

## 9 Relugas Road EH9 2NE

### Certificate of Lawfulness Application 19/04789/CLE

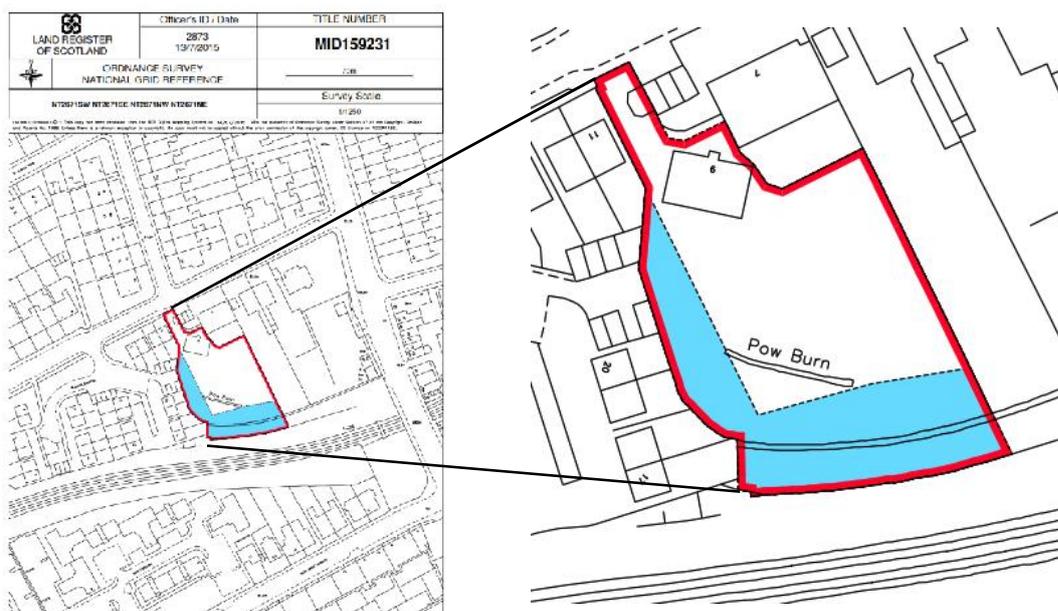
#### OBJECTION from Grange Association

6 November 2019

The Grange Association notes application 19/04789/CLE concerning the art studio covering 33.6 m<sup>2</sup> to the rear of 9 Relugas Road EH9 2NE. We understand that a CLE application does not admit comments from the public. Nonetheless, a number of our members have made representations to us concerning this development and we wish to be sure that you are aware of three matters that will affect your determination of this application.

#### 1. Property boundary

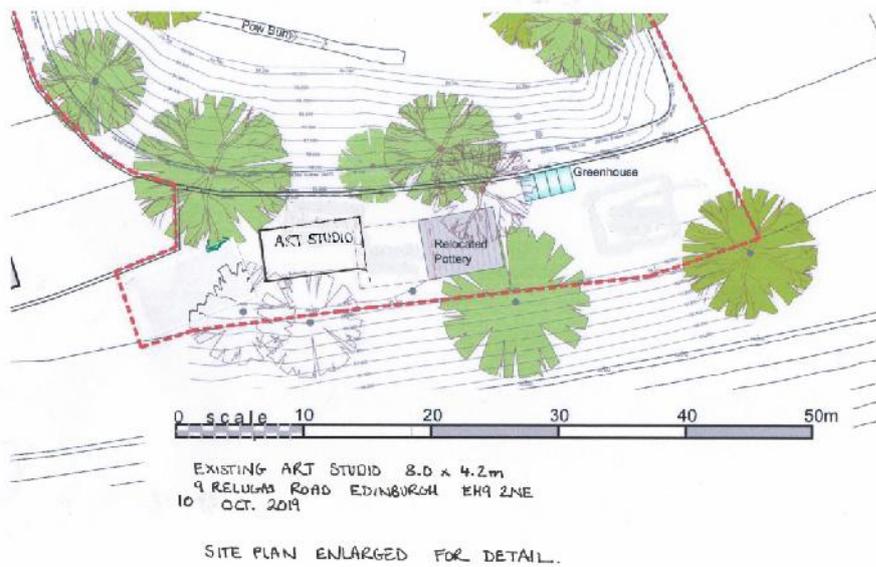
We recognise that property ownership is not a matter for consideration in a planning application. However, the southern boundary of this property is shown at the Land Registry to be materially different from that shown in the CLE application. The Land Registry plan (below) shows the boundary, including that area shaded blue that was acquired from the subsidiary of Miller Homes which itself acquired that land from the (then) British Railways Board in 1970.



#### Site boundary – Land registry title MID159231

The title includes a requirement on the owner of the acquired land to “fence off the said subjects from our remaining land with unclimbable fences...” There is no fence in place at the southern boundary.

The site boundary indicated in the drawing “02\_Site Plan” with application 19/04789/CLE differs materially at its southern boundary from that shown in the Land Registry and includes land that would appear to remain the property of Network Rail.



