

Notice of Review: Land East of 19 Cairnbank Road, Penicuik Determination Report

Report by Chief Officer Place

1 Purpose of Report

- 1.1 The purpose of this report is to provide a framework for the Local Review Body (LRB) to consider a 'Notice of Review' for the erection of four dwellinghouses at land east of 19 Cairnbank Road, Penicuik.

2 Background

- 2.1 Planning application 22/00289/DPP for the erection of four dwellinghouses at land east of 19 Cairnbank Road, Penicuik was refused planning permission on 2 September 2022; a copy of the decision is attached to this report.
- 2.2 The review has progressed through the following stages:
- 1 Submission of Notice of Review by the applicant.
 - 2 The Registration and Acknowledgement of the Notice of Review.
 - 3 Carrying out Notification and Consultation.

3 Supporting Documents

- 3.1 Attached to this report are the following documents:
- A site location plan (Appendix A);
 - A copy of the notice of review form and supporting statement (Appendix B). Any duplication of information is not attached;
 - A copy of the case officer's report (Appendix C);
 - A copy of the decision notice, excluding the standard advisory notes, issued on 2 September 2022 (Appendix D); and
 - A copy of the key plans/drawings (Appendix E).
- 3.2 The full planning application case file and the development plan policies referred to in the case officer's report can be viewed online via www.midlothian.gov.uk

4 Procedures

- 4.1 In accordance with procedures agreed by the LRB, the LRB by agreement of the Chair:
- Have determined to undertake a site visit; and
 - Have determined to progress the review by written submissions.

- 4.2 The case officer's report identified that there have been eight consultation responses and three representations received (all objections). As part of the review process the interested parties were notified of the review. Two additional comments have been received reinforcing earlier objections to the application. All comments can be viewed online on the electronic planning application case file.
- 4.3 The next stage in the process is for the LRB to determine the review in accordance with the agreed procedure:
- Identify any provisions of the development plan which are relevant to the decision;
 - Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies;
 - Consider whether or not the proposal accords with the development plan;
 - Identify and consider relevant material considerations for and against the proposal;
 - Assess whether these considerations warrant a departure from the development plan; and
 - State the reason/s for the decision and state any conditions required if planning permission is granted.
- 4.4 In reaching a decision on the case the planning advisor can advise on appropriate phraseology and on appropriate planning reasons for reaching a decision.
- 4.5 Following the determination of the review the planning advisor will prepare a decision notice for issuing through the Chair of the LRB. A copy of the decision notice will be reported to the next LRB for noting.
- 4.6 A copy of the LRB decision will be placed on the planning authority's planning register and made available for inspection online.

5 Conditions

- 5.1 In accordance with the procedures agreed by the LRB at its meeting of 20 June 2022, and without prejudice to the determination of the review, the following conditions have been prepared for the consideration of the LRB if it is minded to uphold the review and grant planning permission.
1. The development to which this permission relates shall commence no later than the expiration of three years beginning with the date of this permission.

***Reason:** To accord with the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended by the Planning (Scotland) Act 2019).*
 2. Development shall not begin on site until the following details have been submitted to and approved in writing by the planning authority:
 - a) Details and samples of all external finishing materials for the dwellinghouses and any other structures;

- b) Details of the proposed materials of the areas of hardstanding;
- c) Details of the design, position, dimensions, materials and finish of all proposed walls, fences, gates or other means of enclosure;
- d) Details of the proposed bin storage areas, including any related structures;
- e) Details of any air source heat pumps;
- f) Details of the proposed drainage system for the houses;
- g) Details of the proposed surface water management scheme;
- h) A landscape plan, including details of a scheme of landscaping for the site. Details shall include the position, number, size and species of all trees and shrubs proposed, as well as identifying all trees on site which are proposed to be removed and retained; and
- i) Details of an implementation plan setting out a timetable for delivery of items a – h above.

Thereafter, the development hereby approved shall accord with the details agreed in terms of this condition.

Reason: *These details were not submitted as part of the application: to ensure the houses are finished in high quality materials; to protect the visual amenity of the surrounding area; to ensure the houses are provided with adequate amenity; to help integrate the proposal into the surrounding area.*

- 3. Unless otherwise agreed in writing by the planning authority the area of hardstanding agreed in terms of condition 2b) shall be surfaced in a porous material.
- 4. The works hereby approved shall comply with the approved Flood Risk Assessment and the details of the surface water management scheme approved in condition 2g) shall ensure that any surface water reaching the site is routed through the development site as existing.

Reason for conditions 3 and 4: *To ensure that the site is adequately drained in the interests of the amenity of the area.*

- 5. Development shall not begin on site until an amended site plan has been submitted to and approved by the planning authority demonstrating that parking spaces at least 5 metres long can be provided within the site for the use of the houses hereby approved.

Reason: *To ensure adequate amenity for future occupants of the site; the proposed plan shows parking spaces 4.5 metres long which is not sufficient.*

- 6. Development shall not begin on site until a tree survey has been submitted to and approved in writing by the planning authority. The tree survey shall include details of the root protection zones of all trees to be retained onsite as well as tree protection methods. Any works within the tree protection zone of the trees to be retained shall be carried out with an above ground construction method.

7. The tree protection measures approved as per the tree survey as required by condition 6 above shall be in place before any work on the development is begun, including site clearance, and shall be retained until the development is completed. Within the area enclosed by the protection measures there shall be no excavation, no removal of soil, no placing of additional soil, no storage of any kind, disposal of any waste or fires lit. These works shall be carried out in accordance with BS5837:2012 Trees in Relation to Development.

Reason for conditions 6 and 7: To ensure that the condition of the trees on site are adequately assessed and protected during development.

8. The scheme of landscaping hereby approved in condition 2h) shall include details of replacement tree planting.

Reason: To ensure that appropriate replacement planting is provided at the site, to maintain and enhance the character and appearance of the surrounding area and also perpetuate canopy cover.

9. The scheme of landscaping hereby approved in condition 2h) shall be carried out and completed within six months of the house either being completed or brought into use, whichever is the earlier date. Any trees removed, dying, severely damaged or becoming seriously diseased within five years of planting shall be replaced in the following planting season by trees of a size and species similar to those originally required.

Reason: To ensure the landscaping is carried out and becomes successfully established.

10. Development shall not begin until a scheme to deal with any contamination of the site and/or previous mineral workings has been submitted to and approved by the planning authority. The scheme shall contain details of the proposals to deal with any contamination and/or previous mineral workings and include:
- i. the nature, extent and types of contamination and/or previous mineral workings on the site;
 - ii. measures to treat or remove contamination and/or previous mineral workings to ensure that the site is fit for the uses hereby approved, and that there is no risk to the wider environment from contamination and/or previous mineral workings originating within the site;
 - iii. measures to deal with contamination and/or previous mineral workings encountered during construction work; and
 - iv. the condition of the site on completion of the specified decontamination measures.

Before any part of the site is occupied for residential purposes, the measures to decontaminate the site shall be fully implemented as approved by the planning authority.

11. On completion of the decontamination/ remediation works required in condition 10 and prior to the dwellinghouse being occupied on site, a validation report or reports shall be submitted to the planning authority confirming that the works have been carried out in accordance with the approved scheme. No part of the development shall be occupied until this report has been approved by the planning authority.

Reason for conditions 10 and 11: To ensure that any contamination on the site/ground conditions is adequately identified and that appropriate decontamination measures/ground mitigation measures are undertaken to mitigate the identified risk to site users and construction workers, built development on the site, landscaped areas, and the wider environment; to ensure the remediation works are undertaken.

12. Development shall not begin until details, including a timetable of implementation, of superfast broadband have been submitted to and approved in writing by the planning authority. The details shall include delivery of superfast broadband prior to the occupation of the dwellinghouse. The delivery of superfast broadband shall be implemented as per the approved details.

Reason: To ensure the quality of the development is enhanced by the provision of appropriate digital infrastructure in accordance with the requirements of policy IT1 of the adopted Midlothian Local Development Plan.

13. Development shall not begin until details of the provision and use of electric vehicle charging point within the development have been submitted to and approved in writing by the planning authority. Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be approved in writing by the planning authority.

Reason: To ensure the development accords with the requirements of policy TRAN5 of the adopted Midlothian Local Development Plan 2017.

14. Development shall not begin until details of a sustainability/biodiversity scheme for the site, including the provision of house bricks and boxes for bats and swifts and hedgehog highways throughout the development has been submitted to and approved in writing by the planning authority. Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be approved in writing with the planning authority.

Reason: To ensure the development accords with the requirements of policy DEV5 of the adopted Midlothian Local Development Plan 2017.

15. No development shall take place on site until the applicants or their successors have undertaken and reported upon a programme of archaeological (Archaeological Watching Brief) work in accordance

with a written scheme of investigation and any further works or mitigation that result from the results of these to be submitted to and approved in writing by the planning authority works. Access shall be afforded during the carrying out of development works for the development hereby approved to an archaeologist or archaeological organisation appointed by the developer and agreed by the planning authority prior to the commencement of development. This appointee shall observe work in progress and record items of interest and finds, and shall report on them in writing to the planning authority following the end of the period of observations. Notification of the date of commencement of development shall be given to the planning authority in writing not less than 14 days before development commences.

Reason: *To ensure a proper archaeological evaluation of the site, which is within an area of potential archaeological interest, and that adequate measures are in place to record any archaeological finds.*

16. The works hereby approved shall not be carried out during the months of March to August inclusive, unless approved in writing by the planning authority after a check for nesting birds is completed by a suitably competent person within 48 hours of works commencing and, in the event an active nest is found, an appropriate protection zone to the satisfaction of the planning authority is in place within which there can be no works until the related chicks have fledged.
17. The works hereby approved shall comply with the approved Protected Species Report dated 7 July 2022.

Reason: *To protect and enhance the local biodiversity of the site; there is potential for the disturbance of breeding birds at the site during bird breeding season.*

- 5.2 If the LRB is minded to uphold the review and grant planning permission for the proposed development it shall be subject to a legal agreement to secure developer contributions towards education infrastructure, off site play and transport infrastructure (A701 realignment). The legal agreement shall be concluded prior to the issuing of the LRB decision. The legal agreement shall be concluded within 6 months of the resolution to grant planning permission, if the agreement is not concluded the review will be reported back to the LRB for reconsideration.

6 Recommendations

- 6.1 It is recommended that the LRB:
- a) determine the review; and
 - b) the planning advisor draft and issue the decision of the LRB through the Chair

Peter Arnsdorf
Planning, Sustainable Growth and Investment Manager

Date: 16 January 2023
Report Contact: Mhairi-Anne Cowie, Planning Officer
Mhairi-Anne.Cowie@midlothian.gov.uk

Background Papers: Planning application 22/00289/DPP available for inspection online.

Appendix A



**Education, Economy
& Communities**
Midlothian Council
Fairfield House
8 Lothian Road
Dalkeith
EH22 3AA

Erection of 4 dwellinghouses Land East of 19 Cairnbank Road, Peniucik

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File No.22/00289/DPP

Scale: 1:1,250





Fairfield House 8 Lothian Road Dalkeith EH22 3ZN Tel: 0131 271 3302 Fax: 0131 271 3537 Email: planning-applications@midlothian.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 100608777-001

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:	<input type="text" value="Ferguson Planning"/>		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	<input type="text" value="Ferguson"/>	Building Name:	<input type="text" value="Shiel House"/>
Last Name: *	<input type="text" value="Planning"/>	Building Number:	<input type="text" value="54"/>
Telephone Number: *	<input type="text" value="01896 668744"/>	Address 1 (Street): *	<input type="text" value="Island Street"/>
Extension Number:	<input type="text"/>	Address 2:	<input type="text"/>
Mobile Number:	<input type="text"/>	Town/City: *	<input type="text" value="Galashiels"/>
Fax Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
		Postcode: *	<input type="text" value="TD1 1NU"/>
Email Address: *	<input type="text" value="Ruairaidh@fergusonplanning.co.uk"/>		

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="Shiel House"/>
First Name: *	<input type="text" value="Craig"/>	Building Number: <input type="text" value="54"/>
Last Name: *	<input type="text" value="Meikle"/>	Address 1 (Street): * <input type="text" value="Island Street"/>
Company/Organisation	<input type="text" value="per Agent"/>	Address 2: <input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: * <input type="text" value="Galashiels"/>
Extension Number:	<input type="text"/>	Country: * <input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: * <input type="text" value="TD1 1NU"/>
Fax Number:	<input type="text"/>	
Email Address: *	<input type="text" value="REDACTED"/>	<input type="text"/>

Site Address Details

Planning Authority:	<input type="text" value="Midlothian 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

Land to east of 19 Cairnbank Road, Penicuik

Northing	<input type="text" value="659544"/>	Easting	<input type="text" value="323368"/>
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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 4 dwellinghouses; formation of car parking and footbridges; and associated works

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.

Please see Local Review 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)

Rebuttal Note prepared by Curtins

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)

Please see Local Review Statement

Application Details

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

22/00289/DPP

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

08/04/2022

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

02/09/2022

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

If there are reasons why you think the local Review Body would be unable to undertake an unaccompanied site inspection, please explain here. (Max 500 characters)

None

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?. *

T Yes ≤ No

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

T 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? *

T 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? *

T 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 *

T 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: - Ferguson Planning

Declaration Date: 30/11/2022

F E R G U S O N P L A N N I N G

ERECTION OF 4 NO. NEW DWELLING EAST OF CAIRNBANK ROAD

MR CRAIG MEIKLE

NOVEMBER 2022

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Ref: E-CBP-0291
Council ref: 22/00289/DPP
Prepared by: Ruairaidh Thompson MRTPI
Approved by: Tim Ferguson MRTPI
Date of Issue: November 2022

F E R G U S O N
P L A N N I N G

NEW DWELLINGS EAST OF CAIRNBANK RD, PENICUIK

EXECUTIVE SUMMARY

EXECUTIVE SUMMARY

This Statement is submitted on behalf of Craig Meikle “the Appellant” against the decision of Midlothian Council to refuse Planning Permission for erection of 4 dwellings, formation of car parking, footbridges, and associated works on land east of 19 Cairnbank Road, Penicuik. All Core Documents (CD) are referenced in Appendix 1.

It is the Appellant’s intention to develop new dwellings on-site which are appropriate to the existing residential area in terms of their size. The appeal site lies within the existing urban area of Penicuik. The proposed development has been designed to make efficient use of land within the boundary of the existing urban area. This is considered to be appropriate given the sustainable location of the site.

During the course of the Application’s determination, the following consultee responses were received from Council Officers and partners:

- **Policy and Road Safety – Objection.**
- **Local Flood Officer – No objection.**
- **Environmental Protection – No objection.**
- **Education team – No objection.**
- **Biodiversity team – No objection.**
- **Archaeology team – No objection.**
- **Coal Authority – No objection**
- **SEPA – No objection.**

Reasons for Refusal

Eight reasons were cited for the refusal of the Application.

The first stated reason claimed that “the design, scale, mass and layout of the proposed houses would be out of keeping with and have a significant detrimental impact on the character and appearance of the surrounding area”.

It is the position of the Appellant that the layout and scale of the proposed development represents large detached dwellings in an existing residential area, defined by large detached dwellings. The density of development is considered to be appropriate to Cairnbank Road and significantly less dense than the St James residential estate, less than 70 metres to the north. The proposed dwellings have benefitted from a bespoke design which makes creative use of various materials to produce a considered and intelligent appearance. Therefore, the proposed development is considered to be acceptable in design terms and to accord with Policy STRAT2.

The second, third, and fourth reasons for refusal rest on the assertion that proposed gardens “are detached from the houses and would be overlooked by each of the proposed houses”.

This assessment is considered to be both irregular and flawed. It is very common for the far end of gardens in an urban area to be mutually overlooked by neighbouring dwellings. Indeed we would encourage a single recent housing development upon an allocated site to be identified where this is not the case.

Garden space proposed for the new dwellings is adequate in both size and quality to ensure high quality amenity for occupiers of the new dwellings. There is consensus between the Planning Authority and Appellant that each proposed garden is sufficiently large. No justification has been provided as to why these proposed gardens should be held to a different standard than any other garden in an existing urban area. Therefore, proposed gardens provide for good quality amenity and refusal of the proposed development on amenity impacts is unjustified.

The fifth and sixth reasons for refusal assert that the access and parking proposed for the new dwelling are inadequate.

A Rebuttal Note has been prepared by Curtins and submitted with the Notice of Review. The Note establishes that the total (cumulative) level of vehicle traffic associated with the development is light – averaging two vehicle movements per hour and never exceeding five. Three existing passing places are already in-situ to serve just 200 metres of single track road. The Note sets out that Manual for Streets 2 and Designing Streets support a ‘shared space’ use (vehicles and pedestrians) for pre-existing roads which sit at the standard of Cairnbank Road.

As points of fact, firstly, Cairnbank Road meets the minimum standard required for use as an access to residential development of this density – extending to 2.97 metres in width, meeting the 2.75 metre minimum width required.

Secondly, the development incorporates parking spaces at 5 metres in length. The 4.5 metres referred to by the appointed Planning Officer is incorrect and the Appellant is prepared to accept a condition requiring that parking spaces are laid out and constructed, to be checked by the Council, prior to proposed dwellings being occupied.

The seventh reason for refusal raises issue with a Tree Protection Order (TPO) which covers the site. However, the appointed Planning Officer failed to raise this issue during determination of the Application. The Appellant is prepared to accept condition requiring submission of an Arboricultural Impact Assessment and retention of trees which are subject to any TPO in-situ.

The eighth reason for refusal arises from the mis-application of a countryside policy to the existing urban area of Penicuik. This constitutes an administrative error on the part of the Planning Authority. Full explanation and copied extract of the adopted Local Development Plan are included on page 21 of this document.

The Local Review Body, having considered the detail contained within the Planning Application package, together with the information set out herein, will be respectfully requested to allow the Notice of Review and grant Planning Permission.

NEW DWELLINGS EAST OF CAIRNBANK RD, PENICUIK

INTRODUCTION

INTRODUCTION

- 1.1 This Statement supports a Notice of Review of the delegated decision of Midlothian Council to refuse to grant Planning Permission for erection of 4 dwellings, formation of car parking, footbridges, and associated works on land east of 19 Cairnbank Road, Penicuik.
- 1.2 The site lies to the south of Cairnbank Road, a short distance east of Bridge Street on the south edge of the urban area of Penicuik. The site is defined by a grassed slope, which falls away from north to south. At the foot of the slope, a former mill lade (water channel) runs through the site from west to east. Although the lade is now mostly dried up, serving largely as a surface drain following heavy rainfall, the land on its south side is also included in the site.
- 1.3 The site lies approximately 200 metres west of the A701 Bridge Street along Cairnbank Road. The final circa 125 metres of Cairnbank Road to the site is not adopted into the public road network. This section of road is a private way and in the ownership of the Appellant. The section of Cairnbank Road which is private way is largely surfaced in tarmac concrete.
- 1.4 The existing dwellings No.'s 15, 15b, 19, 19a, & 21 Cairnbank Road are all accessed from the private way section of Cairnbank Road. The access works safely and no collisions or injuries have been recorded on the private way or the adjacent section of adopted road.
- 1.5 The appeal site lies within the settlement boundary defined for Penicuik.
- 1.6 The proposed dwellings are set out in linear plan facing onto Cairnbank Road. The dwellings are proposed in 'T-plan' form in 'split level arrangement'. The second floor incorporates a double garage together with residential accommodation, which sits on the top floor of the house. The first and ground floors sit below the second floor and garage. Each floor accommodates 1 no. bedroom and totals three bedrooms per house.
- 1.7 Garden space is proposed to the south of proposed dwellings. The mill lade is included in gardens and footbridges would connect space on either side. The size of proposed gardens would range from 530m² to 775m².
- 1.8 Elevations have been designed specific to the site. They draw on a variety of materials to produce a considered design which avoids a bland or undistinguished appearance. Elevations are finished in brick, render, stone, timber, and aluminium. The south elevation of each dwelling hosts a balustraded terrace. The roof is proposed in traditional slate with windows and doors framed in aluminium.



Fig 1: Extract from 21001-AP01 Location Plan / Block Plan / Contextuals showing the location of the appeal site (Source: D2 Architectural Design).

NEW DWELLINGS EAST OF CAIRNBANK RD, PENICUIK

SUMMARY OF THE PROPOSAL

SUMMARY OF THE PROPOSAL

- 2.1 The layout and access arrangements of the proposed dwelling are laid out on 21001-AP01 Location Plan / Block Plan. The proposal is for erection of 4 dwellings, formation of car parking, footbridges, and associated works.
- 2.2 The proposal centres on erection of four new dwellings on-site arranged in a regular layout. New dwellings are proposed in linear plan fronting Cairnbank Road from the south. Cairnbank Road is set with regular linear development to the north and two existing dwellings (No.'s 17 & 19) to the south.
- 2.3 The new dwellings are proposed over three levels, although living accommodation does not extend to more than three quarters of the building footprint on any single level. Living accommodation is incorporated mainly in the top two levels. Together they account for two of the three bedrooms, three of the four bathrooms, the kitchen and dining space, and the primary living space. The ground floor floorplate incorporates a single ensuite bedroom and a small lounge.
- 2.4 The elevations of the proposed dwelling comprises contemporary design, partly rooted in traditional origins. Elevations are proposed variously in brick, render, stone, timber, and aluminium. The roof is proposed in natural slate. Both windows and doors are proposed in aluminium throughout.
- 2.5 The principal (south) elevation has contemporary appearance, framed under a roof constructed in natural slate. The lowest two levels of the elevation are proposed in brick and timber. While both are traditional materials with local provenance in Midlothian, the proposed design has an unmistakably contemporary character dictated by the requirement to achieve energy efficiency and maximise solar gain. A terrace set with a glazed balustrade is proposed upon the first floor (middle level) of the elevation. The east portion of the ground floor is proposed in horizontally-laid larch timber. The front door is proposed in aluminium, as are all windows including the larger semi-apex windows. The second floor (top level) is proposed in off-white render to allow for a symmetrical appearance with the rear (north) elevation.
- 2.6 The east and west (side) elevations match the design of the front and rear elevation. They comprise brick construction in the lower two levels and off-white render finish in the top level. They are notable mainly for largely omitting windows and doors, which are directed to the front and rear of the buildings. Each dwelling incorporates three windows and a door into both side elevations, cumulatively. Each window looks out from a bathroom and would be installed in frosted pane.
- 2.7 The rear (north) elevation comprises a projecting element, constructed in natural stone with a glazed panel orientated vertically near the westerly extent of the elevation. The host elevation is to be finished in off-white render and incorporate roller-shutter garage doors, gated in aluminium.



Fig 2: Extract from 21001-AP01 Location Plan / Block Plan / Contextuals showing the proposed layout of the site (Source: D2 Architectural Design).

NEW DWELLINGS EAST OF CAIRNBANK RD, PENICUIK

REFUSAL OF APPLICATION BY MIDLOTHIAN
COUNCIL AND PLANNING POLICY CONTEXT

REFUSAL OF APPLICATION BY COUNCIL AND PLANNING POLICY

- 3.1 Planning Application 22/00289/DPP was refused on 2nd September 2022. The Decision Notice (CD10) cited eight reasons for refusal, set out below:

“1. The design, scale, mass and layout of the proposed houses would be out of keeping with and have a significant detrimental impact on the character and appearance of the surrounding area, adjacent special landscape area and landscape character of the surrounding area and so do not comply with policies STRAT1, DEV2, ENV6 and ENV7 of the adopted Midlothian Local Development Plan 2017.

2. The proposal will provide an inadequate level of amenity for future residents as this does not provide adequate private garden ground as each proposed house would overlook the garden ground of the adjacent house and so have a detrimental impact on the amenity of these occupants.

3. The proposed houses at plot 1 and 4 would impact on the amenity of neighbouring garden ground and detract from the privacy of the existing occupants. There is not sufficient space for any landscaping to address this, if this is possible due to the ground levels.

4. For the above reasons the proposed development is considered to be an overdevelopment of the site and so does not comply with policies STRAT1 and DEV2 of the adopted Midlothian Local Development Plan 2017.

5. The proposal presents a significant threat to road safety given that the access road is narrow with no footways for separate pedestrian facilities and the majority of the route unable to accommodate two-way traffic flow. The proposal would result in a substantial increase in the level of vehicle and pedestrian traffic currently using the substandard route and would have a significant adverse impact on the current users of this road and a harmful impact on the road safety within the local road network, as well as an increased risk of conflict between vehicles and pedestrians.

6. The proposed length of the driveways at 4.5m will result in parked vehicles overhanging and obstructing the access road resulting in road safety concerns. It has not been demonstrated to the satisfaction of the Planning Authority that a driveway could be accommodated at the application site without a detrimental impact on road safety.

7. The proposal would result in the loss of a significant amount of landscaping, including a number of trees protected by a Tree Preservation Order, which positively contribute to the character and appearance of the area and so does not comply with policies DEV2, ENV7 and ENV11 of the adopted Midlothian Local Development Plan 2017.

8. There is no locational requirement for the footbridges across Mill Lade or for the formation of garden ground, boundary treatments or other related development and so the proposal does not comply with policy ENV8 of the adopted Midlothian Local

MIDLOTHIAN LOCAL DEVELOPMENT PLAN

- 3.2 Local planning policy relevant to the proposal is contained within the Midlothian Local Development Plan (2017). Key policies include:
- Policy STRAT2: Windfall Housing Sites
 - Policy DEV2: Protecting Amenity within the Built-Up Area
 - Policy ENV6: Special Landscape Areas
 - Policy ENV7: Landscape Character
 - Policy ENV8: Protection of River Valleys
 - Policy ENV11: Woodland, Trees, and Hedges
- 3.3 **Policy STRAT2** states that *“within the built-up areas, housing development on non-allocated sites, including the reuse of buildings and redevelopment of brownfield land, will be permitted provided that:*
- A. *it does not lead to the loss or damage of valuable public or private open space;*
 - B. *it does not conflict with the established land use of the area;*
 - C. *it has regard to the character of the area in terms of scale, form, design and materials;*
 - D. *it meets traffic and parking requirements; and*
 - E. *it accords with other relevant policies and proposals, including policies IMP1, IMP2, DEV3, DEV5 - DEV10.”*
- 3.4 **Policy DEV2** states that *“development will be permitted within existing and future built-up areas, and in particular within residential areas, unless it is likely to detract materially from the existing character or amenity of the area.”*

- 3.5 **Policy ENV6** states that *“development proposals affecting Special Landscape Areas will only be permitted where they incorporate high standards of siting and design and where they will not have an unacceptable impact on the special landscape qualities of the area.”*
- 3.6 **Policy ENV7** states that *“development will not be permitted where it may have an unacceptable effect on local landscape character. Where development is acceptable, it should respect such character and be compatible in terms of scale, siting and design. New developments will normally be required to incorporate proposals to maintain the diversity and distinctiveness of local landscapes and to enhance landscape characteristics where they have been weakened.”*
- 3.7 **Policy ENV8** states that *“development within the river valley protection areas of the Rivers North and South Esk and River Tyne will not be permitted unless there is a specific locational need for the development. This requirement is not applicable within the urban envelopes”.*
- 3.8 **Policy ENV11** states that *“development will not be permitted where it could lead directly or indirectly to the loss of, or damage to, woodland, groups of trees (including trees covered by a Tree Preservation Order, areas defined as ancient or semi-natural woodland, veteran trees or areas forming part of any designated landscape) and hedges which have a particular amenity, nature conservation, biodiversity, recreation, landscape, shelter, cultural, or historical value or are of other importance.”*

FERGUSON
PLANNING

NEW DWELLINGS EAST OF CAIRNBANK RD, PENICUIK

GROUNDS OF APPEAL AND
CASE FOR APPELLANT

GROUNDS OF APPEAL AND CASE FOR THE APPELLANT

- 4.1 The decision of the Planning Authority to refuse the Application is challenged on the basis of the Grounds of Appeal set out below. It is the submission of the Appellant that the proposal accords with the relevant adopted policy of the Local Development Plan and Supplementary Guidance and that there are no material considerations which justify the refusal of the Application.

