

From: [REDACTED]
To: [REDACTED]
Subject: FW: Submission on behalf of RK Property Ltd - [OFFICIAL]
Date: 02 December 2015 14:03:57
Attachments: [Murieston Valley Location Plan.pdf](#)
[Murieston Valley Site Plan.pdf](#)
[PPA-400-2053 - intentions notice.pdf](#)
[RK Property Ltd Proposed Plan submission.pdf](#)
[Hunter Road Location Plan.pdf](#)

DATA LABEL: OFFICIAL

From: Paul J Houghton [REDACTED]
Sent: 30 October 2015 15:05
To: wlldp
Subject: FW: Submission on behalf of RK Property Ltd

From: Paul Houghton [REDACTED]
Sent: 30 October 2015 14:45
To: 'wlldp@westlothian.gov.uk' <wlldp@westlothian.gov.uk>
Subject: Submission on behalf of RK Property Ltd

Dear Sir/Madam,

I have just submitted comments online on behalf of RK Property Ltd. A copy of those comments are attached along with the documents that support them.

Please note that the submission document has three separate representations, one in relation to Policy ENV 21 'Protection of Formal and Informal Open Space' and two in relation to POLICY HOU2 Maintaining an Effective Housing Land Supply.

Regards Paul

Paul Houghton MRTPI

Director

Houghton Planning

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Policy ENV 21 'Protection of Formal and Informal Open Space'

Introduction

RK Property Ltd wish to object to the designation as open space of all land not shown as currently developed, or allocated, in Livingston. In particular, they object to the designation of land they own at Murieston Valley and Hunter Road, Livingston.

Background

The adopted West Lothian Local Plan designates a number of areas within Livingston as 'Land Safeguarded as Open Space', a number of which have also been defined as an 'Area of Special Landscape Control'. A further map annotation identifies areas that are subject to Tree Preservation Orders (TPOs). Other areas within the town are left as 'white land'; albeit that they may have been planted as landscaped buffer areas as the new town expanded.

The Local Plan was adopted after the West Lothian Council (WLC) had originally prepared its Open Space Strategy in 2004/5, although just before this was reviewed in 2010; albeit that this later review does not seem to have in any way changed WLC's approach. The Open Space Strategy implements the requirement in Scottish Planning Policy (SPP) for local authorities to undertake an audit of their own open space and to produce an open space strategy. The audit can be found online as part of the Greenspace Scotland mapping exercise.

This approach to open space, which has served WLC well to date, and which selects open spaces to safeguard based upon their value, now seems to have been revised in the Proposed Local Development Plan to safeguard all open space in Livingston irrespective of its quality, or importance to the implementation of the Open Space Strategy. The Proposed Plan then seeks to protect those areas through Policy ENV 21 'Protection of Formal and Informal Open Space' from inappropriate development.

Scottish Planning Policy

The starting point for the examination of this issue is what is said in SPP. This sets out a requirement at para. 222 for local authorities to have "up-to-date audits, strategies and action plans covering green infrastructure's multiple functions". WLC last did this in 2010, which is not that up-to-date, but is probably fit for purpose. Para. 224 then requires local development plans to "identify and protect open space identified in the open space audit and strategy as valued and functional or capable of being brought into use to meet local needs". Finally, para. 229 states that "local development plans should encourage the temporary use of unused or underused land as green infrastructure while making clear that this will not prevent any future development potential which has been identified from being realised".

Murieston Valley – as a case study

RK Property own land at Murieston Valley, which extends north east and north west of Moriston Drive, Livingston. At present, about half of this land is 'white land' in terms of the West Lothian Local Plan and the remainder is 'Land Safeguarded as Open Space'. All of the land is also covered by a blanket TPO that was recently approved by WLC, one of series that the Council has passed in relation to landscaping areas planted with juvenile trees as the new town has developed. RK Property bought the

land knowing this Local Plan zoning, and accepting that it was only the 'white land' that had development potential. They have since tried to find a management solution, including the local community, to the existing defined open space area, but without success.

The Proposed Plan now defines all of this land as 'Protection of Formal and Informal Open Space', which means that its ability to be developed is now severely curtailed, if not prevented entirely. This is despite the fact that part of RK Property's land has recently secured support on appeal for a new dwelling (see appeal ref: PPA-400-2053) whilst WLC has separately granted planning permission on the adjoining site, similarly now defined as open space, for a further single dwelling (ref:0264/FUL/14).

How has WLC justified that change? The simple answer is that they haven't. There is no real explanation for this shift in policy in the Proposed Plan, and no supporting document that updates or changes the Open Space Strategy, which should have happened, we suggest, to have justified such a significant policy shift. It would be tempting to suggest that this change is a knee-jerk reaction to applications such as those submitted by RK Property, and the adjoining owner, rather than a considered response, but we await WLC's response to this representation to better understand the basis for it.

