



APPLICATION FOR PLANNING PERMISSION 18/00760/DPP, FOR ERECTION OF DWELLINGHOUSE; FORMATION OF ACCESS AND CAR PARKING AND ASSOCIATED WORKS AT LAND AT 3 ESKVIEW VILLAS, DALKEITH

Report by Director of Education, Communities and Economy

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

- 1.1 The application is for the erection of a dwellinghouse; formation of access and car parking and associated works at land at 3 Eskview Villas, Dalkeith. There have been 66 representations and consultation responses from the Coal Authority, Eskbank and Newbattle Community Council, the Council's Environmental Health Manager and the Council's Policy and Road Safety Manager. The relevant development plan policies are STRAT2, DEV2, DEV6 and ENV19 of the Midlothian Local Development Plan 2017. The recommendation is to grant planning permission subject to conditions.**

2 LOCATION AND SITE DESCRIPTION

- 2.1 The application site is an area of open ground, measuring approximately 430sqm, and was formerly used as garden ground associated with the property at 3 Eskview Villas. This property was originally built in the mid 1980's as a dwellinghouse and was then converted into a children's nursery in the late 1990's. The land is not presently being used by the nursery.
- 2.2 The surrounding area is predominantly residential. To the north, the site is bounded by a line of trees and hedges which separate it from Eskview Villas; a street of 19thC two storey terraced houses with modern infill development. To the west, the site is bounded by a 2.8m high brick boundary wall beyond which is a care home. To the south the site is bounded by the garden ground associated with the nursery; there is no physical boundary demarcating this boundary at present. To the east of the site is car parking spaces and pedestrian circulation space associated with the nursery; at present there is a timber fence and a brick wall that run close to the eastern edge of the site. The site is within Eskbank and Ironmills Conservation Area.

3 PROPOSAL

- 3.1 It is proposed to erect a two storey pitch roofed house measuring 12.6m wide, 8.65m deep, 5.1m high to the eaves and 8.05m high to the ridge of the roof. The house will have 4 bedrooms and a reception room. The building will be of a modern design with an irregular fenestration pattern; large areas of full height glazing; and a contemporary palette of finish materials including a slate roof, ivory coloured render, untreated larch timber cladding and grey coloured aluminium clad doors and windows.
- 3.2 The house will have a vehicular access from Eskview Villas which will provide access to a hard surface parking area, finished with concrete paving, providing 3 parking spaces. The property will have a rear garden of 130 sqm; the rear garden will be enclosed by a brick wall finished to match the existing brick wall along the western boundary.
- 3.3 The applicant has submitted a Design Statement with their application.

4 BACKGROUND

- 4.1 The building that now houses the nursery was granted planning permission (262/83) as a dwellinghouse in 1983.
- 4.2 Planning permission (22/85) was granted in 1985 for a change to the proposed roofing material from artificial asbestos slate to small grey concrete tiles.
- 4.3 In 1991 planning permission (585/91) was granted for the installation of Velux roof lights.
- 4.4 Planning permission (0215/97) was granted in 1997 for the change of use from dwellinghouse to a children's nursery. Following the change of use application planning permission was granted for the erection of an external stair (0577/97) and the installation of two windows (99/00713/FUL).
- 4.5 Planning application 17/00920/DPP for the erection of a dwellinghouse and two flatted dwellings was refused in March 2018. A subsequent notice of review was considered by the Local Review Body in May 2018 and dismissed. The reasons for refusal were as follows:
- 1. The site has insufficient space to accommodate the necessary levels of private outdoor space and the necessary levels of car parking provision. The proposal is therefore contrary to policies STRAT2, DEV2 and DEV6 of the adopted Midlothian Local Development Plan 2017.*
 - 2. The external stairs would be an unattractive feature that would have a detrimental impact on the character of the surrounding area. The*

proposal is therefore contrary to policies DEV2 and ENV19 of the adopted Midlothian Local Development Plan 2017.

