



APPLICATION FOR PLANNING PERMISSION 24/00107/DPP FOR THE CHANGE OF USE FROM CHILDREN'S NURSERY (CLASS 10) TO OFFICE AND ANCILLARY SUPPORT CENTRE (CLASS 4) AT 3 ESKVIEW VILLAS, DALKEITH.

Report by Chief Officer Place

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

- 1.1 The application is for the change of use from children's nursery (class 10) to office and ancillary support centre (class 4) at 3 Eskview Villas, Dalkeith. The site is located within the Eskbank and Ironmills Conservation Area.**
- 1.2 There have been 16 representations and one consultation response from the Senior Manager Neighbourhood Services (Roads). The relevant development plan policies are policies 1, 7, 9, 13, 14, 23 and 26 of the National Planning Framework 4 (NPF4) and policies DEV2, ECON4, ENV18, ENV19 and ENV22 of the Midlothian Local Development Plan 2017 (MLDP).**
- 1.3 The recommendation is to grant planning permission subject to conditions.**

2 LOCATION AND SITE DESCRIPTION

- 2.1 The application site comprises an existing, detached two storey building set within a large plot. The building is externally finished in brick, with brown brick at ground floor level and grey brick at first floor level. The building has a pitched tiled roof with rooflights. The application site has a generous garden area to the side and rear which is mostly laid with grass. To the front of the building there is an area of hardstanding which provides a parking and vehicle turning area. The site is bound by a combination of brick walls, timber fencing and hedging. There are a number of trees located along the site boundary. The site is accessed via Eskview Villas.**
- 2.2 The site is located within the Eskbank and Ironmills Conservation Area. The surrounding area is predominately residential, although the grounds of a nursing home are located to the rear of the application property. The site is bound by Glenesk Crescent to the southeast with**

residential properties on the opposite side of that road. A category A listed building, Eskbank House, is located to the east of the site.

3 PROPOSAL

- 3.1 Planning permission is sought for the change of use from a children's nursery to an office with an ancillary support centre for women, children and vulnerable people. No internal or external changes or alterations are proposed to the building to facilitate the proposed change of use.
- 3.2 The building will operate as the applicant's central office and will be used by 16 staff members. There will be eight car parking spaces associated with the office. The applicant, Women's Aid East and Midlothian, are seeking to relocate from other local offices which are no longer meeting the organisations needs.
- 3.3 The core operating hours will be Monday to Friday, 9am-4pm. However, it has been stated that it is possible that the staff could be in the building between the hours of 8am and 5pm. It is also proposed that a women's group will use the premises on a Thursday evening. This group meeting will run no later than 6:30pm. A board of directors meeting will also take place from the premises quarterly between 6:30pm and 8:30pm.
- 3.4 The support centre will operate on an appointment only system during the office's core operating hours. It is expected that there will be no more than three appointments at the same time. However, there will also be group work sessions which will operate for half day sessions and could attract up to 15 visitors.
- 3.5 It is not proposed for any residential use or overnight stays to be associated with the proposed change of use.

4 BACKGROUND

- 4.1 Planning permission, 262/83 was granted for the erection of a dwellinghouse on the site in 1983.
- 4.2 Planning permission, 97/00233/FUL, was granted for the change of use from dwellinghouse to a children's nursery at 3 Eskview Villas, Dalkeith. The nursery ceased operating in June 2023.
- 4.3 June 2008/September 2012 - planning permission, 08/00297/FUL and 12/00340/DPP, was granted for the erection of garage, workshop and studio at land adjacent to 3 Eskview Villas, Dalkeith.
- 4.4 May 2019 - planning permission, 18/00760/DPP, was granted on appeal for the erection of dwellinghouse, formation of access and car parking and associated works on land at 3 Eskview Villas, Dalkeith.

- 4.5 July 2023 - planning permission, 23/00298/DPP, was granted for the change of use from children's nursery to dwellinghouse and associated works at 3 Eskview Villas, Dalkeith - this consent has not been implemented.
- 4.6 The planning application has been 'called-in' to Committee for determination by Councillor McKenzie to enable the concerns of local residents to be considered.

5 CONSULTATIONS

- 5.1 The **Council's Senior Manager Neighbourhood Services (Roads)** was consulted on the application but raised no concerns.

