



Local Review Body

West Lothian Civic Centre
Howden South Road
LIVINGSTON
EH54 6FF

31 December 2020

A meeting of the **Local Review Body** of West Lothian Council will be held within the **Webex Virtual Meeting Room** on **Wednesday 13 January 2021** at **11:00am**.

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 11 November 2020 (herewith)

Public Items for Decision

5. Notice of Review Application No.0198/FUL/20 - Continued siting of caravan, storage containers and poly tunnel at Crossfield Farm, Longridge (herewith)
6. Notice of Review Application No.0360/H/20 - Extension to house at 33 Ecclesmachan Road, Broxburn (herewith)

DATA LABEL: Public

7. Notice of Review Application No.0622/FUL/20 - Change of use from public open space to private garden ground at 48 Beech Place, Eliburn (herewith)

NOTE **For further information please contact Val Johnston, Tel No.01506 281604 or email 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, James Millar, Governance Manager, 01506 281695, james.millar@westlothian.gov.uk, Carol Johnston, Chief Solicitor, 01506 281626, carol.johnston@westlothian.gov.uk, Committee Services Team, 01506 281604, 01506 281621 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 11 NOVEMBER 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

No declarations of interest were made.

2. MINUTE

The committee confirmed the minute of its meeting held on 23 September 2020. The minute was thereafter signed by the Chair.

3. NOTICE OF REVIEW APPLICATION NO.0198/FUL/20 - CONTINUED SITING OF CARAVAN, STORAGE CONTAINERS AND POLY TUNNEL AT CROSSFIELD FARM, LONGRIDGE

Prior to consideration of the review application Councillor Pauline Clark advised that she had been unable to access the planning portal that morning and therefore felt she had inadequate information to proceed with the review.

Therefore, committee unanimously agreed to continue the item of business to the next scheduled meeting.

Decision

To unanimously agree to continue the review application to the next scheduled meeting to afford members a further opportunity to review background documentation associated with the original planning application.

**LOCAL REVIEW BODY****APPLICATION NO. 0198/FUL/20 – CONTINUED SITING OF CARAVAN, STORAGE CONTAINERS AND POLY TUNNEL AT CROSSFIELD FARM, LONGRIDGE****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 continued siting of caravan, storage containers and poly tunnel at Crossfield Farm, Longridge.

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 16 October 2020. This also includes a google image/map of the site.
2. The Handling Report, prepared by the Planning Case Officer, dated 8 July 2020.
3. The Decision Notice, issued by the Appointed Person, dated 13 July 2020; and
4. A single location plan which forms part of the online case file.

No representations to the application have been received.

The applicant has stated, in the review application, that they consider that the most appropriate procedure for the Local Review Body to use to determine the review would be a hearing session. The applicant has stated that they believe that the matter of their need to live on their farm should be subject to this procedure.

The review application was first presented to the Local Review Body meeting on 11 November 2020. However, committee felt that they had not had enough time to research the background to the application and therefore continued consideration until the next scheduled meeting.

C DEVELOPMENT PLAN POLICIES AND PLANNING GUIDANCE

The application for planning permission was assessed in terms of Local Development Plan Policies DES1 (Design Principles) and ENV3 (Other Development in the Countryside).

The Appointed Person was of the opinion that the applicant had failed to demonstrate a locational need for the development and as such the application was considered to be unjustified development in the countryside. The continued retention of the caravan and associated development would have a detrimental impact on the character and amenity of the countryside. The proposal was accordingly considered contrary to policies DES1 and policy ENV 3 of the West Lothian Local Development Plan and associated supplementary guidance; Development in the Countryside.

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.

Lesley Montague, Managing Solicitor, West Lothian Civic Centre

Tel No. 01506 284730, Lesley.montague@westlothian.gov.uk

Date: 13 January 2021



FOR OFFICIAL USE ONLY

Reference No :
Date of Receipt :

NOTICE OF REVIEW

(LOCAL DEVELOPMENT – DECISION BY APPOINTED PERSON)

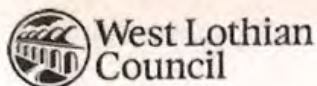
This Form is for a review by the West Lothian Council Local Review Body under Section 43A(8) of the Town and Country Planning (Scotland) Act 1997 in respect of decisions by the appointed person on local development applications.

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.

PART A	APPLICANT'S DETAILS	Name <u>SHIRLEY CUNNINGHAM</u>
		Address <u>CROSSFIELD FARM</u> <u>LONGRIDGE</u> Postcode <u>EH47 9NX</u> Telephone No. (1) [REDACTED] Telephone No. (2) [REDACTED] Fax : [REDACTED] E-mail : [REDACTED]
	REPRESENTATIVE (if any)	Name _____ Address _____ Postcode _____ Telephone No. (1) _____ Telephone No. (2) _____ Fax : _____ E-mail : _____
Please tick this box if you wish all contact to be through your representative.		<input type="checkbox"/>
Do you agree to correspondence regarding your review being sent by e-mail? * YES		<input checked="" type="checkbox"/>



PART B	APPLICANT REF. NO.	0198/FUL/20
	SITE ADDRESS	CROSSFIELD FARM LONGRIDGE
	DESCRIPTION OF PROPOSED DEVELOPMENT	SITING OF RESIDENTIAL CARAVAN
	DATE OF APPLICATION	22.06.2020
	DATE OF DECISION NOTICE (IF ANY)	14.07.2020

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)	
Application for planning permission in principle	
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)	✓
Application for approval of matters specified in conditions	

PART C	TYPE OF REVIEW CASE	
	Refusal of application by appointed officer	✓
	Failure by appointed officer to determine the application within the period allowed	
	Conditions imposed on consent by appointed officer	



<p>Statement of reasons and matters to be raised</p> <p>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.</p>	
<p>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. <u>You may also submit additional documentation with this form of which ten copies must be provided.</u></p>	
<p><u>PAGE 2 THE FACILITIES ON OUR FARMYARD INCLUDE:</u></p> <p><u>THE SHELTERING OF LIVESTOCK, STORAGE OF</u></p> <p><u>LARGE AMOUNTS OF HARD FEEDS AND HAY/STRAW</u></p> <p><u>SAFEKEEPING MACHINERY FOR DAILY TASKS</u></p> <p><u>WHICH INCLUDES HIGH VALUE MACHINERY AND EQUIP.</u></p> <p><u>SAFEKEEPING OF ALL MEDICAL AND VETINARY</u></p> <p><u>EQUIPMENT AND MATERIALS .</u></p> <p><u>WE HAVE A TREE LINE AROUND THE BOUNDARY</u></p> <p><u>OF THE ROAD SIDE AND A BACK DROP OF TREES.</u></p> <p><u>WE WILL BE PLANTING TREES AND HEDGE ROW</u></p> <p><u>AROUND OUR FARMYARD TO FURTHER REDUCE/MINIMISE</u></p> <p><u>THE VISUAL IMPACT ON THE COUNTRYSIDE</u></p> <p><u>(ADDITIONAL DRAWING ATT. SEE AREA 3).</u></p> <p><u>THIS WILL ALLOW THE LOCAL COMMUNITY /PUBLIC</u></p> <p><u>TO KEEP ENJOYING THE INTERACTION THAT</u></p> <p><u>THEY HAVE WITH OUR ANIMALS</u></p>	
<p>Have you raised any matters which were not before the appointed officer at the time the determination on your application was made?</p>	<p>* YES/NO</p>



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.**

WE ARE A WORKING FARM WITH AN OPERATIONAL FARM NUMBER. WE HAVE A FLOCK OF UP TO 100 SHEEP, UPTO 50 CHICKENS AND DUCKS AND PIGS (SEASONALY) WE HAVE THE NEED TO BE ON SITE PERMANENTLY AS THE LIVESTOCK NEED CHECKED AND FED DAILY. WE ALSO LAMB ANNUALLY. WE HAVE BREEDING PROGRAM FOR THE CHICKENS BOTH NATURAL + INCUBATION. OUR EGGS ARE ALSO SOLD LOCALLY. TO ENSURE THE WELFARE OF OUR ANIMALS WE NEED TO BE ON SITE CONTINUOUSLY. FROM FEEDING, FOOT CARE VACCINATIONS SHEERING, SHELTERING, LAMING AND HUSBANDRY. WE ALSO HAVE TO CARRY OUT LAND MANAGEMENT AND MAINTENANCE DAILY. INCLUDING DRAINAGE FENCING AND GENERAL REPAIRS TREE GROOMING INCLUDING THE MAINTENANCE OF THE PUBLIC FOOT PATH.

SEE PAGE 2

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

* YES ~~NO~~



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

	HIGHLIGHTING THE SMALL AREA OF OUR FARMYARD COMPARED TO OUR LAND AND SURROUNDING PROPERTIES
	NOT DETAILING FULLY WHY WE HAVE THE REQUIREMENT TO BE ON SITE

List of documents and evidence

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

1.	DRAWING FROM SCOTTISH GOVERNMENT
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	
11.	
12.	
13.	
14.	

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 WOULD LIKE TO DISCUSS IN PERSON
OUR NEED TO LIVE ON OUR 8 FARM.

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.

ACTIVE MECHANICAL MACHINERY AND
LIVESTOCK

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 10 OCTOBER 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

Location Code 851/0080 - Map 2 of 2

Rural Payments and Inspections Division
 Land Parcel System Version Date: 06/08/2020



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HANDLING REPORT

Ref. No:	0198/FUL/20	Email:	kirsty.hope@westlothian.gov.uk
Case Officer:	Kirsty Hope	Tel No.:	01506 282413
Ward:	Fauldhouse & The Breich Valley	Member:	Cllr Pauline Clark Cllr David Dodds Cllr Cathy Muldoon

Title	Continued siting of a caravan, storage containers and poly tunnel (Grid Ref: 295109, 660878) at Crossfield Farm, Longridge, EH47 9AB
Application Type	Local Application
Decision Level	Delegated List
Site Visit	22.06.2020
Recommendation	Refuse Permission
Decision	
Neighbour Notification	Neighbour notification procedures have been carried out correctly - case officer verification. YES
Advertisement	04.06.2020
EIA Screening	Does the development require EIA screening - No If Yes, checklist completed and filed – n/a

Description of Proposals

Continued siting of a caravan, storage containers and poly tunnel

Site History

LIVE/0559/FUL/12 - Siting of a caravan and storage containers and erection of a fence (in retrospect) – was granted temporary planning permission until 4 January 2015.

LIVE/0588/AGR/14 - Erection of a 200sqm agricultural building – Prior Approval not required – permitted development.

Representations

None

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	None	Noted.
Environmental Health	-	No comment can be provided at this time	Noted.

Policies Considered

Policy Title	Policy Text Summary
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.
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.

Supplementary Guidance *Development in the Countryside*

Officer Assessment

The application seeks planning permission in retrospect for the siting of static caravan, storage containers and polytunnel.

The applicant has advised that the caravan would be temporary to allow them to build a house which has been delayed due to the current covid epidemic. There is no planning permission for a dwelling on site and the site has previously benefitted from temporary permission. The polytunnel currently houses sheep and is used for hay storage. The applicant has advised that they are currently staying onsite.

It is acknowledged that the applicant is residing on site and has sheep on site. However, the applicant has failed to demonstrate a locational or business need for the development and as such the application is considered to be unjustified development in the countryside, contrary to policy ENV3 of the LDP and associated supplementary guidance *Development in the Countryside*. The continued retention of the caravan and associated development would have a detrimental impact on the character and amenity of the countryside and would undermine planning policy that requires such development to be appropriately justified, located and designed.

Conclusions and Reasons for Decision

The applicant has failed to demonstrate a locational need for the development and as such the application is considered to be unjustified development in the countryside. The continued retention of the caravan and associated development would have a detrimental impact on the character and amenity of the countryside. The proposal is thus contrary to policy DES1 and policy ENV 3 of the West Lothian Local Development Plan and associated supplementary guidance *Development in the Countryside*.

List of Review Documents

Drawings schedule:

Docquetted Number	Drawing Description	Drawing Number
1	Location Plan	
2	Block Plan Existing	
3	Block Plan	
4	Floor Plan and Elevation of Storage container	
5	Proposed Elevations of caravan	
6	Proposed Elevations of Polytunnel	
7	Proposed Elevations of Storage container	

Other relevant documents:

West Lothian Local Development Plan

Case Office: Kirsty Hope

Date: 8 July 2020



DECISION NOTICE REFUSAL OF PLANNING PERMISSION

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

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

APPLICATION REFERENCE 0198/FUL/20

PROPOSAL Continued siting of a caravan, storage containers and poly tunnel

LOCATION Crossfield Farm, Longridge, EH47 9AB
(GRID REF: 295109, 660878)

APPLICANT Mrs Shirley Cunningham, Crossfield Farm, Longridge, EH47 9AB

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.

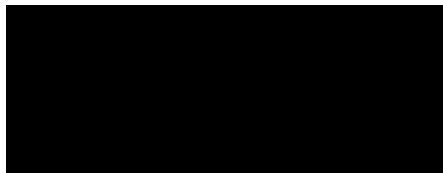
Docquetted plans relative to this decision are identified in Annex 1, Schedule of Plans.

Dated:
13.07.2020

Craig McCorriston
Head of Planning, Economic Development and Regeneration

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

Signature:



The council in exercise of its powers under the Town and Country Planning (Scotland) Act 1997 (as amended) refuses planning permission for planning application 0198/FUL/20, for the reason(s) set out as follows:

- 1 The applicant has failed to demonstrate a locational need for the development and as such the application is considered to be unjustified development in the countryside. The continued retention of the caravan and associated development would have a detrimental impact on the character and amenity of the countryside. The proposal is thus contrary to policies DES1 and ENV 3 of the West Lothian Local Development Plan and supplementary guidance Development in the Countryside.

