

Notice of Meeting and Agenda



Planning Committee

Venue: Council Chambers/Hybrid,
Midlothian House, Dalkeith, EH22 1DN

Date: Tuesday, 12 September 2023

Time: 13:00

Executive Director : Place

Contact:

Clerk Name: Democratic Services
Clerk Telephone:
Clerk Email: democratic.services@midlothian.gov.uk

Further Information:

This is a meeting which is open to members of the public.

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1 Welcome, Introductions and Apologies

2 Order of Business

Including notice of new business submitted as urgent for consideration at the end of the meeting.

3 Declaration of Interest

Members should declare any financial and non-financial interests they have in the items of business for consideration, identifying the relevant agenda item and the nature of their interest.

4 Minute of Previous Meeting

- | | | |
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| 4.1 | Minute of Planning Meeting of 16 May 2023 submitted for approval | 3 - 8 |
|------------|--|-------|

5 Public Reports

- | | | |
|------------|--|---------|
| 5.1 | Land Adjacent A68 and A720 City Bypass - Advertisement Prosecution Report and Plans | 9 - 14 |
| 5.2 | 10 Kirkhill Terrace, Gorebridge - Enforcement Notice Prosecution Report and Appendices | 15 - 44 |
| 5.3 | Site Ec3 West Straiton Committee Report and Plan | 45 - 54 |
| 5.4 | Item withdrawn | |
| 5.5 | Land 100m south of Glenarch Lodge, Melville Road, Dalkeith Committee Report and Plans | 55 - 80 |

6 Private Reports

No items for discussion

7 Date of Next Meeting

The next meeting will be held on Tuesday 31 October 2023.

Minute of Meeting

Planning Committee
Tuesday 2023
Item No: 4.1



Planning Committee

Date	Time	Venue
Tuesday 16 May 2023	1.00 pm	Council Chambers, Midlothian House

Present:

Councillor McCall (Chair)	Councillor Bowen
Councillor Cassidy	Councillor Drummond
Councillor McManus	Councillor Milligan
Councillor Parry	Councillor Pottinger
Councillor Russell	Councillor Scott
Councillor Smail	Councillor Virgo
Councillor Winchester	

In Attendance:

Alan Turpie	Legal and Governance Manager
Derek Oliver	Chief Officer Place
Peter Arnsdorf	Planning, Sustainable Growth and Investment Manager
Janet Ritchie	Democratic Services Officer
Hannah Forbes	Democratic Services Assistant

1. Apologies

Apologies for absence were received from Councillor Alexander, Councillor Curran, Councillor Imrie, Councillor McEwan and Councillor McKenzie.

In the absence of the Chair, Councillor Parry, seconded by Councillor Scott nominated Councillor McCall to Chair this meeting.

2. Order of Business

The order of business was as set out in the Agenda.

3. Declarations of interest

None

4. Minutes of Previous Meetings

The minute of the meeting of 28 March 2023 was submitted and approved as a correct record subject to the following amendment, Councillors McManus and Winchester had submitted apologies and were not in attendance.

5. Reports

Agenda No	Report Title	Submitted by:
5.1	Discretionary Charging for the Planning Service	Chief Officer Place
Outline of report and summary of discussion		
<p>The purpose of the report was to inform the Committee of The Town and Country Planning (Fees for Applications) (Scotland) Regulations 2022, which came into effect on 1 April 2022, and to seek approval for new Planning Service discretionary fees to be applied for services and a surcharge to be applied to retrospective planning applications.</p> <p>The Town and Country Planning (Fees for Applications) (Scotland) Regulations 2022, which came into effect on 1 April 2022, increased the fees which were required in connection with planning applications and introduced the opportunity to apply discretionary charging for services provided by the planning authority.</p> <p>At its meeting on 21 March 2023 the Council agreed to introduce discretionary charging for the Planning Service. The discretionary charging for the Planning and Building Services was estimated to generate £16,000 for 2023/24 (£10,000 of which will be from the Planning Service).</p> <p>The Planning, Sustainable Growth and Investment Manager in responding to a question raised regarding the surcharge for retrospective planning applications advised that the surcharge of 25% was set and they were unable to charge any more than this. Also raised was Developer Contributions and it was noted that this</p>		

was under review and will be discussed with Elected Members as part of the MLDP2 workshops.

Decision

The Planning Committee approved the Planning Fees Charter.

Action

The Planning, Sustainable Growth and Investment Service Manager

Agenda No	Report Title	Submitted by:
5.2	Elected Member Workshops on National Planning Framework No. 4 And Midlothian Local Development Plan 2 and an Update on the Engagement	Chief Officer Place

Outline of report and summary of discussion

The purpose of this report was to set out the date for the upcoming Elected Member workshops on National Planning Framework No.4 (NPF4) and the Midlothian Local Development Plan 2 (MLDP2). The report also provides an update on MLDP2 work streams and seeks approval of an Engagement Plan.

At its meeting of 28 February 2023 the Committee considered a report on the National Planning Framework No.4 (NPF4) and formally launched its review of its local development plan in accordance with the indicative timescale as detailed in the report.

Following the Committee's decision on the 28 February 2023 the formal commencement of MLDP2 has been undertaken in accordance with stage 1 of the timeline and invitations to community groups to prepare Local Place Plans in accordance with stage 2 of the timeline has been undertaken. The Planning Service is now undertaking widespread engagement to inform the production of MLDP2 in accordance with stage 3 of the timeline. The plan for this engagement is set out in an Engagement Plan attached to this report as Appendix A.

Decision

The Planning Committee:

- a) Noted the details of the Elected Member workshops arranged with regards to NPF4 AND MLDP2;
- b) Approved the MLDP2 Engagement Plan (Appendix A) and
- c) Authorised the Planning, Sustainable Growth and Investment Service Manager to update the MLDP2 Engagement Plan as and when necessary.

Action

The Planning, Sustainable Growth and Investment Manager

Agenda No	Report Title	Submitted by:
5.3	Tree Preservation Order (1 of 2023) at land at the Kiln (Kiln Cottage), Quarrybank, Cousland and land at Northfield Farm, Cousland	Chief Officer Place
Outline of report and summary of discussion		
<p>This report sought the Committee's approval to confirm a Tree Preservation Order (TPO) 1 of 2023 issued on 25 January 2023 for twelve individual trees (T1 – T12) and four groups of trees (G1 to G4) at land at The Kiln (Kiln Cottage), Quarrybank, Cousland. The report also sought the Committee's approval to amend the TPO.</p> <p>At its meeting of 10 January 2023 the Committee determined to issue a TPO regarding twelve individual trees (T1 – T12) and four groups of trees (G1 to G4) at land at The Kiln (Kiln Cottage), Quarrybank, Cousland. The TPO came into effect on 25 January 2023 and continues in force for six months (until 25 July 2023) or until the Order is 'confirmed', which is the process of making the TPO permanent (until it is removed).</p> <p>Following the service of the TPO the landowners were given the opportunity to make representation. Three representations were received as set out in Section 3. In response to the consultation process and the approved works to trees application reference it is proposed to amend the TPO as set out in Section 3.11.</p> <p>There followed a brief discussion regarding the use of drones to provide better pictures and videos and Mr Oliver agreed to bring back a report on the use of drones, the training required and also the additional resource required.</p>		
Decision		
<p>The Planning Committee:</p> <ul style="list-style-type: none"> a) Confirmed the Tree Preservation Order (1 of 2023) as modified for eight individual trees (T1 – T8) and four groups of trees (G1 to G4) at land at The Kiln, Quarrybank Cousland and land at Northfield Farm, Cousland; and b) Instructed the Planning, Sustainable Growth and Investment Service Manager to carry out the necessary procedures, following confirmation and endorsement of a tree preservation order, that are required by the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006 and the Town and Country Planning (Tree Preservation Order and Trees in Conservation Areas) (Scotland) Regulations 2010. 		
Action		
Planning, Sustainable Growth and Investment Manager		

Agenda No	Report Title	Submitted by:
5.4	Pre-Application Report - Erection of Community Education Campus and Associated Works at Mayfield Nursery School (23/00245/PAC)	Chief Officer Place
Outline of report and summary of discussion		
<p>The purpose of this report was to advise the Committee of the submission of a Proposal of Application Notice (PAN) and corresponding pre application consultation for the demolition of existing buildings (Mayfield Nursey School, Saint Luke’s RC School and Mayfield Primary School) and erection of new community campus comprising denominational and non-denominational primary school, additional support needs (ASN), nursery with associated sports pitches, parking and roadways and refuse store at Mayfield Nursery School, Stone Avenue, Mayfield.</p> <p>The pre-application consultation was reported to Committee to enable Councillors to express a provisional view on the proposed major development. The report outlines the proposal, identifies the key development plan policies and material considerations and states a provisional, without prejudice, planning view regarding the principle of development.</p> <p>Elected Members welcomed this development but raised their concerns with regards to construction traffic and highway issues and drop off points that will arise once the development is completed. The Planning and Sustainable Growth and Investment Manager noted the comments made and would take back to the Developers.</p>		
Decision		
<p>The Planning Committee noted:</p> <ul style="list-style-type: none"> a) The provisional planning position set out in this report; b) That any comments made by Members will form part of the minute of the Committee meeting; and c) That the expression of a provisional view does not fetter the Committee in its consideration of any subsequent formal planning application. 		
Action		
The Planning, Sustainable Growth and Investment Manager		

6. Private Reports

No items for discussion

7. Date of Next Meeting

The next meeting will be held on Tuesday 13 June 2023 at 1.00pm

The meeting terminated at 13.25 pm



THE UNAUTHORISED DISPLAY OF AN ADVERTISEMENT THAT REQUIRES EXPRESS CONSENT ON LAND ADJOINING THE A68 SLIP ROAD/A720 CITY BYPASS

Report by Chief Officer Place

1 REPORT SUMMARY AND RECOMMENDATION

- 1.1 This report relates to the display of an unauthorised hoarding advertisement on land within the designated greenbelt adjoining the A68/A720 (on) slip road. The displaying of an advertisement that requires express consent without such consent is an offence.**
- 1.2 This report recommends that the Committee instruct the Planning, Sustainable Growth and Investment Manager to refer the case to the Crown Office and Procurator Fiscal Service for consideration to be given to prosecutorial action in relation to the parties who have displayed an advertisement without expressed consent, pursuant to Section 186 of the Town and Country Planning (Scotland) Act 1997 (by the Planning etc. (Scotland) Act 2006 and the Planning (Scotland) Act 2019). The maximum penalty on successful prosecution is a fine of up to £5,000 per offence plus £500 per day for a continuing offence after conviction.**

2 BACKGROUND

- 2.1 The site the subject of this report is within open countryside and is designated greenbelt. The advertisement in question (a large hoarding) adjoins the point where the A68 on slip road joins the A720 approaching the Sheriffhall junction.**
- 2.2 The Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984 sets out that various categories of advertisements that require express advertisement consent - the display of such an advertisement is subject to an application being made to, and assessed by, the local planning authority and approved subject to relevant conditions. Town and Country Planning (Scotland) Act 1997 provides that if a person displays an advert in contravention of the regulations, they shall be guilty of an offence.**

- 2.3 In assessing an application for express advertisement consent the local planning authority may only consider two issues: amenity and public safety. The 1984 regulations provide:

When exercising such powers, a planning authority—

- (a) shall, in the interests of amenity, determine the suitability of the use of a site for the display of advertisements in the light of the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest; and when assessing the general characteristics of the locality the authority may disregard any advertisements being displayed therein; and
- (b) shall, in the interests of public safety, have regard to the safety of persons who may use any road, railway, waterway (including any coastal waters), dock, harbour, or airfield affected or likely to be affected by any display of advertisements; and shall in particular consider whether any such display is likely to obscure, or hinder the ready interpretation of, any road traffic sign, railway signal, or aid to navigation by water or air.

- 2.4 With regard the advertisement the subject of this report, no application has been made for express consent and the advertisement has been in place for a number of months without being removed. As other local authorities have experienced, such unauthorised advertisements can proliferate close to the strategic road network if action is not taken. Over recent months the planning enforcement function have addressed a number of such unauthorised advertisements alongside the A720 City Bypass and secured their removal. It is noted that earlier in 2023 at a different site in the open countryside adjoining a major road in Midlothian the Council took formal enforcement action against the same advertiser that is the subject of this report – the operator has been asked to remove the advert and has failed to do so.

- 2.5 In relation to the two matters to be assessed by the local planning authority with regard an advertisement:
- In relation to amenity, the site is in the countryside/greenbelt which affords the land a high level of protection in terms of national and local planning policy. The erected advertisement, with no locational requirement, is incongruous and distracts from its setting whilst also introducing a commercial sporadic unplanned form to the locality.
 - In terms of public safety, it is considered that the advertisement, situated at a junction of one of the busiest parts of the strategic road network in Scotland is highly likely to provide a situation detrimental to highway safety as a potential distraction to motorist and therefore unacceptable.

3 THE LEGISLATIVE POSITION

- 3.1 Section 182 of the Town and Country Planning (Scotland) Act 1997 provides that; regulations (The Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984 which sets out which advertisements required express consent) shall make provision for restricting or regulating the display of advertisements so far as appears to the Secretary of State to be expedient in the interests of amenity or public safety. Section 186 of the Town and Country Planning (Scotland) Act 1997 provides that if any person displays an advertisement in contravention of the regulations they shall be guilty of an offence and liable on summary conviction to a fine of such an amount as may be prescribed, not exceeding level 5 (currently £5,000) on the standard scale and, in the case of a continuing offence, one-tenth of level 5 on the standard scale for each day during which the offence continues after conviction.
- 3.2 In Scotland the Crown Office and Procurator Fiscal Service (COPFS) are responsible for making decisions about prosecutorial actions. In the majority of instances, criminal offences are referred to COPFS by Police Scotland. However, other bodies who are the responsible regulatory organisation for particular legislative areas will also refer cases. This includes the Health and Safety Executive, the Scottish Environmental Protection Agency and local authorities in relation to planning and other matters.

4 OTHER CONSIDERATIONS

- 4.1 The Scottish Government Policy on planning enforcement is contained in Circular 10/2009: Planning Enforcement. It includes the following guidance that is particularly relevant to the consideration of this case:

“Planning authorities should bear in mind the statutory time limits for taking enforcement action and, in particular, the possibility that a referral to the Procurator Fiscal to determine whether to initiate a criminal prosecution may need to be made promptly in those cases where breaches have to be prosecuted within 6 months of the date on which the offence was committed. This is not the date of the alleged breach of planning control but the last date of failure to comply with the Notice requiring the breach to be remedied.”

“The integrity of the development management process depends upon the planning authority's readiness to take effective enforcement action when necessary. Public respect for the development management system is undermined if unauthorised development, which is unacceptable on its planning merits, is allowed to proceed without any apparent attempt by the planning authority to intervene before serious harm to amenity results from the breach.”

5. CONCLUSION

- 5.1 The responsibility of the outstanding breach of planning/advertisement control lies with the landowners, those responsible for placing/erecting the advertisement and those benefiting from the advert.
- 5.2 It is for COPFS to make the final decision with regard prosecutorial action against the unauthorised advertisement. The advisement in question requires express consent but is being displayed without the necessary consent and is therefore unauthorised. In relation to the two matters that that are for the local planning authority to consider in relation to advertisement - public safety and amenity, in relation to both the advertisement in question is considered to give rise to unacceptable harm given its location in open countryside/greenbelt and at the junction of two trunk roads. Despite the Council requesting the removal of the advert, it remains in situ. As noted earlier the displaying of an advertisement that requires express consent without such consent is an offence. Therefore, having regard to the guidance provided by Scottish Minsters in Circular 10/2009, the serious nature of the breach of planning control and the Council's responsibility to uphold confidence and integrity in the planning system and the rule of law, it is considered to be in the public interest for the Council to refer this case to COPFS.

