



APPLICATION FOR PLANNING PERMISSION 23/00145/DPP FOR THE ERECTION OF THREE DWELLINGHOUSES, FORMATION OF ACCESS AND CAR PARKING AND ASSOCIATED WORKS AT LAND 100M SOUTH OF GLENARCH LODGE, MELVILLE ROAD, DALKEITH

Report by Chief Officer Place

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

- 1.1 The application is for the erection of three dwellinghouses, formation of access and car parking and associated works at land 100m south of Glenarch Lodge, Melville Road, Dalkeith.**
- 1.2 There have been two representations and consultation responses from Scottish Water, the Coal Authority, Network Rail, the Eskbank and Newbattle Community Council, the Council's Ecological Advisor (TWIC), the Council's Senior Manager Neighbourhood Services (Roads), the Council's Senior Manager Protective Services and the Council's Education Executive Business Manager.**
- 1.3 The relevant development plan policies are policies 1, 2, 3, 4, 5, 6, 7, 9, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23 and 24 of the National Planning Framework 4 (NPF4) and policies STRAT2, DEV2, DEV5, DEV6, DEV7, TRAN5, IT1, ENV7, ENV11, ENV15, ENV16, ENV18, ENV19, IMP1, IMP2 and IMP3 of the Midlothian Local Development Plan 2017 (MLDP).**
- 1.4 The recommendation is to refuse planning permission.**

2 LOCATION AND SITE DESCRIPTION

- 2.1 The site is located at the northwest of Dalkeith, at the entrance to Eskbank from Melville Road and the A7. The site is within the Eskbank and Ironmills Conservation Area, with a Special Landscape Area located 80 metres to the north.**
- 2.2 Directly to the west and south of the site is Melville Road, with housing beyond. There is a small area of vacant land to the east which separates the site from the Borders Railway Line - there is housing to the other side of the railway. There is an area of land in use as a**

storage facility to the north, where there is a planning application for housing currently under consideration.

- 2.3 The site comprises a long and relatively narrow shaped parcel of land measuring approximately 0.27 hectares. The site is elevated from Melville Road and surrounding land. The applicant's agent states that the site was formerly used as a colliery and builders yard. The site appears to have formed part of the historic Glenesk Colliery.
- 2.4 The existing built form within the area is varied, ranging from two storey detached 1970s houses to the west to two storey flats to the east and to large detached historic houses within Eskbank.

3 PROPOSAL

- 3.1 Detailed planning permission is sought for the erection of three dwellinghouses and the formation of a vehicular access, along with other associated works including car parking, drainage, ground level works and landscaping.
- 3.2 The three houses are in a linear layout from north to south. They are to be two storeys in height with integral garages and are of contemporary design, with flat roofs and large areas of glazing. The external wall materials are proposed to include sandstone, zinc and pine cladding and the roof is to be finished with a rubber membrane.
- 3.3 A new access is to be formed from Melville Road, which will require engineering works given the changes in ground levels. Part of the boundary wall to Melville Road is to be lowered to achieve visibility splays. Street lighting is proposed along the site frontage. The submitted plans show the provision of three parking spaces for each house.
- 3.4 Acoustic fencing is proposed between the houses at Melville Road and the railway. All existing landscaping on site is to be removed to accommodate the changes in ground levels and the proposed development, with new landscaping proposed. Soakaways are proposed to address surface water drainage.
- 3.5 The houses are to be provided with air source heat pumps, solar panels and electric vehicle charging points.
- 3.6 The application is accompanied by:
 - Design Statement;
 - Coal Mining Risk Assessment;
 - National Planning Framework 4 Statement; and
 - Noise and Vibration Impact Assessment.

4 BACKGROUND

- 4.1 Planning application 17/00267/DPP for the erection of three houses at the site was refused in 2017 for the following reasons:
- inadequate levels of amenity space for the occupants; noise from the adjacent railway line would have an adverse impact on the amenity of the occupants and means to mitigate this would have an adverse impact on the conservation area; poor level of amenity for occupants; the design of the houses would detract from the character and appearance of the conservation area and be at an exposed prominent position; the cumulative effect of the design, layout and prominence of the houses and works required to accommodate visibility splays would have a significant detrimental impact on the local landscape, and character and appearance of the area; the proposed development would materially detract from the appearance of the area at the entrance to Eskbank;
 - the proposal would result in the significant loss of trees which would degrade the landscape buffer and definition of Eskbank, to the detriment of the area;
 - the access would result in significant road safety concerns to the detriment of road safety users;
 - impact on former coal mining activities in the area;
 - potential impact on protected species; and
 - The proposal was contrary to the Midlothian Local Plan 2008 policies DEV2, RP5, RP7, RP13, RP20, RP22, HOUS3 and DP2.
- 4.2 This refusal was subsequently reviewed by the Local Review Body (LRB) who were minded to approve the proposal subject to: the coal mining concerns being addressed; a number of conditions; the applicant entering into a legal agreement to secure developer contributions; and the reduction in speed limit at the site.
- 4.3 Before all the outstanding issues were resolved, the applicant proposed changes to the plans which were materially different to those considered by the LRB. Application 17/00267/DPP was subsequently withdrawn and a final decision not made.
- 4.4 Planning application 19/00411/DPP was subsequently submitted for three houses at the site. The majority of details were the same as those considered in 17/00267/DPP. The differences between the first and second schemes were the inclusion of basement floor levels within the houses and the removal of garages. As the proposal was similar to the application which was minded to be approved by the LRB, and the changes were acceptable in design terms, the 2019 planning application was approved subject to conditions and a planning obligation to secure developer contributions. This planning permission was not implemented and expired in January 2023.
- 4.5 Application 19/00556/LA was submitted to modify the legal agreement entered into under the determination of 17/00267/DPP to ensure that

the necessary developer contributions were secured through 19/00411/DPP. This was approved in 2019.

- 4.6 Works to Trees application 17/00777/WTT for the felling of trees within the site was approved in 2017.
- 4.7 There is a planning application currently pending consideration for six dwellinghouses for the land to the north of the site (21/00746/DPP).
- 4.8 The application has been called-in to be considered by the Planning Committee by Councillor McKenzie. Councillor McKenzie has called this planning application in due to access to and from the site being on a busy road with a blind bend and dual white lines. He raises concerns about road safety and site access.

5. CONSULTATIONS

- 5.1 **Scottish Water** does not object to the application. The water supply will be fed from Rosebery Water Treatment Works. The foul water drainage will be dealt with by the Edinburgh PFI Waste Water Treatment Works. Both have sufficient capacity at present; however, it is not possible to reserve capacity for future developments – this will be subject to a separate regulatory process between the applicant and Scottish Water.
- 5.2 For reasons of sustainability and to protect Scottish Water customers from potential future sewer flooding, Scottish Water will not accept any surface water connections into the combined sewer system. There may be limited exceptional circumstances where Scottish Water allow such a connection for brownfield sites only, however this will require significant justification from the customer taking account of various factors including legal, physical and technical challenges.
- 5.3 In order to avoid costs and delays where a surface water discharge to the combined sewer system is anticipated, the developer should contact Scottish Water at the earliest opportunity with strong evidence to support the intended drainage plan prior to making a connection request. The evidence will be assessed in a robust manner and any decision will reflect the best option from environmental and customer perspectives.
- 5.4 The **Coal Authority** does not object to the application but advise that should planning permission be granted a condition should be attached to the permission requiring additional information relating to ground conditions/mining legacy be submitted before works begin. They also recommend that permitted development rights be removed relating to extensions and outbuildings in the area around mine shaft zones of influence. This would allow the impact of such works on the mine shafts to be considered in further planning applications.

5.5 **Network Rail** does not object to the application.

5.6 **Eskbank and Newbattle Community Council** made neutral comments to the planning application, raising the following matters:

- They are pleased with a proposal to redevelop the long-vacant brownfield site at the entrance to Eskbank, Conservation Area and near the Special Landscape Area;
- They note there is an application to develop the site to the north, which is pending consideration. They consider the development of both sites would improve what is currently an eyesore in the scenically sensitive area;
- The proposed houses are of an unusual modern design. While there is general agreement that the houses are distinctive, there is not agreement within ENCC on their suitability for this Conservation Area. They defer to Midlothian's Planners to make recommendations on this;
- The 70m visibility splay lines from the development access to Melville Road are clear as shown on the proposed site plan but they consider the splay lines should align with the place on the road from where traffic will approach (nearside southbound, far side northbound); and
- They also note that the 70m splay line is for traffic speed of 31 mph. The splay line for 37 mph is 90m and for 43 mph is 120m. These should also be shown as these are not clear due to blind corners. While this is a 30 mph area, traffic often exceeds that speed and the road is part of a "rat-run" for traffic cutting through Eskbank to avoid congestion on the A7 at Melville Dykes and Hardengreen roundabouts. This gets busy in rush hours. Traffic speed surveys should be carried out to determine the extent of this problem and, if necessary, measures should be taken to mitigate vehicle speeding. Enforcement alone is not sustainable or sufficient to deter speeding and that physical measures are required. These could include road markings and/or flashing speed warnings at appropriate locations for traffic in either direction on Melville Road, the cost of such measures should be passed to the developer.

