

Notice of Review: 5 Braeside Road South, Gorebridge

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 alterations to garden levels, erection of retaining wall and formation of driveway (retrospective) at 5 Braeside Road South, Gorebridge.

2 Background

- 2.1 Planning application 23/00033/DPP for alterations to garden levels, erection of retaining wall and formation of driveway (retrospective) at 5 Braeside Road South, Gorebridge was granted planning permission subject to conditions on 17 March 2023; a copy of the decision is attached to this report. Condition 1 on planning permission 23/00033/DPP subject to review is as follows:

1. The depth of the driveway as shown on the site plan is not approved: within three months of the date of this decision the rear section of retaining wall shall be repositioned closer to the house and the depth of the hardstanding shall be increased from 4.2m to a minimum of 4.8m as measured from the rear of the pavement along the site frontage.

Reason: *In order that a car can be safely parked off the public highway: to ensure no hazard is caused to pedestrians using the footway.*

The applicant is requesting that this condition is removed from the grant of planning permission and as a consequence the retaining wall shall stay in situ as positioned and the driveway will be retained at 4.2m

- 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 17 March 2023 (Appendix D); and
 - A copy of the key plans/drawings (Appendix E).
- 3.2 The full planning application case file and the development plan policies referred to in the case officer's report can be viewed online via www.midlothian.gov.uk.

4 Procedures

- 4.1 In accordance with agreed procedures, the LRB:
- Have determined to undertake a site visit (only elected members attending the site visit can participate in the determination of the review); and
 - Have determined to progress the review by written submissions.
- 4.2 The case officer's report identified that there 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 comments can be viewed online on the electronic planning application case file.
- 4.3 The next stage in the process is for the LRB to determine the review in accordance with the agreed procedure:
- Identify any provisions of the development plan which are relevant to the decision;
 - Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies;
 - Consider whether or not the proposal accords with the development plan;
 - Identify and consider relevant material considerations for and against the proposal;
 - Assess whether these considerations warrant a departure from the development plan; and
 - State the reason/s for the decision and state any conditions required if planning permission is granted.
- 4.4 In reaching a decision on the case the planning advisor can advise on appropriate phraseology and on appropriate planning reasons for reaching a decision.
- 4.5 Following the determination of the review the planning advisor will prepare a decision notice for issuing through the Chair of the LRB. A copy of the decision notice will be reported back to the LRB for noting.
- 4.6 A copy of the LRB decision will be placed on the planning authority's planning register and made available for inspection online.

5 Conditions

- 5.1 In accordance with the procedures agreed by the LRB at its meeting of 20 June 2022, and without prejudice to the determination of the review,

the following condition has been prepared for the consideration of the LRB if it is minded to uphold the review and grant planning permission.

1. Any railings to be erected on top of the retaining walls shall be in accordance with details to be submitted to and approved in writing by the planning authority. The railings shall thereafter be retained in accordance with the approved details unless otherwise agreed in writing by the planning authority.

