



Local Review Body

West Lothian Civic Centre
Howden South Road
LIVINGSTON
EH54 6FF

15 June 2021

A Special meeting of the **Local Review Body** of West Lothian Council will be held within the **Webex Virtual Meeting** on **Wednesday 23 June 2021** at **2:00pm**.

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

Public Items for Decision

4. Notice of Review Application No.0360/H/20 - Extension to house at 33 Ecclesmachan Road, Broxburn (herewith)
5. Notice of Review Application No.0622/FUL/20 - Change of use from public open space to private garden ground at 48 Beech Place, Eliburn (herewith)
6. Notice of Review Application No.0722/H/20 - Erection of garage (in retrospect) at 7 Craigengar Avenue, Uphall (herewith)
7. Notice of Review Application No.1136/H/20 - First floor extension to house with alterations to window at The Mallards, Winchburgh (herewith)

DATA LABEL: Public

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

Mr Graham Hope
Chief Executive
West Lothian Council
Civic Centre
Howden South Road
Livingston

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

Our Ref:
Your Ref:

9 June 2021

Dear Graham

Local Review Body - Special Meeting

In terms of Standing Order 5, I am calling a Special Meeting of the Local Review Body on 23 June 2021 at 14:00 to consider the following item of business:-

- Notice of Review Application No.1136/H/20 – The Mallards, Winchburgh
- Notice of Review Application No.0722/H/20 – 7 Craigengar Avenue, Broxburn
- Notice of Review Application No.0360/H/20 – 33 Ecclesmachan Road, Uphall
- Notice of Review Application No.06322/FUL/20 – 48 Beech Place, Eilburn

Yours sincerely



Councillor George Paul
Chair, Local Review Body

**LOCAL REVIEW BODY****APPLICATION NO. 0360/H/20 – EXTENSION TO HOUSE AT 33 ECCLESMACHAN ROAD, UPHALL, WEST LoTHIAN****REPORT BY CLERK AND LEGAL ADVISER TO THE LOCAL REVIEW BODY****A PURPOSE OF REPORT**

This report describes the documents and other matters relevant to the consideration by the Local Review Body of this application for review of a decision by the Council's Appointed Person to refuse planning permission for an extension to house at 33 Ecclesmachan Road, Uphall.

B REVIEW DOCUMENTS

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

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

No representations to the application have been received.

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

C SITE VISITS

The review application was first been considered by the Local Review Body (LRB) on 13 January 2021. However, the LRB agreed to continue the application to a future meeting to allow all members to participate in a group site visit aided by the Planning Adviser. This has now been made possible due to the relaxing of Covid-19 restrictions in respect of the number of people who can meet up outdoors. The site visit will take place on 23 June 2021.

D DEVELOPMENT PLAN POLICIES AND PLANNING GUIDANCE

The Appointed Person was of the opinion that the proposed asymmetrical roof of the development will not relate to either the existing or neighbouring properties. In

addition, the proposed development will; 1) by virtue of its overall scale and location have a significant impact upon the character of the conservation area as it will appear prominent within the street scene and 2) sit significantly higher than the neighbouring property which will add to the impact on the visual amenity and prominence. This proposal is therefore contrary to West Lothian Council's Local Development Plan's Design Principles (DES1) and Conservation Areas (ENV24) Policy and the guidance given in the House Extension and Alteration Design Guidelines, 2015

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.

Wendy Richardson, Senior Solicitor, West Lothian Civic Centre

Email address - wendy.richardson@westlothian.gov.uk

Date: 23 June 2021

POLICY DES 1

Design Principles

All development proposals will require to take account of and be integrated with the local context and built form. Development proposals should have no significant adverse impacts on the local community and where appropriate, should include measures to enhance the environment and be high quality in their design.

Development proposals which are poorly designed will not be supported.

When assessing development proposals, the developer will be required to ensure that:

- a. there is no significant adverse impact on adjacent buildings or streetscape in terms of layout, scale, massing, design, external materials or amenity;
- b. there is no significant adverse impact on landscape character, built heritage, habitats or species including European sites, biodiversity and Protected Species nor on amenity as a result of light, noise, odours, dust or particulates;
- c. the proposed development is accessible for all, provides suitable access and parking, encourages active travel and has no adverse implications for public safety;
- d. the proposal includes appropriate integrated and accessible infrastructure, open space, green infrastructure and landscaping;
- e. sustainability issues are addressed through energy efficient design, layout, site orientation and building practices;
- f. the development does not result in any significant adverse impact on the water environment as required by the Water Framework Directive and related regulations and as appropriate, mitigation to minimise any adverse effects is provided;
- g. there are no significant adverse effects on air quality (particularly in and around Air Quality Management Areas), or on water or soil quality and, as appropriate, mitigation to minimise any adverse effects is provided; and
- h. risks to new development from unstable land resulting from past mining activities are fully assessed and, where necessary, mitigated prior to development.

Where appropriate, developers will be required to produce masterplans, design statements and design guides in support of their proposals.

Development proposals must also accord with other relevant policies and proposals in the development plan and with appropriate supplementary guidance.



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

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

Thank you for completing this application form:

ONLINE REFERENCE 100253202-004

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

Applicant or Agent Details

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

☐ Applicant ☒ Agent

Agent Details

Please enter Agent details

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

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

☒ Individual ☐ Organisation/Corporate entity

Applicant Details

Please enter Applicant details

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

Site Address Details

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

Please identify/describe the location of the site or sites

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

Extension to house

Type of Application

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

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

What does your review relate to? *

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

Statement of reasons for seeking review

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

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

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

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

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

☐ Yes ☒ No

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

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

33 Ecclesmachan Road LRB Appeal

Application Details

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

0360/H/20

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

06/05/2020

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

21/09/2020

Review Procedure

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

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

☐ Yes ☒ No

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

Please select a further procedure *

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

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

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

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

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

☒ Yes ☐ No

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

☒ Yes ☐ No

Checklist – Application for Notice of Review

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

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

☒ Yes ☐ No

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

☒ Yes ☐ No

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

☒ Yes ☐ No ☐ N/A

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

☒ Yes ☐ No

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

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

☒ Yes ☐ No

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

Declare – Notice of Review

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

Declaration Name: Mr David Liston

Declaration Date: 06/10/2020

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

Refused Planning Permission.

Planning permission was refused for the following reason:

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

Conservation Area

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

The changes are also described in the following online articles:

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

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

Impact on visual amenity of existing house.

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

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

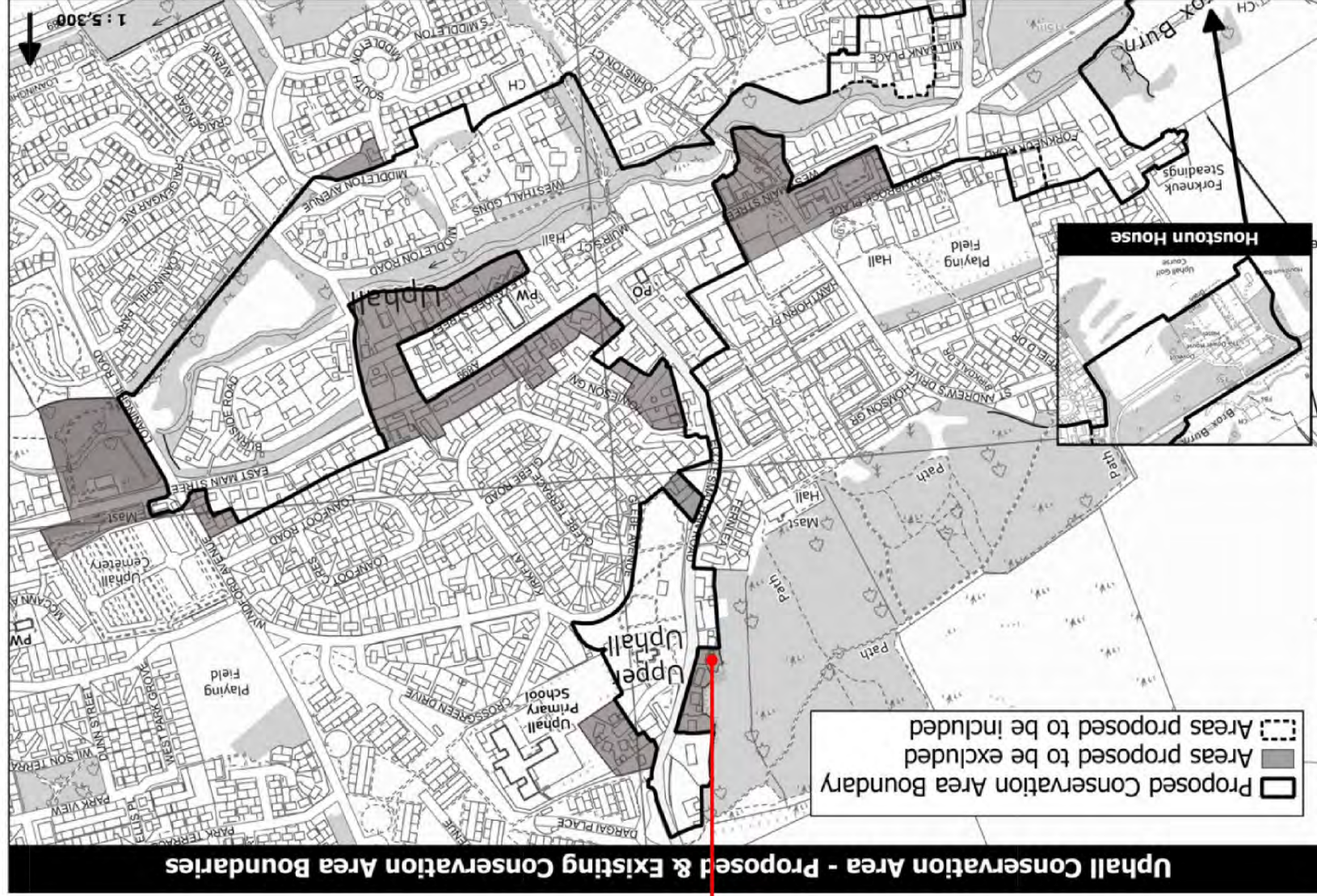
Impact on Streetscene.

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

Design development with WLC

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

Appendix 1. Revised Conservation Area



33 Ecclesmachan Road is outwith revised Conservation Area Boundary

Appendix 2. Photographic sequence heading North along Ecclesmachan Road



Ecclesmachan Road at Uphall



No uniform street scene



Many houses don't face road



Fleeting oblique view of No. 33



33 Ecclesmachan Road

Appendix 3. Email correspondence with WLC

david@listonarchitects.co.uk

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

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

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

DATA LABEL: OFFICIAL

Good afternoon David,

Thank you for your email.

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

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

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

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

Kind regards,

Rachael Lyll
Planning Assistant

Development Management
Planning, Economic Development and Regeneration
West Lothian Council

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

Hello Rachael,

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

Regards,

David

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

DATA LABEL: OFFICIAL

Good afternoon David,

Thank you for your email and for sending this across.

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

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

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

Thanks again David.

Kind regards,

Rachael Lyall
Planning Assistant

Development Management
Planning, Economic Development and Regeneration
West Lothian Council

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

Hello Rachael,

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

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

Regards,

David

Liston Architects, 1 Summerhall, Edinburgh, EH9 1PL

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

Sent: 16 July 2020 07:48

To:

Subject: RE: 33 Ecclesmachan Road - [OFFICIAL]

DATA LABEL: OFFICIAL

Good Morning David,

Thank you for reply.

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

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

Kind regards,

Rachael Lyall

From:

Sent: 15 July 2020 16:12

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

Subject: RE: 33 Ecclesmachan Road - [OFFICIAL]

Hello Rachael,

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

Regards,

David

Liston Architects, 1 Summerhall, Edinburgh, EH9 1PL

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

Sent: 15 July 2020 15:42

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

DATA LABEL: OFFICIAL

Good afternoon David,

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

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

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

Kind regards,

Rachael Lyall

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

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

West Lothian Council - Data Labels:

OFFICIAL - Sensitive: Contains Personal or Business Sensitive Information for authorised personnel only

OFFICIAL: Contains information for council staff only

PUBLIC: All information has been approved for public disclosure

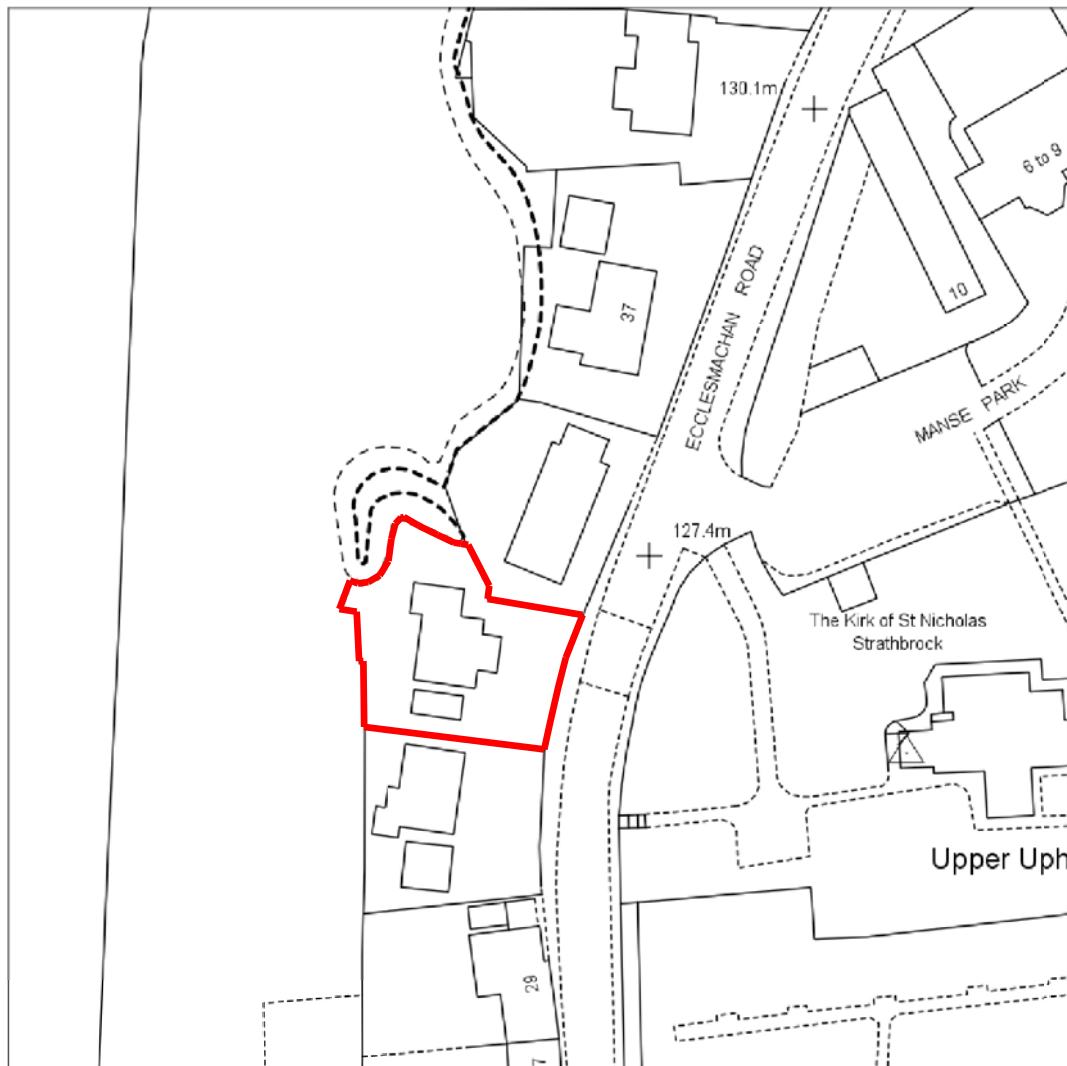
NON-COUNCIL BUSINESS: Contains no business related or sensitive information

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

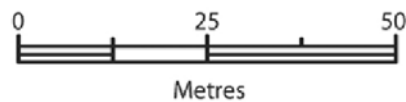
🔄 **SAVE PAPER - Please do not print this e-mail unless absolutely necessary.**

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

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



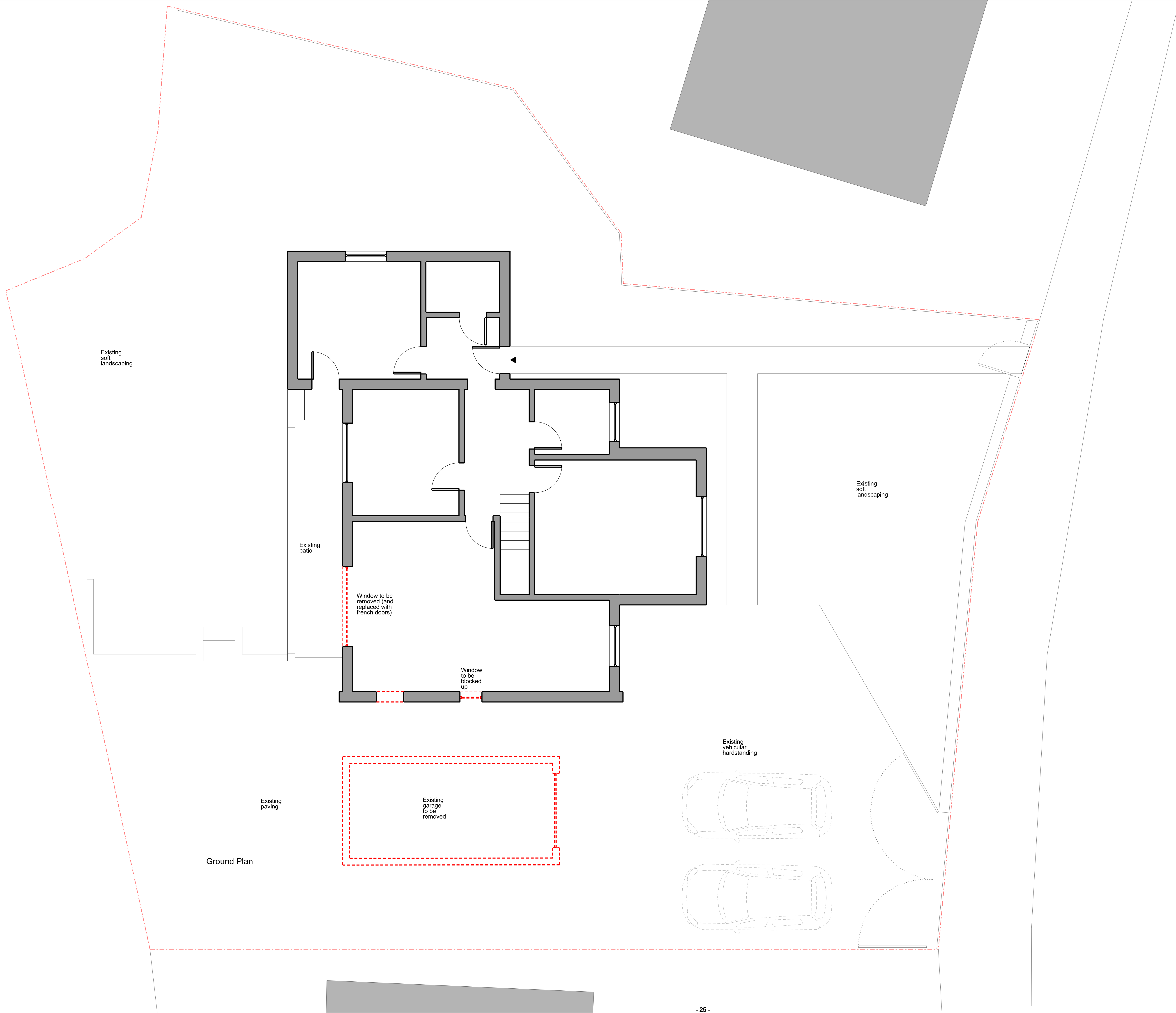
Uphall, Broxburn



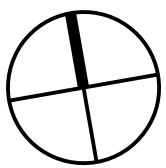
2003_C_001
Proposed Location Plan
33 Ecclesmachan Road
Scale 1:1000@ A4
Liston Architects
29.04.20

