



**APPLICATION FOR PLANNING PERMISSION 20/00899/DPP FOR THE
ERECTION OF 14 DWELLINGHOUSES, FORMATION OF ACCESS
ROADS AND CAR PARKING AND ASSOCIATED WORKS AT LAND AT
ROBERTSON BANK, GOREBRIDGE**

Report by Chief Officer Place

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

- 1.1 The application is for the erection of 14 dwellinghouses, formation of access roads and car parking and associated works. The site is situated to the south of Lady Brae, Gorebridge, and to the west of the Borders Rail line.**
- 1.2 There have been six representations and consultation responses from the Coal Authority, Scottish Water, Network Rail, SP Energy Networks, the Gorebridge and District Community Council, the Council's Archaeological Advisor, the Council's Ecological Advisor (TWIC), the Council's Senior Manager Neighbourhood Services (Roads), the Council's Senior Manager Protective Services, the Council's Land Resources Manager and the Council's Education Executive Business Manager.**
- 1.3 The relevant development plan policies are policies 1, 2, 3, 6, 7, 9, 12, 13, 14, 15, 16, 18, 20, 21, 22, 23 and 24 of the National Planning Framework 4 (NPF4) and policies STRAT1, DEV2, DEV3, DEV5, DEV6, DEV7, DEV9, TRAN1, TRAN5, IT1, ENV9, ENV10, ENV11, ENV14, ENV15, ENV16, ENV18, ENV25, IMP1, IMP2 and IMP3 of the Midlothian Local Development Plan 2017 (MLDP).**
- 1.1 The recommendation is to grant planning permission subject to conditions and the applicant entering into a planning obligation to secure contributions towards necessary infrastructure.**

2 LOCATION AND SITE DESCRIPTION

- 2.1 The site is situated in the south of Gorebridge on an area of open ground immediately to the west of the Borders Rail line. The vehicular access is from Lady Brae at the northern end of the site, the access is adjacent to the bridge that carries Lady Brae over the railway line. The site measures 0.898 hectares and comprises two distinct areas. The northern part of the site is approximately 105 metres in length and 7 to**

18 metres wide. It comprises a metalled access track, the base of a former store/workshop building and a steeply sloping area of woodland. The southern area measures approximately 205 metres in length and between 28 and 44 metres wide. It has a more open character and comprises a large area of scrubland grass, an extension of the metalled track, the base of a former store/workshop building and an area of made ground. The scrubland grass slopes steeply downhill from east to west with a fall of 8 metres across the widest part of the site.

- 2.2 The site is bounded to the north west by the Borders Rail line with the boundary being defined by a 2 metre high galvanised mesh fence. There are modern residential properties (Louis Braille Way) on the opposite side of the railway line. To the north east the site is bounded by Lady Brae. To the south west the site is bounded by mature woodland on steeply sloping ground. Beyond the woodland are three houses and a scrapyard on Robertson Bank, these properties are accessed from Lady Brae; an unsurfaced footpath runs along the banks of the Gore Water. The south east of the site is bound by a scrub grassland meadow area. There is unrestricted pedestrian access to the site and an informal path network linking Robertson Bank and a modern footbridge over the railway line. The site forms part of a larger allocated housing site (h51) which has an indicated capacity of 55 units.

3 PROPOSAL

- 3.1 It is proposed to erect 14 dwellinghouses on the southern area of the site. The existing metalled access track will be replaced with a combination of tarmacadam and paving. There will be two house types, a 4 bed house comprising 2 ½ storeys of which there will be 8 units and a 3 bed house comprising 2 storeys of which there will be 6 units. The houses will be split into 7 blocks each of 2 houses linked via their garages. The houses will have a split level design with the main access to the houses being into the living accommodation on the upper floor. Each house will be allocated parking via driveways and visitor parking will be accommodated in parallel parking bays on the access road. An area of wildflower seeded grassland at the south of the site will provide a link to the existing scrub grass open space to the south.
- 3.2 The application is accompanied by the following documents:
- Coal Mining Risk Assessment;
 - Design and Access Statement;
 - Drainage Statement;
 - Ecology Report;
 - Heritage Impact Assessment;
 - Noise and Vibration Impact Assessment;
 - Planning Statement; and,
 - Tree Survey.

4 BACKGROUND

- 4.1 Application 05/00811/FUL for the erection of 30 dwellinghouses at land at Robertson Bank was submitted on 5 October 2005. The application was withdrawn on 17 March 2006. The application boundary included the current application site and also included additional ground to the west and to the south.
- 4.2 The Midlothian Local Plan 2008 included allocated housing site H9 which relates to a site at Robertson Bank and includes the current application site. The allocated site included woodland to the west of the current site and open ground to the south, but did not include all of the land that was the subject of application 05/00811/FUL. The indicative capacity of the site was 55 units.
- 4.3 The Midlothian Local Development Plan 2017 (MLDP) included site H9 as part of the established housing land supply. The MLDP re-named the site as h51 and retains the indicative capacity of 55 units. The settlement statement for Gorebridge includes the following:

The final capacity of the site should be established through the development brief and/or planning application process. The development is required to be sensitive to the wooded environment, taking into account the steep slope of the site and proximity of the Gore Water and any flood risk. The majority of the existing woodland on site should be retained and brought under management; significant structural landscaping will be required on the south-eastern boundary to define the long-term boundary of Gorebridge. The development will be required to make developer contributions to primary and secondary school capacity.

- 4.4 As part of the assessment of the current application the planning authority issued a screening opinion for the current proposals on 24 December 2020 confirmed that an Environmental Impact Assessment (EIA) was not required.
- 4.5 The application has been called to committee by Councillor Scott. The reasons for call-in are as follows:
- The proposed entrance to these houses is on one of the most dangerous blind corners in Gorebridge – there have been accidents on Lady Brae at various places.
 - It has been noted in previous planning applications that the secondary educational infrastructure is already very stressed and strained.
 - There is severe flooding at the bottom of Lady Brae/Powdermill Brae. I would like to ensure that the sewer drains will not add to this problem and that this problem would in fact be resolved.
 - I would like to see evidence that the embankment for these houses will not deteriorate or slide through time and will not affect any existing houses below.

5 CONSULTATIONS

- 5.1 The **Coal Authority** does not object to the application subject to conditions to secure a scheme of intrusive investigation to establish the risk posed to the development by past coal mining activity and, if required, remediation works and/or mitigation measures.
- 5.2 **Scottish Water** does not object to the application. The water supply will be fed from Rosebery Water Treatment Works. The foul water drainage will be dealt with by the Gorebridge Waste Water Treatment Works. Both have sufficient capacity at present, however it is not possible to reserve capacity for future developments (this is a separate regulatory process between the applicant and Scottish Water).
- 5.3 For reasons of sustainability, and to protect Scottish Water customers from potential future sewer flooding, Scottish Water will not accept any surface water connections into the combined sewer system. There may be limited exceptional circumstances where they would allow such a connection for brownfield sites only, however this will require significant justification from the customer taking account of various factors including legal, physical and technical challenges.
- 5.4 In order to avoid costs and delays where a surface water discharge to the combined sewer system is anticipated, the developer should contact Scottish Water at the earliest opportunity with strong evidence to support the intended drainage plan prior to making a connection request.
- 5.5 **Network Rail** does not object to the application subject to conditions to ensure that no sustainable urban drainage system (SUDS) infrastructure is sited within 10 metres of the railway boundary and to ensure that tree planting adjacent to the railway boundary complies with Network Rail's planting recommendations.
- 5.6 **SP Energy Networks** does not object to the application. However it should be noted that SP Distribution has high voltage overhead lines in the vicinity of the proposals and reserves the right to protect and/or deviate apparatus at the applicant's expense.
- 5.7 **Gorebridge and District Community Council** does not object to the application and welcomes the use of brownfield land for development. However, the Community Council has three concerns:
- The existing access road from Lady Brae is a popular walking route. Safe access to this route should be maintained;
 - The single car width entrance to the site raises road safety concerns; and
 - The new junction will further complicate access for pedestrians on Lady Brae. A signal controlled pedestrian crossing should be considered.