GROUND 1: The proposed development represents the erection of 4 no. detached dwellings in a locale which is defined by large detached dwellings within the existing urban area of Penicuik and is reflective of local character.

GROUND 2: Gardens of proposed dwellings far exceed the required size. Overlooking of gardens by immediate neighbours is an ad hoc and arbitrary complaint, which sits irregularly as a planning consideration.

GROUND 3: The proposed development is safely and adequately served with vehicle and pedestrian access by an existing private way and would not have a significant adverse impact on road or any other safety. The private way benefits from adequate capacity to pass other vehicles and visibility sightlines to allow for safe movement of traffic.

GROUND 4: The Council has not made any information on Tree Protection Orders available to the Appellant. Nonetheless, all trees covered by any TPO will be retained on-site.

GROUND 5: The site lies within an existing urban area where Policy ENV8 does not apply. Therefore reason for refusal 8 is incorrect to identify the inclusion of footbridges across the mill lade as justification for refusal of the Application.

- 4.2 During the course of the Application's determination, the following consultee responses were received from Council Officers and partners:

- **Policy and Road Safety – Objection.**
- **Local Flood Officer – No objection.**
- **Environmental Protection – No objection.**
- **Education team – No objection.**
- **Biodiversity team – No objection.**
- **Archaeology team – No objection.**
- **Coal Authority – No objection**
- **SEPA – No objection.**

GROUND 1: THE PROPOSED DEVELOPMENT REPRESENTS THE ERECTION OF 4 NO. DETACHED DWELLINGS IN A LOCALE WHICH IS DEFINED BY LARGE DETACHED DWELLINGS WITHIN THE EXISTING URBAN AREA OF PENICUIK AND IS REFLECTIVE OF LOCAL CHARACTER.

- 4.3 It is common ground between the Appellant and the Planning Authority that the site lies within the existing urban area of Penicuik. However, Report of Handling 22/00289/DPP (CD9) states that the proposed dwellings “are very large buildings which are tightly packed into the site far denser than the layout of the houses in the immediate semirural area, where houses are generally set in larger plots with room for landscaping and amenities. The layout would be a regimented form of development compared to the surroundings”.
- 4.4 The local character of Cairnbank Road is considered to be defined by large dwellings, some of Victorian proportions, set in plots which are larger than expected of a suburban area. However, it should be noted that only No. 19 is set in grounds extending as large as 1 acre. Given the size of existing dwellings and the plots in which they sit the density of development on Cairnbank Road is considered to be high. Similarly, the density of development on both St James’s Gardens and St James’s View (which back onto Cairnbank Road, less than 70 metres from the site) is even higher.

- 4.5 The elevations of each dwelling are proposed in five separate materials – brick, render, stone, timber, and aluminium. Brick and timber finishes are proposed for the lower levels of each house. The exterior of the second (top) floor is proposed largely in render, while sections of the dwellings surrounding doors and windows are proposed in aluminium. The design of the elevation is considered to be detailed and attractive in the contemporary style in which they are proposed.
- 4.6 It is noted that the appointed Planning Officers considers the elevations to be “largely blank”. However, there is no justification provided for this assessment. Therefore, it is considered that the assessment does not take due account of the proposed design (as described in paragraph 4.5) and is factually inaccurate.
- 4.7 The site does not lie within a Special Landscape Area. Given that the site does lie within the existing urban area of Penicuik it is considered inappropriate to assess a proposal for new housing against the Special Landscape Area policy. If this methodology was to be accepted then an application for a new dwelling almost anywhere in Penicuik, Gorebridge, Bonnyrigg, or Dalkeith could be refused if it sat within 500 metres of land designated as Special Landscape Area or Green Belt.
- 4.8 Therefore, it is considered that the layout and scale of the proposed development represents large detached dwellings in an established residential area, defined by large detached dwellings. The proposed elevations are considered to be architecturally detailed as well interesting. Therefore, the proposed development is considered to be acceptable in design terms and to accord with Policy STRAT2.

GROUND 2: GARDENS OF PROPOSED DWELLINGS FAR EXCEED THE REQUIRED SIZE. OVERLOOKING OF GARDENS BY IMMEDIATE NEIGHBOURS IS AN AD HOC AND ARBITRARY COMPLAINT, WHICH SITS IRREGULARLY AS A PLANNING CONSIDERATION.

- 4.9 It is common ground between the Appellant and the Planning Authority that the gardens of the proposed dwelling are larger than the minimum required size. The Report of Handling explicitly states that the “gardens are larger than the required standards of 130 square metres”.
- 4.10 However, the Planning Authority contend the suitability of the proposed gardens on the basis that proposed gardens “are detached from the houses and would be overlooked by each of the proposed houses”.
- 4.11 This assessment of amenity impacts is considered to be both irregular and flawed. Should the proposed development have been sited in a countryside or village location then the rationale employed by the appointed Planning Officer may have been understandable. However, it is very common for the far end of gardens in an urban area to be mutually overlooked by neighbouring dwellings. Indeed we would encourage a single recent housing development upon an allocated site where this is not the case to be identified.

- 4.12 The employed rationale applies to the existing dwellings neighbouring the site (No.’s 17 & 19). Both existing dwellings sit within the existing urban area of Penicuik to where new housing is directed. In any case, no windows are proposed looking east from Plot 1 (towards No. 17) or west from Plot 4 (towards No. 19). Similarly windows are largely excluded from the side elevations of all proposed dwellings. Side elevations incorporate three windows and a door into their surface. Each window looks out from a bathroom and would be installed in frosted pane.
- 4.13 It is considered that proposed garden space is adequate in both size and quality to ensure high quality amenity for occupiers of the new dwellings. There is consensus that each proposed garden is sufficiently large. There has been no justification offered by the appointed Planning Officer in the Report of Handling or otherwise as to why the proposed gardens should be held to a different standard than any other garden in an existing urban area. Therefore, it is considered that good quality amenity is provided and refusal of the proposed development on amenity impacts would be unjustified.

GROUND 3: THE PROPOSED DEVELOPMENT IS SAFELY AND ADEQUATELY SERVED WITH VEHICLE AND PEDESTRIAN ACCESS BY AN EXISTING PRIVATE WAY AND WOULD NOT HAVE A SIGNIFICANT ADVERSE IMPACT ON ROAD OR ANY OTHER SAFETY. THE PRIVATE WAY BENEFITS FROM ADEQUATE CAPACITY TO PASS OTHER VEHICLES AND VISIBILITY SIGHTLINES TO ALLOW FOR SAFE MOVEMENT OF TRAFFIC.

- 4.14 Curtins have been instructed to prepare a Rebuttal Note addressing reasons 5 & 6 which relate to matters of transport planning. This is considered to be appropriate as no opportunity was offered to address the roads planning consultation response during determination of the application.
- 4.15 Reason for refusal 5 brings together a number of separate items. These have been quoted below for the sake of good order:
1. the narrow width of the road does not allow space for pedestrian footway;
 2. insufficient space to accommodate two-way traffic flow;
 3. the volume of vehicle and pedestrian traffic would be substantial increased;
 4. increased risk of conflict between vehicles and pedestrians.
- 4.16 Manual for Streets 2 (2010), prepared by the Chartered Institute of Highway Transport on behalf of the Department of Transport, contains guidance on single track roads in existing residential areas. The guidance establishes that “streets without conventional footways may be appropriate where traffic speeds are low, and the area operates on ‘shared space’ principles such as in town or village centres”.

It continues to warn against applying modern design standards to pre-existing roads owing to the potential “detriment of local character” and instead advocating for “a more place-sensitive approach”.

- 4.17 The identified guidance within Manual for Streets 2 is considered to be particularly pertinent to the proposed development. The Policy and Road Safety team appear to have merely applied modern standards to the existing access and objected upon that basis. It appears that no assessment of road safety or the appropriateness of the existing Cairnbank Road as shared space between pedestrians and the low volume of vehicle traffic has been undertaken.
- 4.18 The traffic survey contained within the Rebuttal Note shows that total traffic flow is low, with vehicle traffic in lower volumes than pedestrians. However, the peak of vehicle traffic does not coincide with the peak of pedestrian traffic – the flows are asymmetric and largely avoid each other.
- 4.19 The assertion that inability to accommodate two-way traffic leaves the access unacceptable is considered to be mistaken. Designing Streets: A Policy Statement for Scotland (2010) states that 2.75 metres is acceptable as a minimum width for road access over short distances, as an emergency vehicle is able to pass at this width. The existing access measure 2.97 metres wide at its narrowest point.

- 4.20 The existing access extends to 200 metres in length and is served by 3 no. passing places. It is material to note that in places where the public road network is constructed in single track, passing places are usually provided at a minimum of 1 per 180 metres. Therefore, the existing access easily accords with the minimum applicable standard. It should also be noted that over the course of the three survey days a total of 46 no. vehicle movements were recorded on Monday, 31 no. on Tuesday, and 30 no. on Wednesday. On each day total vehicle movements amounted to less than 48 no., equivalent to two every hour (1 per 30 mins). Indeed total movements never exceeded five per hour (1 per 12 mins) and didn't usually exceed two per hour – in line with the average suggested by the total.
- 4.21 Therefore, it is considered that the proposal gives rise to limited requirement for vehicles to pass on Cairnbank Road. What little requirement to pass does exist is fully satisfied by existing provision of passing places.
- 4.22 The spectre of significantly increased vehicle movements is considered to be unfounded. Table 1 of the Rebuttal Note addresses in detail the particulars of existing and projected traffic flows. The proposed development is projected to give rise to 17 no. additional vehicle movements per day – an increase from 26 no. movements to 43 no. movements. The level of vehicle movement would retain total movement at less than two per hour.
- 4.23 The assertion of increased conflict between vehicle and pedestrian road users is considered to be mistaken. Each table contained within the Rebuttal Note demonstrates that flows of vehicle and pedestrian traffic are asymmetric to each other and that the two do not use Cairnbank Road at the same time.
- 4.24 Reason for refusal 6 claims that parking spaces will measure 4.5 metres in length. This is mistaken. All parking spaces in the proposed development will **measure 5 metres in length by 2.5 metres in width**. The Appellant is prepared to accept a condition requiring that parking spaces are laid out in accordance with this direction.
- 4.25 Therefore, it is considered that the existing private way which provides access to the site is safe and adequate for the number of dwellings which would be provided with access. The road accords with the standards set for when the absence of footways will be taken to be acceptable. The level of vehicle traffic is light, usually amounting to no more than two vehicles per hour, and three passing places exist over a distance of just 200 metres. The proposed development would not result in average vehicle movement extending to more than two movements per hour.

GROUND 4: THE COUNCIL HAS NOT MADE ANY INFORMATION ON TREE PROTECTION ORDERS AVAILABLE TO THE APPELLANT. NONETHELESS, ALL TREES COVERED BY ANY TPO WILL BE RETAINED ON-SITE.

4.26 It is noted that Report of Handling 22/00289/DPP states that:

“The trees within the site are protected by a Tree Preservation Order which extends across the wider site and the garden ground at number 19. A large amount of trees and hedges are to be removed which would be to the significant detriment of the landscape character of the area. No tree survey has been submitted to assess the impact of the proposal on protected trees or details of replacement planting.”

4.27 While it is accepted that a Tree Protection Order (TPO) may be designated on-site, no details of this were provided to the Appellant during the determination of the Application.

4.28 Despite no communication or request for an Arboricultural Impact Assessment (AIA) being made during the Application, the Appellant is prepared to accept a condition requiring submission of an AIA being attached if Planning Permission is granted. Indeed, if an AIA had been requested during the determination of the Application then one would have been submitted at that stage.

4.29 The Appellant agrees that retaining existing trees on-site and nearby in good health is an important aspect of the proposed development. Therefore, it is agreed that professional advice on tree retention from a suitably qualified consultant should be obtained and submitted to the Council before initiation of development. It does not prohibit granting Planning Permission. The intention is to retain all existing trees that are physically possible while delivering the proposed development.

GROUND 5: THE SITE LIES WITHIN AN EXISTING URBAN AREA WHERE POLICY ENV8 DOES NOT APPLY. THEREFORE REASON FOR REFUSAL 8 IS INCORRECT TO IDENTIFY THE INCLUSION OF FOOTBRIDGES ACROSS THE MILL LADE AS JUSTIFICATION FOR REFUSAL OF THE APPLICATION.

4.30 Reason for refusal 8 cites the need for locational requirement for footbridges in residential curtilages, in respect of Policy ENV8. However, this is a mistaken assessment. The adopted text of Policy ENV8 has been copied below:

Policy ENV 8

Protection of River Valleys

Development within the river valley protection areas of the Rivers North and South Esk and River Tyne will not be permitted unless there is a specific locational need for the development. This requirement is not applicable within the urban envelopes (see policy DEV2).

Where the locational requirement has been established (or within the urban envelopes), development must demonstrate that it will not have an adverse impact either on the landscape and conservation value of the valleys or impede potential public access opportunities; and it is not in conflict with other relevant policies of this Plan (in particular the Water Environment policies).

- 4.31 It can be clearly seen that Policy ENV8 is caveated as “*not applicable within the urban envelopes*”. Report of Handling 22/00289/DPP explicitly states its agreement that the site forms part of the urban area of Penicuik – “the site is located in a residential area within the built up area of Penicuik”.
- 4.32 It is clear and indisputable that Policy ENV8 does not apply to the proposed development as the appeal site lies within the urban area of Penicuik. Therefore, reason for refusal 8 is not justified in adopted planning policy and should be set aside.
- 4.33 Notwithstanding that Policy ENV8 is categorically non-applicable to the site; it should be noted that the mill lade on-site is not a river, as some documents suggest. It is the lade (feeding water channel) of a (former) mill – mill lade. The mill lade is not the channel or bank of the River North Esk (nearby) or the Rivers South Esk and Tyne (elsewhere in Midlothian).

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NEW DWELLINGS EAST OF CAIRNBANK RD, PENICUIK

CONCLUSION

CONCLUSION

- 5.1 The Notice of Review, supported by this Statement, requests that the Council overturns the decision to refuse Planning Permission for Application 22/00289/DPP and grant Planning Permission for erection of 4 dwellings, formation of car parking, footbridges, and associated works on land east of 19 Cairnbank Road, Penicuik.
- 5.2 The proposed development represents erection of four new dwellings on a site measuring 0.32ha in a part of the existing urban area of Penicuik which is defined by high density residential development. The proposed development would make efficient use of land and deliver new homes within one of Midlothian's existing urban areas and most sustainable locations. The elevations of proposed dwellings are proposed in a bespoke design comprising brick, render, stone, timber, and aluminium and are considered to be architecturally detailed and interesting. Therefore, the proposed development is considered to accord with Policy STRAT2.
- 5.3 The Appellant and Planning Authority agree that the proposed gardens are sufficiently large and satisfy those standards. However, the Report of Handling seeks to hold the proposed development to a higher standard than other new dwellings in existing urban areas. It is the position of the Appellant that no justification has been offered for this approach has been offered and it cannot stand. It is considered that good quality amenity is provided and that impact on amenity does not represent a reason for refusal.
- 5.4 Vehicle access to the adopted public road is proposed via the existing private way Cairnbank Road. The consultation response received from the Policy and Road Safety team neglects to address road safety. It makes an arbitrary determination based on a high level reading of modern design standards and omits to take cognisance of the guidance on pre-existing road infrastructure contained within those same policy documents. Given these two definitive material considerations, the proposed development is considered to be acceptable in transport terms.
- 5.5 The Local Review Body is respectfully requested to allow the appeal for the erection of 4 dwellings, formation of car parking, footbridges, and associated works on land east of 19 Cairnbank Road, Penicuik.

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NEW DWELLINGS EAST OF CAIRNBANK RD, PENICUIK

CORE DOCUMENTS

CORE DOCUMENTS

The following drawings, documents, and plans have been submitted to support the Notice of Review:

- Notice of Review Form;
- CD1 Local Review Statement;
- Application Form;
- CD2 Rebuttal Note, prepared by Curtins;
- CD3 21001-AP01 Location Plan / Block Plan / Contextuals, prepared by D2 Architectural Design;
- CD4 21001-AP02 Plans and Elevations Plot 1, prepared by D2 Architectural Design;
- CD5 21001-AP03 Topographical Survey, prepared by D2 Architectural Design;
- CD6 21001-AP04 Plans and Elevations Plot 2, prepared by D2 Architectural Design;
- CD7 21001-AP05 Plans and Elevations Plot 3, prepared by D2 Architectural Design;
- CD8 21001-AP06 Plans and Elevations Plot 4, prepared by D2 Architectural Design;
- CD9 21001-AP07 Footbridge 1 & Footbridge 2, prepared by D2 Architectural Design;
- CD10 21001-AP08 Site Sections 1, prepared by D2 Architectural Design;
- CD11 21001-AP08 Site Sections 2, prepared by D2 Architectural Design;
- CD12 (Application) Supporting Statement;
- CD13 Flood Risk Assessment, prepared by Kaya Consulting;
- CD14 Protected Species Survey, prepared by David Dodds Associates;
- CD15 Geo-Environmental Site Investigation, prepared by MM-EC Geoenvironmental;
- CD16 Report of Handling 22/00289/DPP; and
- CD17 Decision Notice 22/00289/DPP.

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MIDLOTHIAN COUNCIL

DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

Planning Application Reference: 22/00289/DPP

Site Address: Land East of 19 Cairnbank Road, Penicuik.

Site Description: The application site comprises an area of garden ground serving 19 Cairnbank Road. This slopes steeply down from north to south, with a watercourse (Mill Lade) running through part of the site. The trees within the site are protected by a Tree Preservation Order. The River North Esk is to the south of the site with woodland beyond. There are houses to the west, east and north. The site is accessed by a single track vehicular access from Cairnbank Road. This is within the built up area, but there is a strong semi-rural character to the immediate area. The houses in the immediate area are a variety of detached single and two storey buildings of varying ages and styles.

Proposed Development: Erection of 4 dwellinghouses; formation of car parking and footbridges; and associated works.

Proposed Development Details: Four split level houses are proposed, 14 metres wide with a maximum depth of 14 metres. From Cairnbank Road, the houses will appear single storey with a pitched roof a maximum of 6.4 metres high. From the south the houses are three storey a maximum of 14 metres high, with additional underbuilding and decking. The cross sections show the areas of infill proposed, accommodating the change in ground levels which drop up to 8.5 metres from Cairnbank Road to the proposed garden. The supporting statement states the walls are off white smooth render, natural stone, timber cladding, facing brick with zinc detailing and the roofs natural slate, with alucad dark grey window frames and doors.

Each house has steps down from Cairnbank Road to their garden, along with decking and balconies. The associated garden ground is to the south and extends across Mill Lade. This is accessed by two footbridges which are largely glazed.

Ten parking spaces are proposed, two for each house and two visitor parking. The parking for the houses is 4.5 metres long. Four passing places are proposed along Cairnbank Road. These areas are outwith the application site but on land under the control of the applicant. A private foul drainage system is proposed with a biodisc plant in the garden for plot 4. The houses will connect to the public water supply.

A number of supporting documents have been submitting including a design statement, ecology report and Flood Risk Assessment.

Background (Previous Applications, Supporting Documents, Development Briefs): Application site (including 19 Cairnbank Road and land to west and north) 07/00737/OUT Renewal of outline planning permission for the erection of one dwellinghouse (ref no. 04/00476/OUT). Consent with conditions – not implemented – expired.

04/00476/OUT Outline permission for one dwellinghouse. Consent with conditions – not implemented – expired.

00/00715/OUT Renewal of outline planning permission (reference no. 0553/97) for the erection of single dwellinghouse. Consent with conditions – not implemented – expired.

0553/97/OUT Outline planning permission for the erection of single dwelling house (renewal of planning permission 0592/94). Consent with conditions – not implemented – expired.

Land to west of 19 Cairnbank Road garden ground

11/00491/DPP Erection of dwellinghouse. Consent with conditions – not implemented – expired.

08/00558/OUT Erection of dwellinghouse. Consent with conditions – not implemented – expired.

Land to east

15/00711/DPP Extension to dwellinghouse; formation of roof terrace and raised terrace. Consent with conditions.

Land to north

05/00394/FUL Erection of dwellinghouse. Consent with conditions - implemented.

Land to northwest

11/00648/DPP Demolition of stable block and erection of dwellinghouse. Consent with conditions - implemented.

Consultations:

The Council's **Policy and Road Safety Manager** recommends the application be refused due to road safety concerns over the suitability of the existing private access road to safely accommodate the additional pedestrian and vehicular traffic the houses would generate. The access road is narrow and unable to accommodate two-way traffic flow and has no separate pedestrian facilities or street lighting. The road is not currently adopted for maintenance by the Council and will be privately maintained. While the private access road appears to coping with the level of vehicle and pedestrian traffic generated by the existing properties, the proposal would result in a substantial increase in both vehicle and pedestrian traffic here. This increase in traffic levels on a substandard access road with no pedestrian facilities would result in an increased risk of conflict between vehicles and pedestrians.

They also act as the Council's **Flood Officer** and state the submitted Flood Risk Assessment indicates the Mill Lade would not be a flood risk factor for the new dwellings. Surface water from the 4 dwellings is to be disposed of by way of a soakaway located in the rear gardens of the properties. No information on the suitability of the ground to accommodate this type of drainage system has been submitted. Test bores and infiltration tests on the areas of this land are required to that this type of surface water drainage system would be suitable in this location.

The Council's **Senior Manager Protective Services** has no objection subject to conditions being attached to any planning permission ensuring that ground

contamination remediation works are undertaken and the hours of construction limited to reasonable working times. They have concerns over the proposed air source heat pumps as these could result in noise nuisance. They request conditions be attached to any permission to restrict the noise levels of this equipment.

The Council's **Education Resource Manager** confirms contributions would be required for education provision.

The Council's **Biodiversity Consultant** has considered the submitted ecology surveys and are satisfied that protected species have been suitably considered in the proposed and that the recommendations be followed.

The Council's **Archaeological Consultant** recommends a condition be attached to any permission requiring a programme of archaeological works be submitted for approval before any works begin on site. They advise against any direct impacts to the historic lade to preserve its character and integrity.

The **Coal Authority** has no objection having considered the submitted information.

The **Scottish Environmental Protection Agency** has no objection on the grounds of flood risk. The submitted Flood Risk Assessment is based on appropriate methods and its representation of flood risk at the site is in line with all other evidence that is currently available. They support the recommendations of the of no build zone below Mill Lade as this is a perched watercourse here and could pose a serious risk of flooding. Surface water flood risk has been mapped and it is recommended that ground levels are arranged so that any surface water reaching the site is routed through the development site as it currently does.

Representations: Three representations have been submitting objecting on the following grounds. One is from a solicitor on behalf of six local properties:

- The proposal does not comply with MLDP policies STRAT2, DEV2, DEV5, DEV7, ENV6, ENV7, ENV8, ENV11, ENV14,
- The site is not brownfield land but garden ground;
- The proposal is not a windfall site;
- The site is sensitive as it is covered by a TPO, part of the site is within a Regionally and Locally Important Nature Conservation site, is in a river valley and is adjacent to a Special Landscape Area and would have a detrimental impact on all;
- The proposal would detrimentally affect the existing residents' quality of life;
- The houses would be out of character with the surrounding area which would have a detrimental impact on the character of the area, through design, height, layout, garden provision and relationship to the area;
- The proposal is an overdevelopment;
- Concern of overlooking and loss of privacy to neighbouring properties;
- Concern that more houses would lead to street lighting on Cairnbank Road;
- Impact of the three storey buildings on the Special Landscape Area to the south with minimal shielding;
- The scale, siting and design of the development would have a detrimental impact on the landscape character of the area;

- Road safety concerns if more vehicle use Cairnbank Road, which is very busy with pedestrians and cyclists and has existing issues with car and pedestrian/cycle access. This cannot sustain any more traffic than at present;
- Concern over vehicle speeds on the private area of Cairnbank Road;
- A turning circle at the end of Cairnbank Road regularly has cars parked on it meaning vehicles have to reverse along this road;
- The proposed passing places are not fully in the applicant's ownership and would not fully address road safety concerns;
- Some of the proposed passing places are close to protected trees and drains and there are concerns these would be damaged;
- Some of these are at existing driveways which would block access to these houses;
- Queries and concerns over the transport assessment, including: it was conducted without the knowledge of local residents; this was done on two workdays in working hours which is not representative of the use of the road; use by pedestrians and cyclist was not monitored; the projected vehicle generation is low;
- Septic tanks would require a larger vehicle to service and empty these than the limited size of vehicles noted in the transport statement;
- The use of only smaller vehicles of the access is unrealistic and not possible to enforce;
- Concern over vehicular access and turning space for the houses;
- If approved, construction works would affect access along Cairnbank Road;
- There are no details over reinstating and repairing the road if damaged during development;
- Impact on the public access to Penicuik Estate;
- Proximity of some works to protected trees;
- Loss of trees will have a significant detrimental impact on the character of the area and create additional surface run off and erosion;
- No mitigation for the impact on the landscape character is proposed;
- Impact on wildlife and protected species and a Locally Important Nature Conservation Site as a result of the development and loss of vegetation;
- No details of biodiversity promotion are submitted;
- Mill Lade floods at times of heavy rainfall so the proposed gardens would be prone to flooding;
- Concern over the drainage at the houses and the impact on Cairnbank Road;
- There is no specific locational need for the proposal in the river valley and would impact public access on Cairnbank Road;
- Concern that the submitted plans do not accurately show the surrounding area;
- Concern that the site notice was only in place for one day rather than the required three weeks;
- Concern over neighbour notification
- Comments over the submitted Coal Mining Risk Assessment;
- If approved, a Construction Environmental Management Plan should be conditioned;
- Impact on the value of neighbouring properties;
- Impact on views to the south for local residents and pedestrians;
- Ground stability issues for nearby properties;

- Impact on existing phone lines as these are across the site and need to be relocated to ensure no disruption to local residents' phone or internet; and
- There has been no communication between the applicant and local residents over the proposal.

One objector has made additional comments on the impact the proposal would have on the amenity and wellbeing of their family, as a member of the household has complex needs. The proposal would impact on essential access to their house and safety concerns from increased traffic movements, as well as the impact of noise and disturbance. The circumstances of the family means the development would detrimentally affect them in ways that others may not be affected.

