



Local Review Body

West Lothian Civic Centre
Howden South Road
LIVINGSTON
EH54 6FF

3 February 2021

A meeting of the **Local Review Body** of West Lothian Council will be held within the **Webex Virtual Meeting Room** on **Wednesday 10 February 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 13 January 2021 (herewith).

Public Items for Decision

5. Notice of Review Application No.0571/H/20 - Continued siting of storage container at Laurelbank, Ecclesmachan (herewith)
6. Notice of Review Application No.0697/FUL/20 - Erection of a 422sqm building containing two retail units (class 1) and hot food takeaway with associated works at Dixon Terrace, Whitburn (herewith)

7. Notice of Review Application No.0809/H/20 - installation a dormer and alterations to house at 16 Cannop Crescent, Stoneyburn (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 13 JANUARY 2021.

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

1. Agenda Item 7 (Application No.0622/FUL/20, 48 Beech Place, Eliburn) - Councillor Lawrence Fitzpatrick declared an interest in that the objector was personally known to him so he would not participate in the item of business; and
2. Agenda Item 6 (Application No.0360/H/20, 33 Ecclesmachan Road, Uphall) - Councillor Pauline Clark declared an interest in that when she visited the site the applicant provided access to the proposed development area but she made clear that she was unable to discuss the merits of the review application with them.

2. MINUTE

The committee approved the minute of its meeting held on 11 November 2020.

3. ORDER OF BUSINESS

The Chair ruled in terms of Standing Order 11 that agenda items 6 and 7 would not be considered by committee as due to a change in advice from the Scottish Government in relation to what constituted essential travel some committee members had not undertaken the required site visits. Therefore, in fairness to all committee members and applicants it would be necessary to continue both review applications to a future meeting to allow a further opportunity for the site visits to be undertaken when restrictions were eased.

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

The committee considered a report (copies of which had been circulated) by the Clerk to the Local Review Body regarding an application to review the decision by the Appointed Person to refuse planning permission for the continued siting of caravan, storage containers and poly tunnel at Crossfield Farm, Longridge.

It was noted that the review application had been continued from the November meeting to allow members a further opportunity to research the background to the application.

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

The committee decided that the review documents in conjunction with a site visit, conducted back in November 2020 on an individual bases by members and the advice of the Planning Adviser provided sufficient information to enable the review to be determined without any further procedure.

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

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

Decision

To uphold the review application, subject to the draft conditions including the condition that the temporary permission was to commence from 13 January 2021 for a period of two years as committee considered that the site had operated as a working farm for a period of at least nine years so there was a locational need for the application and therefore complied with policy DES1 and ENV3 of the Local Development Plan.



LOCAL REVIEW BODY

APPLICATION NO. 0571/H/20 – CONTINUED SITING OF STORAGE CONTAINER AT LAURELBANK, ECCLESMACHAN, WEST LOTHIAN

REPORT BY CLERK AND LEGAL ADVISER TO THE LOCAL REVIEW BODY

A PURPOSE OF REPORT

This report describes the documents and other matters relevant to the consideration by the Local Review Body of this application for review of a decision by the Council's Appointed Person to refuse planning permission for the continued siting of a storage container at Laurelbank, Ecclesmachan.

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 13 January 2021. This also includes a supporting statement from the applicant, three colour photographs, a location plan and a letter of support from a local ward member.
2. The Handling Report, prepared by the Planning Case Officer, dated 19 October 2020.
3. The Decision Notice, issued by the Appointed Person, dated 19 October 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 further written information, a hearing and site inspection.

The applicant has stated in the review application that new matters have been raised and these are listed as: supporting statement, support letter from Councillor Chris Horne and photos. No reasoning has been given why these were not raised with the Appointed Person before or why they should now be considered.

C SITE VISITS

The Clerk to the Local Review Body, in consultation with the Chair, has the discretion to determine that a site visit should take place, as further procedure, prior to the first hearing of the review application. In light of current Scottish Government Covid-19 guidance to 'stay at home, except for essential purposes' the Clerk has elected not to exercise their discretion in respect of this application. Members will not therefore

require to have undertaken a site visit prior to the first hearing of this review application. Note that this does not preclude Members from determining that a site visit is required, as further procedure, during their consideration of the review application

D DEVELOPMENT PLAN POLICIES AND PLANNING GUIDANCE

The application for planning permission was assessed in terms of Local Development Plan Policy DES1 (Design Principles) and the House Extension and Alteration Design Guidelines 2020.

The Appointed Person was of the opinion that the applicant had been granted temporary planning permission for a period of two years from July 2018 on the understanding that the container was required to complete building works. It was noted that the container had in fact been on the site since 2013. The Appointed Person therefore considers that the applicant has had ample time to complete the building works and therefore the container should be removed. By continuing to have the container on site was also considered to be detrimental to the visual amenity of the site and the surrounding area.

E PLANNING CONDITIONS, LEGAL AGREEMENTS AND GOOD NEIGHBOUR AGREEMENTS

Without prejudice to the outcome of this review, to assist the Local Review Body in its deliberations and to assist the applicant and interested persons in securing a prompt resolution of the review, the Planning Adviser has drafted planning conditions which the Local Review Body may wish to consider imposing should it be minded to grant planning permission. A copy is circulated with this report.

Winston Roberts, Solicitor, West Lothian Civic Centre
Tel No. 01506 283524, Winston.roberts@westlothian.gov.uk

Date: 10 February 2021


 Item No: 5
 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>MR ROSS NEWBIGGING</u> Address <u>"LAURELBANK"</u> <u>ECCLESMACHAN</u> Postcode <u>EH52 6NJ</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 NO		



PART B	APPLICANT REF. NO.	<u>0571/H/20</u>
	SITE ADDRESS	<u>"LAURELBANK"</u> <u>ECCLESMACHAN</u> <u>EH52 6NJ</u>
	DESCRIPTION OF PROPOSED DEVELOPMENT	<u>SITING OF STORAGE CONTAINER</u>
	DATE OF APPLICATION	<u>12-7-2020</u>
	DATE OF DECISION NOTICE (IF ANY)	<u>19-10-2020</u>

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

Type of Application (please tick the appropriate box)

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

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

Statement of reasons and matters to be raised

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

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

WE FEEL A REVIEW OF THE PLANNING DECISION SHOULD BE REVIEWED AS THERE WERE NO OBJECTIONS TO THE APPLICATION. WE ALSO FEEL THAT THE VISUAL AMENITY IS UNAFFECTED BY THE CONTINUED SITING OF THE STORAGE CONTAINER. WE HAVE INCLUDED A SUPPORTING LETTER, A LETTER OF SUPPORT FROM Cllr CHRIS HORNE, A PLAN OF THE SITE + PHOTOS FOR YOUR INFORMATION.

① NO OBJECTIONS TO APPLICATION.

② VISUAL AMENITY IS UNAFFECTED.

③ LIMITED STORAGE.

④ SECURE STORAGE

⑤ SUPPORTING STATEMENT.

⑥ SUPPORT LETTER FROM Cllr CHRIS HORNE -

⑦ PLAN.

⑧ PHOTOS

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

* YES/NO

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

	SUPPORTING STATEMENT.
	SUPPORT LETTER FROM Cllr CHRIS HORNE.
	PHOTOS

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.	SUPPORTING STATEMENT.
2.	SUPPORT LETTER FROM Cllr CHRIS HORNE.
3.	SITE PLAN
4.	PHOTOS
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 HAVE INCLUDED SUPPORTING STATEMENT, SUPPORT LETTER
FROM Cllr CHRIS HORNE, SITE PLAN + PHOTOS WHICH WE
FEEL SUPPORTS MY APPLICATION.

SITE INSPECTION

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

Can the site be viewed entirely from public land?

* ~~YES~~ NO

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

* YES/~~NO~~

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



PART E

CHECKLIST

Please mark the appropriate boxes to confirm you have provided all supporting documents and evidence relevant to your review. Failure to supply all the relevant information or to lodge the form on time could invalidate your notice of review.

Full completion of all parts of this form

✓

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

✓

Statement of your preferred procedure

✓

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

✓

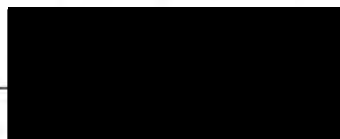
Where your case relates to another application (e.g. it is a renewal of planning permission or a modification, variation or removal of a planning condition, or an application for approval of matters specified in conditions), it is advisable to provide that other application reference number, approved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

*****DECLARATION*****

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

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

Signed



Date

13-1-21

* 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

**Ross G. Newbigging
'Laurelbank'
ECCLESMACHAN
EH52 6NJ**

Tel. No: 

13th January 2021

Dear Sir/Madam,

Ref: 0571/H/20

I would like to appeal the decision to refuse my planning application to continue to site a storage container at Laurelbank, Ecclesmachan.

My previous application was granted for a duration of 2 years with a condition that it was to be removed *or* **'unless otherwise consented by the planning authority'**. We subsequently applied for planning permission again in July 2020 and no objections were received by the council.

The application has been refused and I would like to address some of the points made by Rachael Lyall, Planning Officer.

Ms. Lyall mentions the positioning of the storage container. The storage container is located to the North-West of the site and is mainly obscured by the garage and is furthest away from the driveway (which runs to the South-West of the plot. The storage container cannot be seen from our driveway.

The intention of the storage container from the beginning has been to act as storage for our family and household items as we have no loft space, due to an attic conversion. As you can imagine the amount of storage space you require for a family of 5 when you do not have a loft space to store things in.

The work on our property is not complete and considering the scale of the work, we consider the site has always been and continues to be, well maintained.

The permission was granted last time and to ensure visual amenity was upheld, we have fences around the storage container and planted screening shrubs, all of which has been carried out at a great deal of expense to us, to ensure that the area looks appealing not only to the surrounding community but to us too.

The storage container is completely unseen from the road during the spring, summer and most of the autumn season due to the heavy foliage from the surrounding trees and shrubs. Even in the winter it is not fully visible due to evergreen foliage, which in a short space of time will completely shield it from view from the roadside. **(photos attached)**. It is not fully visible from any side except from our own property.

The base of the storage container is approx 1.2mtrs below road level. The storage container is painted green to blend in with the surrounding area.

There were no objections regarding this application and we have enclosed a support letter from Cllr. Chris Horne. Cllr Horne has travelled past our property regularly and agrees that it is not detrimental to the visual amenity of the area.

As previously mentioned we have no attic space and the storage container is a highly secure and safe space for our family property.

We respectfully ask that the review body reassesses this application. We will be happy to discuss any suggestions the review body suggests to allow this to proceed.

Thank you for taking the time to consider our points.