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

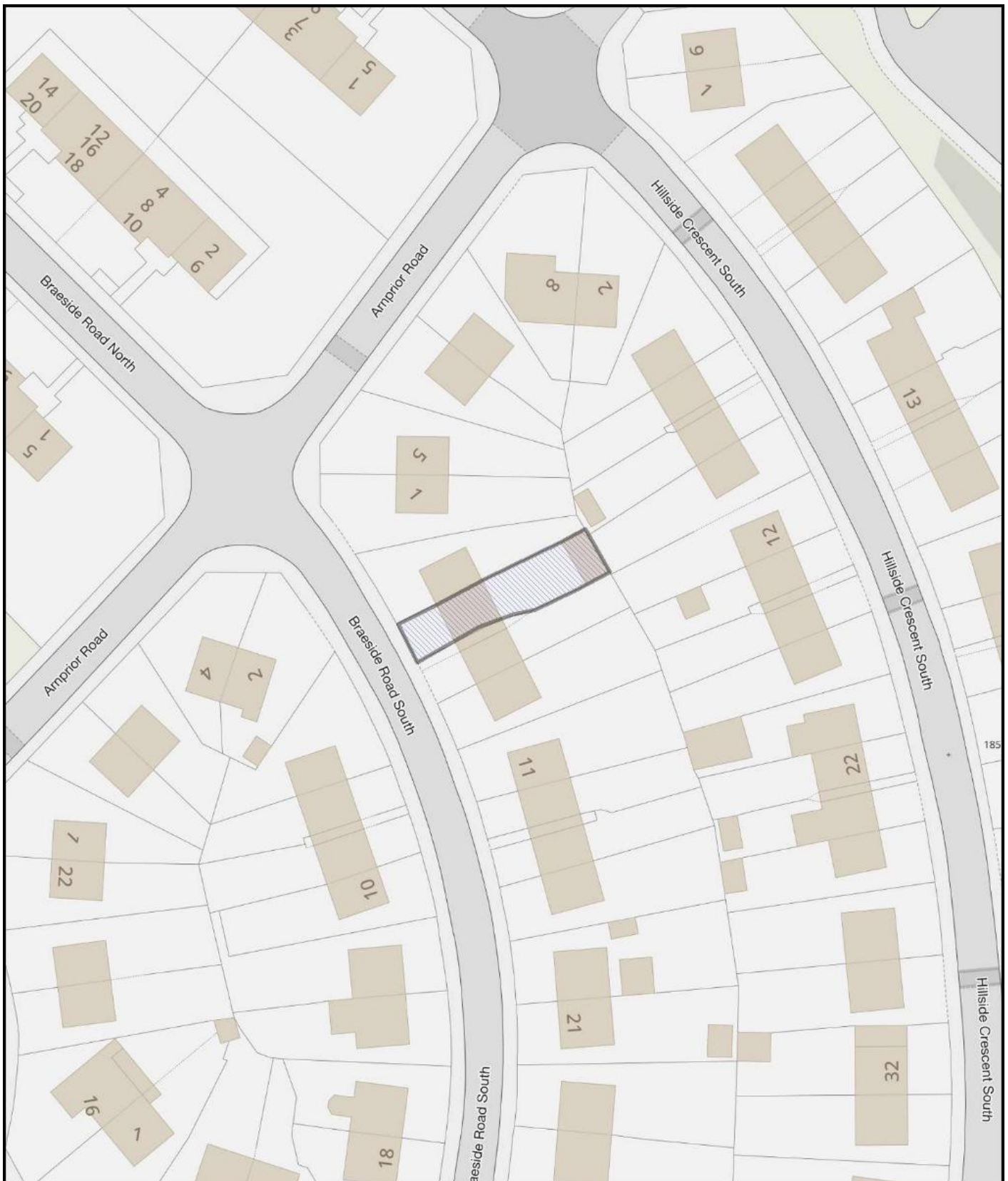
6 Recommendations

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

Peter Arnsdorf
Planning, Sustainable Growth and Investment Manager

Date: 10 June 2023
Report Contact: Peter Arnsdorf - Planning, Sustainable Growth and Investment Manager
peter.arnsdorf@midlothian.gov.uk

Background Papers: Planning application 23/00033/DPP available for inspection online.



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

Formation of driveway and associated works 5 Braeside Road South, Gorebridge

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File No.23/00033/DPP

Scale: 1:750





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

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

Thank you for completing this application form:

ONLINE REFERENCE 100600870-005

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

Applicant or Agent Details

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

☒ Applicant ☐ Agent

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Miss"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text" value="Michelle"/>	Building Number:	<input type="text" value="5"/>
Last Name: *	<input type="text" value="Watson"/>	Address 1 (Street): *	<input type="text" value="5 Braeside Road South"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text" value="REDACTED"/>	Town/City: *	<input type="text" value="Gorebridge"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="EH23 4DN"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="REDACTED"/>		

Site Address Details

Planning Authority:

Midlothian Council

Full postal address of the site (including postcode where available):

Address 1:

5 BRAESIDE ROAD SOUTH

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

GOREBRIDGE

Post Code:

EH23 4DN

Please identify/describe the location of the site or sites

Northing

661613

Easting

334838

Description of Proposal

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

(Max 500 characters)

Driveway

Type of Application

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

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

What does your review relate to? *

☐ Refusal Notice.

☒ Grant of permission with Conditions imposed.

