

# Notice of Meeting and Agenda



## Local Review Body

**Venue:** Virtual Meeting,

**Date:** Tuesday, 26 October 2021

**Time:** 13:00

### Executive Director : Place

**Contact:**

Clerk Name: Democratic Services  
Clerk Telephone:  
Clerk Email: [democratic.services@midlothian.gov.uk](mailto:democratic.services@midlothian.gov.uk)

### Further Information:

This is a meeting which is open to members of the public.

**Privacy notice: Please note that this meeting may be recorded. The recording may be publicly available following the meeting. If you would like to know how Midlothian Council collects, uses and shares your personal information, please visit our website: [www.midlothian.gov.uk](http://www.midlothian.gov.uk)**

## **1 Welcome, Introductions and Apologies**

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## **2 Order of Business**

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Including notice of new business submitted as urgent for consideration at the end of the meeting.

## **3 Declaration of Interest**

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Members should declare any financial and non-financial interests they have in the items of business for consideration, identifying the relevant agenda item and the nature of their interest.

## **4 Minute of Previous Meeting**

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- 4.1** Minute of Meeting held on 14 September 2021 - For Approval 3 - 14

## **5 Public Reports**

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Decision Notices:-

- 5.1** Land at 6 Lugton Brae, Dalkeith 20/00695/DPP. 15 - 20
- 5.2** Land at 10 Ashbank, Vogrie Road, Gorebridge 20/00375/PPP. 21 - 28
- 5.3** 18-20 Edinburgh Road, Penicuik 20/00562/DPP. 29 - 34
- 5.4** 33 Mayburn Terrace, Loanhead 21/00032/DPP. 35 - 38

Notice of Review - Determination Report by Chief Officer: Place:-

- 5.5** 10 Poplar Street, Mayfield 21/00481/DPP. 39 - 58

## **6 Private Reports**

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No private reports to be discussed at this meeting.

## **7 Date of Next Meeting**

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The next meeting will be held on Monday 6 December 2021 at 1.00 pm.

Plans and papers relating to the applications on this agenda can also be viewed at <https://planning-applications.midlothian.gov.uk/OnlinePlanning>

# Minute of Meeting



## Local Review Body

Date	Time	Venue
Tuesday 14 September 2021	1.00pm	Virtual Meeting using MS Teams

### Present:

Councillor Imrie (Chair)	Councillor Alexander
Councillor Cassidy	Councillor Curran
Councillor McKenzie	Councillor Milligan

### In Attendance:

Derek Oliver, Chief Officer Place	Joyce Learmonth, Lead Officer, Major Developments and Enforcement
Mhairi-Anne Cowie, Planning Officer: Local Developments	Mike Broadway, Democratic Services Officer
Andrew Henderson, Democratic Services Officer	

## 1 Apologies

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Apologies for absence had been received from Councillors Lay-Douglas, Muirhead, Munro and Smail.

## 2 Order of Business

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The order of business was confirmed as outlined in the agenda that had been previously circulated.

## 3 Declarations of interest

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Councillor Milligan advised that with regards to Agenda Item 5.2 – Notice of Review Request - 10 Ashbank, Vogrie Road, Gorebridge (20/00375/PPP), he had been approached by the appellant regarding how the Local Review Body operated. Whilst he had explained the review process, at no time had he given an opinion on the particular review in question and he did not believe his exchange would interfere in his being able to come to an objective decision on this Review Request therefore he would still take part in the discussion.

## 4 Minute of Previous Meeting

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The Minutes of Meeting held on 14 June 2021 were submitted and approved as a correct record.

## 5 Reports

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Agenda No	Report Title	Presented by:
5.1	Notice of Review – Land at 6 Lugton Brae, Dalkeith (20/00695/DPP) – Determination Report.	Joyce Learmonth
<b>Executive Summary of Report</b>		
<p>There was submitted report dated 2 September 2021 by the Chief Officer Place, regarding an application from APT Planning and Development, 6 High Street, East Linton seeking, on behalf of their client Mr &amp; Mrs C Flockhart, a review of the decision of the Planning Authority to refuse planning permission (20/00695/DPP, refused on 10 March 2021) for the erection of dwellinghouse; alterations to existing boundary walls; erection of gates and retaining walls on land at 6 Lugton Brae, Dalkeith.</p> <p>Accompanying the Notice of Review Form and supporting statement, which were appended to the report, was a copy of the report of handling thereon, together with a copy of the decision notice.</p>		
<b>Summary of Discussion</b>		
<p>In accordance with the procedures for the Local Review Body, Joyce Learmonth, as Planning Advisor gave a brief overview of the review hearing procedures and outlined the background to the case, before taking Members through a visual presentation.</p>		

Thereafter, oral representations were received firstly on behalf of the applicant from Tony Thomas, APT Planning and Development, the applicant's agent; also present was the applicant, Chris Flockhart, and then from Mhairi-Anne Cowie, the local authority Planning Officer; following which both parties responded to Members' questions/comments.

The LRB then gave careful consideration to the merits of the case based on all the information provided both in writing and in person at the Hearing. In particular consideration was given to the potential impact that the proposed development would have on the character and appearance of the area; and whether or not it would be visually intrusive.

### Decision

After further discussion, the LRB agreed to uphold the review request, and grant planning permission for the following reason:

*The development is not visually intrusive and would not have a significant impact on the character and appearance of the surrounding Conservation Area as compared to the existing developments in the area, nor would it have a significant detrimental impact on the setting of the listed building. Sufficient amenity space is provided for existing and proposed houses. The development therefore complies with policies DEV2, STRAT2, ENV19 and ENV22 of the adopted Midlothian Local Development Plan 2017.*

subject to the following conditions –

1. Prior to the commencement of development, the following details shall be submitted and approved in writing by the planning authority and only those approved details shall be used in the implementation of this grant of planning permission:
  - a) Details and a sample of all external materials;
  - b) Details of the materials of any areas of hardstanding;
  - c) Details of the design, dimensions, materials and colour finish of all new walls, gates, fences or other means of enclosure;
  - d) Details of a scheme of landscaping for the site. Details shall include the position, number, size and species of all trees and shrubs that are proposed to be planted, as well as identifying all trees and hedges on site which are proposed to be removed and retained;
  - e) Details of a sustainability/biodiversity scheme for the site including the provision of boxes for bats and birds and sustainability areas; and
  - f) Details of the proposed solar including dimensions and illustrations.

**Reason:** *These details were not submitted with the application; in order to ensure that the development hereby approved does not detract from the character and appearance of the surrounding conservation area and nearby listed building.*

2. The wall materials approved in condition 1a) above shall be either natural stone, smooth or wet dash render, or timber cladding.

**Reason:** *In order to ensure that the development hereby approved does not detract from the character and appearance of surrounding conservation area and nearby listed building.*

3. The landscape plan approved in condition 1d) above shall include that the existing hedge along the west boundary of the site to 6B Lugton Brae is protected during development and retained.

**Reason:** *To protect the character and appearance of the surrounding conservation area; to integrate the house into the area; to protect the amenity and privacy of existing and future occupants.*

4. The landscape plan approved in condition 1d) above shall include details of protection measures for the hedge to be retained in condition 3.
5. Any temporary protective fencing approved in condition 4 shall be erected before any work on the development is begun, including site clearance, and shall be retained until the development is completed. Within the area enclosed by the fencing there shall be no movement of machinery, excavation, no removal of soil, no placing of additional soil, no storage of any kind, disposal of any waste or fires lit. These works shall be carried out in accordance with BS5838:2012 Trees in Relation to Development.

**Reason for conditions 4 and 5:** *To protect the character and appearance of the surrounding conservation area; to integrate the house into the area; to protect the amenity and privacy of existing and future occupants; to ensure that the hedge to be retained is protected from damage during development; to ensure that the best practice is followed.*

6. Development shall not begin until details, including a timetable of implementation, of high speed fibre broadband have been submitted to and approved in writing by the planning authority. The details shall include delivery of high speed fibre broadband prior to the occupation of each dwellinghouse. The delivery of high speed fibre broadband shall be implemented as per the approved details.

