement makes clear that the proposal complies with the RDG SG the figures are misrepresented as the actual ratio is 82:18 not 70:30 as stated in WLC planning report. Thus meaning the proposal is even further within the limits than suggested above.

We also dispute that the proposal is contrary to policies HOU 3, DES 1 and ENV 21 of the LDP which we believe we have demonstrated in the above summary and APPEAL REPORT PLUS APPENDIX's (please refer)

We would also like to have noted that there has been no objection from

1. Transport department.
2. Education Authority.
3. Environmental health department.

And that all above 3 are in support of proposal



I trust this reaches you all well.

Kind regards

Alastair Hood

AFH Consulting & Engineering Ltd.



### 3 Calder House Road - 0117/FUL/20 - [OFFICIAL]



#### APPEAL REPORT

To whom it concerns:-

Please find in the following document our report for your consideration regarding planning application for a house on Calder house road, Mid Calder for a Mr E Miller & Ms M Gatensby.

The above mentioned clients own the property No.3 calder house road midcalder, which has a substantial plot of land to the side of the house, previously this was the plot of No.1 calder house road which was the original show home for the development that was subsequently demolished in the past.





Where it would normally be relatively straight forward exercise to build a property where one has existed previously we are receiving a fair amount of resistance from the planning department.

From all the neighbour notifications there was only 1 objection of which i shall list below:-

1. No.13. This objection was surprisingly very detailed and not something one would usually expect to find coming from a general member of the public.

The main reasons given by WLC planning for refusal are such listed below:-

1. *'The proposal would enclose an area of what is currently open landscaped ground. This area proposed for enclosure contributes positively to the open character of the landscaping in the area. As such, its enclosure would result in a detrimental impact on visual amenity. A 1.8 metre high fence hard up against the pavement of Calder House Road would fail to integrate with its surroundings by being of a much greater scale than other boundary fencing in the area that fronts onto Calder House Road. In addition, the sitting of a garden to the side of the proposed is unacceptable in the spatial pattern of development in the area with gardens set to the rear of existing houses, not to the side'*

There are other examples all around midcalder of 6ft fencing hard up against foot path and also within the street itself. I have taken the liberty of providing you with a varied selection of photographic evidence of such, please refer to appendix No1 'photo evidence' for greater number of examples.



No. 31 calder house road. Please note 6ft fence high, hard up against foot path, at side of property, alongside a parking bay just as we are proposing at No.1 calder house road.

The local visual amenity of calder house road is that of terraced housing which we agree, that is why the client has requested that the new house form part of an existing line of terraced houses and be of such design and style to match the existing properties, the proposed house would fit in to the scheme in appearance with soft open landscaped front gardens. It would also take the address of No.1 calder house road currently missing from the street.

2. *'My transport colleagues have objected to the application (response attached). This is due to the driveway access being taken through a parking lay by and because the depth of the driveway does not meet minimum standard of 6 metres.'*

We have updated our drawing now so that there is a driveway 6m x 3.5m in line with the 'New residential development guide' by WLC (as instructed by WLC) by doing so there is still an area of 51.5m<sup>2</sup> private garden in line also with the 'New residential development guide' by WLC which states a min area of 50m<sup>2</sup> for terraced houses. Please also note that this area of 51.5m<sup>2</sup> does not include the drive area or the area of front garden. The new proposed drive way does not access by means of through an existing lay by.

We find it possible to address all reasons provided for refusal apart from the point the private garden is situated to the side of the property and not to the direct rear, however i would suggest that the fact most end terraces in this scheme have private garden space to the side of the property and the fact the garden is private this is not impacting on the spatial pattern to the extent that would warrant refusal. I would also like to add that currently there is a large garden to No3 to the side which is the area in which the proposal of the new house (new end terrace) is to be situated, I would also like to add that the clients are within their rights to enclose this area with a hedge tight to boundary at present without the need for planning permission.



The entire local area of calder house road is in itself surrounded by green open landscaping. The small area looking to be enclosed by a boundary fence of 6ft totals an area of 51.5m<sup>2</sup> which not only is privately owned by the client, its area is a drop in the ocean to all the wide open communal area surrounding. The entire courtyard area of calder house road from property No.3 to No.19 is a communal wide open lawn area with 2 large birch trees (circa 80-100ft tall) & 2 large cherry blossom trees (circa 20ft tall+) , in short the area of street in question is not short of visual amenity in the slightest and the clients proposals are so small scale the general scheme of things.



There has been no objection from the education department and no detriment by the proposal would be imposed on local schools.

There is no objection from the environmental consultants.

There would be no issue with the numbering sequence of the street as the first house on the odd side of the road is No.3 (the clients) so by reinstating No.1 there would be no adverse effect on mail services or the like.

The clients are a young couple who both work hard to provide for their young family, what they are proposing i feel is an acceptable request and fitting with the local scheme. They are not looking to build something contemporary or in contrast with what is existing, they are not looking to build a large housing development in a local country park or on prime green belt farm land.

There are many other recent house additions to midcalder that have been approved and are much less fitting with that of their local surroundings. One example that springs to mind is No.12A combfoot cottages which is also been built within the conservation area of Mid Calder.





Not only is it in complete contrast to the other buildings surrounding (as clearly visible in above photo) it has also been allowed to be given a suffixed street number of 12A where as our proposal at calder house road is a number currently not allocated to a house 'No.1' and allows for the street numbering to remain uncomplicated.



You will also see there seems to be no issue with this property having a 6ft fence hard up against the foot path also.

Another property to mention that has recently been added to the village of mid calder is No.28 combfoot cottages, also within the limits of the Mid Calder conservation area.



As you can see the above and below really doesn't fit in with any of the existing properties.







To summarise we feel it is clear to us that the above proposal is 'in fitting' with the current feel of the street, respectful, tasteful and not outlandish in any form. In fact we feel that our proposal would complement the street more than an extension would to existing No.3 as it would:-

1. Correct the street numbering pattern
2. Be completely in fitting with existing appearance as its true to the existing corporate style of the development.

This is also expressed by a number of residents who have provided 'letters of support'

(Please see attached letters)

1. Appendix 2 Letter of support from No.11 calder house road
2. Appendix 3 Letter of support from No7 calder house road
3. Appendix 4 Letter of support from No17 calder house road

The Application is also supported by local Councillors Damien Timson & Carl John

(Please see attached letter)

1. Appendix 5 support letter from Cllr Carl Jon
2. Appendix 6 support letter from Cllr Damien Timson

We hope that you feel the same in regards and hope you are able to help the clients in supporting them.

## AMENDMENTS 29.04.2020

Since originally comprising this report WLC have subsequently refused planning permission with their main objection being listed below. Please also note that despite informing WLC planning department that there was historically a house previously on the site of proposal that no mention has been made in report and has been conveniently omitted. Please see other considerations below.

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**Other Considerations**

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N/A

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**Conclusions and Reasons for Decision**

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In summary, the proposed house will have a detrimental impact on visual amenity and result in a house that fails to integrate with its local context and built form. There is no locational justification for the loss of informal open space. The proposal is contrary to policies HOU 3 (Infill/Windfall Housing Development within Settlements), DES 1 (Design principles) and ENV 21 (Protection of formal and informal open space) of the West Lothian LDP. No material considerations outweigh this conclusion.

Consequently, and in view of the above, it is recommended that planning permission is refused.

Previously to this we have updated our drawings to include soft landscaping to form boundary in way of beech hedging as stipulated in the 'New residential design guide' page 24 (see below) in favour of previously proposed fencing.

#### Boundary treatments

The choice of boundary treatments must be appropriate and sympathetic to their function.

For example they:

- help to define space;
- provide security;
- create a link between the buildings and landscape;
- provide a barrier between private and public uses; and
- influence the microclimate depending upon the type of treatment.

Attractive walls and railings at site entrances and within estates at key locations will be encouraged while long sections of unrelieved garden fencing in prominent locations should be avoided.

In developments with grass service strips, fencing or other physical boundary treatments should be avoided. Developers are required to make it clear in the title deeds that service strips are in the ownership of the property owners and that owners are responsible for their maintenance.

Rear gardens which face onto roads and footpaths are particularly conspicuous and should be afforded enhanced treatment, including the use of soft landscaping.

To add interest, colour and variety to a residential development, hedge planting may substitute for fencing. However fast growing conifers will not ordinarily be permitted. Instead, beech or hawthorn hedging forms good boundary screening.

We have also adjusted the garden layout of No.3 to be 52.25m<sup>2</sup> (over the minimum 50m<sup>2</sup> stipulated in 'New residential design guide' page 35) see below, and provided No.1 calder house road with 56.05m<sup>2</sup> garden to rear & 51.5m<sup>2</sup> private garden to side given a combined 107.55m<sup>2</sup> of private garden space again (over the minimum 50m<sup>2</sup> stipulated in 'New residential design guide' page 35) please see below.

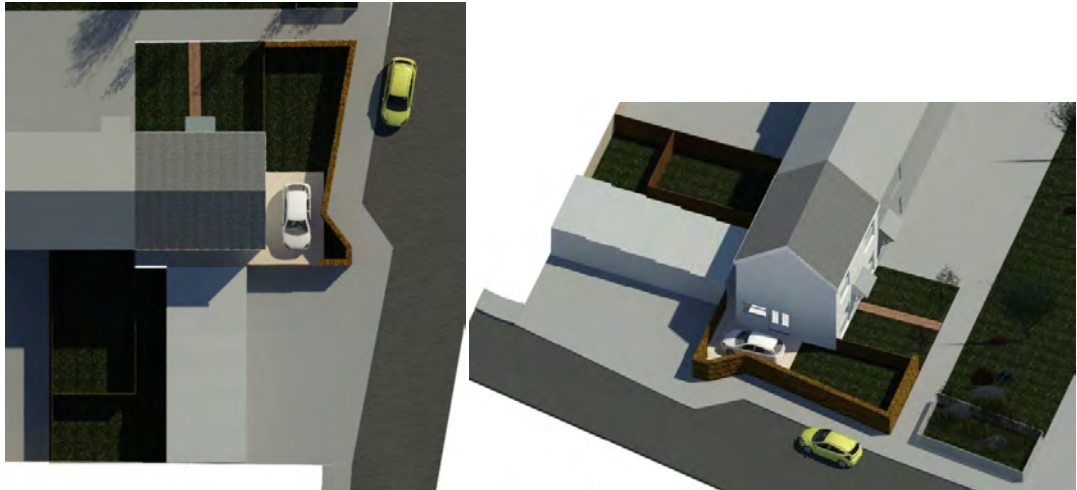
All houses with five and more bedrooms	not less than 100m <sup>2</sup>
Three and four bedroomed detached and semi-detached houses	not less than 80m <sup>2</sup>
Two bedroomed detached and semi-detached houses	not less than 60m <sup>2</sup>
Terraced houses	not less than 50m <sup>2</sup>

Other properties on this street have much less significant garden area for example No.11 calder house road that is only supplied with 45.5m<sup>2</sup> of garden space below the recommended area stated in the 'new residential development guide' see below.



We had updated all drawings to accommodate all points of refusal by WLC yet still they refused it. Please see attached most up to date 3D view showing

1. Parking updated and passed by transport department.
2. Fencing to boundary changed to beech hedging supported by 'New residential development guide'
3. Garden to rear provided exceeding over 50m2 as per 'New residential development guide'



We would also like to point out that when on the refusal report that planning department reviewed the application based on site plan 2020.001-102 B where in fact they were previously issued with a revision 'C' of previously noted site plan which they updated on to their system on 15.04.2020

#### List of Review Documents

Drawings schedule:

Docquetted Number	Drawing Description	Drawing Number
1	Location Plan	2020.001-0100
2	Site Plan	2020.001-102 B
3	Floor Plan (proposed)	2020.001-200
4	Proposed Elevations	2020.001-201

Case Officer .....MATTHEW WATSON..... Date...28/04/2020.....

	Date Published ↕	Document Type ↕	Description ↕	View
<input type="checkbox"/>	28 Apr 2020	Refused Plans	REFUSED PLANS	
<input type="checkbox"/>	28 Apr 2020	Report	HANDLING REPORT	
<input type="checkbox"/>	28 Apr 2020	Decision	REFUSE FULL PLANNING APPLICATION	
<input type="checkbox"/>	15 Apr 2020	Revised Drawing	PROPOSED SITE PLAN	
<input type="checkbox"/>	14 Apr 2020	Consultee Comment	TRANSPORTATION	
<input type="checkbox"/>	10 Apr 2020	Revised Drawing	PROPOSED SITE PLAN	

We would also like to add that on numerous occasions we contacted Matthew at WLC planning department requesting feedback on 2020.001-102 C as it had met all given requirements discussed with Matthew on the 15.04.2020

(Please see attached emails 'Appendix No 7 EMAILS WITH MATTHEW WATTSON 28.04.2020')

However no feedback was provided. Nor were we provided with a date by Matthew for the cut off for us to withdraw the application and seek assistance from councillors based on feedback. When we perused for feedback we were constantly delayed then Matthew just announced that the application had been refused. I feel this was unfair as it removed the option to withdraw and seek councillor support.



To all intending visiting the site the clients have removed their existing large conifer hedge at cost to allow visitors a clearer visual grasp of the size and layout of the site. (see below image of conifer hedge prior to removal)



The clients have also gone to the effort to peg out and string line the perimeter of the proposed house and encourage/openly invite all to come out & view the site.





As noted on all of the above there was a great level of dissatisfaction to how this was handled by WLC planning department and subsequently the clients sought the support of local councillors Damien Timson and Carl John.

Cllr Timson had various communications with both the planning authority and the Chief Executive of WLC stating his dissatisfaction and through his efforts Wendy McCorriston for WLC stated that if the house was reduced in size to line up with No.19 opposite and that the clients surrender 20m<sup>2</sup> of garden space along the boundary where the site meets the foot path they would grant planning permission. This however is unacceptable as it reduces the house from a 3 bedroom to a 2 bedroom which goes against the client's core aim of providing a 3 bed family home for their growing family.

Damien states in his letter (Appendix No.6)

*'Whilst planning has been granted subject to certain conditions, I believe these conditions to be draconian in their application.  
The development is for the purpose of the applicant improving their lives and having a home that meets the needs of their family, it is not a development with the purpose of making financial gain.  
To request that over 20msq of garden space be lost is not necessary and has little impact on the area just 'penalises' the applicants.'*

The fact that the opposite terraces are already staggered would suggest that our design is more in keeping with the current scheme and as stated in the new residential development guide what was offered by Mrs McCorriston goes straight against WLC own planning policy please see [APPENDIX 9](#)

### House design

To a very large extent, the house building industry in the UK is dependent on the use of standardised house types and new private sector housing has, for the most part, come to be regarded as a mass produced product.

While the economics of this are well understood, and it is acknowledged that standardisation has helped bring about improvements to consistency, reliability and build quality, there is always a danger that a *one size fits all* approach can end up delivering bland and characterless developments. It is therefore essential that the house types chosen are, at the very least, sympathetic to the locality of a given site, have full regard to their role in the making of streetscapes and the creation of places, (as well as taking account of other factors in [Designing Places](#) and [Designing Streets](#)) and are as varied and diverse as practicable.

Traditional houses are composed of simple forms, normally rectangular with the pitched roofs spanning the narrower plan dimension. The main problem with contemporary housing is that they are often composed of too many elements and are set to a uniform building line and spaced at too regular an interval.

I trust this reaches you well and look forward to hearing from you.

Kind regards

Alastair Hood

AFH Consulting & Engineering Ltd.





31 calder house road mid calder, please note - private garden area to side & 6ft fence hard up to footpath next to lay by



13 Torphican avenue, please note - private garden area to side & 6ft fence hard up to footpath next to lay by





15 Torphican avenue at junction Sandilands drive. please note - private garden area to side & 6ft fence hard up to footpath next to lay by



Property at entrance to Beech avenue midcalders, please note - private garden area to side & 6ft fence hard up to footpath next to lay by





Property far left of beech avenue, please note, private garden area to side & 6ft fence & hedge hard up to footpath next to lay by



Again please note - private garden area to side & 6ft fence & hedge hard up to footpath next to lay by



Property at sommers park midcalder, please note, private garden area to side & 6ft fence hard up to footpath.





Sommers park mid calder



54 calder house road mid calder

## FW: Planning application

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From: [REDACTED]  
[REDACTED]  
[REDACTED]

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Sent from my Samsung Galaxy smartphone.

----- Original message -----

From: Karen Macmillan [REDACTED]  
Date: 19/04/2020 21:33 (GMT+00:00)  
To: [REDACTED]  
Subject: Planning application

My name is Karen Macmillan.

I live at 11 Calderhouse Road, Mid Calder and I am a neighbour of Mr Euan Miller and Ms Michelle Gatensby of 3 Calderhouse Road, Mid Calder.

I have spoken with Euan and Michelle in relation to their proposed building of a new house. The new house will border my garage. I had expressed some concerns about access to the new driveway which would be in front of my garage. I have been assured that there would still be space for a car to be parked in front of my garage and still allow access to the new driveway.

With access and parking issues resolved, I am happy to support the planning application for a new house at 3 Calderhouse Road, Mid Calder.

Thank you

Karen Macmillan



FW: house application

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From: [REDACTED]  
[REDACTED]  
[REDACTED]

---

Sent from my Samsung Galaxy smartphone.

----- Original message -----

From: [REDACTED]  
Date: 21/05/2020 20:41 (GMT+00:00)  
To: [REDACTED]  
[REDACTED]

to whom this may concern

I fully support the application for the 3 bedroom house with office at number one calderhouse road midcalder. the reason being is that it would add to the street character and enhance it ,making the square feel complete.

currently this land is used for nothing and I feel I would greatly benefit a young and growing family.

it could also help local and other building trades in this economy difficult times.

it may also help with numbering issues in the street regarding mail etc.

there is currently no number one and the odd numbers start at number three

kind regards

Thomas curran

7 calderhouse [REDACTED] mid calder  
[REDACTED]

## FW: Building a new Property on the side of the Property 3 Calder House Road, Mid Calder

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From: [REDACTED]  
[REDACTED]  
[REDACTED]

---

Sent from my Samsung Galaxy smartphone.

----- Original message -----

From: [REDACTED]  
Date: 19/05/2020 20:48 [REDACTED]  
[REDACTED]

Subject: RE: Building a new Property on the side of the Property 3 Calder House Road, Mid Calder

Dear Euan Miller & Michelle Gatensby,

After seeing the plans we have no objections. Currently the land there is not being utilised and it seems to me like there was always meant to be a house there.  
The plans show that the property will enhance the neighbourhood.  
We're happy for this to go ahead.

Kind regards

Natasha & Gavin Brown

17 Calder House Road  
Mid Calder  
EH53 0JZ  
[REDACTED]



**16<sup>th</sup> July 2020**

**Dear Sir,**

**I am writing in support of a building application for the building of a family home at No1 Calderhouse Road.**

**This is a site that I know well and I recall that when this estate was being developed there was a No1 Calderhouse Road and it was the site sales office. When the development was complete No1 was demolished and removed leaving the first house to become No3. If it was OK to have a number 1 Then I do not follow planning departments logic in refusing a new No1 to replace. In your refusal letter you state that the proposed new build is not in keeping with the street but when I visited the street I noticed many extensions of various looks and styles. I believe that Education, Environment and Transport had no objections to the proposed build and it was only planning on Visual Amenity and spacial character that this was being rejected on . I observed that many extensions have left far less space between houses and I find it hard to believe that there is a visual style to which conform with. I viewed that one neighboring house No13 I believe has built on two extensions which to my untrained eye whilst not unattractive were not exactly true to a corporate style of the development. At this**

**time of recovery when West Lothian is about to be hit with massive redundancies this small project would provide some work for our local builders and other trades. I would urge planning to look again at Calderhouse Road and view the mix of styles and spacing and view positively the application by Mr and Mrs Miller for a family home.**

**Yours, Cllr. Carl John**



West Lothian Council  
Howden South Road  
Livingston  
EH54 6FF

23<sup>rd</sup> July 2020

No1 Calder House Road, Mid Calder

I write in support of the development of the above address as submitted to West Lothian Council.

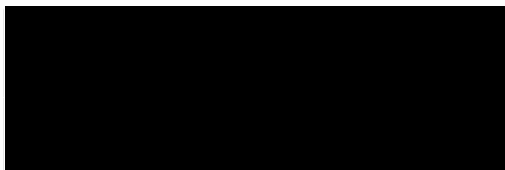
Whilst planning has been granted subject to certain conditions, I believe these conditions to be draconian in their application.

The development is for the purpose of the applicant improving their lives and having a home that meets the needs of their family, it is not a development with the purpose of making financial gain. To request that over 20msq of garden space be lost is not necessary and has little impact on the area just 'penalises' the applicants.

West Lothian Council Planning department have (on this occasion) not been ideal in their communications with the applicant and refused application without consulting first and allowing the applicant to withdraw and reassess the application.

Given the current economic factors due to the pandemic, planning applications should be more positively viewed to stimulate the economy of West Lothian and I trust this application can be viewed more sympathetically.

Yours,



Councillor Damian Timson

East Livingston & East Calder

## RE: 0117/FUL/20 - [OFFICIAL]

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From: Watson, Matthew  
(matthew.watson@westlothian.gov.uk)

To: 

Date: Tuesday, 28 April 2020, 15:36 BST

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Alastair,

I've been discussing the application with my line manager, Wendy McCorriston. A view from Head of Service, Craig McCorriston, was also sought.

The result of these discussions is that we will proceed to determine the application as a refusal. The main reasons behind the decision will be around the impact on the open character of the area and loss of informal open space, the footprint of the house being greater than other houses in the terrace and projecting further forward than the opposite terrace, as well as an adverse impact on spatial character.



The decision notice and report of handling will set out the reasoning in full.

A decision will be released shortly.

Kind regards,

Matthew

**From:** ALASTIER HOOD

[REDACTED]

**Sent:** 27 April 2020 17:07

**To:** Watson, Matthew

**Subject:** RE: 0117/FUL/20 - [OFFICIAL]

Matthew

I have relayed your previous reply onto the clients, they have requested me to ask you who the senior colleagues are you discussing this with?

If you can get back to me tomorrow that would be great.

Kind regards

Alastair Hood

[Sent from Yahoo Mail on Android](#)

On Fri, 24 Apr 2020 at 14:48, Watson, Matthew  
<Matthew.Watson@westlothian.gov.uk> wrote:

Alastair,

I'm discussing the application with senior colleagues and will get back to you shortly.

Kind regards,

Matthew

**From:** ALASTIER HOOD

[REDACTED]

**Sent:** 24 April 2020 14:00

**To:** Watson, Matthew

**Subject:** RE: 0117/FUL/20 - [OFFICIAL]

Matthew

I am contacting you for a update on behalf of the cliens, your last correspondence stated you were

reviewing the application and going to get back to me this week and I am now conscious that it is 2pm on Friday and still haven't heard from you.

Kind regards

Alastair Hood

[Sent from Yahoo Mail on Android](#)

On Mon, 20 Apr 2020 at 10:03,  
Watson, Matthew

<Matthew.Watson@westlothian.gov.uk  
> wrote:

Hello Alastair

The period for public comments on the application closed on 26 March. We aren't able to take any other comments beyond that date and the website won't let you in to post comments. I suspect this was the technical issue in question.

Kind regards

Matthew

---

**From:** ALASTIER HOOD

[REDACTED]

**Sent:** 20 April 2020 09:37

**To:** Watson, Matthew

**Subject:** Re: 0117/FUL/20 - [OFFICIAL]

Good morning Matthew

Please also find attached a letter of support from No.11 Calder house road, The client has advised that the neighbours reported a issue where they could not lobby their support online and has asked me to forward this to you in the mean time.

I trust this reaches you well.

Kind regards

Alastair Hood

On Friday, 17 April 2020, 15:29:26 BST,  
Watson, Matthew  
<matthew.watson@westlothian.gov.uk>  
wrote:

Alastair,



We are still considering the amendments and I will get back to you next week.

Thanks,

Matthew

---

**From:** ALASTIER HOOD

**Sent:** 15 April 2020 10:49

**To:** Watson, Matthew

**Subject:** Re: 0117/FUL/20 - [OFFICIAL]

Matthew thank you for confirming that.

Please find attached another version for your consideration. I am hoping this is a version you can support.

If you can let me know this would be appreciated, I will have access to my emails and phone all day.

Kind regards

Alastair Hood

On Wednesday, 15 April 2020, 09:57:57  
BST, Watson, Matthew  
<matthew.watson@westlothian.gov.uk>  
wrote:

Morning Alastair

If you withdraw and re-submit for the same development within 12 months of the date the previous application was submitted then there will be no fee.

Kind regards

Matthew

---

**From:** ALASTIER HOOD



**To:** Watson, Matthew

**Subject:** Re: 0117/FUL/20 - [OFFICIAL]

Matthew

Can you confirm if we were to withdraw the application that we could re apply within a 6 month period and would not be subject to the 401 ?

if you could advise on this it would be appreciated.

kind regards

Alastair Hood

On Tuesday, 14 April 2020, 17:09:37 BST,  
Watson, Matthew  
<matthew.watson@westlothian.gov.uk>  
wrote:

Alastair,

Further to our telephone conversation, if the application is withdrawn then there is no right of appeal. If the application is refused then you can appeal to the local review body within three months of the decision. The Scottish Government only consider appeals for committee decisions, advert consents, listed building consents, conservation area consents and major applications. Circular 4/2013 sets out the remit for Scottish Government appeals -

<https://www.gov.scot/publications/planning-series-circular-4-2013-planning-appeals/>

I am willing to extend the deadline for you/applicant to make a decision on how you want to proceed with the application until close of Thursday 16<sup>th</sup> April. If you want to amend the site plan to show hedging in place of the

fence fronting the footway then do so within that timescale.

Kind regards,

Matthew

---

**From:** ALASTIER HOOD

[REDACTED]

**Sent:** 14 April 2020 15:50

**To:** Watson, Matthew

**Subject:** Re: 0117/FUL/20 - [OFFICIAL]

Afternoon Matthew

Can you call me please?



Kind regards

Alastair Hood



On Tuesday, 14 April 2020, 14:56:32 BST,  
Watson, Matthew  
<matthew.watson@westlothian.gov.uk>  
wrote:

Alastair,

See attached for updated transport  
comments, which drop their objection to  
the proposal.

In terms of procedure for decision making,  
the application will be a delegated decision

by officers. You still have the opportunity to appeal any refusal of planning application to the local review body within three months of any refusal of planning permission. The local review body is a panel of up to nine councillors who will visit the site, consider any written submissions that you make in response to the decision on the application, as well as the content of the handling report that I will write. They will then arrive at a decision on the review. More information is contained in the following link -

<https://www.westlothian.gov.uk/article/33128/Decisions-Reviews-and-Appeals>

If you can still let me know by close of tomorrow, Wed 15<sup>th</sup> April, whether you wish to withdraw the application or proceed to a decision then that would be much appreciated.

Happy to answer any queries on the above.

Kind regards,

Matthew

---

**From:** Nicol, Chris  
**Sent:** 14 April 2020 10:00  
**To:** Watson, Matthew  
**Subject:** 0117/FUL/20 - [OFFICIAL]

**DATA LABEL: OFFICIAL**

Matthew

Transportation revised conditional approval

Regards

Chris

Engineer : Development Management &  
Transportation Planning

West Lothian Council

Operational Services

Roads & Transportation

WHSC

North Site

4 Inchmuir Road

Whitehill Industrial Estate

Bathgate

EH48 2EP

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## No.1 calder house road

From: ALASTIER HOOD [REDACTED]

To: damian.timson@westlothian.gov.uk

Date: Friday, 15 May 2020, 12:50 BST

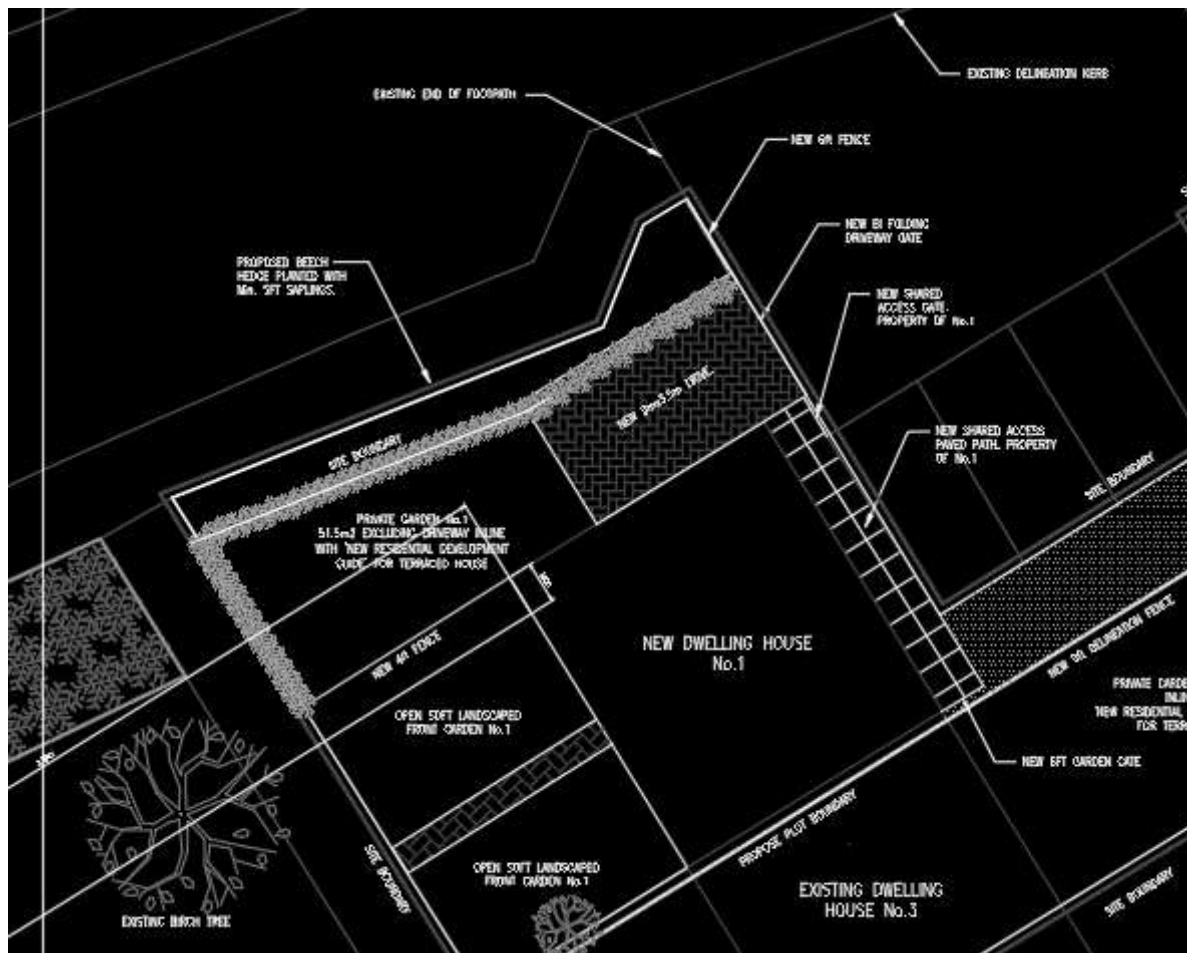
Dear Damien

Please find attached a list of bullet points from discussion with Wendy McCorriston WLC today 15.05.2020

1. The first crave from WLC is that the Hedge area running parallel with the foot path be brought inwards of the site by 1.2m thus surrendering an area of 19.5m<sup>2</sup> private garden.

I personally feel this is to no benefit to either party (Client or WLC) as it simply creates an area of unusable private or public space which will be the subject of a full time campaign of maintenance in removing street debris, will be a detriment to visual amenity as it is north facing and in constant shadow from proposed hedge so therefore will not bear a pleasant lawn more a strip of weed growth and moss (how this can be preference over a tidy well kept hedge line is lost on me) The proposal of the client surrendering an area of land that size also does not sit well with me and believe not to be in the best interest of the clients or any benefit to the visual amenity of street.

As seen below this is nothing short of ridiculous.



2. The have requested that the foot print of the house be decreased in length so its in line with the opposite end terrace No.19 calder house road. Although this may not seem to great a crave it does however reduce the proposed footprint by 1030mm which has a dramatic effect on the room layout of the proposed house and is something that is going to require full discussion with the clients. Personally and professionally my opinion is there is no stipulation or



literature stating that opposite dwellings have to line up symmetrically, in actual fact the guidance is the complete opposite so that you do not have streets that are clinical in appearance.

I hope this helps Damien, I will discuss with the clients and relay any further information.

Kind regards

Alastair Hood

## No.1 calder house road mid calder

---

From: ALASTIER HOOD [REDACTED]

To: damian.timson@westlothian.gov.uk; [REDACTED]

Date: Tuesday, 19 May 2020, 14:37 BST

---

Dear Damien, Carl, Euan

Please find attached a copy of the 'New residential development plan' published by WLC

I have set out bullet points below of craves made by Wendy McCorriston below:-

1. That the hedge be set back into clients garden by 1.2m
2. That the house footprint be reduced in size so it aligns with opposite property No.19 calder house road.
3. That the driveway be reverted back to the first proposal with it crossing the public parking bay. (please note this is not supported by transport and i will go into greater effect on this further in email)

I have stated that all the above are unacceptable to both client and myself which i will break down and explain in detail below.

1. Setting the hedge back by 1.2m is unacceptable as it takes away 20m<sup>2</sup> of usable garden space from the clients, it is not in keeping with other aspects of the site as there are far more examples of hedges and fences hard to boundary in street than there is not. The clearest example is directly beside the property where there is a area of 6ft security shrubs and 4ft picket fence hard to boundary on foot path entering courtyard/square directly on opposite side of foot path separating clients garden from the communal square, see below (many more examples are available on request but i am not wanting to over load the email with attachments, if further details/evidence is required contact me and i will follow up in separate email with immediate effect)



Please note that the client has the right to plant a hedge currently at the boundary with no permission being required by any authority so i feel that this crave is nothing more than absurd.

2. The reducing of the house footprint by 1030mm is also unacceptable, by doing it greatly has a detrimental effect of the layout of the house, vastly reducing room sizes (to a level a 3 bed house is not possible, especially to keep the forward facade in keeping with the surrounding properties ) For example the windows would no longer maintain the same sizing as existing, the spacial content and appearance of the the front facing facade which would appear consorted and out of place. I have attached some drawings for discussions clearly between ourselves to visually express this.

Wendy's request to have the properties (No.1 & No.19) inline at end gables goes directly against their own guidance in the 'New residential development guide' page 20 which clearly states that

## House design

To a very large extent, the house building industry in the UK is dependent on the use of standardised house types and new private sector housing has, for the most part, come to be regarded as a mass produced product.

While the economics of this are well understood, and it is acknowledged that standardisation has helped bring about improvements to consistency, reliability and build quality, there is always a danger that a *one size fits all* approach can end up delivering bland and characterless developments. It is therefore essential that the house types chosen are, at the very least, sympathetic to the locality of a given site, have full regard to their role in the making of streetscapes and the creation of places, (as well as taking account of other factors in *Designing Places* and *Designing Streets*) and are as varied and diverse as practicable.

Traditional houses are composed of simple forms, normally rectangular with the pitched roofs spanning the narrower plan dimension. The main problem with contemporary housing is that they are often composed of too many elements and are set to a uniform building line and spaced at too regular an interval.

I would also like to highlight that 'as existing' No.19 sits staggered to No.3 currently, so therefore having the proposed house 'No.1' sit slightly staggered to No.19 would be in keeping with previous design.

Also please note that in theory if the house was built as per Wendy's craves that the clients are within their rights to put a single storey extension on the gable end of property exceeding the limits we have proposed our two storey gable to end without even the need for planning permission under the 'guidance for permitted development rights Scotland' So as far as i am concerned the crave to have it reduced inline with No19 is nothing more than pedantic and deliberately designed to smother the clients proposals.

It is also a point stated on page 27 of the 'New residential development guide' that numbering in a street should be clear and concise, the fact that there is no No.1 in the street will be a source of confusion and by providing a No.1 will be advantageous to all residents as it removes the potential for postage errors and such like.