Relevant Planning Policies: The relevant policies of the **2017 Midlothian Local Development Plan** are;

STRAT2 Windfall Housing Sites advises that within the built-up areas, housing development on non-allocated sites and including the reuse of buildings and redevelopment of brownfield land, will be permitted provided that: it does not lead to the loss or damage of valuable public or private open space; it does not conflict with the established land use of the area; it respects the character of the area in terms of scale, form, design and materials; it meets traffic and parking requirements; and it accords with other relevant Local Plan policies and proposals;

DEV2 Protecting Amenity within the Built-Up Area advises that development will not be permitted where it is likely to detract materially from the existing character or amenity of the area;

DEV5 Sustainability in New Development sets out the requirements for development with regards to sustainability principles;

DEV6 Layout and Design of New Development states that good design and a high quality of architecture will be required in the overall layout of development proposals. This also provides guidance on design principles for development, materials, access, passive energy gain, positioning of buildings, open and private amenity space provision and parking;

DEV7 Landscaping in New Development requires development proposals to be accompanied by a comprehensive scheme of landscaping. The design of the scheme is to be informed by the results of an appropriately detailed landscape assessment;

TRAN5 Electric Vehicle Charging seeks to support and promote the development of a network of electric vehicle charging stations by requiring provision to be considered as an integral part of any new development or redevelopment proposals;

IT1 Digital Infrastructure supports the incorporation of high speed broadband connections and other digital technologies into new homes, business properties and redevelopment proposals;

ENV7 Landscape Character states that development will not be permitted where it significantly and adversely affects local landscape character. Where development is acceptable, it should respect such character and be compatible in terms of scale, siting and design. New development will normally be required to incorporate proposals to maintain the diversity and distinctiveness of the local landscapes and to enhance landscape characteristics where they have been weakened;

ENV8 Protection of River Valleys states development within the river valley protection areas of the Rivers North Esk, South Esk and Tyne will not be permitted unless there is a specific locational need for the development, and where this is established, development must demonstrate that it will not have an adverse impact either on the landscape and conservation value of the valleys or impede potential public access opportunities;

ENV9 Flooding presumes against development which would be at unacceptable risk of flooding or would increase the risk of flooding elsewhere. It states that Flood Risk Assessments will be required for most forms of development in areas of medium to high risk, but may also be required at other locations depending on the circumstances of the proposed development. Furthermore it states that Sustainable urban drainage systems will be required for most forms of development, so that surface water run-off rates are not greater than in the site's pre-developed condition, and to avoid any deterioration of water quality;

ENV11 Woodland, Trees and Hedges states that development will not be permitted where it could lead directly or indirectly to the loss of, or damage to, woodland, groups of trees and hedges (including trees covered by a Tree Preservation Order, areas defined as ancient or semi-natural woodland, veteran trees or areas forming part of any designated landscape) which have particular amenity, nature conservation, biodiversity, recreation, landscape, shelter or historical value or are of other importance;

ENV14 Regionally and Locally Important Nature Conservation Sites states development which could affect the nature conservation interest of any sites or wildlife corridors of regional or local conservation importance, or any other site which is proposed or designated as of regional or local importance during the lifetime of the Plan, will not be permitted unless it meets particular criteria, including that the development has been sited and designed to minimise damage to the value of the site and compensation measures and the public interest to be gained for the proposed development can be demonstrated to clearly outweigh the nature conservation interest of the site;

ENV15 Species and Habitat Protection and Enhancement states that development that would affect a species protected by European or UK law will not be permitted unless: there is an overriding public need and there is no satisfactory alternative; a species protection plan has been submitted, which is based on survey results and includes details of the status of protected species on site and possible adverse impact of development; suitable mitigation is proposed and agreed; and the development is not detrimental to the maintenance of European protected species at a favourable conservation status;

IMP1 New Development seeks to ensure that appropriate provision is made for a need which arises from new development. Of relevance in this case are education provision, transport infrastructure; contributions towards making good facility deficiencies; affordable housing; landscaping; public transport connections, including bus stops and shelters; parking in accordance with approved standards; cycling access and facilities; pedestrian access; acceptable alternative access routes, access for people with mobility issues; traffic and environmental management issues; protection/management/compensation for natural and

conservation interests affected; archaeological provision and 'percent for art' provision; and

IMP2 Essential Infrastructure Required to Enable New Development to Take Place states that new development will not take place until provision has been made for essential infrastructure and environmental and community facility related to the scale and impact of the proposal. Planning conditions will be applied and; where appropriate, developer contributions and other legal agreements will be used to secure the appropriate developer funding and ensure the proper phasing of development.

The land to the south of Mill Lade is covered by the following policies:

ENV6 Special Landscape Areas states development proposals in such areas will only be permitted where they incorporate high standards of siting and design and where they will not have a significant adverse effect on the special landscape qualities of the area; and

ENV20 Nationally Important Gardens and Designed Landscapes states development should protect, and where appropriate enhance, gardens and designed landscapes. Development will not be permitted which would harm the character, appearance and/or setting of a garden or designed landscape.

Planning Issues: The main planning issue to be considered is whether or not the proposal complies with the development plan policies and, if not, whether there are any material planning considerations which would otherwise justify approval.

Principle of development

The site is located in a residential area within the built up area of Penicuik where there is a presumption in favour of compatible developments and so the principle of development is supported, provided this does not detract materially from the character or amenity of the area and complies with any other relevant policies. The site is adjacent to a special landscape area. The proposal's impact on the character and appearance of the area must be given careful consideration.

The part of site that includes Mill Lade and the land to the south is within a river valley protection area. There needs to be a locational need for any development here. Where this is established, this must not have an adverse impact on the landscape and conservation value of the valley or impede potential public access opportunities. It is proposed to erect two bridges over Mill Lade and create garden ground on the land to the south. The requirement for the bridges is only to serve the proposed houses. As the land to the south of Mill Lade is to be garden ground, there will be a requirement for boundary treatments and potentially domestic buildings such as sheds. There is no locational need for these works other than relating to the proposed houses. Therefore there is no policy support for works in this area.

Layout and design

The proposed houses are split level to accommodate the significant slope within the site of 8 metres, with the houses appearing as single storey from Cairnbank Road

and three storey from the south. These are very large buildings which are tightly packed into the site far denser than the layout of the houses in the immediate semi-rural area, where houses are generally set in larger plots with room for landscaping and amenities. The layout would be a regimented form of development compared to the surroundings. Also there is limited room within the site to accommodate any landscaping that could soften or integrate the houses into the surrounding area, even if this were a level site. Due to the change in ground levels, even more space would be required for landscaping to try to integrate this level of development into the area.

The houses will appear as single storey buildings from Cairnbank Road. There are a variety of house types in the area which includes single storey. The general character of this part of Cairnbank Road is hedging and landscaping to the road which contributes to the semi-rural and landscape character of the area. The existing hedge along the road is to be removed and replaced by the houses, hardstanding and parking spaces close to the road. This would be a significant detrimental impact to the character of the area, as well as the loss of landscaping that positively contributes to the area. The combination of the position of the houses so close to the road, the largely blank elevations and the loss and lack of landscaping would create a frontage that is out of keeping with and significantly detract from the character of the area.

The houses would be very large, bulky and obtrusive when viewed from the south, out of character for the area.

The development needs to be highly engineered with a significant amount of levelling work to accommodate these buildings. This is evident in the retaining walls, mass of building when viewed from the south and decking. This would be at odds with the character of the area. Whilst it is appreciated that the house at 19 Cairnbank Road is on a similar slope, this is one house which has sufficient space for planting to accommodate this into the area. This also helps demonstrate the significant visual impact that four houses in a smaller plot with limited landscaping would appear in the area. The required engineering work to accommodate these houses would have a detrimental impact on the character of the area.

Amenity for occupants and local area

The garden ground for the houses is to the south of Mill Lade, accessed by footbridges. These gardens are larger than the required standards of 130 square metres. However these are detached from the houses and would be overlooked by each of the proposed houses. The houses are therefore not provided with private amenity ground.

There is potential for impact on privacy to existing houses from the proposed houses. Due to the position of the houses on Cairnbank Road, the boundary treatments and the fenestration on the proposed houses, it is not considered that there would be significant overlooking between the proposed houses and those to the north that face onto Cairnbank Road.

There is potential for overlooking to the gardens to the east of plot 1 and the west of plot 4 due to the window and terrace/balcony arrangement. Due to the sloping land, it is unlikely that this could be resolved by boundary treatments.

Ten parking spaces are proposed, which meets the current parking standards. Standard dimensions for parking spaces are 2.5 metres wide and 5 metres long. The parking for the houses is only 4.5 metres long, meaning cars are likely to project from the site onto Cairnbank Road and create road safety issues. Each house has an integrated double garage, however these do not count towards parking provision.

Road safety

The site is accessed by a narrow private road which is unable to accommodate two-way traffic flow, with no separate pedestrian facilities or street lighting. The road leads into Penicuik Estate and is well used by pedestrians and cyclists. This is not currently adopted for maintenance by the Council and is privately maintained. At present, the private access road appears to be coping with the level of vehicle and pedestrian traffic generated by the existing properties accessed from it. However the proposed additional houses would result in a substantial increase in both vehicle and pedestrian traffic on the route.

A transport statement has been submitted which states Cairnbank Road can accommodate the additional houses and install four new passing places. This has been considered, however this has not fully addressed these road safety concerns to a satisfactory level. The increase in traffic levels on this substandard access road with no pedestrian facilities would result in an increased risk of conflict between vehicles and pedestrians which would be a significant road safety concern.

In terms of the proposed passing places, the application submission states these are on land under the control of the applicant. Had the road safety concerns been addressed by the principle of passing places, these would have been considered in more detail to assess the impact these would have on protected trees and drains, as well as access to nearby houses.

Landscaping

The trees within the site are protected by a Tree Preservation Order which extends across the wider site and the garden ground at number 19. A large amount of trees and hedges are to be removed which would be to the significant detriment of the landscape character of the area. No tree survey has been submitted to assess the impact of the proposal on protected trees or details of replacement planting.

Flooding and drainage

There is potential for flooding as Mill Lade runs through the site which is close to the River North Esk. The submitted Flood Risk Assessment (FRA) states any potential flooding issues will be addressed if there is no development to south of Mill Lade and the finished floor level of the houses is above 171.22 metres. The FRA indicates the Mill Lade would not be a flood risk factor for the new dwellings. The Council's Flood Officer and SEPA have considered this and have no objection in terms of flooding.

SPEA considers the FRA is based on appropriate methods and its representation of flood risk at the site is in line with all other evidence that is currently available. The recommendations of the no build zone are appropriate.

Surface water from the proposed dwellings is to be disposed of by way of a soakaway located in the rear gardens of the properties. No information on the suitability of the ground to accommodate this type of drainage system has been submitted. Test bores and infiltration tests on the areas of this land are required to that this type of surface water drainage system would be suitable in this location. Also it is recommended that ground levels are arranged so that any surface water reaching the site is routed through the development site as at present.

Should permission be approved, details of the drainage arrangements are required.

It is not clear how the proposal would affect drainage on Cairnbank Road.

Other matters

The area to the south of Mill Lade is within a Locally Important Nature Conservation site. An ecology report has been considered by the Council's Biodiversity Consultant. This has demonstrated that there will be no impact protected species as a result of development. There are recommendations in the survey to improve biodiversity which would be required if permission is approved. Approval would also allow additional biodiversity requirements and improvements in the area.

With regards to the construction at the site, mitigation measures regarding ground conditions and contamination and/or previous mineral workings must be considered. The Council's Senior Manager Protective Services has no objection to the proposal but recommends that conditions be attached to protect future occupants of the site and neighbouring land from the potential impact of contaminated land. If approved, a scheme mitigating any contamination of the site and/or previous mineral workings, and the submission of a validation report(s) confirming the approved works have been carried out shall be required by planning condition.

Although the Senior Manager Protective Services recommend a condition restricting the hours of construction at the site, this is better controlled by their own legislation rather than through planning measures and so the condition will not be attached.

Details of the air source heat pump are required to ensure this is in keeping with and does not detract from the character, appearance or amenity of the surrounding area.

The Coal Authority considered the submitted Coal Mining Risk Assessment and was satisfied this was acceptable. They did not recommend any conditions be attached if permission is granted.

Neighbour notification was carried out to all identifiable neighbours. The application was also advertised in the local press in line with the associated regulations, as not all neighbours were identifiable.

There was no requirement for a site notice to be erected.

The loss of a view, impact on value of nearby properties, issues of access during development and impact on telephone lines are not material planning considerations.

Any issues over repairs to the private road is a private legal matter between the relevant owners.

Any issues over ground stability would be addressed as part of the building warrant.

While it is good practice for applicants to have discussions with local residents, there is no planning requirement for them to do so for a development of this scale.

Should planning permission be approved, developer contributions would be required for two of the four houses. Contributions would include towards education provision and play.

Recommendation: Refuse planning permission.

Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

Reg. No. 22/00289/DPP

D2 Architectural Design Ltd
Newbattle Abbey
Newbattle Road
Dalkeith
EH22 3LL

Midlothian Council, as Planning Authority, having considered the application by Mr Craig Meikle, 19 Cairnbank Road, Penicuik, EH26 9DR, which was registered on 10 May 2022 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

Erection of 4 dwellinghouses; formation of car parking and footbridges; and associated works at Land East of 19 Cairnbank Road, Penicuik, Midlothian

in accordance with the application and the following documents/drawings:

<u>Document/Drawing.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Site Plan/Location Plan	AP01 B 1:1250 1:200	06.07.2022
Topographical Survey (Existing)	AP03 1:200	10.05.2022
Topographical Survey (Proposed)	AP10 1:200	06.07.2022
Elevations, Floor Plan And Cross Section	AP02 1:100	10.05.2022
Elevations, Floor Plan And Cross Section	AP04 A 1:100	06.07.2022
Elevations, Floor Plan And Cross Section	AP05 A 1:100	06.07.2022
Elevations, Floor Plan And Cross Section	AP06 A 1:100	06.07.2022
Proposed Cross Section	AP08 1:100	06.07.2022
Proposed Cross Section	AP09 1:100	06.07.2022
Elevations, Floor Plan And Cross Section	AP07 1:50	10.05.2022
Access Plan	79406-CUR-00-XX-DR-TP-05001-P01 1:300	10.05.2022
Access Plan	79406-CUR-00-XX-DR-TP-05001-P02 1:300	10.05.2022
Access Plan	79406-CUR-00-XX-DR-TP-75001-P01 1:300	10.05.2022
Access Plan	79406-CUR-00-XX-DR-TP-75001-P02 1:300	10.05.2022
Ecology/Wildlife Report		07.07.2022
Flood Risk Assessment		10.05.2022
Flood Risk Assessment		10.05.2022

The reason(s) for the Council's decision are set out below:

1. *The design, scale, mass and layout of the proposed houses would be out of keeping with and have a significant detrimental impact on the character and appearance of the surrounding area, adjacent special landscape area and landscape character of the surrounding area and so do not comply with policies STRAT1, DEV2, ENV6 and ENV7 of the adopted Midlothian Local Development Plan 2017.*
2. *The proposal will provide an inadequate level of amenity for future residents as this does not provide adequate private garden ground as each proposed house would overlook the garden ground of the adjacent house and so have a detrimental impact on the amenity of these occupants.*
3. *The proposed houses at plot 1 and 4 would impact on the amenity of neighbouring garden ground and detract from the privacy of the existing occupants. There is not sufficient space for any landscaping to address this, if this is possible due to the ground levels.*
4. *For the above reasons the proposed development is considered to be an overdevelopment of the site and so does not comply with policies STRAT1 and DEV2 of the adopted Midlothian Local Development Plan 2017.*
5. *The proposal presents a significant threat to road safety given that the access road is narrow with no footways for separate pedestrian facilities and the majority of the route unable to accommodate two-way traffic flow. The proposal would result in a substantial increase in the level of vehicle and pedestrian traffic currently using the substandard route and would have a significant adverse impact on the current users of this road and a harmful impact on the road safety within the local road network, as well as an increased risk of conflict between vehicles and pedestrians.*
6. *The proposed length of the driveways at 4.5m will result in parked vehicles overhanging and obstructing the access road resulting in road safety concerns. It has not been demonstrated to the satisfaction of the Planning Authority that a driveway could be accommodated at the application site without a detrimental impact on road safety.*
7. *The proposal would result in the loss of a significant amount of landscaping, including a number of trees protected by a Tree Preservation Order, which positively contribute to the character and appearance of the area and so does not comply with policies DEV2, ENV7 and ENV11 of the adopted Midlothian Local Development Plan 2017.*
8. *There is no locational requirement for the footbridges across Mill Lade or for the formation of garden ground, boundary treatments or other related development and so the proposal does not comply with policy ENV8 of the adopted Midlothian Local Development Plan 2017.*

Dated 2 / 9 / 2022

A handwritten signature in black ink, appearing to be 'DR' with a stylized flourish.

.....
Duncan Robertson
Lead Officer – Local Developments
Fairfield House, 8 Lothian Road, Dalkeith, EH22 3ZN



**The Coal
Authority**

Any Planning Enquiries should be directed to:

Planning and Local Authority Liaison
Direct Telephone: 01623 637 119 (Planning Enquiries)
Email: planningconsultation@coal.gov.uk
Website: www.gov.uk/coalauthority

INFORMATIVE NOTE

The proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity at the surface or shallow depth. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and former surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of new development taking place.

It is recommended that information outlining how former mining activities may affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), is submitted alongside any subsequent application for Building Warrant approval (if relevant).

Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant land stability and public safety risks. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design which takes into account all the relevant safety and environmental risk factors, including mine gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at: www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, excavations for foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

If any coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority

Informative Note valid from 1st January 2021 until 31st December 2022

REFUSED
22.000289.DPP
02.09.2022



Topographical Plan - as proposed
Scale 1:200 @ A1

0 2m 4m 6m 8m 10m



Do not scale from drawing.
All dimensions to be confirmed on site.
These drawings are for the purposes of
obtaining local authority approval only

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PLANNING APPLICATION

PROJECT
Residential Development, Land East of 19
Cairnbank Road, Penicuik

DRAWING
PROPOSED TOPOGRAPHICAL PLAN

DATE	DRAWN	SCALE
21001	DI	as shown @ A1
PROJECT	DRAWING No.	REVISION
21001	AP10	

0 1m 2m 3m 4m 5m

SF level - 180.250

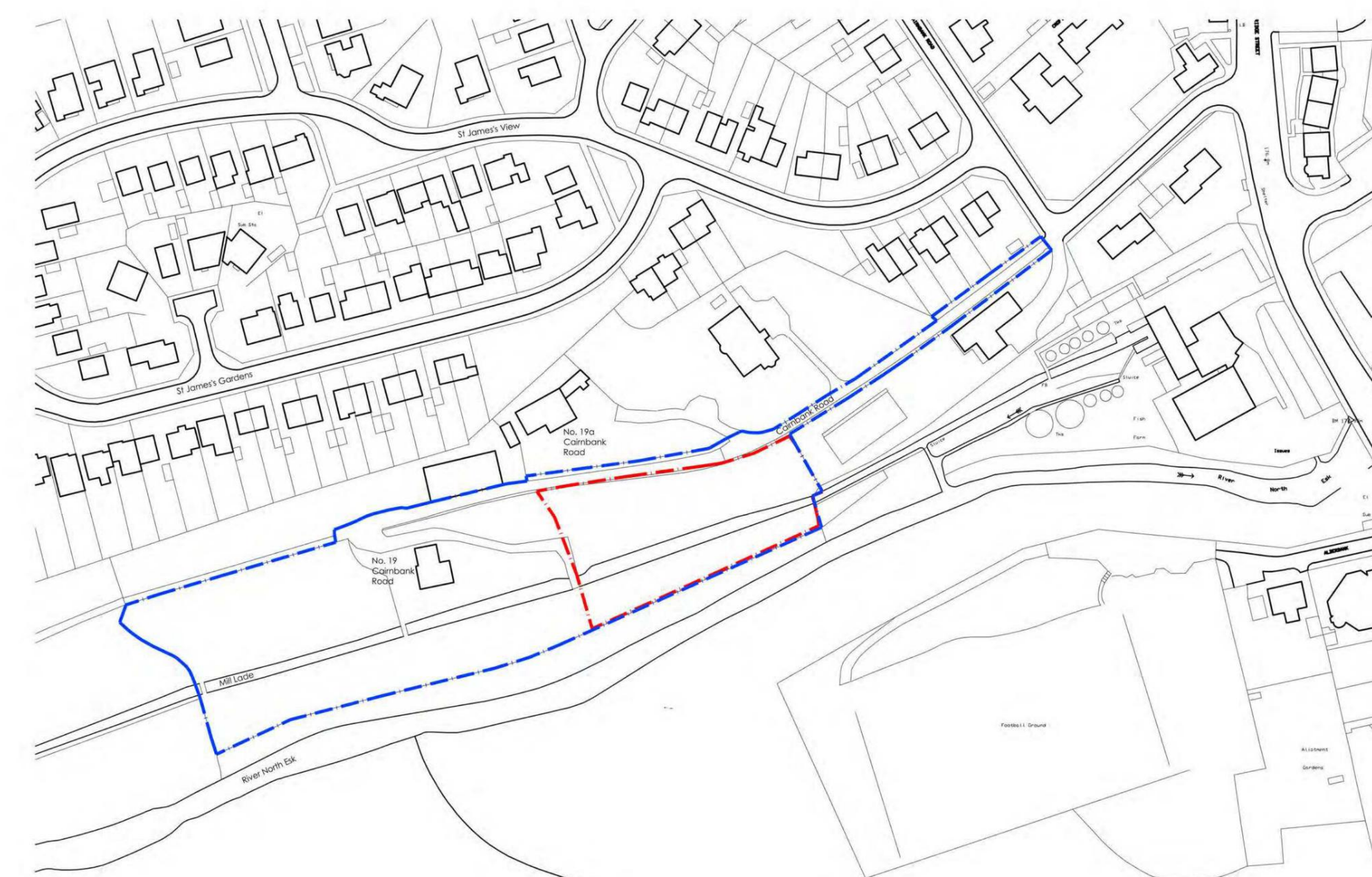
SF level - 180.255

SF level - 180.180

SF level - 179.985

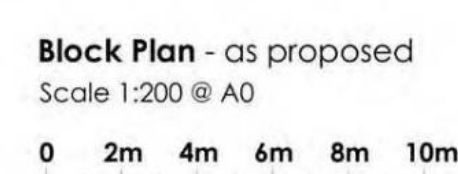
REFUSED
22.00289.DPP
02.09.2022

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Scale 1:1250 @ A1

Application site



Block Plan - as proposed

Scale 1:200 @ A0

0 2m 4m 6m 8m 10m

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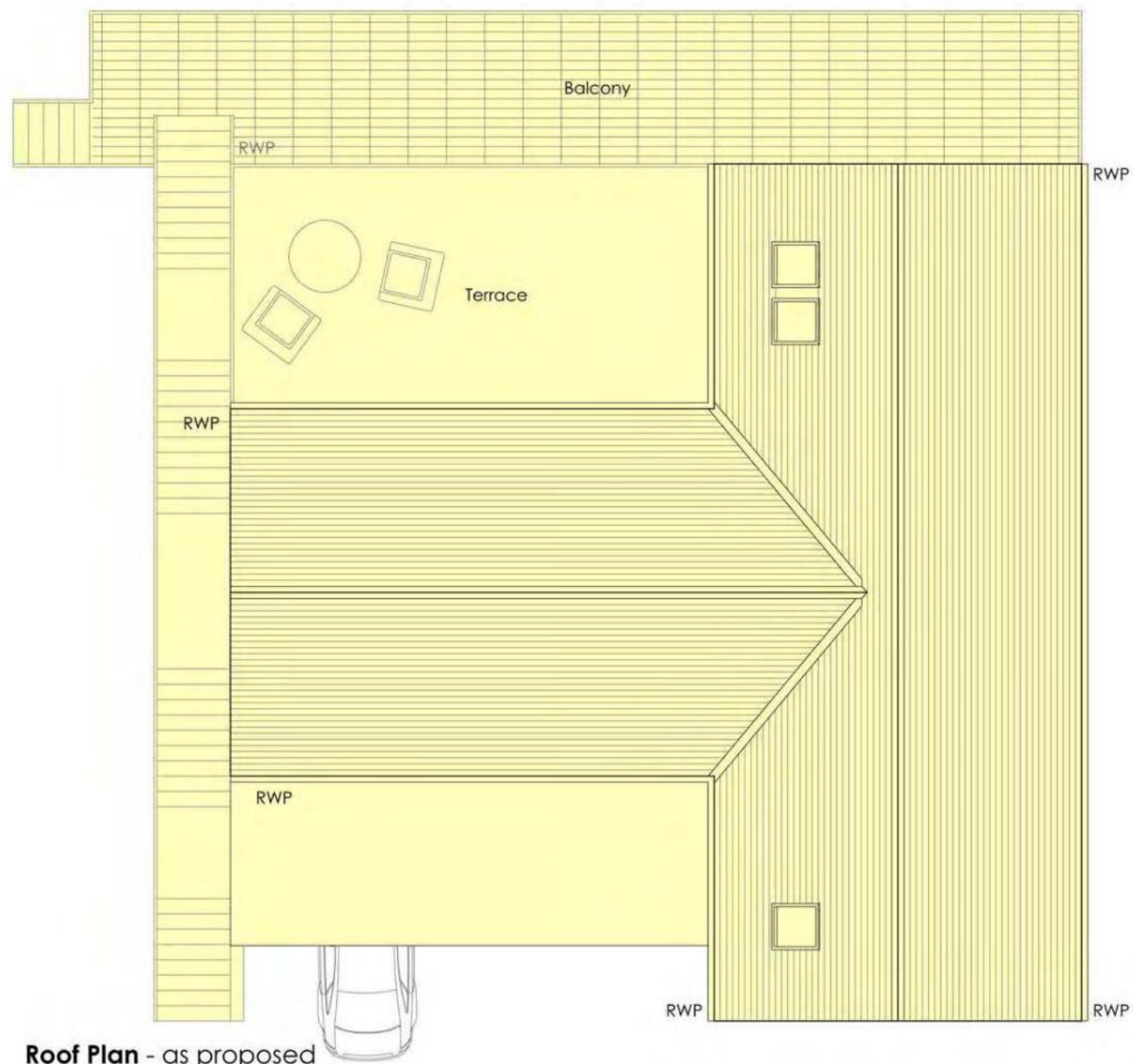
DDO 1503

PROJECT
Residential Development, Land East of 19
Cairnbank Road, Penicuik

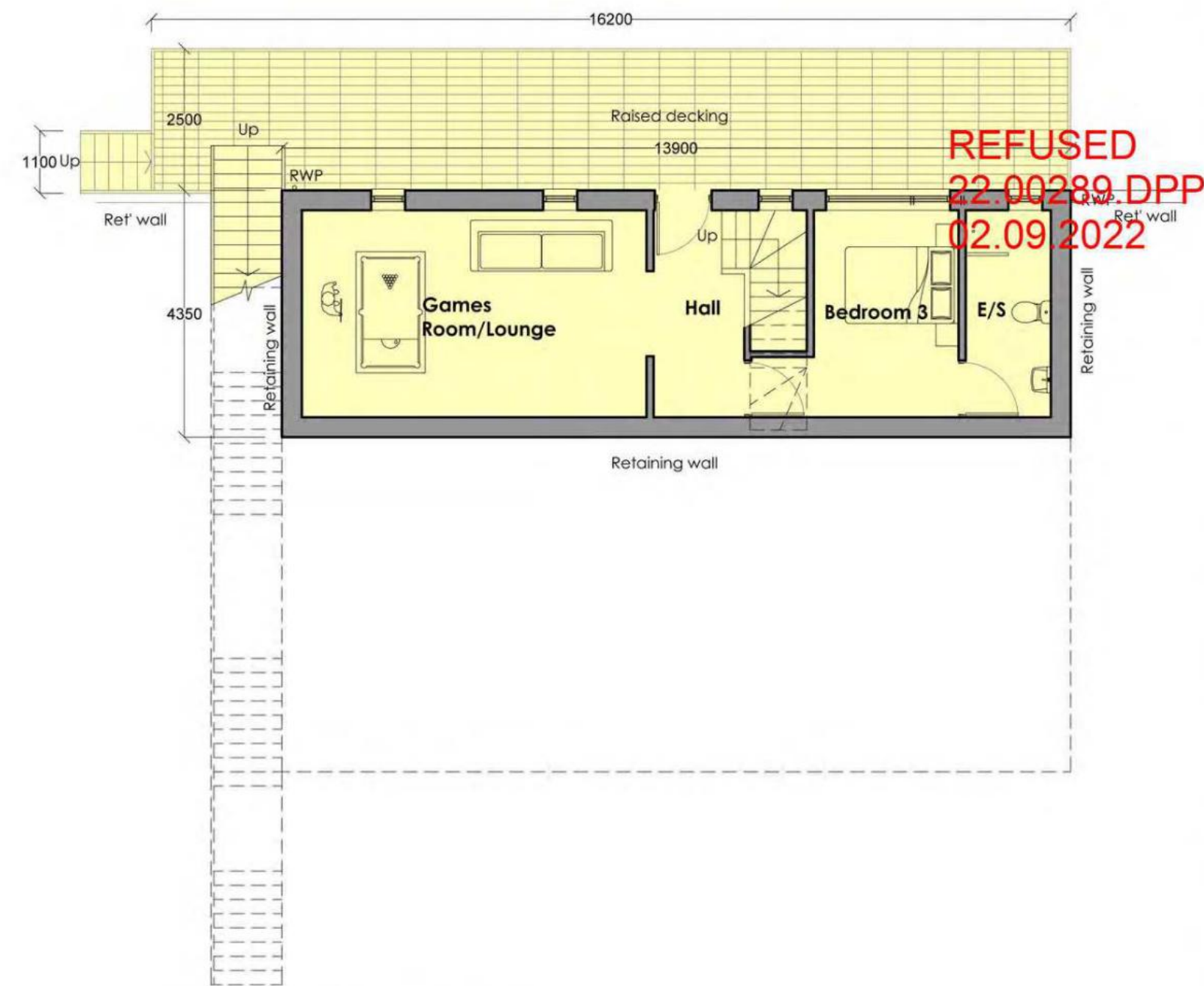
Rev B: Section lines added.