**Reason:** *To ensure the quality of the development is enhanced by the provision of appropriate digital infrastructure in accordance with the requirements of policy IT1 of the adopted Midlothian Local Development Plan 2017.*

7. Development shall not begin until details of the provision and use of electric vehicle charging stations throughout the development have been submitted to and approved in writing by the planning authority. Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be approved in writing by the planning authority.

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

8. Unless otherwise approved in writing by the planning authority, shrubs to be removed to accommodate the outbuilding shall not be removed during the months of March to September inclusive.

**Reason:** *To protect the local biodiversity of the site; there is potential for the disturbance of nesting birds at the site during bird nesting season.*

#### Action

Planning, Sustainable Growth and Investment Manager

Agenda No	Report Title	Presented by:
5.2	Notice of Review – 10 Ashbank, Vogrie Road, Gorebridge (20/00375/PPP) – Determination Report.	Joyce Learmonth

#### Executive Summary of Report

There was submitted report dated 2 September 2021 by the Chief Officer Place, regarding an application from Liston Architects, 1 Summerhall, Edinburgh seeking, on behalf of their client Mr D Givan, a review of the decision of the Planning Authority to refuse planning permission in principle (20/00375/PPP, refused on 31 August 2020) for the erection of a dwellinghouse on land at 10 Ashbank, Vogrie Road, Gorebridge.

Accompanying the Notice of Review Form and supporting statement, which were appended to the report, was a copy of the report of handling thereon, together with a copy of the decision notice.

#### Summary of Discussion

The LRB, having heard from the Planning Advisor, gave careful consideration to the merits of the case based on all the written information provided. In discussing the proposed development and the reasons for its refusal, the LRB considered at length the potential impact that permitting the proposed development would have on the character and appearance of the area; concerns regarding the proposed access arrangements; and the potential impact its development might have on trees located within the application site.

#### Decision

After further discussion, the LRB agreed to uphold the review request, and grant planning permission for the following reason:

*The development is an opportunity to tidy up an untidy workshop and area of hardstanding in an attractive rural location.*

subject to:-

1. Development shall not begin until an application for approval of matters specified in conditions for a scheme to deal with any contamination of the site has been submitted to and approved by the Planning Authority. The scheme

shall contain details of the proposals to deal with any contamination and include:

- a) The nature, extent and types of contamination on the site;
- b) Measures to treat or remove contamination to ensure that the site is fit for the uses hereby approved, and that there is no risk to the wider environment from contamination originating within the site;
- c) Measures to deal with contamination encountered during construction work; and
- d) The condition of the site on completion of the specified decontamination measures.

Before any part of the site is occupied for residential purposes, the measures to decontaminate the site shall be fully implemented as approved by the Planning Authority and a validation report or reports shall be submitted to the and approved in writing by the Planning Authority confirming that the works have been carried out in accordance with the approved scheme.

**Reason:** *To ensure that any contamination on the site is adequately identified and that appropriate decontamination measures are undertaken to mitigate the identified risk to site users and construction workers, built development on the site, landscaped areas, and the wider environment.*

2. Development shall not begin until an application for approval of matters specified in conditions for a scheme of investigation and remediation to deal with previous mineral workings has been submitted to and approved in writing by the Planning Authority. The scheme shall include:

- a) A scheme of intrusive site investigations;
- b) A report of findings arising from the intrusive site investigations and the results of any gas monitoring; and
- c) A scheme of remedial/mitigation works.

Before any work starts onsite on the erection of the dwellinghouse the investigation schemes and remediation/mitigation works shall be fully implemented as approved by the Planning Authority and the Coal Authority and a verification report shall be submitted to and approved in writing by the Planning Authority and the house hereby approved shall not be occupied until this has been approved in writing by the Planning Authority.

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

3. Development shall not begin until an application for the approval of matters specified in conditions for the following details has been submitted to and approved in writing by the Planning Authority:

- a) A detailed layout plan of the site, showing the siting of the proposed house, details of vehicular access and parking provision within the site and details of all walls, fences or other means of enclosure, including bin stores or other ancillary structures;

- b) Existing and finished ground levels and floor levels for all buildings, open space and access roads in relation to a fixed datum;
- c) Detailed plans, sections and elevations of the proposed house, indicating the colour and type of materials to be used on the external walls, roof and windows;
- d) Details of all hard surfacing and kerbing;
- e) Details of a sustainability/biodiversity scheme for the site, including the provision of house bricks and boxes for bats and swifts;
- f) Details of the provision of high speed fibre broadband connections for the house;
- g) Details of the provision of electric vehicle charging stations for the house;
- h) Proposals for the treatment and disposal of foul and surface water drainage from the proposed house. Unless otherwise approved in writing by the Planning Authority, the surface water drainage shall comply with the standards detailed in the SUDS Manual;
- i) Details of a scheme of landscaping for the boundaries of the site; and Details shall include a plan showing the position, number, size and species of all trees and shrubs that are proposed to be planted; all trees on the site which are to be removed and retained; and details of the means of protection of all trees that are to be retained.

**Reason:** *Permission is granted in principle only. No details were approved with the application and detailed consideration is required for the siting, massing and design of the proposed dwellinghouse and site access arrangements; to ensure protected species are not adversely affected.*

4. The house hereby approved in terms of conditions 3 (a), (b) and (c) shall be on a maximum of two levels with the upper floor wholly accommodated in the roofspace.

**Reason:** *To ensure that the dwelling is of an appropriate scale to the surrounding rural area; for the avoidance of doubt; to ensure that adequate room is provided to allow for appropriate landscaping; to help integrate the house in the surrounding rural and sensitive area.*

5. The details of the hardstanding required in terms of condition 3d) shall be porous materials.

**Reason:** *In the interests of road safety; to prevent water run-off from the site onto Vogrie Road.*

6. The details of the boundary treatments required in terms of condition 3a) shall include close boarded fencing along the north and east boundaries.

**Reason:** *To protect the amenity of the occupants of the house from noise from the adjacent dog day care business.*

7. The landscape scheme approved in terms of condition 3i) shall include details of planting along the west boundary to Vogrie Road.

8. The scheme of landscaping approved in accordance with condition 3j) shall include details of boundary planting to both integrate the development into the surrounding area and also provide and maintain privacy to existing and future occupants.

**Reason** for conditions 7 and 8: *To ensure the development is integrated into and in keeping with the surrounding rural and sensitive area.*

9. The scheme of landscaping approved in accordance with condition 3i) shall be carried out and completed within six months of the building either being completed or brought into use, whichever is the earlier date. Any trees removed, dying, severely damaged or becoming seriously diseased within five years of planting shall be replaced in the following planting season by trees of a size and species similar to those originally required.

**Reason:** *To ensure the landscaping is carried out and becomes successfully established.*

10. The tree protection measures approved in terms of condition 3i) shall be in place before any work on the development is begun, including site clearance, and shall be retained until the development is completed, including the protection of trees outwith but adjacent to the site which would be affected by development. Within the area enclosed by fencing there shall be no excavation, no removal of soil, no placing of additional soil, no storage of any kind, disposal of any waste or fires lit. These works shall be carried out in accordance with BS5837:2012 Trees in Relation to Design, Demolition and Construction – Recommendations.

**Reason:** *To ensure that the trees and landscaping to be retained are protected from damage during development; to protect the appearance of the surrounding rural area.*

11. Before the new house is occupied the installation of the means of drainage treatment and disposal approved in terms of condition 3h) above shall be completed to the satisfaction of the planning authority.

