



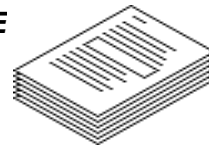
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Submission to Local Review Body - Re: Planning reference No 24/00868/P

Reason for Review:

Incorrect criteria and references attributed to submission and failure to engage by ELC.

NOTE*: It may be necessary to obtain external Planning Advice due to direct involvement of ELC Senior Planning Staff which apparently requires that they recuse themselves as Review advisors.

Should this application for Review be noted as submitted outwith the required 3 month period since determination on 13th Dec 2024, it should be noted that it is not the fault of the applicant but that of ELC as repeated e-mails, attached, and telephone messages were left requesting the necessary information supporting and substantiating the alleged ELC Planning deliberate misinterpretation and inclusion of irrelevant and misleading references within the reports and in the general handling and final Report leading to Refusal.

It appears that the subject site is deliberately portrayed as a New Development in the Countryside, which infers Change of Use and Greenfield Development (*just as the major developments in the county in the county!*) when it is not and should not be regarded so as it IS 'Redundant Domestic Garden Ground' and has been for many years, as confirmed, and comes within the scope of new and current SG Policy and guidance issued in the expectation and spirit that LAs should recognize and seek to identify, record as available and assist to utilize such areas to relieve the pressure on prime agricultural land being lost in the countryside and the consequent loss of much valued food production potential, as all major developments in East Lothian, other than Blindwells, are creating.

It further appears that there is a presumption within ELC that development anywhere other than conveniently, and most expedient and profitable, adjacent to existing towns and villages and anything outside the recognized ever-increasing urban areas engulfing the 'Countryside' with new developments, is regarded as 'Development in the Countryside' and that **there appears to be a disconnect between ELC Planning and ELC Council as ELC Planning state that "There is no such thing as precedence in Planning and each submission is assessed on it's own merits"** and **conversely**, ELC Council Chair states that their reasons for refusal of permission of other Reviewed applications are on the grounds that **"it would present the risk of creating a precedent for Development in the Countryside"**

Despite those large developments, in the majority of cases, being built in 'The Countryside' but having been included within the Local Plan manage to escape such a designation, not so the proliferation of other small sites deemed not worthy of inclusion and the deliberate attempts on behalf of ELC to even prevent exclusions of such exceptions as those legally enabled as compliant with new PDRs to assist in quickly increasing housing supply in 'truly' rural areas, and reduce the workload on planners, such as Class18B PDR etc.

THERE IS NO ELC LEGAL DEFINITION OF 'COUNTRYSIDE' IN ANY CONTEXT AND 'RURAL' SIMILARLY MERELY DEPENDS ON REQUIRED IN PARTICULAR OR GENERAL CONTEXT.

An interesting question then arises:

Are ELC Planning working according to required implementation of SG Policies, their statement, their stated aims and Professional Procedures OR on behalf of the stated ELC Council rulings and, by doing so are effectively thwarting any assessment of applications in line with an assumed known pre-judged outcome of any local appeal made ???!!!

THE SUBJECT SUBMISSION, HOWEVER, PRESENTS A LEGAL IMPEDEMENT TO THE ABOVE POSSIBLE IMPOSITION OF REINTERPRETATION/MISINTERPRETATION AS IT IS CORRECTLY DESCRIBED AS AN 'EXISTING REDUNDANT DOMESTIC GARDEN', WHICH HAS EXISTED FOR SOME CONSIDERABLE TIME, AS CONFIRMED, AND IS COMPLIANT WITH CURRENT LEGISLATION AND

SHOULD BE ASSESSED AND JUDGED ACCORDINGLY, AS ANY SUCH DEVELOPMENT AVAILABLE REDUNDANT DOMESTIC GARDEN GROUND.

The subject proposal of 2 extremely highly energy efficient semi-detached accessible cottages was submitted as the site is now fully compliant with revised SG Planning Policy NPF4 founded upon '*Rural Planning Policy to 2050: research findings*' (*Inherit: The Institute for Heritage & Sustainable Human Development & Savills*) and defined housing crisis and essential reduction of current development of greenfield and highly productive prime agricultural land use.

Unfortunately, *Planning Circular 5/2013: Schemes of delegation and local reviews - Guidance on the requirements on delegating decisions on planning applications for local development and the related review of decisions*' instructs, as *Schedule 1 Regulation 24(3)* that the submission statement to the hearing "**fully sets out the case**" to be made therefore this submission is submitted in compliance with that in mind.

I could, if I wish, present several well documented and proven cases of '*erroneous*' actions and lack of proper engagement, contrary to the published policy and procedural documents issued, however that would not achieve anything other than precipitating further concern by the ward communities and councilors, which is not my desired wish in the case of this Review.

There is a pattern emerging, now whether through lack of communication since the new working arrangements post-Covid I don't know, but in another specific case it became clear, proven and legally confirmed, that Planning and Governance had overstepped the legal competency of ELC but this was '*assumed by me*' to have been an '*unfortunate error*' as the only other explanation would have been the unthinkable reason that they had deliberately misled the public as to conditions existing which precluded the right to a new PDR and sought to thwart the will of the SG in implementation of the right to the new PDR class.

To date, none within ELC have ever responded to the request for confirmation of who actually ordered and sanctioned the necessary use of the ELC resources involved in that case nor the reason why this legal misrepresentation had occurred which wrongly inferred exclusion of a submission from the achievement of the rightful PDR due to all relevant ward members presenting a compliant Notification.

The reason for this current subject submission, **Planning reference No 24/00868/P** submitted and now presented for Review at this time, was prompted by the **SG NPF4** and associated **SG Policy initiatives** relating to prioritization of provision of redundant sites being used in order to reduce the demand upon essential productive rural agricultural/greenbelt land which is, effectively, actually '*Development in the Countryside*', as large acreages of prime agricultural land have been and continue to be declared '*suitable*' for inclusion within the Local Plans whereas, smaller areas presenting, appear to present an inconvenience to those preparing the Local Plan and would, by inclusion, represent a more natural organic evolution of the housing stock in East Lothian with a reduction, albeit maybe small, in the use of valuable productive land, which, especially in these uncertain times, forms an invaluable necessary asset in feeding this island nation.

In conjunction with the above, the new emphasis on necessary re-classification of priorities and criteria of existing building land available results from the 2021 *Housing to 2040 Strategy* which set out a vision for housing in Scotland to 2040 and a route map to get there, the aim of which is to deliver the ambition for everyone to have a safe, good quality and affordable home that meets their needs **in the place they want to be** by **engagement with and appropriate implementation on behalf of communities and their expressed wishes.** Text within this "*..by developing vacant and derelict land..*" is of particular significance which has an affect on the claimed criteria of the subject proposal as this is already **existing 'Domestic Garden Ground'** which is confirmed and accepted as now '***Redundant***' and therefore compliant with the term '***vacant & derelict land***'.

Guidance now considers that all such redundant areas should be investigated for inclusion within the Local Plan, and if viewed as intended according to the current policies reflected in NPF4, when massed together and classified, not as '*Development in the Countryside*' **BUT in total, just as those past and currently approved Developments in the Countryside presented by major development's 'market sites' on classified rural agricultural land.**

The resulting gains in '*rural(countryside??) housing*' anticipated would form a **considerable** saving on **valuable finite prime Rural Agricultural Land**, obviously, in '*The Countryside*', in keeping with SG Planning Policy, founded upon ***Rural Planning Policy to 2050: research findings*** and as will no doubt be found properly represented and reflected in the accurate Housing Needs Survey and Report and related land allocation by ELC, as required to be published.

As you will no doubt realize as you read the submitted detailed account of the process through Verification, Registration (***Doc 2. All 10 Invalid Letters in Sequence***) and Determination, there is clear depiction of a lack of response or engagement and **even a final attempt to reclassify the site** with a response to the

satisfaction of the final Invalid Letter questioning the validity of the claim that the site was genuinely and legally defined, and proven so, as the redundant garden ground of Primrose Cottage, and a further request to prove it had been Garden Ground for 10yrs and more, **which was a strange request** by the intervening Planner, *ELC Planning Team Manager – Development Management*, at the last stage of the **Registration process**, as, being apparently fully aware of the Planning history of the site, would surely have been aware that if the site was **accepted as such in 2001-2**, and had not undergone a Change of Use, and as such it then sensibly followed that it remained as **Redundant Garden Ground** and **not as the Planning Team Manager had instructed** that the description should be changed to “**Land Opposite East Lodge, Thurston, Innerwick,**” (see *Doc’s 2,10,11,12 & 13 and all who received them*)

It may be of interest that that the previous 2001 submission(01/00256/OUT) was, under the Statutes in Force at that time, regarded as *Development in the Countryside* and the **Planning Officers Report consisted of a 4 page document (as opposed to 13 pages now!)with no other enforceable objections** as Roads Dep’t objection proved to be unsubstantiated, **as currently**, as the position of the **public access to the LA Innerwick Cemetery** has confirmed ‘**unrestricted vehicular and pedestrian public access**’ and no traffic or pedestrian movement modelling had been carried out then, nor has there been since, therefore there was no substance to the objection on that basis, nor is there now, and none other than that was contrary to the acceptance of the proposal except that of the legislation in force at the time regarding limitations on the then definition of rural(*country*) and restrictions on Development in the Countryside extending to redundant and excess garden or other ground in the Rural/Countryside **BUT, back then, 24 years ago, this Planning Officer’s Report and Decision was not influenced by changed policy recognizing the declaration of a housing crisis, necessary reduction of pressure on use of prime agricultural land, dramatically changed working practices resulting in more and more home and flexible on-line working, identified need for 3 apartment accessible highly energy efficient comfortable houses with sustainable off-grid drainage to reduce demand on an oversubscribed SW drainage systems and the reversion to the environmentally sensible traditional plots with potential for self-sufficiency enabled by garden ground.**

Compare that to the **13 page Planner’s Report(see Doc’s. issued for the subject submission, Planning reference No 24/00868/P** which has everything that could be thought of, and largely, as you will see, unsubstantiated, included which rightly resulted in my immediate request to see the documentary references and reports to evidence and substantiate such as soon as the determination was released and, **despite the many e-mails sent requesting such since 13th December 2024**, to the management, executive and council, to instruct to enable provision of such in order that I could examine and comment as this information forms the essential core of the requisite written submission for review, but **NO REPONSE RECIVED UNTIL 13TH Feb.2025.**

It was suggested by a fellow professional, in jest I hope, that by ignoring the demands for essential information ELC Planning Department and failing to engage, that the applicant would lose their right to Review by failure to apply with 3 months – surprisingly, or not, Keith Dingwall reminded me of the time-bar in the eventual e-mail which arrived on **13TH Feb.2025** following, coincidentally, my correspondence and most helpful discussion on current procedural requirements with the Clerk to the Review Board on 12th Feb 2025.

An imposed search of the Land Register relating to a verge which clearly stated on the Deeds provided as having full vehicular and pedestrian rights over AND, when contacted, ELC Property Department were most helpful and immediately sent a copy of the Deeds for the Innerwick Cemetery which is situated at the end of the track and verges and they too could not establish who currently owns the track and verges either ! In summary of the procedure leading up to being assigned to a Planner, the whole process has been punctuated by inaccuracies, irrelevance and timewasting and 10 individual Invalid Letters PLUS the final intervention of a Senior Planner to unsuccessfully attempt to instruct changing the site description before it was even Registered.

Now, some might ask why such an intervention by a senior planner, even before Registration was validated, and might well decide that it might have been in order, by changing the Site Description, that it may have been in order to facilitate an easier appraisal of the site as being other than **Existing Redundant Domestic Garden Ground** and therefore providing ease of dismissal as *Development in the Countryside* rather than assessment in compliance with the current legislation and spirit of the SG policy and guidance currently issued.

As the whole of East Lothian is classified as *Accessible Rural(Doc.15 is an overlay providing more accurate reference points inserted between P.5&6)* then this ground, apart from the current policy referred to minimize the use of prime agricultural land, then surely the logical conclusion is that such Garden Ground must now be viewed as any other garden ground existing within the defined areas of East Lothian.

A bit of problem exists, that should not, such that there is no consistent legally sound definition and import of what is described as 'Country' or what actually consistently constitutes 'Rural' and many professionals within and without local and central government, let alone members of the general ward members, appear to relate different attributes to such terms and one major developer in East Lothian actually encourages potential buyers to locate to "Rural East Lothian" despite the fact that they are actually moving into an urban development on prime agricultural land in what was previously 'Countryside' on the outskirts of the ever-expanding into the countryside town of Tranent or the once Rural Village of Elphinstone which apparently still has the remnants of 'Countryside' within despite the major development opposite!, in common with the many other 'market-led' developments approved or built and in most cases transforming what could once have been generally accepted as 'Rural & Countryside', now resulting in urban sprawl and urbanization of what was once agricultural land in the 'Countryside', however, the developers quite rightly use the acceptance of the wide and varied descriptions and perceptions of what is termed Rural and Countryside, (although one is not synonymous with the other) which all helps in the narrative in the sales literature to attract buyers to a perceived location and life style – who can blame them as it's not breaking the law and obviously working and they are profiting by it !

What is causing further confusion is the fact that there seems to be yet another conflict occurring in definitions and procedures as ELC Chief Planning Officer and other Planners rightly often state publicly that "There is no such thing as precedence. Each submission is considered on it's own merits", if only this were indeed so, as the ELC Council Chairperson has stated often that approving a certain proposal, deemed to be Development in the Countryside "...would have the detrimental effect of creating a precedence..", as recently as that referred to above, so, which is correct???? OR, has a precedence been set such that powers conferred upon an LA enable the Planning rules to be altered by an LA?

If you refer back to the 2001 Planners Recommendations you will only see 2 real objections, the discounted Roads Dep't objection and the reason stated below:

- 2 If approved, the proposal would set an undesirable precedent whereby the Planning Authority would find it difficult to resist similar proposals elsewhere within East Lothian, the cumulative effect of which would be detrimental to the rural character and amenity of the countryside.

This standard paragraph has now been corrected by ELC Planning Dep't and omitted from the **5 current** Reasons for Refusal regarding the current submission BUT it remains in all but the text, 24yrs on, by the inclusion of as many tenuous impediments and biased interpretations as possible to thwart the acceptance of such a proposal without actually declaring the old policy which no longer bears any relevance to **current needs**, rural(country?)-based employment, working practices, social and age-based demography – and the recent LA Needs Survey should amply confirm such as true.

We all have to adhere to the policies and procedures set by **any democratically elected SG which happens to be in place at the time**, whether we agree or not and, following any comments in response to consultations, what is installed must be equitably and correctly implemented at LA level, and, just as the much hailed '**Community Engagement**' whereby it has been publicly stated by ELC Planning that whilst Community Councils, for instance, may comment or submit plans for their community, **ELC is not obliged to include them, likewise, an LA**, whilst possibly not in agreement with SG policies, have also no legal powers conferred to alter policy or legislation **once cast in law by ANY SG** just as the same condition is applicable to SG who must adhere to any such relevant legal imposition issued by UK Gov.

In order to maintain stability all departmental, political or personal opinions must be set aside and objective consideration applied to the facts, the law and the policies and procedures enacted within the SSIs or Sis which must be legally adhered to otherwise no confidence can be had in the ability of an LA to provide the most basic "**Right of the individual to independent expert adjudication**", as cited and accepted by ELC (ELC Planning Committee 2009 Re:97 High Street, Dunbar 08/00932 et al - decision in favour of applicant) – and that **DOES** form a legal precedent !

I have attached **Doc 01 'Annotated Decision Notice 24/00868/P'**, which is comprised of the annotated Decision Notice, with relevant responses from myself on behalf of my client in order that it may hopefully save you time if unable to fully commit the necessary time, due to constraints placed upon you, to appraise all in depth and **assess the validity, relevance and accuracy of the contents of all documents associated with this Review**. Doc.01 should also be read in conjunction with supporting **Doc.02 24/00868/P Primrose Cottage Redacted Officer Report** of the handling of the determination of the submission.

Included below, is the statement pertaining to the *Statutory Roles and Responsibilities*, for the advice of all and for the ease of reference in particular for those advising Council in Planning and Governance:

“Statutory Role of Local Authorities

It is the responsibility of local authorities through their Local Development Plan and Local Housing Strategy (LHS) to determine the appropriate housing required in their area, informed by their Housing Need and Demand Assessment (HNDA). A HNDA is undertaken every 5 years and estimates current and future housing requirements. The Local Housing Strategy sets out the local authority’s priorities and plans for the delivery of housing and housing related services. A local authority should consider the number, location, type, size and tenure of housing required to address the need in their communities.”

I could, if required, provide many, many documents, communications and reports and SSIs in substantiation of many of my comments made but, being realistic, given the restricted time those adjudicating are able to allocate it would not be practical but can provide these, if desired by any.

I know that, in common with many over the years, you may ask why have I never stood for election to office if I have such concerns and related evidence about fair and equitable treatment of all, but those that know me know that a physical condition which I’ve lived with for many years means that there would be an inability to confidently agree attendance at any given time AND also I would be subject to the political tribalism, **BY ALL PARTIES**, that now seems to have infiltrated **the 32 LAs** and I strongly feel does nothing to help the local folks’ belief in **achievement of independent objective and equitable representation BUT**, I’ve always stood by my ethics and helped **all and any(even incl’ ELC!)** to achieve equitable solutions and I always support human rights and the right to a decent home and life in particular– simply put, - **a fair go for all – based on the law, SSIs and policies pertaining** and lobbied where it needs changing, as in the case of definition of **‘Affordability’** and the provision of the much needed reduced cost of building and supply of good quality rented accommodation to sustain communities, rather than **‘The Market’** setting the rules, and I’ve continually sought the removal of the acceptance of the norm’ of aspirational commercial and Government promotion of ownership which Maggie T’s and **all** successive governments seem to have followed for obvious reasons of LA/SG/UKG cost reductions enabled throughout and especially towards the end of life care !!

It has been said that **“The myth of equality of opportunity in a Democratic Society is exposed when the numeric power of the majority always results in the existence of a disadvantaged powerless minority.”**

I consistently watch the live feeds and archives of council on my screen as I work away and often see common sense prevailing as experiential and transferable skills and knowledge are beneficially brought to bear in councilors’ scrutiny of any presenting and often feel that this would be enhanced further if more scrutiny was enabled regarding the *‘interpretative advice’* provided to committees across the board and that acronyms and base data sources referenced and called for were fully supplied, explained and substantiated **when called for**.

I share the frustration often manifest by councilors, as I also too often have *to wear many hats* and trust others to provide more specific accurate information or interpretation and trust that they have carried out the due diligence required but, I find unfortunately, for the avoidance of risk, always have to ensure that I possess sufficient knowledge and experience to confirm such, these days.



Many thanks and sincere appreciation for all your time given to objective consideration of this Review etc.

Regards,

[Redacted Signature]
(John A Fyall)

EAST LoTHIAN COUNCIL
DECISION NOTICE

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

BJP Properties Ltd (Dunbar)
c/o John A Fyall Bsc(Hons)Bld.Eng. C.Build.E, FCABE
Per John A Fyall
12 Beachmont Court
Dunbar
EH42 1YF

APPLICANT: BJP Properties Ltd (Dunbar)

With reference to your application registered on 11th October 2024 for planning permission under the above mentioned Acts and Regulations for the following development, viz:-

Erection of 2 houses and associated works

at
Primrose Cottage Garden
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:-

- The erection of two houses 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.

(KD-ELC Chief Planner e-mail 13.02.2025) "The report of handling states that the site is part of a larger field identified as Prime Agricultural Land. ??? I am not aware of the Agricultural Holding Number." SIMPLY PUT - WRONG !!!!, anyway:

Policy 17 (Rural Homes) of NPF4 – first problem is what exactly is meant here by 'Rural' !