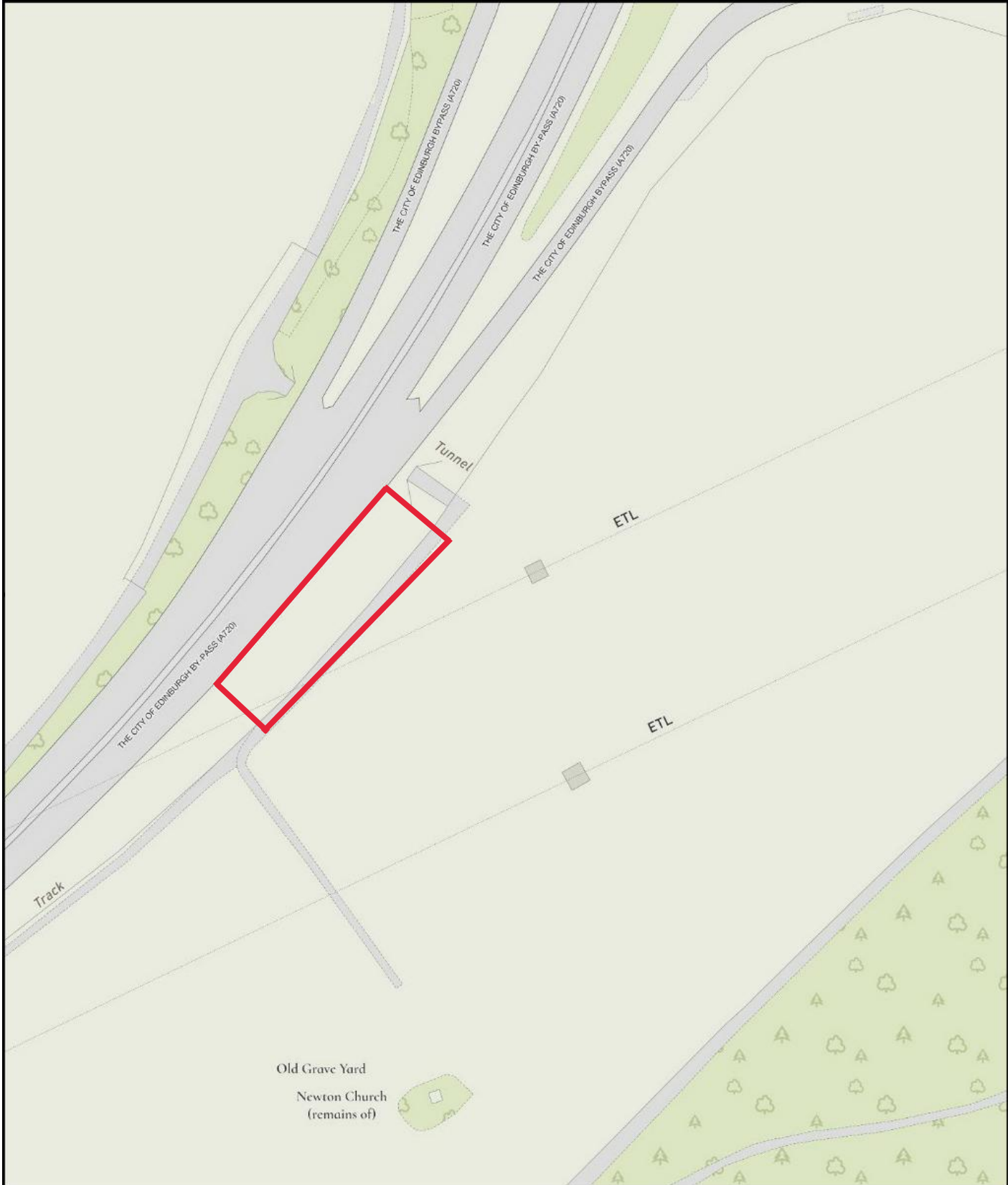
6 RECOMMENDATION

- 6.1 It is recommended that the Committee determine to instruct the Planning, Sustainable Growth and Investment Manager (or an alternatively appropriately appointed officer) to refer the case to the Crown Office and Procurator Fiscal Service for consideration of prosecutorial action pursuant to Section 186 of the Town and Country Planning (Scotland) Act 1997 as amended.

Peter Arnsdorf
Planning, Sustainable Growth and Investment Manager

Date: 1 September 2023
Contact Person: Matthew Atkins, Lead Officer Planning Obligations
matthew.atkins@midlothian.gov.uk
Attached Plan: Location plan
Appendix A: An image of the unauthorised advert.

Location Plan





 <p>Education, Economy & Communities Midlothian Council Fairfield House 8 Lothian Road Dalkeith EH22 3AA</p>	<p>Land adjacent to Millerhill Junction (Slip Road Westbound) A720 Edinburgh City Bypass</p>
<p>Reproduced from the Ordnance Survey map with the permission of the controller of Her Majesty's Stationary Office. Crown copyright reserved. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings</p>	<p>File No.</p> <p>Scale: 1:2,000</p> 
<p>Midlothian Council Licence No. 100023416 (2018)</p>	



Image from Google Earth



NON-COMPLIANCE WITH THE REQUIREMENTS OF AN ENFORCEMENT NOTICE REGARDING THE ERECTION OF AN UNAUTHORISED DWELLINGHOUSE AT 10 KIRKHILL TERRACE, GOREBRIDGE

Report by Chief Officer Place

1 REPORT SUMMARY AND RECOMMENDATION

- 1.1 This report relates to the non-compliance with the requirements of an enforcement notice served by the Council pursuant to Section 127 of the Town and Country Planning (Scotland) Act 1997, as amended (by the Planning etc. (Scotland) Act 2006 and the Planning (Scotland) Act 2019), with regard the erection of a dwellinghouse at 10 Kirkhill Terrace, Gorebridge.**
- 1.2 The enforcement notice required the alteration of an erected dwellinghouse to accord with a grant of planning permission, ref: 21/00833/DPP (option 1), or the demolition of the unauthorised erected dwellinghouse and the removal of the dismantled materials from the site (option 2). None of these steps have been taken, either by the enforcement notice compliance date of 20 April 2023 (option 1) or 20 June 2023 (option 2) or to date (at the time of drafting this report). Non-compliance with an enforcement notice constitutes an offence.**
- 1.3 This report recommends that the Committee instruct the Planning, Sustainable Growth and Investment Manager to refer the case to the Crown Office and Procurator Fiscal Service for consideration to be given to prosecutorial action in relation to the parties who have breached the enforcement notice, pursuant to Section 136 of the Town and Country Planning (Scotland) Act 1997. The maximum penalty on successful prosecution is a fine of up to £50,000 per offence.**

2 BACKGROUND

- 2.1 On 12 February 2018 planning permission was granted for the erection of a dwellinghouse at 10 Kirkhill Terrace, Gorebridge (ref: 18/00011/DPP). The proposal was to replace a previously demolished dwellinghouse located on the site. However, it became apparent during the construction process that the new building being erected did**

not accord with the grant of planning permission (18/00011/DPP) and as such was unauthorised.

- 2.2 A retrospective planning application (19/01025/DPP) for the erection of dwellinghouse, at 10 Kirkhill Terrace, Gorebridge was refused 27 January 2020 and a subsequent notice of review was dismissed by the Local Review Body (LRB) at its meeting of 27 October 2020. The planning application was refused, and subsequent review dismissed for the following reasons:

As a result of its size, massing, floor area and architectural detailing the proposed dwellinghouse is not of sufficient good design, being neither of a traditional design nor of a high-quality contemporary design. The proposed dwellinghouse would not complement or enhance the character of the area, nor would the proposed materials. This is contrary to policies DEV2 and DEV6 of the adopted Midlothian Local Development Plan 2017. In addition, the lack of a high-quality design-led approach is contrary to the terms of the Scottish Planning Policy.

- 2.3 Despite the refusal of planning permission and the LRB decision to dismiss the review the property owner has not taken action to remedy the breach of planning control and the unauthorised building remains in situ – furthermore additional works to the building were undertaken during the assessment of the 2019 application (the insertion of a large front dormer) resulting in a structure which does not even reflect the plans submitted as part of refused planning application 19/01025/DPP. As such planning contravention notices were served on the landowners - these notices were served pursuant to Section 136 of the Town and Country Planning (Scotland) Act 1997, as amended. The notices were issued as a preliminary step to serving an enforcement notice, pursuant to Section 127 of the same legislation and are a legal process to secure information from the recipients of the notice.
- 2.4 Subsequently, negotiations between the applicant, their agents and planning officers resulted in an amended planning application being submitted on 11 October 2021 (reference 21/00833/DPP) for the erection of dwellinghouse (amendment to design approved in terms of planning permission 18/00011/DPP). Planning permission was approved for the amended design on 16 December 2021. The approved plans reflect some parts of the dwellinghouse as built, however, large parts of the roof design of the as built dwellinghouse are at variance with the approved amended plans and significant alteration works are required to implement this permission, specifically, a large area of hipped roofing has been formed at both ends of the dwellinghouse located above the full extent of each integral garage. Those particular aspects remain unacceptable in planning terms and need removal.
- 2.5 In February 2022 the applicants were provided with a voluntary six-month period to remedy the breach of planning control. No steps were

taken to remedy the breach and on 18 November 2022 the Council served a planning enforcement notice pursuant to Section 127 of the Town and Country Planning (Scotland) Act 1997 on the landowner. The notice set out the steps required to remedy the breach of planning control and the compliance period for doing so. The steps required were:

- (1) Remove the unauthorised works referred to in Part 4(a) of this notice and re-form both areas such that they entirely match the integral flat roof garage details shown on both approved plans identified in Part 4(a) and attached to this notice (effectively implement planning permission 21/00833/DPP); or alternatively
- (2) Demolish the dwellinghouse subject of this notice and entirely remove all demolished materials from the land.

- 2.6 No valid appeal against the enforcement notice was submitted to the Scottish Ministers within the required prescribed period. Whilst an ostensible attempt was made by the applicants to lodge an appeal before the time limit for submitting an appeal, the Scottish Ministers ruled that it had been submitted out of time and therefore did not constitute a valid appeal. Section 134 of the 1997 Act provides the validity of an enforcement notice shall not be questioned in any proceedings whatsoever on any of the grounds specified by Section 130 (the different potential grounds for appealing an enforcement notice) except by an appeal under that section. No valid appeal was submitted therefore pursuant to Section 134 of the 1997 Act the enforcement notice is a valid notice.
- 2.7 The enforcement notice required the landowner to have either modified the building in order that it reflected the approved plans pursuant to 21/00833/DPP by 20 April 2023, or alternatively, have demolished the building by 20 June 2023 (given that it is an unauthorised building and does not have planning permissions). Following a site inspection in July 2023 it was identified that there had been no compliance with either of the notice requirements and as a consequence the landowners have been formally advised (by recorded delivery) of the consequences of non-compliance including reporting the matter to the Committee seeking authorisation to take prosecutorial action.
- 2.8 Planning permission 18/00011/DPP was not implemented and has lapsed. Planning permission 21/00833/DPP has not been implemented and will expire on 15 December 2024 if not lawfully commenced prior to this date - at this time no such commencement has taken place. It is worth reinforcing that as identified above the building that has been erected is wholly unauthorised and does not have planning permission. It is considered by officers that this case is at the particularly serious end of the spectrum in terms of breaches of planning control. The applicants had obtained planning permission for a house (18/00011/DPP) but then proceeded to build a wholly different building

which is unauthorised. Furthermore, it has been determined by both officers through the scheme of delegation and elected members through the Local Review Body to be unacceptable (the planning assessment of the development is not changed by the adoption of National Planning Framework 4). The Council has served a valid enforcement notice to remedy this matter, no valid appeal has been submitted and no attempt has been made by the landowner to comply with the enforcement notice.

- 2.9 Although not material to the planning or planning enforcement assessment of this case it is worth noting the building warrant position for completeness. A separate building warrant application for the erection of a dwellinghouse was submitted in 2018 to assess the structural integrity of the building – a warrant was issued in 2019, but not for the house as built (the landowner built a structure different that proposed in the warrant application). This application was assessed by the Council’s Building Standards Service against building regulations and technical guidance (not planning regulations and guidance). The building warrant process ensures that buildings are safe, sustainable and efficient. By contrast, the aforementioned planning applications for the erection of the dwellinghouse required to be assessed in terms of its visual impact, scale, design, materials, impact of neighbouring residential amenity and compliance with relevant planning policies. It is important to note that these are two separate regulatory regimes that operate under entirely different sets of legislation. It is therefore possible for a building warrant to be granted and express planning permission to be refused, or vice-versa. The responsibility for ensuring that building warrant plans are consistent with planning permission plans rests with an applicant(s) and their agent(s). In this particular case, an amendment to the originally granted building warrant has been submitted to try and match the proposed dwellinghouse design to that which is the subject of planning permission 21/00833/DPP, but at present this warrant application remains undetermined as the submission is technically incomplete. The building as constructed does not have a building warrant and cannot be occupied.

3 THE LEGISLATIVE POSITION

- 3.1 It is not a criminal offence for development to take place without the requisite planning permission, but it is an offence to fail to comply with an enforcement notice. There is a 6 month period from the date of the offence occurring (that is the date by which the notice should have been complied with, not the date from which the breach of planning control occurred) in which a prosecution could be potentially brought.
- 3.2 In Scotland the Crown Office and Procurator Fiscal Service (COPFS) are responsible for making decisions about prosecutorial actions. In the majority of instances, criminal offences are referred to COPFS by Police Scotland. However, other bodies who are the responsible regulatory organisation for particular legislative areas will also refer

cases. This includes the Health and Safety Executive, the Scottish Environmental Protection Agency and local authorities in relation to planning and other matters.

- 3.3 It should be noted that failure to comply with an enforcement notice is not only an offence, but also a continuing offence should a prosecution be successfully brought, a conviction secured, and the enforcement notice requirements remain outstanding. For example, if non-compliance with the enforcement notice requirements continued for a further month after conviction that would be a further 31/30 offences occurring which would bring further potential implications for a defendant in terms of further potential convictions, criminal records and levels of fines.
- 3.4 The Town and Country Planning (Scotland) 1997 Act provides that *“In determining the amount of any fine to be imposed on a person convicted of an offence under this section, the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence”*
- 3.5 The failure to comply with an enforcement notice is clearly regarded as a serious matter and understandably so by the Scottish Ministers because of its implications for the integrity of the planning system and indeed in relation to the upholding of the rule of law. The Planning (Scotland) Act 2019 which has now been enacted specifically provided for the increasing of fines for a number of enforcement related matters. In relation to enforcement notices the level of fine on successful prosecution has increased from a maximum of £20,000 to £50,000.

4 OTHER CONSIDERATIONS

- 4.1 The Scottish Government Policy on planning enforcement is contained in Circular 10/2009: Planning Enforcement. It includes the following guidance that is particularly relevant to the consideration of this case:

“Planning authorities should bear in mind the statutory time limits for taking enforcement action and, in particular, the possibility that a referral to the Procurator Fiscal to determine whether to initiate a criminal prosecution may need to be made promptly in those cases where breaches have to be prosecuted within 6 months of the date on which the offence was committed. This is not the date of the alleged breach of planning control but the last date of failure to comply with the Notice requiring the breach to be remedied.”

“The integrity of the development management process depends upon the planning authority's readiness to take effective enforcement action when necessary. Public respect for the development management system is undermined if unauthorised development, which is unacceptable on its planning merits, is allowed to proceed without any

apparent attempt by the planning authority to intervene before serious harm to amenity results from the breach.”