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

PLANNING



Ground Plan

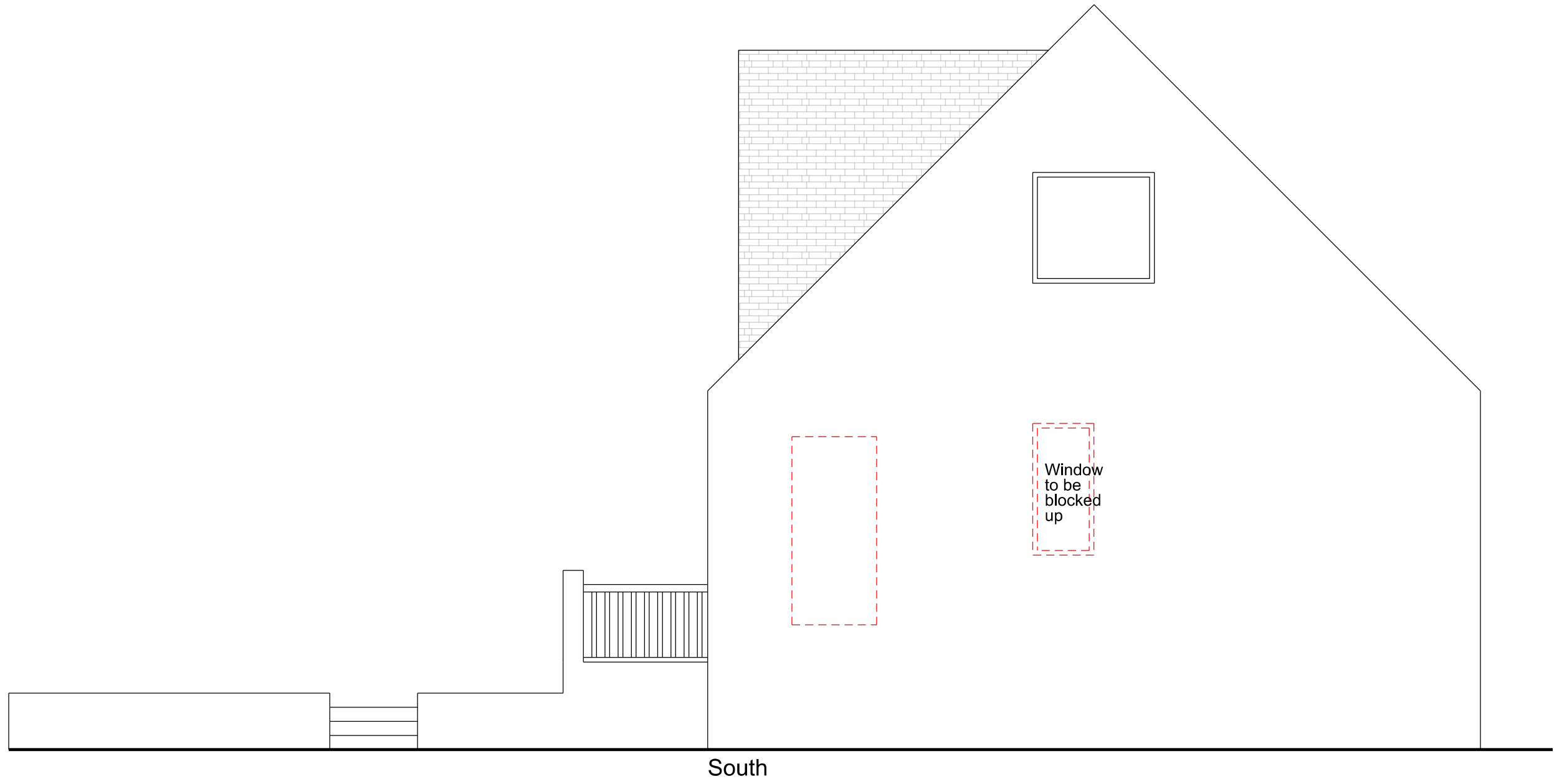
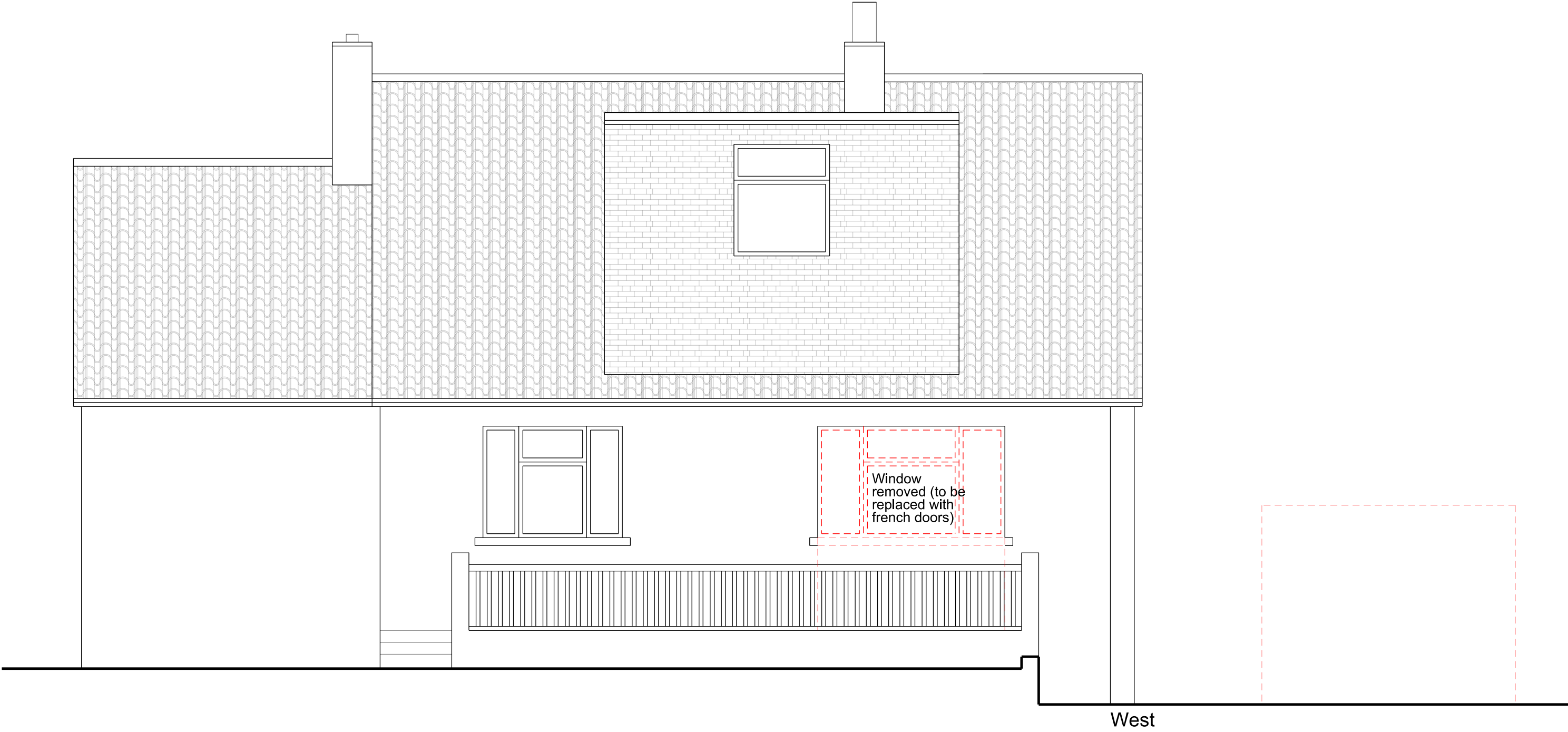


0m 1m 2m

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

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

PLANNING

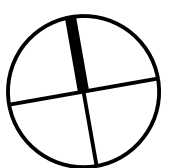
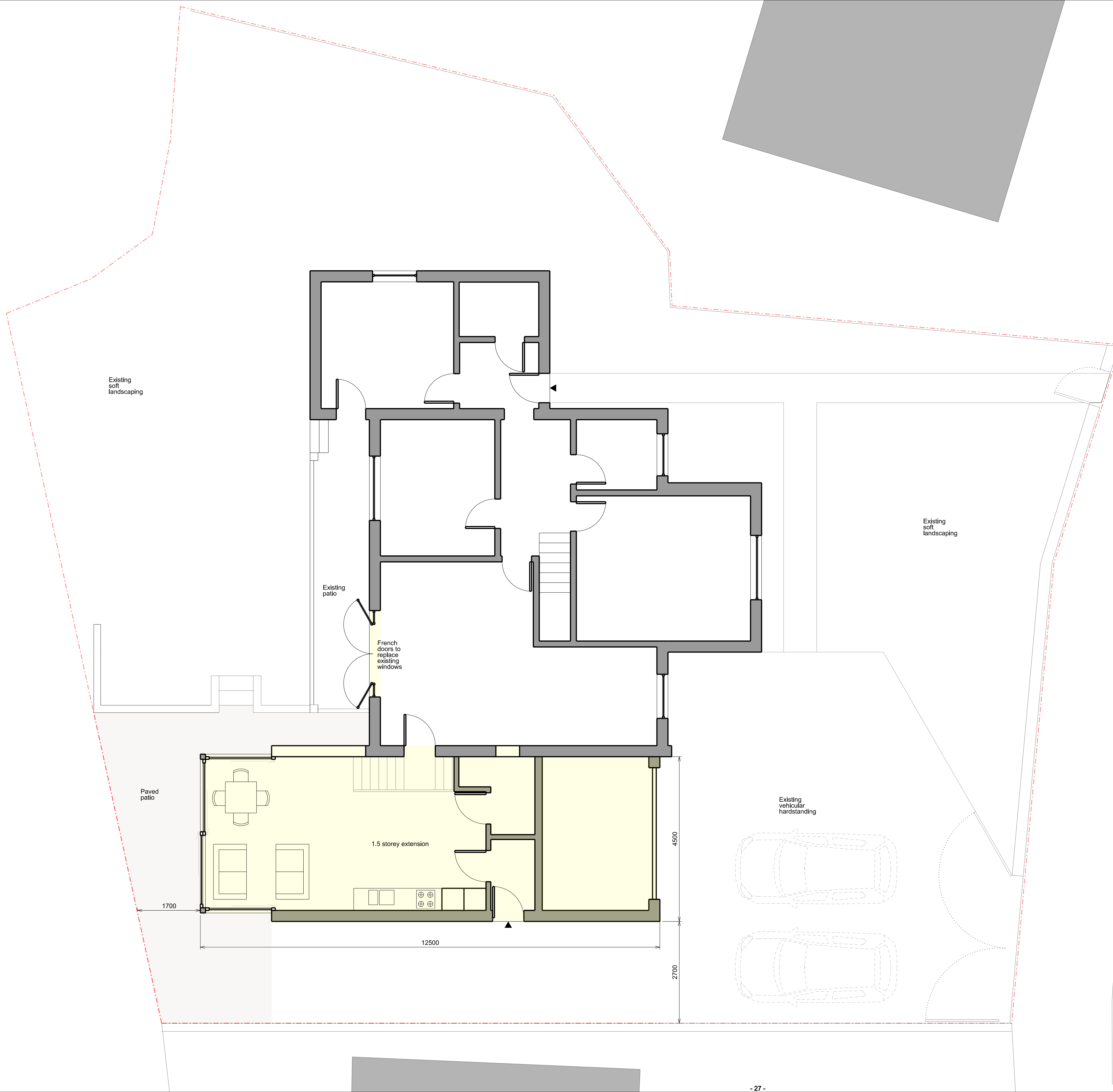


0m 1m 2m

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

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

PLANNING

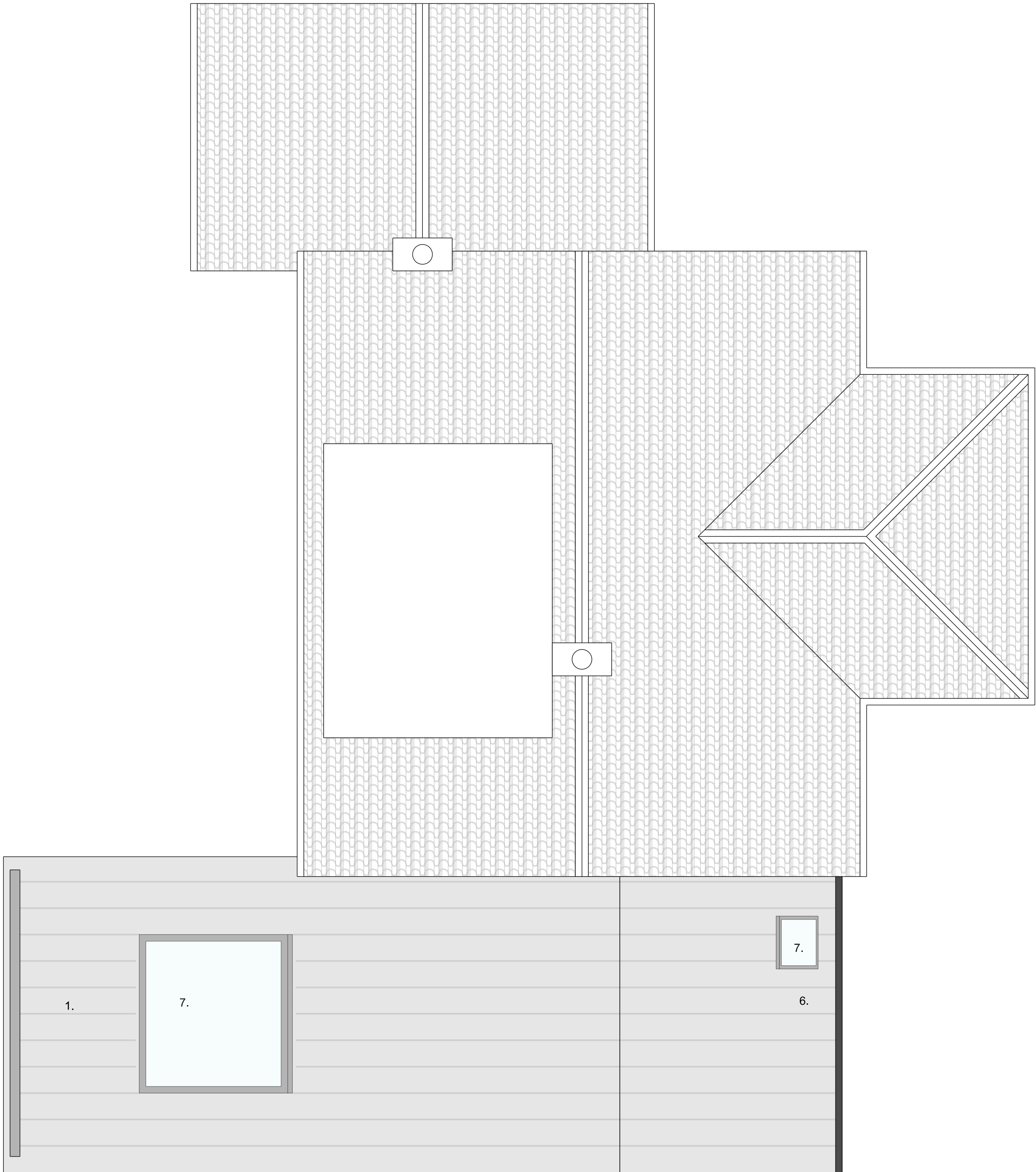


0m 1m 2m

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

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

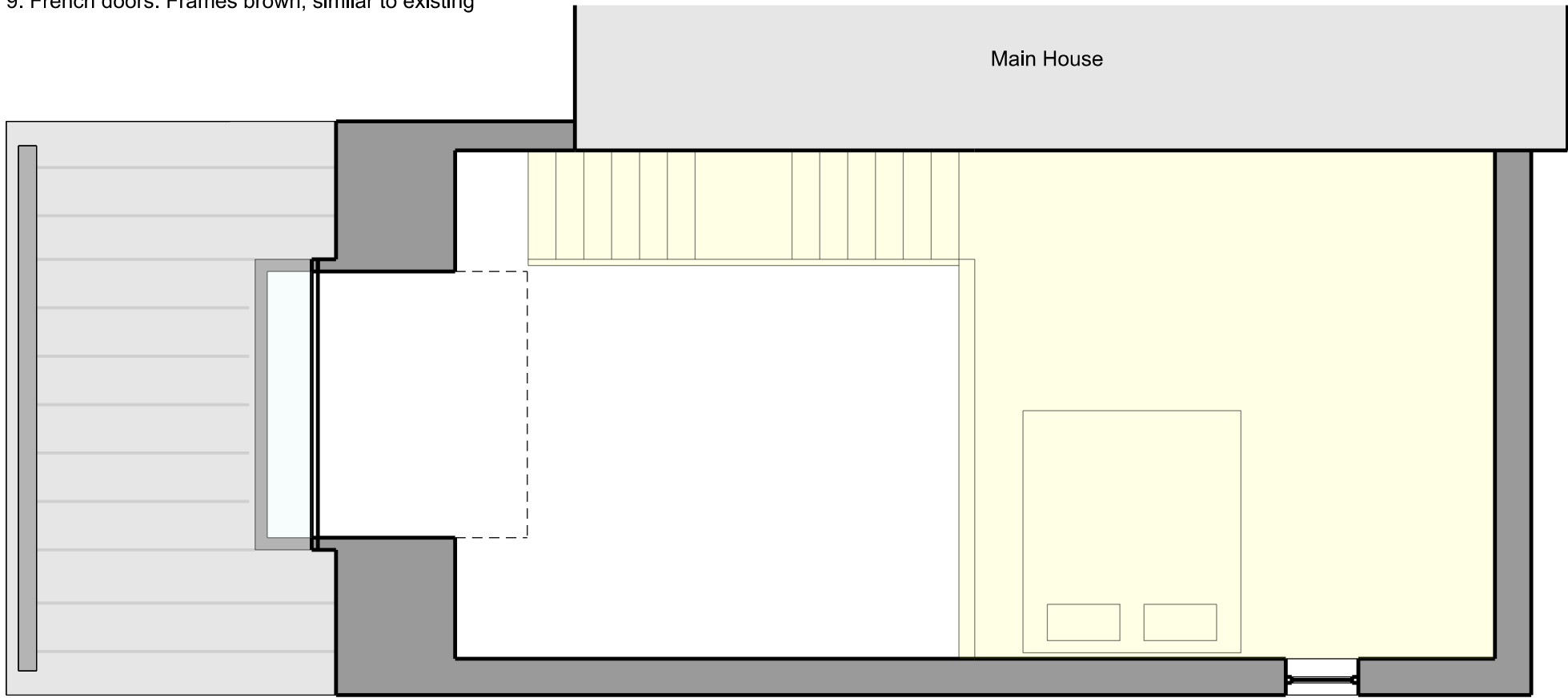
PLANNING



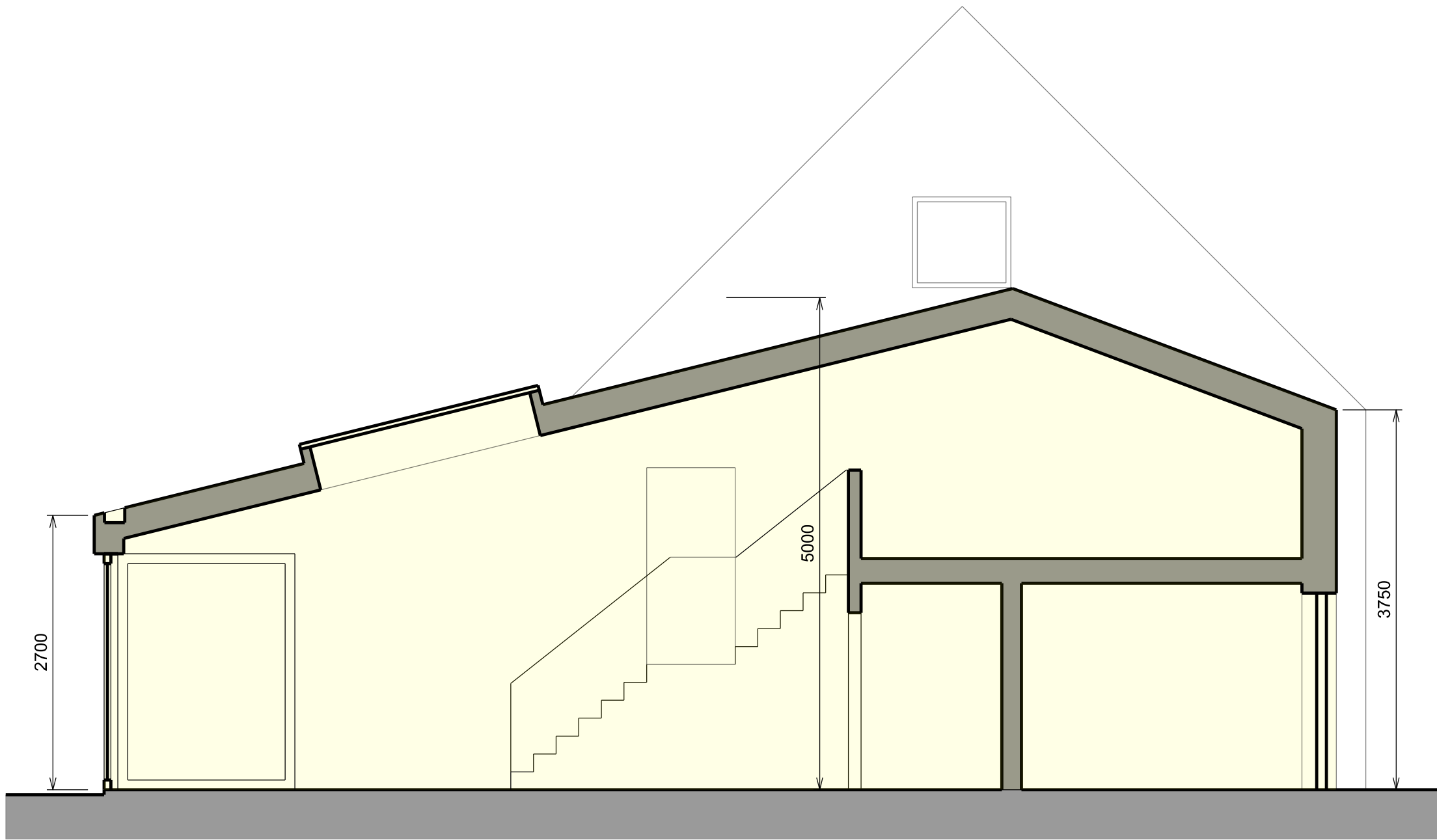
Roof Plan

Materials Key:

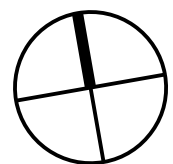
1. Render, Coloured white
2. Glazed sliding doors, Frames coloured grey
3. Windows, Frames coloured grey
4. Timber front door
5. Single membrane standing seam roof
6. Black gutters and downpipes similar to existing
7. Rooflight, Frames coloured grey
8. Garage door, Coloured brown, similar to existing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



First Plan (part)