3. Addressing Wendy's crave that the parking space be reverted back to the scheme not supported by the WLC transport department I have already ironed this out with herself stating and she verbally confirmed that they will accept the proposal shown on drawing 2020.001-0102 rev. C as its supported by transport department and the best option. However i would like to highlight the fact she did originally request this even though she was well versed in the knowledge that transport had previously not supported the scheme and that we have conformation form Matthew Watson stating that there was no way round this previously, I find it odd that she would knowing the above suggest such a proposal. (please see Mattew Watsons first email attached)

Gentlemen I will be in contact with each of you before the day is out and if any one has any further queries you all know my phone is always on.

I trust this reaches you all well.





Kind regards

Alastair Hood



NewResidentialDevelopmentGuide-Oct20142.pdf  
2MB



-  2020.001-0102 rev. D.pdf  
276.8kB
-  2020.001-0200 rev. A.pdf  
46.3kB
-  2020.001-0201 rev. A.pdf  
937.3kB
-  Mattew Watsons first email.pdf  
69.4kB



supplementary planning guidance

## Residential development guide



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## Supplementary planning guidance

### NEW RESIDENTIAL DEVELOPMENT GUIDE

**Preface** by Councillor Cathy Muldoon, Executive Portfolio Holder for Development and Transport



West Lothian has enjoyed sustained growth over recent decades and new house building has significantly impacted on the character of the area, both physically and in terms of perception. Survey work undertaken by and for the council consistently suggests that West Lothian is widely regarded as a desirable place to live and work.

The recent downturn in house building activity, due principally to an adverse financial climate, is of concern, but West Lothian continues to offer tremendous opportunities and there is every reason to be optimistic and to anticipate a recovery when economic conditions become more benign.

Nevertheless, in order to sustain West Lothian's housing market status, there needs to be a concerted effort to continually drive up standards, embrace best practice and ensure that all new residential development is of the highest quality, based on sound urban design principles. The council is committed to offering the people of West Lothian a better quality of life by encouraging developers to create varied, vibrant and safe communities that people will want to live in.

The council is also tasked with addressing the global environmental challenges ahead. Planning has a pivotal role to play in ensuring that the development industry moves towards more sustainable forms of development by giving effect to the Scottish Government's Guidance on sustainable development and climate change ([Planning and Climate Change](#) and [Scottish Planning Policy](#)). It is uniquely placed to direct development to the most appropriate and efficient locations, particularly those with excellent walking, cycling and public transport accessibility, to encourage sustainable design and construction, help safeguard biodiversity, champion recycling/waste reduction and promote more energy efficient homes, thereby reducing CO<sub>2</sub> emissions. There is also a specific need to ensure that more affordable housing is provided that will better meet the needs of our communities.

Despite the challenging economic climate there is no justification for lowering the quality of developments. Whilst recognising the difficulties confronting the development industry, it is important to remember that the houses that we build today will survive well beyond the present economic downturn and we owe it to residents, both present and future, to meet their needs and demands. Thankfully, we are now firmly rooted into a culture where the question to be asked is whether a development *is good enough to approve* rather than whether it is *poor enough to refuse*.

Early clarity on standards and consistency in maintaining them will increase certainty and help to more accurately identify costs. Developer's costs are often more affected by changing requirements as a project proceeds than by upfront quality thresholds that may be demanding but are nevertheless known and accounted for. The intention, indeed the expectation, is that the standards set out here should act as incentives to investment rather than as burdens on resources.

The creation of better-designed, high quality, distinctive environments and sustainable communities is one of the Scottish Government's key ambitions, as evidenced by *Designing Places* (April 2008) and *Designing Streets* (March 2010), the two key national policy statements on design and place-making. These documents, as supplementary planning guidance, and the positions they espouse, are fully endorsed and supported by West Lothian Council.



Councillor Cathy Muldoon

## INTRODUCTION

Supplementary Planning Guidance (SPG) is produced by the council in order to explain how particular development plan policies should be applied in practice.

In this instance it is specifically related to medium to large scale residential developments, i.e. where more than 10 dwellings are proposed, or, in the case of applications for planning permission in principle, sites with a capacity for more than 10 dwellings, and is intended to support and amplify policies HOU 1, HOU 2, HOU 5, HOU 6, HOU 7, HOU 8, HOU 9, HOU 10, CDA 4 and CDA 6 of the adopted *West Lothian Local Plan 2009* and any comparable or equivalent policies in the *West Lothian Local Development Plan*.

Separate guidance, entitled [Single plot and small-scale infill residential development in urban areas](#), and relating to developments not exceeding 10 units, has previously been published (April 2008).

This SPG seeks to ensure a consistent application of policy and to provide a design framework for all who are involved in the provision of new residential development within West Lothian: it brings together all the elements that help contribute towards cohesive housing layout design.

Council officers and elected members will use this guidance when assessing and determining planning applications, as will local communities and others when being consulted on new residential development in their locality.



The SPG encourages high quality and innovative housing developments that are fit for purpose, visually attractive, well integrated into their surroundings, designed on environmental sustainability principles with excellent walking, cycling and public transport accessibility to facilities such as shops and schools, low in carbon emissions and offer a good standard of amenity to new and future occupants while at the same time protecting the amenity of existing residents.



Fundamental to the successful implementation of this guidance is the emphasis on a robust and integrated design process where all elements are considered as one, rather than in isolation, and, at the earliest possible stage in the design process.

Experience has shown that good design is not a quality that can be added to a scheme later by retro-fit amendments. It is only achieved by having a thorough understanding and appreciation of the development site in its wider context from the outset.

The benefits of good residential design are considerable: it improves socio-economic wellbeing and quality of life by reducing crime, improving public health, increasing property values, attracting investment to an area and improving civic pride and confidence. An increasing number of developers are also recognising that higher quality development can help to maximise returns on their investment. This document unashamedly promotes and champions high quality residential development.

Key objectives of the guide are:

- to reduce the amount of countryside, (and other *greenfield* land), being built on and give priority to new homes on previously developed *brownfield* sites;
- to create more homes and generally utilise land more efficiently and effectively, by optimizing densities where appropriate;
- to encourage development in areas of higher accessibility such as within public transport corridors;
- to achieve layouts where high accessibility and connectivity encourages sustainable travel such as walking, cycling and the use of public transport ahead of the car;
- to make places for living that are of high quality design and distinctiveness and respect and enhance local character;
- to create environments that are secure and enable residents to live without the fear of crime;
- to improve the quality and choice of housing with particular regard to size, household composition, tenure, price, and accessibility;
- to create attractive, people-friendly places that are easy to get to and move around in, focusing on the needs of pedestrians rather than cars;
- to protect and enhance biodiversity by providing habitats for flora and fauna to establish and thrive and to promote and incorporate the principles of sustainable development;
- to promote design and site planning principles that aim to increase energy efficiency in all new residential development; and
- to contribute to the delivery of the Central Scotland Green Network (CSGN), a strategic network of woodland and other habitats, active travel routes, greenspace links, watercourses and waterways, providing an enhanced setting for development and other land uses and improved opportunities for outdoor recreation and culture activity, embraced and bringing together many of the objectives detailed above.

While this SPG is not part of the adopted *West Lothian Local Plan*, it has, nevertheless, been the subject of a consultation process and a formal council resolution (it was adopted by the council on 9 October 2012. It has also been prepared in expectation of the *West Lothian Local Development Plan* superseding the *West Lothian Local Plan* at a future date and the guidance should therefore be regarded as a material planning consideration when the council, Scottish Government and Reporters assess and determine planning applications and appeals.

This guidance requires to be read in conjunction with the prevailing development plan, other policy documents, SPG, planning briefs and planning guidelines that identify site specific requirements. Of particular relevance will be technical advice provided by the Transportation Manager on road and access requirements.

A pre-application checklist, while not exhaustive, identifies key areas of research that should typically be completed before any design work commences. Details of the various contacts referred to are provided in Appendix 7 at the end of this document.

### PRE-APPLICATION CHECKLIST

ISSUE	RESEARCH REQUIRED
Planning background	<input type="checkbox"/> Identify relevant Development Plan allocations and policies
	<input type="checkbox"/> Identify other planning constraints (conservation areas, designed landscapes, listed buildings, tree preservation orders etc)
	<input type="checkbox"/> Identify relevant planning guidance affecting the site (e.g. planning briefs, SPG)
	<input type="checkbox"/> Identify any live planning permissions on the site or in the immediate vicinity
	<input type="checkbox"/> Undertake a search of the site's planning history
Geology, ground conditions and contaminated land	<input type="checkbox"/> Undertake a desktop study and follow through with intrusive investigations where necessary
	<input type="checkbox"/> Establish whether the site lies within a Coal Mining Development Referral Area
	<input type="checkbox"/> Contact and seek advice from the council's Building Standards team, Contaminated Land Officer and The Coal Authority
Aviation safeguarding	<input type="checkbox"/> Establish whether the site lies within the Aviation Safeguarding Zone for Edinburgh Airport.
	<input type="checkbox"/> Where development might impact on the operations of Edinburgh Airport, contact and seek detailed advice from Development Management and Edinburgh Airport Limited.
Pipeline safeguarding	<input type="checkbox"/> Establish whether the site lies within the hazardous installation consultation zones which have been designated around existing pipelines.
	<input type="checkbox"/> Contact and seek detailed advice from Development Management and the relevant pipeline operator to identify any pipeline or hazardous installation consultation zones.
Risk of flooding	<input type="checkbox"/> Check SEPA flood maps
	<input type="checkbox"/> Contact and seek advice from the council's Flood Risk Manager
	<input type="checkbox"/> Undertake flood risk assessment where necessary
Archaeology	<input type="checkbox"/> Undertake a desktop study
	<input type="checkbox"/> Contact and seek advice from Development Management and the West of Scotland Archaeology Service (WoSAS)
	<input type="checkbox"/> Where development might directly impact of sites of scheduled archaeology, advice should be sought from Historic Scotland's Scheduled Monument Consent Team

Sustainable / low carbon house building	<input type="checkbox"/>	Contact and seek advice from the Energy Saving Trust and the council's Climate Change Officer
Biodiversity	<input type="checkbox"/>	Undertake a site visit and prepare a desktop study
	<input type="checkbox"/>	Establish whether the site is designated as a Site of Special Scientific Interest (SSSI), Special Area of Conservation (SAC) or Special Protected Area (SPA)
	<input type="checkbox"/>	Identify any protected species of flora, fauna and wildlife that may be present.
	<input type="checkbox"/>	Contact and seek advice from the council's Development Management section and SNH local area officer
	<input type="checkbox"/>	Where appropriate, commission an arboricultural survey and biodiversity study
Landscape interest	<input type="checkbox"/>	Establish whether the site is subject to any landscape designations. Where appropriate, commission a landscape and visual impact assessment
Open space	<input type="checkbox"/>	Contact NETS and Land Services to consider open space criteria
Connectivity	<input type="checkbox"/>	Identify existing and potential walking, cycling and public transport access routes between the development site and community facilities
	<input type="checkbox"/>	Contact and seek advice from the council's Transportation Engineers /cycling officer and NETS and Land Services regarding the opportunities for providing on road and off road cycling facilities
Noise	<input type="checkbox"/>	Undertake a site visit and identify any noise generating sources which may present an impediment to development
	<input type="checkbox"/>	Contact and seek advice from Development Management and Environmental Health officers
	<input type="checkbox"/>	Where appropriate, commission a noise survey (having first agreed the terms and methodology with officers of the council)
Air quality	<input type="checkbox"/>	Undertake a site visit and identify any air polluting sources which may present an impediment to development
	<input type="checkbox"/>	Contact and seek advice from Environmental Health
	<input type="checkbox"/>	Establish whether there are any existing or proposed Air Quality Management Areas in the vicinity of the site which may in turn be affected by traffic associated with the development
Drainage and water supply	<input type="checkbox"/>	Contact Scottish Water and SEPA to establish availability of capacity/supply and to identify their adoptable standards and key requirements for SUDs
	<input type="checkbox"/>	Contact and seek advice from Development Management, Flood Risk Manager and Transportation Manager to identify their key requirements for SUDs
Utilities	<input type="checkbox"/>	Contact the main utility providers and identify works required to enable development and establish any hidden costs
Waste Management	<input type="checkbox"/>	Contact and seek advice from Waste Management to establish requirements for refuse and recycling facilities, particularly as to how they may affect street design
Education	<input type="checkbox"/>	Contact and seek advice from the council's Education Planning officer to establish availability of primary and secondary school capacity and identify relevant developer contributions
Public Transport	<input type="checkbox"/>	Establish where existing bus stops and shelters are located and confirm with the Public Transport service whether there are any improvements to existing facilities planned or required, including foot/cycle path connections to bus stops and secure cycle parking at main bus stops, to be provided by the developer
Transportation	<input type="checkbox"/>	Contact and seek advice from the council's Transportation Engineers about access constraints, specific development requirements, design standards, road drainage, materials, etc. Where appropriate, the method and scoping of transport assessments should be agreed

The council strongly encourages developers and their agents to have pre-application discussions with a planning officer as an early means of identifying relevant policies, issues to be addressed and information required to support an application for planning permission. This can provide a number of benefits to both the developer and council, including;

- greater confidence about the outcome of an application
- reduction in time delays caused by requests for design amendments and further information
- reduction in the overall application processing times
- improvement in the quality of information submitted to the council
- improvement in the design quality of applications
- reduction in the number of applications refused

Where appropriate, colleagues specialising in matters such as roads, flood risk, education, conservation, contaminated land, noise and air quality etc, can be introduced to developers or their advice sought. The council can also facilitate discussions with statutory consultees and other external organisations. Such discussions are of course without prejudice to the decision that might be taken by the council if and when an application is pursued.

In so far as larger developments are concerned, the council also encourages early and constructive dialogue between developers and the local community to establish their aspirations and capture their knowledge of the site - the objective being to ensure that new development contributes towards the qualities of a community. Effective public consultation can also help to test the design approach, and, where appropriate, test options. As a consequence of the *Town and Country Planning (Development*

*Management Procedure) (Scotland) Regulations 2008*, there is now a **statutory requirement** for developers to undertake pre-application consultation for some major residential developments and this is explained later in this document in Appendix 1.

To arrange an appointment with a Planning Officer, or to obtain further information and advice, please contact: **Planning Services, West Lothian Council, County Buildings, High Street, Linlithgow, EH49 7EZ** or telephone **01506 280000** and ask to speak to a Planning Officer for the area in which you propose to develop.





## CONTENT, CHARACTER AND IDENTITY

An often cited, and sometimes valid criticism of new residential developments has been their failure to satisfactorily respond to what is usually called the *context* of the site. Too many new developments are lacking in distinctiveness, and could, geographically, be just about anywhere.

In going forward, and certainly before drawing up proposals, applicants will be expected to have thoroughly researched the site in order to identify the factors that influence the type and form of development that may be appropriate to the location. The design process must above all be analysis based.

It will be important to demonstrate that a proper analysis of the site and its surroundings has been undertaken and that the context has been understood and given due regard, together with all of the other detailed considerations contained in the SPG.

Proposals for new development must satisfactorily:

- demonstrate an understanding of landscape setting, historical context and biodiversity;
- reinforce the distinctive character of local areas, reflect settlement patterns and contribute to a sense of place; and
- have an understanding of local building traditions and materials.

The following list, while not exhaustive, suggests some of the most important considerations that should be analysed and assessed;

- site location – e.g. urban infill, urban extension, village infill, village extension, isolated rural;
- topography;
- landscape;
- biodiversity;
- existing settlement pattern, including street patterns and widths;
- surrounding land uses, existing buildings and site features;
- established building heights and lines, scale and massing and relationship with buildings adjacent to the site;
- local building traditions, architectural detailing and materials;
- site drainage and potential flood risk;
- prominence/visibility and important views into, across and out of the site;
- orientation and microclimate – shelter, shadow, prevailing wind, time and path of the sun;
- trees/woodland on the site (and the potential need for an arboricultural survey)
- patterns of movement and uses; access to the site, linkages with the surrounding area, local facilities, public transport networks and established walking and cycling routes;
- existing settlement edge (if applicable);
- constraints such as archaeology, contamination, proximity to major transport corridors or noisy/polluting uses;

The challenge for developers is to create not just functional housing, that's the easy part, but places with their own distinctive character and identity that respect the local context. The design response to any site should be innovative and site-responsive, offering a choice of housing and providing good connections to support existing local facilities.

In the majority of cases, the existing context will provide clear indicators as to how any new development should be sited and designed.

However, it is recognised that in some locations the surrounding environment may have few distinctive qualities or character, or will have a poor layout or design of buildings. In these circumstances, developers may be given greater latitude to innovate and to create an imaginative and locally distinctive high quality development.



Developers will be encouraged to move away from utilising *identikit* layouts and from designing to a standard formula that takes little or no account of a site and its unique characteristics.

The over use of generic house types is especially problematic, although they need not in themselves necessarily inhibit the creation of a diverse and interesting built environment, provided they do not end up dictating the layout and form of a development, and the distribution of houses is not overly repetitive. In such circumstances, it is better if dwellings have a common design approach with small clusters of different design styles that help reduce the massing of a development and add visual interest.

While the council will not seek to impose unsubstantiated requirements to conform to particular building styles or taste, it will, quite reasonably, insist on applicants providing robust evidence as to how their proposals build upon and/or create local distinctiveness and acknowledge the vernacular context.

Planning Advice Note (PAN) 44, [Fitting new housing developments into the landscape](#), offers suggestions to help developers achieve residential developments that are in harmony with their landscape setting.

Planning Advice Note (PAN) 67, [Housing quality](#) is also a useful source of information and highlights the need for good design in the development of housing.

## DESIGN AND LAYOUT PRINCIPLES

For buildings and neighbourhoods to provide attractive, safe and accessible places, it is important that a design framework establishes the physical structure of new residential developments by arranging, positioning and linking buildings, open spaces, foot paths/cycle paths and structural landscaping in order to shape the character of the whole area as this requires consideration to be given to a number of key subject areas.

### Place

It is essential that an analysis of the surrounding area is undertaken to establish the prevailing character of an area. This requires an appreciation of the proportion of buildings to open spaces, the scale of any open spaces and street patterns. How existing streets are shaped by plot width and size, storey height, building height, rooflines and materials all contribute to the understanding of the context for new development.

Thoughtful and well designed streets can make a significant contribution to the quality of the built environment and they play a key role in the creation of sustainable, inclusive and mixed communities.

The design of developments should not be dominated by road geometry and engineering standards. The housing layout should be developed **in tandem** with an assessment of the area's character, together with proper regard to the functionality of roads and streets.

Features can be created, such as corner elements, landmarks and areas of different character, all of which help create distinctive and recognisable places.

For the most part, houses should front onto streets and public areas. Building frontages should create a positive relationship between the houses and the street to reinforce the character of the street as a public, social space, providing definition and enclosure.



## Movement

The success of new residential development depends on how well it is connected to existing areas, established routes and local facilities. Layouts should be simple and integrate into the surrounding area by working with the network of routes and its hierarchy and streets should provide a series of interesting, welcoming and people-friendly connections as opposed to dead ends. The most successful connections are deemed to be those that offer a distinct advantage over using the private car (particularly for shorter journeys) through their design and which often reflect key desire lines.

While short culs-de-sac with activity throughout the day can provide some natural surveillance against crime and a relatively safe place for children to play, layouts based on conventional culs-de-sac and loops without inter-connection will generally be discouraged as they have a tendency to encourage car use rather than walking or cycling and result in higher traffic volumes on feeder roads.

By contrast, layouts based on linked networks are more likely to encourage pedestrian movement and cycling. They provide a greater choice of route, more visual interest and generate higher levels of pedestrian activity.

## Density

Housing density should **always** relate to the character of the wider area and its accessibility.

However, in order to sustainably meet long term-housing needs, it is important that new developments are designed to make the best and most efficient use of the land available.

Typically, higher densities help to reduce land take and contribute to the viability of local services and public transport, and, as a general rule, the council will encourage higher density housing developments within and adjacent to town centres, adjacent to public transport facilities and along key transportation corridors where appropriate.

Delivering high density development must not, however, be at the expense of amenity and the quality of the environment, resulting in a reduction of space in and around dwellings and giving rise to what has come to be known as **town cramming**. Developments must always provide for adequate private and public amenity space, circulation and good pedestrian and cycle accessibility and connectivity to local facilities. And where the local context suggests a lower density response, then high density development is unlikely to be appropriate.

Uniform densities across a development are rarely successful and should generally be avoided, particularly within larger scale developments where a range of house types should be employed to encourage diversity. The appropriate density for a specific site will vary and will be assessed on merit, taking into account the character of the site, its size, adjacent densities and traffic and services considerations.

Appendix 6.1 of the adopted *West Lothian Local Plan 2009* does however identify notional capacities for the allocated housing sites. For new housing sites, excluding the mixed use sites within the Core Development Areas (CDAs), they have been categorised as either high density (45 units per hectare), medium density (30 units per hectare) or low density (15 units per hectare) depending on their location and site characteristics.



To sustain local services and public transport, minimise land take for new development and promote social inclusion, new housing developments within the CDAs are expected to provide a diversity of house types, tenures and densities, and within the mixed use areas listed in policies CDA 7 - CDA 9, net housing densities should average at least 25 residential units per hectare.

Density measures can be useful planning tools at the beginning of a project, and can be used for assessing outcomes at the end. However, there is often confusion about the various measures of density, what they describe, and how they should be used. It is, therefore, important that there should be clarity and agreement on the base land area calculation - i.e. what is included and what is excluded. For the purpose of calculating and indicating density, measurement should be based on the gross site area and **not** an approximation of what might otherwise be termed the *developable* area. Furthermore, measurements should be expressed in hectares.



### Tenure and housing mix

Developments are known to be more successful when they avoid large concentrations of housing of the same type. Furthermore, and particularly in the case of large developments, mixed tenure, containing private market housing, social housing, rented accommodation and shared ownership properties are desirable for the creation of balanced and sustainable communities and addressing the wider development plan objectives of the council.

Developers will ordinarily be required to provide a range of house sizes and types, which provide for the housing needs of a cross section of the population and facilitate a broad mixture of households of different ages and economic status. Developers should take account of the council's housing need assessment in determining the appropriate mix of housing.

Particular attention is drawn to the council's [policies on affordable housing](#), amplified in a separate SPG. The most current iteration of the guidance can be found on the council's website.



Scottish Planning Policy and Planning Advice Note (PAN) 2/2010, *Affordable housing and housing land audits* make the point that affordable housing ought to be, as far as possible, indistinguishable from the general mix of other houses on a site in terms of style and layout, ideally concentrated in small groups, and not, as sometimes happened in the past, consigned to the periphery of the development. These requirements are equally applicable to new house building initiatives undertaken by the council and other social housing providers.

Developments of all sizes should also consider opportunities for accommodating compatible non-residential uses of appropriate scale in accessible locations to serve existing and potential needs without increasing reliance on the car.

### Scale, height and massing

Scale it is not a precise measurement and determining the appropriate scale, heights and massing of new developments will depend upon the following:

- the location of the site;
- the physical characteristics and conditions of the site;
- the scale and proportion of the surroundings; and
- the relationship with adjoining buildings, the spaces around them, the topography, the general patterns of heights in the area, views and landmarks.

The massing, meaning the three-dimensional expression of the amount of development on a site, and height, should not overshadow, overlook and overwhelm any adjacent buildings and spaces. Particularly in larger developments, building heights should be varied in order to add visual interest and break up the overall mass of the development.

## Plot coverage

There are differing definitions of what plot coverage means in the development industry. For the purpose of this guidance it should be interpreted quite specifically as a measure of the proportional relationship between the built footprint of a house (including all integral and detached garages) and the area of the plot on which it stands. It is a useful tool to help control the bulk and mass of buildings, avoid town cramming and in establishing the characteristics of density and privacy.

In order to prevent sites being over-developed and to leave sufficient open space around a new dwelling for outdoor activity and for possible future extensions, the following plot ratio standards will apply to new residential developments:

- for detached and semi-detached dwellings, the proportion of plot area to building footprint should be 70:30
- for terraced houses the minimum proportion of plot area to building footprint should be 60:40

These figures should, however, be regarded as averages for the development site as a whole and some variation within a development is permissible in order to accommodate choice and achieve diversity.

## Design and access statements

Many of the foregoing considerations can be expressed through the preparation of a design and access statement, often a written document, but it can include drawings, annotated plans and photographs illustrating the various issues which the scheme has responded to.

Design and access statements help applicants to properly consider all relevant policies as well as the site's constraints and opportunities at the time of making a planning application. They can provide an effective and useful way to discuss a proposal throughout the design process, but more particularly when presented at the pre-application discussion stage of more complicated or challenging sites. This enables the council and other consultees to properly understand and give consideration to the particular proposals.

A statement should explain and justify in a structured way the design principles and concepts that have been applied to particular aspects of a proposal - these are the number of proposed residential units, layout, scale, landscaping and appearance of the development. And it should demonstrate that the proposal has been based and developed upon an understanding of the site in question, its local context and the constraints and opportunities that these provide. Where the development proposed is within or adjacent to a conservation area, the statement should demonstrate, with photographs, drawings and sketches, how the proposal relates to the particular character of the conservation area.

The access component of the statement relates to *access to the development* and should explain how the design ensures that all users will have equal and convenient access to it.

The approach used will be influenced by the scale, nature, complexity and potential sensitivity of the site and of the proposed development. What is important is that statements are concise and takes a proportionate approach, while effectively covering all of the design and access issues relative to the proposed development.

It should also be remembered that as they will be available alongside the application for planning permission for anyone to read, they should avoid jargon or overly technical language.

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 introduced a statutory requirement for a design and access statement to be submitted with certain types of planning application for national and major development and these criterion are explained in Appendix 1, entitled New planning application procedures.

The council believes that such statements could also be useful when processing planning applications for more modest residential development falling within the local category of development, and it may invite developers to submit a design and access statement. It is hoped that developers will engage in this process and recognise the benefits of doing so.

In preparing statements, applicants and their agents are encouraged to have regard to the advice contained in Planning Advice Note (PAN) 68, [Design Statements](#) or any future iteration of this guidance.



## DESIGN AND LAYOUT DETAILS



### House design

To a very large extent, the house building industry in the UK is dependent on the use of standardised house types and new private sector housing has, for the most part, come to be regarded as a mass produced product.

While the economics of this are well understood, and it is acknowledged that standardisation has helped bring about improvements to consistency, reliability and build quality, there is always a danger that a *one size fits all* approach can end up delivering bland and characterless developments. It is therefore essential that the house types chosen are, at the very least, sympathetic to the locality of a given site, have full regard to their role in the making of streetscapes and the creation of places, (as well as taking account of other factors in [Designing Places](#) and [Designing Streets](#)) and are as varied and diverse as practicable.

Traditional houses are composed of simple forms, normally rectangular with the pitched roofs spanning the narrower plan dimension. The main problem with contemporary housing is that they are often composed of too many elements and are set to a uniform building line and spaced at too regular an interval.

Developments that are inward looking and turn their back on their surroundings should, for the most part, also be avoided. As a general rule, dwelling frontages, windows and entrances should face and overlook streets and public space. In many cases, direct frontage access will be possible. Where it is not, single sided development may sometimes be necessary to achieve an attractive frontage.

*Setback* refers to the distance that a building is located from its boundaries to the street and to neighbouring properties. Building setbacks should respect the character of the local area and the setback of other buildings in the street.

The setback of a dwelling from the street can have a significant impact on the character of the street. Generally, setback should be smaller (0 - 2m) where a more urban, higher density, pedestrian friendly character is to be achieved. In lower density areas, building lines (and therefore setbacks) can be more variable.

The principal entry point of larger development sites (primarily those with more than 100 dwellings and built out by a single developer) should be made a distinctive feature in order to enhance its identity. This could embrace the public art requirements which are set out in SPG on the subject later in this document. Adambrae in Livingston is highlighted as a good case in point.



### Roads and streets

In 2010, the Scottish Government issued significant new policy guidance on street design entitled *Designing Streets*. It reinforces the link between roads engineering, planning and urban design and promotes the need to pursue a design-led approach to street design that takes into account site-specific requirements and moves away from a rigid application of standards.

It provides a framework for more collaborative working and significantly raises the importance of pre-application meetings and discussion between developers, their agents and officers of the council.

*Designing Streets* supports the Scottish Government's place-making agenda and is intended to sit alongside an earlier planning policy document *Designing Places*. In so far as it emphasises the importance of the connectivity and interrelationship of streets to other networks, for example the green network, it is also consistent with the [objectives of the Central Scotland Green Network](#) (CSGN) which the council fully subscribes to and champions.

*Designing Places* represents a fundamental change in emphasis, away from a system where the principal focus has previously been on the functions of streets as corridors for motor vehicles, and instead calls for them to be made places in their own right. While this creates opportunities for new and innovative layouts, it also presents challenges and the onus will be on developers to demonstrate the appropriateness of their proposals.

It is anticipated that the appraisal of new and novel street layouts by the council's transportation engineers is likely to be a detailed and, occasionally time consuming exercise. It would therefore be to the benefit of developers to initiate contact with planning and roads officers at the earliest possible opportunity, preferably before a layout has even been commissioned.

Residential streets must be designed as pedestrian friendly places, not just as a means of getting from one place to another by car or a place to park cars. That is, they should be designed as places for people, not places predominantly for cars. It is important that street design encourages social interaction and consideration should be given to the use of shared surfaces for vehicles and pedestrians.

The principles for achieving pedestrian friendly streets are:

- to start by thinking about the place rather than the car;
- designing streets so that pedestrians and cyclists feel safe;
- design to minimise clutter; and
- design for easy maintenance.



*Designing Streets* confers the highest priority on meeting the needs of pedestrians, cyclists and public transport users, so that growth in these modes of travel is encouraged in line with national and local sustainable transport policy. Developers should therefore be aiming to create compact, walkable neighbourhoods with routes that link up with modes of public transport to help reduce reliance on the car.

While a formal and prescriptive hierarchy of street typologies no longer forms part of the guidance, in so far as urban development spaces linked with buildings and supporting a range of uses is concerned, practical consideration of the likely users (and level of use) of each street and place must of course still be taken into account and the council will need to be convinced of the practicalities of layouts which are proposed.

The council's Transportation Manager will provide guidance on the local context within which the principles of *Designing Streets* can be applied in order to encourage more thought and consideration of the principles of place and movement in the design of new development.

## Materials

The long-term appearance of buildings and their impact on the character of the area is greatly influenced by the type of external materials used.

There should be a clear and defined rationale behind the selection and use of materials within a development and the council expects all developers to produce a materials palette.

The selection of materials for new developments should:

- generally respect and complement the range of materials prevalent in the surrounding area to ensure coherence, particularly on smaller developments or in sensitive locations; and
- be good quality and low maintenance for an attractive yet enduring appearance with the key considerations being durability, water run-off and the ability to withstand weathering.

Innovative use of materials, especially when associated with sustainability and energy efficiency, is encouraged. When selecting construction materials, preference should be given to:

- naturally renewable materials, for example timber and timber products certified by the Forestry Stewardship Council (FSC);
- reused materials such as locally available demolition materials available from local West Lothian bings for foundations, paths etc;
- materials with a high recycled content such as plastics; and
- locally produced and sourced materials (to minimise transport costs).





### Boundary treatments

The choice of boundary treatments must be appropriate and sympathetic to their function. For example they:

- help to define space;
- provide security;
- create a link between the buildings and landscape;
- provide a barrier between private and public uses; and
- influence the microclimate depending upon the type of treatment.

Attractive walls and railings at site entrances and within estates at key locations will be encouraged while long sections of unrelieved garden fencing in prominent locations should be avoided.

In developments with grass service strips, fencing or other physical boundary treatments should be avoided. Developers are required to make it clear in the title deeds that service strips are in the ownership of the property owners and that owners are responsible for their maintenance.

Rear gardens which face onto roads and footpaths are particularly conspicuous and should be afforded enhanced treatment, including the use of soft landscaping.

To add interest, colour and variety to a residential development, hedge planting may substitute for fencing. However fast growing conifers will not ordinarily be permitted. Instead, beech or hawthorn hedging forms good boundary screening.

## Community safety

Ensuring a safe and more secure environment is fundamental to creating successful residential developments and must be considered during the early stages of the design and planning process.



The following measures can make a significant contribution:

- there should be a clear definition of public, semi-public and private spaces by the inclusion of appropriate boundary, surfaces and entrance treatments;
- layouts should avoid the creation of *hiding places*;
- developments should contain a variety of house types, attracting a mixture of people with different life styles to help achieve continuous surveillance;
- dwellings should be grouped to allow mutual supervision;
- dwellings should be designed so that windows and doors face onto the street and create *active frontages* that allow overlooking to occur;
- there should be surveillance of parking areas and open spaces with dwellings fronting onto these areas;
- footpath links into developments should be designed to avoid excessive and unsupervised escape options and long sections of enclosed alleyways;
- footpaths running between the back of dwellings should be avoided;
- footpath routes should be direct, with pedestrians able to view the full length of the path on entry;
- lighting should have an even spread of illumination that avoids pools of light and shadow; and
- landscape schemes should be designed with community safety in mind and as a general rule, shrub planting adjacent to footpaths should not exceed 1m in height.

Further guidance is available in [Planning Advice Note \(PAN\) 77, Designing Safer Places](#).

It has been demonstrated that the opportunities for crime can be significantly reduced through good thoughtful design and West Lothian Council is pleased to support *Secured by Design* (SBD).

SBD is a police initiative that encourages the development industry to adopt a [series of crime prevention methods](#) that assist in reducing the opportunity for crime and the fear of crime.

It focuses on crime prevention being planned into developments at the design, layout and construction stage and promotes the use of security standards for a wide range of applications and products. Developers who gain SBD certification often benefit from a significant marketing advantage.

For more information and advice on how to build to SBD specifications and reducing crime through environmental design, developers and their agents are encouraged to contact the Architectural Liaison Officer (ALO) assigned to Lothian and Borders Police. ALOs can provide information on the local crime profile of an area so that appropriate crime prevention measures can be established. Practical measures and advice can also be given.

All planning applications for residential development should demonstrate how security and crime prevention measures have been considered.

### Miscellaneous provisions

It shall be the responsibility of developers to supply and install street name signs, grit storage bins, litter waste bins and dog fouling waste bins within all new residential developments, as and where deemed appropriate by the council. This will be secured by a condition of planning permission.

There are specific standards, specifications and positioning requirements for these items which must be adhered to, and prior to undertaking their procurement and installation, it is necessary that developers seek advice and agree their proposals with the particular council service area. The relevant contact details are:

- Street signage: 01506 776633
- Grit storage bins: 01506 776536
- Litter waste bins / dog fouling waste bins: 01506 776604



The council's powers to control development are set out in the various planning acts and their accompanying regulations. There are, however, a number of issues in the development of new housing that the council recognises that it has no control over but nevertheless wishes to encourage developers to consider. These are set out below.

- The maintenance of the fabric of a development is important in so far as it has direct consequences for amenity, physical appearance and indeed the value of properties. Flats pose particular issues with regard to ongoing maintenance and running costs, for example door entry systems, stair lighting and elevators. While there is currently no legal requirement for a factor to be appointed, the council considers it good practice for developers to do so and would wish to see evidence of this presented with the planning submission.

- Clear numbering and identifying flats and houses is good practice;
- The council encourages higher noise insulation standards than those set out in the Building Standards regulations to try and minimise future noise disturbance. (The council's environmental health services advises that tests should be done with materials that are bonded down and which cannot subsequently be removed).
- Utility meters should be discretely located to avoid being a dominant element on principal elevations;
- Substations should be located and designed with sensitivity to the visual and environmental amenity of their immediate surroundings;
- External pipework and cable runs at the front of the property should be avoided; and
- Communal satellite receivers and/or cable ducting should be provided in flatted developments where practicable.

### Green infrastructure



Green infrastructure is the component parts of a network of green spaces, new and existing, rural and urban, which supports the natural and ecological processes and which also contribute to the health and quality of life of sustainable communities.

While green infrastructure is mainly associated with strategic masterplanning, concerned with major cross boundary issues, it actually has a very practical relevance to much lower levels of planning, right down to the design of individual neighbourhoods and streets.

SPP indicates that linking greenspaces in and around settlements through green networks can deliver benefits for people and nature. By encouraging connectivity between habitats, green networks can improve the viability of species and the health and viability of previously isolated habitats and ecosystems, supporting adaptation to climate change. Wherever possible, planning authorities and developers should identify opportunities to create and enhance networks between open spaces and avoid fragmentation.



It is important that any existing green space is respected and that existing landscape features be incorporated and enhanced within new housing developments. The spaces around and between buildings and the wider green network are just as important to consider in the design process as the houses themselves.