5.7 The **Council's Ecological Advisor - The Wildlife Information Centre (TWIC)** does not object to the application. They recommend a condition be attached to any grant of planning permission relating to timing of vegetation clearing works to avoid the bird breeding season.

5.8 The **Council's Senior Manager Neighbourhood Services (Roads)** does not object to the application. They state that the existing street lighting on Melville Road will require to be extended over the site frontage to the end of the visibility splay. The site plan shows indicative locations for new lighting, however technical details are required for approval.

5.9 The **Council's Senior Manager Protective Services** does not object to the application subject to the recommendations set out in the Noise and Vibration Impact Assessment being secured by condition and implemented. Conditions are also required to address ground contamination and to restrict construction hours.

5.10 The **Council's Education Executive Business Manager** does not object to the application. The development would give rise to one primary school pupil and one secondary school pupil. Developer contributions towards education facilities would be required to mitigate the demand from the proposed development. The catchment schools are:

- Non-denominational primary Kings Park Primary School
- Denominational primary St David's RC Primary School
- Non-denominational secondary Dalkeith High School
- Denominational secondary St David's RC High School

5.11 The Council utilises a primary school pupil product ratio of 0.28 per dwelling and a secondary school pupil product ratio of 0.2 per dwelling when calculating anticipated primary and secondary school pupil numbers from developments and also for the purposes of negotiating developer contributions with applicants.

5.12 The consultation responses are available to view in full on the online planning application case file.

6. REPRESENTATIONS

6.1 There have been two representations received, which can be viewed in full on the online planning application case file. One of the representations objected to the application and one is neutral. A summary of the main points raised are as follows:

6.2 A summary of the concerns raised in the objection is as follows:

- Road safety due to the position of the access;
- Traffic has increased in the area and the proposal would exacerbate this, with congestion and reduced road safety;
- The houses are not in keeping with the area and are boxlike;
- Impact on views from neighbouring properties;
- The introduction of street lights will detract from the peace and tranquillity of the area in the mornings and evenings; and
- Overlooking from the houses to neighbouring properties.

6.2 A summary of the neutral representation is as follows:

- Comments over the industrial design of the houses;

- Concern over the proposed access at a bend in a road where there have been regular accidents;
- On exiting, cars will be unable to see approaching traffic. When entering they may be stationary on this busy road in a position where approaching traffic will not see them; and
- An access further north may give a slightly better sight-line and reduce the risk not only to the future residents but other road users, although it is not ideal because of the double bends.

7. PLANNING POLICY

7.1 The development plan is comprised of National Planning Framework 4 (2023) and the Midlothian Local Development Plan 2017.

7.2 The following policies are relevant to the proposal:

National Planning Framework 4 (NPF4)

- 7.3 **Policy 1 Tackling the climate and nature crises;** sets out to encourage, promote and facilitate development that addresses the global climate emergency and nature crisis.
- 7.4 **Policy 2 Climate mitigation and adaptation;** sets out to encourage, promote and facilitate development that minimises emissions and adapts to the current and future impacts of climate change.
- 7.5 **Policy 3 Biodiversity;** sets out to protect biodiversity, reverse biodiversity loss, deliver positive effects from development and strengthen nature networks.
- 7.6 **Policy 4 Natural Places;** sets out to protect, restore and enhance natural assets making best use of nature-based solutions.
- 7.7 **Policy 5 Soils;** sets out to protect carbon-rich soils, restore peatland and minimise disturbance to soils from development. The policy also sets out acceptable scenarios for development on prime agricultural land.
- 7.8 **Policy 6 Forestry, woodland and trees;** sets out to protect and expand forests, woodland and trees.
- 7.9 **Policy 7 Historic assets and places;** sets out to protect and enhance historic environment assets and places, and to enable positive change as a catalyst for the regeneration of places.
- 7.10 **Policy 9 Brownfield, vacant and derelict land and empty buildings;** sets out to encourage, promote and facilitate the reuse of brownfield, vacant and derelict land and empty buildings, and to help reduce the need for greenfield development.

- 7.11 Policy **11 Energy**; sets out to encourage, promote and facilitate all forms of renewable energy development onshore and offshore. This includes energy generation, storage, new and replacement transmission and distribution infrastructure and emerging low-carbon and zero emissions technologies including hydrogen and carbon capture utilisation and storage (CCUS).
- 7.12 Policy **12 Zero Waste**; sets out to encourage, promote and facilitate development that is consistent with the waste hierarchy.
- 7.13 Policy **13 Sustainable Transport**; sets out to encourage, promote and facilitate developments that prioritise walking, wheeling, cycling and public transport for everyday travel and reduce the need to travel unsustainably.
- 7.14 Policy **14 Design, quality and place**; sets out to encourage, promote and facilitate well designed development that makes successful places by taking a design-led approach and applying the Place Principle.
- 7.15 Policy **15 Local Living and 20 minute neighbourhoods**; sets out to encourage, promote and facilitate the application of the Place Principle and create connected and compact neighbourhoods where people can meet the majority of their daily needs within a reasonable distance of their home, preferably by walking, wheeling or cycling or using sustainable transport options.
- 7.16 Policy **16 Quality homes**; sets out to encourage, promote and facilitate the delivery of more high quality, affordable and sustainable homes, in the right locations, providing choice across tenures that meet the diverse housing needs of people and communities across Scotland.
- 7.17 Policy **18 Infrastructure First**; sets out to encourage, promote and facilitate an infrastructure first approach to land use planning, which puts infrastructure considerations at the heart of placemaking.
- 7.18 Policy **19 Heating and Cooling**; sets out to encourage, promote and facilitate development that supports decarbonised solutions to heat and cooling demand and ensure adaptation to more extreme temperatures.
- 7.19 Policy **20 Blue and green infrastructure**; sets out to protect and enhance blue and green infrastructure and their networks.
- 7.20 Policy **21 Play, recreation and sport**; sets out to encourage, promote and facilitate spaces and opportunities for play, recreation and sport.
- 7.21 Policy **22 Flood risk and water management**; sets out to strengthen resilience to flood risk by promoting avoidance as a first principle and reducing the vulnerability of existing and future development to flooding.

- 7.22 Policy **23 Health and Safety**; sets out to protect people and places from environmental harm, mitigate risks arising from safety hazards and encourage, promote and facilitate development that improves health and wellbeing.
- 7.23 Policy **24 Digital Infrastructure**; sets out to encourage, promote and facilitate the rollout of digital infrastructure across Scotland to unlock the potential of all our places and the economy.

Other National Policy

- 7.24 **Designing Places, A Policy Statement for Scotland** sets out the six key qualities which are at the heart of good design namely identity, safe and pleasant environment, ease of movement, a sense of welcome, adaptability and good use of resources.
- 7.25 The **Scottish Government's Policy on Architecture for Scotland** sets out a commitment to raising the quality of architecture and design.

Midlothian Local Development Plan 2017 (MLDP)

- 7.25 Policy **STRAT2: Windfall Housing Sites** supports housing on non-allocated sites within the built-up area provided: it does not lead to loss or damage of valuable open space; does not conflict with the established land use of the area; has regard to the character of the area in terms of scale, form, design and materials and accords with relevant policies and proposals.
- 7.26 Policy **DEV2: Protecting Amenity within the Built-Up Area** states that development will not be permitted within existing and future built-up areas where it is likely to detract materially from the existing character or amenity of the area.
- 7.27 Policy **DEV5: Sustainability in New Development** sets out the requirements for development with regards to sustainability principles.
- 7.28 Policy **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, and passive energy gain, positioning of buildings, open and private amenity space provision and parking.
- 7.29 Policy **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.

