

## **Notice of Review: Land at 6 Lugton Brae, Dalkeith**

### **Determination Report**

Report by Chief Officer Place

#### **1 Purpose of Report**

- 1.1 The purpose of this report is to provide a framework for the Local Review Body (LRB) to consider a 'Notice of Review' for the erection of dwellinghouse; alterations to existing boundary walls; erection of gates and retaining walls on land at 6 Lugton Brae, Dalkeith.

#### **2 Background**

- 2.1 Planning application 20/00695/DPP for the erection of dwellinghouse; alterations to existing boundary walls; erection of gates and retaining walls on land at 6 Lugton Brae, Dalkeith was refused planning permission on 10 March 2021; a copy of the decision is attached to this report.
- 2.2 The review has progressed through the following stages:
- 1 Submission of Notice of Review by the applicant.
  - 2 The Registration and Acknowledgement of the Notice of Review.
  - 3 Carrying out Notification and Consultation.

#### **3 Supporting Documents**

- 3.1 Attached to this report are the following documents:
- A site location plan (Appendix A);
  - A copy of the notice of review form and supporting statement (Appendix B). Any duplication of information is not attached;
  - A copy of the case officer's report (Appendix C);
  - A copy of the decision notice, excluding the standard advisory notes, issued on 10 March 2021 (Appendix D); and
  - A copy of the key plans/drawings (Appendix E).
- 3.2 The full planning application case file and the development plan policies referred to in the case officer's report can be viewed online via [www.midlothian.gov.uk](http://www.midlothian.gov.uk)

#### **4 Procedures**

- 4.1 In accordance with procedures agreed by the LRB, the LRB by agreement of the Chair:

- Have determined to consider a visual presentation of the site and undertaking a site visit (elected members not attending the site visit can still participate in the determination of the review); and
  - Have determined to progress the review by way of a hearing.
- 4.2 The case officer's report identified that there were two consultation responses and no representations received. As part of the review process the interested parties were notified of the review. No additional comments have been received. All comments can be viewed online on the electronic planning application case file.
- 4.3 The next stage in the process is for the LRB to determine the review in accordance with the agreed procedure:
- Identify any provisions of the development plan which are relevant to the decision;
  - Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies;
  - Consider whether or not the proposal accords with the development plan;
  - Identify and consider relevant material considerations for and against the proposal;
  - Assess whether these considerations warrant a departure from the development plan; and
  - State the reason/s for the decision and state any conditions required if planning permission is granted.
- 4.4 In reaching a decision on the case the planning advisor can advise on appropriate phraseology and on appropriate planning reasons for reaching a decision.
- 4.5 Following the determination of the review the planning advisor will prepare a decision notice for issuing through the Chair of the LRB. A copy of the decision notice will be reported to the next LRB for noting.
- 4.6 A copy of the LRB decision will be placed on the planning authority's planning register and made available for inspection online.

## **5 Conditions**

- 5.1 In accordance with the procedures agreed by the LRB at its meeting of 13 June 2017, and without prejudice to the determination of the review, the following conditions have been prepared for the consideration of the LRB if it is minded to uphold the review and grant planning permission.
1. Prior to the commencement of development, the following details shall be submitted and approved in writing by the planning authority and only those approved details shall be used in the implementation of this grant of planning permission:
    - a) Details and a sample of all external materials;
    - b) Details of the materials of any areas of hardstanding;
    - c) Details of the design, dimensions, materials and colour finish of all new walls, gates, fences or other means of enclosure;

- d) Details of a scheme of landscaping for the site. Details shall include the position, number, size and species of all trees and shrubs that are proposed to be planted, as well as identifying all trees and hedges on site which are proposed to be removed and retained;
- e) Details of a sustainability/biodiversity scheme for the site, including the provision of boxes for bats and birds and sustainability areas; and
- f) Details of the proposed solar including dimensions and illustrations.

**Reason:** *These details were not submitted with the application; in order to ensure that the development hereby approved does not detract from the character and appearance of the surrounding conservation area and nearby listed building.*

- 2. The wall materials approved in condition 1a) above shall be either natural stone, smooth or wet dash render, or timber cladding.

**Reason:** *In order to ensure that the development hereby approved does not detract from the character and appearance of surrounding conservation area and nearby listed building.*

- 3. The landscape plan approved in condition 1d) above shall include that the existing hedge along the west boundary of the site to 6B Lugton Brae is protected during development and retained.

**Reason:** *To protect the character and appearance of the surrounding conservation area; to integrate the house into the area; to protect the amenity and privacy of existing and future occupants.*

- 4. The landscape plan approved in condition 1d) above shall include details of protection measures for the hedge to be retained in condition 3.

- 5. Any temporary protective fencing approved in condition 4 shall be erected before any work on the development is begun, including site clearance, and shall be retained until the development is completed. Within the area enclosed by the fencing there shall be no movement of machinery, excavation, no removal of soil, no placing of additional soil, no storage of any kind, disposal of any waste or fires lit. These works shall be carried out in accordance with BS5838:2012 Trees in Relation to Development.

**Reason for conditions 4 and 5:** *To protect the character and appearance of the surrounding conservation area; to integrate the house into the area; to protect the amenity and privacy of existing and future occupants; to ensure that the hedge to be retained is protected from damage during development; to ensure that the best practice is followed.*

- 6. Development shall not begin until details, including a timetable of implementation, of high speed fibre broadband have been submitted to and approved in writing by the planning authority. The details shall include delivery of high speed fibre broadband prior to

the occupation of each dwellinghouse. The delivery of high speed fibre broadband shall be implemented as per the approved details.

**Reason:** *To ensure the quality of the development is enhanced by the provision of appropriate digital infrastructure in accordance with the requirements of policy IT1 of the adopted Midlothian Local Development Plan 2017.*

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

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

8. Unless otherwise approved in writing by the planning authority, shrubs to be removed to accommodate the outbuilding shall not be removed during the months of March to September inclusive.

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

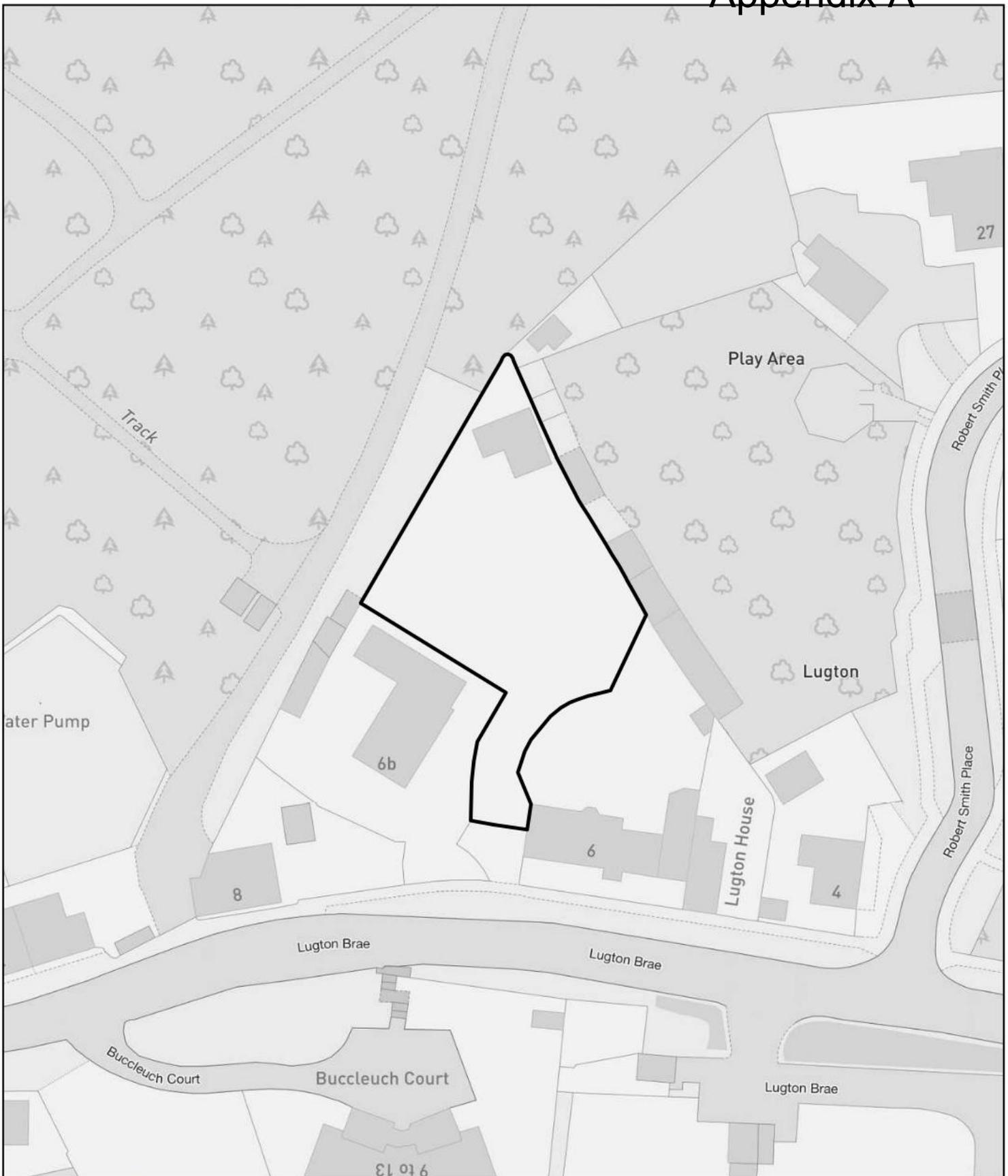
## **6 Recommendations**

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

**Peter Arnsdorf**  
**Planning, Sustainable Growth and Investment Manager**

**Date:** 2 September 2021  
**Report Contact:** Mhairi-Anne Cowie, Planning Officer  
[Mhairi-Anne.Cowie@midlothian.gov.uk](mailto:Mhairi-Anne.Cowie@midlothian.gov.uk)

**Background Papers:** Planning application 20/00695/DPP available for inspection online.



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

Erection of dwellinghouse; alterations to existing boundary walls; erection of gates and retaining walls at Land At 6 Lugton Brae, Dalkeith,

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File No: 20/00695/DPP

Scale: 1:750

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Fairfield House 8 Lothian Road Dalkeith EH22 3ZN Tel: 0131 271 3302 Fax: 0131 271 3537 Email: [planning-applications@midlothian.gov.uk](mailto:planning-applications@midlothian.gov.uk)

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE      100415948-001

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

## Applicant or Agent Details

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

Applicant  Agent

## Agent Details

Please enter Agent details

Company/Organisation:	<input type="text" value="APT PLANNING &amp; DEVELOPMENT"/>		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	<input type="text" value="TONY"/>	Building Name:	<input type="text"/>
Last Name: *	<input type="text" value="THOMAS"/>	Building Number:	<input type="text" value="6"/>
Telephone Number: *	<input type="text" value="01620870371"/>	Address 1 (Street): *	<input type="text" value="HIGH STREET"/>
Extension Number:	<input type="text"/>	Address 2:	<input type="text"/>
Mobile Number:	<input type="text"/>	Town/City: *	<input type="text" value="EAST LINTON"/>
Fax Number:	<input type="text"/>	Country: *	<input type="text" value="UK"/>
		Postcode: *	<input type="text" value="EH40 3AB"/>
Email Address: *	<input type="text" value="tony@apt-plandevlop.co.uk"/>		

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

Individual  Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Other"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text" value="MR &amp; MRS"/>	Building Name:	<input type="text" value="c/o APT Planning &amp; Development"/>
First Name: *	<input type="text" value="CHRIS &amp; EMMA"/>	Building Number:	<input type="text" value="6"/>
Last Name: *	<input type="text" value="FLOCKHART"/>	Address 1 (Street): *	<input type="text" value="HIGH STREET"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text" value="07747780852"/>	Town/City: *	<input type="text" value="EAST LINTON"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="UK"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="EH40 3AB"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="TONY@APT-PLANDEVELOP.CO.UK"/>		

## Site Address Details

Planning Authority:	<input type="text" value="Midlothian Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="6 LUGTON BRAE"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="DALKEITH"/>
Post Code:	<input type="text" value="EH22 1JX"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="667716"/>	Easting	<input type="text" value="332788"/>
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## Description of Proposal

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

LOCAL REVIEW BODY APPEAL OF APPLICATION 20/00695/DPP - ERECTION OF HOUSE IN GARDEN GROUND OF 6 LUGTON BRAE, DALKEITH, EH22 1JX

## Type of Application

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

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

What does your review relate to? \*

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

## Statement of reasons for seeking review

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

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

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

PLEASE SEE ACCOMPANYING REVIEW STATEMENT

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

Yes  No

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

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

REVIEW STATEMENT & ORIGINAL APPLICATION DOCUMENTS

## Application Details

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

20/00695/DPP

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

20/10/2020

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

10/03/2021

## Review Procedure

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

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

Yes  No

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may select more than one option if you wish the review to be a combination of procedures.

Please select a further procedure \*

Holding one or more hearing sessions on specific matters

Please explain in detail in your own words why this further procedure is required and the matters set out in your statement of appeal it will deal with? (Max 500 characters)

IN OUR OPINION, A HEARING TO BEST EXPLORE AND DISCUSS THE KEY ELEMENTS OF THE APPEAL WOULD BE THE BEST WAY TO APPROACH THIS APPEAL TO THE LRB PANEL.

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

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

Yes  No

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

Yes  No

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

SITE VISIT CAN BE UNACCOMPANIED BUT ACCESS WILL BE REQUIRED THROUGH THE ACCESS GATE TO 6 AND 6B LUGTON BRAE.

## Checklist – Application for Notice of Review

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

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

Yes  No

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

Yes  No

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

Yes  No  N/A

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

Yes  No

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

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

Yes  No

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

## Declare – Notice of Review

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

Declaration Name: Mr TONY THOMAS

Declaration Date: 20/05/2021

# Alan Hardie Architect

Suite 4 Dundas House,  
Westfield Park,  
Eskbank EH22 3FB

## Introduction

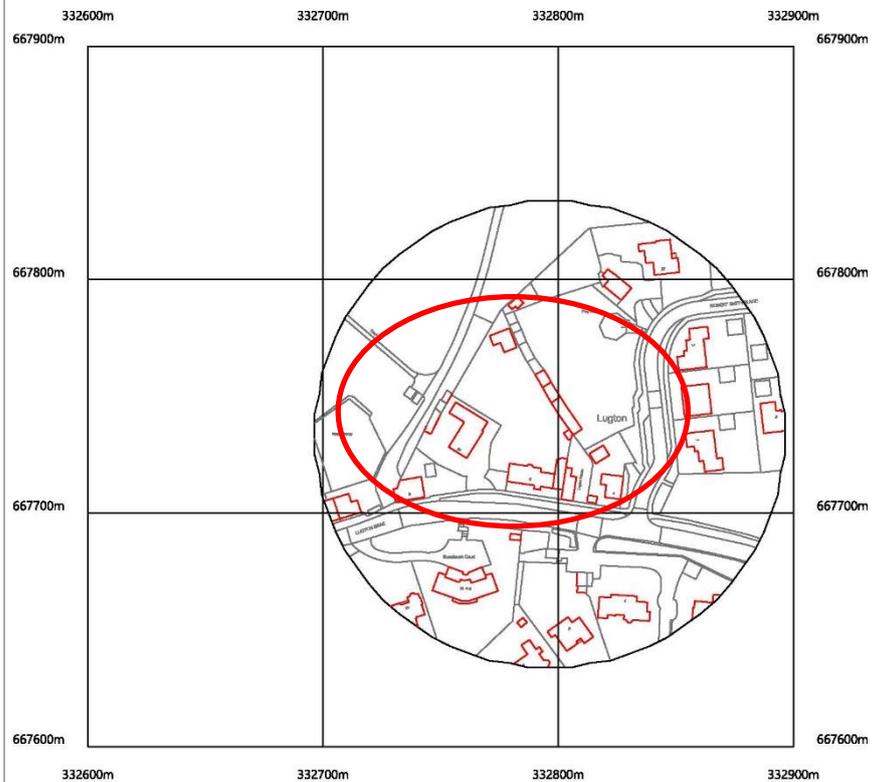
**Project:** Application for Dwelling in Garden of 6 Lugton Brae, Dalkeith EH22 1JX  
**Client:** Chris & Emma Flockhart

Proposal: To create a new 3-bed dwelling house for the applicants to use in north-west corner of the existing garden ground of 6 Lugton House.