**Reason:** *To ensure that the house is provided with adequate drainage facilities prior to occupation.*

**Action**

Planning, Sustainable Growth and Investment Manager

Agenda No	Report Title	Presented by:
5.3	Notice of Review – 18-20 Edinburgh Road, Penicuik (20/00562/DPP) – Determination Report.	Joyce Learmonth

## Executive Summary of Report

There was submitted report, dated 2 September 2021 by the Chief Officer Place, regarding an application from Zander Planning Ltd, Clyde Office 2<sup>nd</sup> floor, 48 West George Street, Glasgow, seeking, on behalf of their clients A F Noble and Sons a review of the decision of the Planning Authority to refuse planning permission (20/00562/DPP, refused on 18 June 2021) for the erection of retail (class 1) and food and drink (class 3) units, formation of car park, creation of external seating area and erection of fence and gates at 18-20 Edinburgh Road, Penicuik.

Accompanying the Notice of Review Form and supporting statement, which were appended to the report, was a copy of the report of handling thereon, together with a copy of the decision notice.

## Summary of Discussion

The LRB, having heard from the Planning Advisor, gave careful consideration to the merits of the case based on all the written information provided. In discussing the proposed development and the reasons for its refusal, the LRB considered at length the potential detrimental impact that permitting the proposed development would have on Penicuik town centre; concerns regarding the proposed access arrangements and related road safety concerns; and issues arising a result of its close proximity to the local Primary School.

## Decision

After further discussion, the LRB agreed to dismiss the review request, and refuse planning permission for the following reasons:

1. It has not been demonstrated that the proposed retail and class 3 units would not have a significant detrimental impact on the vitality and viability of Penicuik town centre and so the proposal does not comply with policy TCR2 of the Midlothian Local Development Plan and the Scottish Planning Policy, both of which aim to prioritise and protect town centres through the town centre first principle.
2. The proposed access and turning space within the site raises road safety concerns which would be to the detriment of the safety of road users and customers of the proposed units.
3. The service/delivery area, being located to the front of the building, will have an adverse impact on the appearance of the area, thereby not complying with policy DEV2 of the adopted Midlothian Local Development Plan 2017.
4. The proposed ancillary takeaway for the class 3 unit is within 400m of the curtilage of Strathesk Primary School and so the proposal does not comply with the adopted Supplementary Guidance for Food and Drink and Other Non-retail Uses in Town Centres.

## Action

Planning, Sustainable Growth and Investment Manager

Agenda No	Report Title	Presented by:
5.4	Notice of Review – 33 Mayburn Terrace, Loanhead (21/00032/DPP) – Determination Report.	Joyce Learmonth
<b>Executive Summary of Report</b>		
<p>There was submitted report, dated 2 September 2021 by the Chief Officer Place, regarding an application from Cockburn’s Consultants, 1A Belford Park, Edinburgh seeking, on behalf of their client Mr J Ewen, a review of the decision of the Planning Authority to refuse planning permission (21/00032/DPP, refused 12 March 2021) for the subdivision of existing dwellinghouse to form two flatted dwellings and associated extension and external alterations at 33 Mayburn Terrace, Loanhead.</p> <p>Accompanying the Notice of Review Form and supporting statement, which were appended to the report, was a copy of the report of handling thereon, together with a copy of the decision notice.</p>		
<b>Summary of Discussion</b>		
<p>The LRB, having heard from the Planning Advisor, gave careful consideration to the merits of the case based on all the written information provided. In discussing the proposed change of use and the reasons for its refusal, the LRB considered at length the potential impact that permitting the proposed development would have on existing neighbouring residential properties due to the close proximity of the properties; the adequacy of the level of amenity for future residents of the proposed properties; the lack of off-street parking provision; and access arrangements.</p>		
<b>Decision</b>		
<p>After further discussion, the LRB agreed to dismiss the review request, and refuse planning permission for the following reasons:</p> <ol style="list-style-type: none"> <li>1. The development will provide an inadequate level of amenity for future residents due to the fact that it will be overlooked by existing neighbouring residential properties and that it has not been demonstrated that there will be an adequate level of garden ground being provided for each dwelling within the application site.</li> <li>2. The development will have a detrimental impact on the amenity and privacy of the occupants of the immediately adjacent residential properties due to the close proximity of the properties and the distances between the windows on neighbouring flatted dwellings.</li> <li>3. The proposed development in having no off-street parking provision means that it does not comply with the Council's parking standards and will result in cars being parked on the street to the significant detriment of traffic and pedestrian safety on this busy public transport corridor.</li> <li>4. For the above reasons, the proposal is contrary to policies STRAT2, DEV2 and DEV6 of the adopted Midlothian Local Development Plan 2017.</li> </ol>		
<b>Action</b>		
Planning, Sustainable Growth and Investment Manager		

## **6. Private Reports**

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No private business was discussed.

## **7. Date of Next Meeting**

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The next scheduled meeting will be held on Tuesday 26 October 2021 at 1.00 pm.

The meeting terminated at 1.52pm.



## Local Review Body: Review of Planning Application Reg. No. 20/00695/DPP

APT Planning & Development  
6 High Street  
East Linton  
EH40 3AB

Midlothian Council, as Planning Authority, having considered the review of the application by Mr and Mrs Chris and Emma Flockhart, Lugton House, 6 Lugton Brae, Dalkeith, EH22 1JX, which was registered on 20 October 2020 in pursuance of their powers under the above Act, hereby **grant** permission to carry out the following proposed development:

Erection of dwellinghouse; alterations to existing boundary walls; erection of gates and retaining walls at Land At 6 Lugton Brae, Dalkeith, in accordance with the application and the following plans:

<u>Drawing Description.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	A(01)001 B 1:1250	20.10.2020
Site Plan	A(01)002 D 1:250	20.10.2020
Proposed Floor Plan	A(01)003 C 1:100	20.10.2020
Proposed Floor Plan	A(01)004 B 1:100	20.10.2020
Proposed Elevations	A(03)001 C 1:100	20.10.2020
Proposed Elevations	A(03)002 C 1:100	20.10.2020
Proposed Cross Section	A(04)001 1:100	20.10.2020
Illustration/Photograph	A(03)003 C	20.10.2020

Subject to the following conditions:

1. Prior to the commencement of development, the following details shall be submitted and approved in writing by the planning authority and only those approved details shall be used in the implementation of this grant of planning permission:
  - a) Details and a sample of all external materials;
  - b) Details of the materials of any areas of hardstanding;
  - c) Details of the design, dimensions, materials and colour finish of all new walls, gates, fences or other means of enclosure;

- d) Details of a scheme of landscaping for the site. Details shall include the position, number, size and species of all trees and shrubs that are proposed to be planted, as well as identifying all trees and hedges on site which are proposed to be removed and retained;
- e) Details of a sustainability/biodiversity scheme for the site, including the provision of boxes for bats and birds and sustainability areas; and
- f) Details of the proposed solar including dimensions and illustrations.

**Reason:** *These details were not submitted with the application; in order to ensure that the development hereby approved does not detract from the character and appearance of the surrounding conservation area and nearby listed building.*

- 2. The wall materials approved in condition 1a) above shall be either natural stone, smooth or wet dash render, or timber cladding.

**Reason:** *In order to ensure that the development hereby approved does not detract from the character and appearance of surrounding conservation area and nearby listed building.*

- 3. The landscape plan approved in condition 1d) above shall include that the existing hedge along the west boundary of the site to 6B Lugton Brae is protected during development and retained.

**Reason:** *To protect the character and appearance of the surrounding conservation area; to integrate the house into the area; to protect the amenity and privacy of existing and future occupants.*

- 4. The landscape plan approved in condition 1d) above shall include details of protection measures for the hedge to be retained in condition 3.

- 5. Any temporary protective fencing approved in condition 4 shall be erected before any work on the development is begun, including site clearance, and shall be retained until the development is completed. Within the area enclosed by the fencing there shall be no movement of machinery, excavation, no removal of soil, no placing of additional soil, no storage of any kind, disposal of any waste or fires lit. These works shall be carried out in accordance with BS5838:2012 Trees in Relation to Development.