Long Section

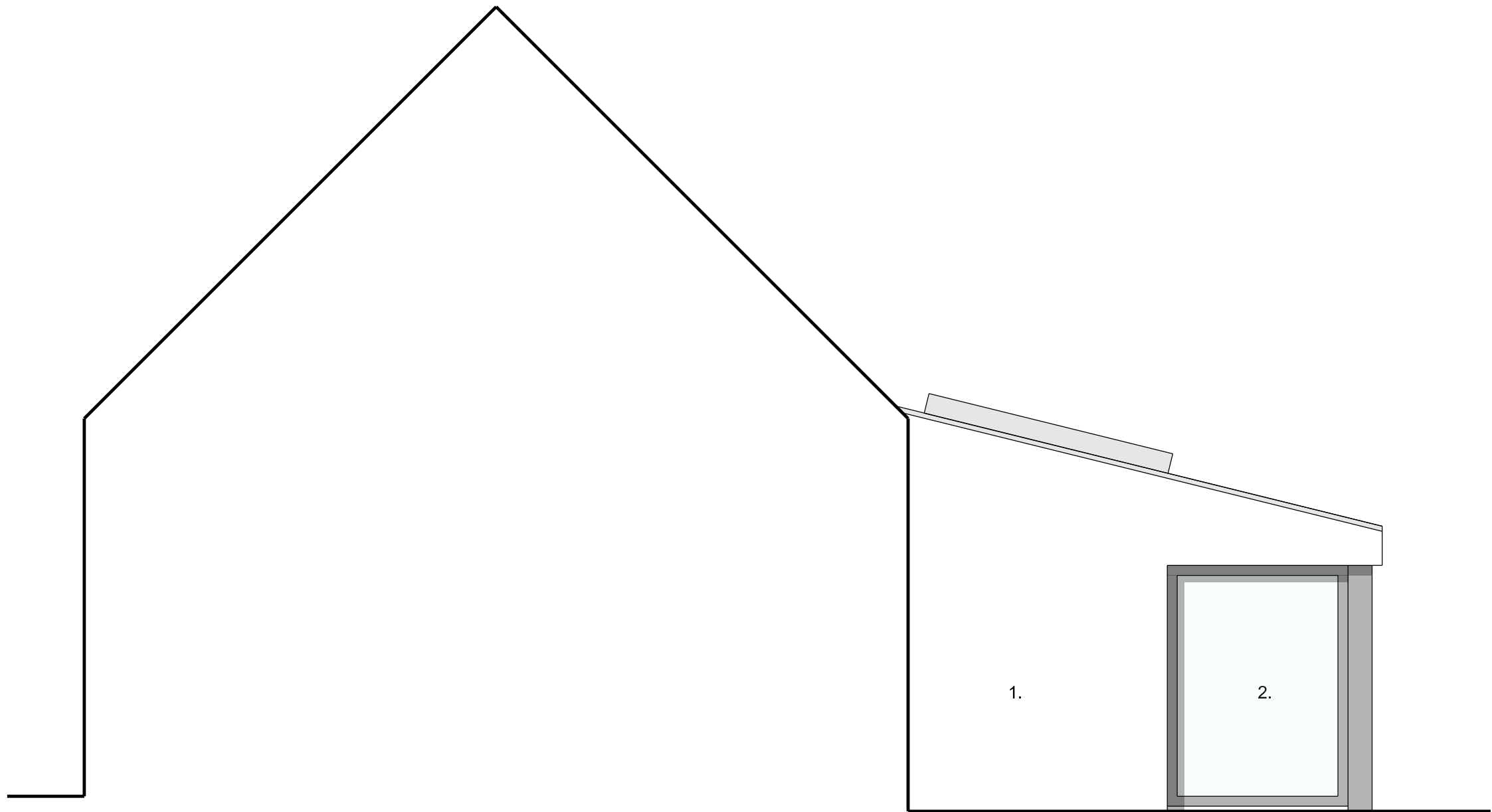


0m 1m 2m

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

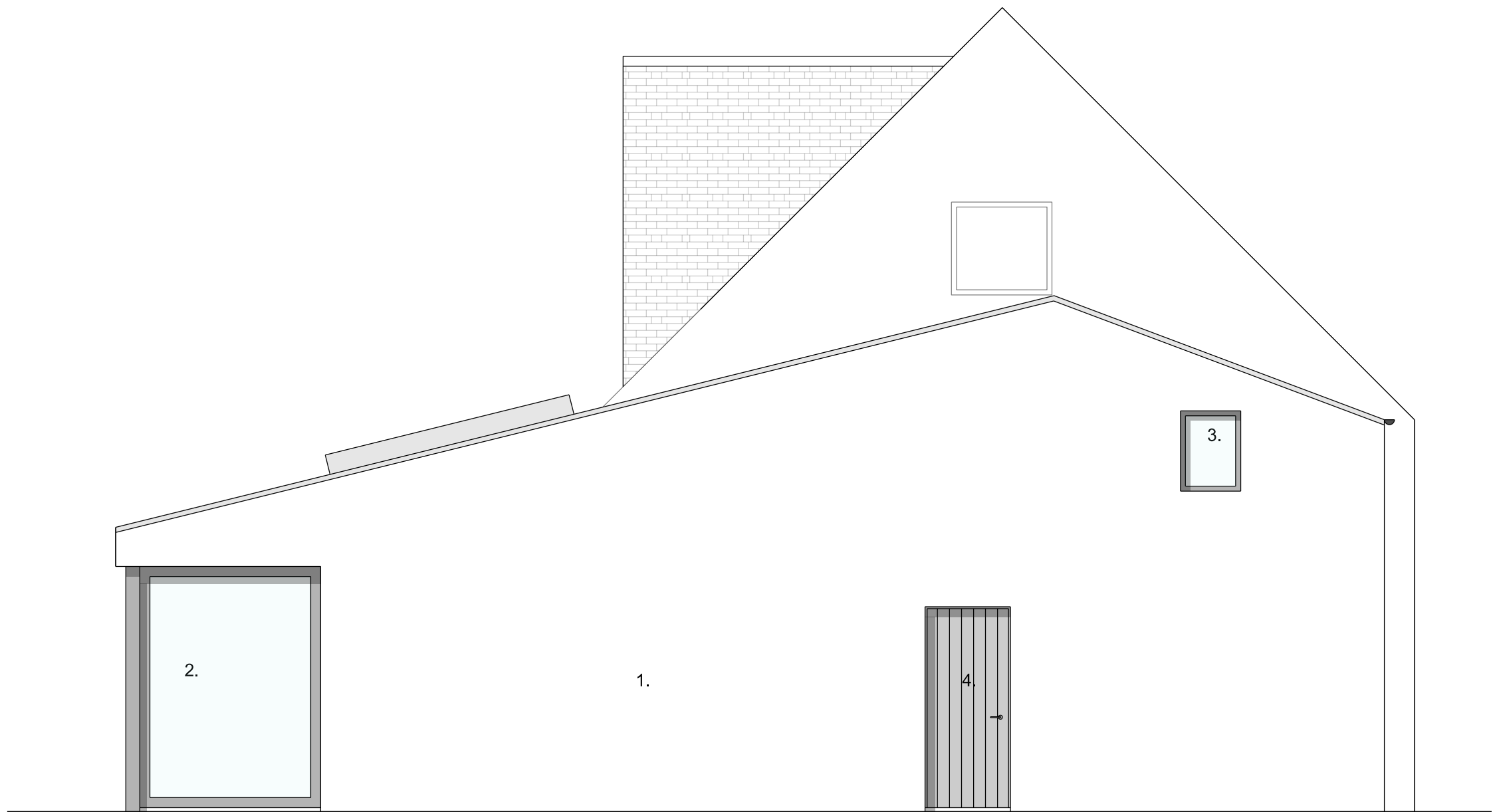
Do not scale from drawings.
Request from architect any dimensions not provided.
All dimensions to be checked on site prior to starting work.
Any discrepancies to be reported to architect.
Drawings to be read in conjunction with structural engineer's
drawings specifications and schedules.
Locations of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

PLANNING

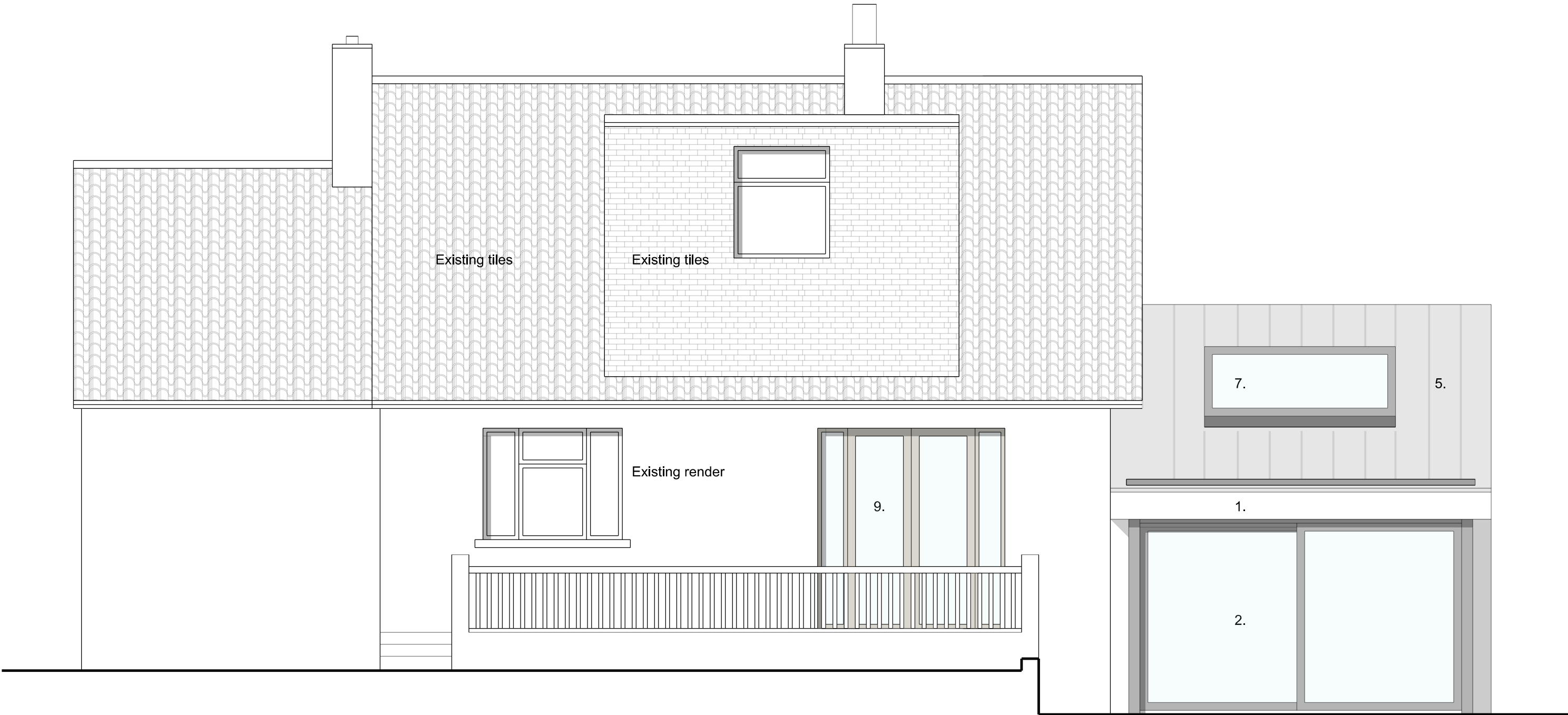


North

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



South



West



East

0m 1m 2m

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

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

PLANNING



DATA LABEL: PUBLIC

HANDLING REPORT

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

Description of Proposals

Extension to house.

Site History

The site is located within a conservation area.

Representations

0 Representations were received for this application.

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

Consultations

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

Consultee	Objection?	Comments	Planning Response
X	X	X	X

Policies Considered

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

	<p>ensure that: a. there is no significant adverse impact on adjacent buildings or streetscape in terms of layout, scale, massing, design, external materials or amenity; b. there is no significant adverse impact on landscape character, built heritage, habitats or species including European sites, biodiversity and Protected Species nor on amenity as a result of light, noise, odours, dust or particulates; c. the proposed development is accessible for all, provides suitable access and parking, encourages active travel and has no adverse implications for public safety; d. the proposal includes appropriate integrated and accessible infrastructure, open space, green infrastructure and landscaping; e. sustainability issues are addressed through energy efficient design, layout, site orientation and building practices; f. the development does not result in any significant adverse impact on the water environment as required by the Water Framework Directive and related regulations and as appropriate, mitigation to minimise any adverse effects is provided; g. there are no significant adverse effects on air quality (particularly in and around Air Quality Management Areas), or on water or soil quality and, as appropriate, mitigation to minimise any adverse effects is provided; and h. risks to new development from unstable land resulting from past mining activities are fully assessed and, where necessary, mitigated prior to development. Where appropriate, developers will be required to produce masterplans, design statements and design guides in support of their proposals. Development proposals must also accord with other relevant policies and proposals in the development plan and with appropriate supplementary guidance.</p>
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Policy Assessment

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

Officer Assessment

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

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

Conclusions and Reasons for Decision

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

List of Review Documents

Drawings schedule:

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

Other relevant documents: N/A

West Lothian Local Development;

Case Officer – Rachael Lyall

Date – 21/09/2020



DECISION NOTICE REFUSAL OF PLANNING PERMISSION

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

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

APPLICATION REFERENCE 0360/H/20

PROPOSAL Extension to house

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

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

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

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

Dated:
21.09.2020

Craig McCorriston
Head of Planning, Economic Development and Regeneration

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

Signature:

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

DATA LABEL: PUBLIC

The council in exercise of its powers under the Town and Country Planning (Scotland) Act 1997 (as amended) refuses planning permission for planning application 0360/H/20, for the reason(s) set out as follows:

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

ADVISORY NOTES TO DEVELOPER

How to challenge the council's Decision

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

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

Notification of the start of development

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

Notification of completion of development

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

Contaminated land procedures

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

Liaison with the Coal Authority

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

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

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

Advisory note to developer - General

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

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

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

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

Draft Justification and Conditions:

This permission is granted subject to the following conditions: -

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

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

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

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

Standard Notes: -

Notification of the start and completion of development:

It is a legal requirement that the person carrying out this development must notify the planning authority prior to work starting on site and again once the development is completed. The notification must include full details of the name and address of the person carrying out the development as well as the owner of the land and must include the reference number of the planning permission and the date it was granted. If someone is to oversee the work, the name and contact details of that person must be supplied. Failure to provide the above information may lead to enforcement action being taken. Forms which can be used for this purpose can be found using the following link:

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

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

Duration of consent:

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

How to challenge the council's decision

If your application was determined under delegated powers and you disagree with the council's decision on your application, or one or more of the conditions attached to the decision, you can apply for a review by the council's Local Review Body. If the application was heard at a committee, then you can appeal that decision to the

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

Additional consents:

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

Potentially Contaminated Land:

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

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

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

Committee is asked to note that the review application was first been considered by the Local Review Body (LRB) on 13 January 2021. However, the LRB agreed to continue the application to a future meeting to allow all members to participate in a group site visit aided by the Planning Adviser. This has now been made possible due to the relaxing of Covid-19 restrictions in respect of the number of people who can meet up outdoors.

B REVIEW DOCUMENTS

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

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

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

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

C SITE VISITS

The review application was first been considered by the Local Review Body (LRB) on 13 January 2021. However, the LRB agreed to continue the application to a future meeting to allow all members to participate in a group site visit aided by the Planning Adviser. This has now been made possible due to the relaxing of Covid-19 restrictions in respect of the number of people who can meet up outdoors. The site visit will take place on 23 June 2021.

D DEVELOPMENT PLAN POLICIES AND PLANNING GUIDANCE

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

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

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.

Wendy Richardson, Senior Solicitor, West Lothian Civic Centre

Email address - wendy.richardson@westlothian.gov.uk

Date: 23 June 2021

POLICY DES 1

Design Principles

All development proposals will require to take account of and be integrated with the local context and built form. Development proposals should have no significant adverse impacts on the local community and where appropriate, should include measures to enhance the environment and be high quality in their design.

Development proposals which are poorly designed will not be supported.

When assessing development proposals, the developer will be required to ensure that:

- a. there is no significant adverse impact on adjacent buildings or streetscape in terms of layout, scale, massing, design, external materials or amenity;
- b. there is no significant adverse impact on landscape character, built heritage, habitats or species including European sites, biodiversity and Protected Species nor on amenity as a result of light, noise, odours, dust or particulates;
- c. the proposed development is accessible for all, provides suitable access and parking, encourages active travel and has no adverse implications for public safety;
- d. the proposal includes appropriate integrated and accessible infrastructure, open space, green infrastructure and landscaping;
- e. sustainability issues are addressed through energy efficient design, layout, site orientation and building practices;
- f. the development does not result in any significant adverse impact on the water environment as required by the Water Framework Directive and related regulations and as appropriate, mitigation to minimise any adverse effects is provided;
- g. there are no significant adverse effects on air quality (particularly in and around Air Quality Management Areas), or on water or soil quality and, as appropriate, mitigation to minimise any adverse effects is provided; and
- h. risks to new development from unstable land resulting from past mining activities are fully assessed and, where necessary, mitigated prior to development.

Where appropriate, developers will be required to produce masterplans, design statements and design guides in support of their proposals.

Development proposals must also accord with other relevant policies and proposals in the development plan and with appropriate supplementary guidance.

NOTICE OF REVIEW

(LOCAL DEVELOPMENT – DECISION BY APPOINTED PERSON)

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

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

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

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

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

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

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

Type of Application (please tick the appropriate box)

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

PART C	TYPE OF REVIEW CASE	
	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"/>

	<p>Statement of reasons and matters to be raised</p> <p>You must state, in full, the reasons for requiring a review of your case. You must also set out and include with your application all the matters you consider require to be taken into account and which you intend to raise in the review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.</p>
	<p>State here the reasons for requiring the review and all the matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. <u>You may also submit additional documentation with this form of which ten copies must be provided.</u></p>
	<p>*** Reason for review attached in full in attached document. ***</p> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>
	<div> <div>Have you raised any matters which were not before the appointed officer at the time the determination on your application was made?</div> <div>* YES/NO</div> </div>

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.

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

List of documents and evidence

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

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

PART D

REVIEW PROCEDURE

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process ask for further information or representations. The procedure adopted will be one or a combination of meetings; adjourned meetings; written submissions; hearing sessions and inspecting the land which is the subject of the review.

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

Further written submissions

Hearing sessions(s)

Site inspection

Assessment of review documents only, with no further procedure



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

SITE INSPECTION

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

Can the site be viewed entirely from public land?

* YES/NO

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

* YES/NO

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

PART E	CHECKLIST								
	Please mark the appropriate boxes to confirm you have provided all supporting documents and evidence relevant to your review. Failure to supply all the relevant information or to lodge the form on time could invalidate your notice of review.								
	<table border="1"><tr><td>Full completion of all parts of this form</td><td>✓</td></tr><tr><td>Statement of your reasons for requiring a review and matters to be raised</td><td>✓</td></tr><tr><td>Statement of your preferred procedure</td><td>✓</td></tr><tr><td>All documents, materials and evidence INCLUDING LOCATION PLANS AND/OR DRAWINGS which you intend to rely on. Copies must accompany this notice.</td><td>✓</td></tr></table>	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.	✓
Full completion of all parts of this form	✓								
Statement of your reasons for requiring a review and matters to be raised	✓								
Statement of your preferred procedure	✓								
All documents, materials and evidence INCLUDING LOCATION PLANS AND/OR DRAWINGS which you intend to rely on. Copies must accompany this notice.	✓								
	Where your case relates to another application (e.g. it is a renewal of planning permission or a modification, variation or removal of a planning condition, or an application for approval of matters specified in conditions), it is advisable to provide that other application reference number, approved plans and decision notice from that earlier consent.								

*****DECLARATION*****

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

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

Signed Ricky Maguire Date 05/11/2020

* Delete as appropriate

Please return this completed form to :-

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









Corporate Services

Carol Johnston
Chief Solicitor
Legal Services

Private & Confidential - Addressee Only

Carol Reid
KYW LAW
Solicitors
DX540818
LIVINGSTON

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

DX 542860, LIVINGSTON 7

e-mail: Anna.Stewart@westlothian.gov.uk

Our Ref: WLCOUN-020400
Your Ref: Carol Reid
Signed: FIONA STEWART
Tel: 01506 283025

3 September 2020

Dear Sirs

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

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

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

Reason for Review

Dear Sir/Madam

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

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

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

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

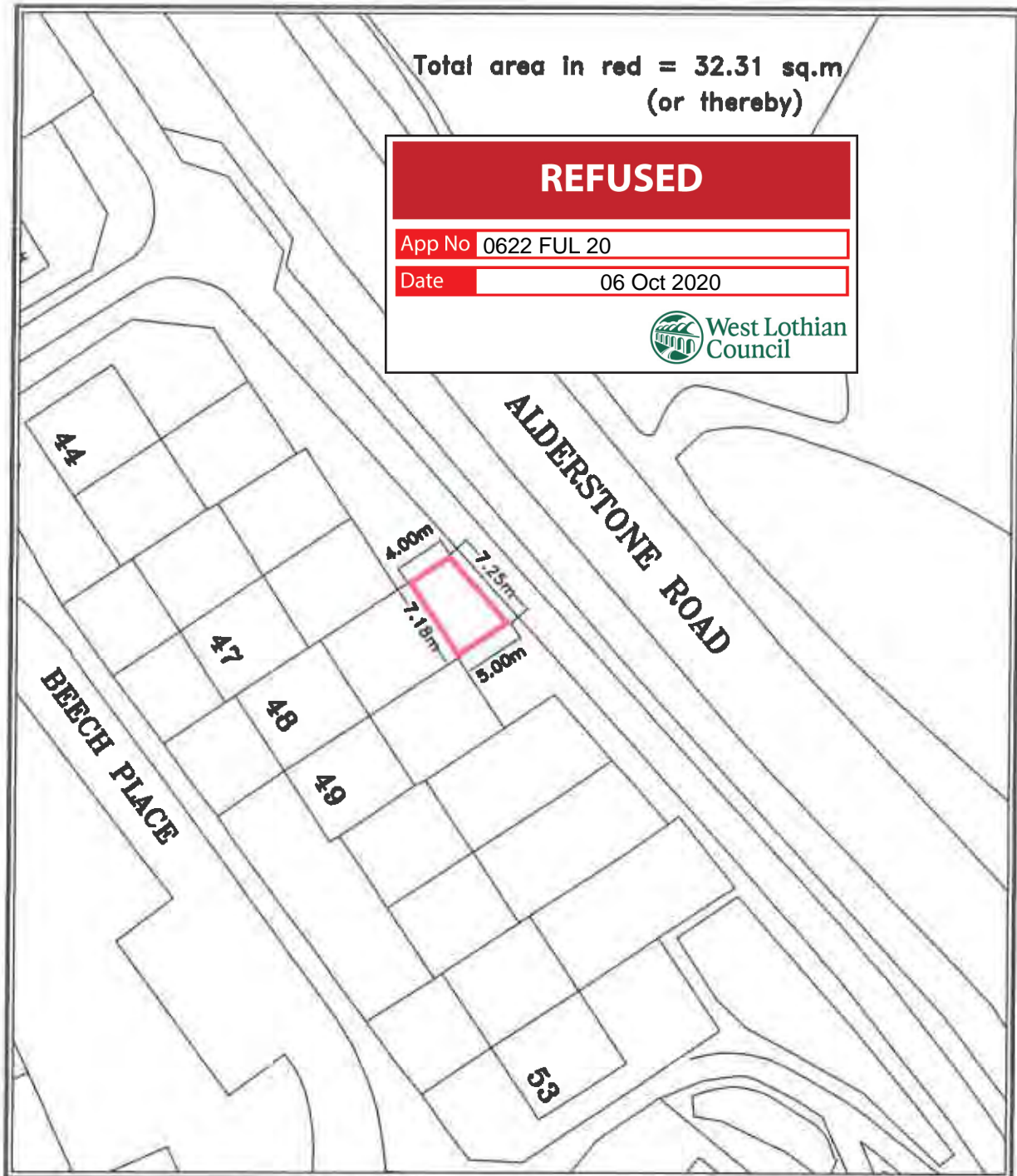
West Lothian Council's NETS & Land Services Department and the West Lothian Transportation Department did not object to this application but did suggest leaving one metre between the boundary fence and path.

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

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

Kind Regards

Ricky Maguire



		<p>Subject:</p> <p>Ground adjacent to 48 Beech Place, Ellburn, Livingston</p>			
<p>Date Surveyed</p> <p>19 June 2020</p>		<p>West Lothian Council</p> <p>Property Management & Development</p>		<p>Refuse:</p>	
<p>Drawn by</p> <p>W.M.W.</p>		<p>CMC Centre Livingston West Lothian EH54 6FF</p>			
<p>Scale</p> <p>1/500</p>					



DATA LABEL: PUBLIC

HANDLING REPORT

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

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

Description of Proposals

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

Site History

No planning history on file.