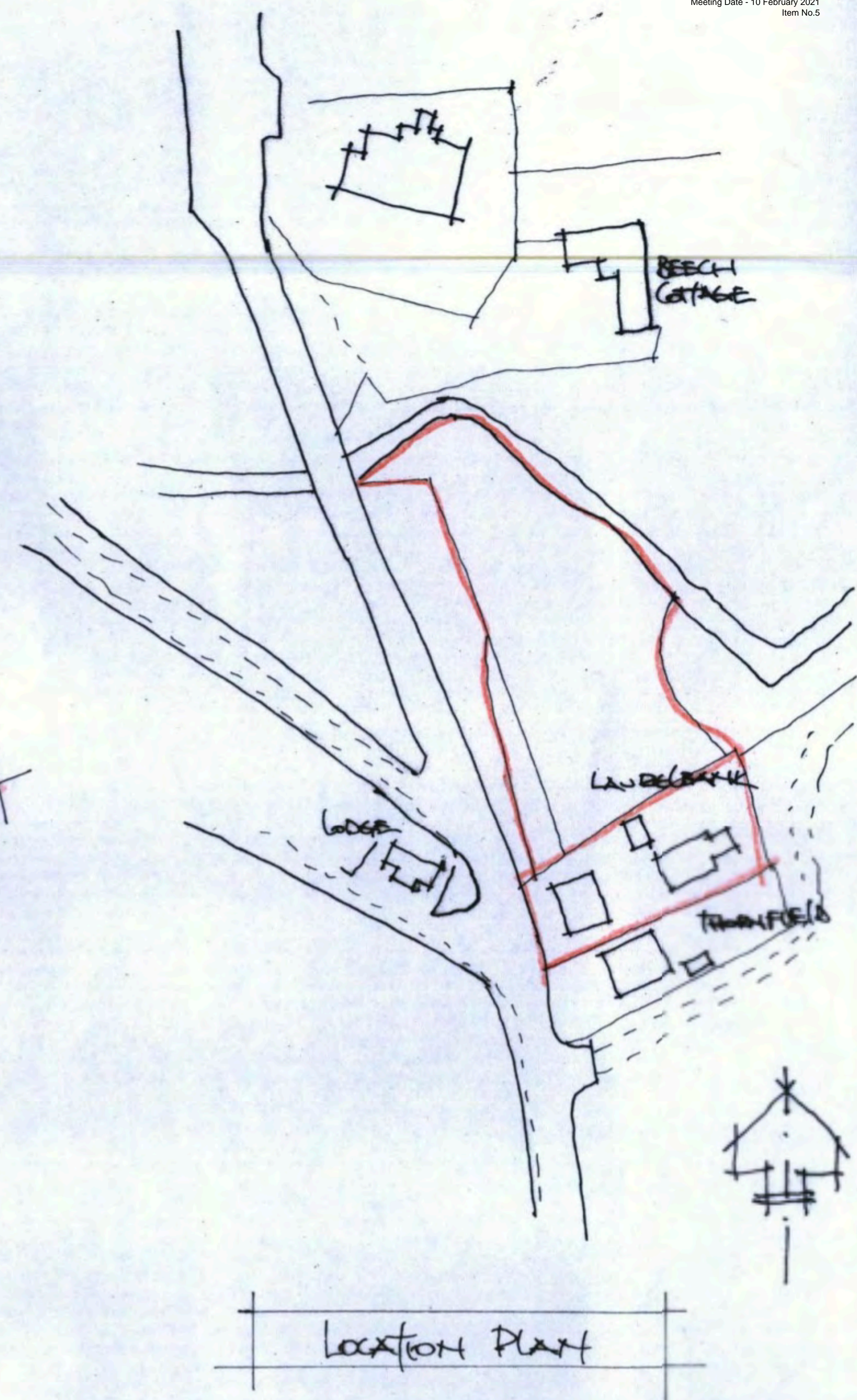
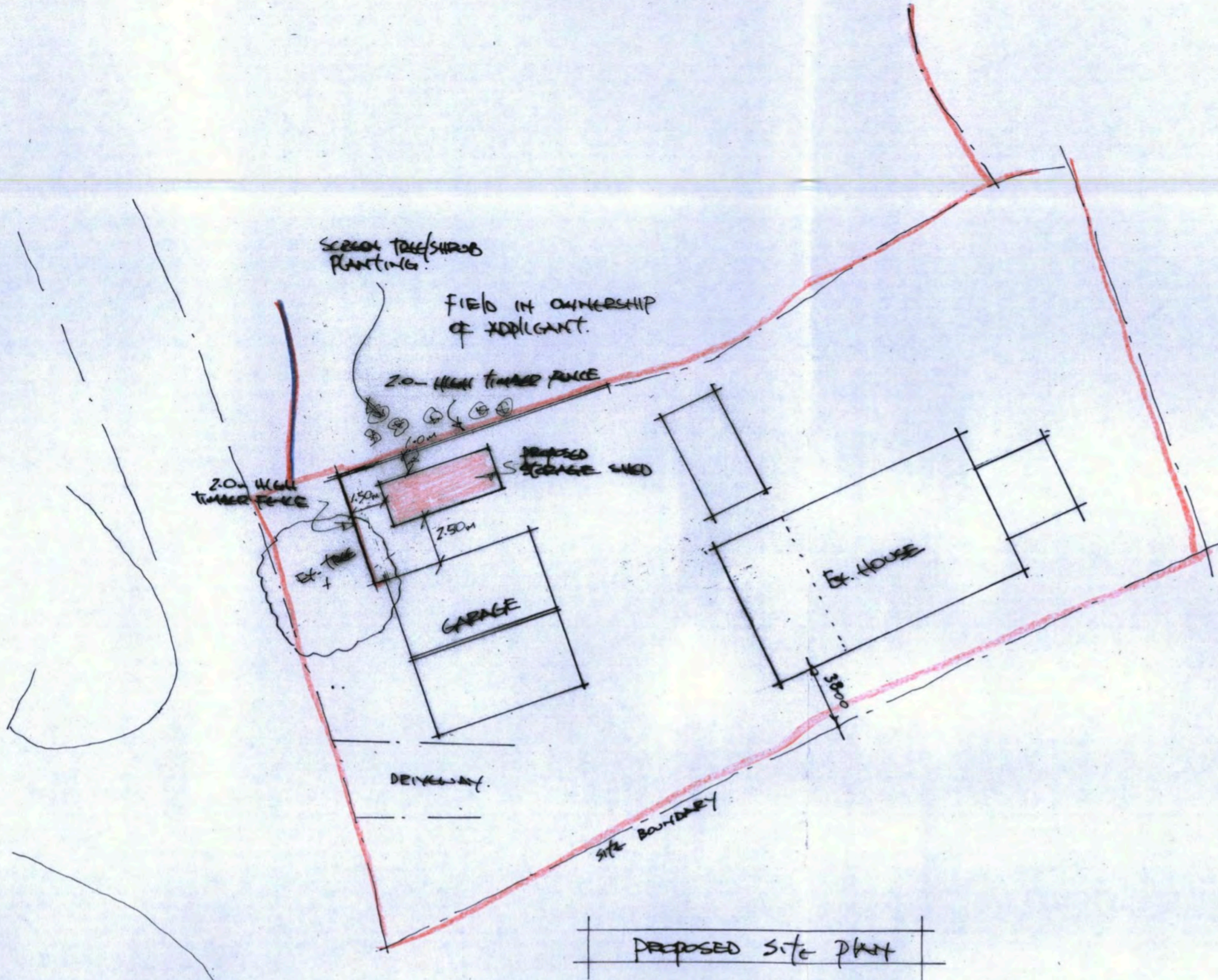
Kind regards.

Ross Newbigging









To Whom It May Concern: Planning Ref 0571/H/20

I am writing in relation to the recent decision to refuse planning permission for the container sited on the land owned by Ross Newbigging in Ecclesmachan. For background, the siting of this container has been agreed previously on a year by year basis, despite some objections from one neighbour. This year there were no objections. Indeed, Mr Newbigging has worked hard over the last year to ensure that the container cannot be seen by adjoining properties; that what little can be seen is painted in a sympathetic colour to disguise it; and that there is planting and fencing around the site to minimise any impact. It therefore seems to me that it would be easier to grant planning permission than in any previous years, when visual amenity was cited as a concern. My constituent described to me the reasons for refusal which included visual amenity. I disagree strongly with the statement put forward by the Council officer, given the work Mr Newbigging has done and the maturing of the planting around the site. I would ask that this decision is reviewed, and in light of no objections and the work that Mr Newbigging has done, that the decision be reversed. Indeed I would ask that consideration is given to any permission granted being for an open-ended period, in essence treating the container as a garden storage building like a large shed. Many thanks for your consideration in this matter. Chris Horne

Chris Horne Councillor: Broxburn, Uphall and Winchburgh ward Civic Centre West Lothian Council Howden South Road Livingston EH54 6FF [REDACTED] Email: Chris.horne@westlothian.gov.uk



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 0571/H/20

PROPOSAL Continued siting of storage container

LOCATION Laurelbank, Ecclesmachan, West Lothian, EH52 6NJ, (GRID REF: 305938, 673527)

APPLICANT Mr Ross Newbigging, Laurelbank, Ecclesmachan, West Lothian, EH52 6NJ

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.

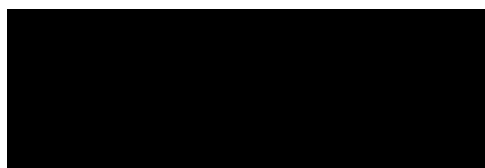
Docquetted plans relative to this decision are identified in Annex 1, Schedule of Plans.

Dated:
19.10.2020

Craig McCorriston
Head of Planning, Economic Development and Regeneration

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

Signature:



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 0571/H/20, for the reason(s) set out as follows:

- 1 The container has been on site for a significant length of time in order to allow for any works on site to be completed. In addition, the container has a detrimental impact on the visual amenity of the site. This proposal is therefore contrary to West Lothian Council's Local Development Plan's Design Principles (DES1) Policy and the guidance given in the House Extension and Alteration Design Guidelines, 2020

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 - 0571/H/20

Docquetted Number	Drawing Description	Drawing Number
1	Location and Site Plan	02



DATA LABEL: PUBLIC

HANDLING REPORT

Ref. No.:	0571/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	Continued siting of storage container(Grid Ref: 305938,673527) at Laurelbank,Ecclesmachan,West Lothian,EH52 6NJ		
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			
EIA Screening	Does the development require EIA screening - No		

Description of Proposals

Continued siting of storage container.

Site History

No relevant site history.

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
Enforcement Team	X	X	X

Policies Considered

Policy Title	Policy Text
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

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

Officer Assessment

This planning application seeks planning permission for the continued siting of a shipping container at the property Laurelbank, Ecclesmachan. The container is located to the west of the site, nearby the driveway entrance and an existing garage. The storage container measures 2.4 metres in length, 6 metres wide and 2.6 metres in height. A previous application (0291/H/18) granted permission for the siting of the container however the decision notice detailed that the container was to be removed by the 12th of July 2020. Permission was granted for the container in order to allow for ample time to finish building work on site. However, it is to be noted that although permission was granted for the container in 2018, the container has been in situ since at least July 2013. The applicant has had more than sufficient time to complete any works on site. The previous decision notices details that the site must be maintained well and the container must be removed one month after the works are complete. It is understood by West Lothian Council that the works for any previous proposals are completed, and therefore the container should no longer be required and should be removed from the site. In addition, the container is a detriment to the visual amenity of both the site and the surrounding areas.

Conclusions and Reasons for Decision

This proposal is contrary to West Lothian Council's Local Development Plan's Design Principles (DES1) Policy and the guidance given in the House Extension and Alteration Design Guidelines, 2020. It is recommended that the application is refused planning permission.

List of Review Documents

Drawings schedule:

Docquetted Number	Drawing Description	Drawing Number
1	Location and Site Plan	02

Other relevant documents:

West Lothian Local Development Plan, 2018;

Case Officer – Rachael Lyall

Date – 19/10/2020

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

Our Ref: 0571/H/20
Direct Dial No: 01506 281110
Email: rachael.lyall@westlothian.gov.uk
19 January 2021
Tel: 01506 280000

Draft Justification and Conditions:

This permission is granted subject to the following conditions: -

- (1) The storage container, hereby approval shall be retained at the approved location no more than 1 year from the date of this decision notice unless otherwise consented by the planning authority.

Reason: To control the temporary building in the interest of residential and visual 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.0697/FUL/20 – ERECTION OF A 422sqm BUILDING CONTAINING TWO RETAIL UNITS (CLASS 1) AND HOT FOOD TAKEAWAY WITH ASSOCIATED WORKS. DIXON TERRACE, WHITBURN

REPORT BY CLERK AND LEGAL ADVISER TO THE LOCAL REVIEW BODY

A PURPOSE OF REPORT

This report describes the documents and other matters relevant to the consideration by the Local Review Body of this application for review of a decision by the Council's Appointed Person to refuse planning permission for the erection of a 422sqm building containing two retail units and hot food takeaway with associated works at Dixon Terrace, Whitburn

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's agent, dated 2 December 2020. This also includes a supporting statement and colour photographs.
2. The Handling Report, prepared by the Planning Case Officer, dated 30 October 2020.
3. The Decision Notice, issued by the Appointed Person, dated 30 October 2020.

Four representations were received in relation to the planning application; these were from the council's Transportation Service, BIDS Team, Flood Prevention Team and Environmental Health. The representation from Transportation was a holding objection as they would require more information from the applicant that had been provided in their application before they could fully consider the proposal. All other representations were of a neutral position.

The applicant's agent has stated in the review application that no new matters have been raised.

The applicant's agent has stated, in the review application, that they consider that the review can be determined by consideration of the review papers and a site visit.

C SITE VISITS

The Clerk to the Local Review Body, in consultation with the Chair, has the discretion to determine that a site visit should take place, as further procedure, prior to the first hearing of the review application. In light of current Scottish Government Covid-19

guidance to 'stay at home, except for essential purposes' the Clerk has elected not to exercise their discretion in respect of this application. Members will not therefore require to have undertaken a site visit prior to the first hearing of this review application. Note that this does not preclude Members from determining that a site visit is required, as further procedure, during their consideration of the review application

D DEVELOPMENT PLAN POLICIES AND PLANNING GUIDANCE

The application for planning permission was assessed in terms of Local Development Plan Policy HOU1 (Allocated Housing Sites), TCR2 (Town Centres First Sequential Approach), DES1 (Design Principles), TRAN1 (Transport Infrastructure), EMG3 (Sustainable Drainage), and EMG6 (Vacant, Derelict and Contaminated Land).

The Appointed Person is of the opinion that as the site is allocated for housing – site H-WH 6 it had not been adequately demonstrated that there was no reasonable prospect of the site being developed for housing. It has also not been demonstrated that there are no alternative sites within the town centre and local neighbourhood centre which could accommodate this type of development. Additionally, the Appointed Person considered that the sequential approach for retail, whereby out of town centre developments will only be supported where it had been demonstrated that all other locations within the town centre or on the edge of the identified town centre had been considered and discounted did not accord with TCR2.

The Appointed Person also considered that the proposal had inadequate parking provision and did not encourage sustainable transport modes. Although a footway link to the nearby housing estate could be conditioned the lack of a footway did not contribute to sustainable development.

Finally, the Appointed Person noted that no site investigation report, drainage assessment or engineering/levels layout had been submitted and therefore the proposal did not accord with policies EMG 3 (Sustainable Drainage) or EMG6 (Vacant, derelict and contaminated land).

E PLANNING CONDITIONS, LEGAL AGREEMENTS AND GOOD NEIGHBOUR AGREEMENTS

Without prejudice to the outcome of this review, to assist the Local Review Body in its deliberations and to assist the applicant and interested persons in securing a prompt resolution of the review, the Planning Adviser has drafted planning conditions which the Local Review Body may wish to consider imposing should it be minded to grant planning permission. A copy is circulated with this report.

Winston Roberts, Solicitor, West Lothian Civic Centre
Tel No. 01506 283524, Winston.roberts@westlothian.gov.uk

Date: 10 February 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 100333921-001

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:

Ref. Number: You must enter a Building Name or Number, or both: *

First Name: * Building Name:

Last Name: * Building Number:

Telephone Number: * Address 1 (Street): *

Extension Number: Address 2:

Mobile Number: Town/City: *

Fax Number: Country: *

Postcode: *

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="Ashraf"/>	Building Number:	<input type="text" value="1"/>
Last Name: *	<input type="text" value="Ali"/>	Address 1 (Street): *	<input type="text" value="Glenmore"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Elphinstone"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="United Kingdom"/>
Mobile Number:	<input type="text" value=""/>	Postcode: *	<input type="text" value="EH33 2LW"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value=""/>		

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"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text"/>
Post Code:	<input type="text"/>

Please identify/describe the location of the site or sites

<input type="text" value="Dixon Terrace, Whitburn, EH47 0LH"/>
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Northing	<input type="text"/>	Easting	<input type="text"/>
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Description of Proposal

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

The proposal is to erection 3 commercial, convenience outlets on brownfield, post industrial land at Dixon Terrace, Whituburn. It is intended to erect a small parade of single-storey outlets, 1 of which will be a hot-food takeaway and 2 which will be a local convenience stores (Class 1).

