

Mr P Burns & Ms R Lowrie

Local Review under Section 43A(8) of The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008, against a decision of East Lothian Council against the variation of condition 3 of planning permission 15/00387/P – To provide occasional guest (family & friends) accommodation at Riverside House, 4 Station Road, East Linton

Application Reference: 15/00886/P

Date: 8th March 2016

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Appeal Document List

Document	Title	Format
Document 1	Application Form	Electronic
Document 2	Decision Notice	Electronic
Document 3	Officer's Report	Electronic
Document 4	Location Plan	Electronic
Document 5	Superceded Floorplan	Electronic
Document 6	Approved Floorplan	Electronic

Summary

This Review Statement outlines the reasons why we consider that planning permission should be granted. The key points can be summarised as follows:-

1. This is a unique case. In summary, the Council has already granted permission for a 'garden building' near the bank of the River Tyne in East Linton. The applicant had applied for this building to be used occasionally for overnight stays by friends and family. However, SEPA objected to the proposal, on the basis that it was a residential use in the floodplain policies. The permission was granted but a condition was applied to restrict overnight stays, thereby completely negating the purpose of the building.
2. Unfortunately, without the applicant's understanding, their agent agreed to amend the submitted plan for the building to remove reference to a bedroom. The applicant therefore only became aware of the restrictive condition when the planning permission was granted.
3. This unfortunate situation was compounded by the approach taken with the application which is subject to Review. The application to vary the condition to allow occasional overnight guest use was submitted without the agent providing any further justification. It was hardly surprising, therefore, that SEPA reiterated its objection and it was refused under the Council's delegated powers.
4. In our view, there is no need for SEPA to object. Indeed, it is our understanding that the planning officer would be content to grant permission if SEPA did not object. Even if SEPA does object in the context of this Review, the Local Review Body has the power to grant planning permission, subject to a possible referral to Scottish Ministers, who are able to 'call-in' the application for their determination if they consider necessary. It should be noted that the Council has taken such decisions in the past, and the Scottish Government has taken no action.
5. It is appropriate and valid for SEPA to resist residential development in floodplains, for obvious reasons. If people live in a floodplain, they will potentially be subject great disruption and possible danger in the event of a flood, and will possibly not have alternative accommodation to resort to. The circumstances of this case are completely different, where family and friends are only sleeping over occasionally, and can be stopped from doing so in the event of a potential flood. There would have to be torrential rain for many days for this to happen, and an imminent flood would be quite apparent. As far as we are aware, the site in question has

not flooded in living memory, and it should also be noted that there are numerous nearby residential properties subject to this very low flooding risk.

6. The existing permission means that the building is considered to be acceptable in design terms and allows for it to be used for ancillary domestic use. The only concern is that the risk to occupants from flooding would be too great if people were allowed to sleep in the building.
7. We would suggest that such a risk does not exist. Firstly, it should be noted that the variation to the condition is only seeking “occasional” guest and family use. I have been advised by the applicant that they would be quite content to restrict this to no more 30 nights per year. As described below, an appropriate planning condition can be applied to control this. The applicant would observe weather conditions, river levels and the SEPA flood alert website. If there was any prospect of flooding, then guests would not be permitted to occupy the building.
8. We strongly recommend that the LRB undertakes a site visit, so that it can observe first-hand the nature of the site (e.g. the steep river bank), which we suspect SEPA has not done.

1. Introduction

1.1 This Review concerns an application for the ***“variation of condition 3 of planning permission 15/00387/P – To provide occasional guest (family & friends) accommodation”*** (Appeal Document 1). The application was registered on 27th October 2015 and the refusal notice is dated 10th December 2015 (Appeal Document 2). The Council’s assessment of the application is set out in the Officer’s Report (Appeal Document 3). There was one refusal reason, as follows:

No information or details are provided to demonstrate that the building would be free from flood risk so as to be safe for use as occasional guest accommodation and thus variation of Condition 3 of planning permission 15/00387 to allow for such a use would be contrary to Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan), Policy DP16 of the adopted East Lothian Local Plan 2008 and to advice on flood risk given by the SEPA.

1.2 The background to this is that the applicants, who live in the Harvesters House adjacent to the proposed building, sought planning permission for it with the express intention for it to be used as occasional guest and family accommodation. Condition 3 which was attached to the permission forbids this, and so the permission is of no use to them.

1.3 We have only recently become involved in this case, and we find it hard to understand why events unfolded in this way. Perhaps it was poor communication by the applicant’s agent (the builder) in not making clear to the planning officer that such a condition negated the purpose of the application, and at that point explaining more clearly the proposed use and perhaps seeking to agree an appropriate condition that would remove the risk of flooding to the occasional occupants.

1.4 This apparent lack of communication was compounded with no further justification being submitted in support of the subsequent application to vary the condition.

1.5 In our view, some very simple steps can be taken to ensure that there is no risk to people arising from flooding as a result of this proposal, and we request that the Local Review Panel take a common sense approach to this matter.

2. Site Description and Commentary

2.1 The site is close to the western bank of the River Tyne within the urban area of East Linton (Document 4 – Location Plan). The original planning application was for a relatively small single-storey pitched roof building, which was granted planning permission in August 2015.