The intention of 'brownfield land' and reuse of a redundant or unused building includes the intention that LA Planners '**engage**' and are obligated to assist and interpret objectively and helpfully in assessing the benefits of use of such ability to relate to area/site/community-specific conditions and this includes the expectation of reference to current conditions and policies/SSIs in force to view such as overgrown '**Redundant Domestic Garden Ground**' 'no longer in use, as a potential advantage to aid to reducing pressure on greenfield development of prime agricultural and it's value to provision of national food security and such proposed sites consequently within the scope of regarding **Redundant Domestic Garden Ground** by interpretation of it as the '**Rural**' equivalent of a '**brownfield**' site.

In addition **Housing to 2040 Route Map - More homes at the heart of great places** encourages Planners to **assist** in enabling innovative solutions by "...**developing vacant and derelict land..**".

Policy DC1: Rural Diversification – THIS REFERS TO BUSINESSES NOT DWELLINGS

“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.

At **5.5**: Appropriate development in the countryside traditionally includes agriculture, horticulture, forestry and countryside recreation. New businesses may also seek to establish in East Lothian’s countryside and coast, including tourism uses that could diversify the local economy. The Plan supports the principle of new built development in the countryside to accommodate an appropriate countryside use or other business

REALLY? Even although this does not apply in the subject case, I have to say that DC1 is simply Based upon out of date data, so far out of date and out of touch with in the current *East Lothian Local Development Plan 2018* and, it is hoped that this use of old data and thought will be corrected to seriously updated in the immanent long-awaited new *East Lothian Local Development Plan*. This simply does not recognise the changes that have taken place over many years and especially since the Covid pandemic where the number of Home Workers increased exponentially, as is amply displayed by the ELC Planning and other departmental working practices now and as is recognised in the requirement for new builds within Building Standards to accommodate such facilities as now required, not least the fiasco of fibre optic connection in terms of IT and the roll out of installation of SMET2 meters for availability of energy 1/2hr usage and advantageous alternating beneficial variable tariffs on both import and export. **ANYWAY**, had current Policy DC1 actually applied to this submission and homeworkers and their businesses, it totally fails to recognise and accept the fact that very few houses in the countryside of the county are now occupied or needed for those directly involved with agriculture, horticulture, forestry or tourism nowadays **BUT** those involved do contribute greatly to the local economy and community of the countryside and retaining and stabilising evolved rural culture.

Policy DC4: New Build Housing in the Countryside

“(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.”

This was suggested to ELC, as was the possibility of such as a turn-key supply contract with ELC or for conditioned ‘Affordable Housing, for sale or rent – and the cottages were designed well beyond current standards of *Affordable Housing* supplied elsewhere in the county therefore that would be compliant **BUT** no engagement was able to be obtained and thereby no dialogue entered into on any of the possibilities – which is hardly the response expected as inferred in the various statements concerning community and partner involvement and engagement, published and often referred to.

The applicant was open to constructive negotiation with ELC but no response was given which indicated either the lack of will or the inability to constructively assist in suggesting the mutual advantages that may be presented to both applicant and ELC in this case.

It is honestly as if ELC Planning policy is directed more towards finding reasons for refusal rather than assisting in achieving the desired outcomes of the current policies and resolving the dire and urgent conditions prevailing within the various sizes and tenures of housing within the county, wider country and beyond as the recent ELC provision of Proof of Need should clearly demonstrate.

The applicant remains willing to enter into discussion concerning the possibilities even although it is clear that no impediment to Planning Permission for this submission exists as no relevant legal substantiation is displayed in the assessment which resulted in the erroneous Refusal issued, especially when current policies regarding Redundant Domestic Garden Ground areas are applied, as applied to any Accessible Rural sites within the same well defined area. **PLUS**, of course, these cottages would be built by local tradesmen using locally supplied materials. all contributing directly to the local ‘*Accessible Rural*’ and *Urban* areas around and in Dunbar, unlike the major ‘*Market Developments*’ being built over the once highly productive land now gone from food production for which this area of East Lothian has long been known and envied by all and vital for our food and national security.

2 The proposed development would, if permitted, result in an increase in traffic movements at the substandard junction of the existing access lane with the classified highway (C165), to the detriment of the safe and free flow of traffic on the public road and the proposal would therefore be contrary to Policies T1 and T2 of the adopted East Lothian Local Development Plan 2018.

(KD-ELC Chief Planner e-mail 13.02.2025) “To the best of my knowledge, there is no ELC Transport Assessment for Innerwick Cemetery.”

That is a most ludicrous attempt to gain Refusal as there has never been a traffic or pedestrian Survey undertaken by ELC since acquiring the site in 1950 and establishing the new Innerwick Cemetery which is, **by the confirmation supplied by ELC Property Dep’t**, accessed over a joint Access Track and verge for which actual **legal ownership is unknown**.

Legal vehicular and pedestrian access is defined in the Deeds of the applicant, the owners of the East Lodge and the owner of the agricultural field accessed opposite the entry to the cemetery BUT, the most defining fact is that the Innerwick Cemetery at the far end of **the track has unlimited public access, not only during interments or visitation but at any time**, therefore the increased traffic movements incurred by the two cottages would be, **unknown** and even if so, at maximum, represent minimal, if at all, increased risk **BUT, more importantly**, it now emerges that, **ELC Roads Department have highlighted a potential confirmed and defined problematic risk to public safety to those using this public access to the Cemetery** and therefore that **ELC will now be legally obliged** to undertake a traffic survey and remove or minimise the identified risk to safety and/or impose a legal limit on the number, size and frequency of vehicles attending interments, visitations and ELC ground maintenance combined with police or other agreed presence in order to control traffic and pedestrian movements at the junction with the Classified Highway (C165) **and, provide suitable parking and turning facilities** -all to be **agreed with all others with a legal interest in the access track, including the current owner(good luck with that one!)**, who, as stated, remains unknown despite the applicant’s Land Registry and extensive independent search, **following the request from Planning Registration** which also resulted in **ELC, owners of the Cemetery, also failing to establish the ownership of the access track and verges !**

It should also be noted that ALL existing owners, including ELC and the applicant, have legal right to existing unlimited access “via the access track”, which obviously includes over verges, with no limitations, already stated in their Deeds.

It should also be noted that there is **NO reference to the ability of any** with access rights over the track **to legally confer or assume further rights of access pertaining to the general public including parking on the access track or verges** OR for ELC to alter drainage or remove mature trees on the verge, as has been the case – over to you Carlo Grilli – **(ELC Head of Governance) good luck with that one too !!!!**

Maybe ELC can protect the PUBLIC and other legally entitled owners of right of access by installation of Access-Prioritised Traffic Lights, funding available via SG it’s claimed, as discussed in Cabinet on 11/03/2025 to reduce risk to the public:

https://eastlothian.public-i.tv/core/portal/webcast_interactive/943495

I hope all those reading this are beginning to see a pattern emerging here !!

3 The proposed scheme of development for 2 new build houses on this rural site located within the East Lothian countryside would 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 Policy T1 of the adopted East Lothian Local Development Plan 2018.

As above, (KD-ELC Chief Planner e-mail 13.02.2025) “To the best of my knowledge, there is no ELC Transport Assessment for Innerwick Cemetery.”

This is unsubstantiated unless the mode of working and particular practices and needs of occupants can be stated and related to those of the East Lodge, the farmer and, ELC frequency of use of the cemetery PLUS allowances for ELC maintenance activities and unlimited public access afforded by ELC – legal or not !

I would seriously suggest viewing ELC Cabinet discussions on 'Transport 2025-30 (11/03/2025):

https://eastlothian.public-i.tv/core/portal/webcast_interactive/943495

which refers to digital modelling and statistical analysis based on 'available data' BUT the 'Real World achievable outcomes' are missing although all the right terms to impress are used, the actual import is such that these expensive consultations mean nothing when means to actual effect behavioural changes required are interestingly avoided, as are the actual numbers of single user cars in the staff car park of John Muir House, even although many are living in the countryside now work from home.

Unless legislation and punitive penalties are imposed upon lazy and time-constrained people then ANY model is impossible to instal in practice !

NPF4 Sustainable Transport - Policy 13

By reference to this there is a glaring problem evident everyday – people just do not react in the current real world to the intentions and academic requirements, especially on the use of cars which is clear, for instance in Dunbar, where daily car journeys to other parts of the county, Edinburgh and beyond are displayed by the number and frequency of tail backs at peak times of morning and evening and before and after schools PLUS the limited effect of emissions restrictions in Edinburgh have resulted in an even greater race for all travelling by train, to access the already exponentially increased enforced scarcity of parking spaces, in time to catch the train, resulting in the available parking spaces around the town being occupied all day by commuters by overdevelopment and SO – OBVIOUS FAILURE OF THE 20 MINUTE housing developments

Permitted and built eh?? – in fact it's doubtful, even if the occupants, who obviously can't or simply will not evolve to embrace the policy, could be 'trained' that even on a dry day it would work and, does that include time/distance to schools and other services at a particular rate of travel and if so what and by which sectors of the demography as it ages !!!

All of these new developments have obviously convinced ELC Planners that the developments comply, (**or have they??**) but it is obvious that the physical reality is that they cannot in their current form without ELC Planning Enforcement of the Conditions levied, and that would go well I'm sure !!!

- 4** The proposal would lead to the loss of an area of woodland which forms part of a continuous woodland block continuing to the south of the application site. This woodland forms an attractive backdrop and is important to the landscape setting of the area. Therefore, the proposal would be contrary to Policy 6 of NPF4, Policy 1 of the TWS and Policy NH8 of the ELLDP.

This is truly amazing as, if you get it wrong at least you should get it CONSISTENTLY SO ! **Compare the two contradictory descriptions** used to fit the criteria for Refusal, and this is confirmed by:

(KD-ELC Chief Planner e-mail 13.02.2025) "The report of handling states that the site is part of a larger field identified as Prime Agricultural Land. ??? I am not aware of the Agricultural Holding Number."

OR is it????????

(KD-ELC Chief Planner e-mail 13.02.2025) "The consultation response from the Council's Landscape Officer is attached.

There are no TPO's, but part of the application site is covered by Ancient Woodland."

Nature Scotland(Scotland's Nature Agency) -Summary & Policy Statement:

"This summary is intended for developers, planners, foresters, ecologists and others who need to use the AWI (*Ancient Woodlands Inventory*) in their work. It defines Ancient Woodland:

Ancient Woodland:

"In Scotland, Ancient Woodland is defined as land that is currently wooded and has been continually wooded, at least since 1750."

SOMEBODY NEEDS TO DO THEIR HOMEWORK AND/OR SOME CPD EH?? !!

The subject submission is neither prime agricultural land not part of a continuous block of woodland as the 'woodland referred to stops at the South boundary fence of the Redundant Domestic Garden Ground.

It may well have existed as part of the wood and grass parks at one time, **just as did the land**

now occupied by the new ELC Innerwick Cemetery but as the Garden Ground has never attained a Change of Use permitted by any successful application to ELC Planning Department, it remains 'Garden Ground', as confirmed to ELC Planning Team Manager – Development Management at their request, (*intervention on Invalid letter 10, even before Registration*) and as accepted in the previous application, even following prior confirmation submitted confirming compliance with legal definition of site as within compliance with current SG national housing policy and strategy in force, criteria of site and implementation of relevant compliance regulations and requirements now applicable.

- 5 It has not been demonstrated that the site could be developed for the erection of two houses without harm to **a European Protected bat species that has been recorded within 500m of the site**. The proposal is therefore contrary to Policy 3 of NPF4 and Policy NH4 of the ELLDP.

The East Lothian and National Bat Records were checked along with advice available from Bat Conservation Trust(Scotland) and the location within 500m referred to resulted in **no returns for any areas within or adjacent to the subject site AND, as the ELC Chief Planning Officer confirms: (KD-ELC Chief Planner e-mail 13.02.2025) "There is no Environmental Assessment or ELC Bat Survey for the site, and no Ecological Impact Study Report conducted within this garden area.**

Please note there is no reference to an Ecological Impact Study Report within our Report of Handling.

It's quite possible that bats will be flying in and around the woods and gardens all over East Lothian and I would have expected the ELC Officer to have been a bit better informed rather than simply quoting from the guidance which merely refers to the general description of 'a **European bat Species**' population and surely, if it has been recorded, then it is not unreasonable to ask for the supply of a copy or at least have sight of the ELC Record referred to in order that the subject may be covered in a Review submission in response to the determination AND, if this were deemed a PROVEN problem then some remedial action to overcome any deleterious effects identified on the bat population should surely have been discussed prior to finalising the report???

This site is *Redundant Domestic Garden Ground* with no legally enforceable restrictions or other controls over planting or weeding, other than the imposition for the compulsory need for reduction in height of the obviously non-compliant overgrown decorative *Leylandii* trees behind the East Boundary fence and the garden is not currently subject to, nor can be instructed to, provision of any particular habitat **BUT** bat and bird boxes could be incorporated to encourage such wildlife, to compliment the proposed planting of the rowan and hawthorn trees as a food source and insect/pollinator attraction and that too could have been discussed if engagement and cooperation had been made available.

There are most likely around 9-10 species found in Scotland with 3 or 4 possible types of bats in East Central Scotland, one of which, the *Noctule*, is predominantly woodland roosting and feeding But is quite rare and the other which favours woodland is the *Brown Long-eared*, which although feeding in woodland requires such as a large open loft type space to roost in and you might get lucky and spot a *Natterer's bat* but they are rare around here but have been seen in Midlothian it's said, and of course there are the bats that we mostly see which will probably be the *Soprano Pipistrelle* or *Common Pipistrelle*, both of which tend to roost in houses or other suitable buildings but may be seen feeding near or in nearby woods, **just as they and the many and varied bird species once did to the rear of Beachmont Court, Dunbar before the 60+ tonnes of mature trees and scrub were clear-felled by ELC in order to instal a tarred cycle path to enable reduced carbon from traffic movements and implementation of the ELC Tree and Woodland strategy AND Local Biodiversity Action Plan to save the planet ! ! :**



OFFICER REPORT

4th December 2024

App No. **24/00868/P**

Application registered on **11th October 2024**

Target Date **10th December 2024**

Proposal	Erection of 2 houses and associated works	SDELL	Y
		CDEL	N
Location	Primrose Cottage Garden		
	Innerwick	Bad Neighbour	N
	East Lothian	Development	

APPLICANT: **BJP Properties Ltd (Dunbar)**

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

c/o John A Fyall Bsc(Hons)Bld.Eng. C.Build.E, FCABE
Per John A Fyall
12 Beachmont Court
Dunbar
EH42 1YF

DECISION TYPE:

Application Refused

REPORT OF HANDLING

This application relates to an area of some 0.08 hectares land. It is an area of unmanaged tree and grassed land which historically was used as a cottage garden for the row of Smithy Cottages of which the applicant's house is a part.

The application site is within the countryside as defined by Policy DC1 of the adopted East Lothian Local Development Plan 2018 and also falls within the Thurston Manor Walled Garden Local Garden and Designed Landscape area. It is part of a larger field identified as Prime Agricultural Land.

The application site is bounded to the south by an area of tree and grassed land, to the north by an access road which serves Innerwick Graveyard and the residential property of The East Lodge, to the west by an area of agricultural land and to the east by a public road (C165) on the opposite side of which lies agricultural land. To the south-east of the application site on the opposite side of the C165 public road at its junction with the C160 public road lie three single storey residential properties known as Smithy Cottages, which together form Smithy Row.

PLANNING HISTORY

In May 2001 outline planning permission (Ref: 01/00256/OUT) was refused for the erection of a house with associated garage on the application site. The reasons for refusal of that application include:

1. The proposal would be isolated, sporadic development in the countryside for which a need to meet the requirements of the operation of an agricultural, forestry or other employment use has not been demonstrated. The proposal is therefore contrary to Policy ENV16 of the approved Lothian Structure Plan 1994, Policy DC1 of the adopted East Lothian Local Plan and Government policy guidance on the control of housing development in the countryside given in National Planning Policy Guidelines 3 and 15.
2. The proposed development would, if permitted, result in an increase in traffic movements at the substandard junction of the existing access lane with the classified highway (C165), to the detriment of the safe and free flow of traffic on the public road.

PROPOSAL

Planning permission is now sought for the erection of two houses within the application site with associated vehicular access and hardstanding areas.

The proposed semi-detached houses would be single storey in height, and each would comprise of a living room, kitchen, hall, storage areas, bathroom and two bedrooms.

Access to the site would be taken from the access lane to the north and vehicle parking and a bin collection area would be contained within the northwest corner of the site.

The submitted drawings indicate the site would be bounded partially to the north by a 1.2-metre-high timber post and rail fence, which would also form the boundary treatment to the east and south. The boundary treatment to the west would comprise of a 1.2-metre-high post and mesh fence.

Amenity space for the proposed houses will be provided in the form of a private garden area to the east and west of the proposed houses with associated patios, vegetable garden and grassed areas. The submitted drawings indicate designated areas to the east of the houses for bin storage and clothes drying area.

The proposed houses would have a length of some 21.7 metres; a width of some 7.965 metres and would have a height of some 4.9 metres, at their apex.

The application drawings indicate that the proposed houses would be designed to emulate the size and form of traditional farm cottages. Their external walls would be in rough cast with sandstone rybats, sills and lintels around the openings. The roof would be clad in slate and the southeast elevation roof slope of each house would contain 10 solar panels. Each house would also benefit from a ground mounted air source heat pump.

The submission makes reference to the application site forming part of the domestic garden ground of the property named Primrose Cottage, which forms part of a row of terrace

cottages which are situated to the southeast of the application site. It notes the application site contains a number of trees and shrubs which the submission notes are either self-seeded or unpruned ornamentals, such as Leylandii which is the result of the garden not being used for over 20 years by tenants of Primrose Cottage. It further notes the application site will be cleared to facilitate the construction of the two proposed houses and additional planting in the form of a hawthorn tree and two rowan trees would be provided within the application site.

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) and 17 (Rural Homes) of NPF4 are relevant to the determination of this application. Policies DC1 (Rural Diversification), DC4 (New Build Housing in the Countryside), CH1 (Listed Buildings), CH6 (Gardens & Designed Landscapes), DP2 (Design), NH4 (European Protected Species), NH7 (Protecting Soils), NH8 (Trees and Development), NH11 (Flood Risk), T1 (Development Location and Accessibility), and T2 (General Transport Impact) of the adopted East Lothian Local Development Plan 2018 (ELLDP) are relevant to the determination of the application.

The application site is in a countryside location within East Lothian and is part of a much larger area that is characterised by a low density dispersed built form within an agricultural landscape. It is not identified in the adopted East Lothian Local Development Plan 2018 as being within a settlement and the Local Development Plan does not allocate the land of the site for housing development.

Consequently, the principle of the erection of one house 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.

It is stated in Policy 17 of NPF4 that:

(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 Local Development Plan (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.

It is stated in paragraphs 5.1 and 5.2 of the adopted East Lothian Local Development Plan 2018 that while the LDP's spatial strategy guides the majority of new development to existing settlements in the interests of promoting sustainable travel patterns, it also seeks to support the diversification of the rural economy and the ongoing sustainability of the countryside and coast through support in principle for agriculture, horticulture, forestry and countryside recreation, as well as other forms of appropriate business, leisure and tourism developments. New rural development should be introduced sensitively to avoid harming the characteristics that attract people to live, work and visit East Lothian's countryside and coast.

Paragraph 5.10 of the adopted East Lothian Local Development Plan 2018 states that the LDP has a general presumption against new housing in the countryside but exceptionally a new house may be justified on the basis of an operational requirement of a rural business. In such circumstances, appropriate evidence clearly demonstrating the need for a new dwelling on the particular site in association with the business will be required. Such evidence should include that no suitable existing dwelling has been recently made unavailable for that purpose and that there is no existing building that could be converted to a house.

Policy DC1 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, and should satisfy the terms of Policies CH1 and where relevant CH6, and can be clearly demonstrated to be the only means of preventing the loss of the asset and secure its long-term future; and (c) the proposal satisfies the terms of Policy NH1. In all cases, the benefits of the proposed development must outweigh the normal presumption against new build housing development in the countryside.