DRAWING

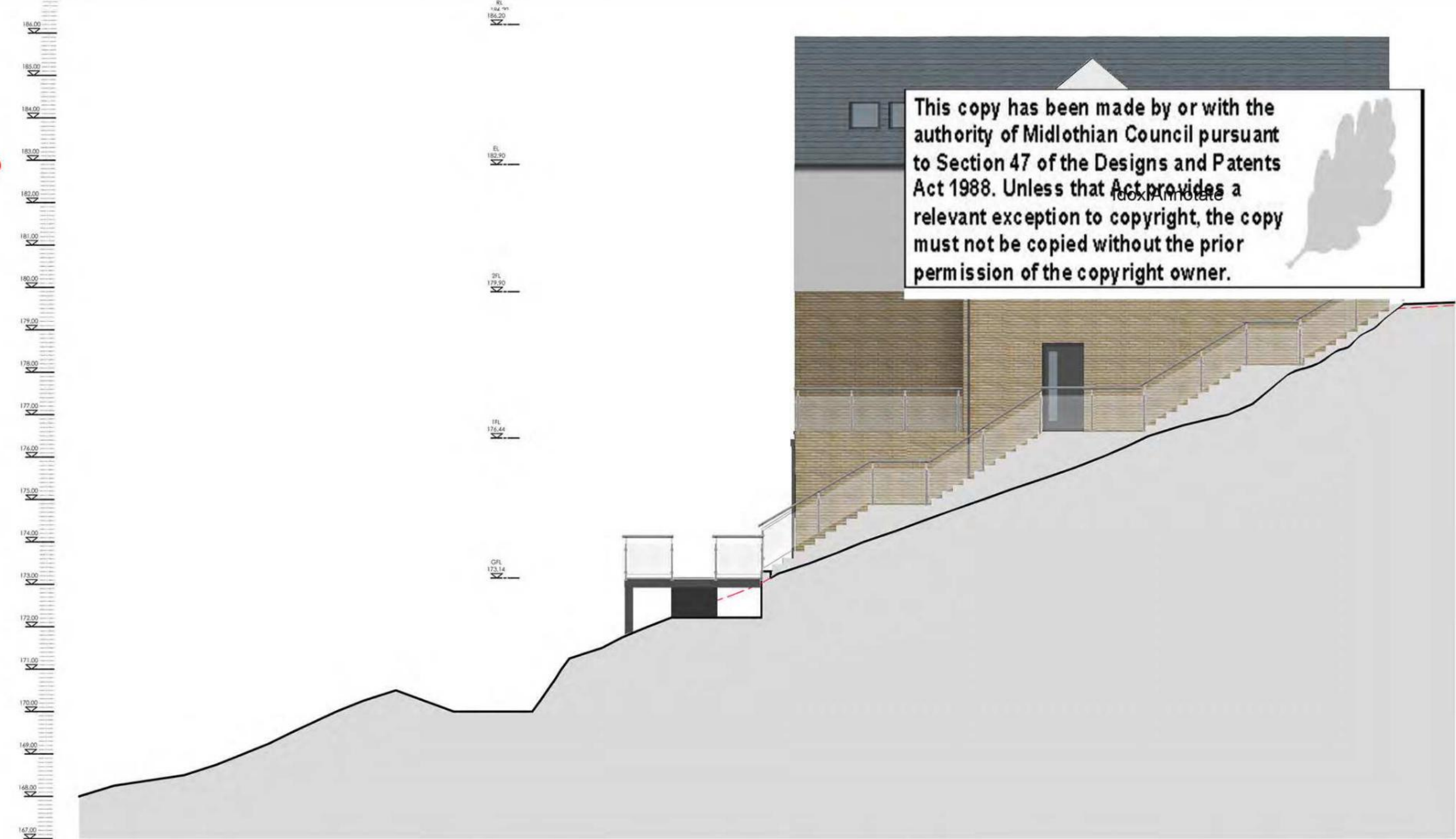
LOCATION PLAN/BLOCK PLAN/CONTEXTUALS		
DATE	DRAWN DI	SCALE as shown @ A0
PROJECT 21001	DRAWING AP01	No. REVISION B



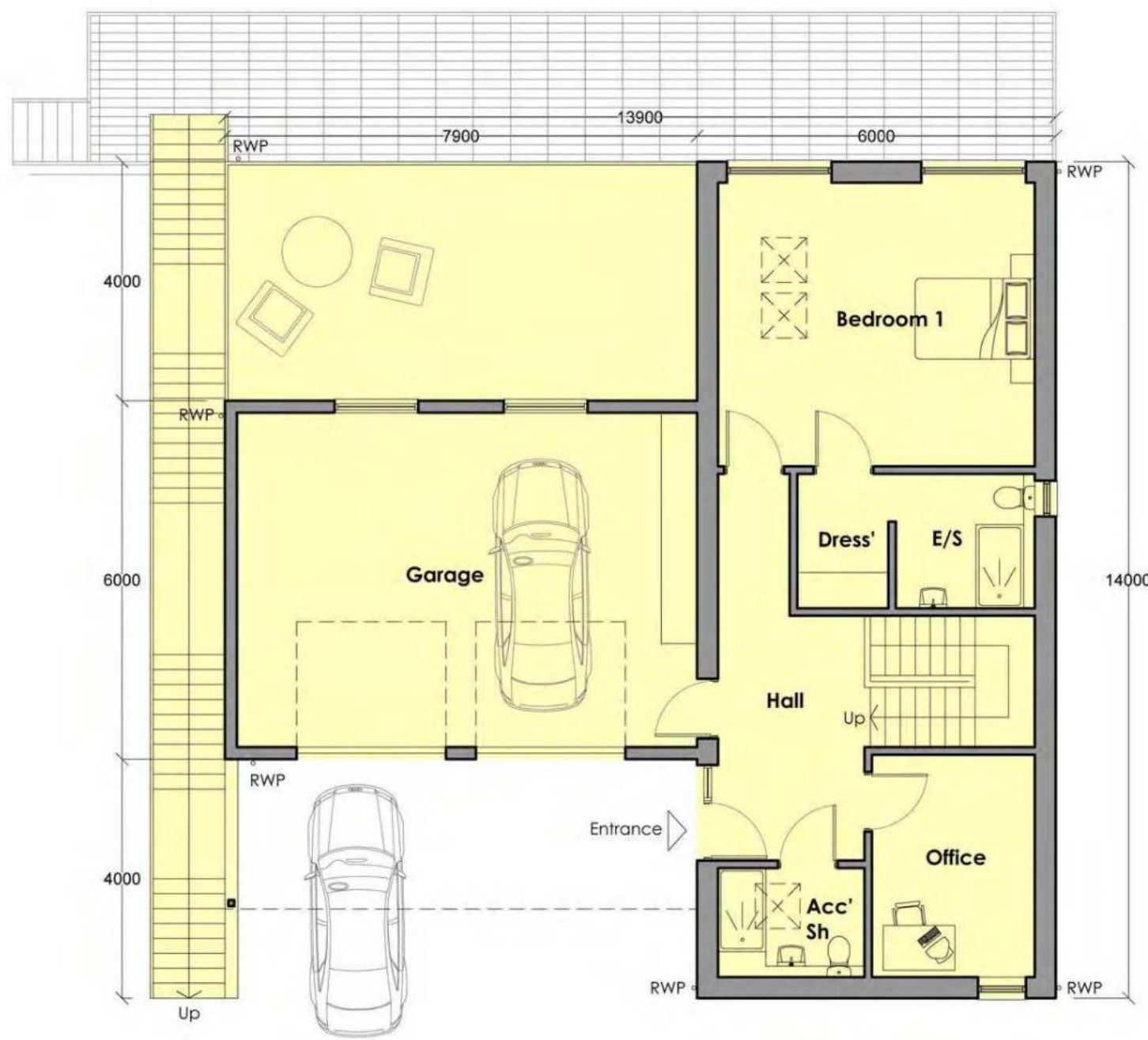
Roof Plan - as proposed
Scale 1:100 @ A1



Ground Floor Plan - as proposed
Scale 1:100 @ A1



East Elevation - as proposed
Scale 1:100 @ A1



Second Floor Plan - as proposed
Scale 1:100 @ A1



North Elevation - as proposed
Scale 1:100 @ A1



West Elevation - as proposed
Scale 1:100 @ A1



South Elevation - as proposed
Scale 1:100 @ A1

Material Finishes Schedule

0 1m 2m 3m 4m 5m

Natural Slate Roofing Finish

Timber Cladding Finish

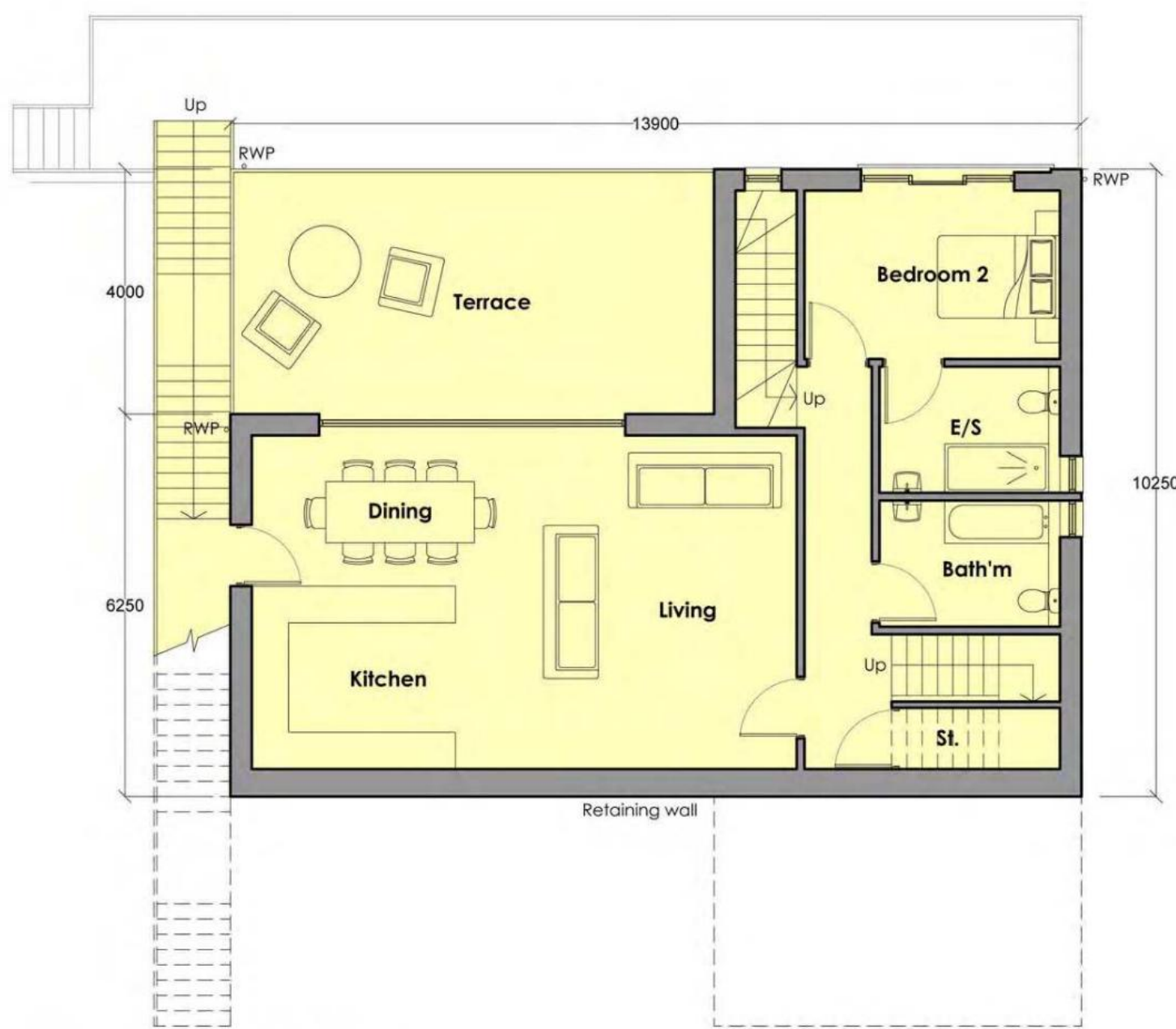
Natural Sandstone Finish

Facing Brick Finish

Smooth Cement Render (off white)

Zinc Finish (Anthracite)

PLOT 1



First Floor Plan - as proposed
Scale 1:100 @ A1

Do not scale from drawing.
All dimensions to be confirmed on site.
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obtaining local authority approval only

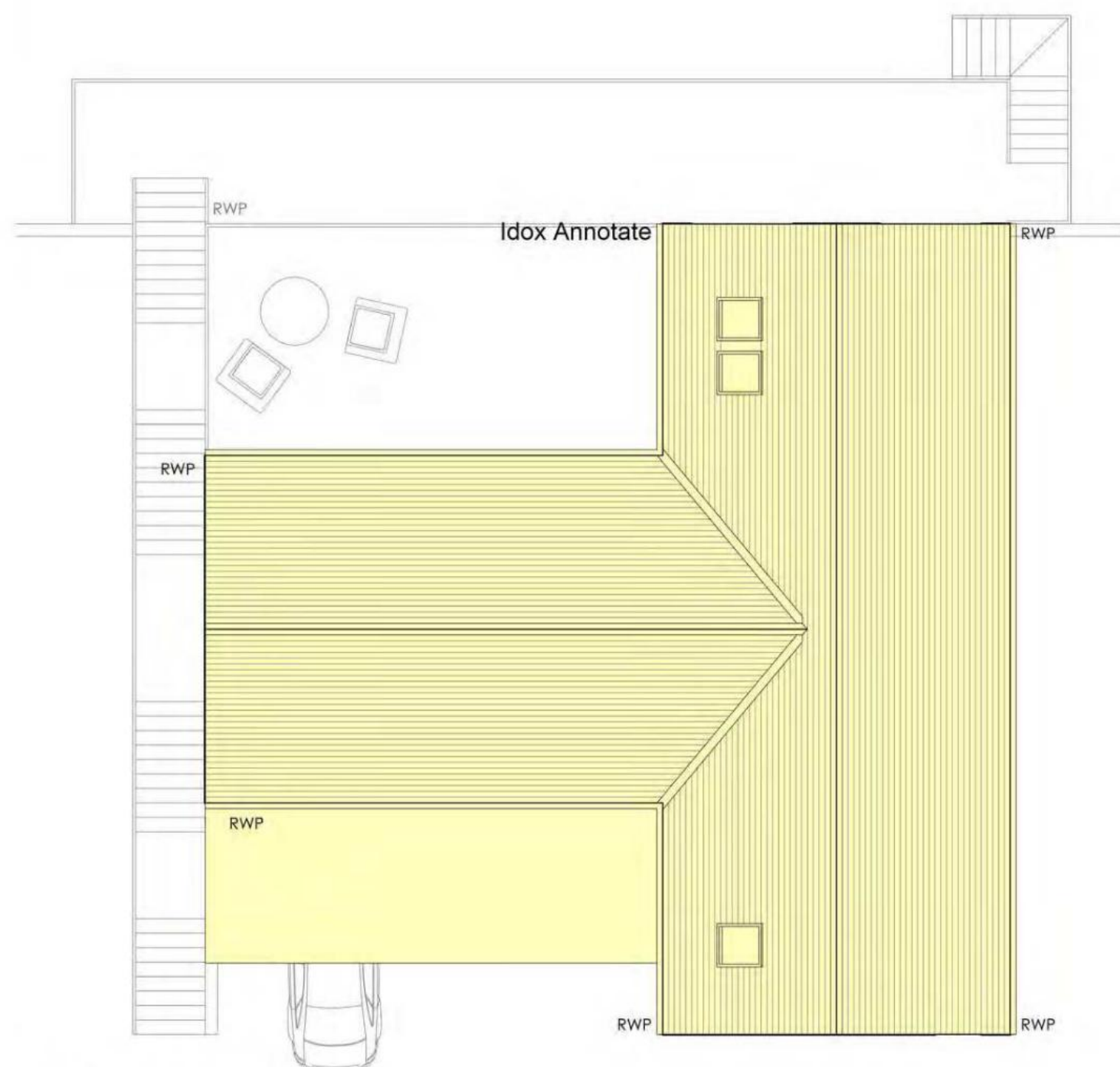
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PLANNING APPLICATION

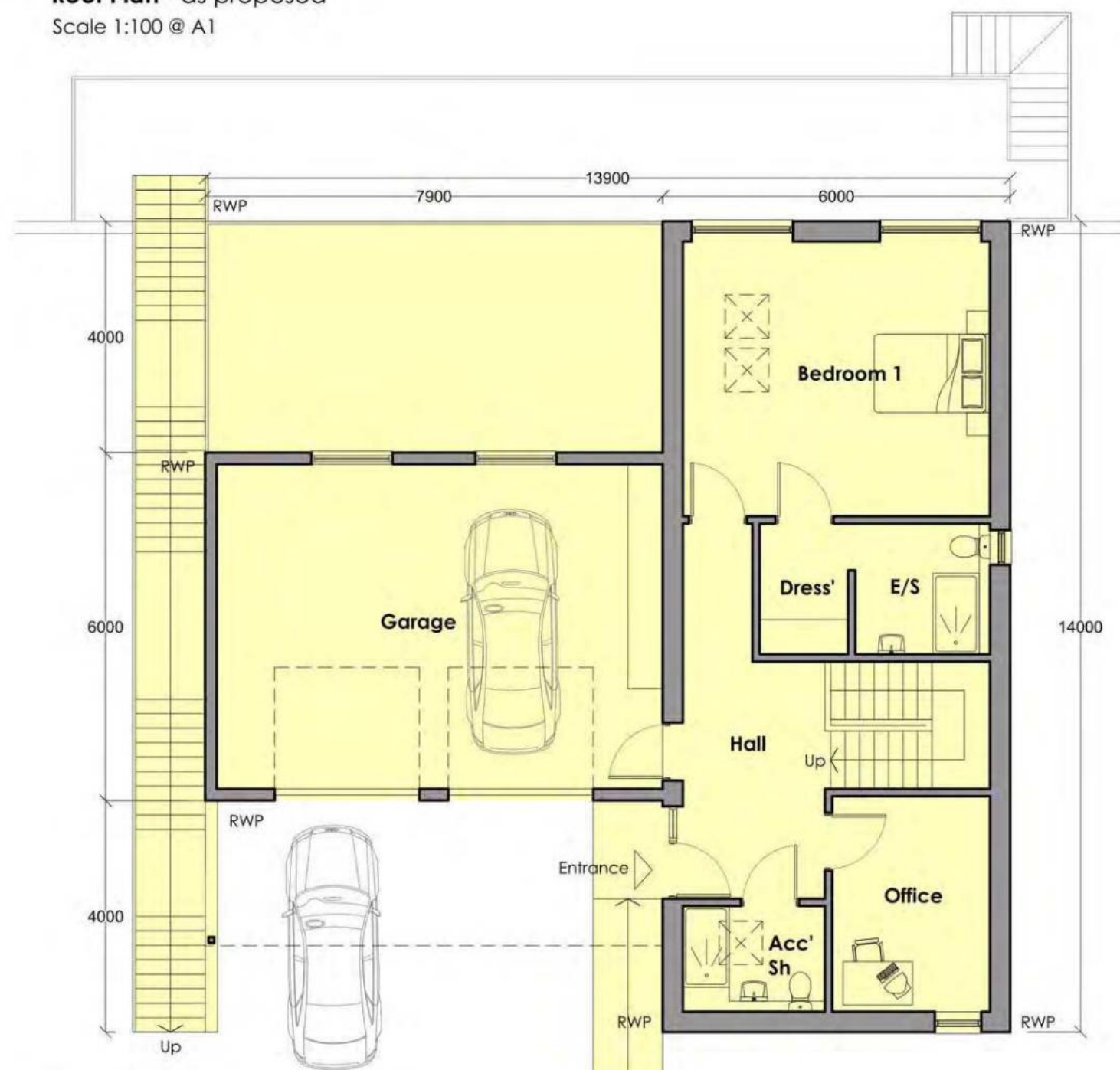
PROJECT
Residential Development, Land East of 19
Cairnbank Road, Penicuik

DRAWING
PLANS/ELEVATIONS

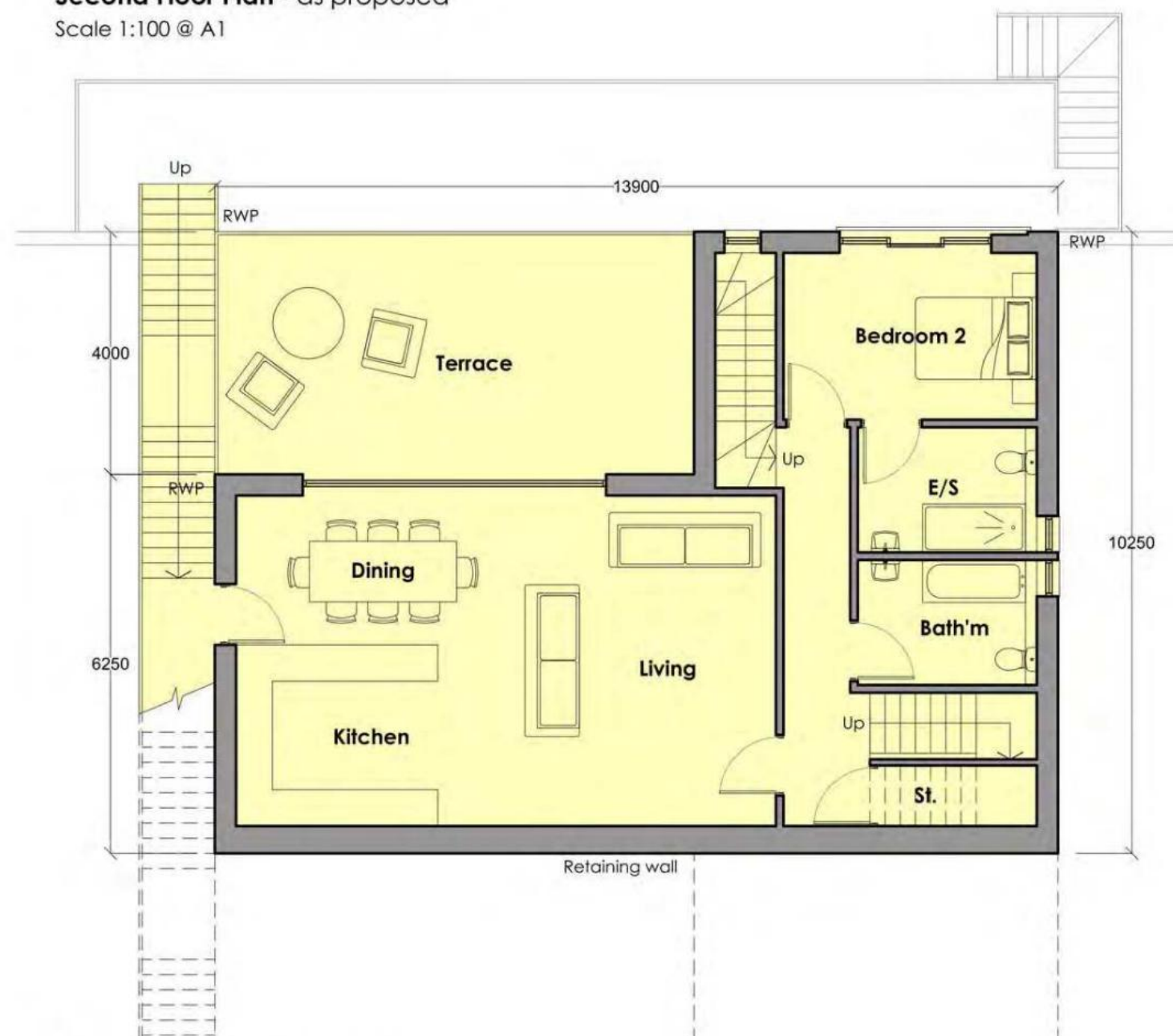
DATE	DRAWN	SCALE
DI	as shown	@ A1
PROJECT	DRAWING No.	REVISION
21001	AP02	