Green space has the potential to enhance local landscape character, protect and enhance local biodiversity and offers opportunities for recreation and for accommodating sustainable urban drainage systems (SUDs).

Green infrastructure can also play a role in making streets pedestrian, cycle and vehicle-friendly. For example, street trees can be incorporated as a traffic calming measure which also help soften the street scene by creating visual interest, improving the microclimate and providing valuable wildlife habitats. Vegetation can be used to limit traffic speeds by limiting excessive forward visibility, whilst still maintaining appropriate driver sightlines.



When designing a new housing development, regardless of the scale, it is important that all of the participants think more laterally about how the many diverse elements of a scheme can best fit together so that the sum of the whole makes a greater environmental contribution than the sum of its parts. And opportunities for incorporating green infrastructure within a development that connects to the wider green infrastructure network beyond the site should be fully explored and considered. In practical terms, a *multi discipline* approach is encouraged where different aspects of a proposal can be pulled together.

Early consideration of green infrastructure allows developers to meet many of the statutory requirements within a development scheme whilst benefiting many other social, economic and environmental objectives. A network of well-designed and managed greenspaces and links can make a significant contribution to creating a distinctive identity and sense of place.

## The Central Scotland Green Network

The protection and development of green networks is increasingly seen as crucial to sustainable economic development and quality of life in Scotland. As a consequence, the Central Scotland Green Network (CSGN) is one of 14 national developments designated in the [National Planning Framework for Scotland 2](#) (NPF2) - published in June 2009 and carried over to [Draft National Planning Framework for Scotland 3](#) (NPF3) which was published in April 2013.

The aim of the CSGN initiative is to deliver nothing less than a step change in the quality of the environment, woodland cover and recreational opportunities across Central Scotland. It is also charged with helping to increase levels of economic activity and improve the health and wellbeing of the population.

Change is to be achieved through the establishment of strategic and local networks of *green* (and also *blue* spaces) in towns and cities with the wider countryside and the coast. These include parks, public spaces, gardens, woodlands, hedgerows, rivers, streams, ponds, wetlands and man-made structures such as canals and *sustainable urban drainage systems* and existing path and cycle networks.

It is envisaged that this network will address a range of natural heritage and environmental objectives which in turn support social and economic ones by improving the setting for development and investment, enhancing provision of outdoor recreation and a range of cultural activity and providing opportunities for new business.

To succeed, it requires public agencies and stakeholders to work together to align their policies, programmes and actions to restore and improve the rural and urban landscape throughout Central Scotland.

It is proposed that the CSGN is achieved, in part, through the delivery of well-designed development which protects and improves the local environment and which at the same time helps to secure key *green* or *blue* connections.

West Lothian Council has a statutory obligation to take account of the NPF, and, in any event, actively supports the CSGN. Therefore, when

processing planning applications for new residential development, it will seek to promote and secure contributions to and benefits from the national and local green networks where this is legitimate and considered appropriate to do so.



## Other layout considerations

The provision of useable and appropriate private and public amenity space is a necessary component of all residential proposals and this is discussed in more detail in a subsequent chapter of this document. However, as a general rule, open spaces must have a clearly defined identity and purpose and attention must be afforded as to how they are linked, particularly with regard to contributing to the wider aims of the CSGN.

A conscious effort must be made at the design stage to avoid what is sometimes referred to as SLOAP (space left over after planning). These are often irregular defined areas of open space which have no clearly defined purpose, are inaccessible, cannot be satisfactorily maintained and generally make little or no contributions to the overall development.

All layouts must incorporate the space and design requirements of the necessary sustainable urban drainage systems (SUDs) scheme and satisfactory on site provision must be made for refuse and recycling storage. These requirements need to be taken account of and embraced into the site layout and design of all new development from the outset.

Layouts should ordinarily be designed so that excessive re-grading is not required. Details of any site re-grading works (incorporating before and after contours) must be submitted at the time a planning application is made.



Within the larger developments and, particularly those within the CDA's, land should be identified and safeguarded to accommodate neighbourhood shops and local services for the new and expanded communities, ideally at an early juncture.

The dearth of genuinely local retail provision in some existing developments, or significant delays in its provisioning, is a recurring complaint when house buyer satisfaction surveys are analysed.

While recognising that there are invariably commercial considerations to take account of, the council is, nevertheless, keen to encourage developers to identify, safeguard and promote land that is capable of accommodating neighbourhood shops and/or local services, particularly in the CDAs and other larger development sites.

## AMENITY AND PRIVACY

Amenity and privacy are important *quality of life* factors and it is essential that when planning and designing new residential developments proper and sensitive consideration is given to maintaining access to natural light, outlook and privacy for the occupants of adjoining dwellings and the intended occupants of new dwellings.

### Daylight

New development should not cause an unacceptable loss of daylight to habitable rooms of existing neighbouring properties and all new dwellings must also receive an adequate amount of daylight. For the purpose of this guidance, habitable rooms are defined as a living room, bedroom and dining room. Non-habitable rooms include bathrooms, utility rooms, staircases, halls, landings, etc.

The orientation and position of windows and the location of gardens in relation to a proposed new development are especially important considerations and new dwellings must be designed with this in mind.

Technical calculations can be undertaken to determine whether daylighting to existing buildings will be adversely affected, and if there is any suggestion that new housing could cause excessive loss of light or overshadowing of neighbouring properties, applicants may be required to support their proposals. Specific assessment methods are set out in the Building Research Establishment Report *Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice* 2<sup>nd</sup> edition by P J Littlefair (2011), demonstrating both before and after circumstances in order to ensure acceptable interior and exterior conditions.



### Sunlight

New development should not cause an unacceptable loss of sunlight to neighbouring properties and their gardens and all new dwellings and their private gardens must also be adequately sunlit.

Proposals that would result in the loss of sunlight, leading to overshadowing for a significant part of the day, or which would have a visually intrusive impact, will also not be supported. It is an established planning principle that new development should not *borrow* amenity from adjacent land, and, as a general rule, the greater part of any overshadowing caused by a new building must be confined to the developers own land.

New dwellings should be constructed to take advantage of sunlight to provide a pleasant living environment and to maximise solar gain. This can be achieved by positioning main living areas, conservatories and rear gardens to generally face south or south-west where practicable.



It is, however, important to note that while housing layouts should be designed to maximise daylight and sunlight to dwellings, this should not be to the exclusion of other considerations such as privacy or the achievement of more intimate and attractive streetscapes. As in all things, it is a matter of achieving the right balance.

### Distances between buildings

Privacy in the home is a fundamental necessity for most people, particularly as far as the lounge, dining room, kitchen and principal bedrooms are concerned.

Although space in new housing developments is often at a premium, individual dwellings must be sited and designed in such a way that provides the maximum amount of privacy for the benefit of occupants, and, at the same time, avoids over-shadowing and minimises the physical dominance of new development over neighbouring dwellings.

It is therefore appropriate to prescribe minimum standards controlling the distance between buildings, and the following dimensions will apply for single and two storey buildings:

Front to front distances	Rear to rear distances	Rear to side distances	Front to side distances	Side to side distances
18m	18m	12m	15m	A minimum of 1m either side of the mutual boundary will be expected. If there is a minor window on a gable (serving a hall, stair or landing etc), a minimum of 4m between buildings should be provided.

Where the height of a building is greater than two storey, the separation distance between buildings may require to be increased to ensure that daylighting standards are met.

Where developments are affected by significant changes of level, developers may be required to submit details of existing and proposed ground and finished floor levels and to demonstrate that reasonable internal privacy can be satisfactorily achieved.

Notwithstanding the foregoing, the council recognises that adherence to minimum distances between buildings can discourage innovative design and reinforce the use of standard layouts. Consequently, the council will not ordinarily impose these standards on dwellings which face each other across an adopted residential street and it will be prepared to consider a relaxation of separation distances in circumstances where it is presented with innovative solutions that can be employed to maintain privacy including: varied floor levels; staggered facing windows; using louvers or opaque glazing; and high/low level and shaped windows. It does however reserve the right to rely on these standards should proposals prove otherwise unsatisfactory.

### Distances to boundaries

New buildings close to plot boundaries, particularly flats, can also be intrusive when seen from existing gardens or from within existing dwellings. The following minimum dimensions will therefore apply, measured from the nearest point of the rear elevation of the development to the nearest boundary:

Single and two storey	Three storey	Four storey	Five storey	Greater than five storey
9m	11m	13m	15m	Development above five storeys will be judged on its merits but the distance shall not ordinarily be less than 15m.

These dimensions may similarly be relaxed, but again, only where it can be satisfactorily demonstrated that residential and environmental amenity will not suffer for either the new or existing buildings. The council reserves the right to rely on these standards should proposals prove otherwise unsatisfactory.

In order to avoid town cramming and the terracing effect of dwellings being sited too close together, a minimum distance of 1m should ordinarily be provided between the dwelling and the boundary.



### Distances between windows

New dwellings must also be sensitively positioned to ensure that windows in principal elevations, above ground floor level, do not directly overlook neighbouring property.

In general, a minimum 18m privacy zone should be maintained between windows of habitable rooms that are directly opposite each other. However, the council encourages imaginative design solutions and in doing so may accept the need for a flexible approach to privacy distances between new dwellings within a development site where a satisfactory design solution has been employed to retain privacy and protect existing residents' amenity: If buildings are separated by a public road, the above standards may also be relaxed.

The council may also choose to apply the above standards more flexibly, depending on the context of the site e.g. in conservation areas where back-to-back distances are characteristically less than those detailed above. It does however reserve the right to rely on these standards should the proposals prove otherwise unsatisfactory.

Where windows are at an angle to each other, the minimum distance can be reduced in accordance with the following table:

		Angle (in degrees) at window of building to be erected not more than									
		90	80	70	60	50	40	30	20	10	0
Degree of angle at window of any other building not more than	90	18	18	18	18	13	9	6	4	3	2
	80	18	18	18	13	9	6	4	3	2	
	70	18	18	13	9	6	4	3	2		
	60	18	13	9	6	4	3	2			
	50	13	9	6	4	3	2				
	40	9	6	4	3	2					
	30	6	4	3	2						
	20	4	3	2							
	10	3	2								
	0	2									

- Note:**
1. Angle means the horizontal angle between:
    - the shortest line joining any part of one window opening to any of the other
    - the vertical pane of the opening window
  2. Distances shall be interpreted for intermediate angles;

### Internal floorspace

Internal space provision is routinely criticised by occupiers responding to consumer surveys of new housing developments and it has been shown that the UK has by far the smallest newly built dwellings and average room sizes in Western Europe.

Adequate space in and around new houses and flats is important and in order to protect the amenity and well-being of the occupants, each dwelling should be adequate for the family or household which is likely to occupy it. New housing is expected to be big enough to meet the needs of the occupants for living, cooking, dining, sleeping, washing and storage of household items with convenient access to adequate residential amenity space.

Developers are encouraged to provide more generously proportioned houses which will also allow them to be adapted to meet the changing needs of families over time and considerably extending their useful life and contribute to sustainability.

### Other amenity/privacy considerations

The council will seek to guide new residential development to the most appropriate locations where external/environmental noise should not be an issue, and this subject matter is specifically addressed in a later section (Noise).

However noise -(or unwanted sound as it is best defined) that can be transmitted between residential properties, particularly flats and semi-detached dwellings, is a well documented source of irritation and stress that can have a significant and detrimental effect on the quality of life enjoyed by people in their homes.

Party walls and floors must therefore be adequately sound insulated as part of the standard build specification to ensure acoustic separation between dwellings, and while the Scottish Building Standards identify minimum statutory requirements in this respect, the council encourages developers to consider adopting higher standards.

The design and internal layout of new houses and flats should also be conceived to minimize problems such as noise, fumes and vibration from adjacent roads and activities that can spoil the enjoyment and privacy of dwellings and their gardens.

### GARDENS AND PRIVATE OPEN SPACE

Gardens are an essential part of the amenities of any residential development and it is important that all detached, semi-detached and terraced houses are provided with an enclosed private garden.

Gardens should satisfactorily reflect the size and type of dwelling proposed, the size of plot and the general character of the area in which the development is located. They should be functional and capable of providing adequate private space, reasonably level (not having a gradient exceeding 25 degrees), not overlooked by others, suitable for sitting out, children's play, the drying of laundry, the storage of household refuse and also have some capacity for facilitating an extension of the property at a future date.

For the purpose of this guidance, usable private garden ground is defined as being land that is under the exclusive control of the applicant and within the curtilage of the dwelling. It should only include ground that has been adequately screened, usually to the rear and side of the property, and driveways and vehicle hard standings should be excluded from the calculation.

The council will not require developers to apply uniform standard garden sizes across an entire residential development since it is recognised that a degree of flexibility is necessary in order to facilitate varied and more interesting layouts. Nevertheless, the following guidelines are provided as indicators of average minimum standards and these will be used by the council when assessing the general appropriateness of garden provision within a development.

All houses with five and more bedrooms	not less than 100m <sup>2</sup>
Three and four bedroomed detached and semi-detached houses	not less than 80m <sup>2</sup>
Two bedroomed detached and semi-detached houses	not less than 60m <sup>2</sup>
Terraced houses	not less than 50m <sup>2</sup>



All of these figures exclude any garage area and assume a minimum rear depth of 9m. This should allow for a drying area and play/amenity space. Furthermore, proposals that arithmetically achieve the specified area of private garden ground, but only by aggregating an assortment of irregular pieces of land, i.e. narrow strips or verges to the side of the dwelling or ground which is significantly sloping, will not be deemed acceptable.

Dwellings specifically designed for single people or for the elderly may justify moderately less garden ground and will be considered as an exception on a case by case basis. Provision may also be relaxed in conservation areas and other situations where, for townscape reasons, less onerous requirements can be satisfactorily justified.

Proposals for sites that cannot provide adequate private garden space or would result in over intensive residential use will not be supported.



While occupiers of flatted developments generally do not seek or expect the same level of garden amenity space as house dwellers they should ideally still have access to amenity open space, particularly as there are often many families with young children living in flatted accommodation.

## OPEN SPACE

Open space is an essential component of any new residential development. Not only does it make a significant contribution to its physical character, establishing the setting of new homes and enhancing visual amenity, it can also help to introduce life and vibrancy into communities, provide opportunities for recreation and contribute to a sustainable natural environment. It must however be considered as part of the overall design and layout of a new development and most definitely **not as an afterthought**.

Provision of public realm/open space is considered to be an integral part of creating a good quality development environment, and the consequent land requirements or financial implications that this implies should be fully taken into account by developers when carrying out site appraisals. It is reasonable to expect that new developments will meet the open space needs generated by their development, with public open space

provided or paid for by the developer and this should be recognised as a development cost by the industry and reflected in the price paid for land.

It is the council's objective to encourage the provision and enhancement of open space through the planning system, recognising that there is a need to ensure there is adequate provision of open space for recreational and for amenity purpose to serve new residential developments and that those areas are properly managed and maintained.

National policy guidance on open space and recreational facilities is contained in SPP and Planning Advice Note (PAN) 65, [Planning and Open Space](#).

SPP supports on and off site provision, depending on the specific site circumstances. It expects open spaces to be well designed, built to a high standard, fit for purpose and capable of use regardless of peoples' age, gender or disabilities.

SPP also encourages planning authorities and developers to identify opportunities to create and enhance green networks between open spaces as an integral part of the overall development proposals and presents an opportunity to further the goals of the CSGN discussed earlier.

PAN 65 identifies a typology of open space and suggests different approaches to assessing future requirements depending on the type of open space. The adopted *West Lothian Local Plan* is consistent with this approach in so far as it acknowledges that open space provision will vary depending on local circumstances, including proximity of existing provision.

It is also important that proper arrangements are in place for the long term management of any proposed open space, landscaping and other common facilities.

Open space in new residential areas essentially comprises three elements:

- Gardens and private open space;
- Active open space (including informal play/recreational space, equipped play areas and sports pitches); and
- Passive open space (including amenity greenspace / landscaped areas providing visual or separating different buildings or land uses, green corridors and areas of undeveloped or previously developed land with residual natural habitats).

Garden provision has already been addressed. This section of the guide is dedicated to the remaining elements.

## Active open space

In Scotland, there is an absence of a nationally recognised set of standards for open space.

In common with many other local authorities, West Lothian Council adheres to a mechanism loosely based on *The Six Acre Standard*, a publication from the National Playing Field Association (now Fields in Trust) and latterly reissued under the new name *Planning and Design for Outdoor Sport and Play*. It is essentially a minimum provision for outdoor play space of 2.4 hectares (6 acres) per 1,000 people, and while it continues to be regarded as an



appropriate quantitative indicator, it does not address the equally important issues allied to the type and quality of provision.

Active open space requirements for new residential development have traditionally been predicated on the number of new houses to be built, and this alone has dictated the level of open space provision developers have been required to make on a particular site. However, it has been observed that adherence to this basic formulaic approach has often resulted in only low level local provision being achieved, typically an equipped play space for younger children. For the most part, it has failed to deliver quality

open spaces, such as game playing areas, places where people can simply get out of doors, relax, walk the dog and meet one another or public parks.

The main flaw identified with the previous approach is that it has not taken sufficient account of local circumstances and has not been designed to remedy deficiencies identified in a particular settlement or neighbourhood.

It is also recognised that residents are not, in the main, overly keen to have active open space, especially play space, located in close proximity to their homes (for fear of nuisance) and they often feel aggrieved that the facilities which have been provided are used or frequented by children from outwith the new development and who are (wrongly) considered not entitled to use them. On occasion this has resulted in conflict between residents and third parties.

Taking account of all these factors, the council has reconsidered what should be provided by developers in terms of active open space and how it should be paid for and maintained.

It has decided to adopt a significantly different approach, one which has been deliberately conceived to be more responsive to local needs and more holistic in nature. It is explicitly

aligned with the council's *Open Space Strategy*, a strategy that provides the framework for forward planning to cater for the needs of the population as a whole through a system of public parks, amenity open spaces and sports pitches / facilities.

The council has developed a detailed understanding of open space on a settlement by settlement basis, and this resource has been used to inform this new approach. It has enabled the council to identify areas where open spaces are in good supply, where they are needed and where the quality of the open spaces offered could be improved.

At its heart is the recognition that new residential development imposes greater pressure and burdens on whatever open space provision there may already be in the locality of the development site, in addition to generating its own requirement.

The new approach is, therefore, primarily designed to re-provide what is being diminished and to enhance, augment and make the most of existing open spaces and play facilities for the benefit of both new and established communities wherever this is possible.

For provision to be effective, it needs to be based on an appraisal of what is actually required in a geographical area and not just meeting an arbitrary threshold, as the previous strategy has done. There is an overwhelming need to see *the bigger picture* and to move away from providing random, disconnected facilities on a piecemeal basis.

With few exceptions, most of the towns and villages in West Lothian already have established areas of active open space and play facilities which serve these communities and it is recognised that they have the potential of also serving new residential developments within the identified catchment areas of the community.





Currently, however, these sites tend to be under-specified and may be unable to cope with the increased usage that new development would place on them without investment and refurbishment to bring them up to current standards.

There is now a realisation that it is not always necessary, or best, for open spaces to be provided within new developments. Some developments are too small and some areas are already well served by good quality open spaces. In these circumstances open space contributions could be best directed to established facilities and the wider Green Network which will come under greater use as a result of new residential development. The council would, therefore, rather see new development contributing to the improvement in quality of existing open space than the provision of new areas.

It makes more sense to invest in the sites and facilities which already exist rather than unnecessarily replicate them. Crucially, this also means that a more modest capital investment is ultimately required to realise the creation of the more difficult to achieve areas of open space, such as neighbourhood parks. By rationalising, consolidating and growing the provision of active open space in this manner there are significant efficiency and benefits to be had, and in the present challenging economic climate it behoves all parties to maximise benefits and minimise costs.

Importantly, it provides a new level of certainty for developers. It enables them to establish the likely contributions they will be required to make at an early stage in the development process, and by paying over a pre-determined sum of money they will derive benefit from being relieved of the inconvenience and expense of having to engage design professionals, procure play equipment from suppliers and secure insurance liability. Factoring and/or maintenance arrangements can also be significantly reduced. At the same time, the occupants of the new houses will have less burdens and responsibility for the facilities usually present within a new development.

From a practical point of view, it resolves the conflict of interests which can arise when trying to identify appropriate locations for play facilities that are sufficiently close to houses but not so close as to give rise to nuisance. This has been a particularly difficult issue for residents, developers and council officials alike as alluded to earlier.

It also means that developments can be laid out more efficiently as a consequence of not having to always accommodate active open space and play facilities on site and this holds out the prospect of being able to facilitate a modest increase in the number of dwellings, which in some instances could more than offset the required financial contributions.

For the council, this new approach is consistent with its declared vision of providing for high quality open spaces that contribute to the quality of life and quality of environment and which help to support economic prosperity, sustainable communities, and the delivery of Best Value for all and it goes a long way towards achieving the key aims of the *Open Space Strategy*. It also resonates with, and helps to secure, the outcomes of the CSGN.

Open space within new developments should not be viewed in complete isolation. Of just as much importance are the connections between open spaces as these can enhance the opportunities for biodiversity and access to the wider open space network. Where

possible, so called *green corridors* should be used to connect the open spaces and the countryside beyond.

There have always been costs associated with the provision of open space and play facilities and the development industry is accustomed to dealing with such matters when carrying out site appraisals and by reflecting development costs in the price paid for the land. It is suggested that these new arrangements are taken account of in much the same way.

### General provision

Developers will be required to address active open space as follows:

- There will be an initial presumption in favour of trying to satisfy active open space requirements (including play space) associated with a proposed residential development through the upgrading of any existing facilities in the immediate locality, i.e. *off site*. The council's *Open Space Strategy* will be used to identify where off-site open space provision is more appropriate and the areas where financial contributions towards off-site provision will be invested.



- This will, however, always be dependent on the site specific requirements of the proposal being able to be satisfactorily met in this manner, with particular regard to the distance and accessibility of the existing facilities which are to be upgraded and invested in. The council's *Open Space Strategy* assumes 0.5 km as being the maximum walking distance to play facilities and a local park and 1 km to a neighbourhood park. Where this is not practicable or desirable, the council reserves the right to require on site provision at a level to be determined on a case by case basis and in consultation with the NETs and Land Services Manager and will be intimated to developers at the earliest opportunity. Developers will, of course, have to make their own arrangements for maintenance and will thereafter be responsible for their assets.

- It is also envisaged that there may occasionally be instances where there are compelling reasons to satisfy open space provision on site. Such a scenario could arise, for example, when significant parts of a site are physically or uneconomically developable for housing but might otherwise satisfactorily function as open space. In these clearly defined circumstances the council may, on request, be prepared to waive the applicable standard financial contributions that would ordinarily have been payable, accepting a reduced payment of £800 per dwelling in situations where only off site play provision was to be provided for (this figure will be subject to periodic review).
- There may also be situations where it is desirable, perhaps for design associated reasons, to have some element of open space provided on site, but with the balance of provision being met by investment in off site facilities. In these circumstances, the standard financial contribution payable by developers would be proportionately reduced / discounted to recognise these arrangements.

- Except in areas where there is an identified surplus of active open space (deemed by the council to satisfy the requirements of a new development), or in Core Development Areas (CDAs) where other provisions apply, the default position is that developers of **all** new residential developments (comprising + 10 dwellings) are required to make a financial payment to the council in accordance with the tariff set out in the financial contributions table.
- For the avoidance of doubt, payments are required to be made in respect of **houses and flats**. Furthermore, payments will apply equally to social housing developments and residential developments undertaken by or on behalf of the council.

Woodlands and structural landscaping on the periphery or within housing sites has its own particular function and this will **not** be embraced by the aforementioned payments. Developers will continue to be required to make on site provision where appropriate and put in place an acceptable maintenance regime.

### Financial contributions

The tariff for developer contributions is applied on a pro-rata basis and is set out below. An explanation of how this figure has been calculated is provided in Appendix 4 to this document.

The tariff of £1,500 reflects prices in 2012 and will be updated in successive years by being linked to the Building Tender Price Index (using third quarter 2012 as the base date). Developers are advised to seek confirmation of the current tariff in force before embarking on projects.

SIZE OF DWELLING (house or flat)	PERCENTAGE OF THE FULL TARIFF	CONTRIBUTION
One bedroom	20%	£300
Two or three bedrooms	100%	£1,500
Four or more bed rooms	120%	£1,800

Payments will ordinarily be secured by a planning agreement, concluded between the council and the developer before the release of a planning permission. However, subject to discussion, the council may agree to a less formal arrangement for the collection of payments.

Circular 3/2012, published in December 2012, sets out circumstances where a planning agreement can be used and the required tests are; necessity/planning purpose/ relationship to proposed development/scale and kind and reasonableness. The council is satisfied that the use of a planning agreement, to secure a legitimate development cost, is appropriate and therefore justified in these circumstances.

The council may decide to accumulate payments in a dedicated account, effectively pooling contributions from a number of developments, and it is therefore possible that implementation of works may be deferred until such time as the necessary scale of funding has been secured to meet the costs of a comprehensive and worthwhile programme of works.

It will be at the discretion of the council how payments are to be used, and in particular, which existing facilities are to be invested in and over what period of time. These decisions will be arrived at in consultation with the NETs and Land Services Manager and will be determined after an analysis of current open space provision in the locality has been undertaken by the council.

In some circumstances, the council may choose to consult with local communities about where and how investment should be made but payments must, in any event, be meaningfully related and give some benefit to the development sites which are the source of funding the works.

If there are no appropriate open spaces within the minimum walking distances then the contributions will either be put towards: the creation of a new open space as close to the development site as is practicable; or improving the quality of open space as close to the development site as is practicable. Alternatively, where the new development is in an urban fringe location, investment may be directed towards landscape and access improvement opportunities which contribute towards the CSGN.

In the event that the council is not able to spend developer contributions appropriately within ten years of receiving them, developers will be entitled, on written request, to have them repaid, plus any accrued interest at the lowest bank rate.

### **Open space in the Core Development Areas**

The provision of active open space in relation to new residential development in the Core Development Areas (CDAs) located at Armadale, Livingston and Almond Valley and Winchburgh / East Broxburn require a different approach since there is, by and large, insufficient existing provision to build upon and augment.

Within the CDAs the opportunity exists, and the council will demand, that strategic open space be identified and provided for by developers at the outset through the master planning process. This plan will need to show how the various elements of open space are to be met (including details of phasing). The aim is to ensure adequate and coherent provision of open space for the site as a whole.

Thereafter, the responsibility for ongoing maintenance, whether it falls jointly to a consortium or separately to each builder, will require to be clearly established and secured by a legal agreement between the developer and the council.

In addition to conventional open space provision, new strategic residential developments within the CDAs may also be required to provide for indoor and outdoor sports facilities over and above the open space requirements already described. Such provision should in any event be in accordance with the approved strategies of the council, specifically the [West Lothian Sports and Recreation Facilities Strategy](#) and the [West Lothian Outdoor Facilities Strategy](#). All new or upgraded pitch and pavilion developments should also meet Sportscotland and the relevant sports governing body recommendations applicable at the time. The council will advise developers on a site by site basis of any specific requirements for indoor and outdoor sports facilities in the course of pre-application discussions.



## Passive open space

Without exception, passive open space, circulation space and landscaping must be an integral part of the detailed layout of **all** new residential developments. The land around and between buildings must be thoughtfully designed and laid out from the outset and always to the highest standard. It must not simply be an amalgam of *left over* spaces after the planning process has been concluded.

The extent of passive open space and landscaping will largely be dependent upon the size of the development and will be assessed on a site by site basis. It is however



important that there is sufficient provision to avoid developments being overly dominated by roads and buildings and any suggestion of *cramming* will be vigorously resisted.

Such spaces ideally lend themselves to being used for informal or passive recreation, for example walking, cycling, jogging, dog exercising and many other outdoor

activities, and they can take up minimal areas of land which often have no overt commercial value to developers.

They can also be linked together by *green corridors* which function as safe, convenient and alternative off-road access to shops, schools, places of employment and leisure facilities. They can encompass foot and cycle paths and at the same time provide habitats for wildlife, all of which contributes to biodiversity and the overall visual amenity of the development.

In order to make best use of passive open spaces and *green corridors*, it is important that residents and the local community are aware of their existence and this calls for the provision of strategically placed and appropriate signage.

The council will proactively encourage and support the development of a green network of connected open spaces, helping to integrate and connect new housing with other facilities, and with access routes to the wider countryside wherever practicable.

Where larger residential sites that are to be compartmentalised/phased and developed by either a consortium or single developer, applicants will be required to satisfy these standards within the context of the comprehensive masterplan for the development approved by the council and to comply with the terms of any agreement or condition.

### **Maintenance of incidental open space and landscaped areas**

It is important that binding and enduring arrangements for the maintenance of amenity and incidental open space and landscaped areas are secured in relation to all new residential developments.

A detailed plan showing private and common areas and a copy of the maintenance agreement should, ideally, be provided as part of the planning application submission, clearly setting out the responsibilities of the property owners and any factor or other parties involved. In any event, development will not be permitted to commence until maintenance arrangements have been approved by the council.

It should be appreciated that this is a particularly sensitive issue. It routinely provokes a disproportionately high level of response and complaint each time the council has surveyed homeowners as part of its Customer Excellence initiatives and it is therefore important that house purchasers (and their legal advisers) are made fully aware of the arrangements for the management and maintenance of common areas which have been put in place before a property is sold.

The Scottish Government (and the Office of Fair Trading) recently concluded that householders do not understand their rights and obligations, and do not have a clear understanding of the standards they can expect from a property manager. Developers can help by ensuring that this information is pro-actively communicated to prospective customers.

There are several mechanisms for providing for the long-term management and maintenance of open space and landscaped areas in new developments.

The council continues to offer developers (and formally constituted residents groups) an open space adoption service where aspects of the management and maintenance of communal open space are vested in the council on receipt of a commuted sum, currently equivalent to thirty times the annual maintenance costs plus compounded interest. Further information on adoption procedures is available from the council's NETs and Land Services.

Alternatively, common ownership by homeowners of open space (who may manage the areas directly or appoint a third party to do so) and transferring ownership to a third party such as a commercial land management company or environmental trust are legitimate options.

As indicated above, passing responsibility for areas of shelter belt and woodland to homeowners through feuing conditions is not acceptable. These areas must be transferred to the council or a competent organisation approved by the council.

The council will secure appropriate arrangements by planning conditions.

## LANDSCAPE DESIGN

Well designed and executed landscape areas help define the different function of spaces and routes throughout a development and are an integral component, essential to enhance it's overall appearance.

The retention of worthwhile existing features, particularly those that contribute to the natural biodiversity of an area, can help a new development to fit more comfortably with its surroundings and give it a more mature feel. The addition of new landscaping can also enhance the quality (and value) of the development.

A comprehensive landscaping scheme must be prepared for all new residential developments, unless otherwise agreed. Furthermore, landscape proposals must be conceived as an integral part of the initial design process and not as an afterthought or as a means of simply filling left over spaces.

A survey of the site should form the basis for the layout of the proposed development. Designers should make the most of the existing vegetation, forms of enclosure and views, and relate the development to the site by preserving trees and hedges which are worthy of retention and avoid the destruction of natural features and habitats.

Proposals should have particular regard to:

- **topography** - ground levels, slopes;
- **drainage** - ponds, ditches, wet areas; natural or artificial, and opportunities for integrating SUDs;
- **soil analysis** - clay, sand or loam; acid or calcareous;
- **vegetation** - the height, species, crown spread and condition of trees, shrubs and hedges on or adjacent to the site. These should be accurately plotted, including overhanging trees from adjacent sites;
- **weed eradication** – Section 14 of the Wildlife and Natural Environment (Scotland) Act 2011 clarifies responsibilities for the control of non native species such as Giant Hogweed and Japanese Knotweed.
- **wildlife interest/nature conservation** - the presence of any protected species ascertained and opportunities to create new wildlife habitats and promote biodiversity maximised;
- **boundary analysis** - walls and fences indicating materials and building styles
- **existing underground and overhead services** - public sewers, electricity, gas and water supply;
- **statutory and non statutory designations** - for example the Aviation Safeguarding Zone around Edinburgh Airport and how this may affect the choice of plant species and the inclusion of open water bodies;
- **site features** - including buildings, steps and paths (particularly public footpaths and other rights of way) observed and provided for;
- **views** - good and poor views within the site, views from the site outwards and from outside viewpoints such as from roads and properties into the site;
- **climatic conditions** - prevailing winds, sheltered, sunny or shaded areas; and the potential for using structural landscaping to modify the microclimate;

- **the Central Scotland Green Network (CSGN)** and how the particular site fits with the strategic vision of this initiative;
- **Scottish Government's guidance** entitled *Green Infrastructure: Design and Placemaking* which builds on *Designing Places* and *Designing Streets* and promotes a sustainable and environmentally friendly approach to land development, growth management and built infrastructure planning.

It is also important that adequate provision is made for landscape works in development budgets. All too often landscaping is regarded as an optional add-on and it is frequently the first casualty of cost cutting. This is not acceptable.

The council encourages the submission of landscape proposals as part of the initial planning application or shortly thereafter. In any event, conditions will ordinarily be imposed which will require landscape proposals to be implemented within a specific timescale and these conditions will be rigorously monitored and enforced.

Landscape proposals should be prepared by an experienced landscape specialist, preferably an accredited member of a recognised professional body. It is also recommended that their commission be extended to the supervision of the landscape works on site to ensure full compliance with the approved landscape plan. There is little point in producing a high quality scheme if it is not competently executed and maintained.

Landscape proposals should comply with BS 4428:1989 *Code of practice for general landscape operations* (excluding hard surfaces) or any future equivalent standard. Attention is also drawn to the guidance issued by the council with planning permissions in the form of *Landscape Specifications*.

## TREES

Trees play a crucial role in landscape design and contribute to the sustainability and the place-making of an urban development. They can give a unique sense of attractiveness and maturity to an area, provide a setting for new buildings, help define open spaces, create enclosure and enhance privacy between properties and other land uses.

Trees also play a role in absorbing CO<sub>2</sub>, thereby contributing to local air quality, and they help to reduce water run-off by absorbing significant quantities of rainwater through leaves and roots. They provide a cooling effect and shade in summer and deciduous trees contribute to the maintenance and intensification of biodiversity by providing a habitat for birds, bats, invertebrates and flora.





## Retention and protection of existing trees

The council has a statutory obligation to ensure that adequate provision is made for the protection of existing trees and the planting of new trees.

Trees which are in good condition and a feature of the site, the street scene or the surrounding landscape should, therefore, be retained unless there is a substantiated risk to public safety which cannot reasonably be reduced by judicious surgery or intervention.

Trees are sensitive living organisms that are easily damaged or destroyed and it is therefore essential for their wellbeing that they are protected throughout the construction phase and often beyond the completion of a development. Ground levels below the spread of the branches should not be altered and tree roots should not be cut. Protective fencing should be erected (and maintained in situ), and warning signs posted which prohibit vehicle parking and the stock piling of soil, fuel or building materials within the crown spread.



*This tree has suffered both root damage and compaction damage due to vehicle movements and storage of materials. This tree is unlikely to survive.*

Where trees are present on a development site, and/or on an adjacent site, and have the potential to be affected by the proposed development, developers will be required to survey these trees and to provide a detailed arboriculturist report and risk assessment.

The submission should include the following:

- a scaled plan showing the crown spread of all existing trees and hedges within or adjacent to the site. (They should be separately identified from proposed planting).
- a tree schedule listing all essential tree data, including genus, species, vigour, age, safe useful life expectancy, height, stem diameter, crown spread and status;
- a brief description and evaluation of the health and condition of the trees;
- a detailed risk assessment for all trees/woodlands (premised on the proposed development taking place);
- a statement confirming the amenity and conservation value and overall condition of trees or woodlands within and/or adjacent to the site.

Arboricultural reports should be prepared by a qualified arboriculturalist or forester familiar with current arboricultural practices.

All tree related works should comply with BS 3998:2010 *Tree Work - Recommendations* or any future equivalent standard.



### New planting

All but the smallest and most restricted of developments will be expected to incorporate proposals for the planting of new trees. Schemes should be designed for a hierarchy of different types of planting including avenue planting, boundary planting, open space planting and small garden trees, but should, ultimately, be appropriate to the scale and character of the specific development site.

While there may be a temptation to plant larger trees (in order to create a more instant effect) it is generally acknowledged that younger nursery stock actually transplant better and will often develop faster.

