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Robert Robertson & Son.  
FAO: Mr Alistair Robertson  
West Edge Farm  
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UK  
EH17 8SD

**Decision date: 9 March 2020**

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

Erection of steel portal frame Agricultural Building.  
At Bonnington Farm Bonnington Kirknewton EH27 8BB

**Application No:** 19/05171/FUL

**DECISION NOTICE**

With reference to your application for Planning Permission registered on 29 October 2019, this has been decided by **Local Fast Track Decision**. The Council in exercise of its powers under the Town and Country Planning (Scotland) Acts and regulations, now determines the application as **Granted** in accordance with the particulars given in the application.

Any condition(s) attached to this consent, with reasons for imposing them, or reasons for refusal, are shown below;

1. Development shall not commence until a Bird Hazard Management Plan has been submitted to and approved in writing by the Planning Authority. The submitted plan shall include details of:

- monitoring of any standing water within the site temporary or permanent
- sustainable urban drainage schemes (SUDS) - Such schemes shall comply with Advice Note 3 'Wildlife Hazards' (available at <http://www.aoa.org.uk/policy-campaigns/operations-safety/>).
- management of any flat/shallow pitched/green roofs on buildings within the site which may be attractive to nesting, roosting and "loafing" birds. The management plan shall comply with Advice Note 3 'Wildlife

Hazards.'

- reinstatement of grass areas
- maintenance of planted and landscaped areas, particularly in terms of height and species of plants that are allowed to grow
- which waste materials can be brought on to the site/what if any exceptions e.g. green waste
- monitoring of waste imports (although this may be covered by the site licence)
- physical arrangements for the collection (including litter bins) and storage of putrescible waste,
- arrangements for and frequency of the removal of putrescible waste
- signs deterring people from feeding the birds.

The Bird Hazard Management Plan shall be implemented as approved, on completion of the development and shall remain in force for the life of the building. No subsequent alterations to the plan are to take place unless first submitted to and approved in writing by the Planning Authority.

2. No demolition/development shall take place on the site until the applicant has secured and implemented a programme of archaeological work (historic building survey, excavation, analysis & reporting, publication) in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.

3. Prior to any work commencing on site a surface water management plan shall be submitted for the written approval of the Council as Planning Authority. Details of the self certification process and guidance can be found in the link below.

CEC Flood Planning Self-Certification Requirements and Guidance:

[http://www.edinburgh.gov.uk/info/20045/flooding/1584/flood\\_planning\\_application](http://www.edinburgh.gov.uk/info/20045/flooding/1584/flood_planning_application)

4. Prior to work commencing on site further details of all external materials, including colours, proposed for the external walls and roof of the development, hereby approved, shall be submitted for the written approval of the Council as Planning Authority.

**Reasons:-**

1. It is necessary to manage the development in order to minimise its attractiveness to birds which could endanger the safe movement of aircraft and the operation of Edinburgh Airport.

2. In order to secure and record any archeological artifacts within the site.

3. In order to ensure all concerns in relation to surface water management are addressed.
4. In order to protect the special landscape area.

**Informatives:-**

It should be noted that:

1. The development hereby permitted shall be commenced no later than the expiration of three years from the date of this consent.

2. No development shall take place on the site until a 'Notice of Initiation of Development' has been submitted to the Council stating the intended date on which the development is to commence. Failure to do so constitutes a breach of planning control, under Section 123(1) of the Town and Country Planning (Scotland) Act 1997.

3. As soon as practicable upon the completion of the development of the site, as authorised in the associated grant of permission, a 'Notice of Completion of Development' must be given, in writing to the Council.

4. The Bird Hazard Management Plan must ensure that flat/shallow pitched roofs be constructed to allow access to all areas by foot using permanent fixed access stairs ladders or similar. The owner/occupier must not allow gulls, to nest, roost or loaf on the building. Checks must be made weekly or sooner if bird activity dictates, during the breeding season. Outside of the breeding season gull activity must be monitored and the roof checked regularly to ensure that gulls do not utilise the roof. Any gulls found nesting, roosting or loafing must be dispersed by the owner/occupier when detected or when requested by Edinburgh Airport Airside Operations staff. In some instances it may be necessary to contact Edinburgh Airport Airside Operations staff before bird dispersal takes place. The owner/occupier must remove any nests or eggs found on the roof.

The breeding season for gulls typically runs from March to June. The owner/occupier must obtain the appropriate licences where applicable from Scottish Natural Heritage before the removal of nests and eggs.

5. Given the nature of the proposed development it is possible that a crane may be required during its construction. We would, therefore, draw the applicant's attention to the requirement within the British

Standard Code of Practice for the safe use of Cranes, for crane operators to consult the aerodrome before erecting a crane in close proximity to an aerodrome. This is explained further in Advice Note 4, 'Cranes' (available at <http://www.aoa.org.uk/policy-campaigns/operations-safe>)

Please see the guidance notes on our [decision page](#) for further information, including how to appeal or review your decision.

Drawings 01;02;03a;04;05;06, represent the determined scheme. Full details of the application can be found on the [Planning and Building Standards Online Services](#)

The reason why the Council made this decision is as follows:

The application complies with adopted Edinburgh Local Development Plan policy. The proposal is for an acceptable Green Belt use and the size and form do not have an adverse impact on the rural character or landscape quality of the area. Residential amenity is unaffected and, subject to conditions, the proposals are acceptable. There are no material planning considerations to outweigh this conclusion.

This determination does not carry with it any necessary consent or approval for the proposed development under other statutory enactments.

Should you have a specific enquiry regarding this decision please contact Robert McIntosh directly on 0131 529 3422.

*D R Leehie*

**Chief Planning Officer  
PLACE  
The City of Edinburgh Council**

## NOTES

1.If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months beginning with the date of this notice. The Notice of Review can be made online at [www.eplanning.scot](http://www.eplanning.scot) or forms can be downloaded from that website. Paper forms should be addressed to the City of Edinburgh Planning Local Review Body, G.2, Waverley Court, 4 East Market Street, Edinburgh, EH8 8BG. For enquiries about the Local Review Body, please email [localreviewbody@edinburgh.gov.uk](mailto:localreviewbody@edinburgh.gov.uk)

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

# Report of Handling

## Application for Planning Permission 19/05171/FUL At Bonnington Farm, Bonnington, Kirknewton Erection of steel portal frame Agricultural Building.

<b>Item</b>	Local Fast Track Decision
<b>Application number</b>	19/05171/FUL
<b>Wards</b>	B02 - Pentland Hills

### Summary

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The application complies with adopted Edinburgh Local Development Plan policy. The proposal is for an acceptable Green Belt use and the size and form do not have an adverse impact on the rural character or landscape quality of the area. Residential amenity is unaffected and, subject to conditions, the proposals are acceptable. There are no material planning considerations to outweigh this conclusion.

### Links

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<a href="#"><u>Policies and guidance for this application</u></a>	LDES01, LDPP, LDES01, LDES04, LDES05, LEN10, LEN11, LEN16, LEN21, NSG, NSGCGB,
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# Report of handling

## Recommendations

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**1.1** It is recommended that this application be Granted subject to the details below.

## Background

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### 2.1 Site description

The application sites lies on the west side of Edinburgh in a countryside area surrounded by agricultural uses, just off the B7030, Bonnington Road. There are a number of large steel portal frame agricultural buildings already within the site as well as an access road and hardstanding. There are a selection of residential properties to the east and to the west of the site.

### 2.2 Site History

There is no relevant planning history for this site.

## Main report

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### 3.1 Description Of The Proposal

The application is for planning permission for the erection of a steel portal frame agricultural building. The proposed building will have a gross floorspace of 1420 square metres. It will be utilised as a grain store and dryer. A new concrete area within the farm and retaining walls shall also be formed.

### 3.2 Determining Issues

Section 25 of the Town and Country Planning (Scotland) Act 1997 states - Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise.

Do the proposals comply with the development plan?

If the proposals do comply with the development plan, are there any compelling reasons for not approving them?

If the proposals do not comply with the development plan, are there any compelling reasons for approving them?

### 3.3 Assessment

To address these determining issues, it needs to be considered whether:

- a) the principle of the proposal is acceptable;
- b) the design, form and mass detract from the landscape quality and/or rural character of the area;
- c) the proposal will have an unacceptable impact in terms of amenity;
- d) other material planning matters have been addressed; and
- e) any comments have been addressed.

### **a) Principle of Development**

The site lies within a countryside policy area and Policy Env 10 (Development in the Green Belt and Countryside) states that development will only be permitted where it meets one of the four criteria and would not detract from the landscape quality and/or rural character of the area. In this case, criteria a) applies and this states the development should be:

*For the purposes of agriculture, woodland and forestry, horticulture or countryside recreation, or where a countryside location is essential and provided any buildings, structures or hard standing areas are of a scale and quality of design appropriate to the use.*

In addition to the statutory policy, the non-statutory Guidance on Development in the Countryside and Green Belt (February 2019) provides clarity on the definition of agricultural buildings; it states

*For the breeding and keeping of livestock, storage of crops or machinery (excluding for the storage of goods where this is unconnected with any form of agricultural activity).*

In conclusion, the principle of the agricultural building proposed is acceptable provided it would not detract from the landscape quality and/or rural character of the area.

### **b) Impact of Landscape Quality/Rural Character**

LDP Policy Des 1 (Design Quality and Context) requires new development to be of a high standard of design, and to create or contribute to a sense of place. In addition, LDP Policy Des 4 (Development Design -Impact on Setting) requires new development to have a positive impact on its surroundings, including surrounding landscape and townscape character, and impact on existing views. This includes in terms of height and form, scale and proportions, positioning of buildings, and materials and detailing.

LDP policy Env 11 (Special Landscape Areas) states that planning permission will not be granted for development which would have a significant adverse impact upon the special character or qualities of the Special Landscape Area (SLA).

The application site falls right on the edge of the defined Ratho Hills SLA. The 2010 review of Local Landscape Designations states that *the Ratho Hills are a unique landscape feature within rural Edinburgh. Despite the nearby presence of the M8 and quarrying activity out with the viewshed, the combination of landform and land cover is of local scenic value and contributes to Ratho's identity and relatively tranquil setting.*

The site lies just off Bonnington Road (B7030). Surrounding the site is largely agricultural land which is under the ownership of the applicant. However there are a few residential properties directly to the east and west of the site. The surrounding rural landscape has an open aspect, with views towards the Forth Bridges and the Lomond and Ochil hills to the north, and to the Pentland hills to the south.

The site lies on a slight ridge running east to west, and although the surrounding farmland is undulating, the existing selection of large grey corrugated metal structures are clearly visible especially from the B7030 heading south. Although the site does lie within the defined SLA, it is on the boundary, and this specific site cannot be said to contribute to the landscape integrity of the area.

The landscape quality of the site is therefore already limited. Its rural character exists only in that these are the type of buildings which must be expected as part of long established agricultural farming practices within the countryside.

The agricultural building will be constructed from concrete wall panels, steel profile wall cladding and a pitched fibre cement roof, very similar to the buildings already on the site. It will measure 61 metres in length by 24.4 metres in width. It will have a maximum height of approximately 12.5 metres.

If heading north along the B7030 the proposal shall be shielded to a good extent by the existing structures that will remain on the site. Views from the A71 to the south will also be largely unaffected as there will still be three large sheds positioned in front of the proposal with the maximum height of the proposed building extending between 2 and 4 metres (approximately) above the remaining predominant structures.

It is acknowledged that heading south on the B7030 the proposed building will be taller than existing structures on the site and will be highly visible. However, although the proposed building is large (1420 square metres) its overall floor space shall be less than the selection of buildings currently on the site which will be demolished in order to facilitate the development. There is currently a large farm building which is sited east-west to the north of the site which will be demolished. The removal of this structure should mitigate the overall physical impact of the development when viewed travelling south along the B7030.

The development is of a scale appropriate to its use and given the existing built environment of the site the development will blend in and will have a minimal impact on the rural character of the surrounding area.

It must also be acknowledged that this is a long established farm with a functional cluster of agricultural buildings constructed within this particular site. The applicant has stated that the existing agricultural buildings are no longer suitable for the storage of grain and the proposal will help them comply with new regulations while making the farm more productive and safer.

Overall, given its purpose and the existing surrounding built environment it is compatible with the rural character of the area in terms of height, form, mass, design and materials and there will be no adverse impacts on landscape quality.

The proposals comply with policies Des 1, Des 4 and Env 11.

### **c) Amenity**

LDP policy Des 5 states that planning permission will be granted for development where it is demonstrated that the amenity of neighbouring developments is not adversely affected.

It is noted that there is a cottage located to the west of the site, on the other side of the B7030, approximately 30 metres away from the proposal. Given the separation distances involved there are no concerns with regards to the potential loss of sunlight/daylight resulting to this property as a result of the development. Once the shed has been constructed, it is acknowledged that the immediate outlook of this cottage shall be of their garden, the road and then the large proposed shed. However, this cottage already overlooks a large area of agricultural sheds. The applicant could also construct a smaller shed on this site, which could have a broadly similar impact in terms of the cottages outlook, under the terms of the agricultural permitted development rights.

It is also acknowledged that the proposed structure will be sited further away from the properties which are located to the east of the site.

The proposal complies with LDP policy Des 5.

### **d) Other Planning Considerations**

#### Access and Road Safety

This is already a long established farm with an existing access road to the grain stores. No alterations to the accesses are proposed. Indeed the proposal will permit a new turning area within the site. The Roads Authority was consulted as part of the assessment of the application and had no objections.

#### Flooding and Drainage

LDP Policy Env 21 (Flood Protection) requires that development does not result in increased flood risk on or off site. SEPA flood maps do not indicate that the site is in an area at risk of flooding, either pluvial or fluvial. There is no known risk to flooding on the site. Much of the site is already covered in concrete/hard landscaping. A new concrete yard area is also proposed. The consent has been conditioned to ensure that a suitable surface water management plan must be submitted for the written approval of the Council as Planning Authority prior to any work commencing on site.

The proposal complies with LDP policy Env 21.

#### Ecology

LDP policy Env 16 states that planning permission will not be granted for development that would have an adverse impact on species protected under European or UK law.

The Councils ecologist was consulted as part of the assessment of the application and confirmed that they had no objections.

The proposal complies with LDP policy Env 16.

#### **d) Public Comments**

None received.

It is recommended that this application be Granted subject to the details below.

#### **3.4 Conditions/reasons/informatives**

##### **Conditions:-**

1. Development shall not commence until a Bird Hazard Management Plan has been submitted to and approved in writing by the Planning Authority. The submitted plan shall include details of:

- monitoring of any standing water within the site temporary or permanent
- sustainable urban drainage schemes (SUDS) - Such schemes shall comply with Advice Note 3 'Wildlife Hazards' (available at <http://www.aoa.org.uk/policy-campaigns/operations-safety/>).
- management of any flat/shallow pitched/green roofs on buildings within the site which may be attractive to nesting, roosting and "loafing" birds. The management plan shall comply with Advice Note 3 'Wildlife Hazards.'
- reinstatement of grass areas
- maintenance of planted and landscaped areas, particularly in terms of height and species of plants that are allowed to grow
- which waste materials can be brought on to the site/what if any exceptions e.g. green waste
- monitoring of waste imports (although this may be covered by the site licence)
- physical arrangements for the collection (including litter bins) and storage of putrescible waste, arrangements for and frequency of the removal of putrescible waste
- signs deterring people from feeding the birds.

The Bird Hazard Management Plan shall be implemented as approved, on completion of the development and shall remain in force for the life of the building. No subsequent alterations to the plan are to take place unless

first submitted to and approved in writing by the Planning Authority.

2. No demolition/development shall take place on the site until the applicant has secured and implemented a programme of archaeological work (historic building survey, excavation, analysis & reporting, publication) in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.

3. Prior to any work commencing on site a surface water management plan shall be submitted for the written approval of the Council as Planning Authority. Details of the self certification process and guidance can be found in the link below.

CEC Flood Planning Self-Certification Requirements and Guidance:

[http://www.edinburgh.gov.uk/info/20045/flooding/1584/flood\\_planning\\_application](http://www.edinburgh.gov.uk/info/20045/flooding/1584/flood_planning_application)

4. Prior to work commencing on site further details of all external materials, including colours, proposed for the external walls and roof of the development, hereby approved, shall be submitted for the written approval of the Council as Planning Authority.

#### **Reasons:-**

1. It is necessary to manage the development in order to minimise its attractiveness to birds which could endanger the safe movement of aircraft and the operation of Edinburgh Airport.

2. In order to secure and record any archeological artifacts within the site.

3. In order to ensure all concerns in relation to surface water management are addressed.

4. In order to protect the special landscape area.

#### **Informatives**

It should be noted that:

1. The development hereby permitted shall be commenced no later than the expiration of three years from the date of this consent.

2. No development shall take place on the site until a 'Notice of Initiation of Development' has been submitted to the Council stating the intended date on which the development is to commence. Failure to do so constitutes a breach of planning control, under Section 123(1) of the Town and Country Planning (Scotland) Act 1997.

3. As soon as practicable upon the completion of the development of the site, as authorised in the associated grant of permission, a 'Notice of Completion of Development' must be given, in writing to the Council.

4. The Bird Hazard Management Plan must ensure that flat/shallow pitched roofs be constructed to allow access to all areas by foot using permanent fixed access stairs ladders or similar. The owner/occupier must not allow gulls, to nest, roost or loaf on the building. Checks must be made weekly or sooner if bird activity dictates, during the breeding season. Outside of the breeding season gull activity must be monitored and the roof checked regularly to ensure that gulls do not utilise the roof. Any gulls found nesting, roosting or loafing must be dispersed by the owner/occupier when detected or when requested by Edinburgh Airport Airside Operations staff. In some instances it may be necessary to contact Edinburgh Airport Airside Operations staff before bird dispersal takes place. The owner/occupier must remove any nests or eggs found on the roof.

The breeding season for gulls typically runs from March to June. The owner/occupier must obtain the appropriate licences where applicable from Scottish Natural Heritage before the removal of nests and eggs.

5. Given the nature of the proposed development it is possible that a crane may be required during its construction. We would, therefore, draw the applicant's attention to the requirement within the British Standard Code of Practice for the safe use of Cranes, for crane operators to consult the aerodrome before erecting a crane in close proximity to an aerodrome. This is explained further in Advice Note 4, 'Cranes' (available at <http://www.aoa.org.uk/policy-campaigns/operations-safe>)

## **Risk, Policy, compliance and governance impact**

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**4.1** Provided planning applications are determined in accordance with statutory legislation, the level of risk is low.

## **Equalities impact**

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### **5.1 The equalities impact has been assessed as follows:**

The application has been assessed and has no impact in terms of equalities or human rights.

## Consultation and engagement

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### 6.1 Pre-Application Process

There is no pre-application process history.

### 6.2 Publicity summary of representations and Community Council comments

No representations have been received.

## Background reading / external references

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- To view details of the application go to
- [Planning and Building Standards online services](#)

## Statutory Development

### Plan Provision

**Date registered** 29 October 2019

**Drawing numbers/Scheme** 01;02;03a;04;05;06,  
Scheme 1

David R. Leslie  
Chief Planning Officer  
PLACE  
The City of Edinburgh Council

Contact: Robert McIntosh, Planning Officer  
E-mail:robert.mcintosh@edinburgh.gov.uk Tel:0131 529 3422

## Links - Policies

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### Relevant Policies:

LDP Policy Des 1 (Design Quality and Context) sets general criteria for assessing design quality and requires an overall design concept to be demonstrated.

### **Relevant policies of the Local Development Plan.**

LDP Policy Des 1 (Design Quality and Context) sets general criteria for assessing design quality and requires an overall design concept to be demonstrated.

LDP Policy Des 4 (Development Design - Impact on Setting) sets criteria for assessing the impact of development design against its setting.

LDP Policy Des 5 (Development Design - Amenity) sets criteria for assessing amenity.

LDP Policy Env 10 (Development in the Green Belt and Countryside) identifies the types of development that will be permitted in the Green Belt and Countryside.

LDP Policy Env 11 (Special Landscape Areas) establishes a presumption against development that would adversely affect Special Landscape Areas.

LDP Policy Env 16 (Species Protection) sets out species protection requirements for new development.

LDP Policy Env 21 (Flood Protection) sets criteria for assessing the impact of development on flood protection.

### **Relevant Non-Statutory Guidelines**

**Non-statutory guidelines** DEVELOPMENT IN THE COUNTRYSIDE AND GREEN BELT, provide guidance on development in the Green Belt and Countryside in support of relevant local plan policies.

# Appendix 1

## Consultations

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### Environmental Protection

The applicant proposes replacing agricultural buildings with a new larger building on the same area. Environmental Protection would offer no objection however would recommend that the applicant investigates the installation of photo voltaic panels on the proposed roof area.

Therefore, Environmental Protection offer no objection to this proposal.

### Roads Authority

No objections.

END

Robert McIntosh  
City of Edinburgh Council  
By email

13 December 2019

Dear Robert

**Your Ref:** 19/05171/FUL  
**Development:** Erection of a steel agricultural building at Bonnington Farm, Kirknewton EH27 8BB  
**Our Ref:** EDI2845

The proposed development has been examined from an aerodrome safeguarding perspective and could conflict with safeguarding criteria unless any planning permission granted is subject to the conditions detailed below:

**Submission of a Bird Hazard Management Plan**

Development shall not commence until a Bird Hazard Management Plan has been submitted to and approved in writing by the Planning Authority. The submitted plan shall include details of:

- *monitoring of any standing water within the site temporary or permanent*
- *sustainable urban drainage schemes (SUDS) – Such schemes shall comply with Advice Note 3 ‘Wildlife Hazards’ (available at <http://www.aoa.org.uk/policy-campaigns/operations-safety/>).*
- *management of any flat/shallow pitched/green roofs on buildings within the site which may be attractive to nesting, roosting and “loafing” birds. The management plan shall comply with Advice Note 3 ‘Wildlife Hazards.’*
- *reinstatement of grass areas*
- *maintenance of planted and landscaped areas, particularly in terms of height and species of plants that are allowed to grow*
- *which waste materials can be brought on to the site/what if any exceptions e.g. green waste*
- *monitoring of waste imports (although this may be covered by the site licence)*
- *physical arrangements for the collection (including litter bins) and storage of putrescible waste, arrangements for and frequency of the removal of putrescible waste*
- *signs deterring people from feeding the birds.*

The Bird Hazard Management Plan shall be implemented as approved, on completion of the development and shall remain in force for the life of the building. No subsequent alterations to the plan are to take place unless first submitted to and approved in writing by the Planning Authority.

**Reason:** It is necessary to manage the development in order to minimise its attractiveness to birds which could endanger the safe movement of aircraft and the operation of Edinburgh Airport.

*The Bird Hazard Management Plan must ensure that flat/shallow pitched roofs be constructed to allow access to all areas by foot using permanent fixed access stairs ladders or similar. The owner/occupier must not allow gulls, to nest, roost or loaf on the building. Checks must be made weekly or sooner if bird activity dictates, during the breeding season. Outside of the breeding season gull activity must be monitored and the roof checked regularly to ensure that gulls do not utilise the roof. Any gulls found nesting, roosting or loafing must be dispersed by the owner/occupier when detected or when requested by Edinburgh Airport Airside Operations staff. In some instances it may be necessary to contact Edinburgh Airport Airside Operations staff before bird dispersal takes place. The owner/occupier must remove any nests or eggs found on the roof.*

*The breeding season for gulls typically runs from March to June. The owner/occupier must obtain the appropriate licences where applicable from **Scottish Natural Heritage** before the removal of nests and eggs.*

We would also make the following observations:

### **Cranes**

Given the nature of the proposed development it is possible that a crane may be required during its construction. We would, therefore, draw the applicant's attention to the requirement within the British Standard Code of Practice for the safe use of Cranes, for crane operators to consult the aerodrome before erecting a crane in close proximity to an aerodrome. This is explained further in Advice Note 4, 'Cranes' (available at <http://www.aoa.org.uk/policy-campaigns/operations-safety/>)

It is important that any conditions requested in this response are applied to a planning approval. Where a Planning Authority proposes to grant permission against the advice of Edinburgh Airport, or not to attach conditions which Edinburgh Airport has advised, it shall notify Edinburgh Airport, and the Civil Aviation Authority and the Scottish Ministers as specified in the Safeguarding of Aerodromes Direction 2003.

Yours sincerely



Claire Brown  
Edinburgh Airport Limited  
0131 344 3359  
[safeguarding@edinburghairport.com](mailto:safeguarding@edinburghairport.com)

## Memorandum

**To** Head of Planning  
City of Edinburgh Council  
Planning and Transport  
Place  
Waverley Court  
4 East Market Street  
Edinburgh  
EH8 8BG

F.A.O Robert McIntosh

**From** John A Lawson

**Date** 9<sup>th</sup> December 2019

**Your ref** 19/05171/FUL

**Our ref** 19/05171/FUL

Dear Robert,

### **Bonnington Farm Bonnington**

Further to your consultation request I would like to make the following comments and recommendations concerning this application for the erection of a steel portal frame agricultural building.

Historically the site of Bonnington Farm has been associated with farming since at least the 14<sup>th</sup> century, occurring at the eastern end of the suspected limits for the medieval fermtoun of the same name. This settlement was first recorded as Bondington around 1315 and by the end of the medieval period may have supported up to forty families (Harris, Place Names of Edinburgh). Although much altered with later additions the core of the present farmhouse would appear to have been constructed during the period of agricultural improvement of the late-18<sup>th</sup> and early-19<sup>th</sup> centuries as they relate to buildings shown on the 1<sup>st</sup> Edition OS map of 1852.

This map also depicts a large rectangular steading on the site of the current agricultural buildings. The eastern range of the modern farm buildings is formed by the outer walls of these earlier 19<sup>th</sup> century steading buildings.

The eastern side of the current farm buildings contain the upstanding remains of the farm's 19<sup>th</sup> century steading, considered to be of local archaeological interest, and also occurs within an area of archaeological potential relating to the medieval 'fermtoun' of Bonnington. Accordingly, this application must be considered under terms Scottish Government's Our Place in Time (OPIT), Scottish Planning

**Lynne Halfpenny, Director of Culture, Cultural Services, Place**

City of Edinburgh Council Archaeology Service, Museum of Edinburgh, 142 Canongate, Edinburgh, EH8 8DD

Tel 0131 558 1040

John.lawson@edinburgh.gov.uk

Policy (SPP), Historic Environment Scotland's Policy Statement (HESPS) 2016 and Archaeology Strategy and CEC's Edinburgh Local Development Plan (2016) Policy ENV9.

The proposed development will require the demolition of the current agricultural buildings occupying the site, which contain the 19<sup>th</sup> century remains of the eastern range of the farm's former steading. It is essential therefore that a historic building survey (annotated and phased internal and external elevations and plan, photographic and written survey and analysis) is undertaken of the surviving elements of this historic steading prior to demolition.

In addition, not only does the current site overly that of the former Bonnington Mains Steading, but it also occurs on the suspected eastern limits for the medieval fermtoun of Bonnington. Accordingly, any archaeological remains that may survive *in situ* below ground within this area could provide important information regarding the origins and development of not only the farm but possibly also of the earlier medieval settlement. Therefore, it is essential that a suitable programme of archaeological works is undertaken during all ground-breaking works (including those relating to demolition activities) in order to fully record, excavate and analyse any significant surviving buried archaeological remains that may be disturbed.