3. *The external stairs and rear balcony would create an unacceptable loss of privacy for properties in the surrounding area. The proposal is therefore contrary to policy DEV2 and DEV6 of the adopted Midlothian Local Development Plan 2017.*
- 4.5 Planning application 18/00135/DPP for the erection of a dwellinghouse; formation of access, car parking and associated works was submitted in March 2018. The application was withdrawn in June 2018.
- 4.6 A plot of land 22m east of the application site, at the junction of Eskview Villas and Glenesk Crescent, has been the subject of six planning applications since 2004. All of the applications relate to the erection of a garage, workshop and studio; four of the applications were granted, one was refused and one was withdrawn. The site is owned by the occupants of Eskbank House. The most recent consent (18/00606/DPP) was granted in October 2018.
- 4.7 Viewpoint Housing Association owns the site to the west of the application site. The Housing Association operates an enhanced sheltered housing facility within Glenesk House and its grounds (a large modern extension was approved by applications 0411/96 and 01/00052/FUL and a block of 12 flats for elderly residents was approved by applications 0411/96 and 02/00021/FUL). This site also contains three further buildings (references 0411/96 and 0307/98) that were previously used for day-care facilities and are currently unoccupied. There is a current planning application (reference 18/00586/DPP) for the erection of 30 extra care flatted dwellings at the site of two of the unoccupied day-care facilities. The site is 70m to the north west of the Eskview Villas application site.
- 4.8 The application has been called to Committee for consideration by Councillors Baird and Smaill. Councillor Baird has called the application in due to concerns regarding the nature of the plan and its impact on the local area. Councillor Smaill has called the application in due the scale of the development relative to plot size and boundaries; and due to the appearance and materials being inconsistent with the Conservation Area.

5 CONSULTATIONS

- 5.1 The **Coal Authority** does not object to the application.
- 5.2 The **Eskbank and Newbattle Community Council** object to the application on the follow grounds:
 - The Community Council endorses the objections submitted by local residents;

- The applicant's supporting Design Statement states that the case officer is supportive of the proposal. This suggests that the case officer has pre-judged the application;
- The applicant's supporting Design Statement is presumptuous in seeking to describe the objections of the Community Council;
- Development of the site would be contrary to the character of the Eskbank and Newbattle Conservation Area as set out in the conservation area appraisal;
- The proposal represents the sub-division of the plot and is contrary to the low density character of the conservation area;
- The proposal has no exceptional architectural merit;
- The proposal will dilute the character of the area and will encourage an incremental erosion of standards;
- The building does not relate well to adjacent buildings;
- Previous poor designs within the conservation area should not be used to justify proposals of no architectural merit;
- Development within conservation areas should meet the highest of architectural and design standards. Developments of traditional design should complement and not degrade the existing character and aesthetic of the area. Developments of modern design should represent an enhancement to the area; and
- The Community Council should have been consulted on the application.

5.3 The Council's **Environmental Health Manager** does not object to the application subject to any grant of planning permission being subject to conditions to secure site investigation works and, if necessary, remediation works to address any possible contaminated land issues; and details of a suitable barrier between the garden of the house and the neighbouring children's nursery.

5.4 The Council's **Policy and Road Safety Manager** does not object to the application.

6 REPRESENTATIONS

6.1 There have been 15 representations received from 11 different households objecting to the application. The grounds for objection are as follows:

- The surrounding roads are congested and prone to speeding; the proposal will exacerbate this situation;
- The proposed development has insufficient parking and the surrounding streets do not have sufficient spare capacity to accommodate further demand for parking;
- The width of the proposed access and its location, between two trees, will result in restricted visibility for vehicles using the access;
- The design and finish materials are out of character with the neighbouring houses and the surrounding conservation area;

- Development of the site would be contrary to the character of Eskbank and Newbattle Conservation Area as set out in the conservation area appraisal;
- The development would result in buildings on both sides of Eskview Villas out of character with the surrounding area;
- The development would result in a loss of daylight and sunlight to existing properties on Eskview Villas;
- The development would result in overlooking and loss of privacy of existing properties on Eskview Villas;
- The site would be better used as land associated with the nursery; this would enhance the learning experience of the children;
- Additional neighbour notification to parents of children attending the nursery should have been carried out;
- The development would have a detrimental impact on the setting of the Category A listed building at Eskbank House;
- Development of the site will increase overlooking of the nursery and this will threaten child safety;
- The supporting Design Statement states that the case officer is supportive of the proposal. This suggests that the case officer has pre-judged the application; and
- Previous modern developments in the area should not be used to justify this application.