## Listing details

Location plan.



## Alan Hardie Architect

Suite 4 Dundas House,  
Westfield Park,  
Eskbank EH22 3FB

	<p><b>Description (from Listing Information):</b></p> <p>6 LUGTON BRAE, LUGTON HOUSE, WITH BOUNDARY WALLS AND RAILINGS Early 19th century. 2-storey, 3-bay house, made 4-bay by later sympathetic addition. Sandstone rubble, contrasting red sandstone to addition; S elevation squared and coursed, addition stugged ashlar; E elevation harled. Base course. lintel course at eaves level. Raised margins.</p> <p>S (LUGTON BRAE) ELEVATION: modern lean-to porch at centre of original house. Later bay slightly recessed to left. Regular fenestration. Blocked basket carriage arch slightly recessed to right; window inserted at ground.</p> <p>W ELEVATION: window to left at ground. Window to left and right at 1st floor. Wall extended to left beyond gable.</p> <p>N ELEVATION: modern canted porch at ground, window to left and canted window, with cornice and blocking course, to right. 3 windows at 1st floor. Gabled bay advanced to right; window to left at 1st floor.</p> <p>E ELEVATION: window to right at 1st floor.</p> <p>12-pane glazing pattern in sash and case windows; 2 and 4-pane glazing pattern in canted window. Coped skews. Gablehead stacks to W and E; former gablehead stack at junction with addition; wallhead stack to</p> <p>left to N. Purple slates to S pitch of original house, grey-green slates to N pitch; grey slates to addition.</p> <p>BOUNDARY WALLS AND RAILINGS: low flat coped rubble wall to S, with iron spearhead railings.</p> <p>Single storey outbuilding adjoined to E elevation, lean-to on wall to E. Outbuilding to E, with half-piend roof; S elevation continuous with boundary wall.</p> <p><b>Entry Name:</b> Lugton House, 6 Lugton Brae, Dalkeith <b>Listing Name:</b> 6 Lugton Brae, Lugton House, with Boundary Walls and Railings <b>Listing Date:</b> 9 March 1992 <b>Category:</b> C <b>Source:</b> Historic Scotland <b>Source ID:</b> 332011 <b>Historic Scotland Designation Reference:</b> LB1432 <b>Building Class:</b> Cultural</p> <p><b>Conservation Area:</b> Dalkeith House and Park</p>
<p><b>Site and area appraisal</b></p>	<p>The buildings in the vicinity are a mix of apparently Georgian/ Victorian and what appears to be examples of various styles spanning the 20<sup>th</sup> C. The buildings in Robert Smith places date from a few years ago and comprise a mock-Georgian style with rendered walls and</p> <p>Lugton House itself (6 Lugton Brae) is traditional sandstone and slate as described above and immediately adjacent is a modern dwelling, 6B Lugton Brae which was granted Planning Consent in February 2105, reference 15/00001/DPP. This is in a modern style with white render walls, mono-pitch single ply membrane roof with grey aluminium windows/doors and some timber panelling.</p>

## Alan Hardie Architect

Suite 4 Dundas House,  
Westfield Park,  
Eskbank EH22 3FB

The proposed site is large – approximately 0.19 Ha with most of it laid as garden ground, with an existing tarmac road leading to a steel clad garage and shed in the extreme north of the site. The site is bounded to NE and NW by a stone wall, also as referred to above in Listing description and hedge bounds the edge of the site to 6B Lugton Brae. There is a low dwarf wall defining the tarmacked area and retaining an area of grass.



### Design principles

A Request for Pre-application Advice for this site was made by Tony Thomas of APT Planning & Development on 7<sup>th</sup> May 2020. The advice received in response from Mhairi-Anne Cowie stated: *"The proposal would have a significant detrimental impact on the character and setting of the listed building. There is also potential for a detrimental impact on the privacy and amenity of existing and proposed occupants due to the layout of these houses. It is highly unlikely that this application could be supported by the Planning Authority"*.

Clearly this was a disappointment to the clients who had hoped to build a modern house on the site which would allow them to stay in the locality and continue to enjoy the benefits of a large garden (their business is landscape gardening) with the added comfort and facilities that a modern house would provide. After much discussion and consideration, they concluded that it would be possible to design a house which would address the concerns raised. Specifically, as the current occupants of Lugton House, they do not believe that their proposals would impact the character or setting of the Listed Building in any way – and that by sympathetic design, it would be possible to ensure that the privacy and amenity of existing and proposed occupants is not compromised. Accordingly, every effort has been taken to take full cognisance of Mhairi-Anne Cowie's comments to inform the design.

Accordingly, it is proposed to extend the existing shared access driveway to accommodate two new gates – one for Lugton House and the other for the proposed dwelling. The driveway and car parking spaces to Lugton House is to be retained and a new driveway formed by the part demolition of the dwarf retaining wall which would be rebuilt adjacent to 6B Lugton Brae and some land given over to 6B. The existing screen hedging would stay in place and new screen hedging planted to off additional privacy to both Lugton House and the proposed new dwelling.

The new dwelling would be positioned in the south-western corner of the new site where it will be hidden from view from Lugton Brae and provide privacy to Lugton House rear garden – being some 25m from the proposed new site boundary. There are no windows in that gable of 6B Lugton Brae and their privacy will be enhanced by the inclusion of a 2m high screen fence at first floor level.

## Alan Hardie Architect

Suite 4 Dundas House,  
Westfield Park,  
Eskbank EH22 3FB

The clients have been keen from the outset to have a house which married well with the existing buildings on the site and have opted for a simple modern design which would sit well with 6B Lugton Brae and obviously contrast in style with Lugton House, but utilise a colour palette which will harmonise with the traditional tones of the sandstone and slate.

In summary, the clients are keen to emphasise the following:

- The proposed new building will be further away by some distance from the listed building than the existing new building.
- The proposed new building will be set at a lower height than the existing new build.
- The proposed new building will not be visible from any public areas and will only be visible from certain aspects of the garden to Lugton House.
- The proposed new building will utilise a similar palette of colours and materials to the existing new build with the exception being that we aim to blend it in to the tree line more naturally.
- The proposed new building will also feature a single ply roof to be "in keeping" with its nearest neighbour.
- The proposed new building will be built to high environmental standards with energy saving features to be incorporated i.e. multiple solar panels.
- The proposed building will be screened using multiple aspects of clever planting so to preserve privacy for all three properties.



# Mr & Mrs Chris Flockhart

## Local Review Body Appeal



### APPLICATION – 20/00695/DPP

Erection of dwellinghouse; alterations to existing boundary walls; erection of gates and retaining walls on land at 6 Lugton Brae, Dalkeith.

### REVIEW STATEMENT

May 2021

apt planning &  
development

6 High Street  
East Linton  
EH40 3 AB

T – 07747 780 852

[tony@apt-plandevlop.co.uk](mailto:tony@apt-plandevlop.co.uk)

[www.apt-plandevlop.co.uk](http://www.apt-plandevlop.co.uk)

- The applicants, Mr & Mrs Flockhart, have painstakingly renovated 6 Lugton Brae. They want to stay in the locality and create a new and attractive home for themselves. The proposed development to the rear of the existing property will achieve that goal;
- The new home would not be seen from Lugton Brae itself and would be visible only from a minor footpath within Dalkeith Country Park, a view that is already framed and by other residential properties;
- The site has already been subdivided with the development of 6B. This is a logical progression for the site to create three attractive homes each with appropriate access and levels of amenity;
- The site occupies a backland position within the site. It is not imposing or dominating within the context of the category 'C' listed 6 Lugton Brae. The key, public view of 6 Lugton Brae is from the roadside. This development will not impact on that view at all;
- The proposed scheme is committed to delivering an energy efficient building in line with Midlothian's aspirations and utilising modern technology such as ground-source heat pumps and heat exchangers. The aim will be to create a carbon-neutral home;
- Planning policy should act as a framework within which to make good decisions, to find the best solutions. It should not be implemented as a rigid straightjacket and each application must be judged on its own merits;
- In this instance, the quality of design and site specific characteristics ensure that the proposals meet key policy tests and that the site can accommodate the proposed development;

## Executive Summary

- a. This appeal to the Midlothian Council Local Review Body is lodged following the refusal of application **20/00695/DPP** on **10<sup>th</sup> March, 2021**.
- b. **The Local Review Panel has the advantage of looking at the application afresh and is neither bound by the original decision nor a strict interpretation of planning policy. Planning policy provides a framework for decision making not an absolute.**
- c. Mr and Mrs Flockhart and their family currently occupy 6 Lugton Brae, a category C listed building which they have lovingly restored/maintained. They have a proven track record in undertaking work to the highest of standards.
- d. They are proposing to subdivide the garden ground associated with 6 Lugton Brae and building a contemporary two storey house which responds to the site-specific characteristics and is in-keeping with the size, character and type of house found in the immediate vicinity. **The new home would be for the Flockhart family to occupy.**
- e. We contend that the proposed development has been sensitively designed and is a high quality addition to this established residential the area:
  - o The applicant proposes a dwellinghouse in a contemporary style. A significant number of houses in the vicinity are modern in their form, design and appearance;
  - o In the immediate locality the proposed development would sit well with 6B Lugton Brae – a contemporary modern home, and an appropriate contrast in style with 6 Lugton Brae – a traditional listed building. It will utilise a similar colour palette which will harmonise with the traditional tones of the sandstones and slate and provide a unifying effect with the nearby properties;



- It is the logical progression for a site that is comfortably big enough to accommodate three family homes – the proposed new home will occupy a subservient position within the site, not distracting attention from the roadside views of the original building;
  - The proposed site is a parcel of land which has already been substantially changed. It contains an extensive driveway and parking area, garages and an element of existing garden ground. The area of land is surplus to requirements and can accommodate all of the development including satisfactory access, parking and functional garden ground;
  - The new home is of an appropriate scale and density and the proposed design is clearly compatible with its established residential surroundings. The proposed site is in a backland position, completely hidden from view from the general streetscape.
- f. The proposed new home will be constructed as far as reasonably possible to be carbon neutral utilising an air source heat pump with underfloor heating and in-line heat exchanger to minimize heat loss from ventilation. Insulation will be installed in excess of industry and building regulation standards and triple glazed thermally insulated doors and windows will minimise heat loss.
- g. Midlothian is the fastest growing local authority area in Scotland and an ambitious programme of house building will present challenges. It is our assertion that this is an ideal location for a new home.
- h. As the Council seeks to promote innovative, appropriate and sustainable design in new development, this application clearly meets all pertinent policy tests whilst providing an attractive new home designed to give due regard to the specific site characteristics. This new home is for the applicants and their family to move into, freeing up a desirable family sized property in Dalkeith.

## INTRODUCTION

1. **apt planning & development** has prepared this Review Statement on behalf of **Mrs and Mrs Chris and Emma Flockhart** with regards to application **20/00695/DPP** seeking planning permission for the erection of a new detached house and associated works. **The application was refused via delegated powers on 10<sup>th</sup> March 2021.**
2. The application was accompanied by a suite of supporting documents. This appeal statement will not repeat what has been written before, but will concentrate on the reasons used to justify the refusal of the application in March.
3. In brief, the officer report outlines several areas where the proposals conform with policy and these include the following:
  - The Council's Policy and Road Safety Manager has no objection - there are no road safety or access concerns;
  - The Council's Biodiversity Consultant states that protected species will not be affected by the proposal and the Dalkeith Estate Local Biodiversity Site, adjacent to the site will be unaffected;
  - There is no impact on any trees in the location and the beech hedge that runs along the west boundary is to be retained;
  - The proposed new walls, gatepiers and gates are acceptable;
  - The site is located within the walled garden of an existing house, this would not have a significant adverse impact on the character or appearance of the designed landscape.

## SITE CHARACTERISTICS, BACKGROUND AND PLANNING HISTORY

4. The application site comprises an area of garden ground serving 6 Lugton Brae, a category 'C' listed building lying immediately to the south of the application site. No. 6b Lugton Brae lies to the south-west and is a modern infill development already completed within the grounds of NO.6.
5. The Dalkeith House Estate (Country Park) lies to the north (over the boundary wall). The stone wall around the north and east boundaries is part of the listing for 6 Lugton Brae. New development at Robert Smith Place lies immediately to the north-east of the appeal site. The site is within the Dalkeith House and Park Conservation Area.

## PLANNING HISTORY

6. 6 Lugton Brae has an extensive planning history dating back to 2004. The more recent and most relevant planning history relates to the development of 6b Lugton Brae. This saw the introduction of a contemporary new home, sitting on the street frontage and seen from public view in the same context and vista as the category 'C' listed 6 Lugton Brae.
7. The proposed new home would not be visible from outwith the site (other than from a scarcely used footpath to the rear where it would be seen over a wall and within the context of other buildings visible in the same view):
  - **13/00852/PPP** - Planning Permission in Principle for a single Dwellinghouse (the same as 09/00153/OUT), consent with conditions granted 17<sup>th</sup> January, 2014; and
  - **15/0001/DPP** - Erection of a Dwellinghouse, consent with conditions granted 18<sup>th</sup> February 2015.



6b Lugton Brae as seen from the roadside and looking south-west from the existing (and to be retained) garden ground of No. 6.

## APPLICATION 20/00695/DPP

9. Application 20/00695/DPP was validated on 20<sup>th</sup> October, 2020. It responded to earlier comments from the case officer outlined in their response to a pre-application enquiry. The application was refused on the **10<sup>th</sup> March, 2021**. Four reasons for refusal were given and we address each below.