ADVISORY NOTES TO DEVELOPER

How to challenge the council's Decision

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

Annex 1, Schedule of Plans - 0198/FUL/20

Docquetted Number	Drawing Description	Drawing Number
1	Location Plan	
2	Block Plan Existing	
3	Block Plan Proposed	
4	Storage Elevation and Floor Plan	
5	Caravan Elevation and Floor Plan	
6	Polytunnel Elevation and Floor Plan	
7	Container Elevation and Floor Plan	

Conditions - 0198/FUL/20

1. The siting of the caravan, containers and polytunnel authorised by this permission shall cease on 31 October 2022. The caravan and containers shall be removed and any works required for the reinstatement of the land shall be carried out within six months following their removal, unless a further planning permission is granted.

Reason: To retain control over this form of temporary development and to ensure that the site is returned to an acceptable condition.

2. The container hereby approved shall be painted a colour which blends in with the surrounding landscaping. A sample of the colour proposed shall be submitted for the written agreement of the Development Management Manager within two months of the date of this decision notice, and the containers shall be painted the agreed colour within a month of the date of the agreement.

Reason: To ensure that the development does not adversely affect the appearance of the countryside.

3. The landscaping adjacent to the caravan and containers shall be enhanced with additional planting. Full details of the planting, including the size, number and species of all trees and shrubs, shall be submitted for the written approval of the Development Management Manager within two months of the date of this decision notice. The planting will be implemented in the next planting season following the written agreement of the Development Management Manager.

Reason: To ensure that the development does not adversely affect the visual amenity of the countryside.

4. No further structures will be erected or sited on the land without the prior submission and approval of a planning application.

Reason: To control the appearance of the countryside at this sensitive location

WEST LOTHIAN COUNCIL LOCAL REVIEW BODY

MEETING CHECKLIST

Questions to Committee

1	Are there any factual disputes to be resolved?	Yes or No	If Yes handover to the Planning Adviser/Legal Adviser If No proceed to next question
2	Do we have enough information to determine the application?	Yes or No	If Yes move to Q5 If No proceed to next question
3	If additional information is needed what is that and how do we get it?	Written Submissions or Hearing Session	
4	How long do we need to continue the review to allow the additional information to be provided?	One or two cycles	
5	Has any new material been provided by the applicant?	Yes or No	If yes handover to the Planning Adviser/Legal Adviser

Move to Questions from Committee

Move to Comments from Committee

DETERMINATION

6	Does the application conform with or breach any of the development plan policies?	If so which policies apply	
7	Decide as per development plan unless justified by material considerations – what are the material considerations?	Any material considerations	
8	In applying the statutory test, what is the decision (each member decides leading to motion and possibly amendment(s))?		
9	Members must provide planning reasons for motion and any amendment as well as for decision letter and minute		
10	Go to vote (if necessary) – this will be conducted by the Legal Adviser		

**LOCAL REVIEW BODY****APPLICATION NO. 0360/H/20 – EXTENSION TO HOUSE AT 33 ECCLESMACHAN ROAD, UPHALL, 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 an extension to house at 33 Ecclesmachan Road, Uphall.

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 6 October 2020. This includes a supporting statement; copies of emails between the agent and the Case Officer; a location plan; floor plans; and side elevations.
2. The Handling Report, prepared by the Planning Case Officer, dated 21 September 2020; and
3. The Decision Notice, issued by the Appointed Person, dated 21 September 2020.

No representations to the application have been received.

The applicant has stated, in the review application, that they consider that the most appropriate procedure for the Local Review Body to use to determine the review would be to conduct a site visit.

C DEVELOPMENT PLAN POLICIES AND PLANNING GUIDANCE

The Appointed Person was of the opinion that the proposed asymmetrical roof of the development will not relate to either the existing or neighbouring properties. In addition, the proposed development will; 1) by virtue of its overall scale and location have a significant impact upon the character of the conservation area as it will appear prominent within the street scene and 2) sit significantly higher than the neighbouring property which will add to the impact on the visual amenity and prominence. This proposal is therefore contrary to West Lothian Council's Local Development Plan's Design Principles (DES1) and Conservation Areas (ENV24) Policy and the guidance given in the House Extension and Alteration Design Guidelines, 2015

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.

Lesley Montague, Managing Solicitor, West Lothian Civic Centre

Tel No. 01506 284730, Lesley.montague@westlothian.gov.uk

Date: 13 January 2021



West Lothian Civic Centre Howden South Road Howden Livingston EH54 6FF Tel: 01506 280000 (for general enquiries) Email: 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 100253202-004

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

Applicant or Agent Details

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

☐ Applicant ☒ Agent

Agent Details

Please enter Agent details

Company/Organisation:	Liston Architects		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	David	Building Name:	
Last Name: *	Liston	Building Number:	1
Telephone Number: *		Address 1 (Street): *	Summerhall
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Edinburgh
Fax Number:		Country: *	UK
		Postcode: *	EH9 1PL
Email Address: *			

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

☒ Individual ☐ Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *
Other Title:	<input type="text"/>	Building Name: <input type="text"/>
First Name: *	<input type="text" value="Simon"/>	Building Number: <input type="text" value="33"/>
Last Name: *	<input type="text" value="Allan"/>	Address 1 (Street): * <input type="text" value="Ecclesmachan Road"/>
Company/Organisation	<input type="text"/>	Address 2: <input type="text" value="Uphall"/>
Telephone Number: *	<input type="text"/>	Town/City: * <input type="text" value="Broxburn"/>
Extension Number:	<input type="text"/>	Country: * <input type="text" value="United Kingdom"/>
Mobile Number:	<input type="text"/>	Postcode: * <input type="text" value="EH52 6JP"/>
Fax Number:	<input type="text"/>	
Email Address: *	<input type="text" value="REDACTED"/>	

Site Address Details

Planning Authority:	<input type="text" value="West Lothian Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="33 ECCLESMACHAN ROAD"/>
Address 2:	<input type="text" value="UPHALL"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="BROXBURN"/>
Post Code:	<input type="text" value="EH52 6JP"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="672219"/>	Easting	<input type="text" value="305907"/>
----------	-------------------------------------	---------	-------------------------------------

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)

Extension to house

Type of Application

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

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

What does your review relate to? *

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

Statement of reasons for seeking review

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

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

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

Please refer to appended document "33 Ecclesmachan Road LRB Appeal"

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

☐ Yes ☒ No

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

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

33 Ecclesmachan Road LRB Appeal

Application Details

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

0360/H/20

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

06/05/2020

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

21/09/2020

Review Procedure

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

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

☐ Yes ☒ No

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

Please select a further procedure *

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

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

No site visit was carried out by WLC at the time of the application due to Covid 19

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

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

☒ Yes ☐ No

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

☒ Yes ☐ No

Checklist – Application for Notice of Review

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

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

☒ Yes ☐ No

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

☒ Yes ☐ No

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

☒ Yes ☐ No ☐ N/A

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

☒ Yes ☐ No

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

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

☒ Yes ☐ No

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

Declare – Notice of Review

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

Declaration Name: Mr David Liston

Declaration Date: 06/10/2020

**33 ECCLESMACHAN ROAD
UPHALL
WEST LOTHIAN
EH52 6JP
LOCAL REVIEW BODY APPEAL
PLANNING PERMISSION for EXTENSION TO HOUSE REF: 0360/H/20**

Refused Planning Permission.

Planning permission was refused for the following reason:

“The proposed works by virtue of its scale and design, will have a significantly impact upon the character and visual amenity of the existing house, streetscene and conservation area.” [sic]

Conservation Area

Boundary Changes to the conservation area were agreed by West Lothian Council in June 2019. The house at 33 Ecclesmachan Road is one of the properties to be removed from the Conservation area. Refer to **Appendix 1**, appended plan showing revised conservation area boundary.

The changes are also described in the following online articles:

<https://www.westlothian.gov.uk/article/47619/Uphall-Conservation-Area>

<https://www.dailyrecord.co.uk/news/scottish-news/big-planning-changes-coming-historic-17290035>

Impact on visual amenity of existing house.

The existing house was built around the 1960s and is of little architectural or historic interest. The walls of the existing house are grey/brown harling, white harling with a brown brick base in parts. The roof is of grey/brown pantiles. An existing white-harled garage with a flat felt roof on the street elevation is to be demolished.

Though the proposed extension is two storeys. The proposed pitched-roof extension will replace this flat-roofed garage.

Impact on Streetscene.

There is a small group of houses that form a short street frontage on Ecclesmachan Road close to Main Street in Uphall. About 100m to the North though, the houses on Ecclesmachan Road become more sparse, and fewer houses face the Road directly (refer to photos in **Appendix 2**) There is no uniform street elevation: buildings very enormously in orientation, age, material, height, roof type and pitch. Examples of new and historic asymmetrical pitches exist along the road. The existing house at No.33 Ecclesmachan Road has an irregular, stepped elevation facing the road. At its closest point, the house is about 8m from the pavement. The proposed extension is set back from the edge of the existing house to respect the different age of the new extension and the proposed roof is lower than the existing house. The extension will only be visible from the road directly in front of the house, and obliquely from around 30m to the South, in the same way as the flat-roofed garage it replaces.

Design development with WLC

No site visit was made by West Lothian Council planning. Instead, photos were provided by the client. Following concerns raised by WLC planning, alternative designs were put forward for discussion by phone and email. One design which eliminated a flat roof was agreed to be more satisfactory, and formal revised drawings were produced for resubmission (refer to **Appendix 3**, email correspondence with planning). These revised proposals were then unexpectedly refused.

Appendix 2. Photographic sequence heading North along Ecclesmachan Road



Ecclesmachan Road at Uphall



No uniform street scene



Many houses don't face road



Fleeting oblique view of No. 33



33 Ecclesmachan Road

Appendix 3. Email correspondence with WLC

david@listonarchitects.co.uk

From: [REDACTED]
Sent: 08 September 2020 16:01
To: 'Simon Allan'
Subject: Fwd: 33 Ecclesmachan Road - [OFFICIAL]

----- Forwarded message -----

From: "Lyll, Rachael" <Rachael.Lyll@westlothian.gov.uk>
Date: Tue, Sep 8, 2020 at 2:40 PM +0100
Subject: RE: 33 Ecclesmachan Road - [OFFICIAL]
To: "[REDACTED]"

DATA LABEL: OFFICIAL

Good afternoon David,

Thank you for your email.

I can confirm that I completed the assessment on the revisions last week in which I also discussed the revised proposals and assessment with another Planning Officer for some additional input regarding the impact and matter of the conservation area.

Unfortunately, we are still unable to support the revised proposal. I understand that the roof and pitch had been adjusted to relate more to the existing house, in which these revisions were much appreciated. However our policies regarding conservation areas, do state that proposals must integrate with its context and built form and should not impact on the appearance of the conservation area. The asymmetrical roof pitch overall still does not integrate with the surrounding or neighbouring developments and will still sit prominent within the street, impacting on the visual amenity of the conservation area. As the site is still currently located within the conservation area, we do need to consider this as such.

As the proposal stands, we are unfortunately unable to proceed with an approval. I was hoping to contact you prior to putting forward a final recommendation in which I hope to do by the end of this week.

I understand this was not the outcome you had hope for, however if you have any questions regarding, please do not hesitate to contact me.

Kind regards,

Rachael Lyll
Planning Assistant

Development Management
Planning, Economic Development and Regeneration
West Lothian Council

From: [REDACTED]
Sent: 08 September 2020 11:49
To: Lyall, Rachael <Rachael.Lyall@westlothian.gov.uk>
Subject: RE: 33 Ecclesmachan Road - [OFFICIAL]

Hello Rachael,

I hope you are well. Just to say that I successfully uploaded the drawings to the portal on 11th August. I thought I should check if you had managed to assess them?

Regards,

David

From: Lyall, Rachael <Rachael.Lyall@westlothian.gov.uk>
Sent: 21 July 2020 15:09
To: [REDACTED]
Subject: RE: 33 Ecclesmachan Road - [OFFICIAL]

DATA LABEL: OFFICIAL

Good afternoon David,

Thank you for your email and for sending this across.

I would be happy to consider this as a revision as this roof proposal does relate much more to the existing house. If the revised plans could be uploaded to the portal, it would be much appreciated.

As soon as they are registered by our Technical Team I will be able to assess them fully and update the officers report.

I hope you enjoy your holiday and have something exciting planned.

Thanks again David.

Kind regards,

Rachael Lyall
Planning Assistant

Development Management
Planning, Economic Development and Regeneration
West Lothian Council

From: [REDACTED]
Sent: 21 July 2020 11:39
To: Lyall, Rachael <Rachael.Lyall@westlothian.gov.uk>
Subject: 33 Ecclesmachan Road

Hello Rachael,

Thanks again for your email and our subsequent discussion. I've simplified the design to eliminate the flat part of roof. Attached is a view of the revised massing model. The client is happy with this change and agrees that this is more elegant. Would this be acceptable?

If you would like to call I am available on 0794 383 0266 from 2pm to 5pm today. I will then be on holiday from this evening and returning to work on the 6th August. I will look at emails intermittently.