What should have happened? In our opinion, the zoning of land at Murieston Valley should not have changed from that shown in the Local Plan. In fact, there is an argument that even the area defined at Murieston Valley as 'Land Safeguarded as Open Space' should not be shown as such because it is questionable if it is 'valued', 'functional' or 'capable of being brought into use to meet local needs'. It is simply an area of landscape buffer planting, which fills a gap between the existing development at Moriston Drive and the railway line to the north. Indeed, it is interesting to note that the Greenspace Scotland mapping service, which WLC direct you to, defines all of this land with a 'Primary Classification' of 'Open semi-natural' and 'Secondary Classification' of 'Woodland'. It is questionable that such a classification justifies such a high level of protection as open space.

An alternative approach, which would find support in SPP, is that such areas should be seen as the type of area where WLC should "encourage the temporary use of unused or underused land as green infrastructure", which could be included as an aspiration in the Proposed Plan whilst leaving all such areas as 'white land', which is how such areas are, in the main, currently defined and still seems fit for purpose.

Changes Sought to Proposed Plan

The removal of the blanket designation of 'Protection of Formal and Informal Open Space' in relation to Livingston, and a return to the more structured approach favoured in the Local Plan whereby only open space that can be justified as valued and functional is so defined.

The removal of the 'Protection of Formal and Informal Open Space' designation inasmuch as it relates to land owned by RK Property at Murieston Valley and Hunter Road, Livingston.

POLICY HOU2 Maintaining an Effective Housing Land Supply

Murieston Valley, Livingston

Introduction

RK Property Ltd own land at Murieston Valley, Livingston. They wish this land to be identified as a housing site in the West Lothian Local Development Plan. It is appreciated that the site is small, at 0.5 hectares, and thus cannot contribute that many units. However, it can accommodate a reasonable housing development that would complement adjoining residential areas whilst protecting the best of the trees on the site.

This is an area that will experience further development in the future. The adjoining site now has planning permission for a new dwelling and land owned by the Council just beyond that is being promoted for residential development.

Recent Planning History

The site has been the subject of a 2013 planning application by RK Property Ltd for residential development, which was the subject of a local review at which the decision to refuse planning permission was upheld (ref: 0020/P/13). The application was originally refused by the case officer under delegated powers for reasons relating to the loss of open space and woodland and possible noise from the adjoining railway. It was subsequently accepted, however, following the submission of a noise assessment, that the railway would not be an issue and so the review was finally dismissed based upon the loss of open space and trees only.

Clearly, the above decision is material to the release of the site for housing, but has been tempered to a considerable extent by the Council's recent decision to allow a new dwelling on the adjoining site (ref:0264/FUL/14), which has the same status and characteristics as the site being promoted here. This application was refused for similar reasons to the RK Property Ltd application, but was then allowed following a local review, with an acceptance that the site was white land and a dwelling could be constructed on this site without impacting upon existing mature trees.

Even more important is the fact that following the above application, RK Property sought planning permission in principle for just one dwelling on part of their land (ref: 0064/P/15). This was refused by the Council, but is currently the subject of an appeal (ref: PPA-400-2053) whereby the Reporter has stated that he is minded to allow the appeal and grant planning permission in principle subject to conditions and arrangements in relation to developer contributions being concluded. The Reporter concluding that the impact on trees would not be that significant an issue whilst the approving of the dwelling on the adjoining site was also a material consideration. Clearly, this decision is not an open door to the remainder of the land being developed, but does suggest that there is a basis upon which it could be supported in future, provided of course the policy status of the site does not change (a separate representation deals with that issue in relation to the proposal to define all of this land as 'Protection of Formal and Informal Open Space').

The Site

The site is 0.5 hectares and an L-shaped area of land that lies immediately north east and (part) north west of Moriston Drive, a development of modern two storey housing built in the late 1990s. The site

represents only part of the land belonging to the applicant, as they also own the remaining land that forms the north western edge to Moriston Drive. The owner remains willing to discuss how best to manage this remaining land as open space and is willing to pass ownership to the local authority, the local community, or to seek a factoring solution with ownership and maintenance the responsibility of those owning and occupying any new houses on the land.

The site takes access from Murieston Valley, which is a distributor road connecting Moriston Drive, and a number of other modern residential areas, with Murieston Road to the south west. Murieston Valley is not a through road, but instead ends at a roundel further to the north east of the application site and opposite Livingston South Railway Station.

The Edinburgh to Glasgow railway line bounds the northern edge of the application site. Undeveloped ground exists to the north east and south west. To the north west of the site, between Moriston Drive and the railway, lies a substantial strip of woodland planting protected as open space in the West Lothian Local Plan. This is the only land protected in this way, as the site itself, and the remaining open land in the vicinity of it, is otherwise shown as 'white land' on the West Lothian Local Plan Proposals Map,

The site is mostly flat and level, with a slight fall towards Murieston Valley. It presently contains three mature individual trees towards the north eastern edge of the site. A planted screen of young trees runs along the western boundary with Moriston Drive; an area of dense young woodland planting occupies the land to the north. The site is within an area covered by a blanket TPO, which protects all trees over a certain defined size.

The site is not subject to any national, regional or local biodiversity or heritage designations. It is not within an area at risk from flooding.