Roof Plan - as proposed
Scale 1:100 @ A1

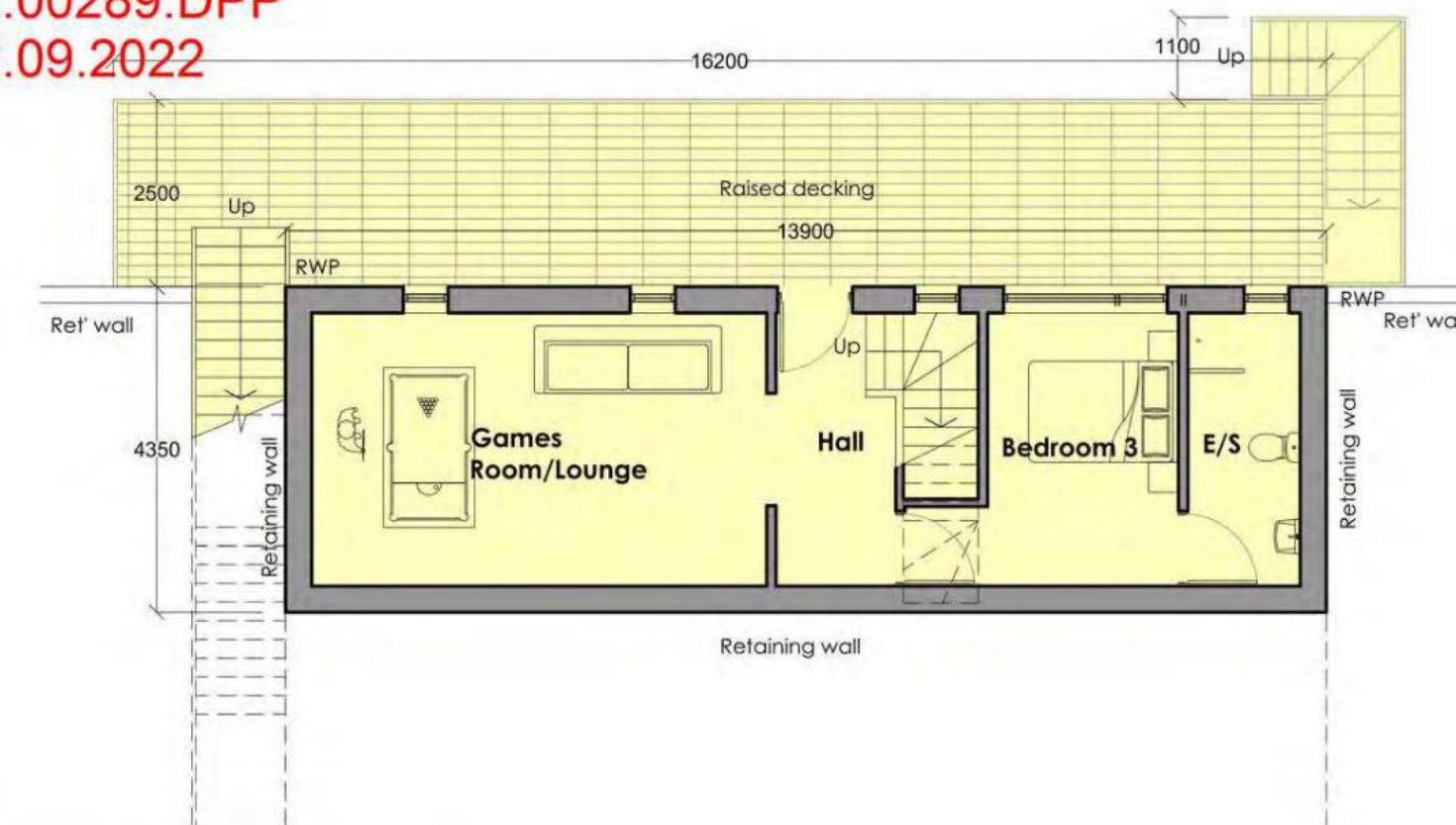


Second Floor Plan - as proposed
Scale 1:100 @ A1



First Floor Plan - as proposed
Scale 1:100 @ A1

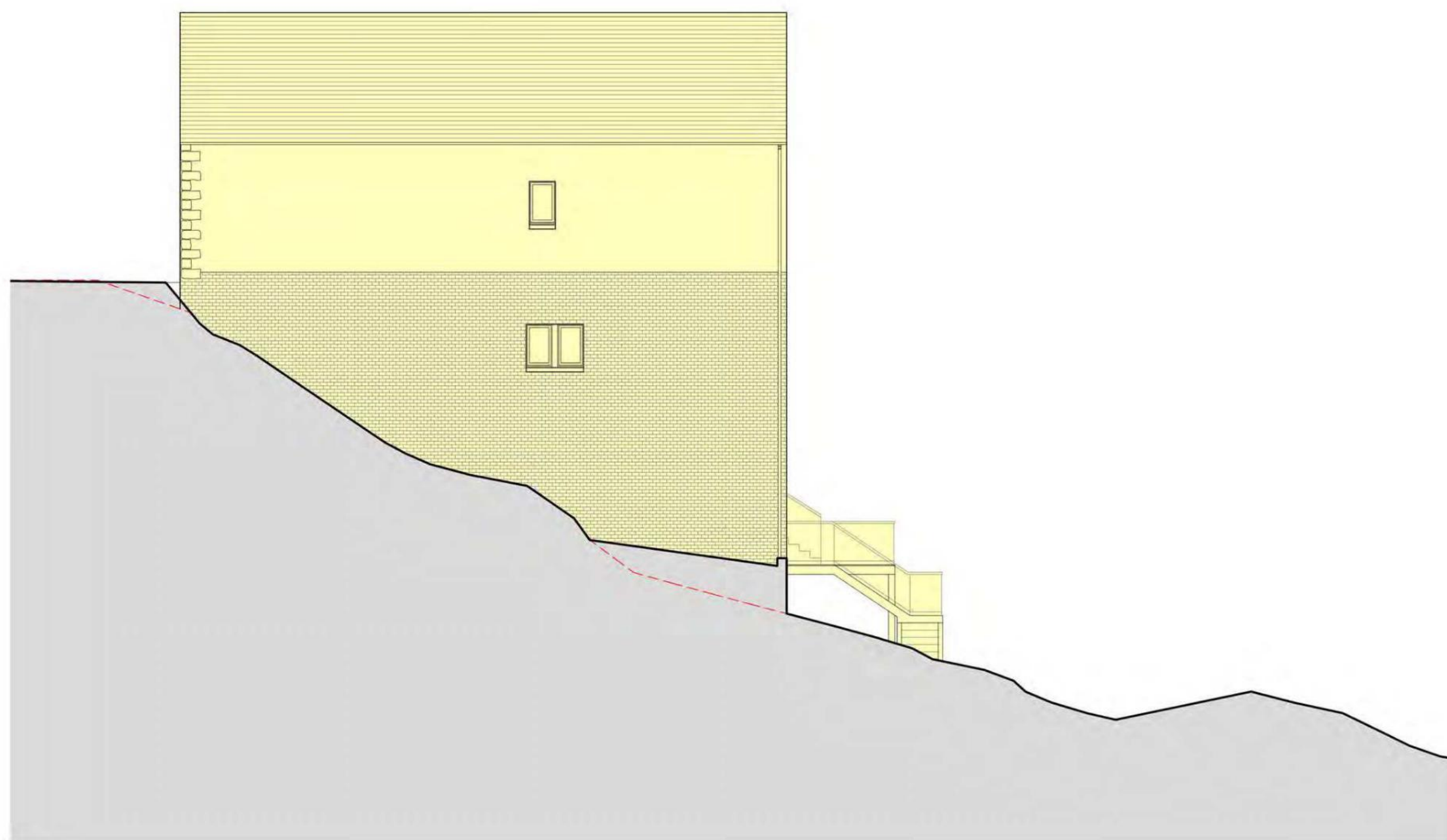
REFUSED
22.00289.DPP
22.09.2022



Ground Floor Plan - as proposed
Scale 1:100 @ A1



North Elevation - as proposed
Scale 1:100 @ A1



West Elevation - as proposed
Scale 1:100 @ A1

0 1m 2m 3m 4m 5m

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East Elevation - as proposed
Scale 1:100 @ A1



South Elevation - as proposed
Scale 1:100 @ A1

P L O T 2

REMOVALS
PROPOSED NEW WORKS
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PLANNING APPLICATION

PROJECT
Residential Development, Land East of 19
Cairbank Road, Penicuik

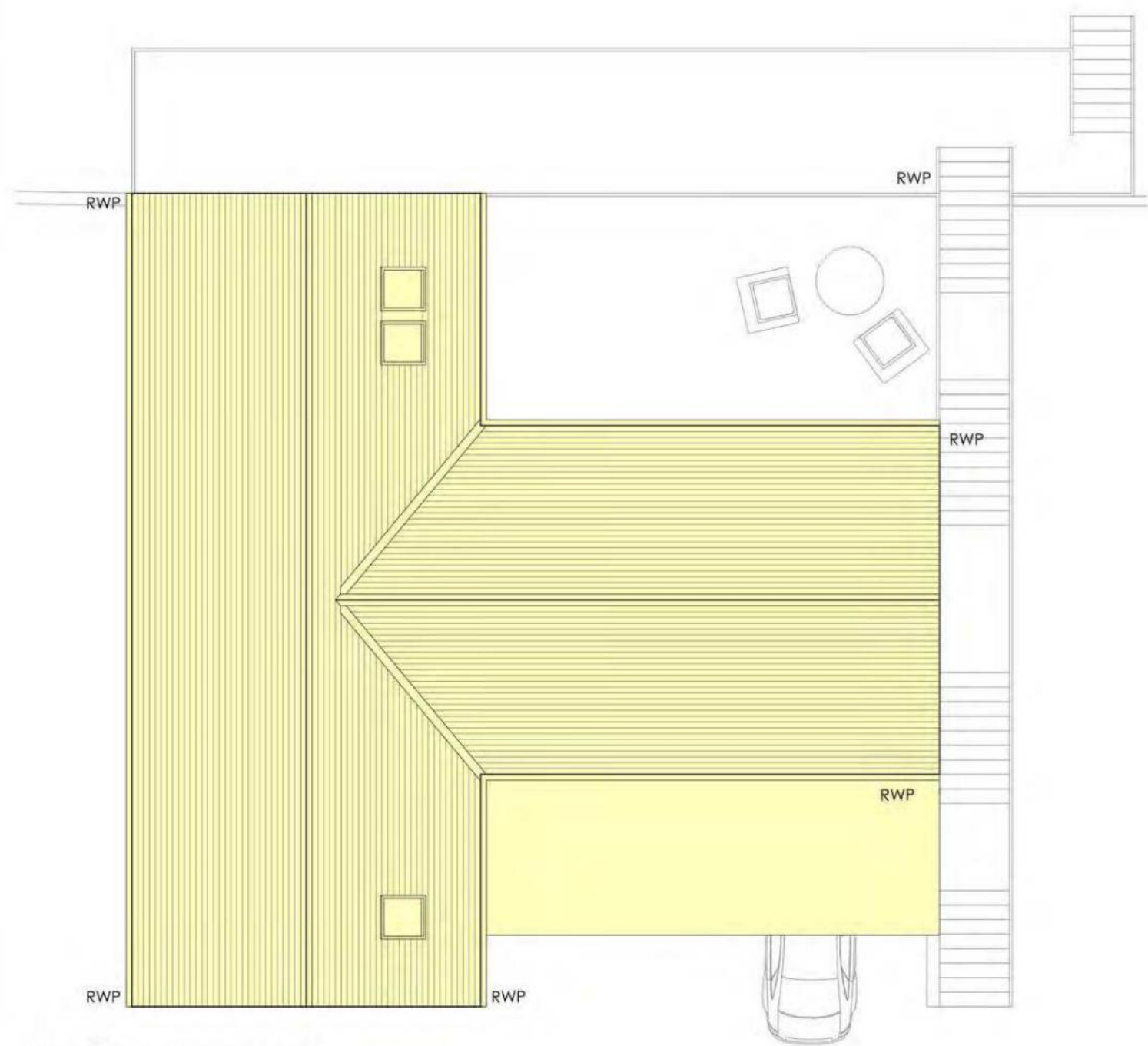
Rev A: Plans added

DRAWING
ELEVATIONS - PLOT 2

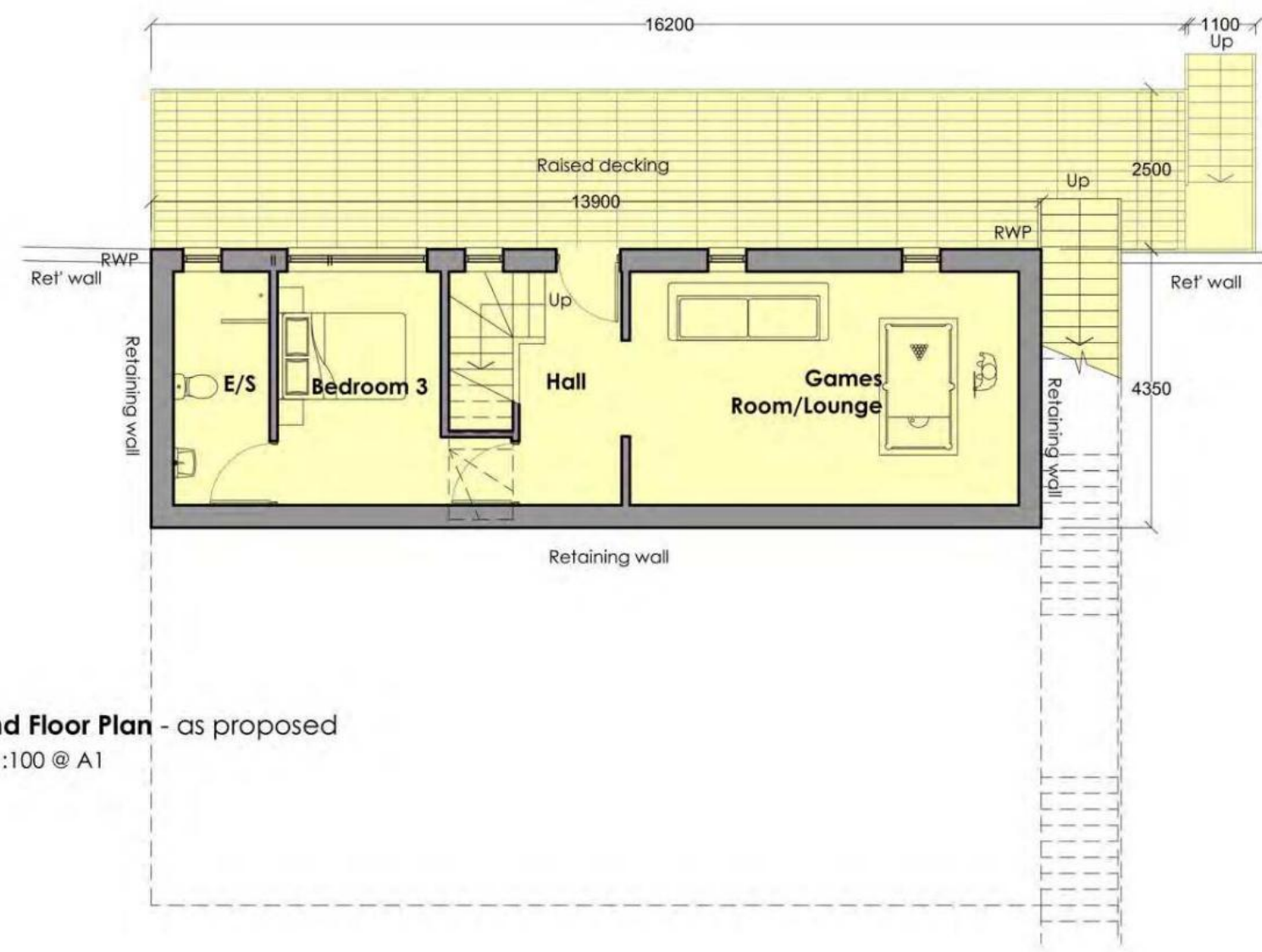
DATE	DRAWN	SCALE
21/001	DI	as shown @ A1
PROJECT	DRAWING No.	REVISION
21001	AP04	A

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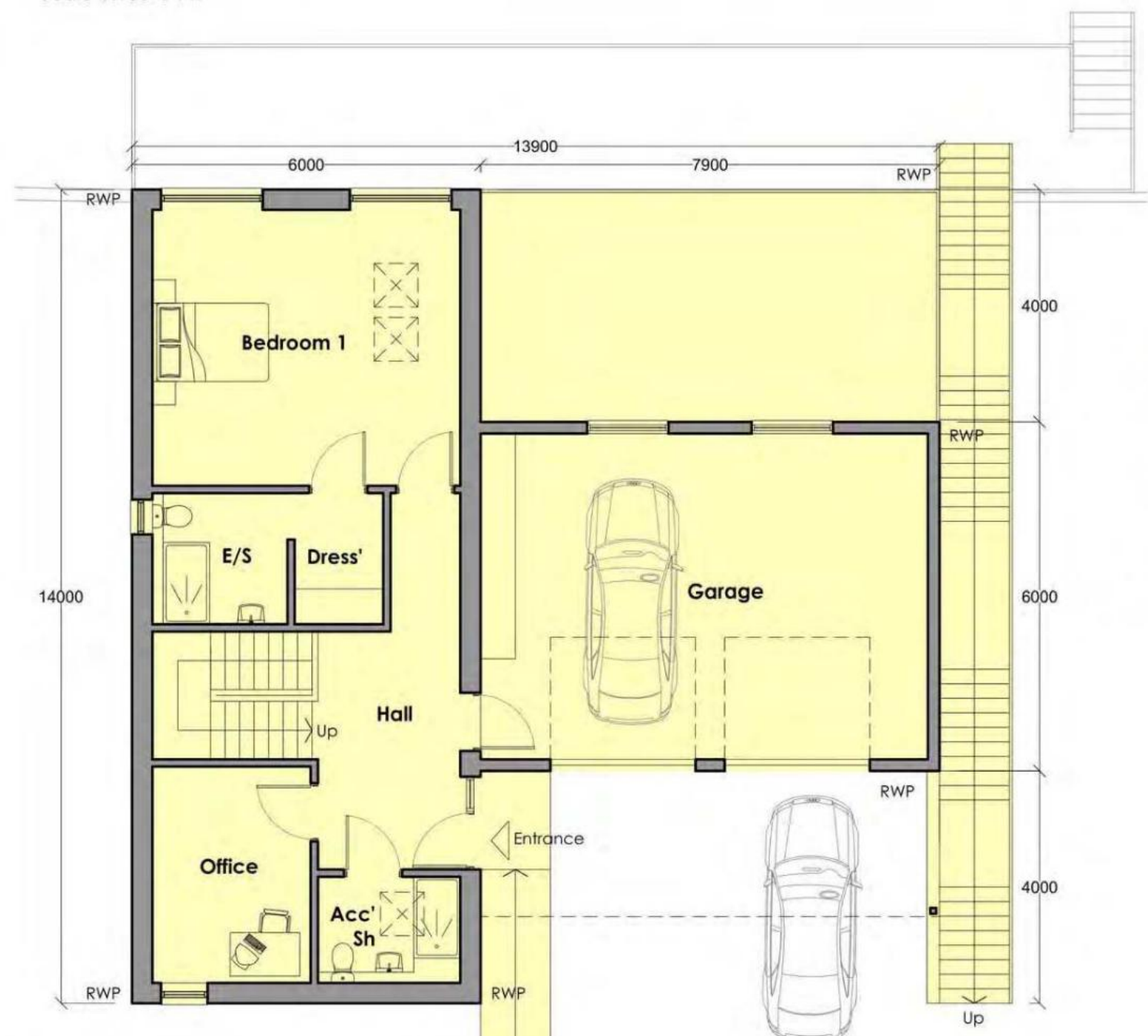
P L A N N I N G



Roof Plan - as proposed
Scale 1:100 @ A1



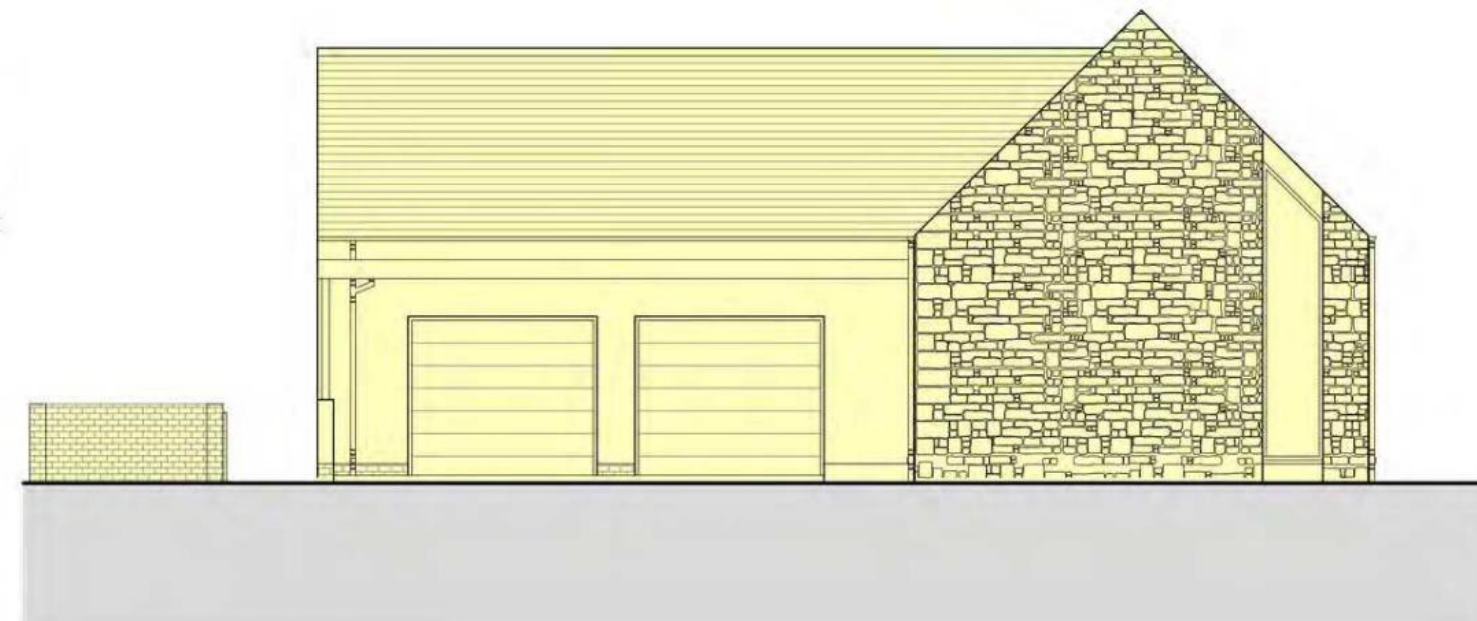
Ground Floor Plan - as proposed
Scale 1:100 @ A1



Second Floor Plan - as proposed
Scale 1:100 @ A1



First Floor Plan - as proposed
Scale 1:100 @ A1



North Elevation - as proposed
Scale 1:100 @ A1



West Elevation - as proposed
Scale 1:100 @ A1



East Elevation - as proposed
Scale 1:100 @ A1



South Elevation - as proposed
Scale 1:100 @ A1

P L O T 3

REMOVALS
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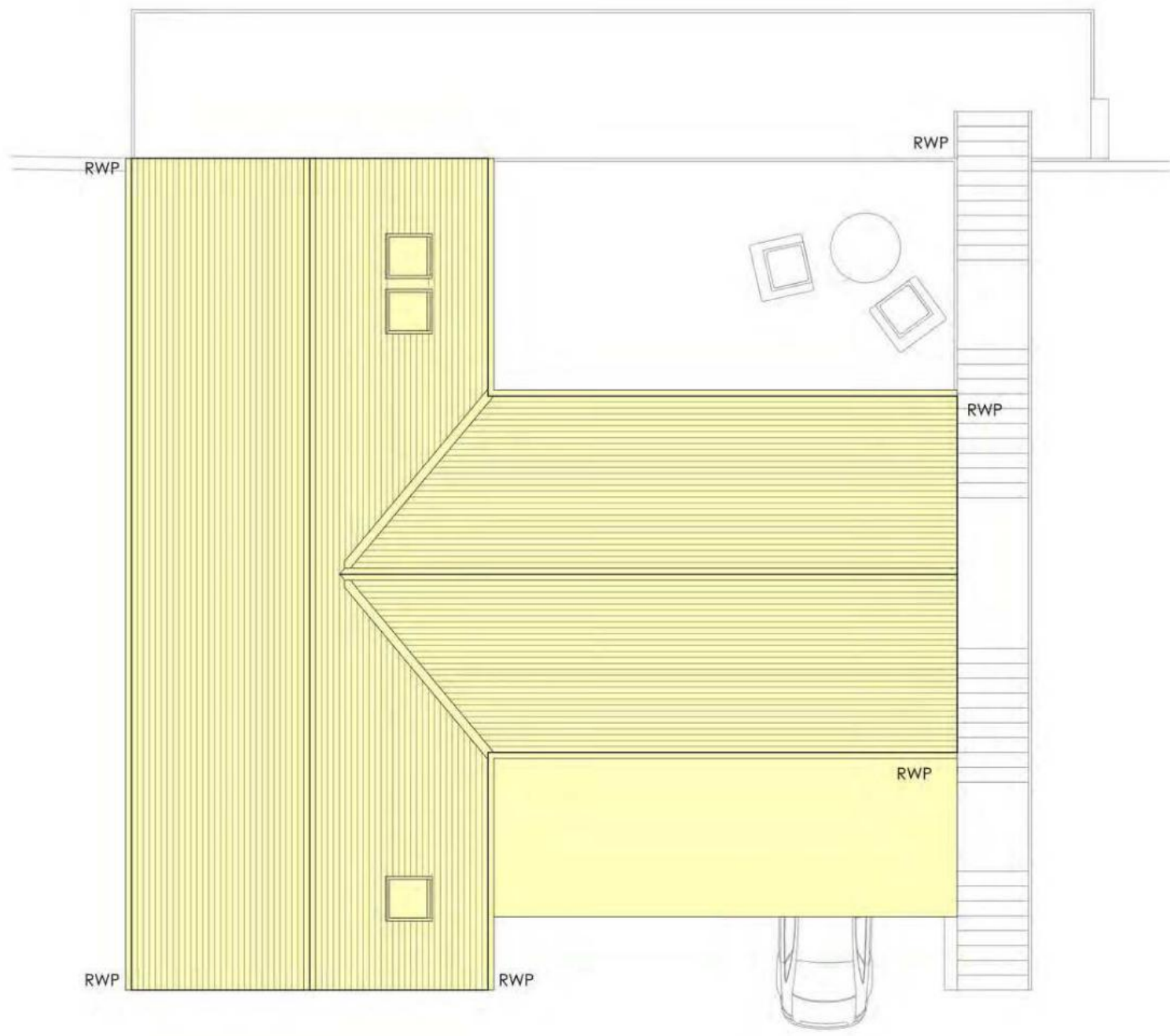
PLANNING APPLICATION