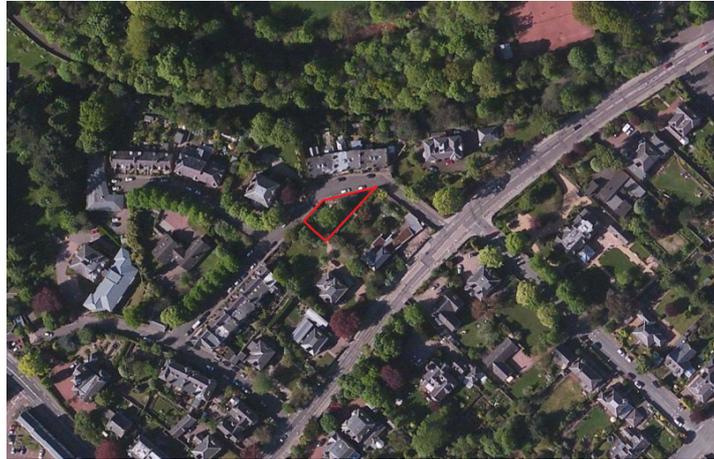
### Reason 1

The proposed dwelling house is neither an appropriately designed traditional dwellinghouse nor a dwellinghouse designed in a high quality contemporary style. The design of the proposed dwelling house, in particular its rear elevation which is particularly visible from public viewpoints, is unsympathetic to the character and appearance of the conservation area. The design of the proposed dwellinghouse would have a significant adverse impact on the character and appearance of the conservation area and is therefore contrary to policies DEV2 and ENV19 of the adopted Midlothian Development Plan 2017 and Historic Environment Scotland policy and guidance.

10. **Policy DEV2 - Protecting Amenity within the Built-Up area** states that development will be permitted within existing and future built up areas, and in particular within residential areas, unless it is likely to detract materially from the existing character or amenity of the area.
11. The proposed development is a well thought out attractive dwellinghouse that has been designed in a high quality **contemporary** style and is entirely in keeping with the character of the **residential area**;
- The site constitutes a portion of garden ground serving 6 Lugton Brae which is a two storey stone category C listed building, located within the built up area;
  - Immediately adjacent is 6B Lugton Brae, a contemporary new build property;
  - A substantial flat-roofed modern building is situated immediately to the south of 6 Lugton Brae. This was built in the garden ground of 'The Garden House' a category B listed building and is far more prominent from public view;



- 42 Eskbank Road (a large C listed, detached stone house) – garden ground developed to accommodate a dwellinghouse in a contemporary style (18/00688/DPP);



- Robin Smith Place, a modern development comprising of 26 detached two storey properties is situated nearby and was developed within the walls of a category C listed walled garden;
  - Planning permission has also been granted for a house in the grounds of category B listed *'The Garden House'* also on Robert Smith Place (17/00340/DPP).
12. Overall, there is a variety of existing plot sizes in the area and the general pattern of domestic building is characterised by single and two-storey forms. That said there is no distinct overriding character to the plots sizes or design in this area. The area around Lugton Brae has the appearance of a residential area which has been developed with different groups of houses on separate parcels of land over a period of time.
  13. The proposed development has been designed to a very high standard – **simple and modern** – it is an attractive new home using appropriate high quality materials and design references.
  14. This contemporary design will be in-keeping with 6B Lugton Brae, will contrast in style with Lugton House but will utilise a colour palette which will harmonise with the traditional tones of the sandstone and slate.
  15. Furthermore, the applicants are proposing to build a home that is energy efficient utilising a number of renewable energy resource sources, namely solar panels and ground source heating, meeting many of the Council's aspirations for new build homes. They will employ rigorous standards of energy efficiency reducing the building's ecological footprint and resulting in an ultra-low energy building that requires little energy for space heating or cooling.
  16. This is a high quality development that strikes the right balance with the prevailing architectural style and character of the locality.

17. We strongly contend that the *'The design of the proposed dwelling house, in particular its rear elevation which is particularly visible from public viewpoints'* has been significantly overstated.
18. Dalkeith Country Park is vast - over 660 acres in size, with numerous paths and trails throughout. The north side of the plot backs onto Dalkeith Country Park and is bounded by 3 metre high stone walls. The *'public viewpoint'* that is referenced in the officer report is an informal path that in part has become overgrown and is infrequently used by members of the public (it actually provides access to the rear of the private dwellings at No's 8 and 10 Lugton Brae).
19. This is not one of the main pathways criss-crossing the Country Park. The emphasis is rightly to be found at The Restoration Yard area which has parking, a significant commercial and leisure element and is almost 1.5km away to the east. This is not a popular walking route within the Country Park.
20. The impact from a any public viewpoint will be negligible, an small portion of the roof would be visible, and certainly no more obvious/ imposing than the houses already in situ. It will be a built structure glimpsed over a wall, in an area characterised by glimpsed views of other built structures typically to the rear of other residential properties.



Typically there are views from the path out towards existing residential areas

21. **Policy ENV19 – Conservation Areas** states that within or adjacent to conservation areas, development will not be permitted which could have any adverse effect on its character and appearance. In the selection of site, scale, choice of materials and details of design, it will be ensured that new buildings preserve or enhance the character and appearance of the conservation area. Traditional natural materials appropriate to the locality or building affected will be used in new buildings.
22. The proposal would result in the garden of 6 Lugton Brae being subdivided and the plot can easily accommodate the proposed development. The application site is a natural progression and a parcel of land which could easily accommodate an appropriately designed home.
23. The applicant proposes a dwellinghouse in a contemporary style. A significant number of houses in the vicinity are modern in their form, design and appearance. The proposed development would sit well with 6B Lugton Brae and obviously contrast in style with Lugton Brae House, but utilise a similar colour palette which will harmonise with the traditional tones of the sandstones and slate. It will also feature a single ply roof to be in keeping with its nearest neighbour.
24. Almost regardless of the above, the new home is not visible from the public road (key viewpoint) and barely visible from the other public space at Dalkeith Country Park. There will be no impact on the character appearance or setting of the Conservation Area. It is therefore entirely appropriate to accommodate a high quality development such as this, as it preserves the appearance of the Conservation Area.
25. **The new home is visible from Dalkeith Country Park but only from a less-travelled path and in a context of other buildings behind tall walls. The site is entirely hidden from the general streetscape. There is little if any impact on views from public places and no detrimental impact on the Conservation Area.**

**Reason 2**

The subdivision of the plot would have an adverse impact on the character and appearance of the conservation area and the character and setting of the important category C listed building and so is contrary to policies DEV2, ENV19 and ENV22 of the adopted Midlothian Local Development Plan 2017.

26. **Policy DEV2 - Protecting Amenity within the Built-Up area** states that development will be permitted within existing and future built up areas, and in particular within residential areas, unless it is likely to detract materially from the existing character or amenity of the area.

*Response outlined above – no impact on the character or amenity of the residential area.*

27. **Policy ENV19 – Conservation Areas** states that within or adjacent to conservation areas, development will not be permitted which could have any adverse effect on its character and appearance. In the selection of site, scale, choice of materials and details of design, it will be ensured that new buildings preserve or enhance the character and appearance of the conservation area. Traditional natural materials appropriate to the locality or building affected will be used in new buildings.

*Response outlined above – no impact on the character or amenity of the Conservation Area.*

28. **Policy ENV22 – Listed Buildings** states that development will not be permitted which would adversely affect the character or appearance of a listed building, its setting or any feature of special architectural or historic interest.
29. **New development** within the curtilage of a listed building or its setting will only be permitted where it complements its special architectural or historical character.
30. Great care has been placed on the design of the new home and in particular following the pre application advice, every effort has been made to take account of the concerns raised.



31. We contend that the proposed new house would sit comfortably and appropriately in its position within the site and in relation to the listed building - 6 Lugton Brae:

- The site is large enough to accommodate all of the development including parking, garden ground and landscaping. The scale and density of the proposed building is appropriate in the context of the existing properties at Lugton Brae and the adjacent properties in the immediate vicinity;
- The new building will be further away from the original building than the new property at 6B Lugton Brae and will be set at a ridge height than the existing new build. It is also set back and nestled into the rear of the site;
- The new property would be positioned in the north-western corner of the new site sitting adjacent to, but screened from 6B Lugton Brae and through the use of sensitive screen fencing and planting provide privacy to the rear garden of 6 Lugton Brae whilst enjoying appropriate garden space itself. The new property will be some 25m away from the proposed site boundary;
- The development of 6B has already significantly altered and compromised the whole site. It contains an extensive driveway, a large area of hardstanding, garages and an area of grassed garden ground.
- The development of the plot will not detract from the character and setting of the listed building. The area of formal garden ground currently predominately used by the residents of 6 Lugton Brae is sizable and positioned to the rear of the property.
- The application site is never used as garden space and given the development of 6B, already looks somewhat detached from the main house. This part of the garden ground is entirely appropriate for the creation of a new home.
- The current residents have lovingly restored the listed building and have enjoyed living there with their young family. The application site is surplus to requirements.
- It is worth noting that there is no standard for the provision of garden ground. The partition of the site to allow the development of the proposed home will use under-utilised garden ground and an extensive area of parking. From the roadside, all of this will be invisible. The casual observer will have no clue as to what lies behind the frontage.
- The development of 6B Lugton Brae has already altered the character of the original plot to the extent that the garden ground and driveway proposed for development, now feel separated to the north-west as opposed to the area of garden ground to the north of the house which is naturally aligned as rear garden space.



Application 20/00695/DPP – Land at Lugton Brae, Dalkeith.  
Local Review Body Support Statement – May 2021.

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32. We were naturally disappointed that this application was refused, but particularly that the reasons for refusal include the proposed developments' impact on both the Conservation Area and the category C listed building at 6 Lugton Brae. Neither argument holds water when considering the actual site-specific characteristics.
33. **It is our assertion that the design and position of the proposed new dwellinghouse strikes the right balance - it is an attractive new home to the rear of the site which cannot be viewed from the street. The proposed property adds interest but also complements the local identity and the materials used will provide a unifying effect with the neighbouring properties.**

**Reasons 3 and 4**

**Due to the relationship between the proposed and existing properties the amenity space for the proposed house would be directly overlooked by the existing house and garden ground serving 6 Lugton Brae resulting in a poor level of amenity.**

**Due to the relationship between the proposed and existing properties the amenity space and rear elevation of 6 Lugton Brae would be directly overlooked by the amenity space for the proposed house resulting in a poor level of amenity.**

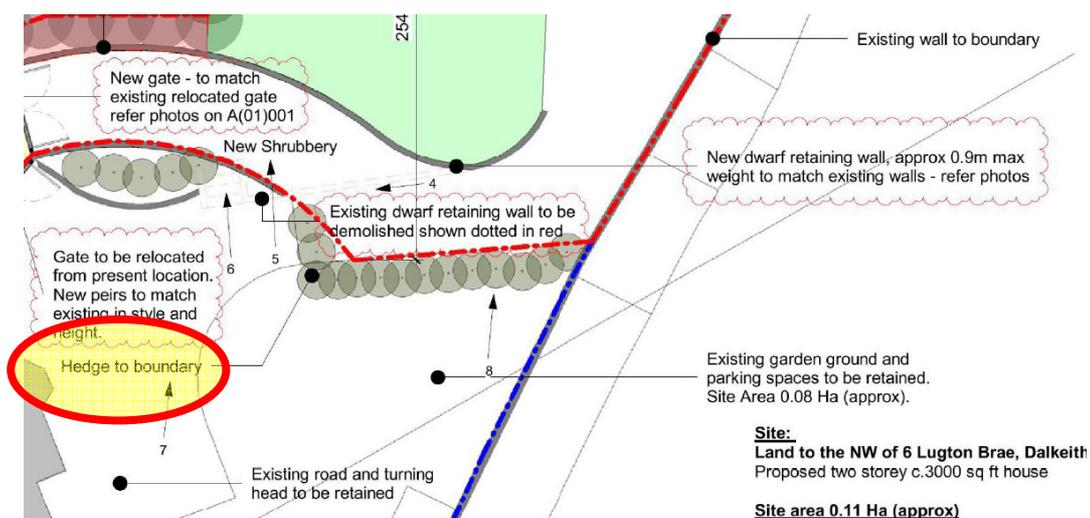
**For the above reasons in reasons 3 and 4, the proposal is overdevelopment of the site and does not comply with policies STRAT2, DEV2 and DEV6 of the Adopted Midlothian Local Development Plan 2017.**

34. **Policy STRAT 2 - Windfall Housing Sites** states that within the built up areas, housing development on non-allocated sites, including the reuse of buildings and redevelopment of brownfield land, will be permitted provided that:
- It does not lead to the loss or damage of valuable public or private open space;
  - It does not conflict with the established land use of the area;
  - It has regard to the character of the area in terms of scale, form, design and materials;
  - It meets traffic and parking requirements; and
  - It accords with other relevant policies and proposals, including policies IMP1, IMP2, DEV3, DEV5 – DEV 10.
35. As we have re-iterated throughout this appeal statement this is a high quality development - it strikes the right balance in the context of the existing properties at Lugton Brae. It does not conflict with the established land use in this residential area, nor does it lead to the loss of valuable private open space. It takes into account the character for the area in terms of scale, form, design and materials. It meets all traffic and parking requirements and in our opinion complies with policies IMP1, IMP2, DEV3, DEV5-DEV10.
36. **Policy DEV2 - Protecting Amenity within the Built-Up area** states that development will be permitted within existing and future built up areas, and in particular within residential areas, unless it is likely to detract materially from the existing character or amenity of the area.

*Response outlined above – no impact on the character or amenity of the residential area.*

37. **Policy DEV6 – Layout and Design of New Development** states that the Council will require good design and a high quality of architecture, in both the overall layout of development proposals and their constituent parts. The layout and design of development proposals should meet a number of listed criteria and those relevant to this application include:
- a. The layout of the development proposals should complement or enhance the character of any adjoining or nearby urban area; include attractive street frontages; provide outlook onto communal open space; and integrate the siting of buildings, landscaping, open space, boundary treatment, and pedestrian/cycle/vehicular routes;
    - There is no active street active frontage associated with the proposed development, it has been designed to sit comfortably and appropriately within its immediate surroundings and there is no impact on the on views from Dalkeith Country Park.
  - b. Any locally prominent landscape feature or historic building should be reflected in the layout and local landmarks and viewpoints and should be incorporated into the streetscape to provide a welcoming atmosphere and assist with navigation;
    - The proposed dwellinghouse has no impact on the key view of the listed building at 6 Lugton Brae (from the Lugton Brae roadside). Care and attention has been placed on selecting the palette of colours and materials which will harmonise with the neighbouring traditional building, whilst the part of the rear garden and amenity land is already visually separate from the main garden due to the development of 6B Lugton Brae.
  - c. Good quality materials should be used in the design;
    - As the drawings illustrate, the proposal is for a high quality energy efficient home in a modern, sensitive style. The applicant has a proven track record of undertaking work to the highest standard as is showcased in their upgrading of 6 Lugton Brae.
  - d. A high standard of passive energy gain should be achieved and overshadowing of buildings should be avoided;
    - The proposed new building will be built to high environmental standards with energy saving features incorporated in the design. There will be no overshadowing of existing buildings or any loss of sunlight.
  - e. Buildings should be laid out along contours to avoid excessive changes in levels and underbuilding in the street scene;
    - The application site is effectively a flat area of former and existing garden ground. The proposed development will respect existing building heights whilst being invisible from public view from Lugton Brae.