6.2 There have been 51 representations in support of the application. The grounds for support are as follows:

- The proposal will bring a new, well designed house to an area in which housing is in demand;
- Happy Days will invest the funds generated back into the children's nursery, which is a much needed facility used by over 70 local families;
- The proposal will enhance security by increasing passive surveillance of the nursery. A burglary in April 2018 caused thousands of pounds worth of loss and damage to the nursery; and
- The current design addresses previous objections and is sympathetic with the scale and character of the area.

7 PLANNING POLICY

7.1 The development plan is comprised of the Edinburgh and South East Scotland Strategic Development Plan (June 2013) and the Midlothian Local Development Plan, adopted in November 2017. The following policies are relevant to the proposal:

Midlothian Local Development Plan 2017 (MLDP)

7.2 Policy **STRAT2 Windfall Housing Sites** permits housing on non-allocated sites within the built-up area provided: it does not lead to loss or damage of valuable open space; does not conflict with the established land use of the area; has regard to the character of the

area in terms of scale, form, design and materials and accords with relevant policies and proposals.

- 7.3 Policy **DEV2: Development within the Built-up Area** states that development will not be permitted where it would have an adverse impact on the character or amenity of a built-up area.
- 7.4 Policy **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.
- 7.5 Policy **ENV19: Conservation Areas** states that development will not be permitted within or adjacent to conservation areas where it would have any adverse effect on its character or appearance.

National Policy

- 7.6 Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 places a duty on planning authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.
- 7.7 Historic Environment Scotland Policy Statement 2016 and Scottish Planning Policy (SPP) provide guidance with regard the protection and management of the historic environment. Conservation Areas are areas of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance. Their designation provides the basis for the positive management of an area. A proposed development that would have a neutral effect on the character or appearance of a conservation area (i.e. does not harm the conservation area) should be treated as one which preserves that character or appearance. The Policy Statement and SPP also indicate that the planning authority should consider the design, materials, scale and sitting of any development, and its impact on the character of a conservation area and its setting.

8 PLANNING ISSUES

- 8.1 The main planning issue to be considered in determining these applications is whether the proposals comply with development plan policies unless material planning considerations indicate otherwise. The representations and consultation responses received are material considerations.

Principle of Development

- 8.2 The application site is situated within the built-up area of Dalkeith and Eskbank where there is a presumption in favour of appropriate development. The application site is situated within a predominantly residential area where the proposed residential development would be

compatible to the neighbouring land uses subject to the details of the proposed development complementing the character of the area and protecting the amenity of existing neighbouring properties.

Impact on the Character of the Conservation Area

- 8.3 The character of a conservation area is not a simple matter of style, it is a combination of street layout, building density, building scale and building form. Planning authorities are encouraged to prepare conservation area appraisals as a management tool which helps to identify the special interest of an area and identify enhancement needs and opportunities.
- 8.4 The conservation area appraisal for Eskbank and Ironmills Conservation Area states that the conservation area comprises two character zones: Eskbank and Ironmills. The Eskbank area is described as being a spacious, leafy, low density, late 19th century suburb. The appraisal further divides the Eskbank area into (1) the terraces of Mitchell Street; (2) the flat, open and elevated spaces of the bowling club, Ramsay Croft car park and the cemetery; and (3) the Victorian villas. The appraisal notes that 20th century houses and groups of houses have been developed on left over spaces. The character of Eskbank substantially derives from the very low density, secluded, residential development that has taken place in the past. The streets are spacious and uncluttered.
- 8.5 The Eskview Villas, Glenesk Crescent and Avenue Road locality of Eskbank is not situated within either character areas (1) or (2) referred to above and therefore logically might be considered to fall within character area (3) the Victorian Villas. However the locality has a streetscape and plot density that is more analogous to the Mitchell Street area rather than the wide streets, generous setback and large plot sizes that characterise the Park Road and Waverley Road area which best represents the Victorian villa character area. The Eskview Villas, Glenesk Crescent and Avenue Road locality is characterised by small pockets of development on left over pieces of land. Each phase of development reflects the style preference of the individual developer; while the buildings have similar scale, form and materials the individual terraces all have their own distinct architectural style. The character of this locality within Eskbank derives from its density and diversity.
- 8.6 The locality has successfully accommodated prominent modern extensions at Glenesk House and at houses on Eskbank Road; and smaller more discrete extensions at houses on Eskview Villas and Glenesk Crescent. The existing large detached building that accommodates the nursery is a notable example of an unsuccessful modern intervention in the conservation area. Successful modern development in the locality has respected the scale and form of existing buildings while introducing contemporary details and finish materials.