2.2 The original floorplan submitted with this planning application showed a sitting room, a bedroom and a shower room, and it was indicated that it was for the purpose of occasional overnight guest and family use (Document 5 – Superseded Floorplan). However, following an objection from SEPA to the effect that it could not support a residential use on a site subject to potential flooding, the applicant's agent submitted an amended floorplan, simply renaming the 3 rooms in the house as studio, store and cupboard (Document 6 – Approved Floorplan). The applicant was not properly advised of the significance of the amendment proposed by their agent, and they would not have agreed to it if they had. Its significance only became apparent to them following the granting of planning permission and they became aware of Condition 3, which forbade the use of the building for overnight accommodation for guests and family. Given that this was the only intended purpose of the building, this planning permission is of no use to them.

2.3 In these circumstances, the applicant submitted an application to vary Condition 3 to allow occasional guest and family use. Condition 3 in its current form states:

The building hereby approved shall only be used for ancillary purposes, (not including resident or guest accommodation), incidental to the use and enjoyment of the dwellinghouse that is Riverside House, 4 Station Road, East Linton and shall not be used for residential accommodation, a separate dwellinghouse or for any business, trade or other commercial use.

2.4 We seek an amendment to this condition to state:

The building hereby approved shall only be used for ancillary purposes incidental to the use and enjoyment of the dwellinghouse that is Riverside House, 4 Station Road, East Linton and shall not be used as separate dwellinghouse or for any business, trade or other commercial use. For the avoidance of doubt, occasional overnight use by non-paying guests is permitted, so long as it does not exceed a total of 30 days in any calendar year.

2.5 This condition ensures that the building is not used as a dwelling house or a guesthouse. We have deleted the original reference to 'residential accommodation' because the term is ambiguous. Planning legislation does not recognise the expression, as it simply distinguishes between dwelling houses, flats, residential institutions and guest houses. The proposed use does not comprise any of these as defined in the Town & Country Planning Use Class Order, and the

proposed condition ensures that it cannot be used in any of these ways. It can only be used in the specific manner described in the condition.

- 2.6 The determining issue in deciding this application to vary Condition 3 relates risk of the building being flooded while being occupied overnight by friends or family. SEPA do not object to the building being used by people for domestic purposes during the daytime but do appear to consider that allowing people to stay overnight presents an unacceptable risk. This seems to us to be unreasonable, particularly given the proposed occasional use, and the option not to sleep in the building if there is any potential risk. This is different to the circumstances of a residential property, where the occupant may have no choice but to be there.
- 2.7 The situation with occasional use for guests who are family and family friends is fundamentally different. If there is any prospect of a flood, the use of the building for an overnight stay can be cancelled or postponed. The guests could instead stay in the applicant's house.
- 2.8 This is a matter of common sense. The prospects of flooding can easily be established by observing the weather, river height and the SEPA Flood Alert website. As far as we are aware, the site has not flooded in living memory, despite recent extreme events, and it would have to rain for many days for a flood to occur. It is beyond comprehension that guests would be caught unawares during the night, and even if they were, there is a very easy route directly out of the front door towards rising ground.

3. Conclusion

- 3.1 This is a unique case, and unfortunately East Lothian Council and SEPA were not fully advised of the circumstances to allow them to fully consider the case. This is no criticism of the planning department, who can reasonably only take account of the information they are given. Fortunately, the Local Review Body is able to take account of the additional information now provided.

- 3.2 The building in question has permission for ancillary domestic use, and the only issue here is whether guests can sleep in it for no more than 30 days a year. And in that regard, the only concern is whether such guests would be in peril due to flooding. Given that the site has not flooded in living memory, and guests will obviously not be permitted to stay if there is the potential of a flood, there should be absolutely no concern here.

- 3.3 We therefore respectfully request that the Local Review Body grants planning permission for the variation to Condition 3 as we have specified above.

John Muir House Haddington EH41 3HA

Tel: 01620 827 216

Email: planning@eastlothian.gov.uk

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

Thank you for completing this application form:

ONLINE REFERENCE 000134887-001

The online ref number 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.

Type of Application

What is this application for? Please select one of the following: *

We strongly recommend that you refer to the help text before you complete this section.

- Application for Planning Permission (including changes of use and surface mineral working)
- Application for Planning Permission in Principle
- Further Application, (including renewal of planning permission, modification, variation or removal of a planning condition etc)
- Application for Approval of Matters specified in conditions

Please give the application reference no. of the previous application and date when permission was granted.

Application Reference No: *

15/00387/P

Date (dd/mm/yyyy): *

14/08/15

Description of Proposal

Please describe the proposal including any change of use: * (Max 500 characters)

Vary condition 3 of planning permission 15/00387/P -
To provide occasional guest (family & friends) accommodation.

Is this a temporary permission? *

Yes No

If a change of use is to be included in the proposal has it already taken place?
(Answer 'No' if there is no change of use.) *

Yes No

Have the works already been started or completed? *

No Yes - Started Yes - Completed

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

03/07/15

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

Ground works had started.

