

Notice of Review: 17 Neatoune Drive, Danderhall

Determination Report

Report by Chief Officer Place

1 Purpose of Report

- 1.1 The purpose of this report is to provide a framework for the Local Review Body (LRB) to consider a 'Notice of Review' for the erection of a 1.8m timber fence and consequential demolition of wall and change to landscaping at 17 Neatoune Drive, Danderhall.

2 Background

- 2.1 Planning application 23/00753/DPP for the erection of a 1.8m timber fence and consequential demolition of wall and change to landscaping at 17 Neatoune Drive, Danderhall was refused planning permission on 19 January 2024; a copy of the decision is attached to this report.
- 2.2 The review has progressed through the following stages:
- 1 Submission of Notice of Review by the applicant.
 - 2 The Registration and Acknowledgement of the Notice of Review.
 - 3 Carrying out Notification and Consultation.

3 Supporting Documents

- 3.1 Attached to this report are the following documents:
- A site location plan (Appendix A);
 - A copy of the notice of review form and supporting statement (Appendix B). Any duplication of information is not attached;
 - A copy of the case officer's report (Appendix C);
 - A copy of the decision notice, excluding the standard advisory notes, issued on 19 January 2024 (Appendix D); and
 - A copy of the key plans/drawings (Appendix E).
- 3.2 The full planning application case file and the development plan policies referred to in the case officer's report can be viewed online via www.midlothian.gov.uk.

4 Procedures

- 4.1 In accordance with agreed procedures, the LRB:

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

5 Conditions

- 5.1 In accordance with the procedures agreed by the LRB at its meeting of 20 June 2022, and without prejudice to the determination of the review, the following condition has been prepared for the consideration of the LRB if it is minded to uphold the review and grant planning permission.
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).*

6 Recommendations

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

Peter Arnsdorf
Planning, Sustainable Growth and Investment Manager

Date: 3 May 2024
Report Contact: Mhairi-Anne Cowie, Planning Officer
Mhairi-Anne.Cowie@midlothian.gov.uk

Background Papers: Planning application 23/00753/DPP available for inspection online.



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

Change of use from communal landscaping to private garden ground and associated erection of fence at 17 Neatoune Drive, Danderhall, EH22 1FZ

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File No: 23/00753/DPP

Scale: 1:500





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

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

Thank you for completing this application form:

ONLINE REFERENCE 100652145-003

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

Applicant or Agent Details

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

≤ Applicant T Agent

Agent Details

Please enter Agent details

Company/Organisation:	<input type="text" value="Liston Architects"/>		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	<input type="text" value="David"/>	Building Name:	<input type="text"/>
Last Name: *	<input type="text" value="Liston"/>	Building Number:	<input type="text" value="9"/>
Telephone Number: *	<input type="text" value="0794 383 0266"/>	Address 1 (Street): *	<input type="text" value="Gayfield Sqaure"/>
Extension Number:	<input type="text"/>	Address 2:	<input type="text"/>
Mobile Number:	<input type="text"/>	Town/City: *	<input type="text" value="Edinburgh"/>
Fax Number:	<input type="text"/>	Country: *	<input type="text" value="UK"/>
		Postcode: *	<input type="text" value="EH1 3NT"/>
Email Address: *	<input type="text" value="david@listonarchitects.co.uk"/>		

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

T Individual ≤ Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text" value="Stelios"/>	Building Number:	<input type="text" value="17"/>
Last Name: *	<input type="text" value="Kornaros"/>	Address 1 (Street): *	<input type="text" value="Neatoune Drive"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Danderhall"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="UK"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="EH22 1FZ"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="[REDACTED]"/>		

Site Address Details

Planning Authority:	<input type="text" value="Midlothian Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="17 NEATOUNE DRIVE"/>
Address 2:	<input type="text" value="DANDERHALL"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="DALKEITH"/>
Post Code:	<input type="text" value="EH22 1FZ"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="669440"/>	Easting	<input type="text" value="331166"/>
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Description of Proposal

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

Change of use from communal landscaping to private garden ground and associated erection of fence at 17 Neatoune Drive, Danderhall, EH22 1FZ (description as amended by MLC Planning Department)