- f. Adequate spacing between housing should be provided to ensure privacy and amenity;
- The proposed new building will be set 25 metres from the rear garden of 6 Lugton Brae and sit alongside 6B Lugton Brae. Each of the three properties will enjoy private amenity space and the site is of a sufficient sized to accommodate each of the three distinct homes.
- g. Private open space should be provided on a scale appropriate to the relevant dwelling type;
- Sufficient private open space is to be provided for the new home, whilst each of the three homes will have private garden ground alongside access and parking provision.
- h. Any roads, lighting and parking must satisfy the Council’s standards.
- All parking standards have been met.
38. The officer report specifically outlines concerns regarding amenity space, in particular that the amenity space for the proposed house would be overlooked by 6 Lugton Brae and vice versa. This can be easily rectified.
39. The boundary from the proposed new home’s garden to the access road is currently a dwarf retaining wall which can easily be supplemented with a combination of a new fence and planting (which can be maintained via a planning condition), therefore preserving the privacy of both 6 Lugton Brae and the proposed development. The proposals already show the creation of a boundary treatment along the edge of the existing garden ground to the rear of 6 Lugton Brae (see below – highlighted). This allays any concerns over harmful overlooking or loss of privacy for any of the homes at Lugton Brae.



40. The proposed height of the property, the ratio of built form to undeveloped garden ground and the size of the plot are all sufficiently in keeping with the surrounding area and do not give rise to overdevelopment.

## SUMMARY

42. This Review Statement challenges the five reasons given for the refusal of application **20/00695/DPP**. We believe that they significantly overstate concerns regarding the development of the site to create an attractive new home for the applicants, Mr & Mrs Flockhart who currently live at 6 Lugton Brae and are keen to stay in the locality.
- i. The site cannot be seen from Lugton Brae, it is essentially an invisible site in the surplus garden ground of 6 Lugton Brae;
  - ii. It is more sensitively sited that the recently completed 6B Lugton Brae which offers a contrasting style of house, adjacent to the main house and occupying a roadside plot;
  - iii. The original siting of 6 Lugton Brae has already been compromised with the development of 6B, this effectively splits the site into an east side and a west side. The proposed new home will occupy the other part of the west side of the site and nestled behind 6B Lugton Brae;
  - iv. The site backs onto Dalkeith Country Park but is visible only from a minor path that is actually the private access to the rear of 8 and 10 Lugton Brae. The view from this rarely travelled path is already of the roof of 6 and the much closer presence of 6B alongside a range of other properties that border the Country Park. There will be no discernible change to this view.
43. Consequently, we strongly believe that there will be no detrimental impact on the setting and/or character of the Conservation Area or the views from Dalkeith Country Park. These apparent impacts have been significantly overstated.
44. We have therefore established that the site can accommodate a new home. The design is contemporary and innovative, making the most of the space within the application site whilst having minimal impact on the appearance of the site from the surrounding area (and delivering what the applicant wants for their new home).
45. The layout, scale and form are compatible with the predominant residential character of the immediate (and wider) vicinity and the development represents the logical progression for a site that is comfortably big enough to contain three family homes;
46. The new home will be constructed as far as reasonably possible to be carbon neutral utilising an air source heat pump with underfloor heating and an in-line heat exchanger to minimize heat loss from ventilation. Insulation will be installed in excess of industry and building regulation standards and triple glazed thermally insulated doors and windows will minimise heat loss.

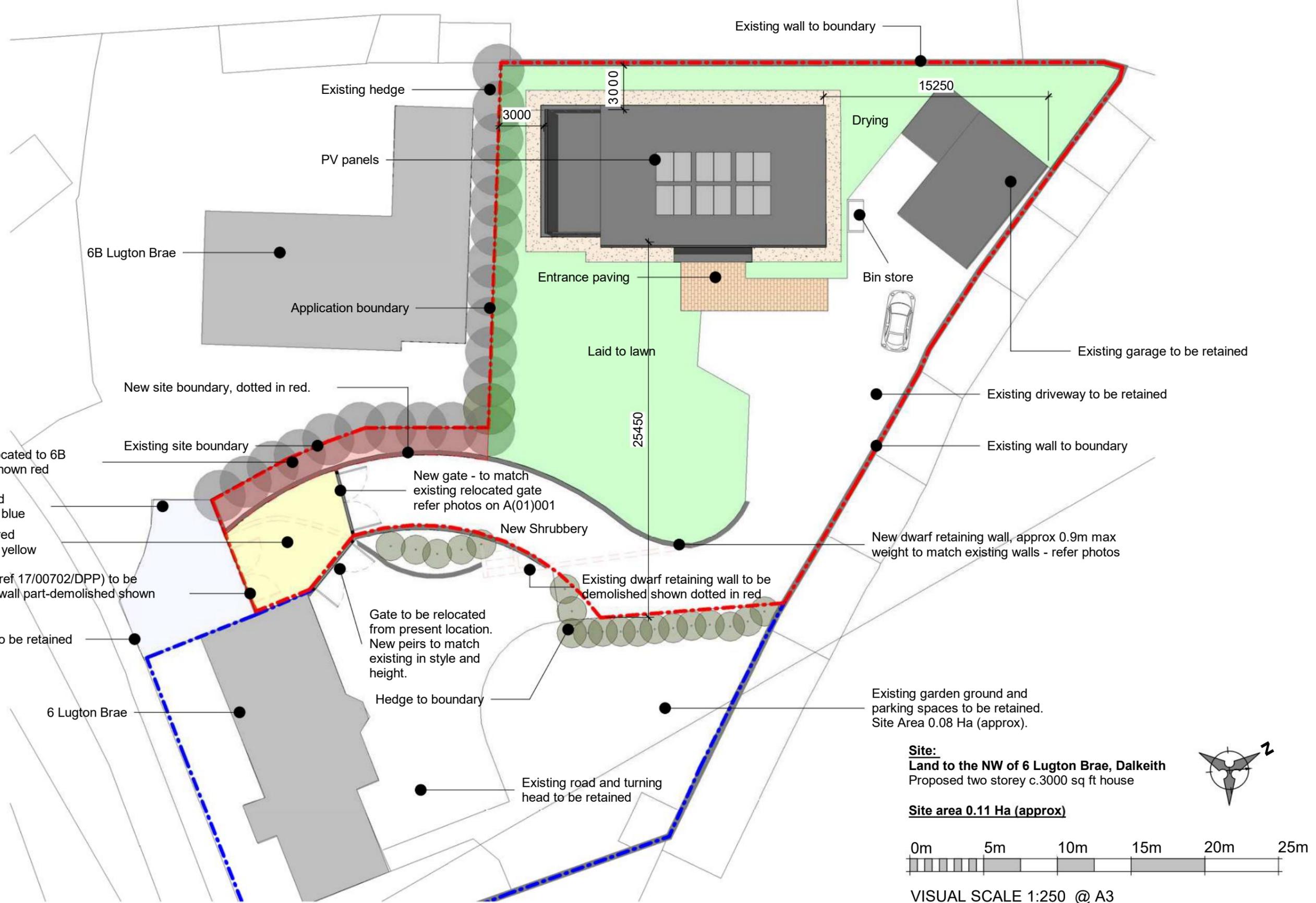


**Application 20/00695/DPP – Land at Lugton Brae, Dalkeith.  
Local Review Body Support Statement – May 2021.**

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47. We have outlined the merits of the proposed development and have demonstrated that the application is not only acceptable in the context of relevant planning policy, but would be a high quality addition to the area.

**Site**  
1 : 250



**Alan Hardie Architect**

Suite 4 Dundas House,  
Westfield Park, Eskbank EH22 3FB  
t. 0131 448 1249 m. 07706 270072 w. www.alanhardie.co.uk  
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Client  
**Chris & Emma Flockhart**  
Project  
**New Dwelling House**  
**Land to NW of 6 Lugton Brae,**  
**Dalkeith EH22 1JX**

**SITE PLAN**

Project number	2020-020A	Drawing number	Revision
Date	AUGUST 2020	<b>A(01)002</b>	<b>C</b>
Drawn by	AH		
Status	PLANNING	Scale 1 : 250	Size A3

Rev	Description	Date
C	Updated to Planning status	12.10.2020
B	Client amendments	07.10.2020
A	Client amendments	21.09.2020

13/05/2021 10:13:14

Lugton House  
6 Lugton Brae  
Lugton EH22 1JZ  
16<sup>th</sup> October 2020

Dear Sir/Madam,

We purchased Lugton House in January 2016 because we loved the old building, area and were pleased that we had a neighbour living within the walled garden at 6B. We found out that this house was built recently after being granted permission by the council and we think it was a great decision and enhances the walled garden area as well as the local neighbourhood. We particularly liked the contrast between the listed building which we purchased against the progression of the new building adjacent.

We have spent the last three and a half years restoring and improving many of the listed features of Lugton House. For example, we have spent many thousands of pounds making repairs to the Listed stone wall surrounding the property utilising traditional lime mortar. This is a process which is likely to be ongoing, as the wall ages and the stone deteriorates. We have also spent a considerable amount of money repairing the sash and case windows. Another major project we have undertaken was to restore the railings which involved us tracking down one of the only blacksmiths in Scotland who offered to make the finials to match the missing ones on the railings. Similarly, the Planning Department should be aware that we also had a gate made to match the railings and sit within the listed wall through a planning application.

We are now at the stage of utilising the large section of ground off to the corner which sits behind the new build house next door (6B). What we propose is that we would like to build a similar house to that new one on this area. We want to do this because the land/garden is superfluous to our daily lives and has to be continually maintained and we feel that a new house would give someone else the opportunity to enjoy living in Lugton Village, while it would be of benefit to the security of the neighbours.

We are aware that the advice given to Tony Thomas of APT when he made a Pre-Application Enquiry was that that an application was unlikely to be supported – which we do understand, but feel Planning Department concerns can be readily addressed and have asked our architect to list the reasons why. These reasons are included in his Design Statement.

In addition, we believe that the proposed new building naturally completes the triangulated site being divided into three equal plots leaving future maintenance of the listed walling to be more affordable and thus likely to be up-kept by all proprietors.

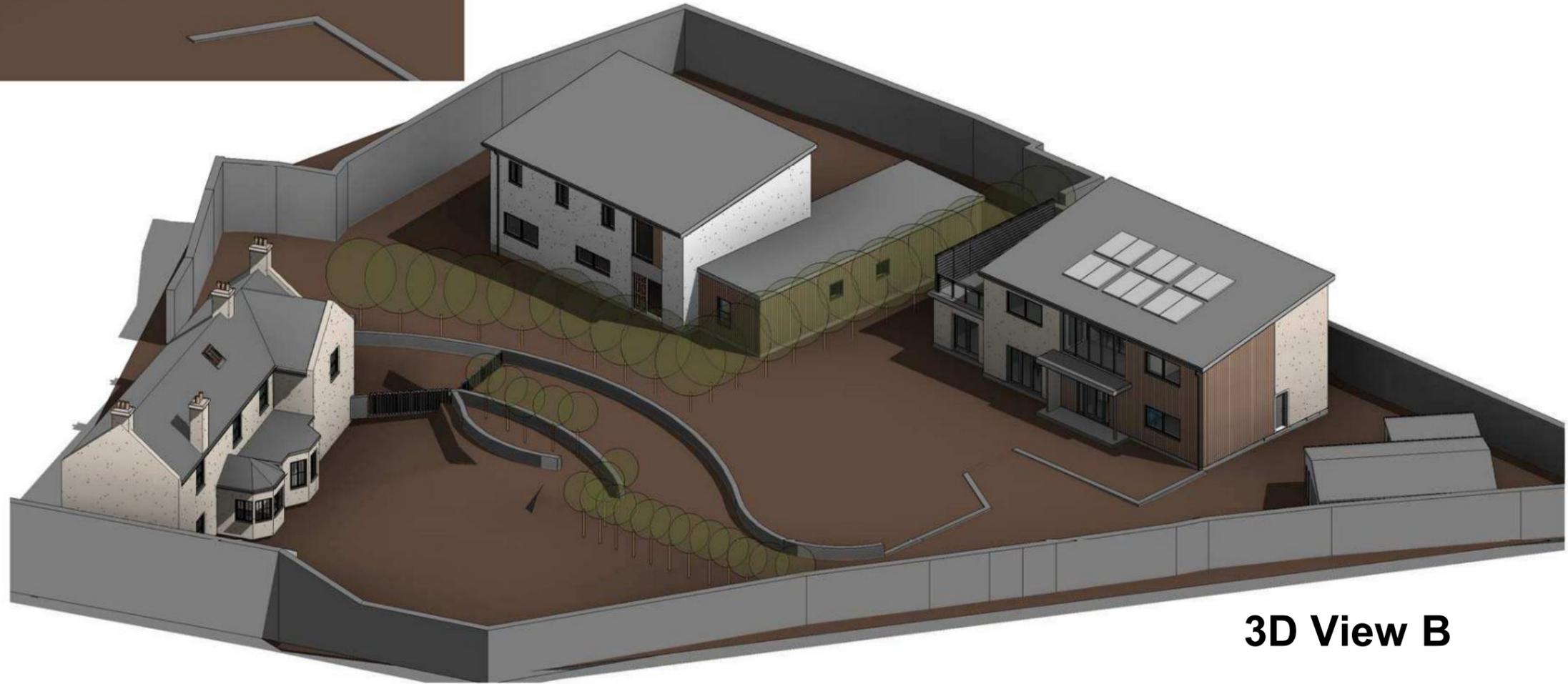
Finally, the proposed building is supported fully by our two closest neighbours, Mr Gerry Martin at no. 6B Lugton Brae and Mr Tony Smith at no. 2 Lugton Brae. Both of whom are happy to put this in writing to you.