It is recommended that the following condition is attached to any granted permission to ensure that this programme of archaeological works is undertaken;

'No demolition/development shall take place on the site until the applicant has secured and implemented a programme of archaeological work (historic building survey, excavation, analysis & reporting, publication) in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.'

The work must be carried out by a professional archaeological organisation, either working to a brief prepared by CECAS or through a written scheme of investigation submitted to and agreed by CECAS for the site. Responsibility for the execution and resourcing of the programme of archaeological works and for the archiving and appropriate level of publication of the results lies with the applicant.

Please contact me if you require any further information.

Yours faithfully



**John A Lawson**  
**Archaeology Officer**

To: Robert McIntosh

From: Andrew Campbell, Environmental Protection

Date: 21/11/2019

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

19/05171/FUL | Erection of steel portal frame Agricultural Building. | Bonnington Farm Bonnington Kirknewton

The applicant proposes replacing agricultural buildings with a new larger building on the same area. Environmental Protection would offer no objection however would recommend that the applicant investigates the installation of photo voltaic panels on the proposed roof area.

Therefore, Environmental Protection offer no objection to this proposal.

# MEMORANDUM

PLACE

To: **Robert McIntosh**

Our Ref: T/TP/DC/41944/MS

Your Ref: 19/05171/FUL

Date: 20 December 2019

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

**PLANNING APPLICATION NO: 19/05171/FUL**

**FOR: ERECTION OF STEEL PORTAL FRAME AGRICULTURAL BUILDING**

**AT: BONNINGTON FARM, BONNINGTON, KIRKNEWTON, EH27 8BB**

## **ROADS AUTHORITY ISSUES**

No objections to the application.

**Matthew Simpson**

**Tel: 3-3426**

## Advice : HSL-200107141327-370 DO NOT ADVISE AGAINST

**Your Ref:** 19/05171/FUL

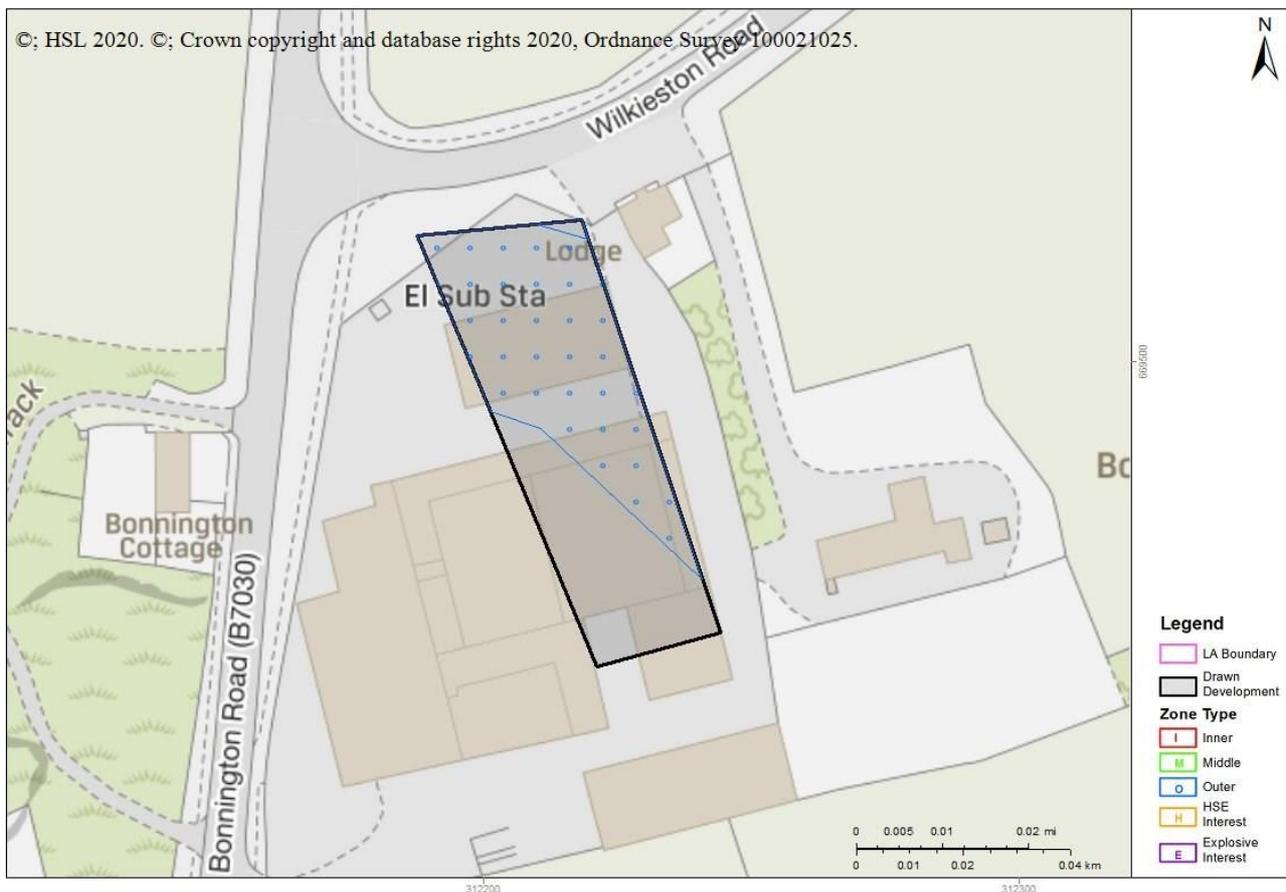
**Development Name:** Bonnington

**Comments:** Agricultural Building

Land Use Planning Consultation with Health and Safety Executive [Town and Country Planning (Development Management Procedure) (England) Order 2015, Town and Country Planning (Development Management Procedure) (Wales) Order 2012, or Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013]

The Health and Safety Executive (HSE) is a statutory consultee for certain developments within the Consultation Distance of Major Hazard Sites/ pipelines. This consultation, which is for such a development and is within at least one Consultation Distance, has been considered using HSE's planning advice web app, based on the details input on behalf of City of Edinburgh.

**HSE's Advice: Do Not Advise Against, consequently, HSE does not advise, on safety grounds, against the granting of planning permission in this case.**



Commercial In Confidence

**Breakdown:**

## Workplaces DAA

Is it a workplace specifically for people with disabilities, e.g. sheltered workshops? No

Are there 100 or more occupants in any individual workplace building (that lie partly or wholly within a consultation distance)? No

Are there 3 or more occupied storeys in any workplace building (that lie partly or wholly within a consultation distance)? No



## Pipelines

7926\_2183 National Grid Gas PLC 7931\_2188 Scotland Gas Network Ltd

As the proposed development is within the Consultation Distance of a major hazard pipeline you should consider contacting the pipeline operator before deciding the case. There are two particular reasons for this:

- The operator may have a legal interest (easement, wayleave etc.) in the vicinity of the pipeline. This may restrict certain developments within a certain proximity of the pipeline.
- The standards to which the pipeline is designed and operated may restrict occupied buildings or major traffic routes within a certain proximity of the pipeline. Consequently there may be a need for the operator to modify the pipeline, or its operation, if the development proceeds.

HSE's advice is based on the situation as currently exists, our advice in this case will not be altered by the outcome of any consultation you may have with the pipeline operator.

This advice report has been generated using information supplied by Elaine Campbell at City of Edinburgh on 07 January 2020.

HSL-200107141327-370 Date enquiry completed :07 January 2020 (312217,669486)

Note that any changes in the information concerning this development would require it to be re-submitted.

ROBERT MCINTOSH  
City of Edinburgh Council  
Waverley Court

Level G:3  
4 East Market Street  
Edinburgh  
EH8 8BG

**Date:** 02/03/2020

**Our Ref:** XX\_GS1C\_3NWP\_022838

**Your Ref:** 19/05171/FUL (TC)

**RE: Formal Planning Application, EH27 8BB BONNINGTON MAINS FARM WILKIESTON KIRKNEWTON**

Thank you for your enquiry which was received on 02/03/2020.  
Please note this response and any attached map(s) are valid for 28 days.

An assessment has been carried out with respect to Cadent Gas Limited, National Grid Electricity Transmission plc's and National Grid Gas Transmission plc's apparatus. Please note it does not cover the items listed in the section "Your Responsibilities and Obligations", including gas service pipes and related apparatus.

For details of Network areas please see the Cadent website (<http://cadentgas.com/Digging-safely/Dial-before-you-dig>) or the enclosed documentation.

### **Are My Works Affected?**

Searches based on your enquiry have identified that there is no record of apparatus in the immediate vicinity of your enquiry.

**Cadent and National Grid therefore have no objection to these proposed activities.**

Plant Protection  
Cadent  
Block 1; Floor 1  
Brick Kiln Street  
Hinckley  
LE10 0NA  
E-mail: [plantprotection@cadentgas.com](mailto:plantprotection@cadentgas.com)  
Telephone: +44 (0)800 688588

**National Gas Emergency Number:**  
**0800 111 999\***

**National Grid Electricity Emergency Number:**  
**0800 40 40 90\***

\* Available 24 hours, 7 days/week.  
Calls may be recorded and monitored.

[www.cadentgas.com](http://www.cadentgas.com)

The contractor should contact Plant Protection before any works are carried out to ensure the apparatus is not affected by any of the proposed works.

## Your Responsibilities and Obligations

The "Assessment" Section below outlines the detailed requirements that must be followed when planning or undertaking your scheduled activities at this location.

It is your responsibility to ensure that the information you have submitted is accurate and that all relevant documents including links are provided to all persons (either direct labour or contractors) working for you near Cadent and/or National Grid's apparatus, e.g. as contained within the Construction (Design and Management) Regulations.

This assessment solely relates to Cadent Gas Limited, National Grid Electricity Transmission plc (NGET) and National Grid Gas Transmission plc (NGGT) and apparatus. This assessment does **NOT** include:

- | Cadent and/or National Grid's legal interest (easements or wayleaves) in the land which restricts activity in proximity to Cadent and/or National Grid's assets in private land. You must obtain details of any such restrictions from the landowner in the first instance and if in doubt contact Plant Protection.
- | Gas service pipes and related apparatus
- | Recently installed apparatus
- | Apparatus owned by other organisations, e.g. other gas distribution operators, local electricity companies, other utilities, etc.

It is **YOUR** responsibility to take into account whether the items listed above may be present and if they could be affected by your proposed activities. Further "Essential Guidance" in respect of these items can be found on either the [National Grid](#) or [Cadent](#) website.

This communication does not constitute any formal agreement or consent for any proposed development work; either generally or with regard to Cadent and/or National Grid's easements or wayleaves nor any planning or building regulations applications.

Cadent Gas Limited, NGGT and NGET or their agents, servants or contractors do not accept any liability for any losses arising under or in connection with this information. This limit on liability applies to all and any claims in contract, tort (including negligence), misrepresentation (excluding fraudulent misrepresentation), breach of statutory duty or otherwise. This limit on liability does not exclude or restrict liability where prohibited by the law nor does it supersede the express terms of any related agreements.

If you require further assistance please contact the Plant Protection team via e-mail ([click here](#)) or via the contact details at the top of this response.

Yours faithfully

Plant Protection Team

# ASSESSMENT

## Affected Apparatus

The apparatus that has been identified as being in the vicinity of your proposed works is:

- | National Gas Transmission Pipelines and associated equipment

## Requirements

### **BEFORE carrying out any work you must:**

- | Carefully read these requirements including the attached guidance documents and maps showing the location of apparatus.
- | Contact the landowner and ensure any proposed works in private land do not infringe Cadent and/or National Grid's legal rights (i.e. easements or wayleaves). If the works are in the road or footpath the relevant local authority should be contacted.
- | Ensure that all persons, including direct labour and contractors, working for you on or near Cadent and/or National Grid's apparatus follow the requirements of the HSE Guidance Notes HSG47 - 'Avoiding Danger from Underground Services' and GS6 – 'Avoidance of danger from overhead electric power lines'. This guidance can be downloaded free of charge at <http://www.hse.gov.uk>
- | In line with the above guidance, verify and establish the actual position of mains, pipes, cables, services and other apparatus on site before any activities are undertaken.

# GUIDANCE

## **High Pressure Gas Pipelines Guidance:**

If working in the vicinity of a high pressure gas pipeline the following document must be followed: 'Specification for Safe Working in the Vicinity of Cadent and/or National Grid High Pressure Gas Pipelines and Associated Installations - Requirements for Third Parties' (SSW22). This can be obtained from: <http://www2.nationalgrid.com/WorkArea/DownloadAsset.aspx?id=33968>

## **National High Pressure Gas Pipelines Guidance:**

<http://www.nationalgrid.com/NR/rdonlyres/9934F173-04D0-48C4-BE4D-82294822D29C/51893/Above7barGasGuidance.pdf>

## **Dial Before You Dig Pipelines Guidance:**

<http://www2.nationalgrid.com/WorkArea/DownloadAsset.aspx?id=33969>

# Standard Guidance

## **Essential Guidance document:**

<http://www2.nationalgrid.com/WorkArea/DownloadAsset.aspx?id=8589934982>

## **General Guidance document:**

<http://www2.nationalgrid.com/WorkArea/DownloadAsset.aspx?id=35103>

## **Excavating Safely in the vicinity of gas pipes guidance (Credit card):**

<http://www.nationalgrid.com/NR/rdonlyres/A3D37677-6641-476C-9DDA-E89949052829/44257/ExcavatingSafelyCreditCard.pdf>

## **Excavating Safely in the vicinity of electricity cables guidance (Credit card):**

<http://www.nationalgrid.com/NR/rdonlyres/35DDEC6D-D754-4BA5-AF3C-D607D05A25C2/44858/ExcavatingSafelyCreditCardelectricitycables.pdf>

Copies of all the Guidance Documents can also be downloaded from the [National Grid](#) and [Cadent](#) websites.



ID: XX\_GS1C\_3NWP\_022838  
 USER: toby.cooper  
 DATE: 02/03/2020  
 DATA DATE: 01/03/2020  
 REF: 19/05171/FUL (TC)  
 MAP REF: NT1269  
 CENTRE: 312212, 669482

View extent: 2890m, 1570m

LP MAINS   
 MP MAINS   
 IP MAINS   
 LHP MAINS   
 NHP MAINS

0m 200m  
 Approximate scale 1:10000  
 on A4 Colour Landscape

**National Grid has no objection to this application**

This plan shows those pipes owned by Cadent Gas Limited in its role as a Licensed Gas Transporter (GT). Gas pipes owned by other GTs, or otherwise privately owned, may be present in this area. Information with regard to such pipes should be obtained from the relevant owners. The information shown on this plan is given without warranty, the accuracy thereof cannot be guaranteed. Service pipes, valves, syphons, stub connections, etc., are not shown but their presence should be anticipated. No liability of any kind whatsoever is accepted by Cadent Gas Limited or their agents, servants or contractors for any error or omission. Safe digging practices, in accordance with HS(G)47, must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to all persons (either direct labour or contractors) working for you on or near gas apparatus. The information included on this plan should not be referred to beyond a period of 28 days from the date of issue.

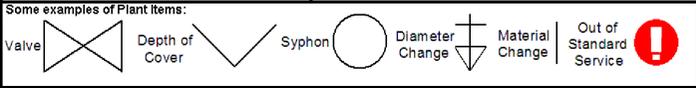
Map 1 of 1 (GAS)

MAPS Plot Server Version 1.11.0

**Your Gas Network**

Requested by: City of Edinburgh Council

This plan is reproduced from or based on the OS map by Cadent Gas Limited, with the sanction of the controller of HM Stationery Office. Crown Copyright Reserved. Ordnance Survey Licence number 100024886



# ENQUIRY SUMMARY

## Received Date

02/03/2020

## Your Reference

19/05171/FUL (TC)

## Location

Centre Point: 312212, 669482

X Extent: 64

Y Extent: 76

Postcode: EH27 8BB

Location Description: EH27 8BB BONNINGTON MAINS FARM WILKIESTON KIRKNEWTON

## Map Options

Paper Size: A4

Orientation: LANDSCAPE

Requested Scale: 500

Actual Scale: 1:10000 (GAS)

Real World Extents: 2890m x 1570m (GAS)

## Recipients

pprsteam@cadentgas.com

## Enquirer Details

Organisation Name: City of Edinburgh Council

Contact Name: ROBERT MCINTOSH

Email Address: Robert.McIntosh@edinburgh.gov.uk

Telephone: 0131 529 3422

Address: Waverley Court, , Level G:3, 4 East Market Street, Edinburgh, EH8 8BG

## Description of Works

P/A - Erection of a steel portal frame agricultural building (SP)

## Enquiry Type

Formal Planning Application

## Development Types

Development Type: Development for use by General Public

Business Centre G.2 Waverley Court 4 East Market Street Edinburgh EH8 8BG Email: [planning.support@edinburgh.gov.uk](mailto:planning.support@edinburgh.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 100262730-001

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

## Applicant or Agent Details

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

Applicant  Agent

## Agent Details

Please enter Agent details

Company/Organisation:	Geddes Consulting		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Andrew	Building Name:	The Quadrant
Last Name: *	Marshall	Building Number:	17
Telephone Number: *		Address 1 (Street): *	Bernard Street
Extension Number:		Address 2:	Leith
Mobile Number:		Town/City: *	Edinburgh
Fax Number:		Country: *	UK
		Postcode: *	EH6 6PW
Email Address: *			

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

Individual  Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text" value="Bonnington Farm"/>
First Name: *	<input type="text"/>	Building Number:	<input type="text"/>
Last Name: *	<input type="text"/>	Address 1 (Street): *	<input type="text" value="Bonnington Farm"/>
Company/Organisation	<input type="text" value="Robert Robertson &amp; Son"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Kirknewton"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="UK"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="EH278BB"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="REDACTED"/>		

## Site Address Details

Planning Authority:	<input type="text" value="City of Edinburgh Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text"/>
Post Code:	<input type="text"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="669462"/>	Easting	<input type="text" value="312196"/>
----------	-------------------------------------	---------	-------------------------------------

## Description of Proposal

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

Erection of steel portal frame Agricultural Building

## Type of Application

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

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

What does your review relate to? \*

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

## Statement of reasons for seeking review

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

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

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

Refer to Appeal Statement

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

Yes  No

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

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

Refer to Appendix 2 of Appeal Statement

## Application Details

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

19/05171/FUL

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

29/10/2019

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

09/03/2020

## Review Procedure

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

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

Yes  No

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

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

Yes  No

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

Yes  No

## Checklist – Application for Notice of Review

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

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

Yes  No

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

Yes  No

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

Yes  No  N/A

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

Yes  No

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

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

Yes  No

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

## **Declare – Notice of Review**

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

Declaration Name: Mr Stuart Salter

Declaration Date: 03/06/2020

## Proposal Details

Proposal Name	100262730
Proposal Description	LRB
Address	
Local Authority	City of Edinburgh Council
Application Online Reference	100262730-001

## Application Status

Form	complete
Main Details	complete
Checklist	complete
Declaration	complete
Supporting Documentation	complete
Email Notification	complete

## Attachment Details

Notice of Review	System	A4
0_01 Application Form	Attached	A4
0_02 Location Plan	Attached	A4
0_04 PROPOSED BLOCK_PLAN	Attached	A1
0_03 EXISTING BLOCK PLAN	Attached	A1
0_05 PROPOSED BLOCK ROOF PLAN	Attached	A1
0_06 EXISTING AND PROPOSED ELEVATIONS	Attached	A2
0_07 PROPOSED ELEVATIONS AND PLAN	Attached	A2
0_08 GRAIN STORE SPECIFICATION	Attached	A4
0_09 ROOF CLADDING SPECIFICATION	Attached	A4
1_01 Edinburgh Airport Consultation	Attached	A4
1_02 Archaeology Consultation	Attached	A4
1_03 Environmental Protection Consultation	Attached	A4
1_04 Roads Consultation	Attached	A4
1_05 HANDLING REPORT	Attached	A4
1_06 DECISION NOTICE	Attached	A4
2_01 Appeal Statement Bonnington Mains Farm	Attached	A4
2_01 Planning Circular 4_1998 the	Attached	A4

use of conditions in planning  
permissions

Notice\_of\_Review-2.pdf

Attached

A0

Application\_Summary.pdf

Attached

A0

Notice of Review-001.xml

Attached

A0

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## Bonnington Mains Farm Appeal Statement

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- 1.1 This *Appeal Statement* (the Statement) has been prepared on behalf of Robert Robertson & Son (the Appellant) in support of an appeal to the Local Review Body against the City of Edinburgh Council's decision under delegated powers to grant planning permission subject to conditions for the ...erection of a steel portal frame agricultural building at Bonnington Mains Farm, Kirknewton (Planning Ref: 19/05171/FUL). Specifically, this Appeal relates to the imposition of planning conditions 1, 2 and 3 with the grant of planning permission.

### Proposal

- 1.2 The proposal seeks to replace approximately 2,600m<sup>2</sup> floor area of existing agricultural storage buildings at Bonnington Mains Farm with a single new grain store with a floor area of 1,420m<sup>2</sup>. The new store will be located on the footprint of the buildings to be replaced. The reduced floor area will allow for a safer access arrangement into the farm, with a turning area to be provided.
- 1.3 The replacement store will be of broadly the same design as existing buildings, with concrete panel walling, sheet metal cladding and concrete clad roofing. The ridge height of the new building will sit slightly above the existing ridge levels of adjacent buildings. A new concrete retaining wall will be erected around part of the replacement building to allow for the concrete hard standing to be renewed and tied into existing levels in the north of the site.

### Reason for Appeal

- 1.4 This Appeal seeks to review conditions 1, 2 and 3 and requests that these conditions are deleted as part of the grant of planning permission. These conditions require the submission and approval of the following:
- **Condition 1:** Bird Hazard Management Plan;
  - **Condition 2:** Programme of Archaeological Work (historic building survey, excavation, analysis & reporting, publication); and
  - **Condition 3:** Surface Water Management Plan.
- 1.5 The Appellant was not afforded an opportunity to comment on these conditions prior to determination of the Application nor invited to provide any additional information on these matters. No consultation responses were publicly available on the planning portal until after determination of the Application. As such, there was no indication such conditions would be attached to the consent.
- 1.6 The *Report of Handling* (Document 1.05) only states that the Council's Environmental Protection (Document 1.03) and Roads (Document 1.04) services were consulted and raised no objections. However, consultation Responses from Edinburgh Airport and the Council's Archaeology service were published online post-determination on the Applicant's request.
- 1.7 The Appellant considers that the three conditions are not necessary or reasonable in the context of the development. As such, the imposition of these conditions will result in unnecessary expense for the agricultural business, which is seeking to improve efficiency through the proposed replacement grain store. Compliance with these conditions will result in unnecessary financial burdens on the rural business at a time of great financial uncertainty.

1.8 Planning Circular 4/1998: *the use of conditions in planning permissions* (Document 2.02) sets out that ...as a matter of policy, conditions should only be imposed where they are:

- *necessary*
- *relevant to planning*
- *relevant to the development to be permitted*
- *enforceable*
- *precise, and*
- *reasonable in all other respects*

1.9 This Statement provides a brief assessment of the three conditions against the tests of Circular 4/1998.

1.10 Matters such as the principle of the development, design, roads, and amenity have all been assessed as acceptable in the *Report of Handling* (Document 1.05). As such, this Statement only seeks to address the three conditions and does not revisit matters that have already been found to be acceptable through the initial grant of planning permission.

1.11 This Statement should be read in conjunction with the documents set out in Appendix 2: *Appeal Document List*.

### **Bird Hazard Management Plan**

1.12 Condition 1 of the *Decision Notice* (Document 1.06) states that:

1. *Development shall not commence until a Bird Hazard Management Plan has been submitted to and approved in writing by the Planning Authority. The submitted plan shall include details of:*
  - *monitoring of any standing water within the site temporary or permanent*
  - *sustainable urban drainage schemes (SUDS) - Such schemes shall comply with Advice Note 3 'Wildlife Hazards' (available at <http://www.aoa.org.uk/policy-campaigns/operations-safety/>).*
  - *management of any flat/shallow pitched/green roofs on buildings within the site which may be attractive to nesting, roosting and "loafing" birds. The management plan shall comply with Advice Note 3 'Wildlife Hazards.'*
  - *reinstatement of grass areas*
  - *maintenance of planted and landscaped areas, particularly in terms of height and species of plants that are allowed to grow*
  - *which waste materials can be brought on to the site/what if any exceptions e.g. green waste*
  - *monitoring of waste imports (although this may be covered by the site licence)*
  - *physical arrangements for the collection (including litter bins) and storage of putrescible waste, arrangements for and frequency of the removal of putrescible waste*
  - *signs deterring people from feeding the birds.*

*The Bird Hazard Management Plan shall be implemented as approved, on completion of the development and shall remain in force for the life of the building. No subsequent alterations to the plan are to take place unless first submitted to and approved in writing by the Planning Authority.*

1.13 The imposition of the above condition requiring a Bird Hazard Management Plan is considered unnecessary and unreasonable for the following reasons:

- There is no current requirement for the agricultural business to implement a Bird Hazard Management Plan for the existing agricultural operations;
- The proposals will not introduce areas of standing water to the site and no SUDS features are proposed;
- There are no shallow, flat or green roofs proposed. The proposed roof is the same design and specification as existing and the total roof area on the site will be reduced significantly;
- There are no proposed soft landscaped or grass areas within the existing or proposed site; and
- There are no changes proposed to the way that waste materials are treated on the site.

1.14 For the above reasons, it is not considered that the submission and implementation of a Bird Hazard Management Plan is necessary to make the development acceptable in planning terms. Paragraph 13 of Circular 4/1998 further clarifies the *necessary* test of a planning condition:

*In considering whether a particular condition is necessary, authorities should ask themselves whether planning permission would have to be refused if that condition were not to be imposed. If it would not, then the condition needs special and precise justification. Planning authorities should also avoid imposing conditions through anxiety to guard against every possible contingency, however remote. The argument that a condition will do no harm is no justification for its imposition; as a matter of policy a condition ought not to be imposed unless there is a definite need for it.*

1.15 It is not considered it is necessary for planning permission to be refused if this condition is not attached. The Report of Handling (Document 1.05) makes no reference and provides no assessment of the requirement for the condition. Consultation with Edinburgh Airport is also not referred to.

1.16 The reason for condition 1 makes no reference to planning policy and simply states that:

*It is necessary to manage the development in order to minimise its attractiveness to birds which could endanger the safe movement of aircraft and the operation of Edinburgh Airport.*

1.17 There is no reference in the condition to clarify specifically why the replacement building should be considered any differently to the existing buildings and operations, or any reason why it is materially different in terms of likely impacts on bird hazard.

1.18 It is also not clear how such a condition would be enforced i.e. how the Council would monitor standing water, vegetation growth or general bird activity. Paragraph 26 of Circular 4/1998 states that:

*Sometimes a condition will be unenforceable because it is in practice impossible to detect an infringement. More commonly it will merely be difficult to prove a breach of its requirements.*

1.19 It is therefore considered that the condition fails to meet the test of enforceability.

1.20 It is also considered that the condition fails to meet the test of reasonableness, as there are no restrictions on the existing agricultural operations and the proposals seek to reduce the building area

on the site. The proposed development will have no material impact on likelihood of bird hazard at the site compared to the existing situation.

- 1.21 Condition 1 should be deleted from the planning permission on the basis it fails to meet the tests of necessity, enforceability and reasonableness in Circular 4/1998.