Type of Application

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

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

What does your review relate to? *

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

Statement of reasons for seeking review

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

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

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

Please refer to Supporting Document

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

Yes No

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

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

17 Neatoune Drive Planning Appeal

Application Details

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

23/00753/DPP

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

23/11/2023

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

19/01/2024

Review Procedure

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

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

Yes No

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

Please select a further procedure *

By means of inspection of the land to which the review relates

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

Inspection of context is important

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

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

Yes No

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

Yes No

Checklist – Application for Notice of Review

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

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

Yes No

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

Yes No

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

Yes No N/A

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

Yes No

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

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

Yes No

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

Declare – Notice of Review

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

Declaration Name: Mr David Liston

Declaration Date: 08/04/2024

**17 Neatoune Drive
Danderhall
EH22 1FZ
LOCAL REVIEW BODY APPEAL
PLANNING PERMISSION TO ERECT FENCE REF: 23/00753/DPP
NB: TO BE READ IN CONJUNCTION WITH SUBMITTED PLANS**

Erroneous Definition by Midlothian Council Planning as “communal landscaping”

The application was made to erect a fence on the private boundary along Dovecot Crescent to the side of the house at 17 Neatoune Drive, much like the existing one to the side of the house at 9 Dovecot Crescent. On receipt of the application, the Midlothian Council Planning insisted the application be termed “change of use from communal landscaping to private garden ground” which required the client to pay Midlothian Council Planning an additional £500 on top of the submitted £250 fee. This seems to be an error by Midlothian Council Planning. The approved documents do not define the land in question as communal landscaping. Neither do the title deeds, which clearly outline the plot as private garden. Please refer to the appended plans.

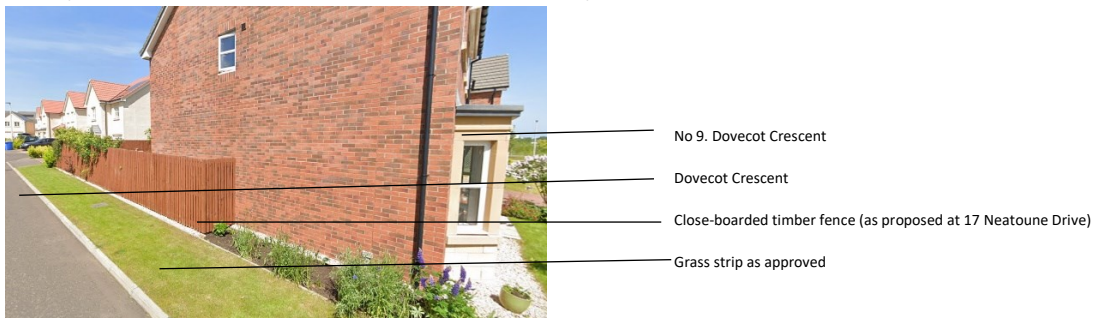
Discrepancies between approved and as-built layout

The approved site and landscape plan for the original housing development shows a strip of grass bordering the road to Neatoune Drive and Dovecot Crescent. On site, this grass strip has been built as pavement. A Hornbeam hedge in the approved plan has been replaced by a beech hedge on site. The Tibetan Cherry, Siberian and midwinter fire Dogwoods shown on the plan have been omitted.



Precedent in the same street of proposed fence with hedge behind

An example of the type of fencing proposed by the applicant exists within view of 17 Neatoune Drive, in the same street at the side of the house, Dovecot Crescent.

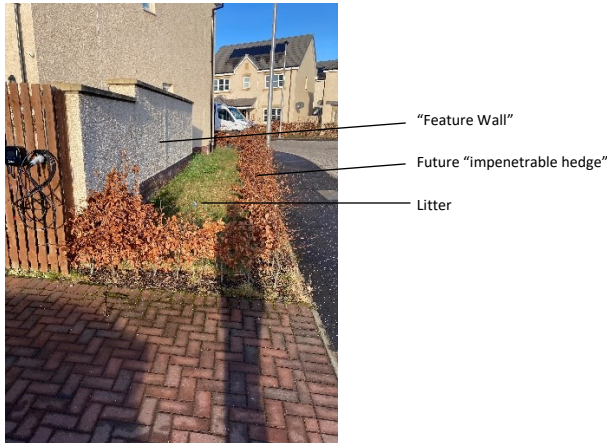


Approved Hedge to be impenetrable

“Hedge is to be planted in two alternate rows at 300mm centres either side of a 900mm high post and wire fence” and “The objective is to produce a thick, healthy, impenetrable hedge. Pruning should be undertaken where necessary to achieve a neat and compact finish”

Problems with rubbish

Currently the combination of hedge and wall incorrectly signals that the grass strip is outwith the property boundary. This ambiguity results in the grass strip being used as a litter bin and a dog toilet by passers-by. In the future, the hedge will be higher and the ill-conceived narrow strip of grass, owned by the applicant will become a security risk to the occupants of the house.