5. CONCLUSION

- 5.1 The responsibility of the outstanding breach of planning control lies with the landowners who decided to erect the unauthorised building without the benefit of planning permission. All of the unauthorised development which is the subject of the enforcement notice remains on site in breach of the enforcement notice requirements. The unauthorised development has been the subject of public complaint.
- 5.2 It is for COPFS to make the final decision with regard prosecutorial action against the non-compliance with an enforcement notice. In this case, unauthorised development has been carried out which does not have the benefit of planning permission. A planning application for the erection of dwellinghouse, as built, (retrospective) at 10 Kirkhill Terrace, Gorebridge was refused, and a subsequent notice of review was dismissed by the Council's LRB. The Council has lawfully served an enforcement notice in relation to unauthorised development. The notice has not been complied with within the period specified by the notice. It is an offence for an enforcement notice not to be complied with. Therefore, having regard to the guidance provided by Scottish Ministers in Circular 10/2009, the serious nature of the breach of planning control and the Council's responsibility to uphold confidence and integrity in the planning system and the rule of law, it is considered to be in the public interest for the Council to refer this case to COPFS.

6 RECOMMENDATION

- 6.1 It is recommended that the Committee determine to instruct the Planning, Sustainable Growth and Investment Manager (or an alternatively appropriately appointed officer) to refer the case to the Crown Office and Procurator Fiscal Service for consideration of prosecutorial action pursuant to Section 136 of the Town and Country Planning (Scotland) Act 1997 as amended.

Peter Arnsdorf
Planning, Sustainable Growth and Investment Manager

Date: 1 September 2023
Contact Person: Matthew Atkins, Lead Officer Planning Obligations
matthew.atkins@midlothian.gov.uk

Appendix A: A copy of the enforcement notice issued 18 November 2022 with regard 10 Kirkhill Terrace, Gorebridge;
Appendix B: Photographs of the unauthorised development at 10 Kirkhill Terrace, Gorebridge.

**IMPORTANT
THIS COMMUNICATION AFFECTS YOUR PROPERTY**

**Town and Country Planning (Scotland) Act 1997, as amended
by the Planning (Scotland) Act 2019**

ENFORCEMENT NOTICE

Issued by Midlothian Council

18 November 2022

**Ms. D Allan
10 Kirkhill Terrace
Gorebridge
Dalkeith
EH23 4LL**

1. THIS IS A FORMAL NOTICE which is issued by the Council because it appears that there has been a breach of planning control, under the terms of section 123(1)(a) of the above Act, as amended, at the land described below. The Council considers it expedient to issue this notice, having regard to the provisions of the development plan and to other material planning considerations. Schedule 1 at the end of the notice contains important information.

2. THE LAND TO WHICH THE NOTICE RELATES

Land at 10 Kirkhill Terrace, Gorebridge, EH23 4LL, as shown edged in red on the location plan attached to this notice.

3. THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL

Unauthorised works carried as part of an erection of a dwellinghouse on the land referred to in Part 2 of this notice (above). The unauthorised works having been carried out within a period of four years prior to the date of service of this Enforcement Notice (18 November 2022).

(IMPORTANT – CONTINUES ON NEXT PAGE)

4. REASONS FOR ISSUING THIS NOTICE

- (a) Planning permission (PP) for the erection of a dwellinghouse on the land subject of this notice was granted by Midlothian Council on 12 February 2018 (Reg. No. 18/00011/DPP). In December 2019, it became apparent to the planning authority that a dwellinghouse being constructed on the same land was materially different in terms of design, mass and scale to the approved PP. An amended planning application to reflect those changes (Reg. No.19/01025/DPP) was refused on 27 January 2020 and dismissed on appeal by the Council's Local Review Body on 27 October 2020. A further planning application - Reg. No. 21/00833/DPP: 'Erection of dwellinghouse (amendment to design approved in terms of planning permission 18/00011/DPP)' was granted subject to conditions on 16 December 2021. However, large parts of the roof design of the as built dwellinghouse are at variance with the approved plans for the latter PP. Specifically, a large area of hipped roofing has been formed at both ends of the dwellinghouse - located above the full extent of each integral garage. The approved roof design at those parts of the dwellinghouse being flat roofed, as shown on the relevant approved plans attached to this notice. For the avoidance of any further doubt, said approved plans are labelled "PL(2-)005 1:100" and "PL(2-)006 1:100". Both plans are also listed on the face of the PP Decision Notice (also attached). Given all of these considerations the currently erected dwellinghouse is unauthorised in planning terms.
- (b) The unauthorised works referred to in Part 4 (a) of this notice (above) add visual emphasis to the scale and mass of the approved dwellinghouse. The hipped roof design above each garage does not complement or enhance the character of the area nor does it contribute positively to the street scene or integrate with the other dwellinghouses in the area. These unauthorised works are detrimental to the character and appearance of the area and are thereby contrary to Midlothian Local Plan 2017 Policy Dev 2 'Protecting Amenity Within the Built Up Area'. Dev 2 states that development will not be permitted where it is likely to detract materially from the existing character or amenity of the area. Given all of these considerations, the unauthorised works subject of this notice are unacceptable in planning terms.
- (c) The need to voluntarily remediate the unauthorised works subject of this notice - by 28 June 2022 - was raised with the planning agent on 28 February 2022. At the date of service of this notice (18 November 2022) no remedial action has been started and the unauthorised works remain in place in their entirety.
- (a) The unauthorised works form a fundamental part of the currently erected dwellinghouse. The continued presence of these works - without taking the required enforcement action to remediate that position - would undermine the integrity and credibility of the planning, system, its democratic processes and public trust in its outcomes

(IMPORTANT – CONTINUES ON NEXT PAGE)

5. WHAT YOU ARE REQUIRED TO DO

- (1) Remove the unauthorised works referred to in Part 4(a) of this notice and re-form both areas such that they entirely match the integral flat roof garage details shown on both approved plans identified in Part 4(a) and attached to this notice, **or alternatively**
- (2) Demolish the dwellinghouse subject of this notice and entirely remove all demolished materials from the land.

6. TIME PERIOD FOR COMPLIANCE

Step 5 (a) - within 4 calendar months from when this notice takes effect, namely by 20 April 2023, **or if applicable**

Step 5 (b) - within 6 calendar months from when this notice takes effect, namely by 20 June 2023

7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on 20 December 2022 unless an appeal is made against it beforehand.

Signed



Matthew Atkins

Lead Officer Planning Obligations
Midlothian Council.

On behalf of:

Derek Oliver

Chief Officer - Place,
Midlothian Council.

Date: 18 November 2022

(IMPORTANT – CONTINUES ON NEXT PAGE)

8. YOUR RIGHT OF APPEAL

You can appeal against this notice, but any appeal must be received, or posted in time to be received by the Scottish Ministers before 20 December 2022. Any other person who has an interest in the land to which this notice relates may also appeal to the Scottish Ministers by the same date.

Schedule 1 of this notice gives information on your Right of Appeal.

9. WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this enforcement notice, it will take effect on 20 December 2022 and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period specified in the notice. Failure to comply with an enforcement notice which has taken effect can result in prosecution or the service of a Fixed Penalty Notice on the relevant person(s) who have not complied with its requirements. Failure to comply with an enforcement notice which has taken effect may also result in the Council taking direct action to correct the breach.

(IMPORTANT – CONTINUES ON NEXT PAGE)

SCHEDULE 1

EXPLANATORY NOTE FOR THOSE IN RECEIPT OF AN ENFORCEMENT NOTICE

RELEVANT LEGISLATION

A copy of Sections 123, 124, 127-139 of the Town & Country Planning (Scotland) Act 1997, as amended by the Planning (Scotland) Act 2019 is attached. You may wish to note in particular the points referred to below.

RIGHT OF APPEAL

If you wish to appeal against this notice, you should write to Planning and Environmental Appeals Division, Ground Floor, Hadrian House, Callendar Business Park, Callendar Road, Falkirk, FK1 1XR. The appeal must be received, or posted in time to be received by the Scottish Ministers before the date on which this notice takes effect. The Scottish Ministers have no power to consider an appeal lodged out of time.

The appeal, which must be made in writing, must be based on one or more of the grounds set out in section 130 of the Town & Country Planning (Scotland) Act 1997, as amended by the Planning (Scotland) Act 2019. If you decide to appeal you should state the facts on which you propose to rely in support of each of the grounds of appeal. The grounds of appeal and the statement of facts must be submitted with your appeal or within fourteen days of your being required to do so by the Scottish Ministers.

If you lodge an appeal, the enforcement notice is suspended and will not take effect unless the appeal is withdrawn or dismissed.

PENALTIES FOR NON-COMPLIANCE WITH AN ENFORCEMENT NOTICE

Where an enforcement notice requires the discontinuance of a use of land or compliance, in respect of a use of land or the carrying out of operations, with any conditions or limitation, then any person who, without the grant of planning permission uses the land or causes or permits it to be used, or carries out these operations or causes or permits them to be carried out, is guilty of an offence and liable on summary conviction to a fine not exceeding £50,000 or on conviction on indictment to an unlimited fine. If the use or operations are continued after conviction, the person may be convicted of a second or subsequent offence. In determining the amount of any fine for any convicted person, in either circumstance, the court shall in particular have regard to any financial benefit that has accrued - or appears likely to accrue - to any person who has committed the offence. That consideration will similarly apply to the level of fine imposed by the court on any convicted person who complies with an enforcement notice requiring the removal or alteration of a building(s) or works, in cases where the building(s) or works are subsequently re-instated or restored at any time after the compliance date.

(IMPORTANT – CONTINUES ON NEXT PAGE)

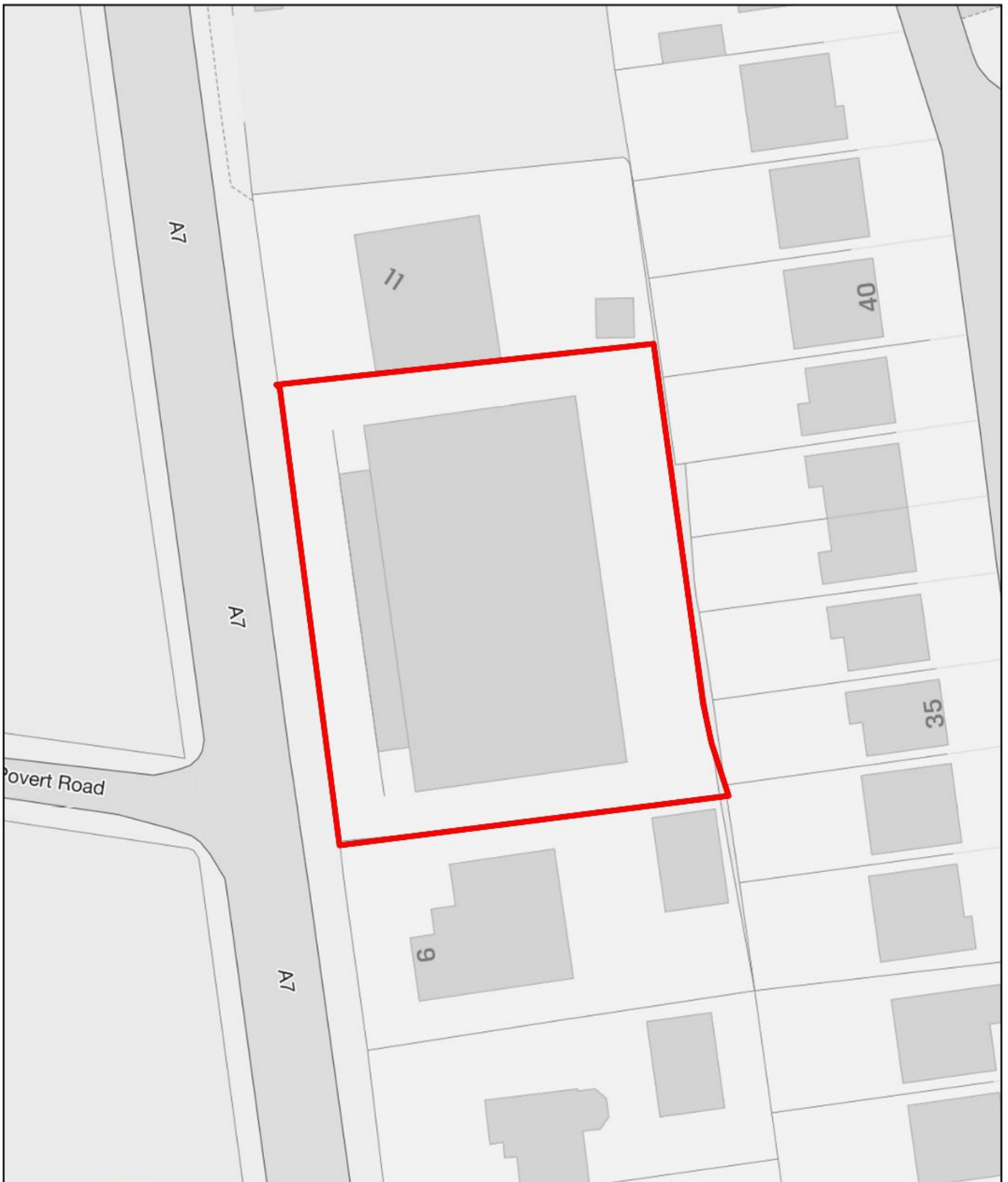
As an alternative to prosecution the Council may serve a Fixed Penalty Notice. This requires payment of a fine to be made within 30 days of its service, which will be retained by them. The level of fine is £2,000 for non-compliance with an enforcement notice. If payment is made within the first 15 days following service of a Fixed Penalty Notice the amount to be paid to the Council is reduced to £1,500.

DIRECT ACTION FOR NON-COMPLIANCE WITH AN ENFORCEMENT NOTICE

If the steps required by an enforcement notice are not taken within the specified period(s) the Council may also enter on the land, take those steps and recover the costs involved, from the owner or lessee of the land.

FURTHER OFFENCES

Compliance with the terms of an enforcement notice does not discharge that notice. It will continue in effect and any repetition of the breach of control may incur further penalties or may result in direct action by the Council.



Midlothian

**Planning Service
Place Directorate**
Midlothian Council
Fairfield House
8 Lothian Road
Dalkeith
EH22 3AA

Enforcement Notice

Land at 10 Kirhill Terrace, Gorebridge

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File Ref. : E/22/41

Midlothian Council Licence No. 100023416 (2019)

Planning Permission

Town and Country Planning (Scotland) Act 1997

Reg. No. 21/00833/DPP



Kenneth Reid Architects
39 Braid Farm Road
Edinburgh
EH10 6LE

Midlothian Council, as Planning Authority, having considered the application by Ms D Allan, 10 Kirkhill Terrace, Gorebridge, EH23 4LL, which was registered on 20 October 2021, in pursuance of their powers under the above Acts, hereby grant permission to carry out the following proposed development:

Erection of dwellinghouse (amendment to design approved in terms of planning permission 18/00011/DPP) at Land At 10 Kirkhill Terrace, Gorebridge

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

<u>Document/Drawing</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan, Site Plan	PL(2-)001 1:1250 1:500	20.10.2021
Site Plan	1707_A_050 1:100	20.10.2021
Proposed Floor Plan	PL(2-)002A 1:100	05.11.2021
Proposed Floor Plan	PL(2-)003A 1:100	05.11.2021
Proposed Elevations	PL(2-)005 1:100	20.10.2021
Proposed Elevations	PL(2-)006 1:100	20.10.2021
Proposed Cross Section	PL(2-)004A 1:200 1:100	05.11.2021
Proposed Cross Section	PL(2-)007 1:100	05.11.2021

This permission is granted for the following reason:

The proposed development would not detract from the character, amenity or appearance of the surrounding area or result in the loss of amenity to any surrounding properties and so complies STRAT2, DEV2 and DEV6 of the adopted Midlothian Local Development Plan 2017.