On the whole, there should be a predominance of British native or naturalized tree species for structure planting. Trees and planting along the site boundaries should also aim to provide all year coverage, incorporating a mixture of evergreen and deciduous species.

It is important that all new trees, shrubs and other plant material are from a reputable source, have a high quality specification, that good working practice for the storage and transportation of plants are observed and that heavy vehicles, materials and storage areas are kept off land to be planted.

To ensure that contractors conform to correct soil handling, and to avoid compaction, it is recommended that works accord with NBS (National Building Specification) Sections D20 and Q28 which specifically deal with soil handling. If the soil is very compact, subsoil ripping may be required as well as surface cultivation.

Drainage and ventilation details should be included for standard tree pits (and for all larger trees). This can include a ventilation/drainage pipe and/or an aggregate layer at the base.

The duration of after-care must be incorporated into all landscape schemes. After-care is essential until such time as the tree or trees can survive without protection, support, weed control or artificial irrigation.

Particular care should be taken where trees and buildings will be in close proximity to each other. And where shrinkable clay soil is prevalent, as it is in much of West Lothian, the choice and position of trees needs to be given even more detailed attention as it can lead to subsidence issues in drought conditions. In all cases it is prudent to consult a qualified expert so that appropriate provision can be made, but as a general guide, the following distances are indicative of likely minimum requirements:

Species	Distance from house
Oak	18m
Elm	19m
Hawthorn	12m
Ash	10m
Birch	4m
Maple	9m to 12m
Popular	20m
Willow	18m
Cyprus	2.5m
Horse Chestnut	15m
Beech	9m
Plane	10m

**NB:** These distances ONLY apply to shrinkable clay soil.

The ultimate height and spread and the effects of shading will, of course, influence the choice of species and location.

Where more substantive areas of structure planting are required, for example, on sites which are close to the edge of settlements, it should be noted that the minimum width of a new woodland shelter belt should be at least 20m in order to provide long term landscape value and a viable habitat. Climax species, field woodland and forest trees should be planted in the centre of shelterbelts with smaller trees and hedge shrubs defining the transition zone at the edge. Woodland planting also needs to be selectively thinned and managed as it matures and satisfactory arrangements for the longer term maintenance of trees, planting and other landscaped areas must, in all circumstances, be considered and costed from the outset. Where appropriate, planning conditions will be used to secure this.

When selecting the location for trees and shrubs, developers are reminded of the need to ensure that they do not conflict, or have the potential to conflict, with underground services, particularly sewers and sustainable urban drainage systems (SUDs). Detailed guidance on minimum planting distances can be found in the Scottish Water document *Sewers for Scotland 2*.



### CAR PARKING STANDARDS

An increasingly observed problem with residential developments is cars parked on verges, on pavements and on streets that are not designed to accommodate them. This gives rise to safety issues for both pedestrians and road users, impedes vehicular access for emergency vehicles and bin lorries and generally presents a cluttered and untidy streetscene.

Despite aspirations for more sustainable development and reduced car usage, the inescapable fact is that car ownership continues to increase and the problems identified above will prevail unless appropriate measures are taken when designing new developments to ensure that adequate parking provision is made for both residents and visitors. The goal is to generate parking levels that are high enough to meet the needs whilst low enough to make the most efficient use of development land and avoid the creation of car-dominated environments.

The council has responded to this problem by overhauling residential parking standards and new development should be in accordance with these, as appropriate.

Developers of major developments, particularly those with high accessibility to local facilities and rail services, are encouraged to consider the establishment of Car Clubs, in association with one of the national operators. This has the potential to significantly lower individual parking requirements, perhaps creating an opportunity for some additional houses, while almost certainly encouraging and giving rise to more healthy and carbon-reduced lifestyles.



Class 9 – houses				
Land use	Vehicle maximum		Disabled persons parking spaces minimum	Cycle minimum
	*Town centre	Elsewhere		
<b>General housing and housing associations</b>  Up to three bedrooms	At least one space per dwelling. In addition 40% of private houses should have a garage or space for one. Also a minimum of 30% visitor parking should be provided	One space per dwelling plus half a space provided communal	N/A	One per dwelling (where residents have access to a garden or garage no provision is necessary)
<b>General housing and housing associations</b>  Four or more bedrooms		Two spaces per dwelling plus half a space provided communal	N/A	N/A
<b>Flats, general housing and housing associations</b>  Up to three bedrooms	One space per dwelling plus 30% communal for new build. Existing buildings consideration for reduction based on available parking	One space per dwelling plus half a communal space.	N/A	One space per dwelling (where residents have access to a garden or garage no provision is necessary)
<b>Sheltered housing</b>	One space per warden plus one space per five units	One space per warden plus one space per three units	N/A	One space per dwelling (where residents have access to a garden or garage no provision is necessary)
<b>Special needs</b>	One space per warden plus 1.25 space per unit	One space per warden plus 1.25 space per unit	N/A	N/A
<b>Student accommodation</b>	One space per warden plus one space per five beds	One space per warden plus one space per five beds	N/A	One space per six staff / students
<b>Multiple occupancies</b>	0.5 space per bedroom	One space per bedroom	N/A	One space per dwelling (where residents have access to a garden or garage no provision is necessary)

\*Town centre – the parking standards shown shall be adhered to unless there are particular alternative public transport options allowing a reduced level to be considered.

## ACCOMMODATING CAR PARKING

The Scottish Government's general planning policy for car parking is set out in the Transport section of Scottish Planning Policy (SPP). This promotes a design-led approach to the provision of car parking spaces that are well integrated with a high-quality public realm.

The type and location of car parking can have a significant visual impact on the quality of a development. It must be part of an overall car parking strategy and developers will need to balance a number of requirements, including:

- avoiding domination of the *public realm* by cars;
- considering the proportion of allocated and non-allocated parking spaces;
- providing sufficient activity within the street;
- accommodating space for gardens; and
- ensuring an acceptable level of security for vehicles and properties.

There is no single best solution to providing car parking and it is anticipated that a range of different parking solutions, both on-street and off-street, will be employed within each development, depending on the context and character of a particular site and balancing the convenience and needs of residents with visual and environmental amenity considerations.

Parking within individual curtilages or on-plot, and usually in the form of driveways to the front of houses, is one of the most common solutions employed by developers. It is clearly liked by residents who, understandably, want to park their cars within sight and easy reach, but it is also one of the least flexible solutions as only the occupier can use the spaces and they remain an unused resource if the occupier does not own a car.

On-plot parking is least intrusive when integral garages are incorporated into L-shaped house types, where it is located to the side of a house in front of a garage or on a hardstanding behind the main building line where the car is largely hidden, or to the rear of the house as a *drive through* to a hardstanding within the rear garden. It is important, therefore, that not all front gardens are given over wholly to car parking and that these options/variations are considered as a matter of routine. Judicious tree planting and landscaping can of course also help ensure that parking does not overly dominate in these circumstances.

Off-street parking provides for a diverse range of layout options for shared parking to be employed and embraces off-street courtyards, rear courtyards and even basement and undercroft parking. However, regardless of what solution is adopted, it is important that parking is integrated within the overall development. It should also be conveniently located where it can be supervised in an area that is well lit and has good natural surveillance from the main elevations of nearby houses.

Shared parking areas should typically be small and comprise less than 10 parking spaces. If more spaces are necessary then they should be broken up with appropriate landscaping so that it is not an overly dominant feature of the development.

As a general rule, when designing parking for flats, it is necessary to ensure that there are adequate spaces for disabled people close to entrances. It is important to control parking to maintain adequate room for wheelchair users, pushchairs and people with mobility difficulties.

Whilst a key principle of designing car parking is to reduce the visual impact of cars, some judiciously located on-street parking can nevertheless make a positive contribution to a development when designed into a layout at the outset. Street based parking solutions tend to cater for different types of users at different times of the day. They are convenient for visitors, as they are usually located near front doors, they can bring activity to the street and can also have a traffic calming effect. They can be counted towards the overall provision required in new developments, both for residents and visitors, but cannot be allocated to individual properties. The downside is that on-street parking can be visually dominant if over used and therefore tends to work better when provided in small groups of not more than five spaces. Trees, planting, extended pavements and street furniture can be used to discourage indiscriminate on-street parking in a subtle yet effective way.

### ELECTRIC VEHICLE CHARGING POINTS

Technological advancement is prompting some of the leading car manufacturers to introduce electric vehicles to their ranges as an alternative to diesel and petrol engine vehicles and sales are predicted to grow rapidly with some estimates predicting it will reach two million by 2020. In addition to private cars, growth is also expected in electric scooters and bicycles.

Opportunities therefore exist at the early stages of planning new residential developments for developers to at least consider the potential for installing electrical charging points within garages or on the external elevations of homes to facilitate and encourage the uptake of electric vehicles. It is not however a requirement that developers install charging point sockets at this time, although some may choose to do so. Rather developers should consider incorporating the internal ducting that would enable the later installation of such a facility by an electrician or a qualified competent person with minimal disturbance to the fabric of the building.



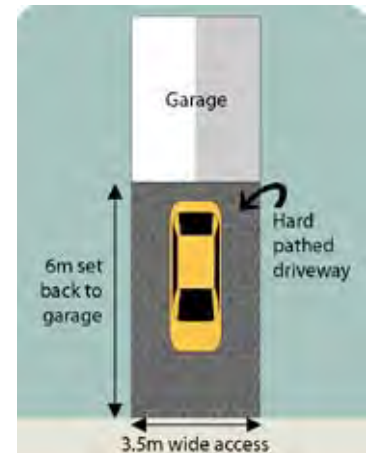
### GARAGES

In addition to their designed and intended function, it is widely recognised that garages are routinely used for the storage of garden equipment, bicycles and other household items. In some instances cars are permanently displaced and end up being parked on driveways or on the street, the consequence of which is visual clutter and attendant road safety implications. It is therefore sensible to anticipate and provide for this and developers are encouraged to build in some additional storage capacity.

## DRIVEWAYS

Driveways should be wide enough to allow for the opening of car doors and access to both sides of a parked car and also, on one side, allow for an accessible route to the dwelling. Single driveways should therefore be a minimum width of 3.5m, clear of any obstruction, and at least 6m in length.

Driveways should be surfaced in porous materials, or constructed in a manner which allows run off to a drain or soakaway. To avoid driveways being too steep and vehicles grounding, the maximum gradient for the first 2.5m of all driveways should not exceed 1:30. The maximum gradient for the remainder of all driveways should not exceed 1:12 if it also functions as an access path.



## BUS STOPS AND SHELTERS

While there has been significant investment in new rail infrastructure in West Lothian, and several new and refurbished stations have been opened, buses are still likely to be the most common form of public transport available to the residents of new developments and it is therefore important that the experience of using them is made as attractive as possible, particularly if it is going to succeed in encouraging people to reduce their reliance on the private car.



In practical terms, developers may be required by planning conditions to specifically provide for bus stops and bus shelters to meet the needs of prospective residents, and it is important that this is taken account of and integrated into the design of streets at an early stage.

Where bus stops are required (or re-located) within a development, they should be:

- sited to maximise their walking catchments
- located at natural focal points;
- spaced at around 300m to 400m apart, taking account of density; and
- located away from the immediate frontages of residential properties.

All bus stops should be provided with some form of shelter, which is thoughtfully designed and located to afford protection from the elements and incorporates lighting and some seating. The design must address and be sympathetic to the needs of the disabled, elderly and young children and developers are encouraged to consult with, and seek advice from, the council's Public Transport service and Disability West Lothian. Contact details are at the end of this document.

## CYCLING AND WALKING

Cycling is a particularly sustainable form of transport. It fits perfectly with a range of national, regional and local policies on transport, health, the environment and CO<sub>2</sub> reduction. Accommodating cycling needn't be onerous or always mean having to provide cycle-specific infrastructure. What is key is that designers need to employ the correct mindset, one which is much bolder than previous approaches, in order to achieve a genuinely cycle/pedestrian-friendly environment.

The quality of the streetscape has an immediate impact on people's desire to cycle and walk and new residential development must, therefore, provide an attractive, safe and secure cycling and walking environment.

Within new residential developments priority for cyclists and pedestrians should be the norm, this being made obvious to drivers from the design and any necessary signage. Careful consideration should be given to the choice of materials and to detailed design, so as to provide the best possible connections for cycling and walking.

It is particularly important to be aware of and to understand cyclist and pedestrian desire lines, taking into account the location of the site, the pattern of existing infrastructure and the location of important destinations such as shops, schools, rail stations, bus routes, leisure facilities etc.

It is essential that connections are provided to such facilities and it is equally important that they are direct and convenient, as well as safe and welcoming. Cycling and pedestrian routes may often be located along residential roads (also providing natural surveillance) where these are direct, but with path links to provide direct access to facilities where motorised traffic takes a more circuitous route. Where road crossings are required, toucan and/or pedestrian only crossings may have to be provided, as appropriate to the location, with consideration given to cyclist/pedestrian priority at such crossings.

Consideration should also be given to the likely routes away from a development, particularly where this can create opportunities to enhance the green network. Encouraging residents to use the green network for short journeys rather than using cars, helps reduce emissions and promotes more healthier and active lifestyles. Footpath and cycle networks, and greened transport corridors can make a significant contribution towards delivering the CSGN.

*Designing Streets* and *Designing Places* are the key design policy statements for Scotland. *Designing Streets*, in particular, acknowledges that walking and cycling are important modes of travel, and although somewhat neglected in the past, must be given primacy when designing new residential development.



## CYCLE STORAGE AND CYCLE PARKING

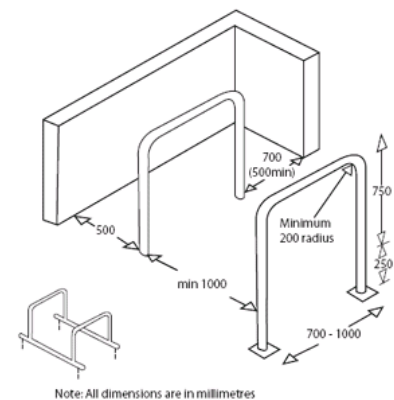
Providing safe and convenient cycle storage space, particularly for flats, is important. Small halls and flats up stairs cause real problems for those wishing to cycle and deter those who might otherwise use a bicycle as a means of transport.

New residential developments should therefore provide either a space inside a block of flats to secure bikes or provide separate cycle stores elsewhere within the development. When provided separately, cycle storage should be located close to building entrances to enhance convenience and security for users and be covered, secure and well lit.

Short-term cycle parking, particularly for visitors, is also important when planning new developments and appropriate provision should be made which should similarly be secure and enclosed.

Where bike storage is being provided (whether within or outwith the residential building, it is important that developers put in place adequate management arrangements to ensure security and the ongoing maintenance of the facility.

*Cycle by Design* is published by Transport Scotland for use by practitioners throughout Scotland and provides useful and detailed guidance.



The *Sheffield Stand* provides good support to the cycle and allows the cyclist to secure both the frame and wheels without risk of damage.

## PUBLIC RIGHTS OF WAY

In almost all situations, public rights of way must be incorporated into new housing developments. Where this is not feasible, permission for any diversion shall be sought from the council with the diversion following, as close as possible, the line of the existing right of way. All related costs associated with diversion and re-establishment (physical, administrative and legal) will require to be borne by the developer.

New development should also have regard to the council's *Core Paths Plan*. This is an important document for anyone involved in access issues as it outlines the importance of access, its protection, management and the potential improvement to urban and rural paths across the district.

## TRANSPORT ASSESSMENTS (TA)

Applications which are expected to have a significant transport impact must be accompanied by a Transport Assessment. In the majority of cases this will be largely dependant upon the scale of the impact of the proposals and is therefore more likely to be required for larger developments. Nevertheless, the need for a Transport Assessment and it's scoping should be agreed with the council's Transportation Manager as part of the pre-application process. Issues relative to public transport, pedestrian movement, cycling and private vehicles should be addressed by a TA and should take full cognisance of the transport related element of this guide.

## QUALITY AUDITS (QA)

*Designing Streets* seeks to promote innovative design solutions and encourages developers to *think out of the box*. As a consequence, many tried and tested road engineering standards which have been applied in the past, and which are proven to work from a technical / safety standpoint, may increasingly become redundant as new proposals are brought forward.

While the council is always open and receptive to new solutions, it does nevertheless have a responsibility to ensure that they are both functional and safe, and to this end *Designing Streets* introduces the process of a Quality Audit.

A Quality Audit draws together assessments by various professionals and by grouping the assessments together, any potential compromises in the design should become evident.

Where required, a Quality Audit must be integral to the design and implementation of a development. A typical audit may include some of the following assessments but the content will invariably depend on the type of scheme and the objective which the scheme is seeking to meet:

- an audit of visual quality;
- a review of how the street will be used by the community;
- a road safety audit;
- an inclusive access audit;
- a walking audit; and
- a cycling audit.

It is therefore important that Quality Audits are scoped and agreed with the council's Transport Manager and Development Management Manager as part of the pre-application discussion process.

## ROAD SAFETY AUDITS (RSA)

The purpose of the RSA is to identify potential road safety problems. Road Safety Audits can be a key component within an overall Quality Audit but may also be required as a stand alone submission.

The Transportation Manager will advise developers on a case by case basis whether a particular proposal will require to be supported by a RSA and, as always, pre-application discussion is encouraged.

## ROAD CONSTRUCTION CONSENT (RCC)

At the time of publication the *Roads (Scotland) Act 1984* is the primary legislation for new roads, and all new roads must receive RCC under Section 21 of that act prior to construction.

*Designing Streets* promotes an integrated approach to approval, involving collaboration between planning officers and road engineers. Ideally, discussions should take place as early as possible - even before a layout is worked up or a planning application submitted.

## TRAVEL PLANNING

The council is committed to the active promotion of sustainable development and transport is a key factor affecting sustainability.

Travel planning can help to mitigate the adverse effects of less sustainable travel through the promotion of better use of the most sustainable modes of transport and the council has identified a requirement for developers of 10 or more dwellings to contribute to the funding of a Travel Co-ordinator (TC).

The role of the TC is to consider travel plans and sustainable travel issues in transport assessments (or transport statements) submitted in support of planning applications. At the time of publication, the requirement for contributions to fund a travel plan co-ordinator has been temporarily suspended until January 2014 and developers will therefore need to establish the position after this date. The need for developers to submit travel plans to support their applications will however remain and the council will continue to explore with developers innovative ways in which a travel co-ordination service should be delivered, which could involve developers carrying out their own monitoring and submitting the results to the council.

Residential developers are also required to produce a *Sustainable Travel Information Pack* (IP) to be provided in each new home. The contents of the pack will be site specific and should be integrated with wider information on local amenities and services. The pack is to be produced by the developer and will require council approval as part of planning consent. The council will specify the requirements for the contents of the pack on a case-by-case basis, but generally, it should include information on the location of local services and amenities and provide information of the options for travel to and from the development. The TC will work closely with developers to provide advice on the content of the IP. Developers will be required to regularly monitor and revise the IP.

In December 2007, the council approved SPG on *Travel plans, residential travel plan information packs and travel plan co-ordinators*. This provides details of the prevailing contribution rates and can be requested from the council.

## TECHNICAL GUIDANCE FOR STREETS

As previously indicated, detailed technical advice relative to the design and construction of roads for adoption will be provided by the Transport Manager.

## BIODIVERSITY

Biodiversity can be defined as the variety of life in an identified area and development can put pressure on the natural environment both directly and indirectly.

Conserving biodiversity is not just about protecting rare species and designated nature conservation sites, although these are important. It also encompasses the more common and widespread species and habitats. Biodiversity interest is also not confined to just rural areas - biodiversity is equally important in an urban location and on brownfield sites.



The council is committed to conserving and enhancing the biodiversity of West Lothian and existing features of ecological interest should always be retained within a development site and incorporated into open space networks or corridors which can serve a number of functions, such as wildlife corridors and refuges; surface water discharge; shelter belts and for noise and pollution absorption. This will contribute to biodiversity, whilst providing local features of visual interest and will simultaneously advance the aims of the CSGN.

The council has a statutory duty under the *Nature Conservation (Scotland) Act 2004* and the *Wildlife and Natural Environment (Scotland) Act 2011* to protect and conserve biodiversity and the *West Lothian Local Biodiversity Action Plan* (2005) identifies particular habitats and species of significance to the local area. Any new development must therefore ensure that any adverse impact on wildlife and habitat resources is minimised.

Developers will be required to assess the biodiversity status of sites by undertaking an ecological survey, and the outcomes, which can sometimes have a profound effect on developability and the development programme, should be used to influence the design of the residential development in order to conserve, enhance and create further opportunities for biodiversity.

It is important that surveys are carried out at the right time of year when species are more likely to be present on the site and the results should be submitted with the planning application. This requires a significant degree of forward planning and early consultation is therefore encouraged to try and avoid delays. Developers may also be required to liaise with Scottish Natural Heritage (SNH) local area officer or specialist advisors regarding these matters.

Applications for planning permission that are submitted without the required supporting ecological information are unlikely to be approved as there would be insufficient information to determine the impact of the proposed development.

It is also important to consider any indirect effects on nearby sites since development can have unforeseen consequences, particularly on drainage.

When giving consideration to the biodiversity of a site, the following general points should be taken into account:

- use specialist input from ecologists, landscape architects, arborists and other appropriately qualified persons;
- ensure that features with established ecological or landscape value are protected throughout site clearance and during the construction phases of development;
- compensate for any loss of biodiversity elsewhere on site or, in some instances, off site if necessary;
- design in new features to enhance biodiversity, for example by using native trees or developing the ecological value of sustainable urban drainage features; and
- put in place mechanisms for positive and sustainable management and aftercare of landscape and ecological resources.

There are many ways developers can achieve gains for biodiversity and the *subject policies* relative to Landscape and Natural Heritage and Protected Species in SPP sets out the methods in which biodiversity can be conserved or enhanced through the planning process.

Detailed guidance is also available from the council in a separate document entitled [Planning for biodiversity action in West Lothian](#).

## **PROTECTING EXISTING WILDLIFE AND NATURAL HABITATS**

The enhancement of water courses, rivers, lochs and wetlands habitats and the promotion of natural flood risk management should be an integral part of development proposals. Moving all water bodies towards good ecological status will help protect the wildlife and natural habitats associated with these areas.

As West Lothian is part of the CSGN, opportunities to contribute to this should be seen as a priority, particularly for large scale developments. Green networks provide opportunities for physical activity and access to the outdoors and increase accessibility within settlements and to the surrounding countryside. The goal should be to link greenspaces, watercourses and waterways in order to provide an enhanced setting for development.

Everyday contact with the natural environment makes an important contribution to quality of life and retaining and creating wildlife features can result in a more attractive and desirable development. They can also benefit the development as they provide interest and help to assimilate into its surroundings.



There is a significant amount of legislation protecting wildlife and the natural environment and it is the responsibility of developers to undertake the necessary surveys and investigations before any works commence and to ensure they do not contravene the law.

The key legislation is, the *Wildlife & Countryside Act 1981*, the *Nature Conservation (Scotland) Act 2004*, the *Protection of Badgers Act 1992*, the *Protection of Wild Mammals (Scotland) Act 2002* and the *Wildlife and Natural Environment (Scotland) Act 2011*. There are also species protected under the *European Habitats Directive*, such as bats, otters and great crested newts.

A summary of the law relating to this subject is set out in the leaflet [Scotland's wildlife: the law and you](#). It has been produced by Scottish Nature Heritage (SNH) which is particularly well placed to advise on all matters of this nature and the relevant contact details are provided at the end of this document.

It is important to be aware that it is a criminal offence to damage or destroy a breeding site or a resting place of a protected species, punishable by a fine and even imprisonment. If developers are unsure about what protected animal or plant species may be present on or adjacent to a particular site, discussions should be held with the SNH area officer and the council at an early stage so that issues and potential solutions can be discussed.

The following general principles should be applied to the protection of wildlife and natural habitats and natural drainage patterns;

- existing features of wildlife value should be retained and enhanced wherever possible;
- development should avoid adverse impacts on protected nature conservation sites such as Sites of Special Scientific Interest (SSSIs), local biodiversity sites and Local Nature Reserves (LNRs), Special Protection Areas (SPAs) and Special Areas of Conservation (SACs);
- development should have regard to any potential impact on protected rare and endangered species (listed in the *UK Biodiversity Action Plan*),
- piping and canalisation of watercourses should be avoided. The preference is for all watercourses to be as natural as possible and improvements such as deculverting and reinstating natural channels will be encouraged;
- during construction, robust physical measures should be taken to isolate habitats within and adjacent to development areas. Where appropriate to do so, the creation of habitat links through and within developments should be provided;
- mechanisms for preventing damage or interruption to natural drainage patterns should be implemented;
- SUDs discharge into woodland should be avoided in order to prevent the destabilisation of trees; and
- existing ground levels adjacent to wildlife habitats should be maintained and undisturbed.

Additional guidance is set out in the leaflet [Planning Permission and Wildlife: what you need to know](#).

## SUSTAINABLE HOUSING DEVELOPMENT

Land is a valuable commodity in some ways and it is important that the most efficient and optimum use is made of it.

Sustainable development aims to meet our needs while preserving the environment so that these needs can be met not only in the present, but also for future generations; it is the core principle underpinning planning and the delivery of sustainable homes and places and is arguably one of the most important challenges of our time.

The location of new residential development relative to where people are expected to work, and the schools, shopping, leisure and community facilities they will use, is one of the most important factors in ensuring a sustainable and energy minimising development.



Without the provision of direct, welcoming and safe cycling and walking routes and easy and convenient accessibility to public transport connecting to these facilities, the sustainability of a development can be fundamentally undermined.

Building in a manner to minimise the use of energy and natural resources is a necessity and environmental sustainability should be a fundamental thread that runs throughout all aspects of new residential development.

More sustainable dwellings can be achieved by making relatively minor changes and amendments to standard building types which allow sufficient flexibility to adapt to residents' changing needs and circumstances over time. If these are considered and incorporated at the design stage they can often help achieve successful, sustainable development at minimum additional cost.

SPP directs that the planning system should promote sustainable development by ensuring that development incorporates design and methods of construction which achieve this goal. There are many practical aspects of the design and planning process that can have a significant impact and which can contribute towards achieving a sustainable residential development.

The layout and design of new residential development must support a sustainable environment and should therefore have regard to the following principles of sustainability:

- reduce demand for energy;
- reduce demand for water;
- provide energy in sustainable ways;
- foster and maintain biodiversity;
- treat / attenuate run-off to minimise pollution and the risk of flooding;
- make reducing / recycling waste easy;
- build in accessibility and adaptability;
- make alternative means of transport other than the private car easier to use; and
- use sustainable materials.

*The Sustainable Housing Design Guide for Scotland*, first published in 2000 by Communities Scotland (abolished in 2008), is still an invaluable reference. The document remains a comprehensive and user friendly guidance to the incorporation of sustainability principles into developing housing. It is a helpful source of information for housing providers who wish to move toward more sustainable development.

## ENERGY EFFICIENCY

The planning system, together with the building standards regime, are jointly charged with ensuring that new development minimises the demand for and the consumption of energy.

The Climate Change (Scotland) Act directs that local development plans must require all new buildings to be designed to avoid a specified and rising proportion of the projected greenhouse gas emissions from their use through the installation and operation of low and zero carbon generating technologies.

The residential sector accounts for 30% of total energy demand and a similar percentage of CO<sub>2</sub> emissions in Scotland and improving residential energy efficiency is, therefore, one of the most cost-effective ways of reducing carbon emissions.

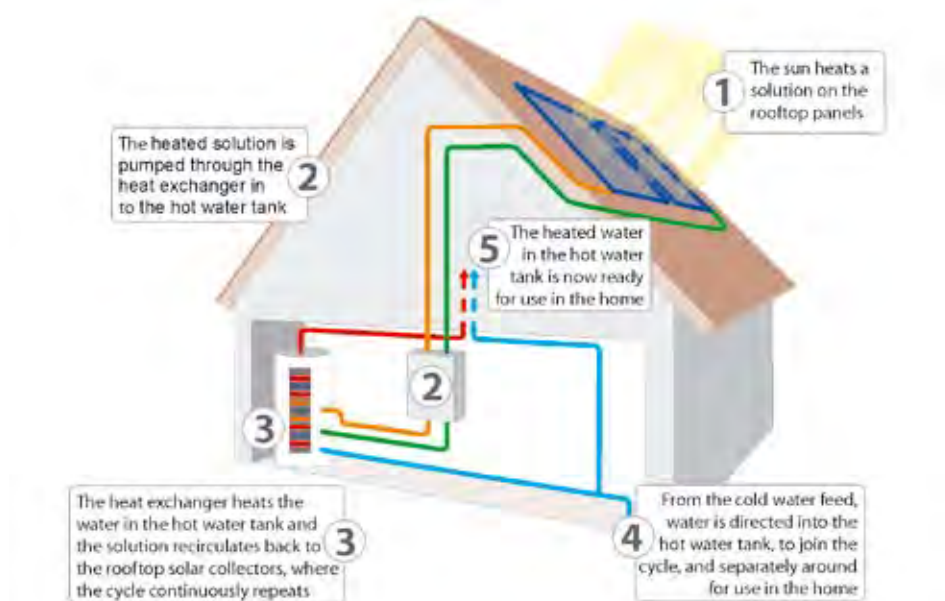
Staged improvements in Building Standards towards zero-carbon new buildings have already made a significant impact on emissions from new housing and helped increase energy efficiency, with the majority of this improvement relating to space and water heating. However, it is probable that the EU, UK and Scottish Governments will continue to set challenging targets to reduce energy consumption and carbon emissions and, as a consequence, it is prudent for developers to be ever more ambitious, even to the point of exceeding current targets.

The design of new development should, therefore, purposefully minimise carbon and other greenhouse gas emissions and should include features that provide effective adaption to the predicted effects of climate change.

There is a wide variety of ways that developers can contribute to improved energy efficiency when bringing forward proposals for new residential development but, as in most other things, it is important that these are taken into account as early as possible in the development process as this provides for a wider range of viable options and the solutions are likely to be more cost effective.

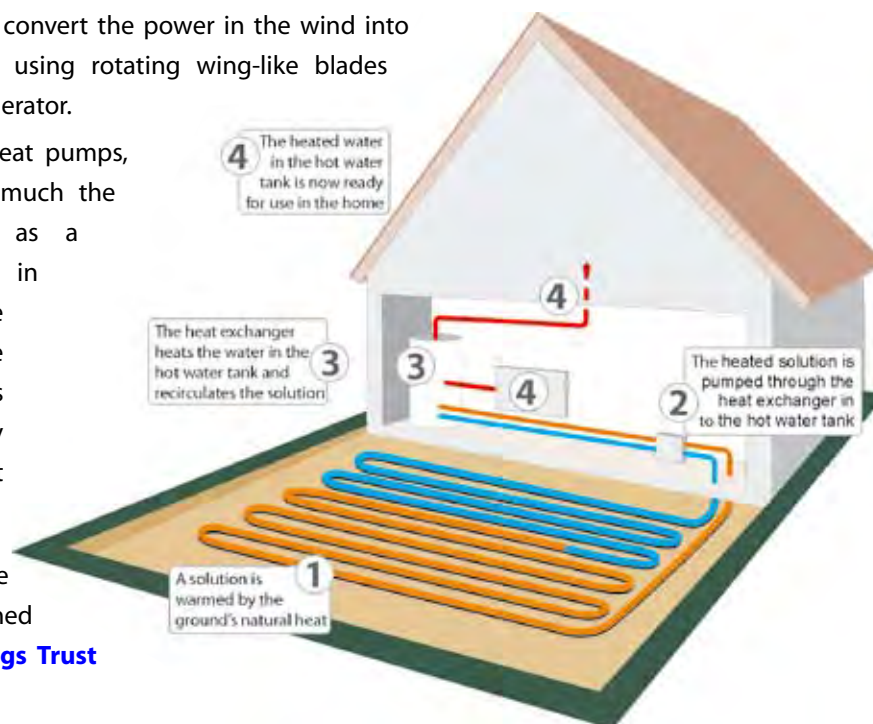
These include:

- locating new developments near public transport hubs;
- locating new development within easy walking and cycling distance of shops, schools and other community and leisure and facilities;
- designing layouts which facilitate walking and cycling to the nearest local services and bus stops, thereby reducing the need to use private cars for shorter journeys;
- maximising density where this is appropriate and justified;
- orientating buildings to make the best use of natural energy sources to provide natural light and heat;
- designing habitable rooms with large areas of clear glazing to make the most of the available daylight;
- creating sustainable microclimates, by retaining and using dense tree planting and earth mounding and shelterbelts to minimise wind chill and to reduce potential heat loss to buildings;
- selecting building materials which have the highest thermal insulation properties;
- fitting out developments with energy and water efficient appliances;
- incorporating photovoltaic (PV) panels into roof profiles in order to convert solar energy directly into electricity; and
- fitting solar thermal panels onto roofs in order to heat water stored in domestic water cylinders. Solar thermal energy is particularly efficient and can cost a lot less to install than other micro-generation technologies.



When planning larger developments, developers should consider the opportunities for decentralised and local renewable or low carbon sources of heat and power. These could include:

- biomass heating systems which use simple and well proven technology to produce energy. Biomass fuels (solid or liquid) are virtually carbon-neutral.
- combined heat and power (CHP) systems which can reduce CO<sub>2</sub> emissions by 40%,
- wind turbines to convert the power in the wind into electrical energy using rotating wing-like blades which drive a generator.
- ground source heat pumps, which work on much the same principle as a refrigerator, but in reverse, and use pipes which are buried in gardens to extract naturally occurring heat from the ground.



Specific advice for house builders can be obtained from the [eEnergy Savings Trust](#) and the [Carbon Trust](#).

## ADAPTABLE BUILDINGS

In the interest of sustainability, buildings and spaces should be sufficiently flexible to respond to changes in the occupants needs, lifestyle and aspirations over time, i.e. people have children, they age and may become less physically mobile.

The most important consideration in designing a robust and adaptable home is the area of space it provides and can potentially accommodate in the future. There are also practical construction methods which can also be employed to make the execution of changes that much easier.

The Scottish Government Building Standards Division, part of the Built Environment Directorate, has recently made changes to the Building Regulations to specifically *future proof* dwellings to be more readily altered at a later date.

Advanced building technology can also contribute to the environmental performance of a house. In this regard, the council has produced guidance on the subject of digital ducting. It has been approved by the Council Executive and was written for the benefit of developers who wish to consider the laying of digital ducting, for the delivery of digital data services that are fit for purpose for digital service provision now and into the future. This can be viewed online on our [Planning - policies](#) page.



## THE WATER ENVIRONMENT



### Water management

Water is a vital and increasingly scarce resource and the use per person has increased significantly over recent decades, mainly down to the growth in the number of households and greater use of water intensive white goods.

By incorporating water conservation measures into new developments, significant savings in water use can be made for the long-term benefit of the environment and with the added bonus of leaving home owners less vulnerable to possible future increases in water charges. Developers are therefore invited to consider:

- installing systems for recycling *greywater* for purposes such as flushing toilets and irrigation that do not require mains supplies;
- providing water efficient showers, toilets, taps and other appliances as standard; and
- providing water butts or community storage facilities to collect rainwater;.

### Watercourses and culverting

Developers will be required to integrate existing watercourses within a development rather than shutting them out, or worse still, culverting them. Both the council and SEPA have policies which presume against culverting. Culverting watercourses causes loss of important habitats, has a harmful affect on water quality and can increase the risk of flooding.

Where practicable, the opportunity should be taken to re-open culverts, re-establish natural watercourses, floodplains, channels, margins, wetlands and enhance their wildlife and biodiversity value. However, where development sites lie within the Aviation Safeguarding Zone of Edinburgh Airport, it is advisable to seek site specific advice from Development Management as there may be associated safety implications related to bodies of water and birds.

Developers will be required to install trash screens at the entrance to all culverts on site or on watercourses leading from sites, and additionally, in some circumstances, a security device to deter access. Trash and security screens must be designed in accordance with *Trash and Security Screens: a guide for flood risk management* (2009) which is produced by the Environment Agency in England.

Developers will be required to clarify which management agent will be responsible for the maintenance of culverts and screens where these do not form part of the surface water sewer to be maintained by Scottish Water. Passing responsibility to home owners by feuing conditions is not acceptable.

Other water bodies (eg. lochs and wetlands) should also be integrated into new developments.

Further advice can be obtained by referring to *Watercourses in the Community* (2010) by the Scottish Environment Protection Agency (SEPA) and *Liquid Assets - making the most of our urban watercourses* (1998) published by the Institute of Civil Engineers.