Erroneous concern by MLC Planning regarding road safety

A concern raised by Midlothian Council Planning regards visibility at the junction of Neatoune Drive with the side street, Dovecot Crescent. This concern is irrational since the visibility through the proposed fence will be no worse than through the existing “impenetrable hedge”, once it is established. Furthermore, the proposed fence is only to the side of the house and will stop short of the junction with the principal street, Neatoune Drive. Visibility at the junction will be maintained.

No overall consistency in landscape plan

The urban design of the housing development follows a loose pattern with no consistent rules. Many different conditions exist at street edges. Some roads are bordered by vegetation, some by timber fencing and some by hard walls. The proposed timber fence fits into this pattern. The principal elevation will have landscaping fronting the street, whilst the side elevation will have a timber fence just like 9 Dovecot Crescent and will remove the ambiguity of ownership of the narrow grass strip.



Conclusion

In a few years the existing hedge within the private boundary of 17 Neatoune Drive will grow to a significant height and become the “impenetrable hedge” which was approved with the original landscape plan for the housing development. There will be long narrow strip of grass (about 12m x 2m), hidden from view to the side of the house between the hedge and existing 1.8m high wall within the garden. Without a fence preventing the entry of strangers, this represents a significant security risk to the occupants of the house. The applicant simply wishes to erect a fence on their garden boundary to the side of their house and remove the ill-conceived wall within their garden. This would allow them to safely maintain the grass strip, with the existing visibility at the junction retained.

Precedent for such a fence to the side of a house exists on the same street. A fence would benefit both the applicant and the community and Midlothian Council’s refusal of permission for the fence is absurd.



Poorly designed landscaping within applicant’s garden results in problematic grass strip with no benefit to applicant or community.

Proposed fence is to side of house only



The proposals are to the side of the house only and do not affect the hedge and garden to the front on the main street

Appendix 1: Extract from Approved Landscaping Plan



No demarcation of "communal landscaping" or "common area" is defined within the boundary of 17 Neatoune Drive in the approved site or landscape plans

Appendix 2: Specification from Approved Landscaping Plan

PLANTING SCHEDULE

CARE SHOULD BE TAKEN TO ENSURE THAT ALL TREES ARE PLANTED A MINIMUM OF 1M AWAY FROM ALL FOOTPATHS AND SERVICE STRIPS.

These plants have been chosen taking into account the recommendations of the Postcode plant database published by the Natural History Museum and the RHS Plant Selector. Where possible, plants which are particularly attractive to bees have been used.

PROPOSED TREES

Bp	Betula pendula (Common Birch)	12no
PaA	Prunus subhirtella 'Autumn Cherry'	5no
PaE	Prunus serotina (T. Batten Cherry)	24no

All of the above trees to be Featherheads (2.0 to 2.5m tall) and single short-staked. Where trees are planted into turf, an area 1m dia, at the base of the tree, should be mounded slightly and kept clear of weeds and grass and other deleterious material.

CBF	Carpinus betulus 'Frons Fontaine' (Fastigate Hornbeam)	6no
CPS	Crateagus Pauli Scarier (Hawthorn)	8no
RSB	Sorbus aucuparia 'Silverstar Seedling' (Rowan)	6no

All of the above trees to be Standard (10-12cm girth) single short-staked and root balled. Where trees are planted into turf, an area 1m dia, at the base of the tree, should be mounded and kept clear of weeds and grass and other deleterious material.

Ac	Ahus cordata (Alder)	40no
Agr	Acer glabrum (Paperbark Maple)	7no
ApCK	Acer platanoides 'Crimson King' (Purple Maple)	6no
ApLQ	Acer platanoides 'Emerald Queen' (Purple Maple)	1no
BuJ	Betula utilis 'Jacqueminii' (White Birch)	4no
TGS	Tilia cordata 'Greenstrel' (Fastigate Lime)	4no
To	Tilia x euclyptera (Lime ashid tree)	3no

All of the above trees to be Heavy Standard size (12 to 14cm girth) 2m clear stemmed, double short-staked and root balled. Where trees are planted into turf, an area 1m dia, at the base of the tree, should be mounded and kept clear of weeds and grass and other deleterious material.