Regards,

David

Liston Architects, 1 Summerhall, Edinburgh, EH9 1PL

From: Lyall, Rachael <Rachael.Lyall@westlothian.gov.uk>

Sent: 16 July 2020 07:48

To:

Subject: RE: 33 Ecclesmachan Road - [OFFICIAL]

DATA LABEL: OFFICIAL

Good Morning David,

Thank you for reply.

I am just able to see if you will be able to take a call at 11am tomorrow instead? I am unfortunately having to take a personal day today so will now be out of office for the day.

Thank you David, I look forward to speaking with you.

Kind regards,

Rachael Lyall

From:

Sent: 15 July 2020 16:12

To: Lyall, Rachael <Rachael.Lyall@westlothian.gov.uk>

Subject: RE: 33 Ecclesmachan Road - [OFFICIAL]

Hello Rachael,

Thanks for getting back to me. Yes please, a phone call would be helpful. Say 11am? 0794 383 0266. Are you able to say when the conservation area boundary will be formally changed and why it has taken so long?

Regards,

David

Liston Architects, 1 Summerhall, Edinburgh, EH9 1PL

From: Lyall, Rachael <Rachael.Lyall@westlothian.gov.uk>

Sent: 15 July 2020 15:42

To: [REDACTED]
Subject: RE: 33 Ecclesmachan Road - [OFFICIAL]

DATA LABEL: OFFICIAL

Good afternoon David,

I am just emailing in regards to the above application and to follow up the discussion with Gillian in regards to the proposed revisions.

Unfortunately we are still looking to the flat roof to be re-considered and for the proposed roof to match more to the existing house. Currently, the property is still located within Uphall conservation area. Following an appraisal in 2018/19, it was agreed to alter this conservation area boundary, in which the property will no longer be part of this conservation area, however this alteration is still in the process of being finalised and implemented. As a result, our concern still lies with the visual amenity of the street scene and the impact that will be caused by the side extension when approaching the site from the south.

I am happy to give you a phone call to discuss this further if you wish, I am free all day tomorrow if there is a time most suitable for you.

Kind regards,

Rachael Llyall

From: [REDACTED]
Sent: 08 July 2020 14:30
To: Llyall, Rachael <Rachael.Llyall@westlothian.gov.uk>
Subject: 33 Ecclesmachan Road

The side of the extension can be seen only obliquely from a point where the road is narrow (see street view). The siting of the extension is not prominent and would not interrupt the skyline higher than the existing roofs. The design study view is for discussion only. In reality this view would be obscured by the neighbouring house and context. Though the heights and massing are correct, the model is a sketch model only. Please refer to the planning application drawings for correct elevations and layout etc.

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

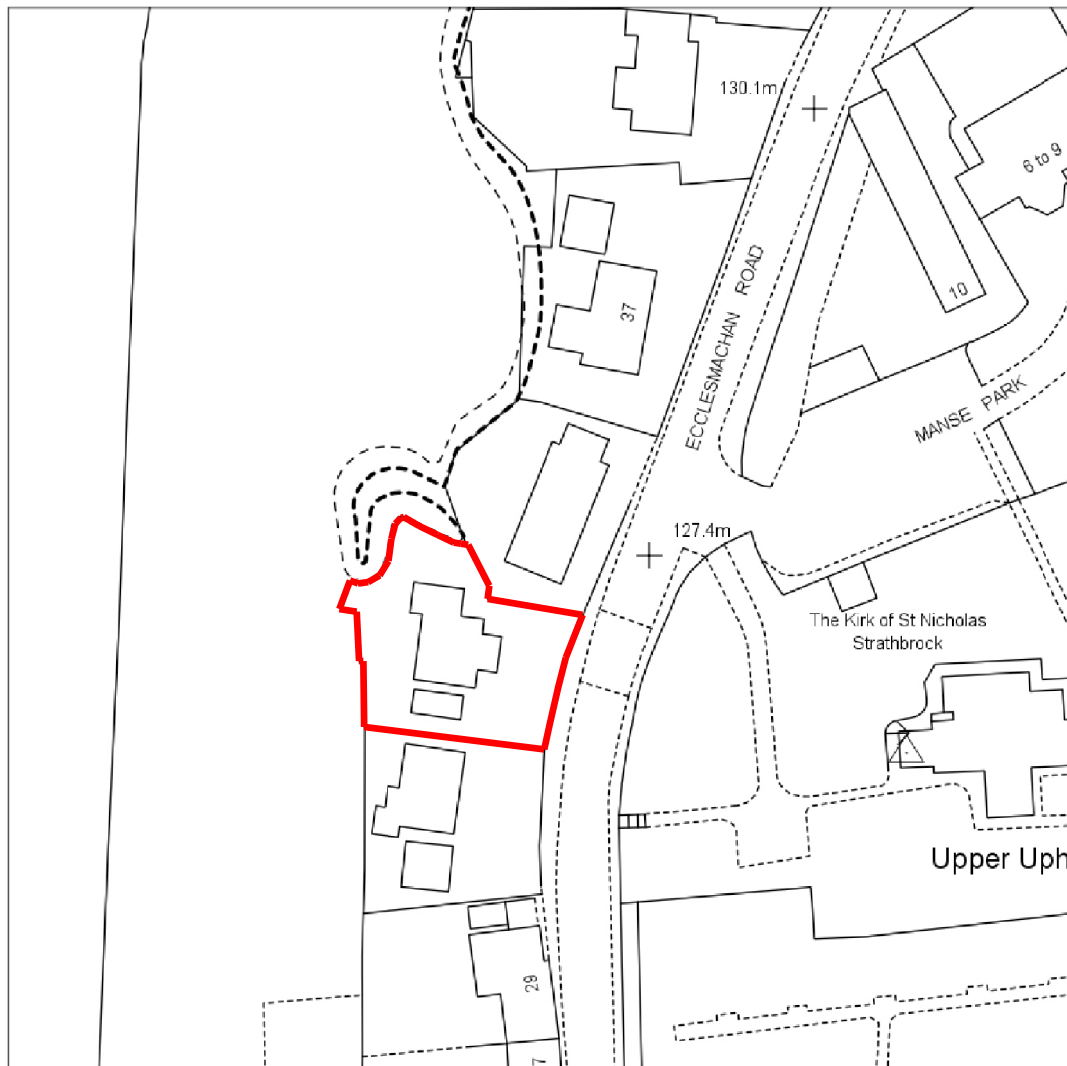
NON-COUNCIL BUSINESS: Contains no business related or sensitive information

Link to Information Handling Procedure: <http://www.westlothian.gov.uk/media/1597/Information-Handling-Procedure/pdf/infohandling1.pdf>

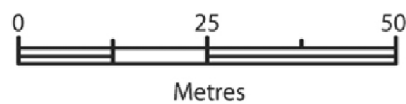
🔄 **SAVE PAPER - Please do not print this e-mail unless absolutely necessary.**

This message, together with any attachments, is sent subject to the following statements:

1. It is sent in confidence for the addressee only. It may contain legally privileged information. The contents are not to be disclosed to anyone other than the addressee. Unauthorised recipients are requested to preserve this



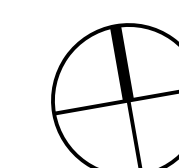
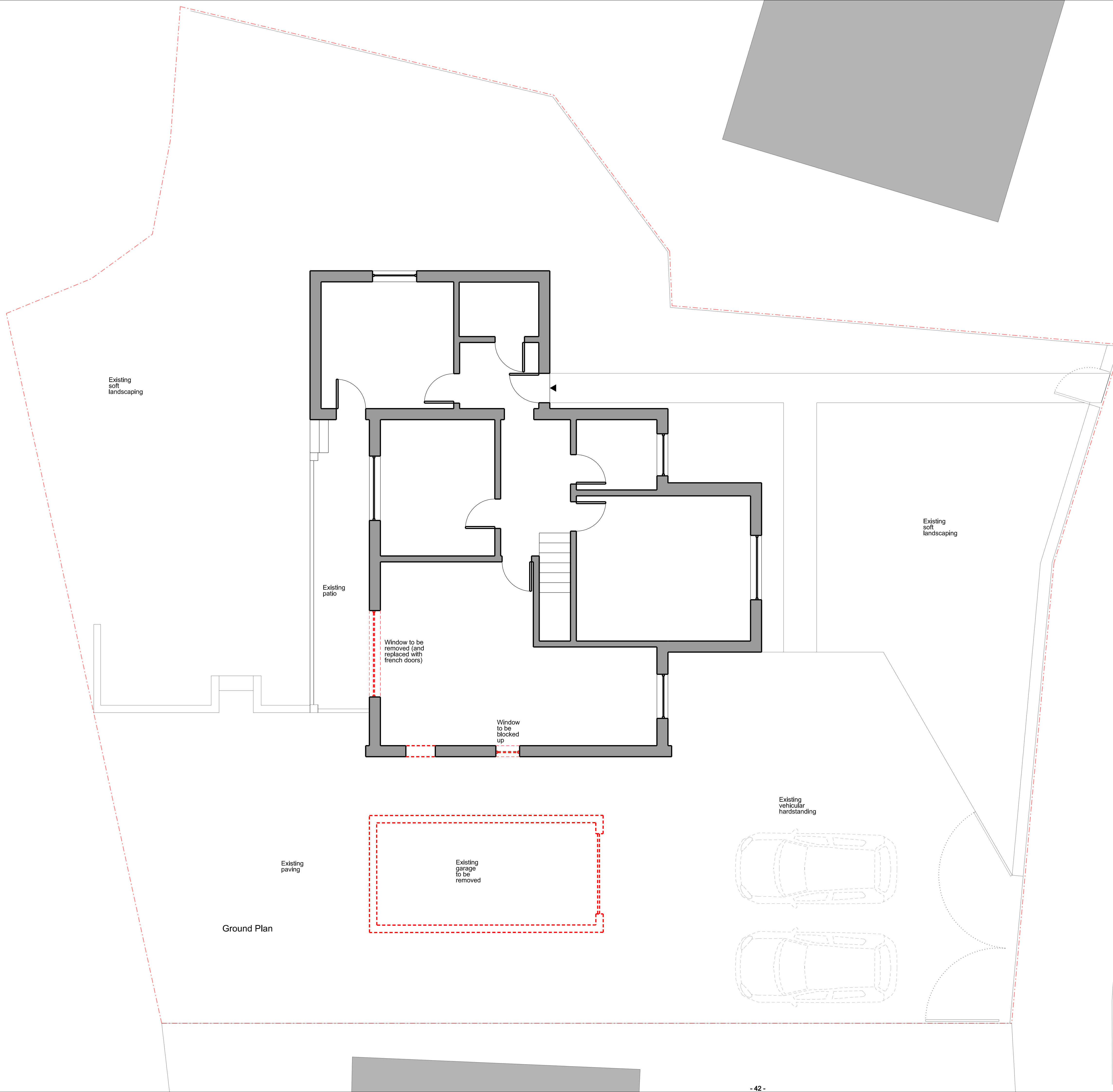
Uphall, Broxburn



2003_C_001
Proposed Location Plan
33 Ecclesmachan Road
Scale 1:1000@ A4
Liston Architects
29.04.20

Do not scale from drawings.
Request from architect any dimensions not provided.
All dimensions to be checked on site prior to starting work.
Any discrepancies to be reported to architect.
Drawings to be read in conjunction with structural engineer's
drawings specifications and schedules.
Locations of studs in partitions are indicative only.