### **Archaeological Investigation**

- 1.22 Condition 2 of the *Decision Notice* (Document 1.06) states that:

2. *No demolition/development shall take place on the site until the applicant has secured and implemented a programme of archaeological work (historic building survey, excavation, analysis & reporting, publication) in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.*

- 1.23 The *Report of Handling* (Document 1.05) provides no assessment of the site's potential for archaeological remains, the reason for condition 2, nor any reference to a consultation with the Council's Archaeologist.

- 1.24 The consultation response from the Archaeologist (Document 1.02) was made available on the planning portal post-determination of the Application on request. The Appellant was therefore unaware that such a condition would be sought or afforded an opportunity to respond to the request.

- 1.25 The consultation response (Document 1.02) states that a historic building survey should be undertaken prior to any demolition of existing buildings on the basis that part of the existing farm buildings comprise of 19<sup>th</sup> Century agricultural buildings. A programme of investigation and excavation is also requested during any ground-breaking works due to the general potential for archaeological remains in the wider area.

- 1.26 The demolition of a non-residential building that does not share an adjoining wall with a dwellinghouse is permitted development under Class 70 of *The Town and Country Planning (General Permitted Development) (Scotland) Order 1992*. The existing agricultural buildings could therefore be demolished at any time without requiring planning permission or prior notification. Condition 2 is therefore unreasonable on the basis that it requires the recording of the buildings.

- 1.27 The requirement for condition 2 also needs to be considered in the context of the existing site and proposals, including the following matters:

- None of the buildings to be removed are listed, scheduled, or subject to any other statutory historic designations;
- The replacement buildings will be on the footprint of buildings to be removed;
- The ground has already been disturbed by previous development of the existing steading, which did not require archaeological investigation;
- The Appellant can confirm that the ground on the site is hard rock;
- There will only be a modest change in part of the site levels, where the concrete hard standing will be renewed. The overall extent of development will not increase; and
- Only a very small part of a stone building will be removed, which has already been altered. The remainder of the buildings are concrete sheet construction. The only substantive remaining stone building will be retained (refer to Appendix 1: *Site Pictures*).

- 1.28 Taking into account the above matters, it is not considered that the planning condition is necessary to make the proposal acceptable in planning terms. The reason for the condition also makes no reference to the specifics of the site or LDP policy. It simply states that the condition is required ...*In order to secure and record any archaeological artefacts within the site.* The condition therefore fails to meet the test of necessity.
- 1.29 Given the scale and nature of the proposal, it is also not considered that the condition is reasonable on the basis it will incur unnecessary expense to the Appellant, which is proposing to improve the operational efficiency of the existing agricultural building in a viable manner.
- 1.30 Condition 2 should be deleted from the planning permission on the basis it fails to meet the tests of necessity and reasonableness in Circular 4/1998.

### **Surface Water Management Plan**

- 1.31 Condition 3 of the *Decision Notice* (Document 1.06) states that:
3. *Prior to any work commencing on site a surface water management plan shall be submitted for the written approval of the Council as Planning Authority. Details of the self certification process and guidance can be found in the link below.*
- CEC Flood Planning Self-Certification Requirements and Guidance:  
[http://www.edinburgh.gov.uk/info/20045/flooding/1584/flood\\_planning\\_application](http://www.edinburgh.gov.uk/info/20045/flooding/1584/flood_planning_application)*

- 1.32 The *Report of Handling* (Document 1.05) states that:
- There is no known risk to flooding on the site. Much of the site is already covered in concrete/hard landscaping. A new concrete yard area is also proposed. The consent has been conditioned to ensure that a suitable surface water management plan must be submitted for the written approval of the Council as Planning Authority prior to any work commencing on site.*
- 1.33 The imposition of condition 3 fails to take into account that the entire existing site is either hard standing concrete or buildings. The proposals will make use of the existing drainage arrangements on the site. The proposals also do not seek to extend the area of development beyond the existing site or increase the area of impermeable surfaces, i.e. the whole site is already developed. Condition 3 therefore fails to accord with the reasonableness test of Circular 4/1998.
- 1.34 The reason for the condition simply states that it is required ...*In order to ensure all concerns in relation to surface water management are addressed.* There is no consultation response or assessment in the *Report of Handling* (Document 1.05) that identifies what the specific *concerns* in relation to surface water management are. The proposal will not result in any material impact on surface water compared to the existing situation. It is therefore not considered that condition 3 is necessary to make the proposals acceptable in planning terms.
- 1.35 Condition 2 should be deleted from the planning permission on the basis it fails to meet the tests of necessity and reasonableness in Circular 4/1998.

### **Conclusions**

- 1.36 The Appellant considers that conditions 1, 2 and 3 have been imposed on the grant of planning permission without due regard for the nature and context of the proposals and whether there are any material impacts arising. The Appellant notes that it has not been afforded the opportunity to comment on these conditions until after the determination. Consultation responses were also not available until post-determination.

- 1.37 A condition should not be attached to the grant of planning permission purely on the basis it has been requested through consultation, without proper consideration on planning grounds. It is not considered that sufficient assessment or reasoning has been provided in the *Report of Handling* (Document 1.05) or Notice (Document 1.06) to demonstrate that these conditions are justified.
- 1.38 As demonstrated in this Statement, conditions 1, 2 and 3 fail to meet a number of the tests of Circular 4/1998 and should be deleted from the grant of planning permission. None of these conditions are *necessary* to make the proposals acceptable in planning terms or reasonable in the context of the existing development and operations on the site. None of them have been imposed to address material impacts arising from the proposal.
- 1.39 The imposition of conditions 1, 2 and 3 also places an unnecessary financial burden on the existing rural agricultural business. The proposals seek to replace buildings that are no longer fit for purpose and also improve the safety of the access arrangements, in a cost-efficient manner. Compliance with the three conditions will require instruction of specialist consultants at a cost of several thousands of pounds to the Applicant.
- 1.40 It is therefore requested that planning permission is granted with conditions 1, 2 and 3 deleted.

## Appendix 1 Site Pictures



Above: Area of buildings to be removed.

Below: Street view of buildings to be removed visible from road



## Appendix 2 Appeal Document List

<b>Reference</b>	<b>Planning Application as Lodged</b>
0.01	Application for Planning Permission (Application Form)
0.02	Location Plan
0.03	Existing Block Plan
0.04	Proposed Block Floor Plan
0.05	Proposed Block Roof Plan
0.06	Existing and Proposed Elevations
0.07	Proposed Elevations and Plan
0.08	Grain Store Specification
0.09	Roof Cladding Specification
<b>Reference</b>	<b>Determination</b>
1.01	Edinburgh Airport Consultation dated 13 December 2019
1.02	Archaeology Consultation dated 9 December 2019
1.03	Environmental Protection Consultation dated 21 November 2019
1.04	Roads Consultation dated 20 December 2019
1.05	Report of Handling
1.06	Decision Notice
<b>Reference</b>	<b>Additional Appeal Documents</b>
2.01	Appeal Statement
2.02	Planning Circular 4/1998: <i>the use of conditions in planning permissions</i>

# APPLICATION FOR PLANNING PERMISSION

Town and Country Planning (Scotland) Act 1997  
 The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

**Please refer to the accompanying Guidance Notes when completing this application**  
**PLEASE NOTE IT IS FASTER AND SIMPLER TO SUBMIT PLANNING APPLICATIONS**  
**ELECTRONICALLY VIA <https://www.eplanning.scot>**

1. Applicant's Details	2. Agent's Details (if any)																																																												
<table style="width: 100%; border-collapse: collapse;"> <tr><td style="width: 20%;">Title</td><td style="border: 1px solid black; height: 20px;"></td></tr> <tr><td>Forename</td><td style="border: 1px solid black; height: 20px;"></td></tr> <tr><td>Surname</td><td style="border: 1px solid black; height: 20px;"></td></tr> <tr><td colspan="2" style="border: none; height: 10px;"></td></tr> <tr><td>Company Name</td><td style="border: 1px solid black;">Robert Robertson &amp; Son</td></tr> <tr><td>Building No./Name</td><td style="border: 1px solid black;">Bonnington Farm</td></tr> <tr><td>Address Line 1</td><td style="border: 1px solid black;">Kirknewton</td></tr> <tr><td>Address Line 2</td><td style="border: 1px solid black;">Edinburgh</td></tr> <tr><td>Town/City</td><td style="border: 1px solid black;"></td></tr> <tr><td colspan="2" style="border: none; height: 10px;"></td></tr> <tr><td>Postcode</td><td style="border: 1px solid black;">EH278BB</td></tr> <tr><td>Telephone</td><td style="border: 1px solid black;"></td></tr> <tr><td>Mobile</td><td style="border: 1px solid black; background-color: black;"></td></tr> <tr><td>Fax</td><td style="border: 1px solid black;"></td></tr> <tr><td>Email</td><td style="border: 1px solid black;"></td></tr> </table>	Title		Forename		Surname				Company Name	Robert Robertson & Son	Building No./Name	Bonnington Farm	Address Line 1	Kirknewton	Address Line 2	Edinburgh	Town/City				Postcode	EH278BB	Telephone		Mobile		Fax		Email		<table style="width: 100%; border-collapse: collapse;"> <tr><td style="width: 20%;">Ref No.</td><td style="border: 1px solid black; height: 20px;"></td></tr> <tr><td>Forename</td><td style="border: 1px solid black; height: 20px;"></td></tr> <tr><td>Surname</td><td style="border: 1px solid black; height: 20px;"></td></tr> <tr><td colspan="2" style="border: none; height: 10px;"></td></tr> <tr><td>Company Name</td><td style="border: 1px solid black;">JTS (construction) Ltd</td></tr> <tr><td>Building No./Name</td><td style="border: 1px solid black;"></td></tr> <tr><td>Address Line 1</td><td style="border: 1px solid black;">Station Works</td></tr> <tr><td>Address Line 2</td><td style="border: 1px solid black;">Station Road</td></tr> <tr><td>Town/City</td><td style="border: 1px solid black;">Duns</td></tr> <tr><td colspan="2" style="border: none; height: 10px;"></td></tr> <tr><td>Postcode</td><td style="border: 1px solid black;">TD113EJ</td></tr> <tr><td>Telephone</td><td style="border: 1px solid black;">01361883245</td></tr> <tr><td>Mobile</td><td style="border: 1px solid black; background-color: black;"></td></tr> <tr><td>Fax</td><td style="border: 1px solid black; background-color: black;"></td></tr> <tr><td>Email</td><td style="border: 1px solid black; background-color: black;"></td></tr> </table>	Ref No.		Forename		Surname				Company Name	JTS (construction) Ltd	Building No./Name		Address Line 1	Station Works	Address Line 2	Station Road	Town/City	Duns			Postcode	TD113EJ	Telephone	01361883245	Mobile		Fax		Email	
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<b>3. Postal Address or Location of Proposed Development (please include postcode)</b>																																																													
Bonnington Farm Kirknewton Edinburgh EH278BB																																																													
NB. If you do not have a full site address please identify the location of the site(s) in your accompanying documentation.																																																													
<b>4. Type of Application</b>																																																													
What is the application for? Please select one of the following:																																																													
Planning Permission	<input checked="" type="checkbox"/>																																																												
Planning Permission in Principle	<input type="checkbox"/>																																																												
Further Application*	<input type="checkbox"/>																																																												
Application for Approval of Matters Specified in Conditions*	<input type="checkbox"/>																																																												
Application for Mineral Works**	<input type="checkbox"/>																																																												
NB. A 'further application' may be e.g. development that has not yet commenced and where a time limit has been imposed a renewal of planning permission or a modification, variation or removal of a planning condition.																																																													
*Please provide a reference number of the previous application and date when permission was granted:																																																													
Reference No: <input style="width: 90%;" type="text"/>	Date: <input style="width: 90%;" type="text"/>																																																												
**Please note that if you are applying for planning permission for mineral works your planning authority may have a separate form or require additional information.																																																													

### 5. Description of the Proposal

Please describe the proposal including any change of use:

Erection of steel portal frame agricultural building

Is this a temporary permission?

Yes  No

If yes, please state how long permission is required for and why:

Have the works already been started or completed?

Yes  No

If yes, please state date of completion, or if not completed, the start date:

Date started:

Date completed:

If yes, please explain why work has already taken place in advance of making this application

### 6. Pre-Application Discussion

Have you received any advice from the planning authority in relation to this proposal?

Yes  No

If yes, please provide details about the advice below:

In what format was the advice given?

Meeting  Telephone call  Letter  Email

Have you agreed or are you discussing a Processing Agreement with the planning authority? Yes  No

Please provide a description of the advice you were given and who you received the advice from:

Name:

Date:

Ref No.:

### 7. Site Area

Please state the site area in either hectares or square metres:

Hectares (ha):

0.368

Square Metre (sq.m.)

### 8. Existing Use

Please describe the current or most recent use:

Steading

### 9. Access and Parking

Are you proposing a new altered vehicle access to or from a public road? Yes  No

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

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

*If yes, please show on your drawings the position of any affected areas and explain 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?

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

*Please show on your drawings the position of existing and proposed parking spaces and specify if these are to be allocated for particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, etc.)*

### 10. Water Supply and Drainage Arrangements

Will your proposals require new or altered water supply or drainage arrangements? Yes  No

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

Yes, connecting to a public drainage network   
No, proposing to make private drainage arrangements   
Not applicable – only arrangement for water supply required

What private arrangements are you proposing for the new/altered septic tank?

Discharge to land via soakaway   
Discharge to watercourse(s) (including partial soakaway)   
Discharge to coastal waters

*Please show more details on your plans and supporting information*

What private arrangements are you proposing?  
Treatment/Additional treatment (relates to package sewer treatment plants, or passive sewage treatment such as a reed bed)   
Other private drainage arrangement (such as a chemical toilets or composting toilets)

*Please show more details on your plans and supporting information.*

Do your proposals make provision for sustainable drainage of surface water? Yes  No

Note:- Please include details of SUDS arrangements on your plans

Are you proposing to connect to the public water supply network? Yes  No

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

### 11. Assessment of Flood Risk

Is the site within an area of known risk of flooding? Yes  No

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

If yes, briefly describe how the risk of flooding might be increased elsewhere.

### 12. Trees

Are there any trees on or adjacent to the application site? Yes  No

If yes, please show on drawings any trees (including known protected trees) and their canopy spread as they relate to the proposed site and indicate if any are to be cut back or felled.

### 13. Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste? (including recycling) Yes  No

If yes, please provide details and illustrate on plans.

If no, please provide details as to why no provision for refuse/recycling storage is being made:

### 14. Residential Units Including Conversion

Does your proposal include new or additional houses and/or flats? Yes  No

If yes how many units do you propose in total?

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

**15. For all types of non housing development – new floorspace proposed**

Does your proposal alter or create non-residential floorspace? Yes  No

If yes, please provide details below:

Use type:

If you are extending a building, please provide details of existing gross floorspace (sq.m):

Proposed gross floorspace (sq.m.):

Please provide details of internal floorspace(sq.m)

Net trading space:

Non-trading space:

Total net floorspace:

**16. Schedule 3 Development**

Does the proposal involve a class of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008?

Yes  No  Don't Know

If yes, your proposal will additionally have to be advertised in a newspaper circulating in your area. Your planning authority will do this on your behalf but may charge a fee. Please contact your planning authority for advice on planning fees.

**17. Planning Service Employee/Elected Member Interest**

Are you / the applicant / the applicant's spouse or partner, a member of staff within the planning service or an elected member of the planning authority? Yes  No

Or, are you / the applicant / the applicant's spouse or partner a close relative of a member of staff in the planning service or elected member of the planning authority? Yes  No

If you have answered yes please provide details:

**DECLARATION**

I, the applicant/agent certify that this is an application for planning permission. The accompanying plans/drawings and additional information are provided as part of this application. I hereby confirm that the information given in this form is true and accurate to the best of my knowledge.

I, the applicant/agent hereby certify that the attached Land Ownership Certificate has been completed

I, the applicant/agent hereby certify that requisite notice has been given to other land owners and /or agricultural tenants Yes  No  N/A

Signature:  Date:

Any personal data that you have been asked to provide on this form will be held and processed in accordance with Data Protection Legislation.



10/05171/FUL

# LAND OWNERSHIP CERTIFICATES

Town and Country Planning (Scotland) Act 1997  
Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland)  
Regulations 2013

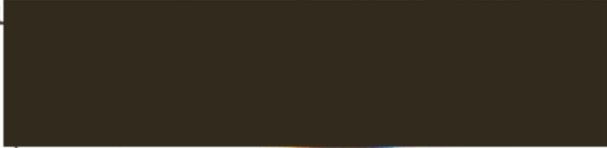
**CERTIFICATE A, B, C, D OR CERTIFICATE E  
MUST BE COMPLETED BY ALL APPLICANTS**

## CERTIFICATE A

Certificate A is for use where the applicant is the only owner of the land to which the application relates and none of the land is agricultural land.

I hereby certify that -

- (1) No person other than the applicant was owner 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 application.
- (2) None of the land to which the application relates constitutes or forms part of agricultural land.

Signed:   
On behalf of: W S Thorburn  
Date: 23/10/2019

## CERTIFICATE B

Certificate B is for use where the applicant is not the owner or sole owner of the land to which the application relates and/or where the land is agricultural land and where all owners/agricultural tenants have been identified.

I hereby certify that -

- (1) The applicant has served notice on every person other than the applicant who, at the beginning of the period of 21 days ending with the date of the application was owner of any part of the land to which the application relates. These persons are:

Name	Address	Date of Service of Notice

- (2) None of the land to which the application relates constitutes or forms part of agricultural land.
- or
- (3) The land or part of the land to which the application relates constitutes or forms part of agricultural land and I have served notice on every person other than myself who, at the beginning of the period of 21 days ending with the date of the application was an agricultural tenant. These persons are:

Name	Address	Date of Service of Notice

Signed:

On behalf of:

Date:

### CERTIFICATE C

Certificate C is for use where the applicant is not the owner or sole owner of the land to which the application relates and/or where the land is agricultural land and where it has not been possible to identify ALL or ANY owners/agricultural tenants.

(1) I have myself been unable to serve notice on **every** person other than who, at the beginning of the period of 21 days ending with the date of the application was owner of any part of the land to which the application relates.

or

(2) I have myself been unable to serve notice on **any** person other than who, at the beginning of the period of 21 days ending with the date of the accompanying application, was owner of any part of the land to which the application relates.

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

or

(4) The land or part of the land to which the application relates constitutes or forms part of an agricultural holding and I have any person other than myself been unable to serve notice on who, at the beginning of the period of 21 days ending with the date of the accompanying application was an agricultural tenant.

or

(5) The land or part of the land to which the application relates constitutes or forms part of an agricultural holding I have served notice on each of the following persons other than myself who, at the beginning of the period of 21 days ending with the date of the application was an agricultural tenant. These persons are:

Name	Address	Date of Service of Notice

(6) I have \_\_\_\_\_ taken reasonable steps, as listed below, to ascertain the names and addresses of all other owners or agricultural tenants and have \_\_\_\_\_ been unable to do so.

Steps taken:

Signed:

On behalf of:

Date:

**CERTIFICATE D**

Certificate D is for use where the application is for mineral development.

(1) No person other than myself \_\_\_\_\_ was an owner 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.

or

(2) I have \_\_\_\_\_ served notice on each of the following persons other than myself \_\_\_\_\_ who, at the beginning of the period of 21 days ending with the date of the accompanying application, was to the applicant's knowledge, the owner, of any part of the land to which the application relates. These persons are:

Name	Address	Date of Service of Notice

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

or

(4) The land or part of the land to which the application relates constitutes or forms part of an agricultural holding and I have \_\_\_\_\_ served notice on each of the following persons other than myself \_\_\_\_\_ who, at the beginning of the period of 21 days ending with the date of the application, was an agricultural tenant.

(5) Notice of the application as set out below has been published and displayed by public notice

Signed:

On behalf of:

Date:

### CERTIFICATE E

Certificate E is required where the applicant is the sole owner of all the land and the land to which the application relates is agricultural land and there are or are not agricultural tenants.

**I hereby certify that -**

(1) No person other than myself \_\_\_\_\_ was the owner of any part of the land to which the application relates at the beginning of the period 21 days ending with the date of the application.

(2) The land to which the application relates constitutes or forms part of an agricultural holding and there are no agricultural tenants.

or

(1) No person other than myself \_\_\_\_\_ was the owner of any part of the land to which the application relates at the beginning of the period 21 days ending with the date of the application.

(2) The land to which the application relates constitutes or forms part of an agricultural holding and there are agricultural tenants. These people are:

Name	Address	Date of Service of Notice

(3) I have \_\_\_\_\_ taken reasonable steps, as listed below, to ascertain the names and addresses of the other agricultural tenants and have \_\_\_\_\_ been unable to do so.

Steps taken:

Signed:

On behalf of:

Date:

Any personal data that you have been asked to provide on this form will be held and processed in accordance with Data Protection Legislation.

## Memorandum

**To** Head of Planning  
City of Edinburgh Council  
Planning and Transport  
Place  
Waverley Court  
4 East Market Street  
Edinburgh  
EH8 8BG

F.A.O Robert McIntosh

**From** John A Lawson

**Date** 9<sup>th</sup> December 2019

**Your ref** 19/05171/FUL

**Our ref** 19/05171/FUL

Dear Robert,

### **Bonnington Farm Bonnington**

Further to your consultation request I would like to make the following comments and recommendations concerning this application for the erection of a steel portal frame agricultural building.

Historically the site of Bonnington Farm has been associated with farming since at least the 14<sup>th</sup> century, occurring at the eastern end of the suspected limits for the medieval fermtoun of the same name. This settlement was first recorded as Bondington around 1315 and by the end of the medieval period may have supported up to forty families (Harris, Place Names of Edinburgh). Although much altered with later additions the core of the present farmhouse would appear to have been constructed during the period of agricultural improvement of the late-18<sup>th</sup> and early-19<sup>th</sup> centuries as they relate to buildings shown on the 1<sup>st</sup> Edition OS map of 1852.

This map also depicts a large rectangular steading on the site of the current agricultural buildings. The eastern range of the modern farm buildings is formed by the outer walls of these earlier 19<sup>th</sup> century steading buildings.

The eastern side of the current farm buildings contain the upstanding remains of the farm's 19<sup>th</sup> century steading, considered to be of local archaeological interest, and also occurs within an area of archaeological potential relating to the medieval 'fermtoun' of Bonnington. Accordingly, this application must be considered under terms Scottish Government's Our Place in Time (OPIT), Scottish Planning

**Lynne Halfpenny, Director of Culture, Cultural Services, Place**

City of Edinburgh Council Archaeology Service, Museum of Edinburgh, 142 Canongate, Edinburgh, EH8 8DD

Tel 0131 558 1040

John.lawson@edinburgh.gov.uk

Policy (SPP), Historic Environment Scotland's Policy Statement (HESPS) 2016 and Archaeology Strategy and CEC's Edinburgh Local Development Plan (2016) Policy ENV9.

The proposed development will require the demolition of the current agricultural buildings occupying the site, which contain the 19<sup>th</sup> century remains of the eastern range of the farm's former steading. It is essential therefore that a historic building survey (annotated and phased internal and external elevations and plan, photographic and written survey and analysis) is undertaken of the surviving elements of this historic steading prior to demolition.

In addition, not only does the current site overly that of the former Bonnington Mains Steading, but it also occurs on the suspected eastern limits for the medieval fermtoun of Bonnington. Accordingly, any archaeological remains that may survive *in situ* below ground within this area could provide important information regarding the origins and development of not only the farm but possibly also of the earlier medieval settlement. Therefore, it is essential that a suitable programme of archaeological works is undertaken during all ground-breaking works (including those relating to demolition activities) in order to fully record, excavate and analyse any significant surviving buried archaeological remains that may be disturbed.

It is recommended that the following condition is attached to any granted permission to ensure that this programme of archaeological works is undertaken;

'No demolition/development shall take place on the site until the applicant has secured and implemented a programme of archaeological work (historic building survey, excavation, analysis & reporting, publication) in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.'

The work must be carried out by a professional archaeological organisation, either working to a brief prepared by CECAS or through a written scheme of investigation submitted to and agreed by CECAS for the site. Responsibility for the execution and resourcing of the programme of archaeological works and for the archiving and appropriate level of publication of the results lies with the applicant.

Please contact me if you require any further information.

Yours faithfully



**John A Lawson**  
**Archaeology Officer**

Robert McIntosh  
City of Edinburgh Council  
By email

13 December 2019

Dear Robert

**Your Ref:** 19/05171/FUL  
**Development:** Erection of a steel agricultural building at Bonnington Farm, Kirknewton EH27 8BB  
**Our Ref:** EDI2845

The proposed development has been examined from an aerodrome safeguarding perspective and could conflict with safeguarding criteria unless any planning permission granted is subject to the conditions detailed below:

**Submission of a Bird Hazard Management Plan**

Development shall not commence until a Bird Hazard Management Plan has been submitted to and approved in writing by the Planning Authority. The submitted plan shall include details of:

- *monitoring of any standing water within the site temporary or permanent*
- *sustainable urban drainage schemes (SUDS) – Such schemes shall comply with Advice Note 3 'Wildlife Hazards' (available at <http://www.aoa.org.uk/policy-campaigns/operations-safety/>).*
- *management of any flat/shallow pitched/green roofs on buildings within the site which may be attractive to nesting, roosting and "loafing" birds. The management plan shall comply with Advice Note 3 'Wildlife Hazards.'*
- *reinstatement of grass areas*
- *maintenance of planted and landscaped areas, particularly in terms of height and species of plants that are allowed to grow*
- *which waste materials can be brought on to the site/what if any exceptions e.g. green waste*
- *monitoring of waste imports (although this may be covered by the site licence)*
- *physical arrangements for the collection (including litter bins) and storage of putrescible waste, arrangements for and frequency of the removal of putrescible waste*
- *signs deterring people from feeding the birds.*

The Bird Hazard Management Plan shall be implemented as approved, on completion of the development and shall remain in force for the life of the building. No subsequent alterations to the plan are to take place unless first submitted to and approved in writing by the Planning Authority.

**Reason:** It is necessary to manage the development in order to minimise its attractiveness to birds which could endanger the safe movement of aircraft and the operation of Edinburgh Airport.

*The Bird Hazard Management Plan must ensure that flat/shallow pitched roofs be constructed to allow access to all areas by foot using permanent fixed access stairs ladders or similar. The owner/occupier must not allow gulls, to nest, roost or loaf on the building. Checks must be made weekly or sooner if bird activity dictates, during the breeding season. Outside of the breeding season gull activity must be monitored and the roof checked regularly to ensure that gulls do not utilise the roof. Any gulls found nesting, roosting or loafing must be dispersed by the owner/occupier when detected or when requested by Edinburgh Airport Airside Operations staff. In some instances it may be necessary to contact Edinburgh Airport Airside Operations staff before bird dispersal takes place. The owner/occupier must remove any nests or eggs found on the roof.*

*The breeding season for gulls typically runs from March to June. The owner/occupier must obtain the appropriate licences where applicable from **Scottish Natural Heritage** before the removal of nests and eggs.*

We would also make the following observations:

### **Cranes**

Given the nature of the proposed development it is possible that a crane may be required during its construction. We would, therefore, draw the applicant's attention to the requirement within the British Standard Code of Practice for the safe use of Cranes, for crane operators to consult the aerodrome before erecting a crane in close proximity to an aerodrome. This is explained further in Advice Note 4, 'Cranes' (available at <http://www.aoa.org.uk/policy-campaigns/operations-safety/>)

It is important that any conditions requested in this response are applied to a planning approval. Where a Planning Authority proposes to grant permission against the advice of Edinburgh Airport, or not to attach conditions which Edinburgh Airport has advised, it shall notify Edinburgh Airport, and the Civil Aviation Authority and the Scottish Ministers as specified in the Safeguarding of Aerodromes Direction 2003.