- 8.7 The proposed house is a detached two storey house with a conventional pitched roof; while it is wider than many of the houses in the area it is not as deep and is not as high as many of the houses in the area. Its form and scale respect the character of the surrounding area; it will not appear as an overly large addition to the area. It is proposed to utilise a simple palette of contemporary finish materials of a type that have been successfully used in historic urban areas throughout Scotland. The choice of a slate roof and brick boundary wall pick up on widely used finish materials within the surrounding locality and will help to relate the building to the character of the surrounding area. Use of stone on the front elevation would create difficulties in matching with the extensively weathered stone in the area and would risk appearing as tokenistic gesture that would detract from the clean simple lines that the design seeks to create.
- 8.8 The proposed design is a well detailed modern design that creates a deferential contrast to the buildings on the opposite side of Eskview Villas, but sits comfortably with the neighbouring modern buildings. The design does not seek to be an exemplar design but instead seeks to provide a modern take on the long history of individual development that characterises Eskbank. The Eskbank area includes a number of attractively proportioned villas and terraces but the area is not characterised by the theatricality and splendour that could be considered to be exemplar architecture. The buildings are well proportioned and attractively detailed buildings that reflect the character of their time. The proposed building is in keeping with this character and will preserve the character of the conservation area.

Parking and Road Safety

- 8.9 A number of representations have made reference to the proposed vehicular access arrangements from Eskview Villas. It is proposed that access to the development will be formed in the space between two existing trees; the access will be 4.5m wide. The arrangement is similar to the existing arrangement that serves the nursery at 3 Eskview Villas, although that access is slightly narrower at 4m wide. The Council's Policy and Road Safety Manager has not raised any objection to the detail of the access arrangements and the Council therefore considers the access arrangements to be acceptable. The proposed parking provision of three spaces complies with the Council's parking standards.

Amenity of neighbouring properties

- 8.10 The proposed building will be due south of the houses at 8 to 16 Eskview Villas; this could potentially result in a loss of sunlight to the existing houses. The widely recognised industry standard for assessing the impact of new development on daylight and sunlight for existing properties is the BRE Trust's publication "Site Layout Planning for Daylight and Sunlight, A Guide to Good Practice". The Guide states

that a simple rule of thumb for determining whether or not a proposed building will result in a significant loss of sunlight or daylight to an existing house facing within 90 degrees of south is to carry out a '25 degree test'. A section drawing of the existing and proposed buildings is used; if a line at 25 degrees to the horizontal is projected from the mid-point of the window being assessed, the window will receive sufficient daylight and sunlight if the line passes above the highest point of the proposed building. A 25 degree test for the proposal clearly indicates that the existing houses at Eskview Villas will not be impacted upon by the proposed building, although the existing trees may have an impact on them.

- 8.11 The erection of a 2.2m high brick boundary wall will ensure safety and privacy for the nursery at ground level. The overlooking potential of the nursery from the upper floor windows is similar to that of other properties in the areas; there will be no significant increase in overlooking of the nursery, when compared to the existing situation. The front elevation of the house will be 23m from the front elevation of the closest house on the opposite side of Eskview Villas ensuring an adequate level of privacy for properties on Eskview Villas. It should be noted that in new developments Midlothian Council generally seeks a minimum front to front separation distance of 22m.