Effectiveness

To be considered as a potential housing allocation, Scottish Planning Policy (SPP) requires a site to be effective, which is considered in terms of the following criteria set out in Planning Advice Note 2/2010: Affordable Housing and Housing Land Audits at paragraph 55.

In terms of this site, it is considered effective for the following reasons.

- Ownership – RK Property Ltd own the site and have previously proposed development upon it. They remain committed to developing the site and continuing to maintain the important trees and areas of planting elsewhere on the land they also own.
- Physical – The site is free from constraints related to slope, aspect, flood risk and ground stability. A suitable vehicular access can be provided to Murieston Valley, which was accepted by the Council's Transportation section as part of the previous planning applications in relation to the site. The site has limited biodiversity interest, which has been confirmed by a qualified ecologist, and noise impact from the railway need not be an issue, again as confirmed by a qualified noise consultant. The trees on the site are the subject of a TPO, as are those on adjoining land. Two separate tree surveys have been undertaken relating to the site and adjoining land for RK Property Ltd and Miss Carson/Mr Sneddon, the applicants for the adjoining site. Both reports have both confirmed that certain trees will anyway need to be removed due to age, disease or woodland management reasons and development can take

place on the remaining land whilst keeping the best tree specimens. These reports are available on the respective online files for application refs: 0020/P/13 and 0264/FUL/14

- Contamination - The site forms part of a large area of land along Murieston Valley that was used in the past for the disposal of ash from Edinburgh. This area was remediated by Livingston Development Corporation in advance of the area being developed, but, as there may be some residual issue with contamination, a full site investigation will be undertaken prior to any development taking place on the land. This was raised as a concern by neighbours in relation to both application refs: 0020/P/13 and 0264/FUL/14, but considered capable of being dealt with by suitably worded planning conditions.
- Deficit funding – No deficit funding is required. Development will be financially viable and also capable of meeting all required developer contributions.
- Marketability – This part of Livingston has a strong housing market, both new build and second hand, and there is little doubt that new houses in this area will sell, probably off plan.
- Infrastructure – The site can be provided with required infrastructure, with Scottish Water confirming that drainage and water capacity is available in discussions with the owner. There is also an available gas and electricity supply and telecoms.
- Land use – Given that this is a residential area, further housing is the likely preferred option for its development.

Changes Sought to Proposed Plan

The designation of land at Murieston Valley as a housing allocation. If the area is considered too small for such a designation, then RK Property request that all land owned by them remain as 'white land' and not be defined as 'Protection of Formal and Informal Open Space'. This would allow them to at least pursue further limited residential development on the land in the context of Scottish Planning Policy and other policies in the Proposed Plan.

POLICY HOU2 Maintaining an Effective Housing Land Supply

Hunter Road, Livingston

Introduction

RK Property Ltd own 0.4 hectares land at Hunter Road, Livingston. They wish this land to be identified as a suitable housing/other development site in the West Lothian Local Development Plan. It is appreciated that the site is small and thus cannot contribute that many housing units. However, it can accommodate a reasonable housing, or other form of development, that would complement adjoining residential areas whilst protecting the best of the trees on the site.

The Site

The site is situated between Hunter Road and Kaims Grove. It is contained on two sites by residential development and on the third by Hunter Road. Hunter Road is not a through road, but connects with Kirkton Road South giving access to the wider area and Livingston central.

The site is relatively flat. It contains a number of mature trees that are subject to a TPO. It has a gas governor on the frontage next to Hunter Road, with a gas pipeline crossing the site towards Kaims Grove. The site is otherwise overgrown.

The owner has had an ecologist look at the site and there would appear to be no protected species, although it is accepted that the trees do offer a habitat for birds, and possibly bats, and so a full ecological investigation would need to be undertaken before any development could take place.

Of the trees on the site, the main specimens worthy of retention are close to the northern boundary and Hunter Road. The owner is in the process of having an arboriculturalist do a full tree survey for the site to assess the current age and health of these trees and others on the land. This will be available shortly. It is expected that good management will require at least some of the trees to be removed, whether or not the site is developed.

The site has no recent planning history.

There is some indication that the site has been developed in the past from a review of historic maps, and the possibility that there may be the remains of a building sited centrally upon it, although there are no surface remains visible. It is known that the wider area has been the subject of previous archaeological surveys. These suggest that before the site can be developed, a further invasive study would need to be undertaken to assess whether the site has any heritage interest. The owner is willing to fund this.

The site is shown as 'white land' on the West Lothian Local Plan Proposals Map,

The site is not otherwise subject to any national, regional or local biodiversity or heritage designations. It is not within an area at risk from flooding.

Effectiveness

To be considered as a potential housing allocation, Scottish Planning Policy (SPP) requires a site to be effective, which is considered in terms of the following criteria set out in Planning Advice Note 2/2010: Affordable Housing and Housing Land Audits at paragraph 55.

In terms of this site, it is considered effective for the following reasons.