Yours sincerely



Claire Brown  
Edinburgh Airport Limited  
0131 344 3359  
[safeguarding@edinburghairport.com](mailto:safeguarding@edinburghairport.com)

To: Robert McIntosh

From: Andrew Campbell, Environmental Protection

Date: 21/11/2019

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

19/05171/FUL | Erection of steel portal frame Agricultural Building. | Bonnington Farm Bonnington Kirknewton

The applicant proposes replacing agricultural buildings with a new larger building on the same area. Environmental Protection would offer no objection however would recommend that the applicant investigates the installation of photo voltaic panels on the proposed roof area.

Therefore, Environmental Protection offer no objection to this proposal.

# MEMORANDUM

PLACE

To: **Robert McIntosh**

Our Ref: T/TP/DC/41944/MS

Your Ref: 19/05171/FUL

Date: 20 December 2019

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

**PLANNING APPLICATION NO: 19/05171/FUL**

**FOR: ERECTION OF STEEL PORTAL FRAME AGRICULTURAL BUILDING**

**AT: BONNINGTON FARM, BONNINGTON, KIRKNEWTON, EH27 8BB**

## **ROADS AUTHORITY ISSUES**

No objections to the application.

**Matthew Simpson**

**Tel: 3-3426**

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## PUBLICATION - ADVICE AND GUIDANCE

# Planning Circular 4/1998: the use of conditions in planning permissions

Published: **27 Feb 1998**

Directorate: [Local Government and Communities Directorate](#)



Planning Circular 4/1998: the use of conditions in planning permissions. This circular supersedes SDD No. 18/1986 (except Appendices A and B).



**This document is part of a collection**



Circular 4/1998

**The use of conditions in planning permissions.**

This Circular supersedes SDD No. 18/1986 (except Appendices A and B)

The Chief Executive Local Authorities Copy to: The Director of Planning Our ref: PGC/3/13 27 February 1998

Contents

## Circular

### Introduction

1. This Circular and the accompanying Annex sets out Government policy on the use of conditions in planning permissions. It updates and revises the guidance in SDD Circular 18/1986, which (except for Appendices A and B - see paragraph 11 below) is now cancelled, to take account of:

- new legislation, in particular the consolidation of the Planning Acts;
- Court decisions, which are referred to at relevant sections of the Annex;
- additional topics, such as Environmental Assessment and Nature Conservation; and
- good planning practice in the use of conditions.

### General policy

2. Conditions imposed on a grant of planning permission can enable many development proposals to proceed where it would otherwise have been necessary to refuse planning permission. While the power to impose planning conditions is very wide, it needs to be exercised in a manner which is fair, reasonable and practicable. Planning conditions should only be imposed where they are:

- necessary
- relevant to planning

- relevant to the development to be permitted
- enforceable
- precise
- reasonable in all other respects.

The Secretary of State attaches great importance to these criteria being met so that there is an effective basis for the control and regulation of development which does not place unreasonable or unjustified burdens on applicants and their successors in title.

3. Planning conditions must not, however, be applied slavishly or unthinkingly; a clear and precise reason for a condition must be given. While the use of standard conditions can be important to the efficient operation of the development control process, such conditions should not be applied simply as a matter of routine. Conditions should be used to achieve a specific end, not to cover every eventuality.

4. It is essential that the operation of the planning system should command public confidence. The sensitive use of conditions can improve the effectiveness of development control and enhance that confidence. Conditions imposed in an unreasonable way, so that it proves impracticable or inexpedient to enforce them, will damage such confidence and should be avoided.

5. The Annex to the Circular sets out the policy in greater detail.

## **Development plans**

6. Where appropriate, development plans should specify the policies which the authority propose to implement regularly by means of planning conditions. Where applicants for planning permission are aware of such policies, they are more likely to incorporate appropriate details in their submissions, thus reducing the risk of delay in determining the applications and possibly avoiding the need to impose a specific condition.

## **Appeals**

7. Paragraph 19 of AnnexA to SODD Circular 13/1997 states that, in the case of planning inquiries, the statement submitted by the planning authority should include a list of conditions that it would wish to see imposed on any approval which may be given. A similar practice, which some authorities already follow, is also appropriate to cases proceeding by way of written submissions. The Secretary of State expects Reporters will be vigilant in ensuring that conditions imposed meet the criteria in paragraph 2 above and the detailed policy set out in the Annex.

### **Breach of condition notices**

8. Since July 1992, planning authorities have been able to ensure compliance with many planning conditions by serving a breach of condition notice. Guidance about this type of notice is given in SOEnD Circular 36/1992. If a valid breach of condition notice is contravened, the resulting offence is open to summary prosecution. But the prosecution's case must always be proved on the criminal standard of proof ("beyond reasonable doubt"). Consequently, if the breach of condition notice procedure is to operate effectively, planning conditions must be formulated precisely. In the event of prosecution, Courts will then have no doubt about exactly what is required in order to comply with the terms of a planning condition.

### **Specialist subjects**

9. This Circular does not include specific advice on the use of planning conditions for specialist subjects such as minerals workings or for developments relating to waste management.

### **Manpower and financial considerations**

10. This Circular brings up to date existing advice, and should therefore have no effect on local government manpower or expenditure.

### **Model conditions**

11. The Secretary of State is of the view that detailed guidance on model conditions should be provided. Further work with local authority representatives in this area will be undertaken and a list of model

conditions will be issued in due course. This Circular should be read with the forthcoming guidance on model conditions. Until the new list of model conditions is published, authorities should continue to refer to these in Appendices A and B of SDD Circular 18/1986.

## **Enquiries and further copies**

12. Enquiries about the content of this Circular should be addressed to Mr Stephen Bruce (Telephone 0131 244 7065). Further copies of the Circular and a list of current planning circulars may be obtained from The Scottish Office Development Department, Planning Division, 2-H, Victoria Quay, Edinburgh, EH66QQ (Telephone 0131 244 7066 or 7825).

## **Annex A: The use of conditions in planning permissions**

### **Powers**

#### **Summary of powers**

1. Conditions on planning permissions may be imposed only within the statutory powers available. Advice on these powers is given below. This advice is intended to be a guide, and it must be stressed that it is not definitive. An authoritative statement of the law can only be made by the Courts. The principal powers are in sections 37 and 41 of the Town and Country Planning (Scotland) Act 1997 (referred to below as "the Act"). Sections 58 and 59 of the Act require the imposition of time-limiting conditions on most grants of planning permission (see paragraphs 45 to 52 below). Powers to impose conditions are also conferred on the Secretary of State or Reporters by sections 46, 48 and 133 and Schedule 4 of the Act. Unless the permission otherwise provides, planning permission runs with the land and conditions imposed on the grant of planning permission will bind successors in title.

#### **General power**

2. Section 37(1) of the Act enables the planning authority to grant planning permission "either unconditionally or subject to such conditions as they think fit". The power to impose conditions is not, however, as wide as it appears, and must be interpreted in the light of Court decisions.

### **Powers for conditions on land outside application site and temporary permissions**

3. Section 41(1) amplifies the general power in section 37(1) in two ways. It makes clear that the planning authority may impose conditions regulating the development or use of land under the control of the applicant even if it is outside the site which is the subject of the application. (The Courts have held that the question whether land is under the control of an applicant is a matter to be determined according to the facts of the particular case. It is only necessary to have such control over the land as is required to enable the developer to comply with the condition.) The section also makes clear that the planning authority may grant planning permission for a specified period only.

### **Power to vary or remove the effect of conditions**

4. Section 33 of the Act provides, among other things, for planning applications to be made in respect of development which has been carried out without planning permission and for applications for planning permission to authorise development which has been carried out without complying with some planning condition to which it was subject. Special consideration may need to be given to conditions imposed on planning permissions granted under section 33. For example, the standard time-limiting condition will not be appropriate where development has begun before planning permission has been granted.

5. Section 42 of the Act provides for applications for planning permission to develop land without complying with conditions previously imposed on a planning permission. The planning authority can grant such permission unconditionally or subject to different conditions, or they can refuse the application if they decide that the original condition(s) should continue. The original planning permission will continue to subsist whatever the outcome of the application under section 42. This section will not apply if the period within which the development could begin, as specified in the

previous condition, has expired without the development having begun.\*

## Other considerations

### Policy and other considerations

6. The limits of the enabling powers are not the only constraints on the use of conditions. Conditions should normally be consistent with national planning policies, as expressed in Government Circulars, National Planning Policy Guidelines (NPPGs) and other published material. They should also normally be consistent with the provisions of development plans and other policies of planning authorities. However, where a certain kind of condition is specifically endorsed by a development plan policy it is still necessary to consider whether it is justified in the particular circumstances of the proposed development. In general, conditions which duplicate the effect of other legislation should not be imposed (see paragraphs 19-22).

## Practice

### Role of pre-application discussions

7. Even before an application is made, informal discussions between the applicant and the planning authority can be very helpful. They can allow the applicant to formulate the details of a project so as to take full account of the requirements of the authority and assist the authority in making sure that those requirements are reasonable in the light of the development proposed. Discussion can also reduce the need for conditions, enable the authority to explore the possible terms of conditions which remain necessary and ensure that these are tailored to the circumstances of the case.

### "Standard Conditions"

8. Lists of standard or model conditions can be of great benefit. They can improve consistency of decisions, make effective use of staff resources and increase the speed of processing of planning applications. They may

also, however, encourage the use of conditions as a matter of routine, without the careful assessment of the need for a condition which every applicant should be able to expect. Slavish or uncritical application of conditions is wholly inappropriate. Lists of standard conditions can usefully be made available locally, so that developers can take account of possible conditions at an early stage in drawing up their proposals. Such lists should contain a warning that they are not comprehensive and that conditions will always be devised or adapted where appropriate to suite the particular circumstances of a case.

## **Reasons**

9. It is for the planning authority, in the first instance, to judge on the facts of the case whether a particular development proposal should be approved subject to planning conditions. By virtue of Article 22(1)(a) of The Town and Country Planning (General Development Procedure) (Scotland) Order 1992, an authority deciding to grant permission subject to conditions must state the reasons for their decision. Where a planning authority, by virtue of Article 15 of the General Development Procedure Order, has consulted other bodies in respect of a planning application and is disposed to grant planning permission subject to a condition suggested to them by another body, the authority should ensure that the body has provided clear reasons for suggesting the imposition of the condition. Such conditions should only be imposed where they will meet clear land use planning objectives; as stated in paragraph 6 above conditions should not be used to duplicate controls available under other legislation. Reasons must be given for the imposition of every condition. It may be that more than one condition will be justified on the same basis, in which case it will be acceptable that such conditions be grouped together and justified by one reason. Reasons such as "to comply with the policies of the Council", "to secure the proper planning of the area" or "to maintain control over the development" are vague, and can suggest that the condition in question has no proper justification. The phrase "to protect amenity" can also be obscure and will often need amplification. If the reasons for the imposition of conditions are clearly explained, developers will be better able to understand the need for them and to comply with them in spirit as well as in letter. The likelihood of proper and acceptable conditions being challenged on appeal, so that development proposals are held up, will also be diminished.

## **Notes for information**

10. Sometimes planning authorities will wish to give guidance to an applicant for outline planning permission as to the kind of details of reserved matters which they would find acceptable. A planning authority may also wish to draw the attention of an applicant to other statutory consents (eg listed building or road construction consent) which must be obtained before development can commence. This should not be done by imposing a condition: instead a note may be appended to the planning permission. A note may also be desirable to draw the attention of the applicant to his or her right to make an application to vary or remove a condition under section 42 of the Act, or indeed for other purposes.

## **Planning agreements**

11. Problems posed by a development proposal may be solved either by imposing a condition on the planning permission or by concluding a planning agreement under section 75 of the Act or under other powers. The Secretary of State's policy on planning agreements is set out in SODD Circular 12/1996. This makes it clear that the planning authority should normally seek to regulate a development by a condition rather than through an agreement, since the imposition of restrictions by means of an agreement deprives the developer of the opportunity of seeking to have the restrictions varied or removed by an application or appeal under Part III of the Act if they are subsequently seen as being inappropriate or too onerous. Planning authorities should note that if a certain restriction is contrary to the advice contained in this Circular it is likely to be objectionable regardless of whether it is suggested that it should be implemented by a condition or an agreement. It is ultra vires to impose a condition in a planning permission requiring an applicant to enter into an agreement. Nor should conditions imposed on a grant of planning permission be duplicated in a planning agreement.

## **Test**

### **Six tests for conditions**

12. On a number of occasions the Courts have laid down the general

criteria for the validity of planning conditions. In addition to satisfying the Courts' criteria for validity, conditions should not be imposed unless they are both necessary and effective, and do not place unjustifiable burdens on applicants. As a matter of policy, conditions should only be imposed where they are:

- necessary
- relevant to planning
- relevant to the development to be permitted
- enforceable
- precise, and
- reasonable in all other respects

### **Test: need for a condition**

13. In considering whether a particular condition is necessary, authorities should ask themselves whether planning permission would have to be refused if that condition were not to be imposed. If it would not, then the condition needs special and precise justification. Planning authorities should also avoid imposing conditions through anxiety to guard against every possible contingency, however remote. The argument that a condition will do no harm is no justification for its imposition; as a matter of policy a condition ought not to be imposed unless there is a definite need for it. The same principles, of course, must be applied in dealing with applications for the removal of a condition under section 33 or 42 of the Act; a condition should not be retained unless there are sound and clear-cut reasons for doing so.

14. In some cases a condition will clearly be unnecessary, such as where it would repeat provisions in another condition imposed on the same permission. In other cases the lack of need may be less obvious and it may help to ask whether it would be considered expedient to enforce against a breach- if not, then the condition may well be unnecessary.

15. Conditions should be tailored to tackle specific problems, rather than impose unjustified controls. In so far as a condition is wider in its scope

than is necessary to achieve the desired objective, it will fail the test of need. For example, where an extension to a dwellinghouse in a particular direction would be unacceptable, a condition on the permission for its erection should specify that, and not simply remove all rights to extend the building. Permissions should not, however, be overloaded with conditions. It might be appropriate, for example, to impose on a permission in a conservation or other sensitive area a requirement that all external details and materials should be in complete accordance with the approved plans and specifications, rather than recite a long list of architectural details one by one.

## **Completion of development**

16. Conditions requiring development to be carried out in its entirety, or in complete accordance with the approved plans, often fail the test of need by requiring more than is needed to deal with the problem they are designed to solve. If what is really wanted is simply to ensure that some particular feature or features of the development are actually provided or are finished in a certain way, specific conditions to this end are far preferable to a general requirement.

17. The absence of a specific condition does not prevent enforcement action being taken against development which differs materially from the approved design. However, it may well be easier for planning authorities to enforce compliance with a condition that has been breached, than to enforce on the basis of a material variation from the approved plans or description of development. Where an application includes information, for example on likely hours of working, which significantly influence the planning decision, it may be appropriate to include a specific condition to ensure compliance with the restrictions.

## **Test: Relevance to planning**

18. A condition which has no relevance to planning is ultra vires. A condition that the first occupants of dwellings must be drawn from the local authority's housing waiting list, for example, would be improper because it was meant to meet the ends of the local authority as housing authority and was not imposed for planning reasons. Although a condition can quite properly require the provision of open space to serve the approved development (as part of a housing estate, for example) it would

approved development (as part of a housing estate, for example) it would be ultra vires if it required the open space to be dedicated to the public. Other conditions affecting land ownership (requiring, for example, that the land shall not be disposed of except as a whole) where there was no planning justification for such a constraint would similarly be ultra vires.

## **Other planning controls**

19. Some matters are the subject of specific control elsewhere in planning legislation, for example advertisement control, listed building consent or tree preservation. If these controls are relevant to the development the planning authority should normally rely on them and not impose conditions on a grant of planning permission to achieve the purposes of a separate system of control (but on Trees note paragraphs 77 and 78 below).

## **Non-planning controls**

20. Other matters are subject to control under separate legislation, yet are also of concern to the planning system. A condition which duplicates the effect of other controls will normally be unnecessary and one whose requirements conflict with those of other controls will be ultra vires because it is unreasonable. For example, a planning condition would not normally be appropriate to control the level of emissions from a proposed development where they are subject to pollution control legislation. However, such a condition may be needed to address the impact of the emissions to the extent that they might have land-use implications and/or are not controlled by the appropriate pollution control authority. (For further advice on this subject, see Planning Advice Note<sup>51</sup> Planning and Environmental Protection.) A condition cannot be justified on the grounds that the planning authority is not the body responsible for exercising a concurrent control and, therefore, cannot ensure it will be exercised properly. Nor can a condition be justified on the grounds that a concurrent control is not permanent but is subject to expiry and renewal (as, for example, with certain licences). Even where a condition does not actually duplicate or conflict with another control, differences in requirements can cause confusion and it will be desirable as far as possible to avoid solving problems by the use of conditions instead of, or as well as, by another more specific control.

21. Where other controls are also available, a condition may, however, be

needed when the considerations material to the exercise of the two systems of control are substantially different, since it might be unwise in these circumstances to rely on the alternative control being exercised in the manner or to the degree needed to secure planning objectives. Conditions may also be needed to deal with circumstances for which a concurrent control is unavailable. A further case where conditions may be justified will be where they can prevent development being carried out in a manner which would be likely to give rise to onerous requirements under other powers at a later stage (eg to ensure adequate arrangements for the disposal of sewage and thus avoid subsequent intervention under the Sewerage (Scotland) Act 1968).

22. As a matter of policy, conditions should not be imposed in order to avoid compensation payments under other legislation (although such a condition would not be ultra vires if it could be justified on planning grounds). Although conditions which have the effect of restricting for planning purposes the activities in respect of which planning permission is granted may reasonably be imposed without any liability for compensation arising under planning legislation, great care should be taken with conditions which would have the effect of removing future liability for compensation which might arise under other legislation. For example, a condition requiring sound-proofing measures may be appropriate to a permission for residential development near a major road where noise levels are high. But it will be inappropriate to impose such a condition with the aim of removing the roads authority's liability to install soundproofing when proposals for major road improvement are implemented. A condition of this sort is not relevant to the existing planning circumstances, but looks to future circumstances in respect of which other legislation provides compensation for those affected.

### **Test: relevance to the development to be permitted**

23. Unless a condition fairly and reasonably relates to the development to be permitted, it will be ultra vires.

24. It is not, therefore, sufficient that a condition is related to planning objectives: it must also be justified by the nature of the development permitted or its effect on the surroundings. For example, if planning permission is being granted for the alteration of a factory building, it would

be wrong to impose conditions requiring additional parking facilities to be provided for an existing factory simply to meet a need that already exists. It would similarly be wrong to require the improvement of the appearance or layout of an adjoining site simply because it is untidy or congested. Despite the desirability of these objectives in planning terms, the need for the action would not be created by the new development. On the other hand, it is proper for conditions to secure satisfactory access or parking facilities, for example, which are genuinely required by the users of a proposed development. Conditions can also be proper where the need for them arises out of the effects of the development rather than its own features; for example, where a permission will result in intensification of industrial use of a site, a condition may be necessary requiring additional sound-insulation in the existing factory buildings. It may even be justifiable to require by condition that an existing building be demolished- perhaps where to have both would result in the site being over-intensively developed.

### **Test: ability to enforce**

25. A condition should not be imposed if it cannot be enforced. It is often useful to consider what means are available to secure compliance with a proposed condition. There are two provisions which authorities may use to enforce conditions; an enforcement notice under section 127 of the Act or a breach of condition notice under section 145. Precision in the wording of conditions is crucial when it comes to enforcement.

### **Practicality of enforcement**

26. Sometimes a condition will be unenforceable because it is in practice impossible to detect an infringement. More commonly it will merely be difficult to prove a breach of its requirements. For example, a condition imposed for traffic reasons restricting the number of persons resident at any one time in a block of flats would be impracticable to monitor and pose severe difficulties in proving an infringement. However, where a condition is intended to prevent harm to the amenity of an area which is clearly likely to result from the development (for example, a condition requiring an amusement centre to close at a certain time in the evening), it will not usually be difficult to monitor compliance with the condition. Those affected by contraventions of its requirements are likely to be able to provide clear evidence of any breaches.

provide clear evidence of any breaches.

## **Whether compliance is reasonable**

27. A condition may raise doubt about whether the person carrying out the development to which it relates can reasonably be expected to comply with it. If not, subsequent enforcement action is likely to fail on the ground that what is required cannot reasonably be enforced. One type of case where this might happen is where a condition is imposed requiring the carrying out of works (eg the construction of a means of access) on land within the application site but not, at the time of the grant of planning permission, under the control of the applicant. If the applicant failed to acquire an interest in that land and carried out the development without complying with the condition, the planning authority could enforce the condition only by taking action against the third party who owned the land to which the condition applied and who had gained no benefit from the development. Such difficulties can usually be avoided by framing the condition so as to require that the development authorised by the permission should not commence until the access has been constructed.

## **Enforcing conditions imposed on permission for operational development**

28. An otherwise legally sound condition may prove unenforceable because it is imposed on a grant of planning permission for the carrying out of operations which have not been carried out in accordance with the approved plans. Authorities should take into account the Court of Appeal's judgement in the case of *Handoll and Others v Warner Goodman and Street (A firm) and Others*, (1995) 25EG157, which held that the judgement of the Divisional Court in *Kerrier DC v Secretary of State for the Environment and Brewer* (1980) 41P&CR284, had been wrongly decided. Both cases concerned a planning permission for the erection of a dwelling subject to an agricultural occupancy condition.\*\*

## **Test: precision**

29. The framing of conditions requires great care, not least to ensure that a condition is enforceable. A condition, for example, requiring only that "a landscaping scheme shall be submitted for the approval of the planning authority" is incomplete since, if the applicant were to submit the scheme

and even obtain approval for it, but neglect to carry it out, it is unlikely that the planning authority could actually require the scheme to be implemented. In such a case, a requirement should be imposed that landscaping shall be carried out in accordance with a scheme to be approved in writing by the planning authority; and the wording of the condition must clearly require this. A condition of this kind also sets no requirement as to the time or the stage of development by which the landscaping must be done, which can similarly lead to enforcement difficulties. Conditions which require specific works to be carried out at a certain 'time' or stage should state clearly when this must be done.

### **Vague conditions**

30. A condition which is not sufficiently precise for the applicant to be able to ascertain what he must do to comply with it is ultra vires and must not be imposed. Vague expressions which sometimes appear in conditions, for example "keep the buildings in a tidy state" or "so as not to cause annoyance to nearby residents", give occupants little idea of what is expected of them. Furthermore, conditions should not be made subject to qualifications, such as "if called upon to do so" or "if the growth of traffic makes it desirable", because these do not provide any objective and certain criterion by which the applicant can ascertain what is required.

### **Discretionary or vetting conditions**

31. Conditions which attempt to provide for an arbiter to interpret such expressions or qualifications do not avoid this difficulty. Conditions requiring that tidiness, for example, shall be "to the satisfaction of the planning authority" make the applicant no more certain of what is required. Conditions which are imprecise or unreasonable cannot be made acceptable by phrases such as "except with the prior approval of the planning authority" which purport to provide an informal procedure to waive or modify their effect. Similarly, conditions restricting the occupation of a building should not set up a vetting procedure for prospective occupiers. Conditions which raise these difficulties, however, are not to be confused with conditions which require the submission of a scheme or details for approval which will, when granted, provide the precise guidelines to be followed by the developer.

## **Clarity**

32. Conditions should be not only precise but clear. Where the wording of a condition may be difficult to follow, it may be helpful to attach to the permission an illustrative plan (eg describing sight lines required at the entrance to an access road).

## **Test: reasonableness**

33. A condition can be ultra vires on the grounds of unreasonableness, even though it may be precisely worded and apparently within the powers available.

## **Conditions invalid on grounds of unreasonableness**

34. A condition may be unreasonable because it is unduly restrictive. Although a condition may in principle impose a continuing restriction on the use of land (provided that there are good planning reasons for that restriction), such a condition should not be imposed if the restriction effectively nullifies the benefit of the permission. For example, it would normally be reasonable to restrict the hours during which an industrial use may be carried on if the use of the premises outside these hours would affect the amenity of the neighbourhood. However, it would be unreasonable to do so to such an extent as to make it impossible for the occupier to run his business properly. If it appears that a permission could be given only subject to conditions that would be likely to be held unreasonable by the Courts, then planning permission should be refused altogether.

## **Avoidance of onerous requirements**

35. Even where a condition would not be so unreasonably restrictive as to be ultra vires, it may still be so onerous that as a matter of policy it should be avoided. For example, a condition which would put a severe limitation on the freedom of an owner to dispose of his property, or which would obviously make it difficult to finance the erection of the permitted building by borrowing on mortgage, should be avoided on these grounds. An unduly restrictive condition can never be made acceptable by offering the prospect of informal relaxation of its effect.

## **Control over land**

36. Particular care needs to be taken over conditions which require works to be carried out on land in which the applicant has no interest at the time when planning permission is granted. If the land is included in the site in respect of which the application is made, such conditions can in principle be imposed, but the authority should have regard to the points discussed in paragraph 3 above. If the land is outside that site, a condition requiring the carrying out of works on the land cannot be imposed unless the authority are satisfied that the applicant has sufficient control over the land to enable those works to be carried out.

## **Conditions depending on others' actions**

37. It is unreasonable to impose a condition worded in a positive form which developers would be unable to comply with themselves, or which they could comply with only with the consent or authorisation of a third party. Similarly, conditions which require the applicant to obtain an authorisation from another body, such as the Scottish Environment Protection Agency, should not be imposed.

38. Although it would be *ultra vires* to require works which the developer has no powers to carry out, or which would need the consent or authorisation of a third party, it may be possible to achieve a similar result by a condition worded in a negative form, prohibiting development until a specified action has been taken. Whereas previously it had been understood that the test of whether such a condition was reasonable, was strict; to the effect that there were at least reasonable prospects of the action in question being performed, the House of Lords (in the British Railways Board v the Secretary of State for the Environment and Hounslow LBC [1994] JPL32; [1993] 3 PLR 125) established that the mere fact that a desirable condition, worded in a negative form appears to have no reasonable prospects of fulfilment does not mean that planning permission need necessarily be refused as a matter of law. Thus, while an authority will continue to have regard to all relevant factors affecting a planning application and whether it should be granted with or without conditions, there is no longer a legal requirement to satisfy a reasonable prospects test in respect of any negative condition they may decide to impose. For example, if it could be shown that improvements to sewerage

facilities for a new housing development were planned but there was no clear indication that they would be built within the time limits imposed by the permission, it might still be possible to grant consent subject to a condition that the houses should not be occupied until the relevant sewerage works were completed. It might also be reasonable to use a condition requiring that a development should not commence until a particular road had been stopped up or diverted, even if the timing remained uncertain. Planning authorities should therefore note this recent House of Lords ruling and its implications for a less restrictive view in the use of negative conditions.

### **Consent of applicant to unreasonable conditions**

39. An unreasonable condition does not become reasonable because an applicant suggests it or consents to its terms. The condition will normally run with the land and may, therefore, still be operative long after the applicant has moved on. It must always be justified on its planning merits.