Yours faithfully,

Chris & Emma Flockhart



**3D View A**



**3D View B**

**Alan Hardie Architect**

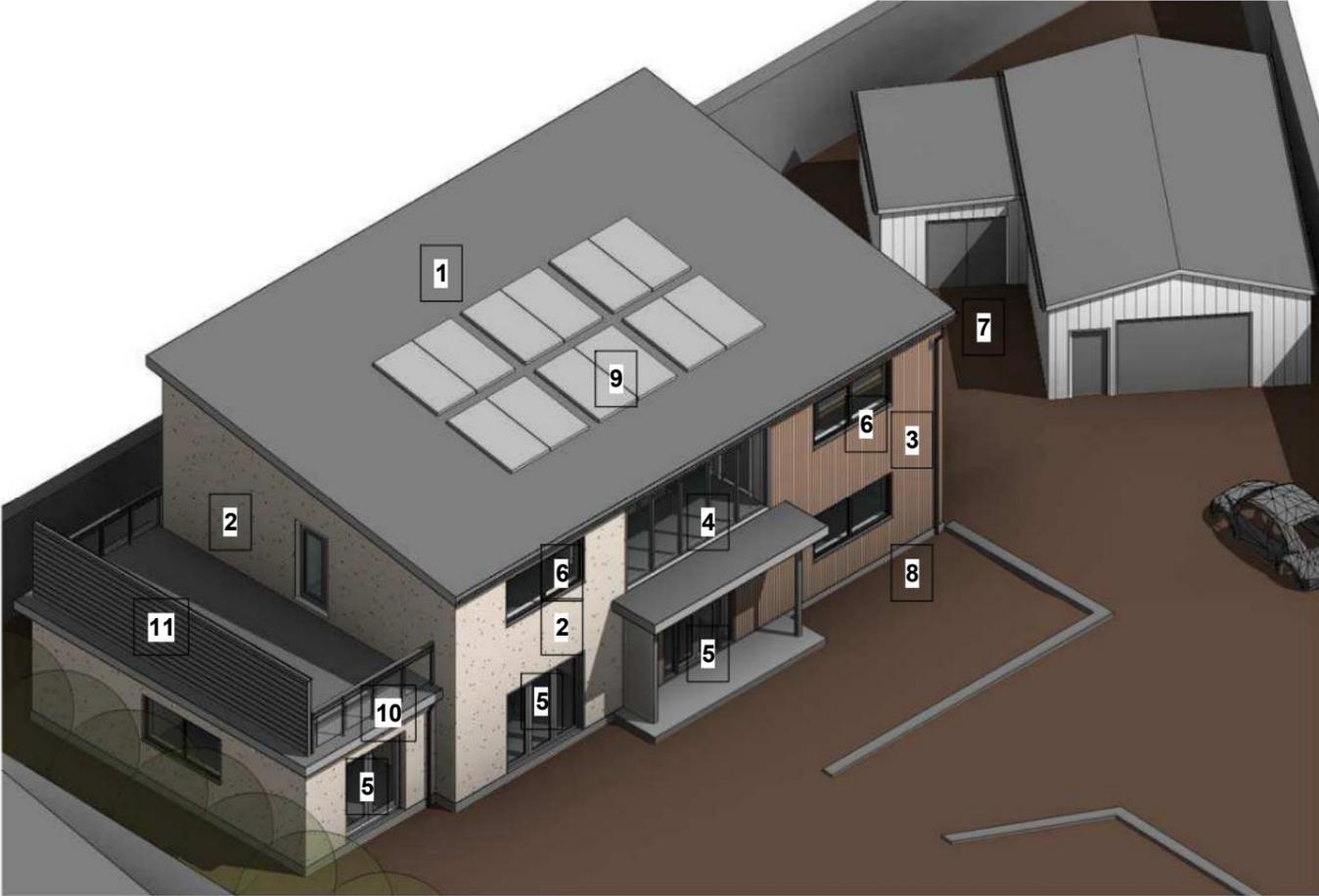
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Project  
**New Dwelling House**  
**Land to NW of 6 Lugton Brae,**  
**Dalkeith EH22 1JX**

**3D VIEWS**

Project number	2020-020A	Drawing number	Revision
Date	AUGUST 2020	<b>A(03)003</b>	<b>D</b>
Drawn by	AH		
Status	PLANNING	Scale	Size A3

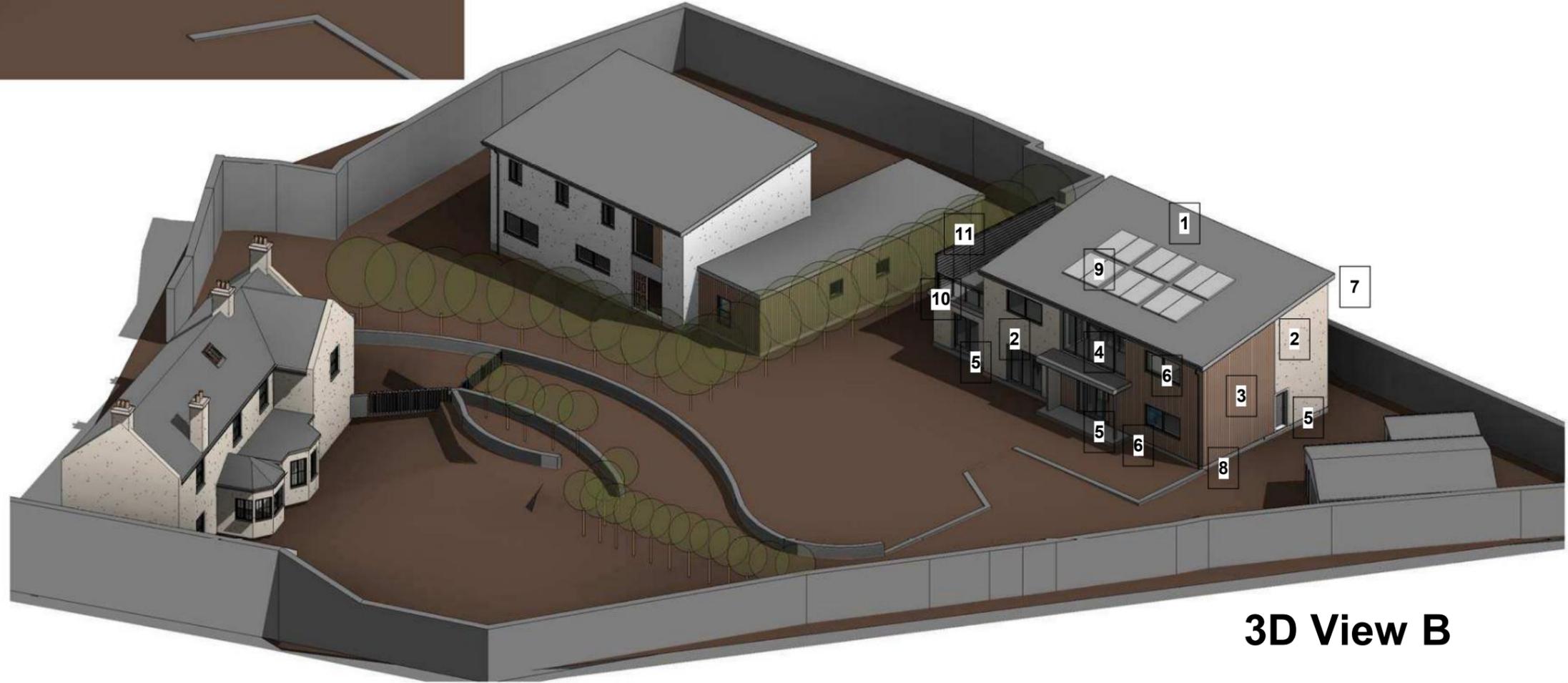
Rev	Description	Date
D	3D View B extended	17.05.2021
C	Updated to Planning status	12.10.2020
B	Client amendments	07.10.2020
A	Client amendments	21.09.2020
0	Initial Issue	31.08.2020



**3D View A**

Materials Index:

- 1. Single Ply Roofing
- 2. Render
- 3. Linings
- 4. Glazed Screen
- 5. Door
- 6. Window
- 7. Gutter/fascia/soffit
- 8. Facing Block Basecourse
- 9. PV Panel
- 10. Steel/Glass Balustrade
- 11. Screen Fencing



**3D View B**

**Alan Hardie Architect**

Suite 4 Dundas House,  
Westfield Park, Eskbank EH22 3FB  
t. 0131 448 1249 m. 07706 270072 w. www.alanhardie.co.uk  
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0	Initial Issue	31.08.2020

## MIDLOTHIAN COUNCIL

### DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

**Planning Application Reference:** 20/00695/DPP and 20/00696/LBC

**Site Address:** Land at 6 Lugton Brae, Dalkeith.

**Site Description:** The application site comprises an area of garden ground serving 6 Lugton Brae, to the south, and is under the applicant's control. The site includes a grassed area, hardstanding and large outbuilding. There is a relatively new house to the west, the associated large two storey C listed house to the south, open space to the east and Dalkeith House estate to the north. The stone wall around the north and east boundaries is part of the listing for 6 Lugton Brae. There is a beech hedge to the west and an open boundary to the south. The site is within the Dalkeith House and Park Conservation Area. The houses at this area of Lugton Brae range from traditional listed buildings, two storey detached houses and a flatted development. The house to the immediate west is in a contemporary style.

#### **Proposed Development:**

20/00695/DPP Erection of dwellinghouse; alterations to existing boundary walls; erection of gates and retaining walls.

20/00696/LBC Alterations to existing boundary walls; erection of gates and retaining walls.

#### **Proposed Development Details:**

20/00695/DPP

A two storey detached house is proposed, 19 metres long by 9 metres deep with a monopitch roof ranging between 7.5 and 5.8 metres high. The plans state the walls are to be rendered with a facing brick basecourse and the roof finished with a single ply. There is a balcony at first floor level with a 1 metre high glass balustrade to the front and rear of the balcony, with a 2 metre high fence to the side. There are to be solar panels on the roof. The house is positioned 3 metres from the north and west boundaries. The house will share the existing vehicular access with 6 and 6B Lugton Brae. A bin store is located adjacent to the outbuilding. The existing outbuilding, hardstanding, majority of hedging and boundary walls are to be retained.

2000695/DPP and 20/00696/LBC

The existing retaining wall between number 6 and 6B is to be removed and rebuilt to provide a driveway for the proposed house. The wall is to be 0.9 metres high and will match the existing walls. The existing timber gates are to be relocated at the new vehicular entrance to number 6, with matching gates and piers erected at the entrance to the proposed house. It appears that part of the existing wall will be retained between these driveways, with trees between. There are no details of how the gatepier will be attached to the listed building.

The applicant's agent has submitted a design statement. They state the application takes into account concerns raised at pre-application stage about the concern over

the impact on the listed building and the amenity of the proposed and existing properties. They provide a design rationale for the proposal as well as the siting of the house. The applicants have also submitted a statement.

**Background (Previous Applications, Supporting Documents, Development Briefs):**

Application site and 6 Lugton Brae

17/00702/LBC Erection of gates. Consent with conditions.

17/00336/DPP Erection of gates, intercom and postbox. Consent with conditions.

Land at the access to Lugton Brae

15/00143/LBC Alterations to existing boundary wall; erection of wall; relocation of gates and formation of hard standing. Consent with conditions.

15/00142/DPP Alterations to existing boundary wall; erection of wall; relocation of gates and formation of hard standing. Consent with conditions.

6B Lugton Brae – west of the site

17/00515/DPP Demolition of outbuilding and erection of replacement outbuilding. Consent with conditions.

17/00514/DPP Demolition of outbuilding, erection of outbuilding and formation of hardstanding. Consent with conditions.

17/00078/WTT Felling of tree within the Dalkeith house and park conservation areas. Consent with conditions.

16/00010/DPP Installation of solar panel (retrospective). Permitted.

15/00021/LBC Alterations to existing boundary walls and erection of gates.

Withdrawn.

15/00001/DPP Erection of dwellinghouse. Consent with conditions.

13/00852/PPP Planning Permission in Principle for a single dwellinghouse. Consent with conditions – same as 09/00153/OUT.

Site covering application site, 6 and 6B Lugton Brae

13/00820/DPP Application for extension to timeframe in which to implement planning permission 08/00793/FUL (Sub-division of dwellinghouse to form two dwellinghouses and erection of extension to dwellinghouses). Consent with conditions.

13/00819/LBC Application for extension to timeframe in which to implement listed building consent 08/00794/LBC (Extension to dwellinghouse, formation of window openings, internal alterations to subdivide existing dwellinghouse to form two dwellinghouses and demolition of outbuilding). Consent with conditions.

09/00153/OUT Outline application for the erection of one dwellinghouse. Consent with conditions – in the position of 6B.

08/00795/OUT Outline application for the erection of two dwellinghouses.

Withdrawn – due to concerns over the provision of two additional houses in the site.

08/00794/LBC Extension to dwellinghouse, formation of window openings, internal alterations to sub-divide existing dwellinghouse to form two dwellinghouses and demolition of outbuilding . Consent with conditions.

08/00793/FUL Sub-division of dwellinghouse to form two dwellinghouses and erection of extension to dwellinghouse. Consent with conditions.

The Garden House - land to the northeast

17/00340/DPP Erection of dwellinghouse and boundary wall; retrospective change of use (of part of site) from public open space to private garden ground and erection of associated boundary fence. Consent with conditions.

17/00233/DPP Erection of dwellinghouse, boundary wall and fence. Withdrawn.

15/00976/DPP Erection of dwellinghouse and detached garage; formation of new boundary wall, gates and access. Withdrawn.

### **Consultations:**

The Council's **Policy and Road Safety Manager** has no objection.

The Council's **Biodiversity Consultant** states that protected species will not be affected by the proposal and the Dalkeith Estate Local Biodiversity Site, adjacent to the site, will be unaffected. Should any shrubs have to be removed/ pruned, this should be done either outwith the bird breeding season (March - Sept) or if unavoidable during these months then a check for breeding birds should be carried out prior to work commencing.

**Representations:** No representations were received.

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

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

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

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

**DEV6 Layout and Design of New Development** requires good design and a high quality of architecture, in both the overall layout of developments and their constituent parts. The layout and design of developments are to meet listed criteria;

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

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

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

**ENV7 Landscape Character** states 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;

**ENV19 Conservation Areas** states within or adjacent to conservation areas, development will not be permitted which would have any adverse effect on its character and appearance. In the selection of site, scale, choice of materials and details of design, it will be ensured that new buildings preserve or enhance the character and appearance of the conservation area. Traditional natural materials appropriate to the locality or building affected will be used in new buildings;

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

**ENV22 Listed Buildings** states that development will not be permitted where it would adversely affect the character or appearance of a Listed Building; its setting; or any feature of special, architectural or historic interest.

The site is adjacent to land covered by the following policies:

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

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

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

The application site is located within the built-up area of Dalkeith where there is a presumption in favour of appropriate development which does not detract materially from the character or amenity of the area. The site is within the Dalkeith House and Park Conservation Area where the design of any development should preserve or enhance the character and appearance of the area. The site is also within the curtilage of a listed house and within the listed walls and so any proposal should not have an adverse impact on this historic area.

The proposed house would result in a total of three houses within the original plot of land. The original C listed house is large and the related garden ground is proportional to its size and importance in the area. A previous application to subdivide this garden to accommodate the house at 6B Lugton Brae was approved as the proposed house was positioned to the side of the original house; did not have a detrimental impact on its setting; and, there remained a sufficiently large area of

garden ground to serve the original house ensuring that the development respected its historic character and setting. In addition, the previously approved house did not have, at the time of determination, an adverse impact on the character or appearance of the conservation area (some mature trees have since been removed which expose the house more to public views). The erection of a further large, two storey house in the garden ground of the original house would erode the large garden that would usually be associated with large listed buildings and have a detrimental impact on the character and setting of this listed building. The related garden ground to the original house would be limited to a small area to the immediate rear of the house, which is not of a character that would be associated or expected for the scale, size and historic importance of the listed building.

In addition to the concerns over the impact the subdivision would have on the character of the listed building, the provision of three large buildings within this plot would make for a constrained layout. The house at 6B was approved as there was sufficient distance between the properties, adequate private garden ground provision and no overlooking concerns. The proposed house is set back in the plot which would limit direct overlooking between this and number 6. However the related garden ground is to the front of the proposed house, which would be directly overlooked by both number 6 and its associated garden ground. If the house were brought forward in the plot to provide the amenity space to the rear, there would be direct overlooking between the two houses. The inability to provide a house with the necessary private amenity space and private amenity space for number 6 indicates that a further house in this plot is an overdevelopment.

The design of the proposed house is not traditional in scale or form. It has a monopitched roof and appears to try to reflect the contemporary design approach undertaken at 6B. A modern contemporary approach can be acceptable in conservation areas where this does not detract from the character and appearance of the area. However the resultant house has a relatively large and bulky appearance which emphasises the above concerns of overdevelopment and three large buildings in this plot. The proposed house would be particularly obtrusive and unsympathetic to the character of the conservation area when viewed from the Dalkeith Park side, which is a parkland which is open to members of the public. No details of the materials of the house have been provided other than rendered and lined walls and a single ply roof. Any house here would need to have high quality materials to reflect the design of the house and the surrounding conservation area and listed building, such as wet or smooth render, natural stone or timber cladding. The design of the proposed house is not of a high enough design standard to merit supporting a contemporary style house in such a sensitive position.