PLANNING

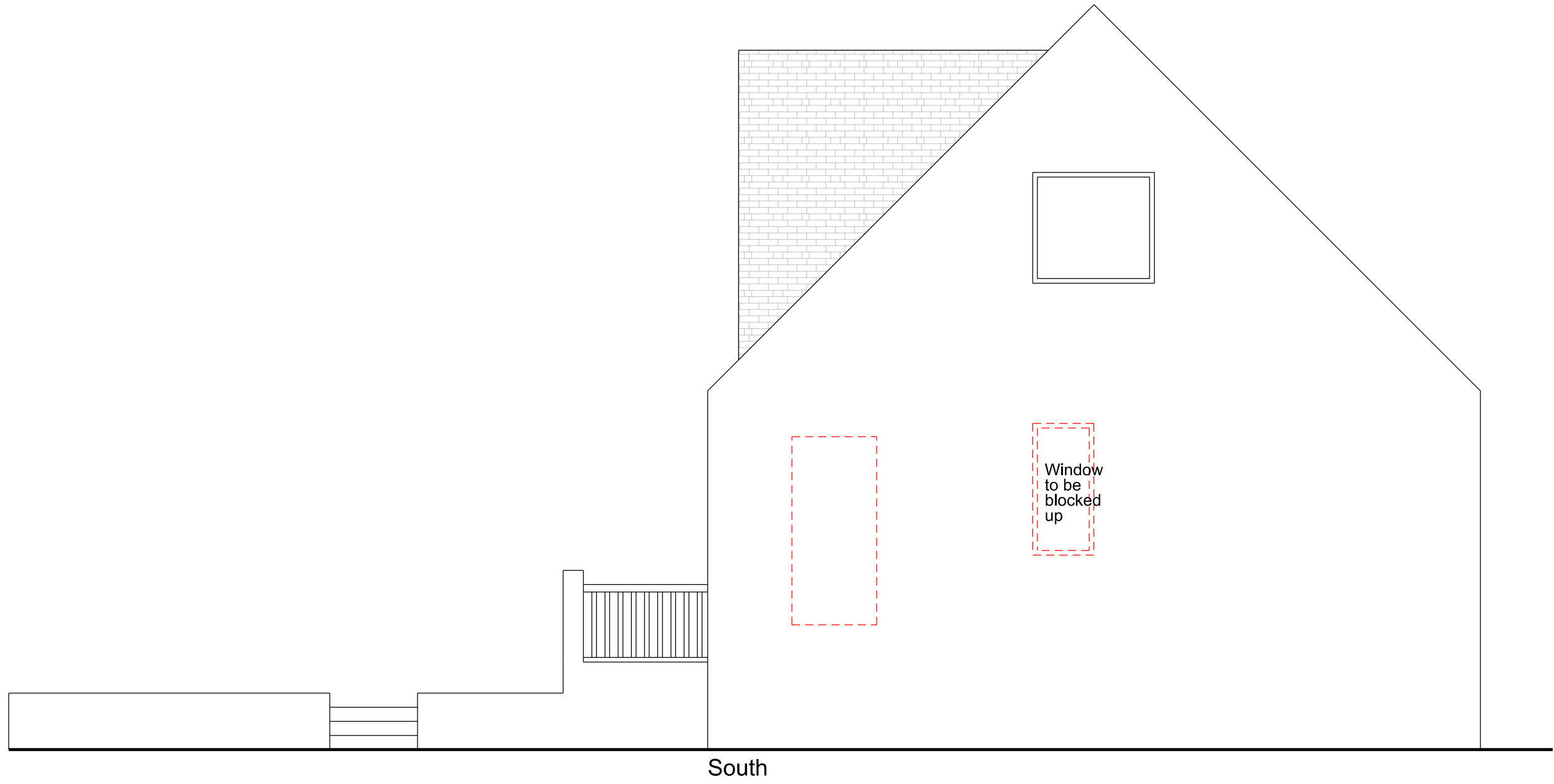
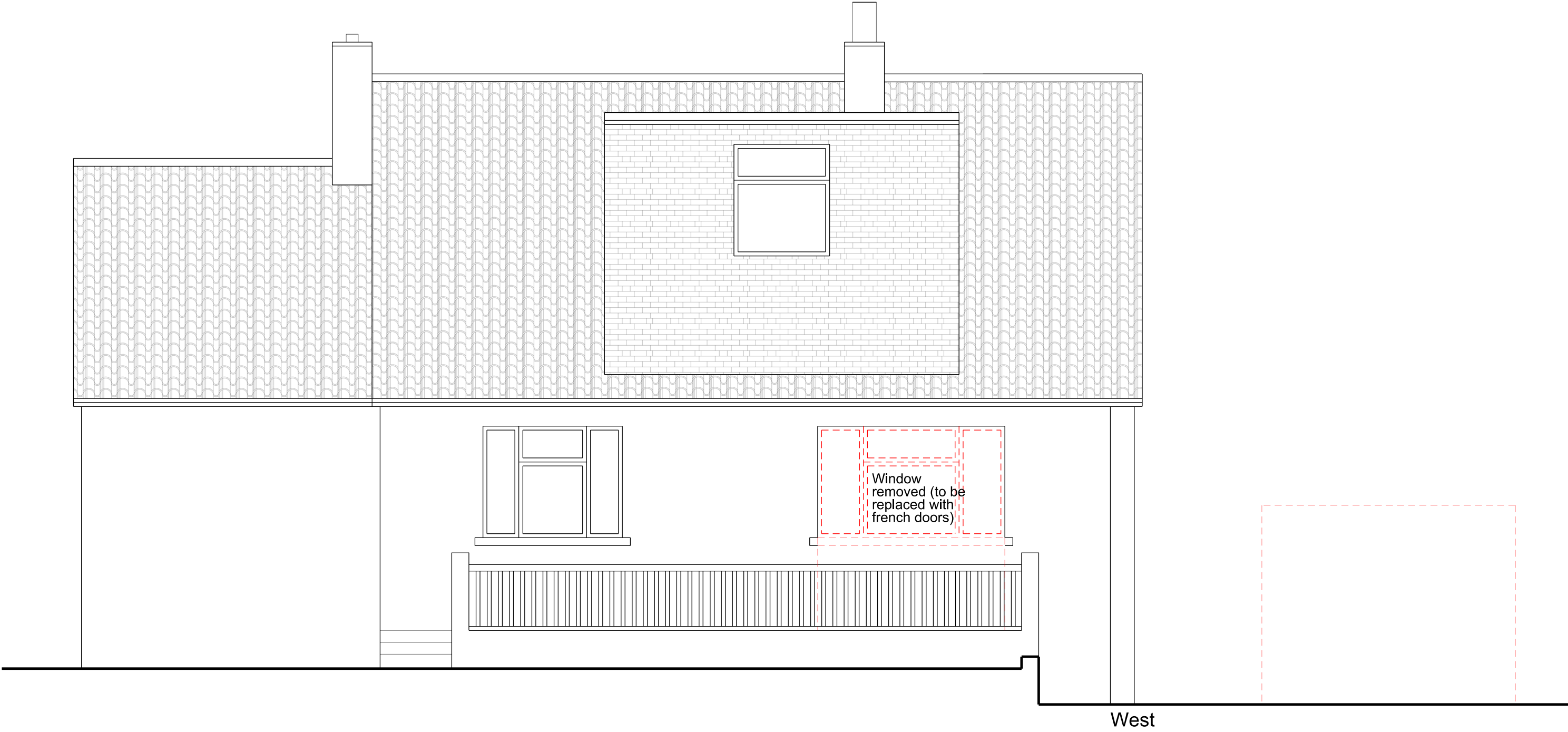


0m 1m 2

2003_C_010
Existing Ground Floor Plan
33 Ecclesmachan Road
Scale 1:50@ A1
Liston Architects
02.04.20

Do not scale from drawings.
Request from architect any dimensions not provided.
All dimensions to be checked on site prior to starting work.
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Drawings to be read in conjunction with structural engineer's drawings specifications and schedules.
Locations of studs in partitions are indicative only.

PLANNING

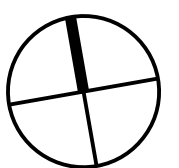
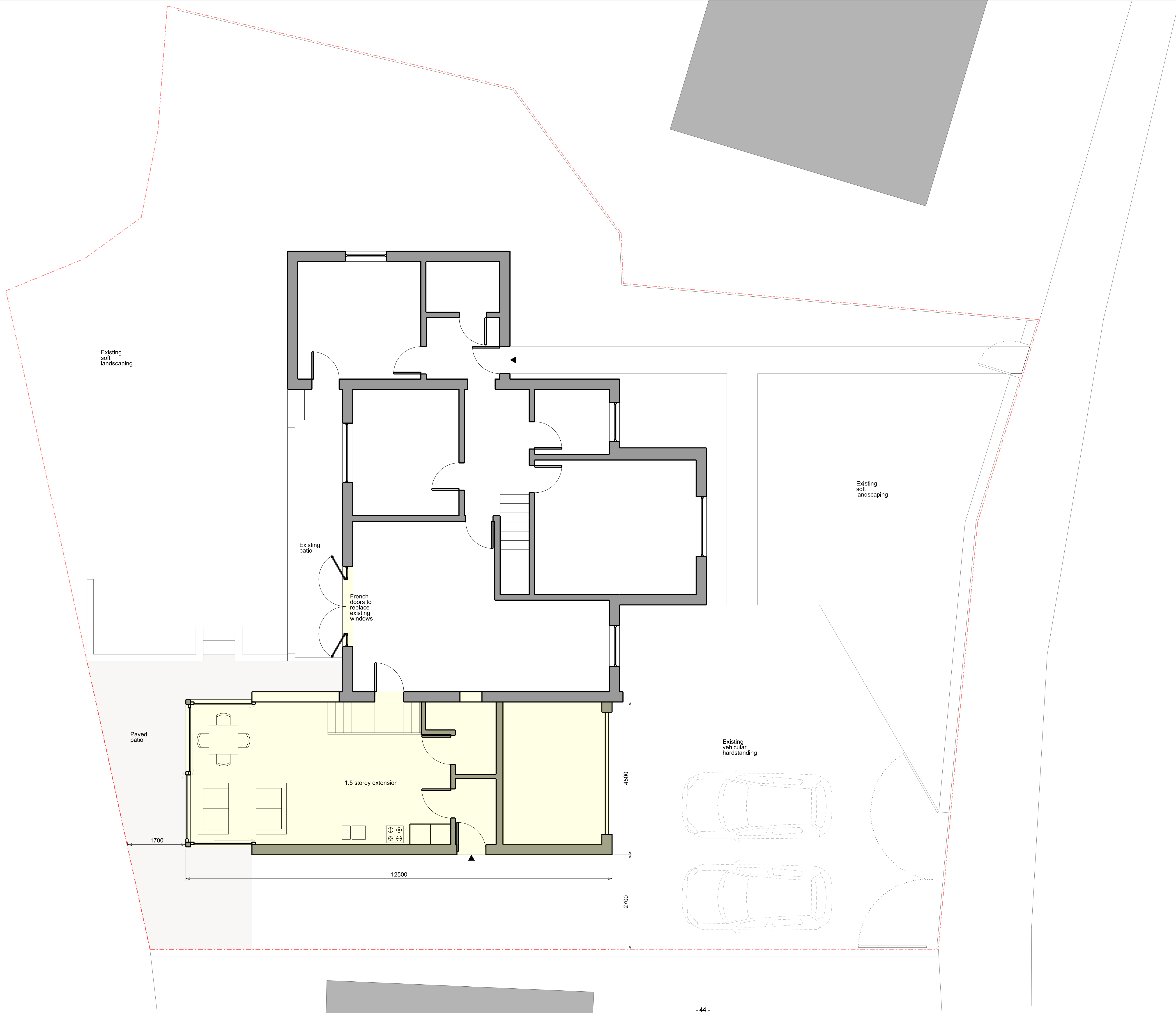


0m 1m 2m

2003_C_030
Existing Elevations
33 Ecclesmachan Road
Scale 1:50@ A1
Liston Architects
02.04.20

Do not scale from drawings.
Request from architect any dimensions not provided.
All dimensions to be checked on site prior to starting work.
Any discrepancies to be reported to architect.
Drawings to be read in conjunction with structural engineer's
drawings specifications and schedules.
Locations of studs in partitions are indicative only.

PLANNING

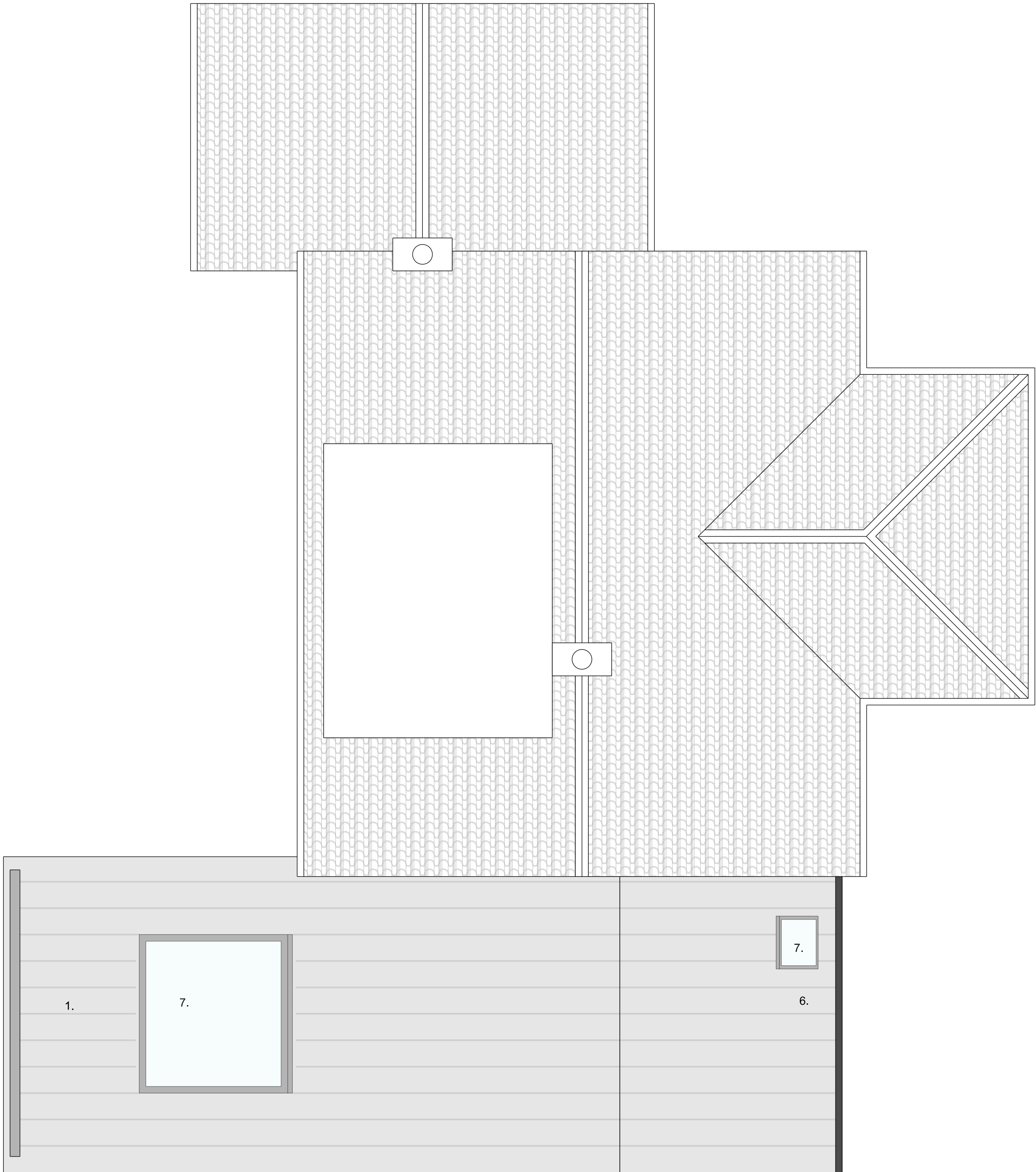


0m 1m 2m

2003_C_100
Proposed Ground Floor Plan
33 Ecclesmachan Road
Scale 1:50@ A1
Liston Architects
02.04.20

Do not scale from drawings.
Request from architect any dimensions not provided.
All dimensions to be checked on site prior to starting work.
Any discrepancies to be reported to architect.
Drawings to be read in conjunction with structural engineer's
drawings specifications and schedules.
Locations of studs in partitions are indicative only.