- Ownership – RK Property Ltd own the site, are committed to developing it and otherwise continuing to maintain the important trees.
- Physical – The site is free from constraints related to slope, aspect, flood risk and ground stability. A suitable vehicular access can be provided to Hunter Road. The site has limited biodiversity interest, with that existing relating principally to the trees. The trees on the site are the subject of a TPO, but it is considered that development can take place whilst retaining the best specimens. An arboriculturalist is currently preparing a full tree survey and this should be available shortly. The arboriculturalist's early conclusions are that certain trees will anyway need to be removed due to age, disease or woodland management reasons and development can take place on the remaining land whilst keeping the best tree specimens. The existence of gas governor and gas pipeline will limit development, but there remains developable land either side of this and away from the best trees that can be used.
- Contamination - The site is unlikely to be contaminated, but a full site investigation will be undertaken prior to any development taking place on the land.
- Deficit funding – No deficit funding is required. Development will be financially viable and also capable of meeting all required developer contributions.
- Marketability – This part of Livingston has a strong housing market, both new build and second hand, and there is little doubt that new houses in this area will sell, probably off plan.
- Infrastructure – The site can be provided with required infrastructure, with Scottish Water confirming that drainage and water capacity is available in discussions with the owner. There is also an available gas and electricity supply and telecoms.
- Land use – Given that this is a residential area, further housing is the likely preferred option for its development. The owner has, however, also investigated the possibility that this could be a suitable site for a small neighbourhood retail development or a pharmacy and/or medical practice. It is important that the Council indicate that the site is suitable for development in order that one of these uses can be pursued to the stage of detailed proposals being presented to the Council as a planning application.



Notice of Intention by [REDACTED], a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-400-2053
- Site address: Land at Murieston Valley, Livingston
- Appeal by Dr Rehana Karim against the decision by West Lothian Council
- Application for planning permission in principle 0064/P/15 dated 16 January 2015 refused by notice dated 9 April 2015
- The development proposed: Planning permission in principle for the erection of a house
- Application drawings: Development location plan RKP 14038/01 dated December 2014
- Date of site visit by Reporter: 21 May 2015

Date of notice: 24 June 2015

Decision

For the reasons given below I am minded to allow the appeal and grant planning permission in principle subject to the 3 conditions listed at the end of the decision notice, following the signing and registering or recording of a planning obligation under section 75 of the Town and Country Planning (Scotland) Act 1997. The agreement should cover the matters noted at paragraph 20 below. Alternative arrangements agreed between the council and the appellant to achieve the same ends would also be acceptable.

Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise.
2. The appeal site lies within a strip of wooded land between the Glasgow-Edinburgh railway line to the northwest and housing accessed off Murieston Valley to the southeast. There are houses immediately to the southwest of the site. There is planning permission in principle for a single house on a site, also part of the same wooded land, immediately to the northeast. The woodland strip is protected by a Tree Preservation Order (TPO).
3. The development plan in this case is the West Lothian Local Plan and the South East Scotland Strategic Development Plan (SESplan). No party has referred to the policies in SESplan, and I am satisfied that the proposal does not raise issues of strategic importance.
4. Having regard to the provisions of the development plan the main issues in this appeal are the impacts of the proposal on open space, woodland and the amenity of the

area. Both the TPO covering the site and the planning permission in principle for a house on the adjoining land are material considerations to which I must have regard.

5. Policy COM 2 (open space) of the local plan states that the loss of informal open space will be resisted. The council considers that this policy applies to the appeal proposal, whereas the appellant does not.

6. The introductory text in the local plan to Policy COM 2, when referring to the presumption against the development of important open spaces, states that a number of such areas are identified in the plan's proposals map. Although the woodland in which the appeal site lies is not one of those areas identified in the map, this wording implies that not all such areas have been identified in the map, and indeed it is the council's position that the policy applies in this case. I also note that the area in which the site is located is identified in the council's open space strategy.

7. On the other hand, the key for the proposals map describes those areas identified in the map as 'Land Safeguarded for Open Space' and refers to policy COM 2. This perhaps implies that land which is not thus identified is not to be covered by that policy. In approving permission in principle for the house on the adjoining land, the attributes of which are very similar to the appeal site, the council took the view that that proposal was not contrary to policy COM 2.

8. It was clear from my site inspection that the area of open space and woodland in which the appeal site lies has the attributes of an informal area of open space of the type covered by the policy. I agree with the council that it is an important landscape feature of this part of Livingston, and adds to the character and amenity of the neighbourhood. Further open space to the southwest, which is covered by COM 2 in the proposals map, is of similar character. Indeed there is no obvious physical boundary on the ground between the two areas, and the TPO extends somewhat into this land to the southwest. I have no reason to doubt, as the council's committee report states, that the woodland was intended by the former Livingston Development Corporation to form a landscape buffer between the railway line and the housing sites developed along Murieston Valley. I also note the comments made by the community council in this regard.