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 the Statement on the Grounds for Appeal for details.

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)

Statement on the Grounds of Appeal. Photographs of the site and surrounding area.

Application Details

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

0697/FUL/20

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

31/08/2020

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

30/10/2020

Review Procedure

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

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

☐ Yes ☒ No

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

Please select a further procedure *

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

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

The location of the site is crucial to the justification of the proposal relative to the surrounding landuses.

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: Ms Anne Cunningham

Declaration Date: 02/12/2020

LOWLAND PLANNING ASSOCIATES Ltd.

NOTICE of APPEAL to WEST LOTHIAN COUNCIL LOCAL REVIEW BODY

GROUND'S for APPEAL

APPELLANT: Mr. ASHRAF ALI

APPLICATION REFERENCE NO. 0697/FUL/20

ERECTION of 3 COMMERCIAL/CONVENIENCE UNITS (1 HOT FOOD TAKEAWAY and a CLASS 1 RETAIL UNIT and a CLASS 1 CONVENIENCE STORE).

INTRODUCTION and SITE DESCRIPTION

Mr. Ashraf Ali has applied to West Lothian Council to create a small parade of local commercial outlets on land close to the old access to what was Polkemmet Pit. Historically, and currently, the land at this part of Dixon Terrace is industrial. Immediately east of the appeal site there are post-war buildings which served as mine offices for Polkemmet, and on the south side of Dixon Terrace, close to where the site lies, there are still industrial buildings that are active businesses. Most notably there is long established branch of Build Base which supplies materials for the construction industry.

On the north side of Dixon Terrace and immediately opposite the appeal site there is a major electrical sub-station which controls the supply of electricity to the whole of the Heartlands major Comprehensive Development Area (CDA). Adjacent to the sub-station lies the long established Burnhouse Industrial Estate, which provides smaller, local business premises for small companies (Use Class 5-general industry) and for local tradespeople.

In general terms this area of Dixon Terrace is undoubtedly dominated by non-sensitive commercial uses.

The massive Heartlands project, which is the original version of a Comprehensive Development Area (CDA) in West Lothian, has been largely completed to the north of Dixon Terrace. This development is of course a large contributor to the housing land supply demanded by the ever-growing importance that West Lothian plays in the economic profile of Central Scotland. There is a housing allocation at Heartlands to the south of Dixon Terrace to accommodate 2,683 units on previously undeveloped land. This is generally poor farmland and land which was previously impacted by mining and the Polkemmet Coal Bing. The writer here wrote the 1st Committee approved Planning and Development Brief for the rehabilitation of the heavily polluted, post mining area, that was Polkemmet Pit. The new M8 junction and associated business park did not form part of the original brief for the area, however, the farms to the immediate south of the A7066, the old main Glasgow-Edinburgh road, were always part of the land identified for housing. This part of Heartlands was not impacted so much by the mining activities. There were also plans back in the 1990s for the continuation of the local distributor road (Blaeberryhill Road) to allow traffic from the east-west

direction to be filtered away from Whitburn town centre. There were however, no proposals to remove all the established industrial businesses along Dixon Terrace. There was an enormous amount of land for housing available for new-build housing and for all the facilities required to sustainably serve the Heartlands residents. West Lothian prides itself on being a huge supporter of all types of businesses, including retail. This modest planning application has been formulated to sustainably support the people who live in Heartlands now and in the future.

THE PROPOSAL

It is clear to see that Dixon Terrace is geographically central to Heartlands. It is midway between the A7066 and the upper reaches of the land stretching towards Longridge. As the [brownfield] appeal site is in fact close to the new housing spanning out at the west-end of Dixon Terrace and it is also close to the remaining housing land south of Dixon Terrace., It was carefully considered by the appellants that this housing area really was not going to be well-served by local and convenient everyday shopping facilities. The appellants are indeed experts in the field of bringing new, essential, shopping opportunities to the people of west West Lothian. Notably the old Gothenburg Public House in East Whitburn was redeveloped, by the appellants, as a convenience store, bringing the ONLY local shop to the residents of East Whitburn and Redmill. This initiative was hugely welcomed by the locals and they have supported it wholeheartedly. It is a version of a community hub, given the large amount of growth that these small villages has experienced in the last 20 years. Perhaps the greatest benefit is of course that the Gothenburg Convenience Store is within easy walking distance for young and old alike. People do not have to jump in a car to get basic provisions. Sustainability must be at the centre of any Council's ambitions and bringing essential services nearer to people is a fantastic way of assisting to reach our carbon-neutral goals.

As stated above, the appeal site is brownfield land. It is a square tarmacked area and it is surrounded on 3 sides by an old spiked metal palisade fence. There are remnants of an old hedge which had grown tall(ish) and wild on the east boundary line. This old vegetation was cut down to leave multi-stemmed stumps. This was done by a previous owner. It had no landscape or habitat qualities given the surrounding past uses of land at Dixon Terrace. However, we now have an opportunity to re-use an unattractive brownfield site for a really beneficial use.

The proposed development comprises a 422 sqm building. This building would be divided into 3 elements comprising a convenience store, another smaller retail unit and a hot-food takeaway. There is of course some parking (12 spaces) shown on the elevation plans and a pedestrian footpath, shown along the northern boundary, is also indicated. It is of course a simple building with clean lines, a modern design with contemporary finishes. It will fit in well with all the redevelopment in the area as a whole.

HEARTLANDS and the PLANNING POLICY FRAMEWORK

Heartlands is primarily a housing site which greatly expands Whitburn to the south and west. The existing houses that have been built number in excess of 3,000 units, with over 2,600 left to be built on the southern reaches of the site. There are older, established, housing developments on the north side of Dixon Terrace that were built prior to Heartlands beginning in earnest. However, Dixon Terrace remains a mixed-use area.

There are proposals for community facilities in the form of a Village Hub close to the A7066. However, what is clear, is that the village hub is a considerable distance (1.5 km) from our Dixon Terrace shopping proposal. Likewise, the housing sites at the central part of Heartlands are quite a distance from Aldi and Lidl on the south side of Whitburn being 1.2 km away from the appeal site and therefore even further from Heartlands. What these distances to the various shops means is that people will inevitably drive to them. We need to provide a more centralised community-based, shopping facility to serve the new and established housing. A convenience store and takeaway on the appeal site clearly does not in any way over-provide commercial outlets in this area. The proposed shops will not adversely affect the viability of the Village Hub premises and they will not adversely impact the budget supermarkets, which will mainly be used for a larger weekly shop. The proposed shops, of course, will not impact in any way Whitburn town centre. There are only benefits by allowing a wee store here and there are no drawbacks.

Housing Allocations and the Refusal

The Development Plan comprises the regional SESplan and the Council-wide Local Development Plan. The housing land allocations within all Council areas in Scotland must comply with directives from the Development Plan to ensure an effective land supply for housing and population growth. It is clear that over the last 20 years the housing land supply totals in West Lothian has benefitted from the large numbers of units prescribed to Heartlands. This major site was included in the Bathgate Area Local Plan some 20 plus years ago. However, the primary reason for refusal of this small shopping development is that it will replace potential land for housing. The land along the south side of Dixon Terrace that currently accommodates businesses and/or previously developed land is not in the control of the consortium of house builders and it has not been specifically identified in the masterplan for Heartlands - despite it being in the middle of the zoning. It is stretching the imagination to say that if this brownfield land is not kept for house building in the future, that there may be a shortfall of housing land in the supply chain.

The appeal site measures 1178 sqm in area. This is only space enough for around 4 small homes or 2 modest detached units, if you take into account the need to provide gardens and driveways too. To refuse a very useful convenience store, retail unit and takeaway here because the site could potentially be a contributor to the overall housing development is not credible. Surely development that will attract customers that will most likely walk to the facilities, to get their everyday basics, is far more sustainable than directing people to places like the Village Hub and the local supermarkets which are at the periphery of Heartlands. The appeal proposal is, environmentally, a much more preferable concept.

The Consultees

There have been no concerns raised about the proposal from the Council's internal consultees, although, Transportation and Environmental Health have made suggestions that can be readily accommodated into the development and can be controlled by planning conditions. There were no neighbour responses either.

Response to the Reasons for Refusal (in detail)

Reason 1

This relates to the fact that the site and the wider area is allocated for housing. Policy HOU1.

As explained above the provision of 2 small retail units and take-away will NOT jeopardise the overall ambitions for Heartlands. It is a truly sustainable idea to include a 'walk-to', central-to-development, shopping area which will facilitate more people walking to the shops and not having to jump in a car. The masterplan for Heartlands shows Dixon Terrace as a primary pedestrian route and this goes right past the appeal site.

Policy HOU1 presents various caveats that can be applied to allow alternative land uses on sites allocated for housing. Parts a, b, and c of HOU1 are all applicable to some degree, however part b is the strongest reason to depart from housing on this particular part of the greater Heartlands area.

The WLLDP policy HOU1 states that " To ensure that an effective 5 year supply of housing land is maintained at all times, proposals for uses other than housing, except for subsidiary ancillary uses which may be appropriate to provide in a residential area, will not be supported unless it can be demonstrated that:"

a, there is a constraint on the site.... This land is a tarmacked over and not very pretty. It also looks directly onto the major electricity sub-station on the north side of Dixon Terrace. This site will not be of interest whatsoever to house builders when more attractive and easier sites to be developed are available. Being brownfield and facing a very industrialised feature, will definitely put builders and prospective occupants off this location completely.

We truly believe that part a, is satisfied, and that the site would remain undeveloped within the timeframe of the WLLDP. Please refer to Production 1 which is photographs of the site and the immediate area.

b, the alternative use facilitates regeneration or offers significant environmental, economic or community benefits that are considered to outweigh the need to maintain the intended housing use..... It is clear that by offering people a local, walk-to, facility, that will serve as a sub- village hub is extremely sustainable. It is a brownfield site and we all should be cognisant of the need to develop such sites (where possible) in favour of greenfield or amenity land. This proposal will bring a few new jobs to the area, it will be well-used by local people who live closer to Dixon Terrace and of course it is a very sensible environmental move by directing development to land that would never be a prime housing site.

C, for proposed employment uses, there are no suitable, available, allocated employment sites which could accommodate the development. This part of HOU1 is less important to this case, as shops could be sited, physically, in other parts of the Heartlands site. BUT, this land, with its brownfield credentials, and its central geographic location within Heartlands, makes it a very sensible choice for a convenience store and ancillary outlets. The Village Hub serves the northern parts of Heartlands, but not the core of it.

Reason 2

This reason for refusal is somewhat confusing. It states that it has not been demonstrated that there is no proven lack of impact on town centre uses and that a sequential approach to determining a suitable site for such a development has not been undertaken. Policy TRC2 (Town Centres First Sequential Approach) is just not relevant to this scale of development. It WILL NOT in any way affect the viability of Whitburn town centre. This policy has rightly been developed to ensure large-scale retail at the edge of towns does not render the town centres of West Lothian redundant. Convenience stores never have needed a Retail Impact Assessment, due to the clear knowledge and common sense that they do not affect the trade of town centre shops. Plus, the applicant was not asked for such an analysis. I propose that this is because it would have been wrong to do so. This reason for refusal is not appropriate in this case and the reason for refusal 2 is therefore not applicable to this case.

Reason 3

As stated above, Dixon Terrace is defined as a major pedestrian route from Heartlands to the wider area. Once the continuation of the Blaeberry Hill distributor road has been constructed, and this will be when Heartlands South is brought forward, Dixon Terrace, which has already been heavily traffic calmed, will not have much through traffic and the area will much quieter again. That is not to say we can ignore safety now, but the appellants have proposed a footpath along the frontage of the site, as per Transportation's recommendation. The appellants are willing to go further. It has been discussed with the writer that they will be happy to offer to build a refuge traffic island where the adopted footpath, that is on the north side of the road, finishes and the appellant's footpath on the south side, begins. This will allow pedestrians, which we are very keen to prioritise, can cross safely to get to the local store. In time this part of Whitburn will be very pedestrian friendly.

Transportation also states that 19 car parking spaces should be created within the site. We have space for 12 cars identified already. Again, in the spirit of reducing car use, we should not be making it easier to bring your car to the corner shop. We can however, if this is a major sticking point, have room for a few additional parking spaces that we can implement if really required.

Policy DES1 (Design Principles) is also brought into reason for refusal 3. The officers are concerned that the parking along the frontage of the site is not attractive. Considering the outlook of this site, facing a large electricity sub-station, we need not be so precious about parking being at the front of the building. We strongly believe that the proposal does not contravene Policies TRAN1 or DES1.

Reason 4

Again, a SuDS scheme was not requested by officers and therefore it was not submitted. However, a SuDS scheme can be readily conditioned and approved prior to construction beginning on site. It can all be drawn up at the same time as a building warrant is being prepared. There is no way the development would ever be built without a suitable drainage scheme being approved and implemented, hence, the proposal is not contrary to Policy EMG3 (Sustainable Drainage).

Reason 5

A Contaminated Land Survey (CLS) was requested by the officers as the site was previously developed. The applicants were of course willing to have this work carried out and were in the process of getting quotes for the work when the application was refused. Of course there are

statutory targets for processing planning applications, in this case it would be 2 months for processing this local proposal. However, with good reason, applications can be continued by agreement between the planner and the applicant. Not every applicant knows of this ability to request a continuation beyond the statutory processing time. They depend a lot on nudges from those in the know (in this case the officials) to alert them that this can be sanctioned and therefore giving time to make proposals approvable. In the writers' mind this way of working is really helpful to all concerned, but perhaps the case officer considered that the allocated housing site was the major concern and did not push it to the stage where reports could be added to the application?

