

LOCAL REVIEW BODY

27 February 2025

Application No: 24/00417/P

**Land at rear of Old Farmhouse, Ferneylea,
Oldhamstocks, Innerwick, TD13 5YN**

Appointed Officer's Submission

24/00417/P – REVIEW AGAINST DECISION – PLANNING OFFICER’S SUBMISISON

Planning application review against decision (refusal): Erection of 1 house, garage and associated works

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OFFICER REPORT

12th August 2024

App No. **24/00417/P**

Application registered on **25th June 2024**

Target Date **24th August 2024**

Proposal	Erection of house, garage and associated works	SDELL	Y
		CDEL	N
Location	Land At Rear Of Old Farmhouse Ferneylea Oldhamstocks Innerwick East Lothian	Bad Neighbour Development	N

APPLICANT: **Mr William Donaldson**

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

**c/o Wood Associates
Per Harry Wood
44 Morningside Road
Edinburgh
Lothian
EH10 4BF**

DECISION TYPE: **Application Refused**

REPORT OF HANDLING

PROPOSAL

This application relates to an area of land situated to the rear of The Old Farmhouse, Ferneylea, Oldhamstocks. The application site is situated within the countryside some 0.7m to the southeast of Oldhamstocks. By being within the countryside the site is within an area designated by Policy DC1 of the adopted East Lothian Local Development Plan 2018.

The application site is bounded to the north by an access road, to the east by the neighbouring residential property known as Longwood and to the south and west to the neighbouring residential property Old Farmhouse and its associated ground.

PLANNING HISTORY

In April 2007 planning permission (ref: 07/00318/FUL) was in part allowed at appeal by DPEA to retrospectively grant planning permission for the change of use of agricultural land to domestic garden ground for the neighbouring residential property known as The Old Farmhouse. Part of that area of domestic garden ground allowed through that appeal now forms the application site the subject of this planning application for the erection of 1 house, detached garage and associated works.

In November 2012 planning application Ref: 12/00813/PP sought planning permission in principle for the erection of 1 house on the application site. The application site for that application included an area of rectangular land to the west of the current application site. That application was withdrawn before it was determined.

PROPOSAL

Planning permission is now sought for the erection of 1 house, detached garage and associated hardstanding on the application site.

The application site sits to the east side of the property of Longwood. The proposed house would be positioned on the plot such that the building line of its front and rear elevations would align with that neighbouring house. It would be predominantly two storey's in height with a pitched roof. It would be 15.6 metres in length some; some 7.8 metres in width with a ridge height of some 8.5 metres. The external walls of the proposed house would be predominantly finished in lime render with natural stone quoins and cills and its roof would be clad in slate. The proposed windows and doors would be of hardwood construction and the proposed rainwater goods would be of cast iron construction.

The submitted proposed site plan notes there is an existing entrance from the track to the north of the application site for access to the application site. It is then proposed to form hardstanding within the application site to form a driveway with associated parking and garage. The rear garden would contain pumps and a soakaway and it is proposed that the house would be served and connected to the existing septic tank to the southwest.

Amenity space would be provided in the form of a front and rear garden which are noted to be laid in grass. A balcony would also be provided to the rear (south) elevation which would be enclosed by a glass balustrade and access from a bedroom at first floor level.

The south and west boundaries of the application site would comprise of hedging, the existing fence to the east boundary is noted as being retained. There is no note provided regarding the north boundary although the submitted supporting statement indicated that hedging is the preferred boundary treatment.

Within the southeast corner of the application site, it is proposed to erect a single storey, detached garage. The proposed garage would have a length of some 6.05 metres; a width of some 3 metres and a height of some 3.9 metres, at its highest point.

The proposed garage would be finished externally in a lime render with a natural slate clad roof. The garage door would be of hardwood construction and the rainwater goods would be of cast iron construction.

A supporting statement has been submitted alongside the application which notes the proposed house is positioned to be in line with the neighbouring house of the site to create a uniform frontage. The positioning of the proposed driveway sets the house further away from the neighbouring residential property of Longwood. The design of the house emulates features of the adjacent property, Farmhouse by way of its scale, massing, window profile, roof pitch and seeks to follow the mass and proportions of the existing property to achieve a harmonious frontage and fit for the local environment.

DEVELOPMENT PLAN

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan unless material considerations indicate otherwise.

The development plan is National Planning Framework 4 (NPF4) and the adopted East Lothian Local Development Plan 2018.

Policies 1 (Tackling the climate and nature crises), 3 (Biodiversity), 5 (Soils), 6 (Forestry, woodland and trees), 13 (Sustainable transport), 14 (Design, quality and place), 15 (20 Minute Neighbourhoods), 16 (Quality Homes), 17 (Rural Homes) and 29 (Rural Development) of NPF4 are relevant to the determination of this application. Policies DC1 (Rural Diversification), DC4 (New Build Housing in the Countryside), DC5 (Housing as Enabling Development), DP2 (Design), NH7 (Protecting Soils), NH8 (Trees and Development), T1 (Development Location and Accessibility), and T2 (General Transport Impact) of the adopted East Lothian Local Development Plan 2018 are relevant to the determination of the application.

REPRESENTATIONS

Four objections to the application have been received. In summary, the main grounds of objection are:

- i) Agreement to connect and use the private water supply are not shown on the drawings and consent has not been granted by users of that supply;
- ii) The private water supply is already stretched to the point of near failure at peak times;
- iii) The septic tank the applicant proposed to use is old and in a poor state of repair, if this fails or overflows it would do so into a neighbouring property garden;
- iv) The submitted drawing notes an existing entrance from track however this does not exist and was not shown on the plans submitted for a previous application (ref: 12/00813/PP);

- v) The application falsely states there are no trees however there are many young trees and mature trees;
- vi) The application states the site address as 'The Old Farmhouse' an objector notes this is incorrect and the land is a previously felled small woodland area which has regenerated and is no longer part of the property known as 'The Old Farmhouse';
- vii) An objector notes they would not provide access over their land for the proposed house and associated works;
- viii) The size and scale of the house is out of proportion with the size of the plot and it appears the house could not be sited on the plot;
- ix) There is also an electricity pole situated directly in line with the proposed driveway should this be re-sited it would cause serious disruption and inconvenience;
- x) The proposed house would sit on elevated ground and would greatly compromise the light received by a neighbouring living room and bedroom;
- xi) A side elevation of the proposed house is shown as blank and an objector wishes that no windows are formed in that elevation; and
- xii) The proposed house would result in a loss of privacy to neighbouring properties.

With regards to the comments received relating to the use and connection to a private water supply and septic tank this is a civil matter between affected parties and does not prevent the determination of this planning application.

Further to a site visit undertaken by the planning case officer it is noted that there is no evidence of an existing access to the application site from the access road which is situated to the north of the site. Notwithstanding, if planning permission were to be granted for the proposed house then there would be no impediment to a new access being formed.

If planning permission were to be granted for the house then the applicant would need to secure the removal of the electricity pole.

With regards to the site address being inaccurate, the site address registered for this application is 'Land At Rear Of Old Farmhouse Ferneylea'. This site address is deemed accurate to identify the application site and does not prevent the determination of this planning application.

The granting of access over land not in the applicant's ownership is a civil matter between affected parties. It is also noted the applicant/agent has served notice on owners of land out with their ownership which relate to this planning application.

PLANNING ASSESSMENT

On the matter of residential amenity Policy DP2 of the ELLDP states amongst other things that the design of all new development, with the exception of changes of use and alterations and extensions to existing buildings, must ensure privacy and amenity, with particular regard to levels of sunlight, daylight and overlooking, including for the occupants of neighbouring properties. Furthermore, in assessing whether or not a proposed new development would result in harmful overlooking and therefore loss of privacy to existing neighbouring residential properties it is the practice of the council, as a planning authority to apply the general rule of 9 metres separation distance between the windows of a proposed new development and the garden boundaries of neighbouring residential properties and an 18 metres separation distance between directly facing windows of the proposed new development and the windows of existing residential properties.

Due to the location of the house in relation to neighbouring properties there would be no harmful overlooking of neighbouring residential properties to the north and south. Furthermore, provided it was (a) made a condition of any grant of planning permission that the window proposed for the first floor in the west elevation of the house was obscurely glazed and (b) the permitted development rights to form any further openings in that west elevation wall were removed then the proposed house would not allow for harmful overlooking of the rear garden of the neighbouring house of The Old Farmhouse to the west.

There are no proposals to form windows or other glazed openings within the side (east) elevation wall of the proposed house. However, if any future openings were to be formed at first floor level they would fall within 18 metres of the bedroom window situated at first floor level in the side (west) elevation of the neighbouring residential property of Longwood, which would be detrimental to the privacy and amenity of that neighbouring residential property. However, it could be made conditions of any grant of planning permission for the proposed house that (a) the permitted development rights to form openings in the east side elevation of the house were removed and (b) that the east side of the proposed first floor balcony be fitted with a 1.5m high privacy screen. Subject to the imposition of those planning controls the proposed house would not allow for harmful overlooking of the neighbouring residential property to the east.

On the matter of the impact of the proposed house on daylight and sunlight on neighbouring properties, guidance is taken from "Site Layout and Planning for Daylight and Sunlight: A Guide to Good Practice" by P.J. Littlefair.

Application of the sunlight test indicates that the proposed house would cast a shadow on the garden ground of The Old Farmhouse between 8am and 11am and on the garden ground of Longwood between 1pm and 4pm. However, the guidance states that at least half of a garden should receive at least two hours of sunlight on 21st March therefore, that amount of shadow cast on those neighbouring properties would not be unacceptable. Therefore, in accordance with The Guide the proposed house by virtue of its size, form and positioning would not allow for a harmful loss of sunlight to any neighbouring residential properties.

The proposed house would be situated a sufficient distance from The Old Farmhouse such that it would not result in a harmful loss of daylight to that neighbouring residential property.

The east elevation of the proposed house would be positioned some 11.2m from the west elevation of the neighbouring house of Longwood which has a bay window in its ground floor and a window in its first floor. Application of the 25 degree daylight test given in the Guide demonstrates that there would be no loss of daylight to the first floor window in the west elevation of Longwood. However, due to the position and ridge height of the proposed house, it would fail the 25 degree test when applied to the ground floor bay window. However, that bay window is already overshadowed by the mature trees and hedge that are growing along and close to the west boundary of that neighbouring property. Therefore, any overshadowing caused by the proposed house would be little different to that caused by those existing trees if they were to be removed.

The Council's Senior Environmental Health Officer has advised he has no comment to make regarding the application, being satisfied that the development would not have an adverse impact on any neighbouring land uses.

The Council's Contaminated Land Officer has been consulted on the application and notes there is no direct evidence to suggest any previous contaminative uses associated with the site. There may, however, be the possibility that areas of localised contamination (areas of made ground) may exist associated with the workings of the nearby farm steading.

It should also be noted that according to the latest Radon Mapping data the site falls within a Radon Affected Area (Class 3 : 3 to <5% of properties are at or above the radon action level). This means that the any new builds would require basic radon protection measures to be installed.

Given the above and due to the nature of the development (residential), further information will be required to determine the ground conditions and potential contamination issues impacting on the site (with the minimum of a Phase I Geo-Environmental Assessment being carried out).

The Council's Road Services have been consulted on the application and advise that parking has been provided in line with East Lothian Council's standards. They raise no objection to the application provided conditions be imposed to ensure the driveway is a minimum of 3.3 metres wide; the double parking area is a minimum of 3.3 metres wide by 6 metres long, excluding the driveway behind; and an EV charger be installed.

The houses in this part of the East Lothian Countryside are of a variety of architectural forms and finishes. The proposed house would be of a form, size, scale and positioning that would not appear overly prominent or exposed. It would sit comfortably in its relationship with the other houses at Ferneylea and would be of an architectural style, finish and appearance that would not be harmful to the character and appearance of the area. It would not be an overdevelopment of the plot.

Notwithstanding all of the above the application site is located in a countryside location within East Lothian that is characterised by a low density dispersed built form within an agricultural landscape. While there are both residential and farm buildings within the vicinity of the

application site it is not identified in the adopted East Lothian Local Plan 2018 as being within a settlement and the Local Plan does not allocate the land of the site for housing development.

Consequently, the principle of the erection of one house and associated works on the application site must be assessed against national, strategic and local planning policy relating to the control of new housing development in the countryside. Thereafter it must be established whether the proposed house would be of an architectural form, size, scale and positioning appropriate for its setting.

Policy 17 of NPF4 provides support for proposals for new homes in rural areas where the development is suitably scaled, sited and designed to be in keeping with the character of the area and subject to meeting other criteria. These are: the proposal is on a site allocated for housing within the LDP; it reuses brownfield land; reuses a redundant or unused building; is an appropriate use of a historic environment asset; is necessary to support the sustainable management of a viable rural business and there is an essential need for a worker to live permanently at or near their place of work; is for a single home for the retirement succession of a viable farm holding; is for the subdivision of an existing residential dwelling; and reinstates a former dwelling house. Development proposals are also required to consider how they will contribute towards local living and take account of identified local housing needs, economic considerations and transport needs. Additional criteria apply for proposals in remote rural areas, which will be supported where they support and sustain existing fragile communities; support identified local housing outcomes; and are suitable in terms of location, access and environmental impact.

The site is not allocated for housing development in the adopted East Lothian Local Development 2018, nor is it a brownfield, vacant or derelict site as it has been used as long-term established agricultural land. The proposed house does not reuse a redundant or unused building. There is no agricultural or other employment use presently in operation to justify the need for a new house on the application site. Neither has the applicant advanced any such case of justification of need for the principle of the proposed new house. No case has been put forward that the proposed house has an operational requirement for its countryside location or that it would be required to support a use which in principle requires a countryside location. In the absence of any such direct operational requirement or justified supporting case for the erection of a house and associated works on the application site, the principle of such proposed development on the site is inconsistent with national, strategic and local planning policy and guidance concerning the control of development of new build houses in the countryside. Specifically, the proposal to erect a new build house and associated works on the application site is in principle contrary to Policy 17(a) of NPF4.

Policy DC1 of the ELLDP sets out specific criteria for new development in the countryside, stating that there will be support in principle for new development where it is for agriculture, horticulture, forestry or countryside recreation; or other businesses that have an operational requirement for a countryside location, including tourism and leisure uses.

Policy DC4 sets out specific criteria for the erection of new build housing in the countryside and allows for new build housing development in the countryside where the Council is satisfied that

a new house is a direct operational requirement of an agricultural, horticultural, forestry or other employment use. Policy DC4 also allows for other small scale housing proposals that form a logical addition to an existing small scale rural settlement where they are promoted for affordable housing and evidence of need is provided and the registered affordable housing provider will ensure that the dwelling(s) will remain affordable for the longer term.

Policy DC5 sets out specific criteria for the exceptional circumstances where the erection of housing as enabling development in the countryside may be supported. Any such new housing development in the countryside should: (a) enable a desirable primary use supported in principle by criterion by Policy DC1 and the benefits of the primary use outweighs the normal presumption against new build housing in the countryside; or (b) fund the restoration of a listed building or other buildings of recognised heritage value, or other significant designated feature of the built or natural environment, the retention of which is desirable.