Subject to the following conditions:

1. Within one month of the date of planning permission being issued, the following details shall be submitted to and approved in writing by the Planning Authority:
 - a) Details of the materials of the window frames and doors;
 - b) Details of the proposed external materials, including a plan showing where these are proposed on the house hereby approved;
 - c) Details of all proposed walls, fences, gates or other means of enclosure, including position, design, dimensions and materials; and
 - d) Details of all hardstanding materials.

Reason: *These details were not submitted with the original application; to ensure the proposal is in keeping with the character and amenity of the surrounding area.*

2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (or any Order revoking and re-enacting that Order) no openings shall be installed on the north, south or east elevations of the dwellinghouse hereby approved, including the roof, other than those shown on approved drawing numbers PL(2-)005 and PL(2-)006 unless planning permission is granted by the Planning Authority.

Reason: *In order to limit overlooking between the proposed house and the neighbouring properties; to ensure that any new openings do not result in the loss of privacy to either set of occupants.*

Dated 16 / 12 / 2021



.....
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
Email: planningconsultation@coal.gov.uk
Website: www.gov.uk/coalauthority

STANDING ADVICE

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:
www.gov.uk/government/organisations/the-coal-authority

Standing Advice valid from 1st January 2021 until 31st December 2022

PLEASE NOTE

This permission does not carry with it any necessary consent or approval to the proposed development which may be required under the Building (Scotland) Acts and Regulations or under any other Statutory Enactment.

If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town & Country Planning (Scotland) Act 1997 within 3 months from the date of this notice. The notice of review should be addressed to The Planning, Sustainable Growth and Investment Manager, Planning, Sustainable Growth and Investment Service, Midlothian Council, Fairfield House, 8 Lothian Road, Dalkeith, EH22 3ZN. A notice of review form is available from the same address and will also be made available online at www.midlothian.gov.uk

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

Duration of Planning Permission and/or Listed Building Consent

The permission hereby approved lapses on the expiration of a period of either:

- a) three years from the date of this decision notice, if the permission is for **detailed planning permission (DPP)** or **listed building consent (LBC)** as specified in Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended by Planning etc (Scotland) Act 2006); or
- b) two years from the date of approval by the planning authority of the last application for matters specified in conditions to be approved if the permission is for **planning permission in principle (PPP)** as specified in Section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended by Planning etc (Scotland) Act 2006). Applications for approval of matters specified in conditions shall be made to the planning authority within three years from the date of this permission.

Prior to any work taking place on site all pre commencement conditions attached to a grant of planning permission must be agreed in writing with the planning authority. Failure to do so could result in any development works taking place being unauthorised and undertaken at your own risk and expense.

The Felling of Trees

Where full planning permission authorises the felling of trees on a development site, no further consent is required under the Forestry Act 1967 (as amended). However, developers should note that any tree felling not expressly authorised by full planning permission, and not exempted, requires a felling licence granted under the Forestry Act 1967 (as amended).

Developers should note that any felling carried out without either a licence or other valid permission is an offence. This can mean, on conviction, a fine of up to £2,500 (level 4 on the standard scale) or twice the value of the trees, whichever is higher with the conviction being recorded.

Contact your local Forestry Commission Scotland Office if you are not certain whether exemptions apply. You can get an application form for a felling licence from the Forestry Commission website www.forestry.gov.uk or any Forestry Commission Scotland Office.

Prior to Commencement (Notice of Initiation of Development)

Prior to the development commencing the planning authority shall be notified in writing of the expected commencement of work date and once development on site has been completed the planning authority shall be notified of the completion of works date in writing. Failure to do so would be a breach of planning control under section 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended by the Planning etc (Scotland) Act 2006). A copy of the Notice of Initiation of Development is available on the Council's web site www.midlothian.gov.uk

IMPORTANT NOTE REGARDING PUBLIC ACCESS TO INFORMATION

Making an application

Please note that when you submit a planning application, the information will appear on the Planning Register and the completed forms and any associated documentation will also be published on the Council's website.

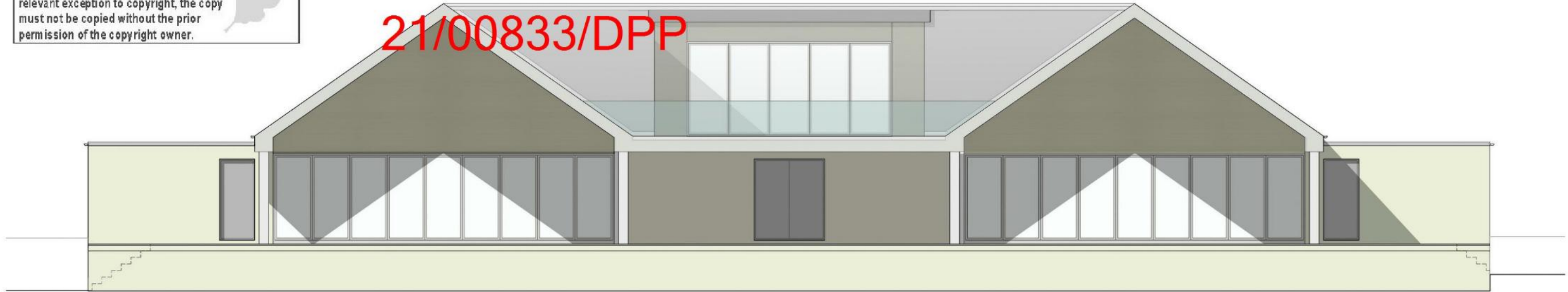
Making comment on an application

Please note that any information, consultation response, objection or supporting letters submitted in relation to a planning application, will be published on the Council's website.

The planning authority will redact personal information in accordance with its redaction policy and use its discretion to redact any comments or information it considers to be derogatory or offensive. However, it is important to note that the publishing of comments and views expressed in letters and reports submitted by applicants, consultees and representors on the Council's website, does not mean that the planning authority agrees or endorses these views, or confirms any statements of fact to be correct.

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APPROVED
16.12.2021
21/00833/DPP



West

ROOF

- Slate Roof
- Galvanised gutters and downpipes
- Grey fascias
- Composite Boarding

WALLS

- Random Rubble stone dwarf wall (to match existing wall to road)
- Natural coursed sandstone walling with polished quoins, cills, inbands and outbands

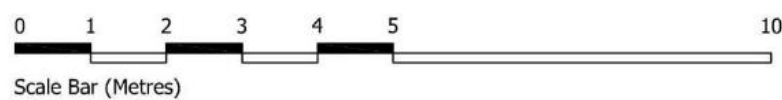
WINDOWS, DOORS & FEATURES

- Grey framed glazed window/doors
- Grey coloured panelled external doors
- Grey coloured garage doors
- Glazed balustrade



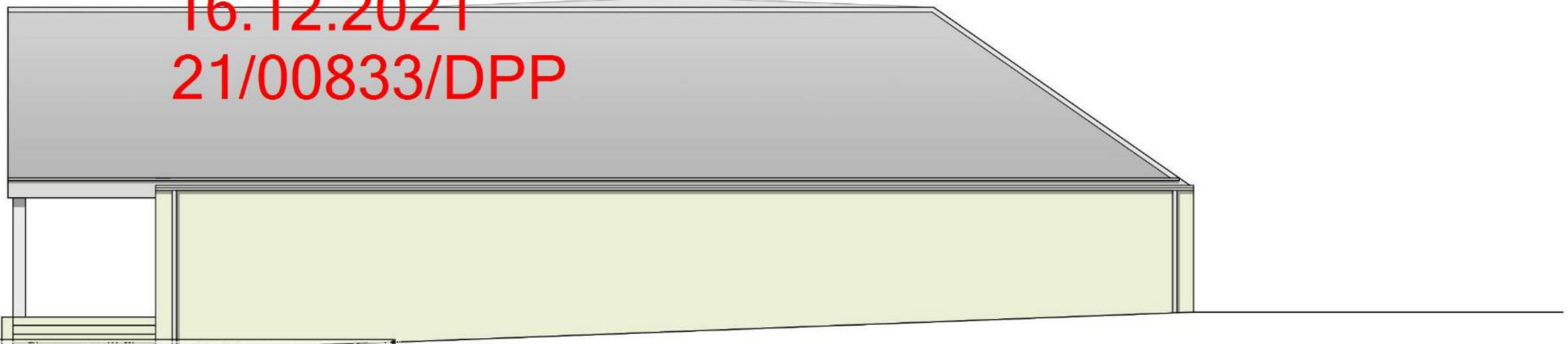
East

1:100



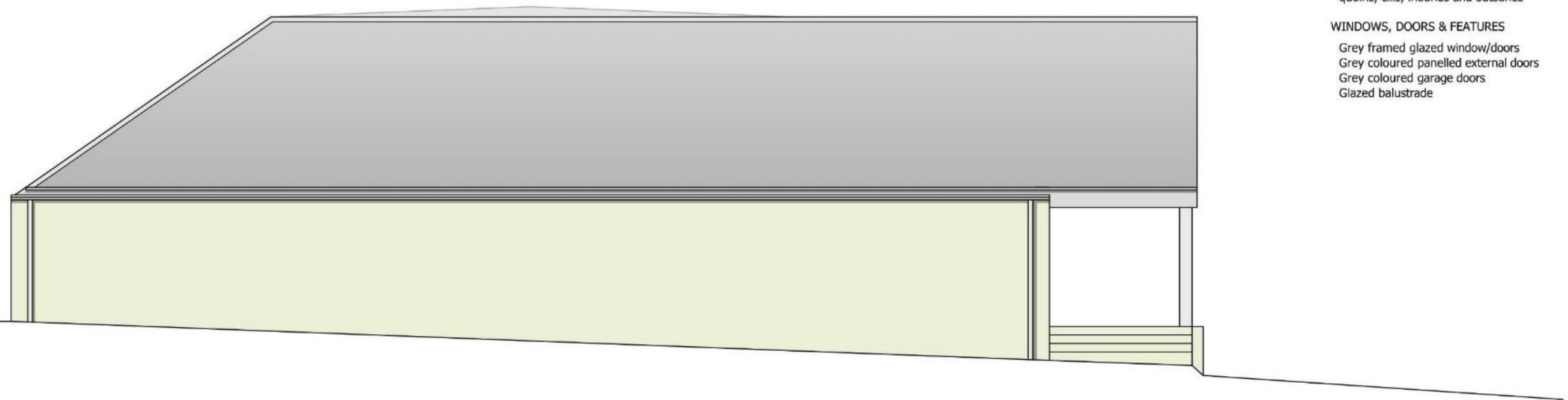
REV.	DESCRIPTION	DATE	DRAWN	CHECKED	STAGE	STATUS	PROJECT	DRAWING TITLE	Consulted architects and interior designers	DATE	SCALE	DRAWN	CHECKED
					PLANNING	FORMAL	10 KIRKHILL TERRACE GOREBRIDGE	PROPOSED ELEVATIONS 1	The Design Place One 30 Wood Farm Road Edinburgh EH10 6LE T: 0131 462 8900 F: 0131 462 8361 acm@kennethreid.co.uk www.kennethreid.co.uk	OCT 2021	1:100@A3	FC	KR
					CLIENT				KRA KENNETH REID ARCHITECTS	CONTRACT NO. 1466	DRAWING NO. PL(2-)005		REVISION -
© KENNETH REID ARCHITECTS - DO NOT SCALE DRAWING - ALL DIMENSIONS TO BE CONFIRMED ON SITE													

APPROVED
16.12.2021
21/00833/DPP



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- ROOF**
- Slate Roof
 - Gavanised gutters and downpipes
 - Grey fascias
 - Composite Boarding
- WALLS**
- Random Rubble stone dwarf wall (to match existing wall to road)
 - Natural coursed sandstone walling with polished quoins, cills, inbands and outbands
- WINDOWS, DOORS & FEATURES**
- Grey framed glazed window/doors
 - Grey coloured panelled external doors
 - Grey coloured garage doors
 - Glazed balustrade



North

1:100



REV.	DESCRIPTION	DATE	DRAWN	CHECKED	STAGE	STATUS	PROJECT	DRAWING TITLE	Consulted architects and interior designers The Design Place One 30 Reed Farm Road Edinburgh EH10 6LE T: 0131 462 8900 F: 0131 462 8361 acm@kennethreid.co.uk www.kennethreid.co.uk		DATE	SCALE	DRAWN	CHECKED
					PLANNING	FORMAL	10 KIRKHILL TERRACE GOREBRIDGE	PROPOSED ELEVATIONS 2			OCT 2021	1:100@A3	FC	KR
					CLIENT						CONTRACT NO.	DRAWING NO.	REVISION	
					Ms ALLAN						1466	PL(2-)-006	-	

PART VI ENFORCEMENT			
<i>Application</i>			
Expressions used in connection with enforcement	123	(1)	For the purposes of this Act -
		(a)	carrying out development without the required planning permission, or
		(b)	failing to comply with any condition or limitation subject to which planning permission has been granted, or
		(c)	initiating development without giving notice in accordance with section 27A (1) of this Act, or
		(d)	carrying out development without displaying a notice in accordance with section 27C (1) of this Act
			constitutes a breach of planning control.
		(2)	For the purposes of this Act -
		(a)	the issue of an enforcement notice, or
		(b)	the service of a breach of condition notice,
			under this Part constitutes taking enforcement action as does the issuing of a notice under section 33A
		(3)	In this Part “planning permission” includes planning permission under Part III of the 1947 Act and Part III of the 1972 Act.
Time Limits	124	(1)	Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of 4 years beginning with the date on which the operations were substantially completed.
		(2)	Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of 4 years beginning with the date of the breach.
		(3)	In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of 10 years beginning with the date of the breach.
		(4)	Subsections (1) to (3) do not prevent -
		(a)	the service of a breach of condition notice in respect of any breach of planning control if an enforcement notice in respect of the breach is in effect, or
		(b)	taking further enforcement action in respect of any breach of planning control if, during the period of 4 years ending with that action being taken, the planning authority have taken or purported to take enforcement action in respect of that breach.
Enforcement Notices			
Issue of enforcement notice	127	(1)	The planning authority may issue a notice (in this Act referred to as an “enforcement notice”) where it appears to them –
		(a)	that there has been a breach of planning control, and
		(b)	that it is expedient to issue the notice, having regard to the provisions of the development plan and to any other material considerations.
		(2)	A copy of an enforcement notice shall be served -
		(a)	on the owner and on the occupier of the land to which it relates, and
		(b)	on any other person having an interest in the land, being an interest which, in the opinion of the authority, is materially affected by the notice.

		(3)	The service of the notice shall take place -
		(a)	not more than 28 days after its date of issue, and
		(b)	not less than 28 days before the date specified in it as the date on which it is to take effect.
Contents and effect of notice	128	(1)	An enforcement notice shall state -
		(a)	the matters which appear to the planning authority to constitute the breach of planning control, and
		(b)	the paragraph of section 123(1) within which, in the opinion of the authority, the breach falls.
		(2)	A notice complies with subsection (1) (a) if it enables any person on whom a copy of it is served to know what those matters are.
		(3)	An enforcement notice shall specify the steps which the authority require to be taken, or the activities which the authority require to cease, in order to achieve, wholly or partly, any of the following purposes.
		(4)	Those purposes are –
		(a)	remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land by discontinuing any use of the land or by restoring the land to its condition before the breach took place; or
		(b)	remedying any injury to amenity which has been caused by the breach.
		(5)	An enforcement notice may, for example, require -
		(a)	the alteration or removal of any buildings or works,
		(b)	the alteration or removal of any buildings or works,
		(c)	any activity on the land not to be carried on except to the extent specified in the notice, or
		(d)	the contour of a deposit of refuse of waste materials on land to be modified by altering the gradient or gradients of its sides.
		(6)	An enforcement notice issued in respect of a breach of planning control consisting of demolition of a building may require the construction of a building (in this section referred to as a “replacement building”) which, subject to subsection (7) is as similar as possible to the demolished building.
		(7)	A replacement building -
		(a)	must comply with any requirement imposed by or under any enactment applicable to the construction of buildings,
		(b)	may differ from the demolished building in any respect which, if the demolished building had been altered in that respect, would not have constituted a breach of planning control, and
		(c)	must comply with any regulations made for the purposes of this subsection (including regulations modifying paragraphs (a) and (b) of this subsection).
		(8)	An enforcement notice shall specify the date on which it is to take effect and, subject to section 131(3), shall take effect on that date.
		(9)	An enforcement notice shall specify the period for compliance with the notice at the end of which any steps are required to have been taken or any activities are required to have ceased, and may specify different periods for different steps or activities.
		(10)	Where different periods apply to different steps or activities, references in this Part to the period for compliance with an enforcement notice, in relation to any step or activity, are to the period at the end of which the step is required to have been taken or the activity is required to have ceased.
		(11)	An enforcement notice shall specify such additional matters as may be prescribed.