**Reason for conditions 4 and 5:** *To protect the character and appearance of the surrounding conservation area; to integrate the house into the area; to protect the amenity and privacy of existing and future occupants; to ensure that the hedge to be retained is protected from damage during development; to ensure that the best practice is followed.*

- 6. Development shall not begin until details, including a timetable of implementation, of high speed fibre broadband have been submitted to and approved in writing by the planning authority. The details shall include delivery of high speed fibre broadband prior to the occupation of each

dwellinghouse. The delivery of high speed fibre broadband shall be implemented as per the approved details.

**Reason:** *To ensure the quality of the development is enhanced by the provision of appropriate digital infrastructure in accordance with the requirements of policy IT1 of the adopted Midlothian Local Development Plan 2017.*

7. Development shall not begin until details of the provision and use of electric vehicle charging stations throughout the development have been submitted to and approved in writing by the planning authority. Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be approved in writing by the planning authority.

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

8. Unless otherwise approved in writing by the planning authority, shrubs to be removed to accommodate the outbuilding shall not be removed during the months of March to September inclusive.

**Reason:** *To protect the local biodiversity of the site; there is potential for the disturbance of nesting birds at the site during bird nesting season.*

The Local Review Body (LRB) considered the review of the planning application at its meeting of 14 September 2021.

In reaching its decision the LRB gave consideration to the following development plan policies and material considerations:

Midlothian Local Development Plan Policies:

1. STRAT2: Windfall Housing Sites
2. DEV2: Protecting Amenity within the Built-Up Area
3. DEV5: Sustainability in New Development
4. DEV6: Layout and Design of New Development
5. DEV7: Landscaping in New Development requires
6. TRAN5: Electric Vehicle Charging
7. IT1: Digital Infrastructure
8. ENV7: Landscape Character
9. ENV19: Conservation Areas
10. ENV20: Nationally Important Gardens and Designed Landscapes
11. ENV22: Listed Buildings

Material considerations:

1. The impact of the development on the surrounding conservation area;
2. The impact of the development on the existing houses at the site; and,
3. The planning history of the site.

In determining the review the LRB concluded:

The development is not visually intrusive and would not have a significant impact on the character and appearance of the surrounding Conservation Area as compared to the existing developments in the area, nor would it have a significant detrimental impact on the setting of the listed building. Sufficient amenity space is provided for existing and proposed houses. The development therefore complies with policies DEV2, STRAT2, ENV19 and ENV22 of the adopted Midlothian Local Development Plan 2017.

Dated: 20/09/2021



Joyce Learmonth  
Lead Officer - Major Developments and Enforcement (Advisor to the Local Review  
Body)  
Place Directorate  
Midlothian Council

On behalf of:

Councillor R Imrie  
Chair of the Local Review Body  
Midlothian Council

## NOTICE TO ACCOMPANY REFUSAL ETC.

### TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

***Notification to be sent to applicant on refusal of planning permission or on the grant of permission subject to conditions, or***

***Notification to be sent to applicant on determination by the planning authority of an application following a review conducted under section 43A(8)***

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the town and Country Planning (Scotland) Act 1997.

*Advisory note:*

*If you have any questions or enquiries regarding the Local Review Body procedures or this decision notice please do not hesitate to contact Peter Arnsdorf, Planning Manager tel: 0131 2713310 or via [peter.arnsdorf@midlothian.gov.uk](mailto:peter.arnsdorf@midlothian.gov.uk)*



The Coal  
Authority

**Any Planning Enquiries should be directed to:**

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

**STANDING ADVICE**

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:  
[www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

Standing Advice valid from 1st January 2021 until 31st December 2022

## Local Review Body: Review of Planning Application Reg. No. 20/00375/PPP

David Liston  
Liston Architects  
3F2  
33 London Street  
Edinburgh  
EH3 6LY

Midlothian Council, as Planning Authority, having considered the review of the application by Mr Dougie Givan, Carlyle Lodge, Gorebridge, Midlothian, EH23 4QN, which was registered on 7 July 2020 in pursuance of their powers under the above Act, hereby **grant** permission to carry out the following proposed development:

Application for planning permission in principle for erection of dwellinghouse at Land At 10 Ashbank, Vogrie Road, Gorebridge, in accordance with the application and the following plans:

<u>Drawing Description.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	2004_C_001 1:1000	07.07.2020
Site Plan	2001_B_002 1:200	07.07.2020
Site plan	2001_B_003 1:200	07.07.2020

Subject to the following conditions:

1. Development shall not begin until an application for approval of matters specified in conditions for a scheme to deal with any contamination of the site has been submitted to and approved by the Planning Authority. The scheme shall contain details of the proposals to deal with any contamination and include:
  - a) The nature, extent and types of contamination on the site;
  - b) Measures to treat or remove contamination to ensure that the site is fit for the uses hereby approved, and that there is no risk to the wider environment from contamination originating within the site;
  - c) Measures to deal with contamination encountered during construction work; and
  - d) The condition of the site on completion of the specified decontamination measures.

Before any part of the site is occupied for residential purposes, the measures to decontaminate the site shall be fully implemented as approved by the Planning Authority and a validation report or reports shall be submitted to the and approved in writing by the Planning Authority confirming that the works have been carried out in accordance with the approved scheme.

**Reason:** *To ensure that any contamination on the site is adequately identified and that appropriate decontamination measures are undertaken to mitigate the identified risk to site users and construction workers, built development on the site, landscaped areas, and the wider environment.*

2. Development shall not begin until an application for approval of matters specified in conditions for a scheme of investigation and remediation to deal with previous mineral workings has been submitted to and approved in writing by the Planning Authority. The scheme shall include:

- a) A scheme of intrusive site investigations;
- b) A report of findings arising from the intrusive site investigations and the results of any gas monitoring; and
- c) A scheme of remedial/mitigation works.

Before any work starts onsite on the erection of the dwellinghouse the investigation schemes and remediation/mitigation works shall be fully implemented as approved by the Planning Authority and the Coal Authority and a verification report shall be submitted to and approved in writing by the Planning Authority and the house hereby approved shall not be occupied until this has been approved in writing by the Planning Authority.

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

3. Development shall not begin until an application for the approval of matters specified in conditions for the following details has been submitted to and approved in writing by the Planning Authority:
  - a) A detailed layout plan of the site, showing the siting of the proposed house, details of vehicular access and parking provision within the site and details of all walls, fences or other means of enclosure, including bin stores or other ancillary structures;
  - b) Existing and finished ground levels and floor levels for all buildings, open space and access roads in relation to a fixed datum;
  - c) Detailed plans, sections and elevations of the proposed house, indicating the colour and type of materials to be used on the external walls, roof and windows;
  - d) Details of all hard surfacing and kerbing;
  - e) Details of a sustainability/biodiversity scheme for the site, including the provision of house bricks and boxes for bats and swifts;
  - f) Details of the provision of high speed fibre broadband connections for the house;

- g) Details of the provision of electric vehicle charging stations for the house;
- h) Proposals for the treatment and disposal of foul and surface water drainage from the proposed house. Unless otherwise approved in writing by the Planning Authority, the surface water drainage shall comply with the standards detailed in the SUDS Manual;
- i) Details of a scheme of landscaping for the boundaries of the site. Details shall include a plan showing the position, number, size and species of all trees and shrubs that are proposed to be planted; all trees on the site which are to be removed and retained; and details of the means of protection of all trees that are to be retained.

**Reason:** *Permission is granted in principle only. No details were approved with the application and detailed consideration is required for the siting, massing and design of the proposed dwellinghouse and site access arrangements; to ensure protected species are not adversely affected.*

- 4. The house hereby approved in terms of conditions 3 (a), (b) and (c) shall be on a maximum of two levels with the upper floor wholly accommodated in the roofspace.

