

Notice of Review: 50 Dundas Street, Bonnyrigg 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 formation of access at 50 Dundas Street, Bonnyrigg.

2 Background

- 2.1 Planning application 23/00117/DPP for the formation of access at 50 Dundas Street, Bonnyrigg was refused planning permission on 6 June 2023; 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); and
 - A copy of the decision notice, excluding the standard advisory notes, issued on 6 June 2023 (Appendix D).
- 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 was one consultation response and no representations received. As part of the review process the interested parties were notified of the review – no additional comments have been received. All comments can be viewed online on the electronic planning application case file.
- 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).*

2. Any gates to the vehicular access shall be so designed and installed as to only open inwards.

Reason: *To ensure gates do not open over the pavement; to ensure no hazard is caused to pedestrians using the footway.*

3. A minimum of the first 2 metres of the driveway as measured from the heel of the footpath shall be surfaced in non-loose material.

Reason: *In the interest of road safety and the free flow of traffic*

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: 15 September 2023
Report Contact: Peter Arnsdorf - Planning, Sustainable Growth and Investment Manager
peter.arnsdorf@midlothian.gov.uk

Background Papers: Planning application 23/00117/DPP available for inspection online.




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

**Formation of access to classified road
50 Dundas Street, Bonnyrigg**

Reproduced from the Ordnance Survey map with the permission of the controller of Her Majesty's Stationary Office. Crown copyright reserved. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings

File No.23/00117/DPP

Scale: 1:625



NOTICE OF REVIEW

Under Section 43A(8) Of the Town and Country Planning (SCOTLAND) ACT 1997 (As amended) In Respect of Decisions on Local Developments

The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (SCOTLAND) Regulations 2013

The Town and Country Planning (Appeals) (SCOTLAND) Regulations 2013

IMPORTANT: Please read and follow the guidance notes provided when completing this form. Failure to supply all the relevant information could invalidate your notice of review.

PLEASE NOTE IT IS FASTER AND SIMPLER TO SUBMIT PLANNING APPLICATIONS ELECTRONICALLY VIA <https://www.eplanning.scot>

1. Applicant's Details		2. Agent's Details (if any)	
Title	Mr	Ref No.	
Forename	Robert	Forename	
Surname	Gyorgy	Surname	
Company Name		Company Name	
Building No./Name		Building No./Name	
Address Line 1	50 Dundas Street	Address Line 1	
Address Line 2		Address Line 2	
Town/City	Bonnyrigg	Town/City	
Postcode	Eh193as	Postcode	
Telephone		Telephone	
Mobile		Mobile	
Fax		Fax	
Email		Email	
3. Application Details			
Planning authority	Planning application .		
Planning authority's application reference number	23/00117/DPP		
Site address	M		
Dundas Street bonnyrigg			
Description of proposed development			
Lower kerb			

Date of application Date of decision (if any)

Note. This notice must be served on the planning authority within three months of the date of decision notice or from the date of expiry of the period allowed for determining the application.

4. Nature of Application

Application for planning permission (including householder application)

Application for planning permission in principle

Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission and/or modification, variation or removal of a planning condition)

Application for approval of matters specified in conditions

5. Reasons for seeking review

Refusal of application by appointed officer

Failure by appointed officer to determine the application within the period allowed for determination of the application

Conditions imposed on consent by appointed officer

6. 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.

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

Further written submissions

One or more hearing sessions

Site inspection

Assessment of review documents only, with no further procedure

If you have marked either of the first 2 options, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing necessary.

7. Site inspection

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

Can the site be viewed entirely from public land?

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

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

Why 56 Dundas Street bonnyrigg can have it and myself not, they are the seam like me

8. Statement

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. **Note:** 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.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

Have you raised any matters which were not before the appointed officer at the time your application was determined? Yes No

If yes, please explain below a) why your are raising new material b) why it was not raised with the appointed officer before your application was determined and c) why you believe it should now be considered with your review.

9. List of Documents and Evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review

Note. The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

10. Checklist

Please mark the appropriate boxes to confirm that you have provided all supporting documents and evidence relevant to your review:

Full completion of all parts of this form

Statement of your reasons for requesting a review

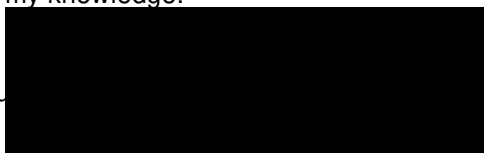
All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

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 from that earlier consent.

DECLARATION

I, the applicant/agent hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents. I hereby confirm that the information given in this form is true and accurate to the best of my knowledge.

Signature



Name:

Robert Gyorgy

Date:

21.06.2023

Any personal data that you have been asked to provide on this form will be held and processed in accordance with Data Protection Legislation.

MIDLOTHIAN COUNCIL

DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

Planning Application Reference: 23/00117/DPP

Site Address: 50 Dundas Street, Bonnyrigg, EH19 3AS

Site Description: The application site comprises a middle terrace two story house. It has light brown dry dash walls, white uPVC window frames and a brown profile concrete tile roof. The front garden is hardstanding with an approximately 1 metre high fence. The site is in a predominately residential area, with houses to the south, east and west and New Dundas Park to the north. The surrounding houses are a mix of single and two storey detached, semi-detached and terraces and a number of these have driveways.