9. Noting this context, it is in my view prudent to consider whether the proposal accords with policy COM 2. The policy requires proposals to be assessed against, among other things, the locational justification for the development, the importance of the open space, disturbance and loss of trees and woodlands, and the availability of alternative open space. There is no specific need for a house at this location. I have concluded above that the wider area of open space makes an important contribution to the character and amenity of the surrounding area. I deal with the impacts on trees and woodlands below. Although a substantial area of alternative open space along Murieston Valley would remain, the lack of a locational need for the development and the importance of the open space are such that the proposal does not accord with the terms of policy COM 2.

10. As the appellant's tree survey illustrates, the mature trees within the woodland are for the most part outwith the appeal site. Within it, it is proposed that there would be thinning of the belt of trees on the southwest boundary to the adjacent housing, an operation which is stated in the report to be required. The immature and apparently self-

sown trees towards the front of the site would be removed. Of the two mature trees noted in the survey as growing within the site, the beech near the northeast boundary is assessed as being in the advanced stages of terminal decline. Retention is not recommended. The other, an oak, is near the rear boundary of the site. It seems likely that adequate protection of this tree, and of the other mature trees with canopies overhanging the northeast boundary, could be secured by planning conditions. The council's appeal statement does not challenge the conclusions of the tree survey, and acknowledges that a house could be positioned on the site so as not to affect these trees to the rear. Given the previous use of the land for the disposal of ash, it is possible that any decontamination works required could have an impact on these trees, although I have no detailed evidence as to the likelihood of this.

11. The TPO covers a length of over 500 metres of the woodland strip, including the application site. All trees on this land are covered by the TPO, although none are identified individually. It therefore appears that the trees protected by the TPO include the immature trees to the front of the site, although the council states that the purpose of the TPO is to protect the more mature trees.

12. Although the impact of the proposals on woodlands and trees, including those protected by the TPO, would be likely to be fairly limited, on the face of it the proposal is contrary to policy ENV 11 (woodlands and forestry), which presumes against development affecting woodlands and trees unless there is a proven locational need. Likewise it is contrary to policy ENV 14 (the protection of trees and tree preservation orders), which does not permit development that would damage or destroy trees protected by a TPO.

13. I acknowledge that the permission for a house on the adjoining land has not been implemented, and that there may need to be decontamination works before that can happen. But I have no reason to assume that development will not proceed, and development of a house has clearly been deemed by the council to be acceptable there. In effect, development of this adjoining land would render the appearance of the appeal site as one of a gap site, and would much diminish its visual contribution to the wider area of open space and woodland of which it forms a relatively small part.

14. In this context, I do not consider that the development would affect the character of the settlement. The proposal therefore complies with policy HOU 2 (general guidance for development within settlement boundaries). Subject to a number of qualifications, this policy supports development on land within settlements which is not identified for an alternative use.

15. I have noted that the impacts on trees are likely to be fairly limited, and that the site could effectively be considered as a gap site which is large enough for a single house. There would be no town cramming and the requirements of policy HOU 4 (town cramming) would therefore be satisfied, as would those of the council's non-statutory supplementary planning guidance *Single plot and small scale infill residential development in urban areas (avoiding town cramming)*. The proposal would therefore also comply with policy IMP 14, which simply requires proposals to conform with supplementary planning guidance.

16. Although the proposal would result in the loss of part of the area of open space and woodland, this would not have a significant impact on the amenity of the nearby houses.

Nor is there reason to conclude, as the council accepts, that the layout and design of the development would have any such impacts. If considered as effectively a gap site, the contribution of the site to visual amenity is much reduced. Residential and visual amenity would therefore be protected, thereby meeting the requirements of Policy HOU 9 (residential and visual amenity).

17. Although the proposal complies with several local plan policies, its failure to comply with policy COM 2 is, given the nature of the site, a significant one. Noting also the failure to comply with policies ENV 11 and ENV 14, albeit these are of lesser significance in this case, overall I conclude that the proposal is contrary to the development plan.

18. However, the planning permission in principle for a house on the adjoining land has a significant bearing on my overall conclusions. The submissions by the applicant for this adjoining site may have sought to support that proposal by referring to their personal circumstances, and the council may have taken these into consideration. But the committee's minuted reason for granting permission makes no references to any such circumstances. In any event, the reasons for that decision do not alter its implications for the visual context of the appeal site, which are that it would appear as a gap site making a much diminished contribution to recreation or to the amenity of the area.

19. The council has expressed concerns about setting a precedent for subsequent development on open space. However it is the effective nature of the site, in the light of the adjoining permission, as a gap site of much reduced importance to amenity or recreation which is in my view the key factor. It seems to me that these particular circumstances would very much lessen the extent to which allowing the appeal could be said to set a precedent for further development on the remainder of this or any other area of open space.

20. The council's committee report advises that, should the committee be minded to grant permission, contributions towards cemetery and denominational secondary education infrastructure would be required. I am satisfied that these contributions are reasonable and necessary. In the case of the education contribution, I note the specific requirement for this in the local plan, as highlighted in the consultation response from the council's education officials. The appellants agree to such a contribution.