- 5.8 The **Council's Archaeological Advisor** does not object to the application subject to condition(s) being attached to any grant of planning permission requiring a Programme of Archaeological Works (Targeted Survey and Evaluation).
- 5.9 The **Council's Ecological Advisor - The Wildlife Information Centre (TWIC)** does not object to the application and has confirmed that the Ecology Report submitted with the application includes a comprehensive field survey and data search. The report concludes that there will be no effects on protected species or habitats and includes recommendations for biodiversity enhancements.
- 5.10 The **Council's Senior Manager Neighbourhood Services (Roads)** does not object to the application subject to details concerning the visibility splay at the access; the width of the access road; service strips; turning circles for HGVs; and surface water drainage being secured by condition(s).
- 5.11 The **Council's Senior Manager Protective Services** does not object to the application subject to conditions to secure site investigations and, if required, remediation works to identify and address contaminated land issues; details of acoustic barriers; and to ensure that glazing specifications on elevations facing the railway line meet the specifications set out in the acoustic report.
- 5.12 The **Council's Land Resource Manager** does not object to the application and has confirmed that the development does not encroach on the Right of Way identified as LM58.
- 5.13 The **Council's Education Executive Business Manager** does not object to the application. The development would give rise to four primary school pupils and three secondary school pupils. Developer contributions towards education facilities would be required to mitigate the demand from the proposed development. The catchment schools are:
- Non-denominational primary Gorebridge Primary School
 - Denominational primary St Andrew's RC Primary School
 - Non-denominational secondary Newbattle High School
 - Denominational secondary St David's RC High School
- 5.14 The Council utilises a primary school pupil product ratio of 0.28 per dwelling and a secondary school pupil product ratio of 0.2 per dwelling when calculating anticipated primary and secondary school pupil numbers from developments and also for the purposes of negotiating developer contributions with applicants.
- 5.15 The consultation responses are available to view in full on the online planning application case file.

6 REPRESENTATIONS

6.1 There have been six representations received, all objecting to the application, which can be viewed in full on the online planning application case file. A summary of the main points raised are as follows:

- There is insufficient foul water drainage capacity to accommodate the development;
- The works risk the stability of banking above the properties at 1 to 9 Robertson Bank;
- The development will result in a loss of privacy for numbers 3 to 9 Robertson Bank;
- The applicant has previously deposited building waste on the site, this raises questions about their behaviour during any future development;
- There is a considerable need for affordable housing stock regardless of the size of the development;
- The development will have a detrimental impact on local biodiversity;
- The development will result in the loss of trees and threaten remaining trees;
- The development risks polluting the Gore Water;
- The access track crosses several adits, shafts and culverts associated with former mining activity. The stability of these features should be assessed;
- Litter from the development site should be controlled;
- The visibility at the proposed access is inadequate;
- Pedestrian access across the right of way should be maintained;
- The loss of open space will have a detrimental impact on the amenity of the community;
- The development will increase surface water run-off;
- The proposed access road is not wide enough;
- Tree planting along the railway embankment should be increased;
- The site contains contaminated waste that should be removed from the site; and
- Insufficient consideration has been given to reducing carbon emissions. All of the houses should include solar photovoltaic panels.

7 PLANNING POLICY

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

7.2 The following policies are relevant to the proposal:

National Planning Framework 4 (NPF4)

- 7.3 Policy **1 Tackling the climate and nature crises**; sets out to encourage, promote and facilitate development that addresses the global climate emergency and nature crisis.
- 7.4 Policy **2 Climate mitigation and adaptation**; sets out to encourage, promote and facilitate development that minimises emissions and adapts to the current and future impacts of climate change.
- 7.5 Policy **3 Biodiversity**; sets out to protect biodiversity, reverse biodiversity loss, deliver positive effects from development and strengthen nature networks.
- 7.6 Policy **6 Forestry, woodland and trees**; sets out to protect and expand forests, woodland and trees.
- 7.7 Policy **7 Historic assets and places**; sets out to protect and enhance historic environment assets and places, and to enable positive change as a catalyst for the regeneration of places.
- 7.8 Policy **9 Brownfield, vacant and derelict land and empty buildings** sets out to encourage, promote and facilitate the reuse of brownfield, vacant and derelict land and empty buildings, and to help reduce the need for greenfield development.
- 7.9 Policy **12 Zero Waste**; sets out to encourage, promote and facilitate development that is consistent with the waste hierarchy.
- 7.10 Policy **13 Sustainable Transport**; sets out to encourage, promote and facilitate developments that prioritise walking, wheeling, cycling and public transport for everyday travel and reduce the need to travel unsustainably.
- 7.11 Policy **14 Design, quality and place**; sets out to encourage, promote and facilitate well designed development that makes successful places by taking a design-led approach and applying the Place Principle.
- 7.12 Policy **15 Local Living and 20 minute neighbourhoods**; sets out to encourage, promote and facilitate the application of the Place Principle and create connected and compact neighbourhoods where people can meet the majority of their daily needs within a reasonable distance of their home, preferably by walking, wheeling or cycling or using sustainable transport options.
- 7.13 Policy **16 Quality homes**; sets out to encourage, promote and facilitate the delivery of more high quality, affordable and sustainable homes, in the right locations, providing choice across tenures that meet the diverse housing needs of people and communities across Scotland.

- 7.14 Policy **18 Infrastructure first**; sets out to encourage, promote and facilitate an infrastructure first approach to land use planning, which puts infrastructure considerations at the heart of placemaking.
- 7.15 Policy **20 Blue and green infrastructure**; sets out to protect and enhance blue and green infrastructure and their networks.
- 7.16 Policy **21 Play, recreation and sport**; sets out to encourage, promote and facilitate spaces and opportunities for play, recreation and sport.
- 7.17 Policy **22 Flood risk and water management**; sets out to strengthen resilience to flood risk by promoting avoidance as a first principle and reducing the vulnerability of existing and future development to flooding.
- 7.18 Policy **23 Health and safety**; sets out to protect people and places from environmental harm, mitigate risks arising from safety hazards and encourage, promote and facilitate development that improves health and wellbeing.
- 7.19 Policy **24 Digital infrastructure**; sets out to encourage, promote and facilitate the roll-out of digital infrastructure across Scotland to unlock the potential of all our places and the economy.

Other National Policy

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

Midlothian Local Development Plan 2017 (MLDP)

- 7.22 Policy **STRAT1: Committed Development** seeks the early implementation of all committed development sites and related infrastructure, facilities and affordable housing, including sites in the established housing land supply. Committed development includes those sites allocated in previous development plans which are continued in the MLDP. The development strategy supports the provision of an indicative 55 housing units on sites (h51).
- 7.23 Policy **DEV2: Protecting Amenity within the Built-Up Area** states that development will not be permitted within existing and future built-up areas where it is likely to detract materially from the existing character or amenity of the area.
- 7.24 Policy **DEV3: Affordable and Specialist Housing** seeks an affordable housing contribution of 25% from sites allocated in the MLDP. Providing lower levels of affordable housing requirement may be

acceptable where this has been fully justified to the Council. This policy supersedes previous local plan provisions for affordable housing; for sites allocated in the Midlothian Local Plan (2003) that do not benefit from planning permission, the Council will require reasoned justification in relation to current housing needs as to why a 25% affordable housing requirement should not apply to the site.