Proposed Development: Formation of access to classified road

Proposed Development Details: It is proposed to install a dropped kerb 4 metres long. The resulting driveway would be approximately 4.6 metres deep and 5 metres wide. The driveway would provide one parking space within the front garden.

Details of the surfacing of the proposed driveway have not been detailed on the submitted plans.

Background (Previous Applications, Supporting Documents, Development Briefs):

48 Dundas Street 22/00535/DPP Formation of access to classified road. Consent with conditions.

29 Dundas Street 12/00225/DPP Formation of driveway. Consent with conditions.

31 Dundas Street 10/00364/DPP Formation of driveway (retrospective). Consent with conditions.

39 Dundas Street 06/00502/FUL Construction of driveway and erection of fencing. Consent with conditions.

37 Dundas Street 99/00549/FUL Construction of vehicular access and driveway. Consent with conditions.

52 Dundas Street 0346/97 Construction of vehicle access and driveway. Consent with conditions.

Consultations: The Council's **Policy and Road Safety Manager** advised that while he had no objection in principle to a new driveway with a vehicle drop kerb being formed at this location, the proposal would result in a substandard driveway being formed. Driveways of a substandard length can result in parked vehicles overhanging and obstructing the public footway, resulting in pedestrians being

required to walk on the carriageway. This creates a road safety situation and puts pedestrians at risk and therefore would recommend that the application be refused.

Representations: No representations were received.

Relevant Planning Policies:

Planning policy currently comprises of National Planning Framework 4 and the adopted Midlothian Local Development Plan 2017. The following policies are relevant to the proposal:

NPF4:

Policy 1 Tackling the Climate and Nature Crises

When considering all development proposals significant weight will be given to the global climate and natural crises.

Policy 14 Design, Quality and Place aims to encourage, promote and facilitate well-designed development that makes successful places.

- a) Development proposals will be designed to improve the quality of an area whether in urban or rural location 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.

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

DEV2 Protecting Amenity within the Built- Up Area advises that the development will not be permitted where it is likely to detract materially from the existing character or amenity of the area.

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.

Several houses in the area have at least one driveway. The proposal will not have a significant impact on the visual amenity of the surrounding area or amenity of neighbouring properties.

The driveway will be sited in front of windows belonging to the application subjects and will not result in significant loss of amenity to other neighbouring properties.

Whilst the proposal will not have a significant impact on the visual amenity of the area, there are significant road and pedestrian safety issues.

The main issue in the consideration of the application is road safety. Following a site visit and measurements taken, the resulting driveway would be approximately 4.6 metres which is much less than the standard 6 metre length, which is the expected length of a driveway, and may result in parked vehicles overhanging and obstructing

the public footway, resulting in pedestrians, wheelchairs and pushchairs having to use the carriageway to get past. This is clearly undesirable and would not be in the interests of improving road safety.

Overall, it has not been demonstrated to the satisfaction of the Planning Authority that a driveway could be accommodated at the application site without a detrimental impact on road safety.

There are a number of vehicular accesses and driveways already in place on Dundas Street. Planning applications have been approved at numbers 29 and 31, as the resulting driveways are of a sufficient length. The neighbouring properties of the application site, numbers 48 and 52, have both had planning applications approved as their driveways were of a sufficient length. They achieved the necessary length as they include the area down the side of the dwelling and therefore do not create a road safety issue. Permission was granted at numbers 37 and 39 prior to 2006. Any other driveways or vehicular accesses installed in the immediate vicinity do not benefit from planning permission.

Overall, all relevant matters have been taken into consideration in determining this application. It is considered that the proposal does not accord with the principles and policies of the adopted NPF4 and Midlothian Local Development Plan 2017 and is not acceptable in terms of all other applicable material considerations. Therefore, it is recommended that the application is refused.

Recommendation: Refuse planning permission.

Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

Appendix D 

Reg. No. 23/00117/DPP

Mr Robert Gyorgy
50 Dundas Street
Bonnyrigg
EH19 3AS

Midlothian Council, as Planning Authority, having considered the application by Mr Robert Gyorgy, 50 Dundas Street, Bonnyrigg, EH19 3AS, which was registered on 2 March 2023 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

Formation of access to classified road at 50 Dundas Street, Bonnyrigg, EH19 3AS

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

<u>Document/Drawing.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	Location Plan 1:1250	02.03.2023
Illustration/Photograph	Existing Elevations	02.03.2023
Illustration/Photograph	Proposed Elevations	02.03.2023

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

The proposed length of the driveway at 4.6 metre may result in parked vehicles overhanging and obstructing the public footway, resulting in pedestrians, and others using the pavement, being required to move on to the carriageway. It has not been demonstrated to the satisfaction of the Planning Authority that a driveway could be accommodated at the application site without a detrimental impact on road and pedestrian safety.

Dated 6 / 6 / 2023



.....
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