21. I therefore conclude, for the reasons set out above, that while the proposed development does not accord overall with the relevant provisions of the development plan, granting planning permission is justified as the impacts on trees and woodland would be very limited and can be controlled through planning conditions, and because development of a house on the adjoining site would effectively render the appeal site as a gap site between two houses which is suitable for development as a single house.

22. I have considered all the other matters raised, none which alter my conclusions.

23. Consequently, I am minded to grant planning permission subject to the 3 conditions listed in the schedule below. This is also subject to completion and registering of a section 75 agreement covering the matters noted in paragraph 20 above, or to other arrangements to achieve the same end.

24. Accordingly, I will defer determination of this appeal for a period of 3 months to enable the relevant planning obligation (either an agreement with the planning authority or a unilateral obligation by the appellant under section 75 of the Town and Country Planning (Scotland) Act 1997 or some suitable alternative arrangement as may be agreed by the parties) to be completed and registered or recorded, as the case may be. If, by the end of the 3 month period, a copy of the relevant obligation with evidence of registration or recording has not been submitted to this office, I will consider whether planning permission should be refused or granted without a planning obligation.

25. The schedule of conditions reflects those submitted by the council, which the appellant has not commented on, although I have edited and reformatted them to aid clarity and consistency.

Reporter

Schedule of Conditions to be attached to planning permission

1. Plans and particulars of the matters listed below shall be submitted for consideration by the planning authority, in accordance with the timescales and other limitations in section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended). No work shall begin until the written approval of the authority has been given, and the development shall be carried out in accordance with that approval.

a) A site layout plan at 1:200 scale showing proposed buildings, vehicular access, parking provision, walls and fences. The house shall be sited to the front of the site.

b) Plans and elevations of all buildings indicating the type and colour of external materials. The scale and massing of the house shall be commensurate with houses in the surrounding area and the external materials to be used on the house shall be sympathetic to materials used in Moriston Drive and Murieston Valley.

c) A landscaping plan at 1:200 scale showing a planting buffer to the southwest and northwest boundaries of the site.

d) Details showing all trees proposed to be removed from the site and tree protection measures for all remaining trees on or adjacent to the site.

(Reason: to ensure that the matters referred to are given full consideration and to accord with section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.)

2 Development shall not begin until an assessment of the risks posed by contamination has been submitted to and approved in writing by the planning authority. This shall include a remediation strategy for any contamination present, and a timetable for completion of the remediation works. The remediation strategy shall thereafter be carried out in accordance with its approved terms and timescales.

The house shall not be occupied until a verification report that details all remediation works that have been carried out has been submitted to and approved in writing by the planning authority.

(Reason: to identify any contamination present on site and ensure appropriate remediation is carried out.)

3 The following restrictions shall apply during the works hereby approved :-

Construction Traffic

a) Construction vehicles shall not arrive at or leave the site except between the hours of 0800 and 1800 Monday to Friday and 0900 and 1300 on Saturdays. No heavy goods vehicles shall arrive at or leave the site on Sundays.

Hours of Operation

b) Construction works which cause noise that is audible in any noise sensitive premises beyond the boundary of the site shall take place between the hours of 0800 and 1800 Monday – Friday and 0900 and 1300 on Saturdays only. No work that is audible in any noise sensitive premises beyond the site boundary shall occur on a Sunday.

Wheel Cleaning

c) All construction vehicles leaving the site shall do so in a manner that does not cause the deposition of mud or other deleterious material on the adjacent public highway. Such steps shall include the cleaning of the wheels and undercarriage of each vehicle where necessary and the provision of road sweeping equipment.