**Reason:** *To ensure that the dwelling is of an appropriate scale to the surrounding rural area; for the avoidance of doubt; to ensure that adequate room is provided to allow for appropriate landscaping; to help integrate the house in the surrounding rural and sensitive area.*

- 5. The details of the hardstanding required in terms of condition 3d) shall be porous materials.

**Reason:** *In the interests of road safety; to prevent water run-off from the site onto Vogrie Road.*

- 6. The details of the boundary treatments required in terms of condition 3a) shall include close boarded fencing along the north and east boundaries.

**Reason:** *To protect the amenity of the occupants of the house from noise from the adjacent dog day care business.*

- 7. The landscape scheme approved in terms of condition 3i) shall include details of planting along the west boundary to Vogrie Road.

- 8. The scheme of landscaping approved in accordance with condition 3j) shall include details of boundary planting to both integrate the development into the surrounding area and also provide and maintain privacy to existing and future occupants.

**Reason for conditions 7 and 8:** *To ensure the development is integrated into and in keeping with the surrounding rural and sensitive area.*

- 9. The scheme of landscaping approved in accordance with condition 3i) shall be carried out and completed within six months of the building either being

completed or brought into use, whichever is the earlier date. Any trees removed, dying, severely damaged or becoming seriously diseased within five years of planting shall be replaced in the following planting season by trees of a size and species similar to those originally required.

**Reason:** *To ensure the landscaping is carried out and becomes successfully established.*

10. The tree protection measures approved in terms of condition 3i) shall be in place before any work on the development is begun, including site clearance, and shall be retained until the development is completed, including the protection of trees outwith but adjacent to the site which would be affected by development. Within the area enclosed by fencing there shall be no excavation, no removal of soil, no placing of additional soil, no storage of any kind, disposal of any waste or fires lit. These works shall be carried out in accordance with BS5837:2012 Trees in Relation to Design, Demolition and Construction – Recommendations.

**Reason:** *To ensure that the trees and landscaping to be retained are protected from damage during development; to protect the appearance of the surrounding rural area.*

11. Before the new house is occupied the installation of the means of drainage treatment and disposal approved in terms of condition 3h) above shall be completed to the satisfaction of the planning authority.

**Reason:** *To ensure that the house is provided with adequate drainage facilities prior to occupation.*

The Local Review Body (LRB) considered the review of the planning application at its meeting of 14 September 2021.

In reaching its decision the LRB gave consideration to the following development plan policies and material considerations:

Midlothian Local Development Plan Policies:

1. DEV5 - Sustainability in New Development
2. DEV6 - Layout and Design of New Development;
3. DEV7 - Landscaping in New Development
4. TRAN5 - Electric Vehicle Charging
5. IT1 - Digital Infrastructure
6. RD1 - Development in the Countryside
7. ENV7 - Landscape Character
8. ENV8 – Woodland, Trees and Hedges
9. ENV18 – Noise

Supplementary Guidance for Housing Development in the Countryside and Green Belt

Material considerations:

1. The individual circumstances of the proposal and the site;
2. The representations made in relation to the application; and,
3. The consultation responses.

In determining the review the LRB concluded:

The development is an opportunity to tidy up an untidy workshop and area of hardstanding in an attractive rural location.

Dated: 20/09/2021



Joyce Learmonth  
Lead Officer - Major Developments and Enforcement (Advisor to the Local Review  
Body)  
Place Directorate  
Midlothian Council

On behalf of:

Councillor R Imrie  
Chair of the Local Review Body  
Midlothian Council

## NOTICE TO ACCOMPANY REFUSAL ETC.

### TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

***Notification to be sent to applicant on refusal of planning permission or on the grant of permission subject to conditions, or***

***Notification to be sent to applicant on determination by the planning authority of an application following a review conducted under section 43A(8)***

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the town and Country Planning (Scotland) Act 1997.

*Advisory note:*

*If you have any questions or enquiries regarding the Local Review Body procedures or this decision notice please do not hesitate to contact Peter Arnsdorf, Planning Manager tel: 0131 2713310 or via [peter.arnsdorf@midlothian.gov.uk](mailto:peter.arnsdorf@midlothian.gov.uk)*



**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](mailto:planningconsultation@coal.gov.uk)  
Website: [www.gov.uk/coalauthority](http://www.gov.uk/coalauthority)

**INFORMATIVE NOTE**

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

It is recommended that information outlining how former mining activities may affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), is submitted alongside any subsequent application for Building Warrant approval (if relevant).

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](http://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](http://www.gov.uk/government/organisations/the-coal-authority)

**Informative Note valid from 1st January 2021 until 31st December 2022**



## Local Review Body: Review of Planning Application Reg. No. 20/00562/DPP

Alex Mitchell  
Zander Planning Ltd  
Clyde Offices  
2<sup>nd</sup> Floor  
48 West George Street  
Glasgow  
G2 1BP

Midlothian Council, as Planning Authority, having considered the review of the application by A F Noble and Sons, 2A Eastfield Farm Road, Eastfield Farm Industrial Estate, Penicuik EH26 8EZ, which was registered on 2 September 2020 in pursuance of their powers under the above Act, hereby **refuse** permission to carry out the following proposed development:

Erection of retail (class 1) and food and drink (class 3) units, formation of car park, creation of external seating area and erection of fence and gates at 18 - 20 Edinburgh Road, Penicuik, in accordance with the application and the following plans:

<u>Drawing Description.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	AL(0)001 5 1:1250	02.09.2020
Site Plan	AL(0)001 4 1:500	02.09.2020
Site plan	AL(0)003 6 1:200	02.09.2020
Proposed Floor Plan	AL(0)005 6 1:125	02.09.2020
Proposed Elevations	AL(0)009 5 1:100	02.09.2020

The reason for the Council's decision is set out below:

- 1. It has not been demonstrated that the proposed retail and class 3 units would not have a significant detrimental impact on the vitality and viability of Penicuik town centre and so the proposal does not comply with policy TCR2 of the Midlothian Local Development Plan and the Scottish Planning Policy, both of which aim to prioritise and protect town centres through the town centre first principle.*

2. *The proposed access and turning space within the site raises road safety concerns which would be to the detriment of the safety of road users and customers of the proposed units.*
3. *The service/delivery area, being located to the front of the building, will have an adverse impact on the appearance of the area, thereby not complying with policy DEV2 of the adopted Midlothian Local Development Plan 2017.*
4. *The proposed ancillary takeaway for the class 3 unit is within 400m of the curtilage of Strathesk Primary School and so the proposal does not comply with the adopted Supplementary Guidance for Food and Drink and Other Non-retail Uses in Town Centres.*

The Local Review Body (LRB) considered the review of the planning application at its meeting of 14 September 2021.

In reaching its decision the LRB gave consideration to the following development plan policies and material considerations:

Midlothian Local Development Plan Policies:

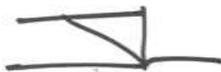
1. DEV2: Protecting Amenity within the Built-Up Area
2. DEV5: Sustainability in New Development
3. DEV6: Layout and Design of New Development
4. DEV7: Landscaping in New Development requires
5. TRAN5: Electric Vehicle Charging
6. IT1: Digital Infrastructure
7. TCR2 Location of New Retail and Commercial Leisure Facilities

Supplementary Guidance on Food & Drink and Other Non-Retail Uses in Town Centres

Material considerations:

1. The individual circumstances of the proposal and the site.
2. The representations received.
3. The consultation responses received.

Dated: 20/09/2021



Joyce Learmonth  
Lead Officer - Major Developments and Enforcement (Advisor to the Local Review Body)  
Place Directorate

Midlothian Council

On behalf of:

Councillor R Imrie  
Chair of the Local Review Body  
Midlothian Council

## NOTICE TO ACCOMPANY REFUSAL ETC.

### TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

***Notification to be sent to applicant on refusal of planning permission or on the grant of permission subject to conditions, or***

***Notification to be sent to applicant on determination by the planning authority of an application following a review conducted under section 43A(8)***

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the town and Country Planning (Scotland) Act 1997.