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:

MOZOLOWSKI & MURRAY

Ref. Number:

First Name: *

GREIG

Last Name: *

RAMSAY

Telephone Number: *

Extension Number:

Mobile Number:

Fax Number:

Email Address: *

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

Building Name:

MOZOLOWSKI AND
MURRAY

Building Number:

2-8

Address 1 (Street): *

CLASHBURN WAY

Address 2:

BRIDGEND INDUSTRIAL
ESTATE

Town/City: *

KINROSS

Country: *

UK

Postcode: *

KY13 8GA

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="Other"/>
Other Title: *	<input type="text" value="MR & MS"/>
First Name: *	<input type="text" value="P & R"/>
Last Name: *	<input type="text" value="BURNS & LOWRIE"/>
Company/Organisation:	<input type="text"/>
Telephone Number:	<input type="text"/>
Extension Number:	<input type="text"/>
Mobile Number:	<input type="text"/>
Fax Number:	<input type="text"/>
Email Address:	<input type="text"/>

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

Building Name:	<input type="text" value="THE HARVESTERS"/>
Building Number:	<input type="text" value="3"/>
Address 1 (Street): *	<input type="text" value="STATION ROAD"/>
Address 2:	<input type="text"/>
Town/City: *	<input type="text" value="EAST LINTON"/>
Country: *	<input type="text" value="UK"/>
Postcode: *	<input type="text" value="EH40 3DP"/>

Site Address Details

Planning Authority:	<input type="text" value="East Lothian Council"/>
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Full postal address of the site (including postcode where available):

Address 1:	<input type="text" value="RIVERSIDE HOUSE"/>	Address 5:	<input type="text"/>
Address 2:	<input type="text" value="4 STATION ROAD"/>	Town/City/Settlement:	<input type="text" value="EAST LINTON"/>
Address 3:	<input type="text"/>	Post Code:	<input type="text" value="EH40 3DP"/>
Address 4:	<input type="text"/>		

Please identify/describe the location of the site or sites.

Northing	<input type="text" value="677013"/>
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Easting	<input type="text" value="359186"/>
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Pre-Application Discussion

Have you discussed your proposal with the planning authority? *

Yes No

Pre-Application Discussion Details

In what format was the feedback given? *

Meeting Telephone Letter Email

Please provide a description of the feedback you were given and the name of the officer who provided this feedback. If a processing agreement [note 1] is currently in place or if you are currently discussing a processing agreement with the planning authority, please provide details of this. (This will help the authority to deal with this application more efficiently.) * (Max 500 characters)

DISCUSSIONS HAVE TAKEN PLACE WITH DAVID ALLAN AND NEIL MILLAR FOR GENERAL ADVISE.

Title:

Mr

Other title:

First Name:

NEIL

Last Name:

MILLAR

Correspondence Reference Number:

Date (dd/mm/yyyy):

07/09/15

Note 1. A processing agreement involves setting out the key stages involved in determining a planning application, identifying what information is required and from whom and setting timescales for the delivery of various stages of the process.

Site Area

Please state the site area:

696.00

Please state the measurement type used:

Hectares (ha) Square Metres (sq.m)

Existing Use

Please describe the current or most recent use: (Max 500 characters)

DOMESTIC GARDEN GROUND.

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 propose to make. You should also show existing footpaths and note if there will be any impact on these.

Are you proposing any changes to public paths, public rights of way or affecting any public rights of access? *

Yes No

If Yes please show on your drawings the position of any affected areas highlighting the changes you propose to make, including arrangements for continuing or alternative public access.

How many vehicle parking spaces (garaging and open parking) currently exist on the application site? *

4

How many vehicle parking spaces (garaging and open parking) do you propose on the site (i.e. the total of existing and any new spaces or a reduced number of spaces)? *

4

Please show on your drawings the position of existing and proposed parking spaces and identify if these are for the use of particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, cycle spaces).

Water Supply and Drainage Arrangements

Will your proposal require new or altered water supply or drainage arrangements? *

Yes No

Do your proposals make provision for sustainable drainage of surface water?
(e.g. SUDS arrangements) *

Yes No

Note: -

Please include details of SUDS arrangements on your plans

Selecting 'No' to the above question means that you could be in breach of Environmental legislation.

Are you proposing to connect to the public water supply network? *

Yes

No, using a private water supply

No connection required

If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).

Assessment of Flood Risk

Is the site within an area of known risk of flooding? *

Yes No Don't Know

If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your Planning Authority or SEPA for advice on what information may be required.

Do you think your proposal may increase the flood risk elsewhere? *

Yes No Don't Know

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.

All Types of Non Housing Development - Proposed New Floorspace

Does your proposal alter or create non-residential floorspace? *

Yes No

Schedule 3 Development

Does the proposal involve a form of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2013) *

Yes No Don't Know

If yes, your proposal will additionally have to be advertised in a newspaper circulating in the area of the development. Your planning authority will do this on your behalf but will charge you a fee. Please check the planning authority's website for advice on the additional fee and add this to your planning fee.

If you are unsure whether your proposal involves a form of development listed in Schedule 3, please check the Help Text and Guidance notes before contacting your planning authority.

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) REGULATIONS 2013

One Certificate must be completed and submitted along with this 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: GREIG RAMSAY

On behalf of: MR & MS P & R BURNS & LOWRIE

Date: 22/10/2015

Please tick here to certify this Certificate. *

Checklist - Application for Planning Permission

Town and County Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

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) If this is a further application where there is a variation of conditions attached to a previous consent, have you provided a statement to that effect? *

Yes No Not applicable to this application

b) If this is an application for planning permission or planning permission in principal where there is a crown interest in the land, have you provided a statement to that effect? *

Yes No Not applicable to this application

c) If this is an application for planning permission, planning permission in principle or a further application and the application is for development belonging to the categories of national or major developments (other than one under Section 42 of the planning Act), have you provided a Pre-Application Consultation Report? *

Yes No Not applicable to this application

Town and County Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

d) If this is an application for planning permission and the application relates to development belonging to the categories of national or major developments and you do not benefit from exemption under Regulation 13 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, have you provided a Design and Access Statement? *

Yes No Not applicable to this application

e) If this is an application for planning permission and relates to development belonging to the category of local developments (subject to regulation 13. (2) and (3) of the Development Management Procedure (Scotland) Regulations 2013) have you provided a Design Statement? *

Yes No Not applicable to this application

f) If your application relates to installation of an antenna to be employed in an electronic communication network, have you provided an ICNIRP Declaration? *

Yes No Not applicable to this application

g) If this is an application for planning permission, planning permission in principle, an application for approval of matters specified in conditions or an application for mineral development, have you provided any other plans or drawings as necessary:

Site Layout Plan or Block plan.