- 7.25 Policy **DEV5: Sustainability in New Development** sets out the requirements for development with regards to sustainability principles.
- 7.26 Policy **DEV6: Layout and Design of New Development** states that good design and a high quality of architecture will be required in the overall layout of development proposals. This also provides guidance on design principles for development, materials, access, and passive energy gain, positioning of buildings, open and private amenity space provision and parking.
- 7.27 Policy **DEV7: Landscaping in New Development** requires development proposals to be accompanied by a comprehensive scheme of landscaping. The design of the scheme is to be informed by the results of an appropriately detailed landscape assessment.
- 7.28 Policy **DEV9: Open Space Standards** sets out the necessary open space for new developments. This policy requires that the Council assess applications for new development against the open space standards as set out in Appendix 4 of that Plan and seeks an appropriate solution where there is an identified deficiency in any of the listed categories (quality, quantity and accessibility).
- 7.29 Policy **TRAN1: Sustainable Travel** aims to encourage sustainable modes of travel.
- 7.30 Policy **TRAN5: Electric Vehicle Charging** seeks to support and promote the development of a network of electric vehicle charging stations by requiring provision to be considered as an integral part of any new development or redevelopment proposals.
- 7.31 Policy **IT1: Digital Infrastructure** supports the incorporation of high speed broadband connections and other digital technologies into new homes.
- 7.32 Policy **ENV9: Flooding** presumes against development which would be at unacceptable risk of flooding or would increase the risk of flooding elsewhere. It states that Flood Risk Assessments will be required for most forms of development in areas of medium to high risk, but may also be required at other locations depending on the circumstances of the proposed development. Furthermore it states that sustainable urban drainage systems will be required for most forms of development, so that surface water run-off rates are not greater than in the site's pre-developed condition, and to avoid any deterioration of water quality.

- 7.33 Policy **ENV10: Water Environment** requires that new development pass surface water through a sustainable urban drainage system (SUDS) to mitigate against local flooding and to enhance biodiversity and the environment.
- 7.34 Policy **ENV11: Woodland, Trees and Hedges** states that development will not be permitted where it could lead directly or indirectly to the loss of, or damage to, woodland, groups of trees (including trees covered by a Tree Preservation Order, areas defined as ancient or semi-natural woodland, veteran trees or areas forming part of any designated landscape) and hedges which have a particular amenity, nature conservation, biodiversity, recreation, landscape, shelter, cultural, or historical value or are of other importance.
- 7.35 Policy **ENV14: Regionally and Locally Important Nature Conservation Sites** states that development will not be permitted where it could adversely affect the nature conservation interest of such sites, unless it can be demonstrated that appropriate mitigation measures are in place.
- 7.36 Policy **ENV15: Species and Habitat Protection and Enhancement** presumes against development that would affect a species protected by European or UK law.
- 7.37 Policy **ENV16: Vacant, Derelict and Contaminated Land** supports the redevelopment of vacant and derelict land for uses compatible with their location. Developments will be required to demonstrate that the site is suitable for the proposed new use in terms of the risk posed by contamination and instability from historic uses.
- 7.38 Policy **ENV18: Noise** requires that where new noise sensitive uses are proposed in the locality of existing noisy uses, the Council will seek to ensure that the function of established operations is not adversely affected.
- 7.39 Policy **ENV25: Site Assessment, Evaluation and Recording** requires that where development could affect an identified site of archaeological importance, the applicant will be required to provide an assessment of the archaeological value of the site and of the likely impact of the proposal on the archaeological resource.
- 7.40 Policy **IMP1: New Development**. This policy ensures that appropriate provision is made for a need which arises from new development. Of relevance in this case are education provision, transport infrastructure; contributions towards making good facility deficiencies; affordable housing; landscaping; public transport connections, including bus stops and shelters; parking in accordance with approved standards; cycling access and facilities; pedestrian access; acceptable alternative access routes, access for people with mobility issues; traffic and environmental management issues; protection/management/compensation for natural

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

- 7.41 Policy **IMP2: Essential Infrastructure Required to Enable New Development to Take Place** states that new development will not take place until provision has been made for essential infrastructure and environmental and community facility related to the scale and impact of the proposal. Planning conditions will be applied and; where appropriate, developer contributions and other legal agreements will be used to secure the appropriate developer funding and ensure the proper phasing of development.
- 7.42 Policy **IMP3: Water and Drainage** require sustainable urban drainage systems (SuDS) to be incorporated into new development.

8 PLANNING ISSUES

- 8.1 The main planning issue to be considered in determining this application is whether the proposal complies with development plan policies unless material planning considerations indicate otherwise. The representations and consultation responses received are material considerations.

Principle of development

- 8.2 The site is part of an allocated housing site (site h51) in the MLDP and is located within the built up area of Gorebridge where there is a presumption in favour of appropriate residential development. The site has been allocated for housing since the 2008 Midlothian Local Plan and contributes towards the Council's housing land supply. No material considerations have been presented to outweigh the presumption in favour of development.
- 8.3 With regard NPF4, although the site is allocated for housing in the MLDP, consideration still needs to be given to the site's location in terms of sustainability. In this regard the site is within close proximity to a range of local services including shops, schools, pharmacy and medical practices, employment opportunities, public transport options and active travel connections and as such is considered to be in a sustainable location in compliance with NPF4.

The supply of effective housing land

- 8.4 The Council is required to maintain a supply of effective housing land (enough land allocated and coming forward for housing to meet its housing targets) at all times. The number of homes required in a local authority area is set by the Scottish Government in NPF4 and is met by the development strategy and policies of the MLDP and the assessment of individual proposals. Where a shortfall in the supply of effective housing land emerges, sites that are not allocated for

residential development should be considered as possible additional sites to make up the shortfall. With a 10 year housing target being set at 8,850 units (for the life of MLDP2, to be prepared for adoption in 2026/27) it is a reasonable presumption that an annualised target of 885 units will be expected prior to the adoption of MLDP2 – this provides an impetus to support the granting of planning permission for residential development on allocated housing sites such as the one proposed.

Layout, Form, Design and Materials

- 8.5 The houses will have a traditional form with pitched roofs and will be positioned in a linear arrangement along the proposed access road. The design and detailing includes contemporary design features such as areas of full height glazing and the use of timber cladding. The roofs will be finished with slate and the walls will be finished in a mix of off white render and grey facing brick. The houses will have a split level design and terraced gardens in order to accommodate the sloping terrain of the site.
- 8.6 The terraced gardens will ensure that the houses will be provided with adequate levels of usable outdoor space. The distance between the proposed houses and those at 1 to 9 Robertson Bank, and the fact that there will be intervening woodland between the houses, will ensure that the new houses will not result in an unacceptable loss of privacy when compared to the existing situation.
- 8.7 The design and layout will ensure variety and interest in views of both the front and rear elevations. The development will be visible in wider views of Gorebridge from the west but it will be seen in the context of the housing developments to the east which will create a backdrop of residential development. The development will not appear as unduly prominent in wider views of Gorebridge.

Access and transportation

- 8.8 The site is well served by public transport links with easy access to Gorebridge railway station and to regular bus services on Powdermill Brae. The layout maintains a pedestrian route through the site and an alternative route during construction which can be secured by condition on a grant of planning permission.
- 8.9 The access junction for the site will be situated on the outside of an existing curve in the road. This will ensure that the junction will have adequate visibility to the west, towards Powdermill Brae, and to the north east, towards Louis Braille Way and beyond. Finalised details of the junction and access road can be secured by condition on a grant of planning permission. In the context of the surrounding area a development of 14 houses will not result in significant numbers of additional trip generation.

Surface and foul water drainage

- 8.10 The Scottish Water consultation response confirmed that it has no objection to the proposal. The response also confirms that there is currently sufficient capacity at Rosebery Water Treatment Works (this part of the response relates to the provision of water to the site); it is recommended that the applicant submit a Pre-Development Enquiry Form to Scottish Water to allow for assessment of capacity. It is also confirmed the Gorebridge Waste Water Treatment Works (i.e. foul water waste) has sufficient capacity for a foul only connection. Finally the response also confirms that Scottish Water will not accept connection of surface water drainage into their combined sewer system, except for limited exceptional circumstances on brownfield sites.
- 8.11 These are all common consultation responses from Scottish Water and do not indicate any fundamental issues with the application site. It is Scottish Water's standard approach to provide a no objection response for planning consultations and advise that the applicant should submit a Pre-Development Enquiry (PDE) to Scottish Water.
- 8.12 The topography of the site means that surface water currently drains in three directions with the access track draining towards Lady Brae, the main development area draining into the woodland to the west and the very southern end of the site draining southwards into the open meadow area. The indicative drainage strategy proposes using source control (bioretention areas and permeable road surfaces) to deal with road and roof rainwater. Road levels will ensure that surface water run-off from the roads within the site is directed to controls within the site, any existing run-off towards Lady Brae will be re-directed into the site. The source control elements will have flow-controlled outlets with conveyance pipes to the site control element of the scheme. The site control will consist of a filter trench and strip along the western boundary of the site which will mimic the current greenfield run-off to the woodland but at reduced discharge rates and volumes.