		(12)	Regulations may require every copy of an enforcement notice served under section 127 to be accompanied by an explanatory note giving prescribed information as to the right of appeal under section 130.
		(13)	Where
		(a)	an enforcement notice in respect of any breach of planning control could have required any buildings or works to be removed or any activity to cease, but does not do so, and
		(b)	all the requirements of the notice have been complied with,
			then, so far as the notice did not so require, planning permission shall be treated as having been granted under section 33 in respect of development consisting of the construction of the buildings or works or, as the case may be, the carrying out of the activities.
		(14)	Where -
		(a)	an enforcement notice requires the construction of a replacement building, and
		(b)	all the requirements of the notice with respect to that construction have been complied with,
			planning permission shall be treated as having been granted under section 33 in respect of development consisting of that construction.
Variation and withdrawal of enforcement notice	129	(1)	The planning authority may -
		(a)	withdraw an enforcement notice issued by them, or
		(b)	waive or relax any requirement of such a notice and, in particular, may extend any period specified in accordance with section 128(9).
		(2)	The powers conferred by subsection (1) may be exercised whether or not the notice has taken effect.
		(3)	The planning authority shall, immediately after exercising the powers conferred by subsection (1), give notice of the exercise to every person who has been served with a copy of the enforcement notice or would, if the notice were reissued, be served with a copy of it.
		(4)	The withdrawal of an enforcement notice does not affect the power of the planning authority to issue a further enforcement notice.
Appeal against enforcement notice	130	(1)	A person on whom an enforcement notice is served or any other person having an interest in the land may, at any time before the date specified in the notice as the date on which it is to take effect, appeal to the Secretary of State against the notice on any of the following grounds -
		(a)	Repealed by 2006 Act.
		(b)	that the matters which, by virtue of section 128(1)(a) have been stated in the notice, have not occurred;
		(c)	That the matters (if they occurred) do not constitute a breach of planning control;
		(d)	that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;
		(e)	that copies of the enforcement notice were not served as required by section 127;
		(f)	that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;
		(g)	that any period specified in the notice in accordance with section 128(9) falls short of what should reasonably be allowed.
		(2)	An appeal under this section shall be made -

			(a)	by giving written notice of the appeal to the Secretary of State before the date specified in the enforcement notice as the date on which it is to take effect, or
			(b)	by sending such notice to him in a properly addressed and prepaid letter posted to him at such time that, in the ordinary course of post, it would be delivered to him before that date ; or
			(c)	by sending such notice to them using electronic communications at such time that, in the ordinary course of transmission, it would be delivered to them before that date
		(3)		A person who gives notice under subsection (2) shall submit to the Secretary of State, either when giving the notice or within the prescribed time, a statement in writing -
			(a)	specifying the grounds on which he is appealing against the enforcement notice, and
			(b)	giving such further information as may be prescribed.
Appeals: supplementary provisions	131	(1)		The Secretary of State may by regulations prescribe the procedure which is to be followed on appeals under section 130 and, in particular, but without prejudice to the generality of the foregoing provisions of this subsection, in so prescribing may -
			(a)	specify the matters on which information is to be given in a statement under section 130(3);
			(b)	require the planning authority to submit, within such time as may be specified, a statement indicating the submissions which they propose to put forward on the appeal;
			(c)	specify the matters to be included in such a statement;
			(d)	require the authority or the appellant to give such notice of an appeal as may be specified to such persons as may be specified;
			(e)	require the authority to send to the Secretary of State, within such period from the date of the bringing of the appeal as may be specified, a copy of the enforcement notice and a list of the persons served with copies of it.
		(2)		Repealed by 2006 Act
		(3)		Where an appeal is brought under section 130 the enforcement notice shall be of no effect pending the final determination or the withdrawal of the appeal.
		(4)		Schedule 4 applies to appeals under section 130, including appeals under that section as applied by regulations under any other provisions of this Act.

General provisions relating to determination of appeals	132	(1)	On the determination of an appeal under section 130, the Secretary of State shall give directions for giving effect to the determination, including, where appropriate, directions for quashing the enforcement notice.
		(2)	On such an appeal the Secretary of State may -
		(a)	correct any defect, error or misdescription in the enforcement notice, or
		(b)	vary the terms of the enforcement notice,
			if he is satisfied that the correction or variation will not cause injustice to the appellant or the planning authority.
		(3)	The Secretary of State may -
		(a)	dismiss an appeal if the appellant fails to comply with section 130(3) within the prescribed time, and
		(b)	allow an appeal and quash the enforcement notice if the planning authority fail to comply with any requirement imposed by virtue of paragraph (b), (c) or (e) of section 131(1).
		(4)	Where it would otherwise be a ground for determining an appeal in favour of the appellant that a person required by section 127(2) to be served with a copy of the enforcement notice was not served, the Secretary of State may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.

Grant or modification of planning permission on appeal against enforcement notice.	133	(1)	On the determination of an appeal under section 130, the Secretary of State may
		(a)	Repealed by 2006 Act
		(b)	Repealed by 2006 Act
		(c)	Repealed by 2006 Act
		(d)	determine whether on the date on which the appeal was made, any existing use of the land was lawful, any operations which had been carried out in, on, over or under the land were lawful or any matter constituting a failure to comply with any condition or limitation subject to which the permission was granted was lawful and, if so, issue a certificate under section 150.
		(2)	The provision of sections 150 to 153 mentioned in subsection (3) shall apply for the purposes of subsection (1)(d) as they apply for the purposes of section 150, but as if -
		(a)	any reference to an application for a certificate were a reference to the appeal and any reference to the date of such an application were a reference to the date on which the appeal is made, and
		(b)	references to the planning authority were references to the Secretary of State.
		(3)	Those provisions are sections 150(5) to (7), 152(4) (so far as it relates to the form of the certificate), (6) and (7) and 153.
		(4)	Repealed by 2006 Act.
		(5)	Repealed by 2006 Act.
		(6)	Repealed by 2006 Act.
		(7)	Repealed by 2006 Act.
		(8)	Repealed by 2006 Act.
		(9)	Repealed by 2006 Act.
		(10)	Repealed by 2006 Act.
		(11)	Repealed by 2006 Act.
Validity of enforcement notices	134		The validity of an enforcement notice shall not be questioned in any proceedings whatsoever on any of the grounds specified in section 130(1) (b) to (e) except by appeal under that section.
Execution and cost of works required by enforcement notice	135	(1)	If any steps which are required by an enforcement notice to be taken have not been taken within the compliance period, the planning authority may -
		(a)	enter the land take those steps, and
		(b)	recover from the person who is then the owner or lessee of the land any expenses reasonably incurred by them in doing so.
		(2)	If that person did not appeal to the Secretary of State although entitled to do so, he shall not be entitled to dispute the validity of the action taken by the planning authority under subsection (1) in accordance with the enforcement notice.
		(3)	In computing the amount of the expenses which may be recovered by them under subsection (1), a planning authority may include in that amount such proportion of their administrative expenses as seems to them to be appropriate.
		(4)	Where a copy of an enforcement notice has been served in respect of any breach of planning control -
		(a)	any expenses incurred by the owner, lessee or occupier of any land for the purpose of complying with the notice, and
		(b)	any sums paid by the owner or lessee of any land under subsection (1) in respect of expenses incurred by the planning authority in taking steps required by such a notice to be taken,
			shall be recoverable from the person by whom the breach of planning control was committed.

		(5)	If on a complaint by the owner of any land it appears to the sheriff that the occupier of the land is preventing the owner from carrying out work required to be carried out by an enforcement notice, the sheriff may by warrant authorise the owner to go on to the land and carry out that work.
		(6)	A planning authority taking steps under subsection (1) may sell any materials removed by them from the land unless those materials are claimed by the owner within three days of their removal.
		(7)	After any such sale the planning authority shall pay the proceeds to the owner less the expenses recoverable by them from him.
		(8)	Where a planning authority seek, under subsection (1), to recover any expenses from a person on the basis that he is the owner of any land, and such person proves that -
		(a)	he is receiving the rent in respect of that land merely as trustee, tutor, curator, factor or agent of some other person, and
		(b)	he has not, and since the date of the service on him of the demand for payment has not had, in his hands on behalf of that other person sufficient money to discharge the whole demand of the authority,
			his liability shall be limited to the total amount of the money which he has or has had in his hands on behalf of that other person.
		(9)	A planning authority who by reason of subsection (8) have not recovered the whole of any such expenses from a trustee, tutor, curator, factor or agent may recover any unpaid balance from the person on whose behalf the rent is received.
		(10)	Any person who wilfully obstructs a person acting in the exercise of powers under subsection (1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
		(11)	In this section and in sections 136, 136A, 140 and 141 any reference to the compliance period, in relation to an enforcement notice, is a reference to the period specified in the notice for compliance with it or such extended period as the planning authority may allow for compliance. .
Offence where enforcement notice not complied with	136	(1)	Where, at any time after the end of the compliance period in respect of an enforcement notice, any step required by the notice to be taken has not been taken or any activity required by the notice to cease is being carried on, the person who is then the owner of the land is in breach of the notice.
		(2)	Where the owner of the land is in breach of the notice he shall be guilty of an offence.
		(3)	In proceedings against any person for an offence under subsection (2), it shall be a defence for him to show that he did everything he could be expected to do to secure compliance with the notice.
		(4)	A person who has control of or an interest in the land to which an enforcement notice relates (other than the owner) must not carry on any activity which is required by the notice to cease or cause or permit such an activity to be carried on.
		(5)	A person who, at any time after the end of the period for compliance with the notice, contravenes subsection (4) shall be guilty of an offence.
		(6)	An offence under subsection (2) or (5) may be charged by reference to any day or longer period of time and a person may be convicted of a second or subsequent offence under the subsection in question by reference to any period of time following the preceding conviction for such an offence.
		(7)	Where -
		(a)	a person charged with an offence under this section has not been served with a copy of the enforcement notice, and
		(b)	the notice is not contained in the appropriate register kept under section 147,

			it shall be a defence for him to show that he was not aware of the existence of the notice.
		(8)	A person guilty of an offence under this section shall be liable -
		(a)	on summary conviction, to a fine not exceeding £50,000, and
		(b)	on conviction on indictment, to a fine.
		(9)	In determining the amount of any fine to be imposed on a person convicted of an offence under this section, the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence.
	136a	Fixed penalty notice where enforcement notice not complied with	
		(1)	Where a planning authority have reason to believe that, by virtue of subsection (1) of section 136, a person is in breach of an enforcement notice they may, provided that the conditions mentioned in subsection (7) are satisfied, serve on him a fixed penalty notice as respects that breach.
		(2)	The fixed penalty notice is to specify—
		(a)	the step specified, under subsection (3) of section 128, in the enforcement notice which has not been taken, or
		(b)	the activity so specified which has not ceased.
		(3)	It is not competent to serve more than one fixed penalty notice in relation to a particular step or activity.
		(4)	For the purposes of this section, a “fixed penalty notice” is a notice offering the person the opportunity of discharging, by paying to the planning authority, within the period of 30 days which immediately follows the day on which that notice is served, a penalty of an amount (being a prescribed amount) specified in the notice, any liability to conviction for an offence under section 136 as respects the breach of the enforcement notice.
		(5)	But if payment is made within the first 15 days of the period mentioned in subsection (4) the amount payable is reduced by 25%.
		(6)	The fixed penalty notice is to identify the period mentioned in subsection (4) and is also to state that if payment is made within the first 15 days of that period the amount payable is reduced by 25%.
		(7)	The conditions are that the fixed penalty notice—
		(a)	is served within the period of 6 months which immediately follows the compliance period in relation to the enforcement notice, and
		(b)	is not served after the person has been charged with an offence under section 136 as respects the breach of the enforcement notice
		(8)	During the period mentioned in subsection (4) it is not competent to commence proceedings against the person for an offence under section 136 as respects that breach.
		(9)	If the amount (or as the case may be the reduced amount) is timeously paid it is not competent to commence proceedings against the person for an offence under section 136 as respects that breach.
		(10)	A penalty received by a planning authority by virtue of subsection (4) is to accrue to that authority.
		(11)	In prescribing an amount for the purposes of subsection (4), the Scottish Ministers may make different provision for different cases or for different classes of case.
Effect of planning permission etc on enforcement or breach of condition notice	137	(1)	Where, after the service of –
		(a)	a copy of an enforcement notice, or
		(b)	a breach of condition notice,

			planning permission is granted for any development carried out before the grant of that permission, the notice shall cease to have effect so far as inconsistent with that permission.
		(2)	Where, after a breach of condition notice has been served, any condition to which the notice relates is discharged, the notice shall cease to have effect so far as it requires any person to secure compliance with the condition in question.
		(3)	The fact that an enforcement notice or breach of condition notice has wholly or partly ceased to have effect by virtue of this section shall not affect the liability of any person for an offence in respect of a previous failure to comply, or secure compliance, with the notice.
Enforcement notice to have effect against subsequent development	138	(1)	Compliance with an enforcement notice, whether in respect of –
		(a)	the removal or alteration of any building or works,
		(b)	the discontinuance of any use of land, or
		(c)	any other requirements contained in the notice,
			shall not discharge the notice.
		(2)	Without prejudice to subsection (1), any provision of an enforcement notice requiring a use of land to be discontinued shall operate as a requirement that it shall be discontinued permanently, to the extent that it is in contravention of Part III; and accordingly the resumption of that use at any time after it has been discontinued in compliance with the enforcement notice shall to that extent be in contravention of the enforcement notice.
		(3)	Without prejudice to subsection (1), if any development is carried out on land by way of reinstating or restoring buildings or works which have been removed or altered in compliance with an enforcement notice, the notice shall, notwithstanding that its terms are not apt for the purpose, be deemed to apply in relation to the buildings or works as reinstated or restored as it applied in relation to the buildings or works before they were removed or altered.
		(4)	A person who, without the grant of planning permission in that behalf, carries out any development on land by way of reinstating or restoring buildings or works which have been removed or altered in compliance with an enforcement notice shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding the statutory maximum.
		(5)	In determining the amount of the fine to be imposed under subsection (4), the court is in particular to have regard to any financial benefit which has accrued or appears likely to accrue to the convicted person in consequence of the activity which constituted the offence.
Power of Secretary of State to serve enforcement notice	139	(1)	If it appears to the Secretary of State that it is expedient that an enforcement notice should be served in respect of any land, he may himself serve such a notice under section 127.
		(2)	An enforcement notice served by the Secretary of State shall have the same effect as if it had been served by the planning authority.
		(3)	The Secretary of State shall not serve such a notice without consulting the planning authority.
		(4)	The provisions of this Act relating to enforcement notices apply, so far as relevant, to an enforcement notice served by the Secretary of State as they apply to an enforcement notice served by a planning authority, but with the substitution for any reference to the planning authority of a reference to the Secretary of State, and any other necessary modifications.