SEPA's [Habitat Enhancement Publications](#)

## Flooding

Flooding (associated with watercourses) is a natural phenomenon, however the effects of a changing climate suggest that development can also be at risk from surface water runoff from higher ground and from limited capacity in traditional drainage systems. In West Lothian, obstruction and a lack of capacity associated with culverts has also been shown to be a significant cause of flooding.

As a general rule, the functional flood plains should be safeguarded from built development and/or included as part of the open space provision or green network, and the key principles of integrated drainage should be practiced, i.e.

- increased permeable surfacing;
- dealing with run-off as close to source as possible;
- minimising the amount going to underground drainage;
- maximising opportunities to manage surface water before it enters the sewer; and
- designing for exceedance by ensuring developments have flood plains /safe flow paths

The Flood Risk Management (Scotland) Act 2009 has placed new responsibilities on SEPA, Scottish Water and local authorities to reduce overall flood risk and promote sustainable flood risk management.

To support the principles of this act, the council has adopted a precautionary approach to managing flood risk through avoidance as a first principle, considering flooding from all sources and working towards sustainable flood management. With predicted climate changes the incidence and extent of flooding is likely to increase in the future and the role of sustainable flood risk management should also be recognised as an important climate change adaption measure.

It is the responsibility of developers and the council to ensure that future development is not located on functional flood plains or in areas of significant flood risk and to accord with Planning Advice Note (PAN) 69, [Planning and Building Standards Advice on Flooding](#) or any subsequent iteration of this document as a revised planning policy on flooding is anticipated.

A revised *National Flood Risk Assessment* was published in December 2011 and SEPA has also prepared maps showing Local Plan Districts and Potentially Vulnerable Areas. These replace the previous series of flood maps and should now be the first point of reference for developers. The information is not definitive and does not deal with all types of flooding but it is a very useful initial guide.

Information relating specifically to West Lothian can be accessed on the [SEPA website](#).

High resolution versions of these maps are available from SEPA's flood risk management planning team.

Additionally, the council holds some of its own information on historical flood events and this data can be shared with developers on request to the Flood Risk Manager (see useful contacts at the end of document).

In accordance with the SEPA/ Planning Authority Protocol, SEPA works with local authorities to access flood risk issues associated with new developments and is a statutory consultee for developments that are likely to result in a material increase in the number of buildings at flood risk. A copy of an updated [interim protocol](#) (2011) can be viewed on the SEPA website. Further revisions to the Protocol are expected as a consequence of the new Flood Risk Management (Scotland) Act 2009.

The [SEPA Interim Position Statement on Planning and Flooding](#) sets out more fully its role and policy position on flooding relative to land use planning.

It is incumbent upon prospective developers to take flood risk into account before committing themselves to a site or project, to undertake robust flood risk assessment and drainage assessment when required and to implement agreed measures to deal with flood risk.

It is also important that developers consult and liaise with the council's Flood Risk Manager, Development Management, Transportation and Scottish Water.

Where a development site is in an area where there is a limited drainage capacity or considered by the council to be susceptible to flooding, or where the proposals are likely to exacerbate an existing flood risk, developers will be required to assess the risk posed by their development (e.g. possible effect on flood risk elsewhere, and consider the specific risk of flooding to the proposed development over its expected lifetime taking into account the effects of the changing climate). Ordinarily, this will require the commissioning and submission of:

- a drainage assessment in order to evaluate the overall impact of development on land drainage, surface and wastewater networks; and / or
- a flood risk assessment in order to address flood risk to the proposed development from any source and the implications on other areas if the site were to be developed.

As these are highly specialised undertakings they must be carried out by competent hydrological and engineering professionals with demonstrable experience of this type of work and must conform to the requirements set out in SEPA's guidance *Drainage assessment - A guide for Scotland*. Technical flood risk guidance for stakeholders (Version 3), and also Ciria C624 *Development and flood risk guidance for the construction industry* (ISBN: 978-0-86017-624-4)

The subject policy relative to planning and flooding in SPP sets out the national context for planning and flooding.

In 2008, the council approved separate SPG on flooding issues in West Lothian and developers are encouraged to familiarise themselves with this. This guidance can be requested from the council or accessed at our [Planning - policies](#) webpage

### **Sustainable Urban Drainage System (SUDs)**

Development reduces surface permeability by replacing previously vegetated ground with roofs and paved areas and through compaction of other areas by vehicular movements. This reduces the amount of water infiltrating into the ground and increases the speed of surface run-off. Any built-up area therefore needs to be drained to remove the excess water or it will flood.

Traditional drainage techniques include the use of underground pipe systems, designed to convey water away as quickly as possible and thus prevent flooding locally. This however has been shown to cause flooding and, in some instances, pollution downstream of urban areas. Legislation has prompted the adoption of more sustainable solutions for dealing with surface water drainage.

Sustainable urban drainage systems (SUDs) use techniques to control and manage surface water run-off as close to its sources as possible before entering a watercourse. SUDs can contribute to the recharge of groundwater and, when incorporated into roads design, can reduce pollution.

The provision of SUDs, in managing surface water run-off, is a key requirement of nearly all residential development schemes and developers must establish the extent and destination of post-development run-off and provide on site treatment and attenuation proposals acceptable to both the council, SEPA and Scottish Water.

SEPA advise that for residential developments of more than 50 dwellings, two levels of SUDs treatment may be required, including all hardstanding areas and roads. An exception is run-off from roofs which requires only one level of treatment. It is recommended, as best practice, that the second level of treatment should be a basin or pond designed in accordance with *Sewers for Scotland Second Edition*. Reference should also be made to SEPA's regulatory method statement entitled *Regulation of Sustainable Urban Drainage System (SUDs)*.



Surface water must be drained to a water course, overland discharge area or surface water sewer. Only if this cannot be achieved should permission be sought to attenuate and drain to a combined sewer, but such approval cannot be assumed or guaranteed and will be at the discretion of Scottish Water on a case by case basis. Scottish Water usually insist that run off be attenuated.

To be successfully accommodated, SUDs must be considered as early as possible in the site evaluation and design process and not introduced as an afterthought. **The SUDs strategy must inform the layout of a development, not the reverse.**

Planning applications, whether in principle or detailed, will require to demonstrate how SUDs will be incorporated into development proposals together with the extent of land required.

The impact of development on the whole surface water catchment area must be considered, particularly the potential for adverse affects such as flooding or pollution beyond the site.

Site layout should seek to minimise impacts on the natural, built and water environment by reducing the quantity and impact of surface water run off, improving its quality and maximising the creation of amenity and habitats. The ecological value of SUDs is encouraged and should, where possible, include retention and enhancement of natural drainage systems and features.

The council, (specifically Development Management, Transportation and the Flood Risk Manager) Scottish Water and SEPA must be consulted on the selection and design of SUDs proposals and conditions will be imposed on planning permission to secure the implementation of the necessary works.

Where developers are proposing an open water body for the treatment and attenuation of surface water from the site, attention is drawn to the need for a risk assessment. It is recommended that reference is made to the RoSPA publication *Safety at Inland Water Sites - Operational Guidelines* First edition, 1999 (ISBN No. 1 85088 092 1).

New bodies of open water, within the safeguarding zone of Edinburgh airport will be the subject of statutory consultation with BAA as they can potentially create a bird strike risk.

It will ordinarily be a requirement that surface water drainage systems be vested in Scottish Water as drainage authority and will, as a consequence, be designed and constructed in accord with Scottish Water's *Construction Standards and Vesting Conditions* (2007).



There have been particular difficulties associated with pumping stations provided by developers, but not yet adopted by Scottish Water, which have failed on development sites that are already occupied and in circumstances where the developer may have gone out of business or is financially unable to resource the necessary remedial works. In attempting to address this issue, Development Management will ascertain from Scottish Water whether a pumping station is required for a particular development, and steps will then be taken to ensure that this is explicitly provided for as part of the application for planning permission. Enforcement will however remain the responsibility of Scottish Water.

In 2008, the council approved SPG on SUDS and developers are encouraged to familiarise themselves with this. The guidance can be found on our [Planning - policies](#) webpage

Further guidance is available in [Planning Advice Note \(PAN\) 79, Water and Drainage](#).

Under the *Roads (Scotland) Act 1984*, the council, as roads authority, is responsible for the provision of surface water drainage for adopted public roads. Effective road drainage is fundamental for road safety and to the integrity and structural stability of the road. When considering construction consents, the roads authority will need to be satisfied that sustainable drainage systems satisfy road drainage requirements and will not be too onerous to maintain.

A best practice guidance manual entitled [SUDs For Roads](#) has been produced by industry professionals and academics.

## ENVIRONMENTAL CONDITIONS

### Ground conditions

West Lothian has a history of past coal mining activity and this has left a legacy of potentially suspect ground conditions. It is therefore important that development proposals afford due consideration to the presence of mining hazards, such as entries (shafts and adits) and shallow mine workings.

Within known areas of past mining activity, Coal Mining Development Referral Areas (CMDRAs), the council will require planning applications to be accompanied by a coal mining risk assessment, informed by up to date coal mining information for the site, with appropriate remedial measures identified, if necessary to ensure the safety and stability of new development.

The council can advise developers if a site lies within a CMDRA, or it can be checked online at [http://coal.decc.gov.uk/assets/coal/whatwedo/west\\_lothian\\_referral.pdf](http://coal.decc.gov.uk/assets/coal/whatwedo/west_lothian_referral.pdf)

It is important that a risk assessment is undertaken by an appropriately qualified and competent person who is familiar with ground stability and mining legacy related issues, preferably, an accredited member of a professional institution such as the Geological Society, the Institute of Civil Engineers, the Institution of Mining and Metallurgy or the Royal Institute of Chartered Surveyors.

The Coal Authority holds and maintains the national coal mining database and also offers a mining reports service. It can be contacted at <http://coal.decc.gov.uk/en/coal/cms/contact/contact.aspx>

In line with SPP, new development proposals within areas of surface coal resources should explore opportunities for prior extraction of the resource to avoid it being sterilised unnecessarily. Prior extraction of remnant shallow coal can also prove to be a more economically viable method of remediation than ground filling of voids.

### Management of soils

One of the most recurring complaints from residents concerns land drainage, and these are usually received some time after a development has been completed. These typically cite garden ground as being impermeable and therefore prone to flooding in the winter months and baked dry in the summer.

Research undertaken for the [West Lothian Soil Sustainability Report](#), published by the council in 2004, indicated that the majority of soils in West Lothian ranged from boulder clay to sandy loam and that poor natural drainage was to be expected. However the source of complaints, for the most part, was more directly attributable to the mismanagement of soils on development sites. Materials tend to be moved by vehicles and these operate on the subsoil layer, tracking nearly all parts of the site and in all weathers. It is therefore little surprise that compaction ensues.

Unfortunately, it has not been unknown for developers to address subsoil compaction by simply over laying the completed ground with topsoil. This is, however, a purely cosmetic exercise. It does not satisfactorily address the problem and is wholly unacceptable.

The report sets out good soil management practices which developers are required to have regard to and which include:

- storing topsoil in accordance with agreed guidelines to maintain its health and vitality and to avoid contamination, it is particularly important that there is no intermixing of subsoil with topsoil;
- minimising the area of disturbance during construction and fencing areas where soils and vegetation are to remain undisturbed; and
- not handling and trafficking soil during periods of wet weather and saturated ground conditions.

Additional practical advice for developers is also contained in the [Construction Code of Practice for the Sustainable Use of Soils in Construction Sites](#). Produced by the UK Government Department for Environment, Food & Affairs, it is nevertheless equally relevant to developments in Scotland.

To ensure that contractors conform to correct soil handling, and to avoid compaction, it is recommended that works accord with NBS (National Building Specification) Sections D20 and Q28 which specifically deal with soil handling.

Policy ENV 8 of the adopted *West Lothian Local Plan 2009* requires applications for all greenfield development sites in excess of 1ha to be accompanied by an assessment of soils. A distinct Development Management policy, *The management and after-use of soils on development sites*, consistent with this policy, has also been produced and additionally embraces development on large brownfield sites and other smaller sites.

### Contaminated land



An increasing number of new dwellings are being constructed on previously developed sites, i.e., on *brownfield* land, and developers need to be aware that such sites are more prone to contamination and should be prepared to undertake site investigations and any necessary remedial action.

Land which is contaminated can render potential development sites incapable of beneficial use unless hazards capable of causing harm to human health or the wider environment are assessed and dealt with. Land may be contaminated by a wide range of substances and materials in the form of solids, liquids or gases and each site will require specific investigation dependent on its former and proposed uses.

Ordinarily, there will be a general presumption in favour of proposals for the rehabilitation of derelict and contaminated sites, where there is no significant immediate or long-term threat to local amenity and the environment, and where proposals are consistent with other policies.

In 2009, the council approved separate SPG entitled *Development of land potentially affected by contamination* and developers are encouraged to familiarise themselves with this.

The guidance sets out what is required from developers as part of the planning process when contamination of land is suspected and should be read very carefully. It includes the stages of site investigation and risk assessment which are needed to determine the nature of the contamination; and the standard of remediation which is required to ensure the land is suitable for the intended use. Residential development as an end use for a contaminated site will, justifiably, require the most rigorous standard of land remediation.

Site investigation and contaminated land risk assessment is a complex process and must be undertaken by appropriately qualified and competent individuals. West Lothian Council will only accept site investigation reports that have been carried out in accordance with the relevant British Standards, good practice and current authoritative guidance.

Applications for planning permission and building warrants may be refused where the council is not satisfied that the site has been fully characterised, or that appropriate measures are in place to ensure the safe remediation of the site.

Further guidance on the development of contaminated land is set out in Scottish Government [Planning Advice Note \(PAN\) 33, \*Development of Contaminated Land\*](#) and by contacting the council's Contaminated Land Officer whose details are at the end of this document.

### **Major accident hazard pipelines and potential hazard zones**

There is a well established network of underground pipelines throughout West Lothian in both urban and rural locations, mainly gas and ethylene and operated by National Grid, BP and ESSAR OIL UK (formerly Shell Oil UK). There are also other locations, mainly industrial, where significant quantities of chemical or potentially hazardous materials are stored.

These may not always be obvious and it is therefore extremely important that developers make themselves aware of the existence of such pipelines and installations and how they relate to a potential development site as early as possible.

Development Management maintain a record of notified pipeline routes and installations, designated by virtue of the quantities of hazardous substance present, and are also able to advise on the relevant consultation zone details. Where necessary, developers can also be helped with contacting the appropriate operator.

Developers may wish to refer to advice on the siting of development in the vicinity of major hazard sites contained in the HSE Document PADHI – HSE's [Land Use Planning Methodology](#)

As local planning authority, the council has a statutory duty to exert control over the kinds of development in the vicinity of these installations, to prevent and limit the consequences of accidents and to maintain appropriate distances between such establishments and residential areas, areas of public use and sensitive environments. Where a proposed development would be near to a major hazard pipeline or installation, the council is required to refer the planning application to the Health and Safety Executive (HSE) and to then have regard to its response when determining the application.

## Air quality

Clean air is an essential ingredient of a good quality of life and people have a right to expect that the air they breathe will not harm them.

Developers seeking planning permission have a joint responsibility with the council to ensure that appropriate standards of air quality are maintained or improved and consideration should therefore be given to the impact of development on air quality. Developers must, at the very least, be able to demonstrate that their proposals will not give rise to any further deterioration of existing air quality

Air quality data and air quality management areas in West Lothian can be accessed on the [2011 Air Quality Progress Report](#) and at our [Air pollution](#) webpage.

Planning applications in respect of proposals that are considered to impact on or be affected by air quality issues will be required to be supported by a statement indicating:

- the change in air quality resulting from the proposed development; and
- what actions have been considered to reduce the impact of the proposal on air quality.

It may be necessary for an applicant to commission an Air Quality Impact Assessment in support of an application, and in such instances where this is required, it must be undertaken by appropriately qualified and competent individuals. Conditions may subsequently be imposed on the grant of a planning permission requiring air quality monitoring apparatus to be installed for a specified period of time and the costs of this shall be borne by the developer. In circumstances where the council has already established a monitoring presence, developer contributions may instead be acceptable.

Further guidance is set out in [Planning Advice Note \(PAN\) 51, Planning, Environmental Protection and Regulation](#).

Developers are also encouraged to consult with the council's Environmental Health and Trading Standards section for specific guidance and advice at the earliest opportunity. Contact details are at the end of this document.

## Radon gas

Radon is a naturally occurring radioactive gas and is the most common source of public radiation exposure in the UK. Every building contains radon but the levels are usually low. The chances of a higher level depend on the type of ground.

Recent mapping information, issued by the Health Protection Agency, shows that the main areas with elevated radon are to be found in Aberdeenshire, Highland and Orkney but it has also identified a number of pockets of elevated radon potential in the central belt of Scotland, including parts of West Lothian, which are at risk of exceeding recommended levels. In these locations, additional safeguarding measures will require to be implemented if new development is to take place.

The new indicative map of radon in Scotland can be viewed at [http://www.ukradon.org/downloads/Reports/HPA\\_CRCE\\_023\\_Named.pdf](http://www.ukradon.org/downloads/Reports/HPA_CRCE_023_Named.pdf) (16MB)



A range of techniques to combat high indoor radon concentrations are available to developers and these are detailed in a report published by the Health Protection Agency entitled [An Analysis Of Radon Remediation Methods](#).

The government is also amending building regulations guidance to ensure that all new buildings and new extensions proposed within identified risk areas are constructed with the required radon protection measures.

Developers seeking further information and advice should contact the Health Protection Agency directly. Contact details are at the end of this document.

## Noise

It can be difficult to reconcile housing with other activities which have the potential to generate high levels of noise and all new dwellings must be sensitively located so that they are a satisfactory distance away from major roads and specific land uses such as railways, airports, flight paths, industrial premises, distribution depots, sports facilities, and, increasingly, businesses operating 24 hours or which are part of the so called *night time* economy.

Consideration must also be afforded to committed proposals which have planning permission or which benefit from a local plan allocation and which may present a potential noise source in the future.

In some instances physical noise mitigating measures may be required to make development proposals acceptable. These measures might require buildings to be screened by landscaped bunds and the use of acoustic fencing and sound insulating materials. For maximum effect, barriers should be as near to the noise source as possible.



All housing should be built with acoustic insulation and tested to current Building Standards, but acoustic insulation should not be relied upon as the only means of limiting noise. Internal layouts should also be configured to avoid incompatible room uses and to limit the effect of noise transfer from adjoining or stacked properties. To be effective, such considerations must be taken proper account of at the design stage.

Care must however be taken to ensure that the use of noise attenuation measures outlined above, does not result in a development layout which is in direct conflict with good urban design principles.

Where mitigation of noise impact is considered necessary and acceptable, the council will impose conditions to achieve the required measures on the planning consent. However, if noise issues cannot be satisfactorily overcome, planning permission may be refused.

In 2006, the council approved separate SPG entitled [Planning and noise](#) and developers are encouraged to familiarise themselves with this.

The SPG takes into account current policy in relation to planning and noise and provides guidance on undertaking noise assessments which may be required in support of a planning application.

Where a noise impact assessment is required, it should be scoped and agreed with the council's Environmental Health Manager as part of the pre-application process and must then be undertaken by appropriately qualified and competent individuals, usually a noise consultant. Contact details are at the end of this document.

Further guidance is set out in [Planning Advice Note 1/2011, Planning and Noise](#).

## Light pollution

The manner in which residential developments are lit can make a positive contribution to the environment and the following general principles should be taken into consideration in designing lighting within a new development:

- street lighting should be planned as an integral part of the development;
- all public areas should be well lit and street lighting should illuminate both the carriageway and the footway;
- Lighting should be thoughtfully designed to avoid unnecessary clutter and possible problems of light pollution. For sites within the Aviation Safeguarding Zone of Edinburgh Airport, there is an additional safety dimension to consider and site specific advice should be sought from Development Management.
- consideration should be given to attaching lighting units to buildings;
- all pathways and parking areas should be lit for safety; and
- lighting fixtures should be selected for their energy efficiency properties as much as for their design and appearance. They should be strong and durable and easily maintainable.

Lighting should generally be in accordance with these building standards: BSEN 13201-2, BSEN 13201-3, and BSEN 13201-4.

Light pollution is a *statutory nuisance* under Part III of the *Environmental Protection Act 1990*, as introduced by the *Public Health etc (Scotland) Act 2008*, and [Planning Advice Note \(PAN\) 51, Planning, Environmental Protection and Regulation](#) makes it clear that it is the responsibility of planning authorities and the environmental protection bodies to collaborate in the task of protecting the environment, to apply controls so that duplication is minimised and to ensure overlap is avoided whenever possible.

The council will therefore seek to prevent statutory nuisances where lighting forms part of a planning application and may seek to regulate lighting as part of planning conditions and obligations.

In 2009, the council approved separate SPG entitled [Controlling light pollution and reducing lighting energy consumption](#), and developers are encouraged to familiarise themselves with this.

## ENVIRONMENTAL ASSESSMENT

Environmental Impact Assessment (EIA) is a tool used to predict the environmental impacts of a project. It presents an opportunity to fully explore the extent of impacts upon the environment, consider where alternative approaches may be more suitable and to consider where appropriate mitigation measures will be required.

The *Town and County Planning (Environmental Impact Assessment) (Scotland) Regulations 2011* require planning applications for a wide range of development projects, mostly of a major scale, to be accompanied by an Environmental Assessment (EA).

Some projects (known as Annex 1) must **always** be subject to EIA, while other projects (Annex 2) need only be subject to EIA when they are likely to have significant effects on the environment by virtue of their size or location.

As far as residential development is concerned, it is not the type of development embraced by Annex 1. It could however potentially constitute an Annex 2 project under the category of *urban development projects*, if the area of the development site is in excess of 0.5 hectares and where residential development is likely to have significant environmental effects because of factors such as its nature, size or location. In such circumstances, a formal determination of whether or not EIA is required must be sought from the council and this should be done as early as possible.

Additional guidance can be found in [Planning Advice Note \(PAN\) 58, Environmental Impact Assessment](#), *The Environmental Impact Assessment (Scotland) Amendment Regulations 2009* and Circular 8/2007 (As Amended): *The Environmental Impact Assessment (Scotland) Regulations 1999*.

## CONSTRUCTION WASTE

The Scottish Government has adopted Zero Waste as a goal and in 2010 published the [Zero Waste Plan](#) (ZWP). In accordance with SPP, the goal of Zero Waste means following a *waste hierarchy* (an order of preference) for how waste is dealt with i.e. eliminating the unnecessary use of raw materials, then reusing and recycling products with disposal the last option.

Site Waste Management Plans (SWMP) can help achieve this objective during the construction and operation of developments and advice on how to prepare such plans is available on the *netregs* website and from *Envirowise* who also provide free advice on resource efficiency. Further advice on the reuse of demolition and excavation materials is available from the Waste and Resources Action Programme. Additional guidance can also be found at SEPA's website.

SEPA: <http://sepa.org.uk/>

Financial statistics at your fingertips: <http://www.netregs-swmp.co.uk/>

Site waste management plan (SWMP) regulations guide - GG899: [http://aggregain.wrap.org.uk/waste\\_management\\_regulations/waste\\_management\\_regulations\\_scotland/index.html](http://aggregain.wrap.org.uk/waste_management_regulations/waste_management_regulations_scotland/index.html)

AggRegain: <http://aggregain.wrap.org.uk/>

The council is obliged to ensure that both the necessary policies and facilities are in place to reduce the amount of waste generated, to increase the amount of re-use and recycling and to encourage householders to engage and participate more effectively.

Consistent with this strategic direction, policy NWR 11 of the adopted West Lothian Local Plan 2009 advises that proposals for new housing must demonstrate to the satisfaction of the council that the generation of waste during the construction period has been minimised and that any residual waste will be managed in a sustainable manner.

The best way to tackle the problem of waste during construction is of course for developers to produce less of it. Storing materials correctly and adopting a more rigorous ordering regime in order to minimise waste can all help.

Waste from development sites can contain a variety of different materials and if not disposed of properly, there is a risk of pollution. Harmful, even dangerous substances, e.g. asbestos, are sometimes contained in building waste and these need to be removed carefully.

Generally, any waste removed from a development site must be deposited either at a site properly licensed by SEPA or at a site for which a relevant exempt activity has been registered.

The council has produced SPG entitled [Getting rid of demolition and building waste](#).

## DOMESTIC HOUSEHOLD WASTE

With regard to the necessary provisions for the treatment and disposal of household waste, it is important that developers take cognisance as early as possible of the requirement to provide for dedicated bin storage/recyclable/compostable waste storage space in their developments to accommodate:

- provision within dwellings for facilities to separate and store different types of waste at source;
- provision within the curtilage of dwellings or within the development for composting;
- kerbside collections, including adequate vehicle turning facilities; and
- centralised facilities within the development for the public to deposit materials for recycling and recovery.

Details should be submitted with the planning application.

The council currently operates various multi bin collection systems, depending on the form and geographical location of the residential property, and developers will need to establish at an early stage which arrangement they should be designing for.

Developers should be aware that it is council policy that they incur the cost of the appropriate waste collection bins (the council will source and may supply) and that this will also be made a condition of any planning permission granted for residential properties.

In larger scale residential developments, such as the CDAs, developers may also be required to make opportunities available for recycling facilities such as paper banks and textile banks.

As a general rule, bin storage areas should be sensitively designed to minimise their visual impact, covered, secured, and made easily accessible to all residents.

- bin stores should be constructed in brick or timber and should have metal protection plates on the inner walls to prevent damage by bins;
- there must be sufficient room within each bin store to accommodate the bins and to facilitate access and movement (required by residents, factors and waste operatives) without having to move other bins;
- entry/exit should be a minimum width of 600mm to allow sufficient access/egress;
- bin stores should be constructed to allow bins to be forward facing so they can be identified; and
- the maintenance of bin stores should be covered by a factoring arrangement.

### *Typical bin dimensions\**

	HEIGHT	WIDTH	DEPTH
<b>140 litres</b>	1060 mm	480 mm	550 mm
<b>240 litres</b>	1060 mm	575 mm	730 mm
<b>360 litres</b>	1080 mm	580 mm	875 mm
<b>1100 litres</b>	1390 mm	1260 mm	1000 mm





### Access for service vehicles\*

Roads should ordinarily be constructed to an adoptable standard. Direct vehicle access is required to all locations at all times including phased construction sites;

Road widths and turning heads must be able to accommodate waste collection vehicles;

Hammerheads, and turning circles will be required to avoid/minimise reversing manoeuvres and should be designed to prevent parking from obstructing access to the site.

The following dimensions relate to the largest vehicle likely to service waste containers in new developments.

Maximum operating length	12 metres
Maximum width	2.55 metres
Maximum height	4.5 metres
Maximum laden weight	26 tonnes
Turning circle	18 metres

*\* It should be noted that these specifications are correct at the time of writing. However, they may be subject to change in the future and developers should liaise directly with the Waste Services Manager to establish their current requirements and contact details are provided at the end of this document.*

Residents will be required to bring their refuse and recycling containers to their front property boundary, and the design should facilitate this with a view to ameliorating the problems of multiple bins obstructing footways.

Where roads are not constructed to an adoptable standard, or where the development includes private accesses or parking courts, it should be noted that the council will only collect bins from the public highway. Satisfactory provision must therefore be made for residents to get the bins to an agreed collection point (in line with previous noted standards re size of store/area and within kerbside collection criteria including distance from kerbside path to vehicle requirements).

The distance between individual properties and the bin store requires to be agreed with Waste Management Services in consultation with Environmental Health & Trading Standards.

- dropped kerbs should be provided at the entrance to bin stores to a width of at least 600mm;
- where a communal bin store is to be provided, it should be no more than 10 metres from a dropped kerb and the collection vehicle must also be able to access the dropped kerb where the bins will come off; and
- surfaces should be able to be cleaned without risk of permanent staining.

Waste and recycling is a rapidly changing field and the council may over time have additional requirements regarding refuse, green waste and recycling. It is therefore important that Waste Services are consulted at an early design stage of any proposal.



### IMPACT OF CONSTRUCTION WORKS

Developers will be required to submit a written statement to the council which outlines the measures to be taken to reduce the impact of construction work on the environment and to have it approved by the council prior to starting works on site.

In particular, the statement should detail the measures which the developer will take to:

- avoid substances seeping into watercourses;
- avoid noise, vibration and dust nuisance;
- ensure that roads and footpaths in the vicinity of the site are kept debris free;
- ensure that disturbance to existing residents from construction traffic is minimised; and
- ensure that road gulleys remain clean and free from obstruction pre-adoption.

Proposed locations for site compounds, soil storage and temporary car parks for contractors and employees must be provided as part of this statement.

Developers are reminded that the council has powers under the *Roads (Scotland) Act 1984* to serve notices requiring public roads and footpaths to be kept mud free and vehicle operators and contractors who deposit mud on the road are potentially liable for a range of offences. The council also has powers under the *Environmental Protection Act 1990* to deal with statutory nuisance. SEPA also has powers to deal with developers who pollute watercourses.

The council has approved SPG entitled [Mud on Roads](#). This provides information for developers to minimise the possibility of mud pollution on to roads from this sites they are developing in the interest of road safety.



## THE HISTORIC ENVIRONMENT

While it is only very rarely likely to be the case that significant new residential development will be proposed in locations of a highly sensitive historic nature, for example, within a conservation area or a designed landscape, it is recognised that new development on the periphery of such areas can also have an effect on their character and setting, and also on specific listed buildings and scheduled ancient monuments.

In such circumstances, developers are encouraged to have regard to recently published guidance by Historic Scotland entitled [New Design in Historic Settings](#) which provides a helpful toolkit and design standards for new design in historic places.

## PUBLIC ART

In order to enhance the new environments being created, developers of larger housing schemes, and certain other significant developments, are required to contribute to public art in one of two ways.

Some may commission, implement and own art while others may agree to make a contribution to the council's Public Art Fund. This fund is designed to assist the gathering of smaller contributions from a number of developments over time in order to support the commissioning of projects in the area in which the development is located.

The council's [Public Art Strategy](#) is set out in supplementary planning guidance.

A statement outlining how the applicant intends to address the requirements for contributions towards public art should accompany any planning application for qualifying developments. Where the developer intends to commission and implement a project rather than make a financial contribution the planning application should include a Public Art Plan.

It is important that developers engage in early pre-application discussions with the council Arts Development Officer so that the requirements for public art can be identified and addressed. Contact details are at the end of this document.

Further advice, together with details of the most up to date requirements, are set out in SPG [Developer contributions to public art](#).

## DEVELOPER CONTRIBUTIONS



Developer contributions enable the council to ensure that developments are properly provided with infrastructure, services and facilities. They enable developments to proceed that might otherwise be refused planning permission.

The principle of developers making contributions (financial or in kind) towards the provision of the necessary infrastructure to support their developments is well established, both in law and in practice across the UK.

West Lothian Council provides clear and comprehensive guidance for landowners and developers to ensure that they can take the cost of these requirements into account even before engaging in the formal development planning process. Specifically, it has put in place a series of SPG that support the implementation of the adopted *West Lothian Local Plan* 2009 and, in time the *Local Development Plan*.

These SPGs set out developer contribution requirements and/or identify principles that will be adopted by the council in preparing strategies for the provision of new infrastructure and/or facilities that developers will be required to contribute to. The SPGs are material considerations in the determination of planning applications and currently relate to the following subject areas:

- Affordable housing;
- Planning for education;
- School commissioning costs;
- Denominational secondary education infrastructure;
- Replacement Armadale Academy;
- Provision of additional primary school capacity for the denominational sector in Broxburn, East Calder and Winchburgh
- Armadale Primary Schools;

- Whitburn Academy;
- Blackridge Station;
- Park and ride facilities at Armadale Railway Station;
- Replacement Armadale Library;
- A71 corridor study bus priority measures;
- A801 dualling;
- Partnership approach to deliver infrastructure;
- Travel plan co-ordinator;
- Co-location principles;
- Public art;
- Towns and village centre improvements;
- Cemetery provision; and
- Professional services.

No application will be reported to elected members with a favourable recommendation until at least the heads of terms have been agreed in writing with the council on the scale and precise nature of developer contributions necessary.

The SPGs will be kept under review and it is likely that further SPGs will be prepared and adopted in due course. Developers are therefore advised to seek confirmation of the SPGs in force before embarking on projects.

SPGs can be viewed and downloaded on our [Planning - policies](#) webpage.

Developer contributions are most commonly secured through a Section 75 obligation or other legal agreement which will require to be concluded with the council before a planning permission can be released. In some instances the paying over of a cheque or bankers draft may suffice and Development Management officers will be pleased to advise.

[Circular 3/2012, Planning Obligations and Good Neighbour Agreements](#) provides guidance on the circumstances where planning agreements can be used. In general, contributions can only be sought where they are required in order for the development to proceed and where the contribution concerned is related in scale and kind to the proposed development.

Other necessary off-site works may be dealt with by the use of suspensive conditions but only where this is deemed to be appropriate.

It is extremely important to discuss the likely level of contributions with council officers as early as possible in order that the costs can be built into developers' and landowners' financial appraisals, ideally before any property transactions have been completed.





## PLANNING FOR EDUCATION

Such is the importance of this issue that it merits being discussed separately from other infrastructure considerations.

New residential communities can generate a demand for a significant number of new school places, particularly where families are attracted to the area. In such cases, it is vital to the process of supporting sustainable communities that the planning system facilitates the timely provision of new school buildings and/or school provision.

The complexity of the situation in West Lothian, however demands, that Development Management take advice on the education provision implications of each proposal for residential development from Education Planning and no application will be concluded until a rigorous assessment of existing schools capacity and/or the provision of new school facilities allied to the proposed development has been completed.

The response of Education Planning will be informed by school roll projections produced by a forecasting model which has been operated by the council since 1996. In the interests of transparency, this is explained in some detail in the SPG entitled [Planning for education](#).

There are in fact several SPGs relating to education matters, all of which can be viewed on our [Planning - policies](#) webpage.

It is particularly important that developers/landowners engage in early pre-application discussions with the council so that education issues can be identified and addressed. Enquiries should, in the first instance, be directed to Development Management staff and they will in turn liaise with education colleagues and arrange for a bespoke corporate response to be produced.

## Appendix 1

### NEW PLANNING APPLICATION PROCEDURES

#### Hierarchy of development

New requirements for processing planning applications were introduced under the *Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008* and it is important that developers understand how these may relate to their proposals, particularly with regard to the possible time and resource implications.

Of particular relevance is the introduction of the *hierarchy of development* concept. The hierarchy sets out the approach to be used for dealing with planning applications depending on which of the three categories a proposal falls within and the procedures for making and handling planning applications varies between these three categories.

National developments are designated in the National Planning Framework and would not ordinarily embrace residential development.

A residential development will, instead, fall within either the *major* or *local* development classification with *major* proposals being defined as those comprising 50 or more dwellings (this includes flats as well as houses); or where the area of the application site exceeds 2 hectares. By default, *local* developments are those that are neither *national* nor *major*. The main practical implications of a proposals being deemed to be *major* are:

- they become subject to a statutory pre-application consultation process between the developer and local communities;
- a *proposal of application notice* (PAC) must be lodged with the council at least 12 weeks prior to the submission of an application for planning permission;
- major planning application requires to be accompanied by *Design and Access Statements*.

Proposals which affect a conservation area, a historic garden or designed landscape, a *National Scenic Area*, the site of a scheduled monument or the curtilage of a category A listed building will also require to be accompanied by a design statement.

If a *Design and Access Statement* is statutorily required but is not submitted with the planning application, then the application may be invalidated until the statement is subsequently lodged.

## Appendix 2

### SUPPORTING INFORMATION

Applications for planning permission should be accompanied by appropriate supporting studies to explain and justify the development. The scope of information to be submitted with an application should be the subject of discussions at pre-application stage but could include:

- Environmental Statement;
- Ecological Survey;
- Arboricultural Survey;
- Drainage Assessment;
- Flood Risk Assessment;
- Noise Survey;
- Air Quality Survey;
- Transport Statement / Transport Assessment;
- Archaeology Survey;
- Coal Mining Risk Assessment
- Contamination & Remediation Assessment;
- Masterplan
- Design & Access Statement;
- Open Space Assessment;
- Streetscape views for infill sites, larger scale residential development or sites within a conservation area;
- Public Art Plan; and
- Details of how planning obligation provisions are to be met (perhaps including draft heads of terms)

This list is by no means exhaustive and will vary depending on the specific development proposals and the location of the site. Developers should not underestimate the time and cost to prepare these necessary studies required for the council to consider the grant of planning permission.