Procedures

- 8.12 Neighbour notification was sent to all notifiable properties within 20 metres of the boundary of the application site. The neighbour notification complies with the standard specified by the Scottish Government in the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013. There is no requirement for the Council to notify parents of children attending the nursery.
- 8.13 Midlothian Council offers a free pre-application service to applicants and their agents. The Scottish Government actively encourages pre-application engagement in the planning system and includes it as one of the items on which planning authorities are assessed in their annual Planning Performance Framework submissions. Early engagement in the planning process can help to discourage unrealistic and unacceptable schemes provide an opportunity for proposals to be improved to address the planning authority's concerns; and help to provide a level of certainty to home owners, developers and businesses.
- 8.14 For the service to be effective applicants and their agents must be provided with some indication of the likelihood of an application being successful; routinely neutral responses would undermine the effectiveness of the service for applicants, agents and the planning authority. Applicants are not obliged to comply with the recommendations and it is not uncommon for agents to provide

supporting statements that put great emphasis on any positive comments while putting less emphasis, or even ignoring, on any negative comments. Pre-application responses are provided on an informal basis and are not binding on any future decisions by the Council. Applicants are advised of this and of the fact that the views of representors and consultees are material considerations in the assessment of any application.

9 RECOMMENDATION

9.1 That planning permission be granted for the following reason:

The scale, form, design and finish materials of the dwellinghouse will preserve the character, appearance and amenity of the conservation area and neighbouring properties. The proposal complies with policies STRAT2, DEV2, DEV6 and ENV19 of the Midlothian Local Development Plan 2017.

Subject to the following conditions:

1. Development shall not begin until a scheme to deal with any contamination of the site and/or previous mineral workings has been submitted to and approved by the planning authority. The scheme shall contain details of the proposals to deal with any contamination and/or previous mineral workings and include:
 - i. the nature, extent and types of contamination and/or previous mineral workings on the site;
 - ii. measures to treat or remove contamination and/or previous mineral workings to ensure that the site is fit for the uses hereby approved, and that there is no risk to the wider environment from contamination and/or previous mineral workings originating within the site;
 - iii. measures to deal with contamination and/or previous mineral workings encountered during construction work; and
 - iv. the condition of the site on completion of the specified decontamination measures.
2. On completion of the decontamination works referred to in Condition (1) above and prior to any dwellinghouse on the site being occupied, a validation report or reports shall be submitted to the Planning Authority confirming that the works have been carried out in accordance with the approved scheme. No part of the development shall be occupied unless or until the Planning Authority have approved the required validation.

Reason for conditions 1 and 2: *To ensure that any contamination and/or previous mineral workings on the site are adequately identified and that appropriate decontamination measures are undertaken to mitigate the identified risk to site users and*

construction workers, built development on the site, landscaped areas, and the wider environment.

3. Development shall not begin until temporary protective fencing is erected around all trees on the site to be retained. The fencing shall be positioned in circumference to the trunk at a distance from it which correlates to the trees canopy unless otherwise agreed in writing with the local planning authority. No excavation, soil removal or storage shall take place within the enclosed area.

Reason: *To ensure the development does not result in the loss or damage of trees which merit retention in accordance with local and national planning guidance and advice.*

4. Prior to any external finish materials, hard surface materials; and fences/boundary walls being installed details and, if requested, samples of the materials shall be submitted to and approved in writing by the Planning Authority. Thereafter development shall comply with the approved details unless otherwise approved in writing by the Planning Authority

Reason: *To safeguard the character of the conservation area.*

5. The parking and access arrangements shown on the approved site plan (drawing no. HD ESKH 04A) shall be completed and operational prior to the house being occupied.

Reason: *To ensure that the house is provided with safe and adequate access and parking; and to protect the amenity of local residents.*

6. Prior to the house being occupied the brick boundary wall shown on the approved site plan (drawing no. HD ESKH 04A) shall be completed.