PROJECT
Residential Development, Land East of 19
Cairnbank Road, Penicuik

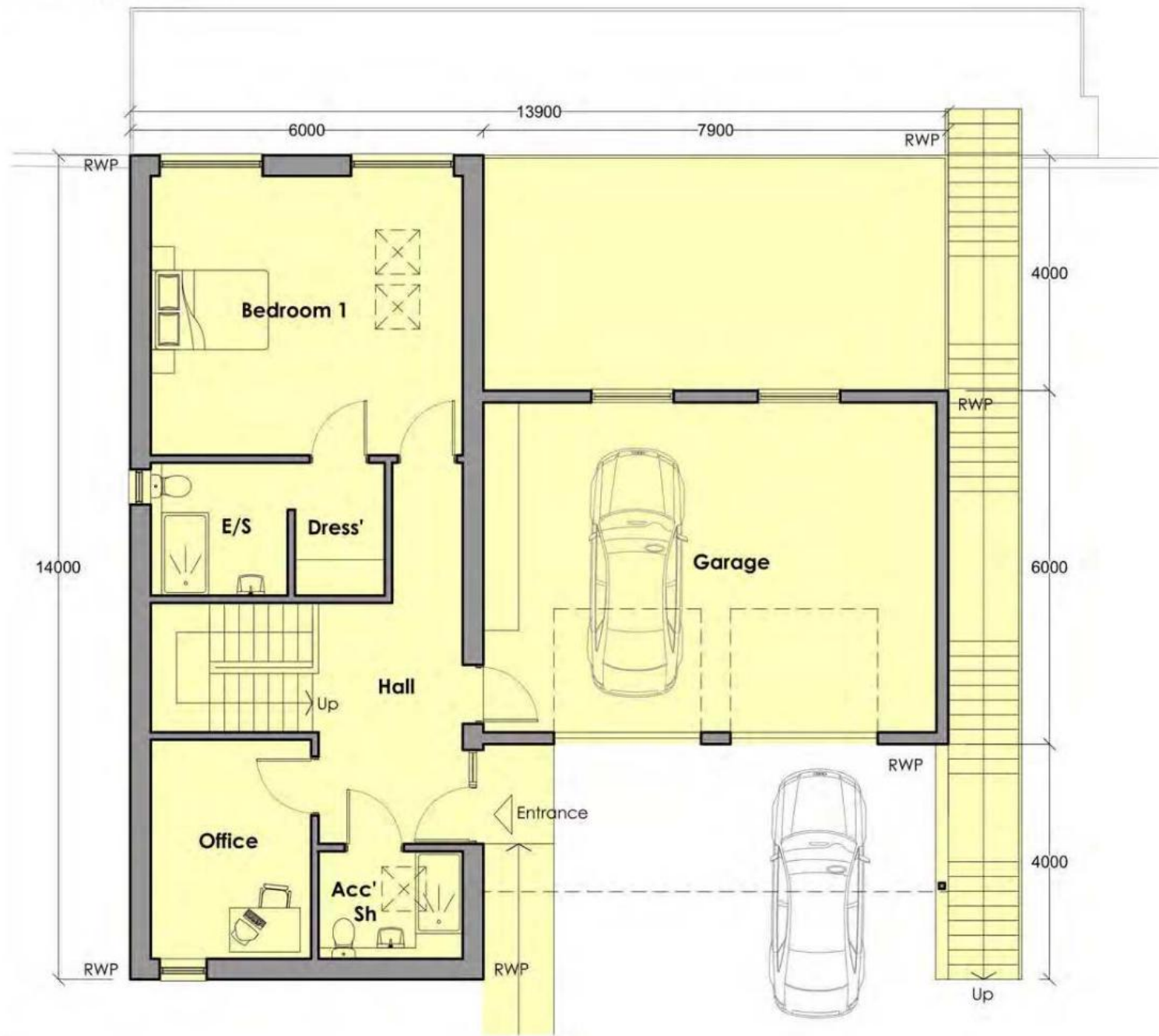
Rev A: Plans added

DRAWING
ELEVATIONS - PLOT 3

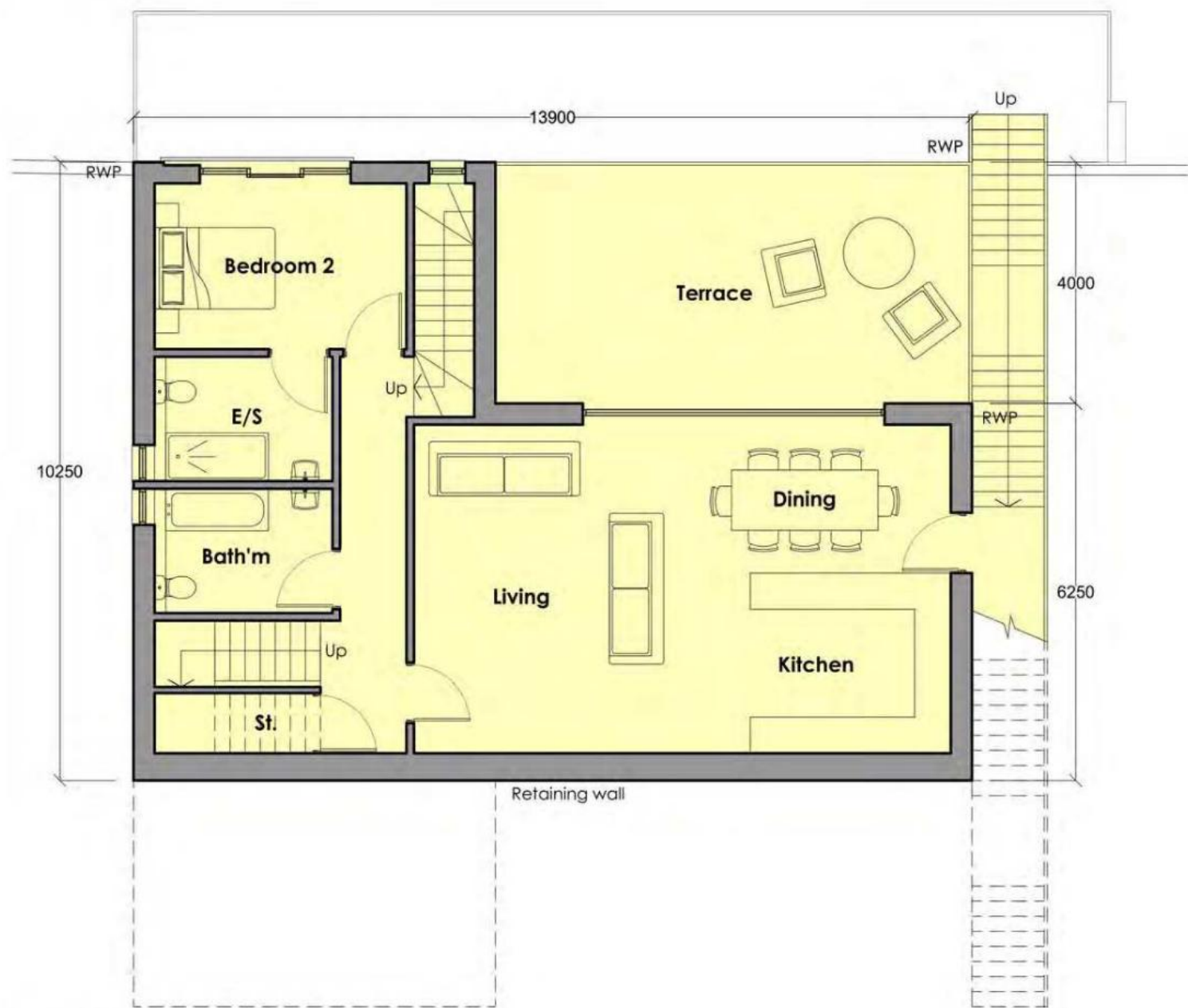
DATE	DRAWN	SCALE
21/01	DI	as shown @ A1
PROJECT	DRAWING No.	REVISION
21001	AP05	A



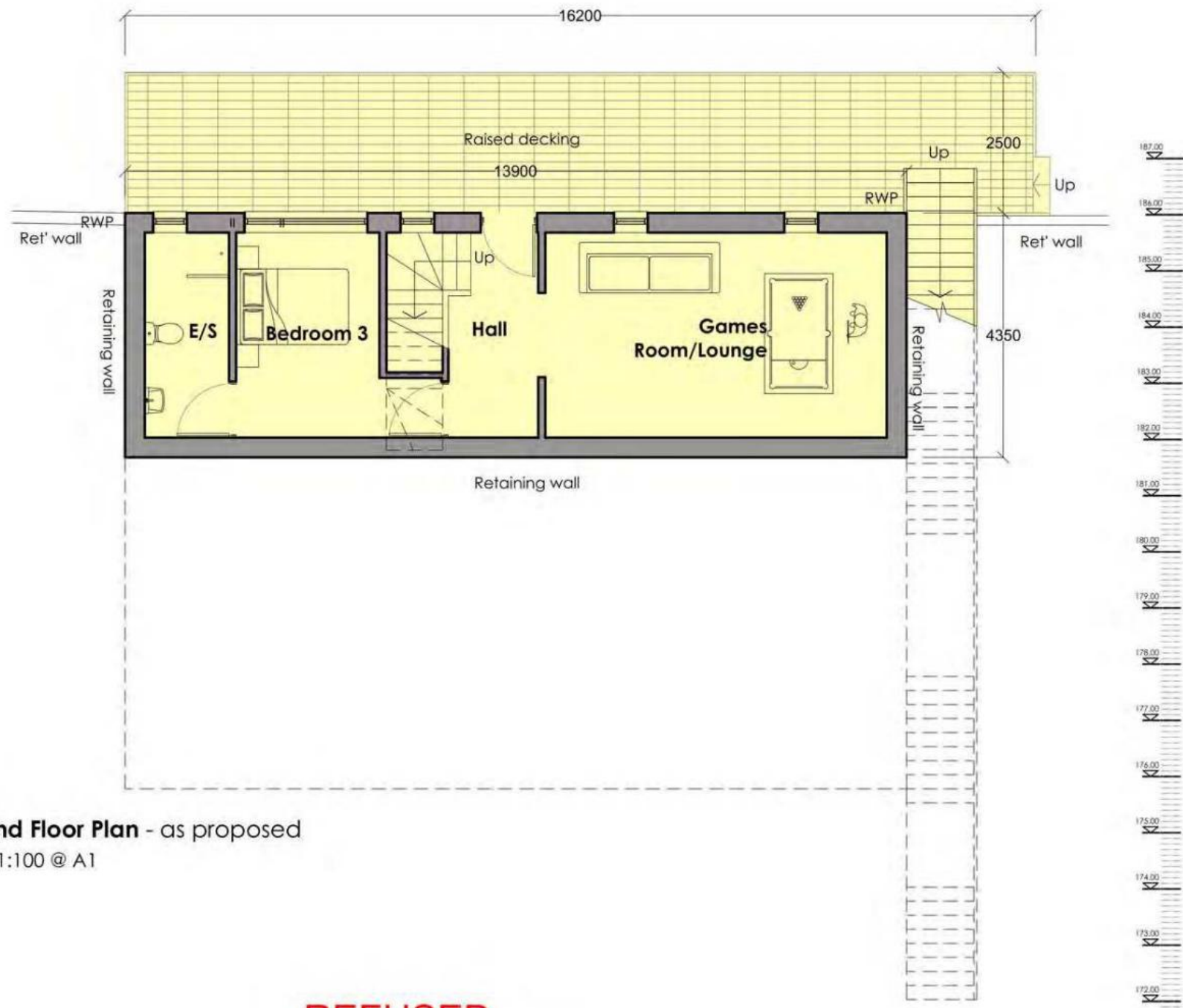
Roof Plan - as proposed
Scale 1:100 @ A1



Second Floor Plan - as proposed
Scale 1:100 @ A1



First Floor Plan - as proposed
Scale 1:100 @ A1



Ground Floor Plan - as proposed
Scale 1:100 @ A1

REFUSED
22.00289.DPP
02.09.2022



North Elevation - as proposed
Scale 1:100 @ A1



West Elevation - as proposed
Scale 1:100 @ A1

0 1m 2m 3m 4m 5m



East Elevation - as proposed
Scale 1:100 @ A1

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South Elevation - as proposed
Scale 1:100 @ A1

PLOT 4

REMOVALS
PROPOSED NEW WORKS
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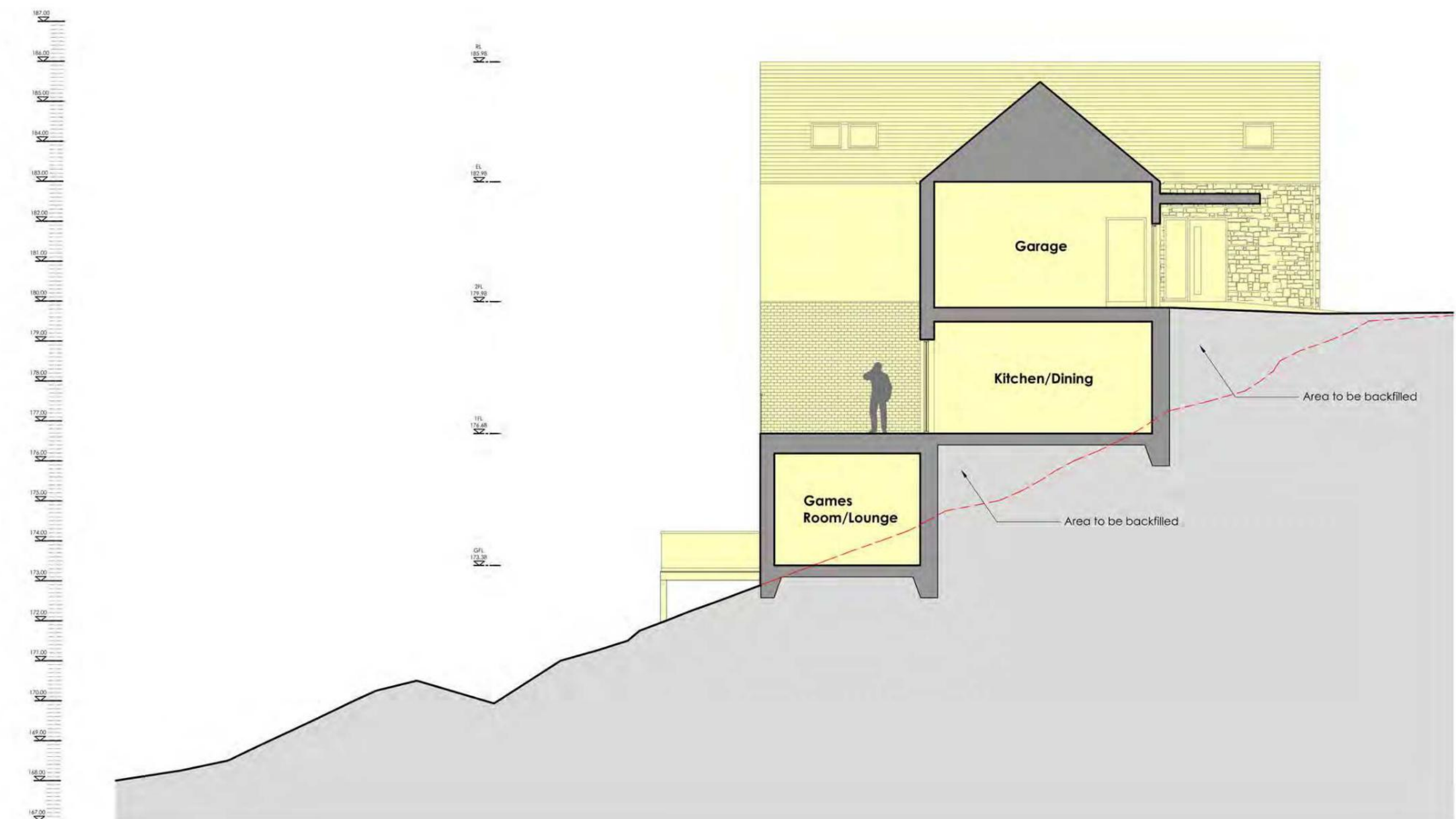
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PLANNING APPLICATION
PROJECT
Residential Development, Land East of 19
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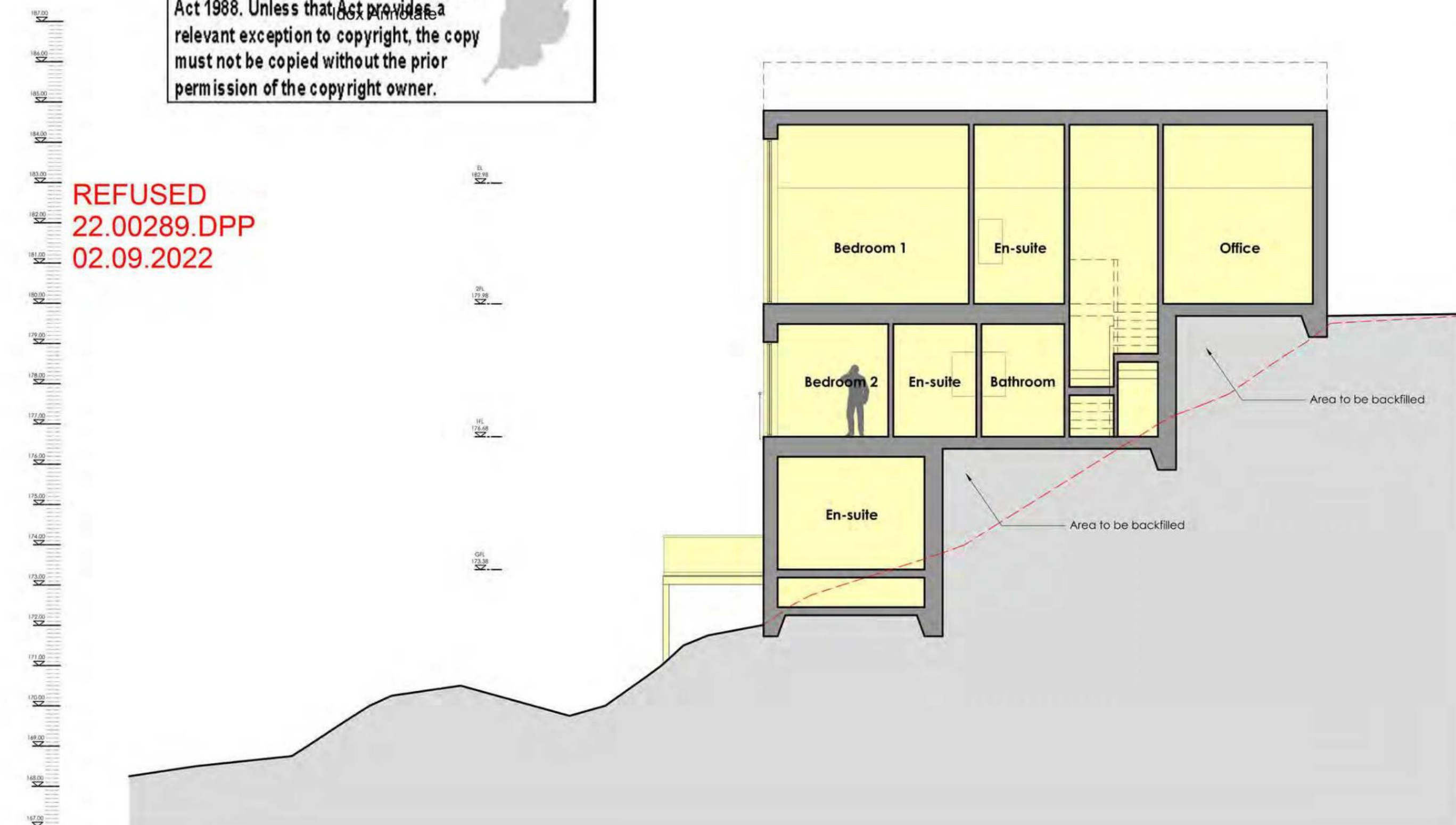
Rev A: Plans added
DRAWING
ELEVATIONS - PLOT 4
DATE DRAWN SCALE
DI as shown @ A1
PROJECT DRAWING No. REVISION
21001 AP06 A

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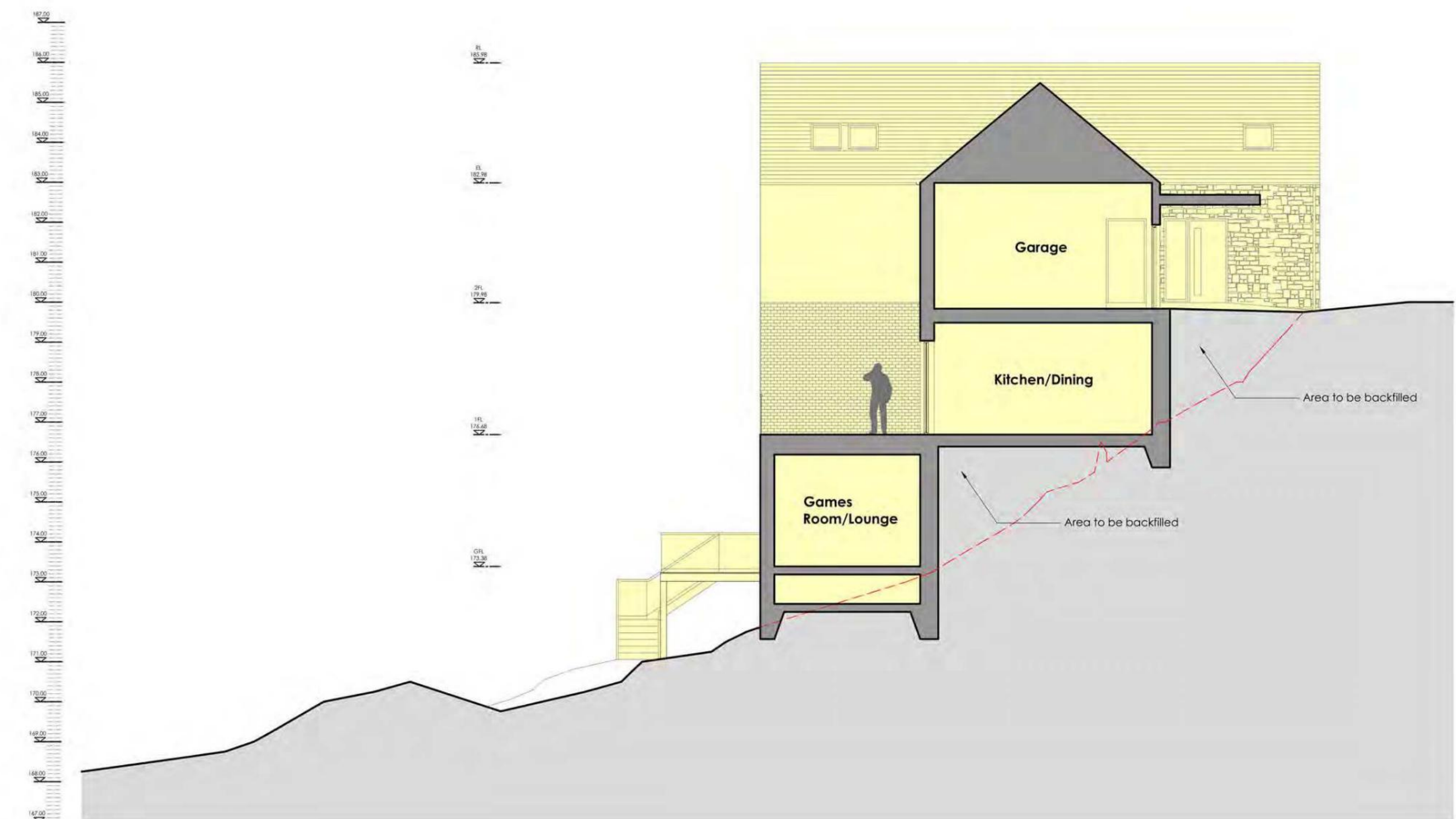
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02.09.2022



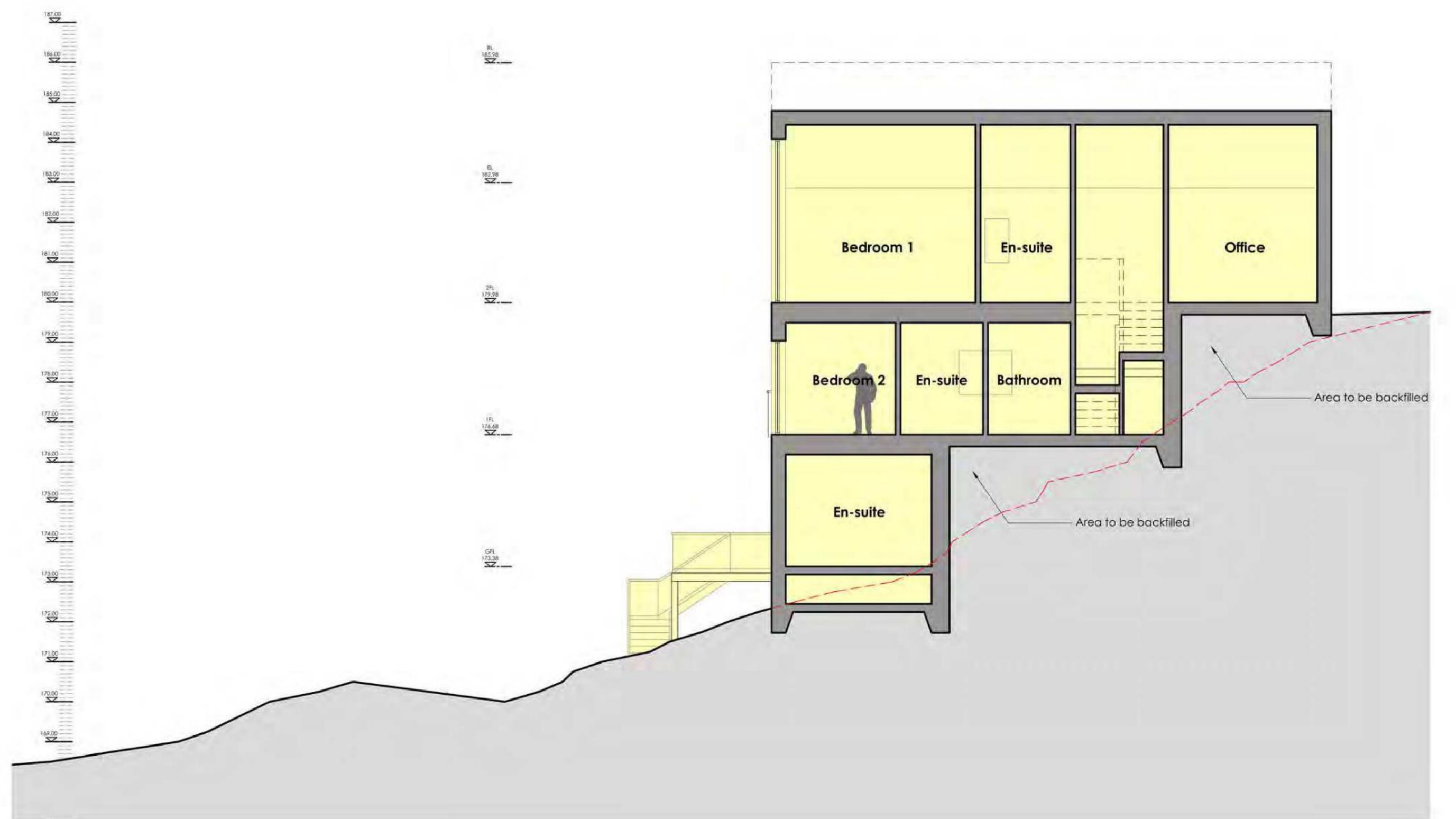
Section 1 - as proposed
Scale 1:100 @ A1