☐ No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

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

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

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

I state that the driveway in my property is identical to the ones which are nearby. The vehicle I own safely fits the driveway space available. I believe the modifications mentioned(condition 1)is cosmetic and superficial. There is a pipeline laid in front of the house, which will prevent any demolition of the wall.This type of small scale building work does not have a significant impact on the character of the house, the visual amenity of the area or the amenity of the neighbouring houses.

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

☐ Yes ☒ No

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

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

I will Include 2 photos of my car safely within my driveway that show the public pathway completely clear and safe for people to walk past.

Application Details

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

23/00033/dpp

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

23/01/2023

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

21/03/2023

Review Procedure

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

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

T Yes ≤ No

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

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

T Yes ≤ No

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

T Yes ≤ No

Checklist – Application for Notice of Review

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

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

T Yes ≤ No

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

T Yes ≤ No

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

≤ Yes ≤ No T N/A

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

T Yes ≤ No

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

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

T Yes ≤ No

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

Declare – Notice of Review

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

Declaration Name: Miss Michelle Watson

Declaration Date: 27/04/2023





MIDLOTHIAN COUNCIL

DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

Planning Application Reference: 23/00033/dpp

Site Address: 5 Braeside Road South, Gorebridge

Site Description:

The application property comprises a two storey mid-terraced dwellinghouse, and its associated garden located within a residential area. The house is finished externally in drydash render with a painted brick basecourse. The house at the application site is set at an elevated level as compared to the road at the front of the house. A driveway with retaining walls along the sides and rear has been formed in the front garden.

Proposed Development:

Alterations to garden levels, erection of retaining wall and formation of driveway (retrospective)

Proposed Development Details:

Planning permission is being sought retrospectively for a driveway and retaining walls formed in the front garden of the application property. The front garden has been excavated to form a driveway level with the pavement. The driveway surface measures 4.2m deep by 5.1m wide and is surfaced in monoblock. Block retaining walls have been erected at the side and rear of the driveway measuring 0.65m in height for a distance of 1.6m from the rear of the pavement and then rising in height to 1.3m.

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

History sheet checked.

22/00394/dpp - Formation of driveway and associated alterations to garden levels at 7 Braeside Road South - proposal for a driveway within the front garden. Application assessed on the basis of altering the ground levels to form a sloped driveway rising in level from the pavement to the ground level at the front of the house. Submitted plans indicated the driveway measuring 6m wide by 6m deep with the part of the driveway nearest the house measuring 1.3m above the ground level of the pavement at the front of the house. PP 26.07.22 subject to conditions including details of surface materials and retaining walls.

Consultations:

Senior Manager Neighbourhood Services (Roads) - recommends that the application be refused - road safety concerns over the very short length of driveway which has been provided. Driveways of a substandard length can result in parked vehicles overhanging and obstructing the public footway which can result in pedestrians being required to walk on the carriageway.

Representations:

None received.

Relevant Planning Policies:

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

Policy 1 Tackling the climate and nature crises

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

Policy 14 Design, quality and place

a) Development proposals will be designed to improve the quality of an area whether in urban or rural locations and regardless of scale.

c) Development proposals that are poorly designed, detrimental to the amenity of the surrounding area or inconsistent with the six qualities of successful places, will not be supported.

Policy 16 Quality homes

g) Householder development proposals will be supported where they:

i. do not have a detrimental impact on the character or environmental quality of the home and the surrounding area in terms of size, design and materials; and

ii. do not have a detrimental effect on the neighbouring properties in terms of physical impact, overshadowing or overlooking.

h) Householder development proposals that provide adaptations in response to risks from a changing climate, or relating to people with health conditions that lead to particular accommodation needs will be supported.

The relevant 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.

It is noted that policy DP6 House Extensions, from the now superseded 2008 Midlothian Local Plan, set out design guidance for new extensions requiring that they are well designed in order to maintain or enhance the appearance of the house and the locality. The policy guidelines contained in DP6 also relate to size of extensions, materials, impact on neighbours and remaining garden area. It also states that front porches to detached or semi-detached houses are usually acceptable provided they project less than two metres out from the front of the house. It also allowed for novel architectural solutions. The guidance set out within this policy has been successfully applied to development proposals throughout Midlothian and will be reflected within the Council's Supplementary Guidance on Quality of Place which is currently being drafted.

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.