What must be emphasised again, is that a CLS can be conditioned and this condition must be to supply the CLS prior to development beginning on-site and only after remediation works have been undertaken. This site, whilst being previously developed with some buildings and that it is largely tarmacked, it is very unlikely to exhibit severe, if any, contamination. We must disagree that the absence of a CLS renders the site contrary to policy EMG6 (Vacant, Derelict and Contaminated Land) as this has not been proven and the appellants should be given the opportunity to prove this fact.

Conclusion

This proposal is an excellent example of providing a much-needed community shopping facility at the heart of Heartlands! It ticks all the boxes of environmental sustainability by bringing in a walk-to, convenient, shopping facility. The Village Hub for Heartlands is considerably distant from this area and cars will be used from the central Heartlands estate to get there and again there is a long walk (carrying shopping!) from Aldi or Lidl. We need to look favourably at proposals that 1, use brownfield land; 2, ensures more walking than driving; 3, that the community in these new areas are well served by local facilities and lastly do not impact on the housing land supply figures and do not take business from the wider area.

We strongly commend this appeal to Members.

Anne Cunningham MRTPI

Lowland Planning Associates Ltd.











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 0697/FUL/20

PROPOSAL Erection of a 422sqm building containing 2 retail units (class 1) and hot food takeaway with associated works

LOCATION Dixon Terrace, Whitburn, West Lothian, EH47 0HL,
(GRID REF: 294368, 664346)

APPLICANT Mr Ashraf Ali, 8 Mclauchlan View, Harthill, ML7 5SU

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.

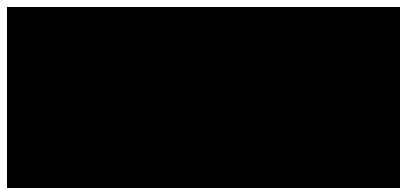
Docquetted plans relative to this decision are identified in Annex 1, Schedule of Plans.

Dated:
30.10.2020

Craig McCorriston
Head of Planning, Economic Development and Regeneration

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

Signature:



The council in exercise of its powers under the Town and Country Planning (Scotland) Act 1997 (as amended) refuses planning permission for planning application 0697/FUL/20, for the reason(s) set out as follows:

- 1 The site is allocated for housing (reference H-WH 6) in the West Lothian Local Development Plan 2018. It has not been demonstrated that the development meets the criteria to allow non-residential uses which is contrary to policy HOU1 (Allocated Housing Sites) of the West Lothian Local Development Plan, 2018.
- 2 The application site is located at an out of town centre location and it has not been demonstrated through a sequential approach that there is no alternative sequentially preferable site for the proposed uses. The proposal is therefore contrary to policy TCR 2 (Town Centres First Sequential Approach) of the West Lothian Local Development Plan 2018.
- 3 The proposed parking layout fails to meet the council's parking standards. Nor does the site have sufficient footpath links to allow pedestrians to walk to the site safely from the East. The proposal also fails to provide an attractive frontage onto Dixon Terrace due to parking being positioned hard against the North site boundary. The proposal is therefore contrary to policies DES1 (Design Principles) and TRAN 1 (Transport Infrastructure) of the West Lothian Local Development Plan 2018.
- 4 The applicant has failed to submit a drainage assessment to demonstrate acceptable surface water drainage proposals. The proposal is therefore contrary to Policy EMG 3 (Sustainable Drainage) of the West Lothian Local Development Plan 2018.
- 5 The applicant has failed to submit a contaminated land site investigation report to demonstrate that the site is or can be made safe for the proposed use. The proposal is therefore contrary to Policy EMG 6 (Vacant, Derelict and Contaminated Land) 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. 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 - 0697/FUL/20

Docquetted Number	Drawing Description	Drawing Number
1	Location Plan	
2	Block Plan Existing	
3	Block Plan	A103
4	Floor Plan (proposed)	A100
5	Proposed Elevations	A101
6	3D Visuals	



DATA LABEL: PUBLIC

HANDLING REPORT

Ref. No.:	0697/FUL/20	Email:	kirsty.hope@westlothian.gov.uk
Case Officer:	Kirsty Hope	Tel No.:	01506 282413
Ward:	Whitburn & Blackburn	Member:	Cllr Bruce Fairbairn Cllr Kirsteen Sullivan Cllr Jim Dickson Cllr George Paul

Title	Erection of a 422sqm building containing 2 retail units (class 1) and hot food takeaway with associated works (Grid Ref: 294368,664346) at Dixon Terrace, Whitburn, West Lothian, EH47 0HL
Application Type	Local Application
Decision Level	Delegated List
Site Visit	22.10.2020
Recommendation	Refuse Permission
Decision	
Neighbour Notification	Neighbour notification procedures have been carried out correctly - case officer verification. YES
Advertisement	10.09.2020
EIA Screening	Does the development require EIA screening - No If Yes, checklist completed and filed – N/A

Description of Proposals

Erection of a 422sqm building containing 2 retail units (class 1) and hot food takeaway with associated works.

Site History

None.

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
Town Centre Manager	N/A	No comments received	Noted
WLC Environmental Health	No	Concern with lack of pavement for pedestrians.	Noted
WLC Flood Risk Management	No	No drainage assessment to assess surface water drainage.	Noted.
WLC Roads and Transportation	No	Attach conditions in relation to a 2m footway along frontage of the site and no.19 spaces required within site, as well as install signs to clearly mark exist and entrance.	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.
HOU1 - Allocated Housing Sites	<p>The sites listed in Appendix 2 of the Plan and shown on the Proposals Map are allocated as housing sites which contribute to meeting the LDP housing land requirements for the plan period to 2024, as required by the Strategic Development Plan (SDP1), and are compliant with the spatial strategy set out in this plan.</p> <p>Development of housing on these sites will be supported in principle and proposals shall have regard to and be in accordance with the 'Residential Development Guide'. Where applicable, proposals must also accord with the specific development requirements identified in Appendix 2.</p>

Policy Title	Policy Text Summary
HOU1 - Allocated Housing Sites continued.	<p>To ensure that an effective 5 year supply of housing land is maintained at all times, proposals for uses other than housing, except for subsidiary ancillary uses which may be appropriate to provide in a residential area, will not be supported unless it can be demonstrated that:</p> <ul style="list-style-type: none"> a. there is a constraint on the site and there is no reasonable prospect of it becoming available for housing development within the plan period; b. the alternative use facilitates regeneration or offers significant environmental, economic or community benefits that are considered to outweigh the need to maintain the intended housing use; and c. for proposed employment uses, there are no suitable, available allocated employment sites which could accommodate the development.
TCR2 - Town Centres First Sequential Approach	<p>New retail, commercial leisure, visitor attractions, offices, community and cultural facilities and other developments appropriate to town centres should be located in accordance with the following sequential approach, depending on the availability of suitable opportunities:</p> <p>Town Centres: Within an identified town centre as defined on the proposals map and in accordance with the town centre policy.</p> <p>Local Neighbourhood Centres: New shopping facilities will be supported in local neighbourhood centres provided they do not undermine the vitality and viability of the sub-regional centre or any of the identified town centres.</p> <p>Further local neighbourhood centres will be supported in major new housing developments (strategic housing locations and previously identified CDAs) and identified in master plans provided there is no adverse impact on the amenity of surrounding residents.</p> <p>Proposals for retail development above 2,500m² outwith a town centre will require a Retail Impact Assessment to be submitted for assessment.</p> <p>Where proposals of less than 2,500m² are considered to affect the vitality and viability of existing town centres a Retail Impact Assessment may be required to be submitted for assessment.</p> <p>Edge of Centre: Proposals on sites which adjoin the boundary of a town centre or can form an effective extension to the centre may be supported where it can be demonstrated that all</p>

Policy Title	Policy Text Summary
TCR2 - Town Centres First Sequential Approach continued	<p>locations within existing town centres have been discounted; there will be no adverse effects on the vitality and viability of the sub-regional centre or any other town centre; the proposal is of an appropriate scale and type consistent with the function of the centre and that the proposal is accessible by a choice of transport modes.</p> <p>Commercial Centres: Proposals for additional retail floorspace at commercial centres will only be supported where it can be demonstrated that the proposal is appropriate in scale to meet only a qualitative or quantitative deficiency; all other locations within the town centre or on the edge of an identified town centre have been discounted; the proposal will not have an adverse effect either individually or cumulatively on the sub-regional centre, town centres, commercial centre or local neighbourhood centres; the proposal is of an appropriate scale and type consistent with the function of the centre and that the proposal is accessible by a choice of sustainable transport modes.</p> <p>Out of Centre: Proposals for out of centre developments will only be supported where it can be demonstrated that the proposal is appropriate in scale to meet only a qualitative or quantitative deficiency; all other locations within the town centre or on the edge of an identified town centre have been discounted; the proposal will not have an adverse effect either individually or cumulatively on the sub-regional centre, town centres, commercial centre or local neighbourhood centres and that the proposal is accessible by a choice of sustainable transport modes.</p> <p>Proposals for a new public building or office with a gross floorspace over 2,500m² outwith a town centre and contrary to the development plan will require an assessment of the impact on the town centres.</p>
TRAN1 - Transport Infrastructure	<p>Development will only be permitted where transport impacts are acceptable.</p> <p>This will be established where appropriate, through a Transport Assessment which covers all modes of transport and has been approved by the council.</p> <p>Parking levels for development shall conform to the council's current adopted standards.</p>

Policy Title	Policy Text Summary
NRG1 - Climate Change and Sustainability	<p>The reduction of greenhouse gas emissions through a wide range of measures designed to mitigate and adapt to climate change is a strategic over-arching set of principles which will be promoted by having the statutory requirements of The Climate Change (Scotland) Act 2009 enforced in relation to:</p> <ul style="list-style-type: none"> a. assisting in achieving the Scottish Government's renewable energy targets set out in the Act; b. assisting in achieving the Scottish Government's Climate Change Adaptation Programme (May 2014) to address identified impacts and build resilience for a climate ready natural environment, society, buildings and infrastructure networks; c. protecting and enhancing land uses that act as 'carbon sinks' (for example extending woodland cover and protecting valued peat lands); d. protecting the amenity of new and existing development including environmental quality; e. assisting the move to zero waste; and f. influencing reduction in environmental impacts of production and consumption, particularly energy efficiency and waste reduction. <p>Sustainable land use will be promoted through: a. assisting in achieving compliance with the long-term objectives of the Scottish Government's Land Use Strategy (2011): delivery of multiple benefits from land based businesses; responsible stewardship of natural resources and partnerships with nature; and better linkages of communities to the land; b. integrating land use with sustainable transport approaches through safeguarding and enhancing the network of sustainable forms of transport: walking and cycling, public transport, rail, park and ride and water-borne traffic; c. directing new developments to locations accessible by a choice of modes of transport and which specifically encourage walking, cycling, and public transport in preference to the private car; and d. encouraging more sustainable forms of transport and active travel.</p> <p>Sustainable design and development will be promoted through: a. building in harmony with the site including optimising orientation and relationships to land contours, improvements to micro-climate, and utilising natural features; b. addressing sustainable energy approaches; c. facilitating designs for passive heating and cooling including natural ventilation and supportive landscape schemes; d. fostering and maintaining the site's biodiversity and maintaining and enhancing connections with local habitat networks; e. facilitating</p>

Policy Title	Policy Text Summary
NRG1 - Climate Change and Sustainability continued	accessibility and adaptability; f. treating and conserving water on site in line with best practice and guidance on sustainable drainage; g. recycling of construction materials and minimising the use of non-renewable resources; and h. providing for waste minimisation and recycling incorporating high speed broadband connections and other digital technologies. The council will expect development proposals to have regard to the above principles, and further detailed policy throughout the Local Development Plan for reducing climate change and increasing sustainability.
EMG2 – Flooding	<p>Flooding can seriously impact on people, businesses and the environment and the council will, as a first principle, seek to prevent development which would have a significant probability of being affected by flooding or would increase the probability of giving rise to flooding. When considering proposals for development, the council will adopt a precautionary approach to the flood risk from all sources, including coastal, water course (fluvial), surface water (pluvial), groundwater, reservoirs and drainage systems (sewers and culverts), taking account of the predicted impacts of climate change. Development will specifically not be supported in: a. locations identified as being at medium to high flood risk, unless it accords with the flood risk framework set out in SPP 2014; or b. where it would lead to an increase in the probability of flooding elsewhere. Developers will be required to submit a full Flood Risk Assessment (FRA) for all developments deemed to be at risk of flooding from any source in medium to high risk areas and developments in low to medium risk areas identified in the risk framework (i.e. developments located in an area at the upper end of the probability scale, essential infrastructure and the most vulnerable land uses). The Flood Risk Assessment should be undertaken in accordance with the relevant and prevailing the Scottish Environment Protection Agency (SEPA) technical guidance. To limit the impact of potential flood risk any development that is subsequently permitted in medium to high risk areas (that accords with the exceptions in the risk framework) or is located in adjacent low to medium risk areas must be built to a water resilient design.</p> <p>Development that is proposed in an area that is or will be behind a formal flood protection scheme must be an appropriate and acceptable land use for the location, designed to be resilient. Any such formal flood protection scheme must be designed to an appropriate standard. Developments will be assessed against the flood risk framework contained in SPP which sets out the types of development and locations where it is appropriate to develop.</p>