Elevations.

Floor plans.

Cross sections.

Roof plan.

Master Plan/Framework Plan.

Landscape plan.

Photographs and/or photomontages.

Other.

Provide copies of the following documents if applicable:

A copy of an Environmental Statement. *

Yes N/A

A Design Statement or Design and Access Statement. *

Yes N/A

A Flood Risk Assessment. *

Yes N/A

A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). *

Yes N/A

Drainage/SUDS layout. *

Yes N/A

A Transport Assessment or Travel Plan. *

Yes N/A

Contaminated Land Assessment. *

Yes N/A

Habitat Survey. *

Yes N/A

A Processing Agreement *

Yes N/A

Other Statements (please specify). (Max 500 characters)

Declare - For Application to Planning Authority

I, the applicant/agent certify that this is an application to the planning authority as described in this form. The accompanying plans/drawings and additional information are provided as a part of this application .

Declaration Name: GREIG RAMSAY

Declaration Date: 22/10/2015

Submission Date: 26/10/2015

Payment Details

Cheque XXXXXXXXXX

Created: 26/10/2015 13:46

App No. 15/00886/P

**EAST LOTHIAN COUNCIL
DECISION NOTICE**

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
TOWN AND COUNTRY PLANNING
(DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATIONS 2008**

**Mr P Burns And Ms R Lowrie
c/o Mozolowski & Murray
Per Greig Ramsay
2-8 Clashburn Way
Bridgend Industrial Estate
Kinross
KY13 8GA**

APPLICANT: Mr P Burns And Ms R Lowrie

With reference to your application registered on 27th October 2015 for planning permission under the above mentioned Acts and Regulations for the following development, viz:-

Variation of condition 3 of planning permission 15/00387/P - To provide occasional guest (family & friends) accommodation.

**at
Riverside House
4 Station Road
East Linton
East Lothian**

East Lothian Council as the Planning Authority in exercise of their powers under the above-mentioned Acts and Regulations hereby **REFUSE PLANNING PERMISSION** for the said development.

The reasons for the Council's refusal of planning permission are:-

- 1 No information or details have been provided to demonstrate that the building would be free from flood risk so as to be safe for use as occasional guest accommodation and thus variation of Condition 3 of planning permission 15/00387/P to allow for such use would be contrary to Policy 1B of the approved South East Scotland Strategic Development Plan

(SESplan), Policy DP16 of the adopted East Lothian Local Plan 2008 and to advice on flood risk given by The Scottish Environment Protection Agency.

The report on this application is attached to this Decision Notice and its terms shall be deemed to be incorporated in full in this Decision Notice.

Details of the following are given in the application report:

- the terms on which the Planning Authority based this decision;
- details of any variations made to the application in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997.

The plans to which this decision relate are as follows:

<u>Drawing No.</u>	<u>Revision No.</u>	<u>Date Received</u>
DWG01	-	26.10.2015
DWG02	-	26.10.2015

10th December 2015



Iain McFarlane
Service Manager - Planning

NOTES

If the applicant is aggrieved by the decision to refuse permission for the proposed development, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of review should be addressed to the Clerk to the Local Review Body, Committee Team, Communications and Democratic Services, John Muir House, Haddington, East Lothian EH41 3HA.

If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the Planning Authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

OFFICER REPORT

08/12/15

App No. 15/00886/P

Application registered on 27th October 2015

Target Date 26th December 2015

Proposal	Variation of condition 3 of planning permission 15/00387/P - To provide occasional guest (family & friends) accommodation.	SDELL	✓/N
Location	Riverside House 4 Station Road East Linton East Lothian EH40 3DP	CDEL Bad Neighbour Development	✓/N ✓/N

APPLICANT: Mr P Burns And Ms R Lowrie

Is this application to be approved as a departure from structure/local plan? ✓/N

c/o Mozolowski & Murray
Per Greig Ramsay
2-8 Clashburn Way
Bridgend Industrial Estate
Kinross
KY13 8GA

DECISION TYPE:

Application Refused

PLANNING ASSESSMENT

This application relates to a single storey detached house and its garden, located in East Linton within a predominately residential area as defined by Policy ENV1 of the adopted East Lothian Local Plan 2008. It is also within East Linton Conservation Area.

In August 2015, planning permission (Ref: 15/00387/P) was granted for:

- (i) change of use of the area of open space to the east side of the house to domestic garden ground for the house of Riverside House;
- (ii) erection of a single storey pitched roofed building (which has been partly constructed to base level), intended for use as accommodation ancillary to the house of Riverside House; and
- (iii) the erection of a 2 metres high chain link fence that would be positioned between the southern end of the east side elevation of the building and the east boundary of the area of open space the subject of the proposed change of use. It would also extend, for a length of 4.5 metres,

along the southern end of the east boundary of the area of open space the subject of the proposed change of use.