On the matter of Policy DC5, the principle of the erection of one house and associated works on the application site is not promoted to enable a desirable primary use supported in principle by criterion b of Policy DC1. Thus, there are no benefits of such a primary use that would outweigh the normal presumption against new build housing in the countryside. Nor is the principle of the erection of one house and associated works on the application site promoted to fund the restoration of a listed building.

As noted above, the site is not allocated for housing within ELLDP and is for a new house on a greenfield site that is not adjacent to an existing settlement. It is not required in connection with a rural business or to provide for retirement succession of a farm holding. It is not for affordable housing and is not being promoted as enabling development. Therefore, the proposal is contrary to Policy 17(a) of NPF4 and Policies DC1, DC4 and DC5 of the ELLDP.

NPF4 Policy 17(b) requires rural housing proposals to consider local living, local housing needs, economic considerations and transport needs. Policy 15 expects development to contribute to local living including, where relevant, 20 minute neighbourhoods. In this instance the site is located some 0.7m to the southeast of Oldhamstocks, which contains no facilities beyond a post box and a bus stop with limited Bus services. Therefore, any future residents of the proposed house would inevitably need to travel some distance to meet the majority of their daily needs, and would be likely to use private cars in order to do so. The proposal for the new house in this countryside location is therefore contrary to these aspects of Policy 17(b) and to Policies 13 and 15 of NPF4.

NPF Policy 16(f) sets out the limited circumstances under which housing proposals may be supported on non-allocated sites, including consistency with other policies of the development plan including local living/ 20 minute neighbourhoods and consistency with policy on rural homes. These circumstances do not apply to this proposal and therefore it is contrary to Policy 16(f) of NPF4.

Although the application site has previously been granted planning permission for use as garden ground it is not laid out as such and has the appearance of a field. It is within a larger area categorised as Prime Agricultural Land. Policy 5 of NPF4 sets out the limited circumstances that

development proposals on prime agricultural land would be supported, none of which apply in this case. The proposal would result in the loss in an area of Prime Agricultural Land to a residential land use which would not be consistent with Policy 5 of NPF4 or Policy NH7 of the adopted East Lothian Local Plan 2018.

In conclusion the proposed scheme of development is not in accordance with the Development Plan and there are no material planning considerations that outweigh the fact that the proposed scheme of development is not in accordance with the Development Plan.

REASONS FOR REFUSAL:

- 1 The erection of a house with associated garage on the application site would be new build housing development in the countryside of East Lothian on land which is not allocated for housing development, is not brownfield land, does not reuse a redundant or unused building, and for which a need to meet the requirements of the operation of an agricultural, horticultural, forestry, countryside recreation, or other business, leisure or tourism use has not been demonstrated, and which is not proposed as affordable housing development of an existing rural settlement. The proposal is therefore contrary to Policy 17 of NPF4 and Policies DC1 and DC4 of the adopted East Lothian Local Development Plan 2018.
- 2 The erection of a house with associated garage and works on the application site would be new build housing development in the countryside of East Lothian for which a desirable primary use supported in principle by criterion b of Policy DC1 and with benefits that outweigh the normal presumption against new build housing in the countryside has not been demonstrated; The proposal is therefore contrary to Policy DC5 of the adopted East Lothian Local Development Plan 2018.
- 3 The proposed scheme of development for a house on this rural site located within the East Lothian countryside does not meet these circumstances specified in Policy 17 of NPF4 or DC4 of the adopted East Lothian Local Development Plan 2018 and would effectively undermine the spatial strategy of the LDP and result in an increased number of non-public transport journeys at a time when the Scottish Government is requiring a reduction in private car use to help combat climate change and reduce carbon emissions. As such the proposal is contrary to Policies 13, 15 and 17(b) of NPF4 and T1 of the adopted East Lothian Local Development Plan 2018.
- 4 The proposal would result in the loss in an area of Prime Agricultural Land to a residential land use which would not be consistent with Policy 5 of NPF4 or Policy NH7 of the adopted East Lothian Local Plan 2018.

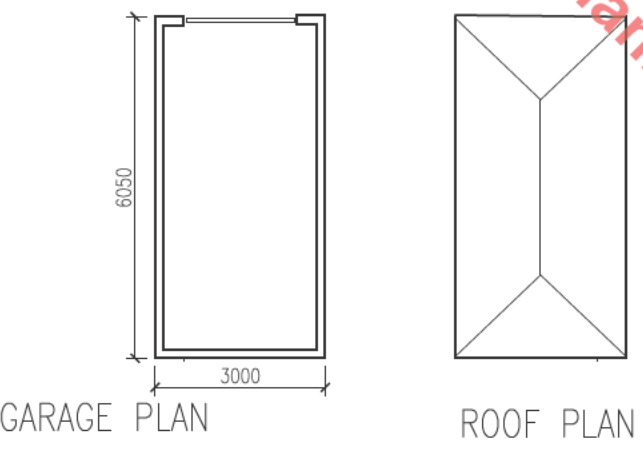
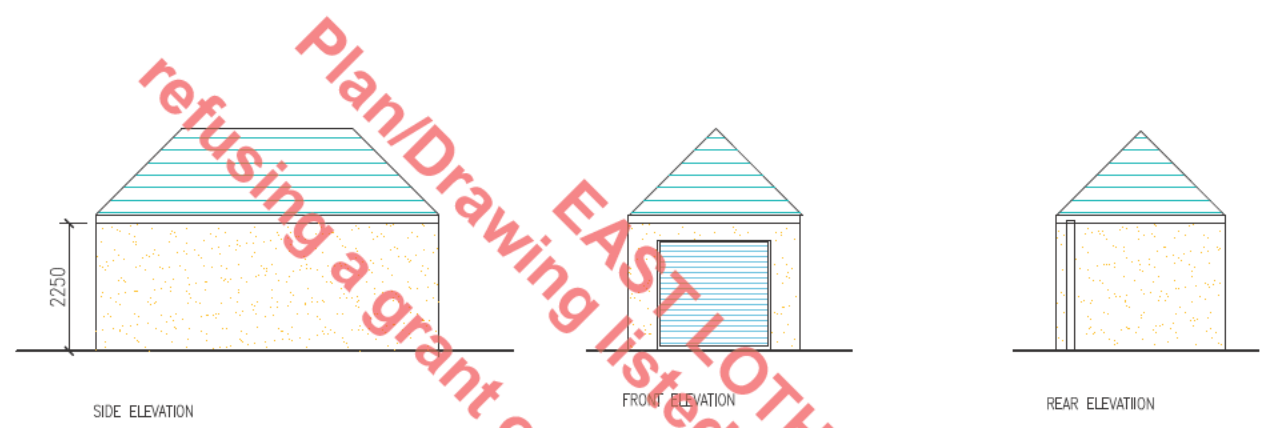
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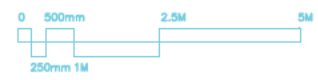
12th August 2024

Old Farmhouse, Ferneylea, Cockburnspath, TD13 5YN





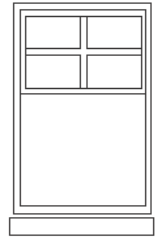
MATERIALS
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 WALL LIME RENDER
 GARAGE DOOR WHITE PAINTED HARDWOOD
 GUTTERS AND DOWN PIPES CAST IRON PAINTED BLACK



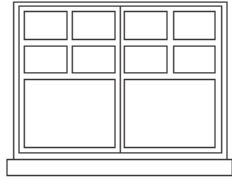
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 NEW HOUSE FERNEYLEA
 FOR
 W DONALDSON
 DRAWING - PLANNING GARAGE 24/777 P 04A
 MAR 24
 SCALE 1/100 (A3)

WOOD ASSOCIATES
 BOX 77 44 - 46 MORNINGSIDE ROAD EH10 4BF
 TEL 07909 992565
 e-mail harrywood@me.com

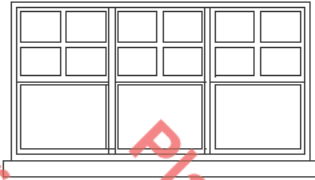
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 EAST LOTHIAN COUNCIL
 23/08/2024 Decision Notice of



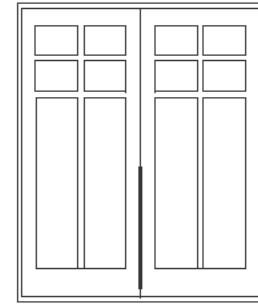
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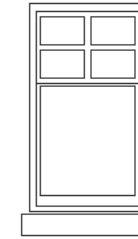
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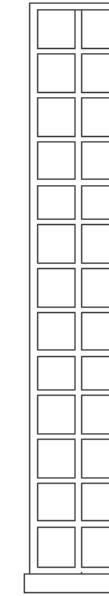
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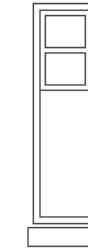
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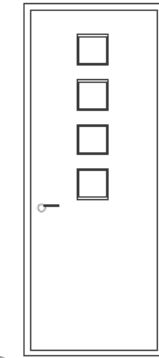
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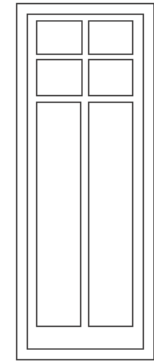
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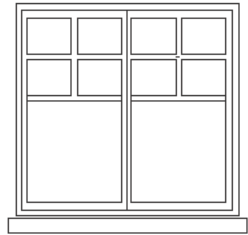
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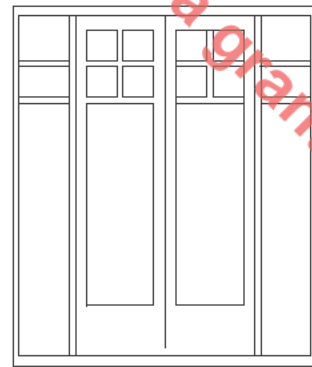
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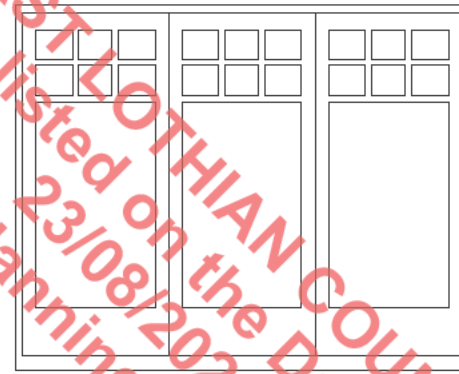
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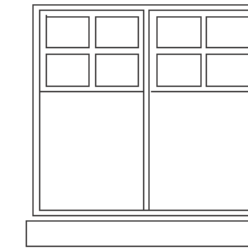
WINDOW TYPE 5



DOORS 3



DOORS 4



WINDOW TYPE 6

Plan/Drawing listed on the Decision Notice of refusing a grant of planning permission 24/00417/P EAST Lothian Council 23/08/2024

ALL DOORS AND WINDOWS HARDWOOD
PAINTED WHITE. ALL GLASS CLEAR LOW E
DOUBLE GLAZED UNITS

NEW HOUSE FERNEYLEA

FOR

W DONALDSON

DRAWING - PLANNING WINDOWS/DOORS 24/777 P 05

MAR 24

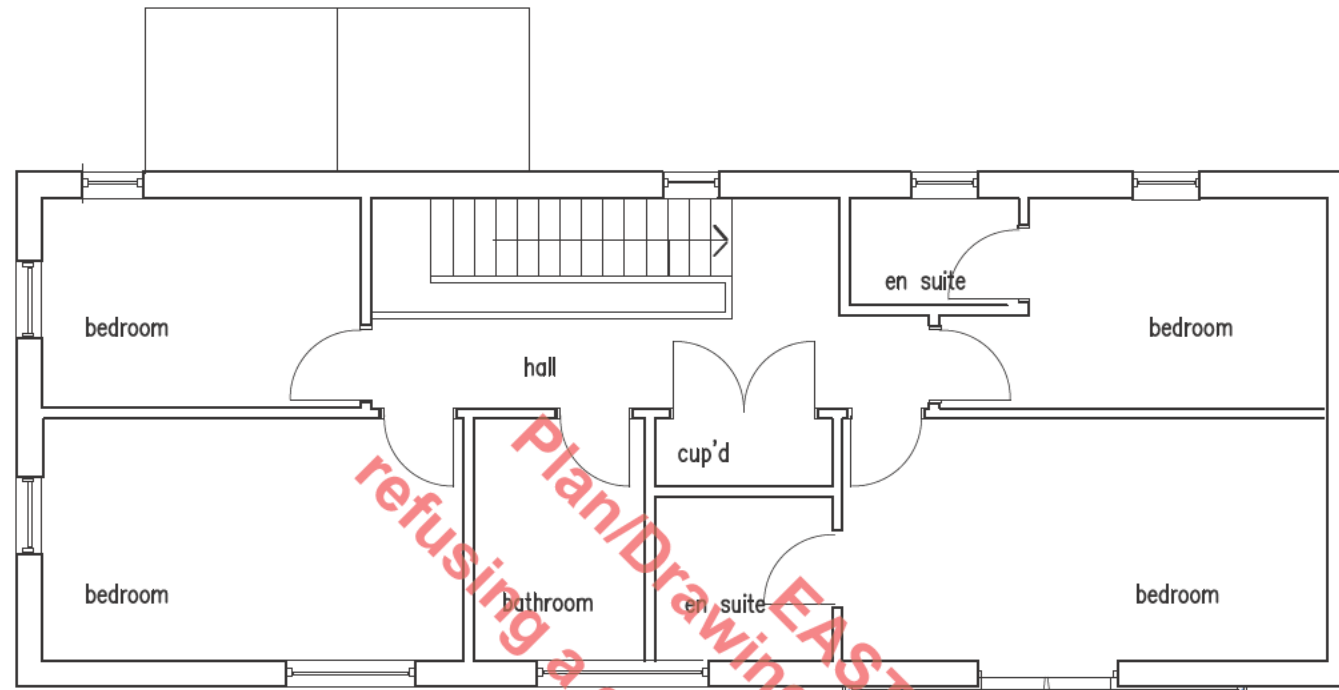
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WOOD ASSOCIATES