PRE - APPLICATION REPORT REGARDING A MIXED USE DEVELOPMENT INCLUDING BUSINESS AND EMPLOYMENT USES (CLASS 4, 5 AND 6), RESIDENTIAL (CLASS 9 AND SUI GENERIS FLATTED ACCOMMODATION); NEIGHBOURHOOD CENTRE INCLUDING SHOPS, FINANCIAL, PROFESSIONAL AND OTHER SERVICES (CLASS 1A), FOOD AND DRINK (CLASS 3), ASSEMBLY AND LEISURE (CLASS 11); TOGETHER WITH OTHER RELATED INFRASTRUCTURE INCLUDING PARK & RIDE, ASSOCIATED WORKS INCLUDING CAR PARKING, SERVICING, ACCESS ARRANGEMENTS, LANDSCAPING AND PUBLIC REALM AT WEST STRAITON, LOANHEAD (PART OF SITE EC3 AND LAND TO THE WEST OF EC3) (23/00354/PAC)

Report by Chief Officer Place

1 PURPOSE OF REPORT

- 1.1 The purpose of this report is to advise the Committee of the submission of a Proposal of Application Notice (PAN) and corresponding pre-application consultation for a mixed-use development including business and employment uses (Class 4, 5 and 6), residential (Class 9 and sui generis flatted accommodation); neighbourhood centre including shops, financial, professional and other services (Class 1A), food and drink (Class 3), assembly and leisure (Class 11); together with other related infrastructure including park and ride, associated works including car parking, servicing, access arrangements, landscaping and public realm at West Straiton, Loanhead (part of site Ec3 and land to the west of Ec3).
- 1.2 The pre application consultation is reported to Committee to enable Councillors to express a provisional view on the proposed major development. The report outlines the proposal, identifies the key development plan policies and material considerations and states a provisional without prejudice planning view regarding the principle of development.

2 BACKGROUND

- 2.1 Guidance on the role of Councillors in the pre-application process, published by the Commissioner for Ethical Standards in Public Life in Scotland, was reported to the Committee at its meeting of 30 August 2022. The guidance clarifies the position with regard to Councillors stating a provisional view on proposals at pre-application stage.

- 2.2 A Proposal of Application Notice (PAN) detailing the pre application consultation for a mixed-use development including business and employment uses (Class 4, 5 and 6), residential (Class 9 and sui generis flatted accommodation); neighbourhood centre including shops, financial, professional and other services (Class 1A), food and drink (Class 3), assembly and leisure (Class 11); together with other related infrastructure including park & ride, associated works including car parking, servicing, access arrangements, landscaping and public realm at West Straiton, Loanhead (part of site Ec3 and land to the west of Ec3) was submitted on 2 June 2023.
- 2.3 A previous PAN (reference 20/00803/PAC) was reported to the Committee at its meeting of 12 January 2021. The earlier PAN was for a smaller area of 42.5 hectares, with the additional land in the current PAN being located along the northern edges of the site. The description of the PAN was for a mixed-use development including business and employment uses (class 4,5 and 6), residential, hotel, residential institutions, and ancillary uses including retail, financial and professional services, food and drink, non-residential institutions, assembly and leisure and other infrastructure including park and ride, and associated works. Following the submission of the PAN the site was the subject of an environmental impact assessment (EIA) screening request (21/00220/SCR) and scoping request (21/00831/SCO) to determine if a EIA was required to be submitted with any future planning application and if so what the EIA requirements are.
- 2.4 As part of the pre-application consultation process for the current PAN, two public events are scheduled to be held. The first was on Tuesday 27 June 2023 at Loanhead Leisure Centre and the second is still to be confirmed; these meetings were/will be advertised via the Midlothian Advertiser and leafleting of immediate neighbours and local stakeholders was/will be undertaken (at least 7 days prior to each event). Furthermore, a dedicated website has been created for the proposed development. Upon the conclusion of the public events the applicant could submit a planning application for the proposal.
- 2.5 An applicant must wait 12 weeks from the date of submission of a PAN before submitting a planning application. The earliest date that the planning application for this proposal could have been submitted is 26 August 2023, subject to the second public event being concluded. The subsequent planning application must be accompanied by a Pre-Application Consultation Report detailing the consultation undertaken, a summary of written responses and views expressed at the public events, and explanation of how the applicant took account of the views expressed and an explanation of how members of the public were given feedback on the applicant's consideration of their views.
- 2.6 Copies of the pre-application notice have been sent by the prospective applicant to the local elected members, all other elected members, Loanhead and District Community Council, Damhead and District Community Council, Roslin and Bilston Community Council, Gilmerton/Inch Community Council (within the City of Edinburgh Council

boundary), the local Member of Parliament (MP), the local Member of Scottish Parliament (MSP) and all Lothian Regional MSPs.

- 2.7 It is reasonable for an Elected Member to attend one of the webinars without a Council planning officer present, but the Member should (in accordance with the Commissioner's guidance reported to the Committee at its meeting in August 2022) not offer views, as the forum for doing so will be at meetings of the Planning Committee.

3 PLANNING CONSIDERATIONS

- 3.1 In assessing any subsequent planning application the main planning issue to be considered in determining the application is whether the currently proposed development complies with development plan policies unless material planning considerations indicate otherwise.
- 3.2 The development plan is comprised of National Planning Framework 4 (2023) and the Midlothian Local Development Plan (2017). Section 24(3) of the Town and Country Planning (Scotland) Act 1997 states that where there is an incompatibility between the provisions of the National Planning Framework and the provisions of a local development plan whichever of them is the later in date is to prevail. At present this means that where there is an incompatibility NPF4 takes precedence, this will change when a new local development plan is adopted.
- 3.3 The site measures 50.5 hectares and comprises three arable fields, five fields of grass and scrub, and the Straiton park and ride site with its associated structural landscaping. The site does not include the cottages on Straiton Road (A701). The site is bounded to the north by the A720 Edinburgh City Bypass; to the east by the Straiton Retail Park; to the south by Straiton Park caravan site and Straiton Bing; and to the west by a further area of grass and scrub and a field that has been subject to drainage improvements. A high-pressure gas pipeline passes west to east through the northern edge of the site.
- 3.4 The site has multiple allocations within the Midlothian Local Development Plan 2017 (MLDP). This includes mixed use development as a strategic employment land site within the eastern part of the site and other more restrictive MLDP allocations within the northern, north western and western part of the site (including green belt, prime agricultural land and road safeguarding).
- 3.5 The relevant policies of the National Planning Framework 4 (NPF4) are:
- Policy 1 Tackling the climate and nature crises
 - Policy 2 Climate mitigation and adaptation
 - Policy 3 Biodiversity
 - Policy 4 Natural Places
 - Policy 5 Soils
 - Policy 6 Forestry, woodland and trees
 - Policy 7 Historic assets and places

- Policy 8 Green belts
- Policy 9 Brownfield, vacant and derelict land and empty buildings
- Policy 12 Zero Waste
- Policy 13 Sustainable Transport
- Policy 14 Design, quality and place
- Policy 15 Local Living and 20 minute neighbourhoods
- Policy 16 Quality homes
- Policy 18 Infrastructure first
- Policy 18 Heating and Cooling
- Policy 20 Blue and green infrastructure
- Policy 21 Play, recreation and sport
- Policy 22 Flood risk and water management
- Policy 23 Health and Safety
- Policy 24 Digital Infrastructure
- Policy 25 Community wealth building
- Policy 26 Business and industry
- Policy 27 City, town, local and commercial centres
- Policy 28 Retail
- Policy 30 Tourism
- Policy 31 Culture and creativity

3.6 The relevant policies of the MLDP are:

- STRAT1 – Committed development
- STRAT3 – Strategic Housing Land Allocations
- STRAT5 – Strategic Employment Land Allocations
- DEV1 – Community Identity and Coalescence
- DEV2 – Protecting Amenity within the Built-Up Area
- DEV3 – Affordable and Specialist Housing
- DEV5 – Sustainability in New Development
- DEV6 – Layout and Design of New Development
- DEV7 – Landscaping in New Development
- DEV9 – Open Space Standards
- ECON1 – Existing Employment Locations
- TRAN1 – Sustainable Travel
- TRAN2 – Transport Network Interventions
- TRAN5 – Electric Vehicle Charging
- IT1 – Digital Infrastructure
- TCR2 – Location of New Retail and Commercial Leisure Facilities
- VIS1 – Tourist Attractions
- ENV1 – Protection of the Green Belt
- ENV2 Midlothian Green Network
- ENV4 – Prime Agricultural Land
- ENV7 – Landscape Character
- ENV9 – Flooding
- ENV10 – Water Environment
- ENV11 – Woodland, Trees and Hedges
- ENV15 – Species and Habitat Protection and Enhancement
- ENV16 – Vacant, Derelict and Contaminated Land

- ENV17 – Air Quality
- ENV18 – Noise
- ENV25 – Site Assessment, Evaluation and Recording
- NRG6 – Community Heating
- WAST5 – Waste Minimisation and Recycling in New developments
- IMP1 – New Development
- IMP2 – Essential Infrastructure Required to Enable New Development to Take Place
- IMP3 – Water and Drainage

3.7 The views of consultees and representors will be material considerations in the assessment of an application for the proposed development. The Council's Learning Estate Strategy 2017-2047 will also be a material consideration in the assessment of an application for the proposed development as it includes a residential component.

3.8 As outlined above, the site is subject to multiple allocations within the MLDP including the following within the eastern part of the site:

- 1) Mixed use development: Site Ec3 (West Straiton) - where various site-specific requirements are sought;
- 2) Employment use - as a Strategic Employment Land Allocation under Policy STRAT 5 in the MLDP; and
- 3) New Retail and Commercial Leisure - under Policy TCR2 in the MLDP.

A proposal involving mixed use development on land covered by the above policy allocations would accord, in principle, with the corresponding policy objectives subject to the phasing of the development complying with delivery of the re-aligned A701.

3.9 The northern, north western and western part of the site is covered by the following MLDP allocations:

- 1) Road safeguarding - as a transport network intervention and road safeguarding for the realignment of the A701 under Policy TRAN 2 of the MLDP;
- 2) Green belt - under Policy ENV1 of the MLDP; and
- 3) Prime agricultural land - under policy ENV4 of the MLDP.

Development within the northern, north western and western part of the site (29.98 hectares) would contravene policy objectives to retain the openness and rural character within the green belt. It could also prevent the delivery of strategic infrastructure within this location.

Site Specific Requirements - Site Ec3

3.10 There are various site-specific policy requirements associated with the future development of Site Ec3 as outlined below:

- a) Acceptable Uses – The MLDP states a range of potential uses are deemed to be acceptable within Site Ec3, including; retail, hotel, office, commercial leisure, and housing. Any future application would be required to include a suitable mix of uses and must not be dominated by competing, unrelated, uses that are not contemplated by the above policy designation.
- b) Masterplan - The site must be masterplanned to establish the development layout, access arrangements, mix of uses and landscaping/open space and include the provision to safeguard amenity for the adjacent residential properties. It should also take into account the Damhead and District Neighbourhood Plan 2015-2030 as a material consideration. Accordingly, a masterplan covering Site Ec3 will be required prior to any future application being supported.
- c) Strategic Transport Infrastructure - Development is dependent on the construction of the A701 Relief Road between the A720 Straiton Junction and the A703, to link to the A702. Development associated with any future application would therefore be contingent upon approval and implementation of the above strategic transport infrastructure.
- d) Park & Ride - The site must retain a park and ride facility, equivalent to the current provision. Should the park and ride facility be amended/removed, any future application must include replacement provision of equal or greater capacity.
- e) Visual Impact - Consideration of the site's elevated nature and the potential visual impacts from Edgefield relief road must be considered. Any future application will be required to include a suitable Landscape and Visual Impact Assessment to address this and other corresponding landscape and visual impact matters.
- f) Ground Stability and Contamination - The site has ground stability and contaminated land issues which will need to be addressed and may result in parts of the site not being suitable for development. As such, any future application, and corresponding masterplan, will be required to consider the suitability of future development areas mindful of this requirement.
- g) Significant Landscaping - The western boundary of the site bordering the A701 Relief Road should include significant landscaping including a 30m wide (mounded) woodland belt along the northern through western to south-western boundaries. A 10m wide hedgerow with trees is also required along the current A701. Path links should be provided with trees, hedges, swales or other green space to link across the site. Distributor roads should have avenue trees, paths and swales. A comprehensive landscaping strategy and an appropriate landscaping hierarchy within the corresponding masterplan will also be required.

- h) Education Infrastructure - Should the site include residential development, there will be a requirement for additional capacity to be provided for primary/secondary education. Suitable contributions and a deliverable education solution will therefore be required to ensure that adequate education infrastructure provision is made.
- i) Design Quality - Due to the importance of the site as the Midlothian Gateway, there is a requirement for it to be developed to a 'very high quality of design', layout and landscaping. Accordingly, any future application and masterplan will be required to demonstrate how the highest standard of design has been included within the relevant design parameters and how any future proposal would create a detailed design of the highest quality.
- j) Archaeology - The setting of adjacent listed buildings (Old Pentland Church) will be required to be considered. As such, consideration of potential impacts on direct and indirect cultural heritage assets will be required to accompany any future application.

3.11 In addition to the principle of development and site-specific requirements above, consideration will also have to be given to placemaking and design matters. This includes layout, siting, design, appearance, materials, landscaping and (for residential uses) amenity requirements relating to building setbacks and garden sizes in order to accord with sustainable placemaking policies in NPF4 (i.e. Policies 14, 15, 16 and 21) and the MLDP (i.e. Policies DEV2, DEV3, DEV5, DEV6, DEV7 and DEV9).

3.12 Should residential uses be included within the proposed mixed-use development, the Council's Learning Estate Strategy will be a material consideration. This has been informed, in part, by the location and level of development outlined in the MLDP and Housing Land Audits. With respect to the site, a suitable education solution will be required to accommodate associated need from the proposed development. If a suitable education solution can be determined this could be delivered through developer contributions.

3.13 Overall, it is unlikely that the planning authority would support a future application for mixed use development within the site based on the application boundary submitted with this pre application consultation. Specifically, the site extends significantly into land allocated as green belt and safeguarded for future transport infrastructure within the MLDP. It could therefore compromise strategic aspirations requiring the protection of the green belt and to facilitate the delivery of strategic transport infrastructure. Moreover, prior to support for any future development, a comprehensive masterplan covering the full extent of Site Ec3 requires to be approved (masterplan work has progress, but is subject to clarity over the detail design and siting of the proposed realigned A701).

- 3.14 It is noted that a red line boundary within a pre-application consultation application usually represents the maximum extent of any forthcoming planning application. Therefore, should the red line boundary for any future application be reduced - limited solely to the Ec3 allocation boundary - any corresponding mixed-use development could potentially be supported, in principle, subject to compliance with the above site-specific policy requirements, in particular in relation to masterplanning and strategic transport infrastructure. It should however be noted that the current red line boundary has increased when compared to the earlier PAN.
- 3.15 Notwithstanding this, and prior to any potential support, developer contributions would be required to be secured towards infrastructure including: road infrastructure improvements (i.e. A701 Relief Road, A702 Link Road), strategic cross-boundary transport infrastructure (under Policy TRAN2 and in line with Transport Scotland's requirements as trunk road operator), access and junction improvements (including footpaths and cycleways), education provision, structure landscaping open space and green networks, water and drainage infrastructure, equipped children's play provision and adequate affordable housing provision (at least 25%).