- 7.30 Policy **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.
- 7.31 Policy **IT1: Digital Infrastructure** supports the incorporation of high speed broadband connections and other digital technologies into new homes, business properties and redevelopment proposals.
- 7.32 Policy **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.
- 7.33 Policy **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 (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.
- 7.34 Policy **ENV15: Species and Habitat Protection and Enhancement** presumes against development that would affect a species protected by European or UK law.
- 7.35 Policy **ENV16: Vacant, Derelict and Contaminated Land** supports the redevelopment of vacant and derelict land for uses compatible with their location. Developments will be required to demonstrate that the site is suitable for the proposed new use in terms of the risk posed by contamination and instability from historic uses.
- 7.36 Policy **ENV18: Noise** requires that where new noise sensitive uses are proposed in the locality of existing noisy uses, the Council will seek to ensure that the function of established operations is not adversely affected.
- 7.37 Policy **ENV19: Conservation Areas** states that development will not be permitted within or adjacent to conservation areas where it would have any adverse effect on its character or appearance.
- 7.38 Policy **IMP1: New Development** ensures 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; landscaping; public transport connections, parking in accordance with approved standards; cycling access and facilities; pedestrian access; 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.

- 7.39 Policy **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.
- 7.40 Policy **IMP3: Water and Drainage** requires developers to appropriately handle drainage matters at development sites.

8. PLANNING ISSUES

- 8.1 The main planning issue to be considered in determining this application is whether the proposal complies with development plan policies unless material planning considerations indicate otherwise. The representations and consultation responses received are material considerations. In addition, the planning history, namely the previous LRB decision, is a significant material consideration which has the potential to outweigh the policy position. It was a formal decision of the Council to previously support development of three dwellinghouses on the site.

Principle of development

- 8.2 The site is located within the built-up area of Dalkeith where there is a presumption in favour of appropriate residential development. The proposal would not lead to the loss of valuable open space or conflict with the established land use of the area.
- 8.3 Through previous planning applications, including the earlier LRB decision, the principle of a small scale residential development had been established as being acceptable at the application site. However, a significant material consideration is whether the adoption of NPF4 in February 2023 alters the 'in principle' support for the development of the site and also whether there are detailed elements of the proposal which do not comply with the new development plan.
- 8.4 With regards to NPF4, although the site is within the built up area of Dalkeith/Eskbank, consideration requires to be given to the site's location and proposed development in terms of sustainability. In this

regard, the site is in relatively close proximity to Dalkeith Town Centre to the northeast and is reasonably close to a number of facilities in the surrounding Eskbank area. The site is close to local shops and services, employment opportunities, leisure facilities, public transport options and active travel connections and, as such, is considered to be in a sustainable location in compliance with the principles of NPF4.

- 8.5 Policy 9 of NPF4 states that development proposals which result in the sustainable reuse of brownfield land including vacant and derelict land and buildings will be supported. In determining whether the reuse is sustainable, the biodiversity value of brownfield land which has naturalised should be taken into account. While it is acknowledged that the site has poor biodiversity value at present, and that the proposal may improve this through the removal of contaminated land and tidying the site, it does not follow that any development would be acceptable here. Development must also be considered in line with other relevant NPF4 and MLDP policies. On balance, the LRB decision has established that the principle of development on the site is acceptable. However, further consideration must be given to whether it is appropriate, in terms of NPF4, to clear the site of existing vegetation and to what extent the details of the proposed scheme will impact on the local landscape.

Scale and character of the proposed development

- 8.6 The existing built form in the area is varied, ranging from two storey detached 1970s houses to the west to two storey flats to the east and to large detached historic houses within Eskbank. The surrounding buildings are generally traditional in design, scale and form. The proposed houses are of a very different design approach, being modern and contemporary in design with flat roofs and incorporating large areas of glazing. This significant change in design approach is not entirely appropriate for such a prominent site in a conservation area and at one of the main entrances to Dalkeith/Eskbank.
- 8.7 However, the LRB decided at its meeting in August 2017, where it considered application 17/00267/DPP, that a more contemporary design approach could be utilised at this site. The proposed houses are similar in design, scale and form to the house types previously approved by the LRB and so are acceptable. Should permission be approved, samples of the proposed materials would be required to ensure these are of high quality given this sensitive location.
- 8.8 The MLDP requires good levels of amenity for residential development in terms of garden sizes, open space and the separation distances between dwellinghouses to mitigate against overlooking, loss of privacy and a sense of overbearing on neighbours. The requirements with regard usable private garden sizes should be: (i) 100 square metres for terraced houses of 3 or more apartments; (ii) 110 square metres for other houses of 3 apartments; and (iii) 130 square metres for houses of

4 apartments or more. The proposed site plan satisfies this requirement and provides adequate amenity space for the houses.

- 8.9 The proposed layout is unusual with the plots laid out in a linear form from north to south. There is only 5 metres between the side elevations of plots 1 and 2. The proposed window openings on these elevations limit any overlooking and so in this instance this is acceptable.
- 8.10 The proposed layout results in an unusual relationship between plots and garden grounds, creating what appears to be a relatively cramped layout with degrees of overlooking between garden grounds and unusual garden shapes. However, this is not materially worse than the layout previously approved by the LRB.
- 8.11 The site sits between Melville Road and a railway line, with relatively limited space between the houses and infrastructure features. The Council's Senior Manager Protective Services raised concerns over noise from the adjacent railway and Melville Road to the occupants of the proposed properties. In response the applicant's agent submitted a Noise and Vibration Impact Assessment which considered the existing noise levels from the road and railway line, assessed the impact this may have on future occupants of the houses and recommended mitigation measures to limit noise from these to an acceptable level.
- 8.12 The report stated that a 1.8 metre high acoustic fence be erected between the houses and Melville Road, which would address noise from the road to the houses. Also increasing the height of the boundary treatment to the railway to 2 metres high or reducing the garden ground levels by 1.1 metres would provide adequate noise mitigation from the railway. This would be in addition to the houses being provided with a particular level of glazing to the east and west elevations. The Council's Senior Manager Protective Services has accepted the recommendations of this report and stated that if these are implemented, the occupants of the proposed houses would not be detrimentally affected by noise from Melville Road or the railway. While these boundary treatments may satisfactorily address noise to future occupants, these will be relatively prominent and so their landscape and visual impact of these in the surrounding conservation area need to be assessed.

Landscape and Visual Impact

- 8.15 It is accepted that planning permission has previously been approved for three houses at this site in a similar position to that proposed with a similar access. However, the previous permission did not include the removal of all trees from the site. In addition, there has been a policy change in the intervening years through the publication of NPF4.

- 8.16 The planning policies in NPF4 seek for developments to be sustainable and give consideration to the global climate and nature crises. As part of this approach there is a strong emphasis on the protection and enhancement of woodland and trees with an expectation for such features to be retained and enhanced in proposals.
- 8.17 The proposed houses will be on a significantly higher ground level than Melville Road. In order to accommodate the houses and vehicular access all existing trees are to be removed. Also, a considerable amount of groundwork is required with very steep slopes from the housing to Melville Road. The combination of these works will result in the site being even more prominent than previously proposed.
- 8.18 While the site is located in an area defined as being within the built-up area of Eskbank, it is immediately adjacent to the countryside and has a rural/edge of settlement character. The approach to Eskbank along Melville Road is strongly characterised by trees and woodland within a steeply sloping valley. The trees within the site form part of a larger group of trees which defines the edge of the settlement. Albeit mostly self-seeded, the vegetation within the site contributes to the amenity and setting of the Eskbank and Ironmills Conservation Area, supports habitat for wildlife and provides landscape softening between the River North Esk valley and the settlement edge of Eskbank.
- 8.19 It is only upon reaching the stone railway bridge where the trees recede, and the view opens up to reveal that the character of the area has changed from countryside to the built up character associated with being in a settlement. The removal of all trees from the site and their replacement with buildings will seriously undermine the strong definition of the settlement of Eskbank in this location.
- 8.20 Although there are residential properties on the opposite side of Melville Road from the application site, these are set back from the road with garden space and landscaping between. On approach from both the north and the south, these properties are generally softened into the landscape as a result of their distance from the road, the road trajectory, their position and orientation and the mature established garden planting. There are flatted dwellings to the east of the site, across the railway line, which are on a lower ground level than the site and are well screened from view. These are visually and physically read as being separate from the site. These residential developments integrate well with, and retain the rural character of, the area.
- 8.21 Where settlements abut the countryside it is the planning authority's standard approach, established through adopted planning policy, to require the provision of a landscape buffer in order to clearly define the boundaries of settlements. This is particularly the case where new developments are proposed on the periphery of settlements. This proposed development will effectively remove a successfully

established landscape buffer from this location, opening up views of the built-up area which are otherwise softened by the existing trees.