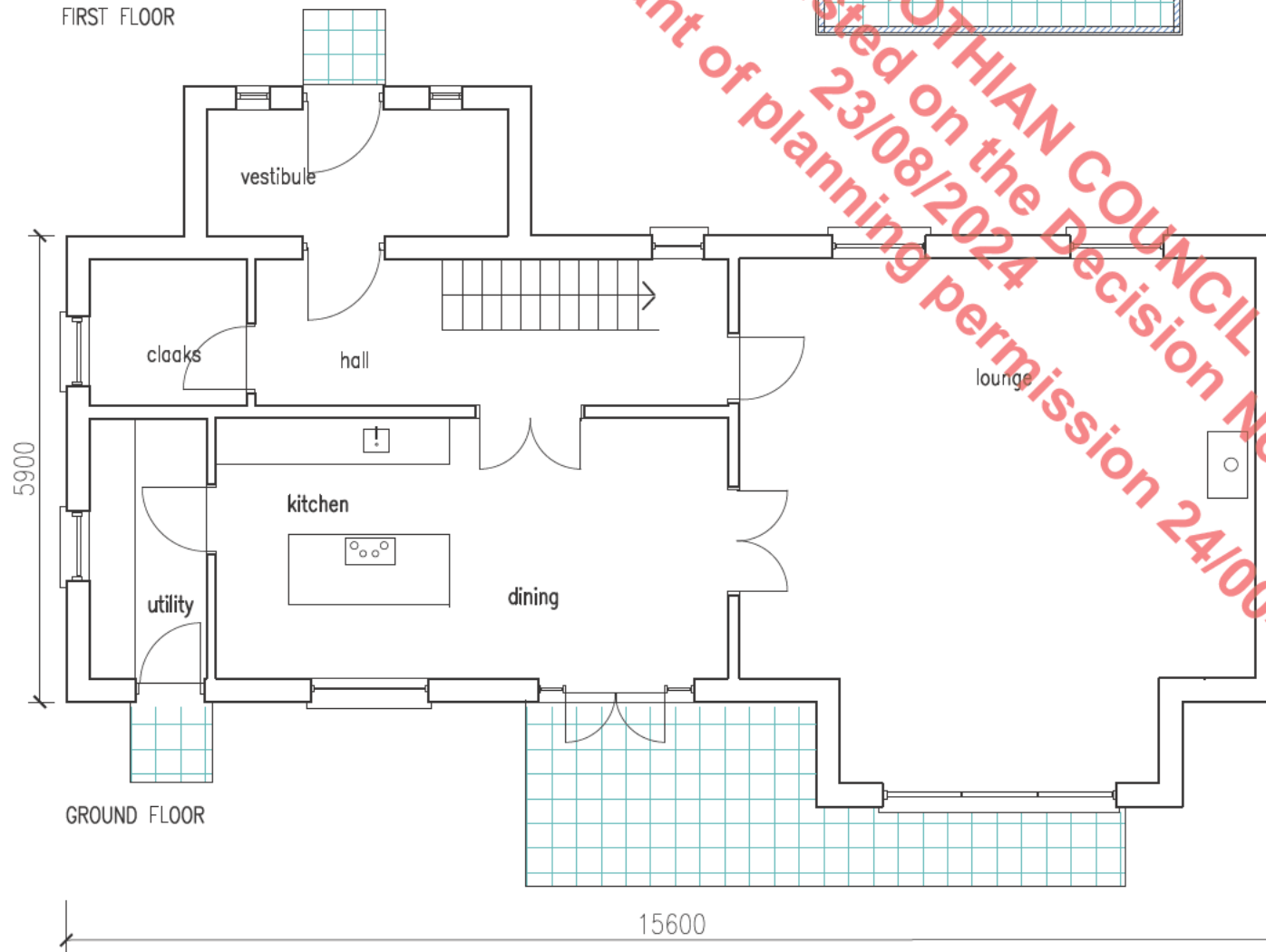
BOX 77 44 - 46 MORNINGSIDE ROAD EH10 4BF

TEL 07909 992565

e mail harrywood@me.com

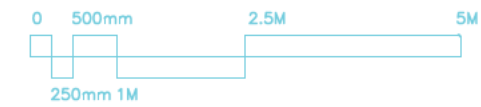


FIRST FLOOR



GROUND FLOOR

Plan/Drawing listed on the Decision Notice of refusing a grant of planning permission 24/004171P
 EAST LoTHIAN COUNCIL 23/08/2024



AMENDS A - WINDOWS AMENDED HW MAY 24
 NEW HOUSE FERNEYLEA
 FOR
 W DONALDSON
 DRAWING - PLANNING PLANS 24/777 P 02A
 MAR 24
 SCALE 1/100 (A3)

WOOD ASSOCIATES
 BOX 77 44 - 46 MORNINGSIDE ROAD EH10 4BF
 TEL 07909 992565
 e mail harrywood@me.com

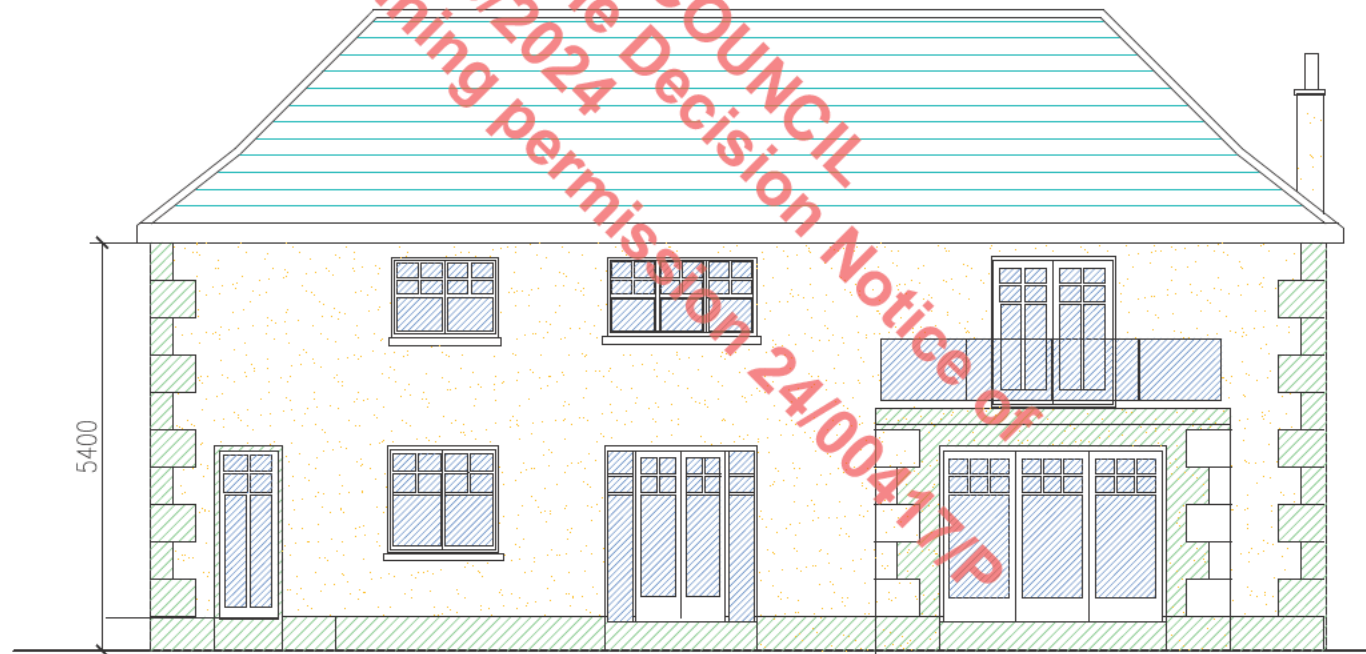


FRONT ELEVATION

SIDE ELEVATION



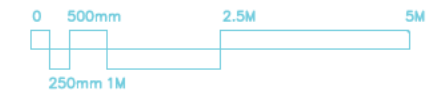
SIDE ELEVATION



REAR ELEVATION

Plan/Drawing listed on the Decision Notice of
 EAST LOTHIAN COUNCIL
 refusing a grant of planning permission 23/08/2024
 24/004717/P

MATERIALS
 ROOF NATURAL SLATE
 WALLS NATURAL STONE QUOINS AND CILLS
 WALLS LIME RENDER
 DOORS AND WINDOW WHITE PAINTED HARDWOOD
 GUTTERS AND DOWN PIPES CAST IRON PAINTED BLACK



AMENDS A - WINDOWS ADDED 1st floor HW May 24

NEW HOUSE FERNEYLEA

FOR

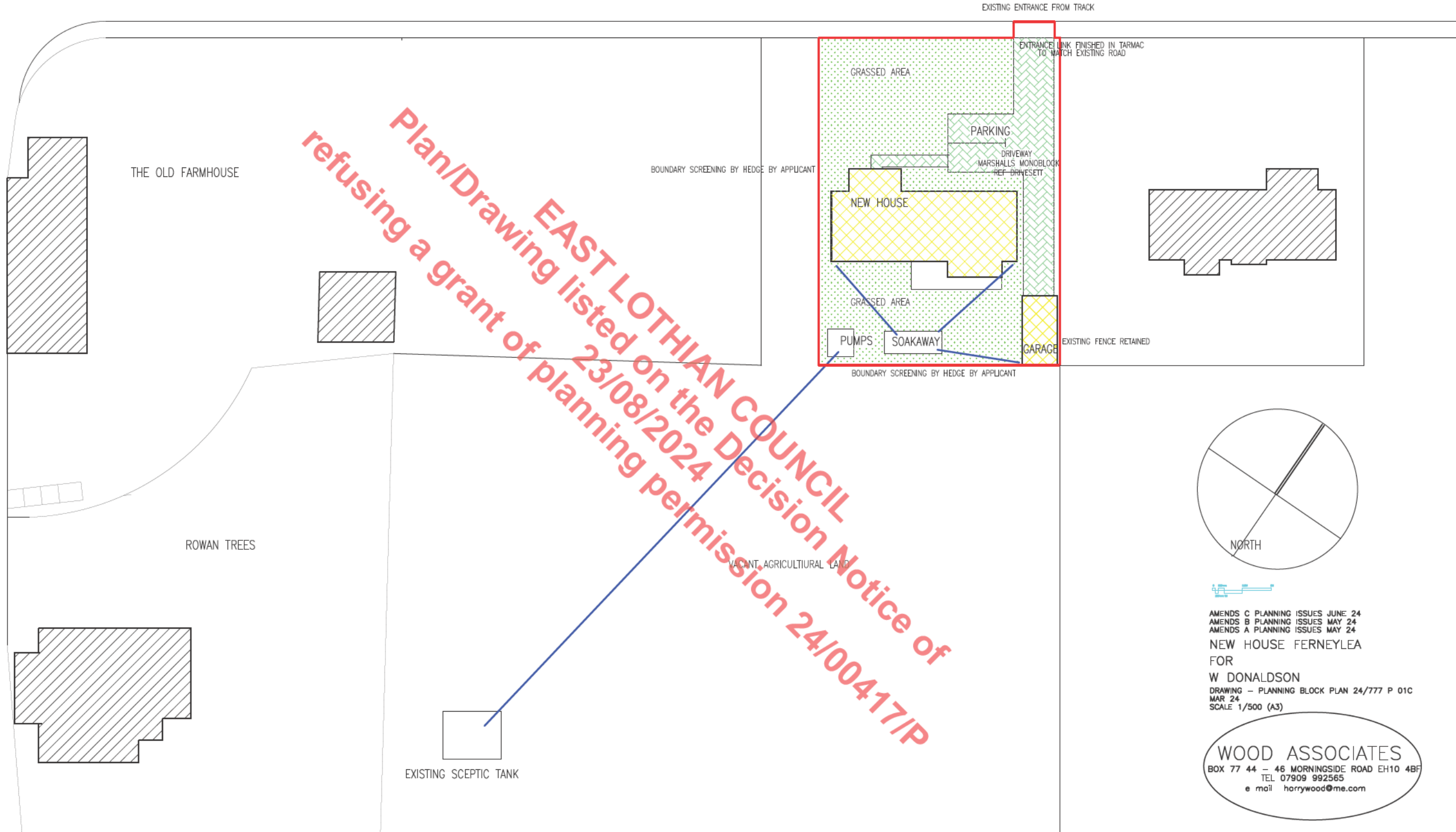
W DONALDSON

DRAWING - PLANNING ELEVATIONS 24/777 P 03A

MAR 24

SCALE 1/100 (A3)

WOOD ASSOCIATES
 BOX 77 44 - 46 MORNINGSIDE ROAD EH10 4BF
 TEL 07909 992565
 e mail harrywood@me.com



EAST LoTHIAN COUNCIL
 Plan/Drawing listed on the Decision Notice of
 refusing a grant of planning permission 24/00417/P
 23/08/2024

AMENDS C PLANNING ISSUES JUNE 24
 AMENDS B PLANNING ISSUES MAY 24
 AMENDS A PLANNING ISSUES MAY 24
 NEW HOUSE FERNEYLEA
 FOR
 W DONALDSON
 DRAWING - PLANNING BLOCK PLAN 24/777 P 01C
 MAR 24
 SCALE 1/500 (A3)

WOOD ASSOCIATES
 BOX 77 44 - 46 MORNINGSIDE ROAD EH10 4BF
 TEL 07909 992565
 e mail horrywood@me.com

App No. 24/00417/P

**EAST LoTHIAN COUNCIL
DECISION NOTICE**

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
TOWN AND COUNTRY PLANNING
(DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATIONS 2013**

Mr William Donaldson
c/o Wood Associates
Per Harry Wood
44 Morningside Road
Edinburgh
Lothian
EH10 4BF

APPLICANT: Mr William Donaldson

With reference to your application registered on 25th June 2024 for planning permission under the above mentioned Acts and Regulations for the following development, viz:-

Erection of house, garage and associated works
at
Land At Rear Of Old Farmhouse Ferneylea
Oldhamstocks
Innerwick
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 The erection of a house with associated garage on the application site would be new build housing development in the countryside of East Lothian on land which is not allocated for housing development, is not brownfield land, does not reuse a redundant or unused building, and for which a need to meet the requirements of the operation of an agricultural, horticultural, forestry, countryside recreation, or other business, leisure or tourism use has

not been demonstrated, and which is not proposed as affordable housing development of an existing rural settlement. The proposal is therefore contrary to Policy 17 of NPF4 and Policies DC1 and DC4 of the adopted East Lothian Local Development Plan 2018.

- 2 The erection of a house with associated garage and works on the application site would be new build housing development in the countryside of East Lothian for which a desirable primary use supported in principle by criterion b of Policy DC1 and with benefits that outweigh the normal presumption against new build housing in the countryside has not been demonstrated; The proposal is therefore contrary to Policy DC5 of the adopted East Lothian Local Development Plan 2018.
- 3 The proposed scheme of development for a house on this rural site located within the East Lothian countryside does not meet these circumstances specified in Policy 17 of NPF4 or DC4 of the adopted East Lothian Local Development Plan 2018 and would effectively undermine the spatial strategy of the LDP and result in an increased number of non-public transport journeys at a time when the Scottish Government is requiring a reduction in private car use to help combat climate change and reduce carbon emissions. As such the proposal is contrary to Policies 13, 15 and 17(b) of NPF4 and T1 of the adopted East Lothian Local Development Plan 2018.
- 4 The proposal would result in the loss in an area of Prime Agricultural Land to a residential land use which would not be consistent with Policy 5 of NPF4 or Policy NH7 of the adopted East Lothian Local Plan 2018.

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>
24/777 P 04	A	27.05.2024
24/777 P 05	-	27.05.2024
24/777 P 02	A	14.06.2024
24/777 P 03	A	14.06.2024
DWG 01	-	25.06.2024

24/777 P 01

C

25.06.2024

23rd August 2024



Keith Dingwall
Service Manager - Planning
(Chief Planning Officer)

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.