## **Regulation of development**

### **Outline permissions**

40. An applicant who proposes to carry out building or other operations may choose to apply either for full planning permission, or for outline permission with one or more of the following matters reserved by condition for the subsequent approval of the planning authority: the siting, design or the external appearance of the building, the means of access, or the landscaping of the site ("reserved matters"). An applicant cannot seek an outline planning permission for a change of use alone.

### **Details supplied in outline applications**

41. An applicant can, however, choose to submit as part of an outline application details of any of these "reserved matters". Unless he has indicated that those details are submitted "for illustrative purposes only" (or has otherwise indicated that they are not formally part of the application), the planning authority must treat them as part of the development in respect of which the application is being made. The

development in respect of which the application is being made. The authority cannot reserve that matter by condition for subsequent approval, unless the applicant is willing to amend the application by withdrawing the details.

### **Conditions relating to outline permissions**

42. Once outline planning permission has been granted, it cannot be withdrawn except by a revocation order under section 65 of the Act, and any subsequent approval of reserved matters does not constitute the granting of a further planning permission. Any conditions relating to anything other than the reserved matters should be imposed when outline permission is granted. The only conditions which can be imposed when the reserved matters are approved are conditions which directly relate to those matters. So, where certain aspects of the development are crucial to the decision, planning authorities will wish to consider imposing relevant conditions when outline permission is granted. For example, it may be considered necessary to require a building to be constructed within a specified "footprint" or to retain important landscape features which would affect the setting of the building and its neighbours.

43. If the planning authority consider that, whatever the precise form the development is to take, access to the buildings should be from a particular road (or, alternatively, that there should be no means of access from a particular road), then a condition to this effect must be imposed on the outline permission. Approval of the details of the means of access to the permitted buildings can be refused on the grounds that there should not be access to the site from a particular road only if the need for such a restriction arises from the details of the development which have been submitted for approval (eg from the density which is indicated by submitted details of the design and siting of the buildings). It is desirable that, wherever possible, notes should be appended to an outline permission to give the developer guidance as to what precise form of development will be acceptable to the planning authority.

### **Conditions reserving other matters**

44. Authorities should seek to ensure, where possible, that conditions other than those relating to reserved matters, are self-contained and do not require further approvals to be obtained before development can begin.

Where necessary, however, a planning authority may also, when granting a full or outline planning permission, impose a condition requiring that details of a specified aspect of the development which was not fully described in the application (eg the provision of car parking spaces) be submitted for approval before the development is begun. In the case of full permission such a condition can relate to details (such as landscaping) which might have been reserved matters had the application been made in outline. The applicant has the same right of appeal to the Secretary of State under section 47 of the Act if he cannot get the authority's approval, agreement or consent to matters reserved under such a condition as he has in respect of applications for approval of reserved matters.

## **Time-limits on the commencement of development**

### **Statutory time-limits**

45. The imposition of time-limits on the commencement of development is, by virtue of section 58 of the Act, not required for temporary permissions (see paragraphs 104-109), for permissions for any development carried out before the grant of planning permission, or for permissions granted by a development order, an enterprise zone or simplified planning zone scheme.

### **Time-limits on full permissions**

46. Other grants of planning permission (apart from outline permissions) should, under section 58 of the Act, be made subject to a condition imposing a time-limit within which the development authorised must be started. The section specifies a period of five years from the date of the permission. Where planning permission is granted without a condition limiting the duration of the planning permission, it is deemed to be granted subject to the condition that the development to which it relates must be begun not later than the expiration of 5 years beginning with the grant of permission.

### **Time-limits on outline permissions**

47. Grants of outline planning permission must, under section 59 of the Act, be made subject to conditions imposing two types of time limit, one

Act, be made subject to conditions imposing two types of time-limit, one within which applications must be made for the approval of reserved matters and a second within which the development itself must be started. The periods specified for the submission of applications for approval of reserved matters are: the latest of three years from the grant of outline permission; 6 months from the date of refusal of an earlier application; and 6 months from the date on which an appeal against such a refusal was dismissed. The periods specified for starting the development are either five years from the grant of permission or two years from the final approval of the last of the reserved matters, whichever is the longer.

### **Variation from standard time-limits**

48. If the authority consider it appropriate on planning grounds, they may specify longer or shorter periods than those specified in the Act, and must give their reasons for so doing. In the absence of specific time-limiting conditions, permission is deemed to have been granted subject to conditions imposing the periods referred to in paragraphs 46 and 47. It may be particularly desirable to adopt a flexible approach to the fixing of time-limits where development is to be carried out in distinct parts or phases; section 59(6) of the Act provides that outline permissions may be granted subject to a series of time-limits, each relating to a separate part of the development. Such a condition must be imposed at the time outline planning permission is granted.

49. A condition requiring the developer to obtain approval of reserved matters within a stated period should not be used, since the timing of an approval is not within the developer's control. A condition, therefore, should set time-limits only on the submission of applications for approval of reserved matters.

### **Separate submission of different reserved matters**

50. Applications for approval under an outline permission may be made either for all reserved matters at once, or for one at one time and others at another. Even after details relating to a particular reserved matter have been approved, one or more fresh applications may be made for approval of alternative details in relation to the same reserved matter. Once the time-limit for applications for approval of reserved matters has expired, however, no applications for such an approval can be made.

## **Effect of time-limit**

51. After the expiry of the time-limit for commencement of development it would be ultra vires for development to be begun under that permission; a further application for planning permission must be made.

## **Renewal of permissions before expiry of time-limits**

52. Developers who delay the start of development are likely to want their permission renewed, as the time-limit for implementation approaches. Under Article 5 of The Town and Country Planning (General Development Procedure) (Scotland) Order 1992 applications for such renewals may be made simply by letter, referring to the existing planning permission, although the planning authority have power subsequently to require further information, if needed. As a general rule, such applications should be refused only where:

- a. there has been some material change in planning circumstances since the original permission was granted (eg a change in some relevant planning policy for the area, or in relevant road considerations or the issue by the Government of a new planning policy which is material to the renewal application);
- b. there is likely to be continued failure to begin the development and this will contribute unacceptably to uncertainty about the future pattern of development in the area; or
- c. the application is premature because the permission still has a reasonable time to run.

## **Completion of development**

### **Completion of whole development**

53. A condition requiring that the whole of the development permitted be completed is likely to be difficult to enforce. If a development forming a single indivisible whole, such as a single dwellinghouse, is left half finished

single indivisible whole, such as a single dwellinghouse, is left half-finished, it may be possible to secure completion by a completion notice under section 61 of the Act. If, however, the reason for failure to complete is financial difficulties experienced by the developer, neither a completion notice nor the enforcement of conditions would be likely to succeed. In such circumstances, the only practical step open to the planning authority, if they wish to secure the completion of the development, would be to carry it out themselves following acquisition of the land. If a large development, such as an estate of houses is left half-complete, this may be due to market changes (for example, a shift in demand from four-bedroom to two-bedroom houses) and it would clearly not be desirable to compel the erection of houses of a type for which there was no demand. Conditions requiring the completion of the whole of a development should, therefore, not normally be imposed.

## **Completion of elements of a development**

54. Conditions may be needed, however, to secure that a particular element in a scheme is provided by a particular stage or before the scheme is brought into use, or to secure the provision of an element of a kind a developer might otherwise be tempted to defer or omit. Thus it may be desirable to require that a new access to the site should be constructed before any other development is carried out; or, where an office scheme includes a car park, that the car park is completed before the offices are occupied; or, where the scheme includes both offices and housing, that the offices should not be occupied before the houses are complete. The approach adopted must, of course, be reasonable. Taking the last example, it could well be unacceptable to require that the houses should be completed before the offices are begun; this would be likely to be an unjustifiable interference with the way the development is carried out. Or, to take another example, it could well be unacceptable to demand that all the requirements of a landscape condition should be complied with before a building is occupied; this could involve the building lying empty for many months, since such a condition will often provide for a considerable maintenance period so that trees can become established.

## **Phasing**

55. Conditions may also be imposed to ensure that development proceeds in a certain sequence where some circumstances of the proposal, for

example the manner of infrastructure provision, makes this necessary. A condition delaying development over a substantial period is a severe restriction on the benefit of the permission granted. If land is available for a particular purpose, its commencement should not be delayed by condition because the authority have adopted a system of rationing the release of land for development.

## **Traffic and transport**

56. The Government is planning to publish a White Paper in 1998 setting out its new integrated transport policy. This will aim, for example, to offer genuine choice to the travelling public by promoting more integrated public transport systems and to address the problems of congestion and transport related pollution. New planning guidance and advice flowing from the new policy will be issued in due course and it is likely that this will have implications for the level of parking provision which it would be appropriate to prescribe in planning conditions. Subsequent paragraphs need to be read against this general background.

## **Parking, public transport, walking and cycling**

57. Developments often generate extra traffic, usually in the form of haulage or delivery vehicles or cars of residents, visitors or employees. Unless this demand is minimal (as it might be, for example, in the case of some very small firms) and unlikely to cause obstruction, space may need to be provided for off-street parking. Any conditions specifying the number of parking spaces should be consistent with the development plan as well as transport policies for the area. They also need to be reasonable in relation to the size and nature of the development and to satisfy the tests referred to in paragraph 12.

58. Normally a parking site separate from the road will be needed. In this case, conditions should ensure, where necessary, that space is provided for the turning of vehicles so that they do not have to reverse on to the road. Where the authority decides that it is appropriate to require the provision of car parking spaces on other land under the control of the applicant, the development must be readily accessible from the car park.

59. In certain circumstances, developers may enter into a planning

agreement with the planning authority to provide off-site parking or to contribute to other transport measures directly related to the development, for example to assist public transport or walking and cycling. The provisions of such agreements should reflect Government policy as set out in SODD Circular 12/1996.

## **Access**

60. Where a service road is needed as part of a large development for which outline permission is to be granted, it may be necessary to impose a condition requiring all access to the main road to be by means of the service road. If such a condition is not imposed at outline stage it may not be possible to secure the objective at a later stage (see paragraph 42). Similarly, if it is desired that there should be no direct access on to a main road, or that access must be taken from a particular side road, a condition to that effect should be imposed on the outline permission, as without such a condition these restrictions could not normally be introduced when details are being considered.

61. A condition may require the provision or improvement of a service road or means of access even if such works are not included in the application, provided that they can be undertaken on the site in respect of which the application is made, or on other land which is under the control of the applicant, and relates to the proposed development. The condition should be framed so as to require the laying out or improvement of the means of access on the relevant section of the service road on defined land before the relevant buildings are occupied.

62. In considering the imposition of conditions concerning "access", planning authorities should bear in mind the definition of "road" in section 277 of the Town and Country Planning (Scotland) Act 1997 which refers to the definition in section 151 of the Roads (Scotland) Act 1984:

"any way (other than a waterway) over which there is a public right of passage (by whatever means) and whether subject to a toll or not and includes the road's verge, and any bridge (whether permanent or temporary) over which, or tunnel through which, the road passes and any reference to a road includes a part thereof."

Roads fall into 2 particular categories, "public roads" and "private roads"

Roads fall into 2 particular categories- public roads and private roads, defined in section 151 of the Roads (Scotland) Act 1984. The former are those included in a list of public roads kept by the roads authority and such roads are managed and maintained by the authority. Private roads are those over which the public has a right of passage but whose maintenance is not the responsibility of a roads authority. Such roads are maintainable privately but they are not private in any other way. They are not included in the list of public roads but there is provision in the 1984 Act under which they can be added to the roads authority's list provided they are of adoptable standard. There is sometimes confusion as to what is a private road and that term is often associated in the public mind with, for example, driveways up to private houses. These are not "roads" in terms of the Roads (Scotland) Act as there is no public right of passage over them (anyone using them does so on the sufferance of the owner) and they are, in fact, private accesses. Planning authorities should ensure that prospective developers are fully aware of the significant difference between a private access and a private road. "Private road" marked on a plan indicates that the public will have a right of passage over the land comprising the road: the developer will be required to seek from the roads authority a separate written consent to build such a road and it must be constructed to the standard required by that authority.

## **Lorry routing**

63. Planning conditions are not an appropriate means of controlling the right of passage over public roads. Although negatively worded conditions which control such matters might sometimes be capable of being validly imposed on planning permissions, such conditions are likely to be very difficult to enforce effectively. It may be possible to encourage drivers to follow preferred routes by posting site notices to that effect, or by requiring them to use a particular entrance to (or exit from) the site. But where it is judged essential to prevent traffic from using particular routes, the appropriate mechanism for doing so is by means of an Order under section 1 of the Road Traffic Regulation Act 1984.

## **Cession of land**

64. Conditions may not require the cession of land to other parties, such as the roads authority.

# Development of contaminated sites

## Contaminated land

65. Land formerly used for many purposes, including industry and waste disposal can be contaminated by substances that pose immediate or long-term hazards to the environment or to health, or which may damage buildings erected on such sites. Contaminants may also escape from the site to cause air and surface or groundwater pollution and pollution of nearby land. The emission of gas or leachate from a landfill site may be particularly hazardous. In these circumstances, appropriate conditions may be imposed in order to ensure that the development proposed for the site will not expose future users or occupiers of the site, buildings and services, or the wider environment to risks associated with the contaminants present. Planning authorities should, however, base any such conditions on a site-specific assessment of the environmental risks which might affect, or be affected by, the particular proposed development. Conditions should not duplicate the effect of other legislative controls. The contaminated land should be remediated to a standard which is suitable for the proposed use.

66. If it is known or strongly suspected that a site is contaminated to an extent which would adversely affect the proposed development or infringe statutory requirements, an investigation of the hazards by the developer and proposals for remedial action will normally be required before the application can be determined by the planning authority. Any subsequent planning permission may need to include planning conditions requiring certain remedial measures to be carried out.

67. In cases where there is only a suspicion that the site might be contaminated, or where the evidence suggests that there may be only slight contamination, planning permission may be granted subject to conditions that development will not be permitted to start until a site investigation and assessment have been carried out and that the development itself will incorporate any remedial measures shown to be necessary.

68. Conditions might also be imposed requiring the developer to draw to

68. Conditions might also be imposed requiring the developer to draw to the attention of the planning authority the presence of significant unsuspected contamination encountered during redevelopment. The planning authority may then require the developer to take further remediation action under public health duties. Further guidance on contaminated land is contained in NPPG10- Planning and Waste Management, PAN33- Development of Contaminated Land and PAN51- Planning and Environment Protection. A new regime for identifying and remediating contaminated land is being introduced through the provision of the Environmental Protection Act 1990, as amended by the Environment Act 1995. This uses a risk-based approach in identifying contaminated land and applies the polluter pays and 'suitable for use' principles. The role of the planning system in addressing contamination will continue alongside the new regime.

## **Environmental assessment**

69. For projects subject to environmental assessment, conditions attached to a grant of planning permission may incorporate monitoring and mitigation measures proposed in an environmental statement where such conditions meet the criteria summarised in paragraph 12. It may be appropriate to impose conditions on the grant of planning permission and in the light of the environmental assessment, to require a scheme of mitigation covering matters of planning concern to be submitted to and approved in writing by the planning authority before any development is undertaken. Again conditions should not duplicate the effect of other legislative controls. In particular, planning authorities should not seek to substitute their own judgement on pollution control issues for that of the bodies with the relevant expertise and the statutory responsibility for that control.

## **Noise**

70. Noise can have a significant effect on the environment and on the quality of life enjoyed by individuals and communities. The planning system should ensure that, wherever practicable, noise-sensitive developments are separated from major sources of noise and that new development involving noisy activities should, if possible, be sited away from noise-sensitive land uses. Where it is not possible to achieve such a separation of land uses, planning authorities should consider whether it is

practicable to control or reduce noise levels, or to mitigate the impact of noise, through the use of conditions or planning agreements. (See SDD Circular 16/1973.)

## **Nature conservation and landscape**

71. Nature conservation and landscape quality can be important material considerations in determining many planning applications. Planning authorities should not, however, refuse permission if development can be permitted subject to conditions that will prevent damaging impacts on particular species, wildlife habitats or important physical features. Moreover, for some types of development, such as mineral workings, conditions can be used to provide, on completion of operations, a natural heritage asset. Conditions can also be used, for example, to require areas to be fenced or bunded off to protect them, to restrict operations or uses at or to particular times of the year, to safeguard particular views or to reinforce particular landscape features. The views of Scottish Natural Heritage (SNH) will be particularly important in assessing the impact of development on the natural heritage of an area and in framing appropriate conditions.

72. Planning authorities should bear in mind that a number of areas valued for their landscape quality or nature conservation interest are afforded statutory protection. National Scenic Areas provide the national designation for landscape. For habitats, as well as national designations (primarily Sites of Special Scientific Interest), European Community Directives on nature conservation, most notably through Special Areas of Conservation under the Habitats Directive and Special Protection Areas under the Wild Birds Directive, are being implemented. A number of sites have also been designated under the Ramsar Convention on Wetlands of International Importance. Conditions affecting such areas will need to be consistent with the provisions applicable for their protection. Scottish Office Environment Department Circulars 13/1991 and 6/1995 are particularly important sources of information and guidance.

73. Where the primary concern relates to land management or access to natural heritage resources, planning authorities should consider whether mechanisms other than those provided under planning legislation might provide the best means of securing their objectives. Countryside

Management Agreements under the Countryside (Scotland) Act 1967 as amended by the Natural Heritage (Scotland) Act 1991 provide a mechanism for securing appropriate management of natural heritage assets. Access or Public Path Creation Agreements under the 1967 Act can be used to secure appropriate access for enjoyment of the natural heritage.

## **Design and landscape**

74. The appearance of a proposed development and its relationship to its surroundings are material considerations in planning decisions. While planning authorities should not attempt to use conditions simply to impose matters of taste, there will be circumstances where it is important to secure a high quality of design in a proposal if this is to make a positive contribution to a site and its surroundings and show consideration for its local context. This could involve, for example, specifying in conditions the use of particular design features such as materials or finishes. The appearance and treatment of the spaces between and around buildings is also of great importance. Similarly, planning authorities may wish to use conditions to ensure that important vistas are preserved or that landscape features are provided to improve the overall setting of a development.

75. Landscape design may raise special considerations. The treatment of open space can vary greatly and the objective should be to ensure that the intended design quality is achieved in practice. It is, therefore, especially important for the authority to give some advance indication of the essential characteristics of an acceptable landscape scheme- always bearing in mind that such requirements should not be unreasonable. It is of equal importance to ensure that the design proposals are reflected in the quality of works and materials in the final product. The design and implementation stages of landscape treatment may, therefore, be addressed more successfully by separate conditions, occurring as they do at different stages and under variable circumstances. The visual impact of a development will often need to be assessed as a whole and this may well involve considering details of landscape design together with other reserved matters.

## **Enforcement of landscaping requirements**

76. To ensure that a landscape design scheme is prepared, conditions may

76. To ensure that a landscape design scheme is prepared, conditions may require that no development should take place until the scheme is approved, so long as this requirement is reasonable. Enforcing compliance with landscape schemes can pose problems, since work on landscaping can rarely proceed until building operations are nearing completion. Only on permissions for a change of use would it be acceptable to provide that the development permitted should not proceed until the landscaping had been substantially completed. Where permission is being granted for a substantial estate of houses, it might be appropriate to frame the relevant condition to allow for landscape works to be phased in accordance with a programme or timetable to be agreed between the developer and the planning authority and submitted for approval as part of the landscape design proposals. Alternatively, the erection of the last few houses might be prohibited until planting had been completed in accordance with the landscape scheme. In relation to a permission for an industrial or office building, it would be possible to impose a condition prohibiting or restricting occupation of the building until such works had been completed.

## **Trees**

77. Section 159 of the Act places an express duty on the planning authority, when granting planning permission, to ensure whenever appropriate that adequate conditions are imposed to secure the preservation or planting of trees, and that any necessary tree preservation orders are made under section 160 of the Act. When granting outline planning permission, the authority may consider it appropriate to impose a condition requiring the submission of particular details relating to trees to be retained on the site, such as their location in relation to the proposed development and their general state of health and stability. When granting detailed planning permission, conditions may be used to secure the protection of trees to be retained, for example by requiring the erection of fencing around trees during the course of development or restricting works which are likely to adversely affect them. The long-term protection of trees, however, should be secured by tree preservation orders rather than by condition. Such orders may also be expedient for the temporary protection of existing trees until details of the reserved matters are submitted and it becomes clear whether there is a need to retain the trees.

78. The planting and establishment of new trees may need work over

several months or years and the authority may wish to ensure that they obtain details of those responsible for the management and maintenance of certain planted areas during that period of time. Where appropriate, a condition may require not just initial planting, but also that trees shall be maintained over a specified period of years and that any which die or are removed within that time shall be replaced.

## **Sites of archaeological interest**

### **Archaeological sites**

79. Monuments scheduled as of national importance by the Secretary of State are protected by Part I of the Ancient Monuments and Archaeological Areas Act 1979. Where its provisions apply, their effect should not be duplicated by planning conditions (see paragraphs 19-21), although authorities granting planning permission in such circumstances are advised to draw the attention of the applicant to the relevant provisions of the 1979 Act.

80. Where, however, planning permission is being granted for development which might affect the setting of a scheduled monument or a non-scheduled monument or its setting, the planning authority may wish to impose conditions designed to protect the monument or its setting; to secure the provision of archaeological excavation and recording prior to development commencing; or, if the expectation of significant archaeological deposits is low, to ensure arrangements are made for a watching brief before and during the construction period. Further advice on archaeology and planning conditions is given in NPPG 5 Archaeology and Planning and Planning Advice Note 42 Archaeology.

### **Maintenance conditions**

81. A condition may be imposed, where appropriate, requiring some feature of a development to be retained- car parking spaces off the road, for example, or an area of open space in a housing scheme. A condition requiring something to be maintained, in the sense of being kept in good repair or in a prescribed manner, should be imposed only when the planning authority are fully satisfied that the requirement is both relevant to

planning authority are fully satisfied that the requirement is both relevant to the development which is being permitted, reasonable in its effects and sufficiently precise in its terms to be readily enforceable. Maintenance conditions should not normally be imposed when granting permission for the erection of buildings, or for works other than works of a continuing nature such as minerals extraction.

## **Conditions requiring a financial or other consideration for the grant of permission**

82. As a general proposition no payment of money or other consideration can be required when granting a permission or any other kind of consent required by a statute, except where there is specific statutory authority. Conditions requiring, for instance, the cession of land for road improvements or for open space, or requiring the developer to contribute money towards the provision of facilities not directly related to the proposed development, should accordingly not be attached to planning permissions. There may, however, be certain circumstances whereby the general proposition should not apply. The appropriateness of conditions involving financial or other considerations is dependent on the particular circumstances of the development for which the planning authority intends to grant planning permission and whether, in particular, the proposed conditions satisfy the criteria in paragraph 12. Thus conditions, involving financial considerations, but which meet the tests in paragraph 12 need not necessarily be ultra vires. Planning authorities should also bear in mind the advice in SODD Circular 12/1996 on Planning Agreements.

## **Conditions altering the nature of the development**

### **Modifying proposed development**

83. If some feature of a proposed development, or the lack of it, is unacceptable in planning terms, the best course will often be for the applicant to be invited to modify the application. If the modification is substantial, of course, a fresh application will be needed. It may however, depending on the case, be quicker and easier for the planning authority to impose a condition modifying the development permitted in some way. The precise course of action will normally emerge during discussion with the

applicant. It would thus be legitimate to require by condition that a factory proposal, for example, should include necessary car parking facilities, but wrong to grant permission for a development consisting of houses and shops subject to a condition that houses be substituted for the shops. Whether a modification would amount to substantial difference will depend upon the circumstances of the case. A useful test will be whether it would so change the proposal that: (i) those who have shown an interest in it would wish to comment on the modification; and (ii) those who, although they had a right to object to the original application and chose not to do so, would be prejudiced if they were not now given an opportunity to comment. A condition modifying the development, however, cannot be imposed if it would make the development permitted substantially different from that comprised in the application.

## **Regulation after development**

84. Conditions which will remain in force after the development has been carried out always need particular care. They can place onerous and permanent restrictions on what can be done with the premises affected and they should, therefore, not be imposed without scrupulous weighing of where the balance of advantage lies. The following paragraphs give more detailed guidance.

## **Restrictions on use or permitted development**

85. Exceptionally, conditions may be imposed to restrict further development which would normally be permitted by the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, or to restrict changes of use which would not be regarded as development whether because the change is not a "material" change within the terms of section 26(1) of the Act, or by reason of section 26(2) and the provisions of The Town and Country Planning (Use Classes) (Scotland) Order 1997. Changes of use can be restricted either by prohibiting any change from the use permitted or by precluding specific alternative uses. It should be noted, however, that a condition restricting changes of use will not restrict ancillary or incidental activities unless it so specifies. Similarly, a general condition which restricts the use of land does not remove permitted development rights for that use unless the condition specifically removes those rights as well.

## **Presumption against such restrictions**

86. Both the General Permitted Development Order and the Use Classes Order, however, are designed to give or confirm a freedom from detailed control which will be acceptable in the great majority of cases. Accordingly, save in exceptional circumstances, conditions should not be imposed which restrict either permitted development rights granted by the General Permitted Development Order or future changes of use which the Use Classes Order would otherwise allow. The Secretary of State would regard such conditions as unreasonable unless there were clear evidence that the uses excluded would have serious adverse effects on amenity or the environment, that there was no other forms of control and that the condition would serve a clear planning purpose.

87. To illustrate some exceptional circumstances, it may be possible to justify imposing a condition restricting permitted development rights allowed by Class 7 of the General Permitted Development Order so as to preserve an exceptionally attractive open plan estate free of fences, or under Class 1 of the General Permitted Development Order so as to avoid over-development by extensions to dwellinghouses in an area of housing at unusually high density. Similarly, changes of use may be restricted so as to prevent the use of large retail premises as a food or convenience goods supermarket, where such a use may generate an unacceptable level of additional traffic or have a damaging effect on the vitality of a nearby town centre. Conditions may also limit the storage of hazardous substances in a warehouse.

## **Specific conditions better than general ones**

88. Because of the general presumption against such restrictions on permitted development or on changes of use which are not development, it will always be necessary to look carefully at the planning reasons for any restriction and to ensure that the condition imposed is no more onerous than can be justified (see paragraph 87 above). It would not be right to use a condition restricting uses where an alternative, more specific, condition would achieve the same end. For example, where it is necessary to restrict the volume of noise emitted from an industrial site and a condition addressing the problem expressly can be used, that condition should be imposed, rather than one restricting the permitted uses. Scrupulous care in

the giving of proper, adequate and intelligible reasons for imposing conditions (see paragraph 9) can help authorities to ensure that the conditions they impose are not more onerous than is necessary to achieve their objective.

## **Restrictions on use**

89. It will be preferable if a condition designed to restrict changes of use can be drafted so as to prohibit a change to a particular unacceptable use or uses (provided the list does not become too long), rather than in terms which prevent any change of use at all. However, in certain cases a condition confining the use only to the use permitted may be necessary. In appropriate circumstances, it might be reasonable to impose a condition limiting the intensification of use of small office or industrial buildings where intensification beyond a certain point would generate traffic and/or parking problems. Conditions designed to prevent the primary use of an office building being changed to use as shops are unnecessary, as this would involve a material change of use amounting to development of land which would require planning permission.