PROPOSED SHRUBS

CaS	Cornus alba 'Sibirica'	60 to 80cm 3L 3m2	59no
CaMF	Cornus sanguinea 'Midwinter Fire'	60 to 80cm 3L 3m2	69no
HEG	Hebe 'Emerald Green'	30 to 40cm 3L 4/m ²	220no
HBE	Hebe 'Red Edge'	30 to 40cm 3L 4/m ²	359no
HRE	Hebe 'Blue Dawn'	30 to 40cm 3L 4/m ²	114no
He	Hypericum calycinum	30 to 40cm 3L 5m ²	135no
HGO	Hebe 'Ornata Orna'	30 to 40cm 3L 4/m ²	48no
LHt	Lavandula angustifolia 'Hidcote'	20 to 30cm 3L 6m ²	236no
Ma	Mahonia aquifolium	40 to 60cm 3L 3m ²	126no
PT	Potentilla fruticosa		
	Yatherine Dykes'	30 to 40cm 3L 4/m ²	48no
PF	Platanus 'Forest Flame'	30 to 40cm 3L 4/m ²	208no
Sg	Senecho greyi 'Sunshine'	40 to 90cm 3L 3m ²	45no
Vi	Viburnum davidii	30 to 40cm 3L 4/m ²	144no
VmV	Viburnum major 'Variegata'	30 to 40cm 3L 5m ²	329no
RIBA	Rubus tricolor 'Betty Asbumer'	20 to 30cm 3L 4/m ²	2128no

LAUREL HEDGE

Prunus laurocerasus 'Rondifolia'	40 to 60cm 3L	2408no
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Laurel hedge is to be planted in one row, evenly spaced, at 300mm centres.

HORNBEAM HEDGE

Carpinus betulus	60 to 80cm 1+2	1680no
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Hornbeam hedge is to be planted in two alternate rows at 300mm centres either side of a 900mm high post and wire fence.

HORNBEAM HEDGE (Large)

Carpinus betulus	60 to 90cm 2L	302no
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Hornbeam hedge is to be planted in two alternate rows at 300mm centres either side of a 900mm high post and wire fence.

PROPOSED FRUIT TREES

MJ	Malus domestica 'Discovery' (Apple)	10no
MCOP	Malus domestica 'Cox's Orange Pippin'	3no
PC	Pyrus 'Conference' (Pear)	2no

All of the above trees to be Heavy Standard size (12 to 14cm girth) double short-staked and root balled. Where trees are planted into turf, an area 1m dia, at the base of the tree, should be mounded and kept clear of weeds and grass and other deleterious material.

PLANTING SPECIFICATION

GRASS MIX

- The grassed area is to be carefully checked to ensure that the soil is appropriate and free from rubble, stones, weeds and other deleterious material. If not appropriate, it should be replaced with quality material or the Landscape Architect should be advised.
(Note: It is the responsibility of the contractor to ensure that he is planting into the correct quality of material)
- Where topsoil is to be added the subsoil should be fully broken up to ensure adequate drainage and a layer not less than 150mm deep applied.
- The topsoil should be cultivated to a fine, even tilth with no undulations or bumps.
- All grass areas are to be turfed or seeded in accordance with guide-lines set out in BS 4428: Code of Practice for general landscape operations: 1989.
- Front gardens are to be turfed with approved, good quality turves (unless otherwise specified). The soil shall be of loam texture and free from stones over 15mm in any one direction. Open spaces are to be either turfed or seeded, as specified, with an approved proprietary mix applicable to the location.

SHRUBS

- The whole planting bed is to be carefully set out and the soil checked to ensure that it meets the standards set out in BS 3882: 2007. If it does not it should be replaced with the appropriate quality material or the Landscape Architect must be advised.
(Note: It is the responsibility of the contractor to ensure that he is planting into the correct quality of material)
- If new topsoil is required the subsoil base should be fully broken up to ensure adequate drainage.
- The bed should be inspected after the subsoil base is broken up and before topsoil cultivation for any signs of flooding. If there are signs and these cannot be resolved the Landscape Architect should be advised.
(Note: It is the responsibility of the contractor to ensure that he is not planting into a waterlogged bed)
- Planting should not be undertaken below 2 degrees centigrade, or when the ground is snow covered or frozen.
- The topsoil should be cultivated throughout the bed to a depth of 300mm. It should be left with a central ridge 150mm above the edges of the bed.
- When the bed has been fully cultivated and formed, planting holes shall be dug 150mm wider than the root spread. Bare-root plants shall have the roots carefully teased out and not-grown plants shall have the roots carefully loosened from the soil. 2 to 2.5litres, depending on the size of the plant, of Fison's Peat-Free Planting Compost, or similar approved, shall be worked into the backfill. The plants shall be planted so that the finished topsoil level is at the nursery level on the stem of the plant.
- The plants shall be well firmed in and, after planting, a slow acting fertiliser shall be carefully worked into the top 50mm of soil round each plant taking care to avoid contact with the stem.
- Immediately after planting the whole bed shall be well watered in.
- All work shall be carried out in accordance with best horticultural practice.