Whilst it hasn't been demonstrated by the applicant that the build has been built sustainably to comply with Policy 1 of NPF4, the small scale of the works is unlikely to negatively contribute to the global climate and nature crisis. NPF4 has only recently been adopted and in the absence of further guidance in relation to policy 1 at this current time it would be unreasonable to refuse the application on these grounds.

There are a number of driveways on this side of Braeside Road South including sloping driveways at nos 1 and 19 rising in level by approximately 1.1m from pavement level. Nos 9, 15 and 17 have excavated the front gardens to form a driveways level with the pavement at the front with retaining walls at the sides and rear of the driveways. The retaining wall would be more in keeping with the character of the house if it was rendered to match the house. Subject to this the driveway does not have a significant impact on the character of the application property, the visual amenity of the area or the amenity of neighbouring properties.

However a major issue in the consideration of the application is road safety. The length of the driveway at 4.2m (as measured on site) 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. (This was clearly evident during the case officer's site visit in relation to the driveway which has been constructed at no. 7 next door where a car was seen to overhang the pavement. The drive at no. 7 is 4.2m long rather than the approved 6m. This will be passed to the Council's enforcement team to investigate.) The hardstanding at the application site should be increased to a minimum of 4.8m deep in order to minimise the risk of cars overhanging the pavement. This can be covered by condition should planning permission be forthcoming.

Recommendation:

Grant planning permission

Planning Permission

Town and Country Planning (Scotland) Act 1997

Reg. No. 23/00033/DPP



Miss Michelle Watson
5 Braeside Road South
Gorebridge
EH23 4DN

Midlothian Council, as Planning Authority, having considered the application by Miss Michelle Watson, 5 Braeside Road South, Gorebridge, EH23 4DN, which was registered on 23 January 2023, in pursuance of their powers under the above Acts, hereby grant permission to carry out the following proposed development:

Alterations to garden levels, erection of retaining wall and formation of driveway (retrospective) at 5 Braeside Road South, Gorebridge, EH23 4DN

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	23.01.2023
Site Plan		23.01.2023
Proposed Elevations		23.01.2023
Illustration/Photograph		23.01.2023
Illustration/Photograph		23.01.2023
Illustration/Photograph		23.01.2023
Illustration/Photograph		23.01.2023
Illustration/Photograph		23.01.2023

This permission is granted for the following reasons:

Whilst it hasn't been demonstrated that the build has been built sustainably to comply with Policy 1 of NPF4, the small scale of the works is unlikely to negatively contribute to the global climate and nature crisis. The works do not have a significant impact on the character of the house, the visual amenity of the area or the amenity of neighbouring properties and comply with the aims of policy DEV2 of the adopted Midlothian Local Development Plan 2017 and policies 14 and 16 of NPF4.

Subject to the following conditions:

1. The depth of the driveway as shown on the site plan is not approved: within three months of the date of this decision the rear section of retaining wall shall be repositioned closer to the house and the depth of the hardstanding shall be increased from 4.2m to a minimum of 4.8m as measured from the rear of the pavement along the site frontage.

Reason: *In order that a car can be safely parked off the public highway: to ensure no hazard is caused to pedestrians using the footway.*

2. Within three months of the completion of the works required in terms of condition 1 the exposed sections of retaining wall shall be rendered to match the colour and texture of the render on the external walls of the existing house at the application site.

3. Details of any railings to be erected on top of the retaining walls shall be submitted to the Planning Authority and the railings shall not be installed until these details have been approved in writing by the Planning Authority.

Reason for conditions 2 and 3: *To safeguard the visual amenity of the surrounding area.*

Dated 17 / 3 / 2023



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



**The Coal
Authority**

Any Planning Enquiries should be directed to:

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

INFORMATIVE NOTE

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

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

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

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

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

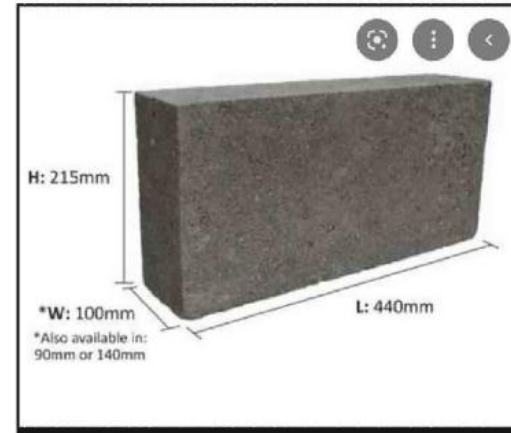
www.gov.uk/government/organisations/the-coal-authority