Condition 3 of planning permission 15/00387/P states that:

'The building hereby approved shall only be used for ancillary purposes, (not including resident or guest accommodation), incidental to the use and enjoyment of the dwellinghouse that is 'Riverside House', 4 Station Road, East Linton and shall not be used as residential accommodation, a separate dwellinghouse or for any business, trade or other commercial use.'

The reason for this condition is:

'To enable the Planning Authority to control the use of the development in the interests of safeguarding the character and residential amenity of the area and that of the dwellinghouse named 'Riverside House', 4 Station Road, East Linton, and in accordance with advice on flood risk given by The Scottish Environment Protection Agency.'

Planning permission is now sought through this application for a variation of condition 3 of planning permission 15/00387/P to provide occasional guest (family and friends) accommodation within the approved building.

The Scottish Environment Protection Agency (SEPA), as a consultee to this planning application, objects to the proposed variation of condition 3 of planning permission 15/00387/P on the grounds that it may place buildings and persons at flood risk contrary to Scottish Planning Policy: June 2014.

SEPA confirms that, as was stated in its consultation response to planning application 15/00387/P, its initial objection to the proposed building was removed on confirmation of use of it as a studio/store, which would be of a low vulnerability use and a small scale development. SEPA also confirms that it recommended a condition as imposed on planning permission 15/00387/P that the building should not be used for residential purposes and that any change of use of the building would require a Flood Risk Assessment (FRA) to be made in favour of it. In addition, SEPA states that the information previously provided to show levels of the site relative to the River Tyne were not to Ordnance Datum but, when considered against the historic flood information for the area, it would indicate that the site is likely to be at flood risk during the 0.5% annual probability event. SEPA notes that no submission of a Flood Risk Assessment has been made in the submission of this planning application and states that a FRA may only serve to demonstrate the site is unsuitable for the proposed use.

Prior to the submission of this planning application, an email was received from the applicant's agent (1st September 2015). The agent confirmed that the applicants were delighted to have obtained permission but were concerned at the inclusion of the provision of condition 3 that use of the building is to be 'not including resident or guest accommodation' as the applicants would like to use it for occasional guest or personal accommodation. The agent therefore sought clarification as to whether it would be possible to have this part of the condition removed. The Planning Authority confirmed on 7th September that, should their clients wish to use the approved building as a residential or guest accommodation, it would need to be the subject of an application for planning permission to vary condition 3 of planning permission 15/00387/P. Moreover, in accordance with the advice given by SEPA (as stated in their revised consultation

response made to planning permission 15/00387/P), it would also be necessary to provide a Flood Risk Assessment to demonstrate that the building would be free from flood risk.

The application drawings demonstrate that the approved building as now shown would contain a lounge/kitchen, bedroom and shower room within it. No information or details have been provided to demonstrate that the building would be free from flood risk matters for use as occasional guest (family and friends) accommodation as advised to the applicants' agent that such information would be necessary in the determination of a forthcoming application seeking planning permission to vary condition 3 of planning permission 15/00387/P.

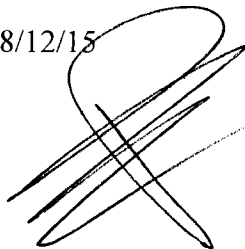
Accordingly, it has not been demonstrated that there is any reason, by way of material planning considerations, to vary Condition 3 of planning permission 15/00387/P and thereby allow for use as occasional guest accommodation. SEAP maintain objection to the principle of such use in the absence of any additional information on flood risk. Any such change to the condition would therefore be contrary to Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan), Policy DP16 of the adopted East Lothian Local Plan 2008 and to advice on flood risk given by The Scottish Environment Protection Agency.