TREES

- Trees shall be planted at the appropriate season depending on root-grown or bare-root.
- Tree pits are to be dug not less than 1m cube and not smaller than 250mm larger than the overall root spread. Care is to be taken to ensure that all sides are permeable and have not been 'polished', and that all pits are free draining with 50mm of washed round pea gravel to the base of the tree pits.
- A pressure-treated timber stake 75 x 75mm shall be used. It shall extend 500mm above the finished soil level, with a proprietary tie set 100mm below the top of the stake.
- One tie shall be used on standard and feathered trees up to 2m high. Two will be required for Heavy and Extra-Heavy Standard trees up to 18cm girth. Above this trees will be required unless an underground juying system is specified.
- Backfill for the tree pits is to be 20% Peat-free Compost, Fison's or similar approved.
- The backfill is to be a raised mound at the top with the centre 150mm above the edges. Care is to be taken to ensure that the finished backfill level is at the nursery level on the tree and that level is at the centre of the mound 150mm above the edges of the pit when the tree has been well firmed in.
- On completion of the planting the tree shall be well watered in with not less than 10litres of water. Thereafter it should be watered as required, following periods of any more than three consecutive hot, dry days, until the tree is fully established.

HEDGES

- Hedge planting should be as for the shrubs, set out above. However, the planting bed should be established by using the line of the hedge as the length. The width will be the planted line of the hedge plus 300mm either side. (ie a single line of hedge will be 900mm wide and a double, 500mm apart, will be 1100mm wide.)
- After achieving the correct quality topsoil and, with the base broken up, if topsoil is imported, the soil shall be cultivated to ensure a ridge, into which the hedge is planted, set 150mm above the edge of the bed.
- Thereafter all of the above, fertiliser shall be applied and the hedge well watered in.
- After planting the hedge should be trimmed back to an even line, to encourage growth, with the amount of trimming dependent on species.

NB, where topsoil from site to be used, a soil resource plan should be carried out to include locations of topsoil stripping areas and storage mounds to ensure the good treatment of soils which are to be used on the landscape areas and to avoid compaction of soils. Topsoil and subsoil to be stored separately and not mixed.

MAINTENANCE

The developer will ensure, within the release, that purchasers are responsible for common areas. On completion of the site, a Factor will be appointed who will assist in the establishment of a Residents' Association. The Residents' Association will thereafter ensure that the Factor organises the following maintenance regime:

Grass:

- Fine grass cut 16 times per year
- All cuttings to be raked and removed from the site.

Shrubs:

The objective is to provide a full even cover and prevent overcrowding. To that end the site should be inspected ~~each~~ ^{per} year by a suitably qualified horticulturalist and the following actions followed:

- The shrub beds shall be kept clear of weeds, either mechanically or by using an approved herbicide.
- Shrubs shall be pruned up to twice per year, in Spring and Autumn depending on the species, to maintain their natural shape and habit. Any damaged, diseased or broken branches should be removed.
- In the first five years all dead and dying shrubs should be replaced by shrubs of similar size and species to those originally planted.
- From the second year beds should be inspected and trimmed out where appropriate. Where suitable, these shrubs can be used to fill gaps in the planting area. Otherwise gaps should be filled with appropriate new plants as for 'a' above.
- After 10 years a systematic programme of replacement should be established.

Trees:

Trees have been chosen for their appropriateness to their individual location. Pruning, other than for health and safety reasons, should not be necessary. They should, however, be inspected by a suitably qualified arboriculturalist annually.

- An area 1m diameter at the base of the tree shall be kept clear of weed and grass either mechanically or by using an approved herbicide.
- Tree stakes and ties should be inspected 3 times per year (Autumn, Winter and Spring).
- All dead and diseased branches, or those broken due to malicious action should be removed and the scar cleaned up.
- All trees which have been removed or which are found to be dying, severely diseased or damaged will be replaced by trees of similar size and species to those originally planted. These should be replaced as soon as weather conditions allow.

Hedges:




The objective is to produce a thick, healthy, impenetrable hedge. Pruning should be undertaken where necessary to achieve a neat and compact finish.

- Hedge is to be pruned back to an even hedge line to encourage thickening below within the first growing season after planting and twice a year thereafter.
- Factor will require access to maintain both sides of the hedge where they form garden boundaries.