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

N.T.S

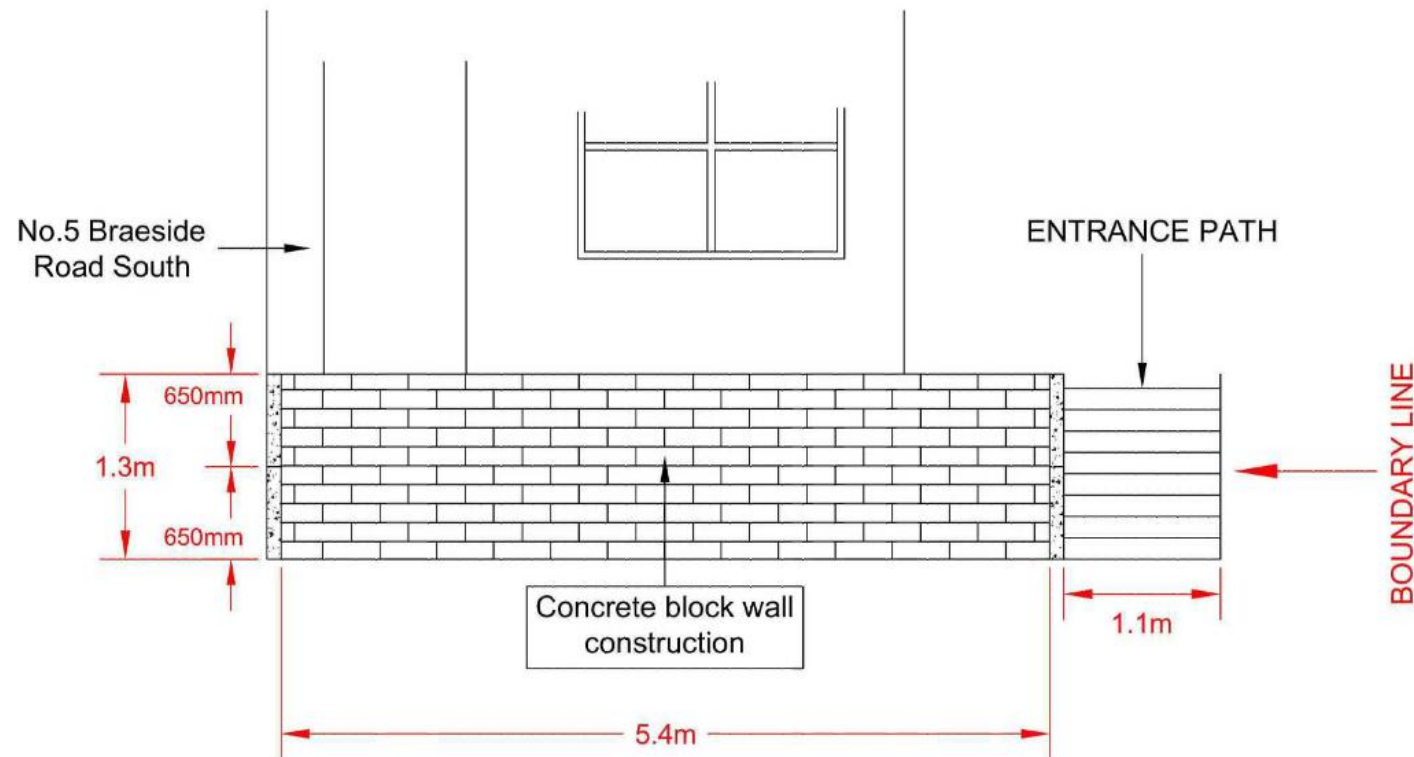
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APPROVED
17.03.2023
23/00033/DPP



NOTES:

Breeze block wall construction
Block Dimensions:-
L = 440mm / H = 215mm / W = 100mm