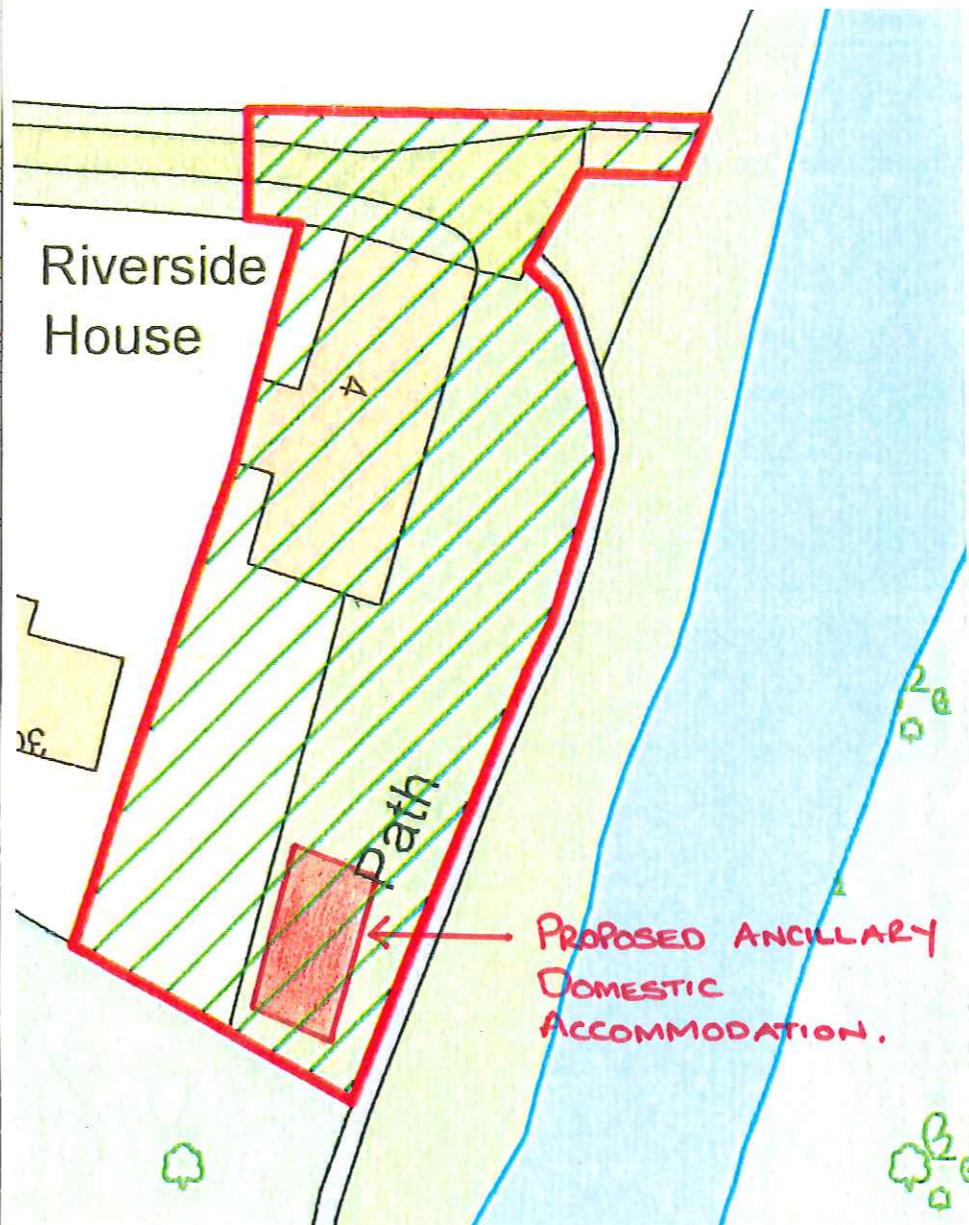
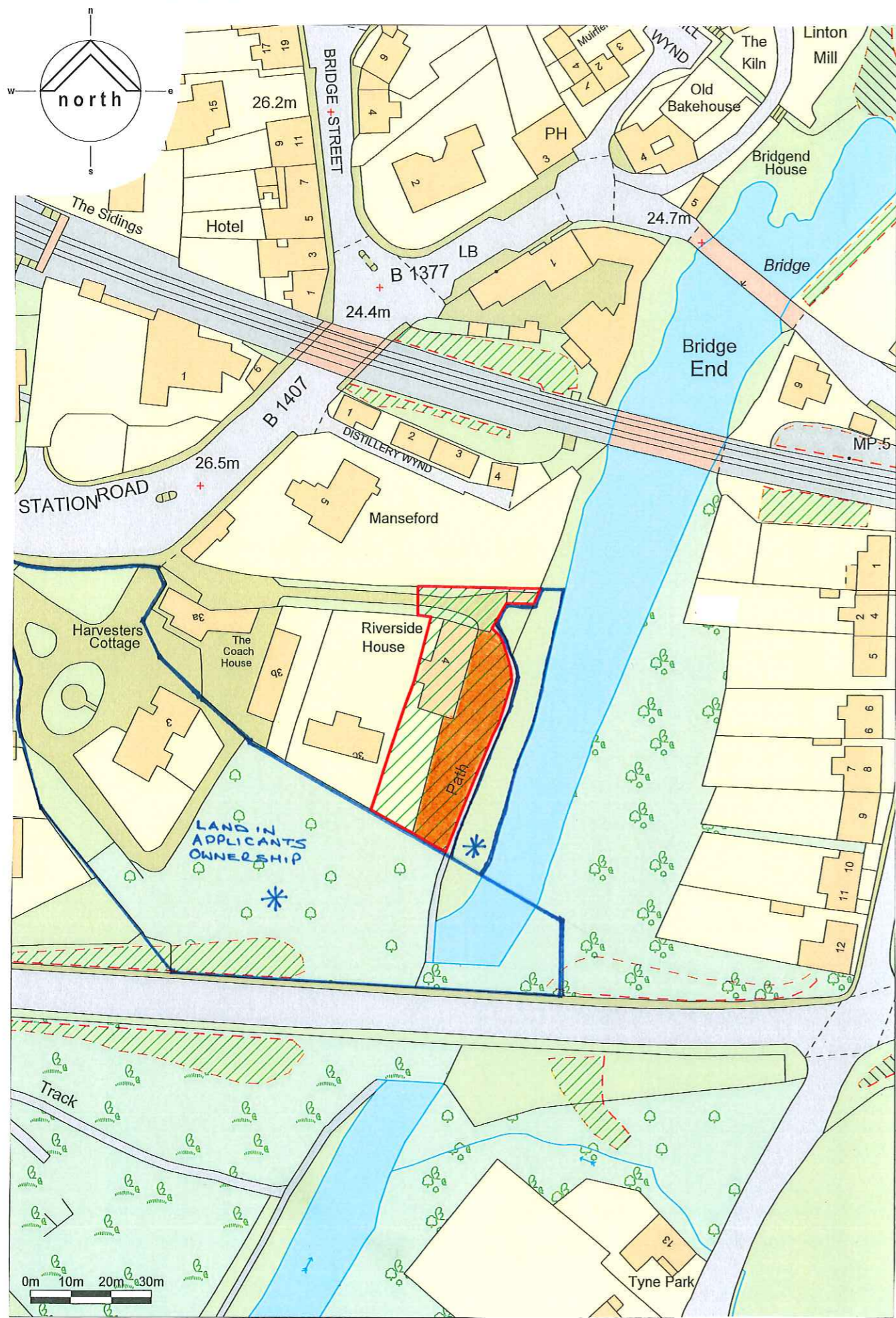
REASON FOR REFUSAL:

- 1 No information or details have been provided to demonstrate that the building would be free from flood risk so as to be safe for use as occasional guest accommodation and thus variation of Condition 3 of planning permission 15/00387/P to allow for such use would be contrary to Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan), Policy DP16 of the adopted East Lothian Local Plan 2008 and to advice on flood risk given by The Scottish Environment Protection Agency.