On the matter of Policy DC5, the principle of the erection of one house 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 on the application site promoted to fund the restoration of a listed building. Therefore Policy DC5 does not apply to this proposal.

REPRESENTATIONS

A total of three letters of objection have been received in relation to the application. In summary, the main grounds of objection are:

- i) If approved it would result in the destruction and loss of number of trees and thus a loss of habitat for hedgehogs, owls, bats and other established woodland species;
- ii) Objectors note that neighbouring properties have been subject to flooding in the past and the loss of the trees would not be helpful in this context;
- iii) Objectors raise concern over road safety;
- iv) An objector requests a Transport Impact Assessment be submitted;
- v) The development will also lead to traffic, parking and access problems;
- vi) If approved the proposal would spoil the character of the rural area and of a neighbouring listed building;
- vii) Cemetery funerals use the verge for parking. This proposal will reduce the access and parking space during funeral services and for cemetery visitors;
- viii) Obstruction of a view from a neighbouring property;
- ix) Building works would affect a neighbours property which was found to have structural movement;
- x) Outdoor clothes drying and tarmac drive would impact the aesthetics of the area;

- xi) There is a telephone pole and septic tank for a neighbouring property;
- xii) The application site is not within an area designated for development; and
- xiii) An objector alleges there is no right of access for this application site.

The concerns raised regarding rights of access to the application site and access for funerals and visitors to the nearby cemetery are civil matters between affected parties and are not material considerations in the determination of this planning application.

The obstruction of a private view is not a material consideration in the determination of this planning application.

The potential for any building works as a result of the proposal to affect any neighbouring residential properties is a civil matter between affected parties and is not a material consideration in the determination of this planning application.

The impact of the proposal on a telephone pole and the septic tank of a neighbouring residential property are civil matters between affected parties and are not material considerations in the determination of this planning application.

COMMUNITY COUNCIL

None.

PLANNING ASSESSMENT

It is stated on the application forms that the application site is Primrose Cottage Garden, it does not have the appearance of a domestic garden and is not located adjacent to the applicant's house. Whilst it may be in the ownership of the applicant it is an area of unmanaged land that is categorised as Prime Agricultural Land.

NPF4 sets out the intent to minimise disturbance to soils from development while the East Lothian Local Plan sets out the Council's aims to reduce adverse impacts on soils, avoid where possible development on prime agricultural land, and consider climate changes impacts of developing certain soil types. The proposal would result in the loss of a small area of Prime Agricultural Land to a residential land use which given its location is not part of a significant agricultural land area as such the proposal would not be inconsistent with Policy 5 of NPF4 or Policy NH7 of the adopted East Lothian Local Plan 2018.

Policy DP1 of the ELLDP states amongst other things that all new development, with the exception of changes of use and alterations and extensions to existing buildings, must be well integrated into its surroundings.

Policy DP2 of the ELLDP requires that the design of all new development, with the exception of changes of use and alterations and extensions to existing buildings, must be appropriate to its location in terms of positioning, size, form massing, proportion and scale and use of a limited palette of materials and colours that complement its surroundings.

Policies 13, 14, 15 and 16 of NPF4 also apply to this development to ensure that development proposals are designed to improve the quality of the area in which it is located and will contribute to local living.

The proposed houses would be single storey in height and would be designed to reflect traditional farm cottages. The site is well contained within its landscape setting due to the enclosures of the site. Thus the proposed fencing, driveway, vehicle parking areas footpaths and laid out gardens would not harmfully impact on their countryside environment. In their location, neither individually nor cumulatively, would they appear harmfully prominent, intrusive, exposed or incongruous in their landscape setting.

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.

With regards to the above, there are no neighbouring residential properties that would fall within 18 metres of the proposed windows to the front (northwest) and rear (southeast) elevations of the proposed houses. Therefore, the use of these windows would not allow for any harmful overlooking of any neighbouring residential properties.

There are no proposals to form windows or other glazed openings within the side (southwest) or side (northeast) elevations of the proposed houses. Windows or other openings could be formed in these elevation walls at a later date via permitted development rights and thus without the need for planning permission. If formed in the side (southwest) elevation they would not fall within 18 metres of any neighbouring residential properties and thus would not allow for any harmful overlooking.

If formed in the side (northeast) elevation they would face over their garden ground for some 3.7 metres, onto the proposed 1.2-metre-high post and rail fence and an access road and further beyond by a ground floor window of the neighbouring named East Lodge. That neighbouring window would fall within 18 metres of the side (northeast) elevation of the proposed houses and given the low-level boundary treatment proposed it may allow for harmful overlooking of that neighbouring window should any glazed openings be formed. However, any overlooking possible would be no different to that possible from the access road that serves Thurston Cemetery.

Furthermore, owing to its size, form and positioning the proposed houses would not give rise to a harmful loss of sunlight or daylight to any neighbouring residential properties.

Therefore, given the above consideration and subject to the aforementioned condition the proposal would comply with Policy DP2 of the adopted East Lothian Local Development Plan 2018 and Policy 16 of NPF4.

The Council's Senior Environmental Health Officer has been consulted on the application and advises that in order to protect the amenity of neighbours from noise associated with the operation of the proposed Air Source Heat Pump, particularly the occupier of East Lodge to the north, he would request that noise associated with the operation of the air source heat pump hereby approved shall not exceed Noise Rating curve NR20 at any octave band frequency between the hours of 2300-0700 and Noise Rating curve NR25 at any octave band frequency between the hours of 0700-2300 within any existing residential property. If planning permission were to be granted, then this could reasonably be made a condition of any such approval.

The Council's Contaminated Land Officer has been consulted on the application and advises there is a possibility that areas of made ground may be encountered. In addition, the proximity of Thurston Cemetery may have contributed to localised contamination issues. As such if planning permission were to be granted then it is recommended that a condition be imposed that requires a suitable Geo-Environmental Assessment to be undertaken prior to any site development works.

The Council's Flooding and Structures Department have been consulted on the application and note that SEPA's Flood Hazard Mapping indicates that the site is not at risk from a flood event with a return period of 1 in 200 years plus climate change. That is the 0.5% annual risk of a flood occurring in any one year with an allowance for climate change. However, the proposed site is very close to being to the 1 in 200 year plus climate change flood extent. They further note the site is for two houses however the development proposed is not a large footprint therefore they would class this as is a small-scale development that is unlikely to have a significant effect on the storage capacity of the functional flood plain or affect local flooding problems and I would not oppose it on the grounds of flood risk. Therefore, as this site is not shown to be at flood risk they raise no objection to the location of the properties on the grounds of flood risk. However, if the application were to be approved then details of drainage information would be required. Subject to those details being submitted and approved by the Planning Authority the proposal would comply with Policy 22 of NPF4 and Policy NH11 of the ELLDP.

Scottish Water have been consulted on the application and advise the raise no objection to the proposal. They note there is sufficient capacity in the Caste Moffat Water Treatment Works to service the development. However, they note that according to their records there is no public wastewater infrastructure within the vicinity of the proposed development and as such they advise that private water treatment options be investigated.

The proposed houses would be positioned to the south of the Category C listed building of East Lodge with its associated retaining walls and piers. However, by way of the single storey nature of the proposed houses they would not appear as overly prominent or incongruous to that listed building and thus would not harm the character or setting of that listed building. In addition, the installation of low boundary treatments such as a post and wire fence would not be visually dominant and would not detract from the listed features such as the retaining wall and gate piers. Therefore, the proposed houses and associated works would comply with Policy CH1 of the ELLDP.

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. 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 the 2 houses 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 2 houses whether the proposal would have an adverse impact on nearby mature trees.

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.

Policy 16(f) states that development proposals for new homes on land not allocated for housing in the LDP will only be supported where the proposal is otherwise consistent with the plan spatial strategy and other relevant policies including local living and 20 minute neighbourhoods.

The application site is not within an area defined as a settlement in the adopted East Lothian Local Development Plan 2018 and is instead defined as being located within the countryside. The existing houses of East Lodge and the row of Smiddy Cottages are not new build developments but are existing houses which are long established in their countryside location. Therefore, the erection of the 2 houses on the site would not be an addition to a settlement or adjoining the edge of a settlement. Rather, they would constitute sporadic development in the countryside.

The applicants' submission makes reference to the application site forming part of the domestic garden ground of the property named Primrose Cottage, which forms part of a row of cottages which are situated to the southeast of the application site. However, the application site is completely detached from that row of cottages as both the C160 and C165 public roads segregate those residential properties from it. The application site is separated from The East Lodge by an access lane. The row of cottages and The East Lodge are a loose scattering of buildings in their countryside location. They do not form any cohesively defined group. Irrespective of what may have existed in the past the application site has no buildings on it. There is no built form relationship between it and the row of cottages and The East Lodge. Therefore, the erection of 2 houses on the application site would be isolated, sporadic development in the countryside.

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. 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 2 houses have an operational requirement for their countryside location or that they 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 the 2 houses 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 2 new houses on the application site does not meet any of the criteria for and is in principle contrary to Policy 17 of NPF4 and Policies DC1 and DC4 of the adopted East Lothian Local Development Plan 2018.

Policy 1 of NPF4 seeks to give significant weight to the global climate crisis. Policy 13 states that development proposals will be supported where they provide direct, easy, segregated and safe links to local facilities via walking, wheeling and cycling networks before occupation. Policy 15 expects development to contribute to local living including, where relevant, 20-minute neighbourhoods and states housing should be directed towards existing settlements where facilities and services including public transport are available and on allocated housing sites. Policy T1 of the ELLDP states that new development will be located on sites that capable of being conveniently and safely accessed on foot and by cycle, by public transport.

The proposed 2 houses would be located some 500m away from the shop at Thurston Caravan Park, some 1.2 km away from Innerwick Primary School and more than 8 km from other facilities such as high school, doctors, dentists and supermarkets. Whilst there are bus stops to the north and east of the application site, these stops offer a limited and infrequent bus service. Therefore, any future residents of the proposed houses 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. This would result in an increased number of private car 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 1, 13 and 15 of NPF4 and T1 of the adopted East Lothian Local Development Plan 2018.

The application site in its present unmanaged state is typical of many areas of scrub land and woodland in the countryside. The Council's Landscape Officer has been consulted on the application and advises the site lies within an area defined as woodland within the Tree and Woodland Strategy (TWS) for East Lothian. The proposal to form two houses with garden ground and parking will lead to the loss of this woodland area. The woodland of the site forms a continuous woodland block continuing to the south. This woodland forms an attractive backdrop and biodiversity corridor and is important to the amenity of the area. The loss of this woodland would be contrary to Policy 6 of NPF4, Policy 1 of the TWS and Policies CH6 and NH8 of the ELLDP. Given this the Council's Landscape Officer raises objection to the proposal and advises she could not support the application on landscape grounds.

Policy 3 of NPF4 states that 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.

The Council's Biodiversity Officer has been consulted on the application and advises that there appears to be a significant area of trees that are to be felled to facilitate the erection of the 2 houses and inadequate mitigation planting of 3 trees to remedy this. Furthermore, the Council's Biodiversity Officer also notes there is a record of a European Protected bat species being within 500m of the site. The bats may use the woodland proposed for removal for commuting or roosting and therefore the removal of this woodland could result in a reduction in the biodiversity which could detrimentally impact the protected bats. As it has not been demonstrated that the proposed 2 houses could be built without harming the bats the proposal is contrary to Policy 3 of NPF4 and Policy NH4 of the ELLDP.

The Council's Roads Officer has been consulted on the application and notes that in 2001 outline planning permission (ref: 01/00256/OUT) was refused for a house to be erected on the same application site. The consultation response received from Head of Transportation at that time stated: "The proposed house would be accessed off the lane that serves the adjacent cemetery and East Lodge. That existing junction of the lane with the public road (C165) lies on a down hill gradient with a blind crest approximately 90m to the north. Given this the access has relatively poor visibility to the north and does not meet the normal requirements for a visibility splay of 2.5m by 160m. The Head of Transportation advises that in some circumstances the visibility splay can be relaxed if the public road topography and alignment results in traffic being significantly less than the national speed limit (60 mph). However, the existing junction although in use does not fall into this category. The Head of Transportation advises that the proposal would result in an increase in traffic movements at the junction of the access with the public road resulting in a road safety hazard. Accordingly, the Head of Transportation recommends refusal of the application.". Planning application 01/00256/OUT was therefore refused planning permission with one of the reasons for refusal being:

"The proposed development would, if permitted, result in an increase in traffic movements at the substandard junction of the existing access lane with the classified highway (C165), to the detriment of the safe and free flow of traffic on the public road."

In his consultation for this current planning application for proposed 2 houses, the Council's Roads Officer advises that the issues identified as part of the assessment of planning application 01/00256/OUT remain a concern for this current planning application and he therefore objects to this planning application as it would result in a road safety hazard contrary to Policies T1 and T2 of the ELLDP.

NPF4 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 also contrary to Policy 16(f) of NPF4.

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:

4th December 2024

E-mail Communication Record (eventual response on 18/02/2025 to request 13/12/2025 for information required from ELC to enable submission of a textual presentation as required, for Review)

Subject:Re: ELC EXECUTIVE RESOLUTION REQUEST - Re: Acknowledgement? -Re: PROGRESS - Re: PROGRESS? - Re: Fwd: Request for Review - Re: 24/00868/P & SG 202400446067

Date: Thu, 27 Feb 2025 21:44:11 +0000

From: John A Fyall <jfyall@buildingcompliance.org.uk>

To: Dingwall, Keith [REDACTED]

CC: Hampshire, Norman <nhampshire@eastlothian.gov.uk>, Collins, Donna <dcollins2@eastlothian.gov.uk>, Paul McLennan MSP <Paul.McLennan.msp@parliament.scot>, Jardine, Lyn <ljardine1@eastlothian.gov.uk>, MinisterPF@gov.scot <MinisterPF@gov.scot>, [REDACTED] <douglas.alexander.mp@parliament.uk>, Grilli, Carlo <cgrilli@eastlothian.gov.uk>, CabSecforSJ@gov.scot <CabSecforSJ@gov.scot>, CabSecFLG@gov.scot <CabSecFLG@gov.scot>, CabSecECCLR@gov.scot. <CabSecECCLR@gov.scot.>, MinisterforHousing@gov.scot <MinisterforHousing@gov.scot>, [REDACTED], [REDACTED], Allan, James [REDACTED], McMillan, John <jmcmillan@eastlothian.gov.uk>, aforrest2@eastlothian.gov.uk, Brian Porteous [REDACTED]

Hi Keith,

To be fair, I've waited to contact you until you returned from your well earned break.

Unfortunately your text responses should have been indicated in **GREEN** text but have somehow arrived in the e-mail as **BLACK** text but not to worry,

I've now coloured them **GREEN** and my own responses to these comments in **RED**.

To be honest I am a bit disappointed that it has taken from the 13th of December 2024 to receive a reply and an explanation and substantiation of the criteria applied to the assessment of the submission and would have assumed that the Planner who was designated the task would have been able to respond without the need to have you suddenly urgently dragged away from more pressing matters to comment on my reasonable request.

I must also thank the Clerk to the Committee for the response on Wednesday(12th) and most objective consideration of adherence to the appropriate protocols and procedures required, as always, under the legal process installed such that the rights of the individual in this case are upheld and, the further right of access to "*independent expert adjudication*", as precedence records, was previously accepted and upheld by ELC Planning Committee in 2009.

I don't know whether her kind response resulted in the required intervention that resulted in your response but, thank her very much for engaging with me.

There remains time for this site, redundant garden ground' in an 'accessible rural' (SG UR8 Cl.6-Dunbar circa 11,500] area to be considered for inclusion in the new LDP in 2026 as the Independent Reporter has not yet appraised the Draft LDP therefore your consideration of such inclusion in their Spring 2025 submission would be appreciated and, as it forms redundant garden ground in a truly Accessible Rural Area (SG UR8 Cl.6-Dunbar circa 11,500] and would save a small area of the **truly highly productive agricultural land currently been sacrificed to '*the market*' developments **invariably taking up Cl.1 agricultural land in East Lothian** except for the Blindwells opencast infilled site.**

I would ask that you consider this site as worthy of inclusion in line with the SG legislation and policies now in force regarding the maximisation of the use of

such sites to save , where at all possible, the gradual depletion of highly productive land essential for food production which we may well need if the current global problems encountered in these uncertain times escalate - especially as we are only 40% self-efficient in this country.

A point of interest is that a developer in East Lothian is selling their houses as '*Rural Housing*' at Tranent, a short drive to Edinburgh, BUT, they can get away with that as the criteria being used by ELC etc is based, not upon communities and cohesion of such by gradual naturally occurring organic evolutionary expansion

but instead by the 6 or 8 point classifications which render areas as '**Accessible Rural**' which effectively includes **all of East Lothian except town centres and Musselburgh** which renders all the new large developments as '**Accessible Rural**' whereas they are actually creating new **Urban Sprawl Environments in the Countryside** and destroying fragile settlements in the countryside, which is, at best, confusing when the NPF4 and Scottish Gov. policy and implementation seem to have the intention of a different emphasis and perceived interpretation of such and, as presented to the general public - i.e. no consistent common interpretation or presentation of what the term '**Rural**' actually constitutes let alone a realisation that people who live in the '**country**' are not all involved in agriculture or forestry, in fact very few nowadays. For instance, for many years those working on farms lived in tied houses and many farms and estates permitted those elderly workers to wind down and eventually retire and finally leave their houses in a hearse but as people lived longer the demand for those house for those of working age forced LAs to provide rented accommodation for those of working age and moved retirees into towns.

As workers in '**Rural**' LA housing provided such as at Whittingehame, Stenton, Innerwick, Whiteadder etc had families who grew up then the sources of household incomes changed as did the type of employment demographic, just as it is evolving now PLUS those in tied houses sought to seek stability in their housing tenure and moved away from the tied houses which also had the effect of providing more opportunity to achieve a more flexible working regime and mobility of employment, free from the tied house conditions associated with work.

Just because someone is not directly employed on the land, as most now residing in the country are, it does not mean that they do not sustain and enrich the community and I remember when the old Searchlight Nissen hut fell down and a house was built on Whittingehame Estate where a well renowned doctor lived and contributed greatly to the community and gave me holiday and weekend work as well as providing work for local tradesmen required to build and maintain the house and garden and consequent occupants, although possibly not raised or involved directly in the rural economy will no doubt similarly embrace and enrich the local community and culture I'm sure and, later the case of at Papple Farm provides a typical scenario where a house was built for retiring members of the farming family and on their demise was sold to a local councillor and her husband who worked outwith the local rural environment(*or can we refer to that as country?! 😊*), who also jointly contributed greatly to the community I'm sure.

We really need to move with the times and in this case we have moved on from the initial submission for this site which was within the criteria of Development in the Countryside in 2002 but now that we see prime agricultural land being gifted over to large scale developers we appear to no longer base housing on 'need' but rather on '**the market**' and, of course developers are going to build in the most desirable and profitable sites and those easiest to develop - apparently with utilities to service the sites as an afterthought !! 😊 There are no small sites dotted about East Lothian and only large areas designated for developments appear to be included in the proposed Local Area Plan which effectively rules out local SMEs from developing on a small scale despite the SG trying to encourage this.

The other interesting fact is that the Planners Report in 2002 extended to 3 pages with the only objection coming from Roads Department but that was a bit abstract as no traffic movements had ever been taken before and since ELC bought the ground in the 1950 and created the new Innerwick Cemetery there so it was totally undefined, unsubstantiated and unregulated by Planning or any other department, as it remains today especially as greatest potential influence would be the intermittent attendees at an interment and this remains undefined and unlimited even today !

Birth rate is falling, population stagnating and the only thing different is more old folks like me living longer, (*annoyingly for some! 😊*), no unprofitable 2 & 3 ap't house for us being built to scale down into, cultural change, aspirational marketing and the normalisation of a two parent working family necessary to pay the mortgages or rent and the resulting energy poverty and real poverty created in what appears to be an affluent society.