Woodland and landscaping

- 8.13 The h51 site is characterised by a combination of woodland and scrub grassland. The majority of the woodland is outwith the boundary of the current application site. The area that will accommodate the proposed housing will require the felling of one sycamore tree which is in poor condition. Selective felling and pruning will be necessary along the western edge of the access track. Planting along the eastern edge of the site will have to comply with Network Rail species and planting guidance in order to ensure that leaf fall does not disrupt rail services. Disturbed ground at the southern end of the site will be re-seeded with wildflower meadow mix.

Archaeology

- 8.14 The application submission includes a Heritage Impact Assessment which identifies that the site may have formed part of the Gorebridge Gunpowder Works and there is medium potential for finds or remains from the post-medieval period to be present on site. Having considered the Heritage Impact Assessment the Council's Archaeological Advisor has recommended that a planning condition be used to secure a programme of archaeological works consisting of a written scheme of investigation, a targeted survey of a potential location of a site associated with the gunpowder works and a field evaluation by trial trenching.

Biodiversity

- 8.15 The Council's Ecological Advisor, The Wildlife Information Centre (TWIC) has confirmed that the Ecology Report submitted with the application includes a comprehensive field survey and data search. The report concludes that there will be no effects on protected species or habitats and includes recommendations for biodiversity enhancements consisting of the incorporation of swift brick and bat boxes on the houses.

Potential impact of railway noise

- 8.16 The site is immediately adjacent to the Borders Railway line and there is a longstanding car breaker's yard approximately 15 metres west of the site. The application submission includes a Noise and Vibration Impact Assessment which assesses the potential impact of both these uses on the amenity of the future residents. The assessment recommends that railway noise is mitigated via a combination of acoustic barriers and glazing/ventilation specification, and that the potential breaker's yard noise is mitigated via an acoustic barrier. The Council's Senior Manager Protective Services has reviewed the assessment and agrees with its conclusions. Finalised details of the mitigation measures can be secured by condition on a grant of planning permission.

Ground conditions

- 8.17 Like the majority of Midlothian's settlements the site falls within a Coal Authority defined Development High Risk Area. The Coal Authority has recommended a scheme of intrusive site investigations to identify any ground stability issues associated with the area's history of coal mining. Should the intrusive investigations identify any issues that require remediation then the works will need to be completed prior to the occupation of the houses. It is standard practice within Midlothian, and other planning authorities, to deal with these matters via condition(s) on a grant of planning permission and further consultation with the Coal Authority.

- 8.18 The Council's Senior Manager Protective Services has recommended a scheme of investigation (a desk top study followed, if required, by intrusive investigations) to identify any potential contaminated land issues associated with former uses of the site. Such a scheme of investigation will identify if any of the building debris on the site is contaminated. Remediation and mitigation measures can be determined following the assessment of the survey work. It is standard practice within Midlothian, and other planning authorities, to deal with these matters via condition(s) on a grant of planning permission and further consultations with the Council's Senior Manager Protective Services.
- 8.19 Other than the statutory requirement relating to coal mining history the stability of land during and after construction is not a matter that is assessed as part of the planning process. The structural stability of developments is assessed as part of the building warrant process. Any damage caused to neighbouring properties during construction is a private legal matter between the parties involved and is not a material planning consideration.

Education Provision

- 8.20 The consultation response from the Council's Education Executive Business Manage has confirmed that developer contributions will be required towards primary and secondary education provision. The site is within the catchment areas of Gorebridge and St Andrew's RC primary schools and Newbattle and St David's RC high schools. The development is estimated to generate a pupil product of four primary pupils and three secondary pupils. Given the scale of the development, the size of the anticipated pupil product and the fact that the site has been allocated for housing since 2008 it would not be reasonable to seek to refuse the application on grounds of uncertainty of education provision.

Developer contributions and affordable housing

- 8.21 In relation to Midlothian Council, policies relevant to the use of planning obligations are set out in the MLDP and Midlothian Council's Developer Contributions Guidelines (Supplementary Planning Guidance). If the Council is minded to grant planning permission for the development it will be necessary for the applicant to enter into a planning obligation to secure:
- A financial contribution towards additional primary education capacity;
 - A financial contribution towards additional secondary education capacity;
 - A financial contribution towards Borders Rail/public transport;
 - A financial contribution towards improvements within Gorebridge town centre;

- A financial contribution towards community facilities; and
- A financial contribution towards off site children's play.

8.22 Scottish Government advice on the use of Section 75 Planning Agreements is set out in Circular 03/2012: Planning Obligations and Good Neighbour Agreements. The Circular advises that planning obligations should only be sought where they meet all of the following tests:

- Necessary to make the proposed development acceptable in planning terms (paragraph 15)
- Serve a planning purpose (paragraph 16) and, where it is possible to identify infrastructure provision requirements in advance, should relate to development plans
- Relate to the proposed development either as a direct consequence of the development or arising from the cumulative impact of development in the area (paragraphs 17-19)
- Fairly and reasonably relate in scale and kind to the proposed development (paragraphs 20-23)
- Be reasonable in all other respects

8.23 The requirements as set out above for any proposed planning obligation would meet the above tests.

8.24 As is noted above the site was first allocated in the Midlothian Local Plan 2008. At that time policy HOUS4 stated that for sites (both allocated and windfall) of less than 15 units no affordable housing provision would be sought. Policy DEV3 of the MLDP amended this approach to require affordable housing provision for all allocated sites irrespective of unit numbers, the exemption for developments of less than 15 units remains for windfall sites. Notwithstanding this fact, as is noted in paragraph 8.22 there is a test of reasonableness that the planning authority must apply in determining whether or not to seek developer contributions. NPF4 continues a requirement to provide affordable units in connection with residential developments where demonstrated as being necessary.

8.25 Draft Heads of Terms (the document setting out the requirements of a planning obligation) were first provided to the applicant in February 2021 and since this time there has been extensive negotiations on the requirements of the planning obligation (if planning permission were to be granted). The applicant's agent has submitted information to demonstrate that, due to the limited size of the scheme and the technical difficulties of the site, the project would not be viable with the inclusion of contributions towards affordable housing. After due consideration of this position it is considered that the scheme would not be viable with the affordable housing requirement and as such the Council must reach a decision in terms of supporting the proposal or refusing it on the basis of not providing affordable housing. In this case, and on balance, it is recommended to support the proposal.

9 RECOMMENDATION

9.1 That planning permission be granted for the following reason:

The proposed development site will contribute to the sustainable delivery of housing in compliance with the policies of National Planning Framework 4 and is allocated for housing in the Midlothian Local Development Plan 2017 (MLDP) where there is a presumption in favour of an appropriate form of development. The proposed detailed scheme of development in terms of its layout, form, design and landscape framework is acceptable and as such accords with development plan policies, subject to securing developer contributions. The presumption for development is not outweighed by any other material considerations.

Subject to:

a. the prior signing of a planning obligation to secure:

- A financial contribution towards additional primary education capacity;
- A financial contribution towards additional secondary education capacity;
- A financial contribution towards Borders Rail/public transport;
- A financial contribution towards improvements in Gorebridge town centre;
- A financial contribution towards community facilities;
- A financial contribution towards off site play.

The legal agreement shall be concluded within six months. If the agreement is not concluded timeously the application will be refused.

b. the following conditions:

1. The development to which this permission relates shall commence no later than the expiration of three years beginning with the date of this permission.