Representations

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

One objection from Eliburn Community Council:

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

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

Consultations

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

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

Policies Considered

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

DES1 - Design Principles	<p>All development proposals will require to take account of and be integrated with the local context and built form. Development proposals should have no significant adverse impacts on the local community and where appropriate, should include measures to enhance the environment and be high quality in their design. Development proposals which are poorly designed will not be supported. When assessing development proposals, the developer will be required to ensure that:</p> <ul style="list-style-type: none"> a. there is no significant adverse impact on adjacent buildings or streetscape in terms of layout, scale, massing, design, external materials or amenity; b. there is no significant adverse impact on landscape character, built heritage, habitats or species including European sites, biodiversity and Protected Species nor on amenity as a result of light, noise, odours, dust or particulates; c. the proposed development is accessible for all, provides suitable access and parking, encourages active travel and has no adverse implications for public safety; d. the proposal includes appropriate integrated and accessible infrastructure, open space, green infrastructure and landscaping; e. sustainability issues are addressed through energy efficient design, layout, site orientation and building practices; f. the development does not result in any significant adverse impact on the water environment as required by the Water Framework Directive and related regulations and as appropriate, mitigation to minimise any adverse effects is provided; g. there are no significant adverse effects on air quality (particularly in and around Air Quality Management Areas), or on water or soil quality and, as appropriate, mitigation to minimise any adverse effects is provided; and h. risks to new development from unstable land resulting from past mining activities are fully assessed and, where necessary, mitigated prior to development. <p>Where appropriate, developers will be required to produce masterplans, design statements and design guides in support of their proposals. Development proposals must also accord with other relevant policies and proposals in the development plan and with appropriate supplementary guidance.</p>

Policy Assessment

See below.

Officer Assessment

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

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

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

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

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

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

Other Considerations

N/A

Conclusions and Reasons for Decision

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

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

List of Review Documents

Drawings schedule:

Docquetted Number	Drawing Description	Drawing Number
1	Location Plan	-

Case OfficerMATTHEW WATSON.....

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



DECISION NOTICE REFUSAL OF PLANNING PERMISSION

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

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

APPLICATION REFERENCE 0622/FUL/20

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

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

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

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

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

Dated:
06.10.2020

Craig McCorriston
Head of Planning, Economic Development and Regeneration

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

Signature:

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

DATA LABEL: PUBLIC

The council in exercise of its powers under the Town and Country Planning (Scotland) Act 1997 (as amended) refuses planning permission for planning application 0622/FUL/20, for the reason(s) set out as follows:

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

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

ADVISORY NOTES TO DEVELOPER

How to challenge the council's Decision

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

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

Notification of the start of development

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

Notification of completion of development

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

Contaminated land procedures

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

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

Liaison with the Coal Authority

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

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

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

Advisory note to developer - General

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

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

Docquetted Number	Drawing Description	Drawing Number
1	Location Plan	-

Comments for Planning Application 0622/FUL/20

Application Summary

Application Number: 0622/FUL/20

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

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

Case Officer: Matthew Watson

Customer Details

Name: Mr Stephen Egan

Address: 69 Aller Place Eliburn Livingston

Comment Details

Commenter Type: Parish Councillor

Stance: Customer objects to the Planning Application

Comment Reasons:

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

Val (received on 12 November 2020)

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

Stephen Egan
Chair of Eliburn Community Council

Dear Val (received on 16 November 2020)

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

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

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

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

Yours Sincerely

Ricky Maguire

Draft Conditions – 0622/FUL/20

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

Reason: In the interest of visual amenity.



LOCAL REVIEW BODY

APPLICATION NO.0722/H/20 – ERECTION OF GARAGE (IN RETROSPECT) AT 7 CRAIGNENGAR AVENUE, UPHALL

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 (in retrospect) for the erection of garage at 7 Craignengar Avenue, Uphall

B REVIEW DOCUMENTS

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

1. The Notice of Review submitted by the applicant, dated 19 January 2021. This also includes a supporting statement, a copy of the Decision Notice, a copy of the original planning application, a copy of the Handling Report, a location plan and a selection of colour photographs.
2. The Handling Report, prepared by the Planning Case Officer, dated 27 October 2020.
3. The Decision Notice, issued by the Appointed Person, dated 27 October 2020.

No representations to the application have been received.

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

The applicant has stated, in the review application, that they consider that the most appropriate procedure for the handling of the review is the inspection of the land that is subject to the review.

C SITE VISITS

The review application was first been considered by the Local Review Body (LRB) on 10 March 2021. However, the LRB agreed to continue the application to a future meeting to allow all members to participate in a group site visit aided by the Planning Adviser. This has now been made possible

due to the relaxing of Covid-19 restrictions in respect of the number of people who can meet up outdoors. The site visit will take place on 23 June 2021.

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 West Lothian Council's Supplementary Planning Guidance on House Extension and Alteration Design Guide, 2020. A copy of DES1 is attached to this report at Appendix 1 and the House Extension and Alteration Design Guide 2020 can be accessed by clicking [here](#)

The erected garage sits forward of the main building line of the existing property, measures 2.9m x 4.3m, and is 2.45m in overall height. The external materials used for the garage are a pebble dash render and red roof tiles.

The Appointed Person is of the opinion that the external materials do not match those of existing or neighbouring properties, nor do they complement the existing dwelling. The Appointed Person also considers that the location of the garage does not relate to the existing house as garages should not extend to the front of the established building line

The Appointed Person is of the opinion that the erected garage, by virtue of its design and location, appears prominent within the main street and significantly impacts upon the visual amenity of the existing house. The garage sits beyond the main building line of the property and the materials do not integrate with the existing house. The Appointed Person therefore considers that the proposal is contrary to West Lothian Local Plan Policy DES1 (Design Principles) and the guidance given in the House Extension and Alteration Design Guide, 2020.

E PLANNING CONDITIONS, LEGAL AGREEMENTS AND GOOD NEIGHBOUR AGREEMENTS

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

Wendy Richardson, Senior Solicitor, West Lothian Civic Centre

Email address - wendy.richardson@westlothian.gov.uk

Date: 23 June 2021

POLICY DES 1

Design Principles

All development proposals will require to take account of and be integrated with the local context and built form. Development proposals should have no significant adverse impacts on the local community and where appropriate, should include measures to enhance the environment and be high quality in their design.

Development proposals which are poorly designed will not be supported.

When assessing development proposals, the developer will be required to ensure that:

- a. there is no significant adverse impact on adjacent buildings or streetscape in terms of layout, scale, massing, design, external materials or amenity;
- b. there is no significant adverse impact on landscape character, built heritage, habitats or species including European sites, biodiversity and Protected Species nor on amenity as a result of light, noise, odours, dust or particulates;
- c. the proposed development is accessible for all, provides suitable access and parking, encourages active travel and has no adverse implications for public safety;
- d. the proposal includes appropriate integrated and accessible infrastructure, open space, green infrastructure and landscaping;
- e. sustainability issues are addressed through energy efficient design, layout, site orientation and building practices;
- f. the development does not result in any significant adverse impact on the water environment as required by the Water Framework Directive and related regulations and as appropriate, mitigation to minimise any adverse effects is provided;
- g. there are no significant adverse effects on air quality (particularly in and around Air Quality Management Areas), or on water or soil quality and, as appropriate, mitigation to minimise any adverse effects is provided; and
- h. risks to new development from unstable land resulting from past mining activities are fully assessed and, where necessary, mitigated prior to development.

Where appropriate, developers will be required to produce masterplans, design statements and design guides in support of their proposals.

Development proposals must also accord with other relevant policies and proposals in the development plan and with appropriate supplementary guidance.



The Scottish Government

Planning and Environmental Appeals Division

Planning and Environmental Appeals Division

Appeals cannot be validated until all the necessary documentation has been submitted.

Thank you for completing this appeal form:

ONLINE REFERENCE 100297064-002

The online reference is the unique reference for your online form only. The Planning and Environmental Appeals Division will allocate an Appeal Number when your form is validated. Please quote this reference if you need to contact the Planning and Environmental Appeals Division about this appeal.

Appellant or Agent Details

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

☒ Appellant ☐ Agent

Appellant Details

Please enter Appellant 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="Duncan"/>	Building Number:	<input type="text" value="7"/>
Last Name: *	<input type="text" value="Howard"/>	Address 1 (Street): *	<input type="text" value="Craigengar Avenue"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text" value="Uphall"/>
Telephone Number: *	<input type="text" value=""/>	Town/City: *	<input type="text" value="Broxburn"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="EH52 5SQ"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value=""/>		

Site Address Details

Planning Authority:

West Lothian Council

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

Address 1:

7 CRAIGENGAR AVENUE

Address 2:

UPHALL

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

BROXBURN

Post Code:

EH52 5SQ

Please identify/describe the location of the site or sites

Northing

671660

Easting

306562

Description of Proposal

Please provide a description of your proposal. 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 original application was a request for retrospective planning permission following the erection of a concrete panel garage in the existing front garden of the property.

Type of Application

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

- ☒ Application for Planning Permission (including householder application – excluding application to work minerals).
- ☐ Application for Certificate of Lawfulness.
- ☐ Application for Listed Building Consent.
- ☐ Application for Conservation Area Consent.
- ☐ Application for Advertisement Consent.
- ☐ Application for Prior Approval.
- ☐ Application for Tree Works Consent.
- ☐ Application for Certificate of Appropriate Alternative Development.
- ☐ Application for Planning Permission to work minerals.

What type of planning application was submitted to the planning authority? *

- ☒ Application for Planning Permission.
- ☐ Application for Planning Permission in principle.
- ☐ A Further Application (including renewal of planning permission, modification, variation or removal of a planning condition etc).
- ☐ Approval of matters specified in conditions.

What type of decision did you receive from the planning authority and are now appealing against? *

- ☒ Refusal Notice.
- ☐ Grant of permission with Conditions imposed.
- ☐ No decision – deemed refusal (NB: This does not apply to Prior Approvals).

Statement of Appeal

You must state in full, why you are appealing against the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider required to be taken into account in determining your appeal: * (Max 500 characters)

Note: you might not 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 will though be entitled to comment on (i) any additional matter which may be raised by the planning authority in its response to your appeal, or (ii) any representations the Scottish Government might receive from any other person or body.

Our main point of appeal relates to the refusal on grounds of location as we are aware of a local instance where planning permission has been agreed for a garage/outbuilding that is fully in front of the main building line. We therefore feel the decision that has been made is unfair, given that there were no local objections or concerns. With regards to the styling we have been working with the authority to address these concerns, and I believe we are close to resolution in this regard.

Have you raised any matters which were not before the planning authority at the time the decision
You are appealing against was made? *

☐ Yes ☒ No

Please provide a list of all documents, materials and evidence which you have provided with your appeal and intend to rely on in support of your appeal, ensuring that all documents are clearly numbered: * (Max 500 characters)

Document 1: 210119 Statement of Appeal - Howard Document 2: Notice of Refusal Document 3: Copy of original planning application Document 4: Original submitted plans Document 5: Authority Handling Report

Are you providing a separate statement of your Grounds of Appeal? *

☒ Yes ☐ No

If Yes then please be prepared to upload this when you reach the end of the form.

Application Details

Please provide details of the application and decision.

What is the application reference number? *

0722/H/20

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

26/08/2020

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

27/10/2020

Appeals Procedure

The person appointed to determine your appeal will decide upon the procedure to be used. However you should indicate what procedure you think is the most appropriate for the handling of the appeal.

Can this appeal continue to a conclusion in your opinion, based on a review of the relevant information provided by yourself and other parties without any further procedures? *

☐ 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 *

Inspection of the land subject of the appeal. (Further details below are not required)

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)

This will address the element regarding the inappropriate recommended location of the garage as suggested by the planning authority.

In the event that the Scottish Government Reporter appointed to consider your appeal decides to inspect the appeal site, in your opinion:

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

☒ Yes ☐ No

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

☒ Yes ☐ No

If there are reasons why you think the Reporter would be unable to access and view the appeal site alone, please explain here. (Max 500 characters)

There is a gate to the side of the property that is generally locked - however given notice this can be left open.

Other Appeals Submitted Details

Have you or anyone else made any other related appeals to Scottish Ministers regarding this building and/or Site? ☐ Yes ☒ No

Checklist – Appeal Against Planning Authority Decision Or Failure of Planning Authority To Give Decision

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. The Planning and Environmental Appeals Division cannot start processing your appeal until it is valid.

Are you submitting a supplementary statement with your grounds of appeal? *

☒ Yes ☐ No

If the appeal concerns approval of matters specified in conditions, or a Further Application to vary conditions – please attach a copy of the application, approved plans and decision notice from that earlier consent. *

☐ Submitted ☒ Not Applicable

Copy of Plans/Drawing *

☒ Yes ☐ No

Copy of planning authority decision notice (if no decision then this is deemed as a refusal). *

☒ Yes ☐ No ☐ No decision

A copy of original application form and if applicable include certificates relating to land ownership. *

☒ Yes ☐ No

Other documents, materials and evidence which you intend to rely on. *

☐ Yes ☒ No

The Report of Handling prepared by the planning authority in respect of your application, where one exists. *

☒ Yes ☐ No

Declare – Appeals against Refusals and other decisions

I/We the applicant/agent certify that this is an appeal to Scottish Ministers on the grounds stated.

Declaration Name: Mr Duncan Howard

Declaration Date: 19/01/2021

Document 1: 210119 Statement of Appeal – Howard

The initial decision notification and subsequent correspondence with the Planning Department raised two specific issues:

- 1) The external style and
- 2) The location of the garage.

Regarding point 1) We have tried to work with the planning authority to address the issues raised, specifically:

- a) External rendering - I believe we have come to an agreement in this regard. With suggested changes to the external render styling to be implemented, subject to the result of this appeal, and as soon as practically possible following the end of the current lockdown.
- b) Roofing Materials – The request was for the roof tiles to be changed to match the existing property. Through correspondence I explained they were of similar colour and the main property are simply aged, this has not been mentioned further, so I assume it to be resolved.

Regarding point 2) This is main point and purpose of this appeal. The decision notice states the position of the garage is a breach of planning as it extends beyond the building line of the main property. Through lengthy correspondence with the case-officer it appears that it is a breach of planning guidelines rather than breach of specific policy – though despite repeated queries this remains unclear as do the factors that are taken in to account when building location is being considered.

As background, the original planning application was retrospective, as it was believed the garage was covered by 'permitted development' rules. The location was chosen to make best use of the available space, ensure the garage has practical value, and to minimise impact on neighbouring properties/footpaths.

Our correspondence with the case officer suggests the main concern is that it extends beyond the main building line (approx. 70cm at one corner), with a secondary concern that it is not parallel to the main property. The suggestion from the planning officer is to move the garage behind the main building line and parallel to the main property. Following this advice in the available space would inevitably mean the garage is closer to neighbouring properties, exiting the garage at best would potentially encroach a public footpath, and at worst would be prevented, due to an adjacent streetlamp.

In terms of the impact on surrounding properties, we would consider soft landscaping to hide the garage, though we have had nothing but positive feedback from our neighbours, and feel it is worth noting that no objections were received to the original planning. It seems those experiencing the garage daily are happy or at least net neutral, and we are stuck on a planning guideline that could be considered to be subjective.

As I am aware of a property within 5 minutes' walk of my own home that has a garage fully in front of the main building line for which planning permission was granted I find the refusal of my planning request somewhat disappointing, and hope this appeal will be upheld.

We are appealing against the decision as



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 0722/H/20

PROPOSAL Erection of garage (in retrospect)

LOCATION 7 Craigengar Avenue, Uphall, West Lothian, EH52 5SQ, (GRID REF: 306562, 671660)

APPLICANT Mr Duncan Howard, 7 Craigengar Avenue, Uphall, West Lothian, EH52 5SQ

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

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

Dated:
27.10.2020

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 0722/H/20, for the reason(s) set out as follows:

- 1 The erected garage, by virtue of its design and location, will appear prominent within the main street and significantly impacts upon the visual amenity of the existing house. The garage sits beyond the main building line of the property and the materials do not integrate with the existing house. This proposal is therefore contrary to West Lothian Local Development Plan Policy DES1 (Design Principles) and the guidance given in the House Extension and Alteration Design Guide, 2020. It is recommended that the application is refused planning permission.

ADVISORY NOTES TO DEVELOPER

How to challenge the council's Decision

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

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

Notification of the start of development

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

Notification of completion of development

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

Contaminated land procedures

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

Liaison with the Coal Authority

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

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

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

Advisory note to developer - General

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

Annex 1, Schedule of Plans - 0722/H/20

Docquetted Number	Drawing Description	Drawing Number
1	Location Plan	-
2	Site Plan	-
3	Photograph	-
4	Photograph	-
5	Photograph	-
6	Photograph	-



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 100297064-001

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.

Description of Proposal

Please describe accurately the work proposed: * (Max 500 characters)

Lay a concrete foundation pad and erect a single story concrete sectional garage in the existing front/side garden of the property.

Has the work already been started and/ or completed? *

☐ No ☐ Yes - Started ☒ Yes – Completed

Please state date of completion, or if not completed, the start date (dd/mm/yyyy): *

13/08/2020

Please explain why work has taken place in advance of making this application: *
(Max 500 characters)

Following an informal enquiry with West Lothian Council, and looking at the Council website, I believed this development was allowed under the 'Permitted Development' rules. It was only following an enquiry from the Planning Enforcement Team that I became aware that Planning permission was required.

Applicant or Agent Details

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

☒ Applicant ☐ Agent

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *
Other Title:	<input type="text"/>	Building Name: <input type="text"/>
First Name: *	<input type="text" value="Duncan"/>	Building Number: <input type="text" value="7"/>
Last Name: *	<input type="text" value="Howard"/>	Address 1 (Street): * <input type="text" value="Craigengar Avenue"/>
Company/Organisation	<input type="text"/>	Address 2: <input type="text" value="Uphall"/>
Telephone Number: *	<input type="text" value=""/>	Town/City: * <input type="text" value="Broxburn"/>
Extension Number:	<input type="text"/>	Country: * <input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: * <input type="text" value="EH52 5SQ"/>
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" value="7 CRAIGENGAR AVENUE"/>
Address 2:	<input type="text" value="UPHALL"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="BROXBURN"/>
Post Code:	<input type="text" value="EH52 5SQ"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="671660"/>	Easting	<input type="text" value="306562"/>
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Pre-Application Discussion

Have you discussed your proposal with the planning authority? *

☐ Yes ☒ No

Trees

Are there any trees on or adjacent to the application site? *

☒ Yes ☐ No

If yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.

Access and Parking

Are you proposing a new or altered vehicle access to or from a public road? *

☐ Yes ☒ No

If yes, please describe and show on your drawings the position of any existing, altered or new access points, highlighting the changes you proposed to make. You should also show existing footpaths and note if there will be any impact on these.

Planning Service Employee/Elected Member Interest

Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? *

☐ Yes ☒ No

Certificates and Notices

CERTIFICATE AND NOTICE UNDER REGULATION 15 – TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATION 2013

One Certificate must be completed and submitted along with the application form. This is most usually Certificate A, Form 1, Certificate B, Certificate C or Certificate E.

Are you/the applicant the sole owner of ALL the land? *

☒ Yes ☐ No

Is any of the land part of an agricultural holding? *

☐ Yes ☒ No

Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate A

Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Certificate A

I hereby certify that –

(1) - No person other than myself/the applicant was an owner (Any person who, in respect of any part of the land, is the owner or is the lessee under a lease thereof of which not less than 7 years remain unexpired.) of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application.

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding

Signed: Mr Duncan Howard

On behalf of:

Date: 22/08/2020

☒ Please tick here to certify this Certificate. *

Checklist – Application for Householder Application

Please take a few moments to complete the following checklist in order to ensure that you have provided all the necessary information in support of your application. Failure to submit sufficient information with your application may result in your application being deemed invalid. The planning authority will not start processing your application until it is valid.

- a) Have you provided a written description of the development to which it relates? * ☒ Yes ☐ No
- b) Have you provided the postal address of the land to which the development relates, or if the land in question has no postal address, a description of the location of the land? * ☒ Yes ☐ No
- c) Have you provided the name and address of the applicant and, where an agent is acting on behalf of the applicant, the name and address of that agent? * ☒ Yes ☐ No
- d) Have you provided a location plan sufficient to identify the land to which it relates showing the situation of the land in relation to the locality and in particular in relation to neighbouring land? *. This should have a north point and be drawn to an identified scale. ☒ Yes ☐ No
- e) Have you provided a certificate of ownership? * ☒ Yes ☐ No
- f) Have you provided the fee payable under the Fees Regulations? * ☒ Yes ☐ No
- g) Have you provided any other plans as necessary? * ☒ Yes ☐ No

Continued on the next page

A copy of the other plans and drawings or information necessary to describe the proposals (two must be selected). *

You can attach these electronic documents later in the process.

- ☐ Existing and Proposed elevations.
- ☐ Existing and proposed floor plans.
- ☐ Cross sections.
- ☒ Site layout plan/Block plans (including access).
- ☐ Roof plan.
- ☒ Photographs and/or photomontages.

Additional Surveys – for example a tree survey or habitat survey may be needed. In some instances you may need to submit a survey about the structural condition of the existing house or outbuilding. ☐ Yes ☒ No

A Supporting Statement – you may wish to provide additional background information or justification for your Proposal. This can be helpful and you should provide this in a single statement. This can be combined with a Design Statement if required. * ☐ Yes ☒ No

You must submit a fee with your application. Your application will not be able to be validated until the appropriate fee has been Received by the planning authority.

Declare – For Householder Application

I, the applicant/agent certify that this is an application for planning permission as described in this form and the accompanying Plans/drawings and additional information.