Policy Title	Policy Text Summary
EMG2 – Flooding continued	<p>New development requiring new defences against coastal erosion or coastal flooding will not be supported except where there is clear justification for a departure from the general policy to avoid development in areas at risk. Appendices 1 & 2 (which respectively list employment and housing land allocations in the plan) identify those sites where there is a known requirement for a FRA, watercourse buffer strips and best practice SuDS treatment. The council nevertheless reserves the right to require the preparation and submission of FRAs for other development sites which present over the plan period where deemed necessary. Guidance will be sought from the Scottish Environment Protection Agency (SEPA) and other agencies as appropriate. Alterations and small-scale extensions to existing buildings are outwith the scope of this policy, provided that they would not have a significant effect on the storage capacity of the functional floodplain or local flooding problems. All proposals must comply with the terms of Supplementary Guidance on Flooding and Drainage.</p>
EMG3 - Sustainable Drainage	<p>Developers may be required to submit a Drainage Impact Assessment (DIA) to ensure that surface water flows are properly taken into account in the design of a development. DIAs, proportionate to the development proposal and covering both surface and foul water, will be required for areas where drainage is already constrained or otherwise problematic, or if there would be off-site effects. With the exception of single houses, SuDS will be a required part of all proposed development as a means of treating/attenuating surface water and managing flow rates. Developers will be required to ensure that adequate land to accommodate SuDS is incorporated within development proposals and that housing densities take into account the physical space for effective SuDS. The design of the system should meet best current practice.</p>
EMG6 - Vacant, Derelict and Contaminated Land	<p>Where it is suspected by the council that a development site may be contaminated, the developer will be required to undertake a site investigation, to the satisfaction of the council. Where contamination is found, and prior to the granting of any planning permission, the developer must submit a programme of remedial works to be agreed with the council which should also address any adverse impact on controlled waters.</p> <p>The developer must appoint an accredited site investigator to identify the specifications and monitor compliance to the works. Appropriate planning conditions will be applied to secure the r</p>

Policy Title	Policy Text Summary
EMG6 - Vacant, Derelict and Contaminated Land continued	remedial works. Any proposal requiring remediation will require to accord with Supplementary Guidance entitled Development on Contaminated Land.
NGR1a - Low and Zero Carbon Generating Technology	A statement will be required to be submitted demonstrating compliance with this requirement. The percentage will increase at the next review of the Local Development Plan. This requirement will not apply to: a. Alterations and extensions to buildings; b. Change of use or conservation of buildings c. Ancillary buildings that stand alone and cover less than 50 square metres d. Buildings which will not be heated or cooled, other than by heating provided solely for frost protection; e. Buildings which have an intended life of less than two years.

Supplementary Guidance

Development on Contaminated Land
Flooding and Drainage

Officer Assessment

The proposal is for the erection of a building to contain 2 retail units and a hot food takeaway with parking provision to the front of the premises. The proposed building is single storey with a pitched roof. Vehicular access and an exit would be taken from Dixon Terrace.

The site at present is enclosed on three sides and open at the eastern boundary. There is currently hard surfacing within the site as well as a snack van positioned with seating within the South/West corner as well as adverts attached to the boundary fencing that appears to have no planning permission/advertisement consent. This will be investigated by enforcement separately.

The site has been allocated for housing within the local plan and forms part of a larger site allocated for housing - site H-WH 6. The proposal is contrary to HOU1 as it has not been demonstrated that there is no reasonable prospect of this land being developed for housing.

This proposal is not considered to outweigh the environmental, economic or community benefits as this would detract from the new local centre within application 0206/MS/20 which is to create a purpose built center for the surrounding residents. There are also local shops within walking distance to the east of this site namely Aldi and Lidl. It has not been demonstrated that there are no suitable alternative sites within the Town Centres, local neighbourhood centres which could accommodate this type of development. The application fails to accord with Policy TCR1.

The proposed scale and design whilst in-keeping with the adjacent industrial units has no footpath links to the existing housing estate. Although it is noted that this could be conditioned to provide a pathway. Given the lack of footway the development would not contribute to a sustainable development. The proposal fails to comply with TRAN1.

Policy TCR2 identifies the sequential approach for retail use whereby out of centre developments will only be supported where it has been demonstrated that all other locations within the town centre or on the edge of an identified town centre have been considered and discounted. It is considered that the proposal will have an adverse effect combatively on a site that is allocated for housing and is not easily accessible by a choice of sustainable transport modes given there is no pathway. The proposal is contrary to TCR2.

Parking provision is not adequate and the proposed layout does not encourage sustainable transport modes the proposal is therefore contrary to policy DES1 and policy TRAN1. The proposal also fails to provide an attractive frontage onto Dixon Terrace due to parking being positioned hard against the North site boundary.

No site investigation report, drainage assessment or engineering/levels layout have been submitted. The proposal therefore does not accord with policies EMG 3 (Sustainable Drainage) or EMG6 (Vacant, derelict and contaminated land).

No site levels have been provided despite there being a change in level on site. There is a small wall on the eastern boundary and no details of this are shown on the plans submitted.

Trees/shrubs have been felled on site that are not shown on the plans. There is also a power post within the site that is not shown on the plans. Whilst this might be a private legal matter it is worth noting.

It is recommended that planning permission be refused for the reasons noted above.

Conclusions and Reasons for Decision

The application has been assessed against the policies and provisions of the development plan. The proposal fails to meet the terms of policy DES 1 (Design Principles), TCR 2 (Town Centres First Sequential Approach), HOU 1 (Allocated Housing Sites), EMG 3 (Sustainable Drainage), EMG 6 (Vacant, derelict and contaminated land) and TRAN 1 (Transport Infrastructure).

It is therefore recommended that planning permission be refused.

List of Review Documents

Drawings schedule:

Docquetted Number	Drawing Description	Drawing Number
1	Location Plan	
2	Existing Block Plan	
3	Proposed Block Plan	A103
4	Proposed Floor Plan	A100
5	Proposed Elevations	A101
6	3D visuals	

Other relevant documents:

West Lothian Local Development Plan, 2018;

Case Officer: Kirsty Hope

Date: 30 October 2020

Hope, Kirsty

From: Pearson, Nairn
Sent: 24 November 2020 11:27
To: Hope, Kirsty
Subject: Planning Consultation, Dixon Terrace, Whitburn, EH47 0HL (Ref. 0697/FUL/20) - [OFFICIAL]

DATA LABEL: OFFICIAL

FAO: Kirsty Hope
Planning Officer - Development Management
Planning, Economic Development & Regeneration
West Lothian Council
Civic Centre
Howden South Road
Livingston
EH54 6FF

Dear Kirsty,

Planning Consultation Ref. 0697/FUL/20

Proposed Erection of 2 Retail Units (Class 1) and Hot Food Takeaway with Associated Works

Application for Planning Permission by Ashwood Commercial Investment Ltd, at Dixon Terrace, Whitburn, West Lothian, EH47 0HL

Thank you for your recent consultation request in relation to the above received application for planning permission in Whitburn.

Having had the opportunity to review the online application documentation and to view the application site subject of these proposals, I now understand that this planning application has been given formal consideration with recommendation being for refusal of permission by the Council via delegated powers. On this basis, there is no longer a requirement to provide you with the requested Council officer consultation response.

If you should wish to discuss this consultation response further then please do get in touch. Thank you.

Kind regards.

Nairn

Nairn Pearson

BID & Town Centre Manager (Armadale, Bathgate & Whitburn)
Community Regeneration (Bathgate)
Economic Development & Regeneration
Planning, Economic Development & Regeneration
West Lothian Council
Email. nairn.pearson@westlothian.gov.uk

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>

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



Memo

Our reference: DLB/167879
Direct Dial: 01506 282 376
Email: david.brewster@westlothian.gov.uk

31 August 2020

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

Tel: 01506 280000

Environmentalhealth@westlothian.gov.uk
Tradingstandards@westlothian.gov.uk

For the attention of Ms Hope

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

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

**PREMISES: Dixon Terrace, Whitburn
Planning Consultation Response 0697/FUL/20**

I refer your consultation of 31/08/2020 regarding this application.

At this time Environmental Health has suspended its input to the Development Management and Development Planning services. This is to allow us to concentrate on current high priority public health work and to reflect the reduced staffing currently available for normal service delivery. We are therefore unable to assess this application and therefore can offer no comments on its suitability or otherwise.

The lack of pavement is noted, discouraging pedestrian access from the east and encouraging short vehicle trips. This should not be encouraged for air quality and personal wellbeing reasons.

It will be the responsibility of the developer and / or future occupants to ensure that conditions and behaviour do not give rise to circumstances likely to cause nuisance, be prejudicial to health or fail to comply with other legislative requirements covering Environmental Health, housing and safety.

I regret that we are currently unable to discuss the matter further.

Yours faithfully

Mr David Brewster
Senior Environmental Health Officer

DATA LABEL: PUBLIC



OPERATIONAL SERVICES
ROADS & TRANSPORTATION
DEVELOPMENT MANAGEMENT & TRANSPORTATION PLANNING

ROADS & TRANSPORTATION CONSULTATION RESPONSE TO PLANNING APPLICATION

This proposal is (tick as appropriate)		Signing Off	
Acceptable without conditions	<input type="checkbox"/>	DM & TP Officer Roads & Transportation	Chris Nicol
Acceptable with conditions noted below	<input checked="" type="checkbox"/>	DM & TP Manager Roads & Transportation	
Not acceptable & should be refused	<input type="checkbox"/>	Date Issued to Development Management Officer	17 September 2020
HOLDING OBJECTION – The application is not acceptable in current format and applicant requires to submit additional information to enable the proposals to be fully assessed.			

Recommendation & Proposed Conditions	From a Roads & Transportation view, this application is approved subject to the following conditions:- A 2m footway shall be provided along the frontage of the development within the car park. Perpendicular spaces shall be marked out along this footway to provide 19 spaces. Extra spaces can be marked out between the entry and exit. The Entry and exit access points to the car park area shall be clearly marked out with appropriate signs.
---	---

DM Case Officer	Kirsty Hope	Applicant	Ashwood Commercial investment Ltd
Application Ref	0697/FUL/20	Date Issued	31 August 2020
Proposal	Erection of 2 retail units (class 1) and hot food takeaway with associated works		
Location	Dixon Terrace, Whitburn		

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

DATA LABEL: PUBLIC

Site Description	Disused commercial buildings
Quality Plan	N/A
Road Safety Audit	N/A
Transport Assessment or Statement	N/A
Does the red line boundary reach the adopted public road	Yes
Is there a footway or footpath connecting the site to the existing adopted road network	Yes
Drawings & documents assessed	Location plan Proposed site plan Ground floor plan
Does Road Layout comply with WLC Standards	Yes
Does Parking comply with WLC Standards (including disabled provision)	Retail 1 space per 20sqm Takeaway 1 space per 13sqm

DATA LABEL: PUBLIC

Sightline Requirements	2.4 by 40m
Do the proposals affect any existing TRO's (e.g) waiting restrictions, speed limits) or bus stop locations	No
Do the proposals affect any Core Paths, NCR's or Rights of Way	No
SUDS Details	
Site History including any previous planning applications	

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

Draft Conditions 0697/FUL/20

1. The development shall not commence until details of a 2meter wide footway along the site frontage has been agreed in writing by the planning authority. Thereafter the 2m footway shall be constructed in accordance with the approved details agreed by the planning authority.

Reason: In the interests of road safety, sustainable travel and visual and environmental amenity.

2. The development shall not commence until details of the parking spaces are shown and delineated within the site boundary as well as details of the exit and entrance points submitted in writing to and agreed in writing by the planning authority. Thereafter shall be constructed and shall remain as such as agreed by the planning authority.

Reason: In the interests of road safety, sustainable travel and visual and environmental amenity.

3. Prior to the unit being occupied details of a bicycle store shall be submitted and approved in writing by the planning authority and the constructed in accordance with the approved plan. Thereafter the development shall be implemented in accordance with the details as approved by the planning authority.

Reason: In the interests of sustainable travel and amenity.

4. Surface water from the development shall be treated and attenuated by a sustainable drainage system (SUDS) in accordance with the Water Assessment & Drainage Assessment Guide (published by SUDS Working Party) and The SUDS Manual C753 (published by CIRIA). The development shall not begin until a drainage assessment has been submitted to and approved in in writing by the planning authority. Thereafter the development shall be implemented in accordance with the details as approved by the planning authority.

Reason: To minimise the cumulative effects of surface water and diffuse pollution on the water environment.

5. The development shall not commence until details of the materials to be used as external finishes on the building, roads, footways/footpaths, parking areas and other hardstanding areas have been submitted to and approved in writing by the planning authority. Thereafter the development shall be implemented in accordance with the details as approved by the planning authority.

Reason: To enable full consideration to be given to those details which have yet to be submitted, in the interests of visual and environmental amenity.

6. The boundary enclosures including the location, height, constriction material and colour shall be submitted to and approved in writing by the planning authority prior to implementation. Thereafter the development shall be implemented in accordance with the details as approved by the planning authority.

Reason: In the interests of visual and environmental amenity.

7. The following restrictions shall apply to the construction of the development:

Noise (Construction)

Any work required to implement this planning permission that is audible within any adjacent noise sensitive receptor or its curtilage shall be carried out only between the hours of 0800 and 1800 Monday to Friday and 0800 and 1300 on a Saturday and at no time on a Sunday. This includes deliveries and operation of on-site vehicles and equipment. No generators shall be audible within any residential properties between the hours of 2100 and 0800.

Noise (Vehicles/Plant)

All site vehicles (other than delivery vehicles) must be fitted with non-tonal broadband reversing alarms. Heavy goods vehicles shall not arrive or leave the site except between the hours of 0800 and 1800 Monday to Friday and 0800 and 1300 on a Saturday. No heavy goods vehicles shall arrive or leave the site on a Sunday.

Site Compound

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

Waste

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

Wheel Cleaning

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

Reason(s): In the interests of visual and environmental 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		

**LOCAL REVIEW BODY****APPLICATION NO.0809/H/20 – INSTALLATION OF DORMER AND ALTERATIONS TO HOUSE AT 16 CANNOP CRESCENT, STONEYBURN****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 installation of dormer and alterations to house at 16 Cannop Crescent, Stoneyburn.