Section 2 - as proposed
Scale 1:100 @ A1



Section 3 - as proposed
Scale 1:100 @ A1



Section 4 - as proposed
Scale 1:100 @ A1

SECTIONS

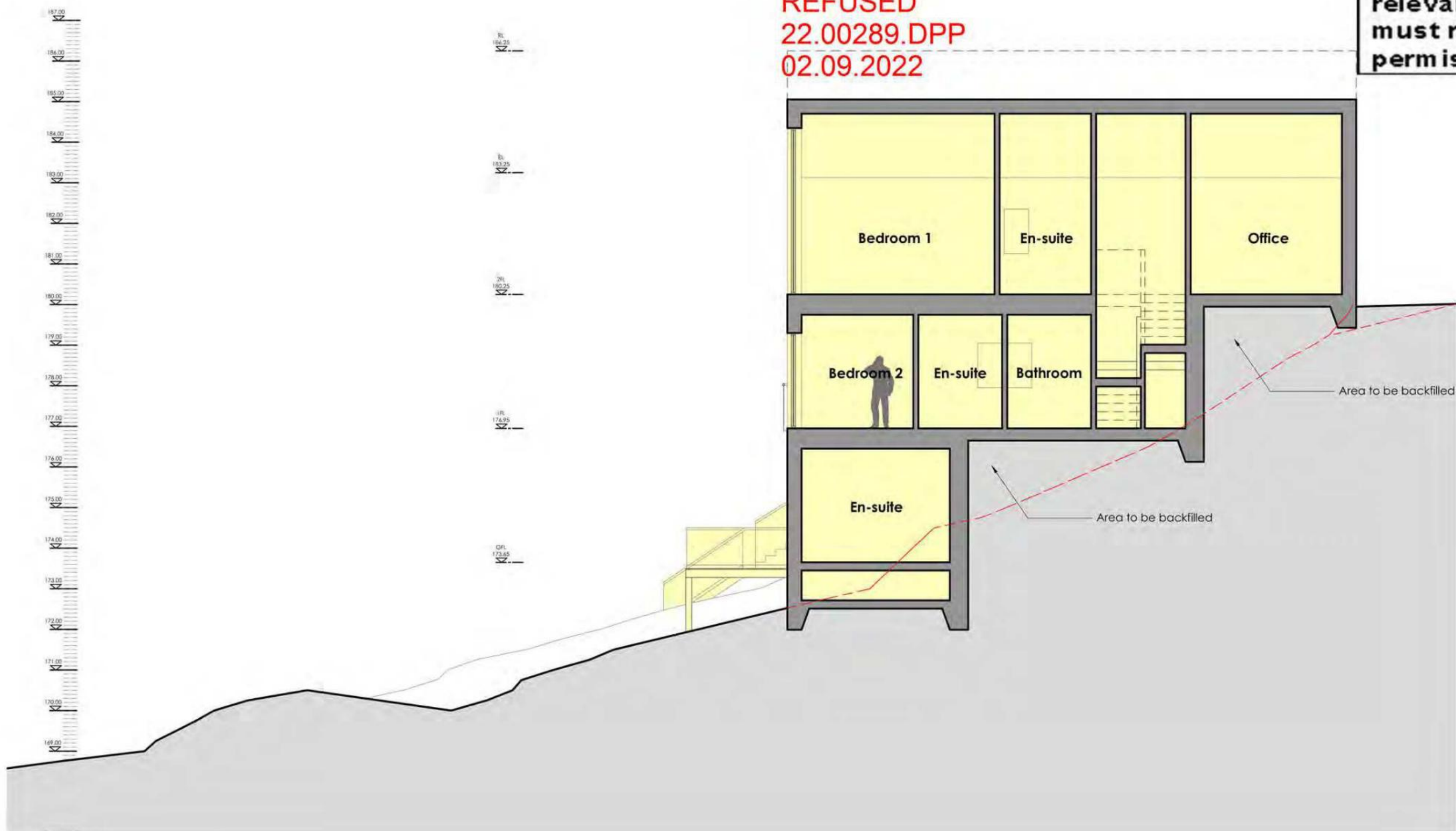
REMOVALS
PROPOSED NEW WORKS
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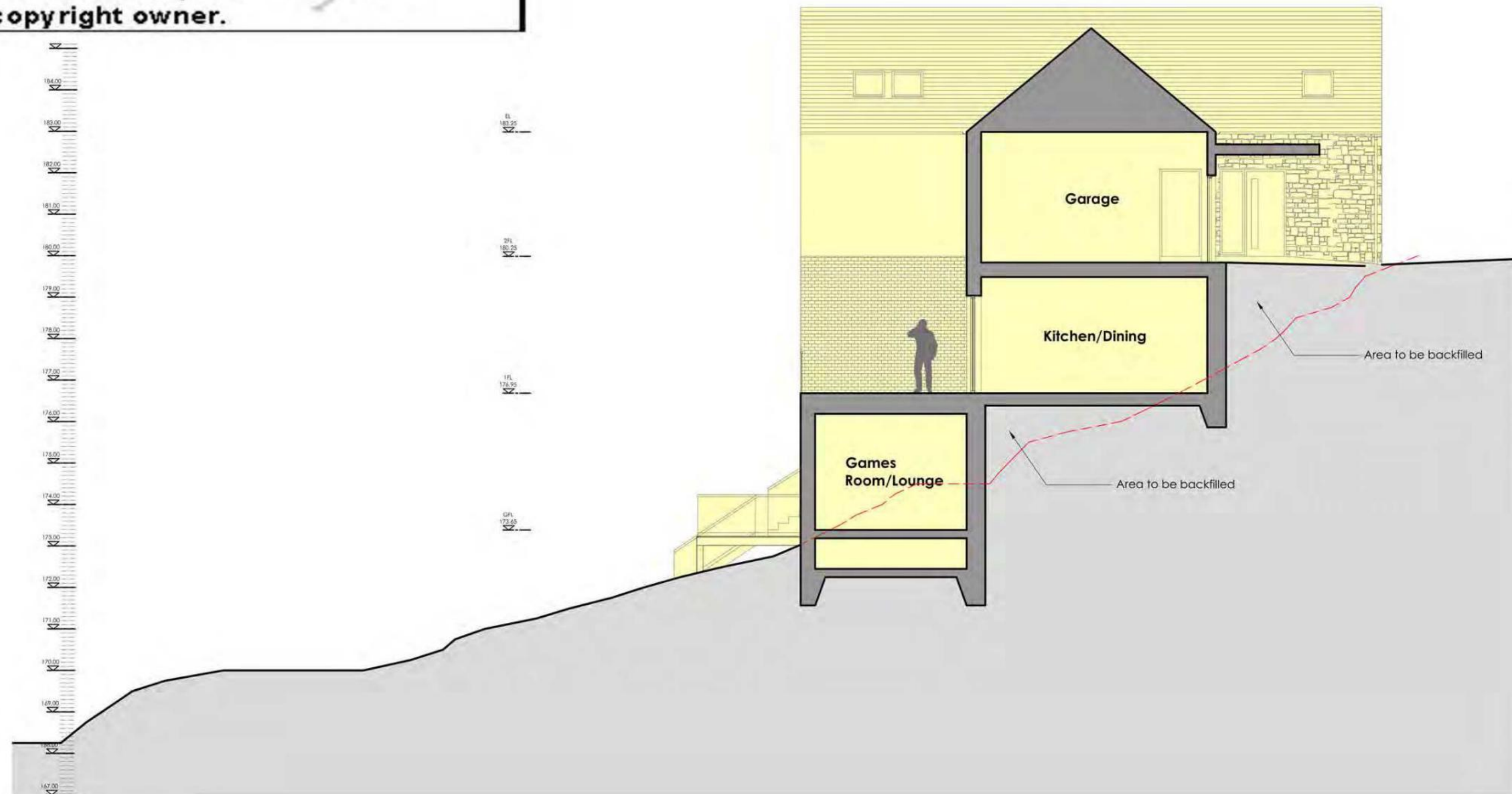
PLANNING APPLICATION		DRAWING	
PROJECT		SITE SECTIONS 1	
Residential Development, Land East of 19 Cairnbank Road, Penicuik		DATE	SCALE
		PROJECT 21001	DRAWN DI as shown @ A1
		DRAWING No. AP08	REVISION

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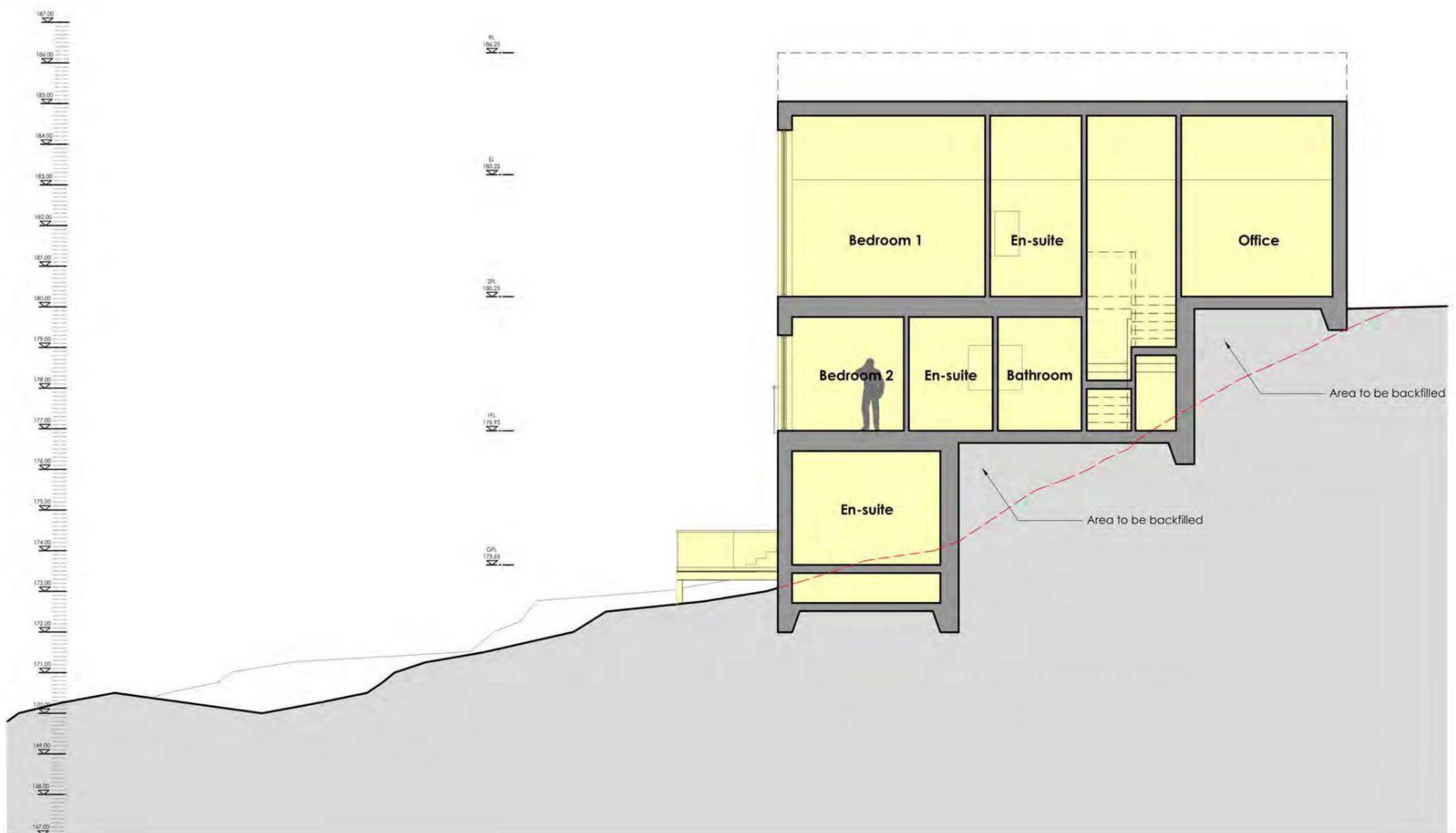
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02.09.2022



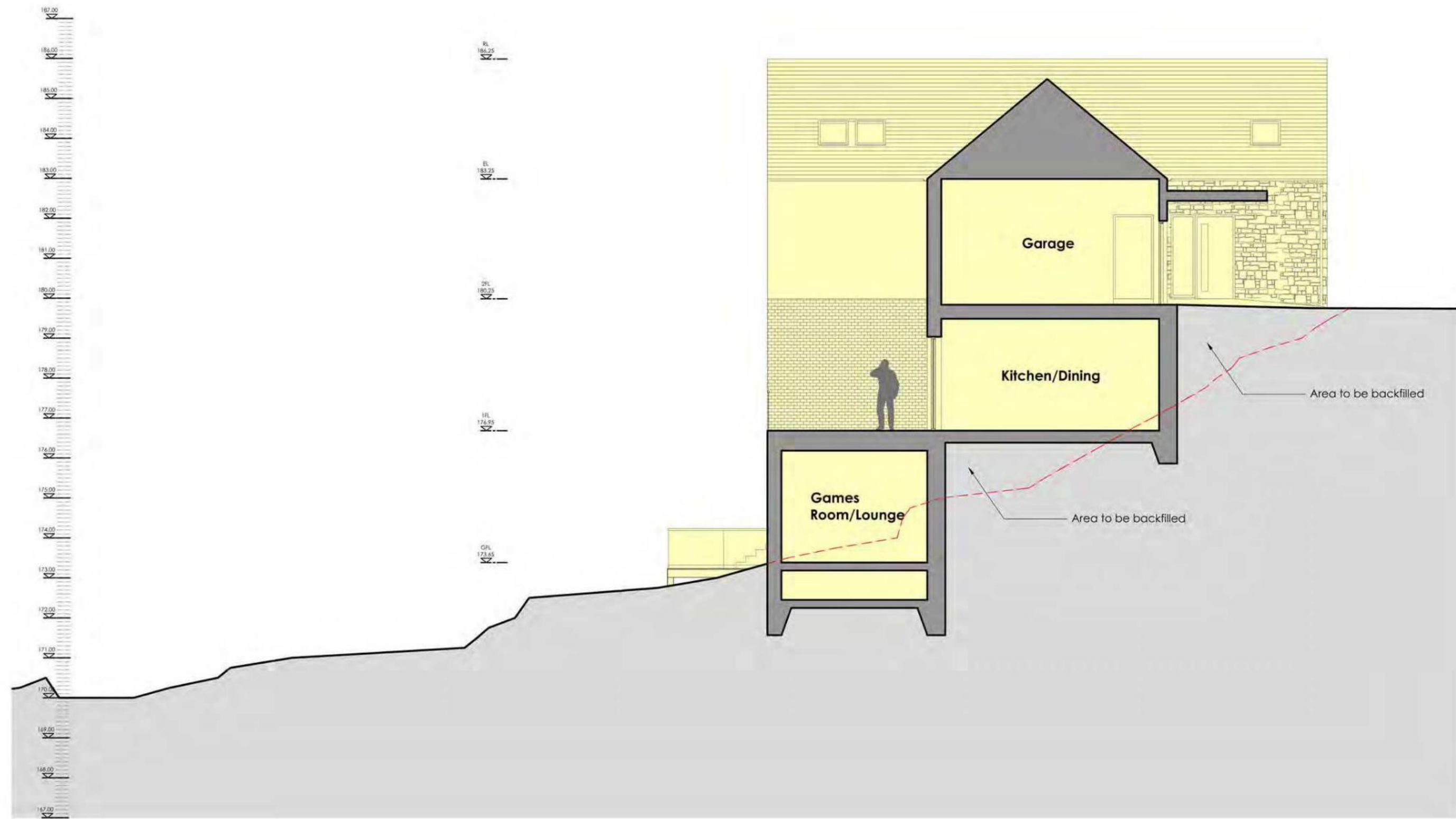
Section 5 - as proposed
Scale 1:100 @ A1



Section 6 - as proposed
Scale 1:100 @ A1



Section 7 - as proposed
Scale 1:100 @ A1



Section 8 - as proposed
Scale 1:100 @ A1

SECTIONS

REMOVALS
PROPOSED NEW WORKS
Do not scale from drawing.
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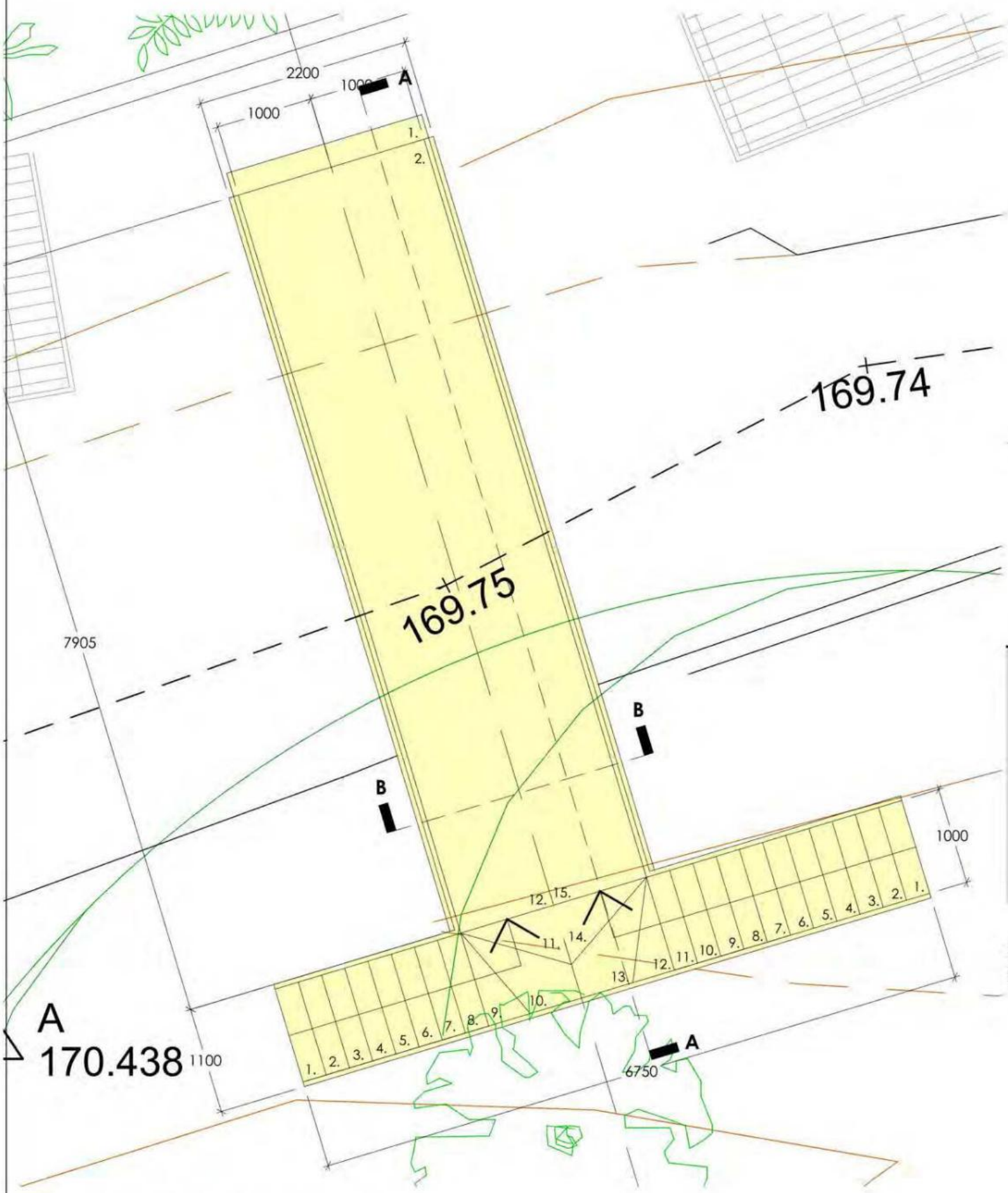
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DRAWING		
SITE SECTIONS 2		
DATE	DRAWN	SCALE
PROJECT	DI	as shown @ A1
PROJECT 21001	DRAWING No. AP09	REVISION

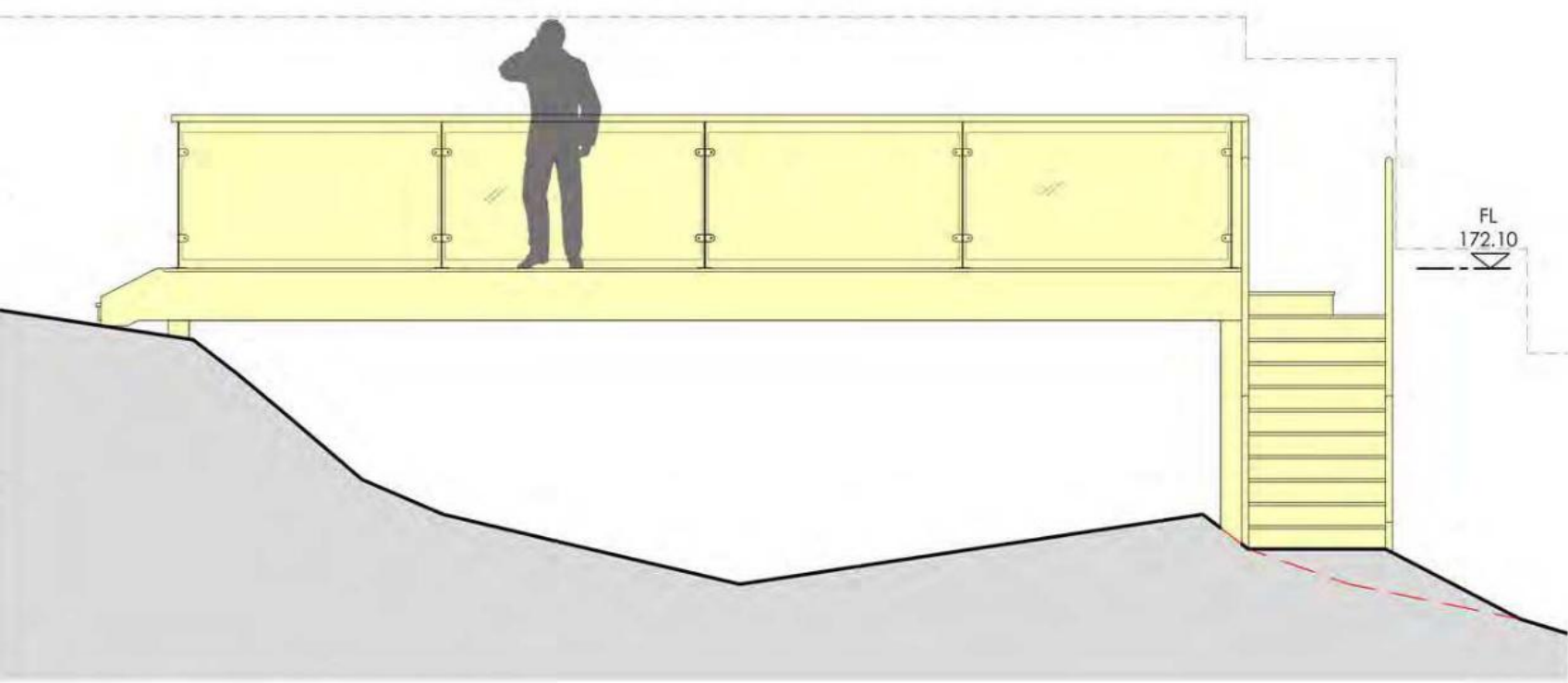
PLANNING APPLICATION		
Residential Development, Land East of 19 Cairnbank Road, Penicuik		

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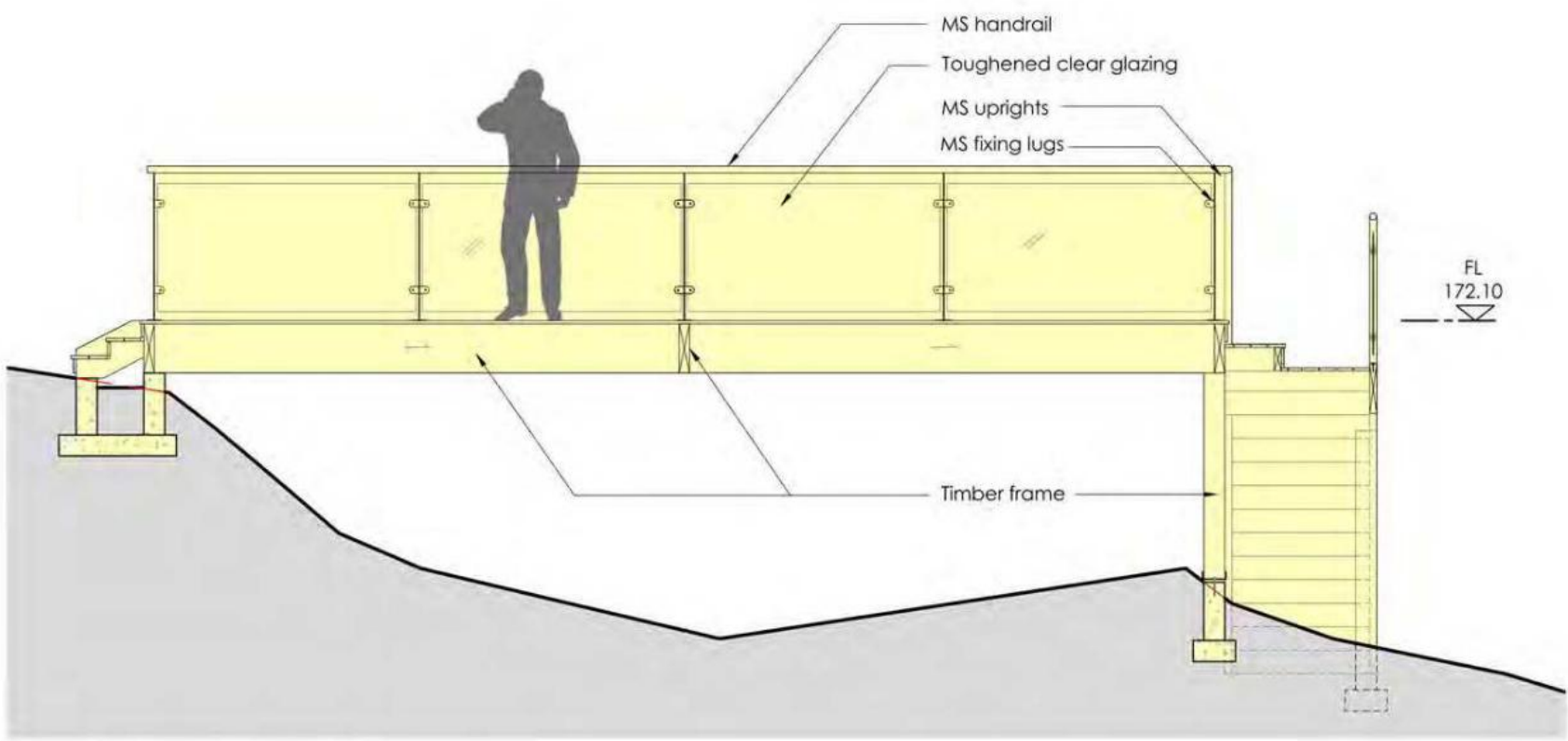
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02.09.2022



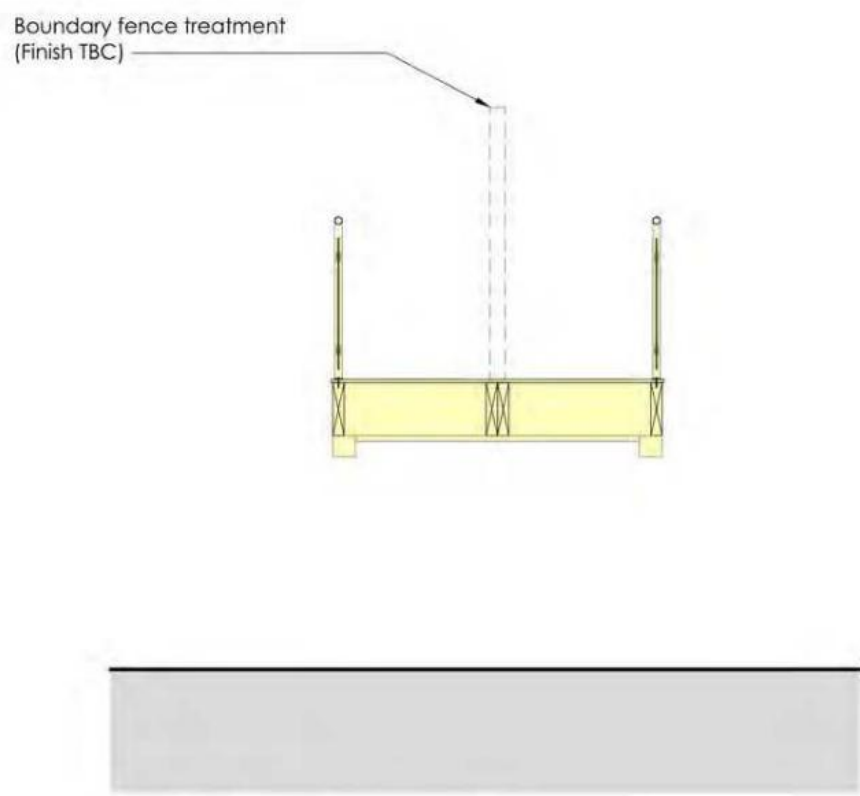
Plan of Bridge 1 - as proposed
Scale 1:50 @ A1