*Site boundary indicated in 19/04789/CLE application*

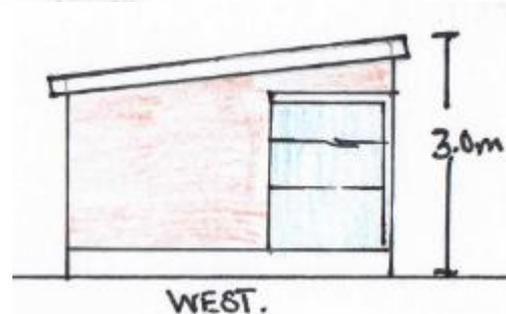
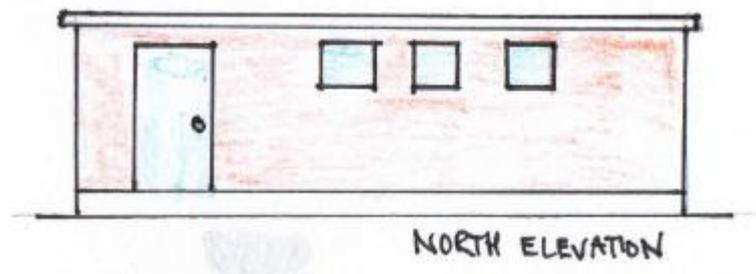
The CLE application may therefore be deficient if the statement “*setting out the applicant’s interest in the land, and the name and address of any other person known to the applicant to have an interest in the land*” was made in error.

## 2. Accuracy of information submitted

The application includes inaccurate and insufficient information. The north elevation of the studio is shown as in document 03\_Studio Plans and Elevations. In reality, the elevation has the door and windows in different positions, as shown in the photograph of the site below.

Moreover, there is a stove in the studio with a flue to the rear (south), not shown on the drawings. The plume from the stove is visible in the photograph below.

The West elevation differs from that shown in the drawing. The studio has a two section patio door.



19/04789/CLE Document 03\_Studio Plans and Elevations

In addition, the inaccurate drawing of the site’s southern boundary is misleading in the implied distance between the studio and the boundary. From the photographs (below) the studio would appear to be straddling the true Land Registry boundary. This is relevant for the application of Permitted Development Rights concerning the height of buildings at a boundary.



*Photograph of art studio from West*



*Art studio – West elevation*

### 3. Height of building

The studio is not compliant with the guidelines in the Guidance on Householder Permitted Development Rights. That requires that sections of ancillary buildings within 1 metre of the boundary should be less than 2.5m high. The studio is on the southern boundary of the property and exceeds 2.5m high. From the photograph of the West elevation (above), given that the patio doors are 2m high (from the drawing), the roof at the rear would appear to be at least 3m above the natural level of the ground.

#### Heights and Ground Levels

##### 3.17

For the purposes of Classes 1A to 3E of the General Permitted Development Order, the height of the development is measured from the lowest part of the surface of the ground adjacent to the building or structure.

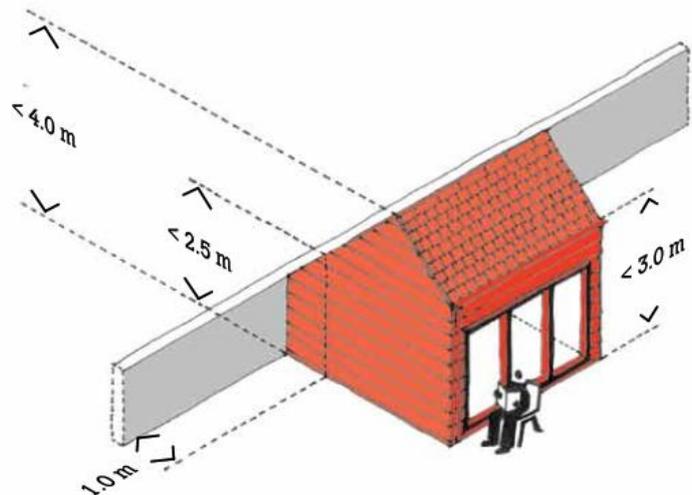
##### 3.19

The ground is the natural ground and would not include any addition laid on top of the natural ground.

##### 4.74

Permitted development rights allow for the provision of any building required for a purpose incidental to the enjoyment of the dwellinghouse. Typical developments include sheds, garages, sun-houses and greenhouses. In summary, the effect of the limitations is that:

- ancillary buildings are generally located to the rear
- at least half the curtilage remains undeveloped
- the height of the building is not higher than 4 metres and the sections within 1 metre of the boundary would be higher than 2.5 metres
- the height of the eaves is not higher than 3 metres



*Guidance on Householder Permitted Development Rights (Circular 1/2012 page 43)*

### 4. Conclusion

Given the inaccuracy of the information submitted, concerning the boundary, the dimensions and features of the studio, and its height above the ground, we suggest that there are sufficient grounds to refuse a Certificate of Lawfulness for the studio as Permitted Development.

**Grange Association  
6 November 2019**