Comments for Planning Application 24/00417/P

Application Summary

Application Number: 24/00417/P

Address: Land At Rear Of Old Farmhouse Ferneylea Oldhamstocks Innerwick East Lothian

Proposal: Erection of house, garage and associated works

Case Officer: James Allan

Customer Details

Name: [REDACTED]

Address: [REDACTED]
[REDACTED]
[REDACTED]

Comment Details

Commenter Type: [REDACTED]

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: My wife and I strongly object to this application on the following basis.

- Applicant claims use of private water supply. Drawings do not show proposed connection as applicant does not know where the pipes run. None of the users of this private supply have been consulted; agreement to use it has not been given. The supply is already stretched to the point of near failure at peak times. No assessment of the system capacity has been done. Adding new (very significant) load to the supply is not acceptable; it will put the security of the supply to six other houses and the farm at high risk.

- Applicant plans to connect to unsuitable septic tank. Tank is immediately next to [REDACTED]. Soil pipe from Shepherd's Cottage runs to it under our land, [REDACTED]. The owner of the tank is Linda Young (application landowner). In 2021, she objected [REDACTED], stating the tank was at capacity. ELC upheld the complaint, [REDACTED]. Based on houses connected at that time, that defined the tank capacity as a population equivalent of 14. Today, this application plus the applicant's other, recently passed (23/00795/P), will take the PE to 17. Applicant has a third planning (23/00950/P) proposing another new, taking it up to 21. The tank is very old and in a poor state of repair. [REDACTED]. We strongly object to this tank being taken over capacity.


- Applicant (owner - applicant is acting on owner's behalf) claims an "existing entrance from track". This is an outright lie. The owner put in a very similar application in 2012 (12/00813/PP). Their own site plan drawings show that there is no entrance where now claimed, and that they planned to "form new access". Owner withdrew the 2012 application and has been attempting to negotiate access via neighbours since then. The landowner previously sold the Old Farmhouse, separating off this land, knowing full well that the heritable right of access belongs to the Old Farmhouse,

only.

- Application falsely states there are no trees. The site has many young trees and at least two mature, around 6m in height.

- The owner of the land and septic tank has a long history of using the tank as leverage against those using it. For more than a year, they have been in breach of their property deeds, in that access to empty or maintain the tank has been barred from properties using the tank. There is a locked shed on top, preventing access, which we are told by ELC Planners is against environmental regulations. The previous owners [REDACTED] were subjected to the same, to the point where the tank backed up into the house. We believe that any future owner of the property proposed in this application would be open to the same maltreatment, and as such, the property would not make a suitable dwelling for anyone.

Thanks for your consideration. [REDACTED]



3rd October 2023

East Lothian council
John Muir House
Haddington
EH41 3HA

Planning Application Number 24/00417/P

Application location; Land At Rear Of Old Farmhouse Ferneylea Oldhamstocks Innerwick East Lothian


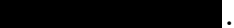
We would like to object to the planning due to the following reasons, and errors within the application.

House size

I have just measured the width of the plot size at 17m, as the plot is overgrown I doubt that it was ever measured,

This includes the boundary hedge that they wish to keep. Looking at the plans, the house is 15.6m wide.

This leaves very little space on either side, I would love to know how the plan on fitting a house a driveway and a hedge in this space.

This also leaves only a few meters between the new house and  that it will completely overshadow. I also dislike how it will remove any privacy .

Septic tank and limited

The applicant has no access to the empty or maintain the septic tank, as he does not have access to the vacant land.

Trees and wildlife

I'm slightly by the applicant claiming that there are no trees. The whole area is covered in trees and bushes, this is a natural area with whole range of wildlife including common pipistrelle bats roosting in the trees. Please see attached photo of the non existing trees.

Verge and Natural Entrance

I travel up this lane every day and can assure you that there is no natural entrance.. only a high hedge. Please see the attached photo.

I am very confused by the statement in access letter 1, we recently purchased [REDACTED] [REDACTED] [REDACTED] Our deeds and the land registry clearly show that neither the verge or the hedge belongs to me or the applicant.

There was a hole in the hedge entering our garden so I spoke to the owner of the verge and asked for permission to plant trees in this hole on his land that he granted.

Extract from Title

This extract included in the application is from our house title deed, [REDACTED] that we purchased in April 2023

It does indeed give us access up the lane. This however was sold to ourselves.

However I would just like to clarify that we do not give access to the applicant or owner of this land. The access was sold with the house.

Your sincerely

[REDACTED]



Can you see a natural opening, in the hedge?



Non existent trees.

Currie, Fiona

From: [REDACTED]
Sent: 26 July 2024 01:41
To: Environment Reception
Subject: Planning Application 24/00417/P - Old Farmhouse, Ferneylea

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Dear Sirs,

Representation/Comment on the application by
[REDACTED]

I write in response to the recently published planning application 24/00417/P and would like to register not only my objections to this planning application, but to bring to your attention numerous misleading and factually incorrect statements and assertions in the application and supporting documents.

1. Application Form - Site Address Details

The application states the site address as 'The Old Farmhouse'. This is incorrect. The land in question is a previously felled small woodland area which has regenerated and is no longer part of the property known as The Old Farmhouse. To describe it as a 'vacant garden' is misleading.

2. Application Form - Site Area

In view of previous highly inaccurate Site Area information provided by this Agent (Harry Wood) on a previous Planning Application No 23/00950/P, I would like to ask that the site measurement be independently verified by ELC Planning.

Also, the Revised Block Plan and OS Map Extract both show the site extending out on to the verge of the Ferneylea farm road. I can confirm that the site owner, [REDACTED], does NOT, and never has, owned any part of this verge. (Attachment 1)

The 2 supporting letters from [REDACTED] which purport to 'confirm access' are frankly a load of rubbish. [REDACTED] letter confirms nothing other than the existence of the farm road, or 'drive' as she refers to it. [REDACTED] letter asserting that there is 'no verge' is demonstrably false - see attached recent photographs of the farm road and verge extending the length of the farm road on both sides. Said verge is approximately 7ft deep from the fence line of [REDACTED] property to the farm road. (Attachment 2)

Furthermore, in a previous planning application in principle in 2012 - Application No 12/00813/PP - in the name of [REDACTED] for an almost identical site and which was withdrawn, shows a proposed new access point. The drawings for the site DO NOT indicate any extension or implied ownership of the verge, and indeed I believe the application was withdrawn mainly because I refused to allow any access across the verge, which I own. (Attachment 3 - extracts from Planning Application No 12/00813/PP)

3. Application Form - Access and Parking

Whilst there is no new access proposed from a public road, the applicant and agent have indicated a new access point off the farm road, which is wholly owned by me, including as previously mentioned, the verges on either side of this farm road. I can confirm that I have NOT been approached by any party for permission to cross my land to access the site, and I can also confirm that under no circumstances,

either now or in the future, will I grant [REDACTED] or any other applicant/agent permission to cross my land to form an access point to their land.

I am fully aware that ELC Planning will determine and decide on this application in the same way and under the same criteria as any other application. However, I feel I must make you aware that, as stated above, there are NO circumstances under which I will grant any form of access over land which I own.

4. Application Form - Water supply and drainage arrangements

The applicant/agent states that they propose to connect to an existing septic tank, which they claim has 'spare capacity'. It is my understanding that this is a false statement. In fact, said septic tank is I believe, at or well above capacity for the properties it serves, based on calculations done in the last few years.

5. Application Form - Trees

The applicant/agent state that there are no trees on the site. There are in fact approx 4 trees on the site, each at least 20 years old.

6. Application Form - Certificates and Notices

The applicant/agent claims that the land is part of an agricultural holding. I can confirm, as a prior owner of ALL the land at Ferneylea, that the Old Farmhouse and its gardens/land were never designated as agricultural land.

7. Application Form - Land Ownership Certificate

The agent/applicant states that they have 'served notice on [REDACTED] [REDACTED] I can confirm that I did receive a letter informing me of this planning application, but not on the date stated on the application form. I received it on 25 June 2024. This actually corresponds with the date on [REDACTED] I therefore assume that the date on the application form is an error/typo?

[REDACTED]

8. Design Statement/Planning Elevations/Materials

I have read the Design Statement and have the following comments to make:

- I believe that the size and scale of the house is out of proportion with the size of the plot. Comparisons are made to nearby Ferneylea farmhouse, which although it is of a similar size and scale, sits in a far larger plot of land and at a much greater distance away from its neighbouring property of Longwood.

- Point 4.1 - 'A new driveway will be formed using an existing crossing over the verge and gateway to access the site.' There is NO existing crossing over the verge (See attached photographs) I would also like to point you to these photographs which clearly show that there is an electricity pole directly in line with the proposed 'driveway'. This pole facilitates electricity supply to most of the houses in Ferneylea and would cause serious disruption and inconvenience to myself and others who are served by it, should it be resited.

- 4.2 - 'An area of vacant land adjacent to the site under the same ownership may be allocated as amenity space to the new owner of the adjacent vacant Steading, should planning approval be granted for change of use for that property.' I assume this is either a joke or an act of utter desperation relating to Planning Application No 23/000950/P, which is currently the subject of a Review by ELC Planning, due to be determined at a meeting on 22 August 2024. As stated several times earlier in this letter, I will not under any circumstances allow access across my land for this application, so I fail to see how firstly, this proposal can go ahead and secondly, how any access to the piece of land referred to could be accessed by an owner of The Steading.

9. Extract of deed included in application

The extract of deed included as part of this application relates to the sale of The Old Farmhouse from 1992/93 and refers to the right of access to The Old

Farmhouse property only. At that time there was access from 1) a driveway on the North side of the OF, which the new owner at that time, [REDACTED] subsequently closed off and 2) a driveway on the South side of the OF which is the current and only access to the OF. Since the subsequent sale of the OF approximately 18 months ago, I am not aware of any access that [REDACTED] has on or through this property, but that of course is a matter for the current owners of the OF to comment on. Therefore I believe the extract from deeds submitted as part of this application is entirely irrelevant and misleading to this application.

In summary, I'm aware that this is a lengthy response for you to wade your way through, however I believe it is important that you are not only aware of the reasons for our objections to this planning application, but more importantly the consistent misleading, inaccurate and untrue assertions and declarations made within this and other applications relating to Ferneylea.

Whatever decision you come to about this application and that of The Steading, made by the same land owner [REDACTED] I must once again make you aware that I, as the owner of land related to both applications, will not grant any additional access or rights over any of my land, beyond those which are included in existing formal legal deeds.

If you require further clarification of any of the points made in this email, I would be more than happy to help. You can contact me on [REDACTED]

Yours sincerely,

[REDACTED]

Attachment 1 - Map of Ferneylea showing ownership of land by [REDACTED]