Hardscapes:

- Six visits per year to remove weeds from shrub beds and between pathways and within other hard standing areas. All weeds are to be removed from the site. Where herbicides are used extreme care should be taken to avoid damage to surrounding grass, avoiding spray drift.

Appendix 3: Plan from Title Deeds

 LAND REGISTER OF SCOTLAND	Version date	TITLE NUMBER	
	11/09/2023	MID208514	
 BRITISH NATIONAL GRID EASTING/NORTHING	 100m		
	331168, 669435	Survey Scale	Print Scale
	1:2500	1:2500 @ A4	
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No demarcation of "communal landscaping" is defined within the boundary of 17 Neatoune Drive in the title deeds

MIDLOTHIAN COUNCIL

DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

Planning Application Reference: 23/00753/DPP

Site Address: 17 Neatoune Drive, Danderhall.

Site Description: The application site comprises a two storey detached dwellinghouse, garage and associated garden ground. The house has cream colour rendered walls, a pantile roof and white uPVC framed window units. The site sits at a junction with roads bounding the northwest and northeast boundary, with houses to the southeast and southwest. There is a 1.8 metre high render wall enclosing the private garden ground to the roadside, with an area of communal landscaping between the wall and the pavement to the northeast. There is a 1.8 metre high fence along the rear of the garden between the garden and associated garage and parking area. The site is within a relatively recently constructed housing site.

Proposed Development: Change of use from communal landscaping to private garden ground and associated erection of fence.

Proposed Development Details: It is proposed to remove the existing boundary wall along the northeast and erect a new 1.8 metre high close boarded fence hard up to the pavement, enclosing the communal landscaping and making this private garden ground. The new fence will adjoin the existing fence at the site and be similar in design.

Background (Previous Applications, Supporting Documents, Development Briefs): Wider development area

18/00946/LA Application to modify a planning obligation with a legal agreement (associated with planning application 02/00660/OUT). Modification agreed.

17/00650/S42 Section 42 application to amend condition 4 of planning permission 02/00660/OUT. This application seeks to change the means by which the Master Plan and Design Guide (and related addenda) for Shawfair can be amended.

Consent with conditions.

17/00393/S42 S42 application to amend condition 4 of planning permission 02/00660/OUT. Withdrawn.

16/00818/MSA Erection of 98 dwellinghouses and 18 flatted dwellings; formation of access roads and car parking and associated works (approval of matters specified in conditions 2(a), 2(e), 2(f), 2(g), 2(h), 2(i), 2(l), 2(o), 3, 4, 6, 9 & 11-33 of planning permission 02/00660/OUT). Permitted.

15/00089/MSA Application for Matters Specified in relation to condition 1 (relating to former mineral workings, sustainable urban drainage strategy, landscaping to Cairnie Burn, programme for highway network improvements and travel plan details) of outline planning permission 02/00660/OUT for residential, industrial and commercial floor space, community facilities, associated landscaping with provision for sport and recreation and new transport facilities. Permitted.

02/00660/OUT Outline planning permission for residential, industrial and commercial floor space, community facilities (including new primary schools), associated

landscaping with provision for sport and recreation and new transport facilities.
Consent with conditions.

To northeast

20/00169/CL 5 Dovecot Crescent Infill of garage door and formation of window opening. Permitted.

Consultations: The Council's **Senior Manager Neighbourhood Services (Roads)** was consulted but did not respond.

Representations: No representations have been received.

Relevant Planning Policies: The development plan is comprised of National Planning Framework 4 (2023) and the Midlothian Local Development Plan 2017. The following policies are relevant to the proposal.

National Planning Framework 4 (NPF4)

- **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;
- **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;
- **Policy 6 Forestry, woodland and trees;** sets out to protect and expand forests, woodland and trees;
- **Policy 14 Design, quality and place;** states - a) Development proposals will be designed to improve the quality of an area whether in urban or rural locations and regardless of scale; and 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;
- **Policy 16 Quality homes;** states g) Householder development proposals will be supported where they: i. do not have a detrimental impact on the character or environmental quality of the home and the surrounding area in terms of size, design and materials; and ii. do not have a detrimental effect on the neighbouring properties in terms of physical impact, overshadowing or overlooking; and h) Householder development proposals that provide adaptations in response to risks from a changing climate, or relating to people with health conditions that lead to particular accommodation needs will be supported.

