



Notice of Review: 36 Cowden Crescent, Dalkeith

Determination Report

Report by Dr Mary Smith Director of Education, Communities and Economy

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 and erection of retaining walls at 36 Cowden Crescent, Dalkeith.

2 Background

- 2.1 Planning application 18/00750/DPP for the formation of driveway and erection of retaining walls at 36 Cowden Crescent, Dalkeith was refused planning permission on 6 November 2018; 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, issued on 6 November 2018 (Appendix D); and
 - A copy of the relevant drawings/plans (Appendix E).
- 3.2 The full planning application case file and the development plan policies referred to in the case officer's report can be viewed online via www.midlothian.gov.uk

4 Procedures

- 4.1 In accordance with procedures agreed by the LRB, the LRB by agreement of the Chair:
- Have scheduled an accompanied site visit for Tuesday 5 March 2019; and
 - Have determined to progress the review by way of a hearing.

- 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 party was notified of the review. No additional comments have been received. All the 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. Details of the material, height and design of any safety barriers proposed on top of the retaining walls shall be submitted to the planning authority and they shall not be installed until these details have been approved in writing by the planning authority.

Reason: To safeguard the character of the application property and the visual amenity of the surrounding area.

2. Details of the height, materials and design of any gates to be installed at the vehicular entrance shall be submitted to the planning authority and the gates shall not be installed until these details have been approved in writing by the planning authority.

Reason: To safeguard the visual amenity of the surrounding area.

3. Any gates to the vehicular access shall be so designed and installed so 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.*

4. Prior to the driveway being brought into use a dropped kerb footway crossing shall be constructed at the vehicle entrance.

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

5. The driveway shall be made of porous materials or provision made to direct run off water to a permeable or porous area or surface within the curtilage of the dwelling house.

Reason: *In order to minimise flooding and pollution of water courses.*

6 Recommendations

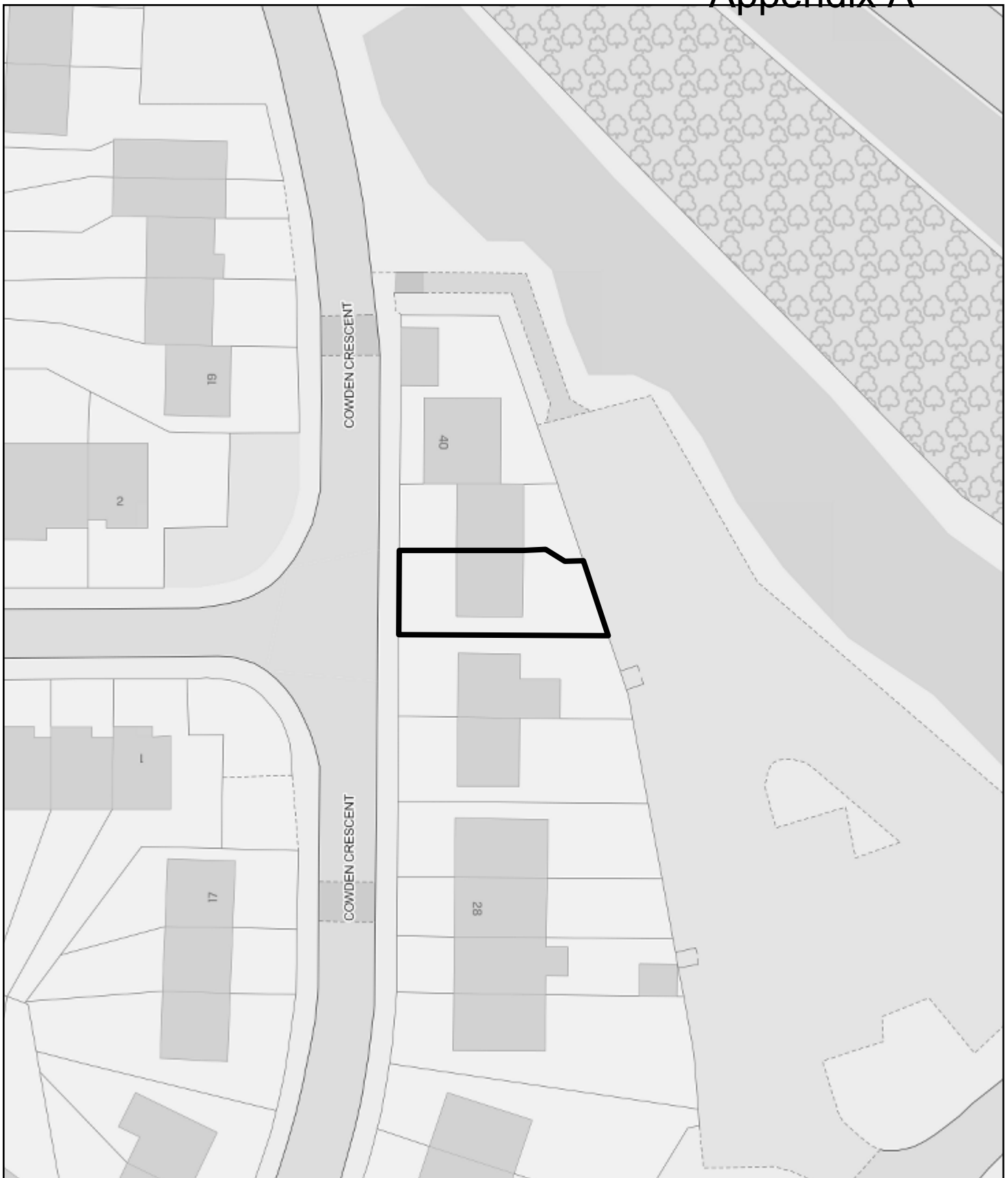
- 6.1 It is recommended that the LRB:
 - a) determine the review; and
 - b) the planning advisor draft and issue the decision of the LRB through the Chair