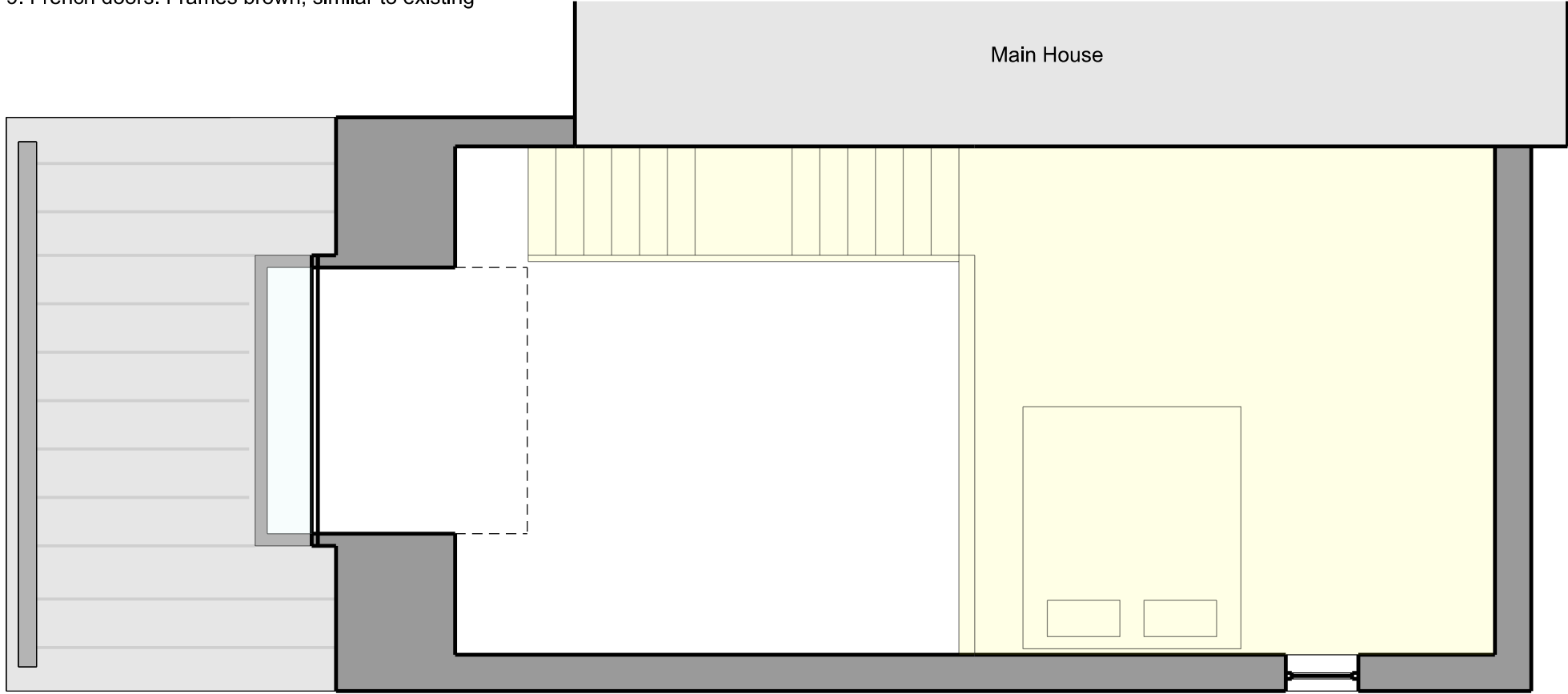
PLANNING



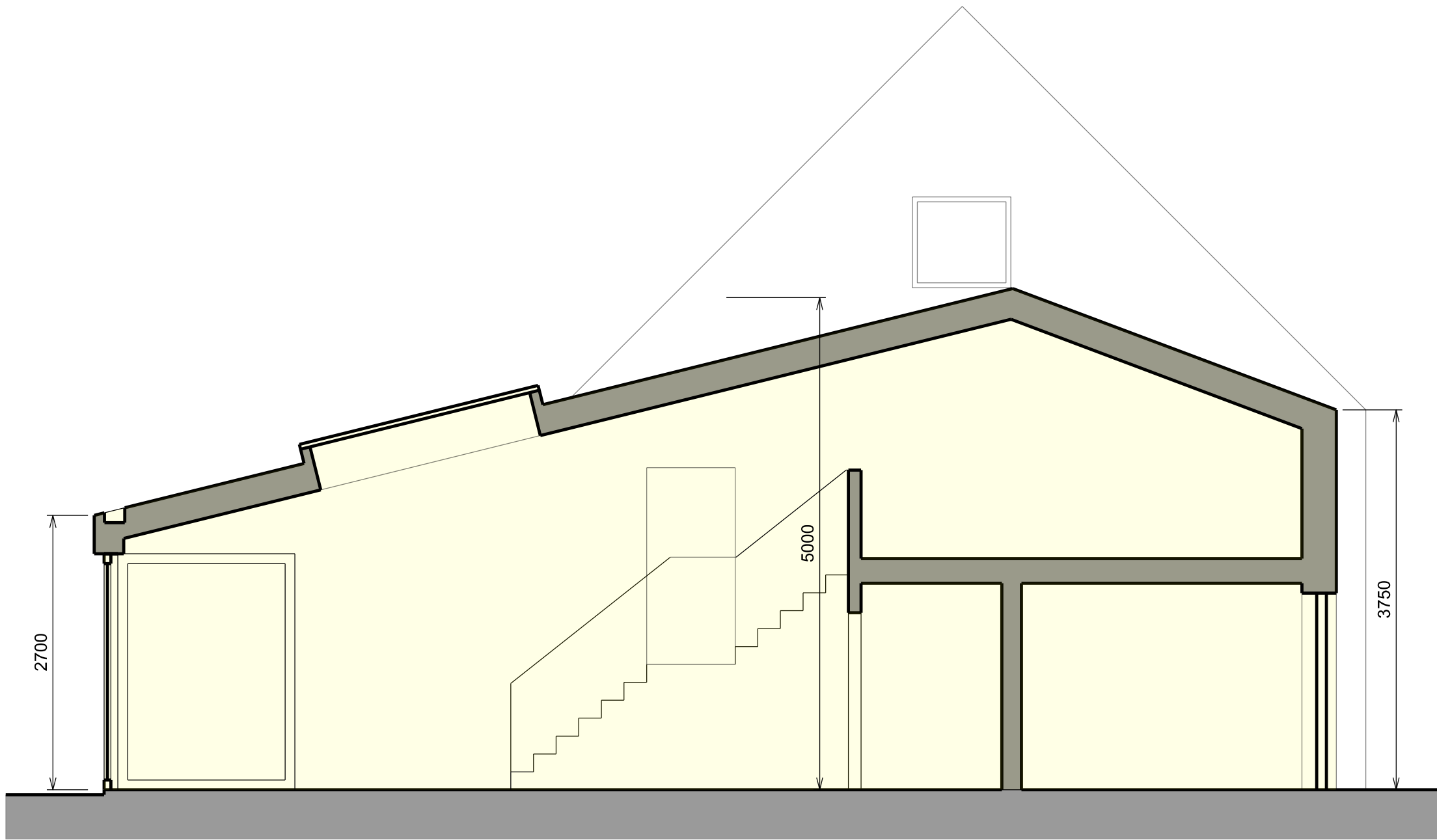
Roof Plan

Materials Key:

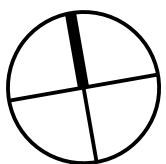
1. Render. Coloured white
2. Glazed sliding doors. Frames coloured grey
3. Windows. Frames coloured grey
4. Timber front door
5. Single membrane standing seam roof
6. Black gutters and downpipes similar to existing
7. Rooflight. Frames coloured grey
8. Garage door. Coloured brown, similar to existing window frames
9. French doors. Frames brown, similar to existing



First Plan (part)



Long Section

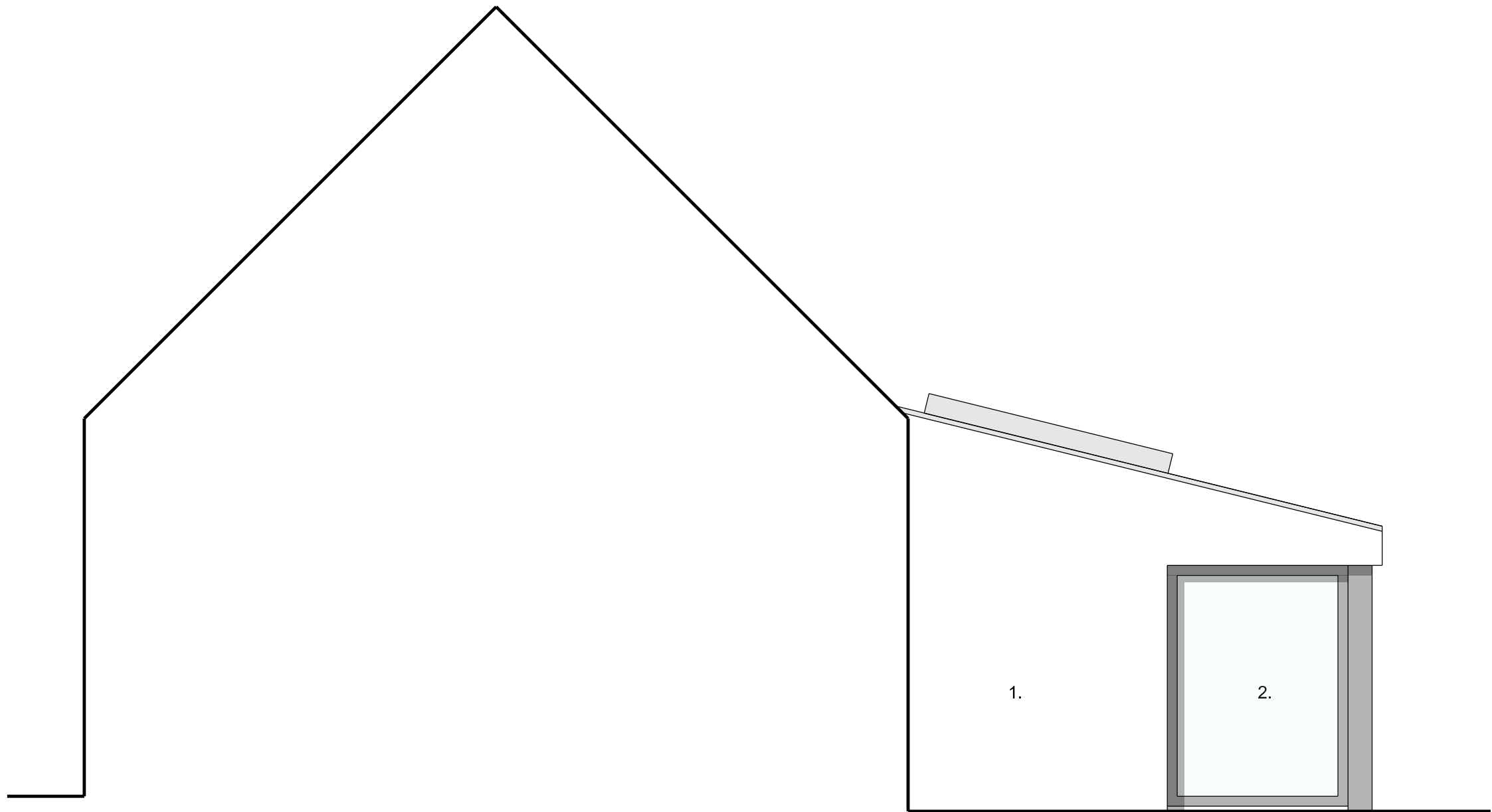


0m 1m 2m

2003_B_101_revA
Proposed First Floor + Roof Plans
and Section
33 Ecclesmachan Road
Scale 1:50@ A1
Liston Architects
07.08.20