4 PROCEDURES

- 4.1 The Scottish Government's Guidance on the Role of Councillors in Pre-Application Procedures provides for Councillors to express a 'without prejudice' view and to identify material considerations with regard to a major application.
- 4.2 The Committee is invited to express a 'without prejudice' view and to raise any material considerations which they wish the applicant and/or officers to consider. Views and comments expressed by the Committee will be entered into the minutes of the meeting and relayed to the applicant for consideration.
- 4.3 The Scottish Government's Guidance on the Role of Councillors in Pre-Application Procedures advises that Councillors be expected to approach their decision-making with an open mind in that they must have regard to all material considerations and be prepared to change their views that they are minded towards if persuaded that they should.

5 RECOMMENDATION

- 5.1 It is recommended that the Committee notes:
- a) the provisional planning position set out in this report;
 - b) that any comments made by Members will form part of the minute of the Committee meeting; and
 - c) that the expression of a provisional view does not fetter the Committee in its consideration of any subsequent formal planning application.

Peter Arnsdorf
Planning, Sustainable Growth and Investment Manager

Date: 1 September 2023

Application No: 23/00354/PAC

Applicant: Straiton Estates Ltd

Agent: Avison Young (UK) Ltd

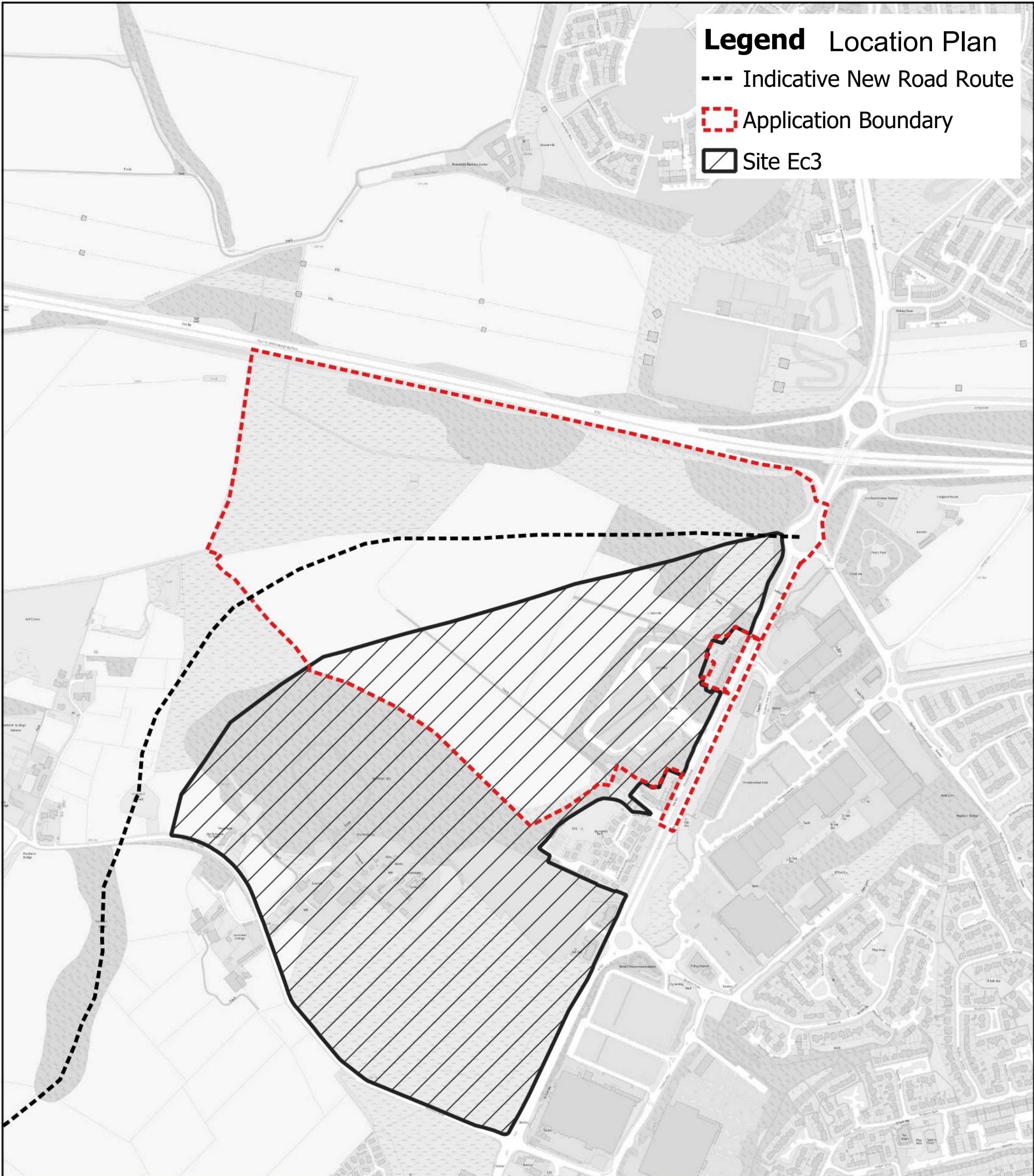
Validation Date: 2 June 2023

Contact Person: Graeme King

Email: graeme.king@midlothian.gov.uk

Background Papers: 20/00803/PAC, 21/00220/SCR, 21/00831/SCO

Attached Plan: Location plan



Legend Location Plan

- Indicative New Road Route
- ▭ Application Boundary
- ▨ Site Ec3



**Planning Service
Place Directorate**
Midlothian Council
Fairfield House
8 Lothian Road
Dalkeith
EH22 3AA

Proposal of Application Notice for a mixed use development
Site Ec3: West Straiton Loanhead

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File No. 23/00354/PAC

Scale: 1:6,000 @ A3

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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:

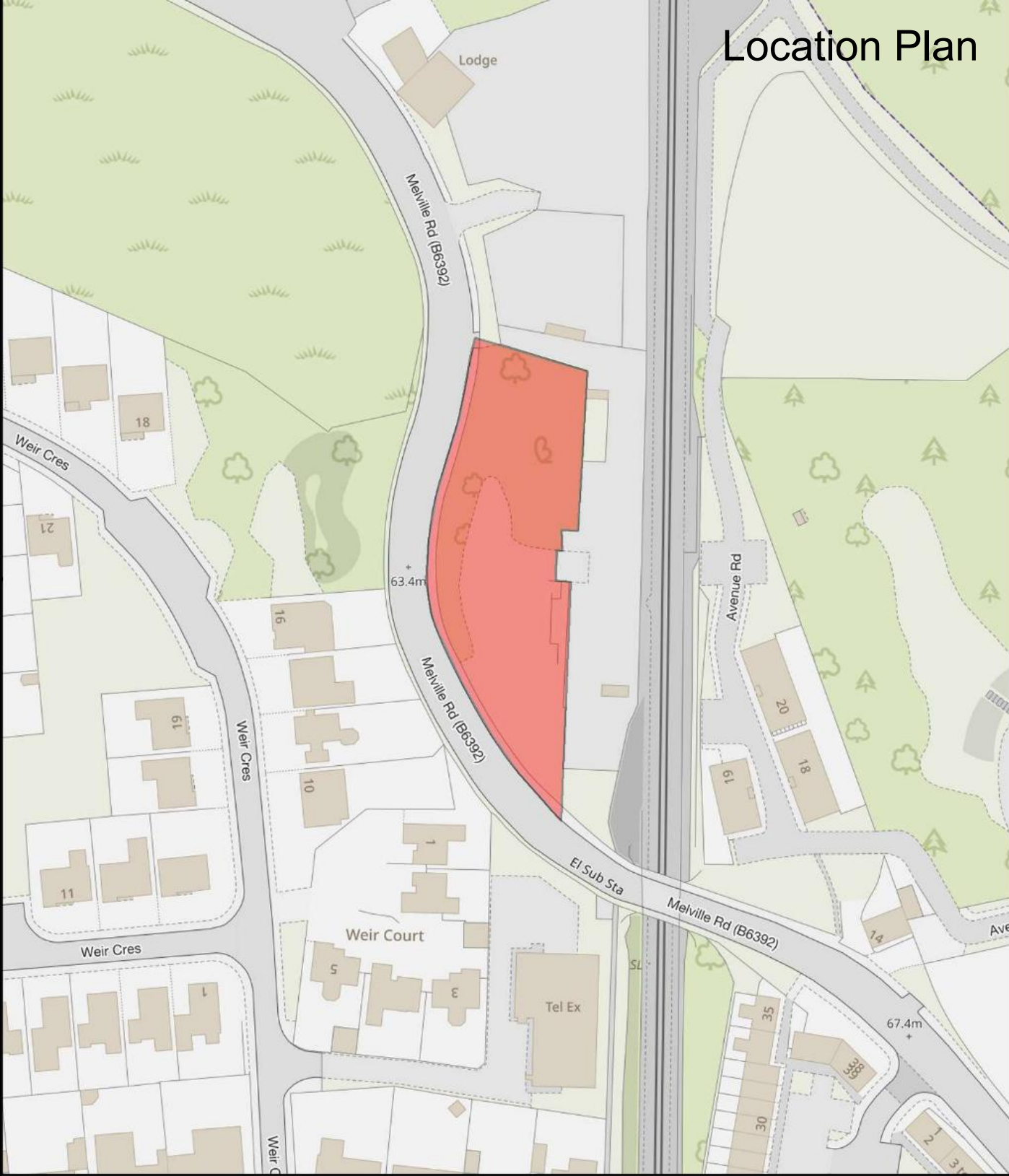
1. *As a result of the proposed loss of trees and ground levelling works required to accommodate the access and visibility splays the development will have a significant detrimental impact on the local landscape and character and appearance of the surrounding area, contrary to policies DEV2, DEV6, DEV7, 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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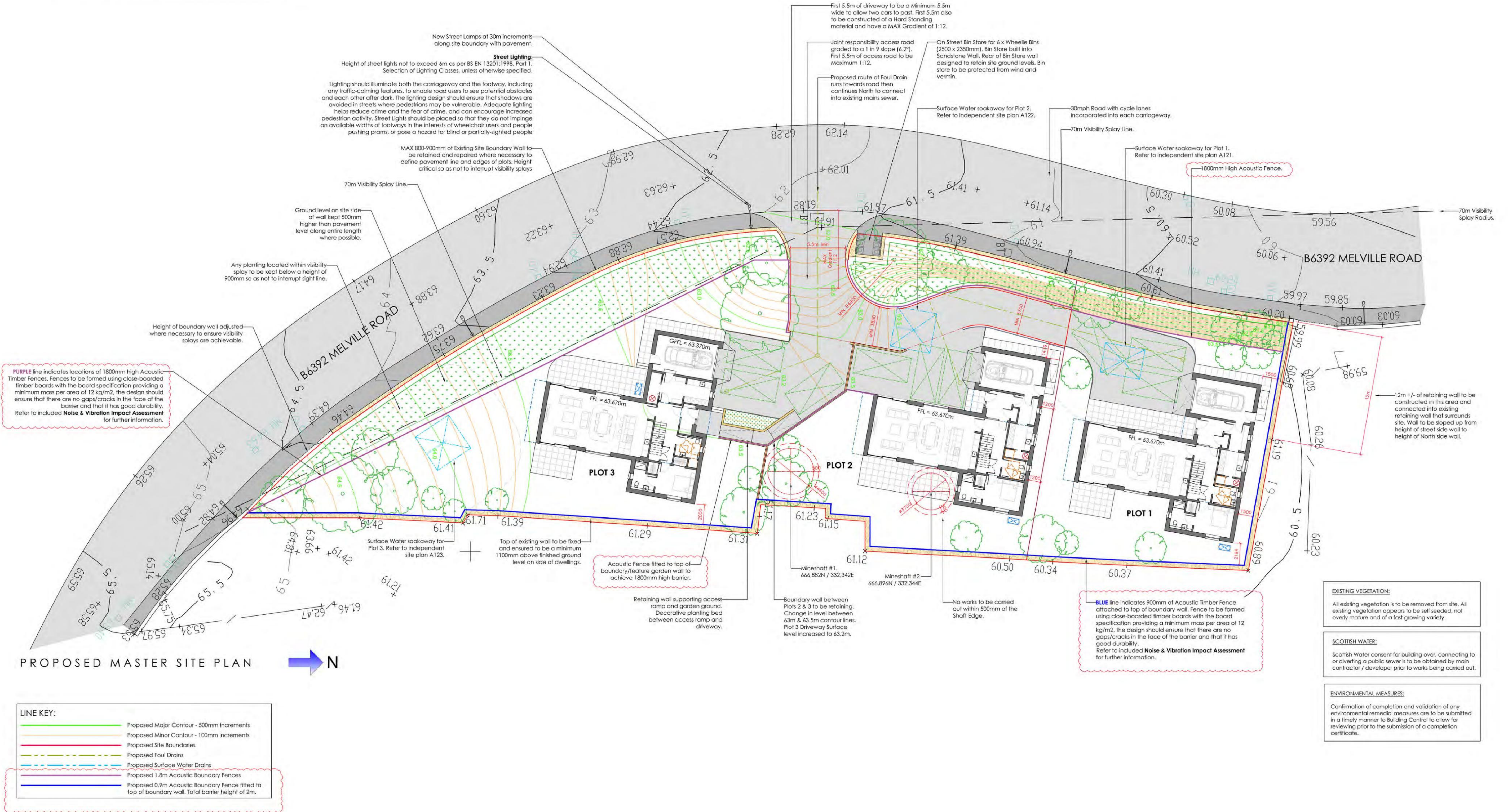
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PROPOSED MASTER SITE PLAN

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.

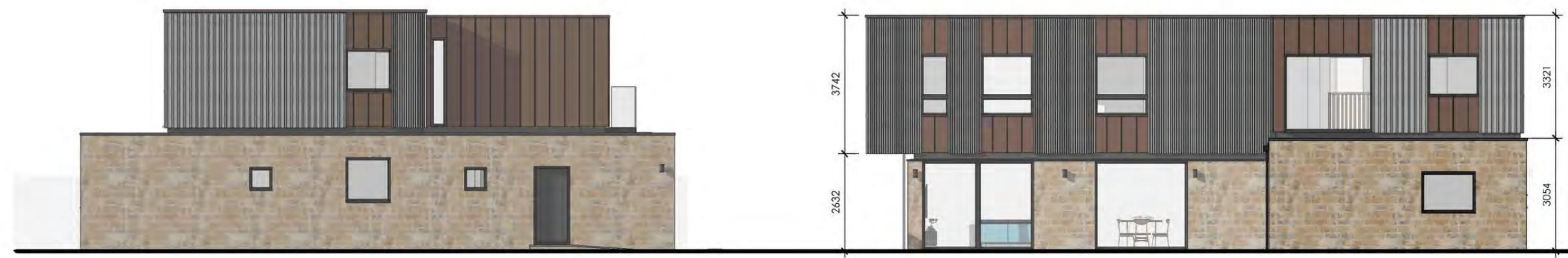
EXISTING VEGETATION:
All existing vegetation is to be removed from site. All existing vegetation appears to be self seeded, not overly mature and of a fast growing variety.