*Advisory note:*

*If you have any questions or enquiries regarding the Local Review Body procedures or this decision notice please do not hesitate to contact Peter Arnsdorf, Planning Manager tel: 0131 2713310 or via [peter.arnsdorf@midlothian.gov.uk](mailto:peter.arnsdorf@midlothian.gov.uk)*



The Coal  
Authority

**Any Planning Enquiries should be directed to:**

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

**STANDING ADVICE**

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:  
[www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

Standing Advice valid from 1st January 2021 until 31st December 2022



## Local Review Body: Review of Planning Application Reg. No. 21/00032/DPP

Brent Quinn  
Cockburn's Consultants  
1A Belford Park  
Edinburgh  
EH4 3DP

Midlothian Council, as Planning Authority, having considered the review of the application by Mr James Ewen, Ewen Property, 29 Stafford Street, Edinburgh, EH3 7BJ, which was registered on 14 January 2021 in pursuance of their powers under the above Act, hereby **refuse** permission to carry out the following proposed development:

Subdivision of existing dwellinghouse to form two flatted dwellings and associated extension and external alterations at 33 Mayburn Terrace, Loanhead, in accordance with the application and the following plans:

<u>Drawing Description.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	1:1250	14.01.2021
Site Plan	20417-42A 1:200 1:50	14.01.2021
Elevations, Floor Plans	20417-40 1:50	14.01.2021
Elevations, Floor Plans	20417-41C 1:50	10.03.2021

The reason for the Council's decision is set out below:

1. *The development will not provide an inadequate level of amenity for future residents due to the fact that it will be overlooked by existing neighbouring residential properties and that it has not been demonstrated that there will be an adequate level of garden ground provided for each dwelling within the application site.*
2. *The development will have a detrimental impact on the amenity and privacy of the occupants of the immediately adjacent residential properties due to the close proximity of the properties and the distances between the windows on neighbouring flatted dwellings.*
3. *The proposed development in having no off-street parking provision means that it does not comply with the Council's parking standards and*

*will result in cars being parked on the street to the significant detriment of traffic and pedestrian safety on this busy public transport corridor.*

4. *For the above reasons, the proposal is contrary to policies STRAT2, DEV2 and DEV6 of the adopted Midlothian Local Development Plan 2017.*

The Local Review Body (LRB) considered the review of the planning application at its meeting of 14 September 2021.

In reaching its decision the LRB gave consideration to the following development plan policies and material considerations:

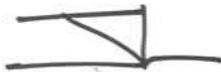
Midlothian Local Development Plan Policies:

1. STRAT2: Windfall Housing Sites
2. DEV2: Protecting Amenity within the Built-Up Area
3. DEV6: Layout and Design of New Development
4. TRAN5: Electric Vehicle Charging
5. IT1: Digital Infrastructure

Material considerations:

1. The individual circumstances of the proposal and the site.
2. The consultation response received in relation to the application.
3. The representations received in relation to the planning application.

Dated: 20/09/2021



Joyce Learmonth  
Lead Officer - Major Developments and Enforcement (Advisor to the Local Review Body)  
Place Directorate  
Midlothian Council

On behalf of:

Councillor R Imrie  
Chair of the Local Review Body  
Midlothian Council

## NOTICE TO ACCOMPANY REFUSAL ETC.

### TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

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***Notification to be sent to applicant on determination by the planning authority of an application following a review conducted under section 43A(8)***

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the town and Country Planning (Scotland) Act 1997.

*Advisory note:*

*If you have any questions or enquiries regarding the Local Review Body procedures or this decision notice please do not hesitate to contact Peter Arnsdorf, Planning Manager tel: 0131 2713310 or via [peter.arnsdorf@midlothian.gov.uk](mailto:peter.arnsdorf@midlothian.gov.uk)*



The Coal  
Authority

**Any Planning Enquiries should be directed to:**

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

**STANDING ADVICE**

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:  
[www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

Standing Advice valid from 1st January 2021 until 31st December 2022

## **Notice of Review: 10 Poplar Street, Mayfield**

### **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 driveway; erection of retaining walls/fence (retrospective) at 10 Poplar Street, Mayfield.

#### **2 Background**

- 2.1 Planning application 20/00481/DPP for the formation of driveway; erection of retaining walls/fence (retrospective) at 10 Poplar Street, Mayfield was refused planning permission on 30 July 2021; 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 30 July 2021 (Appendix D); and
  - A copy of the plans/drawings and photographs (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](http://www.midlothian.gov.uk)

#### **4 Procedures**

- 4.1 In accordance with procedures agreed by the LRB, the LRB by agreement of the Chair:

- Have determined to consider a visual presentation of the site and undertake a site visit; and
  - Have determined to progress the review by written submissions.
- 4.2 The case officer's report identified that there was one consultation response received. As part of the review process the interested party was 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 to the next 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 13 June 2017, and without prejudice to the determination of the review, the following conditions have been prepared for the consideration of the LRB if it is minded to uphold the review and grant planning permission.
1. A standard dropped kerb footway crossing shall be constructed at the vehicle entrance within 3 months from this grant of planning permission.

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

2. A minimum of the first 2m of driveway from the rear of the public footway shall be surfaced in non-loose material within 3 months from this grant of planning permission.