The proposed house would be close to number 6B. In the assessment of the house at 6B, consideration was given to the provision of private amenity space for the original house and the existing beech hedge was planted and conditioned to be maintained along the boundary to ensure no overlooking between the two houses and garden grounds. This hedge is in place and the current application will retain this, with the exception of a small area to be removed to provide the vehicular access to the proposed house. This hedge would provide screening between the ground floor windows of the proposed and the house at 6B. A balcony is proposed at first floor level adjacent to 6B. This is to have a 2 metre high fence along the side

facing 6B and a 1 metre high glazed balustrade to the front and rear elevation. There are no openings at the first floor of number 6B so the balcony is unlikely to result in any loss of amenity to this house with the proposed boundary treatments.

There are no trees within the site, although there are mature trees in the to the north and east boundary outwith the site. Given these are already constrained by the existing stone boundary wall, it is unlikely that there would be roots within the site that would be affected by the proposed house. The existing beech hedge runs along the west boundary and if permission is approved this should be retained and protected during development.

There are no road safety or access concerns despite three houses using one single track access. The alterations to the existing driveway and formation of driveway to the new house will require the removal and repositioning of retaining walls. The new walls, gatepiers and gates will match the existing at the site which is acceptable in proximity to this listed building in this conservation area. Details of how the gatepier is to be fixed to the building are required to ensure that this is done appropriately and does not detrimentally affect the fabric of the listed building.

Due the site's location within the walled garden of an existing house, this would not have a significant adverse impact on the character or appearance of the designed landscape.

The Biodiversity consultant's comments about the removal of the trees and shrubs during bird breeding season can be addressed by attaching a condition to any permission to restrict when this is done. It may be possible that this could be carried out in this time if a survey has been submitted to show that the removal would not impact on breeding birds.

There are no records of planning permission being applied for or approved for the existing large area of hardstanding or the outbuilding within the site.

**Recommendation:** Refuse 20/00695/DPP. Grant 20/00696/LBC.

## Reg. No. 20/00695/DPP

Alan Hardie Architect  
Suite 4 Dundas House  
Westfield Park  
Eskbank  
EH22 3FB

Midlothian Council, as Planning Authority, having considered the application by Mr and Mrs Chris and Emma Flockhart, Lugton House, 6 Lugton Brae, Lugton, Dalkeith, EH22 1JX which was registered on 20 October 2020 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

### **Erection of dwellinghouse; alterations to existing boundary walls; erection of gates and retaining walls at Land At 6 Lugton Brae, Dalkeith**

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

<u>Document/Drawing.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	A(01)001 B 1:1250	20.10.2020
Site Plan	A(01)002 D 1:250	20.10.2020
Proposed Floor Plan	A(01)003 C 1:100	20.10.2020
Proposed Floor Plan	A(01)004 B 1:100	20.10.2020
Proposed Elevations	A(03)001 C 1:100	20.10.2020
Proposed Elevations	A(03)002 C 1:100	20.10.2020
Proposed Cross Section	A(04)001 1:100	20.10.2020
Illustration/Photograph	A(03)003 C	20.10.2020

The reasons for the Council's decision are set out below:

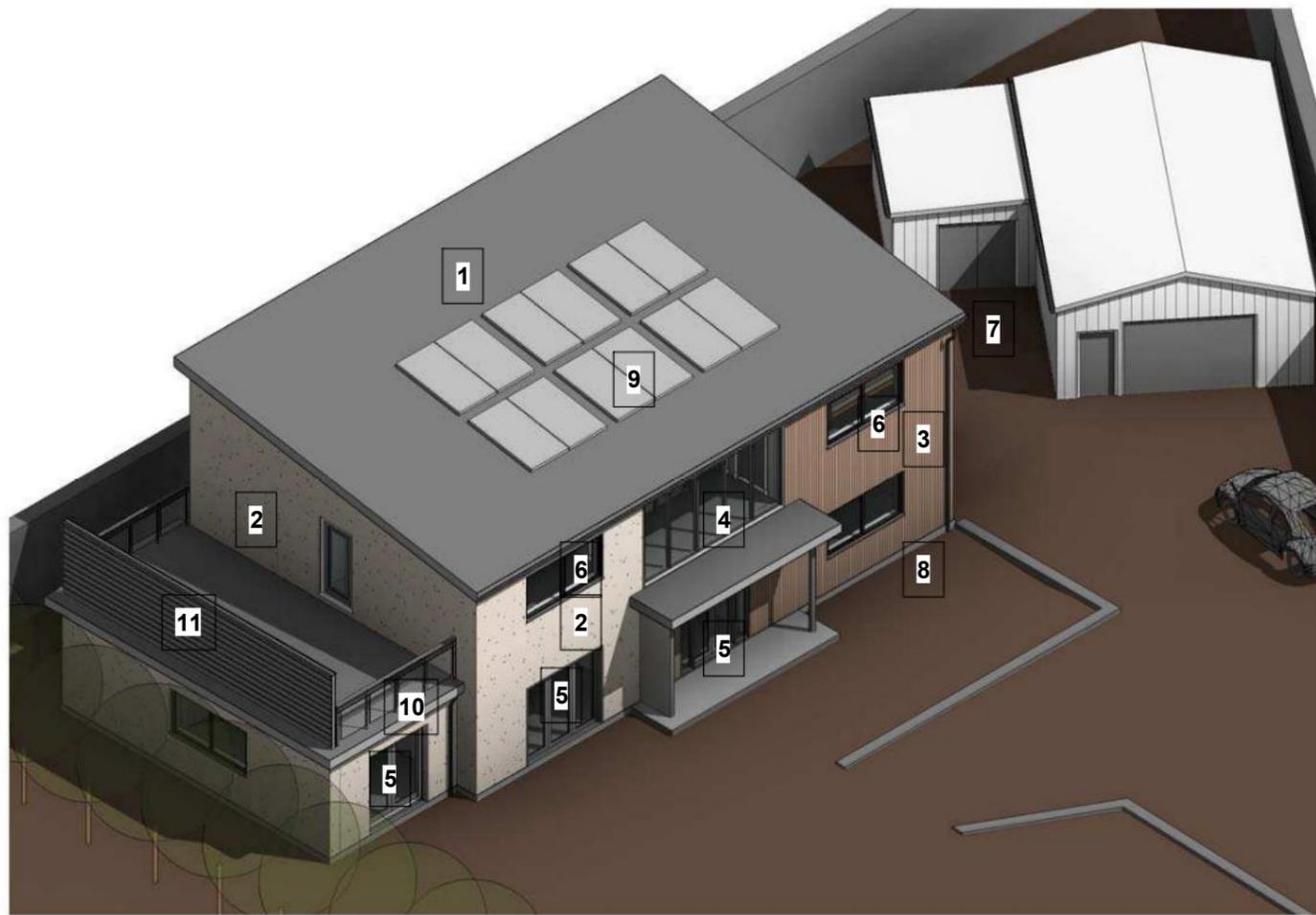
- The proposed dwelling is neither an appropriately designed traditional dwellinghouse or a dwellinghouse designed in a high quality contemporary style. The design of the proposed dwellinghouse, in particular it's rear elevation which is particularly visible from public viewpoints, is unsympathetic to the character and appearance of the conservation area. The design of the proposed dwellinghouse would have a significant adverse impact on the character and appearance of the conservation area and is therefore contrary to policies DEV2 and ENV19 of the adopted Midlothian Local Development Plan 2017 and Historic Environment Scotland policy and guidance.*
- The subdivision of the plot would have an adverse impact on the character and appearance of the conservation area and the character and setting of the important category C listed building and so is contrary to policies DEV2, ENV19 and ENV22 of the adopted Midlothian Local Development Plan 2017.*
- Due to the relationship between the proposed and existing properties the amenity space for the proposed house would be directly overlooked by the existing house and garden ground serving 6 Lugton Brae resulting in a poor level of amenity.*

4. *Due to the relationship between the proposed and existing properties the amenity space and rear elevation of 6 Lugton Brae would be directly overlooked by the amenity space for the proposed house resulting in a poor level of amenity.*
5. *For the above reasons in reasons 3 and 4, the proposal is overdevelopment of the site and does not comply with policies STRAT2, DEV2 and DEV6 of the adopted Midlothian Local Development Plan 2017.*

Dated 10 / 3 / 2021



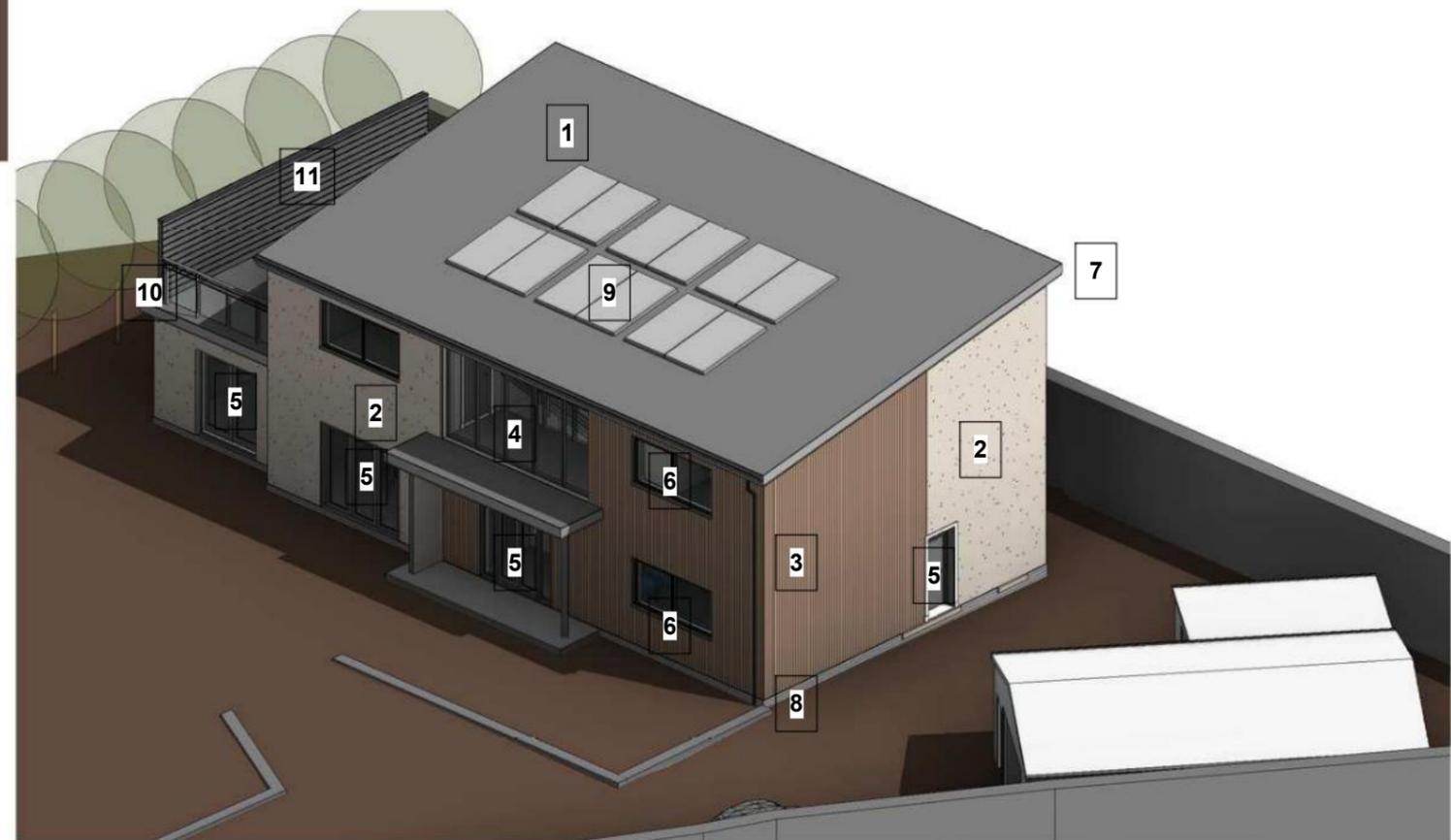
.....  
Duncan Robertson  
Lead Officer – Local Developments  
Fairfield House, 8 Lothian Road, Dalkeith, EH22 3ZN



**3D View A**

Materials Index:

- 1. Single Ply Roofing
- 2. Render
- 3. Linings
- 4. Glazed Screen
- 5. Door
- 6. Window
- 7. Gutter/fascia/soffit
- 8. Facing Block Basecourse
- 9. PV Panel
- 10. Steel/Glass Balustrade
- 11. Screen Fencing



**3D View B**

**Alan Hardie Architect**

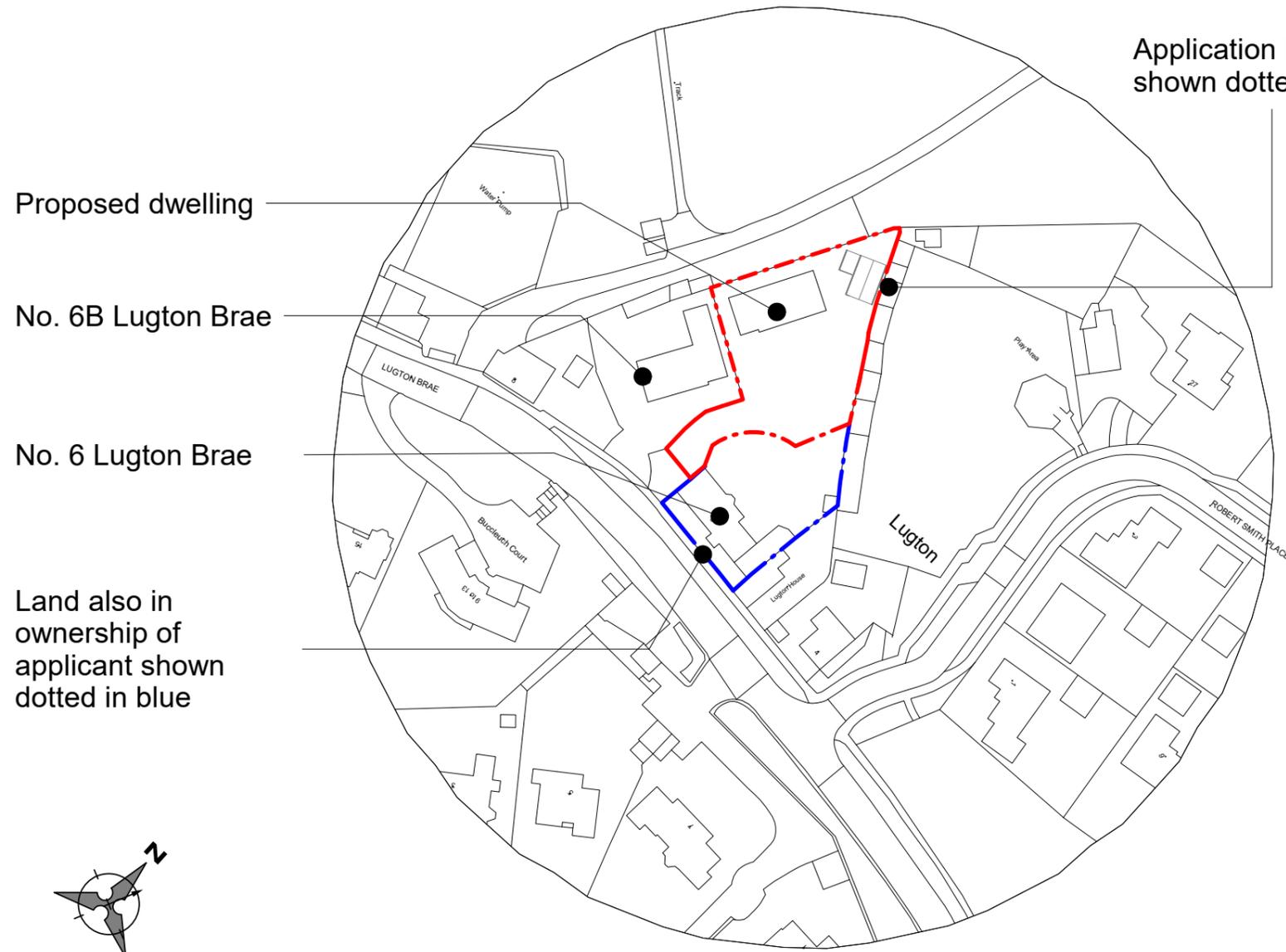
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Client  
**Chris & Emma Flockhart**  
Project  
**New Dwelling House**  
**Land to NW of 6 Lugton Brae,**  
**Dalkeith EH22 1JX**