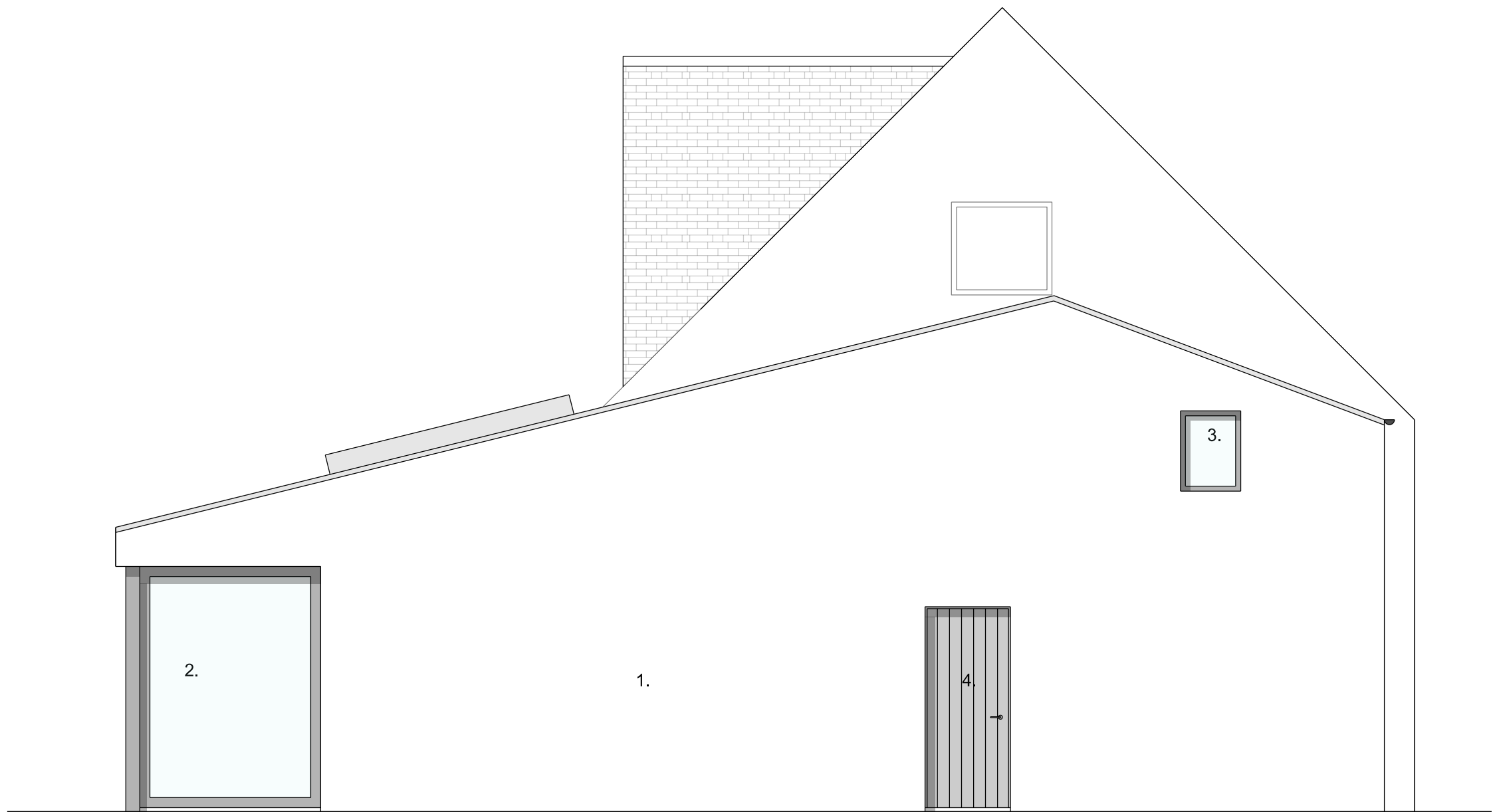
Do not scale from drawings.
Request from architect any dimensions not provided.
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Any discrepancies to be reported to architect.
Drawings to be read in conjunction with structural engineer's
drawings specifications and schedules.
Locations of studs in partitions are indicative only.

PLANNING

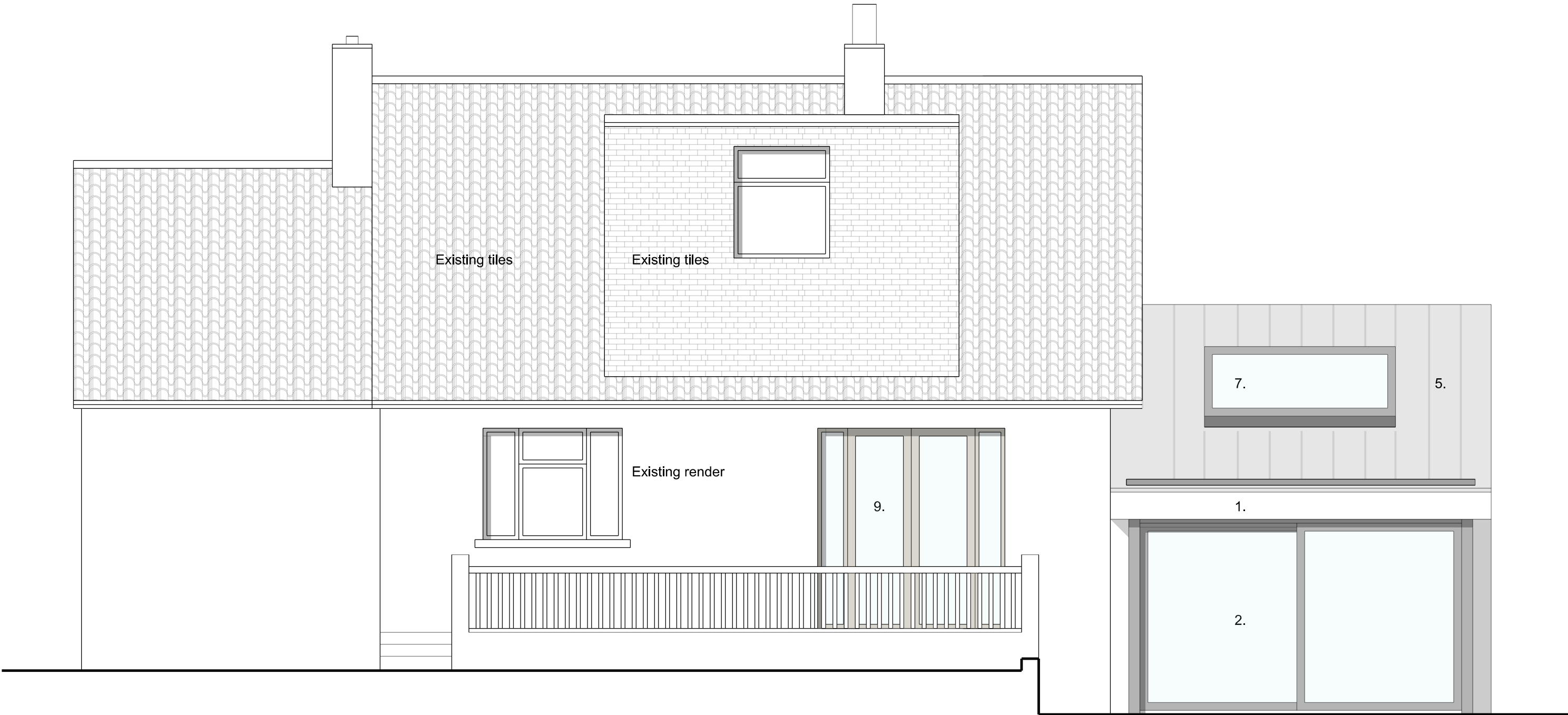


North

- Materials Key:
- 1. Render. Coloured white
 - 2. Glazed sliding doors. Frames coloured grey
 - 3. Windows. Frames coloured grey
 - 4. Timber front door
 - 5. Single membrane standing seam roof
 - 6. Black gutters and downpipes similar to existing
 - 7. Rooflight. Frames coloured grey
 - 8. Garage door. Coloured brown, similar to existing window frames
 - 9. French doors. Frames brown, similar to existing



South



West



East

0m 1m 2m

2003_B_300_revA
Proposed Elevations
33 Ecclesmachan Road
Scale 1:50@ A1
Liston Architects
07.08.20

Do not scale from drawings.
Request from architect any dimensions not provided.
All dimensions to be checked on site prior to starting work.
Any discrepancies to be reported to architect.
Drawings to be read in conjunction with structural engineer's
drawings specifications and schedules.
Locations of studs in partitions are indicative only.

PLANNING

HANDLING REPORT

Ref. No.:	0360/H/20	Email:	rachael.lyall@westlothian.gov.uk
Case Officer:	Rachael Lyall	Tel No.:	01506 281110
Ward:	Broxburn, Uphall & Winchburgh	Member:	Angela Doran Chris Horne Diane Calder Janet Campbell
Title	Extension to house(Grid Ref: 305907,672219) at 33 Ecclesmachan Road,Uphall,West Lothian,EH52 6JP		
Application Type	Local Application		
Decision Level	Delegated List		
Site Visit	-		
Recommendation	Refuse Permission		
Decision	Refuse Permission		
Neighbour Notification	Neighbour notification procedures have been carried out correctly - case officer verification. YES		
Advertisement	21.05.2020		
EIA Screening	Does the development require EIA screening - No		

Description of Proposals

Extension to house.

Site History

The site is located within a conservation area.

Representations

0 Representations were received for this application.

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

Consultations

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

Consultee	Objection?	Comments	Planning Response
X	X	X	X

Policies Considered

Policy Title	Policy Text
ENV24 - Conservation Area (Demolitions)	<p>Within Conservation Areas, new development will not be permitted which would have any adverse effect on their character and appearance. Proposals must have regard to the desirability of preserving or enhancing the character and appearance of the Conservation Area and will require appropriate high standards of design, materials, siting and implementation. When assessing applications for the demolition of unlisted buildings in Conservation Areas, the council will give careful consideration to the merits of the building and its contribution to the character and appearance of the Conservation Area. In circumstances where the building is of no architectural or historic value, makes no material contribution to the Conservation Area, and where its early removal would not detract from the character and appearance of the Conservation Area, demolition would not ordinarily be resisted. However, where a building is considered to be of value, either in itself or as part of a group, there will be a presumption in favour of its retention, restoration for the current or another appropriate use. In these circumstances, demolition to facilitate new development will only be permitted where it can be shown that one or more of the following criteria can be satisfied: a. the condition of the existing building is such that its repair and re-use is not economically viable. 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; or b. demolition and replacement will result in significant economic benefit for the community and the conservation area will be enhanced as a result of the development; or c. there is no alternative location for the development; or d. it can be demonstrated that the proposals allow for the immediate future use of the site which enhances the character or appearance of the Conservation Area. Where planning permission and conservation area consent is granted, appropriate conditions will be applied to ensure that demolition does not take place in advance of the letting of a contract for the construction of a replacement building or alternative means of treating the cleared site having been agreed.</p>
DES1 - Design Principles	<p>All development proposals will require to take account of and be integrated with the local context and built form. Development proposals should have no significant adverse impacts on the local community and where appropriate, should include measures to enhance the environment and be high quality in their design. Development proposals which are poorly designed will not be supported. When assessing development proposals, the developer will be required to</p>

	<p>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.</p>
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Policy Assessment

West Lothian Council's Local Development Plan, Policy DES1 (Design Principles),
West Lothian Council's Local Development Plan, Policy ENV24 (Conservation Areas),
West Lothian Council Supplementary Guidance on House Extension and Alteration Design.

Officer Assessment

This planning application proposes the erection of a side extension onto the property located at 33 Ecclesmachan Road, Uphall. The proposed one and a half storey side extension is to provide a new garage space and a larger kitchen and dining area on the ground floor. The first floor is to consist of an additional bedroom and en-suite. The proposed extension is to measure 12.5m x 4.5m and will be 4.094m in overall height. The proposed side extension has been revised in which the previously proposed flat roof has been removed and the proposal is to now feature an asymmetrical gable pitch roof. Velux windows are proposed to be installed within the roof space to the rear provide natural lighting within the extension without the potential of overlooking neighbouring properties. The rear elevation of the extension is to also feature a window installation which will overlook the paved patio area located to the rear of the property and sits at a lower level than the property and rear garden. The materials proposed for the extension are to match those of the existing house. The

proposed asymmetrical roof will not relate to either the existing or neighbouring properties. In addition, the proposal will significantly impact upon the character of the conservation area as it will appear prominent within the street scene due to the overall scale and location of the works. In addition, the proposed works will sit significantly higher than the neighbouring property which will add to the impact on the visual amenity and prominence. West Lothian Council's LDP states that developments are required to integrate with their local context and built form.

Conclusions and Reasons for Decision

This proposal is contrary to West Lothian Council's Local Development Plan's Design Principles (DES1) and Conservation Areas (ENV24) Policy and the guidance given in the House Extension and Alteration Design Guidelines, 2015. It is recommended that the application is refused planning permission.

List of Review Documents

Drawings schedule:

Docquetted Number	Drawing Description	Drawing Number
1	Location Plan	2003_C_001
2	Existing Elevations	2003_C_030
3	Floor Plan (Existing)	2003_C_010
4	Proposed Elevations	2003_B_300_revA
5	Sections	2003_B_101_revA

Other relevant documents: N/A

West Lothian Local Development;

Case Officer – Rachael Lyall

Date – 21/09/2020



DECISION NOTICE REFUSAL OF PLANNING PERMISSION

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

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

APPLICATION REFERENCE 0360/H/20

PROPOSAL Extension to house

LOCATION 33 Ecclesmachan Road, Uphall, West Lothian, EH52 6JP, (GRID REF: 305907, 672219)

APPLICANT Mr Simon Allan, 33 Ecclesmachan Road, Uphall, West Lothian, EH52 6JP

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

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

Dated:
21.09.2020

Craig McCorriston
Head of Planning, Economic Development and Regeneration

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

Signature:

A handwritten signature in black ink, appearing to read "Craig McCorriston", written over a light blue horizontal line.

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 0360/H/20, for the reason(s) set out as follows:

- 1 The proposed works by virtue of its scale and design, will have a significant impact upon the character and visual amenity of the existing house, streetscene and conservation area. This proposal is therefore contrary to West Lothian Council's Local Development Plan's Design Principles (DES1) and Conservation Areas (ENV24) Policy and the guidance given in the House Extension and Alteration Design Guidelines, 2015.