The exponential growth of the population of East Lothian has a current demographic which will, undoubtedly, change naturally over the years to include an even greater aged percentage within the overall population and they will all be '**house-blocking**' as their families will have flown the nest to somewhere or be forced as many currently are, to live with them an enforced unnaturally long time , resulting in later births possibly - and no small houses for the aged parents to decant into and free up the 4&5 apartment houses needed by the next generation of young families - in short - there is an unnatural growth exponential resulting which will not only sustain a housing crisis but also create more serious social and mental health problems by destroying the delicate and once cohesive fabric of existing organically evolved established communities and their cultural and social structures previously existing within.

I watched the Council Meeting yesterday with interest, whilst working away on my current Review presentation, and noted when you were questioned about the consideration and implementation of the Community Council of North Berwick's proposed submission for inclusion in the new Local Plan under the legislation and spirit of the policy of engagement and empowerment of local communities and individuals in the formation of LA Planning Policy and implementation relating to their area and community and was disappointed to hear that ELC Planning, and presuming that you have taken legal advice, ELC Governance regard such inputs from communities and individuals as being merely as an advisory opinion and that ELC was not in any way legally obliged to include their proposals, HOWEVER, I also noted that you told the councillor that even although you have now closed the consultations that you may discuss the subject proposals with him THEREFORE, will you now consider, as I have suggested before, that you ALSO consider the inclusion of the subject site within the land deemed suitable for housing and especially the suitability of the proposed ground level, accessible, energy efficient, 3 apartment cottages in 'redundant garden ground' which effectively forms the Accessible Rural equivalent of an urban 'brown field site' and saves at least the equivalent amount of prime agricultural land elsewhere in the county, and all compliant with the latest SG guidance and SSIs

In the 'Findings Report::East Lothian Council Rural Housing Survey (May-June 2022) there appears to be little consideration of use of existing redundant farm or other 'Rural' buildings or land in the 'Countryside' within the despite such as the new Class18PDR created and instructed by SG which seems to be contrary to and **does not accord with the policy of ELC Planning as does not the views of some of the 228 respondents:**

"P47-Some felt that large developments in areas should give way to **small-scale, individual, building projects**. For example, one participant highlighted: "*Encourage small scale development in small plots and allow people to get connected with the wild outside again for their health and wellbeing and finances*". Another saw the benefit of this, sharing: "...Would be nice to maybe see plots of land sold to individuals".

Before attending the upcoming presentation of the submission and consequent Review it may benefit all if you refer to the attached depiction of 'Rural East Lothian' in 'Findings Report::East Lothian Council Rural Housing Survey (May-June 2022) and arrive at a common consistent perception and Planning definition of what Rural Housing is and is intended to be and where Country and Rural are clearly defined !!!.

I wonder too if it is too much to ask that small areas suitable for development, in the country (real rural country! 😊) could be included in an amendment to the ELC New Delivery Program submission before next month's submission to SG??

I have also attached a pdf with an overlay which should have been created from the GIS mapping layers to provide **REAL reference points** as the presented blanket block colour within the report does nothing to inform either the layman or any professional either for that matter.

You may also like to look into the 10 single Invalid Letters sent, the final one which involved a Senior Planner trying to reclassify the site as Land Opposite (**a senior Planner getting involved with such an instruction at the Registration stage????**) which would no doubt make life much simpler as it would then be easy to dispose of the submission as Development in the Countryside - this was denied as the Garden Ground was not created recently nor even nearly recently but proven, in the Deeds to have existed for some 40years+ AND I hope that the recent comments made today at the Review regarding a completely different set of circumstances referred to a piece of ground where a new house was proposed on a garden recently created by a CoU of agricultural land is not referred to or as Paul rightly stated that "**Each submission is assessed individually on it's own merits**" and actually stole your favourite phrase "**for the avoidance of doubt**" (which, as you would have to admit, has been proven to be a bit 'inaccurate'! 😊)

I also noted that Norman seems, as did Paul, a bit unclear on such regulatory requirements for adjudication of 'country' matters, in particular the fairly new Class 18PDR and I assume the fact that LAs are only legally competent to confer Conservation Status on areas and ONLY Historic Environment Scotland can confer Listing (A.B.C) or Scheduled Monument (which you must note also includes Sites of Archaeological Interest) status and as such only those buildings in their Records are relevant in relation to legal exclusion from Class 18b and that any claim, inference or deliberate misrepresentation that by appearing on an LA HER is relevant and may thwart the claim of right or go against the spirit of the policy and legislation (SSIs & PANs) could result in judicial action being taken and compensation by the established process installed.

As the Chair today seemed to infer consideration of installing a new local ruling which may limit the scope of Class 18PDR, I would advise against it as, although none could answer the question of how big a building is required to be to be considered a house, the answer is quite simple, the building must attain full compliance with the minimum activity spaces and accessibility amongst many other factors within the requirements of the Building Standards and is not regarded as a house until such time as the Completion Certificate is accepted by the LA !!

I'm afraid that there may always be many things we may not agree with but when, in a democracy, a government is voted in then we must abide by the SSIs and law formed otherwise the system will never work and the options unthinkable.

Just as you stated "*for the avoidance of doubt*", you, as ELC Planning Dep't, may listen to the Communities and Communities Council's proposals **BUT** you are not legally obliged to implement their ideas or wishes then, ELC Planning is similarly legally bound to accept those instructions issued by SG no matter what they think and, I'm sure, likewise are SG by UK Gov - and probably just as frustrated as you apparently are with the policies and law provision of limitations on parameters of regulatory implementation imposed!!!

- it's just the flawed system that imperfect democracy has put us all in - learn to live with it and within the law !

Finally, you have stated in your response below:

(KD) "*As you have indicated you intend to appeal then I would remind you that it is essential that you lodge your submission within the prescribed time periods.*"

Please note that following relevant procedural and process enquiries that my client will be accorded the statutory time of three months as the delay was incurred by ELC and not the applicant therefore the 3 month period shall commence today when now in receipt of your reply on behalf of ELC.

I am sure that the length of time to respond was not incurred intentionally for any reason in order to time-bar the right of the applicant to a Review as some unkind persons may suggest !

I will submit 24/00868/P for review early next week as I am aware that no aural representation may be made and wish to submit ALL relevant doc's and statements although I will be available for questioning should any require further information.

Regards,

John

Sender:

John A. Fyall Bsc(Hons) C.Build.E, FCABE. Bld. Eng. Design Consultant
& RIAS-reg's Scottish Government Accredited Sect.6, Energy Certifier of Design
Tele: 01368 863752

Note by JAF: the e-mail below is returned with comments added and based upon that On 13/02/2025 16:36, Dingwall, Keith wrote:

Afternoon John,

Many thanks for your previous emails, and apologies for the delay in this response.

Your email concerns application 24/00868/P, through which planning permission was refused in December 2024. You have indicated that you wish to appeal against this decision of the Planning Authority. Such an appeal would be dealt with by our Local Review Body. In advance of you making your submission, you have requested some further information. This further information request was set out in your email of the 17 December. I have copied below your request, and my response to each of your points is set out in green:

1. ELC Environmental Assessment, including Bat Survey referred to and specific effects and relevance of Ecological Impact Study Report conducted within this garden area.

(KD) There is no Environmental Assessment or ELC Bat Survey for the site, and no Ecological Impact Study Report conducted within this garden area.

Please note there is no reference to an Ecological Impact Study Report within our Report of Handling.

2. The ELC Transport Assessment for the Innerwick Cemetery is also required as total maximum numbers and frequency of the existing use of the cemetery and Thurston Lodge must be available within the public domain as required to assess any increased traffic movements incurred by the proposed development and effect on existing calculations which will include legal access and parking facilities agreed on road and verges with the owner and those also possessing rights the access as possible attenuation of space for parking for ELC Innerwick Cemetery on the verges is referred to in the Officer's Report.

(KD) To the best of my knowledge, there is no ELC Transport Assessment for Innerwick Cemetery.

If no baseline survey has been carried out then how can Roads Department declare that an increased number of traffic movements would occur and, judging by the number and nature of the 'objectors' quoting such as parking and access, it is unreasonable to assume that the two single storey cottages would create a problem as there are no restrictions on either the occupants of The Lodge or those attending cemetery interments or ELC parks & cemetery maintenance staff carrying out their duties or the farmer accessing his field beyond the site,

The Roads department may like to refer to the concerns of the unnamed objectors:

"iii) *Objectors raise concern over road safety. An objector requests a Transport Impact Assessment be submitted.*

;v) The development will also lead to traffic, parking and access problems;

vii) Cemetery funerals use the verge for parking. This proposal will reduce the access and parking space during funeral services and for cemetery visitors;"

Furthermore – the access, by definition, as the Cemetery has unlimited public access, conferred by ELC over a PRIVATE ACCESS with ownership unknown and unconfirmed, how can ELC Roads Department possibly define risk incurred by one owner of common rights AND, having now confirmed a risk to the PUBLIC how will ELC now react to the exposure of the PUBLIC using the access and the risk exposure and frustration of access suffered by the others with LEGAL access rights and do ELC possess the right to confer Public Access over this PRIVATE ACCESS and to alter verges and fell mature HW trees in it?

3. ELC Officer's Arboreal Report on self-seeded scrub/trees in garden ground and relevance to Planning Submission - also confirmation of no TPO's existing at time of submission and time of writing.

(KD) "The consultation response from the Council's Landscape Officer is attached.

There are no TPO's, but part of the application site is covered by Ancient Woodland."

Nature Scotland(Scotland's Nature Agency) -Summary & Policy Statement:

This summary is intended for developers, planners, foresters, ecologists and others who need to use the AWI (Ancient Woodlands Inventory) in their work. It defines Ancient Woodland, briefly describes why it is important and gives the meaning of the categories in the AWI.

Ancient Woodland:

"In Scotland, Ancient Woodland is defined as land that is currently wooded and has been continually wooded, at least since 1750."

SOMEBODY NEEDS TO DO THEIR HOMEWORK AND OR SOME CPD EH?? !!

The handling Report states "**The application site is bounded to the south by an area of tree and grassed land, to the north by an access road which serves Innerwick Graveyard and the residential property of The East Lodge, to the west by an area of agricultural land and to the east by a public road (C165)**"

The Planning Officer states:

"..The proposal would lead to the loss of an area of woodland which forms part of a continuous woodland block.."

- again, **this is a Domestic Garden** which has been permitted the growth of self-seeding scrub and trees through lack of use and maintenance and prevented from being developed for domestic dwellings for a number of years resulting what is effectively now **a stand of large WEEDS**, which will be cleared and the garden either restored to provide allotments, a grassed recreation area or sold to ELC to provide much needed parking for the Innerwick Cemetery !

4. The documents from which the derivation quoted in the **Planning Officer's Report which designates the site as comprising of "...an area of unmanaged tree and grassed land.."** and effectively relates the assessment as "NPF4 sets out the intent to minimise disturbance to soils from development while the East Lothian Local Plan sets out the Council's aims to reduce adverse impacts on soils, avoid where possible development on prime agricultural land.." therefore I need the designation of the Agricultural Land to which the Planning Officer refers and the relevant Ministry Map and Agricultural Holding Number allocated to the subject Garden Ground. - a bit hypocritical though as this NPF4 requirements is ignored completely by most of the large developments in East Lothian with topsoil being removed to Edinburgh and Midlothian sites (*contrary to Health and Environmental Regulations*) and traditional existing and natural drainage and soil structure and ecology destroyed in every case !!!!!!!!!!!!!!!

(KD) The report of handling states that the site is part of a larger field identified as Prime Agricultural Land. I am not aware of the Agricultural Holding Number.

Planning Officer's Report which designates the site as comprising of **"..an area of unmanaged tree and grassed land.."**

Within 'PLANNING ASSESSMENT ' "**...it does not have the appearance of a domestic garden.....it is an area of unmanaged land that is categorised as Prime Agricultural Land.** "

FOR ADVICE:

"Prime agricultural land:

"Agricultural land identified as being Class 1, 2 or 3.1 in the land capability classification for agriculture developed by Macaulay Land Use Research Institute (now the James Hutton Institute)."

I presume that if it is to be defined as 'Prime Agricultural Land' then there must be some substantiation of some kind otherwise - SOMEBODY NEEDS TO DO THEIR HOMEWORK AND OR SOME CPD EH?? !!

5. Absence of a frequent bus service is cited for Refusal and this is not legitimate imposition as it is outwith any rural dwellers' control and requires commitment and legislative action from central and local government to improve, as has been lobbied for and agreed to be improved for quite a few years now ! - therefore the I must have sight of the proposed policy updates, currently unavailable in the public domain, from both ELC and Scottish Government on progress towards rectifying this if it is to be considered at all seriously. I am not aware of these policy updates.

And here's what really takes the biscuit:

Avant Homes: "Looking to live just outside of Edinburgh? Tranent might be the ideal location for you, being less than 30 minutes' drive to Edinburgh." - East Lothian the

'Accessible Rural' dormitory of choice AND with bus services and trains why do such major developers state the obvious means of transport that will be used to attract buyers then when I'm sure the developments have passed the 20minute Planning Compliance test - better to build in the country and work from home maybe????!!!!!! 😊 😊

(KD) As you have indicated you intend to appeal then I would remind you that it is essential that you lodge your submission within the prescribed time periods.

Please note that following relevant procedural and process enquiries that my client will be accorded the statutory time as the delay was incurred by ELC and not the applicant therefore the 3 month period shall commence today n receipt of your reply on behalf of ELC.

As I will be on leave from tomorrow until the 25 February, I would ask that you direct any further queries to our planning case officer, James Allan.

Regards,

Keith

From: J Fyall <jfyall@buildingcompliance.org.uk>

Sent: **29 January 2025** 12:52

To: **Patterson, Monica** [REDACTED]

Cc: Hampshire, Norman <nhampshire@eastlothian.gov.uk>; Collins, Donna <dcollins2@eastlothian.gov.uk>; Paul McLennan MSP <Paul.McLennan.msp@parliament.scot>; Jardine, Lyn <ljardine1@eastlothian.gov.uk>; MinisterPF@gov.scot; Currie, Fiona <douglas.alexander.mp@parliament.uk>; Grilli, Carlo [REDACTED]; Dingwall, Keith [REDACTED]; CabSecforSJ@gov.scot; CabSecFLG@gov.scot; CabSecECLR@gov.scot; MinisterforHousing@gov.scot

Subject: ELC EXECUTIVE RESOLUTION REQUEST - Re: Acknowledgement? -Re: PROGRESS - Re: PROGRESS? - Re: Fwd: Request for Review - Re: 24/00868/P & SG 202400446067

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 Executives,

My client was consulted regarding the determination of the submission and I was instructed to proceed to a Review but, as we are not permitted to enter into any discussions at the review it is essential that I am in full possession of the facts and that, in this case requires having site of the documents and report referred to in the planner's determination.

I have repeatedly asked for these to be furnished in order that I may prepare the required written submission to be presented to the those reviewing the decision but, to date, **have not even received the personal and professional courtesy of a reply** and therefore ask that you intervene and resolve the issue and, if unable to do so, I will, on my client's behalf, if necessary, having afforded all reasonable opportunity to ELC, then progress to escalate as required by the legal procedures dictated.

It has even been mentioned that you may, in this and other cases and procedures referred to, have to relate ELC to SPSO under Section 2(2), outwith the immediate requirements of the current subject case.

Stage 1 - Frontline resolution

When you contact us we will aim to resolve your complaint. If we can't resolve it at this stage, we will explain why and tell you what you can do next.

We will give you our decision in 5 working days or less, unless there are exceptional circumstances. If your complaint is about education please contact the child's school first.

It is clearly evident that Stage 1 was not complied with and now also Stage 2.

Excerpt from Model Complaints Handling Procedure guidance issued to all LAs by SPSO:

"19. When using stage 2:

- we will acknowledge receipt of your complaint within **three working days**
- we will confirm our understanding of the complaint we will investigate and what outcome you are looking for
- we will try to resolve your complaint where we can (in some cases we may suggest using an alternative complaint resolution approach, such as mediation); and
- where we cannot resolve your complaint, we will give you a full response as soon as possible, normally **within 20 working days**.

20. If our investigation will take longer than 20 working days, we will tell you. We will tell you our revised time limits and keep you updated on progress.

ELC have obviously adopted the model as copied from ELC 'Comments, Complaints & Compliments' page displayed on ELC's on-line site:

“Stage 2 - Investigation

Unresolved complaints at stage 1, or complex complaints requiring a detailed investigation are called stage 2 complaints.

We will:

- acknowledge receipt of your complaint within 3 working days
- discuss your complaint with you to understand why you remain dissatisfied and what outcome you are looking for
- give you a full response to the complaint as soon as possible and within 20 working days

We will tell you if our investigation is going to take longer than 20 working days and will agree a revised date with you."

Stage 1 having been failed to be complied with, I am prepared to afford ELC **one last chance** to adhere to the legally enforceable terms of the procedure required and if no response to engage becomes apparent, then the appropriate actions in the consequential process of escalation will be therefore be initiated.

This is all, yet again, requiring unnecessary commitments of resources which would be much more productively used elsewhere in attending to and financing more relevant and critical provision of services to the community and their and LAs' desperate needs in these times of extended enforced austerity.

Working on, as I am at 71yrs, I remain true to my ethics and DO NOT CHARGE clients for obtaining equitable delivery of assessment and adjudication, whereas ELC employees involved remain in receipt of salaries paid for out of our community taxes and other taxes levied by UK and devolved government - this further adds insult to injustice.

Many departments within ELC work well, consultatively rather than confrontationally, which is far more productive for all but, in the case of Planning this represents yet one more failure to comply with SSIs and procedures and **a disturbing failure to even engage when found to be at fault**, even when provided with the confirmed legally substantiated evidence.

I look forward to your early reply,

Regards,
John

On **22/01/2025** 11:59, John A Fyall wrote:

Good Morning Keith,

I apologise for possibly clogging up your and everyone else's '*In Folders*' but I have been asked when a reply, or simply even an acknowledgement of communications will be forthcoming, what progress is being made or when an explanation by the ELC Planning Department what and why any delay has been encountered in provision will be provided.

If the above can be obtained in response to this query, or if the problem remains undefined, can you possibly tell me what the '***ELC Procedures***' states on the subject of responses and acknowledgement of receipt of all queries?

This would at least prevent **direct involvement** of all copied in being contacted to enquire on the applicant's behalf for such and, I would assume to the benefit and wishes of all, avoid the involvement of more unnecessarily wasted time by all involved and we can then progress matters with some certainty and provide me with such information as will enable me to report to my client and seek instruction on actions regarded necessary to achieve some action on this submission and progress to the *Review Application* or, possibly a direct submission to the Scottish Ministers should there be an impasse created with ELC in this case.

Many thanks,

John

Sender:

John A. Fyall Bsc(Hons) C.Build.E, FCABE. Bld. Eng. Design Consultant
& RIAS-regs Scottish Government Accredited Sect.6, Energy Certifier of Design
Tele: 01368 863752

On **21/01/2025** 15:33, John A Fyall wrote:

Hi Keith,

Well that's another week gone by and it appears that the Planner has been unable to locate the 'Reports' referred to.

Surely, as they were referred to in the 'Report' then it must follow that they must be in the submission

folder either on the Planner's PC or the main IT data repository of ELC and probably in easy electronic form either

as PDFs or Word.doc so it should just take 5 minutes to respond to my e-mails and attached the requested information

which will then enable me to assess and compile the required written submission to accompany the 'Request to Review'

form and get things moving and the two much needed rural house built and occupied.

I know that there is a requirement to apply for a Review within 3 month of determination after which the right of appeal

is then automatically removed.

With this in mind, I would expect that the 3 month period should legally start on the date when the necessary requested

information is supplied and presume that the lack of engagement would not in any way be related to this period of time

lapsing after which the legal right to Review would not be upheld.

Many thanks for your time given over to enabling the required information to be supplied - as I said previously, it is not fair

to quote from something without making it available to others who may well, and in this case definitely do, refute such as

relevant or being correct and, just as you would expect full Reports to be submitted with any submission for assessment,

then I merely request the same for a refusal.