## **Ancillary uses**

90. Conditions are sometimes imposed restricting ancillary or incidental activities which would not normally be material changes of use involving development. Conditions of this kind can be burdensome to some technologically advanced industries. They may have a need for higher than normal levels of ancillary office, research or storage uses, or for short-term changes in uses or the balance of uses. Such conditions should, therefore, not normally be imposed on permissions for manufacturing or service industry, except where they are designed to preclude or regulate activities giving rise to hazard, noise or offensive emissions.

# **Conditions restricting the occupancy of buildings and land**

## **Occupancy: general considerations**

91. Since planning controls are concerned with the use of land rather than the identity of the user, the question of who is to occupy premises for which permission is to be granted will normally be irrelevant. Conditions restricting occupancy to a particular occupier or class of occupier should only be used when special planning grounds can be demonstrated and where the alternative would normally be refusal of permission.

### **Personal permissions**

92. Unless the permission otherwise provides, planning permission runs with the land and it is seldom desirable to provide otherwise. There are occasions relating, for example, to strong compassionate or other personal grounds, where the planning authority is minded to grant permission for the use of a building or land for some purpose which would not normally be allowed. In such a case the permission may be made subject to a condition that it shall enure only for the benefit of a named person- usually the applicant. A permission personal to a company is generally inappropriate. Conditions of this type will scarcely ever be justified in the case of a permission for the erection of a permanent building.

### **General undesirability of commercial and industrial occupancy conditions**

93. Conditions are sometimes imposed to confine the occupation of commercial or industrial premises to local firms. Such conditions can act- undesirably- to protect local businesses against fair competition and may hinder the movement of industry in response to economic demand. If a service, or the employment it generates, is needed in an area, there is no planning reason why it should be provided by one firm rather than another. Commercial and industrial buildings in an area of open countryside will not become more acceptable because their occupancy is restricted, nor will the expansion of a local firm necessarily lead to less pressure for further development (eg housing) than the arrival of a firm from outside. The Secretary of State therefore regards such conditions as undesirable in principle.

### **Conditions governing size of unit occupied**

94. Conditions requiring that a large commercial or industrial building should be occupied either only as a single unit or alternatively only in

should be occupied either only as a single unit or, alternatively, only in suites not exceeding a certain area or floorspace, represent a significant interference with property rights which is likely to inhibit or delay the productive use of the buildings affected. Such conditions should, therefore, normally be avoided.

## **Domestic occupancy conditions**

95. Subject to the advice about affordable housing (paragraph 96), staff accommodation (paragraph 98-99), agricultural and forestry dwellings (paragraphs 100-102) and seasonal use (paragraphs 111-113), if the development of a site for housing is an acceptable use of the land, there will seldom be any good reason on land use planning grounds to restrict the occupancy of those houses to a particular type of person (eg those already living or working in the area). To impose such a condition would be to draw an artificial and unwarranted distinction between new houses or new conversions and existing houses that are not subject to such restrictions on occupancy or sale. It may deter housebuilders from providing homes for which there is a local demand and building societies from providing mortgage finance. It may also impose hardship on owners who subsequently need to sell. It involves too detailed and onerous an application of development control and too great an interference in the rights of individual ownership. Such conditions should, therefore, not be imposed save in the most exceptional cases where there are clear and specific circumstances that warrant allowing an individual house (or extension) on a site where development would not normally be permitted.

## **Affordable housing**

96. The community's need for a mix of housing types- including affordable housing- is capable of being a material planning consideration. It follows that there may be circumstances in which it will be acceptable to use conditions to ensure that some of the housing built is occupied only by people falling within particular categories of need. Such conditions would normally only be necessary where a different planning decision might have been taken if the proposed development did not provide for affordable housing and should make clear the nature of the restriction by referring to criteria set out in the relevant development plan policy. Conditions should not normally be used to control matters such as tenure, price or ownership. Guidance on affordable housing is contained in NPPG 3: Land for Housing.

## **"Granny annexes"**

97. Some extensions to dwellings are intended for use as "granny annexes". It is possible that a "granny annex" which provides independent living accommodation, could subsequently be let or sold off separately from the main dwelling. Where there are sound planning reasons why the creation of an additional dwelling would be unacceptable, it may be appropriate to impose a planning condition to the effect that the extension permitted shall be used solely as accommodation ancillary to the main dwellinghouse. The same is true for separate buildings (often conversions of outbuildings) intended for use as "granny annexes". In these cases it is even more likely that a separate unit of accommodation will be created.

## **Staff accommodation**

98. The above considerations may equally apply to staff accommodation. Where an existing house is within the curtilage of another building and the two are in the same occupation, any proposal to occupy the two buildings separately is likely to amount to a material change of use, so that planning permission would be required for such a proposal even in the absence of a condition. Planning authorities should normally consider applications for such development sympathetically since, if the need for such a dwelling (for the accommodation of an employee, for example) disappears, there will generally be no justification for requiring the building to stand empty or to be demolished.

99. Conditions tying the occupation of dwellings to that of separate buildings (eg requiring a house to be occupied only by a person employed by a nearby garage) should be avoided. However, exceptionally, such conditions may be appropriate where there are sound planning reasons to justify them, eg where a dwelling has been allowed on a site where permission would not normally be granted. To grant an unconditional permission would mean that the dwelling could be sold off for general use which may be contrary to development plan policy for the locality. To ensure that the dwelling remains available to meet the identified need, it may therefore be acceptable to grant permission subject to a condition that ties the occupation of the new house to the existing business.

## **Agricultural and forestry dwellings**

100. In many parts of Scotland planning policies impose strict controls on new residential development in the open countryside. There may, however, be circumstances where permission is granted to allow a house to be built to accommodate a worker engaged in bona fide agricultural or forestry employment on a site where residential development would not normally be permitted. In these circumstances, it will often be necessary to impose an agricultural or forestry worker occupancy condition.

101. Planning authorities will wish to take care to frame agricultural occupancy conditions in such a way as to ensure that their purpose is clear. In particular, they will wish to ensure that the condition does not have the effect of preventing future occupation by retired agricultural workers or the dependants of the agricultural occupant.

102. Where an agricultural occupancy condition has been imposed, it will not be appropriate to remove it on a subsequent application unless it is shown that circumstances have materially changed and that the agricultural need which justified the approval of the house in the first instance no longer exists.

## **Retail development**

103. Out-of-centre retail developments, including retail parks, can change their composition over time. If such a change would create a development that the planning authority would have refused on the grounds of impact on vitality and viability of an existing town centre, it may be sensible to consider the use of planning conditions to ensure that these developments do not subsequently change their character unacceptably. Any conditions imposed should apply only to the main ranges of goods (eg food and convenience goods, hardware, electrical goods, furniture and carpets) and should not seek to control details of particular products to be sold. For further guidance see NPPG 8: Retailing.

## **Temporary permissions**

104. Section 41(1)(b) of the Act gives power to impose conditions requiring that a use be discontinued or that buildings or works be removed at the end of a specified period. Where permission is granted for the development

end of a specified period. Where permission is granted for the development of the operational land of a statutory undertaker, however, this power does not apply except with the undertaker's consent (see section 219 of the Act). Conditions of this kind are sometimes confused with conditions which impose a time-limit for the implementation of a permission (paragraphs 45 to 49) but they are quite distinct and different considerations arise in relation to them.

## **Principles applying to Temporary permissions**

105. In other cases, in deciding whether a temporary permission is appropriate, three main factors should be taken into account. Firstly, it will rarely be necessary to give a temporary permission to an applicant who wishes to carry out development which conforms with the provision of the development plan. Secondly, it is undesirable to impose a condition requiring the demolition after a stated period of a building that is clearly intended to be permanent. Lastly, the material considerations to which regard must be had in granting any permission are not limited or made different by a decision to make the permission a temporary one. Thus, the reason for granting a temporary permission can never be that a time-limit is necessary because of the effect of the development on the amenity of the area. Where such objections to a development arise they should, if necessary, be met instead by conditions whose requirements will safeguard amenity. If it is not possible to devise such conditions and the damage to amenity cannot be accepted, then the proper course is to refuse permission. These considerations mean that a temporary permission will normally only be appropriate either where the applicant himself proposes temporary development or when a trial run is needed in order to assess the effect of the development on the area.

## **Short-term buildings or uses**

106. Where, therefore, a proposal relates to a building or use which the applicant is expected to retain or continue only for a limited period, whether because he has specifically volunteered that intention or because it is expected that the planning circumstances will change in a particular way at the end of that period, then a temporary permission may be justified. For example, permission might reasonably be granted on an application for erection of a temporary building to last seven years on land which will be required for road improvements eight or more years hence, although an

application to erect a permanent building on the land would normally be refused.

## **Trial runs**

107. Again, where an application is made for permanent permission for a use which may be a "bad neighbour" to existing uses nearby but there is insufficient evidence to enable the authority to be sure of its character or effect, it might be appropriate to grant a temporary permission in order to give the development a trial run, provided that such a permission would be reasonable having regard to the capital expenditure necessary to carry out the development. However, a temporary permission would not be justified merely because, for example, a building is to be made of wood rather than brick. Nor would a temporary permission be justified on the grounds that, although a particular use, such as a hostel or playgroup, would be acceptable in a certain location, the character of its management may change. In certain circumstances it may be possible to grant temporary permission for the provision of a caravan or other temporary accommodation, where there is some evidence to support the grant of planning permission for an agricultural or forestry dwelling but it is inconclusive, perhaps because there is doubt about the sustainability of the proposed enterprise. This allows time for such prospects to be clarified.

108. A second temporary permission should not normally be granted. A trial period should be set that is sufficiently long for it to be clear by the end of the permission whether permanent permission or a refusal is the right answer. Usually a second temporary permission will only be justified where road or redevelopment proposals have been postponed or in cases of hardship where temporary instead of personal permission has been granted for a change of use.

## **Restoration of sites**

109. If the temporary permission is for development consisting of, or including, the carrying out of operations, it is important to make provision by condition for the removal of any buildings and works permitted- not merely for the cessation of the use- and for the reinstatement of the land when the permission expires. Where the permission is for temporary use of

land as a caravan site, conditions may include a requirement to remove at the expiry of the permission any buildings or structures, such as toilet blocks, erected under Class 17 of the General Permitted Development Order.

## **Access for disabled people**

110. Where a building is new or is being altered, it is usually sufficient to rely on building regulations to ensure adequate access for disabled people. However, some new development does not require building regulation approval, eg development affecting the setting of buildings (layout of estates, pedestrianisation etc) rather than the buildings themselves. Where there is a clear planning need, it may be appropriate to impose a condition to ensure adequate access for disabled people.

## **Seasonal use**

### **Seasonal occupancy conditions**

111. Occasionally it may be acceptable to limit the use of land for a particular purpose to certain seasons of the year. For example, where planning permission is being granted for a caravan site, the planning authority may think it necessary to impose a condition to ensure that during the winter months the caravans are not occupied and are removed for storage to a particular part of the site or away from the site altogether. Where such a condition is imposed, particular care should be taken to see that the condition allows a reasonable period of use of the caravans in each year. A similar approach may be taken where it is necessary to prevent the permanent residential use of holiday chalets, which by the character of their construction or design are unsuitable for continuous occupation. Seasonal occupancy conditions may also be appropriate to protect the local environment, or example, where the site is near a fragile habitat which requires peace and quiet to allow seasonal breeding or winter feeding to take place.

### **Holiday occupancy conditions**

112. In recent years there has been an increased demand for self-catering

holiday accommodation- whether new buildings (including mobile homes) or converted properties- which may be constructed to a standard that would equally support permanent residence in some comfort. But this accommodation may also be located in areas in which the provision of permanent housing would be contrary to national policies on development in the countryside or not in accordance with development plan policies, or both. The Secretary of State considers that the planning system should respond to these changes without compromising policies to safeguard the countryside.

113. There may be circumstances where it will be reasonable for the planning authority to grant planning permission for holiday accommodation as an exception to these policies, with a condition specifying its use as holiday accommodation only. For example, conversions of redundant buildings into holiday accommodation where conversion to residential dwellings would not be permitted may reduce the pressure on other housing in rural areas. A holiday occupancy condition would seem more appropriate in those circumstances than a seasonal occupancy condition. But authorities should continue to use seasonal occupancy conditions to prevent the permanent residential use of accommodation which by the character of its construction or design is unsuitable for continuous occupation, particularly in the winter months.

### [Addendum to Circular 4/1998](#)

#### **Planning Series:**

National Planning Policy Guidelines (NPPGs) provide statements of Government policy on nationally important land use and other planning matters, supported where appropriate by a locational framework.

Circulars, which also provide statements of Government policy, contain guidance on policy implementation through legislative or procedural change.

Planning Advice Notes (PANs) provide advice on good practice and other relevant information.

Statements of Government policy contained in NPPGs and Circulars may,

so far as relevant, be material considerations to be taken into account in development plan preparation and development control.



## [Planning circular 4-1998 The use of conditions in planning permissions.pdf](#)

**31 page PDF** | 187.8 kB

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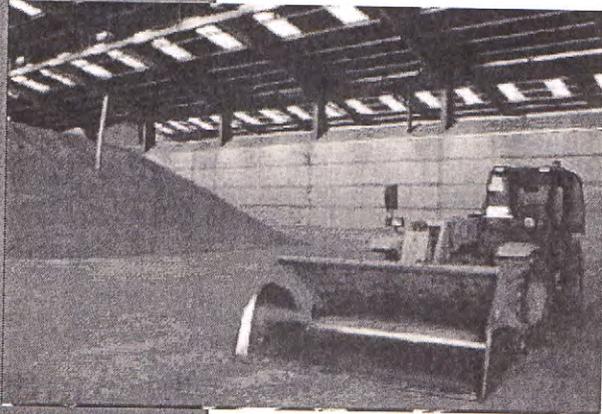
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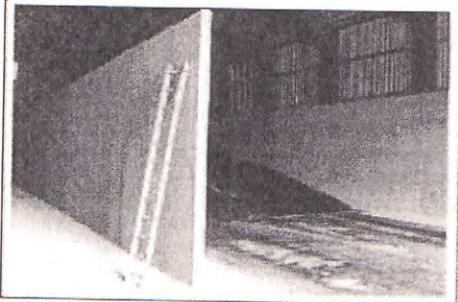




# ACP GRAIN & BULK STORAGE UNITS

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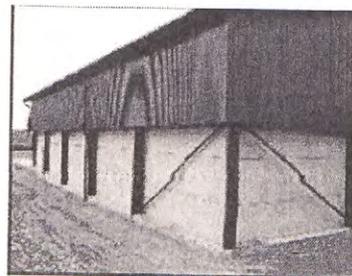
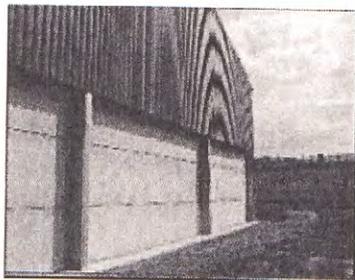
- Interlocking prestressed horizontal & vertical units have the ability to flex under shock load and ride the stress of machinery impact without serious damage
- A choice of fixing options enables all or part of the load to be passed to the supporting structure. Horizontal panels pass all the load to the building stanchions; propped vertical panels share the load between the building & the floor; vertical cantilever panels pass all the load to the foundation.
- Panels made to measure in any lengths up to 6m for horizontal panels, 3.4m for vertical panels and 8m for propped vertical panels
- Single and double loading (dividing wall) designs



Horizontal panels - perimeter wall,  
Vertical cantilever panels - division wall

### Advantages:

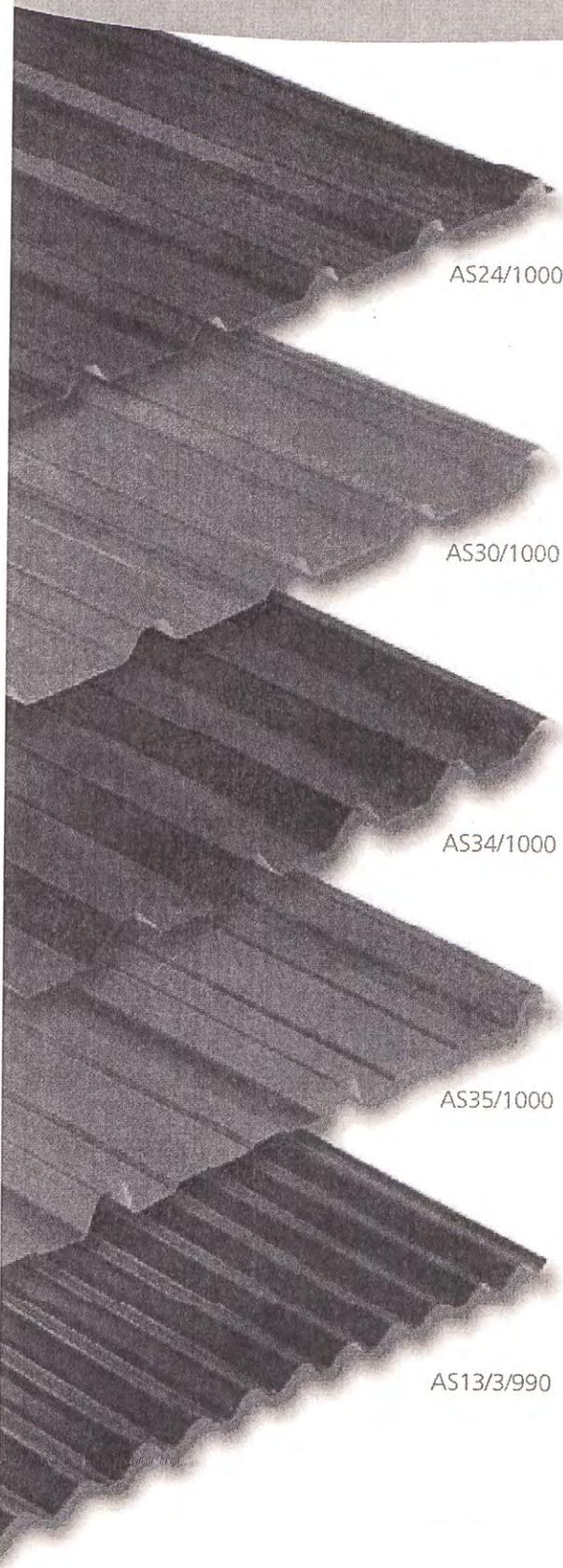
- Rapid installation not affected by prevailing weather conditions
- Horizontal panels are "foundation free" and dry bolt fixing
- High strength provided by prestressing, durable and damage resistant
- Gives 90° floor to wall joint which makes for easy cleaning between batches and reduces the likelihood of damage to machinery and wall alike



# SINGLE SKIN SYSTEMS

## AS SERIES ROOF & WALL PROFILES

### INTRODUCTION



AS24/1000

AS30/1000

AS34/1000

AS35/1000

AS13/3/990

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Introduction	2	This brochure describes Steadmans' profiled metal systems for single skin roofs and walls; it includes technical description and performance data for the systems and offers guidance for designers.
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### ABOUT STEADMANS

A Steadman & Son Limited (usually known as Steadmans) are one of the UK's leading manufacturers of roofing and cladding, supplying high quality cladding materials from our sites in England, Scotland and Northern Ireland. We offer total roofing and cladding solutions which we deliver with our dedicated haulage fleet.

Our continuous investment programme and on-going product development ensures we can provide high quality products promptly and at competitive prices.

19/05171/FUL

## Profile 6

### Description

Profile 6 is a high strength fibre cement sheet with polypropylene reinforcement strips inserted at precisely engineered locations that run along the length of the sheet. This provides maximum impact strength without affecting the durability of the product.

The reinforcing strips within Profile 6 only become effective when the sheet is fully load.

Profile 6 has a very broad appeal. It is designed for roofs of 5° pitch and over and for vertical cladding in both single skin and insulated constructions.

A comprehensive range of accessories is available and apart from the natural grey finish, sheets and accessories can be supplied in a wide range of colours (see pages "3-4").

### Dimensions

Standard lengths (mm):  
 \*525, \*675, \*825, \*975, \*1125, \*1275,  
 2440, 2600, 2750, 2900, 3050

Firmscope lengths (mm):  
 \*525, 2440, 2900 (see page 6)

Approximate covering capacities for estimating purposes:

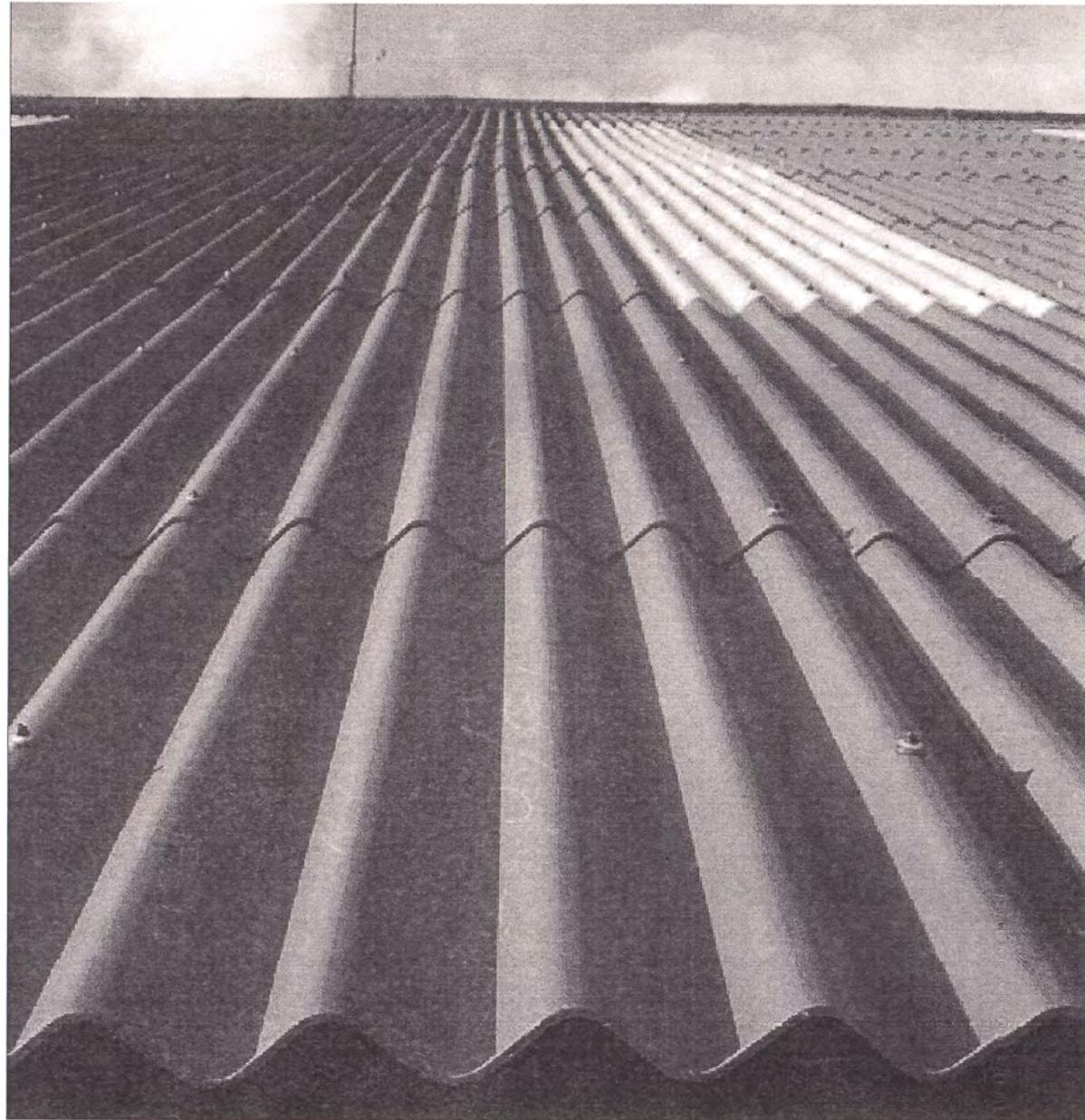
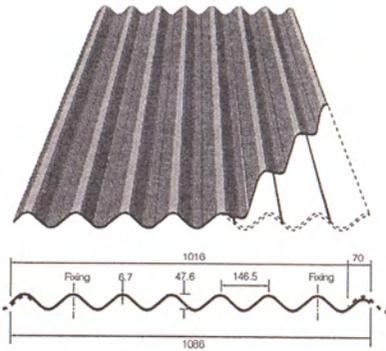
(137.5mm purlin spacing, normal side lap, 150mm end lap)  
 approx 1.13m<sup>2</sup> of material covers 1.0m<sup>2</sup>

(137.5mm purlin spacing, normal side lap, 300mm end lap)  
 approx 1.10m<sup>2</sup> of material covers 1.0m<sup>2</sup>

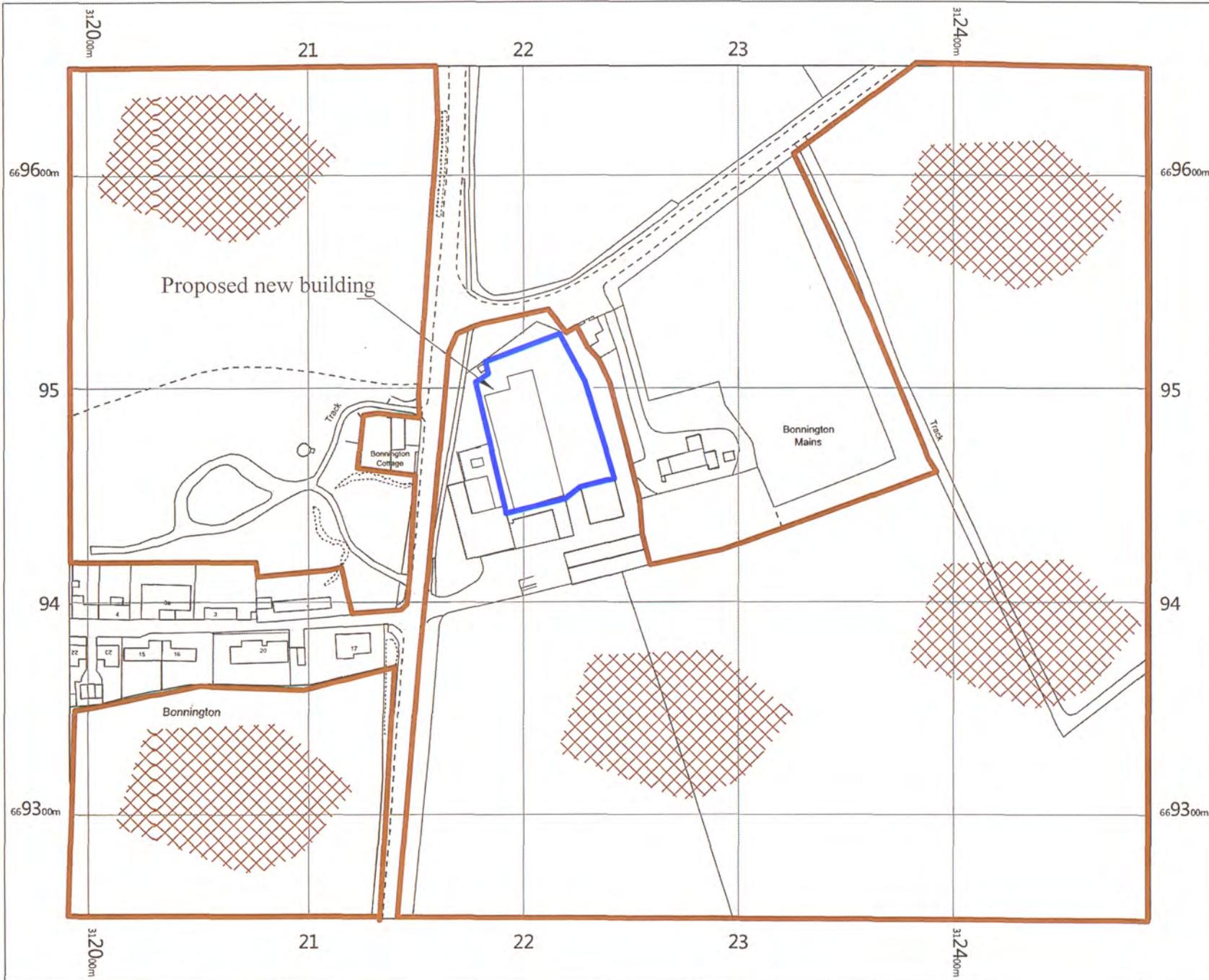
### Technical data

Overall width	*386mm
Net covering width	*376mm
Thickness (nominal)	6.7mm
Minimum density	*430kg/m <sup>3</sup>
Pitch of corrugation (nominal)	*46.5mm
Depth of profile	47.6mm
Profile height category	C
Side lap	70mm
Minimum end lap	*150mm
Maximum purlin centres	*375mm
Maximum rail centres	*625mm
Maximum unsupported overhang	300mm
Approx. weight of roofing as laid with *150mm end laps: single skin including fixings	*7kg/m <sup>2</sup>
Minimum roof pitch	5°

Measured cast in crest, the sheet has 6 full corrugations of 146.5mm and 1 corrugation of 136.8mm.