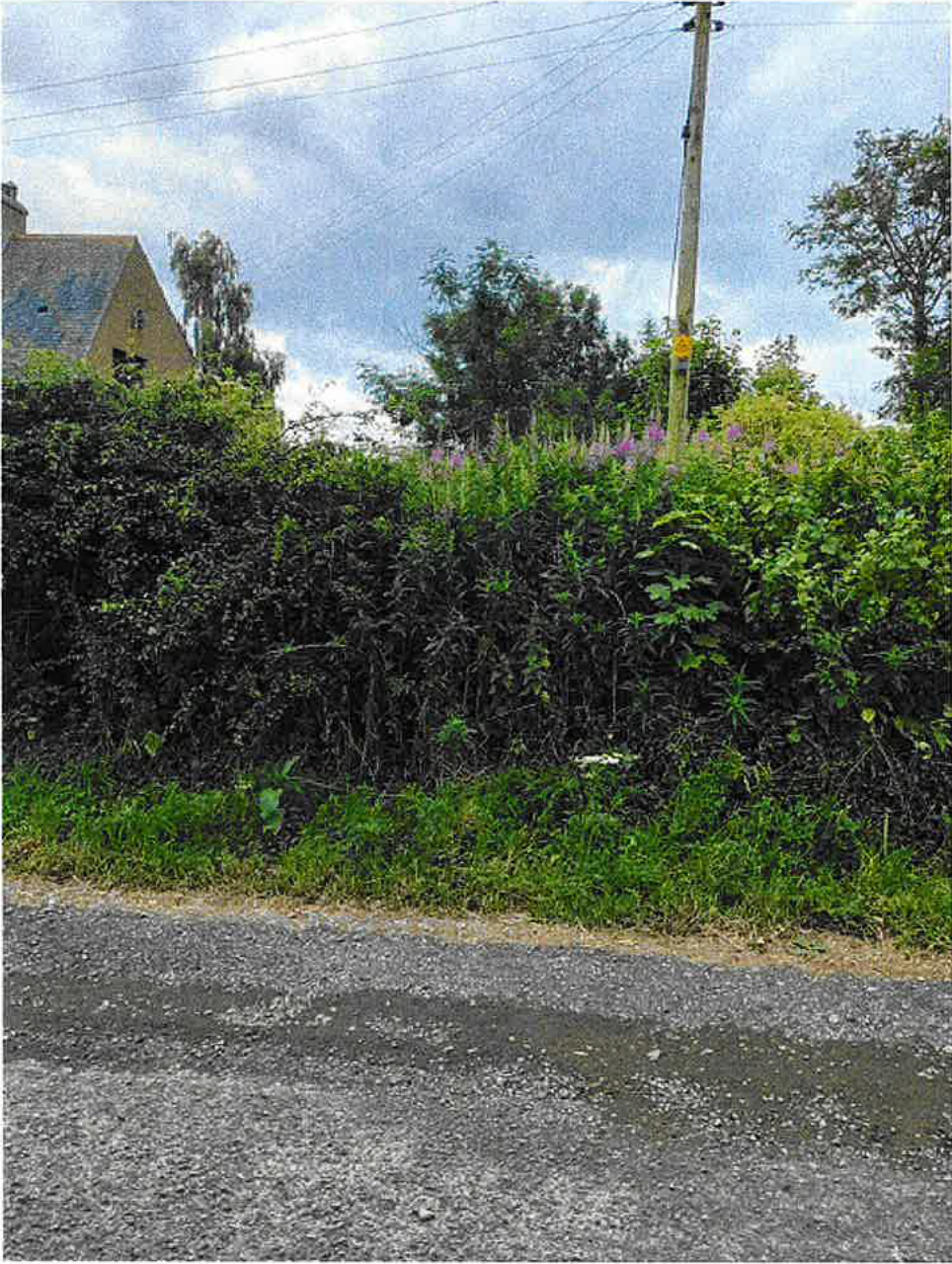


Attachment 2 - current photographs of farm road/verge



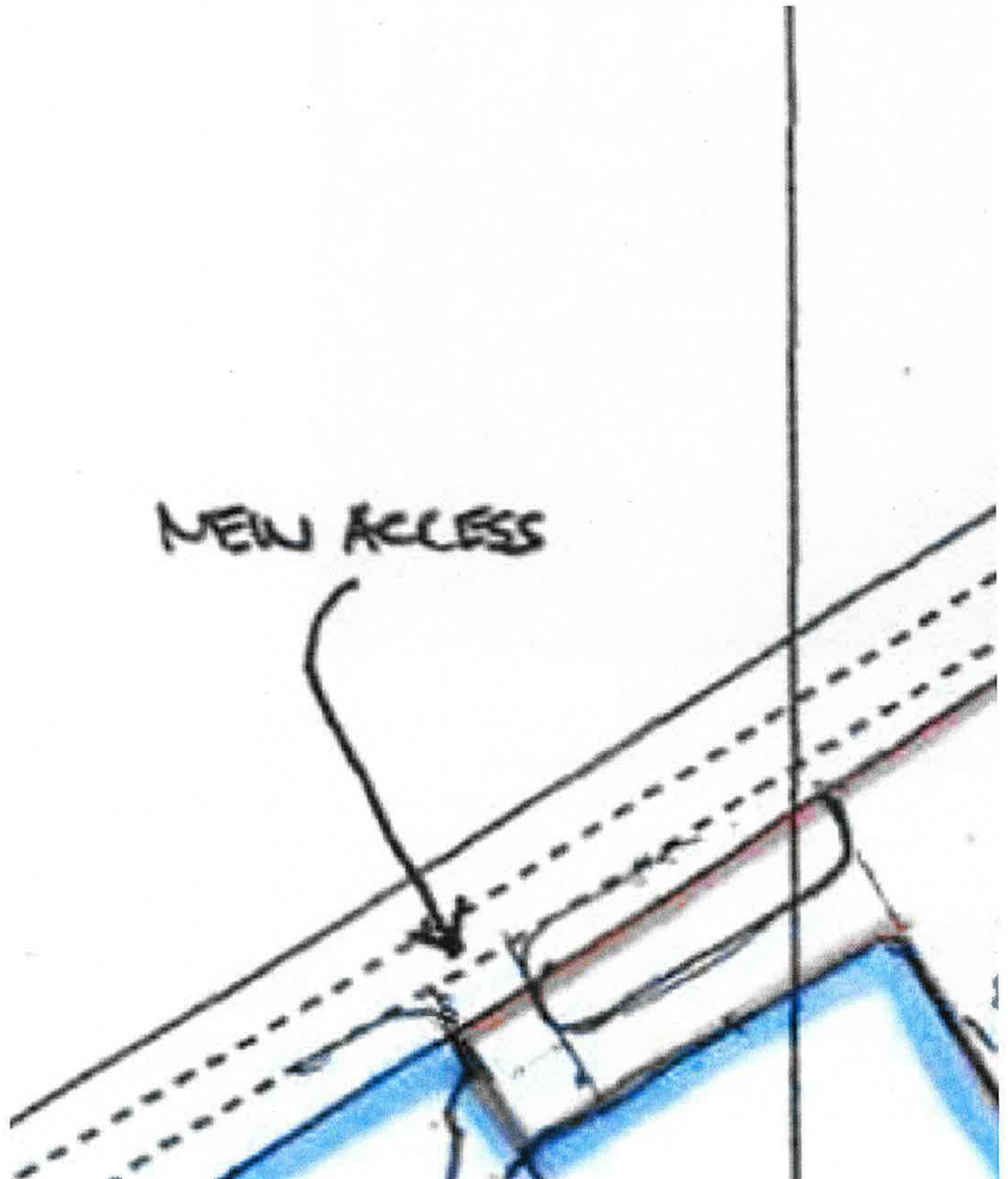




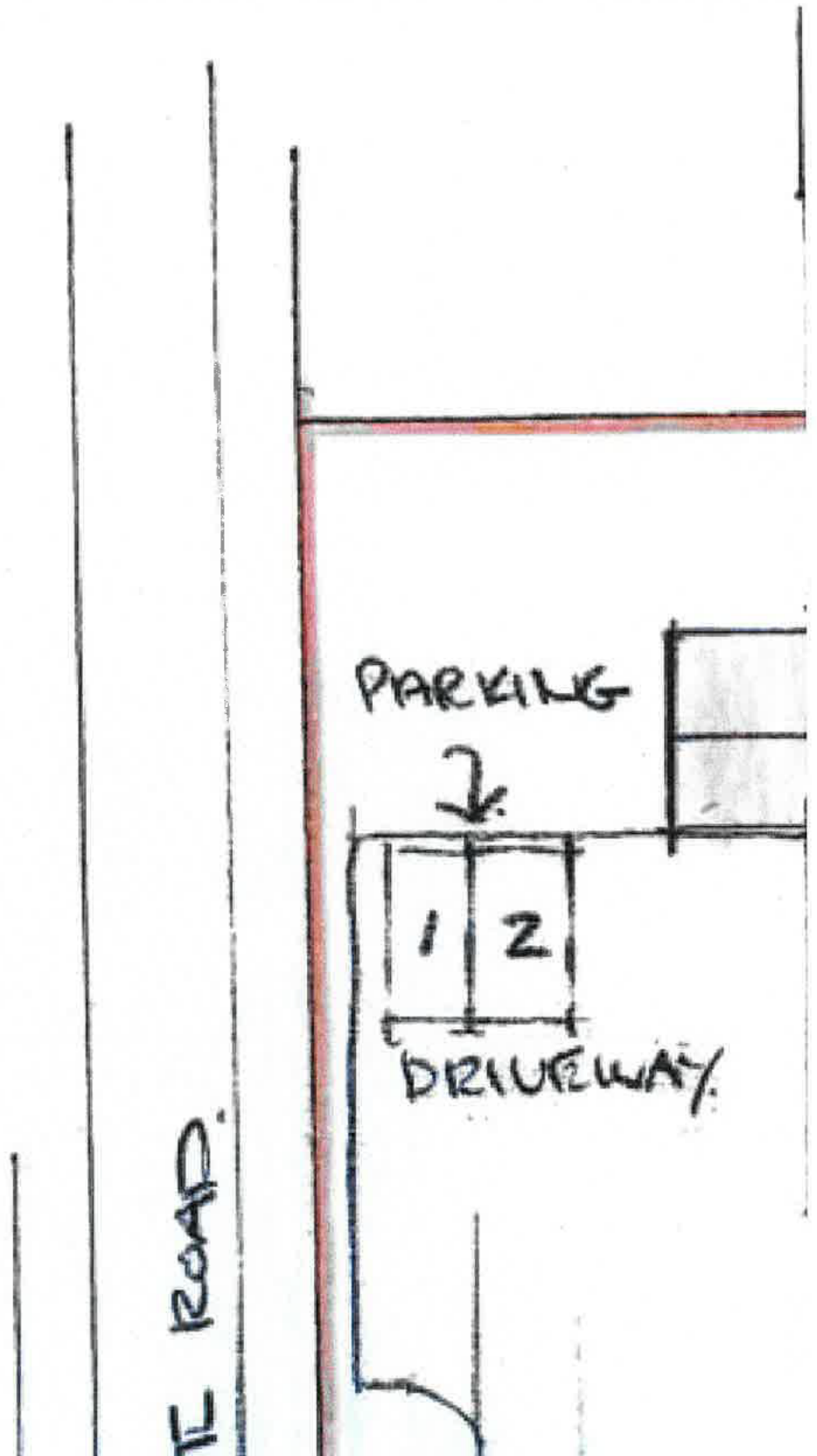


Attachment 3 - Extracts from Planning Application 12/00813/PP

15:49



15:49



Thank you for the opportunity to make representation on the above planning application relating to 'Land at rear of Old Farmhouse, Ferneylea, Oldhamstocks TD13 5YN.

I wish to object to the application on the following grounds:

1. Contrary to the submissions from [REDACTED], confirming the existence of access, no pedestrian or vehicular access exists from the farm road to the area of the proposed development adjacent to [REDACTED]. I have attached a photograph to demonstrate this. The previous pedestrian and vehicular access to this area of overgrown land, was from the access lane leading to The Old Farmhouse, and other properties, from the farm road referred to by [REDACTED].

This was through the grounds of The Old Farmhouse, which was sold by [REDACTED], and no right of access exists from The Old Farmhouse or it's grounds to the areas retained by [REDACTED].

I am astonished that the Applicant has not been made aware of this.

A number of years ago the owner of the land, namely, [REDACTED], offered me the strip of land between [REDACTED], free of charge and with my legal costs being met by [REDACTED]. This was to be in exchange for allowing access from my driveway to the area of agricultural land and the area defined in this application. I declined the offer.

[REDACTED] as owner of the land, are therefore fully aware of there being no access to these areas of land.

2. The drawings of this 5 bedroom house show a building of some considerable scale, and I doubt whether it would fit in the area designated.

The two storey house would sit on an area of elevated ground above [REDACTED]. This would greatly compromise the amount of light [REDACTED] main living room and bedroom.

One side elevation is shown as a blank wall, and I require reassurance that no windows be created either in relation to this current application or retrospectively, at some point in the future.

3. I note that the septic tank for this proposed development, is uphill of the site and will require a pump to allow waste water etc., to transit the house. As there is no access to the location of this septic tank, there would be no means by which this could be emptied.

4. Consideration would have to be given to the electricity supply pole, which is not shown the plans. It would be in the centre of the driveway opening and would require relocation on the site. This serves all the properties on Ferneylea.

Should you require any further information, please do not hesitate to get in touch

Yours sincerely

[REDACTED]



From: [Clark, Colin - FHO](#)
To: [Environment Reception](#)
Cc: [Allan, James](#)
Subject: RE: 24/00417/P-James Allan - Planning Consultation
Date: 28 June 2024 10:28:43

No comment to make re proposals

-----Original Message-----

From: Environmental Health/Trading Standards <ehts@eastlothian.gov.uk>
Sent: Tuesday, June 25, 2024 2:15 PM
To: [REDACTED]

Subject: FW: 24/00417/P-James Allan - Planning Consultation

-----Original Message-----

From: environment@eastlothian.gov.uk <environment@eastlothian.gov.uk>
Sent: Tuesday, June 25, 2024 12:55 PM
To: Environmental Health/Trading Standards <ehts@eastlothian.gov.uk>
Subject: 24/00417/P-James Allan - Planning Consultation

Please see attached document in relation to the following application: Erection of house, garage and associated works at Land At Rear Of Old Farmhouse Ferneylea Oldhamstocks Innerwick East Lothian

[https://gbr01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.eastlothian.gov.uk%2Fimages%2FELC_Be_Nice_EMAIL_FOOTER__zerotolerance_1.png&data=05%7C02%7Cclark1%40eastlothian.gov.uk%7Cb8985d47a45b4c08bd7c08dc9518db39%7C85e771afe90a4487b4071322ba02cc82%7C0%7C0%7C638549181345722473%7CUnknown%7CTWFpbGZsb3d8eyJWIjojMC4wLjAwMDAiLCJQIjojV2luMzIiLCJBTiI6IkhWwiLCJXVCi6Mn0%3D%7C0%7C%7C%7C&sdata=ZyJx2radGgAxE876a9gep%2BxDDk6FIkiPUBt6uUBTioA%3D&reserved=0]

From: [Callow, Scott](#)
To: [Allan, James](#)
Cc: [Environment Reception](#); [Clark, Colin - EHO](#)
Subject: Planning Application : 24/00417/P (Land At Rear Of Old Farmhouse, Ferneylea, Oldhamstocks)
Date: 04 July 2024 09:02:31

Hi James,

I have reviewed the various historical maps for the site as well as looking at the potential contamination issues that may impact on the development and would comment as follows:

- There is no direct evidence to suggest any previous contaminative uses associated with the site (currently a vacant plot). There may, however, be the possibility that areas of localised contamination (areas of made ground) may exist associated with the workings of the nearby farm steading.
- It should also be noted that according to the latest Radon Mapping data the site falls within a Radon Affected Area (Class 3 : 3 to <5% of properties are at or above the radon action level). This means that the any new builds would require basic radon protection measures to be installed. It should be noted that this will be picked up by Building Standards as an issue to be addressed when considering the granting of a Building Warrant for the development.

Given the above and due to the nature of the development (residential), further information will be required to determine the ground conditions and potential contamination issues impacting on the site (with the minimum of a Phase I Geo-environmental Assessment being carried out). In light of this I would recommend that the following conditions be attached to any grant of consent:

Land Contamination Condition (Investigation, Risk Assessment, Remediation and Validation) -

Part 1

Prior to any site development works a suitable Geo-Environmental Assessment must be carried out, with the Report(s) being made available to the Planning Authority for approval. It should include details of the following:

- *A Preliminary Investigation incorporating a Phase I Desk Study (including site reconnaissance, development of a conceptual model and an initial risk assessment);*
- *A Phase II Ground Investigation (following demolition and only if the Desk Study has determined that further assessment is required), comprising the following:*
 - *A survey of the extent, scale and nature of contamination, and reporting on the appropriate risk assessment(s) carried out with regards to Human Health, the Water Environment and Ground Gas (including Radon) as well as an updated conceptual model of the site;*
 - *An appraisal of the remediation methods available and proposal of the preferred option(s).*

The Desk Study and Ground Investigation must be undertaken by suitably qualified, experienced and competent persons and must be conducted in accordance with the relevant guidance and

procedures.

If it is concluded by the Reporting that remediation of the site is not required, then Parts 2 and 3 of this Condition can be disregarded.

Part 2

Prior to any works beginning on site (and where risks have been identified), a detailed Remediation Statement should be produced that shows the site is to be brought to a condition suitable for the intended use by the removal of unacceptable risks to all relevant and statutory receptors. The Statement should detail all works to be undertaken, proposed remediation objectives and remediation criteria as well as details of the procedures to be followed for the verification of the remedial works. It should also ensure that the site will not qualify as contaminated land under Part2A of the Environmental Protection Act 1990 in relation to the intended use of the land following development. The Statement must be submitted to the Planning Authority for approval.

Part 3

The approved Remediation Statement must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out the agreed remediation. Following completion of the measures identified in the approved Remediation Statement, a Validation Report should be submitted that demonstrates the effectiveness of the remediation carried out. It must be approved by the Planning Authority prior to occupation of the new development.

Part 4

In the event that 'unexpected' ground conditions (contamination) are encountered at any time when carrying out the permitted development, work on site shall cease and the issue shall be reported to the Planning Authority immediately. At this stage a Site Investigation and subsequent Risk Assessment may have to be carried out, if requested by the Planning Authority. It may also be necessary to submit a Remediation Strategy should the reporting determine that remedial measures are required. It should also be noted that a Verification Report would also need to be submitted confirming the satisfactory completion of these remedial works.

If no 'unexpected' ground conditions are encountered during the development works, then this should be confirmed to the Planning Authority prior to the use of the new development.

Regards,

Scott

Scott Callow | Senior Environmental Compliance Officer | Environmental Protection | Protective Services | East Lothian Council | John Muir House | Haddington | EH41 3HA

Tel. 01620 827256

Email. scallow@eastlothian.gov.uk

Visit our website at www.eastlothian.gov.uk



From: [Hunter, Liz](#)
To: [Environment Reception](#); [Allan, James](#)
Cc: [Lennock, Ian](#)
Subject: TRANSPORT PLANNING RESPONSE: 24/00417/P - James Allan - Planning Consultation
Date: 27 June 2024 17:37:34

EAST LoTHIAN COUNCIL ROAD SERVICES

From: Asset & Regulatory Manager

To: Service Manager, Planning

Proposal: Erection of house, garage and associated works at Land At Rear Of Old Farmhouse Ferneylea Oldhamstocks Innerwick East Lothian

The proposed house, garage and associated works are accessed via a driveway from a private road and I do not consider that the proposals would have a harmful impact on road safety.