- 8.22 In proposals where the loss of existing vegetation is accepted, replacement planting is required to mitigate against any proposed tree loss. This is to perpetuate canopy cover in the area and to respond to the ongoing Climate Emergency. The proposed layout is relatively cramped with limited space to accommodate sufficient replacement planting both at the site boundaries and to provide relief within the site. This is exacerbated by the steep banking and ground level works to accommodate the vehicular access and visibility splays. These splays need to be kept clear to allow visibility for vehicles and so limits the extent to which landscaping can be planted and allowed to establish to sensitively integrate the proposed development within the local setting.
- 8.23 The prominence of the site would be further exacerbated by the necessary mitigation measures to address noise to the proposed houses from Melville Road and the neighbouring railway. The necessary 1.8 metre high close boarded fence between the houses and Melville Road would be a very harsh feature to the front of the houses at an elevated level which would further detract from the visual amenity of the area with limited option to soften this into the area. Also, the inclusion of a 0.9 metre high fence on top of the wall facing the railway line would be an unattractive feature and have a detrimental impact on the area.
- 8.24 Despite a development scheme previously having been approved by the Council at the site, the additional considerations in relation to NPF4 and the increased adverse impact on the landscape as a result of the new proposals result in a development which will have an unacceptable detrimental impact on the local landscape.

Access and Transportation

- 8.25 The representors and the Community Council raise road safety as a significant concern at this site, particularly in relation to poor visibility, the position of the access, there are regular accidents on Melville Road, the amount of vehicles using Melville Road and the speed of cars using this road. Road safety is also the reason this application was called in to Planning Committee.
- 8.26 While the Council's Senior Manager Neighbourhood Services (Roads) has indicated that the proposed development will not have a detrimental impact on road safety in this location, the planning authority must take in to account the concerns being raised by other third parties and reach a decision on whether the new access and development should be supported.
- 8.27 The representors and Community Council represent valid material concerns regarding the proposed development. Works to

accommodate the required visibility splays include significant regrading of the ground and lowering the height of the existing boundary wall.

- 8.28 Although on plan these measures appear to address the road safety issue, concern remains that introducing a vehicular access at the proposed location would still pose a significant threat to road safety given the speed of vehicles and the bending nature of the road. The proposed access is at the tightest curve in this road where vehicles travel at speed, with poor visibility. The visibility splay required to serve the new access may not be deliverable unobstructed while addressing the concerns over the landscaping of the site.
- 8.29 It is acknowledged that planning permission was approved in 2019 for three houses at this site, which included a similar access to that currently proposed. This was after the LRB were minded to approve a similar proposal here in 2017. However, the current application represents a new application and proposal at the site which is to be considered on its own merits. Notwithstanding the previous applications at the site and the comments from the Council's Senior Manager Neighbourhood Services (Roads), it is considered that the proposed access and associated works would result in significant road safety risk which would be to the detriment of the safety of road users.
- 8.30 As previously detailed, the site is accessed from Melville Road, which is a busy and well used road. The provision of street lighting here, as required if permission were approved, would not have a significant detrimental impact on the area and would be a continuation of the existing street lighting along this road.

Impact on Surrounding Properties

- 8.31 The proposed houses include balconies at first floor level. Due to the proposed and existing layouts of buildings in the area the balconies at plots 1 and 2 would not overlook any existing properties. The house at plot 3 would be in line with the houses to the west and so there could be some potential overlooking between properties. However, the balcony is some 22 metres from the closest boundary of the existing house across Melville Road. This results in a greater distance between rear elevations of properties than that which would be expected in new developments. As such, any overlooking would not be so significant as to warrant refusal on these grounds.

Flood Risk and Surface Water Drainage

- 8.32 The proposed houses will connect to the public foul drainage system. Surface water drainage is proposed to be addressed through soakaways within the site which is acceptable in principle. Should permission be approved, further details would be required.

- 8.33 Due to the sloping nature of the site and the significant change in ground levels to Melville Road, all hardstanding materials should be porous. This will limit water runoff from the site to Melville Road which could affect road safety in the area.

Ecological Matters

- 8.34 The proposal includes the loss of all landscaping on site which could impact on wildlife. The Council's Ecological Advisor does not object to the application as the existing woodland on site is too immature to have bat roosting potential. Should permission be approved, the timing of vegetation clearing works shall be conditioned to avoid bird breeding season.
- 8.35 The proposal includes the installation of bat, bee and swift boxes and bricks which is welcomed. Planting to promote biodiversity is also proposed.
- 8.36 As noted above, there are significant concerns over the loss of landscaping at the site and the impact this will have on the site and surrounding area. While it is acknowledged that the biodiversity value of the site in its current form is likely to be affected by the previous historic uses and the proposed planting and wildlife boxes and bricks will enhance this, these proposals are expected as standard in proposals. They are not extra measures which help address the climate and nature crises.

Ground Contamination and Remediation and Coal Mining Legacy

- 8.37 The Council's Senior Manager Protective Services recommends that a standard contaminated land site investigation condition be attached to any consent granted to ensure that the land in the application site is suitable for its intended use.
- 8.38 The Coal Authority initially objected to the planning application, requiring more information due to the previous uses in the area and historic mine shafts. Additional information was submitted which addressed these concerns demonstrating the site can be safely developed, subject to further information being submitted for approval before works begin on site.
- 8.39 This objection was removed on the basis of the submitted information and the works on the proposed plans. If planning permission were approved, a condition should be attached to remove permitted development rights to prevent extensions and outbuildings being erected in the area around mine shaft zones of influence. Any such works would need to be considered in detail to ensure that these works can be safely developed. This would be reasonable and necessary.

Developer Contributions

- 8.40 Scottish Government advice on the use of Section 75 Planning Agreements is set out in Circular 03/2012: Planning Obligations and Good Neighbour Agreements. The circular advises that planning obligations should only be sought where they meet all of the following tests:
- necessary to make the proposed development acceptable in planning terms (paragraph 15);
 - serve a planning purpose (paragraph 16) and, where it is possible to identify infrastructure provision requirements in advance, should relate to development plans;
 - relate to the proposed development either as a direct consequence of the development or arising from the cumulative impact of development in the area (paragraphs 17-19);
 - fairly and reasonably relate in scale and kind to the proposed development (paragraphs 20-23); and
 - be reasonable in all other respects.
- 8.41 In relation to Midlothian Council, policies relevant to the use of Planning Obligations are set out in the MLDP and Midlothian Council's Developer Contributions Guidelines (Supplementary Planning Guidance).
- 8.42 This proposed residential development has been assessed in relation to the above guidance and it is considered that a Planning Obligation is required in respect of the following matters:
- A financial contribution towards additional primary education capacity;
 - A financial contribution towards additional secondary education capacity;
 - A financial contribution towards off site children's play; and
 - A financial contribution towards Borders Rail
- 8.43 At the point of drafting the Committee report the applicants were not prepared to make the required developer contributions to mitigate the impact of development – this is critical, and any shortfall in developer contributions, if planning permission is granted, effectively is subsidised by the Council. The applicant's position is that the proposed developer contributions being sort are excessive and are not agreed. Given that provision cannot be made for essential infrastructure and environmental requirements related to the scale and impact of the proposed development, the proposal is therefore contrary to policies IMP1 and IMP2.

Other Matters

- 8.44 In terms of the comments made by representors not addressed above - while the proposal may affect the view from existing properties, this is not a material planning consideration.