**Reason:** *In the interests of road safety and to ensure that a car can be safety parked off the public highway.*

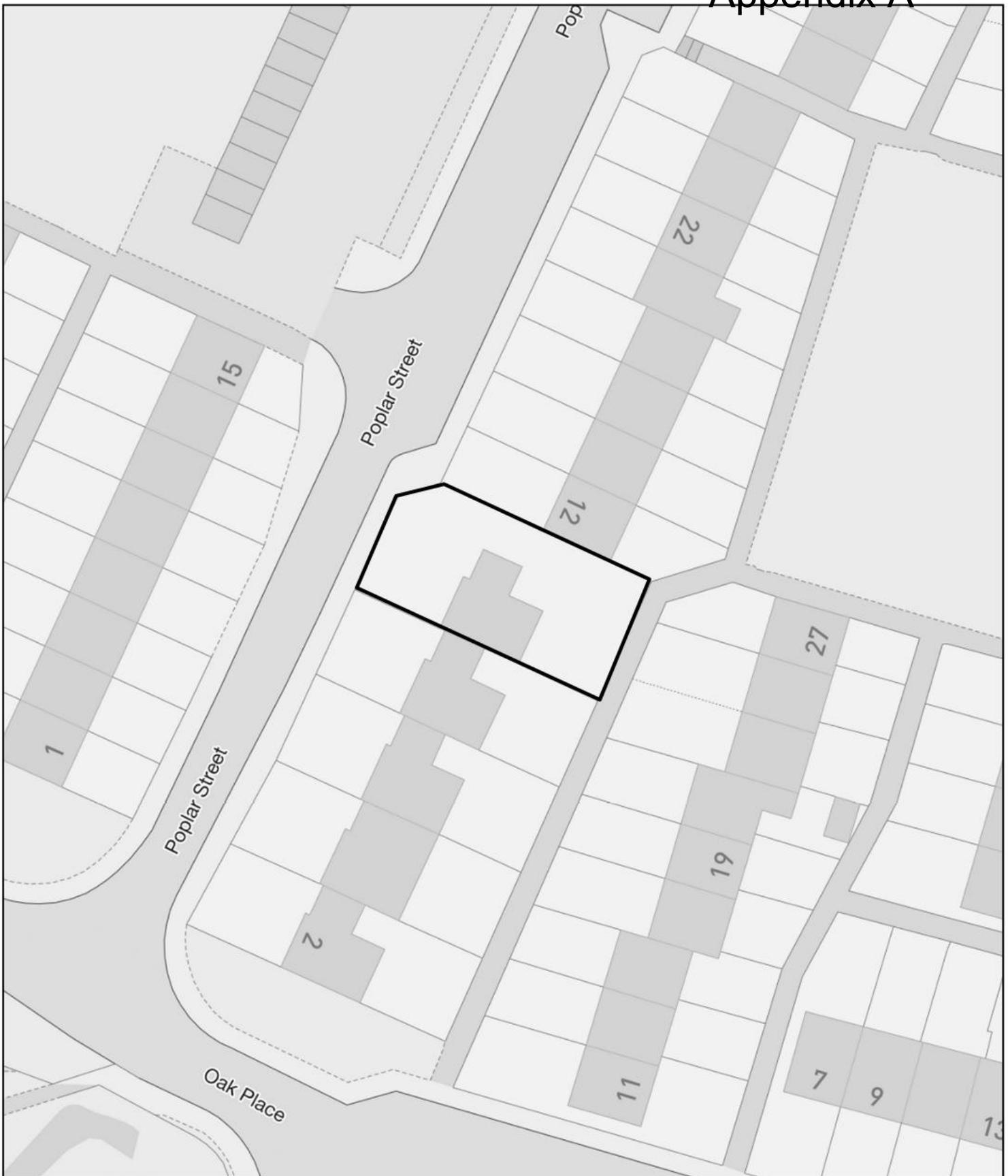
## **6 Recommendations**

- 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

**Date:** 15 October 2021

**Report Contact:** Peter Arnsdorf, Planning Manager  
[peter.arnsdorf@midlothian.gov.uk](mailto:peter.arnsdorf@midlothian.gov.uk)

**Background Papers:** Planning application 20/00481/DPP available for inspection online.



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

Formation of driveway; erection of retaining walls/fence (retrospective) at 10 Poplar Street, Mayfield, Dalkeith, EH22 5LW

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File No: 21/00481/DPP



Scale: 1:500  
Page 42 of 58

## NOTICE OF REVIEW

Under Section 43A(8) Of the Town and County 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	George	Forename	
Surname	Burnett	Surname	
Company Name		Company Name	
Building No./Name	10	Building No./Name	
Address Line 1	Poplar Street	Address Line 1	
Address Line 2	Mayfield	Address Line 2	
Town/City	Dalkeith	Town/City	
Postcode	EH22 5LW	Postcode	
Telephone		Telephone	
Mobile		Mobile	
Fax		Fax	
Email		Email	
3. Application Details			
Planning authority	Midlothian Council		
Planning authority's application reference number	21/00481/DPP		
Site address	10 Poplar Street, Mayfield, Dalkeith, EH22 5LW.		
Description of proposed development	Formation of drive way including retaining wall.		

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:

There is no reason that an unaccompanied inspection can take place however I would like to show my car on the drive to show how it does not encroach on the pavement and how the drive was formed to suit the smaller nature of the cars I drive.

## 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.

1. I have and can provide photographic evidence that my car when parked on the drive does not encroach on the pavement.
2. I also propose that I can remove the slabs and park my car parallel to the footpath which again does not encroach on the pavement.

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

I will submit 5x photographs to support what I have said above as evidence of my vehicle not encroaching the footpath.

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:  Date:

**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:** 21/00481/DPP

**Site Address:** 10 Poplar Street, Mayfield, Dalkeith, EH22 5LW

#### **Site Description:**

The application site comprises a semi-detached dwelling and associated garden located within a residential area. The front garden has been landscaped with retaining wall installed at a maximum height of 1.1m and timber fence 0.9m in height constructed to separate the remaining garden area in front of the dwellinghouse. The garden area comprises a mix of grass and Astroturf surface. The driveway is positioned beyond the retaining wall at road level and has been constructed using a mix of paving and gravel surfacing.

#### **Proposed Development:**

Formation of driveway; erection of retaining walls/fence (retrospective)

#### **Proposed Development Details:**

The front garden has been landscaped with a section directly off the road surfaced with mix of gravel and paving to create a driveway. The driveway section is 7.7m wide and 4.3m deep.

A retaining wall and timber fence to the rear of the driveway has been installed. The retaining wall is 1.1m in height to the north, dropping to 0.9m to the south owing to a change in ground level. The fence is 0.9m in height.

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

History sheet checked.

#### **Consultations:**

The **Policy and Road Safety Manager** recommends refusal of the planning application. The driveway associated with the application is only 4.3m long and this short length would be unable to safely accommodate the majority of private cars. Driveways should be a minimum of 6m long by 3m wide. Driveways of substandard length can result in parked vehicles overhanging and obstructing the public footway, resulting in pedestrians being required to walk on the carriageway. The potential impact of the driveway is therefore clearly undesirable and not in the interests of improving road safety, and as such it is recommend that this application be refused.

#### **Representations:**

None received.

#### **Relevant Planning Policies:**

The relevant policy of the **Midlothian Local Development Plan 2017** is;

DEV2 – Protecting amenity within the built-up area - seeks to protect the character and amenity of the built-up 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.

The proposal is a retrospective planning application for the formation of a driveway to serve the application site, along with the instillation of a retaining wall and fence within the front garden of the property. The driveway measures a maximum length of 4.3m.

The proposal will not have a significant impact on the visual amenity of the area. The retaining wall and associated fence do not result in a significant detrimental impact on the character of the streetscape or dwellinghouse.

However a major issue in the consideration of the application is road safety. The proposed length of the driveway at 4.3m is much less than the standard 6m and may result in parked vehicles overhanging and obstructing the public footway, resulting in pedestrians being required to walk on the carriageway. This is clearly undesirable and would not be in the interests of improving road safety. 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.

**Recommendation:**

Refuse planning permission

# Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

**Reg. No. 21/00481/DPP**

Mr George Burnett  
10 Poplar Street  
Mayfield  
Dalkeith  
EH225LW

Midlothian Council, as Planning Authority, having considered the application by Mr George Burnett, 10 Poplar Street, Mayfield, Dalkeith, EH225LW, which was registered on 7 June 2021 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

**Formation of driveway; erection of retaining walls/fence (retrospective) at 10 Poplar Street, Mayfield, Dalkeith, EH22 5LW**

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

<u>Document/Drawing.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	1:1250	07.06.2021
Proposed floor plan	1:50	07.06.2021
Proposed floor plan	Not to scale	07.06.2021
Illustration/Photograph		07.06.2021
Supporting statement	Annotated Photographs	07.06.2021

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

*The proposed length of the driveway at 4.3m will result in parked vehicles overhanging and obstructing the public footway, resulting in pedestrians being required to walk on 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 safety.*