The relevant policies of the adopted **Midlothian Local Development Plan 2017** are:
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;

ENV7 Landscape Character states development will not be permitted where it significantly and adversely affects local landscape character. Where development is acceptable, it should respect such character and be compatible in terms of scale, siting and design. New development will normally be required to incorporate proposals to maintain the diversity and distinctiveness of the local landscapes and to enhance landscape characteristics where they have been weakened; and

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.

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

While the proposed development will contribute to the global climate crises, due to the nature and small scale of the proposal, the proposed development will not exacerbate the global nature crises. Therefore the proposed development complies with the aims of policy 1 of NPF4.

The application site is at a prominent location within this relatively new housing development, sited at a junction at a central position. The immediate area has an open character with no boundaries between front gardens, along with grassed areas and hedging between gardens and the pavement/roads. It is clear from the assessment of the overall housing application that consideration has been given to the open character and landscaping of the wider site, with trees and hedges planted to soften the visual impact of the development. Also the application site is identified as having an active gable. This generally means that the plot is at a prominent part of a site and additional consideration needs to be given to the design of the house, as well as the setting of the plot. While there is an existing wall within the site facing onto the road, this is set back from heel of the pavement with hedging between the wall and the pavement. This set off from and planting between the wall and the pavement helps achieve the aim for landscaping to soften the visual impact of the development. The overall effect of existing wall being set off the pavement with landscaping between the two is a clearly considered design detail in this relatively new residential area which positively contributes to the character and appearance of the site and surrounding area. This is replicated in other parts of the wider development.

The removal of the existing wall and communal landscaping and replacement with a 1.8 metre high close boarded fence hard up to the pavement would have a significantly detrimental impact on the open and landscaped character of the site and immediate area. This would be a very hard feature at a prominent part of the development.

The position of the fence would be forward of the established building line in place from the site along Dovecot Crescent which would also detract from the character and appearance of the area.

The proposal would result in the loss of landscaping which would be contrary to the aims of NPF4 to retain trees and hedges. This would also be contrary to the aim of the Council which is committed to making Midlothian a great, green place to grow and would not help address the climate emergency which the Council declared in

2019. Proposals should be proactively protecting landscaping and enhancing landscaping in developments, rather than supporting their removal. While the proposal would only result in a relatively small area of landscaping being lost, if this were to be supported in other proposals, the cumulative impact of this could be significant.

The proposed position of the fence would also have a detrimental impact on road safety as this would reduce visibility for vehicles existing the parking spaces to the southeast. These spaces are 15 metres from the junction and a fence hard up to the pavement would significantly reduce visibility from these.

Recommendation: Refuse planning permission.

Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

Appendix D 

Reg. No. 23/00753/DPP

Liston Architects
9 Gayfield Square
Edinburgh
EH1 3NT

Midlothian Council, as Planning Authority, having considered the application by Mr Stelios Kornaros, 17 Neatoune Drive, Danderhall, EH22 1FZ, which was registered on 23 November 2023 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

Change of use from communal landscaping to private garden ground and associated erection of fence at 17 Neatoune Drive, Danderhall, EH22 1FZ

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

<u>Document/Drawing.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	2314_C_001 1:1250	23.11.2023
Site Plan, elevations	2314_C_010 1:100	23.11.2023
Site Plan, elevations	2314_C_100 1:100	23.11.2023

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

1. *The proposal would have a significant detrimental impact on the character and appearance of the application site and the surrounding area and so is contrary to policies DEV2 and ENV6 of the adopted Midlothian Local Development Plan 2017 and policies 14 and 16 of the National Planning Framework 4.*
2. *The loss of landscaping would be contrary to policy ENV11 of the adopted Midlothian Local Development Plan 2017 and policy 6 of the National Planning Framework 4.*
3. *The proposed position of the fence would have a significant adverse impact on the safety of road users by reducing the visibility for vehicles exiting the site and adjacent parking spaces.*

Dated 19 / 1 / 2024

Handwritten initials 'DR' in a cursive style.

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



**The Coal
Authority**

Any Planning Enquiries should be directed to:

Planning and Local Authority Liaison
Direct Telephone: 01623 637 119 (Planning Enquiries)
Email: planningconsultation@coal.gov.uk
Website: www.gov.uk/coalauthority

INFORMATIVE NOTE

The proposed development lies within an area that has been defined by the Coal Authority as containing coal mining features at surface or shallow depth. These features may include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and former surface mining sites. Although such features are seldom readily visible, they can often be present and problems can occur, particularly as a result of new development taking place.

Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant land stability and public safety risks. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design which takes into account all the relevant safety and environmental risk factors, including mine gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at:

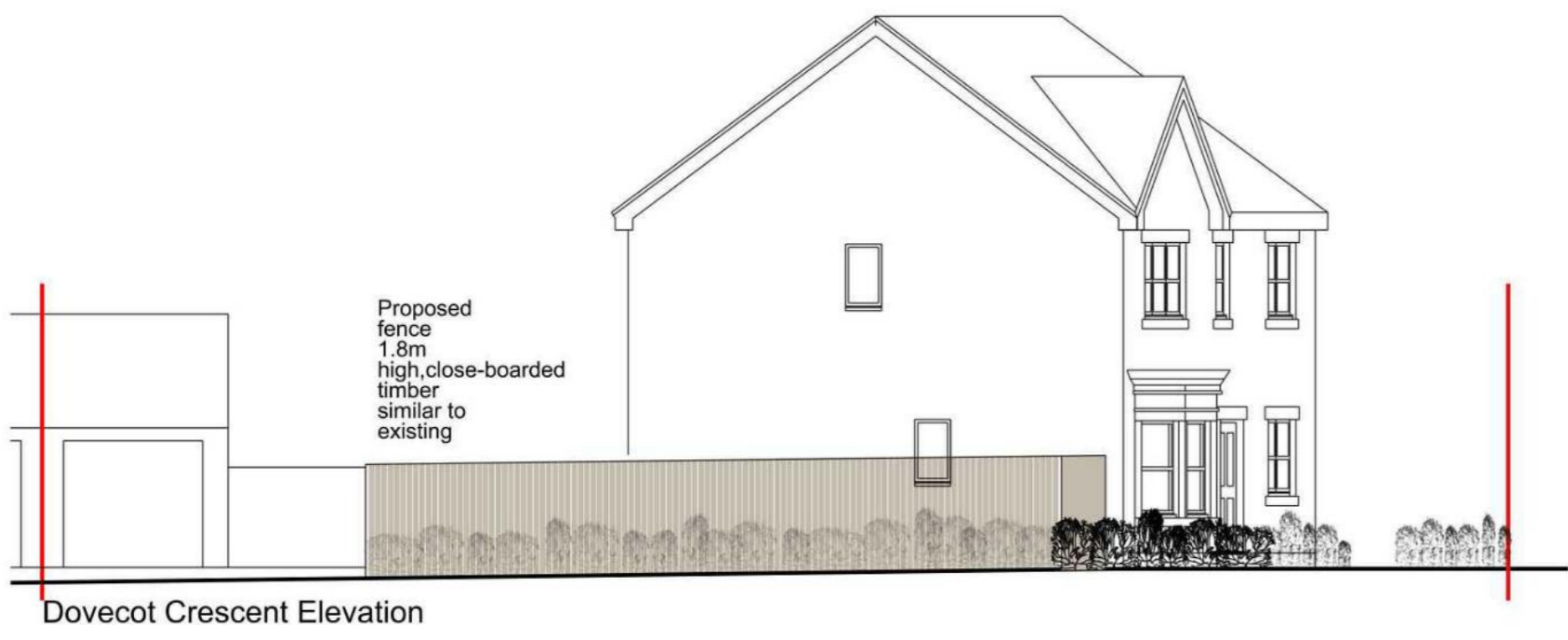
www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, excavations for foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

If any coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at:

www.gov.uk/government/organisations/the-coal-authority

Informative Note valid from 1st January 2023 until 31st December 2024



Dovecot Crescent Elevation

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Neatoune Drive Elevation



0m 1m 2m 3m 4m

2314_C_100
 Proposed Site Plan and Elevations
 17 Neatoune Drive
 Scale 1:100@ A1
 Liston Architects
 15.11.23

Do not scale from drawings.
 Request from architect any dimensions not provided.
 All dimensions to be checked on site prior to starting work.
 Any discrepancies to be reported to architect.
 Drawings to be read in conjunction with structural engineer's
 drawings specifications and schedules.
 Locations of studs in partitions are indicative only.

PLANNING



Dovecot Crescent Elevation

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Neatoune Drive Elevation



0m 1m 2m 3m 4m

2314_C_010
Existing Site Plan and Elevations
17 Neatoune Drive
Scale 1:100@ A1
Liston Architects
15.11.23

Do not scale from drawings.
Request from architect any dimensions not provided.
All dimensions to be checked on site prior to starting work.
Any discrepancies to be reported to architect.
Drawings to be read in conjunction with structural engineer's drawings specifications and schedules.
Locations of studs in partitions are indicative only.

PLANNING