Date: 26 February 2019

Report Contact: Peter Arnsdorf, Planning Manager (LRB Advisor)
peter.arnsdorf@midlothian.gov.uk

Tel No: 0131 271 3310

Background Papers: Planning Application File 18/00750/DPP



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

Formation of driveway and erection of associated
retaining walls at 36 Cowden Crescent, Dalkeith

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File No. 18/00750/DPP

Scale: 1:500



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

Title	MRS
Forename	CAROLINE
Surname	MORFAT
Company Name	
Building No./Name	36
Address Line 1	Cowden Crescent
Address Line 2	Dalkeith
Town/City	midlothian
Postcode	EH22 2HN
Telephone	0781 787777
Mobile	
Fax	
Email	

2. Agent's Details (If any)

Ref No.	
Forename	
Surname	
Company Name	
Building No./Name	
Address Line 1	
Address Line 2	
Town/City	
Postcode	
Telephone	
Mobile	
Fax	
Email	

3. Application Details

Planning authority	
Planning authority's application reference number	

Site address

36 Cowden Crescent Dalkeith EH22 2HN

Description of proposed development

double driveway

Date of application

2/10/18

Date of decision (if any)

6/11/18

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.

A hearing would be beneficial to enable the issues in the statement could be investigated. To enable clarification of why other residents have drawn either the same size or less than I have requested

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?



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

All information included in original application

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:

[Redacted Signature]

Name:

[Redacted Name]

Date:

16/1/19

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

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

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. There is precedent in the Council of driveways of similar dimensions
2. MLC removed parking at the rear of the property to accommodate housing.
3. Husband had serious heart attack and there is limited parking in the street for emergency vehicles
4. By building a driveway I will be removing car from the road.

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 you 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.

MIDLOTHIAN COUNCIL

DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

Planning Application Reference: 18/00750/dpp

Site Address: 36 Cowden Crescent, Dalkeith

Site Description:

The application property comprises an end terrace two storey dwellinghouse finished in drydash render with a brick (painted black) basecourse. The garden and house sit at an elevated level by approximately 0.9m above the pavement level.

Proposed Development:

Formation of driveway and erection of associated retaining walls

Proposed Development Details:

It is proposed to form a driveway within the front garden. It is to be surfaced in block paving. The works include lowering the level of the front garden to provide a driveway level with the pavement with 0.9m high brick retaining walls. The submitted details are annotated that the proposed driveway is to be 4.3m long and 9m wide with concrete steps leading up to the house in the middle.

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

History sheet checked.

Consultations:

Policy and Road Safety Manager –no objection in principle to the formation of driveways at this location however not supportive of application in its present form. The substandard length at 4.3m 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.

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 will not have a significant impact on the visual amenity of the area. The retaining wall would be more in keeping with the predominant finish on the house if it was rendered to match. However there is a small brick wall and reconstituted stone wall within neighbouring front gardens. Also a 1m high boundary wall could be erected along the site frontage without requiring planning permission from the Council.