The submitted plans confirm that two parking space will be provided, which is in line with ELC parking standards, and that turning provision will be provided. I would recommend that the length of parking spaces plus the driveway provides 11.5m width to allow for easy manoeuvring when a second vehicle is parked.

I would require conditions to be attached to any grant of planning permission requiring:

- The driveway to be a minimum of 3.3metres wide
- The double parking area to be a minimum of 3.3meters wide by 6metres long, excluding the driveway behind.
- In line with current Building Standards, installation of one Type 2 charger, either socketed or tethered with 7kW preferred to 3kW.

Please advise the applicant that all works within or affecting the public road including works on the footway must be authorised in advance by the Council as Roads Authority.

Send on behalf of IAN LENNOCK
ROADS SERVICES, ASSET & REGULATORY MANAGER

If telephoning, please ask for:

[Liz Hunter](#)
Senior Roads Officer

East Lothian Council, Penston House, Macmerry Industrial Estate, Macmerry, East Lothian EH33 1EX

lhunter1@eastlothian.gov.uk



National Planning Framework 4

Policy 1



Sustainable Places

Tackling the climate and nature crises

Policy Principles

Policy Intent:

To encourage, promote and facilitate development that addresses the global climate emergency and nature crisis.

Policy Outcomes:

- Zero carbon, nature positive places.

Local Development Plans:

LDPs must address the global climate emergency and nature crisis by ensuring the spatial strategy will reduce emissions and adapt to current and future risks of climate change by promoting nature recovery and restoration in the area.

Policy 1

When considering all development proposals significant weight will be given to the global climate and nature crises.

Policy impact:

- ✔ Just Transition
- ✔ Conserving and recycling assets
- ✔ Local living
- ✔ Compact urban growth
- ✔ Rebalanced development
- ✔ Rural revitalisation

Key policy connections:

All other policies.

Policy 3

30

Biodiversity

Policy Principles

Policy Intent:

To protect biodiversity, reverse biodiversity loss, deliver positive effects from development and strengthen nature networks.

Policy Outcomes:

- Biodiversity is enhanced and better connected including through strengthened nature networks and nature-based solutions.

Local Development Plans:

LDPs should protect, conserve, restore and enhance biodiversity in line with the mitigation hierarchy. They should also promote nature recovery and nature restoration across the development plan area, including by: facilitating the creation of nature networks and strengthening connections between them to support improved ecological connectivity; restoring degraded habitats or creating new habitats; and incorporating measures to increase biodiversity, including populations of priority species.

Policy 3

- a) Development proposals will contribute to the enhancement of biodiversity, including where relevant, restoring degraded habitats and building and strengthening nature networks and the connections between them. Proposals should also integrate nature-based solutions, where possible.
- b) Development proposals for national or major development, or for development that requires an Environmental Impact Assessment will only be supported where it can be demonstrated that the proposal will conserve, restore and enhance biodiversity, including nature networks so they are in a demonstrably better state than without intervention. This will include future management. To inform this, best practice assessment methods should be used. Proposals within these categories will demonstrate how they have met all of the following criteria:
 - i. the proposal is based on an understanding of the existing characteristics of the site and its local, regional and national ecological context prior to development, including the presence of any irreplaceable habitats;
 - ii. wherever feasible, nature-based solutions have been integrated and made best use of;
 - iii. an assessment of potential negative effects which should be fully mitigated in line with the mitigation hierarchy prior to identifying enhancements;
 - iv. significant biodiversity enhancements are provided, in addition to any proposed mitigation. This should include nature networks, linking to and strengthening habitat connectivity within and beyond the development, secured within a reasonable timescale and with reasonable certainty. Management arrangements for their long-term retention and monitoring should be included, wherever appropriate; and
 - v. local community benefits of the biodiversity and/or nature networks have been considered.
- c) Proposals for local development will include appropriate measures to conserve, restore and enhance biodiversity, in accordance with national and local guidance. Measures should be proportionate to the nature and scale of development. Applications for individual householder development, or which fall within scope of (b) above, are excluded from this requirement.
- d) Any potential adverse impacts, including cumulative impacts, of development proposals on biodiversity, nature networks and the natural environment will be minimised through careful planning and design. This will take into account the need to reverse biodiversity loss, safeguard the ecosystem services that the natural environment provides, and build resilience by enhancing nature networks and maximising the potential for restoration.

Policy 5

Soils

Policy Principles

Policy Intent:

To protect carbon-rich soils, restore peatlands and minimise disturbance to soils from development.

Policy Outcomes:

- Valued soils are protected and restored.
- Soils, including carbon-rich soils, are sequestering and storing carbon.
- Soils are healthy and provide essential ecosystem services for nature, people and our economy.

Local Development Plans:

LDPs should protect locally, regionally, nationally and internationally valued soils, including land of lesser quality that is culturally or locally important for primary use.

Policy 5

- a) Development proposals will only be supported if they are designed and constructed:
- i. In accordance with the mitigation hierarchy by first avoiding and then minimising the amount of disturbance to soils on undeveloped land; and
 - ii. In a manner that protects soil from damage including from compaction and erosion, and that minimises soil sealing.
- b) Development proposals on prime agricultural land, or land of lesser quality that is culturally or locally important for primary use, as identified by the LDP, will only be supported where it is for:
- i. Essential infrastructure and there is a specific locational need and no other suitable site;
 - ii. Small-scale development directly linked to a rural business, farm or croft or for essential workers for the rural business to be able to live onsite;
- iii. The development of production and processing facilities associated with the land produce where no other local site is suitable;
 - iv. The generation of energy from renewable sources or the extraction of minerals and there is secure provision for restoration; and
- In all of the above exceptions, the layout and design of the proposal minimises the amount of protected land that is required.
- c) Development proposals on peatland, carbon-rich soils and priority peatland habitat will only be supported for:
- i. Essential infrastructure and there is a specific locational need and no other suitable site;
 - ii. The generation of energy from renewable sources that optimises the contribution of the area to greenhouse gas emissions reductions targets;
 - iii. Small-scale development directly linked to a rural business, farm or croft;
 - iv. Supporting a fragile community in a rural or island area; or
 - v. Restoration of peatland habitats.
- d) Where development on peatland, carbon-rich soils or priority peatland habitat is proposed, a detailed site specific assessment will be required to identify:
- i. the baseline depth, habitat condition, quality and stability of carbon rich soils;
 - ii. the likely effects of the development on peatland, including on soil disturbance; and
 - iii. the likely net effects of the development on climate emissions and loss of carbon.

This assessment should inform careful project design and ensure, in accordance with relevant guidance and the mitigation hierarchy, that adverse impacts are first avoided and then minimised through best practice. A peat management plan will be required to demonstrate that this approach has been followed, alongside other appropriate plans required for restoring and/ or enhancing the site into a functioning peatland system capable of achieving carbon sequestration.

- e) Development proposals for new commercial peat extraction, including extensions to existing sites, will only be supported where:
- i. the extracted peat is supporting the Scottish whisky industry;
 - ii. there is no reasonable substitute;
 - iii. the area of extraction is the minimum necessary and the proposal retains an in-situ residual depth of peat of at least 1 metre across the whole site, including drainage features;
 - iv. the time period for extraction is the minimum necessary; and
 - v. there is an agreed comprehensive site restoration plan which will progressively restore, over a reasonable timescale, the area of extraction to a functioning peatland system capable of achieving carbon sequestration.

Policy impact:

- ✔ Just Transition
- ✔ Conserving and recycling assets
- ✔ Rebalanced development
- ✔ Rural revitalisation

Key policy connections:

[Tackling the climate and nature crises](#)

[Climate mitigation and adaptation](#)

[Biodiversity](#)

[Natural places](#)

[Forestry, woodland and trees](#)

[Historic assets and places](#)

[Energy](#)

[Blue and green infrastructure](#)

[Rural development](#)

Forestry, woodland and trees

Policy Principles

Policy Intent:

To protect and expand forests, woodland and trees.

Policy Outcomes:

- Existing woodlands and trees are protected, and cover is expanded.
- Woodland and trees on development sites are sustainably managed.

Local Development Plans:

LDPs should identify and protect existing woodland and the potential for its enhancement or expansion to avoid habitat fragmentation and improve ecological connectivity, helping to support and expand nature networks. The spatial strategy should identify and set out proposals for forestry, woodlands and trees in the area, including their development, protection and enhancement, resilience to climate change, and the expansion of a range of types to provide multiple benefits. This will be supported and informed by an up to date Forestry and Woodland Strategy.

Policy 6

- Development proposals that enhance, expand and improve woodland and tree cover will be supported.
- Development proposals will not be supported where they will result in:
 - Any loss of ancient woodlands, ancient and veteran trees, or adverse impact on their ecological condition;
 - Adverse impacts on native woodlands, hedgerows and individual trees of high biodiversity value, or identified for protection in the Forestry and Woodland Strategy;
 - Fragmenting or severing woodland habitats, unless appropriate mitigation measures are identified and implemented in line with the mitigation hierarchy;
 - Conflict with Restocking Direction, Remedial Notice or Registered Notice to Comply issued by Scottish Forestry.

- Development proposals involving woodland removal will only be supported where they will achieve significant and clearly defined additional public benefits in accordance with relevant Scottish Government policy on woodland removal. Where woodland is removed, compensatory planting will most likely be expected to be delivered.
- Development proposals on sites which include an area of existing woodland or land identified in the Forestry and Woodland Strategy as being suitable for woodland creation will only be supported where the enhancement and improvement of woodlands and the planting of new trees on the site (in accordance with the Forestry and Woodland Strategy) are integrated into the design.

Policy impact:

- ✔ Just Transition
- ✔ Conserving and recycling assets
- ✔ Rebalanced development
- ✔ Rural revitalisation

Key policy connections:

- [Tackling the climate and nature crises](#)
- [Climate mitigation and adaptation](#)
- [Biodiversity](#)
- [Natural places](#)
- [Soils](#)
- [Historic assets and places](#)
- [Green belts](#)
- [Energy](#)
- [Design, quality and place](#)
- [Local Living and 20 minute neighbourhoods](#)
- [Heat and cooling](#)
- [Blue and green infrastructure](#)
- [Play, recreation and sport](#)
- [Flood risk and water management](#)
- [Health and safety](#)
- [Tourism](#)

- f) Demolition of buildings in a conservation area which make a positive contribution to its character will only be supported where it has been demonstrated that:
- i. reasonable efforts have been made to retain, repair and reuse the building;
 - ii. the building is of little townscape value;
 - iii. the structural condition of the building prevents its retention at a reasonable cost; or
 - iv. the form or location of the building makes its reuse extremely difficult.
- g) Where demolition within a conservation area is to be followed by redevelopment, consent to demolish will only be supported when an acceptable design, layout and materials are being used for the replacement development.
- h) Development proposals affecting scheduled monuments will only be supported where:
- i. direct impacts on the scheduled monument are avoided;
 - ii. significant adverse impacts on the integrity of the setting of a scheduled monument are avoided; or
 - iii. exceptional circumstances have been demonstrated to justify the impact on a scheduled monument and its setting and impacts on the monument or its setting have been minimised.
- i) Development proposals affecting nationally important Gardens and Designed Landscapes will be supported where they protect, preserve or enhance their cultural significance, character and integrity and where proposals will not significantly impact on important views to, from and within the site, or its setting.
- j) Development proposals affecting nationally important Historic Battlefields will only be supported where they protect and, where appropriate, enhance their cultural significance, key landscape characteristics, physical remains and special qualities.
- k) Development proposals at the coast edge or that extend offshore will only be supported where proposals do not significantly hinder the preservation objectives of Historic Marine Protected Areas.
- l) Development proposals affecting a World Heritage Site or its setting will only be supported where their Outstanding Universal Value is protected and preserved.
- m) Development proposals which sensitively repair, enhance and bring historic buildings, as identified as being at risk locally or on the national Buildings at Risk Register, back into beneficial use will be supported.
- n) Enabling development for historic environment assets or places that would otherwise be unacceptable in planning terms, will only be supported when it has been demonstrated that the enabling development proposed is:
- i. essential to secure the future of an historic environment asset or place which is at risk of serious deterioration or loss; and
 - ii. the minimum necessary to secure the restoration, adaptation and long-term future of the historic environment asset or place.
- The beneficial outcomes for the historic environment asset or place should be secured early in the phasing of the development, and will be ensured through the use of conditions and/or legal agreements.
- o) Non-designated historic environment assets, places and their setting should be protected and preserved in situ wherever feasible. Where there is potential for non-designated buried archaeological remains to exist below a site, developers will provide an evaluation of the archaeological resource at an early stage so that planning authorities can assess impacts. Historic buildings may also have archaeological significance which is not understood and may require assessment.

Where impacts cannot be avoided they should be minimised. Where it has been demonstrated that avoidance or retention is not possible, excavation, recording, analysis, archiving, publication and activities to provide public benefit may be required through the use of conditions or legal/planning obligations.

When new archaeological discoveries are made during the course of development works, they must be reported to the planning authority to enable agreement on appropriate inspection, recording and mitigation measures.

Key policy connections:

- [Tackling the climate and nature crises](#)
- [Climate mitigation and adaptation](#)
- [Natural places](#)
- [Forestry, woodland and trees](#)
- [Green belts](#)
- [Brownfield, vacant and derelict land and empty buildings](#)
- [Coastal development](#)

Policy 13

Sustainable transport

Policy Principles

Policy Intent:

To encourage, promote and facilitate developments that prioritise walking, wheeling, cycling and public transport for everyday travel and reduce the need to travel unsustainably.

Policy Outcomes:

- Investment in transport infrastructure supports connectivity and reflects place-based approaches and local living.
- More, better, safer and more inclusive active and sustainable travel opportunities.
- Developments are in locations which support sustainable travel.

Local Development Plans:

LDPs should prioritise locations for future development that can be accessed by sustainable modes. The spatial strategy should reflect the sustainable travel hierarchy and sustainable investment hierarchy by making best use of existing infrastructure and services.

LDPs should promote a place-based approach to consider how to reduce car-dominance. This could include low traffic schemes, shared transport options, designing-in speed controls, bus/cycle priority, pedestrianisation and minimising space dedicated to car parking. Consideration should be given to the type, mix and use of development; local living and 20 minute neighbourhoods; car ownership levels; the accessibility of proposals and allocations by sustainable modes; and the accessibility for users of all abilities.

LDPs should be informed by an appropriate and effective transport appraisal undertaken in line with relevant transport appraisal guidance. Plans should be informed by evidence of the area's transport infrastructure capacity, and an appraisal of the spatial strategy on the transport network. This should identify any potential cumulative transport impacts and deliverable

mitigation proposed to inform the plan's infrastructure first approach. Where there is likely to be an impact on the trunk road or rail network, early engagement with Transport Scotland is required.