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

Fiddes architects architecture, interior & landscape design e: eoghain@fiddesarchitects.com w: www.fiddesarchitects.com 01330 82 3332	Rev. A	Date 08/08/23	By FC	Description Inclusion of Acoustic Fences as per N&VIA.	Rev.	Date	By	Description	Notes	Consultants	Project	Contents	Scale	Job No.	Drawing No.	Revision
									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.	Structural Engineers: Email: Tel: Quantity Surveyor: Tel: Email:	Glenesk Housing Development. Melville Road, Eskbank, Dalkeith, Edinburgh, Midlothian, EH22 3NJ. Proposed Residential Development - 3 Detached Dwellings.	Proposed Master Site Plan.	A1 1:200 A3 1:400	2201 FC	A110 A110	A Plot Date 08/08/23



North Elevation Plot 3
scale: 1:100

East Elevation
scale: 1:100



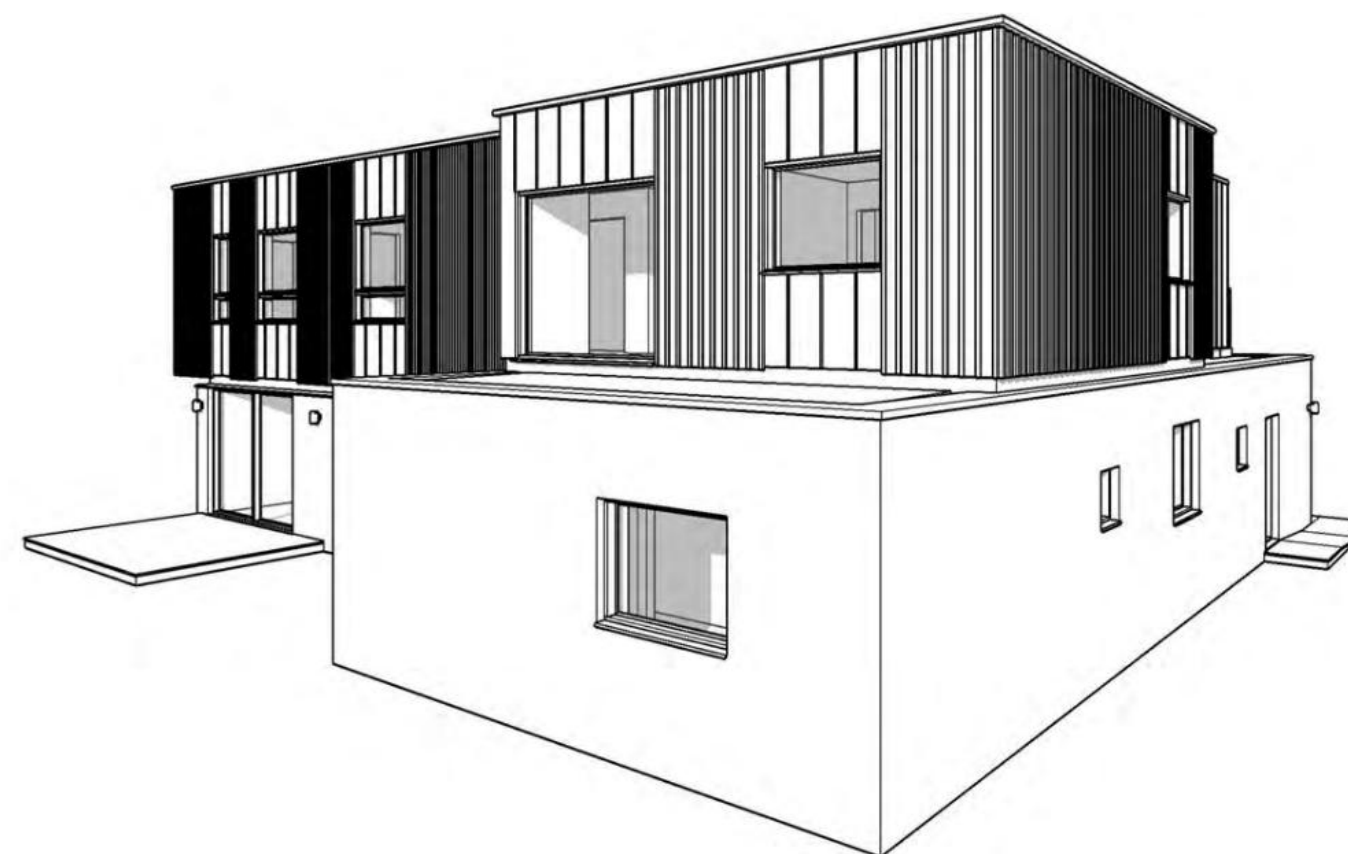
South Elevation Plot 3
scale: 1:100

West Elevation
scale: 1:100



Material Details
scale: 1:20

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Line 3Ds
scale: n/a

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A	---	F	---
B	---	G	---
C	---	H	---
D	---	I	---
E	---	J	---

NOTES:
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Refer any discrepancies to the Architects immediately.
Submit any shop drawings for inspection before manufacture.

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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

A201



North Elevation Plot 3
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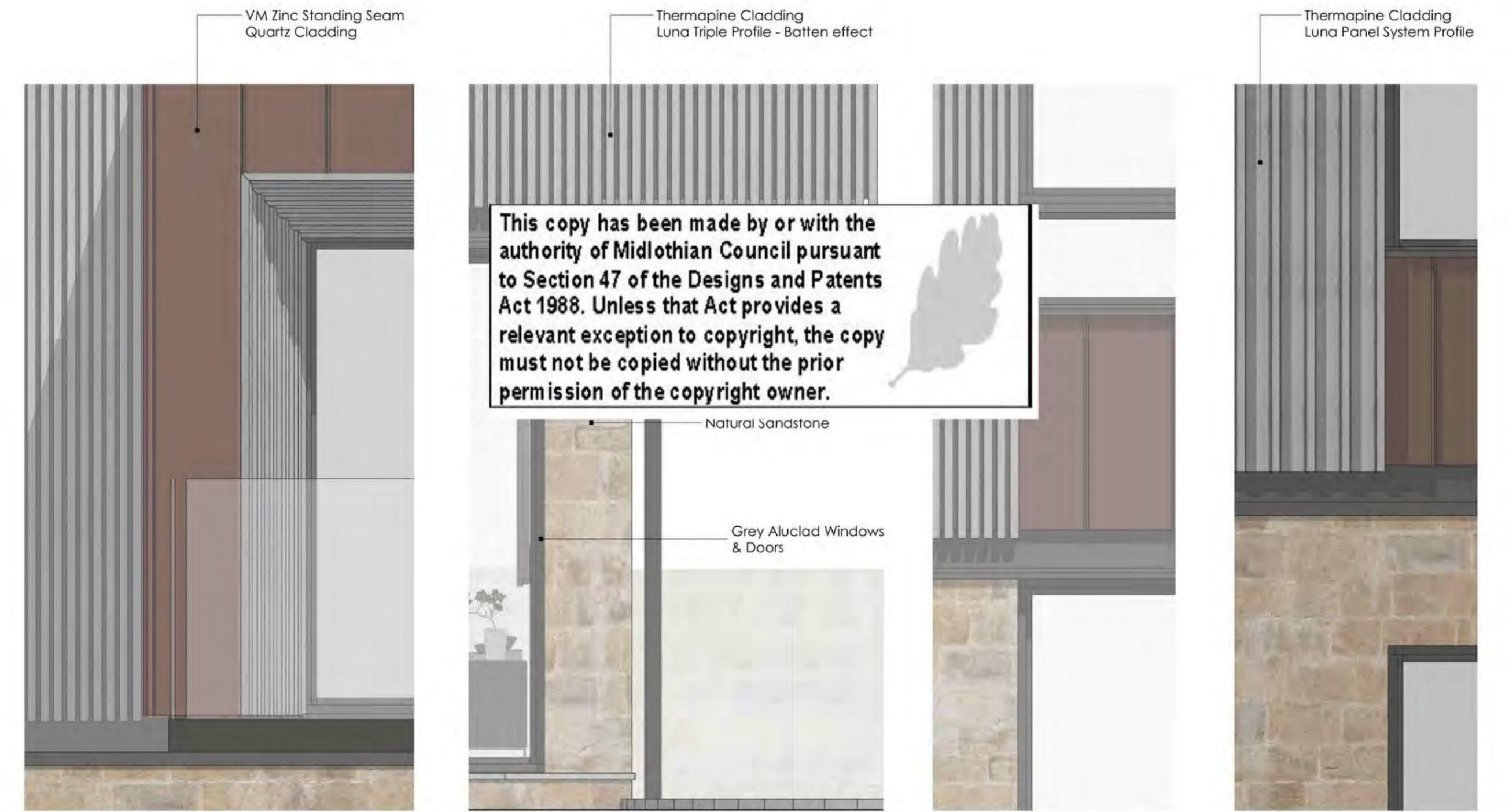
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South Elevation Plot 3
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West Elevation
scale: 1:100



Material Details
scale: 1:20



Line 3Ds
scale: n/a



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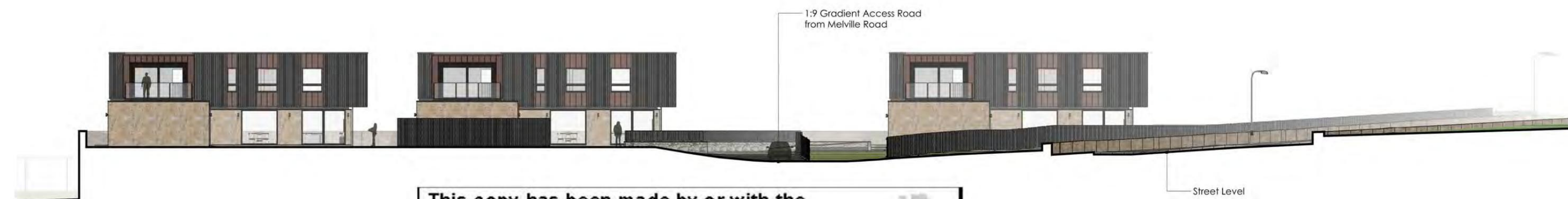
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PROJECT: Glenesk Housing Development
LOCATION: Melville Rd, Eskbank, EH22 3NJ
CONTENTS: Proposed Elevations - Plot 3

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

A202

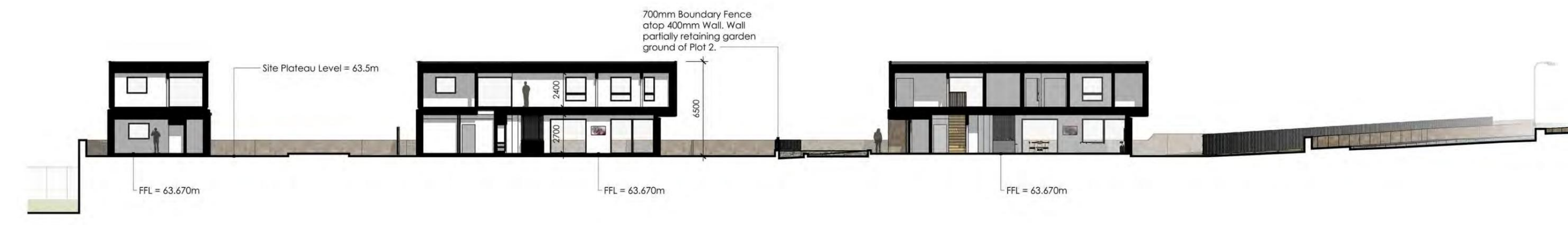


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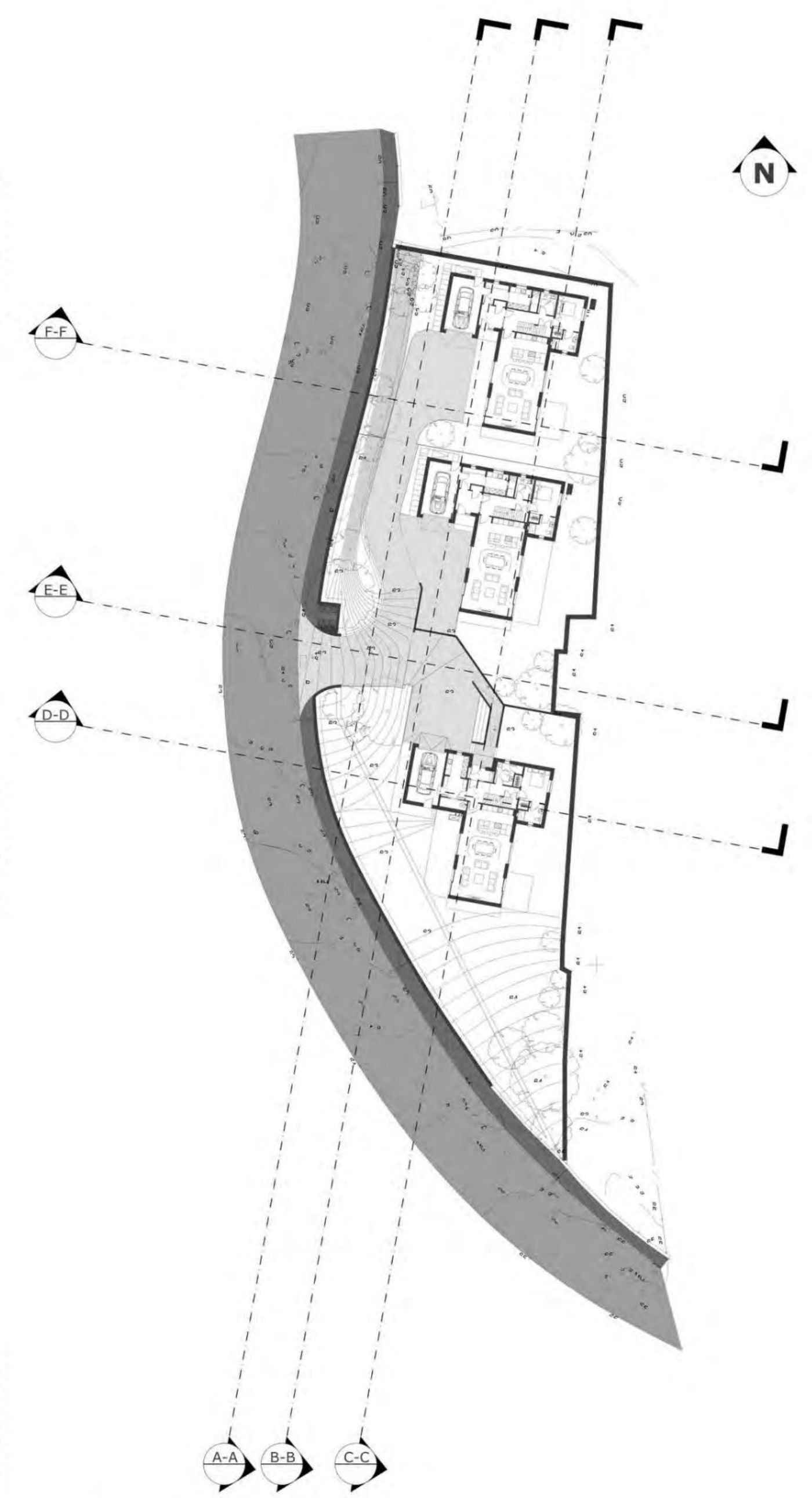
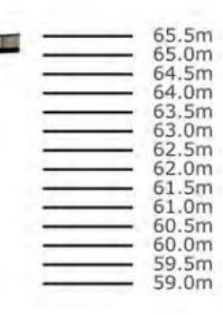
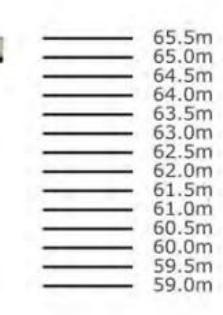
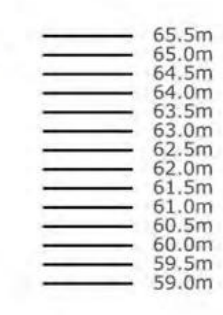
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N/S Site Section B-B
Scale: 1:200



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



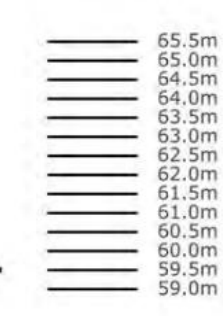
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E/W Site Section D-D
Scale: 1:200



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



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

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w: www.fiddesarchitects.com t: 01330 82 3332

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

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

A132