Profile 6



Robert Robertson & Son  
 Bonnington Farm  
 Kirknewton  
 Edinburgh  
 EH27 8BB

**06**

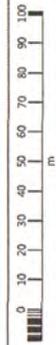
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28 OCT 2019

MEETING	AGENDA ITEM

*SM Siddle*  
 22/10/19

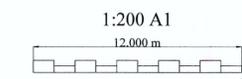
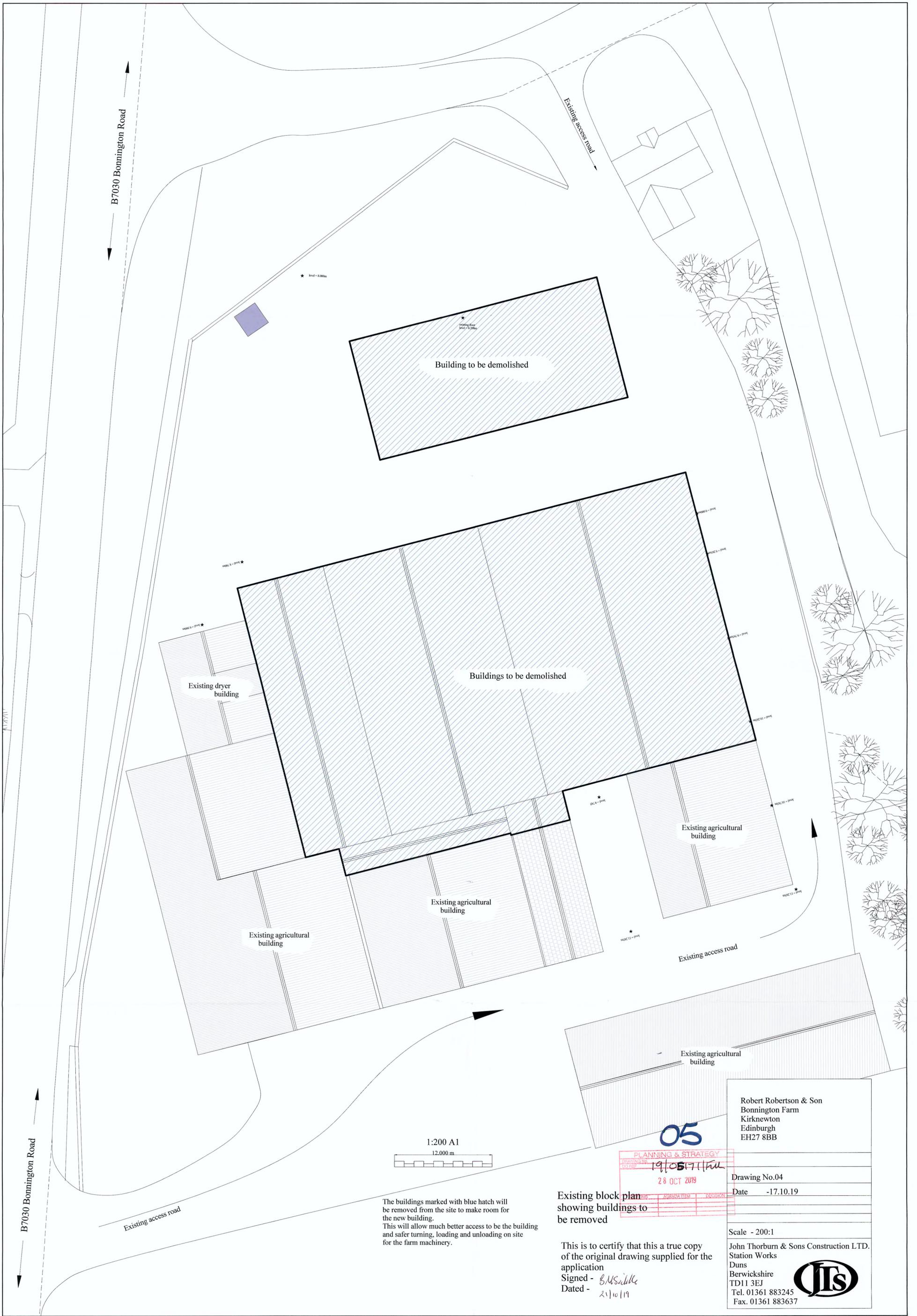


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 scale  
 Thursday, September 19, 2019, ID:  
 M4P-00828850  
 John Thorburn

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The buildings marked with blue hatch will be removed from the site to make room for the new building. This will allow much better access to be the building and safer turning, loading and unloading on site for the farm machinery.

Existing block plan showing buildings to be removed

This is to certify that this a true copy of the original drawing supplied for the application  
Signed - *B. S. A. J.*  
Dated - 21/10/19

05  
PLANNING & STRATEGY  
19/05/19  
28 OCT 2019

Robert Robertson & Son  
Bonnington Farm  
Kirknewton  
Edinburgh  
EH27 8BB

Drawing No.04  
Date -17.10.19

Scale - 200:1

John Thorburn & Sons Construction LTD.  
Station Works  
Duns  
Berwickshire  
TD11 3EJ  
Tel. 01361 883245  
Fax. 01361 883637



The site will be accessed by the existing farm access roads.  
 The removal of some of existing buildings and location of the proposed building will allow much better access to be the building and safer turning loading and unloading on site for the farm machinery which is much bigger than it used to be.

04

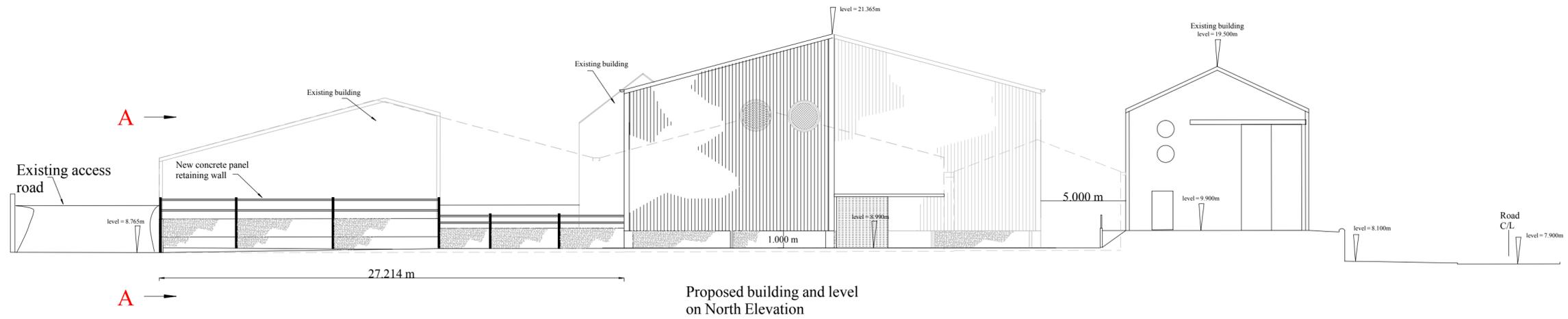
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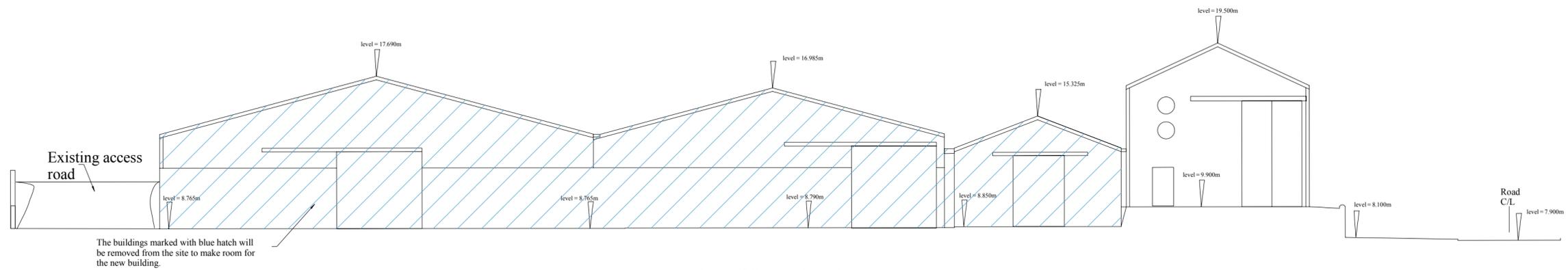
**Proposed block floor plan**

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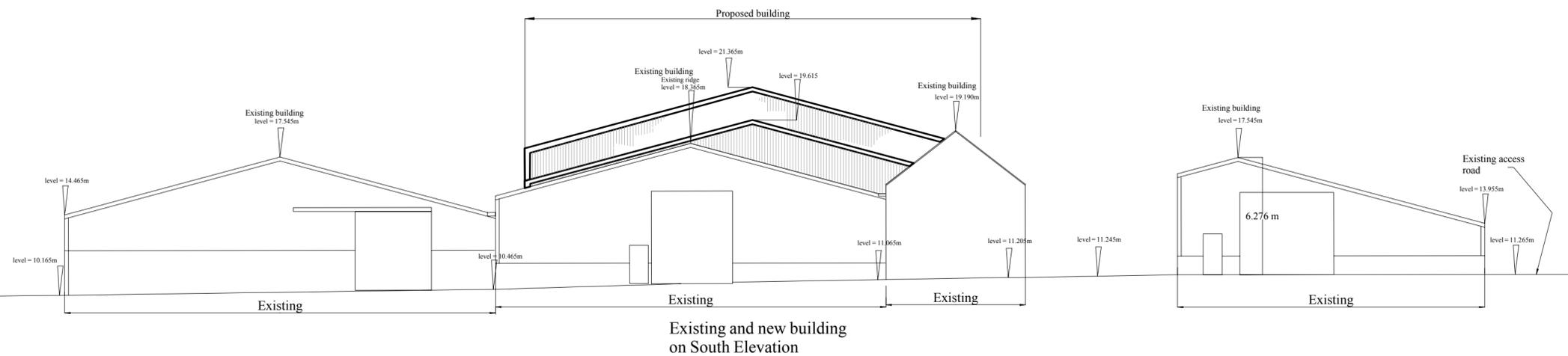




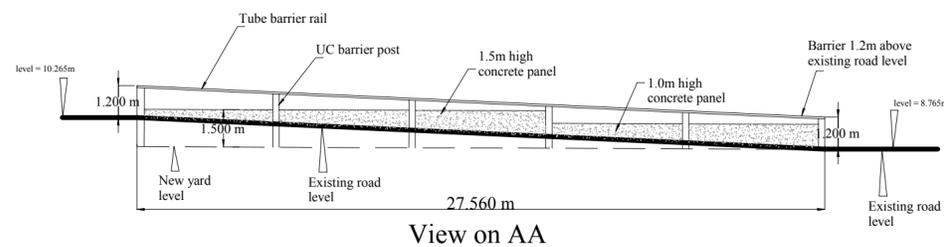
Proposed building and level on North Elevation



Existing buildings and levels on North Elevation

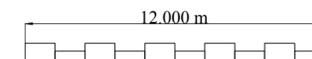


Existing and new building on South Elevation



View on AA

1:200 A2



Existing and proposed elevations

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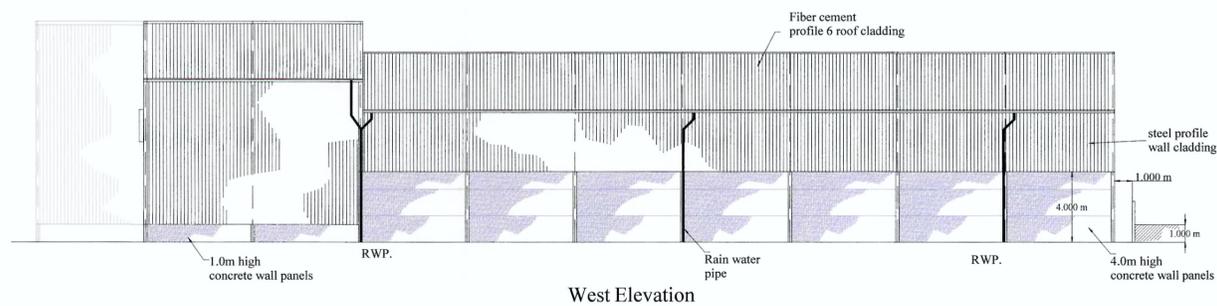
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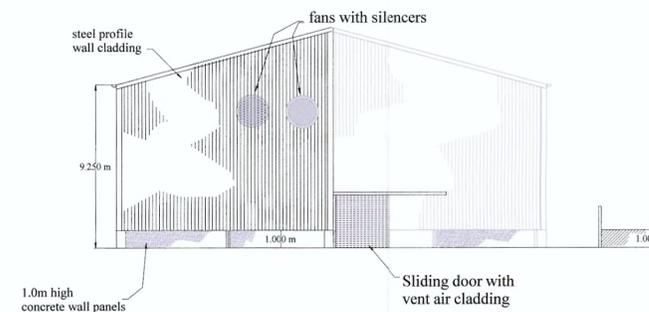
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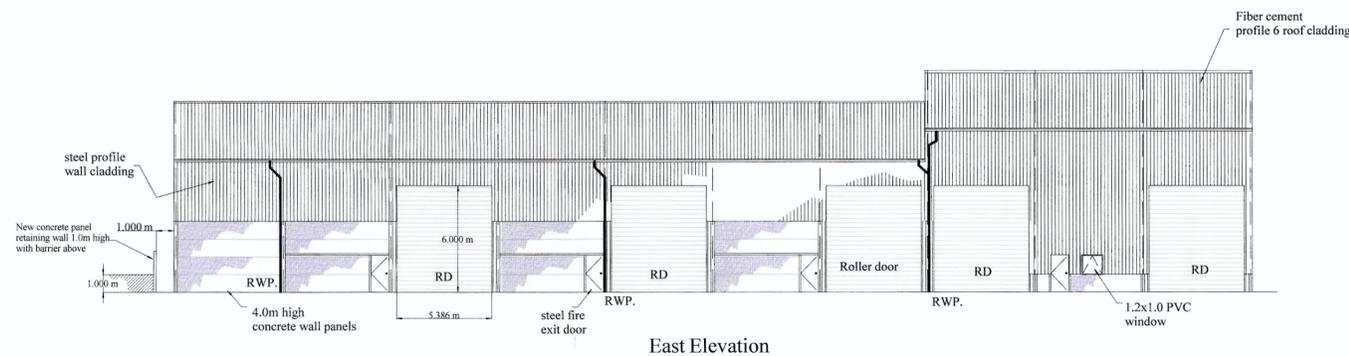




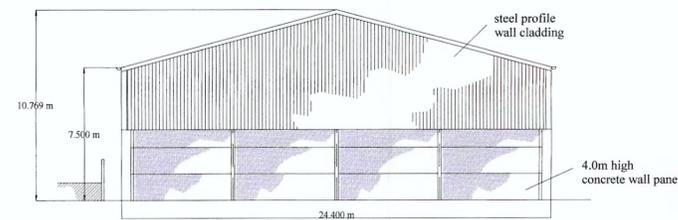
West Elevation



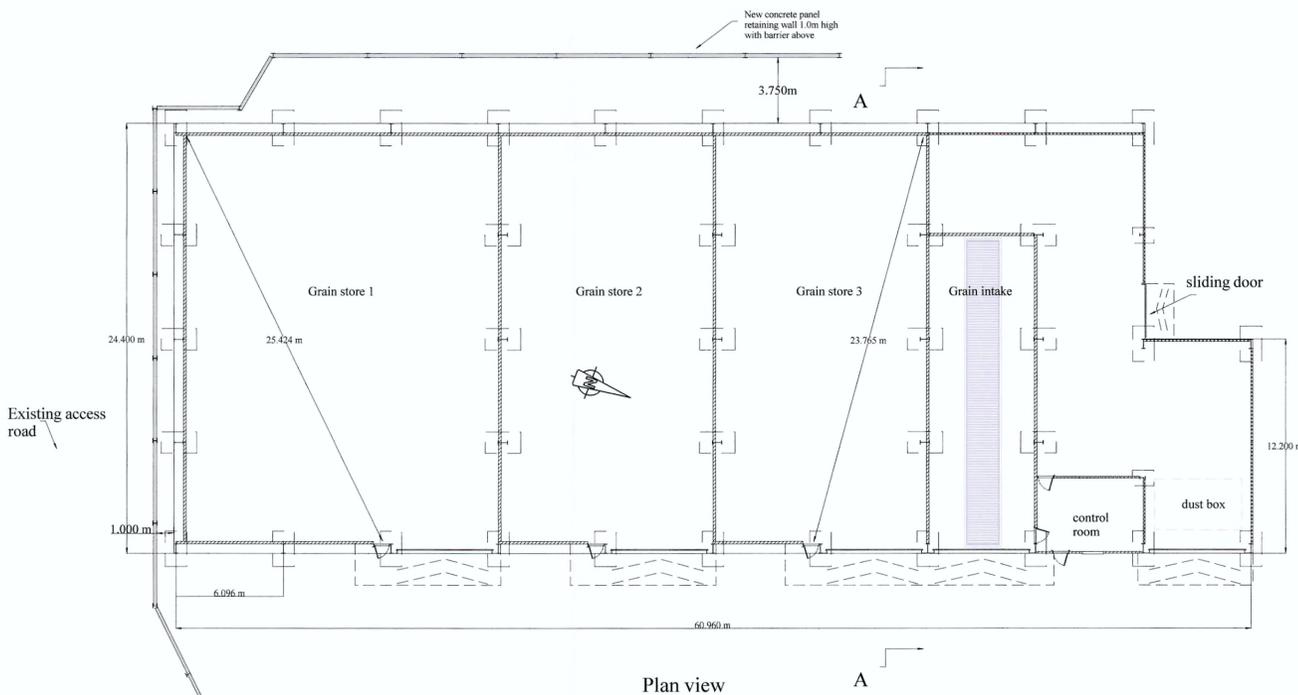
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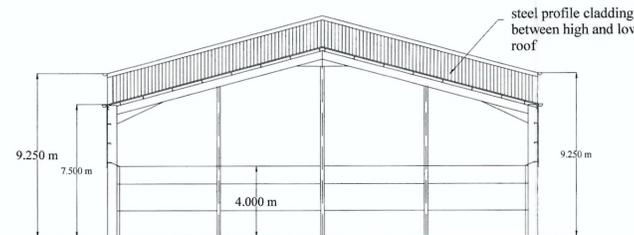
East Elevation



South Elevation



Plan view



Section on AA

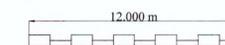
The proposed new grain store building will be on the site of the existing agricultural buildings which are no longer suitable for the storage of grain. The cladding on the proposed building will be steel profile cladding coloured Merlin Grey to match the cladding on the remaining buildings and which blends into the landscape on an elevated site like this is.

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- length 60.960m
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- Eaves beam -152x76 RSC
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- Side rails -205/150 METL-CON
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- Side cladding - steel profile cladding
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- Gutters -170mm PVC gutter
- Down pipes -110mm PVC

Proposed elevations and plan



Proposed Building For  
Robert Robertson & Son  
Bonnington Farm  
Kirknewton  
Edinburgh  
EH27 8BB

Drawing No.01A Drawn by - BMS.  
Date -17.10.19

Scale - 150:1

John Thorburn & Sons Construction LTD.  
Station Works  
Duns  
Berwickshire  
TD11 3EJ  
Tel. 01361 883245  
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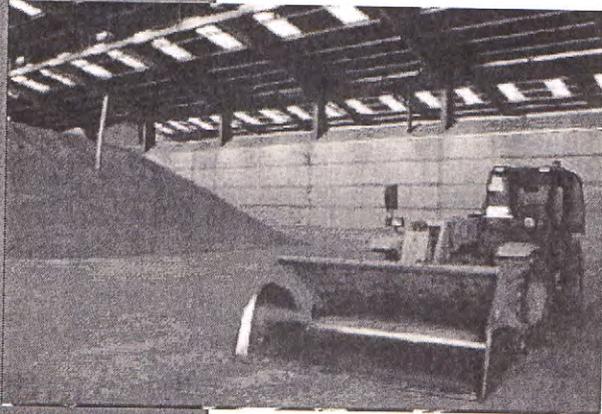
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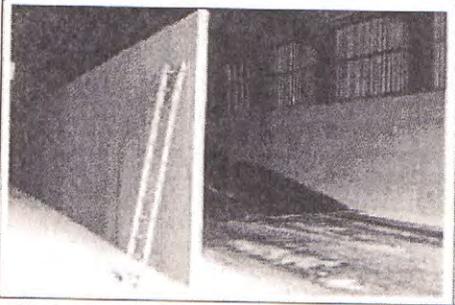


# ACP GRAIN & BULK STORAGE UNITS

- [Website Home Page](#)
- [Agriculture Home Page](#)
- [Specification](#)
- [Installation](#)
- [Estimate](#)
- [Contact](#)

- Interlocking prestressed horizontal & vertical units have the ability to flex under shock load and ride the stress of machinery impact without serious damage
- A choice of fixing options enables all or part of the load to be passed to the supporting structure. Horizontal panels pass all the load to the building stanchions; propped vertical panels share the load between the building & the floor; vertical cantilever panels pass all the load to the foundation.

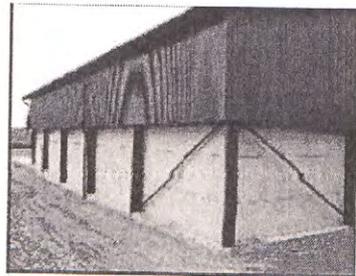
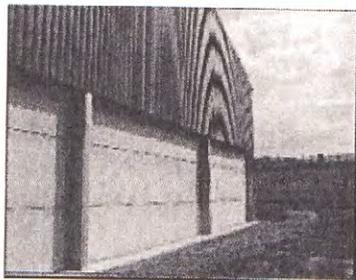
- Panels made to measure in any lengths up to 6m for horizontal panels, 3.4m for vertical panels and 8m for propped vertical panels
- Single and double loading (dividing wall) designs



Horizontal panels - perimeter wall,  
Vertical cantilever panels - division wall

### Advantages:

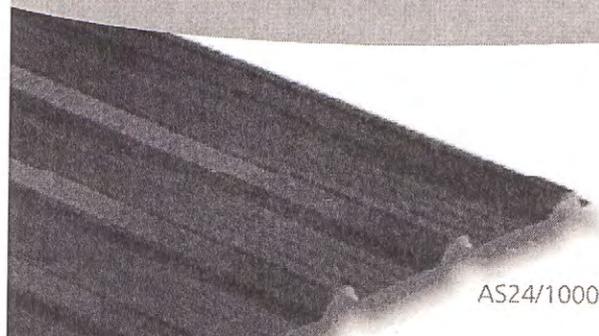
- Rapid installation not affected by prevailing weather conditions
- Horizontal panels are "foundation free" and dry bolt fixing
- High strength provided by prestressing, durable and damage resistant
- Gives 90° floor to wall joint which makes for easy cleaning between batches and reduces the likelihood of damage to machinery and wall alike



# SINGLE SKIN SYSTEMS

## AS SERIES ROOF & WALL PROFILES

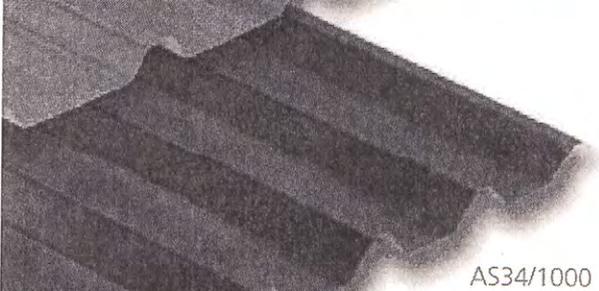
### INTRODUCTION



AS24/1000



AS30/1000



AS34/1000



AS35/1000



AS13/3/990

#### Index

Introduction	2	This brochure describes Steadmans' profiled metal systems for single skin roofs and walls; it includes technical description and performance data for the systems and offers guidance for designers.
About Steadmans	2	
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Technical description	3 - 4	
Performance	5 - 15	
AS24/1000 profiles	5 - 6	
AS30/1000 profiles	7 - 8	
AS34/1000 profiles	9 - 10	
AS35/1000 profiles	11 - 12	
AS13/3/990 profiles	13 - 14	
Colours	15 - 16	
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Design guidance	18 - 20	
Sitework	21 - 24	
Maintenance	25	
Supply and delivery	25	
Technical support	26	
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### ABOUT STEADMANS

A Steadman & Son Limited (usually known as Steadmans) are one of the UK's leading manufacturers of roofing and cladding, supplying high quality cladding materials from our sites in England, Scotland and Northern Ireland. We offer total roofing and cladding solutions which we deliver with our dedicated haulage fleet.

Our continuous investment programme and on-going product development ensures we can provide high quality products promptly and at competitive prices.

19/05171/FUL

## Profile 6

### Description

Profile 6 is a high strength fibre cement sheet with polypropylene reinforcement strips inserted at precisely engineered locations that run along the length of the sheet. This provides maximum impact strength without affecting the durability of the product.

The reinforcing strips within Profile 6 only become effective when the sheet is fully load.

Profile 6 has a very broad appeal. It is designed for roofs of 5° pitch and over and for vertical cladding in both single skin and insulated constructions.

A comprehensive range of accessories is available and apart from the natural grey finish, sheets and accessories can be supplied in a wide range of colours (see pages "3-4").