Policy 13

- a) Proposals to improve, enhance or provide active travel infrastructure, public transport infrastructure or multi-modal hubs will be supported. This includes proposals:
- i. for electric vehicle charging infrastructure and electric vehicle forecourts, especially where fuelled by renewable energy.
 - ii. which support a mode shift of freight from road to more sustainable modes, including last-mile delivery.
 - iii. that build in resilience to the effects of climate change and where appropriate incorporate blue and green infrastructure and nature rich habitats (such as natural planting or water systems).
- b) Development proposals will be supported where it can be demonstrated that the transport requirements generated have been considered in line with the sustainable travel and investment hierarchies and where appropriate they:
- i. Provide direct, easy, segregated and safe links to local facilities via walking, wheeling and cycling networks before occupation;
 - ii. Will be accessible by public transport, ideally supporting the use of existing services;
 - iii. Integrate transport modes;
 - iv. Provide low or zero-emission vehicle and cycle charging points in safe and convenient locations, in alignment with building standards;
 - v. Supply safe, secure and convenient cycle parking to meet the needs of users and which is more conveniently located than car parking;
 - vi. Are designed to incorporate safety measures including safe crossings for walking and wheeling and reducing the number and speed of vehicles;

- vii. Have taken into account, at the earliest stage of design, the transport needs of diverse groups including users with protected characteristics to ensure the safety, ease and needs of all users; and
 - viii. Adequately mitigate any impact on local public access routes.
- c) Where a development proposal will generate a significant increase in the number of person trips, a transport assessment will be required to be undertaken in accordance with the relevant guidance.
- d) Development proposals for significant travel generating uses will not be supported in locations which would increase reliance on the private car, taking into account the specific characteristics of the area.
- e) Development proposals which are ambitious in terms of low/no car parking will be supported, particularly in urban locations that are well-served by sustainable transport modes and where they do not create barriers to access by disabled people.
- f) Development proposals for significant travel generating uses, or smaller-scale developments where it is important to monitor travel patterns resulting from the development, will only be supported if they are accompanied by a Travel Plan with supporting planning conditions/obligations. Travel plans should set out clear arrangements for delivering against targets, as well as monitoring and evaluation.
- g) Development proposals that have the potential to affect the operation and safety of the Strategic Transport Network will be fully assessed to determine their impact. Where it has been demonstrated that existing infrastructure does not have the capacity to accommodate a development without adverse impacts on safety or unacceptable impacts on operational performance, the cost of the mitigation measures required to ensure the continued safe and effective operation of the network should be met by the developer.

While new junctions on trunk roads are not normally acceptable, the case for a new junction will be considered by Transport Scotland where significant economic or regeneration benefits can be demonstrated. New junctions will only be considered if they are designed in accordance with relevant guidance and where there will be no adverse impact on road safety or operational performance.

Policy impact:

- ✔ Just Transition
- ✔ Conserving and recycling assets
- ✔ Local living
- ✔ Compact urban growth
- ✔ Rebalanced development
- ✔ Rural revitalisation

Key policy connections:

- [Tackling the climate and nature crises](#)
- [Climate mitigation and adaptation](#)
- [Design, quality and place](#)
- [Local Living and 20 minute neighbourhoods](#)
- [Infrastructure first](#)
- [Quality homes](#)
- [Rural homes](#)
- [Blue and green infrastructure](#)
- [Business and industry](#)
- [City, town, local and commercial centres](#)
- [Retail](#)
- [Rural development](#)
- [Tourism](#)



Liveable Places

Design, quality and place

Policy Principles

Policy Intent:

To encourage, promote and facilitate well designed development that makes successful places by taking a design-led approach and applying the Place Principle.

Policy Outcomes:

- Quality places, spaces and environments.
- Places that consistently deliver healthy, pleasant, distinctive, connected, sustainable and adaptable qualities.

Local Development Plans:

LDPs should be place-based and created in line with the Place Principle. The spatial strategy should be underpinned by the [six qualities of successful places](#). LDPs should provide clear expectations for design, quality and place taking account of the local context, characteristics and connectivity of the area. They should also identify where more detailed design guidance is expected, for example, by way of design frameworks, briefs, masterplans and design codes.

Planning authorities should use the Place Standard tool in the preparation of LDPs and design guidance to engage with communities and other stakeholders. They should also where relevant promote its use in early design discussions on planning applications.

Policy 14

- a) Development proposals will be designed to improve the quality of an area whether in urban or rural locations and regardless of scale.
- b) Development proposals will be supported where they are consistent with the six qualities of successful places:

Healthy: Supporting the prioritisation of women's safety and improving physical and mental health.

Pleasant: Supporting attractive natural and built spaces.

Connected: Supporting well connected networks that make moving around easy and reduce car dependency

Distinctive: Supporting attention to detail of local architectural styles and natural landscapes to be interpreted, literally or creatively, into designs to reinforce identity.

Sustainable: Supporting the efficient use of resources that will allow people to live, play, work and stay in their area, ensuring climate resilience, and integrating nature positive, biodiversity solutions.

Adaptable: Supporting commitment to investing in the long-term value of buildings, streets and spaces by allowing for flexibility so that they can be changed quickly to accommodate different uses as well as maintained over time.

Further details on delivering the [six qualities of successful places](#) are set out in Annex D.

- c) Development proposals that are poorly designed, detrimental to the amenity of the surrounding area or inconsistent with the six qualities of successful places, will not be supported.

Local Living and 20 minute neighbourhoods

Policy Principles

Policy Intent:

To encourage, promote and facilitate the application of the Place Principle and create connected and compact neighbourhoods where people can meet the majority of their daily needs within a reasonable distance of their home, preferably by walking, wheeling or cycling or using sustainable transport options.

Policy Outcomes:

- Places are planned to improve local living in a way that reflects local circumstances.
- A network of high-quality, accessible, mixed-use neighbourhoods which support health and wellbeing, reduce inequalities and are resilient to the effects of climate change.
- New and existing communities are planned together with homes and the key local infrastructure including schools, community centres, local shops, greenspaces, health and social care, digital and sustainable transport links.

Local Development Plans:

LDPs should support local living, including 20 minute neighbourhoods within settlements, through the spatial strategy, associated site briefs and masterplans. The approach should take into account the local context, consider the varying settlement patterns and reflect the particular characteristics and challenges faced by each place. Communities and businesses will have an important role to play in informing this, helping to strengthen local living through their engagement with the planning system.

Policy 15 |

- a) Development proposals will contribute to local living including, where relevant, 20 minute neighbourhoods. To establish this, consideration will be given to existing settlement pattern, and the level and quality of interconnectivity of the proposed development

with the surrounding area, including local access to:

- sustainable modes of transport including local public transport and safe, high quality walking, wheeling and cycling networks;
- employment;
- shopping;
- health and social care facilities;
- childcare, schools and lifelong learning opportunities;
- playgrounds and informal play opportunities, parks, green streets and spaces, community gardens, opportunities for food growth and allotments, sport and recreation facilities;
- publicly accessible toilets;
- affordable and accessible housing options, ability to age in place and housing diversity.

Policy impact:

- ✓ Just Transition
- ✓ Conserving and recycling assets
- ✓ Local living
- ✓ Compact urban growth
- ✓ Rebalanced development
- ✓ Rural revitalisation

Key policy connections:

[Tackling the climate and nature crises](#)

[Climate mitigation and adaptation](#)

[Sustainable transport](#)

[Design, quality and place](#)

[Infrastructure first](#)

[Quality homes](#)

[Blue and green infrastructure](#)

[Play, recreation and sport](#)

[Community wealth building](#)

[City, town, local and commercial centres](#)

[Retail](#)

Quality homes

Policy Principles

Policy Intent:

To encourage, promote and facilitate the delivery of more high quality, affordable and sustainable homes, in the right locations, providing choice across tenures that meet the diverse housing needs of people and communities across Scotland.

Policy Outcomes:

- Good quality homes are at the heart of great places and contribute to strengthening the health and wellbeing of communities.
- Provision of land in the right locations to accommodate future need and demand for new homes, supported by the appropriate infrastructure.
- More energy efficient, net zero emissions homes, supporting a greener, fairer and more inclusive wellbeing economy and community wealth building, tackling both fuel and child poverty.

Local Development Plans:

LDPs are expected to identify a Local Housing Land Requirement for the area they cover. This is to meet the duty for a housing target and to represent how much land is required. To promote an ambitious and plan-led approach, the Local Housing Land Requirement is expected to exceed the 10 year [Minimum All-Tenure Housing Land Requirement \(MATHLR\)](#) set out in Annex E.

Deliverable land should be allocated to meet the 10 year Local Housing Land Requirement in locations that create quality places for people to live. Areas that may be suitable for new homes beyond 10 years are also to be identified. The location of where new homes are allocated should be consistent with local living including, where relevant, 20 minute neighbourhoods and an infrastructure first approach. In rural and island areas, authorities are encouraged to set out tailored approaches to housing which

reflect locally specific market circumstances and delivery approaches. Diverse needs and delivery models should be taken into account across all areas, as well as allocating land to ensure provision of accommodation for Gypsy/Travellers and Travelling Showpeople where need is identified.

The LDP delivery programme is expected to establish a deliverable housing land pipeline for the Local Housing Land Requirement. The purpose of the pipeline is to provide a transparent view of the phasing of housing allocations so that interventions, including infrastructure, that enable delivery can be planned: it is not to stage permissions. Representing when land will be brought forward, phasing is expected across the short (1-3 years), medium (4-6 years) and long-term (7-10 years). Where sites earlier in the deliverable housing land pipeline are not delivering as programmed, and alternative delivery mechanisms identified in the delivery programme are not practical, measures should be considered to enable earlier delivery of long-term deliverable sites (7-10 years) or areas identified for new homes beyond 10 years. De-allocations should be considered where sites are no longer deliverable. The annual Housing Land Audit will monitor the delivery of housing land to inform the pipeline and the actions to be taken in the delivery programme.

Policy 16

- a) Development proposals for new homes on land allocated for housing in LDPs will be supported.
- b) Development proposals that include 50 or more homes, and smaller developments if required by local policy or guidance, should be accompanied by a Statement of Community Benefit. The statement will explain the contribution of the proposed development to:
 - i. meeting local housing requirements, including affordable homes;
 - ii. providing or enhancing local infrastructure, facilities and services; and
 - iii. improving the residential amenity of the surrounding area.

- c) Development proposals for new homes that improve affordability and choice by being adaptable to changing and diverse needs, and which address identified gaps in provision, will be supported. This could include:
- i. self-provided homes;
 - ii. accessible, adaptable and wheelchair accessible homes;
 - iii. build to rent;
 - iv. affordable homes;
 - v. a range of size of homes such as those for larger families;
 - vi. homes for older people, including supported accommodation, care homes and sheltered housing;
 - vii. homes for people undertaking further and higher education; and
 - viii. homes for other specialist groups such as service personnel.
- d) Development proposals for public or private, permanent or temporary, Gypsy/Travellers sites and family yards and Travelling Showpeople yards, including on land not specifically allocated for this use in the LDP, should be supported where a need is identified and the proposal is otherwise consistent with the plan spatial strategy and other relevant policies, including human rights and equality.
- e) Development proposals for new homes will be supported where they make provision for affordable homes to meet an identified need. Proposals for market homes will only be supported where the contribution to the provision of affordable homes on a site will be at least 25% of the total number of homes, unless the LDP sets out locations or circumstances where:
- i. a higher contribution is justified by evidence of need, or
 - ii. a lower contribution is justified, for example, by evidence of impact on viability, where proposals are small in scale, or to incentivise particular types of homes that are needed to diversify the supply, such as self-build or wheelchair accessible homes.
- The contribution is to be provided in accordance with local policy or guidance.
- f) Development proposals for new homes on land not allocated for housing in the LDP will only be supported in limited circumstances where:
- i. the proposal is supported by an agreed timescale for build-out; and
 - ii. the proposal is otherwise consistent with the plan spatial strategy and other relevant policies including local living and 20 minute neighbourhoods;
 - iii. and either:
 - delivery of sites is happening earlier than identified in the deliverable housing land pipeline. This will be determined by reference to two consecutive years of the Housing Land Audit evidencing substantial delivery earlier than pipeline timescales and that general trend being sustained; or
 - the proposal is consistent with policy on rural homes; or
 - the proposal is for smaller scale opportunities within an existing settlement boundary; or
 - the proposal is for the delivery of less than 50 affordable homes as part of a local authority supported affordable housing plan.
- g) Householder development proposals will be supported where they:
- i. do not have a detrimental impact on the character or environmental quality of the home and the surrounding area in terms of size, design and materials; and
 - ii. do not have a detrimental effect on the neighbouring properties in terms of physical impact, overshadowing or overlooking.
- h) Householder development proposals that provide adaptations in response to risks from a changing climate, or relating to people with health conditions that lead to particular accommodation needs will be supported.

Policy 17

Rural homes

Policy Principles

Policy Intent:

To encourage, promote and facilitate the delivery of more high quality, affordable and sustainable rural homes in the right locations.

Policy Outcomes:

- Improved choice of homes across tenures so that identified local needs of people and communities in rural and island areas are met.
- Homes are provided that support sustainable rural communities and are linked with service provision.
- The distinctive character, sense of place and natural and cultural assets of rural areas are safeguarded and enhanced.

Local Development Plans:

LDPs should be informed by an understanding of population change over time, locally specific needs and market circumstances in rural and island areas.

LDPs should set out tailored approaches to rural housing and where relevant include proposals for future population growth – including provision for small-scale housing such as crofts and woodland crofts and the appropriate resettlement of previously inhabited areas. The Scottish Government's 6 fold Urban Rural Classification 2020 should be used to identify remote rural areas. Plans should reflect locally appropriate delivery approaches. Previously inhabited areas that are suitable for resettlement should be identified in the spatial strategy.

Policy 17

- a) Development proposals for new homes in rural areas will be supported where the development is suitably scaled, sited and designed to be in keeping with the character of the area and the development:
- i. is on a site allocated for housing within the LDP;
 - ii. reuses brownfield land where a return to a natural state has not or will not happen without intervention;
 - iii. reuses a redundant or unused building;
 - iv. is an appropriate use of a historic environment asset or is appropriate enabling development to secure the future of historic environment assets;
 - v. is demonstrated to be necessary to support the sustainable management of a viable rural business or croft, and there is an essential need for a worker (including those taking majority control of a farm business) to live permanently at or near their place of work;
 - vi. is for a single home for the retirement succession of a viable farm holding;
 - vii. is for the subdivision of an existing residential dwelling; the scale of which is in keeping with the character and infrastructure provision in the area; or
 - viii. reinstates a former dwelling house or is a one-for-one replacement of an existing permanent house.
- b) Development proposals for new homes in rural areas will consider how the development will contribute towards local living and take into account identified local housing needs (including affordable housing), economic considerations and the transport needs of the development as appropriate for the rural location.
- c) Development proposals for new homes in remote rural areas will be supported where the proposal:
- i. supports and sustains existing fragile communities;
 - ii. supports identified local housing outcomes; and

- iii. is suitable in terms of location, access, and environmental impact.
- d) Development proposals for new homes that support the resettlement of previously inhabited areas will be supported where the proposal:
- i. is in an area identified in the LDP as suitable for resettlement;
 - ii. is designed to a high standard;
 - iii. responds to its rural location; and
 - iv. is designed to minimise greenhouse gas emissions as far as possible.