ADVISORY NOTES TO DEVELOPER

How to challenge the council's Decision

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

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

Notification of the start of development

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

Notification of completion of development

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

Contaminated land procedures

In the event that contamination is found at any time when carrying out the approved development that was not previously identified, work on site shall cease and the issue shall be reported in writing to the planning authority immediately. The developer is required to follow the council's 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 Council's web pages at <https://www.westlothian.gov.uk/article/34731/Contaminated-Land>

Liaison with the Coal Authority

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

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

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

Advisory note to developer - General

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

Annex 1, Schedule of Plans - 0360/H/20

Docquetted Number	Drawing Description	Drawing Number
1	Location Plan	2003_C_001
2	Existing Elevations	2003_C_030
3	Floor Plan (Existing)	2003_C_010
4	Proposed Elevations	2003_B_300_revA
5	Sections	2003_B_101_revA

Our Ref: 0360/H/20
Direct Dial No: 01506 281110
Email: rachael.lyall@westlothian.gov.uk
14 December 2020
Tel: 01506 280000

Draft Justification and Conditions:

This permission is granted subject to the following conditions: -

(1) The materials to be used on the roofs and walls of the extension hereby approved shall match those on the existing house unless otherwise agreed in writing with the planning authority.

Reason To integrate the development with the surrounding area, in the interests of visual amenity.

(2) The extension hereby approved shall be ancillary to the main house and used solely for purposes incidental to the enjoyment of the main house. The extension shall not be used for commercial purposes and shall not be sold, rented or otherwise disposed of separately from the main house.

Reason: To ensure that the property is not sold or let separately, in the interest of residential amenity.

Standard Notes: -

Notification of the start and completion 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 and again once the development is completed. 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. Failure to provide the above information may lead to enforcement action being taken. Forms which can be used for this purpose can be found using the following link:

<https://www.westlothian.gov.uk/article/33097/Initiation-of-Development>

<https://www.westlothian.gov.uk/article/33098/Completion-of-development>

Duration of consent:

This planning permission elapses on the expiry of a period of 3 year (beginning with the date on which the permission is granted) unless the development to which the permission relates is begun before that expiry.

How to challenge the council's decision

If your application was determined under delegated powers 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, then you can appeal that decision to the

Scottish Government's Directorate for Planning and Environmental Appeals. You can find information on these processes and how to apply for a review or to appeal here: <https://www.westlothian.gov.uk/article/33128/Decisions-Reviews-and-Appeals>

Additional consents:

It is the developer's responsibility to obtain all necessary consents prior to commencing works.

Potentially Contaminated Land:

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

WEST LOTHIAN COUNCIL LOCAL REVIEW BODY

MEETING CHECKLIST

Questions to Committee

1	Are there any factual disputes to be resolved?	Yes or No	If Yes handover to the Planning Adviser/Legal Adviser If No proceed to next question
2	Do we have enough information to determine the application?	Yes or No	If Yes move to Q5 If No proceed to next question
3	If additional information is needed what is that and how do we get it?	Written Submissions or Hearing Session	
4	How long do we need to continue the review to allow the additional information to be provided?	One or two cycles	
5	Has any new material been provided by the applicant?	Yes or No	If yes handover to the Planning Adviser/Legal Adviser

Move to Questions from Committee

Move to Comments from Committee

DETERMINATION

6	Does the application conform with or breach any of the development plan policies?	If so which policies apply	
7	Decide as per development plan unless justified by material considerations – what are the material considerations?	Any material considerations	
8	In applying the statutory test, what is the decision (each member decides leading to motion and possibly amendment(s))?		
9	Members must provide planning reasons for motion and any amendment as well as for decision letter and minute		
10	Go to vote (if necessary) – this will be conducted by the Legal Adviser		

**LOCAL REVIEW BODY****APPLICATION NO. 0622/FUL/20 – CHANGE OF USE FROM PUBLIC OPEN SPACE TO PRIVATE GARDEN GROUND AND ERECTION OF FENCE AT 48 BEECH PLACE, EILBURN, LIVINGSTON****REPORT BY CLERK AND LEGAL ADVISER TO THE LOCAL REVIEW BODY****A PURPOSE OF REPORT**

This report describes the documents and other matters relevant to the consideration by the Local Review Body of this application for review of a decision by the Council's Appointed Person to refuse planning permission for a change of use from public open space to private garden ground and erection of fence at 48 Beech Place, Eilburn, Livingston.

B REVIEW DOCUMENTS

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

1. The Notice of Review submitted by the applicant, dated 5 November 2020. This includes a supporting statement; a selection of colour photographs; a location plan and an extract of an offer of sale of the land subject to the planning application
2. The Handling Report, prepared by the Planning Case Officer, dated 6 October 2020; and
3. The Decision Notice, issued by the Appointed Person, dated 6 October 2020.

Eilburn Community Council objected to the original planning application. They were subsequently advised that the review application had been submitted to the council and that they could submit further comment. They did so and these were shared with the applicant who in turn has made comment on them. All documentation referred to is attached to this report.

The applicant has stated, in the review application, that they consider that the most appropriate procedure for the Local Review Body to use to determine the review would be a site inspection and/or a review of the documents only.

C DEVELOPMENT PLAN POLICIES AND PLANNING GUIDANCE

The Appointed Person was of the opinion that the proposed enclosure of public open space lacked a locational justification and would create an awkward stepping of the rear boundaries along the path to the rear of Beech Place resulting in disjointed open space and concealed corners, which would have a detrimental impact on the visual and residential amenity of the area.

The proposal is contrary to Policies ENV 21 (Protection of formal and informal open space) and DES1 (Design principles) of the West Lothian Local Development Plan, 2018.

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.

Lesley Montague, Managing Solicitor, West Lothian Civic Centre

Tel No. 01506 284730, Lesley.montague@westlothian.gov.uk

Date: 13 January 2021

NOTICE OF REVIEW

(LOCAL DEVELOPMENT – DECISION BY APPOINTED PERSON)

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

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

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

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

PART A	APPLICANT'S DETAILS	Name <u>RICKY MAGUIRE</u> Address <u>48 BEECH PLACE, ELIBURN</u> <u>LIVINGSTON</u> Postcode <u>EH54 6RD</u> Telephone No. (1) <u>0 [REDACTED]</u> Telephone No. (2) _____ Fax : _____ E-mail : <u>[REDACTED]</u>
	REPRESENTATIVE (if any)	Name <u>N/A</u> Address _____ _____ Postcode _____ Telephone No. (1) _____ Telephone No. (2) _____ Fax : _____ E-mail : _____
	Please tick this box if you wish all contact to be through your representative.	
	Do you agree to correspondence regarding your review being sent by e-mail? * YES NO	

PART B	APPLICANT REF. NO.	0622/FUL/20
	SITE ADDRESS	48 Beech Place, Eliburn, Livingston, West Lothian, EH54 6RD
	DESCRIPTION OF PROPOSED DEVELOPMENT	Change of use from public open space to private garden ground and erection of a fence
	DATE OF APPLICATION	30/07/2020
	DATE OF DECISION NOTICE (IF ANY)	06/10/2020

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"/>

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

Page 3

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

	It wasn't until after our short phone conversation with the appointed person that I felt
	I was being treated differently and unfairly to the other eight private owners in the
	block because my next door neighbours at No 47 & 49 belong to WLC and a housing
	association and I wasn't being allowed the same opportunity to extend my garden
	ground because of this.

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.	Reason for review letter
2.	Offer of sale of extended garden ground from WLC
3.	Photos taken from my back gate of the properties on either side of me
4.	Street plan of the extended garden ground I have applied to purchase
5.	
6.	
7.	
8.	
9.	
10.	
11.	
12.	
13.	
14.	

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.

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 Ricky Maguire Date 05/11/2020

* 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









Corporate Services

Carol Johnston
Chief Solicitor
Legal Services

Private & Confidential - Addressee Only

WEST LOTHIAN COUNCIL
WEST LOTHIAN CIVIC CENTRE
HOWDEN SOUTH ROAD
LIVINGSTON
EH54 6FF

Carol Reid
KW LAW
Solicitors
DX540918
LIVINGSTON

DX 552060, LIVINGSTON 7

e-mail: fiona.stewart@westlothian.gov.uk

Our Ref: FS/CON-023450
Your Ref: Carol Reid
Contact: FIONA STEWART
Tel: 01506 283928

3 September 2020

Dear Sirs

Sale of Land adjacent to 48 Beech Place, Eliburn, Livingston

On behalf of and as authorised by The West Lothian Council, constituted by the Local Government Etc. (Scotland) Act 1994 and having their Headquarters at West Lothian Civic Centre, Howden South Road, Livingston, West Lothian, EH54 6FF (hereinafter referred to as "the Council"), I hereby offer to sell to you Ricky Maguire, residing at 48 Beech Place, Elburn, Livingston EH54 6RB (hereinafter referred to as "the Purchaser"); ALL and WHOLE that area of ground situated adjacent to the dwellinghouse known as and forming 48 Beech Place, Elburn, Livingston, EH54 6RB and extending to Thirty two square metres and Thirty one decimal or one tenths parts of a square metre, 32.31m² or thereby (hereinafter referred to as "the Subjects") being the subjects more particularly described in the draft disposition (hereinafter referred to as "the Disposition") and outlined in red on the plan annexed and signed as relative hereto and that on the following terms and conditions:-

1. The date of entry shall be the later of (i) the date being seven 7 days after receipt of planning permission for the change of use of the Subjects from amenity land to garden ground; and (ii) the date being seven 7 days after conclusion of the Missives, or such other date as the Purchaser and the Seller may agree in writing with specific reference to the Missives; (hereinafter referred to as "the Date of Entry").
2. The Price of the Subjects is THREE THOUSAND TWO HUNDRED AND THIRTY ONE POUNDS (£3,231.00) STERLING.
- 2.1 The Price will be payable by the Purchaser to the Council by no later than 12 noon on the Date of Entry (which date, or if later, the date when the price is paid and the purchase of the subjects is completed in terms of the missives, shall hereinafter be referred to as "Settlement").
- 2.2 In the event of the Price or any part of it not being paid by 12 noon on the Date of Entry the Council will be entitled to charge interest on the Price at the rate of 4%

Reason for Review

Dear Sir/Madam

I received a phone call on the 22/09/2020 by the appointed person explaining that he had decided to refuse my planning application for permission to enclose my extended rear garden ground by erecting a boundary fence. He explained that this would cause a stepping of boundary fences with the other gardens in the block, he then explained that my application would not have been a problem if my next door neighbours were planning to extend their gardens fences at the same time. However, my neighbours either side of me at numbers 47 & 49 are owned by West Lothian Council and a Housing Association so they are unable to extend their gardens. Due to this I actually feel I am being discriminated against and that I have been treated differently and unfairly to the other private residents in the street.

As previously mentioned the neighbours houses on either side of me are owned by WLC and a housing association and the other eight houses in the block are privately owned. Five of which have extended gardens fences already causing a stepping of the rear boundary fences two of which are not illustrated in the WLC street plan of my drawing illustrating the size of ground that I have applied to buy. I feel that the decision to refuse me permission to extend my back garden and erect a fence has been made because my next door neighbours have not extended their gardens.

For example, if I owned the property next door at number 49 I would be very surprised if my application would have been refused because the private gardens at number 50, 51, 52, and 53 have all extended back gardens with border fences already causing a stepping of fences and they are not the only properties in the street with extended garden fences.

The main reason I have applied to extend my back garden and erect a fence is the fact that the strip of grass land is being used daily by dozens of irresponsible dog walkers who refuse to pick up their dog fouling and broken glass bottles/litter that is just kicked to the side of the path from passers by and football fans going to and from the stadium. When using my back gate to take my dog to the park I am forever watching my step.