6 REPRESENTATIONS

- 6.1 There have been 16 representations received, which can be viewed in full on the online planning application case file. All representors objected to the application. A summary of the main points raised are as follows:
- The proposal will detract from the existing character and amenity of the predominantly residential area;
 - The proposal will increase noise nuisance;
 - The site is in a cul-de-sac where there is limited space to manoeuvre and as such there will be an impact on the safety of children and animals when on the street;
 - On-street car parking is limited at present, the proposal will exacerbate the situation;
 - The nursery use increased car movements, non-residential service vehicles and parking congestions, the proposal would re-introduce these issues;
 - It is wrong to assess the application based on a legacy consent from 27 years ago when planning policy has changed;
 - The former consented use as a nursery should not be considered acceptable as a baseline for future applications due to the nuisance and disruption it caused;
 - Permission was granted last year to revert the application property to a dwellinghouse - this is a more sustainable use;
 - The application site is located in the conservation area and within the setting of a category A listed building, changing the use of the building does not preserve the listed building, conservation area or the residential environment;
 - Granting consent will set a precedence for inappropriate uses;
 - The proposal does not comply with NPF4 policies 1 and 13 and MLDP policy ECON4;
 - There is no guarantee that the applicant would stay the same, the building could easily be sold or sub-let to another business;

- Future house sales are likely to suffer because of a business use within the area;
- Alternative sites, within an existing or allocated business community would be more appropriate for the proposal; and
- The sensitive nature of clientele visiting.

6.3 The above matters will be addressed within the planning issues section of the report.

7 PLANNING POLICY

7.1 Planning policy currently comprises of National Planning Framework 4 and the adopted 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 crises.

7.4 Policy 7 **Historic Assets and Places** aims to protect and enhance historic environment assets and places, and to enable positive change as a catalyst for the regeneration of places.

d) Development proposals in or affecting conservation areas will only be supported where the character and appearance of the conservation and its setting is preserved or enhanced. Relevant considerations include:

- Architectural and historic character of the area;
- Existing density, built form and layout; and
- Context and siting, quality of design and suitable materials.

e) Development proposals in conservation areas will ensure that existing natural and built features which contribute to the character of the conservation area and its setting, including structures, boundary walls, railings, trees and hedges, are retained.

7.5 Policy 9 **Brownfield, Vacant and Derelict Land and Empty Buildings** aims 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.

a) Development proposals for the reuse of existing buildings will be supported, taking into account their suitability for conversion to other uses. Given the need to conserve embodied energy, demolition will be regarded as the least preferred option.

7.6 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.

- 7.7 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.
- a) Development proposals will be designed to improve the quality of an area whether in urban or rural locations and regardless of scale.
 - b) Development proposals will be supported where they are consistent with the six qualities of successful places.
 - c) Development proposals that are poorly designed, detrimental to the amenity of the surrounding area or inconsistent with the six qualities of successful places, will not be supported.
- 7.8 Policy **23 Health and Safety** aims 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.
- 7.9 Policy **26 (c and e) Business and Industry** aims to encourage, promote and facilitate business and industry uses and to enable alternative ways of working.
- c) Development proposals for business and industry uses will be supported where they are compatible with the primary business function of the area. Other employment uses will be supported where they will not prejudice the primary function of the area and are compatible with the business/industrial character of the area.
 - e) Development proposals for business and industry will take into account:
 - i. Impact on surrounding residential amenity; sensitive uses and the natural and historic environment.
 - ii. The need for appropriate site restoration at the end of a period of commercial use.

Midlothian Local Development Plan 2017 (MLDP)

- 7.10 Policy **DEV2: Development 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.
- 7.11 Policy **ECON4: Economic Development outwith Established Business and Industrial Sites** states that business and industrial proposals (class 4 and 5) within the defined urban area but outwith existing or allocated business and industrial sites will be supported if:
- a. it is demonstrated that there is no suitable alternative site available within established economic sites;

- b. the site is not identified for alternative use;
- c. the proposed development would be compatible with surrounding uses and there would be no adverse impact on local and, in particular, residential amenity as a result of development;
- d. the layout and design of buildings would be appropriate to the character of the site and surrounding area; and
- e. the transport impact of the proposal would be acceptable.

The Council will give support to proposals that reuse brownfield or vacant or derelict land as opposed to greenfield locations.