9. RECOMMENDATION

- 9.1 It is recommended that planning permission be refused for the following reasons:

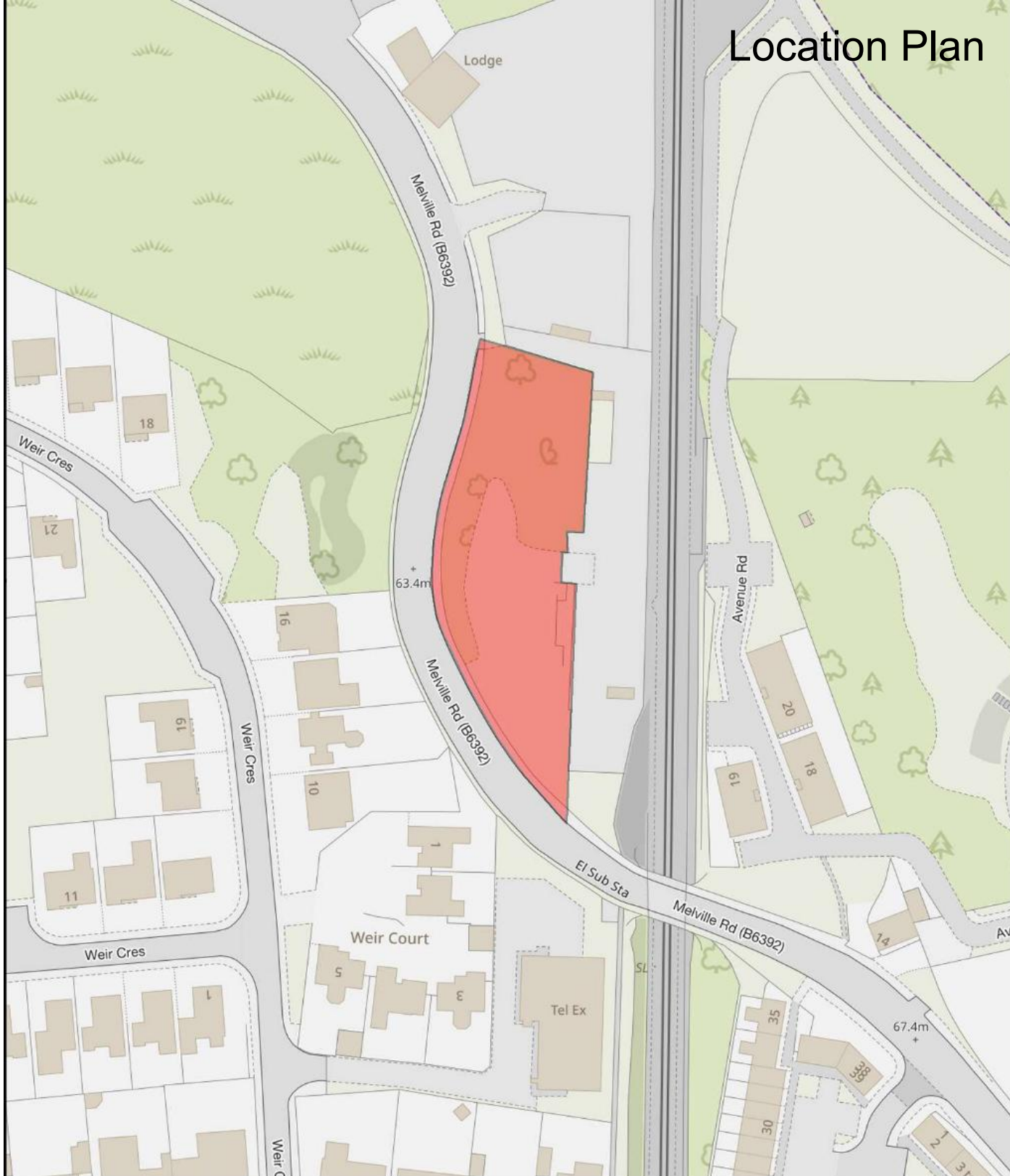
1. *As a result of the proposed loss of trees and ground levelling works required to accommodate the access and visibility splays the development will have a significant detrimental impact on the local landscape and character and appearance of the surrounding area, contrary to policies DEV2, DEV6, DEV7, ENV7 and ENV11 of the Midlothian Local Development Plan and the aims of National Planning Framework 4.*
2. *The proposed development will result in the significant loss of trees and woodland which will result in the degrading of the landscape buffer and resultant definition of the settlement edge in this area, to the detriment of the character and appearance of the conservation area and local landscape, contrary to the aims of policies ENV7 and ENV11 of the Midlothian Local Development Plan and the aims of National Planning Framework 4.*
3. *The proposed access and associated works will result in a significant adverse impact on road safety which will be to the detriment of the safety of road users.*
4. *By not meeting the required developer contribution requirements the proposed development does not mitigate its impact on local infrastructure and the environment and as such does not accord with Midlothian Local Development Plan Policies IMP1 and IMP2.*

Peter Arnsdorf
Planning, Sustainable Growth and Investment Manager

Date: 1 September 2023

Application No: 23/00145/DPP
Applicant: Mr John Cook, Dimension Homes Limited
Agent: Eoghain Fiddes, Fiddes Architects
Validation Date: 21 March 2023
Contact Person: Mhairi-Anne Cowie, Planning Officer
Email: mhairi-anne.cowie@midlothian.gov.uk
Background Papers: Planning applications 19/00411/DPP and 17/00167/DPP
Attached Plans: Location plan, site plan and elevations.

Location Plan



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

Erection of 3 dwellinghouses Land 100m South of Glenarch Lodge, Dalkeith

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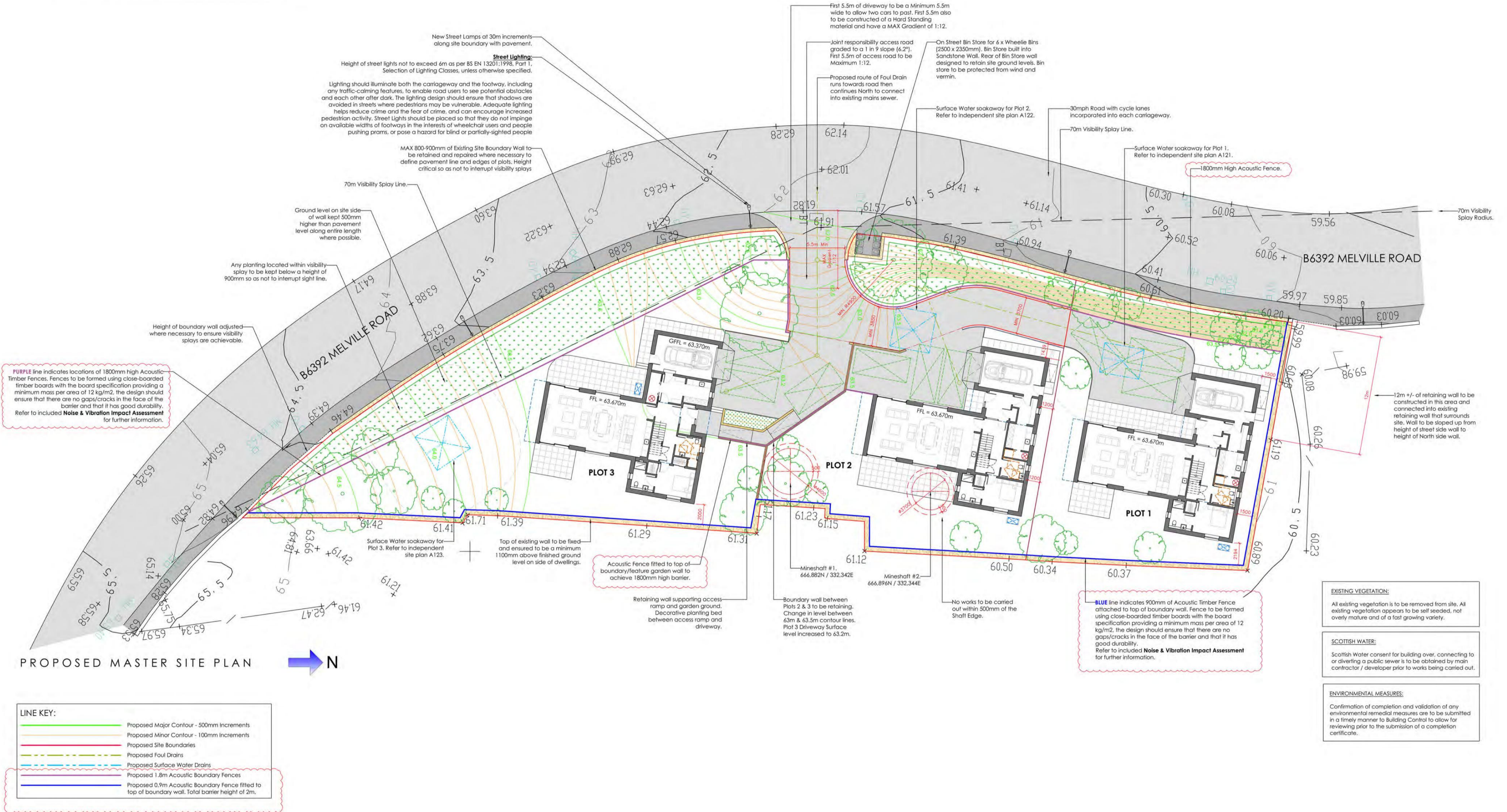
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PROPOSED MASTER SITE PLAN

LINE KEY:

	Proposed Major Contour - 500mm Increments
	Proposed Minor Contour - 100mm Increments
	Proposed Site Boundaries
	Proposed Foul Drains
	Proposed Surface Water Drains
	Proposed 1.8m Acoustic Boundary Fences
	Proposed 0.9m Acoustic Boundary Fence fitted to top of boundary wall. Total barrier height of 2m.