**3D VIEWS**

Project number	2020-020A	Drawing number	Revision
Date	AUGUST 2020	<b>A(03)003</b>	<b>C</b>
Drawn by	AH		
Status	PLANNING	Scale	Size A3

Rev	Description	Date
C	Updated to Planning status	12.10.2020
B	Client amendments	07.10.2020
A	Client amendments	21.09.2020
0	Initial Issue	31.08.2020



Application boundary shown dotted in red

Proposed dwelling

No. 6B Lugton Brae

No. 6 Lugton Brae

Land also in ownership of applicant shown dotted in blue



VISUAL SCALE 1:1250 @ A3

# Location Plan

1 : 1250



1



2



3



4



5



6



7



8



9

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Client  
**Chris & Emma Flockhart**  
Project  
**New Dwelling House**  
**Land to NW of 6 Lugton Brae,**  
**Dalkeith EH22 1JX**

## LOCATION PLAN & PHOTOS

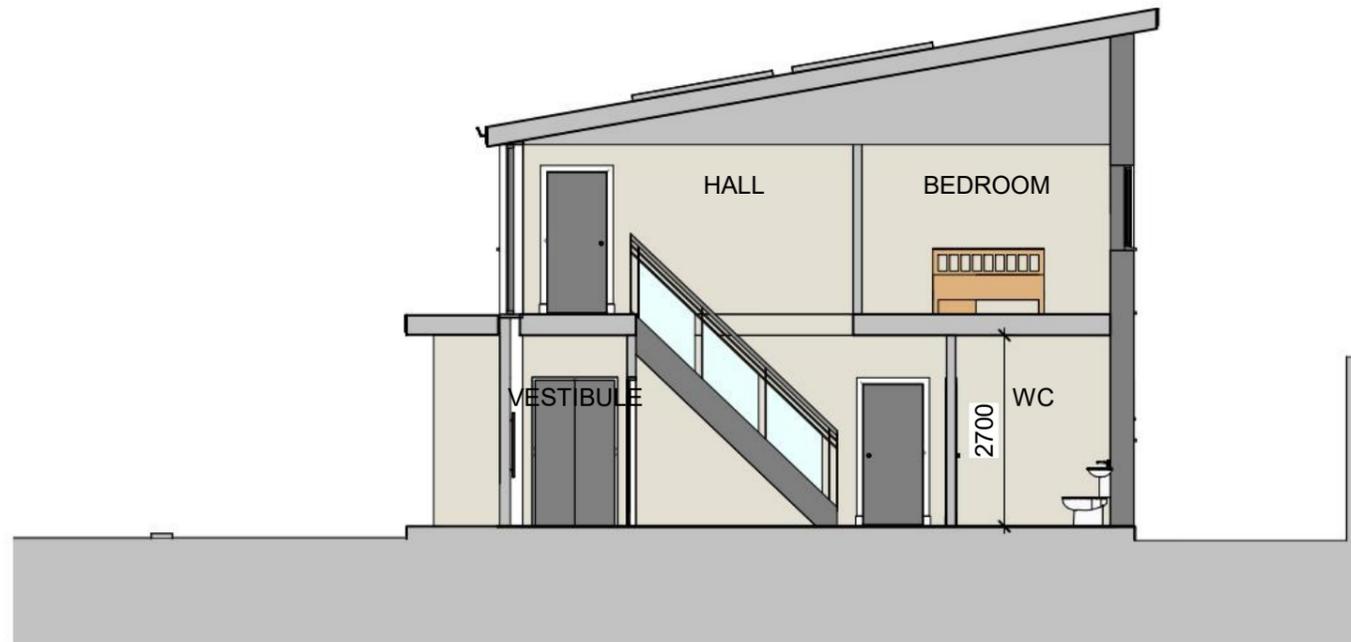
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Date	AUGUST 2020				
Drawn by	AH				
Status	PLANNING	Scale	1 : 1250	Size	A3

Rev	Description	Date
B	Amendments for Planning	20.10.2020
A	Updated to Planning status	12.10.2020



## SECTION AA

1 : 100



## SECTION BB

1 : 100

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Client  
Chris & Emma Flockhart  
Project  
New Dwelling House  
Land to NW of 6 Lugton Brae,  
Dalkeith EH22 1JX

### SECTIONS

Project number	2020-020A	Drawing number	Revision
Date	AUGUST 2020	A(04)001	
Drawn by	AH		
Status	PLANNING	Scale 1 : 100	Size A3

Rev Description

Date



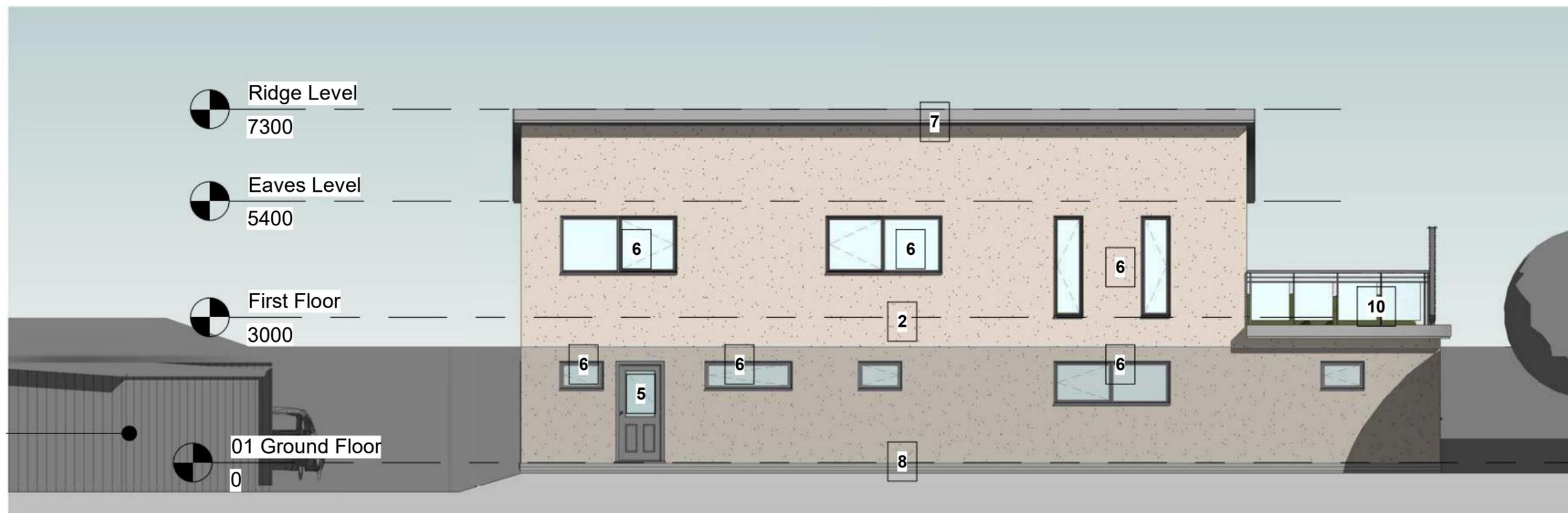
## East Elevation

1 : 100

### Materials Index:

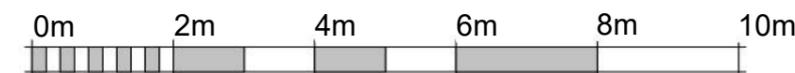
1. Single Ply Roofing
2. Render
3. Linings
4. Glazed Screen
5. Door
6. Window
7. Gutter/fascia/soffit
8. Facing Block Basecourse
9. PV Panel
10. Steel/Glass Balustrade
11. Screen Fencing

Existing stone wall shown transparent



## West Elevation

1 : 100



VISUAL SCALE 1:100 @ A3

### Alan Hardie Architect

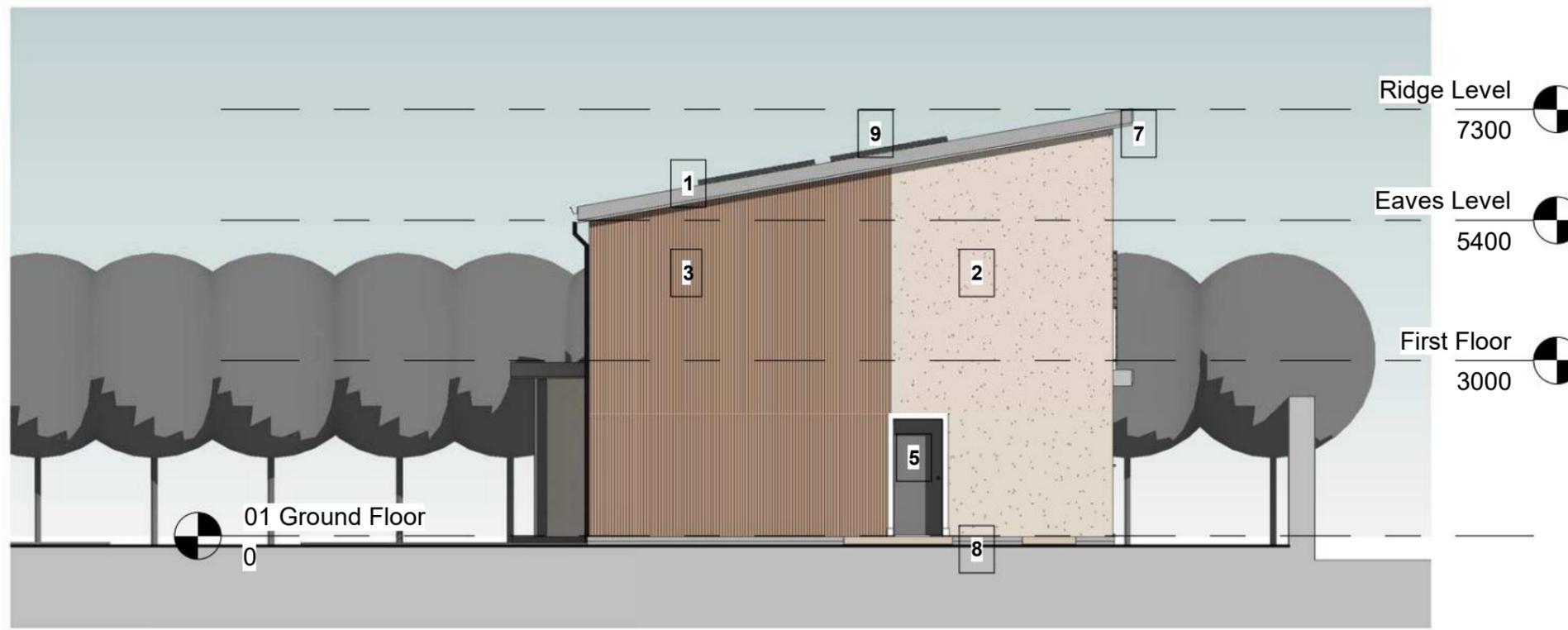
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Client  
**Chris & Emma Flockhart**  
Project  
**New Dwelling House**  
**Land to NW of 6 Lugton Brae,**  
**Dalkeith EH22 1JX**

### EAST & WEST ELEVATIONS

Project number	2020-020A	Drawing number	Revision
Date	AUGUST 2020	<b>A(03)002</b>	<b>C</b>
Drawn by	AH		
Status	PLANNING	Scale 1 : 100	Size A3

Rev	Description	Date
C	Updated to Planning status	12.10.2020
B	Client amendments	07.10.2020
A	Client amendments	21.09.2020
0	Initial Issue	31.08.2020



## North Elevation

1 : 100

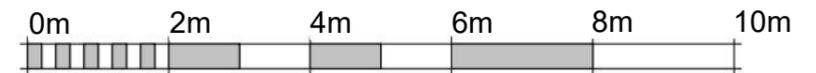
### Materials Index:

1. Single Ply Roofing
2. Render
3. Linings
4. Glazed Screen
5. Door
6. Window
7. Gutter/fascia/soffit
8. Facing Block Basecourse
9. PV Panel
10. Steel/Glass Balustrade
11. Screen Fence