Elevation of Bridge 1 - as proposed
Scale 1:50 @ A1

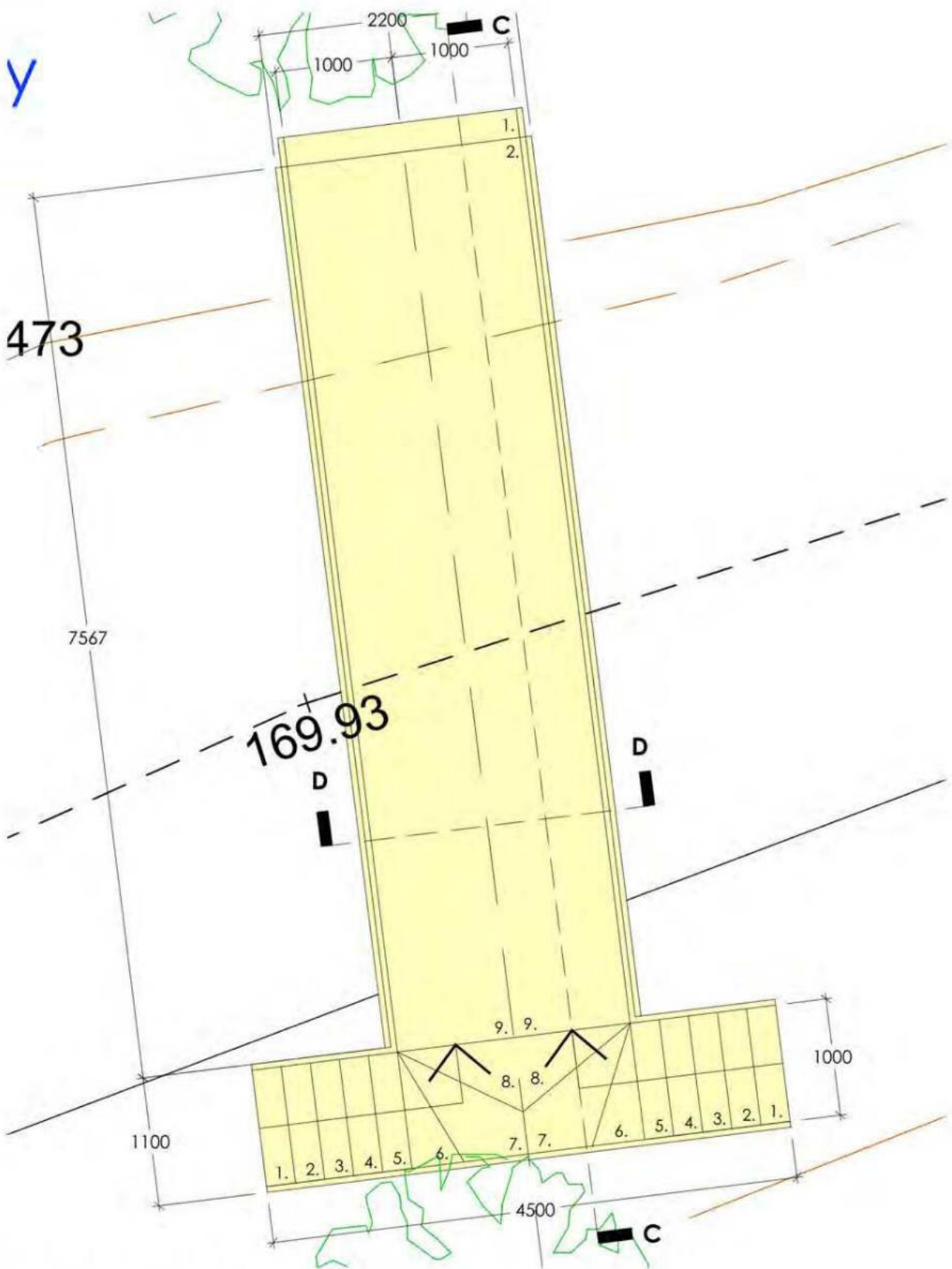


Section AA of Bridge 1 - as proposed
Scale 1:50 @ A1

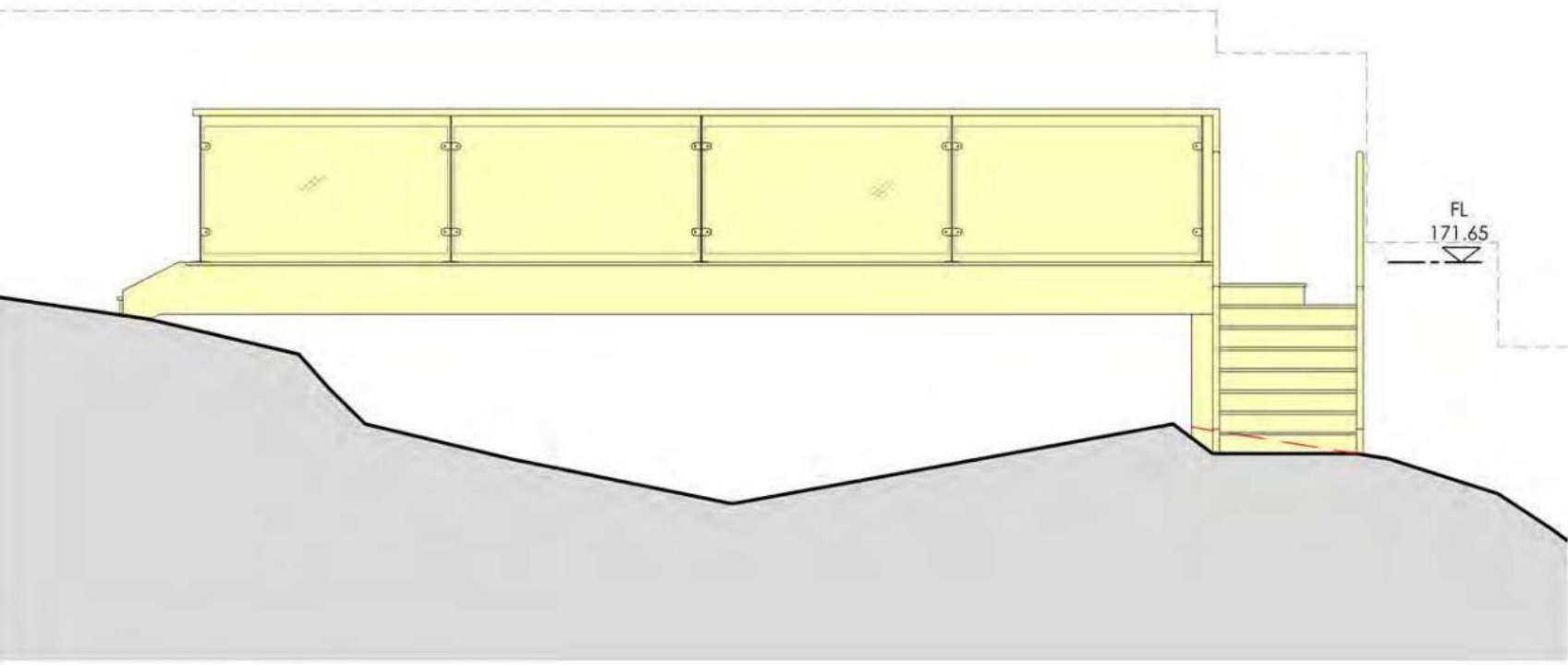


Section BB of Bridge 1 - as proposed
Scale 1:50 @ A1

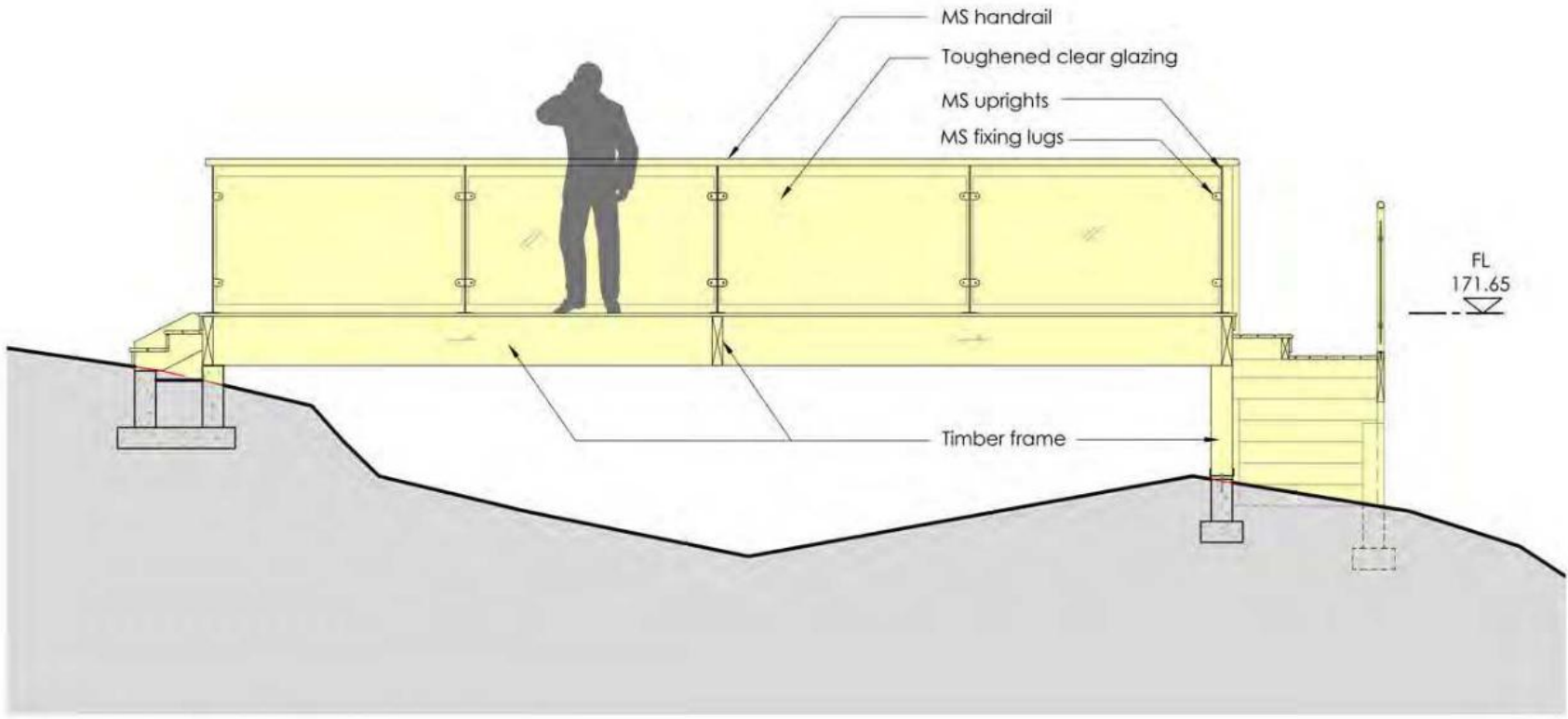
FOOTBRIDGE 1



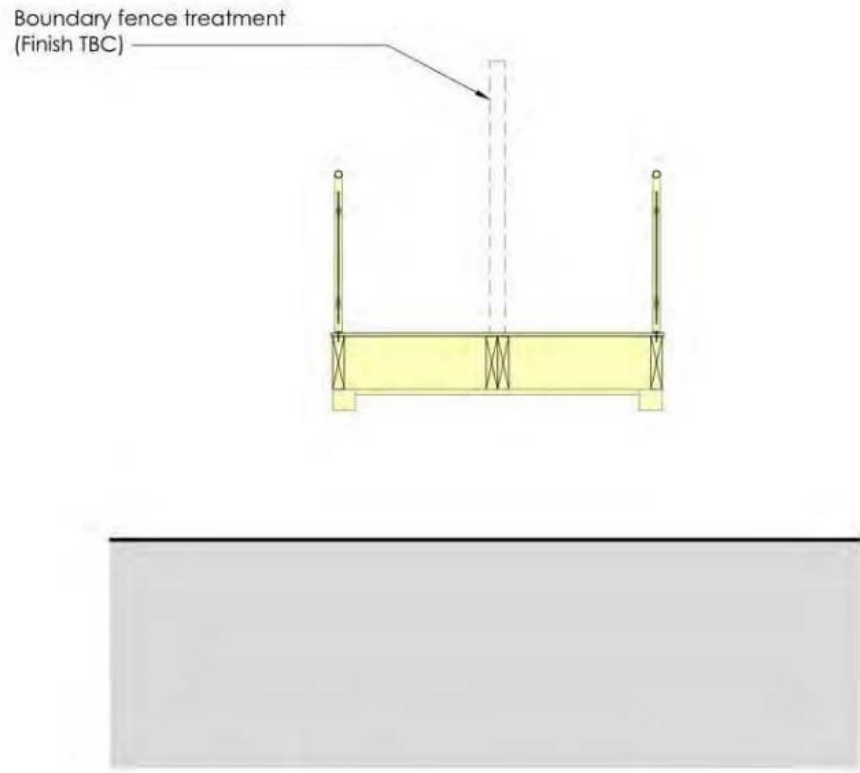
Plan of Bridge 2 - as proposed
Scale 1:50 @ A1



Elevation of Bridge 2 - as proposed
Scale 1:50 @ A1



Section CC of Bridge 2 - as proposed
Scale 1:50 @ A1



Section DD of Bridge 2 - as proposed
Scale 1:50 @ A1

FOOTBRIDGE 2

REMOVALS
PROPOSED NEW WORKS
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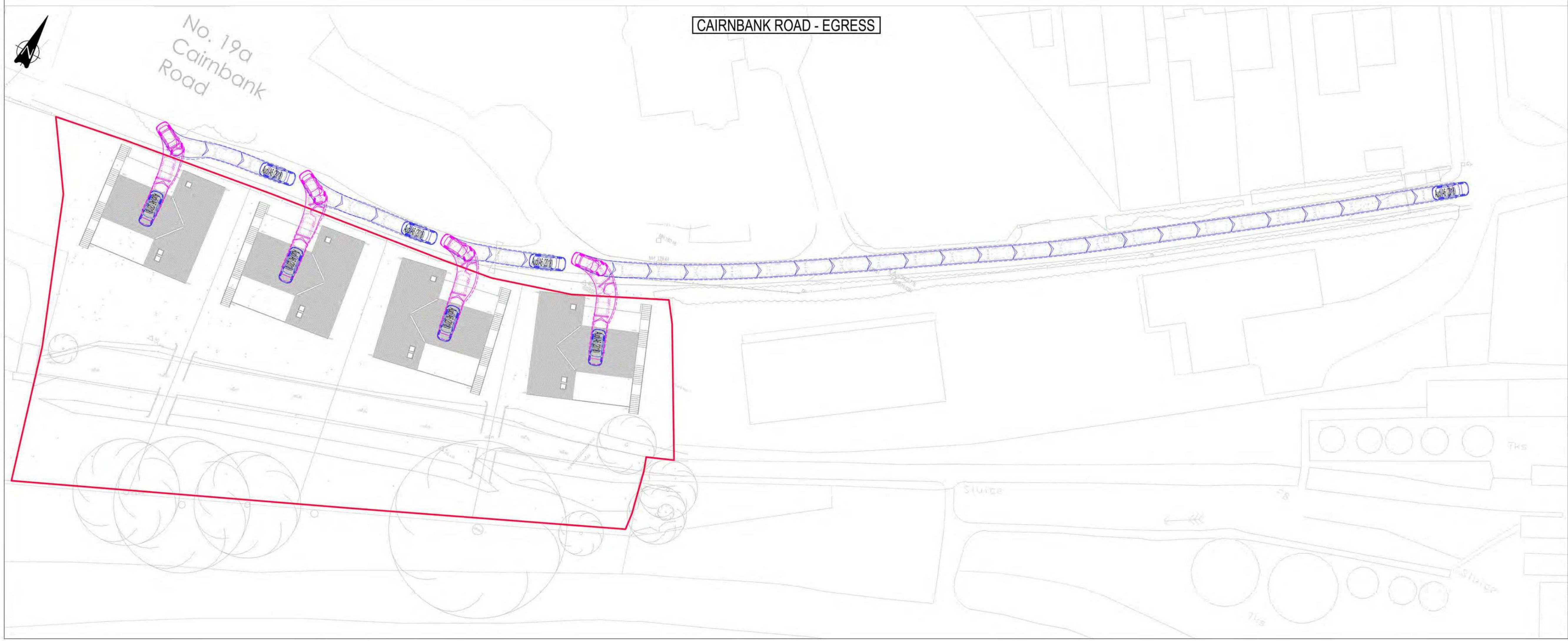
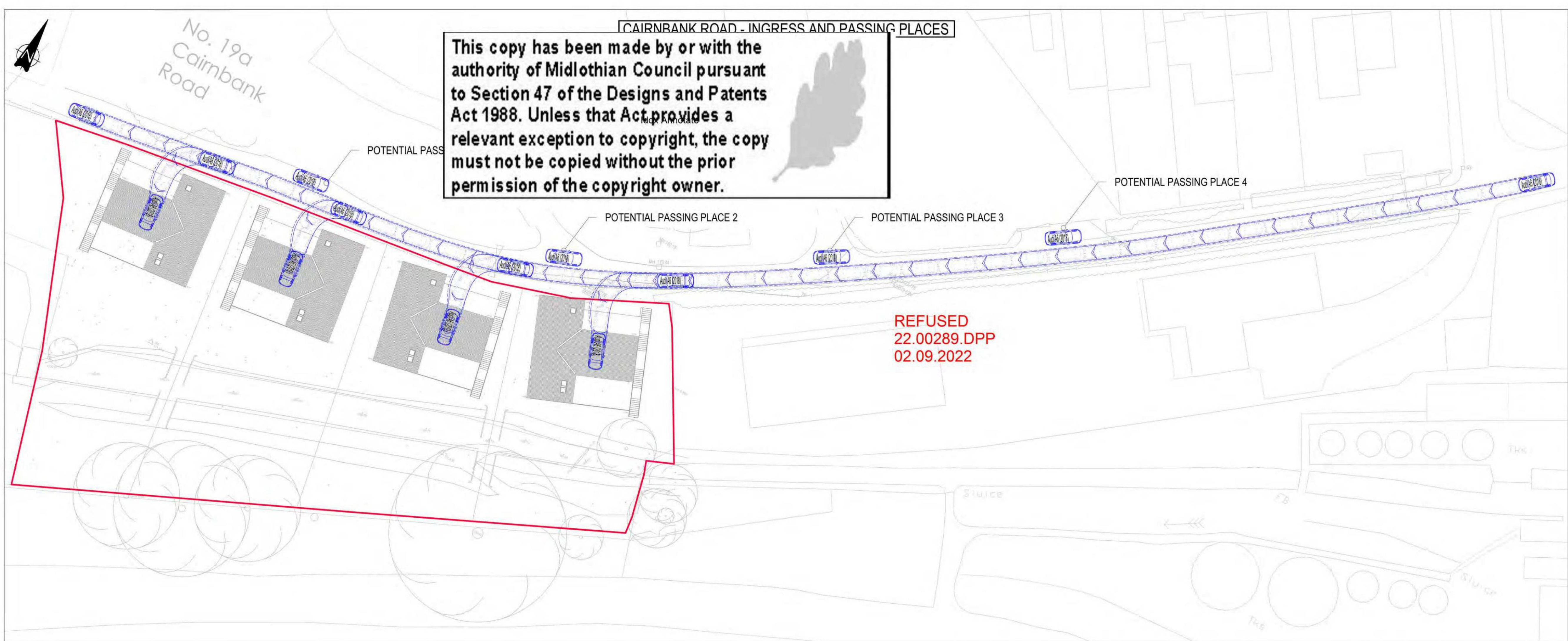
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PLANNING APPLICATION

PROJECT
Residential Development, Land East of 19
Cairnbank Road, Penicuik

DRAWING FOOTBRIDGE

DATE	DRAWN	SCALE
21001	DI	as shown @ A1
PROJECT	DRAWING No.	REVISION
21001	AP07	



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KEY: — INDICATIVE RED LINE

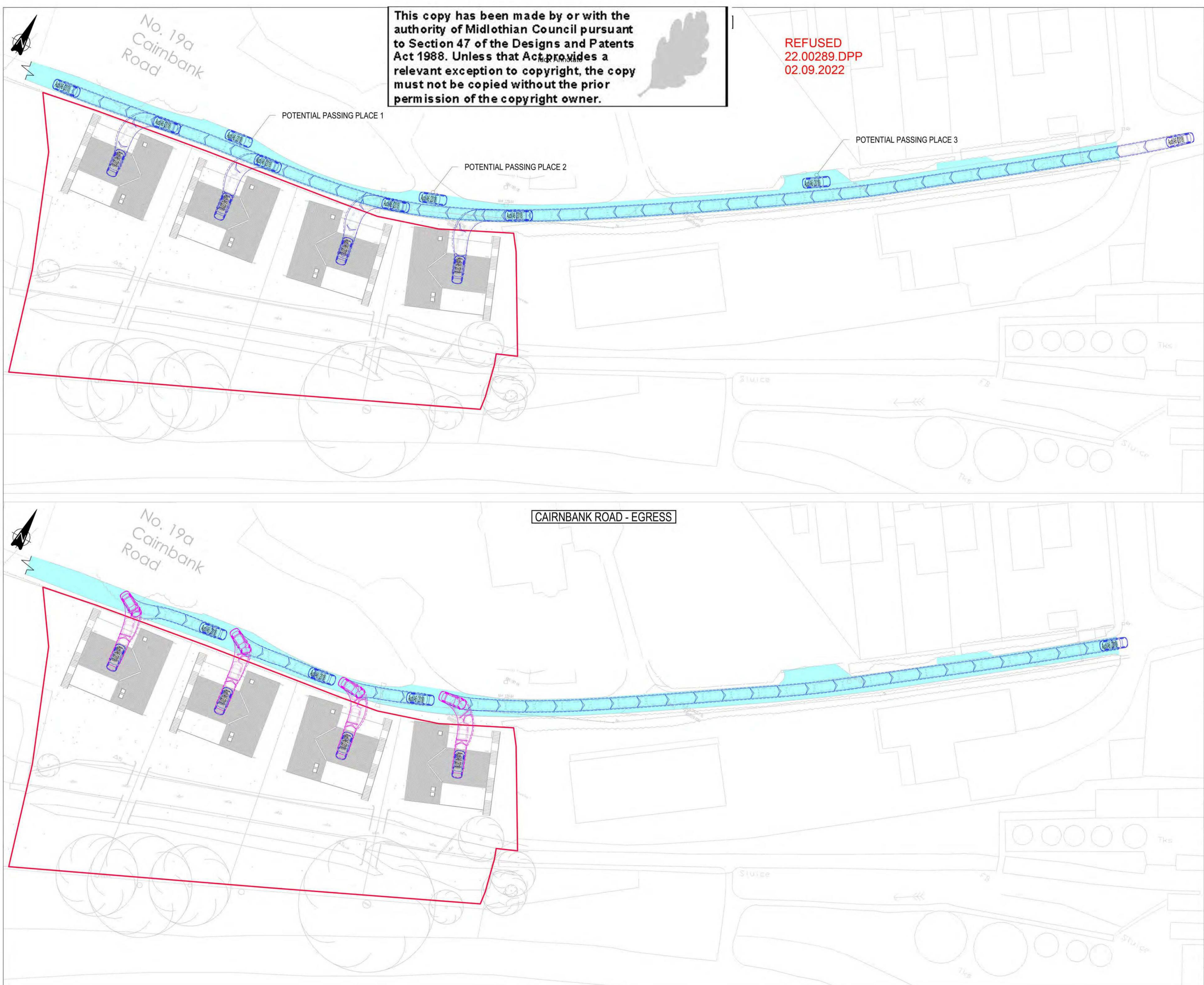
VEHICLE PROFILE:

Audi A8 (2018)
Overall Length: 4.909m
Overall Width: 2.115m
Overall Body Height: 1.457m
Min Body Ground Clearance: 0.142m
Max Track Width: 1.875m
Lock to lock time: 4.03s
Kerb to Kerb Turning Radius: 5.950m

4.909m
2.115m
1.457m
0.142m
1.875m
4.03s
5.950m

Rev:	Description:	Date:	By:	Chkd:			
<div><p>Merchant Exchange, 17-19 Whitworth Street West, Manchester, M1 5WG 0161 236 2394 manchester@curtins.com www.curtins.com</p><p><small>Curtins & Structures • Transport Planning • Environmental • Infrastructure • Geotechnical • Conservation & Heritage • Principal Designer Birmingham • Bristol • Cambridge • Cardiff • Dublin • Edinburgh • Glasgow • Leeds • Liverpool • London • Manchester • Nottingham</small></p></div>							
Status:	PRELIMINARY						
Project:	19 CAIRNBANK ROAD - PENICUIK						
Orig Title:	SWEPT PATH ANALYSIS LARGE CAR						
Size:	Date:	Drawn By:	Designed By:	Checked By:			
A1	28/06/21	JM	JM	MT			
Scale:	1:300						
Project No:	Originator:	Volume:	Level:	Type:	Role:	Category / Number:	Rev:
79406	- CUR	- 00	- XX	- DR	- TP	- 05001	- P01

\\ms602\Projects\073001 - 08000079406 - 19 Cairnbank Road - Penicuik (TPMA)\04-Production\44-Models-Drawing\TPCAD055



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5. THE CONTENT OF THIS DRAWING IS FOR INDICATIVE INFORMATION ONLY AND NOT SUITABLE FOR CONSTRUCTION PURPOSES

KEY: — INDICATIVE RED LINE
 INDICATIVE OWNERSHIP EXTENT (adapted from OS base to topo survey)

VEHICLE PROFILE:



Audi A6 (2018)
Overall Length: 4.90m
Overall Width: 2.15m
Overall Body Height: 1.42m
Max Body Ground Clearance: 0.15m
Max Track Width: 1.31m
Lock to lock time: 4.00m
Kerb to Kerb Turning Radius: 5.95m

CAIRNBANK ROAD - EGRESS

P02	CAIRNBANK ROAD OWNERSHIP EXTENTS ADDED	30/07/21	JM	AT
Rev:	Description:	Date:	By:	Chkd:



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Status: PRELIMINARY

Project: 19 CAIRNBANK ROAD - PENICUIK

Orig Title: SWEPT PATH ANALYSIS
LARGE CAR

Size:	A1	Date:	28/06/21	Drawn By:	JM	Designed By:	JM	Checked By:	MT
Scale:	1:300	Project No:	79406	Originator:	CUR	Volume:	00	Level:	XX
		Type:	DR	Role:	TP	Category / Number:	05001	Rev:	P02



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PASSING PLACES AND VISIBILITY

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4. FOR GENERAL NOTES REFER TO DRAWING.
5. THE CONTENT OF THIS DRAWING IS FOR INDICATIVE INFORMATION ONLY AND NOT SUITABLE FOR CONSTRUCTION PURPOSES

KEY: — INDICATIVE RED LINE
--- REQUIRED FORWARD VISIBILITY AT 20mph (measured to centre of road)
--- FORWARD VISIBILITY TO ADOPTED ROAD (measured to centre of road)

EXISTING ROAD WIDTHS (according to topographical survey)

Rev: Description: Date: By: Chkd:



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Status: PRELIMINARY

Project: 19 CAIRNBANK ROAD - PENICUIK

Orig Title: CAIRNBANK ROAD
EXISTING DIMENSIONS &
POTENTIAL PASSING PLACES

Size: A1 Date: 28/06/21 Drawn By: JM Designed By: JM Checked By: MT

Scale: 1:300

Project No: 79406 - CUR - 00 - XX - DR - TP - 75001 - P01

Originator: Volume: Level: Type: Role: Category / Number: Rev:



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- THE CONTENT OF THIS DRAWING IS FOR INDICATIVE INFORMATION ONLY AND NOT SUITABLE FOR CONSTRUCTION PURPOSES

KEY:

- INDICATIVE RED LINE
- REQUIRED FORWARD VISIBILITY AT 20mph (measured to centre of road)
- FORWARD VISIBILITY TO ADOPTED ROAD (measured to centre of road)
- INDICATIVE OWNERSHIP EXTENT (adapted from OS base to topo survey)

REFUSED
22.00289.DPP
02.09.2022

P02	CAIRNBANK ROAD OWNERSHIP EXTENTS ADDED	30/07/21	JM	AT
Rev:	Description:	Date:	By:	Chkd:

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Status: PRELIMINARY

Project: 19 CAIRNBANK ROAD - PENICUIK

Orig Title: CAIRNBANK ROAD
EXISTING DIMENSIONS &
POTENTIAL PASSING PLACES

Size:	Date:	Drawn By:	Designed By:	Checked By:			
A1	28/06/21	JM	JM	MT			
Scale:	1:300						
Project No:	Originator:	Volume:	Level:	Type:	Role:	Category / Number:	Rev:
79406	- CUR	- 00	- XX	- DR	- TP	- 75001	- P02

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