Reason: *To accord with the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended by the Planning (Scotland) Act 2019).*

2. The development shall not begin until a scheme to deal with any contamination of the site has been submitted to and approved by the planning authority. The scheme shall contain details of the proposals to deal with any contamination and include:
 - i. the nature, extent and types of contamination on the site;
 - ii. measures to treat or remove contamination to ensure that the site is fit for the uses hereby approved, and that there is no risk

to the wider environment from contamination originating within the site;

- iii. measures to deal with contamination encountered during construction work; and
 - iv. the condition of the site on completion of the specified decontamination measures.
3. On completion of any required decontamination/ remediation works, referred to in Condition 2, and prior to any dwelling house on the site being occupied, a validation report shall be submitted to the planning authority confirming that the works have been carried out in accordance with the approved scheme. No dwelling house on the site shall be occupied unless or until the planning authority have approved the required validation.

Reason for conditions 2 and 3: To ensure that any contamination on the site is 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.

4. Development shall not begin until:
- i. A scheme of intrusive site investigations has been carried out on site to establish the risks posed to the development by past coal mining activity; and
 - ii. any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full to ensure that the site is made safe and stable for the development proposed

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

5. Prior to the occupation of any part of the development a validation report prepared by a suitably competent person shall be submitted to and approved in writing by the planning authority. The report shall confirm that the site is, or has been made, safe and stable for the approved development; and shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

Reason for conditions 4 and 5: To ensure that any risks posed by the coal mining history of the area are identified and addressed prior to further development commencing.

6. Development shall not begin until the applicant has undertaken and reported upon a programme of archaeological (Targeted Survey and Evaluation) work in accordance with a written scheme of

investigation which has been submitted by the applicant (or their agent) and approved by the planning authority.

Reason: *To ensure the development does not result in the unnecessary loss of archaeological material*

7. Development shall not begin until a scheme of hard and soft landscaping has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
- i existing and finished ground levels and floor levels for all buildings, roads, parking areas and paths in relation to a fixed datum;
 - ii existing trees, landscaping features and vegetation to be retained; removed, protected during development and in the case of damage, restored;
 - iii details of tree protection measures, complying with BS5837:2012, for all trees that are to be retained;
 - iv proposed new planting including trees, shrubs, hedging and grassed areas;
 - v location and design of any proposed walls, fences and gates, including those surrounding bin stores or any other ancillary structures;
 - vi schedule of plants to comprise species, plant sizes and proposed numbers/density;
 - vii programme for completion and subsequent maintenance of all soft and hard landscaping. The landscaping shall be completed prior to the development being occupied. Any tree felling or vegetation removal proposed as part of the landscaping scheme shall take place out with the bird breeding season (March-August); unless a suitably qualified ecologist has carried out a walkover survey of the felling/removal area in the 48 hours prior to the commencement of felling/removal, and confirmed in writing that no breeding birds will be affected;
 - viii proposed car park configuration and surfacing;
 - ix details of the location, design, height and specification of proposed street lighting within the development; and
 - x proposed footpaths.

All hard and soft landscaping shall be carried out in accordance with the scheme approved in writing by the planning authority as the programme for completion and subsequent maintenance (vii).

Thereafter any trees or shrubs removed, dying, becoming seriously diseased or damaged within five years of planting shall be replaced in the following planting season by trees/shrubs of a similar species to those originally required.

Reason: *To ensure the quality of the development is enhanced by landscaping to reflect its setting in accordance with policy DEV7 of*

the Midlothian Local Development Plan 2017 and national planning guidance and advice.

8. Development shall not begin until details of the site access, roads, footpaths, cycle ways and transportation movements have been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
- i. Details of the visibility splay at the access junction, unless otherwise approved in writing by the Planning Authority the visibility splay shall be 2.4m by 70m;
 - ii. Details of the access road showing the first 12m of the access road formed at a minimum width of 6.0m;
 - iii. The access road will require a 2m wide service strip along the housing frontage;
 - iv. Details, including AutoTrack, of an HGV turning area at the southern end of the development; and
 - v. Details of an alternative route to accommodate pedestrians should path 8-35 (as identified on the Midlothian Core Path Plan) need to be closed to pedestrians during construction.

Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be agreed in writing with the planning authority.

Reason: *To ensure the future users of the buildings, existing local residents and those visiting the development site during the construction process have safe and convenient access to and from the site.*

9. Development shall not begin until details and, if requested, samples of materials to be used on external surfaces of the buildings; hard ground cover surfaces; means of enclosure and ancillary structures have been submitted to and approved in writing by the planning authority. Development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the planning authority.

Reason: *In the interest of protecting the character and appearance of the area so as to comply with policies DEV2 of the Midlothian Local Development Plan 2017.*

10. Development shall not begin until details of the provision and use of electric vehicle charging stations 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 with the planning authority.

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

11. Development shall not begin until details, including a timetable of implementation, of superfast fibre broadband have been submitted to and approved in writing by the planning authority. The details shall include delivery of superfast fibre broadband prior to the occupation of the building. The delivery of superfast 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; and to comply with policy IT1 of the Midlothian Local Development Plan 2017.*

12. Development shall not begin until details of a scheme to deal with surface water drainage has been submitted to and approved in writing by the planning authority. Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be approved in writing with the planning authority.

Reason: *To ensure that the development is provided with adequate surface water drainage; and to ensure that development complies with policies ENV9 and ENV10 of the Midlothian Local Development Plan 2017.*

13. Development shall not begin until details of a sustainability/biodiversity scheme for the site, including the provision of house bricks and boxes for bats and swifts throughout the development has been submitted to an 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 quality of the development is enhanced by the use of art to reflect its setting in accordance with policies in the Midlothian Local Development Plan 2017 and national planning guidance and advice.*

14. Development shall not begin until details of the following noise mitigation measures have been submitted to and approved in writing by the planning authority:
 - i. Details of the location, height and specification of acoustic barriers to address noise for the Borders railway line to the east and the car breaker's yard to the west; and
 - ii. Details of window and ventilation specifications for the eastern facades of all houses.

Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be agreed in writing with the planning authority.

Reason: *To safeguard the amenity of future residents.*

15. Development shall not begin until an application for approval of matters specified in conditions for a Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the planning authority. The CEMP shall include:
- i. Details of construction access routes;
 - ii. signage for construction traffic, pedestrians and other users of the site;
 - iii. controls on the arrival and departure times for construction vehicles, delivery vehicles and for site workers (to avoid school arrival/departure times);
 - iv. details of piling methods (if employed);
 - v. details of any earthworks;
 - vi. control of emissions strategy;
 - vii. a dust management plan strategy;
 - viii. waste management and disposal of material strategy;
 - ix. a community liaison representative will be identified to deal with the provision of information on the development to the local community and to deal with any complaints regarding construction on the site;
 - x. prevention of mud/debris being deposited on the public highway;
 - xi. material and hazardous material storage and removal; and
 - xii. controls on construction, engineering or any other operations or the delivery of plant, machinery and materials (to take place between 0700 to 1900hrs Monday to Friday and 0800 to 1300hrs on Saturdays).

Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be approved in writing with the planning authority.