EXISTING VEGETATION:
All existing vegetation is to be removed from site. All existing vegetation appears to be self seeded, not overly mature and of a fast growing variety.

SCOTTISH WATER:
Scottish Water consent for building over, connecting to or diverting a public sewer is to be obtained by main contractor / developer prior to works being carried out.

ENVIRONMENTAL MEASURES:
Confirmation of completion and validation of any environmental remedial measures are to be submitted in a timely manner to Building Control to allow for reviewing prior to the submission of a completion certificate.

PLANNING

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w: www.fiddesarchitects.com | 01330 82 3332

Rev.	Date	By	Description
A	08/08/23	FC	Inclusion of Acoustic Fences as per N&VIA.

Rev.	Date	By	Description

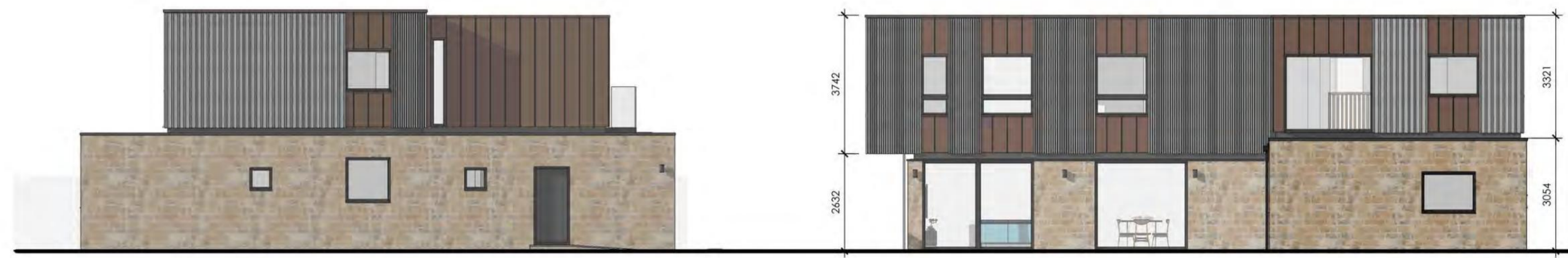
Notes
Written dimensions only to be used. Check and verify all dimensions on site before construction. Refer to all Detail Drawings and other Consultants drawings before commencing work. Refer any discrepancies to the Architects. Submit shop drawings for inspection before manufacture.

Consultants
Structural Engineers:
Email:
Tel:
Quantity Surveyor:
Tel:
Email:

Project
Glensk Housing Development.
Melville Road, Eskbank, Dalkeith, Edinburgh, Midlothian, EH22 3NJ.
Proposed Residential Development - 3 Detached Dwellings.

Contents
Proposed Master Site Plan.

Scale	Job No.	Drawing No.	Revision
A1 1:200	2201	A110	A
A3 1:400	FC	A110	08/08/23



North Elevation Plot 3
scale: 1:100

East Elevation
scale: 1:100



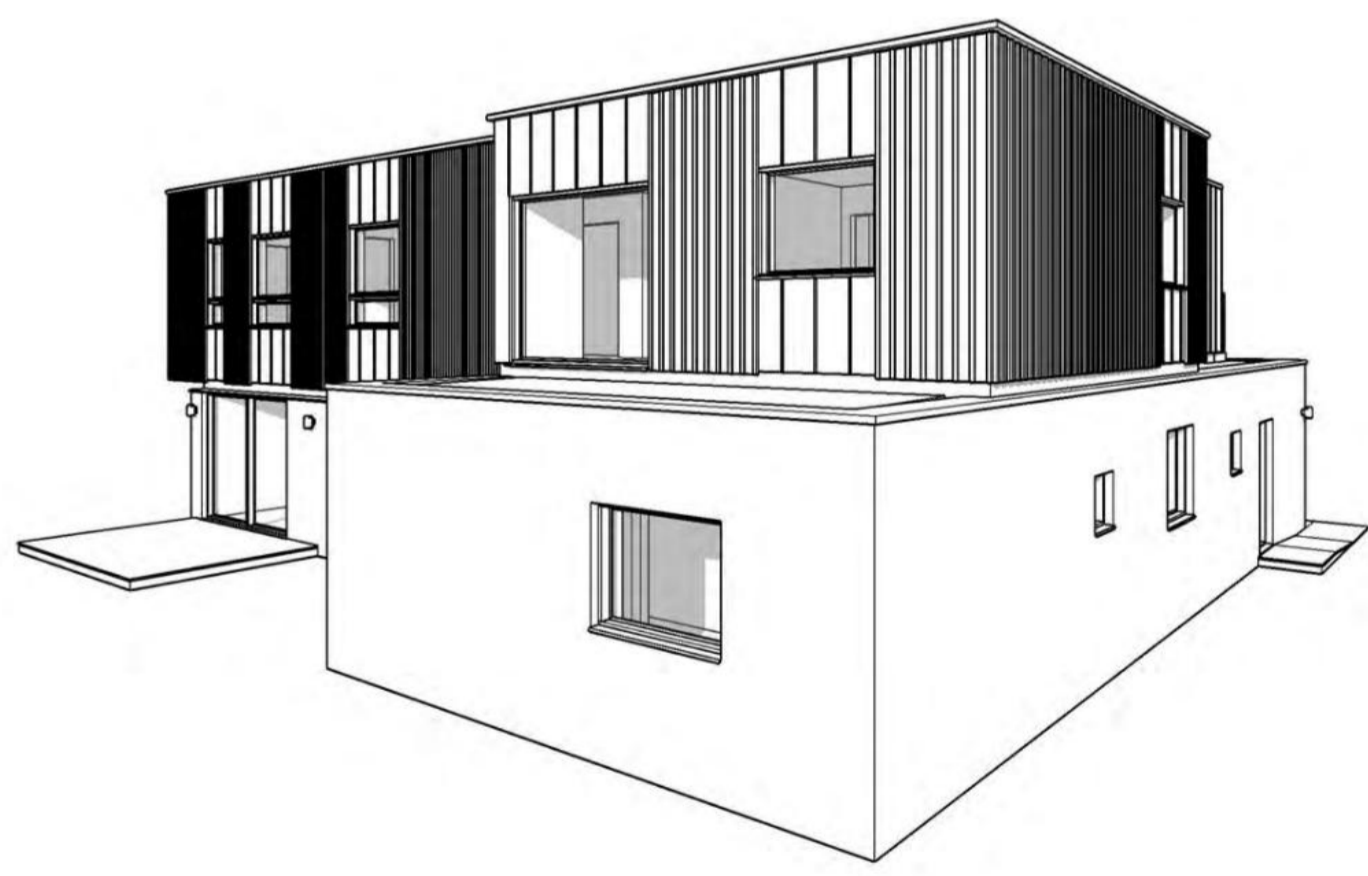
South Elevation Plot 3
scale: 1:100

West Elevation
scale: 1:100



Material Details
scale: 1:20

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Line 3Ds
scale: n/a

MM/DD/YY	REVISIONS	MM/DD/YY	REVISIONS
A	...	F	...
B	...	G	...
C	...	H	...
D	...	I	...
E	...	J	...