Regards,

John

Sender:

John A. Fyall Bsc(Hons) C.Build.E, FCABE. Bld. Eng. Design Consultant

& RIAS-regs Scottish Government Accredited Sect.6, Energy Certifier of Design

Tele: 01368 863752

On **14/01/2025** 09:42, John A Fyall wrote:

Good morning Keith,

PROGRESS on Provision of Required Information ? - Re: Fwd: Request for Review - Re: 24/00868/P

Can you tell me if the request for the '*Reports*' has been actioned as the time is rolling on and I don't want to receive an erroneous e-mail telling me I am "*out of time*" for a submission to '*Review*' as it's obviously not me that is holding things up.

I would imagine that you will agree that it is essential that I must have sight of the '*Reports*' referred to before I can prepare an accurate, well-informed and factual legal written submission for '*Review*'.

Devoid of the fact that the site has been wrongly categorised in the assessment and consequent determination, and confirmed so by the erroneous references within the Planners report, there are simple sweeping generalised references to such '*Reports*' given in the '*Refusal*' without any legal substantiation what-so-ever and their absence and/or delay in provision then and now, in order that I might benefit from sight and consideration of them, promotes the question, by any, of their actual existence at all - wouldn't you agree ? !

Your timeous response will be much appreciated and I would also appreciate copying in 'ALL' when informing me of the progress made in **'finding'** and providing the said **'Reports'** as I would have thought that they must exist in the job folder for the submission and merely need attaching to an e-mail, which should only take minutes !!

Please note that the initial request was made **13.12.2024** and responded to such that I merely received instruction that I must "*..complete the Review Application Form.*"

You will appreciate that, at 71yrs, I know the system pretty well by now and that **I can't do that until I see the 'Reports'** and thereby able to submit an accurate, well evidenced and substantiated written submission, because, as you know, no personal appearance and/or comment is automatically granted to me on the day !!!.

Many thanks for your time and consideration given to progressing all,

Cheers,
John

Sender:

John A. Fyall Bsc(Hons) C.Build.E, FCABE. Bld. Eng. Design Consultant
& RIAS-regs Scottish Government Accredited Sect.6, Energy Certifier of Design
Tele: 01368 863752
[REDACTED]

On **18/12/2024** 17:31, John A Fyall wrote:

Hi Keith,

On this one that was just discussed in the passing today which you possibly haven't had sight of, can you please use your authority as Chief Planning Officer to instruct the release of the requested information in order that we can inspect and following that fairly and accurately comment in presenting our evidence in support of the application at Review please.

An instruction by yourself might, **as you say**, "*for the avoidance of doubt*" be acted upon ! 😊

As you know, it's hard, in fact impossible, to comment on something that you haven't even seen and only fair and equitable that we should legally see the criteria and supporting reports and evidence on which the ELC Planner assessed and issued a Refusal recommendation especially considering all that went before and that all the relevant Planning Requirements and current regulation and Rural Housing initiatives were stated as fulfilled on the submission drawings & legal doc's etc !!

After all, there is no merit in success by either party unless all of either party's case is openly presented and properly legally and socially substantiated to all who can thereby be judge and determine on the correctness and application of the planning rules, procedures, protocols and legislation currently pertaining.

Cheers,
John

Sender:

John A. Fyall Bsc(Hons) C.Build.E, FCABE. Bld. Eng. Design Consultant
& RIAS-regs Scottish Government Accredited Sect.6, Energy Certifier of Design
12 Beachmont Court
Dunbar
EH42 1YF
Tele: 01368 863752
[REDACTED]

----- Forwarded Message -----

Subject: Re: Request for Review - Re: 24/00868/P

Date: Tue, **17 Dec 2024** 16:50:50 +0000

From: John A Fyall <jfyall@buildingcompliance.org.uk>

Currie, Fiona [REDACTED], Jardine, Lyn <ljardine1@eastlothian.gov.uk>, Collins, Donna <dcollins2@eastlothian.gov.uk>, Norman Hampshire <nhampshire@eastlothian.gov.uk>, Paul McLennan MSP

To: <Paul.McLennan.msp@parliament.scot>, douglas.alexander.mp@parliament.uk, MinisterHousing@gov.scot <MinisterHousing@gov.scot>, ministerlgep@gov.scot <ministerlgep@gov.scot>

CC: Brian Porteous [REDACTED]

Hi Fiona and all relevant others,

Many thanks for your advice and **I will be submitting the correct form but need the requested information before I can make constructive and informed comment on such as the references to reports which I have had no sight of.**

It is only fair is it not?!

1. ELC Environmental Assessment, including Bat Survey referred to and specific effects and relevance of Ecological Impact Study Report conducted within this garden area.
2. The ELC Transport Assessment for the Innerwick Cemetery is also required as total maximum numbers and frequency of the existing use of the cemetery and Thurston Lodge must be available within the public domain as required to assess any increased traffic movements incurred by the proposed development and effect on existing calculations which will include legal access and parking facilities agreed on road and verges with the owner and those also possessing rights the access as possible attenuation of space for parking for ELC Innerwick Cemetery on the verges is referred to in the Officer's Report.
3. ELC Officer's Arboreal Report on self-seeded scrub/trees in garden ground and relevance to Planning Submission - also confirmation of no TPO's existing at time of submission and time of writing.
The Planning Officer states "*..The proposal would lead to the loss of an area of woodland which forms part of a continuous woodland block..*" - again, this is a Domestic Garden which has been permitted the growth of self-seeding scrub and trees through lack of use and maintenance and prevented from being developed for domestic dwellings for a number of years resulting what is effectively now a stand of large WEEDS, which will be cleared and the garden either restored to provide allotments, a grassed recreation area or sold to ELC to provide much needed parking for the Innerwick Cemetery !
4. The documents from which the derivation quoted in the Planning Officer's Report which designates the site as comprising of "*..an area of unmanaged tree and grassed land..*" and effectively relates the assessment as "NPF4 sets out the intent to minimise disturbance to soils from development while the East Lothian Local Plan sets out the Council's aims to reduce adverse impacts on soils, avoid where possible development on prime agricultural land.." therefore I need the designation of the Agricultural Land to which the Planning Officer refers and the relevant Ministry Map and Agricultural Holding Number allocated to the subject Garden Ground. - a bit hypocritical though as this NPF4 requirements is ignored completely by most of the large developments in East Lothian with topsoil being removed to Edinburgh and Midlothian sites (*contrary to Health and Environmental Regulations*) and traditional existing and natural drainage and soil structure and ecology destroyed in every case !!!!!!!!!!!!!!!
5. Absence of a frequent bus service is cited for Refusal and this is not legitimate imposition as it is outwith any rural dwellers' control and requires commitment and legislative action from central and local government to improve, as has been lobbied for and agreed to be improved for quite a few years now ! - therefore the I must have sight of the proposed policy updates, currently unavailable in the public domain, from both ELC and Scottish Government on progress towards rectifying this if it is to be considered at all seriously.

As you will no doubt appreciate, should further expansion of the reasons by attendance at the meeting for appeal may not be deemed permissible therefore any documents submitted must necessarily provide a complete and accurate presentation to the Committee and therefore **it would be unreasonable and unfair to expect the applicant to present the case without knowing what the substantiation is for the reasons for Refusal and to ascertain if they were correctly and legally well-founded.**

I have no wish to create more work for already heavily time-constrained councillors and seek to present clear evidence in support of the appeal to, at the very least, assess the subject application within the correct context and current legislative environment for Rural Housing in Redundant Domestic Garden Ground and would therefore appreciate the above as soon as possible and presume that as this forms part of the appeal process there is no need to issue an 'F.O.I.' or have it classified as 'Environmental Enquiry' and that we can get on with presenting in the form of well substantiated and documented simple clear relevant facts which will hopefully minimise protracted discussion required.

Should there be any legal problem anticipated in producing the requested evidence in substantiation of the Planning Officer's Report for Refusal, then my client and I are quite amenable to presenting to the Scottish Ministers and Judiciary and will abide by their decision.

Many thanks in advance for the provision of the required **essential information and documents to enable equitable debate.**

Regards,

John

Sender:

John A. Fyall Bsc(Hons) C.Build.E, FCABE. Bld. Eng. Design Consultant
& RIAS-regd Scottish Government Accredited Sect.6, Energy Certifier of Design
12 Beachmont Court
Dunbar
EH42 1YF
Tele: 01368 863752

On **17/12/2024** 14:09, **Currie, Fiona** wrote:

Dear Mr Fyall

Thank you for your e-mail of 13 December which was forwarded to me.

Unfortunately, I am unable to accept your request for review without completion of the Notice of Review form.

I note from your e-mail below that you stipulate the presentation of certain documents to the Local Review Body members. It is the responsibility of each applicant or agent to ensure that they include all documents relevant to their appeal when submitting their Notice of Review form. Additional information submitted at a later date may be accepted only in exceptional circumstances.

Any submission provided to the Local Review Body on behalf of the Council is a matter for the planning officer.

Your Notice of Review form and accompanying documentation may be submitted via the Council's e-planning portal. Using this link, you will find information on how to submit an appeal via the portal.

The bottom right of the page refers to *Applications and Guidance Notes* and the last four bullet points relate to the Notice of Review form and guidance: <https://www.eplanning.scot/ePlanningClient/default.aspx>

Appeals may also be submitted by post (addressed to 'The Clerk to the Local Review Body' at the address on your decision notice) or by e-mail to lrb@eastlothian.gov.uk. I enclose a copy of the Notice of Review form which can also be found on the planning portal.

I note your client's request to make a personal presentation. The Local Review Body members will consider the written submissions provided and will decide whether they require additional information to reach a decision. This includes whether they wish to hear directly from the applicant, agent, consultees or interested parties.

Further details of the arrangements for the Local Review Body meeting will be provided when you submit your formal appeal.

Yours sincerely,

Fiona Currie

Fiona Currie | Committees Officer | Democratic Services | East Lothian Council | John Muir House |
Haddington | EH41 3HA | [REDACTED] | E-mail: [REDACTED]

From: Environment Reception <environment@eastlothian.gov.uk>
Sent: Friday, December 13, 2024 2:57 PM
To: Cmtte Local Review Body <lrb@eastlothian.gov.uk>
Cc: Allan, James [REDACTED]; Barson, Thelma [REDACTED]; Taylor, Emma [REDACTED]
Subject: FW: Request for Review - Re: 24/00868/P

Please see email regarding appeal for application 24/00868/P.

Many thanks

Kathleen

From: J Fyall <jfyall@buildingcompliance.org.uk>
Sent: Friday, December 13, 2024 2:35 PM
To: Environment Reception <environment@eastlothian.gov.uk>
Cc: Brian Porteous [REDACTED]; Jardine, Lyn <ljardine1@eastlothian.gov.uk>; Collins, Donna <dcollins2@eastlothian.gov.uk>; Hampshire, Norman <nhampshire@eastlothian.gov.uk>
Subject: Request for Review - Re: 24/00868/P

F.A.O.
Clerk to the Local Review Body
Committee Team,
Communications and Democratic Services
John Muir House
Haddington
East Lothian
EH413HA

Appeal, Initially Requested by Review :

Proposed Development: Erection of 2 houses and associated works at:
Primrose Cottage Garden, Innerwick, East Lothian
ELC Ref: 24/00868/P

Refusal Decision and Officer Report Attached.
Notice of Refusal was received today, 13th Dec.2024.
Please accept this e-mail as confirmation that the applicant wishes to require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997.

Please note that the applicant wishes to make personal representation to the committee and the therefore it would be greatly appreciated if the date of Review is notified as soon as possible.

ALL communications submitted and received by the applicant or his agent leading up to registration and eventual validation and registration should be provided to all committee members **and remain unredacted.**

It is highly recommended that a site visit be enabled in order that committee members can fully appreciate refuted irrelevant, inappropriate and erroneous comments and regulation claimed within the Planner's Report and consequent Refusal Notice and the inconsistent reference to the preservation of highly productive agricultural land by ELC Planning Department given the proven evidence to the contrary as all major developments in East Lothian have been built over highly productive agricultural land PLUS the obvious irrelevance of such in this case as it is *Garden Ground*, which also requires no Environmental Assessment that has been referenced in this case.

In order to supply informed comment, a copy of the Transport Assessment for the Innerwick Cemetery is also required as total maximum numbers and frequency of the existing use of the cemetery and Thurston Lodge must be available within the public domain as also must be legal parking facilities agreed with the owner of the access road and verges with the owners, including parking on grass verges cited and ensuring continued unimpeded access by others with access rights over the access track and verges, which are included within their deeds, including the applicant, the owner of the agricultural field and the occupants of the lodge.

It is assumed that any damage sustained to the verges due to parking during interments has been agreed, with the owner of the land and those others possessing access rights, to be rectified timeously by ELC.

A copy of the Environmental Report and Bat Survey Report/Records quoted are also required, although regarded as not applicable, in order that substantiation of inclusion for Refusal by such may also be considered and informed comment made.

The inclusion of unregulated self-seeded scrub/woodland **Garden Ground as Woodland** is neither defined nor substantiated and the Officer Arboreal Report, similarly, is requested in order that informed comment may be submitted to the Committee for consideration and, even it could have been legitimately claimed by the Planner, is, at best, inconsistent given the ELC destruction by clear-felling the 60+ tonnes of mature Woodland from Spott Road to Avant/Robertson Homes development to the East of Dunbar to create a cycle path and the total loss of habitat resulting and, all carried out during the precluded bird nesting and bat flying period - and there are many more examples of totally unregulated work undertaken by ELC without the need for any Planning or other approvals or permission and/or consideration of comments by ELC's own arboreal expert (*ELC tree officer* !) or Environmental Officer apparently !

Should any of the Committee require further information and/or relevant documents, including those whereby the advising Planning Officer, after many other '*Invalid Letters*' basically accused myself, as agent, and the applicant of lying about the status of the site and informed us that the application site was not going to be assessed as Garden Ground, only to have to admit that it was clearly Garden Ground in the deeds and deed plan for the cottage and was also then proven, at the Planning Advisor's request, to have been Garden Ground for greater than 10 yrs !

Many thanks for your time and consideration given to our request.

Regards,

John

Sender:

John A. Fyall Bsc(Hons) C.Build.E, FCABE. Bld. Eng. Design Consultant
& RIAS-regs Scottish Government Accredited Sect.6, Energy Certifier of Design
Tele: 01368 863752

On **13/12/2024** 12:31, Environment Reception wrote:

Please find attached the decision notice and Officer's report for the above application. You should download the watermarked drawings from the Council's website.

Any problems please contact environment@eastlothian.gov.uk or phone 01620827216.

Email Disclaimer - East Lothian Council

This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify the sender and ensure it is deleted and not read copied or disclosed to anyone else. It is your responsibility to scan this email and any attachments for computer viruses or other defects. East Lothian Council do not accept liability for any loss or damage which may result from this email or any files attached. Email is not secure and can be intercepted, corrupted or amended without the knowledge of the sender. East Lothian Council do not accept liability for errors or omissions arising as a result of interrupted or defective transmission.



John Muir House Haddington EH41 3HA Tel: 01620 827 216 Email: planning@eastlothian.gov.uk

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

Thank you for completing this application form:

ONLINE REFERENCE 100681794-001

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

Type of Application

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

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

Description of Proposal

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

Erection of 2No. semi-detached rural dwellings in existing redundant domestic garden ground.

Is this a temporary permission? *

Yes No

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

Yes No

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

No Yes – Started Yes - Completed

Applicant or Agent Details

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

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:	John A Fyall Bsc(Hons)Bld.Eng. C.Build.E, FCABE		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	John A	Building Name:	
Last Name: *	Fyall	Building Number:	12
Telephone Number: *	01368 863752	Address 1 (Street): *	Beachmont Court
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Dunbar
Fax Number:		Country: *	Scotland
		Postcode: *	EH42 1YF
Email Address: *	jfyall@buildingcompliance.org.uk		

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

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	Mr	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	Lautrec
First Name: *	B	Building Number:	
Last Name: *	Porteus	Address 1 (Street): *	North Road
Company/Organisation	BJP Properties Ltd(Dunbar)	Address 2:	
Telephone Number: *		Town/City: *	Dunbar
Extension Number:		Country: *	Scotland
Mobile Number:		Postcode: *	EH42 1AY
Fax Number:			
Email Address: *			

Site Address Details

Planning Authority:

East Lothian Council

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

Address 1:

PRIMROSE COTTAGE

Address 2:

SMITHY COTTAGES

Address 3:

INNERWICK

Address 4:

Address 5:

Town/City/Settlement:

DUNBAR

Post Code:

EH42 1SA

Please identify/describe the location of the site or sites

Northing

673854

Easting

371219

Pre-Application Discussion

Have you discussed your proposal with the planning authority? *

Yes No

Site Area

Please state the site area:

0.08

Please state the measurement type used:

Hectares (ha) Square Metres (sq.m)

Existing Use

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

Domestic garden ground

Access and Parking

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

Yes No

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

Are you proposing any change to public paths, public rights of way or affecting any public right of access? * Yes No

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

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

0

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

5

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

Water Supply and Drainage Arrangements

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

Yes No

Are you proposing to connect to the public drainage network (eg. to an existing sewer)? *

- Yes – connecting to public drainage network
 No – proposing to make private drainage arrangements
 Not Applicable – only arrangements for water supply required

As you have indicated that you are proposing to make private drainage arrangements, please provide further details.

What private arrangements are you proposing? *

- New/Altered septic tank.
 Treatment/Additional treatment (relates to package sewage treatment plants, or passive sewage treatment such as a reed bed).
 Other private drainage arrangement (such as chemical toilets or composting toilets).

Please explain your private drainage arrangements briefly here and show more details on your plans and supporting information: *

Dedicated SEPA-compliant WPL(WCS) DMS3 treatment sewage treatment plant is proposed, with treated effluent to outfall to existing watercourse flowing through cundie to West edge of site, outwith built over area.

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

Yes No

Note:-

Please include details of SUDS arrangements on your plans

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

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

- Yes
 No, using a private water supply
 No connection required

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

Assessment of Flood Risk

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

Yes No Don't Know

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

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

Yes No Don't Know

Trees

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

Yes No

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

Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste (including recycling)? *

Yes No

If Yes or No, please provide further details: * (Max 500 characters)

Slabbed bin storage area to rear of each dwelling with collection at car park area adjacent to track and off main road..

Residential Units Including Conversion

Does your proposal include new or additional houses and/or flats? *

Yes No

How many units do you propose in total? *

2

Please provide full details of the number and types of units on the plans. Additional information may be provided in a supporting statement.

All Types of Non Housing Development – Proposed New Floorspace

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

Yes No

Schedule 3 Development

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

Yes No Don't Know

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

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

Planning Service Employee/Elected Member Interest

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

Yes No

Certificates and Notices

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

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

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

Yes No

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

Yes No

Certificate Required

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

Certificate A

Land Ownership Certificate

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

Certificate A

I hereby certify that –

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

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

Signed: John A Fyall

On behalf of: Mr B Porteus

Date: 15/08/2024

Please tick here to certify this Certificate. *

Checklist – Application for Planning Permission

Town and Country Planning (Scotland) Act 1997

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

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

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

Yes No Not applicable to this application

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

Yes No Not applicable to this application

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

Yes No Not applicable to this application

Town and Country Planning (Scotland) Act 1997

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

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

Yes No Not applicable to this application

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

Yes No Not applicable to this application

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

Yes No Not applicable to this application

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

- Site Layout Plan or Block plan.
- Elevations.
- Floor plans.
- Cross sections.
- Roof plan.
- Master Plan/Framework Plan.
- Landscape plan.
- Photographs and/or photomontages.
- Other.