For sites which are allocated in the development plan, a response to any issues identified in Appendix 6.1 of the adopted *West Lothian Local Plan* (or any corresponding schedule in the *West Lothian Local Development Plan*) should be provided.

## Appendix 3 CHECKLIST OF KEY CONSIDERATIONS

<input type="checkbox"/>	Has an analysis of the site and its context been undertaken?
<input type="checkbox"/>	Has this resulted in a clear design concept for the site being established?
<input type="checkbox"/>	Does the proposed design respond to local identity and is it specific to the scheme?
<input type="checkbox"/>	Does the proposed development feel like a place with a distinctive character?
<input type="checkbox"/>	Does the development make the most beneficial use of the site opportunities?
<input type="checkbox"/>	Are streets defined by a well-structured building layout?
<input type="checkbox"/>	Does the layout make it easy to navigate through the development?
<input type="checkbox"/>	Does the layout create a connected network of public streets and spaces that are accessible to all?
<input type="checkbox"/>	Have existing movement routes and connections to surrounding areas been considered?
<input type="checkbox"/>	Are new or improved connections created to existing facilities?
<input type="checkbox"/>	Do the buildings and spaces take priority over roads and car parking so that the roads do not dominate?
<input type="checkbox"/>	Does the proposal minimise the need for car travel and promote other more sustainable modes of transport?
<input type="checkbox"/>	Has priority been given to pedestrians and cyclists within the road and street network?
<input type="checkbox"/>	Is the development well-connected to community facilities, such as a school, parks, play areas, shops etc?
<input type="checkbox"/>	Does the development have easy access to public transport?
<input type="checkbox"/>	Does the development extend or provide new public transport services?
<input type="checkbox"/>	Have amenity considerations (privacy, daylighting, etc) been taken full account of?
<input type="checkbox"/>	Has each dwelling adequate external amenity space related to its size?
<input type="checkbox"/>	Do amenity open spaces form a purposeful and positive part of the layout?
<input type="checkbox"/>	Has active open space and play space provision been identified and agreed?
<input type="checkbox"/>	Have appropriate management arrangements been put in place for public spaces?
<input type="checkbox"/>	Are public spaces and pedestrian routes overlooked and do they feel safe?
<input type="checkbox"/>	Has the layout been checked against the Secure by Design checklist?
<input type="checkbox"/>	Are building materials robust, high quality, durable and from sustainable sources?
<input type="checkbox"/>	Have measures been identified for safeguarding existing landscape features
<input type="checkbox"/>	Have landscaping proposals addressed biodiversity, drainage and aesthetic factors?
<input type="checkbox"/>	Have a range of parking solutions been used to suit the site specific requirements?
<input type="checkbox"/>	Has car parking been well integrated and does it avoid being overly dominant?
<input type="checkbox"/>	Have the needs of cyclists been addressed?
<input type="checkbox"/>	Has a detailed assessment of wildlife and habitat been undertaken?
<input type="checkbox"/>	Have areas of habitat been retained or created for the benefit of local species?

<input type="checkbox"/>	Has the layout been designed to optimize the microclimate, (solar gain etc)?
<input type="checkbox"/>	Have measures been taken to address sustainability and energy efficiency?
<input type="checkbox"/>	Have accessibility and adaptability been incorporated into the design of dwellings?
<input type="checkbox"/>	Has flood risk been assessed and are any specific measures to be implemented?
<input type="checkbox"/>	Does the development make satisfactory provision for surface water run-off?
<input type="checkbox"/>	Do drainage arrangements have the provisional approval of SEPA / Scottish Water?
<input type="checkbox"/>	Has the site been screened for any Major Accident Hazard Pipeline within it or within its vicinity?
<input type="checkbox"/>	Has the site been screened for land instability / mining issues?
<input type="checkbox"/>	Has the site been screened for contamination and are remedial works proposed?
<input type="checkbox"/>	Will the development be affected by any noise and air quality issues?
<input type="checkbox"/>	Have requirements for the storage and collection of waste been satisfied?
<input type="checkbox"/>	Has the impact of construction works been addressed and provided for?
<input type="checkbox"/>	Have all developer contributions been identified and accounted for?



## Appendix 4

### COSTS FOR OPEN SPACE PROVISION

#### An explanation of how financial contributions have been derived

Where the entire open space requirement generated by a development is to be provided off-site, a commuted sum towards the qualitative improvement of nearby open spaces, or towards provision of new open space will be required to be paid to the council by the developer of the site.

Developing a cost for open space provision has been based on two factors, namely the Open Space Requirement (OSR) and the cost for maintaining and reconstructing that open space, the Open Space Cost (OSC).

#### Calculating the Open Space Requirement (OSR)

The *West Lothian Open Space Strategy* has set an aspirational standard of all development having access to 2.4 ha (6 acres) of open space per 1000 people and an attempt has been made to translate this into an open space requirement specifically for new residential development.

A quantitative audit of open space revealed the respective proportions of public open space that existed within settlement boundaries as follows:

Type of open space	Proportion of overall public open space
Public parks and gardens	25%
Amenity greenspace	19%
Sports areas	16%
Natural/semi-natural	21%
Other open space	19%

**Fig 1.** Breakdown of overall public open space by open space type

Not every piece of open ground is functional open space. The open space audit does not distinguish between functional and non-functional open space. It is therefore reasonable to make some allowance for areas of non functional open space in the overall 2.4 ha standard. For the purpose of this exercise the following has been assumed:

- the entirety of public parks and gardens, sports areas and other open spaces are functional;
- one third of amenity green space is deemed functional;
- half of natural / semi-natural open space deemed functional.

This leaves an overall requirement for 1.9 ha of open space per 1000 people.

Based on the estimated population of Scotland in mid-2010, household figures issued by the General Register Office for Scotland suggests West Lothian has an average household size of 2.33 people per house. Assuming that each dwelling will accommodate on average 2.33 people this equates to 44m<sup>2</sup> per dwelling.

## Appendix 5

### OTHER USEFUL CONTACTS

#### **WLC Development Management**

*Planning applications*

t: 01506 280000

e: [planning@westlothian.gov.uk](mailto:planning@westlothian.gov.uk)

#### **WLC Development Planning**

*Planning policy / development plans*

t: 01506 280000

e: [dpgeneral@westlothian.gov.uk](mailto:dpgeneral@westlothian.gov.uk)

#### **Police Scotland**

The Architectural Liaison Officer

t: 0131 311 3628

e: [stuart.neilson@lbp.pnn.police.uk](mailto:stuart.neilson@lbp.pnn.police.uk)

#### **Scottish Environment Protection Agency (SEPA)**

t: 0131 449 7296

e: [planning.riccarton@sepa.org.uk](mailto:planning.riccarton@sepa.org.uk)

#### **Scottish Water** Customer Connections

t: 0845 601 8855

e: [connectionssupport@scottishwater.co.uk](mailto:connectionssupport@scottishwater.co.uk)

#### **Scottish Natural Heritage**

Tel : 0131 3162600

e: [ian.rennick@snh.gov.uk](mailto:ian.rennick@snh.gov.uk)

#### **Disability West Lothian**

t: 01506 774030

e: [enquiries@dwl.demon.uk](mailto:enquiries@dwl.demon.uk)

#### **Central Scotland Green Network (CSGN)**

t: 01501 824 190

e: [supportunit@ntralscotlandgreennetwork.org](mailto:supportunit@ntralscotlandgreennetwork.org)

#### **Historic Scotland's Scheduled Monument Consent Team**

t: 0131 668 8770

e: [HS.smc@scotland.gsi.gov.uk](mailto:HS.smc@scotland.gsi.gov.uk)

#### **Health Protection Agency (Radiation Protection Services)**

t: 01235 822 783

e: [darren.clahane@hpa.org.uk](mailto:darren.clahane@hpa.org.uk)

#### **Edinburgh Airport Limited**

t: 0844 481 8989

e: [kevin\\_murphy@edinburghairport.com](mailto:kevin_murphy@edinburghairport.com)

### STRATEGIC ENVIRONMENTAL ASSESSMENT (SEA)

Under the terms of the Environmental Assessment (Scotland) Act 2005 the RDGSPG has been screened to determine whether a Strategic Environmental Assessment (SEA) is required to inform its preparation. The conclusion of this screening is that a SEA is not required (undertaken in August 2012).

### EQUALITIES IMPACT ASSESSMENT

An Equalities Impact Assessment of the SPG has been carried out and it was concluded that there are no adverse impacts on any part of the community covered by equalities legislation or on community relations. (undertaken in August 2012).

*Officers will be pleased to help clarify any aspect of this guidance that is unclear or which is not fully understood. Please contact us if you identify any inaccuracies in the document. This will allow the content to be corrected and revised as and when appropriate.*

*This SPG was approved by West Lothian Council Executive 25 June 2013*

## WEB ADDRESSES IN FULL

- Page 5: *Planning and Climate Change*: <http://www.scotland.gov.uk/Topics/Built-Environment/planning/National-Planning-Policy/themes/sus-dev>  
*Scottish Planning Policy*:  
<http://www.scotland.gov.uk/Publications/2010/02/03132605/8>
- Page 7: Single plot and small-scale infill residential development in urban areas:  
[http://www.westlothian.gov.uk/media/downloadaddoc/1799514/1841832/1875738/spg\\_towncramming](http://www.westlothian.gov.uk/media/downloadaddoc/1799514/1841832/1875738/spg_towncramming)
- Page 13: Planning Advice Note (PAN) 44, *Fitting new housing developments into the landscape*:  
<http://www.scotland.gov.uk/Publications/2005/04/01145231/52326>  
Planning Advice Note (PAN) 67, *Housing quality*:  
<http://www.scotland.gov.uk/Publications/2003/02/16489/18778>
- Page 16: policies on affordable housing: <http://www.westlothian.gov.uk/1210/161/205/spg>
- Page 19: Planning Advice Note (PAN) 68, *Design Statements*:  
<http://www.scotland.gov.uk/Publications/2003/08/18013/25389>
- Page 21: *Designing Streets: A Policy Statement for Scotland*:  
<http://www.scotland.gov.uk/Publications/2010/03/22120652/0>  
objectives of the Central Scotland Green Network:  
[http://www.centralscotlandgreennetwork.org/images/stories/CSGN/vision\\_textonly\\_30march2011.pdf](http://www.centralscotlandgreennetwork.org/images/stories/CSGN/vision_textonly_30march2011.pdf)
- Page 22: *Designing Places*: <http://www.scotland.gov.uk/Topics/Built-Environment/planning/National-Planning-Policy/Designing>
- Page 25: Planning Advice Note (PAN) 77, *Designing Safer Places*: <http://www.scotland.gov.uk/Publications/2006/03/08094923/0>
- Page 26: series of crime prevention methods: <http://www.securedbydesign.com/>
- Page 29: National Planning Framework for Scotland 2:  
<http://www.scotland.gov.uk/Publications/2009/07/02105627/0>  
Draft National Planning Framework for Scotland 3:  
<http://www.scotland.gov.uk/Publications/2013/04/2377/downloads>
- Page 37: Planning Advice Note (PAN) 65, *Planning and Open Space*:  
<http://www.scotland.gov.uk/Resource/Doc/225179/0060935.pdf>
- Page 43: West Lothian Sports and Recreation Facilities Strategy:  
<http://www.westlothian.gov.uk/media/downloadaddoc/1799441/1856768/1856775>  
West Lothian Outdoor Facilities Strategy:  
<http://www.westlothian.gov.uk/media/downloadaddoc/1799441/1856768/1856791>
- Page 57: *Cycle by Design*: <http://www.transportscotland.gov.uk/strategy-and-research/publications-and-consultations/cycling-by-design>  
Core Paths Plan: <http://www.westlothian.gov.uk/1523/1504/1506>
- Page 59: *Designing Streets: A Policy Statement for Scotland*:  
<http://www.scotland.gov.uk/Publications/2010/03/22120652/0>  
Travel plans, residential travel plan information packs and travel plan co-ordinators.  
[http://www.westlothian.gov.uk/1210/161/205/spg\\_developercontributions](http://www.westlothian.gov.uk/1210/161/205/spg_developercontributions)
- Page 61: *Planning for biodiversity action in West Lothian*: [http://www.westlothian.gov.uk/media/downloadaddoc/1799514/1842967/Biodiversity\\_action\\_plan](http://www.westlothian.gov.uk/media/downloadaddoc/1799514/1842967/Biodiversity_action_plan)

- Page 62: *Scotland's wildlife: the law and you:*  
<http://www.snh.org.uk/pdfs/publications/wildlife/wildlifelaw.pdf>  
 Planning Permission and Wildlife: what you need to know:  
<http://www.snh.org.uk/pdfs/publications/wildlife/planningpermissionwildlife.pdf>
- Page 64: *The Sustainable Housing Design Guide for Scotland:*  
<http://www.archive2.official-documents.co.uk/document/deps/cs/shdg/index.html>
- Page 66: Energy Savings Trust: <http://www.energysavingtrust.org.uk/business>  
 Carbon Trust: <http://www.carbontrust.co.uk>  
 Planning policy: <http://www.westlothian.gov.uk/1210/161/205/spg>
- Page 68: SEPA Habitat Enhancement Publications:  
[http://www.sepa.org.uk/water/water\\_publications/habitat\\_enhancement.aspx](http://www.sepa.org.uk/water/water_publications/habitat_enhancement.aspx)
- Page 69: Planning Advice Note (PAN) 69, *Planning and Building Standards Advice on Flooding:*  
<http://www.scotland.gov.uk/Publications/2004/08/19805/41594>  
 SEPA Flooding in Scotland: [http://www.sepa.org.uk/flooding/flood\\_risk\\_management/consultations/flooding\\_in\\_scotland.aspx](http://www.sepa.org.uk/flooding/flood_risk_management/consultations/flooding_in_scotland.aspx)  
 SEPA Planning protocol:  
<http://search.sepa.org.uk/sepa?action=search&q=PLANNING%20PROTOCOL>  
 SEPA Interim Position Statement on Planning and Flooding:  
<http://search.sepa.org.uk/sepa?action=search&q=position+statement+on+plan+ning+and+flooding&n=sepa>
- Page 70: Planning policy: <http://www.westlothian.gov.uk/1210/161/205/207>
- Page 71: Sewers for Scotland: <http://www.scottishwater.co.uk/business/our-services/new-connections/sewers-for-scotland-and-suds>  
 Regulation of Sustainable Urban Drainage System: [http://www.sepa.org.uk/water/water\\_regulation/guidance/pollution\\_control.aspx](http://www.sepa.org.uk/water/water_regulation/guidance/pollution_control.aspx)  
 Scottish Water's Construction Standards and Vesting Conditions:  
<http://sfs.wrcplc.co.uk/>
- Page 72: Planning - policies: <http://www.westlothian.gov.uk/1210/161/205/207>  
 Planning Advice Note (PAN) 79, *Water and Drainage:*  
<http://www.scotland.gov.uk/Publications/2006/09/26152857/0>  
 SUDS For Roads: <http://scots.sharepoint.apptix.net/suds/General%20Publications/090831%20Foreword%20and%20Contents.pdf>  
 CMDRA map of West Lothian:  
[http://coal.decc.gov.uk/assets/coal/whatwedo/west\\_lothian\\_referral.pdf](http://coal.decc.gov.uk/assets/coal/whatwedo/west_lothian_referral.pdf)  
 The Coal Authority contact: <http://coal.decc.gov.uk/en/coal/cms/contact/contact.aspx>
- Page 73: West Lothian Soil Sustainability Report: [http://www.westlothian.gov.uk/media/downloaddoc/1799514/1842967/soil\\_sustainability\\_report](http://www.westlothian.gov.uk/media/downloaddoc/1799514/1842967/soil_sustainability_report)  
 Defra Construction Code of Practice for the Sustainable Use of Soils in Construction Sites: <http://www.defra.gov.uk/publications/files/pb13298-code-of-practice-090910.pdf>
- Page 74: The management and after-use of soils on development sites:  
[http://www.westlothian.gov.uk/media/downloaddoc/1799514/1841832/1875738/2173476/afteruse\\_soil](http://www.westlothian.gov.uk/media/downloaddoc/1799514/1841832/1875738/2173476/afteruse_soil)  
 Development of land potentially affected by contamination:  
[http://www.westlothian.gov.uk/media/downloaddoc/1799514/1841832/1850797/spg\\_conland](http://www.westlothian.gov.uk/media/downloaddoc/1799514/1841832/1850797/spg_conland)



- Page 75: Planning Advice Note (PAN) 33, *Development of Contaminated Land*:  
<http://www.scotland.gov.uk/Publications/2000/10/pan33>  
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<http://www.hse.gov.uk/landuseplanning/padhi.pdf>
- Page 76: 2011 Air Quality Progress Report: <http://www.westlothian.gov.uk/media/downloadaddoc/1799514/1875233/Airqualityprogressreport>  
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<http://www.scotland.gov.uk/Publications/2006/10/20095106/0>
- Page 77: HealthProtectionAgency-AnAnalysisOfRadonRemediationMethods:<http://www.hpa.org.uk/Publications/Radiation/CRCEScientificAndTechnicalReportSeries/HPACRCE019/>
- Page 78: Planning and noise: <http://www.westlothian.gov.uk/1210/161/205/207>  
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<http://www.scotland.gov.uk/Publications/2011/02/28153945/0>
- Page 79: Planning Advice Note (PAN) 51, *Planning, Environmental Protection and Regulation*:  
<http://www.scotland.gov.uk/resource/doc/152228/0040973.pdf>  
 Controlling light pollution and reducing lighting energy consumption:  
[http://www.westlothian.gov.uk/media/downloadaddoc/1799514/1841832/1875738/spg\\_lighting](http://www.westlothian.gov.uk/media/downloadaddoc/1799514/1841832/1875738/spg_lighting)  
 Planning Advice Note (PAN) 58, *Environmental Impact Assessment*:  
<http://www.scotland.gov.uk/Publications/1999/10/pan58-root/pan58>
- Page 80: Zero Waste Plan: <http://www.scotland.gov.uk/publications/2010/06/08092724/1>  
 SEPA <http://sepa.org.uk>  
 Financial statistics at your fingertips <http://www.netregs-swmp.co.uk>  
 Site waste management plan (SWMP) regulations guide - GG899:<http://envirowise.wrap.org.uk/uk/Our-Services/Publications/GG899-Site-Waste-Management-Plan-SWMP-Regulations-Guide-.html>  
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- Page 83: Mud on Roads: [http://www.westlothian.gov.uk/media/downloadaddoc/1799514/1841832/1875738/2173476/minerals\\_on\\_roads](http://www.westlothian.gov.uk/media/downloadaddoc/1799514/1841832/1875738/2173476/minerals_on_roads)
- Page 84: Historic Scotland's *New Design in Historic Settings*:  
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- Page 85: *Developer contributions to public art*:<http://www.westlothian.gov.uk/media/downloadaddoc/1799514/1841832/1875738/spg-publicart>
- Page 86: Planning - policies: <http://www.westlothian.gov.uk/1210/161/205/207>  
 Circular 3/2012, *Planning Obligations and Good Neighbour Agreements*  
<http://www.scotland.gov.uk/Resource/0041/00410382.pdf>
- Page 87: Planning for education: [http://www.westlothian.gov.uk/media/downloadaddoc/1799514/1841832/1875738/spg\\_planningforeducation](http://www.westlothian.gov.uk/media/downloadaddoc/1799514/1841832/1875738/spg_planningforeducation)  
 Planning - policies: <http://www.westlothian.gov.uk/1210/161/205/207>



## HANDLING REPORT

<b>Ref. No.:</b>	0117/FUL/20	<b>Email:</b>	matthew.watson@westlothian.gov.uk
<b>Case Officer:</b>	Matthew Watson	<b>Tel No.:</b>	01506 283536
<b>Ward:</b>	East Livingston & East Calder	<b>Member:</b>	Damian Timson Frank Anderson Carl John Dave King

<b>Title</b>	Erection of a house (Grid Ref: 306582,667045) at 3 Calder House Road, Mid Calder, West Lothian, EH53 0JZ
<b>Application Type</b>	Local Application
<b>Decision Level</b>	Delegated List
<b>Site Visit</b>	06.03.2020
<b>Recommendation</b>	Refuse Permission
<b>Decision</b>	
<b>Neighbour Notification</b>	Neighbour notification procedures have been carried out correctly - case officer verification. YES
<b>Advertisement</b>	12.03.2020

## Description of Proposals

Erection of a house

## Site History

No planning history on file.

## Representations

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

Two objections:

- Detrimental impact on visual amenity from the enclosure of an area of open space that contributes positively to the character of the street
- Impact on the streetscene from a 6 ft fence in a prominent location that extends well beyond the front elevation of the new house

- Impact on parking with the driveway access across a parking bay, thereby reducing the number of on-street spaces
- The driveway does not meet minimum standards for depths
- The proposal is contrary to policies DES1 and HOU3 in the local development plan due to the physical constraints of the site and the negative impacts it would have on the amenity of the surrounding area
- There is a history of WLC rejecting 6 ft fencing and a driveway at this property

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## Consultations

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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 subject to a condition requiring any gates to open inwards.	Noted.
Education Planning (Andrew Cotton)	No	No objections subject to payment of contributions towards education infrastructure.	Noted.
Environmental Health	No	No objection subject to inclusion of the standard construction hours condition.	Noted.

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## Policies Considered

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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

	<p>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 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>
<p>HOU3 - Infill and Windfall Housing Devel</p>	<p>In addition to sites already identified in Policy HOU 1 of the LDP, new housing development will also be supported on sites within settlement boundaries provided: a. the development will be in keeping with the character of the settlement and local area; b. the site is not identified for an alternative use in the LDP or the proposal complies with Policy EMP 1 - Safeguarding and Developing Existing Employment Land; c. the site does not form an area of maintained amenity or open space unless the proposal conforms with the terms of policy ENV 21 (Protection of formal and informal Open Space) and is acceptable in landscape and townscape terms; d. the proposed housing use is compatible with nearby uses, there is no adverse effect on the character of the local area and a satisfactory residential environment can be achieved; e. the site benefits from good accessibility by public transport and active travel to shopping, education, recreational and other community facilities; f. existing physical infrastructure, including roads, drainage, sewage, and education have the capacity to accommodate the proposed development; g. the proposal complies with Policy INF 1 and Policy TRAN 2, as applicable, where additional infrastructure would be required as a result of the development; h. the site is not at significant risk of flooding in the terms of policy EMG 2 (Flooding); and i. the proposal complies with other LDP policies and relevant Supplementary Guidance. Proposals for development within or adjacent to sensitive locations such as Special Landscape Areas (SLAs), Gardens and Designed Landscapes, Historic</p>



	<p>Battlefields, Conservation Areas or affecting the appearance, character and setting of Listed Buildings and Scheduled Ancient Monuments and any other historic or archaeological asset will be subject to additional scrutiny and may require to be supported by the submission of additional information. In these circumstances, there is an expectation that the standard of design will be higher than in less sensitive locations. Proposals for the change of use, conversion and re-use of existing buildings in non-residential use to housing will also be supported within the settlement boundaries subject to the above criteria being satisfied.</p>
<p>INF1 - Infrastructure Provision and deve</p>	<p>The council will seek developer obligations in accordance with Scottish Government Circular 3/2012 ('Planning Obligations and Good Neighbour Agreements'), as interpreted by emerging case law and amended by subsequent amendments and legislation, to mitigate the development's individual or cumulative impacts upon infrastructure, including cross-boundary impacts. Any such obligations will be concluded prior to the issue of planning permission. Where appropriate developer obligations have been secured, planning permission will normally be granted. In all cases, the council will consider the economic viability of proposals alongside options of phasing or staging payments from developers. Development will not be permitted to commence unless: a. funding (including any contributions from developer obligations) for necessary infrastructure is fully committed and that infrastructure is capable of being delivered; or b. phasing to manage demand on infrastructure has been agreed; or c. in advance of all necessary infrastructure requirements being fully addressed, sufficient infrastructure is available in the interim to accommodate the development. Only where infrastructure constraints, identified by the council in conjunction with relevant authorities, cannot be overcome will there be a presumption against development. Infrastructure requirements are identified in Appendix 2 and further details will be provided in subsequent supplementary guidance and the Action Programme. Any related planning obligations will require to meet the policy and legal tests set out above. Proposed sites for new infrastructure are listed in Chapter 6. Note: Supplementary Guidance explaining how developer obligations will be implemented will be developed during the Plan period.</p>

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## **Policy Assessment**

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See below.

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## **Officer Assessment**

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The application proposes the subdivision of a plot and erection of a house on land at 3 Calder House Road. The proposed house would form an end terrace. The main garden space is proposed to the side of the house. The majority of the site currently forms part of a landscaped area of informal open space

Policy HOU 3 (a) of the West Lothian Local Development Plan (LDP) supports housing development within settlement boundaries where development is in keeping with the character of the settlement. Policy DES 1 of the LDP requires development to be integrated with its local context and built form.

Policy ENV 21 of the LDP requires there to be a locational justification that outweighs the need to retain formal or informal open space; there is no adverse impact on recreational amenity or green networks as a result of loss of open space; and the proposal will not result in significant ecological impacts through loss of trees, woodland and wildlife.

The character of the local area is one of terraced housing set around landscaped areas. There is an open character to these areas of landscaping. Low boundary fences face onto Calder House Road. Gardens are set to the rear of houses in the terraces.

The proposal would enclose an area of what is currently open space. This area proposed for enclosure contributes positively to the open character of the landscaping in the area. As such, its enclosure would result in a detrimental impact on visual amenity. The footprint of the proposed house being greater than the other houses in the terrace and projecting further forward towards Calder House Road than the opposite terrace to the west will result in an adverse impact on visual amenity and a house that does not integrate with its local context and built form, contrary to the provisions of Policies HOU 3 (a) and DES 1. In addition, the proposal will result in an unacceptable break from the spatial pattern of development in the area by having a garden to both the side and rear. The rear portion of the garden of the proposed house reduces the existing garden of 3 Calder House Road and will result in a significant break from the prevailing spatial character of the area.

Due to the proposal failing to integrate with its local context and built form, there is no locational justification that outweighs the need to retain this area of informal open space. The proposal is therefore contrary to Policy ENV 21 (a) of the LDP. The loss of open space will not result in an adverse impact on recreational amenity or green networks, and will not result in a significant ecological impact.

The Residential Development Guide Supplementary Guidance (RDG SG) specifies a 60:40 garden to building ratio for new build terraced houses. The proposal will result in a ratio of 70:30 for the proposed house. The proposed house complies with the RDG SG in this respect.

Overall, the proposal is contrary to policies HOU 3, DES 1 and ENV 21 of the LDP.

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## **Other Considerations**

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N/A

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**Conclusions and Reasons for Decision**

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In summary, the proposed house will have a detrimental impact on visual amenity and result in a house that fails to integrate with its local context and built form. There is no locational justification for the loss of informal open space. The proposal is contrary to policies HOU 3 (Infill/Windfall Housing Development within Settlements), DES 1 (Design principles) and ENV 21 (Protection of formal and informal open space) of the West Lothian LDP. No material considerations outweigh this conclusion.

Consequently, and in view of the above, it is recommended that planning permission is refused.

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**List of Review Documents**

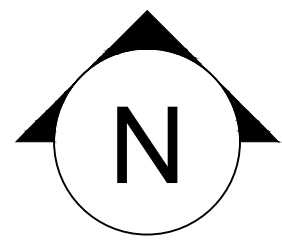
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Drawings schedule:

Docquetted Number	Drawing Description	Drawing Number
1	Location Plan	2020.001-0100
2	Site Plan	2020.001-102 B
3	Floor Plan (proposed)	2020.001-200
4	Proposed Elevations	2020.001-201

Case Officer .....MATTHEW WATSON.....

Date...28/04/2020.....



PLANNING PERMISION



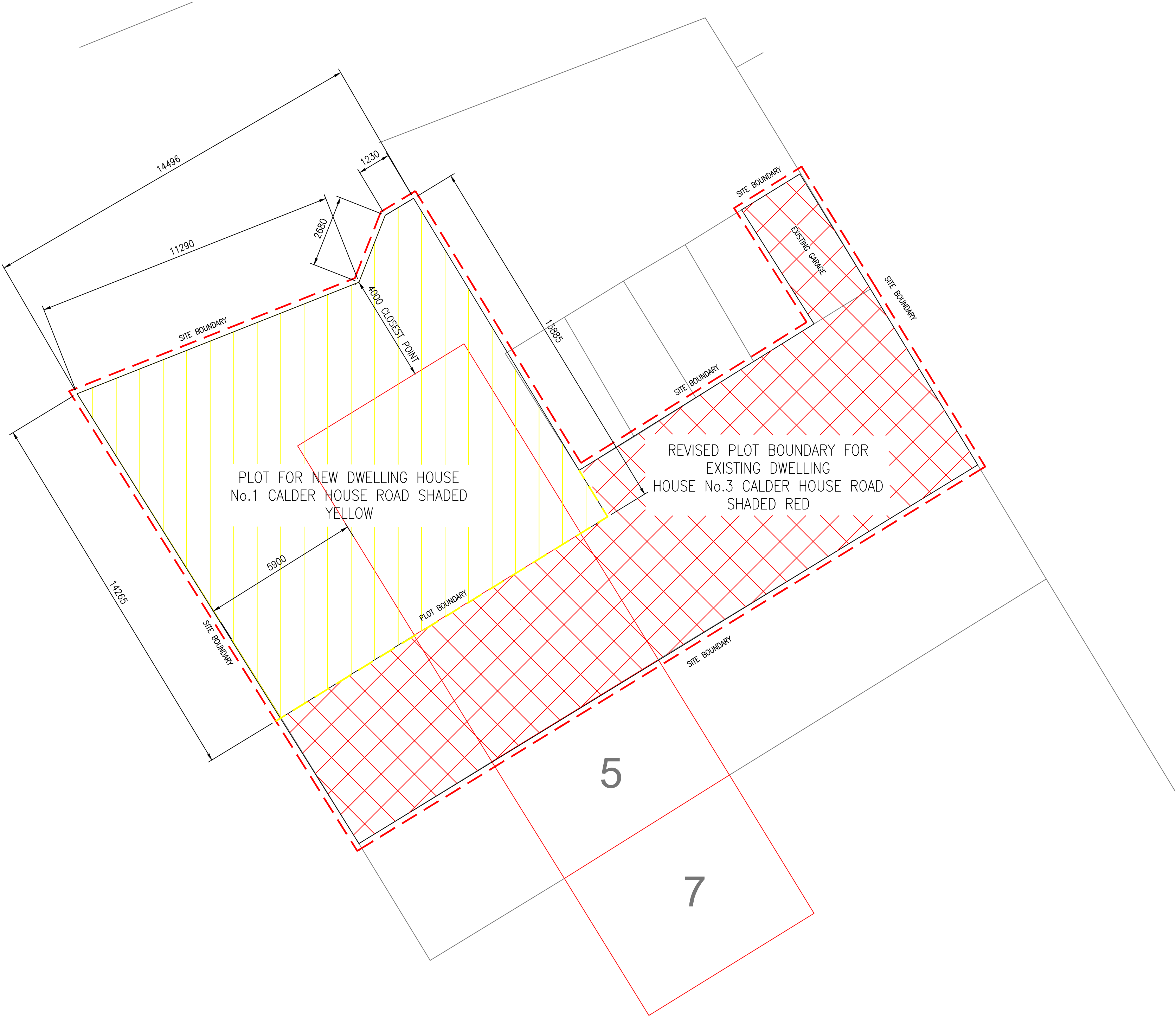
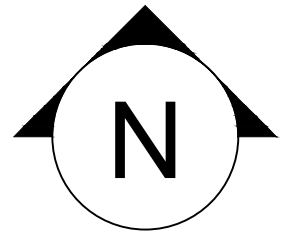
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Project: PROPOSED NEW 3 BEDROOM DWELLING HOUSE  
WITH OFFICE  
No.1 CALDER HOUSE ROAD  
AT No.3 CALDER HOUSE ROAD,  
WEST LOTHIAN  
EH53 0JZ

TITLE: LOCATION PLAN

TEL - 07703397437 SCALE:-  
Email - alastairhood200@btinternet.co.uk NTS  
DATE | JAN 2020 | BY | A.F.H.