- 7.12 Policy **ENV18: Noise** seeks to prevent noisy development from damaging residential amenity or distributing noise sensitive uses.
- 7.13 Policy **ENV19: Conservation Areas** seeks to prevent development which would have any adverse effect on the character and appearance of Conservation Areas.
- 7.14 Policy **ENV22: Listed Buildings** states 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.

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 consultations responses received are material considerations.

Principle of Development

- 8.2 The application site is within the built-up area of Dalkeith where there is a presumption in favour of appropriate development, subject to the development being compatible with its locality. MLDP policy DEV2 states that development will not be supported where it would have an adverse impact on the character or amenity of an area.
- 8.3 For approximately 27 years the site has been used for a commercial/business use with planning permission for a children's nursery. NPF4 policy 26 and MLDP policy ECON4 seek to support businesses and it is accepted that as a consequence of site histories/established activities, commercial opportunities or circumstances such businesses may not always operate from defined or established business areas but can be located in and adjacent to residential areas as long as they don't have an adverse impact on the character or amenity of that area. Furthermore, the nature of the use, which provides support for vulnerable members of the community, is

considered to be best sited in a quiet, discrete residential area and not on an alternative business/industrial estate.

- 8.4 MLDP policy ECON4 looks for applicants to demonstrate that there are no alternative sites available within established economic sites which could serve the proposed development. The applicant has noted some of the unsuitable locations that have been considered for the proposed development. As the applicant is a charity, whom have very specific requirements, they have searched to find an appropriate site which can be used as a mixture of office space and a support centre. There has been limited options available to them over the past 10 years which have met the required criteria. Seven possible rental options were investigated. These were ultimately considered inappropriate as they were unable to meet the required characteristics needed for the proposed development, due to size and accessible restrictions, lack of outdoor space, costs, safety concerns and the locations not being suitable. The sites investigated were:
- Eskdail Court, Dalkeith;
 - Old Medical Centre, Bonnyrigg;
 - Soutra Point Office Space, Dalkeith;
 - Shawfair;
 - Loanhead Business Park; and
 - Hardengreen Industrial Unit.
- 8.5 An additional three options were considered for purchase, however the applicants were either outbid, or the cost required for the renovations exceed what was financially feasible for the applicants. These include:
- Three buildings sold by the Church Scotland, most recently St John's Church, Whitecraig;
 - Orchard Centre, Bonnyrigg; and
 - Loanhead Police Centre
- 8.6 Furthermore, three community asset transfer sites were also considered. For two of these properties, the funding required was reliant on securing grants which could not be guaranteed. The other was considered to be an unsafe environment for the vulnerable women visiting the centre. These properties include:
- Highbank Nursing Home, Dalkeith;
 - Lasswade High School Bowling Green; and
 - Waterfall Park Pavilion, Dalkeith
- 8.7 Planning permission was granted for the change of use from a dwellinghouse to a children's nursery in 1997. Permission was granted on the basis that the nursery would operate between the hours of 8am and 6pm. The application also outlined that there would be nine full time staff, with facilities to accommodate 42 children. The parking arrangements for the nursery included 12 parking spaces (two of which were to be in a garage) and an associated turning area - the proposed

use, uses the same hardsurface area, but sets out eight car parking spaces in accordance with the Council's parking standards.

- 8.8 A representation submitted in relation to the planning application highlighted that the previous consent, for the change of use from dwellinghouse to nursery, should not be considered as a baseline for any further applications due to the time passed since this consent was granted. However, the planning history of the application site is a material consideration and therefore it is considered as part of the assessment of the planning application.
- 8.9 A representation also highlighted that planning permission was granted in 2023 to revert the use back to a dwellinghouse and this is alleged to be a more appropriate use. However, that consent has not yet been implemented and therefore the lawful use of the premises, in planning terms, remains as a children's nursery. It is correct to assess the application on the basis of a change of use from a children's nursery (class 10) to an office (class 4).
- 8.10 The principle of the proposed use is acceptable and accords with the development plan.