If Other, please specify: * (Max 500 characters)

Provide copies of the following documents if applicable:

- | | |
|--|--|
| A copy of an Environmental Statement. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Design Statement or Design and Access Statement. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Flood Risk Assessment. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Drainage/SUDS layout. * | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> N/A |
| A Transport Assessment or Travel Plan | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Contaminated Land Assessment. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Habitat Survey. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Processing Agreement. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |

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

Declare – For Application to Planning Authority

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

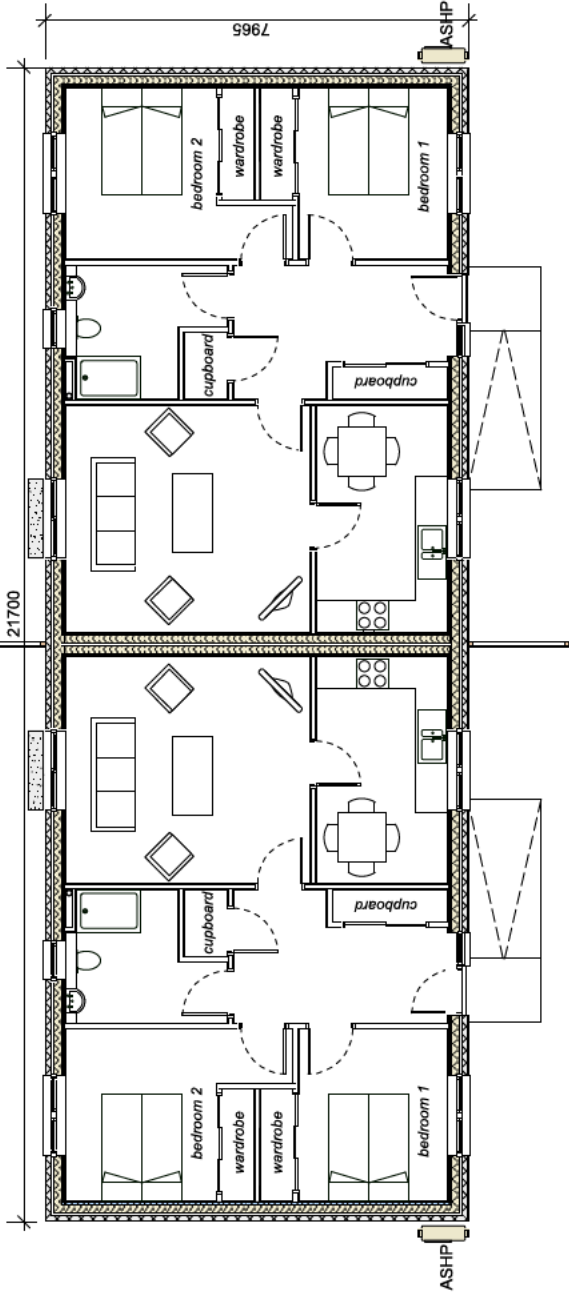
Declaration Name: Mr John A Fyall

Declaration Date: 15/08/2024

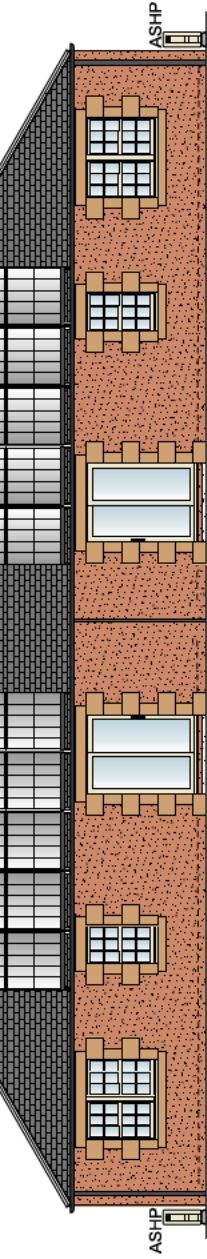
Payment Details

Pay Direct

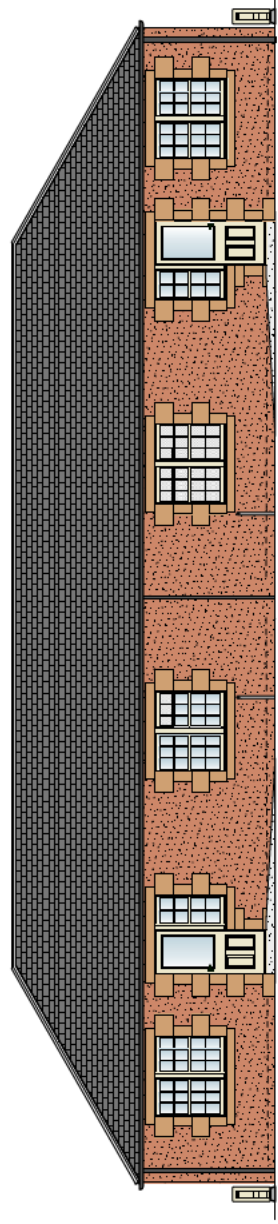
Created: 15/08/2024 21:17



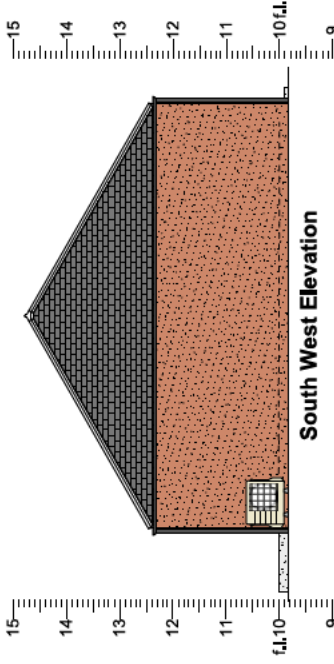
min' 4kWp TRINA Vertex TSM DE09 PV array



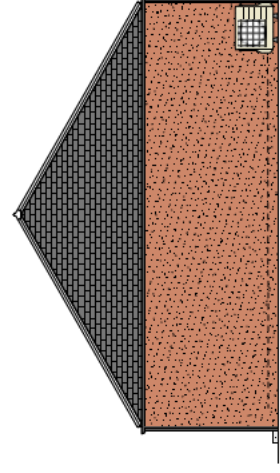
South East Elevation



North West Elevation



South West Elevation



North East Elevation

NOTE:

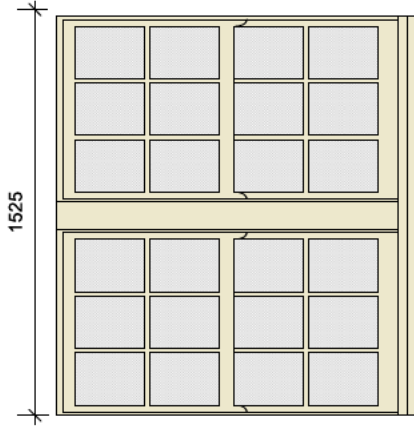
The dwellings are designed to emulate the size and form of the existing cottages and similar traditional farm cottages in East Lothian only now with the modern highly energy efficient fabric and systems expected in modern good quality housing for all, and are intended to be provided as much needed affordable rented rural homes, a sector of the housing needs within and beyond the county which appears to have been given low priority, if not ignored entirely, due to necessary concentration on bulk building which is achieving disproportionately little to improve the reduction in the county's waiting lists, especially for such homes.

No new land has been made available for the required small developments needed to satisfy this desperate neglected need and therefore it is regarded that this rural domestic garden area should be brought into use as the need is not satisfied by the large scale developments on greenfield and highly productive agricultural land necessarily built over in order, it appears, to meet the numerical targets imposed by central government which appear to completely ignore traditional and once cohesive social structures and communities being destroyed in this and other counties.

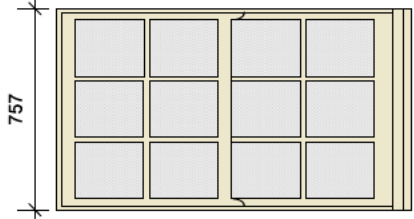
The site was previously the subject of a Planning Enquiry some years ago (2007-01/00256/OU7) as to the possible granting of Outline Planning Consent but it was advised that this would, at that time, constitute 'Development in the Countryside', and as such contrary to ENV16 of the Lothian Structure Plan & DC1 of E.L.L. Local Plan and Government policy guidance on the Control of Housing Development in the Countryside as, Policy Guidelines 3 & 15.

In view of the recent demands placed upon ELC for the satisfaction of housing targets and consequent sites to be defined within the new Local Plan, set as a result of Government Policy, imposing the necessity to build on prime agricultural land and the recent requirement to meet new rural housing targets, this redundant garden ground within an already established small group of dwellings may assist ELC in some small way in achieving both general land available whilst also going some way to satisfying the separate rural housing target percentage imposed without the necessity, in this case, to take yet more highly productive agricultural land permanently out of use.

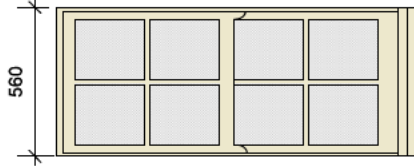
Applicant: BJP Properties Ltd(Dunbar)	Proposal: Erection of 2No. semi-detached rural dwellings in existing redundant domestic garden ground at: Primrose Cottage Garden Thurston Dunbar EH42 1SA	Title: Proposed Ground Floor Plan & Elevations	Dr. Ref: JAF/BJP/P/02	Scale: 1:100@A3	Date: 14.08.2024	Drawing by: <i>John A. Fyall</i> <small>Bsc(Hons) Bld.Eng. & Mgr., C.Build. E.FC.IBE & RIAS-regd. Bld.Side. Sect.6 Energy, Scottish Government Accredited Certifier of Design</small>	Building Design Service 12 Beauchmont Court Dunbar EH42 1YF Tel: 01368-863752



Window 1



Window 2



Window 3



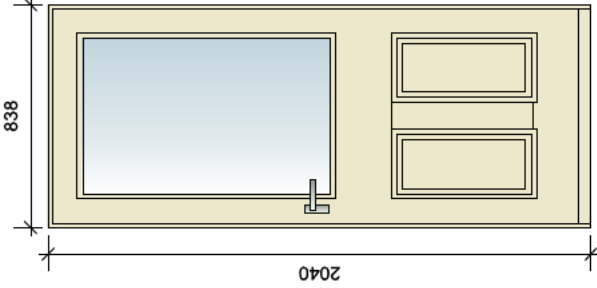
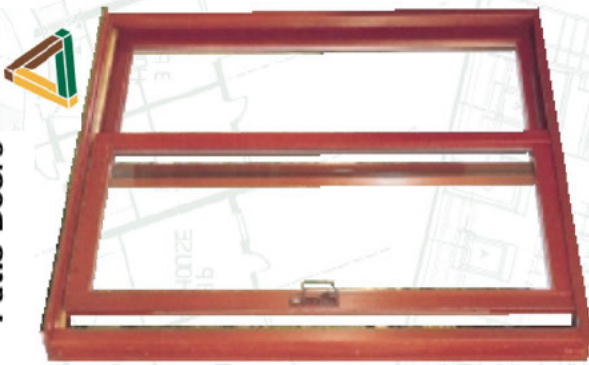
Dual Turn Windows



Patio Doors



Patio Doors



Main Entry Doors



AYR

Applicant: BJP Properties Ltd(Dunbar)	Proposed Windows & Doors
Proposal: Erection of 2No. semi-detached rural dwellings in existing redundant domestic garden ground at: Primrose Cottage Garden Thurston Dunbar EH42 1SA	Dr.Ref: JAF/BJP/P/03
Title:	Scale: 1:50@A3
	Date: 14.08.2024
	Drawing by: <i>John A. Fyall</i> Bsc(Hons) Bldg.Eng.& Mgr., C.Build E.PCABE & RIAS-regd Bld.Sids. Sect.6 Energy, Scottish Government Accredited Certifier of Design Building Design Service 12 Beauchmont Court Dunbar EH42 1YF Tel: 01368-863752



1



2



3



4



5



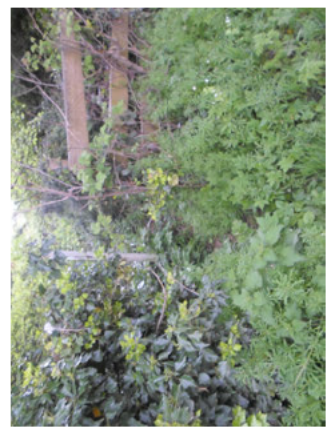
6



7



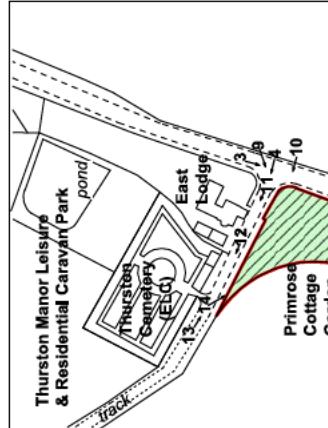
8



9



10



11



12



13



14



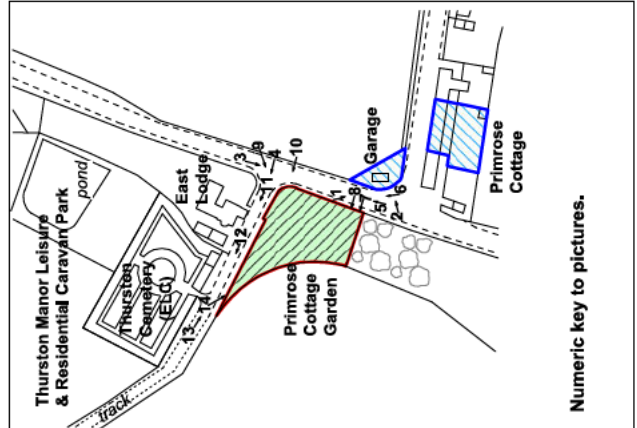
15

road has been widened and improved to permit wind turbine blades and sectional columns to be transported to windfarm beyond

garden gate impossible to use due to years of overgrowth as garden is no longer used

note the height now of the once low-level decorative Leylandii trees and existing garden fence, now overgrown, forming the boundary

this is the garden gate



Location

Drawing by: <i>John A. Fyall</i> Bechtel's Bld. Eng. & Mgr. C. Build. E. F.C.I.B.E. & R.I.A.S-reg. Bld. Sids. Sect. 6 Energy, Scottish Government Accredited Certifier of Design Building Design Service 12 Beaumont Court Dunbar EH42 1YF Tel: 01368-863752	
Title: Pictures as Currently Existing	Applicant: BJP Properties Ltd(Dunbar)
Dr. Ref: JAFBJP/P/04	Proposal: Erection of 2No. semi-detached rural dwellings in existing redundant domestic garden ground at: Primrose Cottage Garden Thurston Dunbar EH42 1SA
Scale: N/A	Date: 14.08.2024

to road from cemetery entrance

QUHZ-W40VA

Ecodan R744

Monobloc Air Source Heat Pump



Key Features:

- Compact design
- Low noise levels
- Boiler replacement ready
- Zero carbon solution
- MELCloud Enabled

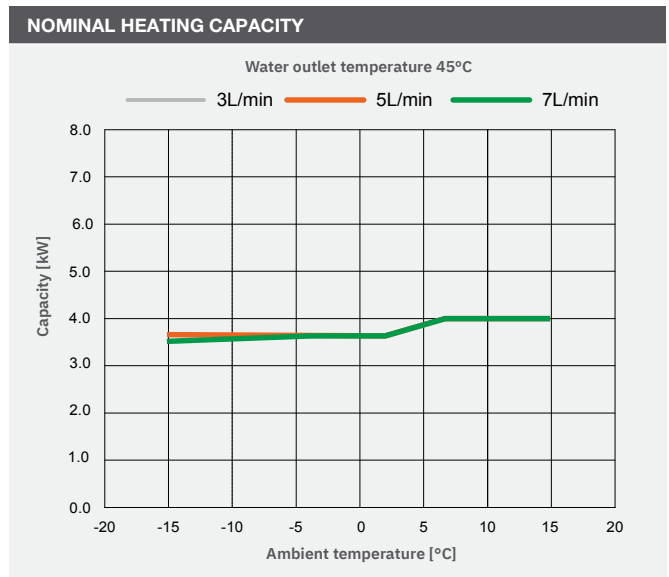
Key Benefits:

- Minimal installation space required
- Flexible product placement
- Suitable for both new and existing homes
- Help to tackle the climate crisis
- Remote control, monitoring, maintenance and technical support



ecodan[®]
Renewable Heating Technology

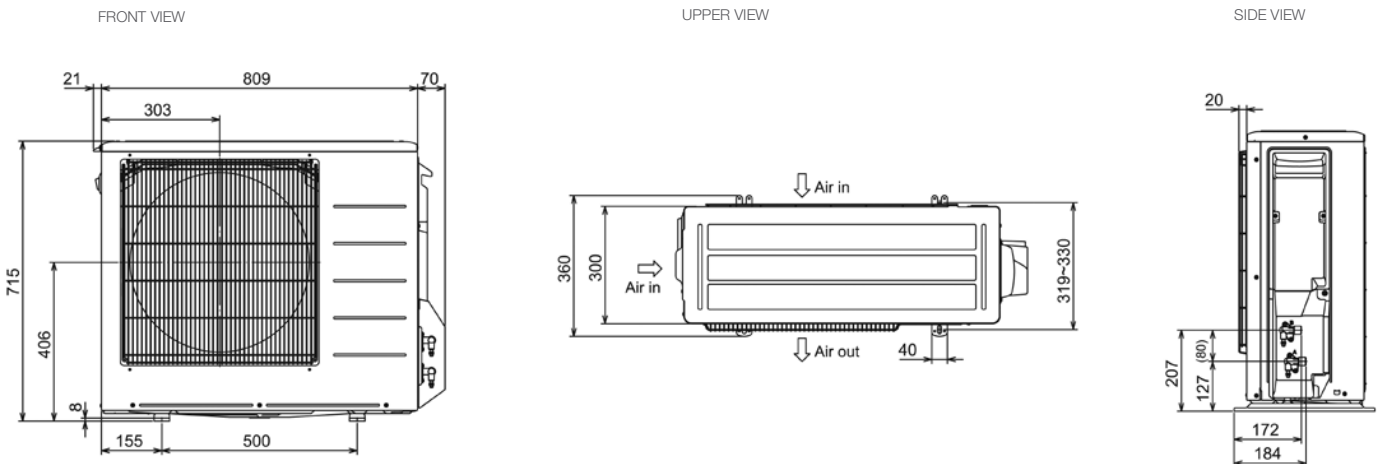
OUTDOOR UNIT	QUHZ-W40VA	
HEAT PUMP COMBINATION	ErP Rating	A+
HEATER - 55°C	η_s	117%
	SCOP (MCS)	2.91
HEAT PUMP COMBINATION	ErP Rating	A
HEATER - Large Profile ¹	η_{wh}	129%
	COP	3.00
HEATING ²	Capacity (kW)	4.32
(A-3/W55)	Power input (kW)	2.18
	COP	1.98
OPERATING AMBIENT TEMPERATURE (°C DB)	-15 ~ +35	
SOUND PRESSURE LEVEL AT 1M (dBA) ³	43	
SOUND POWER LEVEL (dBA) ⁴	53	
WATER DATA	Pipework Size (mm)	15
	Flow Rate (l/min)	3 to 8
DISTANCE BETWEEN OUTDOOR UNIT AND THERMAL STORE (m)	Height Difference	5
	Piping Length	15
DIMENSIONS (mm)	Width	809+70*5
	Depth	300+20*5
	Height	715
WEIGHT (kg)	57	
ELECTRICAL DATA	Powered from indoor unit	
REFRIGERANT CHARGE (kg) / CO ₂ EQUIVALENT (t)	R744 (GWP 1)	1.15 / 0.0015



Notes:

- ¹ Combination with EHPT20Q-VM2EA Thermal Store.
 - ² Under normal heating conditions at outdoor temp: -3°CDB / -4°CWB, outlet water temp 55°C, inlet water temp 47°C.
 - ³ Under normal heating conditions at outdoor temp: 7°CDB / 6°CWB, outlet water temp 55°C, inlet water temp 47°C as tested to BS EN14511.
 - ⁴ Sound power level tested to BS EN12102.
 - ⁵ Grille or pipe cover.
 - ⁶ MCB Sizes BS EN60898-2 & BS EN60947-2.
- η_s is the seasonal space heating energy efficiency (SSHEE) η_{wh} is the water heating energy efficiency

QUHZ-W40VA DIMENSIONS



All dimensions (mm)

MITSUBISHI ELECTRIC
Changes for the Better

Telephone: 01707 282880
email: heating@meuk.mee.com
heating.mitsubishielectric.co.uk

[@meuk_les](https://twitter.com/meuk_les)
 [Mitsubishi Electric Living Environmental Systems UK](https://www.linkedin.com/company/mitsubishi-electric-living-environmental-systems-uk)
 [Mitsubishi Electric Cooling and Heating UK](https://www.facebook.com/mitsubishielectricuk_les)
 [mitsubishielectricuk_les](https://www.instagram.com/mitsubishielectricuk_les)
 [Mitsubishi Electric Living Environmental Systems UK](https://www.youtube.com/channel/UC...)
 [BLOG thehub.mitsubishielectric.co.uk](https://www.blog.mitsubishielectric.co.uk)

UNITED KINGDOM Mitsubishi Electric Europe Living Environment Systems Division, Travellers Lane, Hatfield, Hertfordshire, AL10 8XB, England. Telephone: 01707 282880 Fax: 01707 278881
IRELAND Mitsubishi Electric Europe, Westgate Business Park, Ballymount, Dublin 24, Ireland. Telephone: (01) 419 8800 Fax: (01) 419 8890 International code: (003531)

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Note: Refer to 'Installation Manual' and 'Instruction Book' for further 'Technical Information'. The fuse rating is for guidance only and please refer to the relevant databook for detailed specification. It is the responsibility of a qualified electrician/electrical engineer to select the correct cable size and fuse rating based on current regulation and site specific conditions. Mitsubishi Electric's air conditioning equipment and heat pump systems contain a fluorinated greenhouse gas, R410A (GWP:2088), R32 (GWP:675), R407C (GWP:1774), R134a (GWP:1430), R513A (GWP:631), R454B (GWP:466), R1234ze (GWP:7) or R1234yf (GWP:4). *These GWP values are based on Regulation (EU) No 517/2014 from IPCC 4th edition. In case of Regulation (EU) No.626/2011 from IPCC 3rd edition, these are as follows. R410A (GWP:1975), R32 (GWP:550), R407C (GWP:1650) or R134a (GWP:1300).