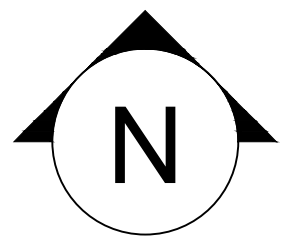
2020.001-0100 rev. -



PLANNING PERMISSION

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<div><div><div>F</div><div>A</div><div>H</div></div><div>DRAUGHTING</div></div>				
Client: Mr E MILLER & Miss M GATENSBY				
Project: PROPOSED NEW 3 BEDROOM DWELLING HOUSE WITH OFFICE No.1 CALDER HOUSE ROAD AT No.3 CALDER HOUSE ROAD, WEST LOTHIAN EH53 0JZ				
TITLE: PROPOSED PLOT KEY				
TEL - 07703397437			SCALE:-	
Email - alastairhood20@btinternet.co.uk			1:100	
DATE	JAN 2020	BY	A.F.H.	
2020.001-0101 rev. A				





# CALDER HOUSE ROAD

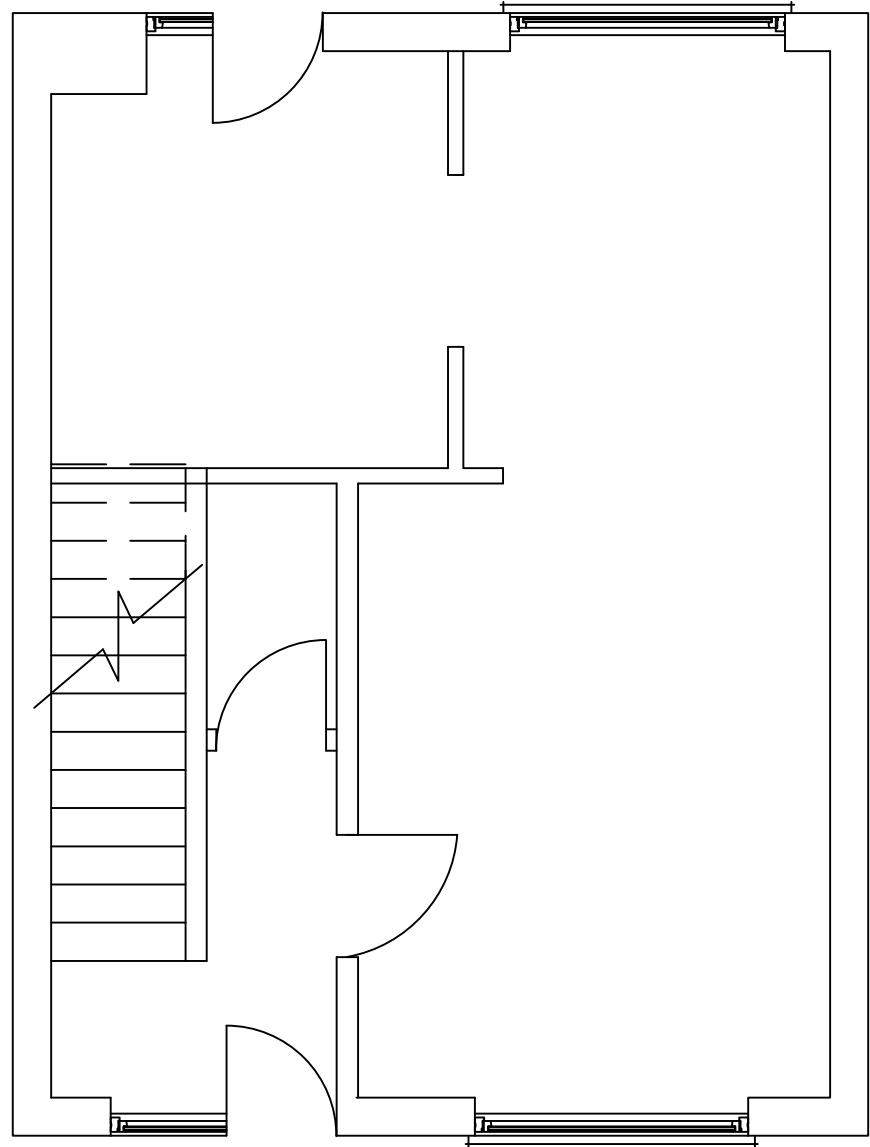


## PLANNING PERMISSION

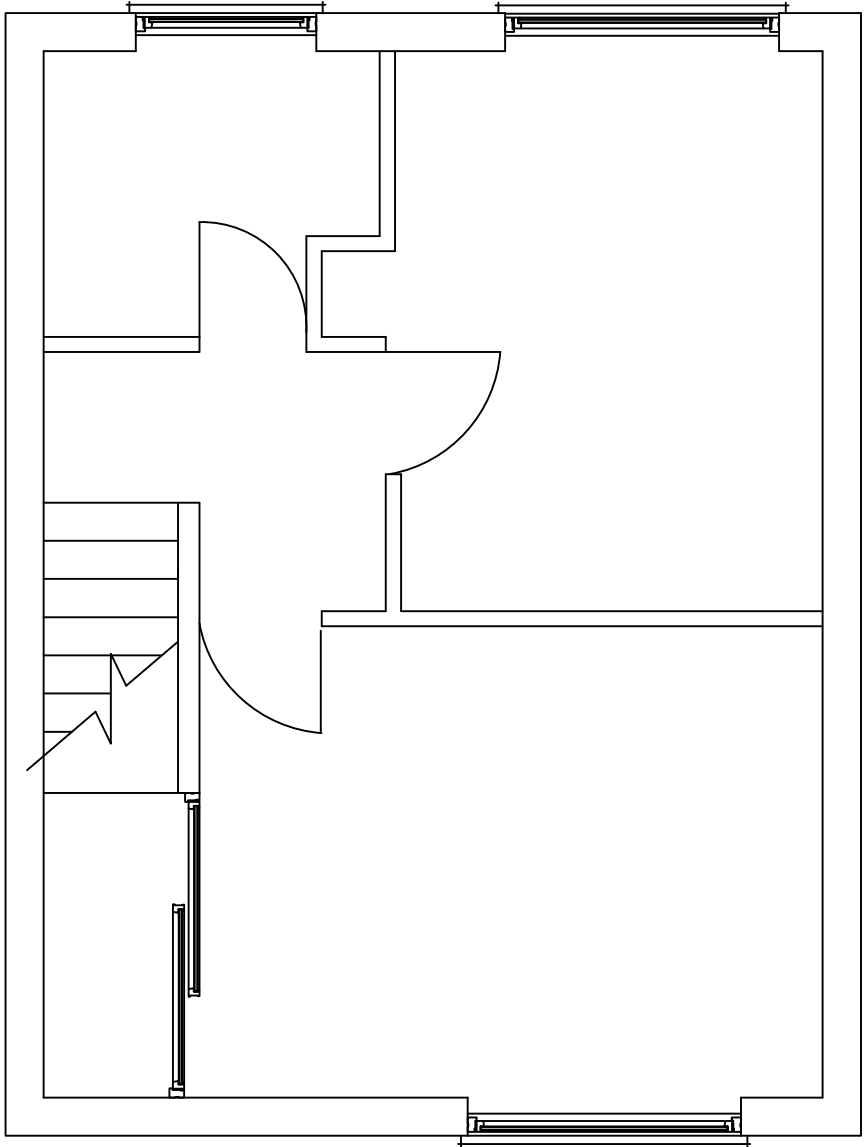
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B	09.04.20	NEW OFF STREET PARKING PROVIDED INLINE WITH 'NEW RESIDENTIAL DEVELOPMENT GUIDE'	AH	AFH
A	06.04.20	OFF STREET DRIVE WAY OMITTED	AH	AFH
REV	DATE	DISCRPTION	BY	CHKD



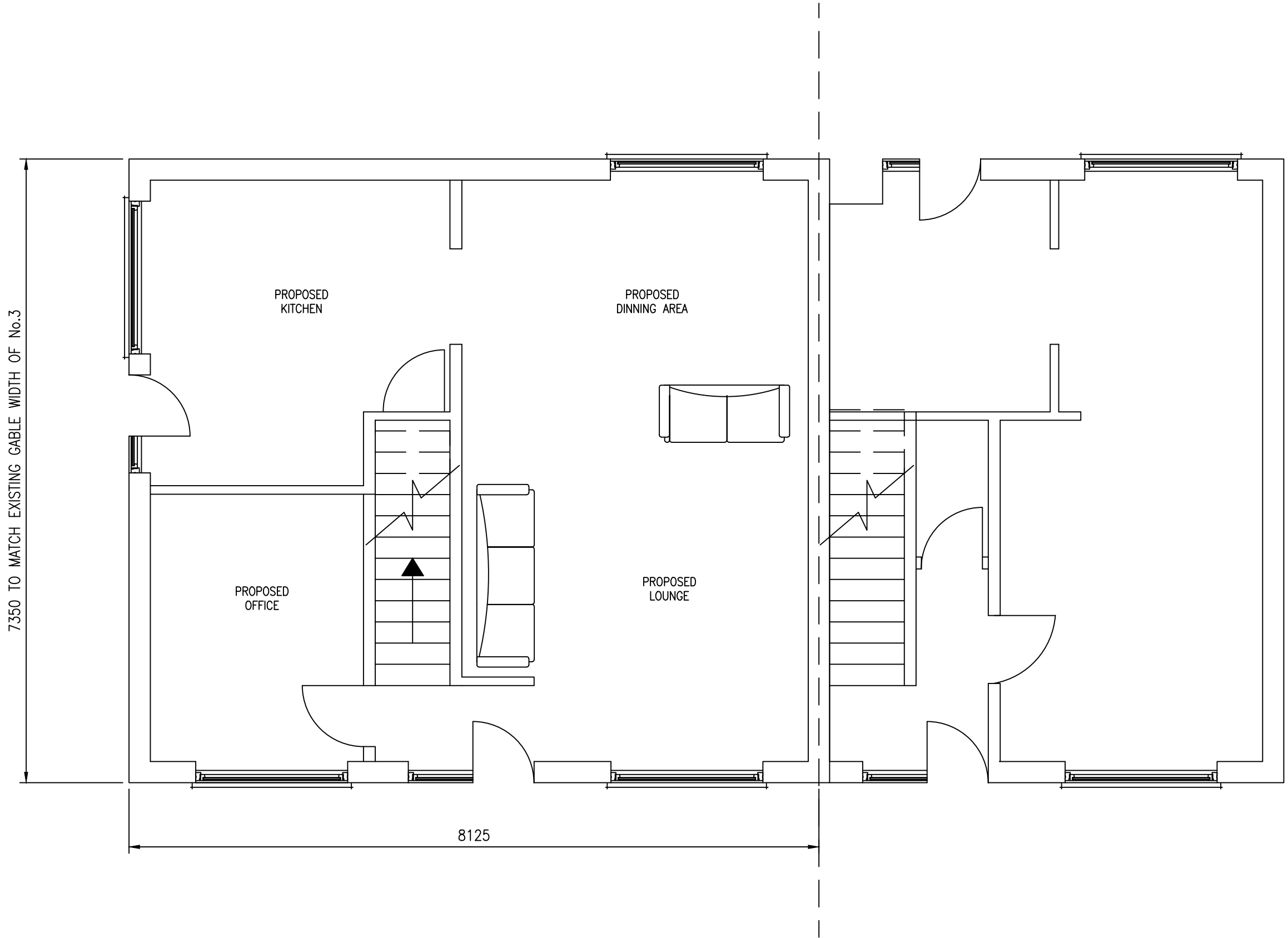
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Project:		PROPOSED NEW 3 BEDROOM DWELLING HOUSE WITH OFFICE No.1 CALDER HOUSE ROAD  AT No.3 CALDER HOUSE ROAD, WEST LOTHIAN EH53 0JZ	
TITLE:		PROPOSE SITE PLAN	
TEL - 07703397437		SCALE:-	
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DATE   JAN 2020	BY   A.F.H.		
2020.001-0102 rev. C			



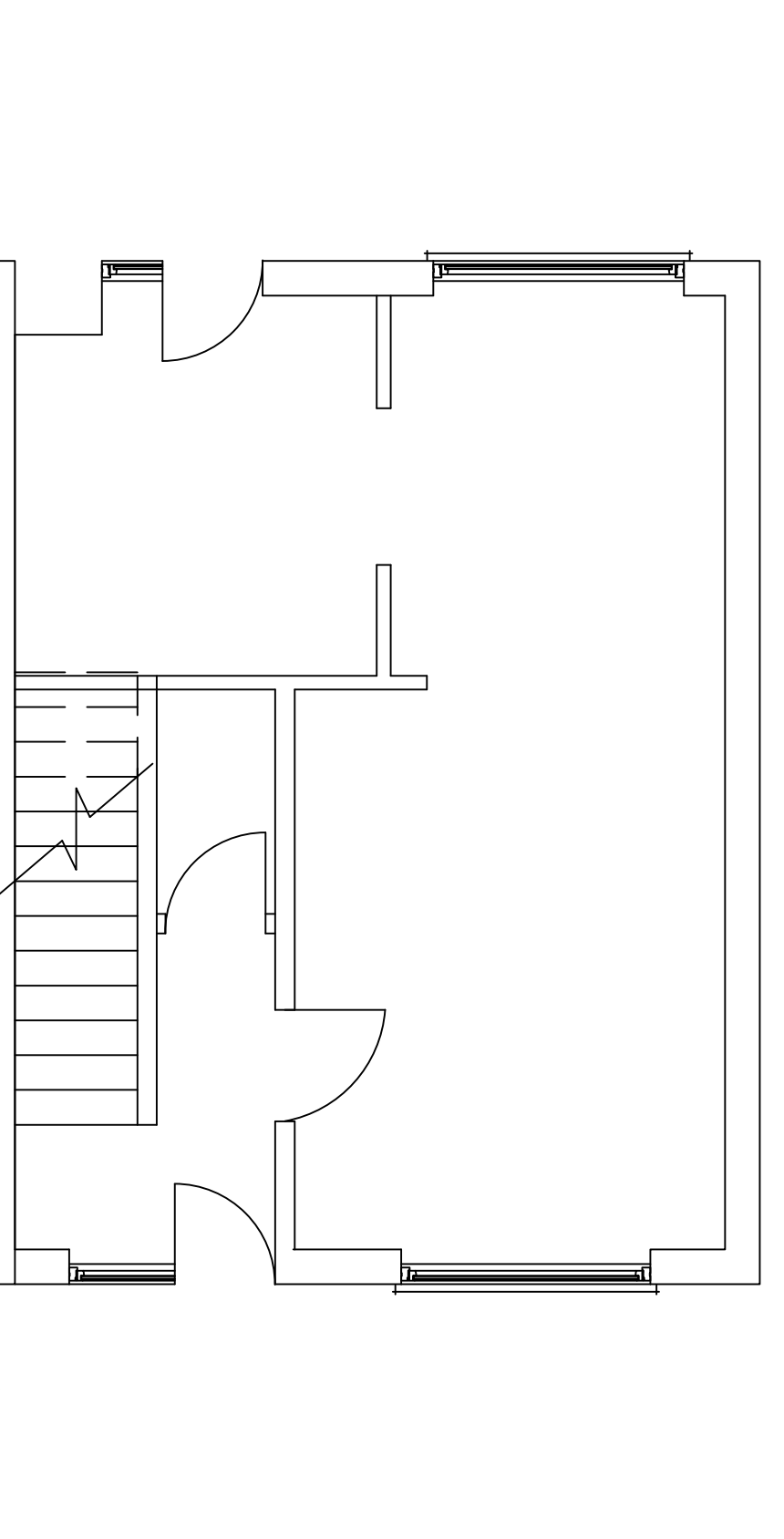
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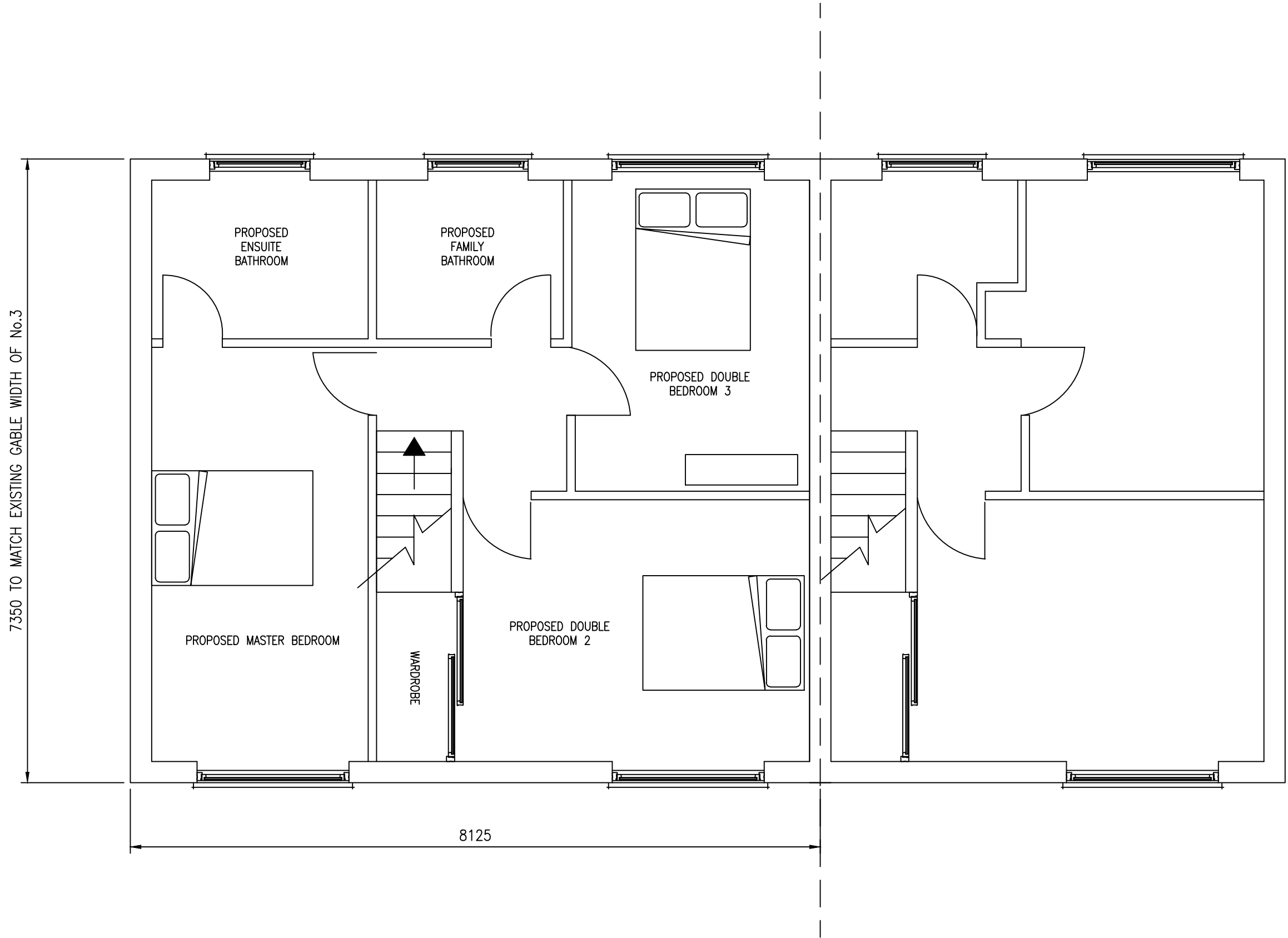
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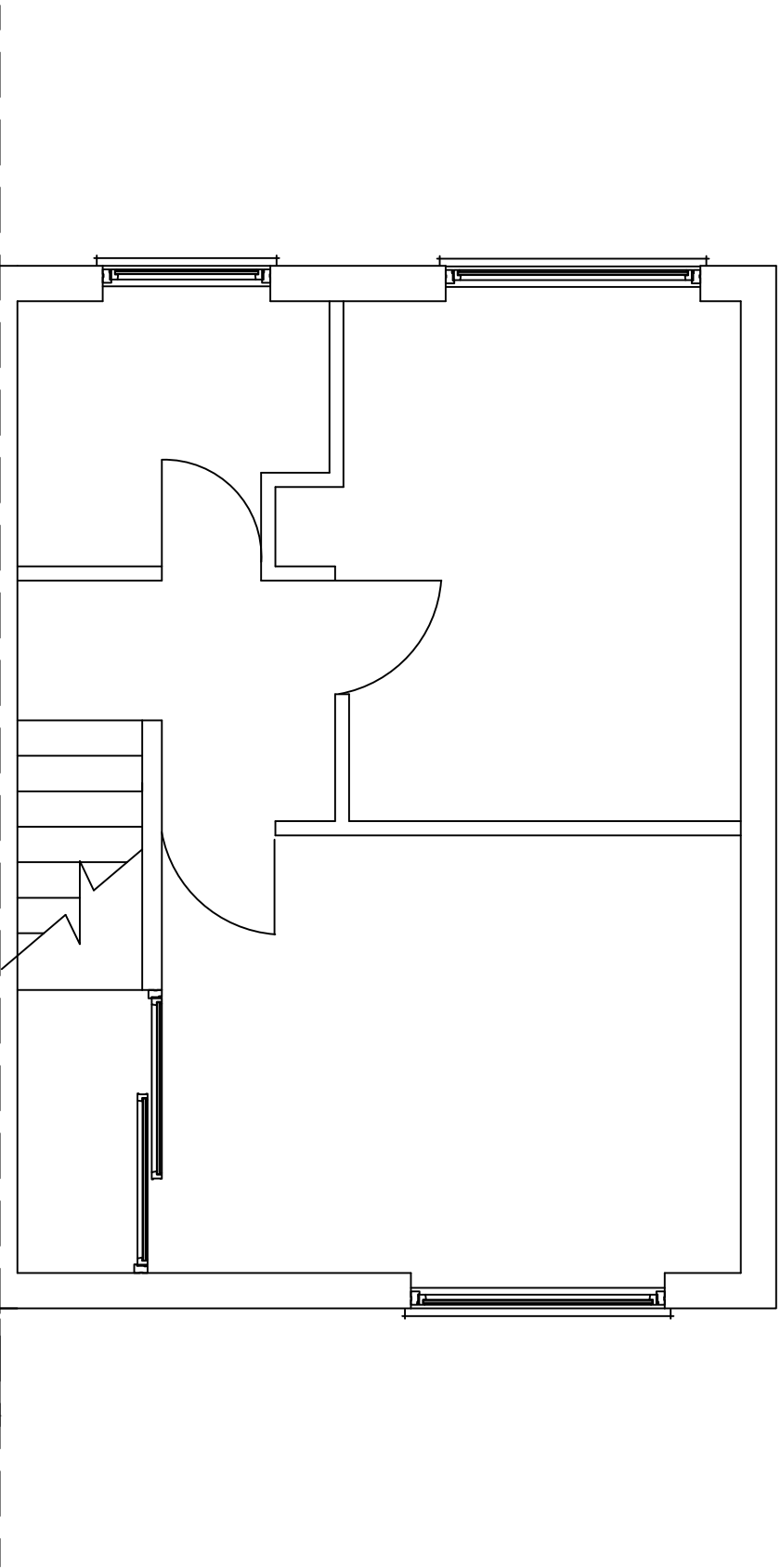
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PROPOSED FIRST FLOOR LAYOUT No.1  
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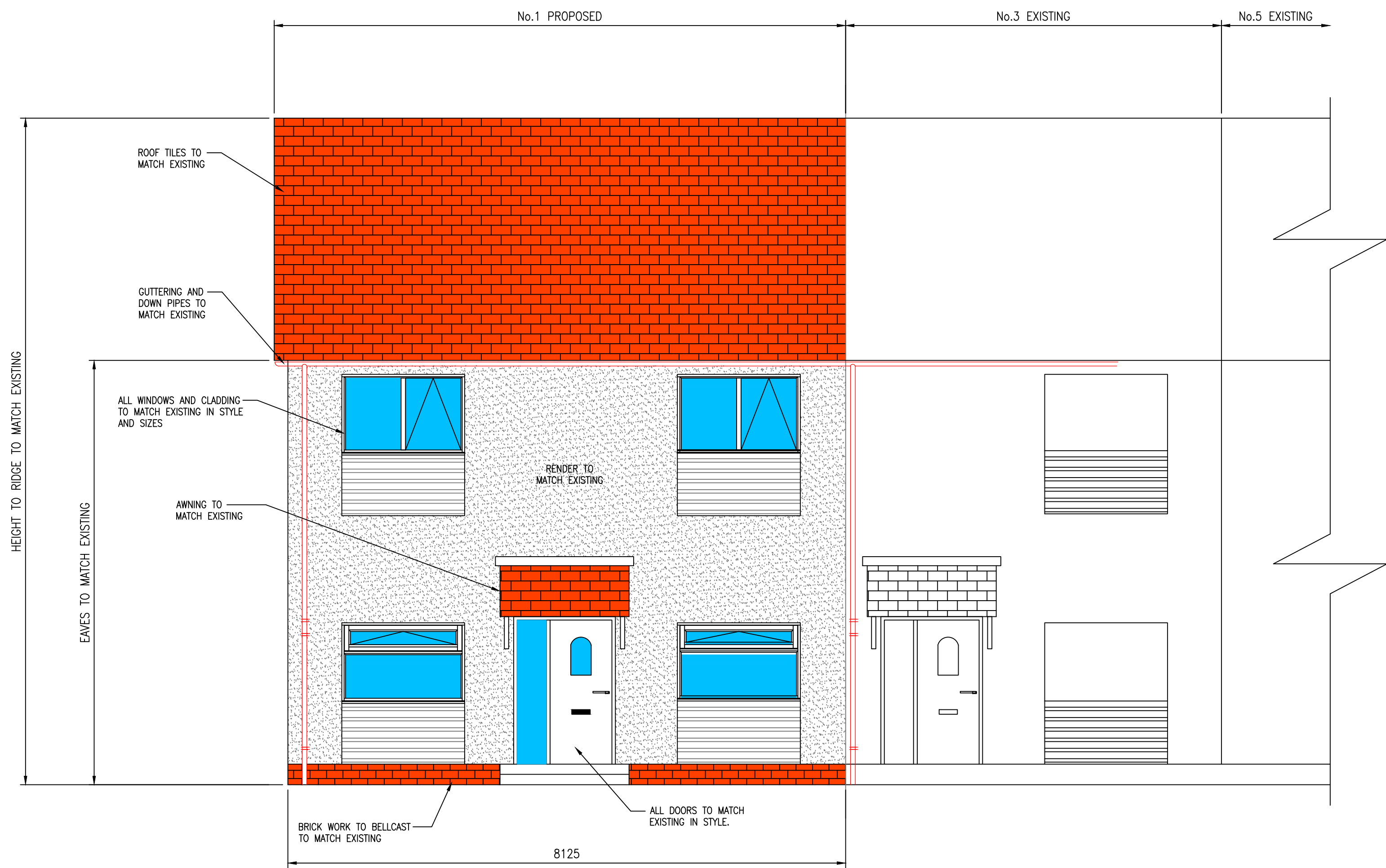
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PLANNING PERMISION

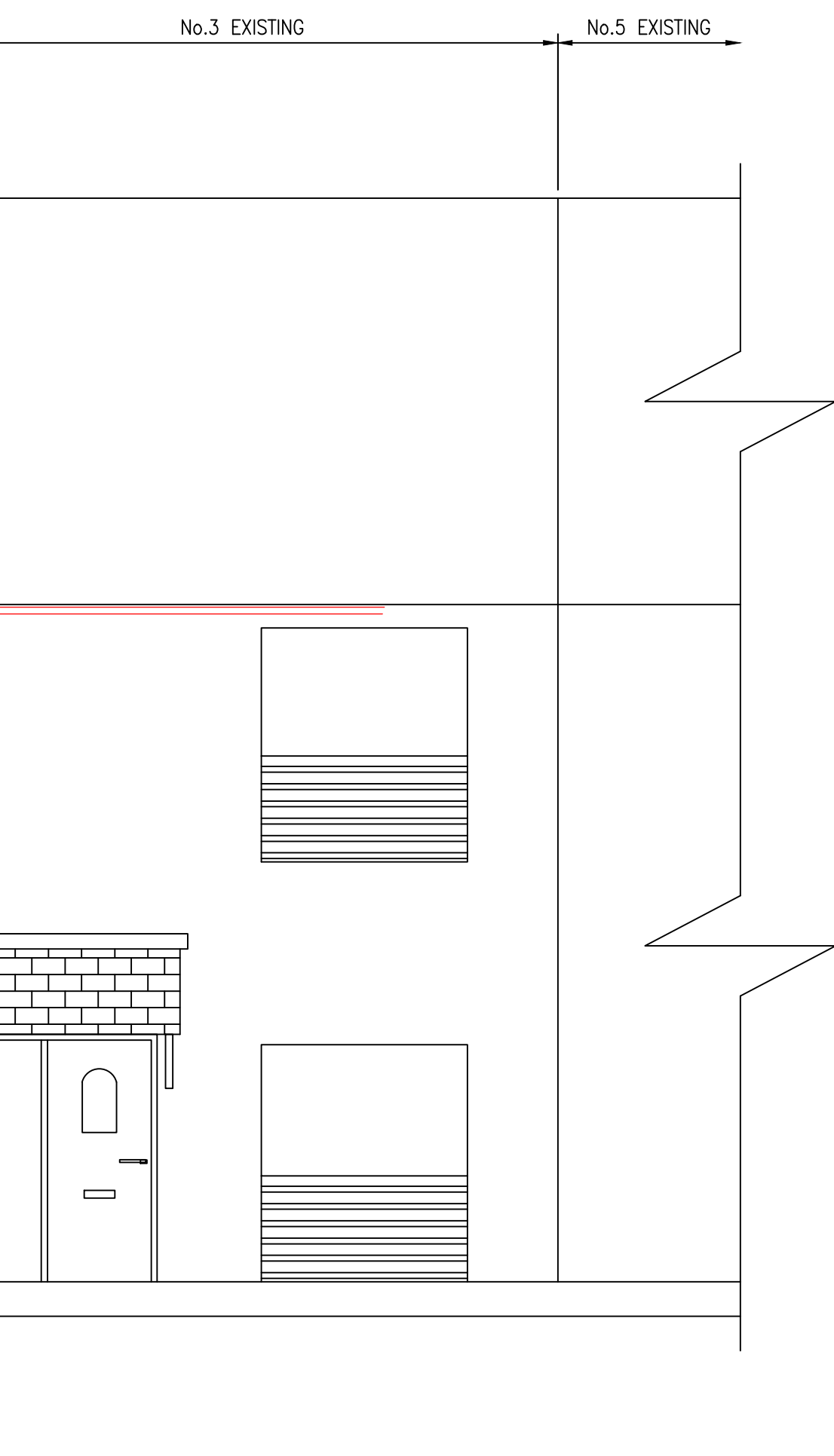


Client: Mr E MILLER & Miss M GATENSBY	
Project: PROPOSED NEW 3 BEDROOM DWELLING HOUSE WITH OFFICE No.1 CALDER HOUSE ROAD AT No.3 CALDER HOUSE ROAD, WEST LOTHIAN EH53 0JZ	
TITLE: EXISTING AND PROPOSED FLOOR PLANS	
TEL - 07703397437 Email - alastairhood200@btinternet.co.uk DATE   JAN 2020   BY   A.F.H.	SCALE:- 1:50
2020.001-0200 rev. -	

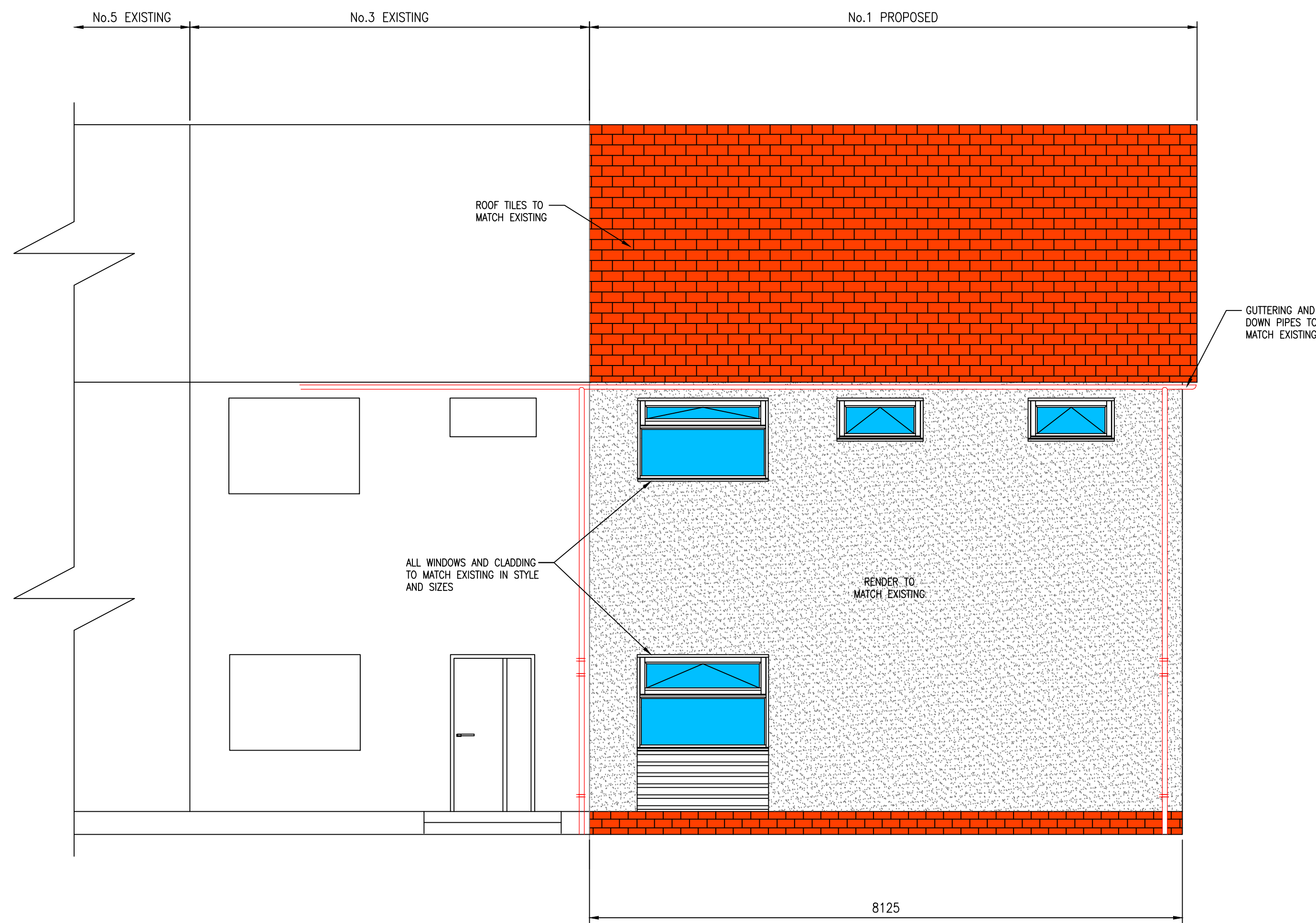




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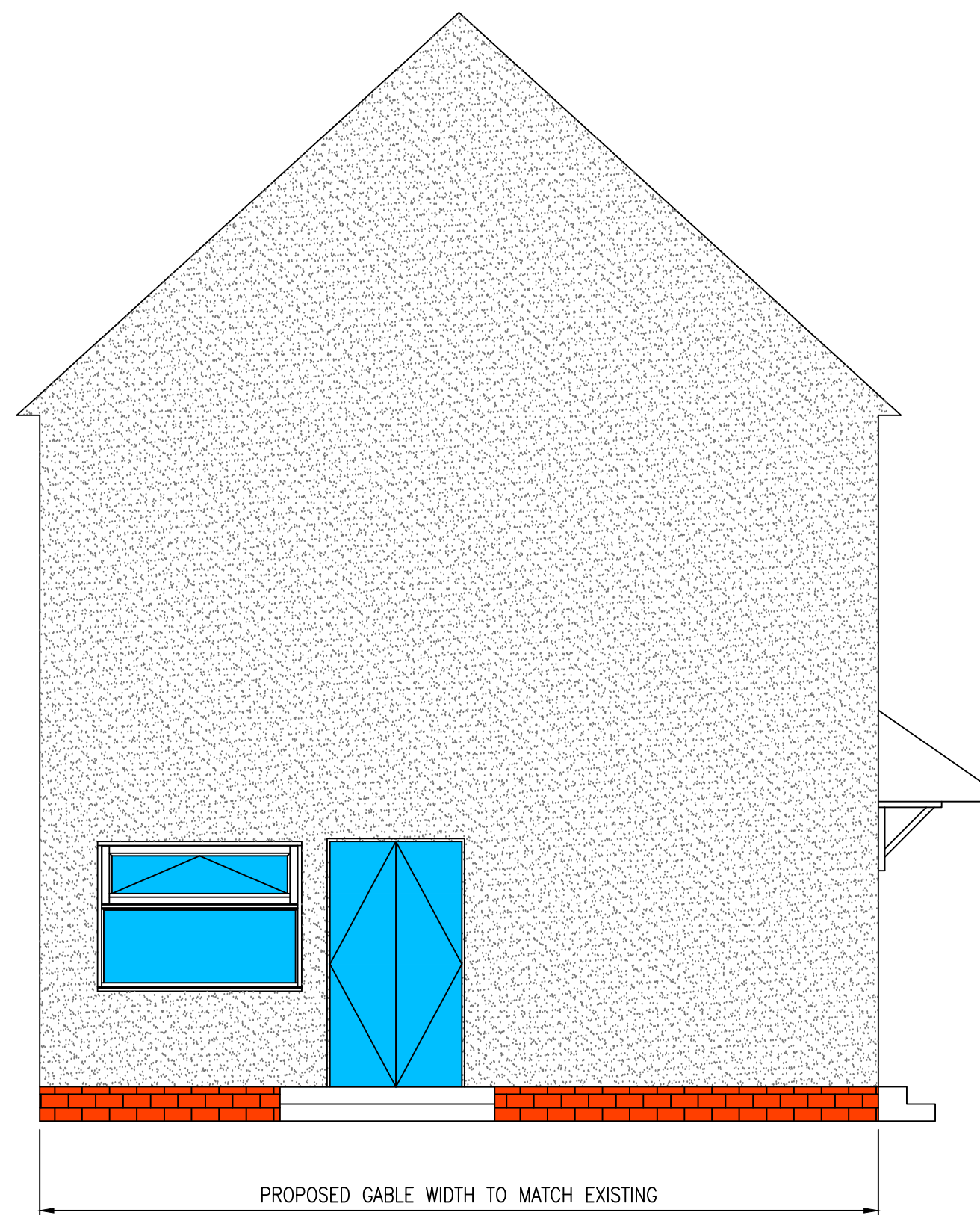


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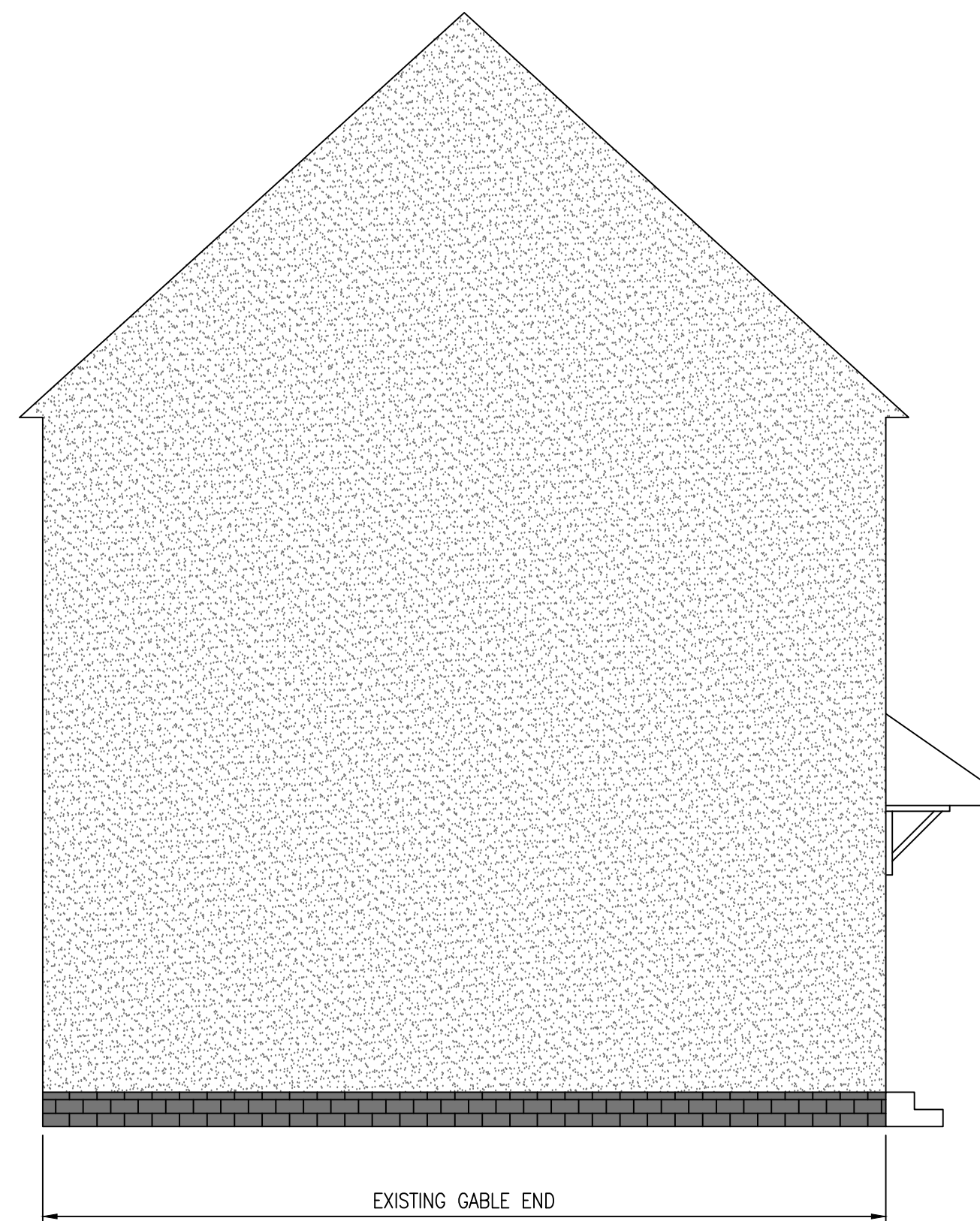


EXISTING REAR ELEVATION No.3  
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PROPOSED REAR ELEVATION No.1  
1:50



PROPOSED FRONT ELEVATION No.1  
1:50



EXISTING GABLE ELEVATION No.3  
1:50

PLANNING PERMISION



DRAUGHTING

Client: Mr E MILLER & Miss M GATENSBY

Project: PROPOSED NEW 3 BEDROOM DWELLING HOUSE  
WITH OFFICE  
No.1 CALDER HOUSE ROAD  
AT No.3 CALDER HOUSE ROAD,  
WEST LOTHIAN  
EH53 0JZ

TITLE: EXISTING AND PROPOSED ELEVATIONS

TEL - 07703397437 SCALE:-  
Email - alastairhood200@btinternet.co.uk NTS  
DATE | JAN 2020 | BY | A.F.H.