Impact on Amenity

- 8.11 No external alterations are proposed to be carried out in relation to the change of use and therefore, there are no detrimental impacts on amenity, in terms of overshadowing, overlooking or on design grounds.
- 8.12 It is arguable that an office use will have less of an impact on residential amenity than that of a children's nursery, particularly with regards to noise and traffic volumes. The nursery operated with nine staff members and 42 children attending (with some children-based activities taking place outside). This proposal will see 16 staff members using the office, with the support centre operating half day group sessions which will attract a maximum of 15 visitors. An appointment system will also be in operation. There will be no more than three appointments at one time.
- 8.13 The number of people using the facility is significantly less than the previous nursery use. The representations raised concerns about the negative impact on amenity, noise created and overall disturbance from the proposal. However, the proposal does not raise any significant impacts on residential amenity as compared to the building's former use. Furthermore, the use comprises internal office-based activity.

Parking & Road Safety

- 8.14 A number of representations raised concerns about road safety and the potential for on-street parking congestion as a result of the proposed change of use. The Council's Senior Manager Neighbourhood

Services (Roads) offered no objection to the proposal in terms of road safety matters. The site is located within close proximity to existing well established public transport links which provide an alternative to arriving at the site by car. Good public transport connections along with the car parking area within the site should ensure that the impact on, on-street parking should be kept to a minimum. In addition, the applicant has proposed to adopt a green travel plan which will discourage the use of private cars and should encourage other methods of travel, including active travel.

Conservation Area and Historic Environment

- 8.15 There are no proposed physical alterations to the building as part of the proposal. The proposal will not have an adverse impact on the character or appearance of the conservation area. Equally there will be no adverse impacts on the setting of the nearby listed building.

Other Matters

- 8.16 One representation raised a concern that there is no guarantee that the applicants will remain the occupants of the building if the proposed use is consented and that a different operator could take up the lease and operate on a different model. The proposed use has been assessed on the basis of how the applicant intends to operate the office and ancillary support centre use. If the application is approved another occupant of the premises will have to operate in accordance with class 4 of the Use Class Order. Class 4 of the Use Class Order covers office uses which can be operated in a residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit. Therefore, so long as the premises operates within the limitations of a class 4 use there should not be a material adverse impact on the amenity of the residential area. Furthermore, the application has been assessed based on the applicant's operating business model. Therefore, it is appropriate to condition its operations to that as set out by the applicant if planning permission is granted to ensure that any future use will operate as approved to protect the amenity of the surrounding area.
- 8.17 Another representation highlights that the proposal provides no evidence that it complies with policy ECON4: Economic Development outwith Established Business and Industrial Sites in Midlothian's Local Development Plan (MLDP). This policy aims to prevent businesses starting up outwith existing business and industrial sites if they have an impact on amenity. However, the application site has previously been used for the operation of a children's nursery business for approximately 27 years and the change of use would facilitate the use of a currently vacant building which is highlighted as being appropriate within policy ECON4 (compatible with its location in a residential area).
- 8.18 The following matter has been raised in representations which are not material planning considerations in the determination of the application:

- Impacts of future house sales/property values.

9 RECOMMENDATION

9.1 That planning permission be granted for the following reason:

The proposed use by nature of its scale of operations is less intensive than the existing use and therefore will not have a detrimental impact on the character and amenity of the surrounding area. The proposal seeks to re-use a vacant commercial building which is within the built-up area of Dalkeith, where there is a presumption in favour of appropriate development and is in close proximity to public transport provision and active travel connections. Therefore, the proposed development complies with the relevant policies of the National Planning Framework 4 and the Midlothian Local Development Plan 2017.

Subject to 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.