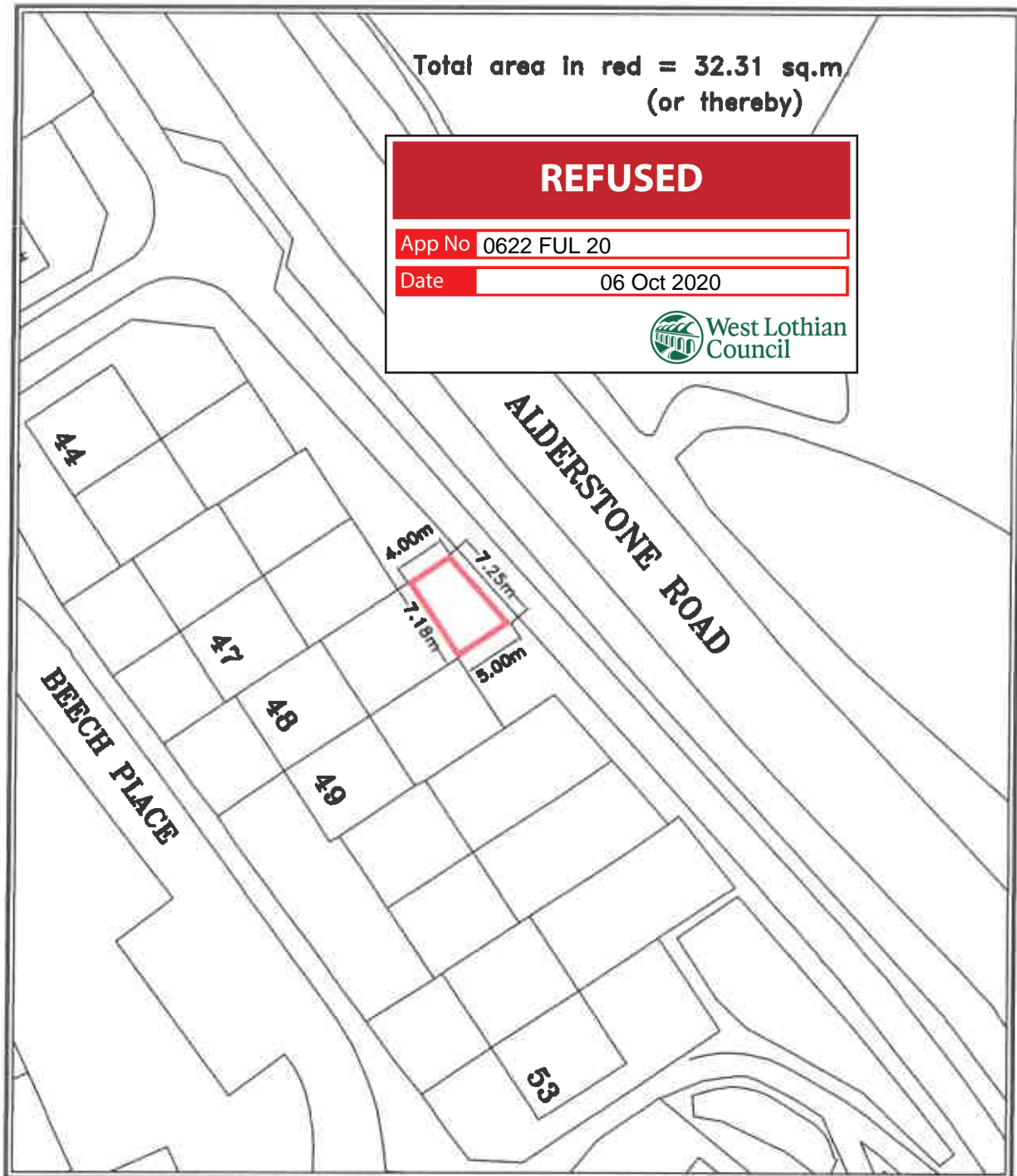
West Lothian Council's NETS & Land Services Department and the West Lothian Transportation Department did not object to this application but did suggest leaving one metre between the boundary fence and path.


By extending my garden it does not make the footpath narrower or more closed in as stated by the Parish Councillor. It is actually improving the area and eradicating the problem of dog fouling and the dangers of broken glass in the grass. Less than one hundred metres away the other block of ten houses fences all butt to the same footpath and don't have this ongoing problem of dog fouling and the danger of hidden broken glass bottles.

I have already received my sale of land offer from WLC and I have informed my solicitor at KW-LAW that I am awaiting the outcome of my appeal before I can sign and accept.

Kind Regards

Ricky Maguire



<p style="text-align: center;">Ground adjacent to 48 Beech Place, Ellburn, Livingston</p>		<p><small>Subject:</small></p>	<p><small>Notes:</small></p>
<p><small>Date Surveyed</small> 19 June 2020</p> <p><small>Drawn by</small> W.M.W.</p> <p><small>Scale</small> 1/500</p>	<p>West Lothian Council Property Management & Development CMC Centre Livingston West Lothian EH54 6FF</p>		

HANDLING REPORT

Ref. No.:	0622/FUL/20	Email:	matthew.watson@westlothian.gov.uk
Case Officer:	Matthew Watson	Tel No.:	01506 283536
Ward:	Livingston North	Member:	Alison Adamson Dom McGuire Robert De Bold Andrew Miller

Title	Change of use from public open space to private garden ground and erection of a fence (Grid Ref: 304288,667943) at 48 Beech Place, Eliburn, Livingston, West Lothian, EH54 6RD
Application Type	Local Application
Decision Level	Delegated List
Site Visit	16.09.2020
Recommendation	Refuse Permission
Decision	
Neighbour Notification	Neighbour notification procedures have been carried out correctly - case officer verification. YES
Advertisement	27.08.2020
EIA Screening	Does the development require EIA screening - No If Yes, checklist completed and filed -

Description of Proposals

Change of use from public open space to private garden ground and erection of a fence

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.

One objection from Eliburn Community Council:

- Public open space is a needed resource
- The application proposes a fence right up to the footpath making it narrower and closed in

- The agreed Local Development Plan Policy ENV21 covers the "Protection of Formal and Informal Open Space", which this proposal contravenes

Consultations

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

Consultee	Objection?	Comments	Planning Response
Neighbourhood Environment Teams	Yes	Object to the current size of extension and this needs to be reduced. The fencing should be in line with garden extensions at 50 and 51 Beech Place	Noted.
Transportation	No	No objection subject to a condition requiring the fence to be one metre away from the adopted footway / cycleway so as not to restrict passage past the property boundary.	Noted.

Policies Considered

Policy Title	Policy Text
ENV21 - Protection of Formal and Informal Open Space	Proposals which will result in the loss of open space will not be supported unless it can be demonstrated that: a. there is a specific locational justification for the development which outweighs the need to retain the open space; b. there is no significant adverse effect on the overall recreational amenity of the local area, taking account of the council's Open Space Strategy; c. the area is not of significant ecological value and disturbance and loss of trees, woodlands and wildlife habitats or green corridors is minimised; d. comparable open space or enhancement of existing open space can be provided and/or paid for by the developer at an appropriate alternative location where this will provide adequate and acceptable replacement for the open space lost as a result of the development; and e. connectivity within, and functionality of, the wider green network is not threatened and public access routes in or adjacent to the open space will be safeguarded.

DES1 - Design Principles	<p>All development proposals will require to take account of and be integrated with the local context and built form. Development proposals should have no significant adverse impacts on the local community and where appropriate, should include measures to enhance the environment and be high quality in their design. Development proposals which are poorly designed will not be supported. When assessing development proposals, the developer will be required to ensure that:</p> <ul style="list-style-type: none"> a. there is no significant adverse impact on adjacent buildings or streetscape in terms of layout, scale, massing, design, external materials or amenity; b. there is no significant adverse impact on landscape character, built heritage, habitats or species including European sites, biodiversity and Protected Species nor on amenity as a result of light, noise, odours, dust or particulates; c. the proposed development is accessible for all, provides suitable access and parking, encourages active travel and has no adverse implications for public safety; d. the proposal includes appropriate integrated and accessible infrastructure, open space, green infrastructure and 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. <p>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>

Policy Assessment

See below.

Officer Assessment

The application proposes a change of use from public open space to private garden ground and erection of a fence.

Policy ENV 21 (Protection of formal and informal open space) of the LDP sets out five criteria for assessing proposals for loss of open space. Policy DES 1 (Design principles) of the LDP requires development to integrate with its local context and built form.

Although the proposal will not significantly affect recreational amenity and nor result in the loss of trees, the proposal does not have a locational justification for the loss of this area of open space. The proposal is therefore contrary to Policy ENV 21 (a).

In terms of visual character, the land changed to garden ground would create an awkward stepping of the rear boundaries along the path to the rear of Beech Place and would form concealed corners to the detriment of the visual and residential amenity of the area.

Other changes of use from public open space to private garden ground have occurred to the rear of properties at Beech Place at numbers 50 to 53 Beech Place. The change of use from public open space to private garden ground at 46 Beech Place is unauthorised and has been referred to Planning Enforcement. Other enclosures of public open space to private garden ground in the area do not outweigh the adverse visual impact that will result from the awkward stepping of rear boundaries.

Overall, the proposal will not integrate with its context and built form and is contrary to Policy DES 1 of the LDP.

Other Considerations

N/A

Conclusions and Reasons for Decision

In summary, the proposed enclosure of public open space lacks a locational justification and will create an awkward stepping of the rear boundaries along the path to the rear of Beech Place and would form concealed corners, which will have a detrimental impact on the visual amenity of the area.

The proposal is contrary to Policies ENV 21 (Protection of formal and informal open space) and DES 1 (Design principles) of the West Lothian Local Development Plan, 2018.

List of Review Documents

Drawings schedule:

Docquetted Number	Drawing Description	Drawing Number
1	Location Plan	-

Case OfficerMATTHEW WATSON.....

Date....06/10/2020.....



DECISION NOTICE REFUSAL OF PLANNING PERMISSION

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

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

APPLICATION REFERENCE 0622/FUL/20

PROPOSAL Change of use from public open space to private garden ground and erection of a fence

LOCATION 48 Beech Place, Eliburn, Livingston, West Lothian, EH54 6RD,
(GRID REF: 304288, 667943)

APPLICANT Ricky Maguire, 48 Beech Place, Eliburn, Livingston, EH54 6RD

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:
06.10.2020

Craig McCorriston
Head of Planning, Economic Development and Regeneration

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

Signature:

A handwritten signature in black ink, appearing to read 'Craig McCorriston', written over a light blue horizontal line.

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 0622/FUL/20, for the reason(s) set out as follows:

- 1 The proposed enclosure of public open space lacks a locational justification and would create an awkward stepping of the rear boundaries along the path to the rear of Beech Place resulting in disjointed open space and concealed corners, which would have a detrimental impact on the visual and residential amenity of the area.

The proposal is contrary to Policies ENV 21 (Protection of formal and informal open space) and DES 1 (Design principles) 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: <https://www.westlothian.gov.uk/article/33128/Decisions-Reviews-and-Appeals>

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

Notification of the start of development

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

Notification of completion of development

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

Contaminated land procedures

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

pages at <https://www.westlothian.gov.uk/article/34731/Contaminated-Land>

Liaison with the Coal Authority

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

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

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

Advisory note to developer - General

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

Annex 1, Schedule of Plans - 0622/FUL/20

Docquetted Number	Drawing Description	Drawing Number
1	Location Plan	-

Comments for Planning Application 0622/FUL/20

Application Summary

Application Number: 0622/FUL/20

Address: 48 Beech Place Eliburn Livingston West Lothian EH54 6RD

Proposal: Change of use from public open space to private garden ground and erection of a fence

Case Officer: Matthew Watson

Customer Details

Name: Mr Stephen Egan

Address: 69 Aller Place Eliburn Livingston

Comment Details

Commenter Type: Parish Councillor

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: On behalf of Eliburn Community Council I would like to object to this proposal on the grounds that public open space is a needed resource. This proposal would mean that the proposer would fence in the garden (1.8m fence?) right up to the footpath. This makes the footpath narrower and more closed in. The Community Council policy is that all public open space needs to be preserved, the agreed Local Development Plan Policy ENV21 covers the "Protection of Formal and Informal Open Space", which this proposal contravenes.

Val (received on 12 November 2020)

It is the Policy of Eliburn Community Council to object to the continued erosion of Public Open Space within our area. I find it bewildering that WLC can sell this land off with the implication that the purchaser can fence it in (i.e. change the use of the land). I accept on the face of it the applicant has a case owing to the extension to gardens by his near neighbours. Nevertheless, the Community Council would like to reiterate our objection to this application. Having said that, if permission was granted to align the fence to where some of the neighbours have their boundary, but not right up to the footpath we could understand why such a compromise was made,

Stephen Egan
Chair of Eliburn Community Council

Dear Val (received on 16 November 2020)

Thank you for updating me on the Eliburn community councils recent comments on my application to extend my back garden ground and erect a fence.

I appreciate the community councils policy is to object to any erosion of public open space and the good work they do within the Eliburn area, however I do wonder if Mr Egan and the members of the local council would accept it if their back garden exit was being used daily for nothing other than a dogs toilet and a place to dispose of glass bottles/rubbish etc, (which I am forever binning) or would he like myself try and solve the ongoing problem once and for all.

I appreciate that Mr Egan accepts that I do have a case for my appeal to be accepted due to the fact that the majority of my near neighbours, most of the residents in the street and the block next to me have already extended their garden fences mostly of which are up to the path (without narrowing the pathway) and some a metre from the path.

My next door neighbours of 21 years have recently informed me that WLC have been in touch to ask if they had any objection to my application to extend my back garden ground and erect a fence, to which they have said that they have no objection and agree with myself as to what the open space is being used for and has been for years.

Yours Sincerely

Ricky Maguire

Draft Conditions – 0622/FUL/20

1. Prior to any works starting on site, full details of the proposed fence shall be submitted to and approved in writing by the planning authority. Thereafter, the fence shall be erected in accordance with the approved details.

Reason: In the interest of visual amenity.

WEST LOTHIAN COUNCIL LOCAL REVIEW BODY

MEETING CHECKLIST

Questions to Committee

1	Are there any factual disputes to be resolved?	Yes or No	If Yes handover to the Planning Adviser/Legal Adviser If No proceed to next question
2	Do we have enough information to determine the application?	Yes or No	If Yes move to Q5 If No proceed to next question
3	If additional information is needed what is that and how do we get it?	Written Submissions or Hearing Session	
4	How long do we need to continue the review to allow the additional information to be provided?	One or two cycles	
5	Has any new material been provided by the applicant?	Yes or No	If yes handover to the Planning Adviser/Legal Adviser

Move to Questions from Committee

Move to Comments from Committee

DETERMINATION

6	Does the application conform with or breach any of the development plan policies?	If so which policies apply	
7	Decide as per development plan unless justified by material considerations – what are the material considerations?	Any material considerations	
8	In applying the statutory test, what is the decision (each member decides leading to motion and possibly amendment(s))?		
9	Members must provide planning reasons for motion and any amendment as well as for decision letter and minute		
10	Go to vote (if necessary) – this will be conducted by the Legal Adviser		