Reason: *In order to control the construction activity on the site, ensure environmental impact during the construction period is acceptable and to ensure appropriate mitigation is in place.*

16. Development shall be carried out in accordance with the approved drawings and supporting information hereby listed:

No.	Drawing Description	Drawing Number & Scale	Date
1	House Type A - Elevations	HD995-PL-110A 1:50	21/12/2020
2	House Type A and B Floor Plans	HD995-PL-010A 1:50	21/12/2020

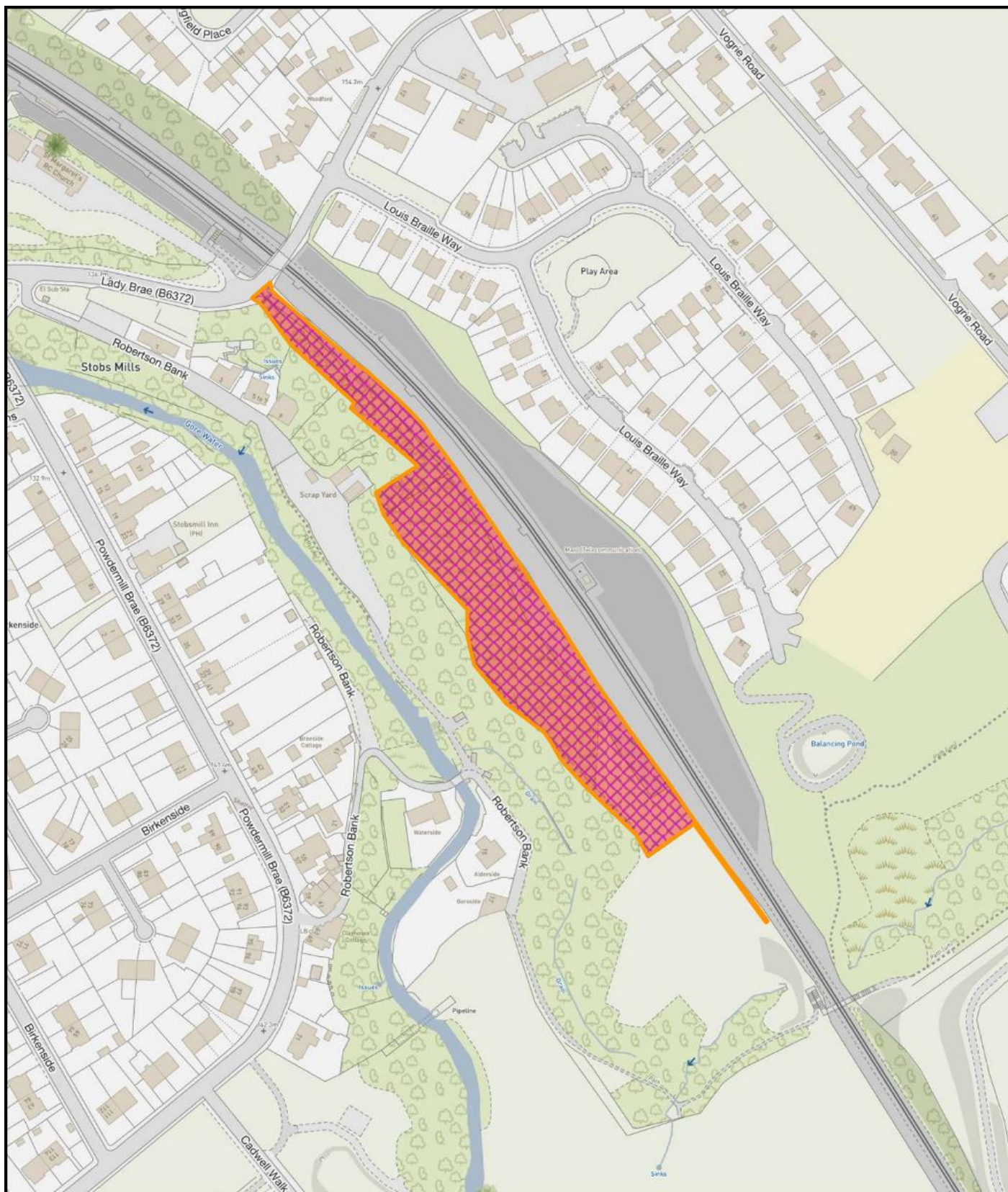
3	House Type B - Elevations	HD995-PL-111A 1:50	21/12/2020
4	Illustration/Photograph	HD995-PL-010A nts Indicative 3D view from site entrance	21/12/2020
5	Location Plan	HD995-PL-001A 1:1250	21/12/2020
6	Site Elevations 1	HD995-PL-010A 1:125	21/12/2020
7	Site Elevations 2	HD995-PL-101A 1:125	21/12/2020
8	Site Plan	HD995-PL-003B 1:750, 1:250	13/12/2022
9	Site Sections	HD995-PL-200A 1:200	21/12/2020
10	Topographic Survey	HD995-PL-002A 1:750	21/12/2020
11	Acoustic and Vibration Report		21/12/2020
12	Coal Mining Risk Assessment		21/12/2020
13	Coal Mining Risk Assessment Addendum	Geovia Response to Coal Authority	19/02/2021
14	Design and Access Statement		21/12/2020
15	Drainage Statement	Surface Water Options Report	08/02/2021
16	Ecology Report Appendix		21/12/2020
17	Ecology/Wildlife Report/Survey		21/12/2020
18	Heritage Impact Assessment		21/12/2020
19	Supporting Planning Statement		21/12/2020
20	Tree Report		21/12/2020

Reason: To ensure that the development is carried out in terms of the drawings and supporting information which were assessed in terms of this application.

Peter Arnsdorf
Planning, Sustainable Growth and Investment Manager

Date: 20 February 2022

Application No: 20/00899/DPP
Applicant: Carlsson Properties Ltd
Agent: Hackland + Dore
Validation Date: 21 December 2020
Contact Person: Graeme King
Email: graeme.king@midlothian.gov.uk
Background Papers: None



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

Erection of 14 dwellinghouses Land at Robertson Bank, Gorebridge

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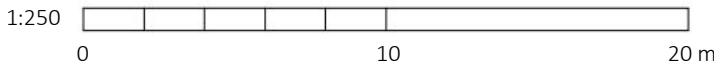
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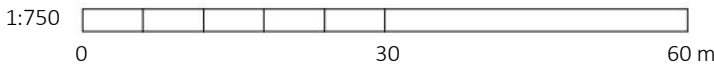




SITE PLAN
1 : 250



SITE PLAN
1 : 750



- EXISTING GRASS AREA TO BE SEEDED WITH WILD FLOWER MEADOW MIX WHERE GROUND IS DISTURBED
- TARMAC
- PAVING
- PAVING - VISITOR PARKING
- GARDEN AREA
- SHRUB AND SMALL TREE PLANTING
- 2.0m HIGH ACOUSTIC FENCE

NOTES

- FORM NEW BELLMOUTH JUNCTION WITH 4.5 x 70m VISIBILITY SPLAY
- TYPICAL 5.5m WIDE ACCESS ROAD WITH 3m WIDE LANES TO MAXIMISE RETENTION OF EXISTING SOFT LANDSCAPE
- SHARED SURFACE - MIXTURE OF TARMAC AND PAVING
- RETENTION TO ENGINEER DESIGN
- 1.8m HIGH ACOUSTIC FENCE TO BOUNDARY WITH RAILWAY LINE
- VEHICLE TURNING AREA
- 1.8m HIGH TIMBER FENCING TO REAR GARDENS
- 300mm HIGH TIMBER RAILING BETWEEN FRONT GARDENS
- STEPS FROM ACCESS LEVEL TO GARDEN LEVEL WITH INTEGRATED PLANTING AREAS AND HEDGING
- 1.8m HIGH METAL RAILING WITH ACCESS GATE
- GARDEN SLOPED AT 1:20 WITH STEPS BETWEEN PLATS
- EXISTING DENSE TREE COVER
- EXISTING INFORMAL TRACK TO FOOTBRIDGE TO BE MAINTAINED
- TOTAL 2no. ELECTRIC VEHICLE CHARGING POINT INSTALLED TO VISITOR CAR PARKING SPACE

SCHEDULE

TYPE A - 3 STOREY HOUSE	x8	158.2m ² GIA
TYPE B - 2 STOREY HOUSE	x6	125.9m ² GIA

TOTAL 14 DWELLINGS

PARKING

IN-CURTILAGE DRIVEWAY TO EACH PROPERTY PROVIDING 2 PARKING SPACES = 28 SPACES
ON STREET VISITOR PARKING FOR 7 CARS

TOTAL 35 SPACES (250%)

B	MM	Distance between retaining wall and site boundary at North West of site increased. Geometry of turning head to South East of site amended.	13-12-2022
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A	JW	Planning issue.	17-12-2020
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Revision By Details Date

Hackland Dore	Hackland + Dore Architects 16 Annandale Street Edinburgh EH7 4AN t: 0131 538 7707 e: admin@hackland-dore.com w: www.hackland-dore.com
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Client Carlsson Properties