Declaration Name: Mr Duncan Howard

Declaration Date: 25/08/2020

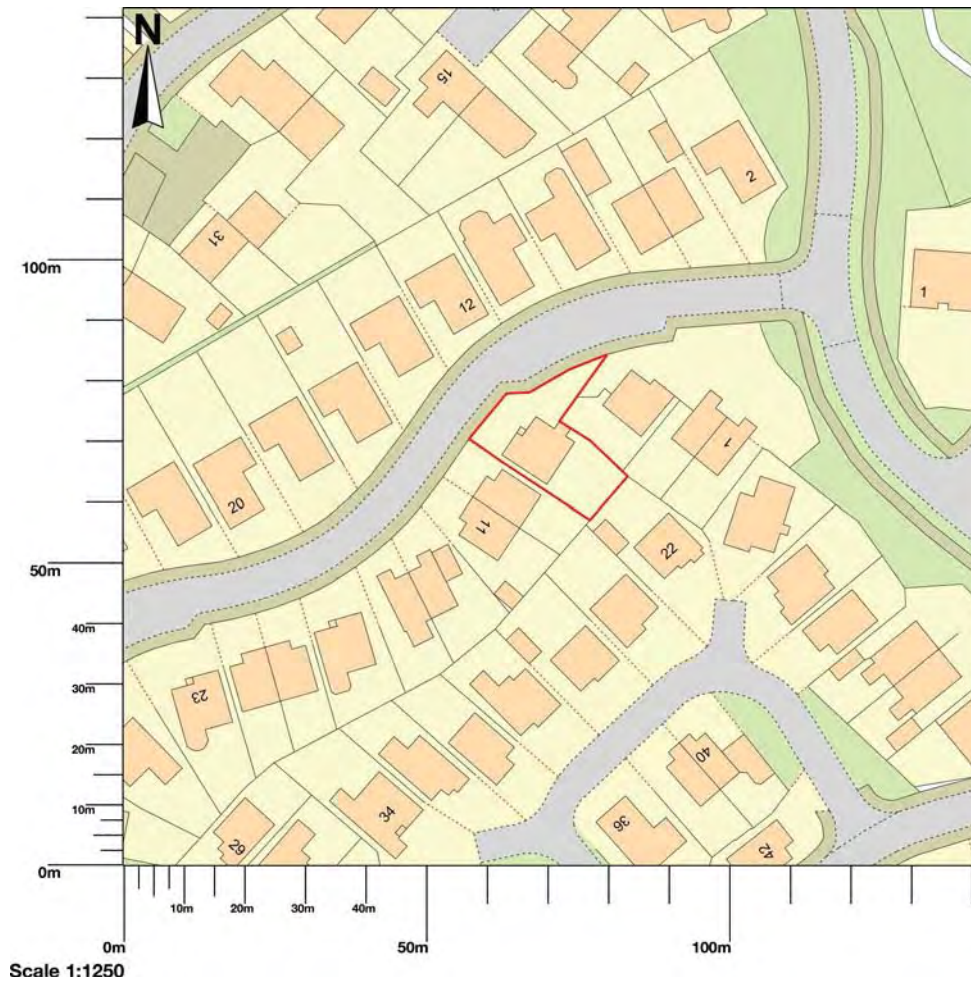
Payment Details

Online payment: 017350

Payment date: 25/08/2020 20:07:00

Created: 25/08/2020 20:07

7 Craigengar Avenue, Uphall, Broxburn, EH52 5SQ

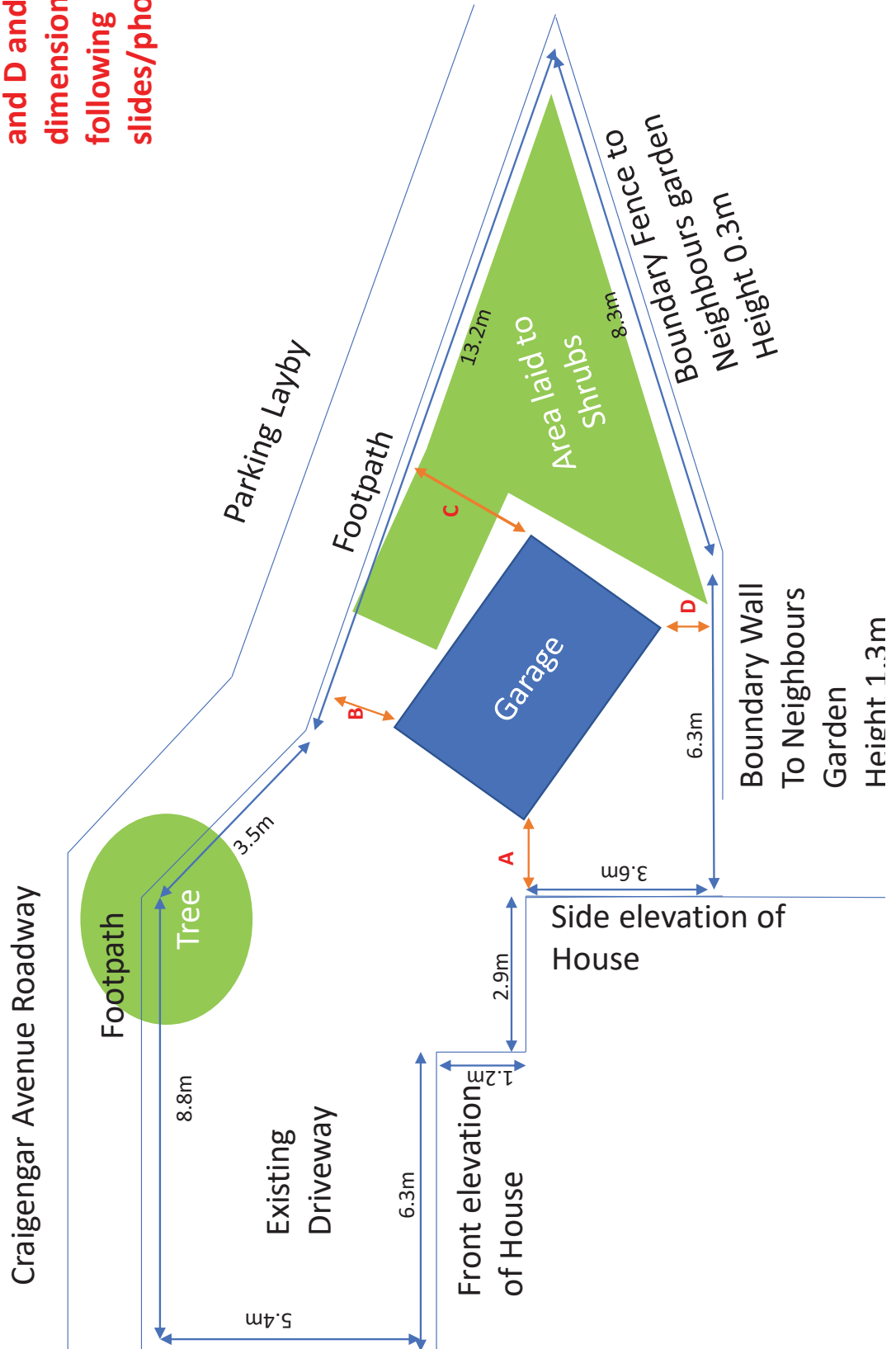


Map area bounded by: 306493,671592 306635,671734. Produced on 22 August 2020 from the OS National Geographic Database. Reproduction in whole or part is prohibited without the prior permission of Ordnance Survey. © Crown copyright 2020. Supplied by UKPlanningMaps.com a licensed OS partner (100054135). Unique plan reference: p2buk/497523/674595

Site Map of Location of Garage @ 7 Craigengar Avenue

NB: Not to Scale

For distances A,B,C,
and D and other
dimensions see
following
slides/photos.



- Distance from House: A = 1.25m
- Garage width: E = 2.9m





Distance from front elevation to boundary: B = 0.85m

Distance from rear elevation to boundary: C = 1.9m

Height to eaves lowest point: F = 2.1m

Height to eaves highest point: G = 2.45m

- Distance from rear elevation to boundary wall: $D = 0.6\text{m}$
- Garage length: $H = 4.3\text{m}$
- Height of existing wall: $I = 1.3\text{m}$



- Height of rear elevation from ground level: J = 2.35m





DATA LABEL: PUBLIC

HANDLING REPORT

Ref. No.:	0722/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	Erection of garage (in retrospect)(Grid Ref: 306562,671660) at 7 Craigengar Avenue,Uphall,West Lothian,EH52 5SQ		
Application Type	Local Application		
Decision Level	Delegated List		
Site Visit	(Photo's submitted)		
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

Erection of garage (in retrospect).

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 permission for a retrospective garage at the property 7 Craigengar Avenue, Uphall. The proposed garage sits forward of the main building line of the existing property and measures 2.9m x 4.3m and is 2.45m in overall height. The external materials which have been used for the garage are a pebble dash render and brick red roof tiles which do not match the external materials of the existing or neighbouring properties. West Lothian Council's House Extension and Alteration Design Guide states that developments should not generally project in front of the principal elevation of the existing building and that external materials and finishes should normally match those of the existing building. Where other materials are proposed, they should compliment the existing dwelling. The materials used do not compliment the existing dwelling and the retrospective garage significantly impacts upon the visual amenity of the street scene and does not integrate with the surroundings. In addition, the location of the garage does not relate to the existing house. Garages should not extend in front of the established building line.

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 Plan	-
2	Site Plan	-
3	Photograph	-
4	Photograph	-
5	Photograph	-
6	Photograph	-

Other relevant documents:

West Lothian Local Development Plan, 2018;

Case Officer – Rachael Lyaal

Date – 27/10/2020



DECISION NOTICE REFUSAL OF PLANNING PERMISSION

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

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

APPLICATION REFERENCE 0722/H/20

PROPOSAL Erection of garage (in retrospect)

LOCATION 7 Craigengar Avenue, Uphall, West Lothian, EH52 5SQ, (GRID REF: 306562, 671660)

APPLICANT Mr Duncan Howard, 7 Craigengar Avenue, Uphall, West Lothian, EH52 5SQ

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

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

Dated:
27.10.2020

Craig McCorriston
Head of Planning, Economic Development and Regeneration

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

Signature:

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

DATA LABEL: PUBLIC

The council in exercise of its powers under the Town and Country Planning (Scotland) Act 1997 (as amended) refuses planning permission for planning application 0722/H/20, for the reason(s) set out as follows:

- 1 The erected garage, by virtue of its design and location, will appear prominent within the main street and significantly impacts upon the visual amenity of the existing house. The garage sits beyond the main building line of the property and the materials do not integrate with the existing house. This proposal is therefore contrary to West Lothian Local Development Plan Policy DES1 (Design Principles) and the guidance given in the House Extension and Alteration Design Guide, 2020. It is recommended that the application is refused planning permission.

ADVISORY NOTES TO DEVELOPER

How to challenge the council's Decision

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

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

Notification of the start of development

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

Notification of completion of development

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

Contaminated land procedures

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

Liaison with the Coal Authority

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

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

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

Advisory note to developer - General

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

Annex 1, Schedule of Plans - 0722/H/20

Docquetted Number	Drawing Description	Drawing Number
1	Location Plan	-
2	Site Plan	-
3	Photograph	-
4	Photograph	-
5	Photograph	-
6	Photograph	-



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

Our Ref: 0722/H/20
Direct Dial No: 01506 281110
Email: rachael.lyall@westlothian.gov.uk
27 January 2021
Tel: 01506 280000

Draft Justification and Conditions:

This permission is granted subject to the following conditions: -

1. Within four (4) weeks of the decision, full details and samples of the materials to be used as external finishes on the garage shall be submitted to and approved by the planning authority, and the development shall be carried out strictly using those approved materials.

Reason: In the interest of visual amenity.

2. Within six (6) months, the garage shall be implemented in accordance with the details as approved in condition 1.

Reason: In the interest of visual amenity and planning control.

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>

**LOCAL REVIEW BODY****APPLICATION NO.1136/H/20 – FIRST FLOOR EXTENSION TO HOUSE WITH ALTERATIONS TO WINDOWS AT MALLARDS, WINCHBURGH, 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 a first-floor extension to house with alterations to windows at the Mallards, Winchburgh.

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 14 February 2021. This also includes a supporting statement, a selection of colour photographs, side and front elevations, location plans and proposed layout floor plan.
2. The Handling Report, prepared by the Planning Case Officer, dated 8 February 2021.
3. The Decision Notice, issued by the Appointed Person, dated 8 February 2021.

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 by conducting a site visit.

C SITE VISITS

The review application was first been considered by the Local Review Body (LRB) on 10 March 2021. However, the LRB agreed to continue the application to a future meeting to allow all members to participate in a group site visit aided by the Planning Adviser. This has now been made possible

due to the relaxing of Covid-19 restrictions in respect of the number of people who can meet up outdoors. The site visit will take place on 23 June 2021.

D DEVELOPMENT PLAN POLICIES AND PLANNING GUIDANCE

The application for planning permission was assessed by the Appointed Person in terms of Local Development Plan Policy DES1 (Design Principles) and West Lothian Council's Supplementary Planning Guidance on House Extension and Alteration Design, 2020. A copy of DES1 is attached to this report at Appendix 1 and the House Extension and Alteration Design Guide 2020 can be accessed by clicking [here](#)

The Appointed Person noted that the first-floor extension is to be erected on the east side of the existing property and its to measure 7.780m x 8.215m, and be 6.151m in overall height from ground level to the ridgeline of the proposed roof. The ridgeline of the proposed extension is to sit higher than the ridgeline of the existing property. West Lothian Council's House Extension and Alteration Design Guide states that the "two storey side extensions in particular must be designed to be subsidiary in appearance to the main house. The ridge line of the extension should normally be lower than the ridge of the roof of the main house".

The Appointed Person considered that the proposal, by virtue of its overall height and scale, would have a significant detrimental impact on the visual amenity of the existing property and its ridgeline will not allow for the works to appear subsidiary to the main house. The proposal is therefore contrary to policy DES1 (Design Principles) of West Lothian Councils adopted Local Development Plan and West Lothian Council's House Extension and Alteration Guidelines, 2020.

E PLANNING CONDITIONS, LEGAL AGREEMENTS AND GOOD NEIGHBOUR AGREEMENTS

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

Lesley Montague, Managing Solicitor, West Lothian Civic Centre

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

Date: 10 March 2021

POLICY DES 1

Design Principles

All development proposals will require to take account of and be integrated with the local context and built form. Development proposals should have no significant adverse impacts on the local community and where appropriate, should include measures to enhance the environment and be high quality in their design.

Development proposals which are poorly designed will not be supported.

When assessing development proposals, the developer will be required to ensure that:

- a. there is no significant adverse impact on adjacent buildings or streetscape in terms of layout, scale, massing, design, external materials or amenity;
- b. there is no significant adverse impact on landscape character, built heritage, habitats or species including European sites, biodiversity and Protected Species nor on amenity as a result of light, noise, odours, dust or particulates;
- c. the proposed development is accessible for all, provides suitable access and parking, encourages active travel and has no adverse implications for public safety;
- d. the proposal includes appropriate integrated and accessible infrastructure, open space, green infrastructure and landscaping;
- e. sustainability issues are addressed through energy efficient design, layout, site orientation and building practices;
- f. the development does not result in any significant adverse impact on the water environment as required by the Water Framework Directive and related regulations and as appropriate, mitigation to minimise any adverse effects is provided;
- g. there are no significant adverse effects on air quality (particularly in and around Air Quality Management Areas), or on water or soil quality and, as appropriate, mitigation to minimise any adverse effects is provided; and
- h. risks to new development from unstable land resulting from past mining activities are fully assessed and, where necessary, mitigated prior to development.

Where appropriate, developers will be required to produce masterplans, design statements and design guides in support of their proposals.

Development proposals must also accord with other relevant policies and proposals in the development plan and with appropriate supplementary guidance.

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>Mrs Gina Finch</u> Address <u>The Mallards, Glendevon Farm,</u> <u>Winchburgh, West Lothian</u> Postcode <u>EH52 6PX</u> Telephone No. (1) <u>[REDACTED]</u> Telephone No. (2) _____ Fax : _____ E-mail : <u>[REDACTED]</u>	
	REPRESENTATIVE (if any)	Name <u>Gail Halvorsen, Halvorsen Architects</u> Address <u>Mountskip House,</u> <u>Gorebridge, Midlothian</u> Postcode <u>EH23 4NW</u> Telephone No. (1) <u>[REDACTED]</u> Telephone No. (2) _____ Fax : _____ E-mail : <u>[REDACTED]</u>	
	Please tick this box if you wish all contact to be through your representative. <table border="1" style="float: right; margin-left: 20px;"> <tr> <td style="width: 50px; height: 20px; text-align: center;">Yes</td> </tr> </table>		Yes
Yes			
	Do you agree to correspondence regarding your review being sent by e-mail? *YES		

PART B	APPLICANT REF. NO.	1136/H/20
	SITE ADDRESS	The Mallards, Glendevon Farm, Winchburgh, West Lothian EH52 6PX
	DESCRIPTION OF PROPOSED DEVELOPMENT	First floor extension, internal remodelling and alterations to window openings.
	DATE OF APPLICATION	30/11/2020
	DATE OF DECISION NOTICE (IF ANY)	8/2/2021

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

Type of Application (please tick the appropriate box)

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

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

Page 3

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

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.	The Mallards - Reasons for Notice of Review
2.	The Mallards - Appendix A
3.	The Mallards - Appendix B
4.	The Mallards - Appendix B photo key
5.	The Mallards - Appendix C
6.	Location Plan
7.	Block Plan
8.	Ground floor plan
9.	First floor plan
10.	Roof plan
11.	North elevation
12.	South elevation

13. West elevation

14. East elevation

PART D

REVIEW PROCEDURE

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

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

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

Site inspection

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

SITE INSPECTION

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

Can the site be viewed entirely from public land?

*NO

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

* YES

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 Gail Halvorsen Date 14/2/2021

* Delete as appropriate

Please email this completed form to :-

committeeservices@westlothian.gov.uk or alternatively post to :-

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



Reasons for Notice of Review

The Mallards, Glendevon Farm, Winchburgh EH52 6PX

In response to the Handling Report of 8/02/2021

This notice of review has been given in regards to the refusal of an extension to the detached house The Mallards. We do not agree with the planning assistant that the proposed ridge line of the second storey extension should be reduced in height so that it sits below the ridge line of the existing property.

Please note that there are no other contentious issues with this planning application.

Design options

The Mallards is made up of three blocks – the original cottage, the single-storey western block; the central double height block built in 2009 and the single-storey eastern block also built in 2009.

A lot of different design options were considered for extending The Mallards. The proposal submitted was considered the simplest of the options. There were three ways of treating the vertically extended roof of the west end of the house:

1. Reduce the angle of the pitch for the extension roof *;
2. Drop the eaves line of the extension roof;
3. Have a ridge line approximately 600mm above the ridge line of the central block.

* due to the western block being wider than the central block a pitch of the same angle gives a higher roof.

No. 1 was considered unacceptable because the existing roof already has a very shallow pitch of 24 degrees. The pitch would need to be reduced to 16.5 degrees – aesthetically not pleasing and also bad practice for the existing concrete roof tiles.

No. 2 was investigated but we considered the lower eaves line more detrimental to the overall design than the higher ridge. (This is the preferred option of the planning officer). The fairly substantial eaves detail is a very dominant feature of the existing house and we considered that continuing that profile and that line was more important than the height of the ridge.

No. 3 was considered the best option – maintaining the existing eaves line. Due to the unique position of The Mallards the roof is only visible from a few angles due to the large pond to the South, the mature vegetation on most of the other sides, and a slight hill to the North. Typically one

is viewing the roof at an oblique angle, from ground level, and in our opinion the change in ridge line is less noticeable than the change in eaves line.

We have tried to demonstrate the difference between options 2 and 3 with views of a 3-D model of the house. Please refer to Appendix A.

NB this 3-D model was not made for presentational purposes but more to experiment with different volumes for different design options.

The existing attic space is the only storage area in this house, there being no garage or storage rooms/cupboards. If this space is reduced (which it would be with a lower ridge line) additional space would be sought elsewhere for storage and would probably require an additional floor space which we were trying to avoid.

Remoteness of house

We are aware that under the current restrictions site visits are not always possible. We would therefore like to emphasise the remoteness of this property and the fact that it is barely visible from any public place.

The photographs in Appendix B are taken from most positions around the property to demonstrate this. Please also refer to Appendix B photo key - a map showing the positions from which each photograph was taken.

Please note that most of these are taken now, in winter. In summer the foliage makes the property even less visible.

Local precedents

We have also included some examples of properties in the neighbourhood that have varying roof heights. It is our view that having different roof heights for The Mallards does not make the proposal out of keeping with surrounding buildings. It should also be noted that The Mallards has already been extended, and had that argument being used for the first extension, the property would have had to remain a bungalow.

West Lothian Council's House Extension and Alteration Design Guide 2020

Most of the guidelines given in this document assume that the house is near other houses, either in a street or housing estate. Reference is given to 'streetscenes' and 'neighbours' houses'. As has been shown, The Mallards is not in a typical built-up location.

The only reference from the guidelines that the planning assistant has given for grounds for refusal is that "two storey side extensions in particular must be designed to be subsidiary in appearance to the main house. The ridge line of the extension should normally be lower than the ridge of the roof of the main house".

Because of the location of the proposal we do not consider the guidelines relevant in this case and note, even within the guidelines, the wording “should normally be lower”. This is not a normal situation.

Point 2.6 states "The extension should be of a scale that does not dominate the existing property". If one considers the North or South elevations (the principal elevations) the existing frontage is 100m² and the extension adds a further 23 m² (including roofs). In other words this extension increases the area by 23% which we do not consider excessive or dominating the existing property.

Please refer to the comparative ridge line study shown in Appendix C.

Consultations

Please note that there were no consultations, no comments and no objections to this planning application.

Conclusion

The only objection the planning assistant has to the proposed works is the ridge line being 670 mm higher than the guidelines recommend. Mallards is an exceptional case and we believe the guidelines are not relevant in this particular case.

PHOTOMONTAGES



EXISTING VIEW OF HOUSE FROM NORTH-EAST



PHOTOMONTAGE WITH EXTENSION



EXISTING VIEW OF HOUSE FROM SOUTH-WEST



PHOTOMONTAGE WITH EXTENSION

Examples of neighbouring roofs

These houses, the nearest in sight of The Mallards, also have varying and random roof heights.



HOUSES ON GLENDEVON FARM ROAD (OVERLOOKING POND) WITH VARYING RIDGE LINES



GLENDEVON FARMHOUSE HAS A RANDOM SELECTION OF ROOF HEIGHTS ADDED AT VARIOUS TIMES



Appendix A

The Mallards Notice of Review

Existing eaves details



The existing eaves are visually a very prominent part of the design of the house. Aligning the proposed eaves with these is considered more important than aligning the roof.





HIGHER PROPOSED ROOF FROM SOUTH-WEST

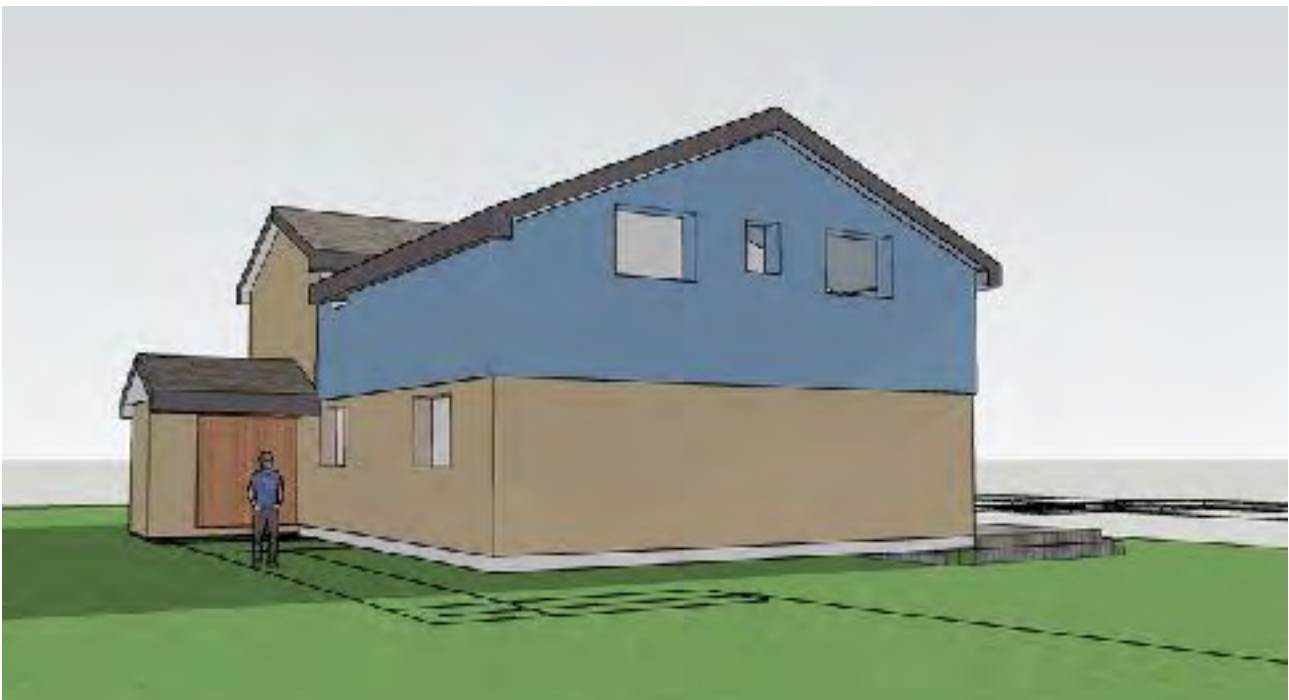


LOWER ROOF FROM SOUTH-WEST

The second image shows the roof as requested by the planning officer. From all near ground level positions the difference in the ridge line is barely noticeable, whereas the change in eaves line is more prominent.