Reason: *To protect the amenity of future occupants of the dwellinghouse and to protect the amenity of children attending the neighbouring nursery.*

Dr Mary Smith
Director of Education, Communities and Economy

Date: 15 January 2019

Application No: 18/00760/DPP

Applicant: Mrs Christina Walters, GENESIS (J and T) Ltd, 3
Eskview Villas, Eskbank, Dalkeith

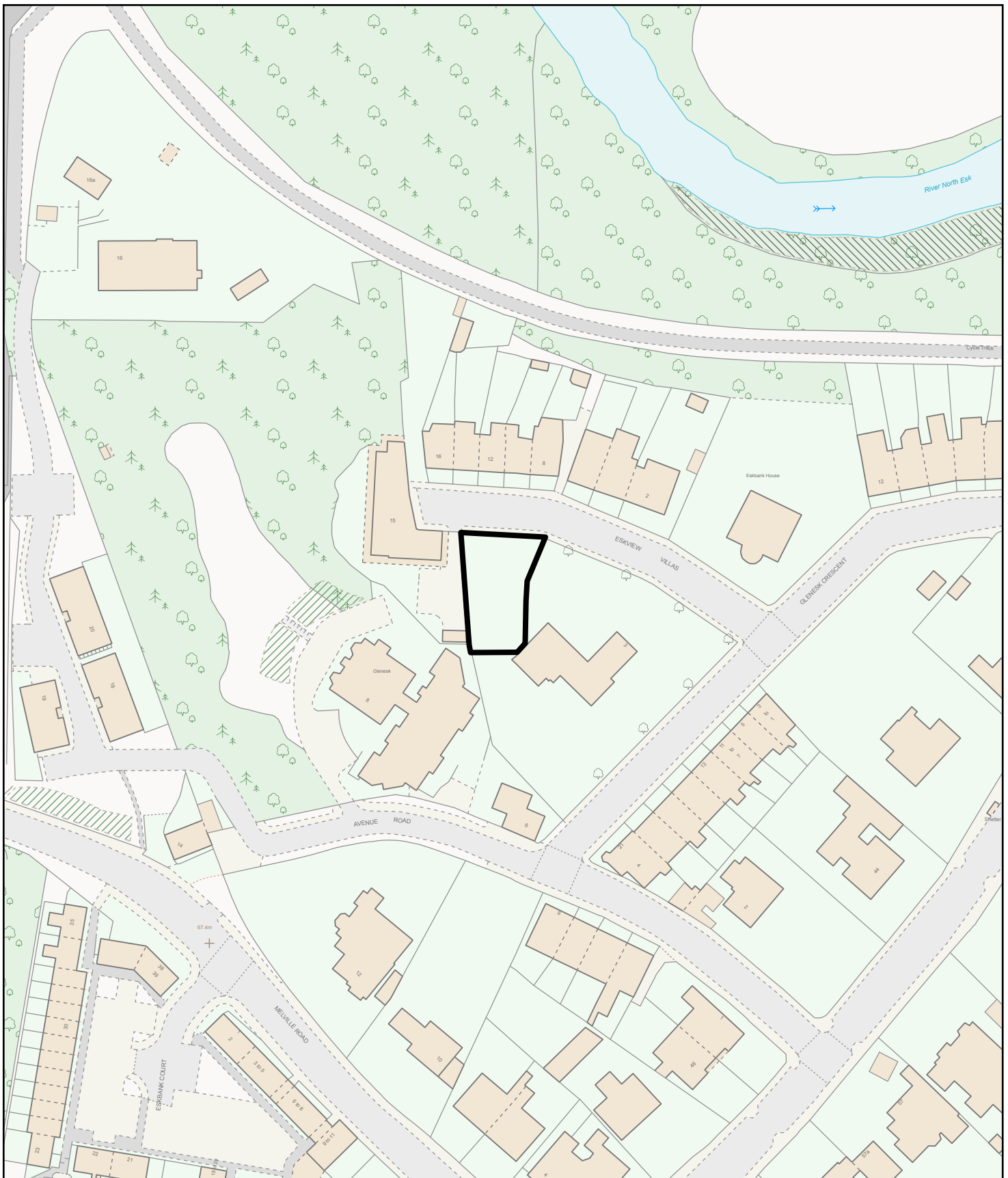
Agent: Gail Halvorsen, Halvorsen Architects, Mountskip
House, Gorebridge

Validation Date: 5 October 2018

Contact Person: Graeme King

Tel No: 0131 271 3332

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

Erection of dwellinghouse; formation of access and car parking and associated works at Land at 3 Eskview Villas, Dalkeith

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