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PROJECT: Glenesk Housing Development
LOCATION: Melville Rd, Eskbank, EH22 3NJ
CONTENTS: Proposed Elevations - Plots 1 & 2

JOB No: 2201
PLOT DATE: 16/12/22



North Elevation Plot 3
scale: 1:100



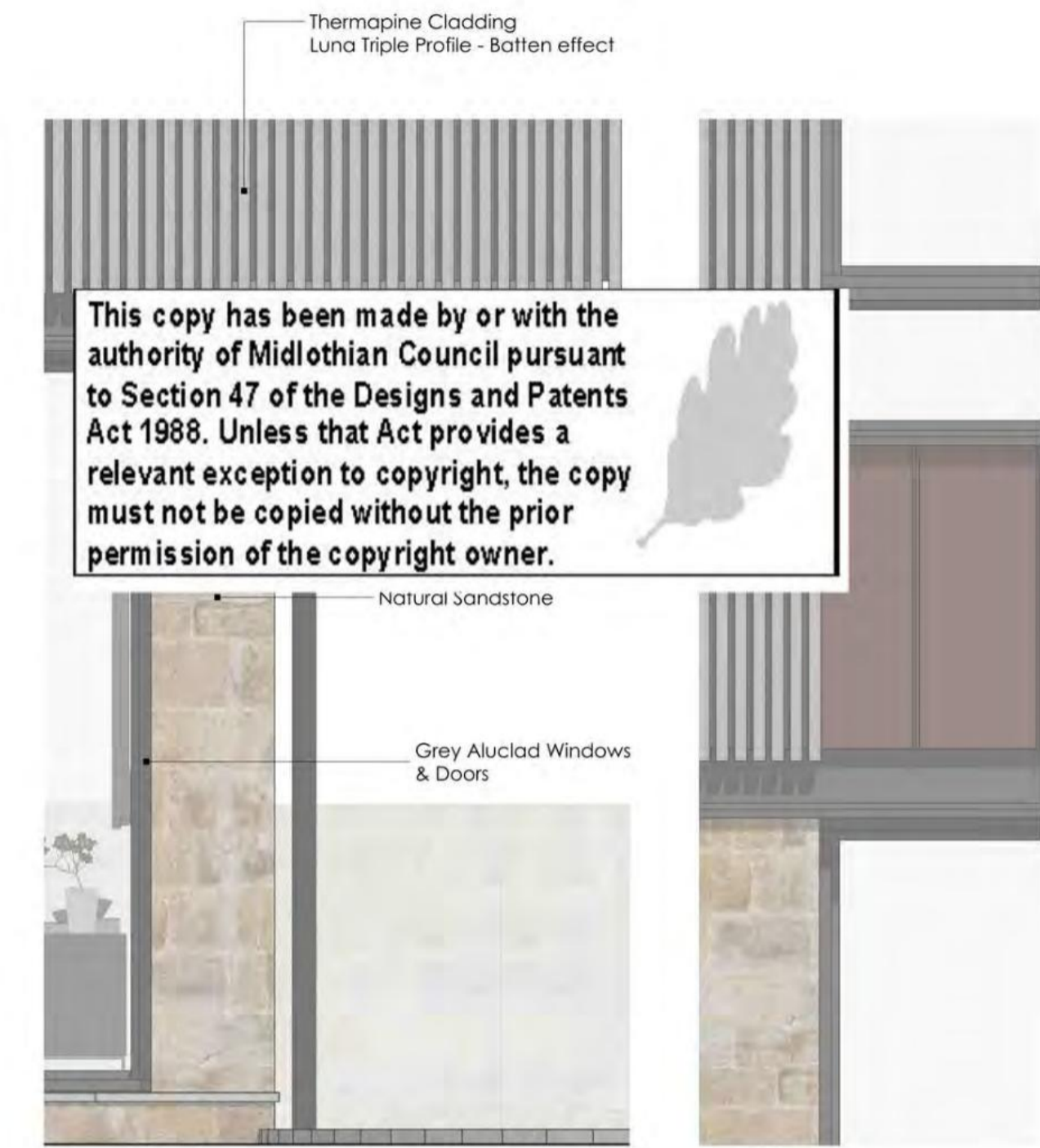
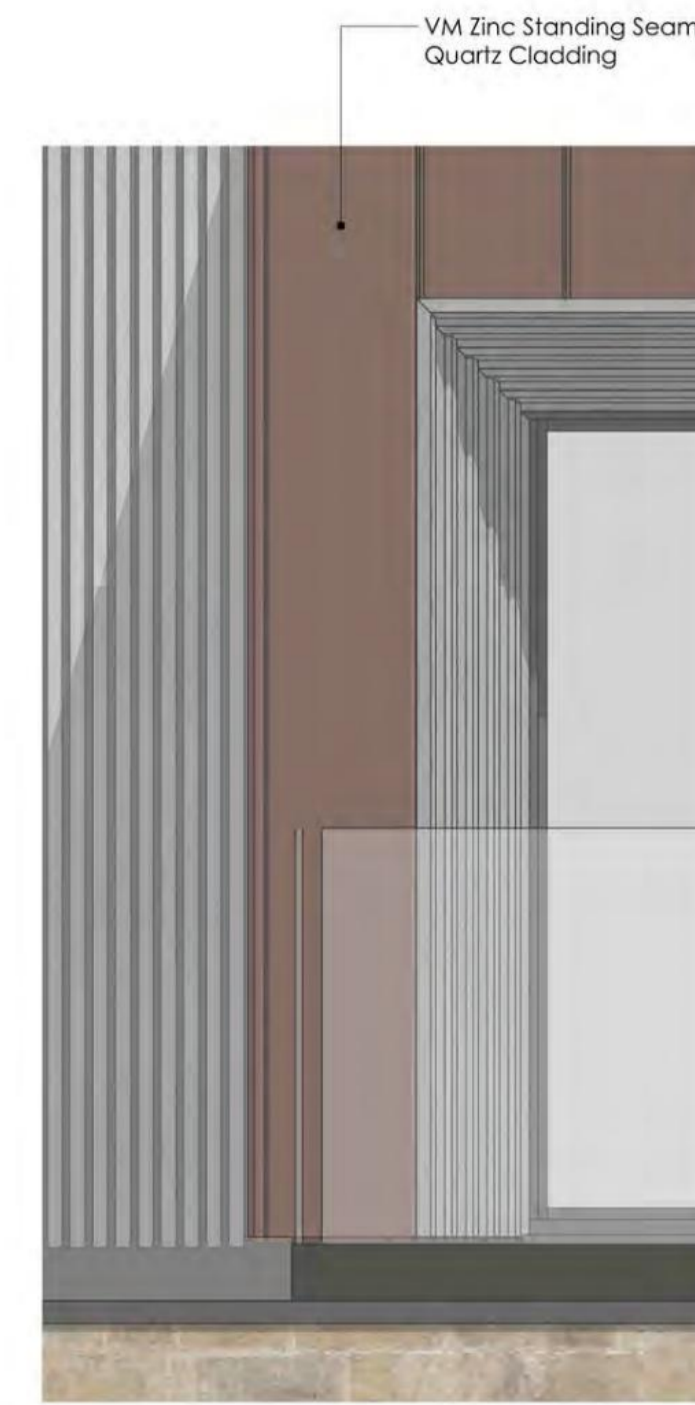
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scale: 1:100



South Elevation Plot 3
scale: 1:100



West Elevation
scale: 1:100



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scale: 1:20



Line 3Ds
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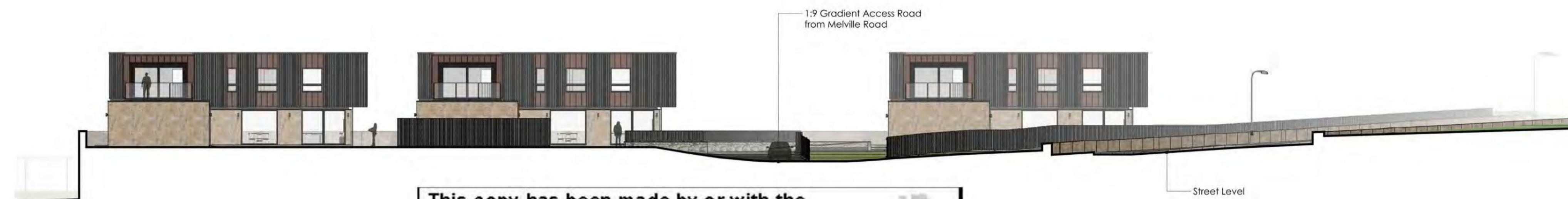
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PROJECT: Glenesk Housing Development
LOCATION: Melville Rd, Eskbank, EH22 3NJ
CONTENTS: Proposed Elevations - Plot 3