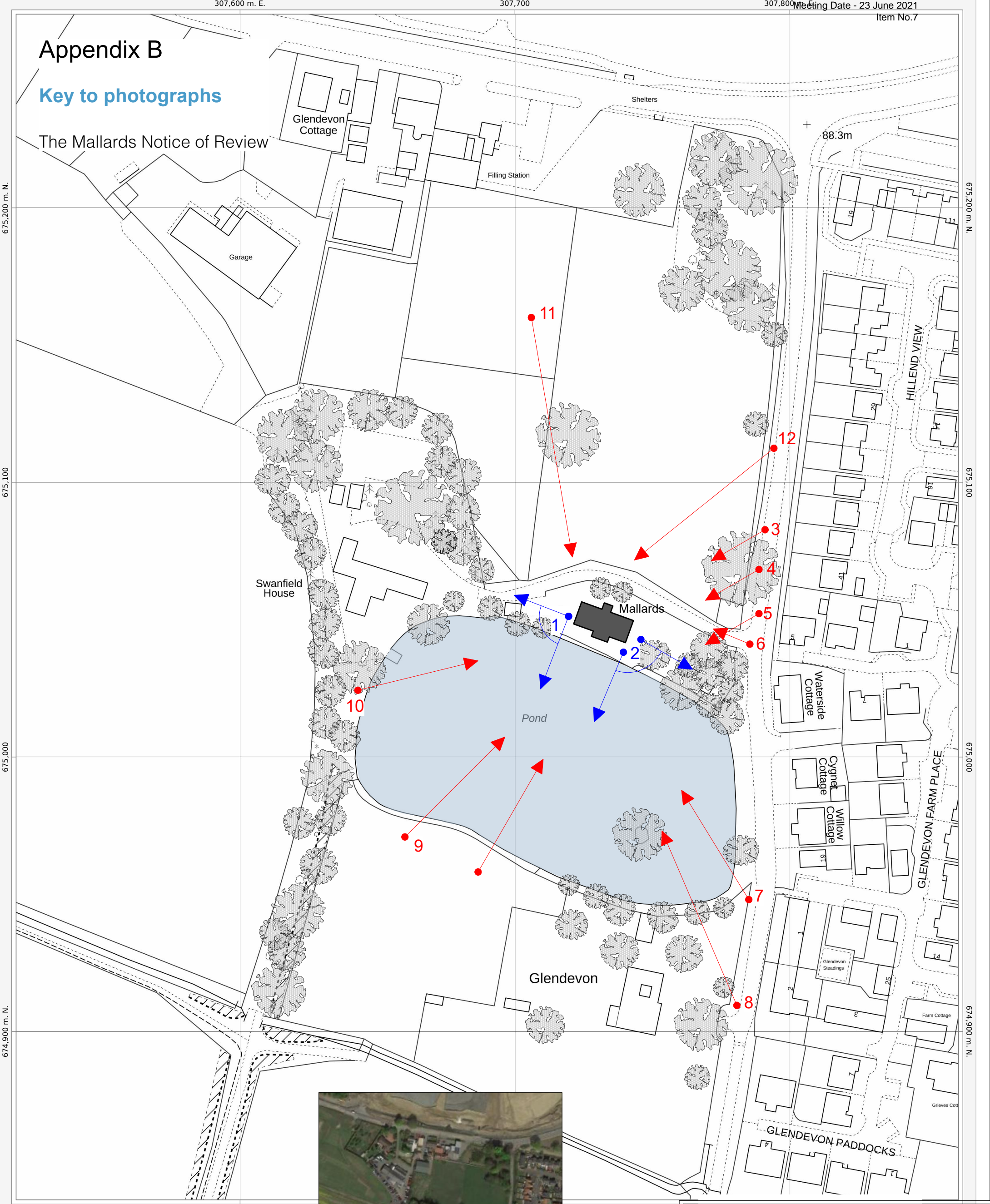


HIGHER PROPOSED ROOF FROM NORTH-WEST



LOWER ROOF FROM NORTH-WEST

Again the second image shows the roof as requested by the planning officer. The difference in the ridge line is barely noticeable, whereas the change in eaves line is more prominent.



0 m 10 20 30 40 50 60 70 80 m

0 ft 50 100 150 200 250 ft

Halvorsen architects

t: [redacted]
e: [redacted]rchitects.co.uk
www.halvorsen-architects.co.uk

Project: MALLARDS, GLENDEVON FARM			
Drawing: KEY PLAN FOR PHOTOS			
Drawing No: MALL 011	Revision: -	Date: 10/2/21	Scale: 1:2500@ A3



Appendix B

The Mallards Notice of Review

Outward looking photographs from The Mallards



PHOTO 1: PANORAMIC VIEW FROM THE MALLARDS FROM THE WEST TO THE SOUTH



PHOTO 2: PANORAMIC VIEW FROM THE MALLARDS FROM SOUTH TO EAST

PHOTOGRAPHS TOWARDS THE MALLARDS



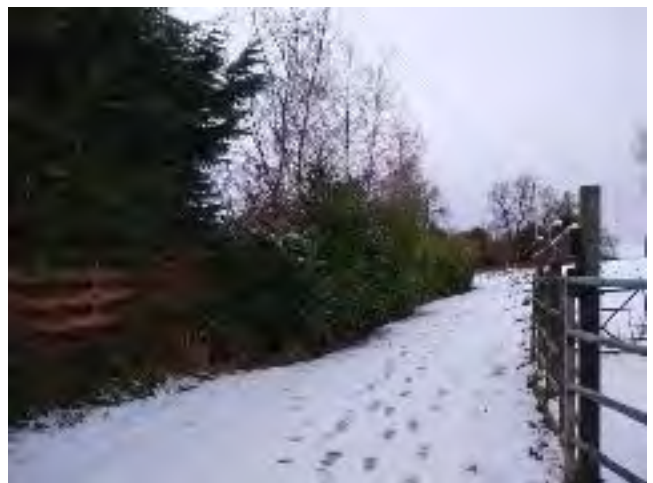
3



4



5



6

PHOTOS 3-6

THIS SERIES OF PHOTOGRAPHS SHOWS THE VIEW AS YOU HEAD SOUTH DOWN THE MAIN GLENDEVON FARM ROAD. IT IS NOT POSSIBLE TO SEE THE MALLARDS FROM THIS DIRECTION.

The Mallards is hidden
from view most of the year



PHOTO 7 (MARCH-OCTOBER)

**THE MALLARDS FROM THE APPROACH ROAD, GLENDEVON FARM ROAD, FROM THE SOUTH-EAST
NB THIS IS THE ONLY PUBLIC PLACE FROM WHICH THE MALLARDS IS PARTIALLY VISIBLE -
IN WINTER ONLY**



PHOTO 7 (WINTER)

NB THE ONLY TIME THE MALLARDS IS VISIBLE FROM A PUBLIC PLACE

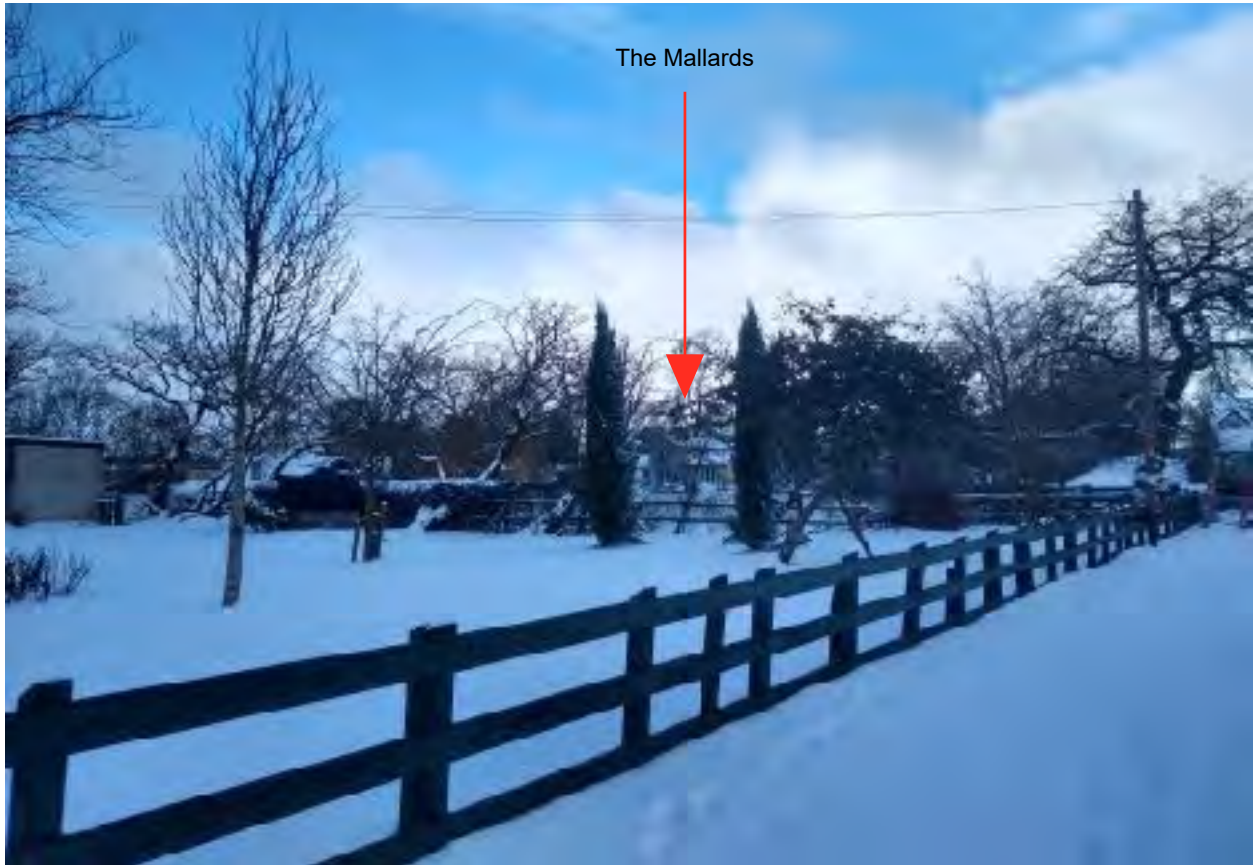


PHOTO 8

**VIEW FROM FUTHER DOWN GLENDEVON FARM ROAD
THE MALLARDS IS ONLY VISIBLE IN WINTER**



PHOTO 9

VIEW FROM PRIVATE FIELD

The Mallards



PHOTO 10

**VIEW FROM OLD RAILWAY LINE TO THE WEST OF POND WHICH IS SELDOM USED, EXCEPT BY
SWANFIELD HOUSE**



PHOTO 11

**VIEW FROM PRIVATE FIELD
THE MALLARDS IS HIDDEN FROM THE NORTH BY A LOW HILL**



PHOTO 12

**VIEW FROM THE NORTHEAST
THE MALLARDS CAN ONLY BE SEEN AT A DISTANCE AT AN OBLIQUE ANGLE**

Comparative ridge height study

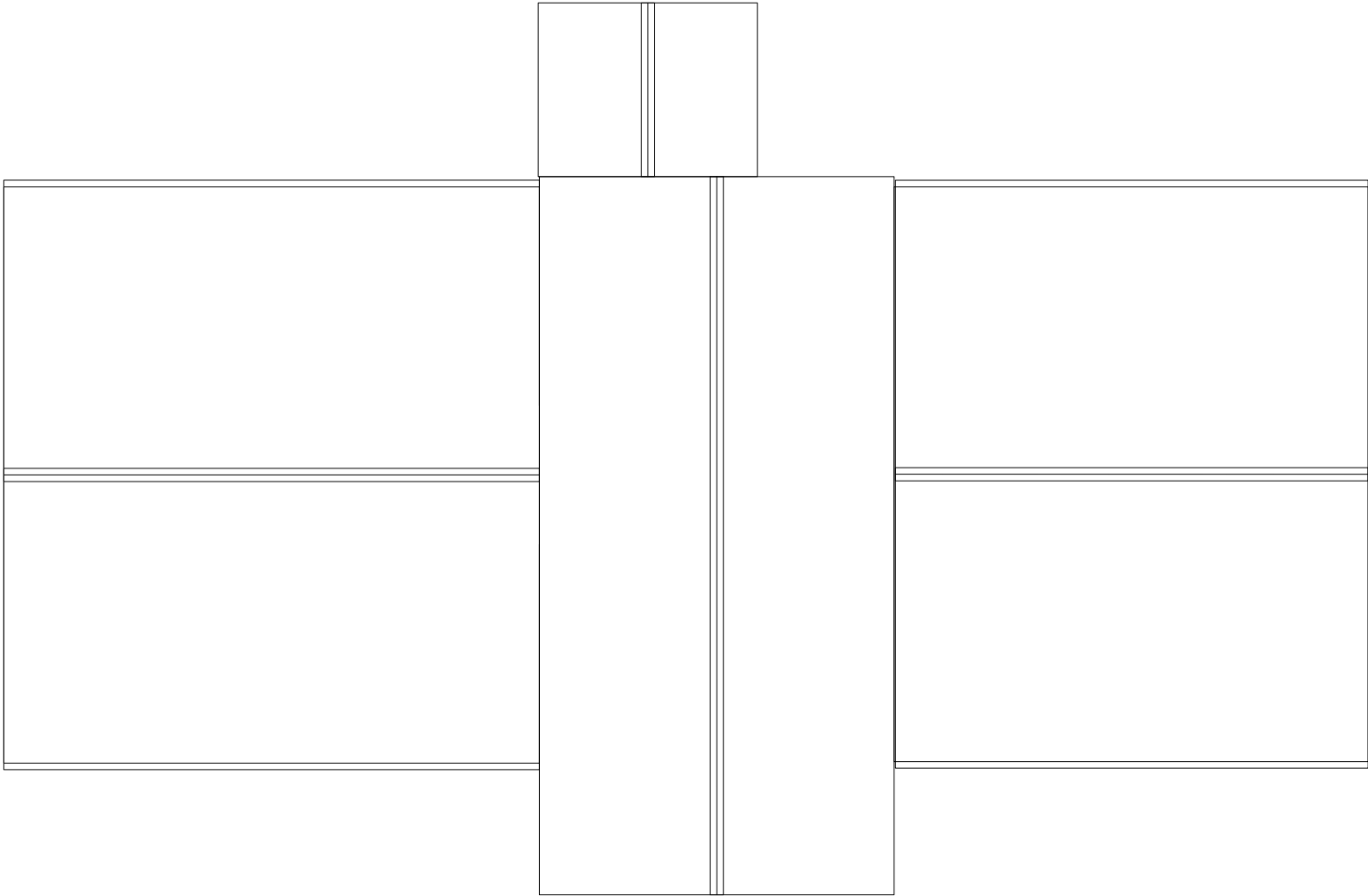
View towards The Mallards from opposite side of pond.
Ridges of The Mallards and all surrounding houses - Swanfield House and along Glendevon Farm road - shown in red for clarity



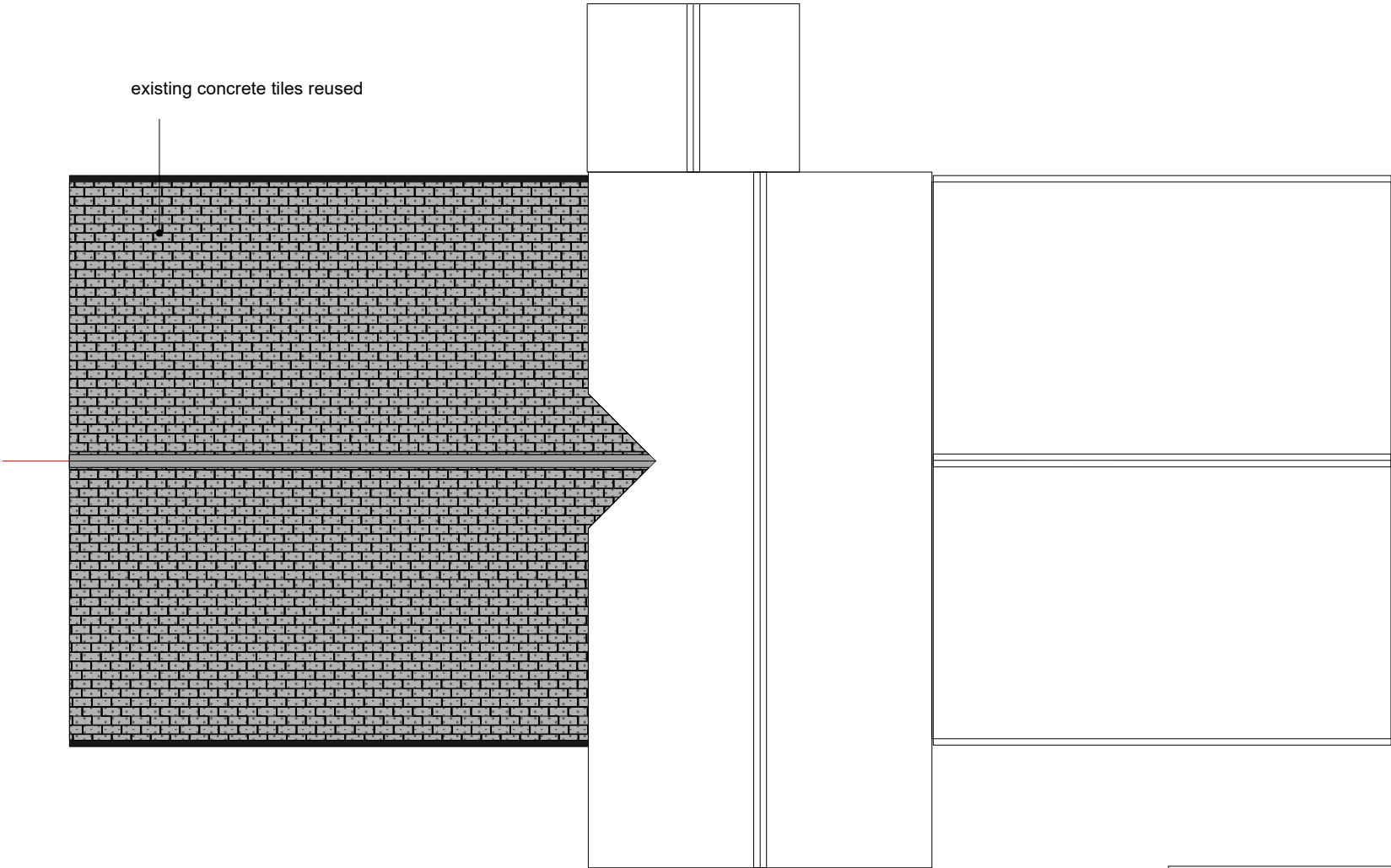
WITH PROPOSED EXTENSION



AS EXISTING



EXISTING ROOF



PROPOSED ROOF



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www.halvorsen-architects.co.uk

Project: MALLARDS, GLENDEVON FARM			
Drawing: ROOF PLANS			
Drawing No: MALL105	Revision: -	Date: 19/10/20	Scale: 1:100 @ A3

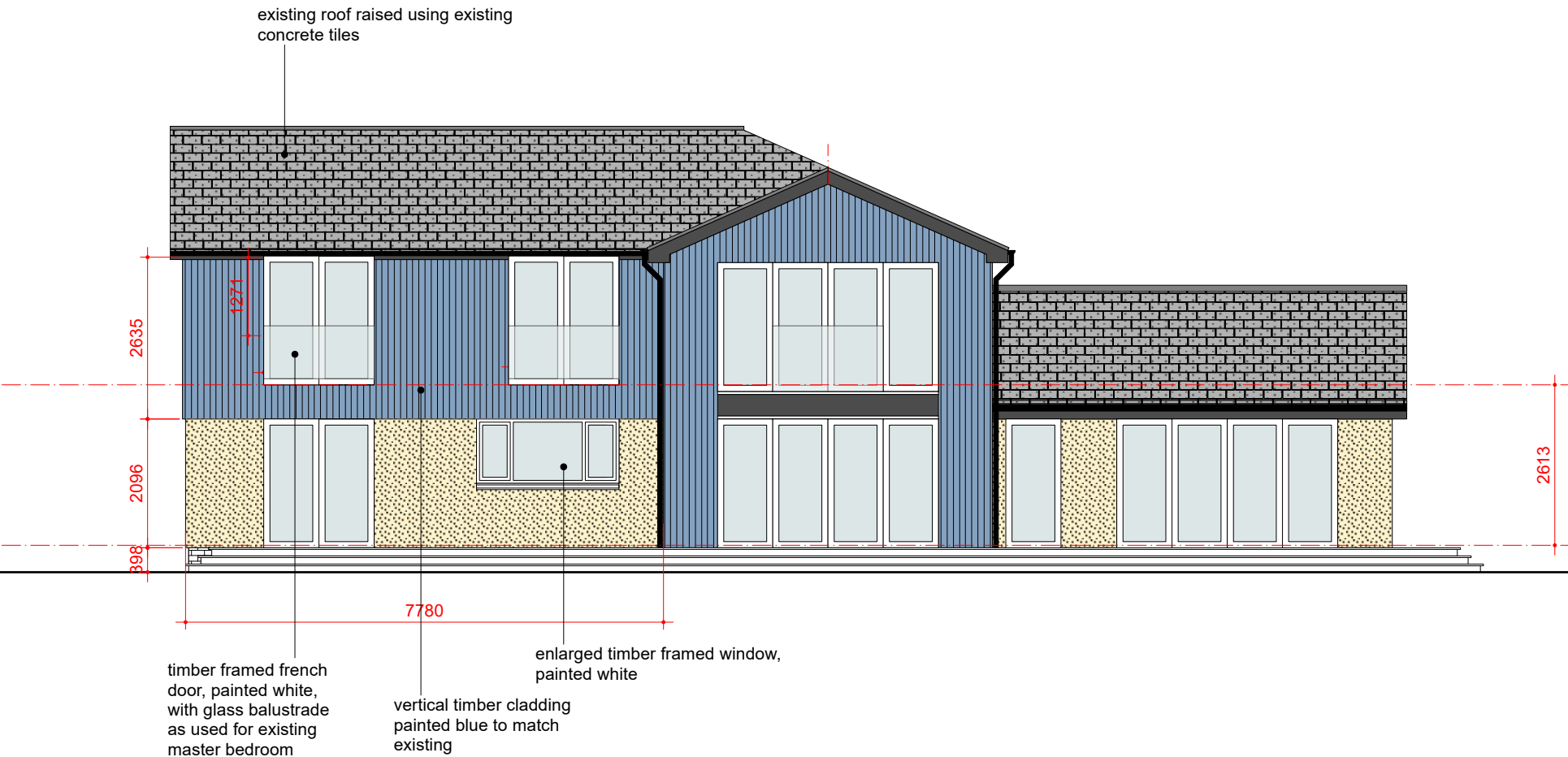


EXISTING SOUTH ELEVATION

off-white self-coloured render

timber framed french door, painted white, with glass balustrade

vertical timber cladding painted blue




PROPOSED SOUTH ELEVATION

existing roof raised using existing concrete tiles

timber framed french door, painted white, with glass balustrade as used for existing master bedroom