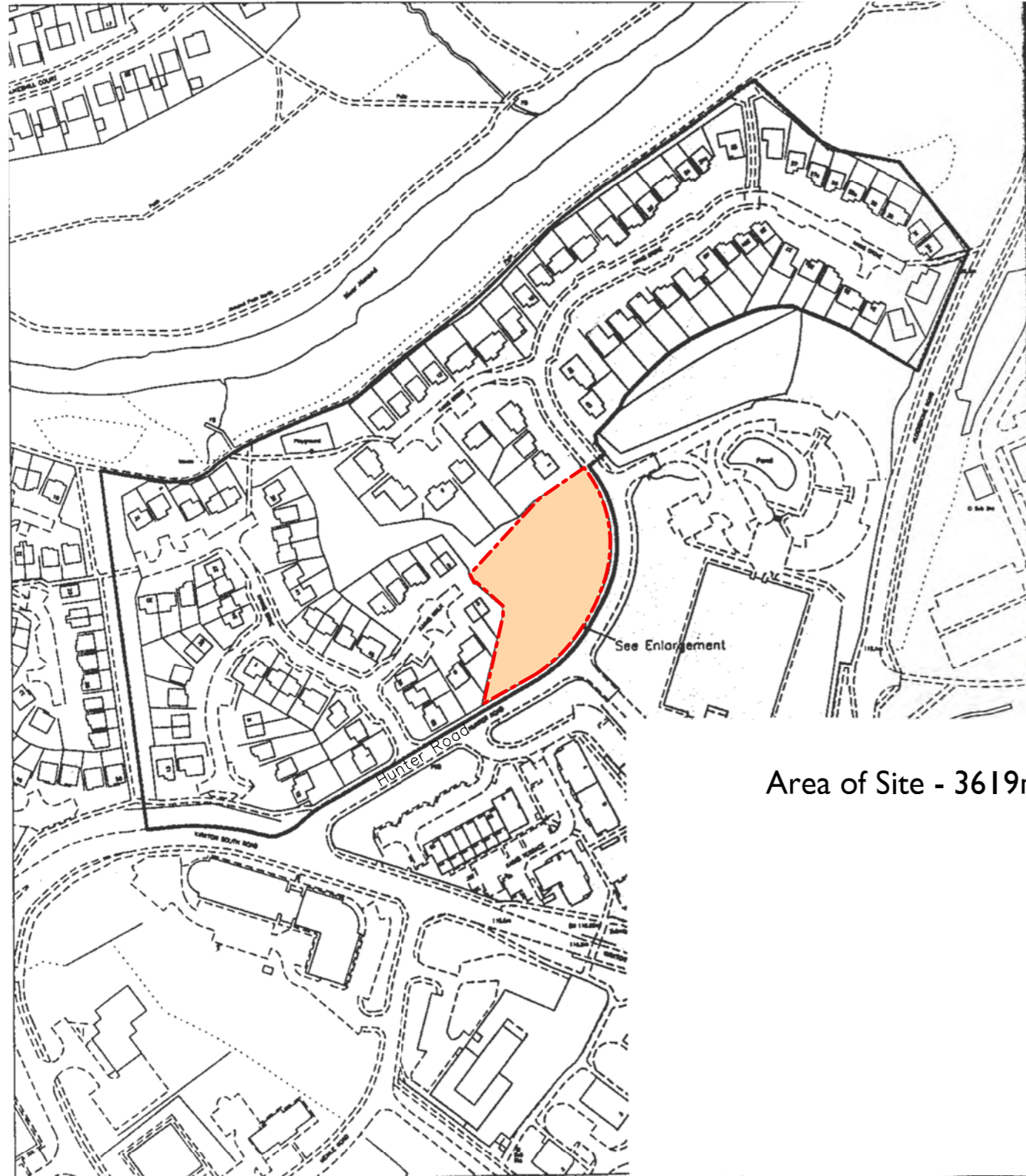
Site Compound

d) The location and dimensions of any site compound shall be agreed in writing with the planning authority prior to works commencing. All material not required for the development shall be immediately stored within this compound within sealed skips prior to its removal from site.

Soil Dumps

e) The location and height of soil dumps shall be agreed in writing with the planning authority prior to works commencing.

(Reason: in the interests of visual and environmental amenity and in order to protect the residential amenity of neighbours.)



Area of Site - 3619m² (0.9acre)