JOB No: 2201
PLOT DATE: 16/12/22

A202

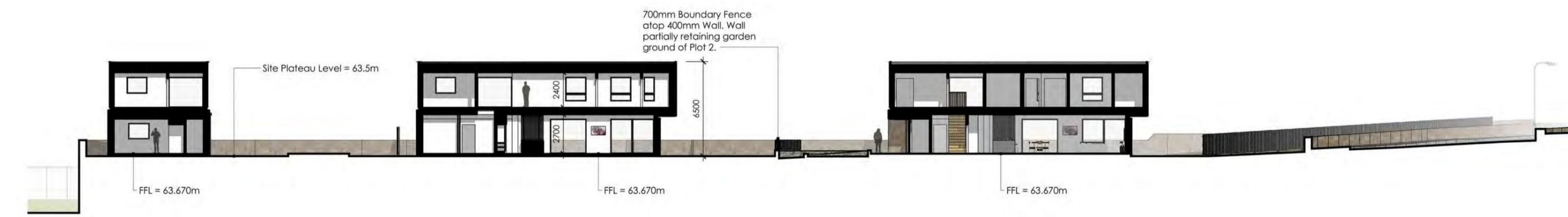


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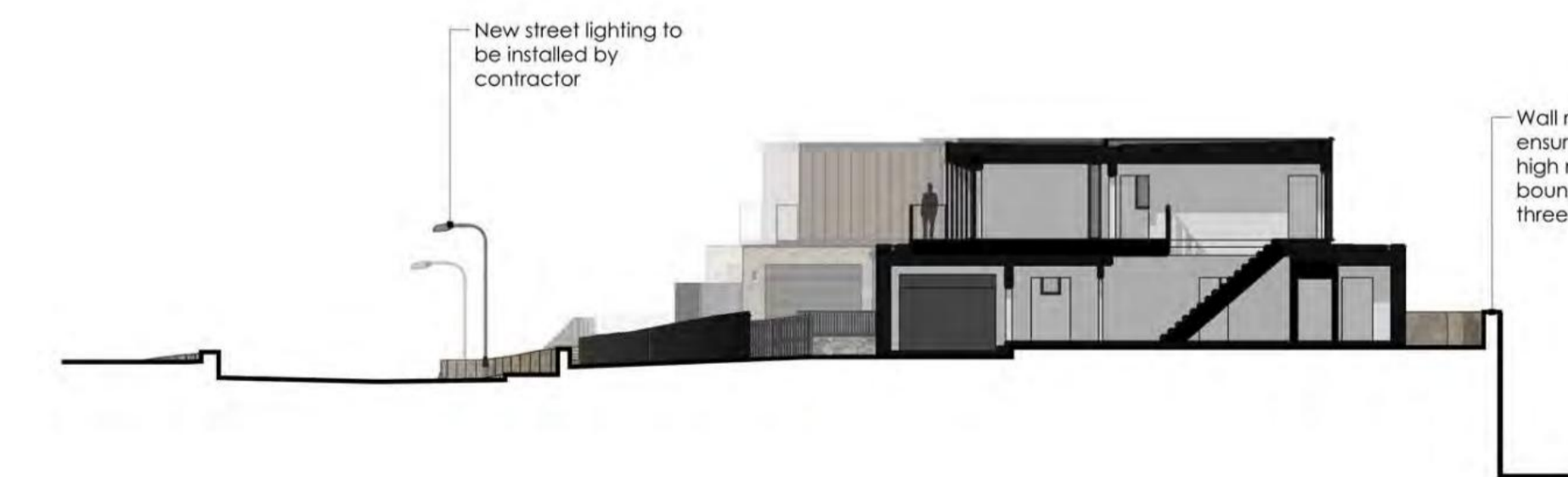
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N/S Site Section B-B
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N/S Site Section C-C
Scale: 1:200



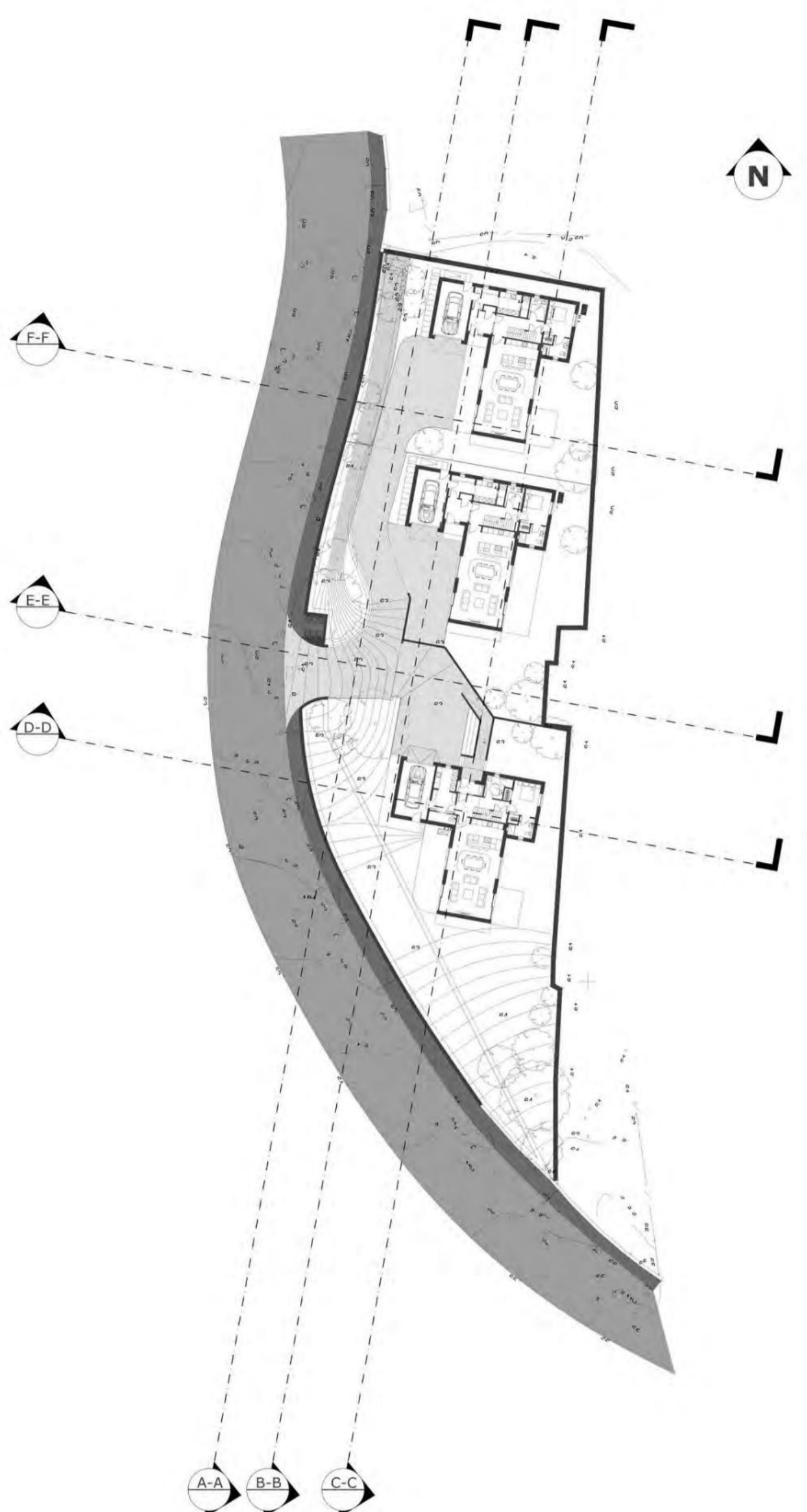
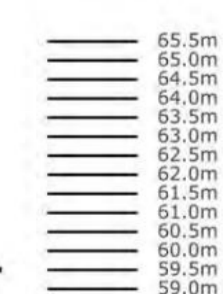
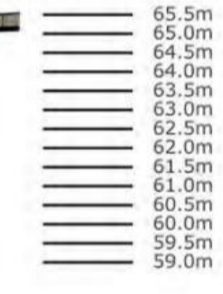
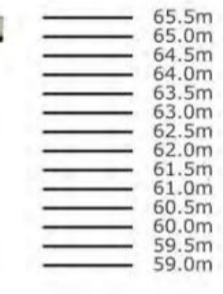
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Scale: 1:200



E/W Site Section E-E
Scale: 1:200



E/W Site Section F-F
Scale: 1:200



Site Section Site Plan
Scale: 1:500

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B	...	G	...
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PROJECT: Glenesk Housing Development
LOCATION: Melville Rd, Eskbank, EH22 3NJ
CONTENTS: Proposed Site Sections.

JOB No: 2201
PLOT DATE: 16/12/22

A132