Dated 30 / 7 / 2021



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



The Coal  
Authority

**Any Planning Enquiries should be directed to:**

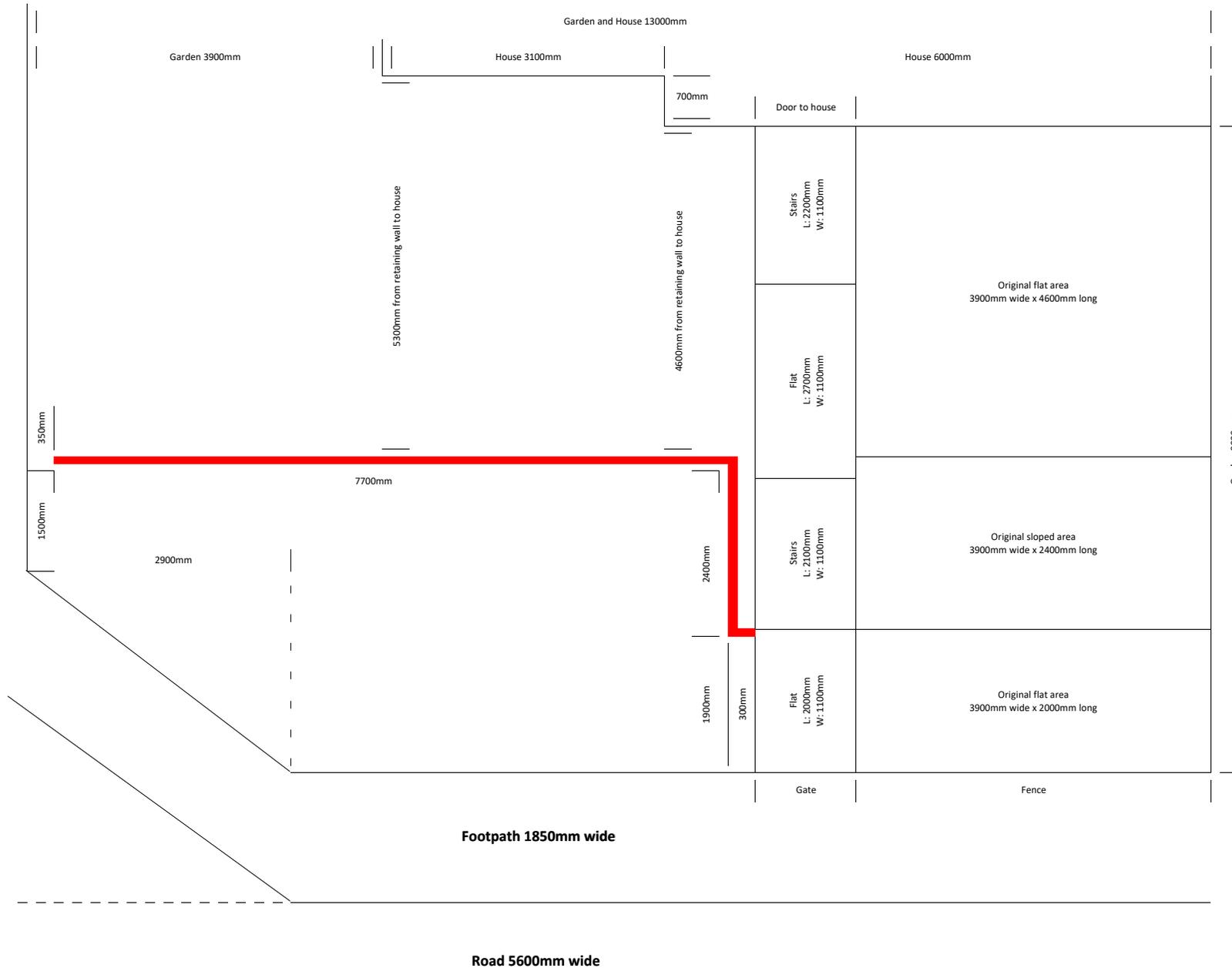
Planning and Local Authority Liaison  
Direct Telephone: 01623 637 119  
Email: [planningconsultation@coal.gov.uk](mailto:planningconsultation@coal.gov.uk)  
Website: [www.gov.uk/coalauthority](http://www.gov.uk/coalauthority)

**STANDING ADVICE**

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

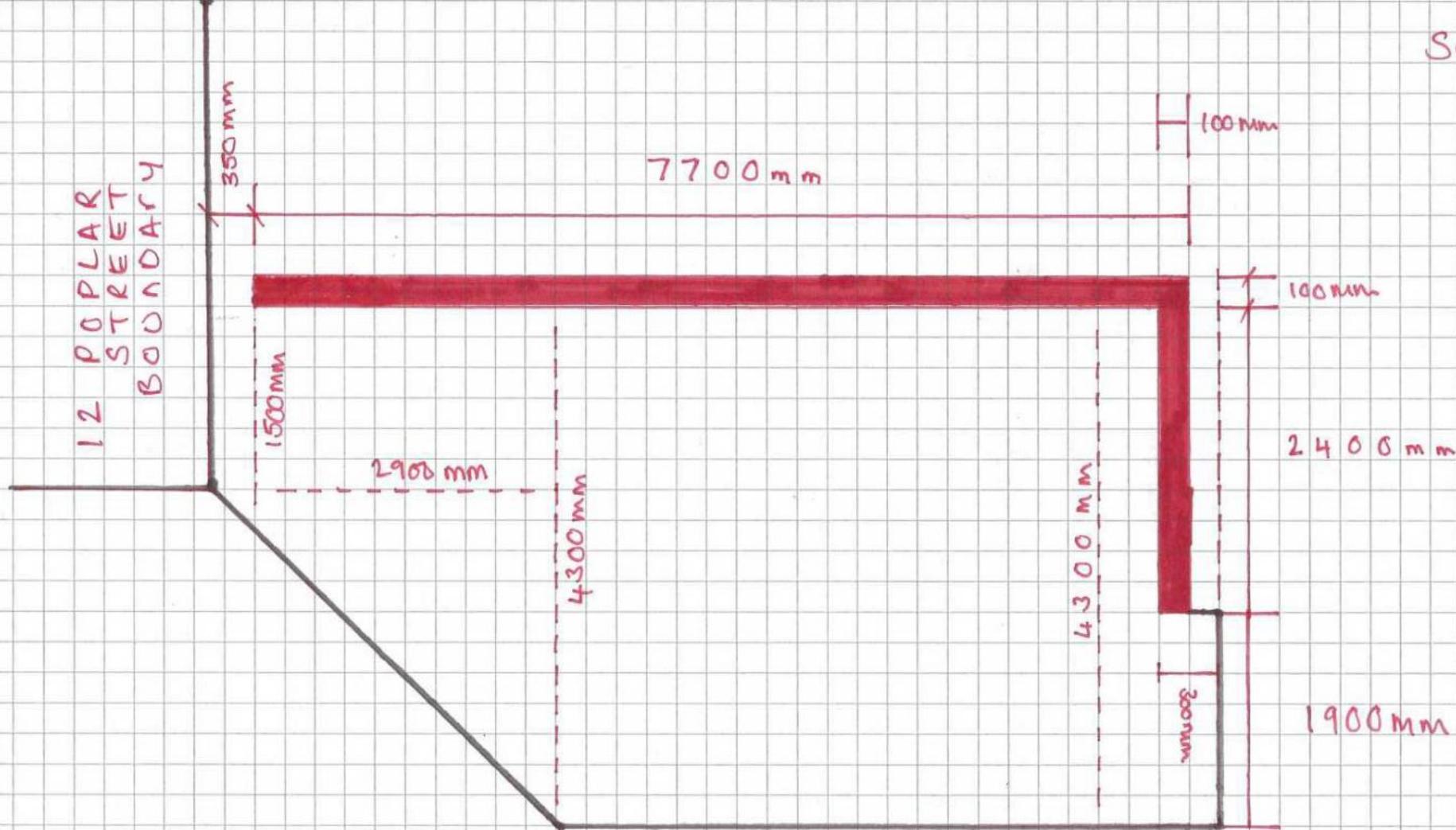
Further information is also available on the Coal Authority website at:  
[www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

Standing Advice valid from 1st January 2021 until 31st December 2022



- 1: New retaining structure highlighted in Red:  
**7700mm wide x 2400mm long**
- 2: Constructed using wooden sleepers:  
**2400mm x 200mm x 100mm**
- 3: 7700mm section ranges in height L2R:  
**1130mm to 900mm**
- 4: 2400mm section ranges in height B2F:  
**900mm to 200mm**
- 5: New fence installed above retaining wall:  
**900mm height throughout**
- 6: Ranges in distance from house:  
**4600mm to 5300mm**
- 7: Ranges in distance from footpath:  
**1500mm to 4300mm**
- 8: Clearance to boundary with 12 Poplar Street:  
**350mm**
- 9: No change to level of grassed area behind retaining wall.
- 10: No change to access stairs or paths to house.

Scale 1:50



- Constructed using 200 mm x 100 mm x 2400 mm Wooden Sleepers
- 7700 mm Section left to right heights: 1130 mm Left, 1000 mm Middle, 900 mm Right.
- 2400 mm Stepped Section heights: 900 mm to 200 mm.
- fence above retaining wall 900 mm throughout.



mazda 2

2.0L i4

[Redacted license plate]