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. 18/00750/DPP

Mrs Caroline Moffat
36 Cowden Crescent
Dalkeith
EH22 2HN

Midlothian Council, as Planning Authority, having considered the application by Mrs Caroline Moffat, 36 Cowden Crescent, Dalkeith, EH22 2HN, which was registered on 2 October 2018 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

Formation of driveway and erection of associated retaining walls at 36 Cowden Crescent, Dalkeith, EH22 2HN

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	02.10.2018
Site Plan		02.10.2018
Illustration/Photograph		02.10.2018
Illustration/Photograph		02.10.2018

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

The proposed length of the driveway at 4.3m may 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 6 / 11 / 2018

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

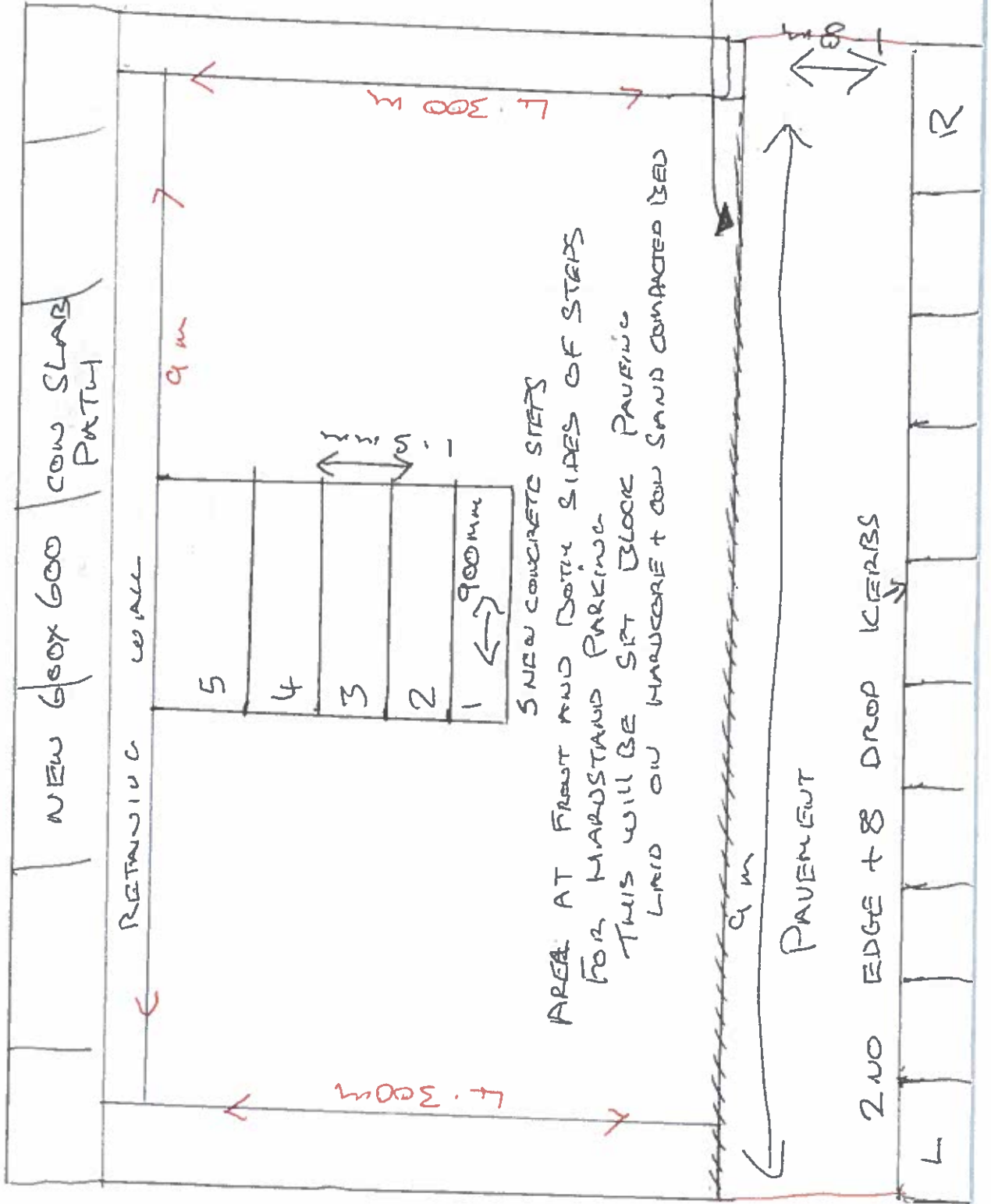
HOUSE

RECEIVED	02 OCT 2018
FILE	12/00750
CORPORATE RESOURCES	

RETAINING

WALL
WILL BE BUILT
WITH A
9" DOUBLE SIK
FACE BRICK
WALL
9m x 4.300m
BY 900mm
HIGH

Fence removed
and left
open for
access



2 NO EDGE + 8 DROP KERBS

PAVEMENT

NEW CONCRETE STEPS

AREA AT FRONT AND BOTH SIDES OF STEPS

FOR MARSHLAND PARKING

THIS WILL BE SET BLOCK PAVING

Laid on hardcore + sub sand compacted bed

4.300m

9m

900mm

4.300m

RETAINING WALL

NEW 600x600 CONCRETE SLAB

PARTIAL

R

L

Red line boundary indicates retaining walls

12



Red Line indicates boundary of retaining walls



steps removed and moved back as per site plan

L