5 Braeside Road South
Elevation
Vehicular Entrance

N.T.S

APPROVED
17.03.2023
23/00033/DPP

No.5 Braeside
Road South

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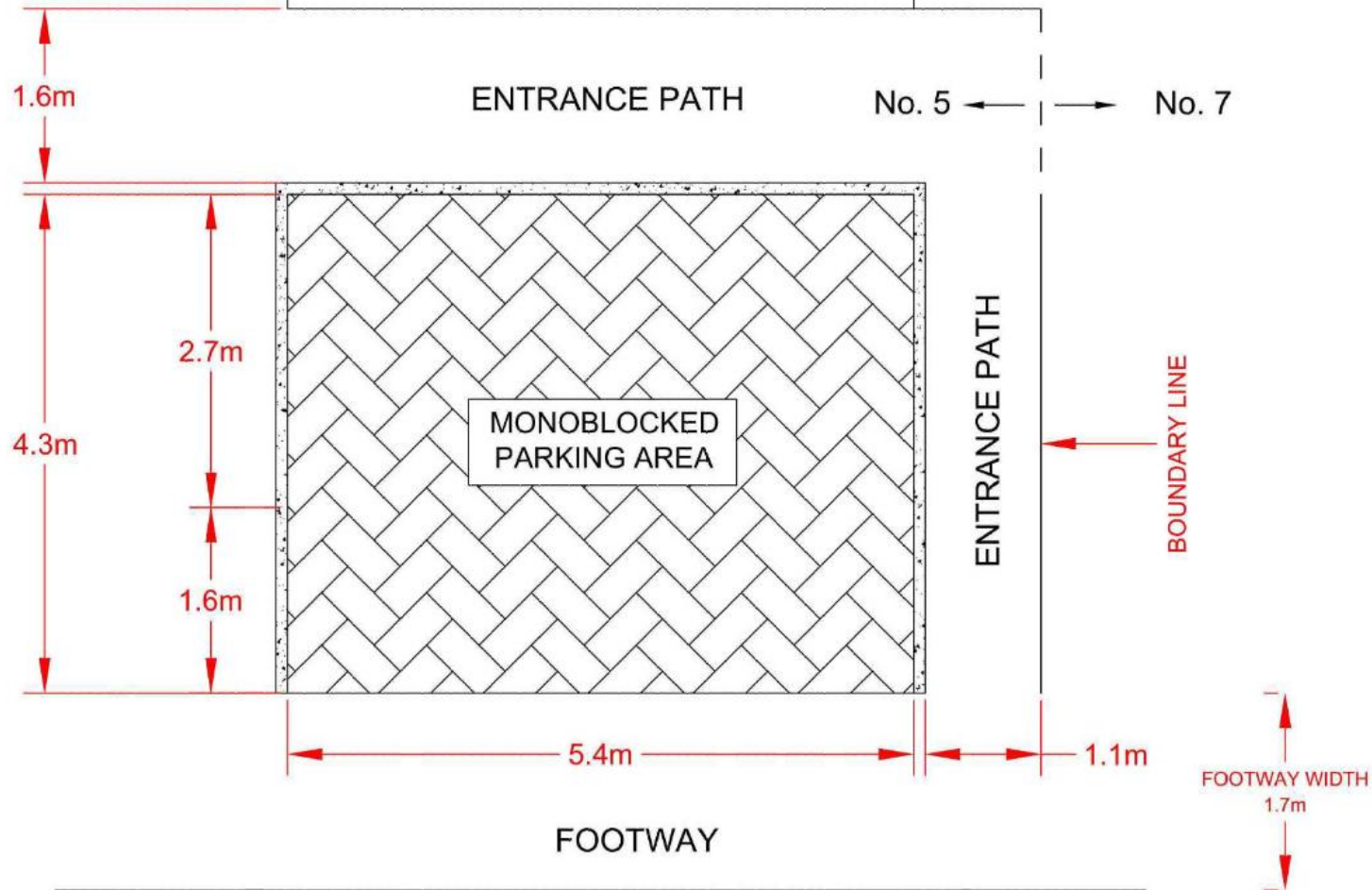
NOTES:

+ PLEASE REFER TO MONOBLOCK DETAIL
DRAWING FOR BLOCK LAID INFORMATION.



Concrete block wall construction.

Block Dimensions:-
L = 440mm / H = 215mm / W = 100mm



5 Braeside Road South
Plan View
Vehicular Entrance

APPROVED
17.03.2023
23/00000000PP