Project Residential Development
Robertson Bank, Gorebridge

Drawing SITE PLAN

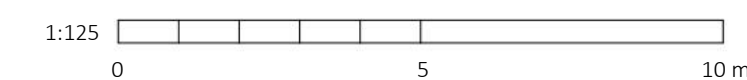
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Drawn JW	Checked MM
Project number HD995	Date created 30-01-2020
Drawing number PL-003	Revision B

PLANNING

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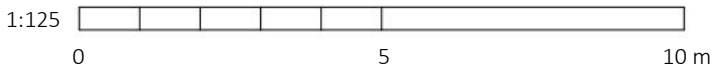
SITE ELEVATION - GARDEN - 1 OF 2
1 : 125



SITE ELEVATION - GARDEN - 2 OF 2
1 : 125



SITE ELEVATION - SOUTH EAST
1 : 125



A

JW

Planning Issue

17-12-2020

Revision	By	Details	Date

Hackland

Dore

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Client

Carlsson Properties

Project

Residential Development

Robertson Bank, Gorebridge

Drawing

SITE ELEVATIONS 2

Scale	Size
1 : 125	A1

Drawn	Checked	Date created
JW	MM	30-01-2020

Project number	Drawing number	Revision
HD995	PL-101	A

Status

PLANNING

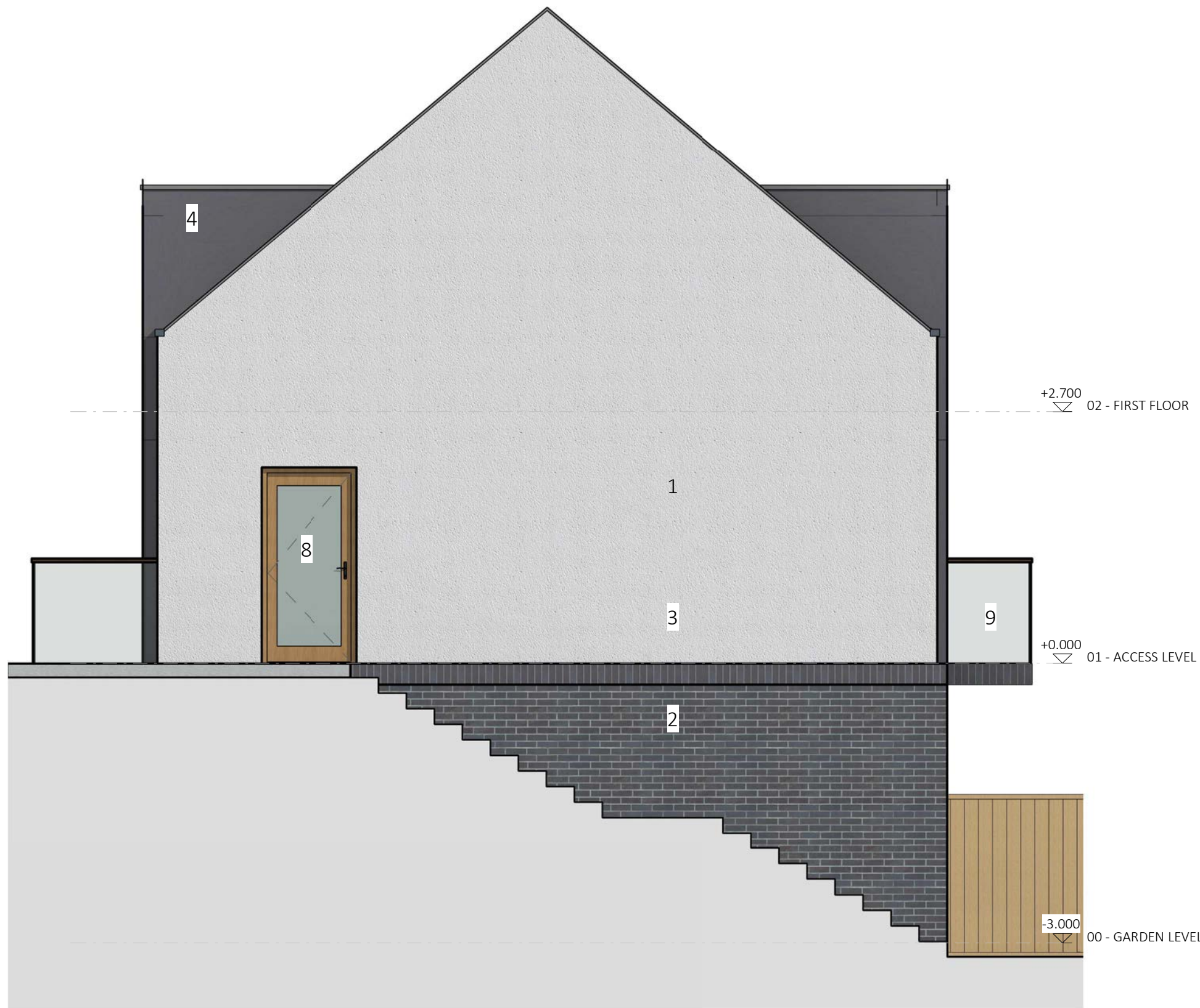
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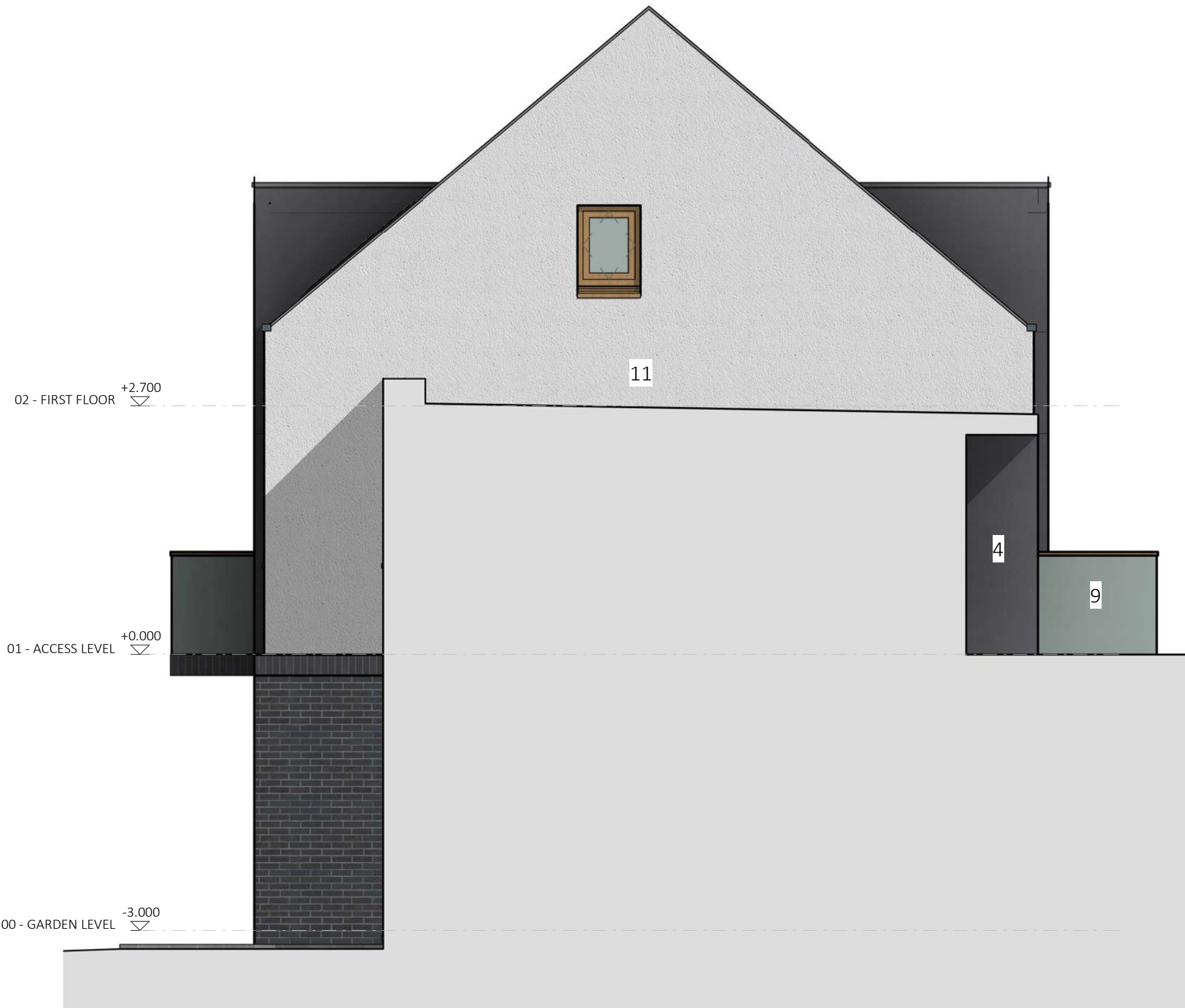
HOUSE TYPE A - NORTH EAST ELEVATION
1 : 50