Effective as of May 2020





BACKSHEET MONOCRYSTALLINE MODULE

PRODUCT: TSM-DE09.08

POWER RANGE: 390-410 W

410 W+

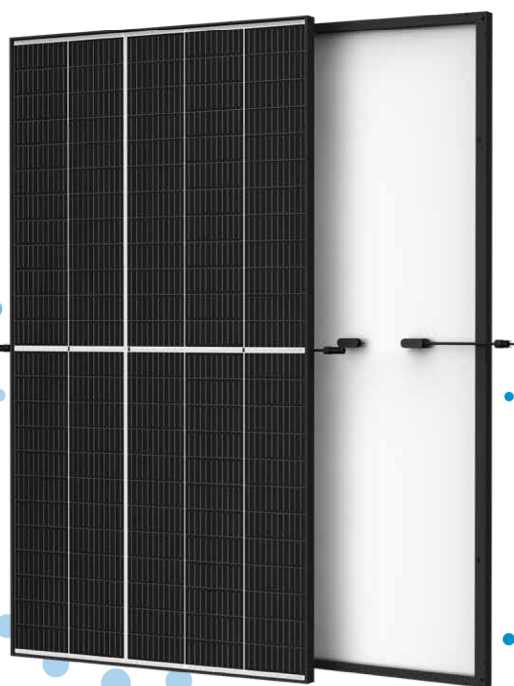
MAXIMUM POWER OUTPUT

0/+5 W

POSITIVE POWER TOLERANCE

21.3 %

MAXIMUM EFFICIENCY



Small in size, big on power



- Generates up to 410 W, 21.3 % module efficiency with high density interconnect technology
- Multi-busbar technology for better light trapping, lower series resistance, improved current collection and enhanced reliability
- Excellent low light performance (IAM) with cell process and module material optimization



Universal solution for residential and C&I rooftops

- Designed for compatibility with existing mainstream inverters, optimizers and mounting systems
- Perfect size and low weight for easy handling. Optimized transportation cost
- Reduces installation cost with higher power bin and efficiency
- Flexible installation solutions for system deployment



High Reliability

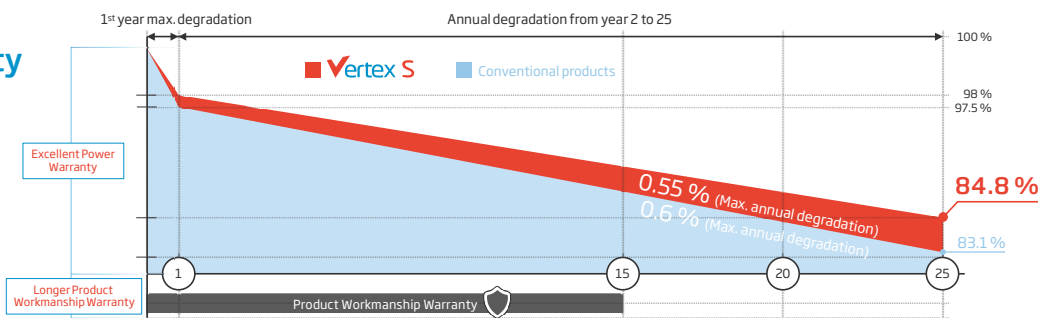
- 6,000 Pa snow load (test load)
- 4,000 Pa wind load (test load)

Extended Vertex S Warranty

2 %
1st year max. degradation

0.55 %
Max. annual degradation from year 2 to 25

15 Years
Product Workmanship Warranty



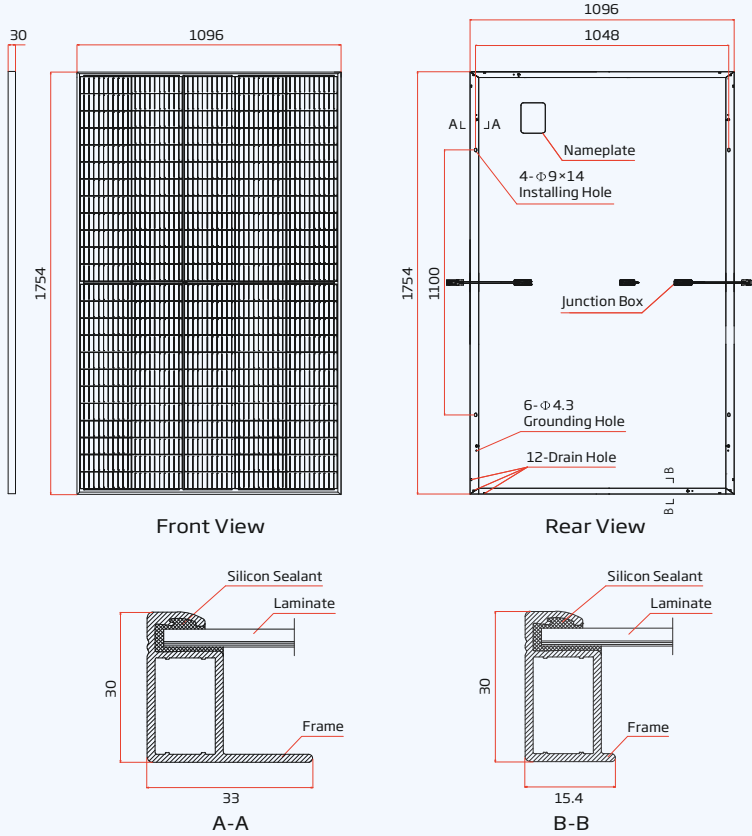
Comprehensive Product and System Certificates



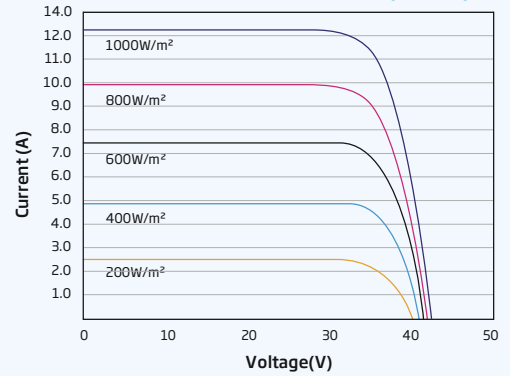
IEC61215/IEC61730/IEC61701/IEC62716
 ISO 9001: Quality Management System
 ISO 14001: Environmental Management System
 ISO14064: Greenhouse Gases Emissions Verification
 ISO45001: Occupational Health and Safety Management System



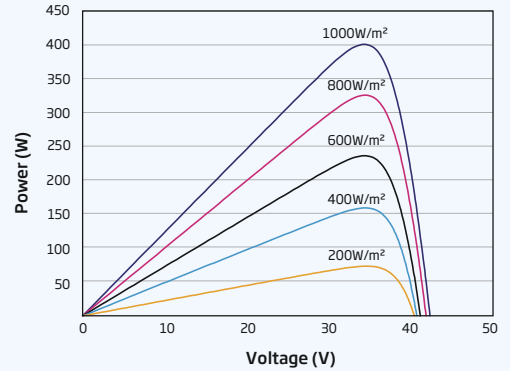
DIMENSIONS OF PV MODULE (mm)



I-V CURVES OF PV MODULE (400 W)



P-V CURVES OF PV MODULE (400 W)



ELECTRICAL DATA (STC)

	TSM-390 DE09.08	TSM-395 DE09.08	TSM-400 DE09.08	TSM-405 DE09.08	TSM-410 DE09.08
Peak Power Watts- P_{MAX} (Wp)*	390	395	400	405	410
Power Tolerance- P_{MAX} (W)	0/+5	0/+5	0/+5	0/+5	0/+5
Maximum Power Voltage- V_{MPP} (V)	33.8	34.0	34.2	34.4	34.6
Maximum Power Current- I_{MPP} (A)	11.54	11.62	11.70	11.77	11.85
Open Circuit Voltage- V_{oc} (V)	40.8	41.0	41.2	41.4	41.6
Short Circuit Current- I_{sc} (A)	12.14	12.21	12.28	12.34	12.40
Module Efficiency η_m (%)	20.3	20.5	20.8	21.1	21.3

STC: Irradiance 1000 W/m², Cell Temperature 25 °C, Air Mass AM1.5 *Measuring tolerance: ±3%

ELECTRICAL DATA (NOCT)

	TSM-390 DE09.08	TSM-395 DE09.08	TSM-400 DE09.08	TSM-405 DE09.08	TSM-410 DE09.08
Maximum Power- P_{MAX} (Wp)	295	298	302	306	310
Maximum Power Voltage- V_{MPP} (V)	31.8	32.0	32.2	32.5	32.8
Maximum Power Current- I_{MPP} (A)	9.26	9.32	9.38	9.41	9.46
Open Circuit Voltage- V_{oc} (V)	38.4	38.6	38.8	38.9	39.1
Short Circuit Current- I_{sc} (A)	9.78	9.84	9.90	9.95	9.99

NOCT: Irradiance at 800 W/m², Ambient Temperature 20 °C, Wind Speed 1 m/s.

MECHANICAL DATA

Solar Cells	Monocrystalline
No. of cells	120 cells
Module Dimensions	1754 × 1096 × 30 mm
Weight	21.0 kg
Glass	3.2 mm, High Transmission, AR Coated Heat Strengthened Glass
Encapsulant material	EVA/POE
Backsheet	White
Frame	30 mm Anodized Aluminium Alloy
J-Box	IP 68 rated
Cables	Photovoltaic Technology Cable 4.0 mm ² Landscape: 1100/1100 mm Portrait: 280/280 mm*
Connector	TS4/MC4 EV02*

*Special order only

TEMPERATURE RATINGS

NOCT (Nominal Operating Cell Temperature)	43 °C (±2 K)
Temperature Coefficient of P_{MAX}	-0.34 %/K
Temperature Coefficient of V_{oc}	-0.25 %/K
Temperature Coefficient of I_{sc}	0.04 %/K

MAXIMUM RATINGS

Operational Temperature	-40 to +85 °C
Maximum System Voltage	1500 V DC (IEC)
Max Series Fuse Rating	20 A

WARRANTY

- 15 Year product workmanship warranty
- 25 Year power warranty
- 2% First year degradation
- 0.55% Annual power degradation

(Please refer to the applicable limited warranty for details)

PACKAGING CONFIGURATION

Modules per box	36 pieces
Modules per 40' container	936 pieces

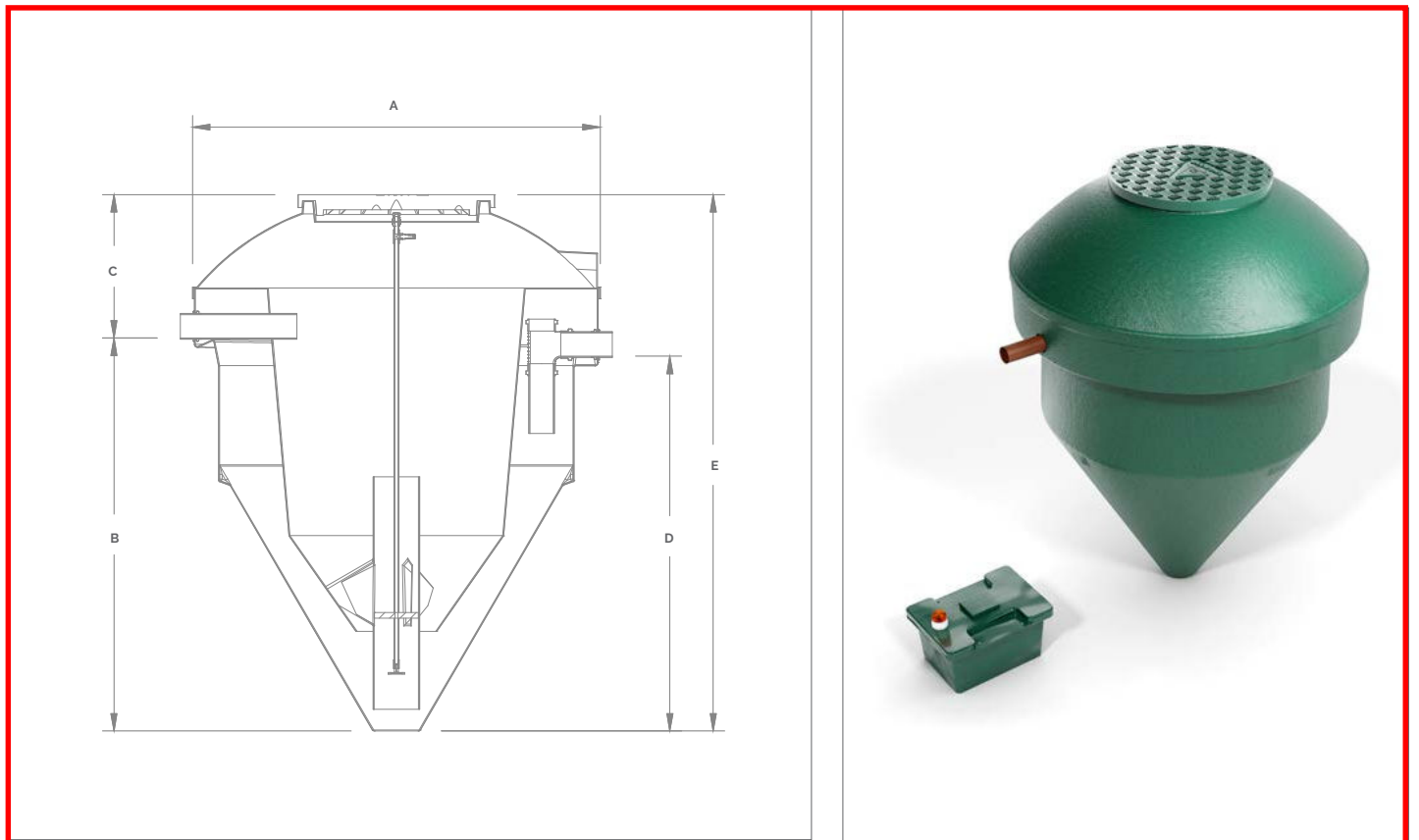
DMS range

Our reliable DMS range caters for properties housing 1 up to 20 people. Typical uses include domestic homes and small commercial businesses such as farm shops, B&Bs and glamping sites.

The standard tank models come supplied with a weather proof kiosk and low air pressure alarm beacon and blower inside.

Model	Population	Max Outside Diameter	Height to Inlet	Inlet Invert Depth	Height to Outlet	Max Height/ In Ground Depth	Weight Empty	Total Capacity
		(A)	(B)	(C)	(D)	(E)	(KG)	(L)
DMS2	1-6	1740	1700	630	1610	2330	155	2270
DMS3	5-11	1960	1830	760	1730	2590	192	3030
DMS4	10-15	1990	2000	780	1930	2780	210	3975
DMS5	14-20	1990	2000	780	1930	2780	210	3975

- Dimensions above shown in mm
- Deeper inverts can be accommodated with our range of standard invert extensions.
- Indicative technical drawing only



Model	Blower type	Blower consumption (kW)	Kiosk consumption (kW)
DMS2	JDK80C	0.050	0.060
DMS3	JDK100C	0.075	0.080
DMS4	JDK150C	0.115	0.120
DMS5	JDK200C	0.180	0.190

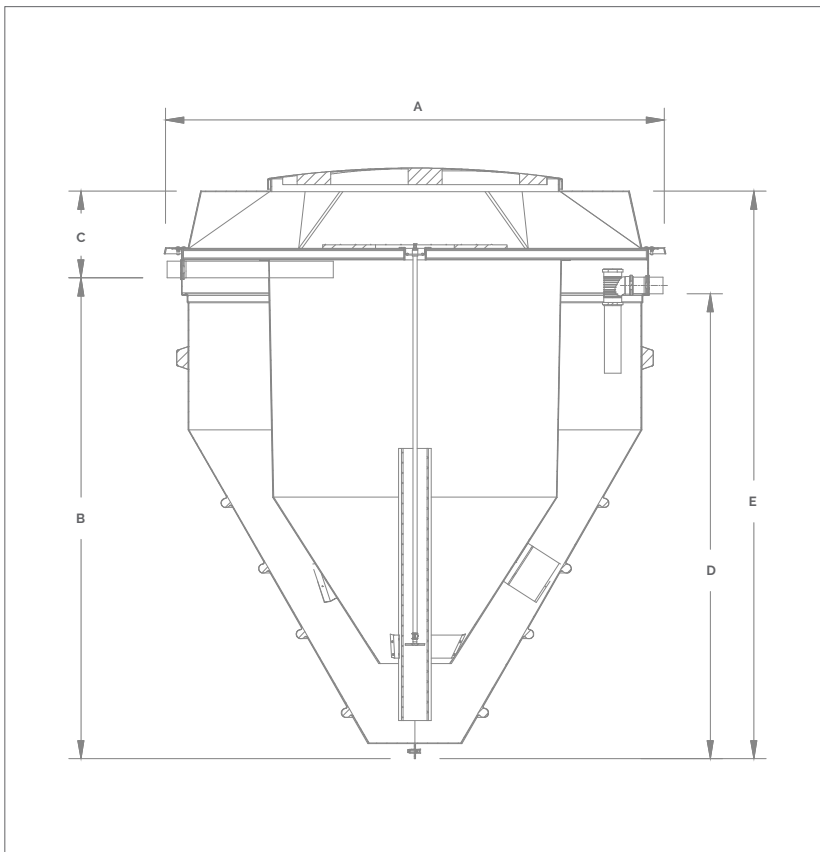
DMC range

Our robust DMC range caters for properties housing from 21 up to 55 people. Typical uses include domestic homes, small rural communities and small commercial businesses such as industrial units, campsites and country estates.

The standard tank models come supplied with a blower housed in a weatherproof kiosk and a separate small consumer unit.