REV	DATE	DRAWN	DESCRIPTION	CHECK	APP'D
REVISIONS					

0 | 50 | 100

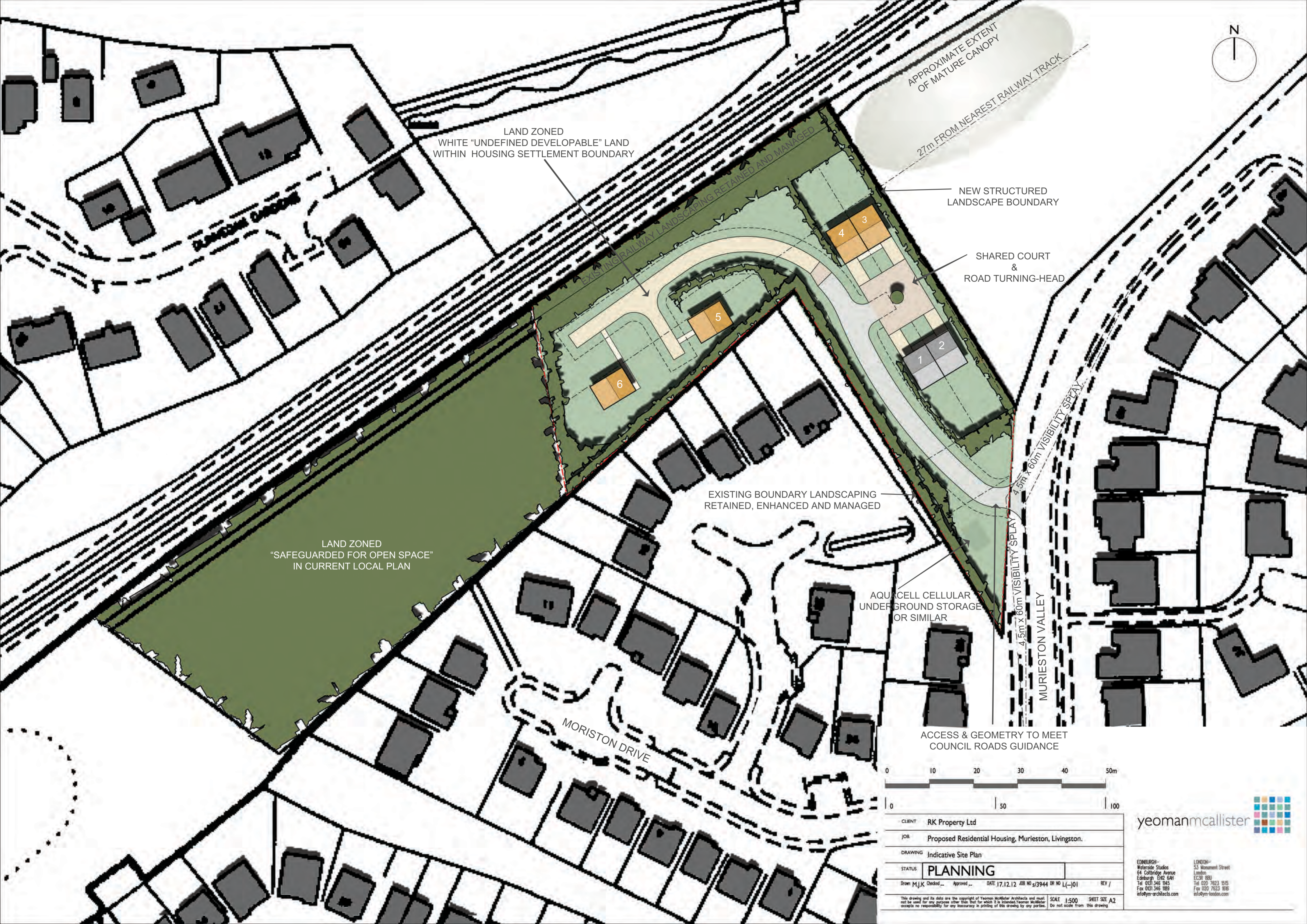
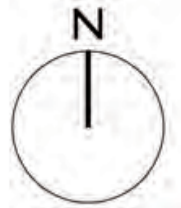
CLIENT	Shakeel Ahmed				
JOB	Residential Development, Hunter Road Livingston				
DRAWING	Site Location Plan				
STATUS	Preliminary				
Drawn PH	Checked PH	Approved ...	DATE March 2012	NO s/3943	DR NO -(--)-

SCALE 1:2500 SHEET SIZE A3
Do not scale from this drawing



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LAND ZONED
WHITE "UNDEFINED DEVELOPABLE" LAND
WITHIN HOUSING SETTLEMENT BOUNDARY

APPROXIMATE EXTENT
OF MATURE CANOPY
27m FROM NEAREST RAILWAY TRACK

NEW STRUCTURED
LANDSCAPE BOUNDARY

SHARED COURT
&
ROAD TURNING-HEAD

EXISTING BOUNDARY LANDSCAPING
RETAINED, ENHANCED AND MANAGED

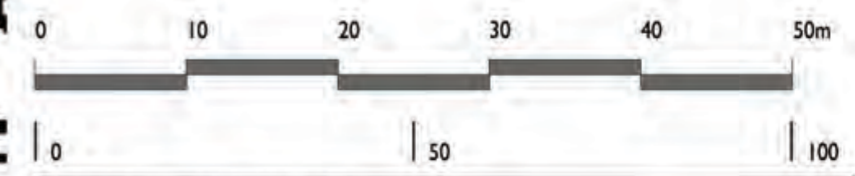
LAND ZONED
"SAFEGUARDED FOR OPEN SPACE"
IN CURRENT LOCAL PLAN

AQUACELL CELLULAR
UNDERGROUND STORAGE
OR SIMILAR

4.5m x 60m VISIBILITY SPLAY
MURIESTON VALLEY

ACCESS & GEOMETRY TO MEET
COUNCIL ROADS GUIDANCE

MORISTON DRIVE



CLIENT	RK Property Ltd
JOB	Proposed Residential Housing, Murieston, Livingston.
DRAWING	Indicative Site Plan
STATUS	PLANNING
Drawn	MJK
Checked	...
Approved	...
DATE	17.12.12
JOB NO	g/3944
DR NO	L(-)01
REV	/
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SCALE	1:500
SHEET SIZE	A2
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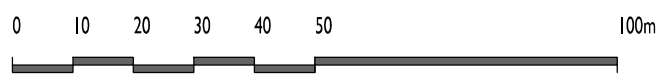
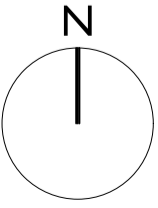
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APPLICATION SITE
UNDEFINED IN CURRENT
LOCAL PLAN - 0.5HA

LAND OWNED BY APPLICANT
"ZONED AS SAFEGUARDED
OPEN SPACE" IN CURRENT
LOCAL PLAN



0	50	100
CLIENT	RK Property Ltd	
JOB	Proposed Residential Development , Murieston Valley, Livingston	
DRAWING	Location Plan	
STATUS	PLANNING	
Drawn	Checked	Approved
DATE	DEC'12	JOB NO s/3944 DR NO LP(-)01
REV	/	
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