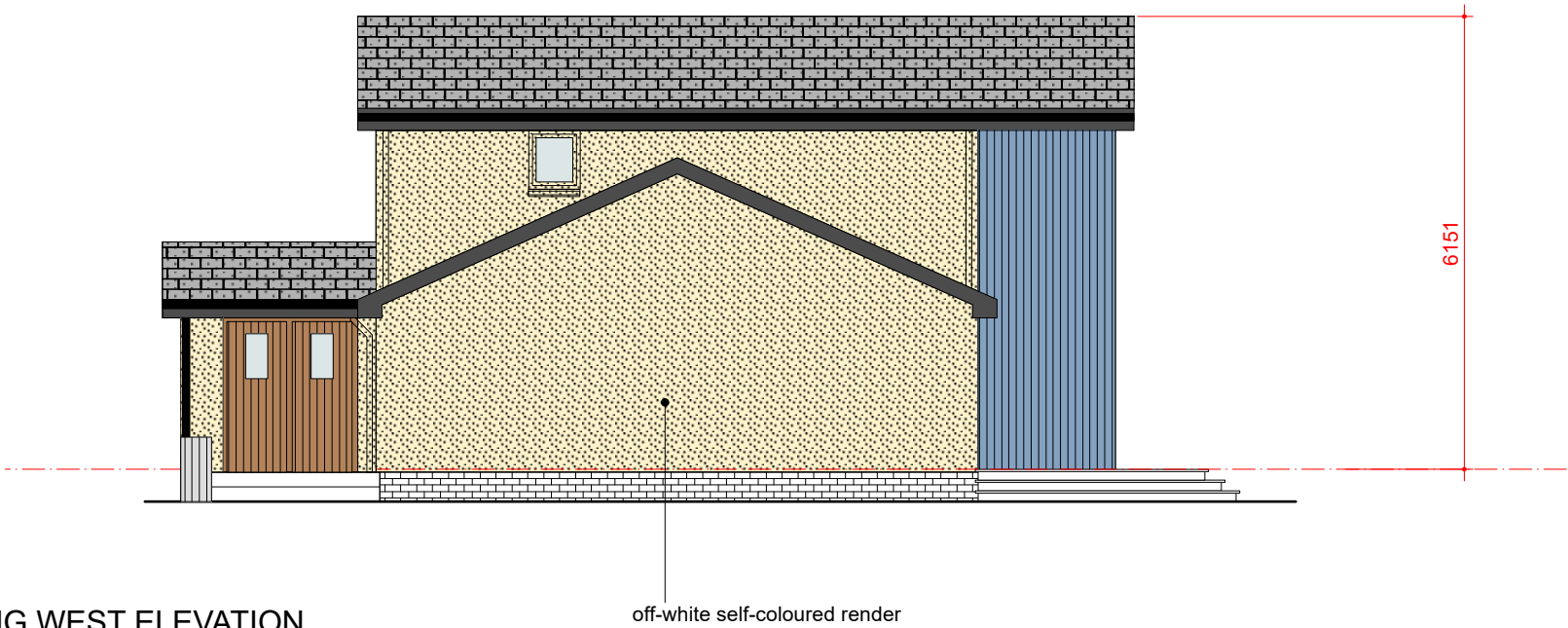
vertical timber cladding painted blue to match existing

enlarged timber framed window, painted white

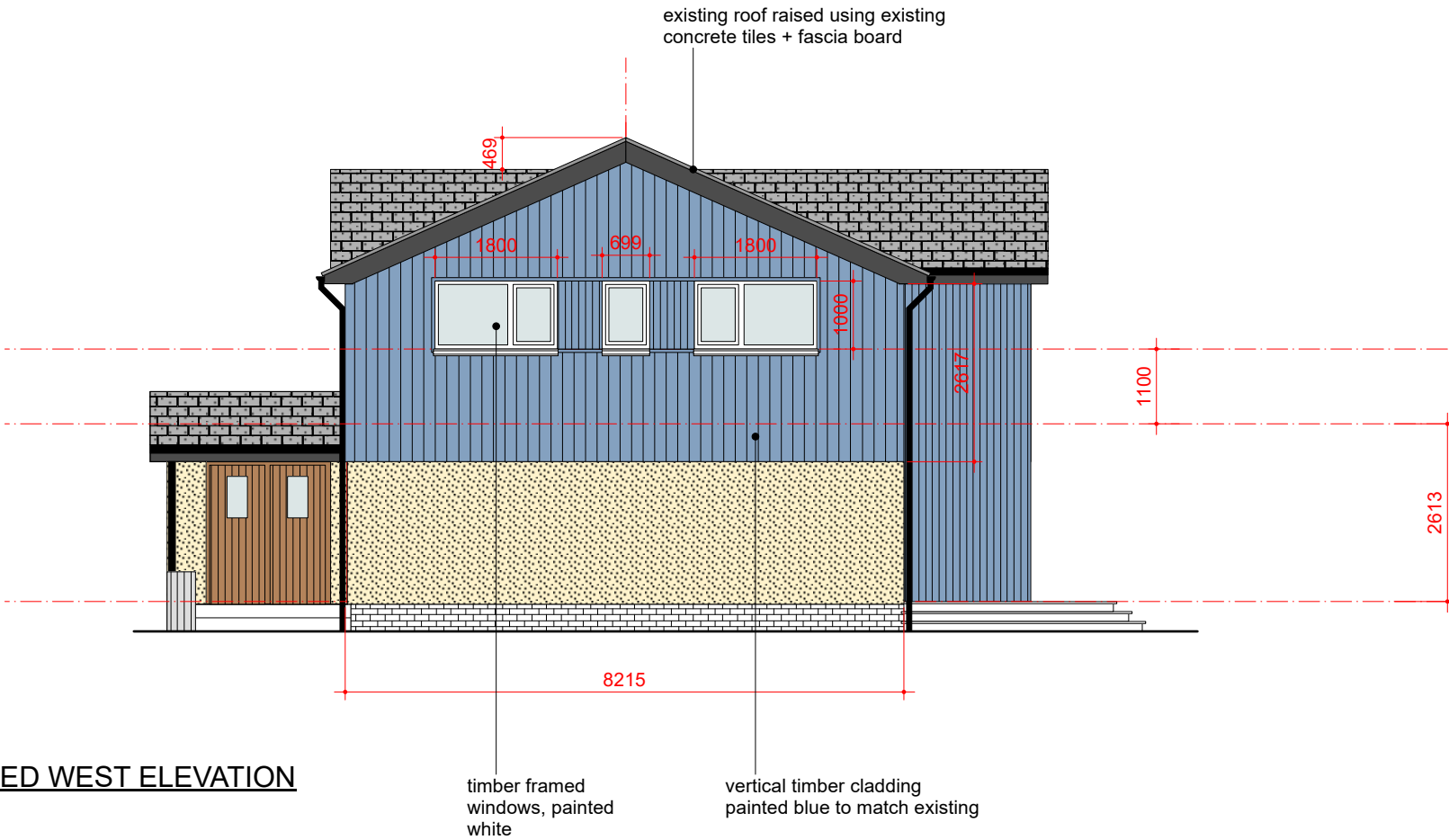


Halvorsen architects
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www.halvorsen-architects.co.uk


Project: MALLARDS, GLENDEVON FARM			
Drawing: SOUTHELEVATIONS			
Drawing No: MALL109	Revision: -	Date: 19/10/20	Scale: 1:100 @ A3



EXISTING WEST ELEVATION



PROPOSED WEST ELEVATION



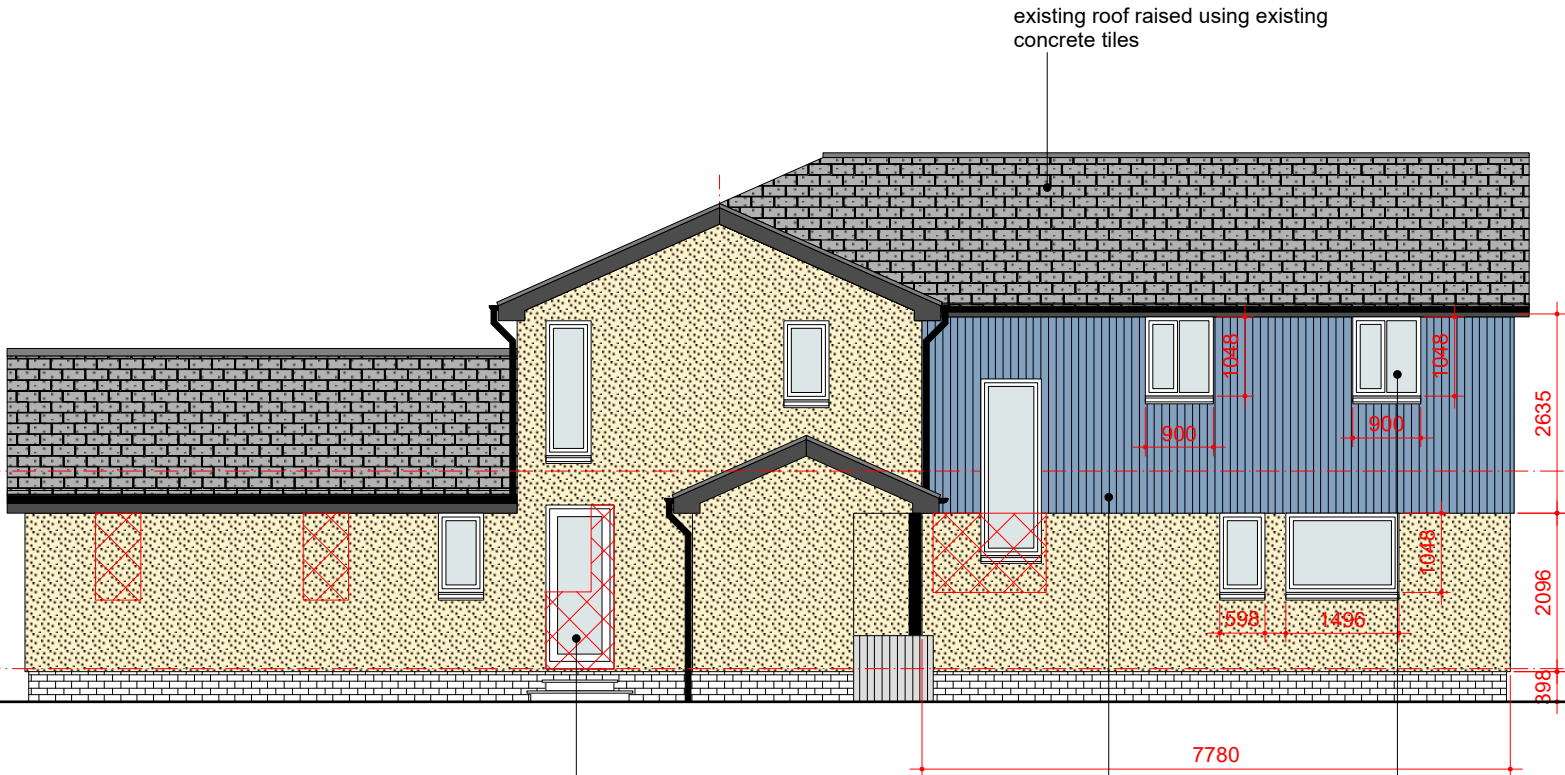
Halvorsen architects
t: [REDACTED]
e: gail@halvorsenarchitects.co.uk
www.halvorsen-architects.co.uk

Project: MALLARDS, GLENDEVON FARM			
Drawing: WEST ELEVATIONS			
Drawing No: MALL107	Revision: -	Date: 19/10/20	Scale: 1:100 @ A3



off-white self-coloured render

EXISTING NORTH ELEVATION




existing roof raised using existing
concrete tiles

PROPOSED NORTH ELEVATION

timber framed door,
painted white

vertical timber cladding
painted blue to match
existing

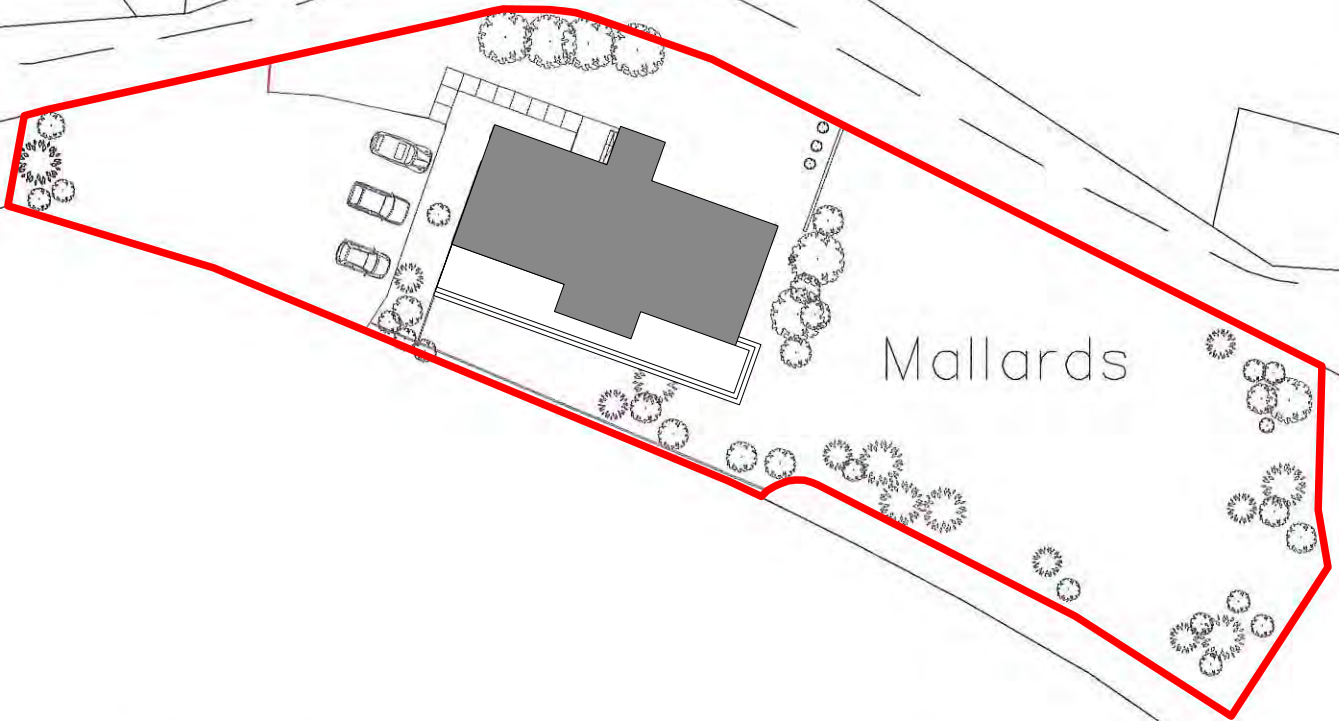
timber framed
windows, painted
white



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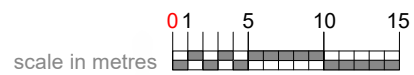
Project: MALLARDS, GLENDEVON FARM			
Drawing: NORTH ELEVATIONS			
Drawing No: MALL108	Revision: -	Date: 19/10/20	Scale: 1:100 @ A3




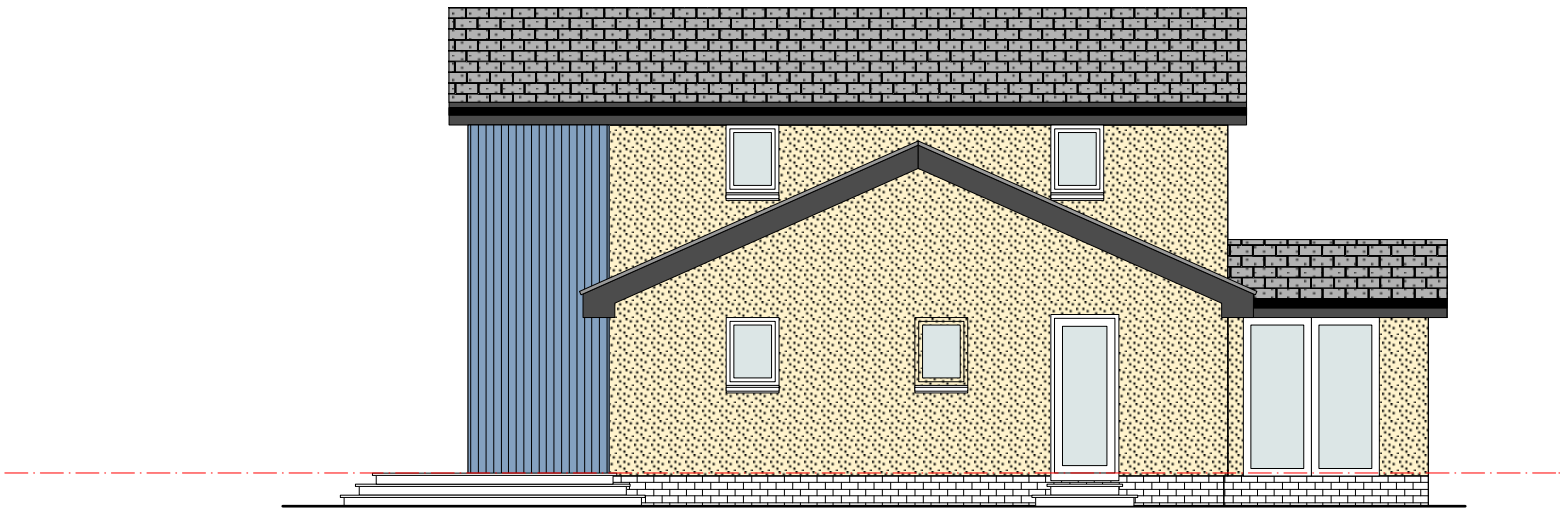
Pond



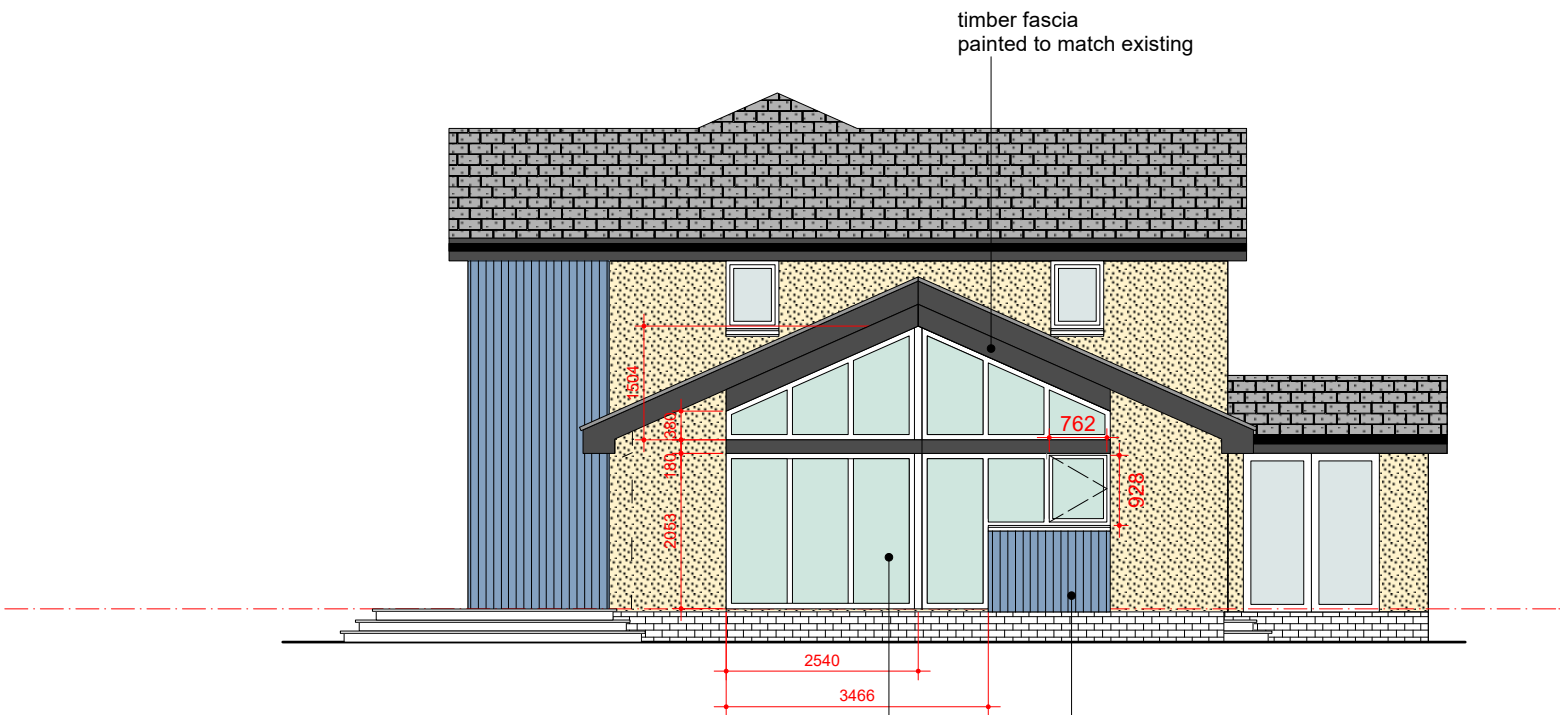
Pond




 Halvorsen architects t: [REDACTED] e: gail@halvorsenarchitects.co.uk www.halvorsen-architects.co.uk			
Project: MALLARDS, GLENDEVON FARM			
Drawing: BLOCK PLAN			
Drawing No: MALL102	Revision: -	Date: 19/10/20	Scale: 1:500@ A4