Policy impact:

- ✔ Just Transition
- ✔ Conserving and recycling assets
- ✔ Local living
- ✔ Compact urban growth
- ✔ Rebalanced development
- ✔ Rural revitalisation

Key policy connections:

- [Tackling the climate and nature crises](#)
- [Climate mitigation and adaptation](#)
- [Natural places](#)
- [Historic assets and places](#)
- [Green belts](#)
- [Brownfield, vacant and derelict land and empty buildings](#)
- [Coastal development](#)
- [Sustainable transport](#)
- [Design, quality and place](#)
- [Local Living and 20 minute neighbourhoods](#)
- [Infrastructure first](#)
- [Quality homes](#)
- [City, town, local and commercial centres](#)
- [Rural development](#)
- [Tourism](#)

Policy 29

Rural development

Policy Principles

Policy Intent:

To encourage rural economic activity, innovation and diversification whilst ensuring that the distinctive character of the rural area and the service function of small towns, natural assets and cultural heritage are safeguarded and enhanced.

Policy Outcomes:

- Rural places are vibrant and sustainable and rural communities and businesses are supported.
- A balanced and sustainable rural population.

Local Development Plans:

LDPs should identify the characteristics of rural areas within the plan area, including the existing pattern of development, pressures, environmental assets, community priorities and economic needs of each area. The spatial strategy should set out an appropriate approach to development in rural areas which reflects the identified characteristics. The Scottish Government's 6 fold Urban Rural Classification 2020 should be used to identify remote rural areas. Spatial strategies should support the sustainability and prosperity of rural communities and economies. Previously inhabited areas which are suitable for resettlement should be identified in the spatial strategy.

Policy 29

- a) Development proposals that contribute to the viability, sustainability and diversity of rural communities and local rural economy will be supported, including:
 - i. farms, crofts, woodland crofts or other land use businesses, where use of good quality land for development is minimised and business viability is not adversely affected;
 - ii. diversification of existing businesses;
 - iii. production and processing facilities for local produce and materials, for example sawmills, or local food production;
 - iv. essential community services;
 - v. essential infrastructure;
 - vi. reuse of a redundant or unused building;
 - vii. appropriate use of a historic environment asset or is appropriate enabling development to secure the future of historic environment assets;
 - viii. reuse of brownfield land where a return to a natural state has not or will not happen without intervention;
 - ix. small scale developments that support new ways of working such as remote working, homeworking and community hubs; or
 - x. improvement or restoration of the natural environment.
- b) Development proposals in rural areas should be suitably scaled, sited and designed to be in keeping with the character of the area. They should also consider how the development will contribute towards local living and take into account the transport needs of the development as appropriate for the rural location.
- c) Development proposals in remote rural areas, where new development can often help to sustain fragile communities, will be supported where the proposal:
 - i. will support local employment;
 - ii. supports and sustains existing communities, for example through provision of digital infrastructure; and
 - iii. is suitable in terms of location, access, siting, design and environmental impact.
- d) Development proposals that support the resettlement of previously inhabited areas will be supported where the proposal:
 - i. is in an area identified in the LDP as suitable for resettlement;
 - ii. is designed to a high standard;
 - iii. responds to their rural location; and
 - iv. is designed to minimise greenhouse gas emissions as far as possible.

East Lothian Local Development Plan 2018

Policy DC1

Policy DC1: Rural Diversification

Development in the countryside, including changes of use or conversions of existing buildings, will be supported in principle where it is for:

- a) agriculture, horticulture, forestry, infrastructure or countryside recreation; or
- b) other businesses that have an operational requirement for a countryside location, including tourism and leisure uses.

Proposals must also satisfy the terms of Policy NH1 and other relevant plan policies including Policy DC6.

Proposals for mineral extraction and renewable energy will be assessed against the other relevant policies of the Plan.

Any proposals for the restoration or conversion of vernacular buildings to accommodate uses supported in principle by this policy should be of an appropriate scale and character and designed in such a way that maintains or complements their layout and appearance.

Policy DC4

Policy DC4: New Build Housing in the Countryside

New build housing development will only be supported in the countryside outwith the constrained coast where there is no existing house or no appropriate existing building suitable for conversion to a house is available in the locality and:

- (i) In the case of a single house, the Council is satisfied that it is a direct operational requirement of a viable agricultural, horticultural, forestry, countryside recreation or other business, leisure or tourism use supported in principle by Policy DC1. The Council will obtain independent advice from an Agricultural and Rural Advisor on whether there is a direct operational requirement for an associated house; or
- (ii) In the case of other small scale housing proposals, it is for affordable housing and evidence of need is provided, and the registered affordable housing provider will ensure that the dwellings will remain affordable for the longer term. Proposals should be very small scale and form a logical addition to an existing small-scale rural settlement identified by this plan.
- (iii) The proposal satisfies the terms of Policy NH1.

Policy DC5

Policy DC5: Housing as Enabling Development

Housing in the countryside may exceptionally be supported as enabling development where it will:

- a) enable a desirable primary use supported in principle by criterion b of Policy DC1 and the benefits of the primary use outweighs the normal presumption against new build housing in the countryside; or
- b) fund the restoration of a listed building or other building with recognised heritage value, or other significant designated feature of the built or natural environment, the retention of which is desirable. Proposals must also protect or enhance the setting of such features and satisfy the terms of Policies CH1 and where relevant, CH6. Enabling development will only be acceptable where it can be clearly demonstrated to be the only means of preventing loss of the asset and securing its long-term future;
- c) the proposal satisfies the terms of Policy NH1.

Any enabling development must be on the same site as and part of the main proposal. Where the proposal will fund the restoration of a listed building, the priority is for enabling development to take place on the same site as the listed building. Any enabling development proposed off site must be clearly justified with strong evidence to demonstrate why the enabling development could not take place on the site.

In all cases, the benefits of the proposed development must outweigh the normal presumption against new build housing development in the countryside.

The Council will obtain independent advice on the extent of enabling development to ensure that it is the minimum necessary to achieve the primary use and it is not a substitute for normal development funding including borrowing.

Policy DP2

Policy DP2: Design

The design of all new development, with the exception of changes of use and alterations and extensions to existing buildings, must:

1. Be appropriate to its location in terms of its positioning, size, form, massing, proportion and scale and use of a limited palette of materials and colours that complement its surroundings;
2. By its siting, density and design create a coherent structure of streets, public spaces and buildings that respect and complement the site's context, and create a sense of identity within the development;
3. Position and orientate buildings to articulate, overlook, properly enclose and provide active frontages to public spaces or, where this is not possible, have appropriate high quality architectural or landscape treatment to create a sense of welcome, safety and security;
4. Provide a well connected network of paths and roads within the site that are direct and will connect with existing networks, including green networks, in the wider area ensuring access for all in the community, favouring, where appropriate, active travel and public transport then cars as forms of movement;
5. Clearly distinguish public space from private space using appropriate boundary treatments;
6. Ensure privacy and amenity, with particular regard to levels of sunlight, daylight and overlooking, including for the occupants of neighbouring properties;
7. Retain physical or natural features that are important to the amenity of the area or provide adequate replacements where appropriate;
8. Be able to be suitably serviced and accessed with no significant traffic or other environmental impacts.

Policy NH7

Policy NH7: Protecting Soils

Development on prime quality agricultural land or rare or carbon rich soils, such as peat, will not be permitted unless:

- It is to implement a proposal of this plan, or
- It is necessary to meet an established need and no other suitable site is available; or
- It is for an appropriate development in the countryside, including that which is directly linked to a rural business or an existing house; and
- The layout, design and construction methods of development minimises the amount of such land that is affected, taking into account the design policies of the plan.

Proposals for renewable energy generation or mineral extraction on prime quality agricultural land may also be acceptable where provision is made for restoration of the land to its former status and if soil will be reused where feasible.

In the case of carbon rich soils, in order that the Council may assess the merits of the proposal, applicants must demonstrate the effect it would have on CO₂ emissions as a result of its construction and where relevant operation.

Policy NH8

Policy NH8: Trees and Development

There is a strong presumption in favour of protecting East Lothian's woodland resources. Development affecting trees, groups of trees or areas of woodland will only be permitted where:

- a. any tree, group of trees or woodland that makes a significant positive contribution to the setting, amenity of the area has been incorporated into the development through design and layout, and wherever possible such trees and hedges should be incorporated into public open space and not into private gardens or areas; or
- b. (i) in the case of woodland, its loss is essential to facilitate development that would achieve significant and clearly defined additional public benefits in line with the Scottish Government's Policy on Control of Woodland Removal; in particular the loss of Ancient Woodland will not be supported; or
(ii) in the case of individual trees or groups of trees, their loss is essential to facilitate development that would contribute more to the good planning of the area than would retaining the trees or group of trees.

Development (including extensions to buildings) must conform to British Standard 5837:2012 Guide for Trees in Relation to Design, Demolition and Construction, or any subsequent revisions.

Policy T1

Policy T1: Development Location and Accessibility

New developments shall be located on sites that are capable of being conveniently and safely accessed on foot and by cycle, by public transport as well as by private vehicle, including adequate car parking provision in accordance with the Council's standards. The submission of Travel Plans may also be required in support of certain proposals.

Policy T2

Policy T2 : General Transport Impact

New development must have no significant adverse impact on:

- Road safety;
- The convenience, safety and attractiveness of walking and cycling in the surrounding area;
- Public transport operations in the surrounding area, both existing and planned, including convenience of access to these and their travel times;
- The capacity of the surrounding road network to deal with traffic unrelated to the proposed development; and
- Residential amenity as a consequence of an increase in motorised traffic.

Where the impact of development on the transport network requires mitigation this will be provided by the developer and secured by the Council by planning condition and / or legal agreement where appropriate.

24/00417/P Suggested Conditions:

1 – Time Condition

The development hereby approved shall begin before the expiration of 3 years from the date of this permission.

Reason:

Pursuant to Section 58 of the Town and Country Planning (Scotland) Act 1997 as amended.

2 – Site Setting Out

No development shall take place on site unless and until final site setting out details have been submitted to and approved by the Planning Authority.

The above-mentioned details shall include a final site setting-out drawing to a scale of not less than 1:200, giving:

- the position within the application site of all elements of the proposed development and position of adjoining land and buildings;
- finished ground and floor levels of the development relative to existing ground levels of the site and of adjoining land and building(s). The levels shall be shown in relation to an Ordnance Benchmark or Temporary Bench Mark from which the Planning Authority can take measurements and shall be shown on the drawing; and
- the ridge height of the proposed development shown in relation to the finished ground and floor levels on the site.

Reason:

To enable the Planning Authority to control the development of the site in the interests of the amenity of the area.

3 – Materials

Prior to their use on site, full details (including samples where requested) of materials and finishes to be used to externally clad the roof and walls of the house and associated garage, for the windows, doors and any ground surfacing on the site shall be submitted to and approved in writing by the Planning Authority.

The development shall thereafter be implemented in accordance with the approved details.

Reason:

To allow the consideration of details yet to be submitted and control the materials used on the site in the interest on visual amenity.

4 – Access, Parking and Turning

Prior to the occupation of the house hereby approved, the access, parking and turning areas shown on docketed drawing no. 24/777 P 01C shall have been formed and made available for use, and thereafter the access, parking and turning areas shall be retained for such uses unless otherwise approved in advance in writing by the Planning Authority.

Furthermore, the driveway shall be (i) permeable to reduce water run-off, and any run-off should be directed away from the road; (ii) the first 2m of the driveway should be hard formed; (iii) the driveway shall be a minimum of 3.3 metres wide; and (iv) the double parking area shall be a minimum of 3.3 metres wide by 6 metres long, excluding the driveway behind.

Reason:

To ensure that adequate and satisfactory provision is made for access, parking and turning in the interests of road safety.

5 – EV Charging

Prior to the occupation of the house hereby approved a 7kW rated Type 2 electric vehicle charging point for at least one car and infrastructure for it shall be installed and available for use and thereafter shall be retained for use, unless otherwise agreed by the Planning Authority.

Reason:

To minimise the environmental impact of the development.

6 – Geo-Environmental Assessment

Part 1

Prior to any site development works a suitable Geo-Environmental Assessment must be carried out, with the Report(s) being made available to the Planning Authority for approval. It should include details of the following:

- A Preliminary Investigation incorporating a Phase I Desk Study (including site reconnaissance, development of a conceptual model and an initial risk assessment);
- A Phase II Ground Investigation (following demolition and only if the Desk Study has determined that further assessment is required), comprising the following:
 - A survey of the extent, scale and nature of contamination, and reporting on the appropriate risk assessment(s) carried out with regards to Human Health, the Water Environment and Ground Gas (including Radon) as well as an updated conceptual model of the site;

- An appraisal of the remediation methods available and proposal of the preferred option(s).

The Desk Study and Ground Investigation must be undertaken by suitably qualified, experienced and competent persons and must be conducted in accordance with the relevant guidance and procedures.

If it is concluded by the Reporting that remediation of the site is not required, then Parts 2 and 3 of this Condition can be disregarded.

Part 2

Prior to any works beginning on site (and where risks have been identified), a detailed Remediation Statement should be produced that shows the site is to be brought to a condition suitable for the intended use by the removal of unacceptable risks to all relevant and statutory receptors. The Statement should detail all works to be undertaken, proposed remediation objectives and remediation criteria as well as details of the procedures to be followed for the verification of the remedial works. It should also ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land following development. The Statement must be submitted to the Planning Authority for approval.

Part 3

The approved Remediation Statement must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out the agreed remediation. Following completion of the measures identified in the approved Remediation Statement, a Validation Report should be submitted that demonstrates the effectiveness of the remediation carried out. It must be approved by the Planning Authority prior to occupation of the new development.

Part 4

In the event that 'unexpected' ground conditions (contamination) are encountered at any time when carrying out the permitted development, work on site shall cease and the issue shall be reported to the Planning Authority immediately. At this stage a Site Investigation and subsequent Risk Assessment may have to be carried out, if requested by the Planning Authority. It may also be necessary to submit a Remediation Strategy should the reporting determine that remedial measures are required. It should also be noted that a Verification Report would also need to be submitted confirming the satisfactory completion of these remedial works.

If no 'unexpected' ground conditions are encountered during the development works, then this should be confirmed to the Planning Authority prior to the use of the new development.

Reason:

To ensure that the site is clear of any contamination found to be present prior to the use of the house approved.

7 – Biodiversity Enhancement

Prior to commencement of development, details of measures to protect and enhance biodiversity on the application site shall be submitted to and approved by the Planning Authority. The measures as

so approved shall be implemented prior to any use being made of the agricultural building hereby approved and shall thereafter be retained, unless otherwise approved in writing by the Planning Authority.

Reason:

In the interests of protecting and enhancing biodiversity on the site and within the surrounding area.

8 – Carbon Emissions

Prior to the commencement of development, a report on the actions to be taken to reduce the Carbon Emissions from the build and from the completed development shall be submitted to and approved in advance in writing by the Planning Authority. This shall include the provision of renewable technology for all new buildings, where feasible and appropriate in design terms, and new car charging points and infrastructure for them, where feasible and appropriate in design terms. The details shall include a timetable for implementation. Development shall thereafter be carried out in accordance with the report so approved.

Reason:

To minimise the environmental impact of the development.