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's agent, dated 4 December 2020. This also includes a supporting statement and a selection of maps/plans/side elevations.
2. The Handling Report, prepared by the Planning Case Officer, dated 10 November 2020.
3. The Decision Notice, issued by the Appointed Person, dated 10 November 2020.

No representations to the application have been received.

The applicant's agent has stated in the review application that no new matters have been raised.

The applicant's agent has stated, in the review application, that they consider that the review can be determined without any further procedure.

C SITE VISITS

The Clerk to the Local Review Body, in consultation with the Chair, has the discretion to determine that a site visit should take place, as further procedure, prior to the first hearing of the review application. In light of current Scottish Government Covid-19 guidance to 'stay at home, except for essential purposes' the Clerk has elected not to exercise their discretion in respect of this application. Members will not therefore require to have undertaken a site visit prior to the first hearing of this review application. Note that this does not preclude Members from determining that a site

visit is required, as further procedure, during their consideration of the review application

D DEVELOPMENT PLAN POLICIES AND PLANNING GUIDANCE

The application for planning permission was assessed in terms of Local Development Plan Policy DES1 (Design Principles) and the House Extension and Alteration Design Guidelines 2020.

The Appointed Person is of the opinion that proposed dormer extension, by virtue of its scale and design is of a dominating size which will significantly impact upon the visual amenity of the property. In addition, the existing roof ridge is to be raised so that the proposed dormer is not visible from the street scene however the proposed dormer will appear as if it sits higher than the existing ridgeline of the property when looking at it from the rear.

E PLANNING CONDITIONS, LEGAL AGREEMENTS AND GOOD NEIGHBOUR AGREEMENTS

Without prejudice to the outcome of this review, to assist the Local Review Body in its deliberations and to assist the applicant and interested persons in securing a prompt resolution of the review, the Planning Adviser has drafted planning conditions which the Local Review Body may wish to consider imposing should it be minded to grant planning permission. A copy is circulated with this report.

Winston Roberts, Solicitor, West Lothian Civic Centre

Tel No. 01506 283524, Winston.roberts@westlothian.gov.uk

Date: 10 February 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 100338945-001

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:	les mccaskey architectural design services		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	les	Building Name:	
Last Name: *	mccaskey	Building Number:	18a
Telephone Number: *		Address 1 (Street): *	18a
Extension Number:		Address 2:	Rothsay Place
Mobile Number:		Town/City: *	Edinburgh
Fax Number:		Country: *	Scotland
		Postcode: *	EH3 7SQ
Email Address: *			

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

☒ Individual ☐ Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	Mr	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	
First Name: *	PAWEL	Building Number:	16
Last Name: *	MAJDAN	Address 1 (Street): *	CANNOP CRESCENT
Company/Organisation		Address 2:	
Telephone Number: *		Town/City: *	STONEYBURN
Extension Number:		Country: *	SCOTLAND
Mobile Number:		Postcode: *	EH47 8EF
Fax Number:			
Email Address: *			

Site Address Details

Planning Authority:	West Lothian Council
Full postal address of the site (including postcode where available):	
Address 1:	16 CANNOP CRESCENT
Address 2:	STONEYBURN
Address 3:	
Address 4:	
Address 5:	
Town/City/Settlement:	BATHGATE
Post Code:	EH47 8EF

Please identify/describe the location of the site or sites

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Northing	662238	Easting	296803
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Description of Proposal

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

PROPOSED INSTALLATION OF FULL LENGTH DORMER TO REAR ELEVATION OF PROPERTY

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.

REFER TO SUPPORTING STATEMENT

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)

1) Supporting Statement Drawings 01 Plan Location Plan 02 Proposed Street Elevation 03 Ground Floor Plan 04a First Floor Plan 05a Sections 06a Rear / gable Elevations 07 Existing Gable elevation and Ground Floor plan 08 Existing front and rear elevations

Application Details

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

0809/H/20

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

06/10/2020

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

10/11/2020

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

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 les mccaskey

Declaration Date: 04/12/2020

Notice of Review

In response to the planning authorities reasons for refusal.

Whilst the applicant accepts that the House Extension and Alteration Design guide 2020 states that dormers should not over dominate the roof and be positioned clear of the eaves.

The applicant would strongly disagree with and dispute the planning authorities decision for refusal of this application.

It is the applicants strong opinion that the proposed rear facing dormer structure would certainly not have a detrimental impact, on either the rear elevation of the property or impact adversely on the general character and visual amenity of the house generally.

The rear location is totally private and overlooks both the applicants garden and wooded area beyond, is not of general public interest and does not affect any street scene.

Although the proposed dormer will dominate the rear roof elevation, there are no definitive key architectural features being affected to the said rear elevation. It is also the only practical way to achieve compliant head room requirements.

The main visual character of the front street scene elevation is minimally affected, with small increase in height proposed, which will be barely noticeable if at all.

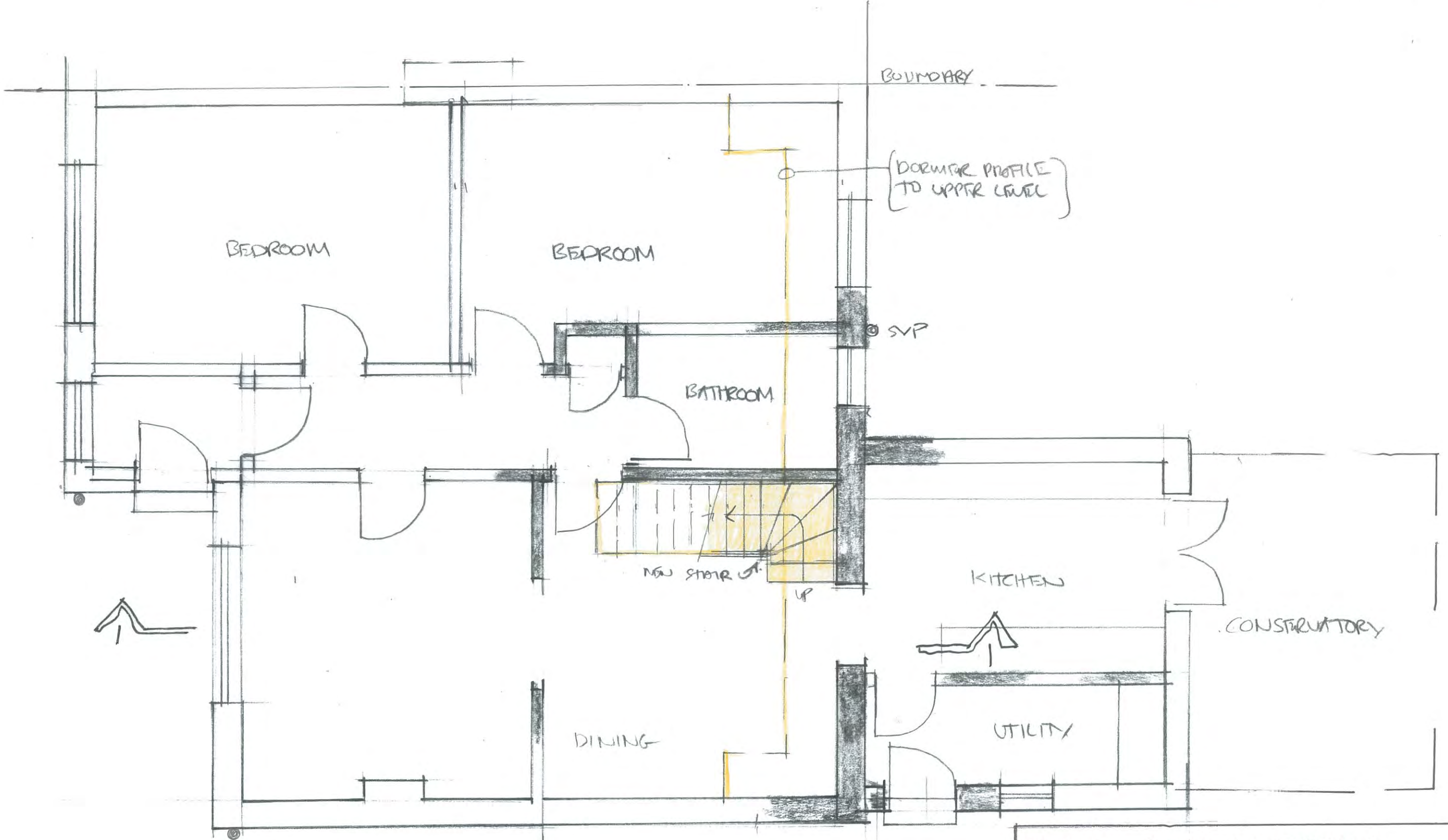
The applicant is of the firm opinion that the proposed new dormer extension results in the most practical and best use of space within the property, whilst providing the required additional living accommodation to suit growing family requirements.

The scale, design and materials proposed would not have a detrimental impact on either the property and most certainly not the surrounding area.

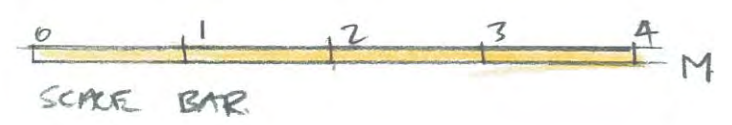
No public objections or complaints have been submitted in respect of the proposals.

It is hoped that the review board shall look favourably in respect of this appeal and take into consideration the points raised by the applicant in support of his appeal.