### Dimensions

Standard lengths (mm):  
 525, 675, 825, 975, 1125, 1275,  
 1425, 1575, 1725, 1875, 2025, 2175

Factory lengths (mm):  
 525, 2440, 2900 (see page 6)

Approximate covering capacities for estimating purposes:

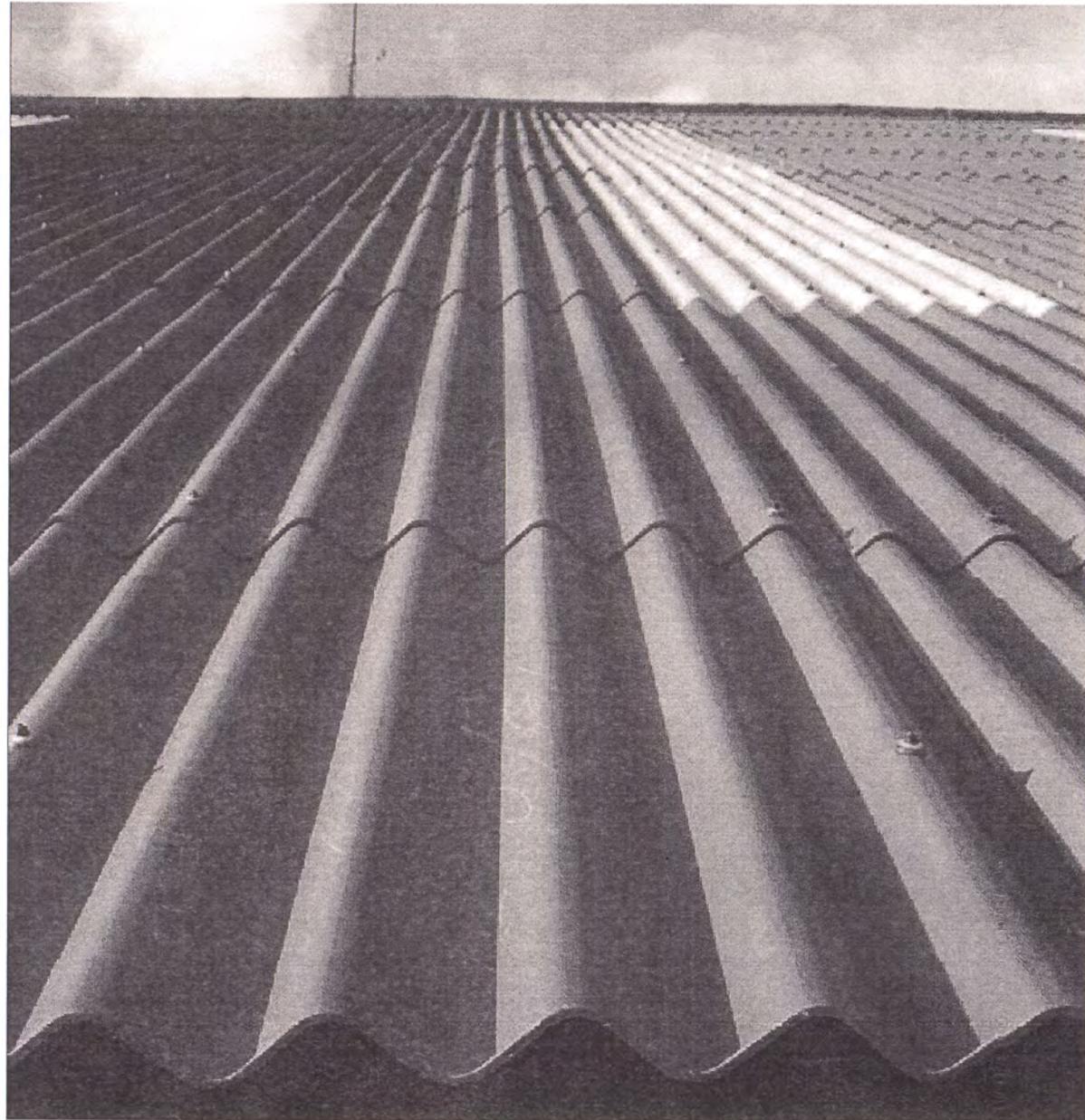
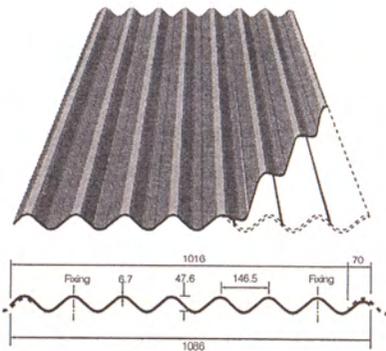
(1375mm purlin spacing, normal side lap, 150mm end lap)  
 approx 1.13m<sup>2</sup> of material covers 1.0m<sup>2</sup>

(1375mm purlin spacing, normal side lap, 300mm end lap)  
 approx 1.10m<sup>2</sup> of material covers 1.0m<sup>2</sup>

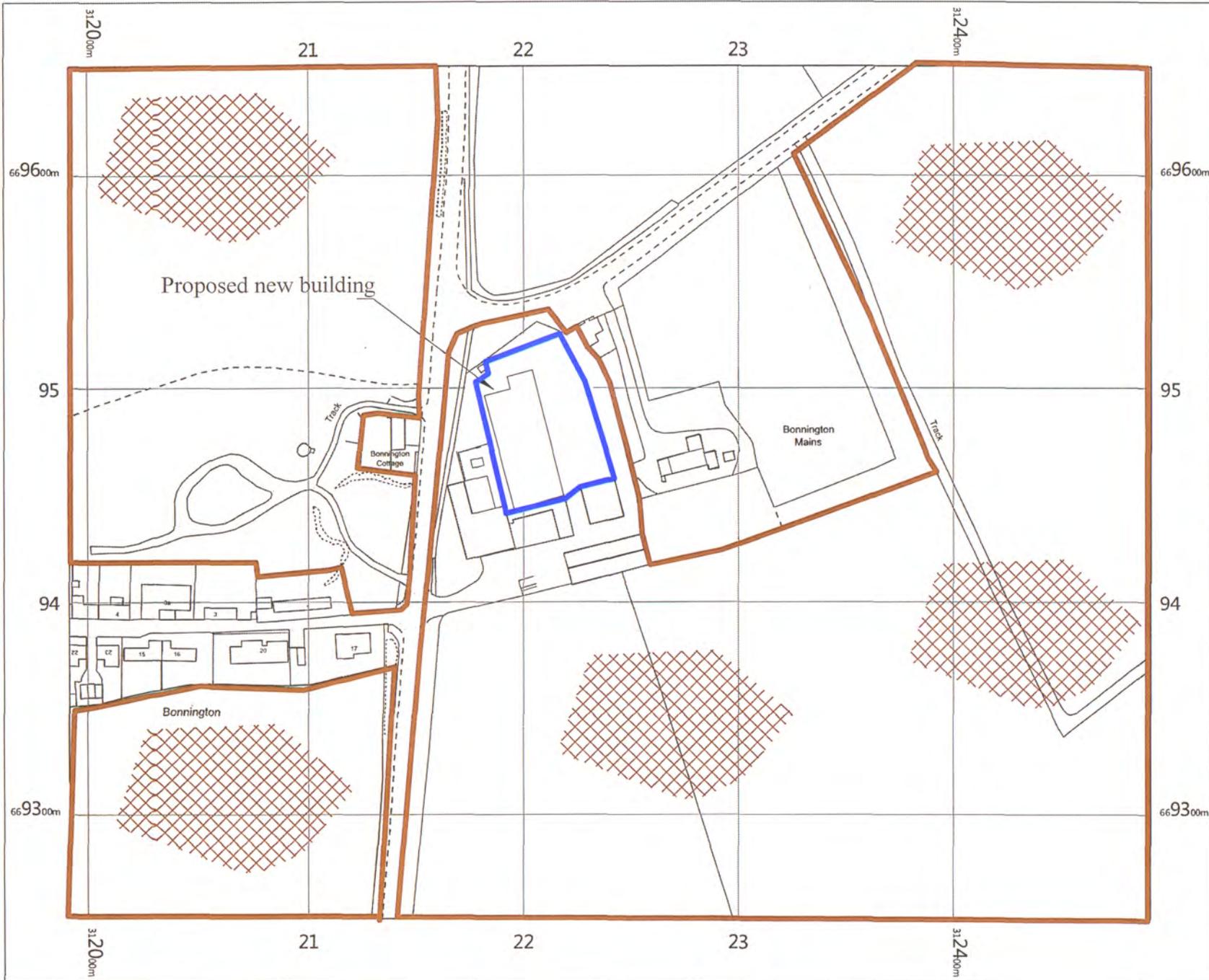
### Technical data

Overall width	~386mm
Net covering width	~376mm
Thickness (nominal)	6.7mm
Minimum density	~430kg/m <sup>3</sup>
Pitch of corrugation (nominal)	~46.5mm
Depth of profile	47.6mm
Profile height category	C
Side lap	70mm
Minimum end lap	~50mm
Maximum purlin centres	~375mm
Maximum rail centres	~625mm
Maximum unsupported overhang	300mm
Approx. weight of roofing as laid with ~50mm end laps: single skin including fixings	~7kg/m <sup>2</sup>
Minimum roof pitch	5°

Measured cast in crest, the sheet has 6 full corrugations of 146.5mm and 1 corrugation of 136.8mm.



Profile 6



Robert Robertson & Son  
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 Kirknewton  
 Edinburgh  
 EH27 8BB

**06**

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MEETING	AGENDA ITEM

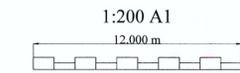
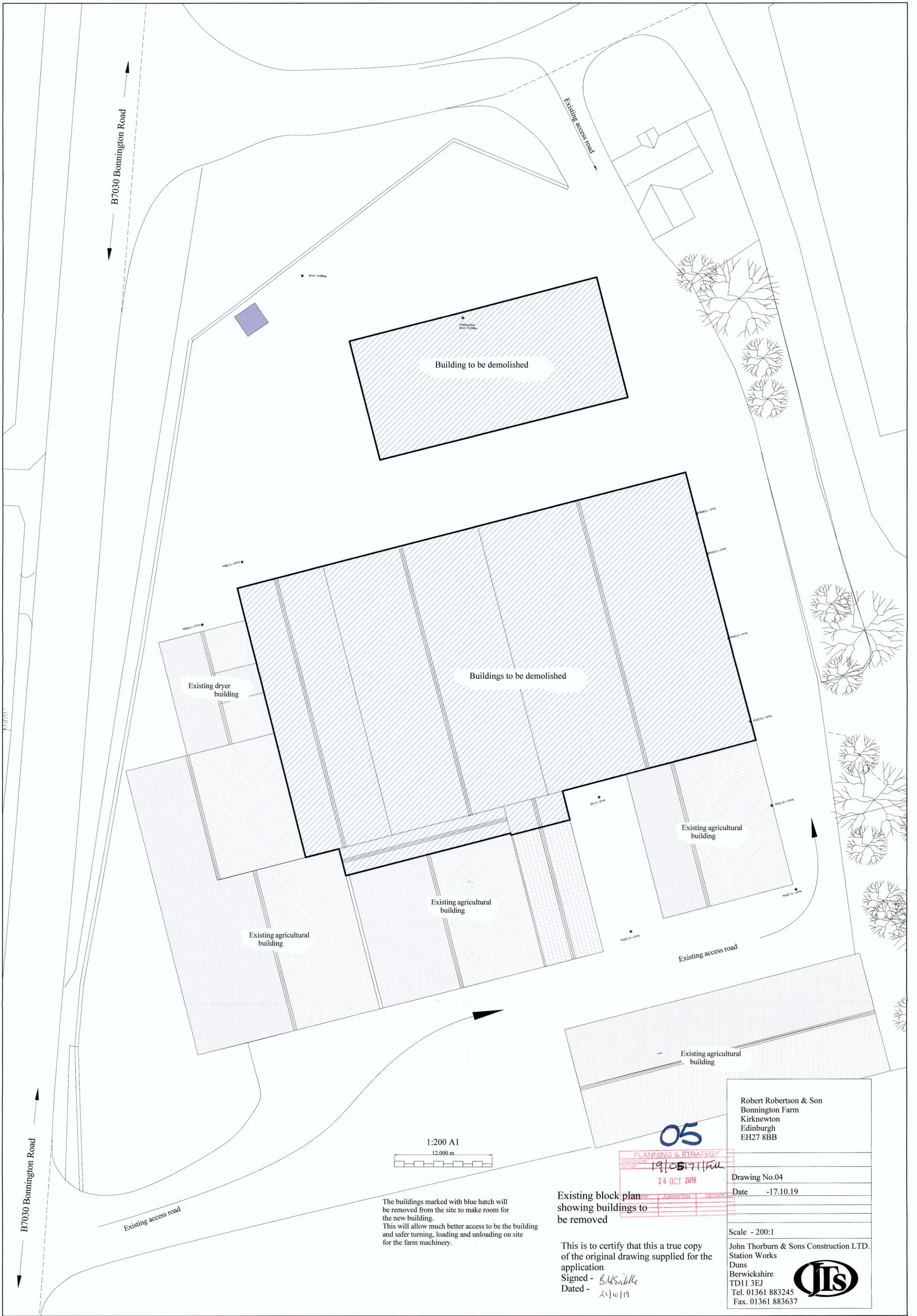
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OS MasterMap 1250/2500/10000  
 scale  
 Thursday, September 19, 2019, ID:  
 M4P-00828850  
 John Thorburn

1:2500 scale print at A4, Centre:  
 312242 E, 669451 N

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The buildings marked with blue hatch will be removed from the site to make room for the new building. This will allow much better access to be the building and safer turning, loading and unloading on site for the farm machinery.

Existing block plan showing buildings to be removed

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 Dated - 21/10/19

05  
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Robert Robertson & Son  
 Bonnington Farm  
 Kirknewton  
 Edinburgh  
 EH27 8BB

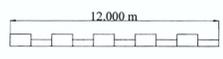
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 Date -17.10.19

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 Station Works  
 Duns  
 Berwickshire  
 TD11 3EJ  
 Tel. 01361 883245  
 Fax. 01361 883637



1:200 A1



The site will be accessed by the existing farm access roads.  
 The removal of some of existing buildings and location of the proposed building will allow much better access to be the building and safer turning loading and unloading on site for the farm machinery which is much bigger than it used to be.

04

PLANNING & STRATEGY		
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DATE:		

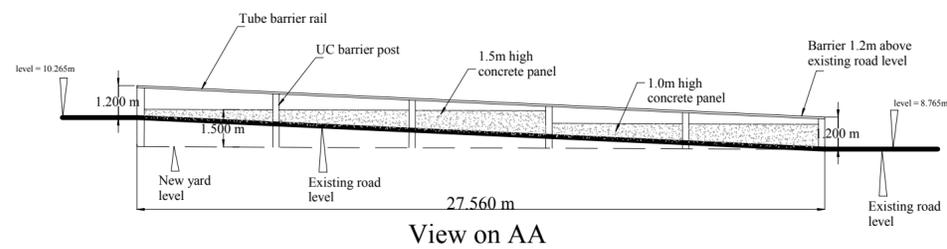
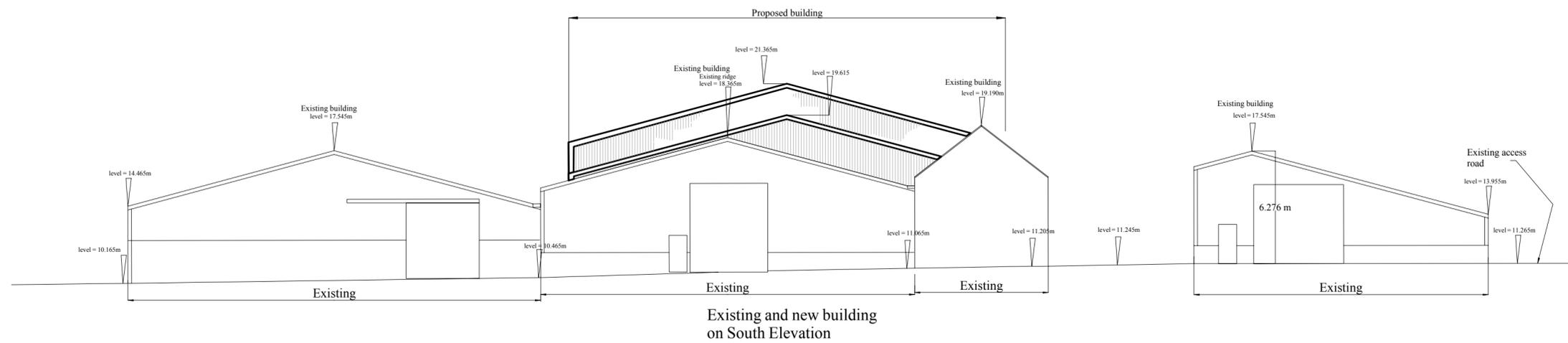
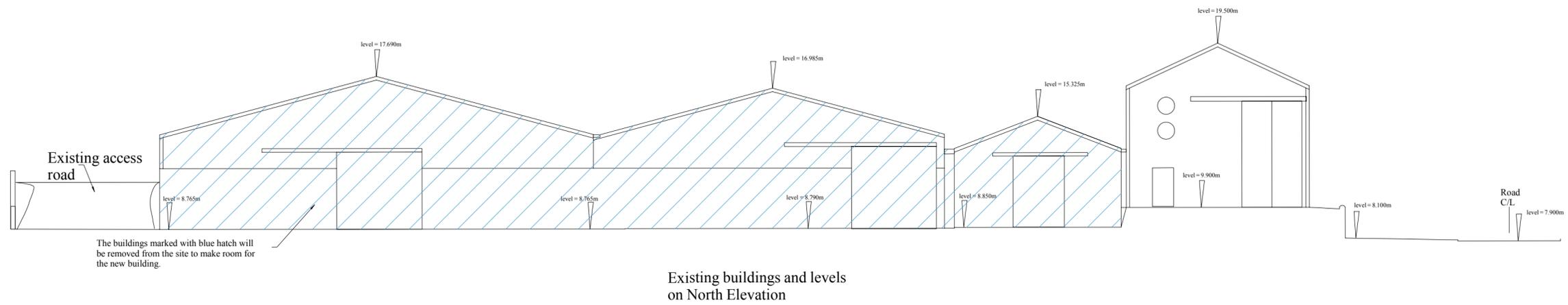
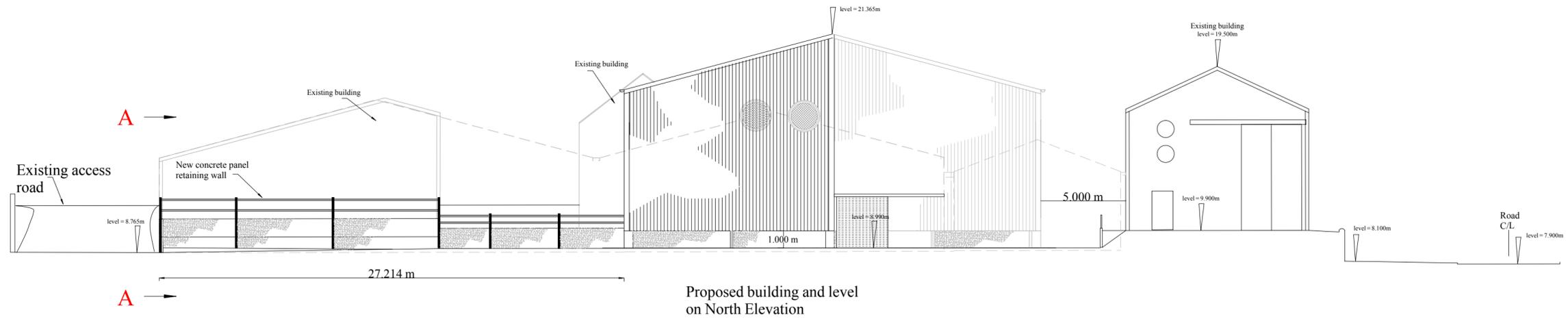
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Drawing No.04	Drawn by - BMS.
Date	-17.10.19
Scale - 200:1	
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**Proposed block floor plan**

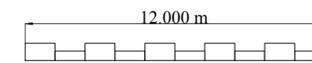
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1:200 A2



Existing and proposed elevations

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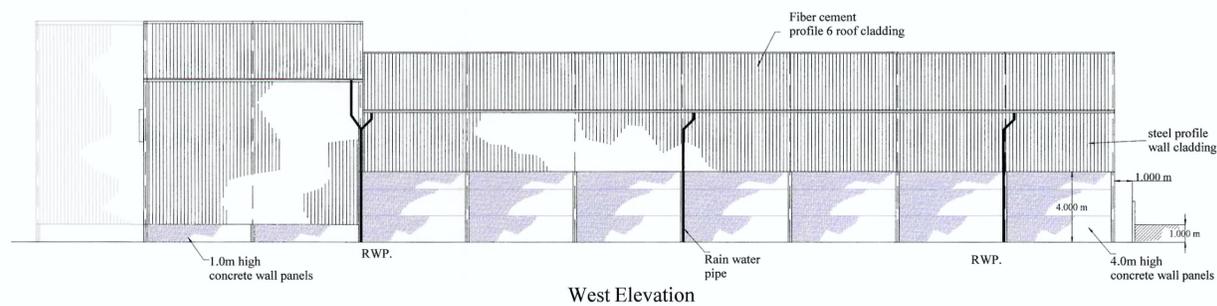
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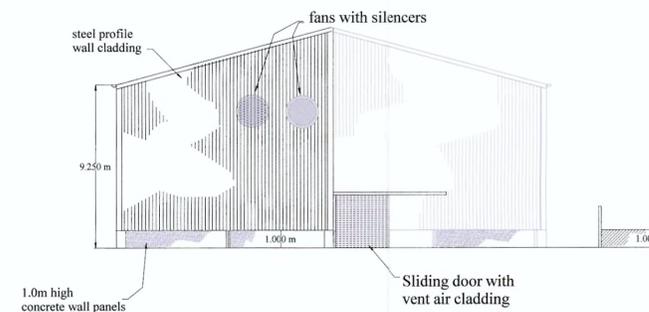
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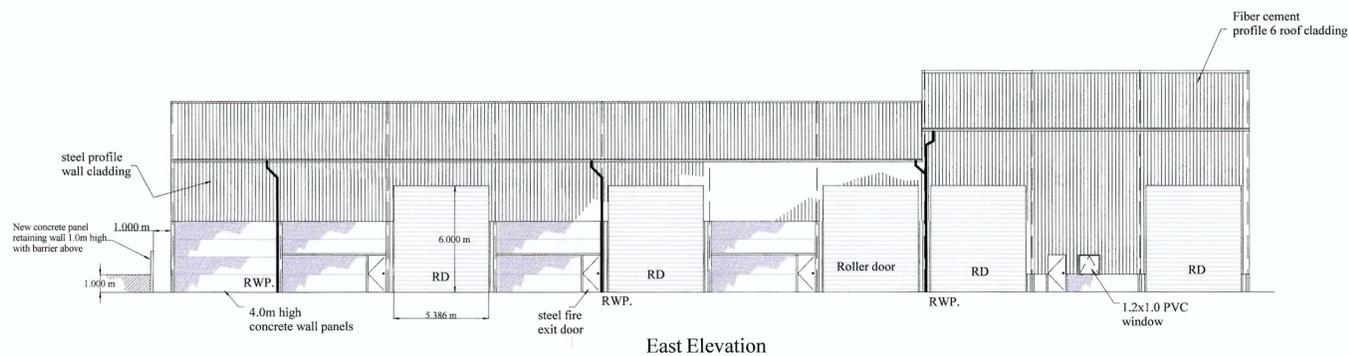




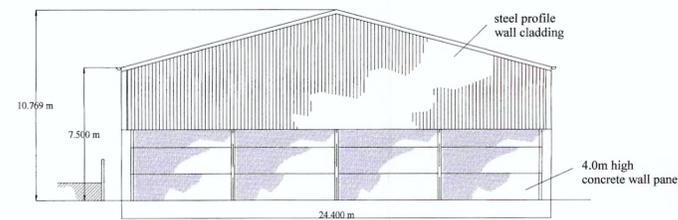
West Elevation



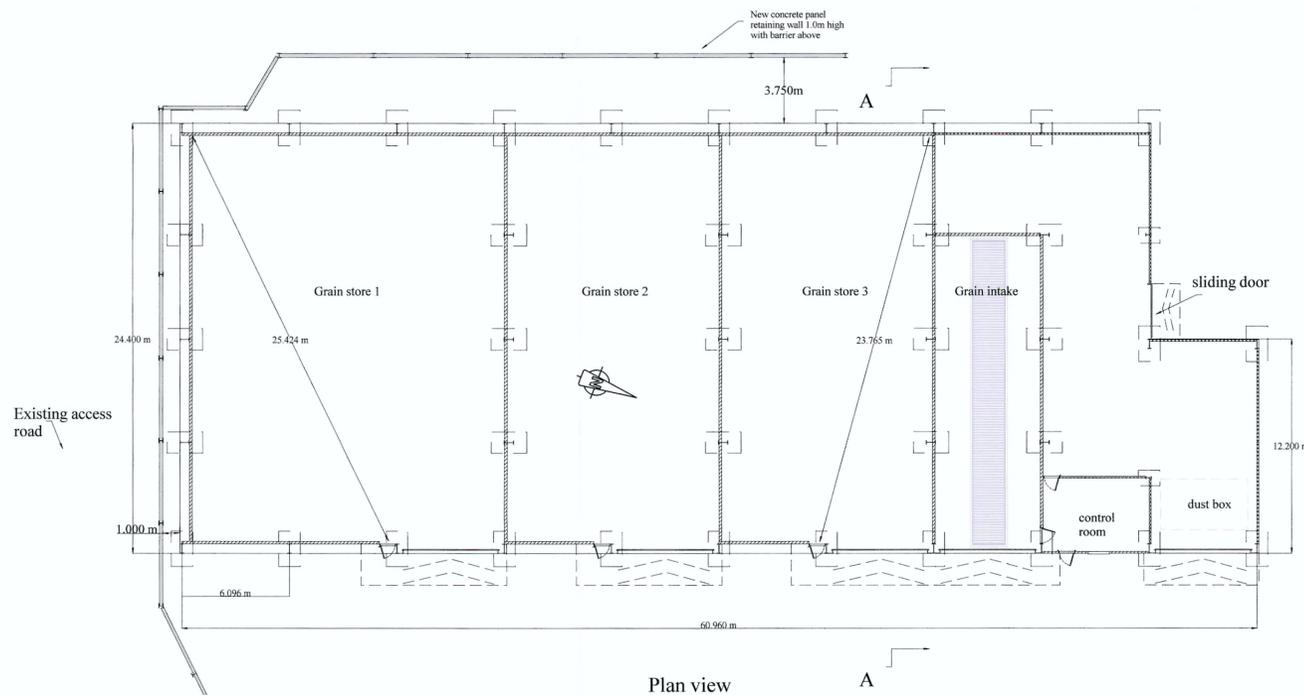
North Elevation



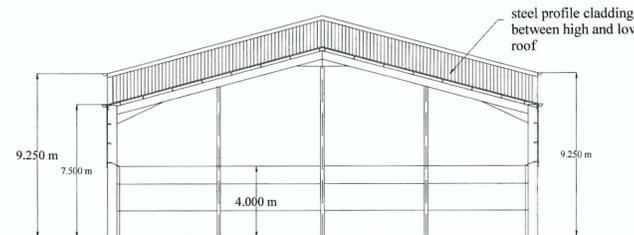
East Elevation



South Elevation



Plan view



Section on AA

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