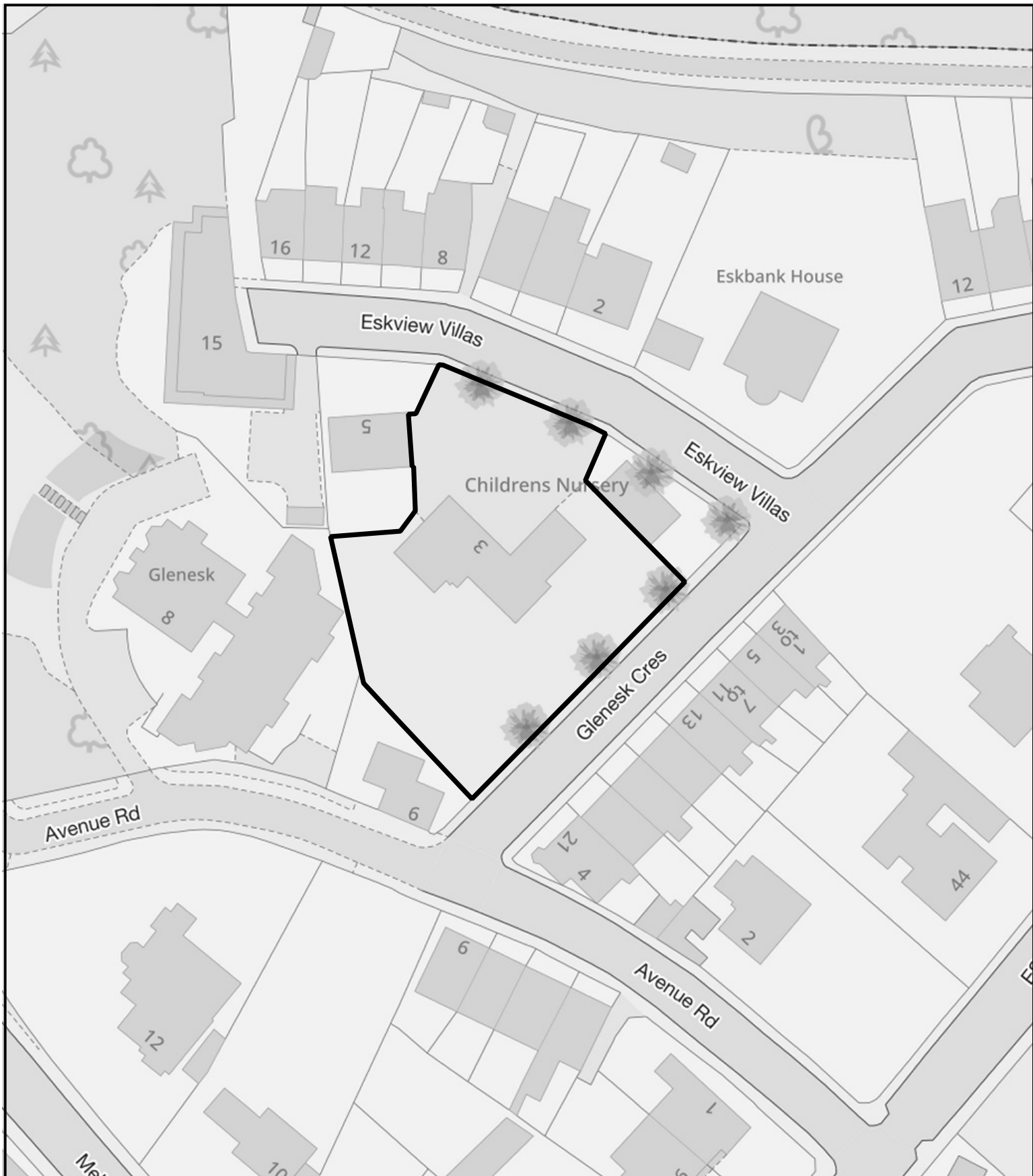
Reason: *To accord with the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended by the Planning (Scotland) Act 2019).*

2. Notwithstanding the plans hereby approved, the use approved is as an office with ancillary support centre, in terms of Class 4 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 (as amended), and shall operate as outlined as per approved 'Support Statement', dated 16/02/2024 and 'Email Supporting Statement' dated 14/03/2024.

Reason: *For the avoidance of doubt as to what is approved in order to protect residential amenity in the area.*

Peter Arnsdorf
Planning, Sustainable Growth and Investment Manager

Date: 24 May 2024
Application No: 24/00107/DPP
Applicant: Women's Aid East and Midlothian
Agent: Derek Scott Planning
Validation Date: 14/02/2024
Contact Person: Lauren McKellar, Planning Officer
Email: Lauren.Mckellar@midlothian.gov.uk
Background Papers: 262/83, 97/00233/FUL, 08/00297/FUL, 12/00340/DPP, 18/00760/DPP and 23/00298/DPP.
Attached Plan: Location Plan



**Planning Service
Place Directorate**

Midlothian Council
Fairfield House
8 Lothian Road
Dalkeith, EH22 3AA

Change of use from Children's Nursery (Class 10) to
office and ancillary Support Centre

3 Eskview Villas Dalkeith EH22 3BN

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