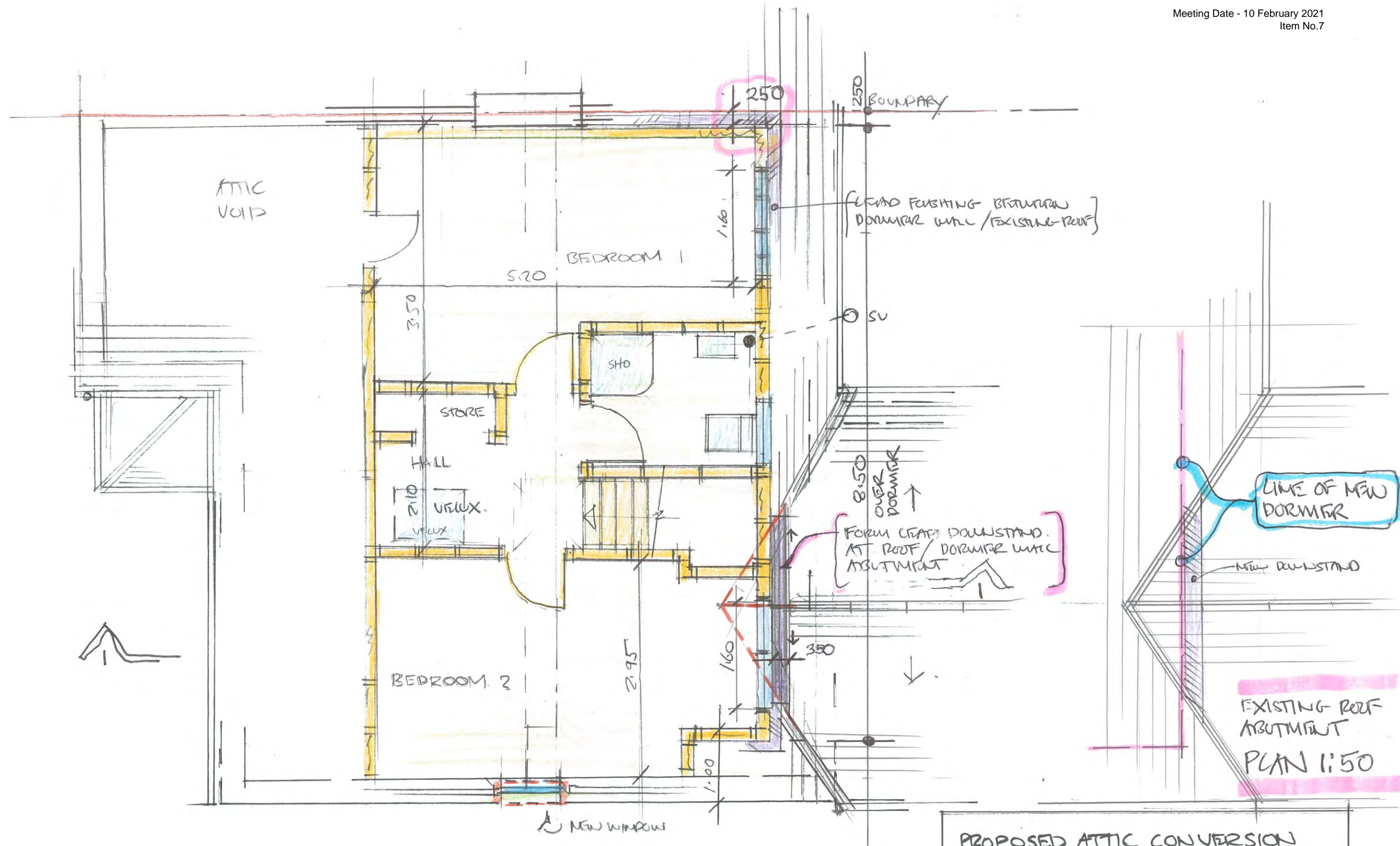
REMOVALS



GROUND FLOOR PLAN 1:50



PROPOSED ATTIC CONVERSION.
16. CANNOP CRESCENT
STONE/BURN.
SEPT 2020
03

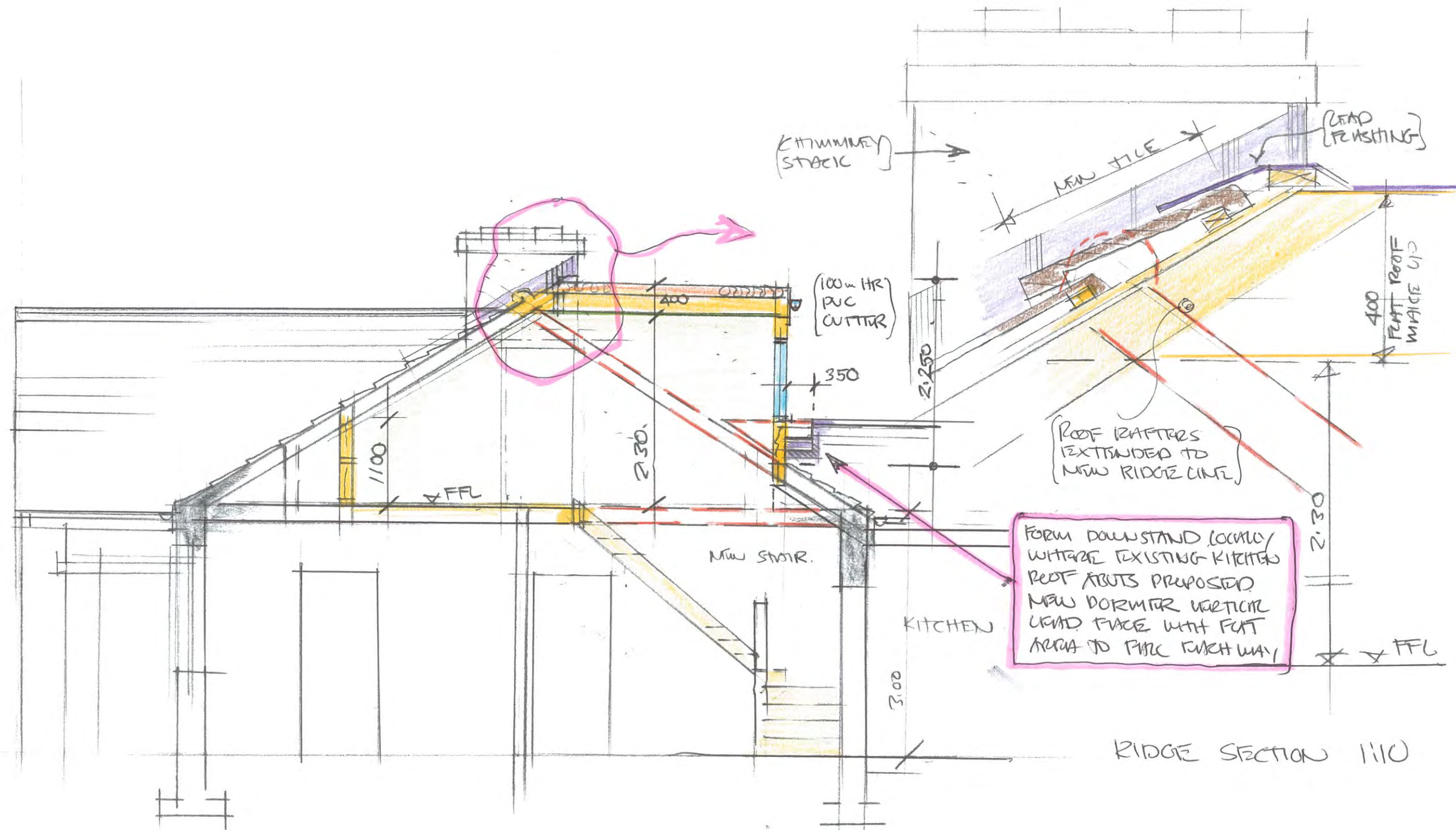


FIRST FLOOR PLAN 1:50

0 1 2 3 4 M.

SCALE BAR

REMOVALS



SECTION 1-1 1:50



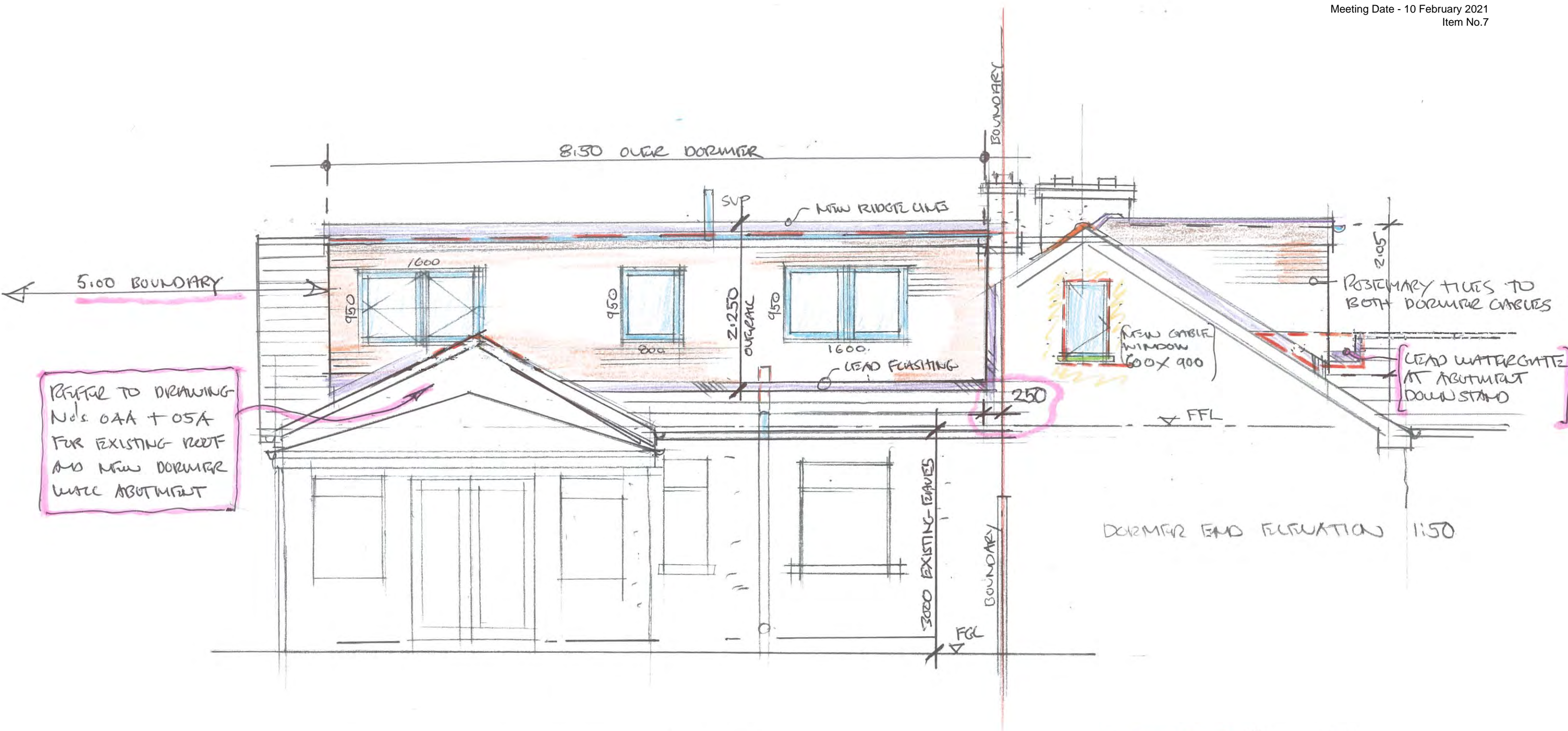
--- REMOVALS

PROPOSED ATTIC CONVERSION
16. CANNOP CRESCENT
STONE/BURN

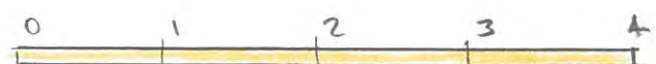
SEPT 2020

REV A. 22/9/20

05 A.



REAR ELEVATION (NW) 1:50



DORMER ROOF - SINGLE MEMBRANE FINISH

DORMER WALLS - ROSEMARY TILES - COLOUR BROWN (AS MAIN ROOF)

WINDOWS - WHITE UPVC DOUBLE GLAZED

FASCIA - WHITE URC

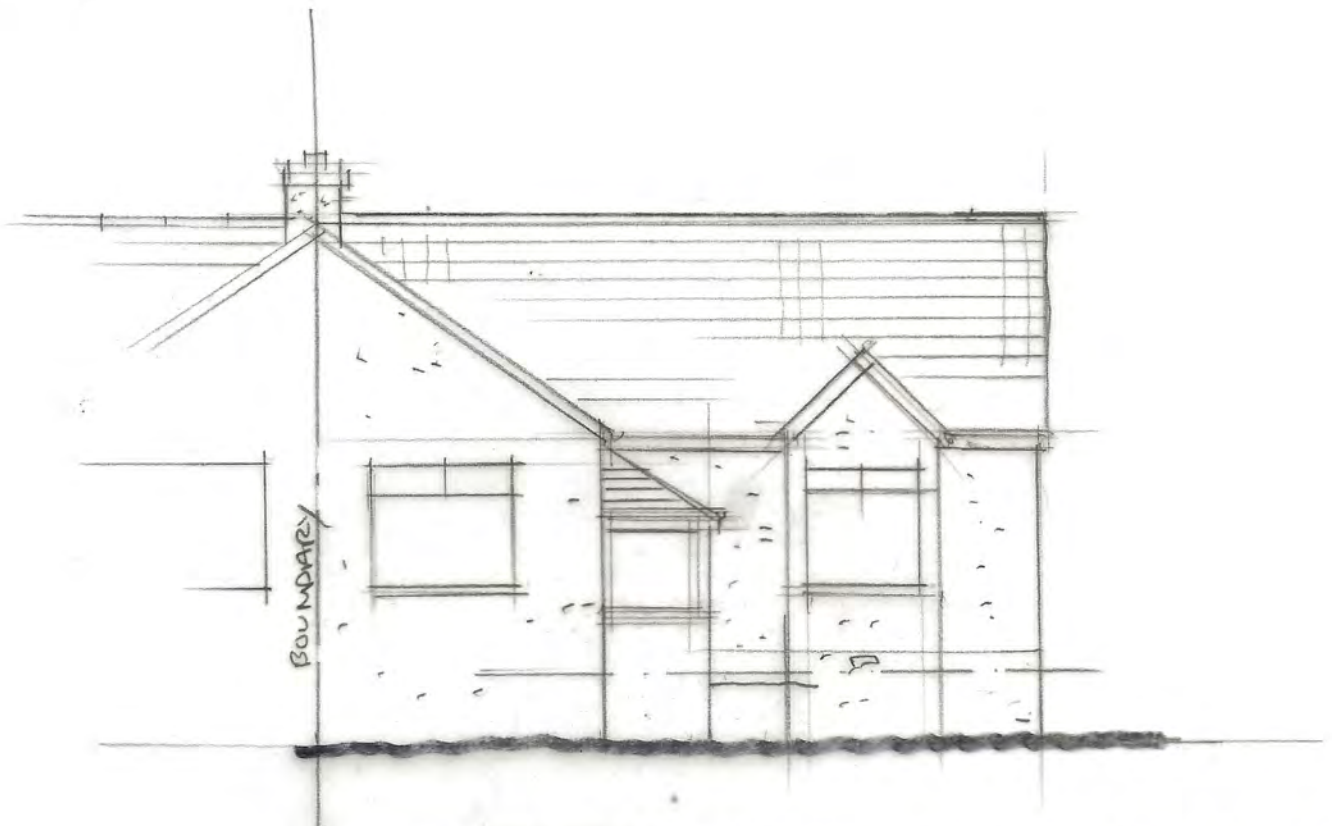
~~---~~ REMOVALS

PROPOSED ATTIC CONVERSION.
16. CANNOP CRESCENT
STONEBURN.