EXISTING EAST ELEVATION



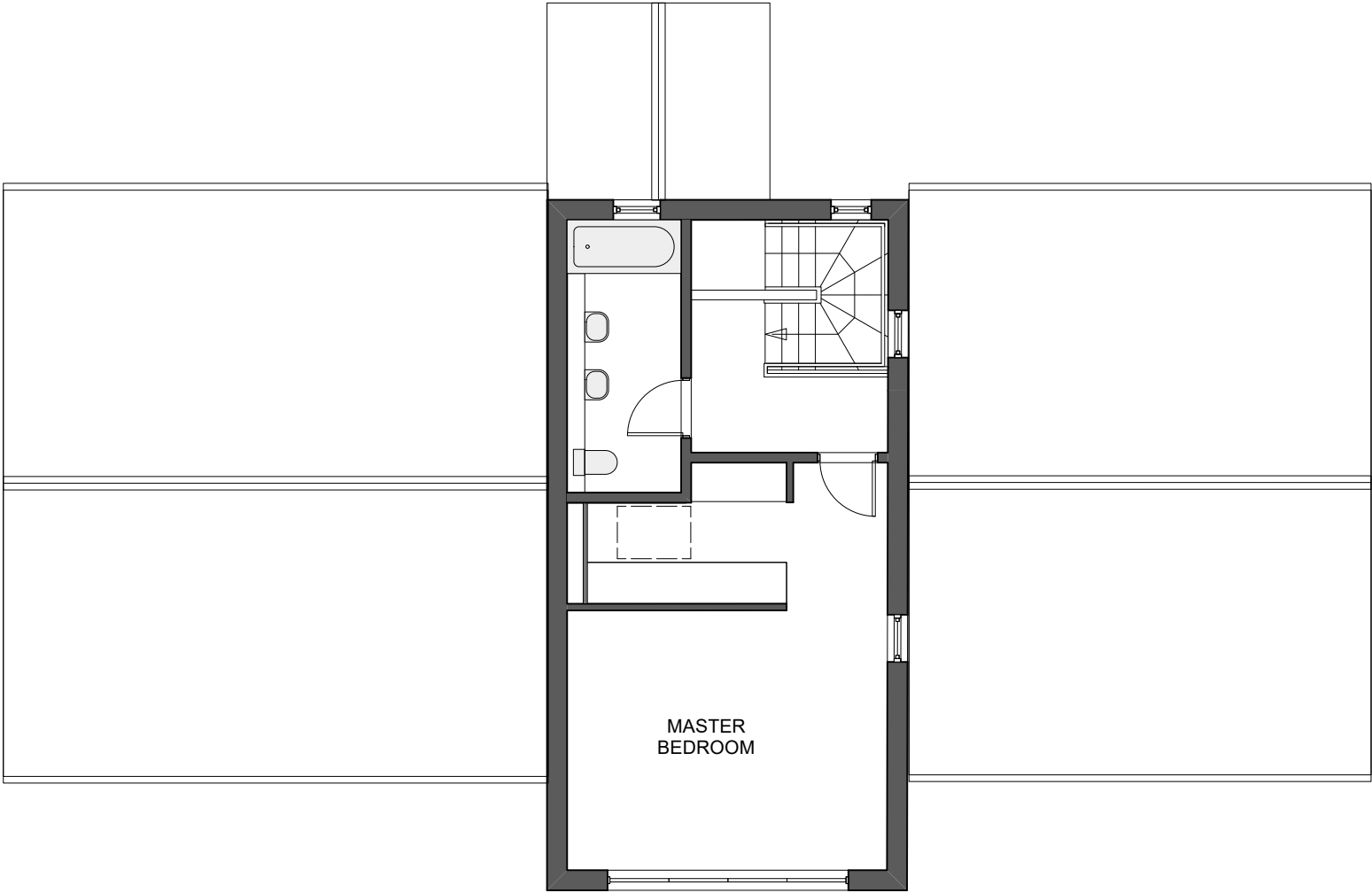
PROPOSED EAST ELEVATION



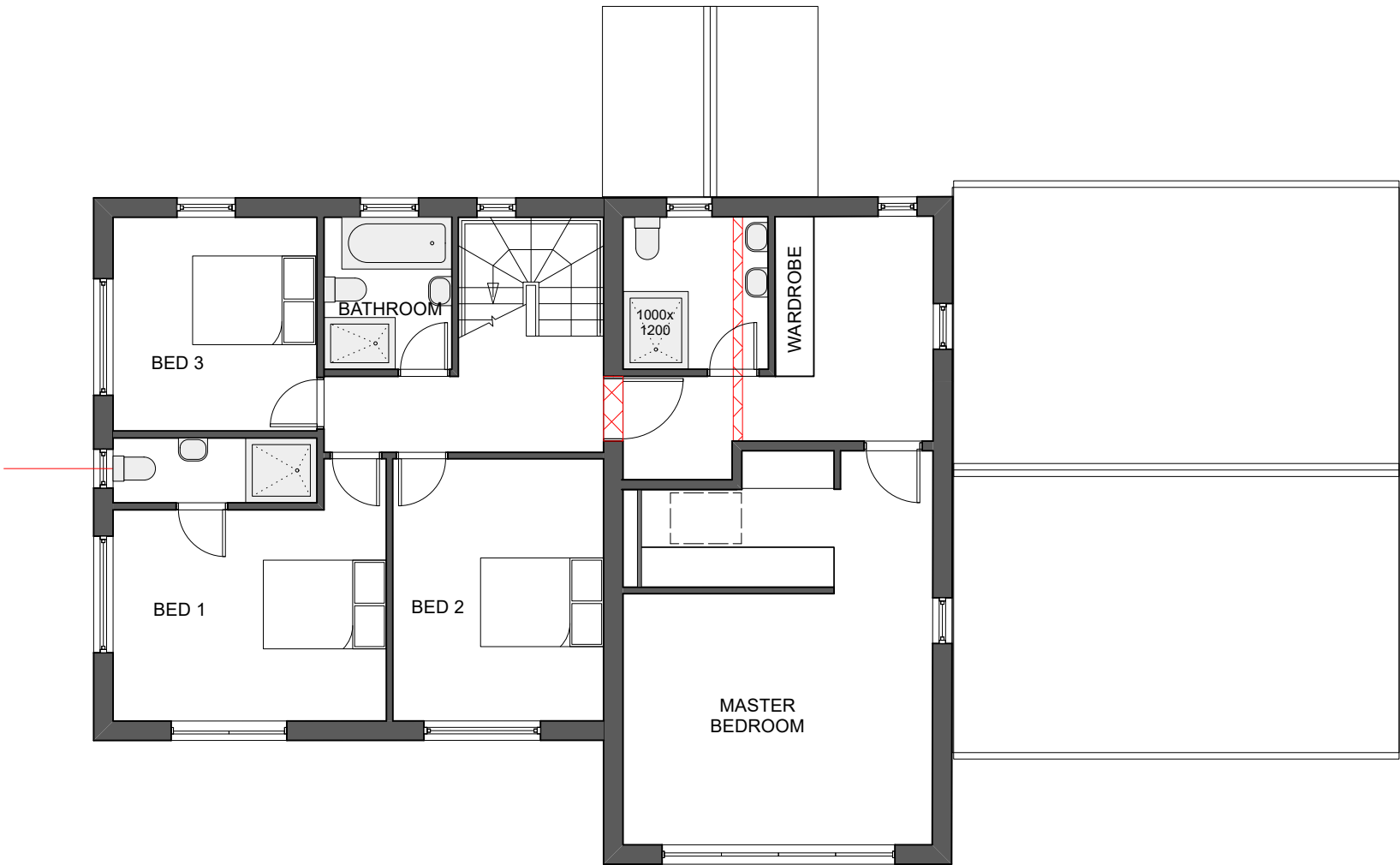
Halvorsen architects

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Project: MALLARDS, GLENDEVON FARM			
Drawing: EAST ELEVATIONS			
Drawing No: MALL106	Revision: -	Date: 19/10/20	Scale: 1:100 @ A3



EXISTING FIRST FLOOR

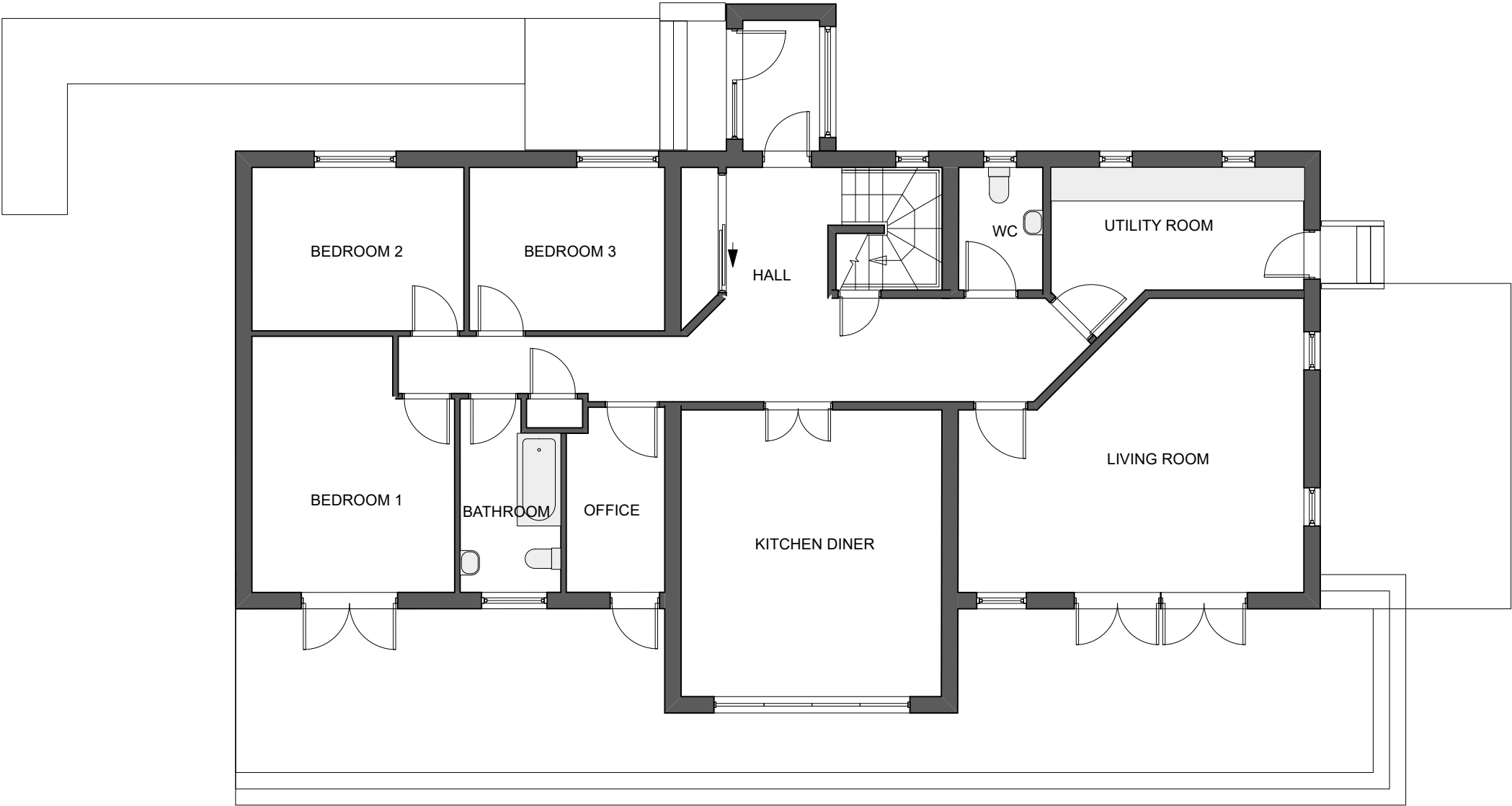


PROPOSED FIRST FLOOR

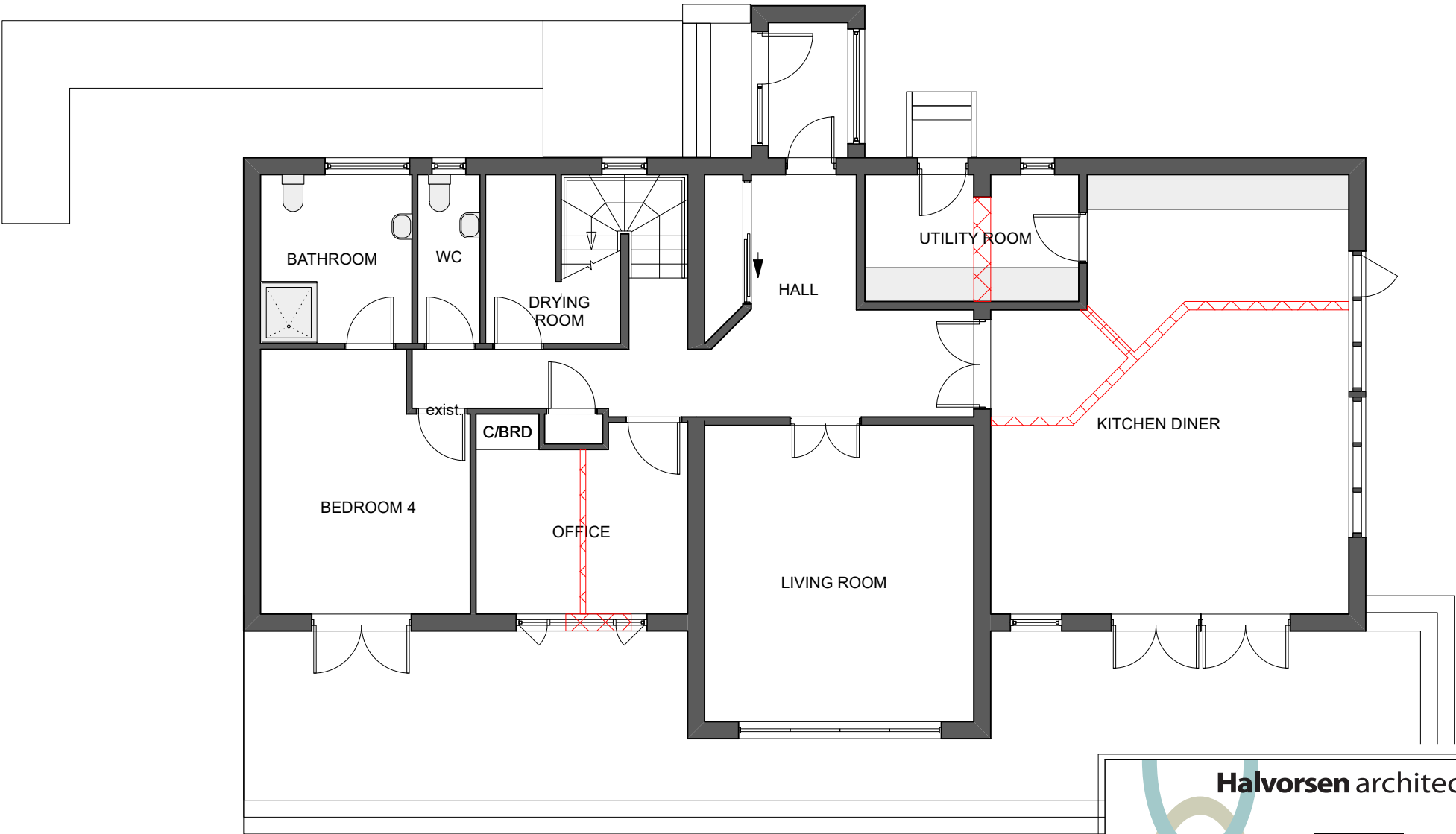


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Project: MALLARDS, GLENDEVON FARM			
Drawing: FIRST FLOOR PLANS			
Drawing No: MALL104	Revision: -	Date: 19/10/20	Scale: 1:100 @ A3



EXISTING GROUND FLOOR



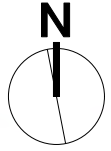
PROPOSED GROUND FLOOR



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www.halvorsen-architects.co.uk

Project: MALLARDS, GLENDEVON FARM			
Drawing: GROUND FLOOR PLANS			
Drawing No: MALL103	Revision: -	Date: 19/10/20	Scale: 1:100 @ A3



 Halvorsen architects t: [REDACTED] e: gail@halvorsenarchitects.co.uk www.halvorsen-architects.co.uk			
Project: MALLARDS, GLENDEVON FARM			
Drawing: LOCATION PLAN			
Drawing No:	Revision:	Date:	Scale:
MALL101	-	19/10/20	1:1250@ A4



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 1136/H/20

PROPOSAL First floor extension to house with alterations to windows

LOCATION Mallards, Winchburgh, West Lothian, EH52 6PX, (GRID REF: 307729, 675050)

APPLICANT Mrs Gina Finch, Mallards, Glendevon Farm, Winchburgh, West Lothian, EH52 6PX

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:
08.02.2021

Craig McCorriston
Head of Planning, Economic Development and Regeneration

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

Signature:

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

DATA LABEL: PUBLIC

The council in exercise of its powers under the Town and Country Planning (Scotland) Act 1997 (as amended) refuses planning permission for planning application 1136/H/20, for the reason(s) set out as follows:

- 1 The proposed works, by virtue of its overall height and scale would have a significant detrimental impact on the visual amenity of the existing property and the proposed ridgeline will not allow for the works to appear subsidiary to the main house. This application is therefore contrary to policy DES1 (Design Principles) of West Lothian Councils adopted Local Development Plan and West Lothian Council's House Extension and Alteration 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 - 1136/H/20

Docquetted Number	Drawing Description	Drawing Number
1	Location Plan	MALL101
2	Block Plan	MALL102
3	Floor Plan (existing)	MALL103
4	Floor Plans (existing and proposed)	MALL104
5	Existing and Proposed Elevations	MALL108
6	Existing and Proposed Elevations	MALL106
7	Existing and Proposed Elevations	MALL109
8	Existing and Proposed Elevations	MALL107
9	Roof Plan	MALL105



DATA LABEL: PUBLIC

HANDLING REPORT

Ref. No.:	1136/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	First floor extension to house with alterations to windows (Grid Ref: 307729,675050) at Mallards, Winchburgh, West Lothian, EH52 6PX		
Application Type	Local Application		
Decision Level	Delegated List		
Site Visit	(Photo's submitted)		
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

First floor extension to house with alterations to windows.

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	All development proposals will require to take account of and be integrated with the local context and built form. Development proposals should have no significant adverse impacts on the local community and where appropriate, should include measures to enhance the environment and be high quality in their design. Development proposals which are poorly designed will not be supported. When assessing development proposals, the developer will be required to ensure that: a. there is no significant adverse impact on adjacent buildings or streetscape in terms of layout, scale, massing, design, external materials or amenity; b. there is no significant adverse impact on landscape character, built heritage, habitats or species including European sites, biodiversity and Protected Species nor on amenity as a result of light, noise, odours, dust or particulates; c. the proposed development is accessible for all, provides suitable access and parking, encourages active travel and has no adverse implications for public safety; d. the proposal includes appropriate integrated and accessible infrastructure, open space, green infrastructure and landscaping; e. sustainability issues are addressed through energy efficient design, layout, site orientation and building practices; f. the development does not result in any significant adverse impact on the water environment as required by the Water Framework Directive and related regulations and as appropriate, mitigation to minimise any adverse effects is provided; g. there are no significant adverse effects on air quality (particularly in and around Air Quality Management Areas), or on water or soil quality and, as appropriate, mitigation to minimise any adverse effects is provided; and h. risks to new development from unstable land resulting from past mining activities are fully assessed and, where necessary, mitigated prior to development. Where appropriate, developers will be required to produce masterplans, design statements and design guides in support of their proposals. Development proposals must also accord with other relevant policies and proposals in the development plan and with appropriate supplementary guidance.

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 a first floor extension and alterations to existing windows at the property Mallards, Winchburgh.

The first floor extension is to be erected on the east side of the existing property and is to measure 7.780m x 8.215m and is to measure 6.151m in overall height from ground level to the ridgeline of the proposed roof. The ridgeline of the proposed extension is to sit higher than the ridgeline of the existing property. West Lothian Councils House Extension and Alteration Design Guide states that "two storey side extensions in particular must be designed to be subsidiary in appearance to the main house. The ridge line of the extension should normally be lower than the ridge of the roof of the main house."

It was requested that the ridgeline was revised and reduced in height to sit below the existing ridgeline and in order for the works to appear subsidiary to the main house. However, the applicant wishes for the ridgeline height to remain as is.

This proposal is therefore contrary to guidance and the proposed works will not integrate with the existing property as a result of the ridgeline. It has been noted although that several properties in the area consist of varying ridge heights, the proposed ridgeline will result in an overall scale which will not appear subsidiary and will be detrimental to the visual amenity. If the proposed ridgeline was to appear uniform with the existing ridgeline of the property, the proposal would be considered more acceptable.

Conclusions and Reasons for Decision

The application is contrary to Policy DES 1 (Design Principles) in the adopted West Lothian Council's Local Development Plan and the Council's House Extension and Alteration Design Guide 2020. Therefore, it is recommended that this application is refused planning permission.

List of Review Documents

Drawings schedule:

Docquetted Number	Drawing Description	Drawing Number
1	Location Plan	MALL101
2	Block Plan	MALL102
3	Floor Plan (existing)	MALL103
4	Floor Plans (existing and proposed)	MALL104
5	Existing and Proposed Elevations	MALL108
6	Existing and Proposed Elevations	MALL106
7	Existing and Proposed Elevations	MALL109
8	Existing and Proposed Elevations	MALL107
9	Roof Plan	MALL105

Other relevant documents:

West Lothian Local Development Plan, 2018;

Case Officer – Rachael Lyall

Date – 08.02.2021

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

Our Ref: 1136/H/20
Direct Dial No: 01506 281110
Email: rachael.lyall@westlothian.gov.uk
18 February 2021
Tel: 01506 280000

Draft Justification and Conditions:

This permission is granted subject to the following conditions: -

(1) Before development begins, samples of the paint colour and timber cladding which is to be used on the walls of the extension; hereby approved shall be submitted to the planning authority and agreed in writing with the Development Management Manager.

Reason: In the interests of visual amenity.

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

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

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 for a local development and was determined by an officer appointed

by the council and you disagree with the decision or with conditions which have been attached, you can apply for a review of the decision/conditions by the council's Local Review Body. In all other cases, if you disagree with the decision you can seek an appeal of the decision/conditions to the Scottish Government Planning and Environmental Appeals Division. You can find information on these processes at <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>