## South Elevation

1 : 100



VISUAL SCALE 1:100 @ A3

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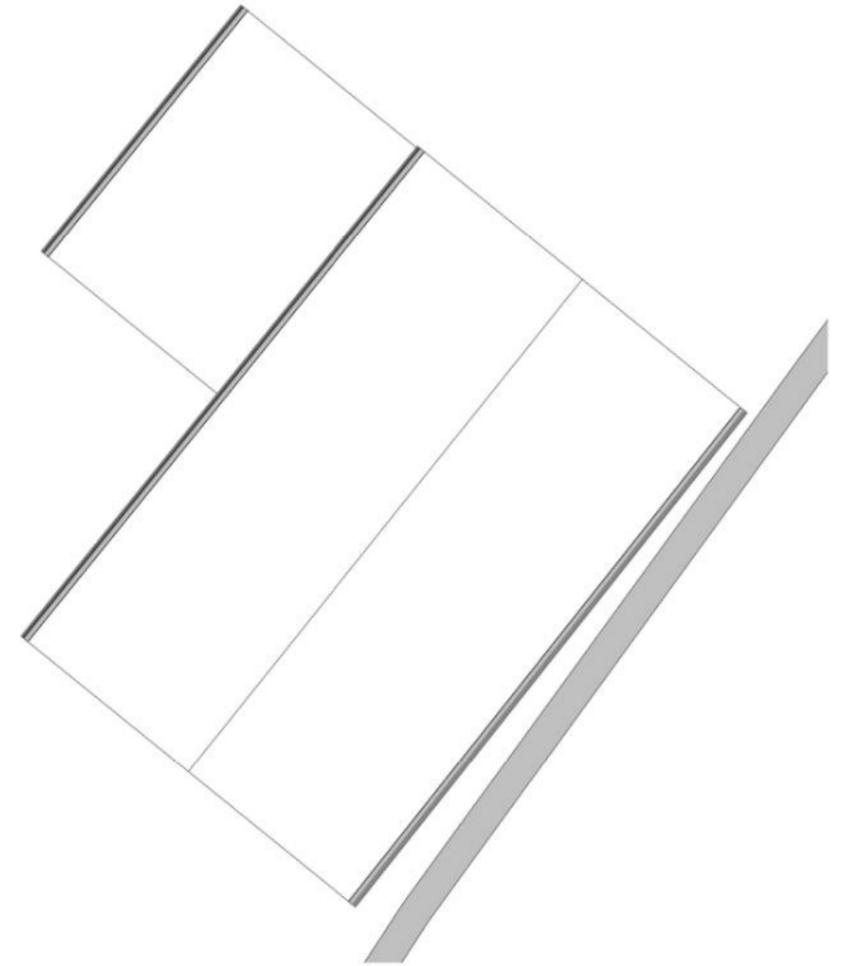
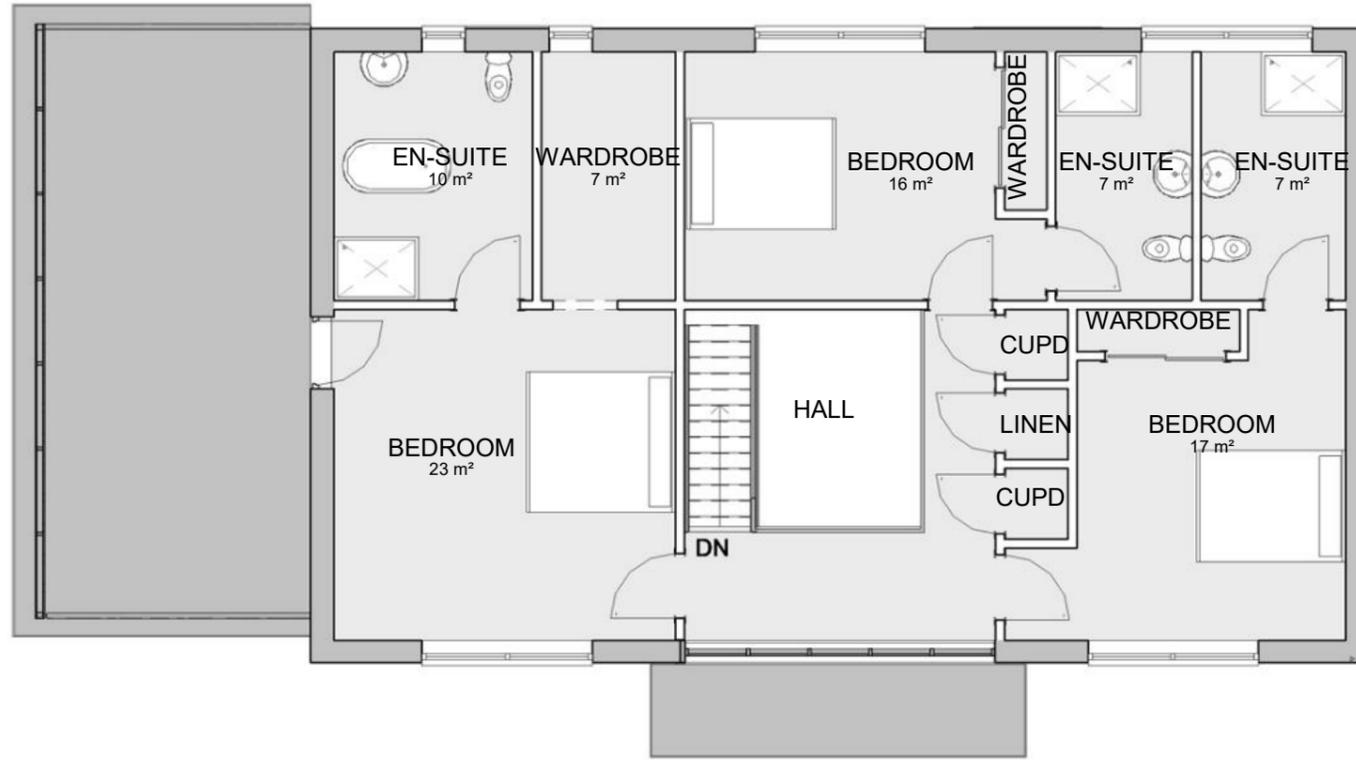
Client  
Chris & Emma Flockhart  
Project  
New Dwelling House  
Land to NW of 6 Lugton Brae,  
Dalkeith EH22 1JX

### NORTH & SOUTH ELEVATIONS

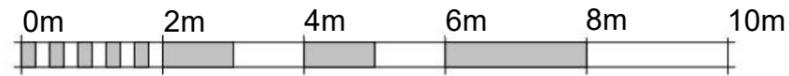
Project number	2020-020A	Drawing number	A(03)001	Revision	C
Date	AUGUST 2020				
Drawn by	AH				
Status	PLANNING	Scale	1 : 100	Size	A3

Rev	Description	Date
C	Updated to Planning status	12.10.2020
B	Client amendments	07.10.2020
A	Client amendments	21.09.2020
0	Initial Issue	31.08.2020

15/10/2020 16:57:06



**02 First Floor**  
1 : 100



VISUAL SCALE 1:100 @ A3



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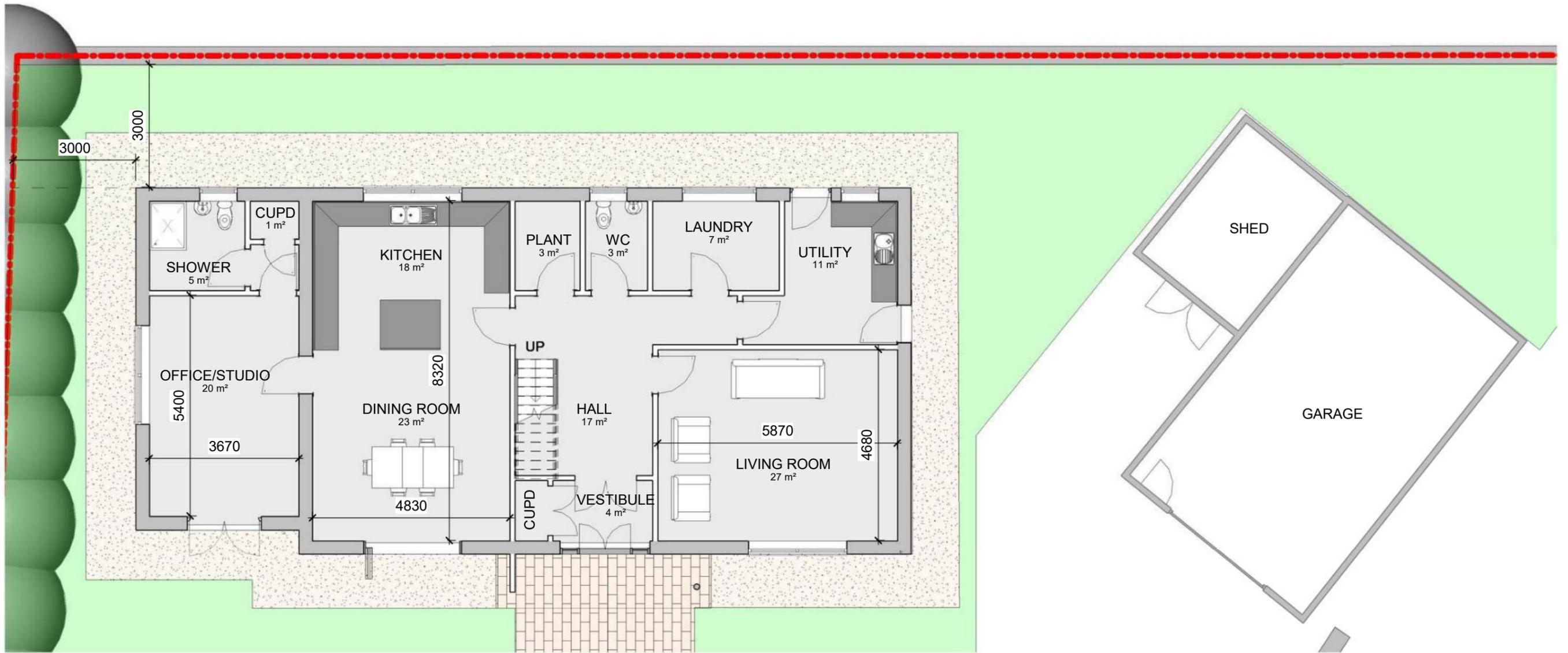
Client  
**Chris & Emma Flockhart**  
Project  
**New Dwelling House**  
**Land to NW of 6 Lugton Brae,**  
**Dalkeith EH22 1JX**

**FIRST FLOOR PLAN**

Project number	2020-020A	Drawing number	Revision
Date	AUGUST 2020	<b>A(01)004</b>	<b>B</b>
Drawn by	AH		
Status	PLANNING	Scale 1 : 100	Size A3

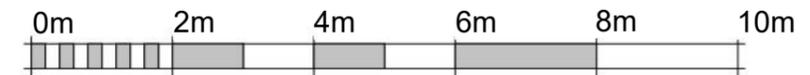
Rev	Description	Date
B	Updated to Planning status	12.10.2020
A	Client amendments	21.09.2020
0	Initial Issue	31.08.2020

15/10/2020 16:56:52



# 01 Ground Floor

1 : 100



VISUAL SCALE 1:100 @ A3

## Alan Hardie Architect

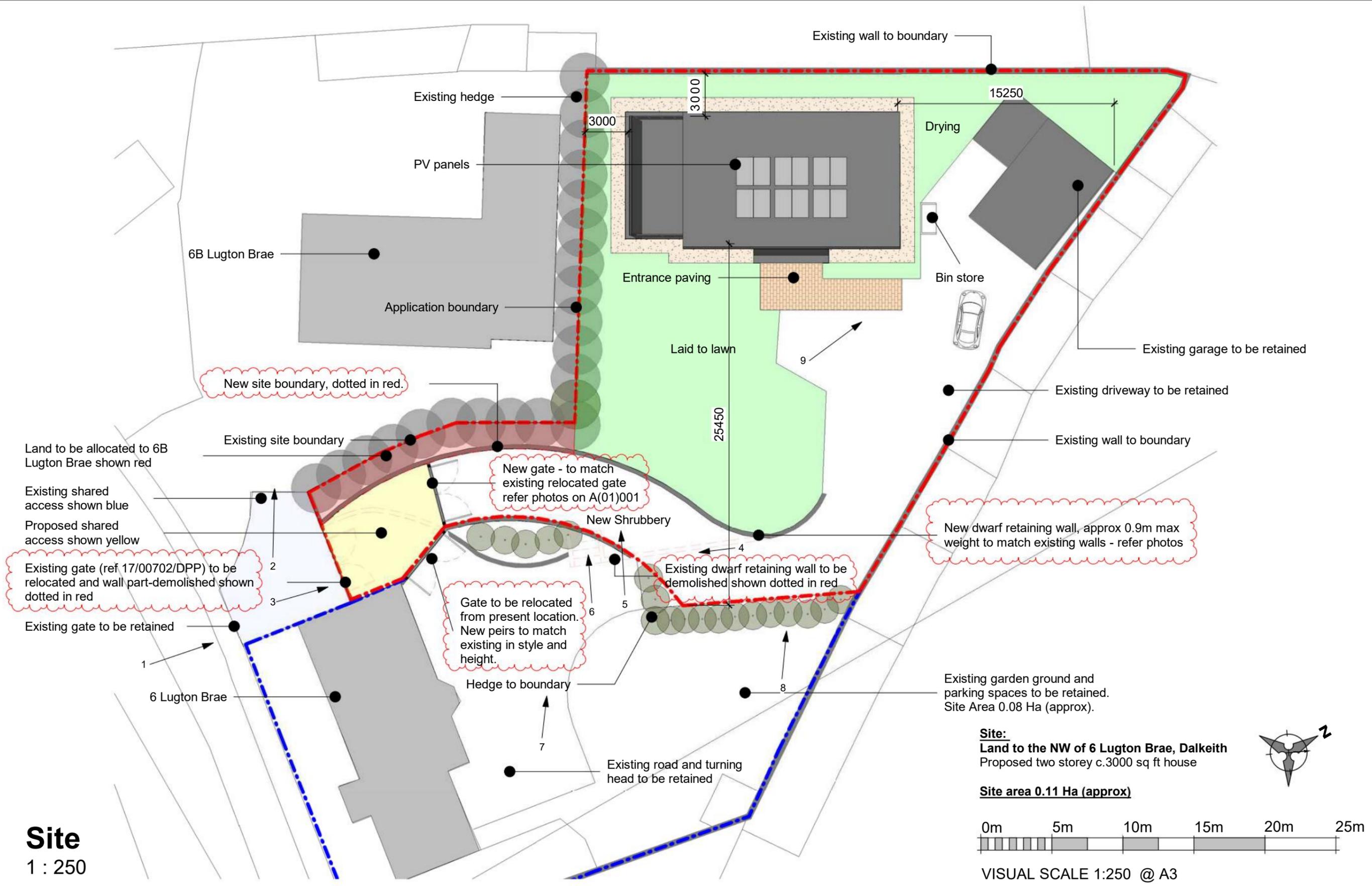
Suite 4 Dundas House,  
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t. 0131 448 1249 m. 07706 270072 w. www.alanhardie.co.uk  
No dimensions for construction to be scaled from this drawing, refer to figured dimensions only. Any discrepancies to be referred to the architect. This drawing to be read in conjunction with relevant engineer's drawings and specifications. Structural & services information is indicative. Alan Hardie Architect owns the copyright for this drawing which should not be reproduced in any form without written permission.

Client  
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Project  
**New Dwelling House**  
**Land to NW of 6 Lugton Brae,**  
**Dalkeith EH22 1JX**

## GROUND FLOOR PLAN

Project number	2020-020A	Drawing number	Revision
Date	AUGUST 2020	<b>A(01)003</b>	<b>C</b>
Drawn by	AH		
Status	PLANNING	Scale 1 : 100	Size A3

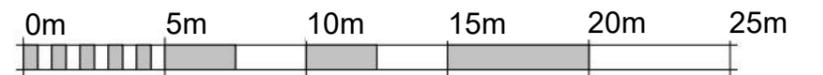
Rev	Description	Date
C	Updated to Planning status	12.10.2020
B	Client amendments	07.10.2020
A	Client amendments	21.09.2020
0	Initial Issue	31.08.2020



**Site**  
1 : 250

**Site:**  
Land to the NW of 6 Lugton Brae, Dalkeith  
Proposed two storey c.3000 sq ft house

**Site area 0.11 Ha (approx)**



VISUAL SCALE 1:250 @ A3

## Alan Hardie Architect

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Westfield Park, Eskbank EH22 3FB  
t. 0131 448 1249 m. 07706 270072 w. www.alanhardie.co.uk  
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Client  
**Chris & Emma Flockhart**  
Project  
**New Dwelling House**  
**Land to NW of 6 Lugton Brae,**  
**Dalkeith EH22 1JX**

## SITE PLAN

Project number	2020-020A	Drawing number	Revision
Date	AUGUST 2020	<b>A(01)002</b>	<b>D</b>
Drawn by	AH		
Status	PLANNING	Scale 1 : 250	Size A3

Rev	Description	Date
D	Amendments for Planning	20.10.2020
C	Updated to Planning status	12.10.2020
B	Client amendments	07.10.2020
A	Client amendments	21.09.2020

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