SEPT 2020

REV A 22/9/20

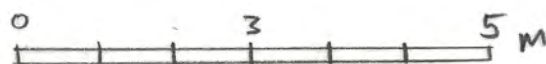
05A

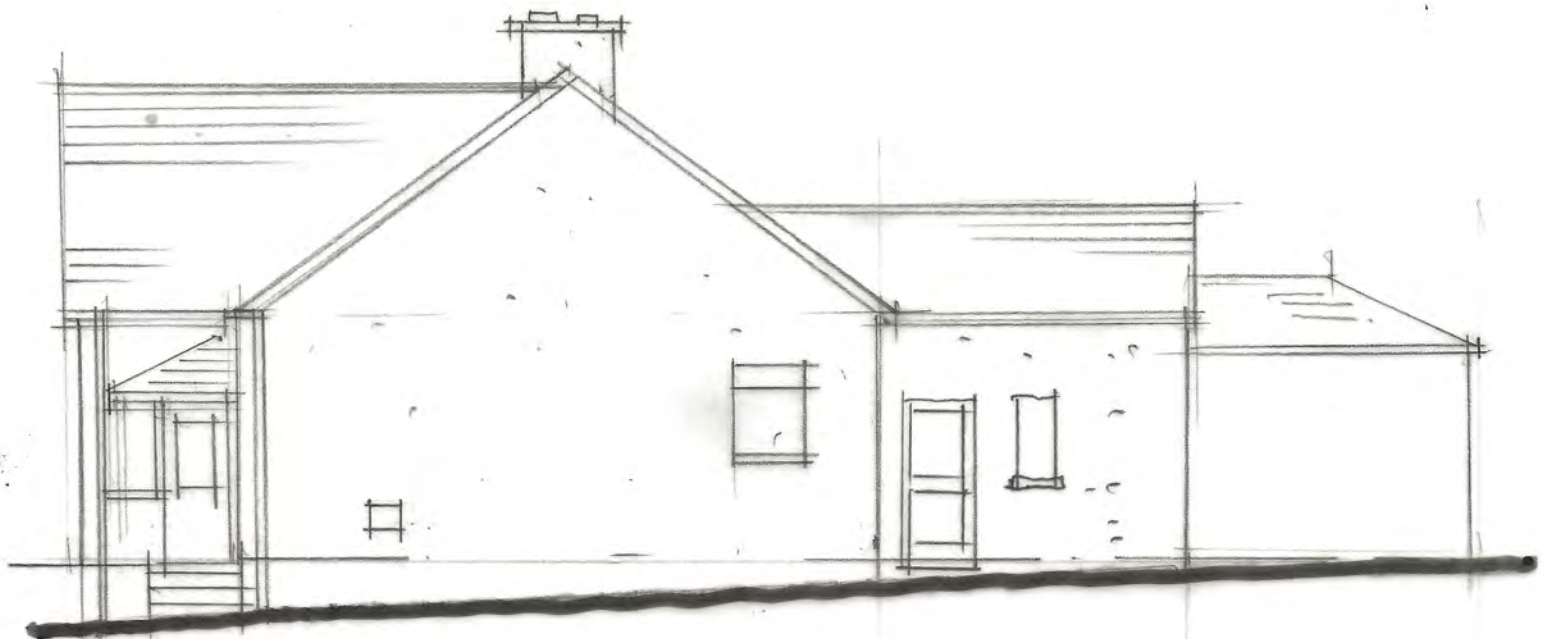


EXISTING STREET / SOUTH EAST ELEVATION 1:100

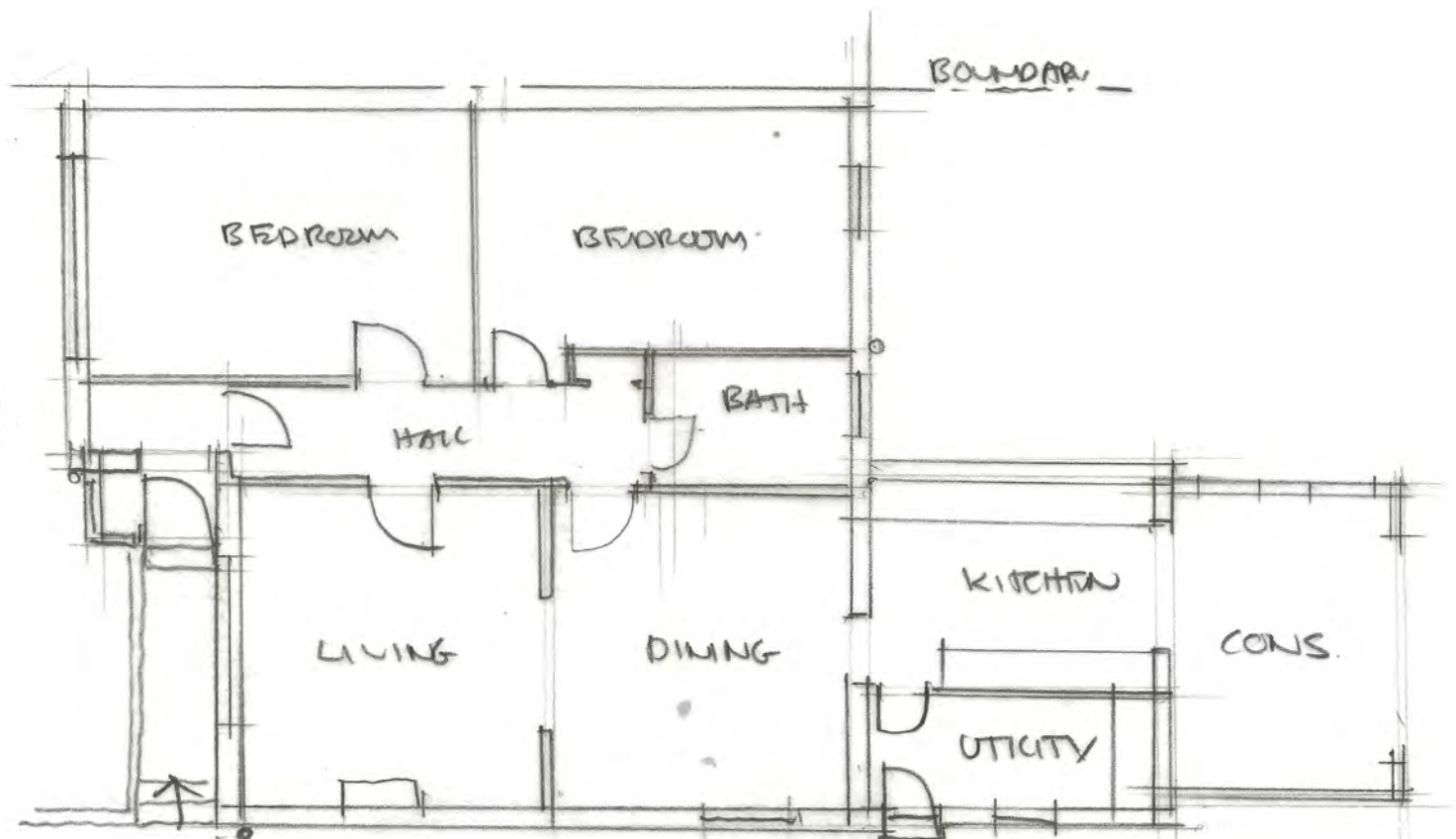


EXISTING REAR NORTH WEST ELEVATION 1:100





EXISTING NORTH EAST ELEVATION 1:100

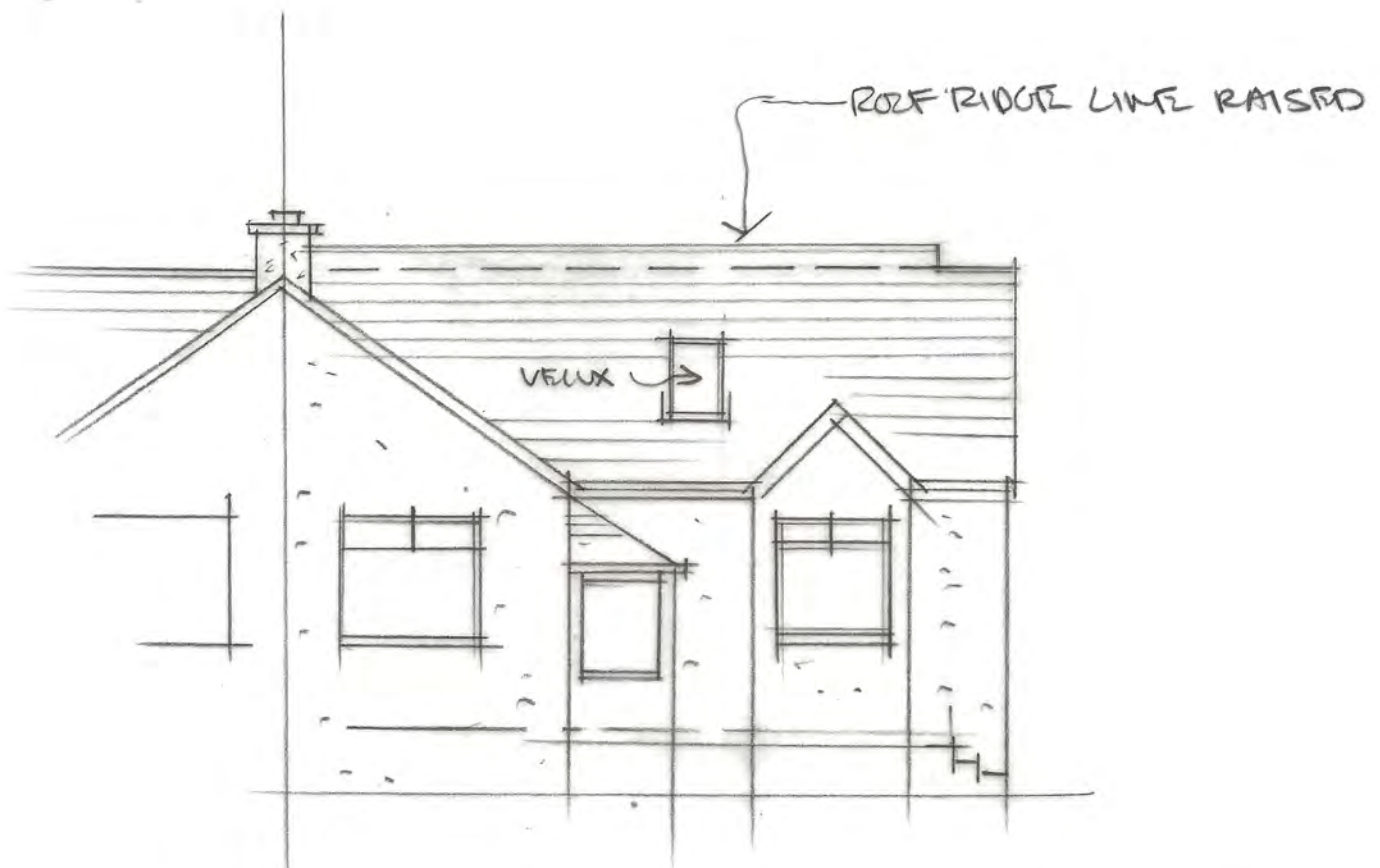


EXISTING FLOOR PLAN 1:100

0 3 6 M.

16. CANNOP CRESCENT, STONEYBURN

07



PROPOSED STREET / SOUTH EAST ELEVATION 1:100

0 1 3 6 M.

SCALE BAR

VEUX 780 X 980 mm CENTRE PIVOT OPERATION.

16. CANNOP CRESCENT, STONE/BURN 02.



16 Cannop Crescent, Stoneyburn, Bathgate, EH47 8EF



Map area bounded by: 296732,662167 296874,662309. Produced on 09 September 2020 from the OS National Geographic Database. Reproduction in whole or part is prohibited without the prior permission of Ordnance Survey. © Crown copyright 2020. Supplied by UKPlanningMaps.com a licensed OS partner (100054135). Unique plan reference: p2buk/505317/685029



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 0809/H/20

PROPOSAL Installation of a dormer and alterations to house

LOCATION 16 Cannop Crescent, Stoneyburn, West Lothian, EH47 8EF, (GRID REF: 296803, 662238)

APPLICANT Mr PawekL Majdan, 16 Cannop Crescent, Stoneyburn, West Lothian, EH47 8EF

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:
10.11.2020

Craig McCorriston
Head of Planning, Economic Development and Regeneration

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

Signature:



DATA LABEL: PUBLIC

The council in exercise of its powers under the Town and Country Planning (Scotland) Act 1997 (as amended) refuses planning permission for planning application 0809/H/20, for the reason(s) set out as follows:

- 1 The proposed dormer extension, by virtue of its scale and design, is of a dominating size which will significantly impact upon the visual amenity of the property. In addition, the proposed dormer does not integrate with or appear subsidiary to the existing property. This proposal is contrary to policy DES1 (Design Principles) of the West Lothian Local Development Plan 2018 and planning guidance House Extension and Alteration Design Guide 2020.

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 - 0809/H/20

Docquetted Number	Drawing Description	Drawing Number
1	Location Plan	01
2	Existing Floor Plans and Elevations	07
3	Proposed Elevations	02
4	Floor Plan (proposed)	03
5	Proposed Elevations	06
6	Floor Plan (proposed)	04a
7	Sections	05a
8	Proposed Elevations	06a
9	Existing Elevations	08



DATA LABEL: PUBLIC

HANDLING REPORT

Ref. No.:	0809/H/20	Email:	rachael.lyall@westlothian.gov.uk
Case Officer:	Rachael Lyall	Tel No.:	01506 281110
Ward:	Fauldhouse & The Breich Valley	Member:	Pauline Clark David Dodds Cathy Muldoon
Title	Installation of a dormer and alterations to house(Grid Ref: 296803,662238) at 16 Cannop Crescent,Stoneyburn,West Lothian,EH47 8EF		
Application Type	Local Application		
Decision Level	Delegated List		
Recommendation	Refuse Permission		
Decision	Refuse Permission		
Neighbour Notification	Neighbour notification procedures have been carried out correctly - case officer verification. YES		
Advertisement	N/A		
EIA Screening	Does the development require EIA screening - No		

Description of Proposals

Installation of a dormer and alterations to house.

Site History

No relevant site history.

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
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

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

Officer Assessment

This planning application proposes to raise the existing roof ridgeline and install a dormer extension on rear elevation of the property at 16 Cannop Crescent, Stoneyburn. The proposed flat roof dormer will measure 8.5m in length and will level with the new raised ridgeline. The rear elevation of the dormer will feature three windows that overlook the applicant's rear garden and open space to the rear of the site. West Lothian Council's Supplementary Guidance, House Extension and Alteration Design Guide 2020, states that dormers should not be so big that they dominate the roof and that dormers should be well below the ridgeline of the existing roof and should relate to windows and doors below in terms of character and proportion. This proposal does not adhere to this guidance. In addition, the existing roof ridge is to be raised so that the proposed dormer is not visible from the street scene however the proposed dormer will appear as if it sits higher than existing ridgeline of the property when on looking from the rear. The proposed dormer significantly dominates the rear elevation of the property, impacting upon the character and visual amenity of the existing house.

Conclusions and Reasons for Decision

This proposal is contrary to West Lothian Council's Local Development Plan's DES1 (Design Principles) 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	01
2	Existing Floor Plans and Elevations	07
3	Proposed Elevations	02
4	Floor Plan (proposed)	03
5	Proposed Elevations	06
6	Floor Plan (proposed)	04a
7	Sections	05a
8	Proposed Elevations	06a
9	Existing Elevations	08

Other relevant documents:

West Lothian Local Development Plan, 2018;

Case Officer – Rachael Lyall

Date – 10.11.2020

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

Our Ref: 0809/H/20
Direct Dial No: 01506 281110
Email: rachael.lyall@westlothian.gov.uk
19 January 2021
Tel: 01506 280000

Draft Justification and Conditions:

This permission is granted subject to the following conditions: -

- (1) The materials to be used on the face and cheeks of the dormer windows hereby approved shall match those on the existing roof unless otherwise agreed in writing with the Development Management Manager.

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