HOUSE TYPE A - GABLE ELEVATION
1 : 50



HOUSE TYPE A - SOUTH WEST ELEVATION
1 : 50

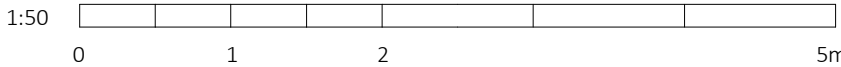


HOUSE TYPE A - GABLE OVER GARAGE
1 : 50

NOTES

1. OFF WHITE RENDER FINISH
2. BRICK TO COMPLEMENT ROOF SLATE COLOUR
3. SOLDIER COURSE
4. DARK GREY CLADDING BOARD
5. TIMBER CLADDING
6. SLATE ROOF
7. POWDER COATED METAL TRIMS AND RAINWATER GOODS
8. TIMBER WINDOWS AND DOORS
9. CLEAR BALUSTRADE
10. ROOFLIGHT
11. SINGLE PLY MEMBRANE TO FLAT ROOF
12. FRONT AND GARAGE DOORS FITTED FLUSH WITH AND FINISHED TO MATCH TIMBER CLADDING

A JW Planning Issue		17-12-2020
Revision	By	Details
		Date
<div><div><div><div>Hackland</div><div>Dore</div></div><div><div>Hackland + Dore Architects</div><div>16 Annandale Street</div><div>Edinburgh EH7 4AN</div><div>t: 0131 538 7707</div><div>e: admin@hackland-dore.com</div><div>w: www.hackland-dore.com</div></div></div></div>		
Client Carlsson Properties		
Project Residential Development Robertson Bank, Gorebridge		
Drawing HOUSE TYPE A - ELEVATIONS		
Scale 1 : 50		Size A1
Drawn JW	Checked MM	Date created 01/30/20
Project number HD995	Drawing number PL-110	Revision A
Status PLANNING		
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NOTES

1. OFF WHITE RENDER FINISH
2. BRICK TO COMPLEMENT ROOF SLATE COLOUR
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7. POWDER COATED METAL TRIMS AND RAINWATER GOODS
8. TIMBER WINDOWS AND DOORS
9. CLEAR BALUSTRADE
10. ROOFLIGHT
11. SINGLE PLY MEMBRANE TO FLAT ROOF FRONT AND GARAGE DOORS FITTED FLUSH WITH AND FINISHED TO MATCH TIMBER CLADDING
- 12.



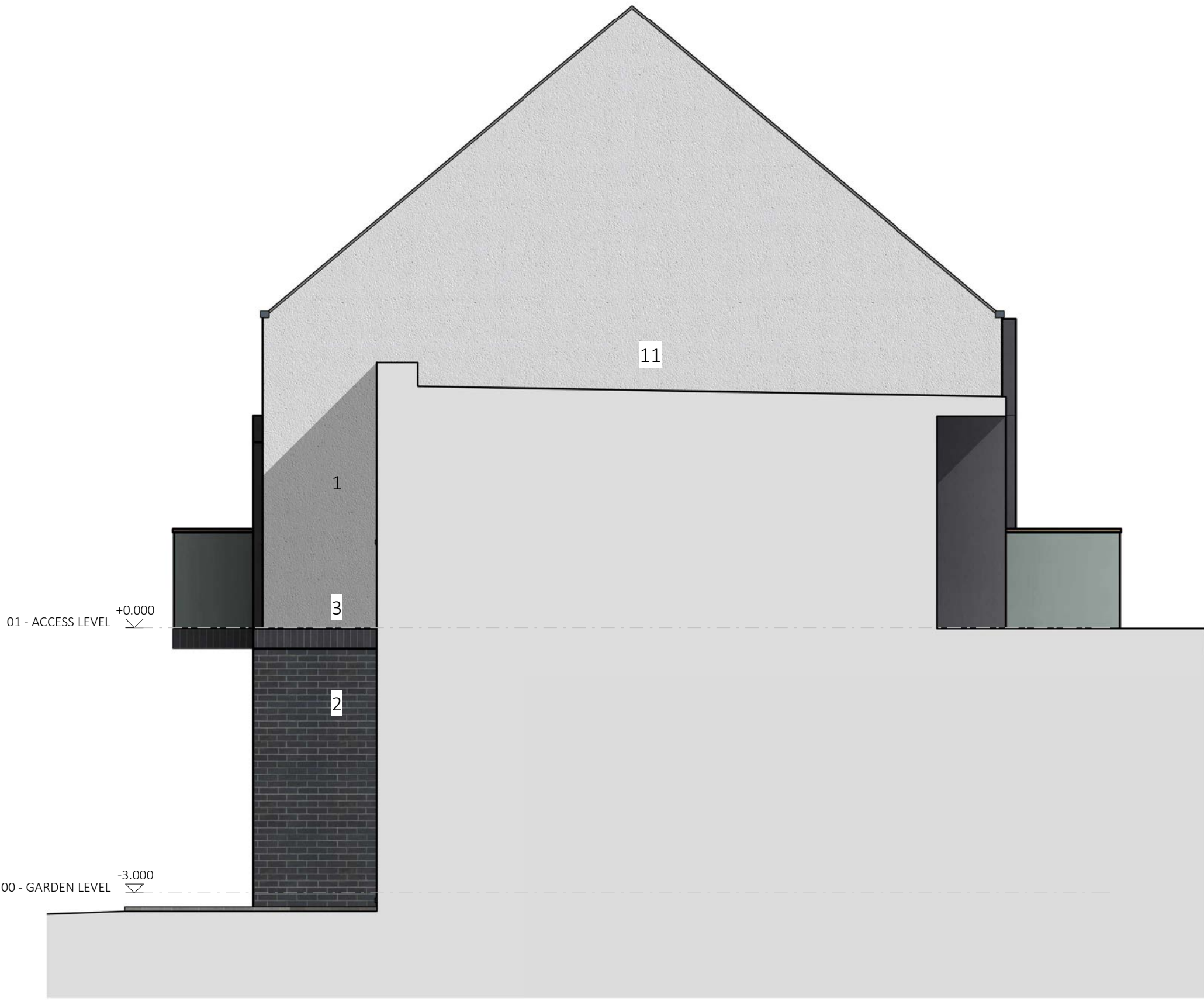
HOUSE TYPE B - NORTH EAST ELEVATION
1 : 50



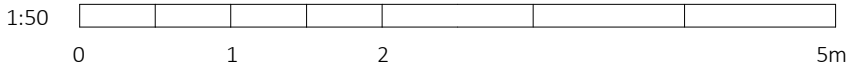
HOUSE TYPE B - GABLE ELEVATION
1 : 50



HOUSE TYPE B - SOUTH WEST ELEVATION
1 : 50



HOUSE TYPE B - GABLE OVER GARAGE
1 : 50



A JW Planning Issue 17-12-2020

Revision	By	Details	Date
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Client Carlsson Properties

Project Residential Development
Robertson Bank, Gorebridge

Drawing HOUSE TYPE B - ELEVATIONS

Scale	Size
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1 : 50	A1
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Drawn	Checked	Date created
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JW	MM	30-01-2020
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Project number	Drawing number	Revision
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HD995	PL-111	A
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Status

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