Model	Population	Max Outside Diameter	Height to Inlet	Inlet Invert Depth	Height to Outlet	Max Height/ In Ground Depth	Weight Empty	Total Capacity
		(A)	(B)	(C)	(D)	(E)	(KG)	(L)
DMC6	21-27	3300	2780	570	2680	3350	380	9056
DMC7	28-35	3300	2780	570	2680	3350	380	9056
DMC8	36-45	3300	3140	580	3040	3750	460	15038
DMC9	46-55	3300	3140	580	3040	3750	460	15038

- Dimensions above shown in mm
- Deeper inverts can be accommodated with our range of standard invert extensions
- Indicative technical drawing only



DMC kiosk power consumption				
Model	Blower Type	Power per blower (kW)	Min Power Consumption (kW)	Max Power Consumption (kW)
DMC6	3D19T-050-0.37	0.37	0.27	0.37
DMC7	3D19T-050-0.55	0.55	0.37	0.55
DMC8	3D19T-050-0.55	0.55	0.37	0.55
DMC9	3D19T-050-0.55	0.55	0.37	0.55

External pumping chamber (EPC)

The EPC has been developed to provide a means of delivery for treated effluent where the existing terrain and invert levels of the pipework prevent normal gravitational discharge.

The unit delivers up to 100litres/minute of effluent.
The EPC can also be used as a sample chamber.

Additional parts

Depending on site conditions, models may be supplied with an invert extension, sample chamber or external pumping chamber (EPC).

Reliable and environmentally compliant

Our process performance is tested, certified and guaranteed subject to consistent influent conditions and regular plant maintenance as per the manufacturer's instructions. The PIA performance certificate is available for download at:

wcs-group.co.uk/environmental-engineering-diamond

We're here to help!

For more information, please chat to our friendly team.

Find us online at: wcs-group.co.uk/environmental-engineering-diamond

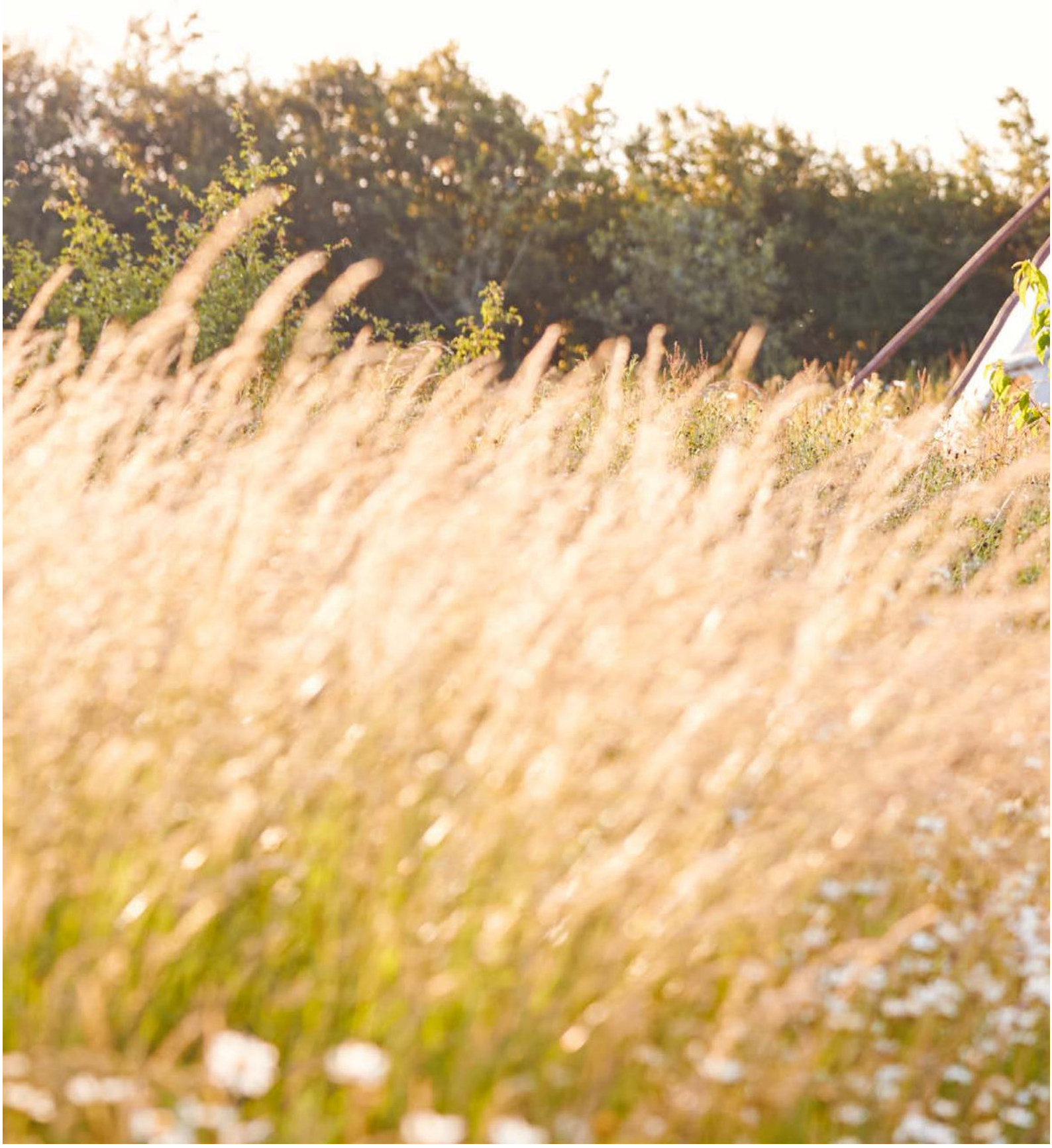
Call us on: **+44 (0) 23 9224 2600**

Or email: **info@wcs-group.co.uk**



So flexible

Designed to treat flows from between 1 and 55 people, our Diamond range is ideal for small rural business that are off mains drainage, such as glamping and camp sites, country estates, farm shops, B&Bs and garden centres, as well as individual homeowners. Our systems are known for their quality and reliability, giving you reassurance your environmental requirements are taken care of.





OUR ROOTS

WPL (which is now a part of WCS Environmental Engineering) has been at the forefront of wastewater treatment technology for over 30 years, with international experience of technical design, quality of manufacture and supply of environmental wastewater solutions. Our high level of expertise means that we offer all of our customers, from the individual homeowner to large municipal communities and industrial markets, robust wastewater treatment process solutions that are environmentally compliant.

**WCS Environmental
Engineering Ltd**

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Waterlooville
Hampshire
PO7 7UX
United Kingdom

Tel: +44 (0)23 9224 2600
Email: info@wcs-group.co.uk
Web: [wcs-group.co.uk/
environmental-engineering-diamond](https://wcs-group.co.uk/environmental-engineering-diamond)

Disclaimer

WCS Environmental Engineering has a policy of continual product development and the above information may be subject to change without notice. Errors and omissions excepted. Technical drawings are indicative only. WCS Environmental Engineering Ltd is a portfolio company of Marlowe PLC.

Independent expert:

Our Ref: 24/00868/P

Ask For: [REDACTED]

Your Ref: 100681794-001

Date: 19th August 2024

BJP Properties Ltd(Dunbar)
c/o John A Fyall Bsc(Hons)Bld.Eng. C.Build.E, FCABE
Per John A Fyall
12 Beachmont Court
Dunbar
EH42 1YF

Dear Sir/Madam,

LOCATION Primrose CottageSmithy CottagesInnerwickDunbar
PROPOSAL Erection of 2No. semi-detached rural dwellings in existing redundant domestic garden ground.

I refer to the above application and regret that it cannot be registered until you complete all the points on the following schedule.

Your application cannot be processed until you have complied with this request.

Unless I hear from you within 28 days from the date of this letter, I will assume that your application is withdrawn and I will return it to you.

If you require further assistance phone [REDACTED].

Yours faithfully

Thelma Barson
Management Systems & Admin Officer

Invalid Schedule for 24/00868/P

1. Provide full specification for all proposed works.
2. Location and Site Plan the red outline is required to go around the 'right of access over this ground' as this looks like it is part of the application. You will also need to update the application form and notify the owner of this land.
3. Fence being erected is this touching or abutting the listed piers or walls, if so Listed Building Consent will be required.
4. Yes was ticked on the Trees question the Planning Officer will require a tree planting/Landscape drawing. We cannot make the application invalid for this reason.

Our Ref: 24/00868/P

Ask For: [REDACTED]

Your Ref: 100681794-001

Date: 22nd August 2024

BJP Properties Ltd (Dunbar)
c/o John A Fyall Bsc(Hons)Bld.Eng. C.Build.E, FCABE
Per John A Fyall
12 Beachmont Court
Dunbar
EH42 1YF

Dear Sir/Madam,

LOCATION Primrose Cottage Smithy Cottages Innerwick Dunbar
PROPOSAL Erection of 2 No. semi-detached rural dwellings in existing redundant domestic garden ground.

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If you require further assistance phone [REDACTED]

Yours faithfully

Thelma Barson
Management Systems & Admin Officer

Invalid Schedule for 24/00868/P

1. Provide full specification for all proposed works.

22/08/24 This is a detailed planning application please ensure all proposed works have full specification. (Please remove 'colour to be agreed with ELC' and 'equivalent'.

2. Location and Site Plan the red outline is required to go around the 'right of access over this ground' as this looks like it is part of the application. You will also need to update the application form and notify the owner of this land.

22/08/24 - Drawing JAF/BJP/P/01 submitted on 16th August 2024 you coloured up in grey squares the parking and the 'right of access over this ground' the red line is to go around this part and not the access from the main road.

3. Yes was ticked on the Trees question the Planning Officer will require a tree planting/Landscape drawing. We cannot make the application invalid for this reason.

Our Ref: 24/00868/P

Ask For: [REDACTED]

Your Ref: 100681794-001

Date: 22nd August 2024

BJP Properties Ltd (Dunbar)
c/o John A Fyall Bsc(Hons)Bld.Eng. C.Build.E, FCABE
Per John A Fyall
12 Beachmont Court
Dunbar
EH42 1YF

Dear Sir/Madam,

LOCATION Primrose Cottage Smithy Cottages Innerwick Dunbar
PROPOSAL Erection of 2 No. semi-detached rural dwellings in existing redundant domestic garden ground.

I refer to the above application and regret that it cannot be registered until you complete all the points on the following schedule.

Your application cannot be processed until you have complied with this request.

Unless I hear from you within 28 days from the date of this letter, I will assume that your application is withdrawn and I will return it to you.

If you require further assistance phone [REDACTED].

Yours faithfully

Thelma Barson
Management Systems & Admin Officer

Invalid Schedule for 24/00868/P

1. Provide full specification for all proposed works.

22/08/24 This is a detailed planning application please ensure all proposed works have full specification. (Please remove 'colour to be agreed with ELC' and 'equivalent'.

2. Location and Site Plan the red outline is required to go around the 'right of access over this ground' as this looks like it is part of the application. You will also need to update the application form and notify the owner of this land.

22/08/24 - Drawing JAF/BJP/P/01 submitted on 16th August 2024 you coloured up in grey squares the parking and the 'right of access over this ground' the red line is to go around this part and not the access from the main road.

Application form is required to be updated and owners notified.

3. Yes was ticked on the Trees question the Planning Officer will require a tree planting/Landscape drawing. We cannot make the application invalid for this reason.

Our Ref: 24/00868/P

Ask For: [REDACTED]

Your Ref: 100681794-001

Date: 22nd August 2024

BJP Properties Ltd (Dunbar)
c/o John A Fyall Bsc(Hons)Bld.Eng. C.Build.E, FCABE
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If you require further assistance phone [REDACTED].

Yours faithfully

Thelma Barson
Management Systems & Admin Officer

Invalid Schedule for 24/00868/P

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22/08/24 This is a detailed planning application please ensure all proposed works have full specification. (Please remove 'colour to be agreed with ELC' and 'equivalent'.

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22/08/24 - Drawing JAF/BJP/P/01 submitted on 16th August 2024 you coloured up in grey squares the parking and the 'right of access over this ground' the red line is to go around this part and not the access from the main road.

Application form is required to be updated and owners notified.

3. Yes was ticked on the Trees question the Planning Officer will require a tree planting/Landscape drawing. We cannot make the application invalid for this reason.
4. Your voicemail you just left surrounding submitting an uptodate application form etc. You will need to download the form from the Scottish Government Website, fill in and submit back through the portal to this application as an additional submission and not as a new application.

Our Ref: 24/00868/P
Ask For: [REDACTED]
Your Ref: 100681794-001
Date: 24th September 2024

BJP Properties Ltd (Dunbar)
c/o John A Fyall Bsc(Hons)Bld.Eng. C.Build.E, FCABE
Per John A Fyall
12 Beachmont Court
Dunbar
EH42 1YF

Dear Sir/Madam,

LOCATION Primrose Cottage Garden Innerwick East Lothian
PROPOSAL Erection of 2No. semi-detached rural dwellings in existing redundant domestic garden ground.

I refer to the above application and regret that it cannot be registered until you complete all the points on the following schedule.

Your application cannot be processed until you have complied with this request.

Unless I hear from you within 28 days from the date of this letter, I will assume that your application is withdrawn and I will return it to you.

If you require further assistance phone [REDACTED].

Yours faithfully

Thelma Barson
Management Systems & Admin Officer

Invalid Schedule for 24/00868/P

1. Provide full specification for all proposed works.

22/08/24 This is a detailed planning application please ensure all proposed works have full specification. (Please remove 'colour to be agreed with ELC' and 'equivalent'.

24/09/24 - Still to be done as per above point on 22/08/24

2. Location and Site Plan the red outline is required to go around the 'right of access over this ground' as this looks like it is part of the application. You will also need to update the application form and notify the owner of this land.

22/08/24 - Drawing JAF/BJP/P/01 submitted on 16th August 2024 you coloured up in grey squares the parking and the 'right of access over this ground' the red line is to go around this part and not the access from the main road.

Application form is required to be updated and owners notified.

24/09/24 - Application form needs to be updated to say do not own all the land. Please update the drawings also as per above.

3. Yes was ticked on the Trees question the Planning Officer will require a tree planting/Landscape drawing. We cannot make the application invalid for this reason.

Our Ref: 24/00868/P

Ask For: [REDACTED]

Your Ref: 100681794-001

Date: 1st October 2024

BJP Properties Ltd (Dunbar)
c/o John A Fyall Bsc(Hons)Bld.Eng. C.Build.E, FCABE
Per John A Fyall
12 Beachmont Court
Dunbar
EH42 1YF

Dear Sir/Madam,

LOCATION Primrose Cottage Garden Innerwick East Lothian
PROPOSAL Erection of 2No. semi-detached rural dwellings in existing redundant domestic garden ground.

I refer to the above application and regret that it cannot be registered until you complete all the points on the following schedule.

Your application cannot be processed until you have complied with this request.

Unless I hear from you within 28 days from the date of this letter, I will assume that your application is withdrawn and I will return it to you.

If you require further assistance phone [REDACTED].

Yours faithfully

Thelma Barson
Management Systems & Admin Officer

Invalid Schedule for 24/00868/P

1. Location and Site Plan the red outline is required to go around the 'right of access over this ground' as this looks like it is part of the application. You will also need to update the application form and notify the owner of this land.

22/08/24 - Drawing JAF/BJP/P/01 submitted on 16th August 2024 you coloured up in grey squares the parking and the 'right of access over this ground' the red line is to go around this part and not the access from the main road.

Application form is required to be updated and owners notified.

24/09/24 - Application form needs to be updated to say do not own all the land. Please update the drawings also as per above.

01/10/24 - It is the application form you need to update as the Land Ownership Certificate is fine. Drawing Number JAF/BJP/P/01 Rev B The 1:200 site plan red boundary is correct but your location Plan red outline differs on this drawing? Please ensure all your drawings have the same red outline as the 1:200 site plan on this drawing.

Our Ref: 24/00868/P

Ask For: [REDACTED]

Your Ref: 100681794-001

Date: 2nd October 2024

BJP Properties Ltd (Dunbar)
c/o John A Fyall Bsc(Hons)Bld.Eng. C.Build.E, FCABE
Per John A Fyall
12 Beachmont Court
Dunbar
EH42 1YF

Dear Sir/Madam,

LOCATION Primrose Cottage Garden Innerwick East Lothian
PROPOSAL Erection of 2No. semi-detached rural dwellings in existing redundant domestic garden ground.

I refer to the above application and regret that it cannot be registered until you complete all the points on the following schedule.

Your application cannot be processed until you have complied with this request.

Unless I hear from you within 28 days from the date of this letter, I will assume that your application is withdrawn and I will return it to you.

If you require further assistance phone [REDACTED].

Yours faithfully

Thelma Barson
Management Systems & Admin Officer

Invalid Schedule for 24/00868/P

1. Application form needs to be updated to say do not own all the land. The Land Ownership Certificate is fine. Please update. You are required to download the application form update and send back through the e-planning portal as additional information.

Our Ref: 24/00868/P

Ask For: [REDACTED]

Your Ref: 100681794-001

Date: 3rd October 2024

BJP Properties Ltd (Dunbar)
c/o John A Fyall Bsc(Hons)Bld.Eng. C.Build.E, FCABE
Per John A Fyall
12 Beachmont Court
Dunbar
EH42 1YF

Dear Sir/Madam,

LOCATION Primrose Cottage Garden Innerwick East Lothian
PROPOSAL Erection of 2 houses and associated works

I refer to the above application and regret that it cannot be registered until you complete all the points on the following schedule.

Your application cannot be processed until you have complied with this request.

Unless I hear from you within 28 days from the date of this letter, I will assume that your application is withdrawn and I will return it to you.

If you require further assistance phone [REDACTED]

Yours faithfully

Thelma Barson
Management Systems & Admin Officer

Invalid Schedule for 24/00868/P

1. Drawing Number JAF/BJP/P/01 Rev C - Location plan scale 1:1250 the red line boundary seems to extend south can this be updated to be the same as the Site Plan scale 1:200.

Our Ref: 24/00868/P

Ask For: [REDACTED]

Your Ref: 100681794-001

Date: 8th October 2024

BJP Properties Ltd (Dunbar)
c/o John A Fyall Bsc(Hons)Bld.Eng. C.Build.E, FCABE
Per John A Fyall
12 Beachmont Court
Dunbar
EH42 1YF

Dear Sir/Madam,

LOCATION Primrose Cottage Garden Innerwick East Lothian
PROPOSAL Erection of 2 houses and associated works

I refer to the above application and regret that it cannot be registered until you complete all the points on the following schedule.

Your application cannot be processed until you have complied with this request.

Unless I hear from you within 28 days from the date of this letter, I will assume that your application is withdrawn and I will return it to you.

If you require further assistance please phone [REDACTED].

Yours faithfully

Thelma Barson
Management Systems & Admin Officer

Invalid Schedule for 24/00868/P

1. After discussions with Emma Taylor, Team Manager - Planning, she is advising that the address should be 'Land Opposite East Lodge, Thurston, Innerwick, Dunbar, East Lothian - If you are happy with this please update the planning application forms. Please do not send in as a brand new application as previously done as this creates a new application on the system not relevant to the existing application. You are required to download the form onto desktop fill out and send back as additional information linking to your online reference - 100681794-001. Please contact the Scottish Government if you have any issues.

Our Ref: 24/00868/P

Ask For: [REDACTED]

Your Ref: 100681794-001

Date: 8th October 2024

BJP Properties Ltd (Dunbar)
c/o John A Fyall Bsc(Hons)Bld.Eng. C.Build.E, FCABE
Per John A Fyall
12 Beachmont Court
Dunbar
EH42 1YF

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If you require further assistance please phone [REDACTED].

Yours faithfully

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Invalid Schedule for 24/00868/P

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2. I refer to your voicemail today.

After discussions with Emma Taylor she has advised that the applicant may own the land but you need to provide evidence that points to the use of it as being garden ground for more than 10 years or more.