LETTERS FROM


08/12/15

A handwritten signature in black ink, consisting of several overlapping loops and lines, positioned below the date.

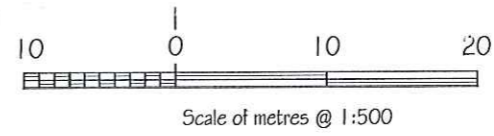


Site Layout Plan
scale: 1.500

 DENOTES LAND SUBJECT TO CHANGE OF USE.

 DENOTES LAND IN APPLICANTS OWNERSHIP.

Site Location Plan
scale: 1.2500



PROJECT:
Ancillary Domestic Accommodation @
Riverside House
4 Station Road
East Linton
EH40 3DP

CLIENT:
Ros Lowrie & Paddy Burns

DRAWN BY:
Greig Ramsay

DATE:
11th May 2015

CONTRACT NUMBER:
10396

DRAWING NUMBER & REVISION:
01

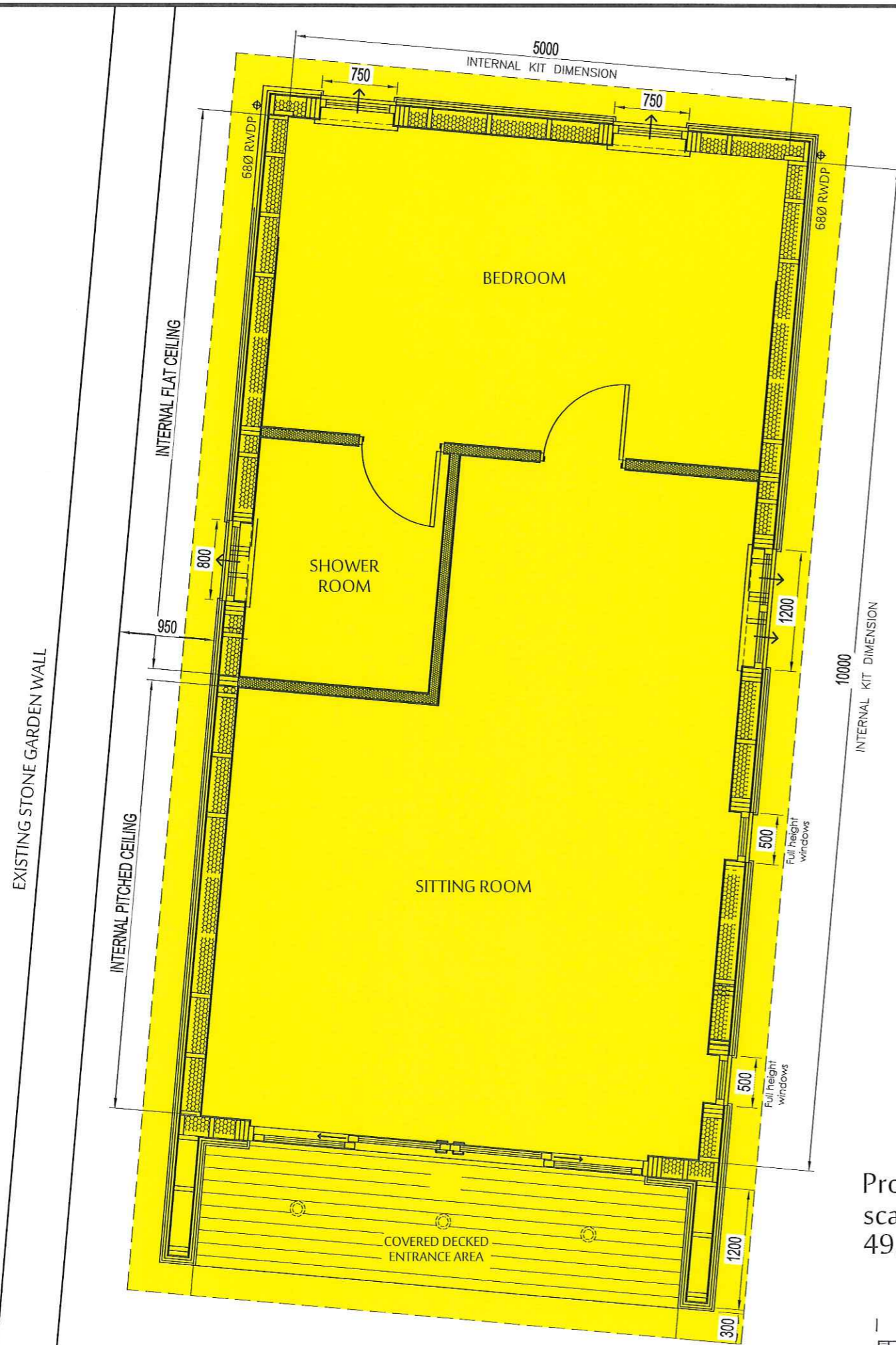
cedarcrate

by Mozolowski & Murray

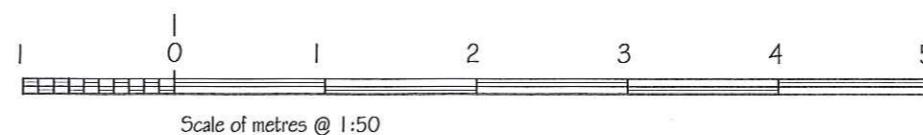
2-8 Clashburn Way
Bridgend Industrial Estate
Kinross
KY13 8GA