2020.001-0201 rev. -



## DECISION NOTICE REFUSAL OF PLANNING PERMISSION

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

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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).

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**APPLICATION REFERENCE** 0117/FUL/20

**PROPOSAL** Erection of a house

**LOCATION** 3 Calder House Road, Mid Calder, West Lothian, EH53 0JZ, (GRID REF: 306582, 667045)

**APPLICANT** Mr E Miller & Ms M Gatensby, 3 Calder House Road , Mid Calder, EH53 0JZ

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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:**  
**28.04.2020**

**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 0117/FUL/20, for the reason(s) set out as follows:**

- 1 The proposed house will have a detrimental impact on visual and residential amenity, through the enclosure of an area of informal open space that contributes positively to the character of the area.

The footprint of the proposed house is greater than the other houses in the terrace and projects further forward towards Calder House Road than the opposite terrace to the west. As such, the proposed house does not integrate with its local context and built form. This poor integration with the streetscape, in addition to the split side and rear garden, will result in an unacceptable break from the spatial pattern of development in the area.

The proposed development fails to integrate with its local context and built form and, as a result, there is no locational justification for the development that outweighs the need to retain this area of informal open space.

The proposed development is contrary to policies HOU 3 (Infill/Windfall Housing Development within Settlements), DES 1 (Design principles) and ENV 21 (Protection of formal and informal open space) of the West Lothian Local Development Plan, 2018.

**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: <http://www.westlothian.gov.uk/article/2078/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 <http://www.westlothian.gov.uk/article/2220/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](http://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 - 0117/FUL/20**

Docquetted Number	Drawing Description	Drawing Number
1	Location Plan	2020.001-0100
2	Site Plan	2020.001-102 B
3	Floor Plan (proposed)	2020.001-200
4	Proposed Elevations	2020.001-201



## HANDLING REPORT

<b>Ref. No.:</b>	0117/FUL/20	<b>Email:</b>	matthew.watson@westlothian.gov.uk
<b>Case Officer:</b>	Matthew Watson	<b>Tel No.:</b>	01506 283536
<b>Ward:</b>	East Livingston & East Calder	<b>Member:</b>	Damian Timson Frank Anderson Carl John Dave King

<b>Title</b>	Erection of a house (Grid Ref: 306582,667045) at 3 Calder House Road, Mid Calder, West Lothian, EH53 0JZ
<b>Application Type</b>	Local Application
<b>Decision Level</b>	Delegated List
<b>Site Visit</b>	06.03.2020
<b>Recommendation</b>	Refuse Permission
<b>Decision</b>	
<b>Neighbour Notification</b>	Neighbour notification procedures have been carried out correctly - case officer verification. YES
<b>Advertisement</b>	12.03.2020

## Description of Proposals

Erection of a house

## Site History

No planning history on file.

## Representations

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

Two objections:

- Detrimental impact on visual amenity from the enclosure of an area of open space that contributes positively to the character of the street
- Impact on the streetscene from a 6 ft fence in a prominent location that extends well beyond the front elevation of the new house

- Impact on parking with the driveway access across a parking bay, thereby reducing the number of on-street spaces
- The driveway does not meet minimum standards for depths
- The proposal is contrary to policies DES1 and HOU3 in the local development plan due to the physical constraints of the site and the negative impacts it would have on the amenity of the surrounding area
- There is a history of WLC rejecting 6 ft fencing and a driveway at this property

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## Consultations

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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 subject to a condition requiring any gates to open inwards.	Noted.
Education Planning (Andrew Cotton)	No	No objections subject to payment of contributions towards education infrastructure.	Noted.
Environmental Health	No	No objection subject to inclusion of the standard construction hours condition.	Noted.

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## Policies Considered

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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

	<p>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 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>
<p>HOU3 - Infill and Windfall Housing Devel</p>	<p>In addition to sites already identified in Policy HOU 1 of the LDP, new housing development will also be supported on sites within settlement boundaries provided: a. the development will be in keeping with the character of the settlement and local area; b. the site is not identified for an alternative use in the LDP or the proposal complies with Policy EMP 1 - Safeguarding and Developing Existing Employment Land; c. the site does not form an area of maintained amenity or open space unless the proposal conforms with the terms of policy ENV 21 (Protection of formal and informal Open Space) and is acceptable in landscape and townscape terms; d. the proposed housing use is compatible with nearby uses, there is no adverse effect on the character of the local area and a satisfactory residential environment can be achieved; e. the site benefits from good accessibility by public transport and active travel to shopping, education, recreational and other community facilities; f. existing physical infrastructure, including roads, drainage, sewage, and education have the capacity to accommodate the proposed development; g. the proposal complies with Policy INF 1 and Policy TRAN 2, as applicable, where additional infrastructure would be required as a result of the development; h. the site is not at significant risk of flooding in the terms of policy EMG 2 (Flooding); and i. the proposal complies with other LDP policies and relevant Supplementary Guidance. Proposals for development within or adjacent to sensitive locations such as Special Landscape Areas (SLAs), Gardens and Designed Landscapes, Historic</p>



	<p>Battlefields, Conservation Areas or affecting the appearance, character and setting of Listed Buildings and Scheduled Ancient Monuments and any other historic or archaeological asset will be subject to additional scrutiny and may require to be supported by the submission of additional information. In these circumstances, there is an expectation that the standard of design will be higher than in less sensitive locations. Proposals for the change of use, conversion and re-use of existing buildings in non-residential use to housing will also be supported within the settlement boundaries subject to the above criteria being satisfied.</p>
<p>INF1 - Infrastructure Provision and deve</p>	<p>The council will seek developer obligations in accordance with Scottish Government Circular 3/2012 ('Planning Obligations and Good Neighbour Agreements'), as interpreted by emerging case law and amended by subsequent amendments and legislation, to mitigate the development's individual or cumulative impacts upon infrastructure, including cross-boundary impacts. Any such obligations will be concluded prior to the issue of planning permission. Where appropriate developer obligations have been secured, planning permission will normally be granted. In all cases, the council will consider the economic viability of proposals alongside options of phasing or staging payments from developers. Development will not be permitted to commence unless: a. funding (including any contributions from developer obligations) for necessary infrastructure is fully committed and that infrastructure is capable of being delivered; or b. phasing to manage demand on infrastructure has been agreed; or c. in advance of all necessary infrastructure requirements being fully addressed, sufficient infrastructure is available in the interim to accommodate the development. Only where infrastructure constraints, identified by the council in conjunction with relevant authorities, cannot be overcome will there be a presumption against development. Infrastructure requirements are identified in Appendix 2 and further details will be provided in subsequent supplementary guidance and the Action Programme. Any related planning obligations will require to meet the policy and legal tests set out above. Proposed sites for new infrastructure are listed in Chapter 6. Note: Supplementary Guidance explaining how developer obligations will be implemented will be developed during the Plan period.</p>

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## Policy Assessment

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See below.

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## Officer Assessment

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The application proposes the subdivision of a plot and erection of a house on land at 3 Calder House Road. The proposed house would form an end terrace. The main garden space is proposed to the side of the house. The majority of the site currently forms part of a landscaped area of informal open space

Policy HOU 3 (a) of the West Lothian Local Development Plan (LDP) supports housing development within settlement boundaries where development is in keeping with the character of the settlement. Policy DES 1 of the LDP requires development to be integrated with its local context and built form.

Policy ENV 21 of the LDP requires there to be a locational justification that outweighs the need to retain formal or informal open space; there is no adverse impact on recreational amenity or green networks as a result of loss of open space; and the proposal will not result in significant ecological impacts through loss of trees, woodland and wildlife.

The character of the local area is one of terraced housing set around landscaped areas. There is an open character to these areas of landscaping. Low boundary fences face onto Calder House Road. Gardens are set to the rear of houses in the terraces.

The proposal would enclose an area of what is currently open space. This area proposed for enclosure contributes positively to the open character of the landscaping in the area. As such, its enclosure would result in a detrimental impact on visual amenity. The footprint of the proposed house being greater than the other houses in the terrace and projecting further forward towards Calder House Road than the opposite terrace to the west will result in an adverse impact on visual amenity and a house that does not integrate with its local context and built form, contrary to the provisions of Policies HOU 3 (a) and DES 1. In addition, the proposal will result in an unacceptable break from the spatial pattern of development in the area by having a garden to both the side and rear. The rear portion of the garden of the proposed house reduces the existing garden of 3 Calder House Road and will result in a significant break from the prevailing spatial character of the area.

Due to the proposal failing to integrate with its local context and built form, there is no locational justification that outweighs the need to retain this area of informal open space. The proposal is therefore contrary to Policy ENV 21 (a) of the LDP. The loss of open space will not result in an adverse impact on recreational amenity or green networks, and will not result in a significant ecological impact.

The Residential Development Guide Supplementary Guidance (RDG SG) specifies a 60:40 garden to building ratio for new build terraced houses. The proposal will result in a ratio of 70:30 for the proposed house. The proposed house complies with the RDG SG in this respect.

Overall, the proposal is contrary to policies HOU 3, DES 1 and ENV 21 of the LDP.

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## Other Considerations

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N/A

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## Conclusions and Reasons for Decision

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In summary, the proposed house will have a detrimental impact on visual amenity and result in a house that fails to integrate with its local context and built form. There is no locational justification for the loss of informal open space. The proposal is contrary to policies HOU 3 (Infill/Windfall Housing Development within Settlements), DES 1 (Design principles) and ENV 21 (Protection of formal and informal open space) of the West Lothian LDP. No material considerations outweigh this conclusion.

Consequently, and in view of the above, it is recommended that planning permission is refused.

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## List of Review Documents

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Drawings schedule:

Docquetted Number	Drawing Description	Drawing Number
1	Location Plan	2020.001-0100
2	Site Plan	2020.001-102 B
3	Floor Plan (proposed)	2020.001-200
4	Proposed Elevations	2020.001-201

Case Officer .....MATTHEW WATSON.....

Date...28/04/2020.....

**Subject:** RE: Objection to current planning application - [OFFICIAL]

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

From: [REDACTED]  
Sent: 19 March 2020 16:03  
To: Planning  
Subject: Objection to current planning application

Name: [REDACTED]  
[REDACTED]  
[REDACTED] 2020

Application No. 0117/FUL/20  
Site Address: 3 Calder House Road  
Mid Calder  
West Lothian  
EH53 0JZ

Dear Sir/Madam

I wish to object to the above planning application as follows:

The proposed development is not in keeping with the style of the surrounding area and 6ft high fencing on roadside would spoil open outlook .

The proposal for a driveway at end of parking bay reduces the amount of car parking spaces available and will make the current bad parking situation even worse.

There is a history of West Lothian Council rejecting applications for 6ft fencing and also a driveway on this property.

[REDACTED]

Please do not publish my name and address or email address.

West Lothian Council - Data Labels:

OFFICIAL - Sensitive: Contains Personal or Business Sensitive Information for authorised personnel only

OFFICIAL: Contains information for council staff only

PUBLIC: All information has been approved for public disclosure NON-COUNCIL BUSINESS: Contains no business related or sensitive information

Link to Information Security Guidance: <https://intranet.westlothian.gov.uk/CHttpHandler.ashx?id=35022&p=0>

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# Comments for Planning Application 0117/FUL/20

## Application Summary

Application Number: 0117/FUL/20

Address: 3 Calder House Road Mid Calder West Lothian EH53 0JZ

Proposal: Erection of a house

Case Officer: Matthew Watson

## Customer Details

Name: Mr Paul Cyphus

Address: 13 Calder House Road Mid Calder Livingston

## Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I wish to object the the above application on the following grounds.

Parking - the street is already very congested and this would add further cars making the parking issue worse. Although the plans show a driveway, it is taken across the end of the parking bay, the effect of which is to reduce the number of spaces currently available. The driveway is also insufficient in length and a vehicle parked here would overhang the footway.

Impact on streetscene - the street is currently very open with pockets of landscaping and although the site is owned by the applicant it contributes positively to the character of the street as open space. The plans show that part of this area would be fenced off by a 6ft fence which would have a significant detrimental visual impact. In order to achieve a satisfactory level of private garden ground the fence would extend 5m beyond the front elevation of the proposed new house, in a prominent location immediately adjacent to the footway.

I appreciate my neighbours wish for a larger space and would have no objection to a well designed extension to the existing house. However a new house in this location, with the requirements for parking and private garden ground, is contrary to policies DES1 and HOU3 in the local development plan due to the physical constraints of the site and the negative impacts it would have on the amenity of the surrounding area.

Dear Val, (email received on 12 Aug 2020)

Thank you for the opportunity to comment on the request for a review of the decision. I'd start by saying that the majority of our points from the original objection still stand, however there are a few other points I'd like to respond to.

Firstly, the plans which were refused are not the plans which the neighbours were notified of and I would question whether or not neighbours should have been renotified and given the opportunity to comment further. In particular the change the driveway and parking arrangements may raise issues for the owners of the other garages.

Secondly, there was not previously a house in this location. Our understanding, from speaking to officers involved at the time the site was built, is that although a house was planned for this location, it was removed from the plans because there wasn't enough space to provide parking/garages for the houses and adequate garden ground. The street numbering was already in place by this point and that is why there is no number one. To suggest that a house needs to be constructed in this location to address the numbering discrepancy is, frankly, ridiculous.

It is also incorrect to draw comparisons between our extension and the current proposal. Our extension is one bedroom, with an ensuite. The current proposal is a 3 bed house with a footprint over twice the size of our extension. It is considerably wider than the existing terraced houses in the street. We would have no objection to an extension to the existing property at number 3.

The refused plans show a hedge being proposed around the front and side garden, similar to our house, however the 3D images submitted appear to show a fence of around 1.8m high, which would have a significant visual impact. The 3D image also demonstrates how much of that side garden would be taken up by parking.

To try and achieve enough garden ground the plans show that the existing garden for number 3 would be split, compromising the amenity for that property and resulting in potential overlooking and privacy issues. The proposal also relies on the side garden for private amenity space, most of which will be taken up by parking. The awkward garden and parking/access arrangement indicate that there is no sufficient space for a new house, with the requisite parking and amenity space. This is precisely the reason that the house was removed from the original plans for the street.

There has been specific reference made to my property on four occasions in the response from the client to lay comparison. Not only do I find this petty and trying to make this a personal point scoring exercise, I also feel the statements are without direct comparison. For example, as stated before, the footprint of the single storey extension at No.13 is nowhere near the footprint of proposed 3 bed property. This is a misleading and untruthful statement. There is reference made to the side garden at my property "although No.13 has chosen to put an extension in their area of side garden". This is another incorrect statement as there is still a small contained garden at the side of the house. I am also concerned that a photograph of my property has been used without my expressed permission. In relation to the other attached photographs, none show fences beyond the front building line.

I do have one further comment. The comparison to my property is completely null and void due to the fact I built a one storey extension onto a property with allotted adequate garden space even with the erected extension. The proposed build for No.3 is a completely new standalone dwelling. It is like comparing apples with shoes

Kind regards,

Paul



Project: PROPOSED NEW 3 BEDROOM DWELLING HOUSE  
WITH OFFICE  
No.1 CALDER HOUSE ROAD  
  
AT No.3 CALDER HOUSE ROAD,  
WEST LOTHIAN  
EH53 0JZ

TITLE: PROPOSE SITE PLAN

TEL - 07703397437		SCALE:-	
Email - alastairhood20@btinternet.co.uk		1:100	
DATE	JAN 2020		

2020.001-0102 rev. C



## **Draft Conditions – 0117/FUL/20**

1. Prior to the commencement of development, full details and samples of the materials to be used as external finishes on all buildings and for all parking and hardstanding areas shall be submitted to and approved by the planning authority, and the development shall be carried out strictly using those approved materials.

*Reason: To enable full consideration to be given to those details which have yet to be submitted, in the interests of visual and environmental amenity.*

2. Prior to the commencement of development, details of the height and finishes of all walls, fences and other means of enclosure shall be submitted of the written approval of the planning authority. Once approved, these details shall be implemented prior to occupation of the houses.

*Reason: To enable consideration of these details which have yet to be submitted and in the interests of privacy and amenity.*

3. The proposed bi-folding driveway gate, denoted on drawing 2020.001-102 B, shall open inwards.

*Reason: To ensure cars can access adjacent garages, in the interest of road safety.*

4. The following restrictions shall apply to the construction of the development:

### 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 0900 and 1300 on a Saturday and at no time on a Sunday. This includes deliveries and operation of on-site vehicles and equipment.
- No generators shall be audible within any residential properties between the hours of 2000 and 0800.

### Noise (Vehicles/Plant)

- All site vehicles (other than delivery vehicles) must be fitted with non-tonal broadband reversing alarms.
- Heavy goods vehicles shall not arrive or leave the site except between the hours of 0800 and 1800 Monday to Friday and 0900 and 1300 on a Saturday. No heavy goods vehicles shall arrive or leave the site on a Sunday.

### Site Compound

- The development shall not begin until the location and dimensions of any site compound 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

- 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.

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

**Note:** if members are minded to allow the review then the application will need to be delegated back to officers to conclude either a Section 69 or 75 agreement to secure appropriate developer contributions towards education infrastructure and cemeteries, as set out below:

#### RC Secondary

£1,983 per residential unit. This is in line with para 12.17 policy IMP2 of the WLLP and the issuance of the SPG "Developer contributions to the provision of a new denominational secondary" PP&R Committee May 2005 which was subsequently updated on 29th of June 2010 by Council Executive. This payment is to be indexed to the RICS Building Cost Information Service Tender Price Index with the 1st quarter of 2010 forming the base date.

#### RC Primary

£2,100 per residential unit. This applies all developments within the Denominational Primary catchment for St Paul's and is in line with the Supplementary Guidance on Planning and Education. This payment is to be indexed to the RICS Building Cost Information Service Tender Price Index with the 4th quarter of 2017 forming the base date.

#### Cemeteries

£35 per residential unit. This payment is to be indexed to the RICS Building Cost Information Service Tender Price Index with the 1st quarter of 2006 forming the base date.

3 Calder House Road - 0117/FUL/20 - [OFFICIAL]

Regards to comments by Mr P Cyphus 12.08.2020:-



This response is to be read in conjunction with:-

1. No.3 response to comments by Mr P Cyphus 17.08.2020
2. Cllr Carl Johns response to comments from Mr P Cyphus 24.08.2020
3. Cllr Damian Timson response to comments from Mr P Cyphus 24.08.2020
4. Summary report
5. Appeal report
6. Appendix's 1 to 11

In Regards to Mr P Cyphus comments we would like to state the following:-

1. Mr P Cyphus first comment.

Firstly, the plans which were refused are not the plans which the neighbours were notified of and I would question whether or not neighbours should have been renotified and given the opportunity to comment further. In particular the change the driveway and parking arrangements may raise issues for the owners of the other garages.

We would like to state that the neighbours were duly notified as part of the planning procedure and we would like to highlight that a greater majority have provided letters of support for the development than that of those who have objected. In regards to the position of the driveway, the proposed driveway & access has been fully passed and authorised by WLC transport department. In regards to the statement about issues with garage owners we have provided a letter of support from the owner of the garage closest to the proposed access within the appendix of the appeal report therefore this is a complete no-issue.

2. Mr P Cyphus second comment.

Secondly, there was not previously a house in this location. Our understanding, from speaking to officers involved at the time the site was built, is that although a house was planned for this location, it was removed from the plans because there wasn't enough space to provide parking/garages for the houses and adequate garden ground. The street numbering was already in place by this point and that is why there is no number one. To suggest that a house needs to be constructed in this location to address the numbering discrepancy is, frankly, ridiculous.

We would like to state that we have been provided by several reliable sources stating that there was a previous house on this property (one source we have provided by Cllr Carl John which he states in several of his correspondence letters provided) and that it was originally the site of the show home/site sales office. I would assume that the previous foundations would still remain under the side garden off this previously demolished building covered by a capping layer of earth, although the clients could of went to the trouble of having these exposed as evidence by means of a series of trenches dug by a JCB, we advised that this was not only unnecessary but also not a practical option given the current pandemic and the country on whole being on lockdown during the period of the application. We would also like to state that the clients are not proposing to build a new house to address the street numbering discrepancies as suggested by Mr P Cyphus but that it would merely stating its positive benefit to all odd numbered properties in the street. As stated in our appeal report the purpose of the clients proposal is to provide their growing family with a larger modern home for their expanding family, a point also solidly stated by the clients in the document 'No.3 response to comments by Mr P Cyphus 17.08.2020' provided.

3. Mr P Cyphus third comment.

It is also incorrect to draw comparisons between our extension and the current proposal. Our extension is one bedroom, with an ensuite. The current proposal is a 3 bed house with a footprint over twice the size of our extension. It is considerably wider than the existing terraced houses in the street. We would have no objection to an extension to the existing property at number 3.

We would like to clarify that comparisons made by ourselves, Councillors, Clients regarding the proposed development to that of No.13 is that the overall footprint of No.13 with their extension to both side and rear would be not that much different in m2 to that of the proposed No.1, and not of that of No.3 & No.1 combined.

As for the comment regarding that Mr P Cyphus would have no objection to a extension we firmly believe that an extension to the side of existing No.3 would be more out keeping with the current street theme than extending the existing terrace by providing a new end of terrace dwelling streamline and in keeping with the current terrace block, albeit a bit wider but we feel it fully blends in with the existing scheme.

4. Mr P Cyphus fourth comment.

The refused plans show a hedge being proposed around the front and side garden, similar to our house, however the 3D images submitted appear to show a fence of around 1.8m high, which would have a significant visual impact. The 3D image also demonstrates how much of that side garden would be taken up by parking.

We would like to state that Mr P Cyphus is correct in saying that the refused plan shows a hedge around the property similar to his property with the client proposing a beech hedge in line with the 'New residents development guide' produced by WLC.

As for the comments regarding the 3D renders showing a fence, the main renders show the beech hedge (one green and one brown indicating the colouring change of beech hedging through the seasons) There is a part on the appeal report where we show the previous proposal of a fence as a visual as we attempt to show that there is other examples where a fence similar to what the clients had initially wished for within the extents of calder house road and surrounding areas within mid calder.

The clients however decided that a hedge would be preferred as advised by ourselves as it clearly appeases stipulations set down in 'The new residential development guide' by WLC and that was what was stipulated and shown on the refused plans submitted in the planning application. In regards to Mr P Cyphus comment that the 3D render demonstrates how much of the garden is taking up by parking we would like to clarify that 3D images are taken from various angles and can be deceiving in certain circumstances and are only provided within appeal report as a visual aid and that all sizes etc should be taken from figured dimensions and areas provided on the site plan that was submitted as part of the planning application.

It is on the last point we wish to state and clarify that the size of the side garden on its own is in excess of the minimum requirement for a terraced house (at 51.5m<sup>2</sup> excluding the driveway) set out in the 'new residential development guide' by WLC please see below.

All houses with five and more bedrooms	not less than 100m <sup>2</sup>
Three and four bedroomed detached and semi-detached houses	not less than 80m <sup>2</sup>
Two bedroomed detached and semi-detached houses	not less than 60m <sup>2</sup>
Terraced houses	not less than 50m <sup>2</sup>

Taking into account all the above there is no weight to Mr P Cyphus 4<sup>th</sup> comment and is in effect irrelevant.

5. Mr P Cyphus fifth comment.

To try and achieve enough garden ground the plans show that the existing garden for number 3 would be split, compromising the amenity for that property and resulting in potential overlooking and privacy issues. The proposal also relies on the side garden for private amenity space, most of which will be taken up by parking. The awkward garden and parking/access arrangement indicate that there is no sufficient space for a new house, with the requisite parking and amenity space. This is precisely the reason that the house was removed from the original plans for the street.

We would like to reiterate points made in section No.5 that the side garden has more than enough space excluding parking on its own without the need of a garden to the rear.

Mr P Cyphus comment about the existing garden of No.3 being split compromising amenity is also nonsense as even at its reduction would still meet minimum requirements stipulated in 'New residential development guide' of 50m<sup>2</sup> whilst still also be greater than that of other existing properties within calder house road (for example No.11 only has 45.5m<sup>2</sup> rear garden area)

We would like to state as previous that the parking access arrangement has been fully approved by WLC transport department and therefore requires no further explanation.

The fact that we have provided a fully detailed proposed site plan clearly showing areas not only meeting but exceeding the stipulated garden areas set out within 'The new residential development guide' by WLC for both No.1 & No.3 and given the fact that WLC transport department have approved the access/driveway proposal totally counters Mr P Cyphus fifth comment.



6. Mr P Cyphus sixth comment.

There has been specific reference made to my property on four occasions in the response from the client to lay comparison. Not only do I find this petty and trying to make this a personal point scoring exercise, I also feel the statements are without direct comparison. For example, as stated before, the footprint of the single storey extension at No.13 is nowhere near the footprint of proposed 3 bed property. This is a misleading and untruthful statement. There is reference made to the side garden at my property "although No.13 has chosen to put an extension in their area of side garden". This is another incorrect statement as there is still a small contained garden at the side of the house. I am also concerned that a photograph of my property has been used without my expressed permission. In relation to the other attached photographs, none show fences beyond the front building line.

We would like to state that any reference to Mr P Cyphus property is that of comparison or a mere statement of fact to what already exists within the immediate vicinity of the development.



As clearly seen Mr P Cyphus property has a hedge to front and side of property just as the clients have proposed on their application clearly shown above.

As previously stated the foot print of Mr P Cyphus property including both side and rear extension would be much the same as the footprint of the proposed new dwelling No.1.

We would also like to clarify that there is no pettiness or personal point scoring taking place and that all information provided is fact backed up by evidence.

Unfortunately Mr P Cyphus decided to put together a very detailed and in depth objection followed by a further comment on the appeal package (Of which we address in this report) which we were subsequently duty bound to address on behalf of our clients.

7. Mr P Cyphus seventh and final comment.

I do have one further comment. The comparison to my property is completely null and void due to the fact I built a one storey extension onto a property with allotted adequate garden space even with the erected extension. The proposed build for No.3 is a completely new standalone dwelling. It is like comparing apples with shoes

We dispute the above and claim that our comparison of Mr P Cyphus property is completely relevant given the fact that it is a further developed property within the immediate vicinity of our clients proposal and the given fact that Mr P Cyphus has within his rights exercised his opinion thus putting on us a duty to the clients to provide evidence substantiating their proposal and providing evidence to dismiss the objections received.

We would like to summarise that we firmly believe the clients proposal will have no direct impact on Mr P Cyphus given his property is the most farthest away from the proposal site, is not in any way connected to property owned by Mr P Cyphus, will not block out any sunlight, restrict any of his access.

We are at complete ends to comprehend why Mr P Cyphus feels so strongly about objecting the clients proposal especially when it has so much support from closer residents and backing by both councillor Carl John & Damian Timson however it is his right to do so but we hope we have demonstrated in this report and subsequent appeal package that his objections are nothing more than subjective and that the proposal meets the requirements of the 'New residential development guide' by WLC and is a positive addition to the street.

We would also like to add that if visual amenity was so significant at calder house road there would never have been a residential development created there to in the first place with comprising variations of house types (terraced dwellings, flatted dwellings, semi detached dwellings and detached dwellings) existing already. Simply they would not exist, nor would planning have of been granted for all the number of extensions previously.

I trust this reaches you all well.

Kind regards

Alastair Hood

AFH Consulting & Engineering Ltd.



AFH Consulting & Engineering Ltd

20 Braeside park

Mid Calder

EH53 OSN

Mr E Miller & Ms M Gatensby

No.3 Calder House Road

Mid Calder

EH53 0JZ

Please pass on the following statement to planning (along with your own response and that of both Cllr D Timson & Cllr C John) in regards to Mr Paul Cyphus statements made on the appeal 12.08.2020.

To whom it concerns

Firstly the plans which were submitted to West Lothian Council planning department were updated on the planning portal after being submitted. To my knowledge it is the duty of the residents to keep up to date with the planning application online. If this is not the case then I assume Mr Cyphus is stating that West Lothian Councils planning department have not done their job correctly. There is a given time period when the application is first submitted that allows the residents to comment. Mr Cyphus should know this given he has shared knowledge in this field with his wife Gillian being a senior planner at WLC.

For Mr Cyphus to have gone to the trouble to speak to case officers to find out whether there was a house there previously or not shows desperation and commitment that they simply do not want us to have the opportunity to progress.

As with regards to the house numbering, this is simply stating a fact that the addition of No.1 will not cause any issue with the existing street numbering and that it will in fact have a positive effect by rectifying this discrepancy (this fact has been further bolstered by letters of support from current residents who were also notified of our proposal).

Our reason for wanting to build our proposed house is simply to allow our growing family to have enough space to develop without having to move far from an area that we love which we believe is no different to that of residents of number 13 although they chose the route of a rear and side extension.

The comparisons between number 13 and the proposed build No.1 was to simply show that the overall footprint was not much different in m2 although albeit a different configuration. When the comparison was made it was to the full footprint of number 13 , house and extensions included and not the extensions only. This is simply misunderstood by Mr Cyphus or he is simply trying to complicate this.

Also no 3D drawings were submitted to planning as part of the initial application and were only used in the appeal process to give a better view of what the property would look like against the existing properties. The 3D drawings were simply not updated due to the initial refusal but the drawings that were updated on the planning portal showed hedge row and not a 1.8m fence. We however believe that either fence or hedge would not be out keeping with the current street scheme we opted to have the drawings relevant to the application updated to show a beach hedge under recommendation by our Architect so it would be more fitting and fully compliant with the 'New residential development guide' written by WLC.



The split garden at number 3 (our current residence) would not be any different to the on looking side gardens which have a row of 3 houses in each block with gardens side by side divided by a 1.8m fence. From our garden and house we can see both neighbouring gardens perfectly with no privacy issues and they can see ours. If you look into the surrounding areas you will see houses built directly within view of each other both gardens and windows but this is not stated as a privacy issue. This is simply a clutching at straws comment.

Stating that there is not enough parking is ridiculous. If the residents of Calderhouse Road park their vehicles sensibly then there is more than enough space. There are 9 houses in our block and 9 garages with public access to the front of the garages. Each household owns one of these garages. Most of our neighbours only have a single vehicle and one neighbour having 3 vehicles. We have 2 vehicles. I have found that when the residents use their space wisely then this is certainly not an issue. We were forced down the route of a driveway due to planning not supporting public parking. However our proposed on plot parking has been fully approved by WLC transport department which we are happy with therefore clearly proves no issue.

I would like to make this very clear that there is no point scoring or pettiness involved here but rather factual information that supports our case. To state that number 13 has a side garden is ridiculous, it is simply a small narrow gap between the end of the extension and boundary fence which is pretty much unusable. To use a photograph for reference is not illegal and its purpose is simply to show a visual comparison. Google have taken many images of our properties on many occasions.

We are simply trying to get on in life and feel that for whatever reason Mr Cyphus has got himself invested in our plans and cannot see us get on. They are the furthest property from us and their vision of our property from their own is blocked by their surrounding hedge to the boundary of their property and four large trees over the expanse of a large public green square as is ours. How myself and my family building a more suitable property for us is such an issue for him I will never know but everyone is entitled to their opinion.

Yours sincerely,

Euan & Michelle.



**25 The Raw Holdings  
East Calder  
West Lothian  
EH530JA  
24/8/2020**

**Dear Sir,**

**I write in support of an application by Mr Euan Miller to build in his garden at No3 Calderhouse Road.**

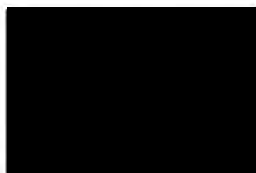
**I have previously written in support but when I read the objections provided by Mr Paul Cyphus I feel that I must write further.**

**Mr Cyphus claims that there was never a No1 but from my memory the site sales office was No1 and it was removed on completion of sales. Mr Cyphus also stated that the new build would not be in keeping with the “style and look of the road” but from my observation there are many styles of extensions both in Calderhouse road and in the near locality so I suggest that there is no overall style.**

**I find it hard to understand Mr Cyphus in his remark that the building of No1 would make it difficult for neighbouring parking. I am also surprised that the notification of neighbours and them not in support of Mr Millers plan as I am informed that they have no objections with the only one objecting is Mr Cyphus who lives several houses away from No3.**

**I am aware that I cannot be present at an appeal but do wish my views to be included in the hearing**

**Yours Faithfully  
Cllr. Carl John**



28<sup>th</sup> August 2020

## TO WHOM IN MAY CONCERN

### No1 Calder House Road, Mid Calder

Further to the recent communications regarding the planning application for 1 Calder House Road, I wish to repeat my support for this development and state the reasons below:

The development will fit suitably in the street and indeed will improve the area as well as providing a much-needed family home for the applicants.

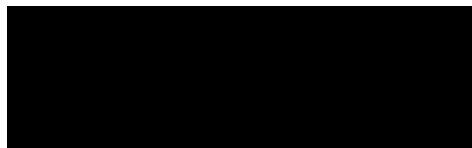
Given the support from the majority of their neighbours and the reasons for refusal being of a subjective nature, I consider the weight of decision should be with the applicants.

I also have a concern that during the planning process when WLC were submitted the final revised site plan and requested feedback by the clients on this, that this was not provided and when chased up by clients I believe the planning department chose to extend their decision date without notifying the clients of the date they were extending to nor did they provide them with the feedback previously requested. Instead the planning department just simply refused the application.

I feel that by doing so the clients lost the opportunity to withdraw the application and re-submit with the support of myself or other councillor in which we could have requested it be pulled in to the committee.

To conclude, I do hope the applicants are permitted to go ahead with this development to achieve their dreams of a family home and (albeit on a small scale) bring some business to the housing/construction industry.

Yours sincerely



Councillor Damian Timson  
West Lothian Council Conservative Group  
East Livingston & East Calder