Tel: 01577 864706
Fax: 01577 864472

Email: conservatory1@mozmurray.co.uk



Proposed Floor Plan
 scale: 1:50
 49.61 sq.mtrs



Proposed Materials:
 Base - Facing Brick
 Timber frames & doors - Moss Grey
 Walls - Cedar Lining Boards
 Roof - Fatra Single Ply Membrane
 Flue - Stainless Steel

No new hardstanding proposes.

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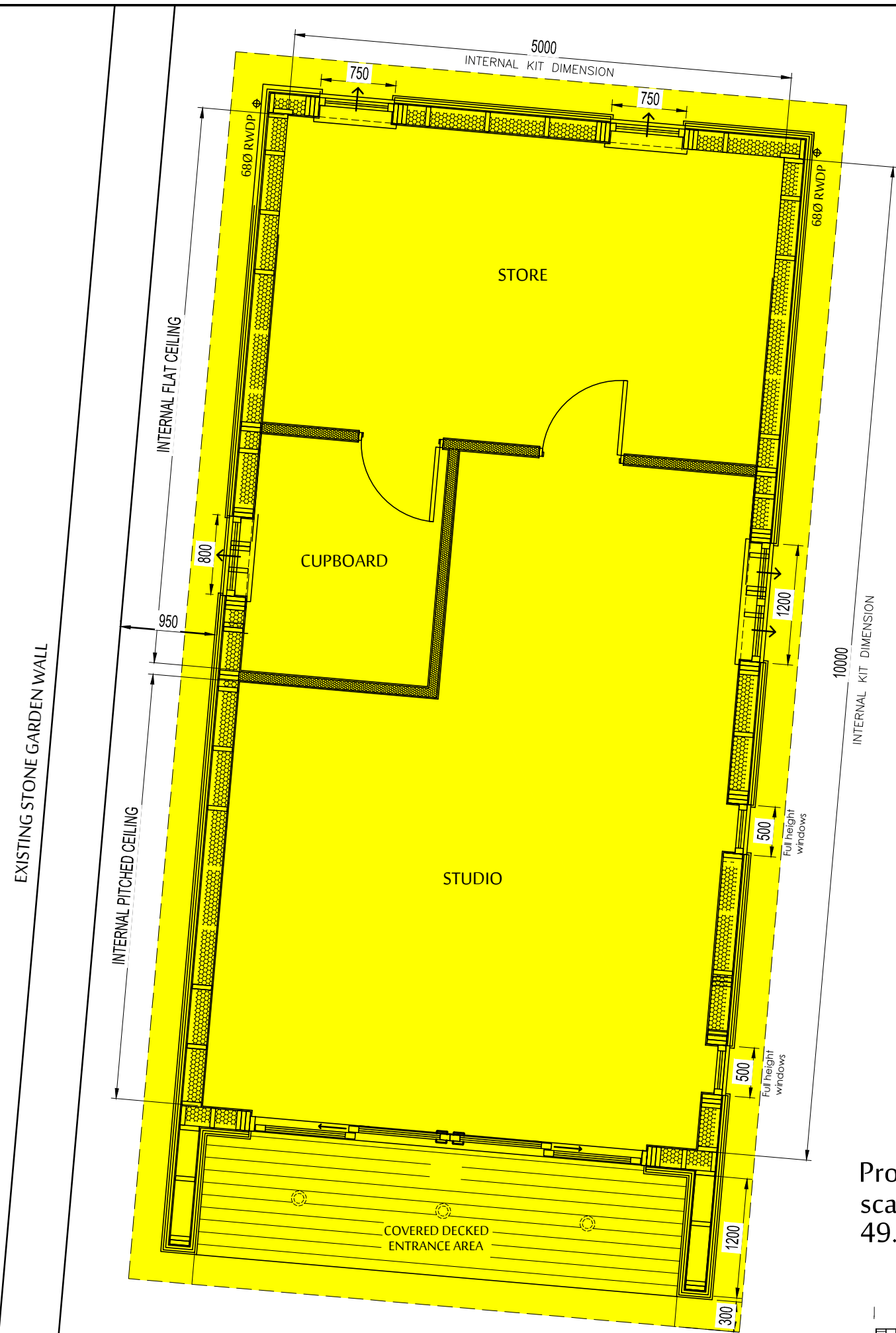
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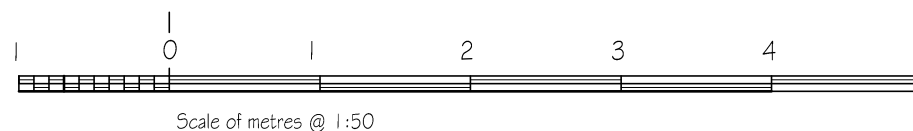
DRAWING NUMBER & REVISION:
 03

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