

## **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 safely parked off the public highway.*

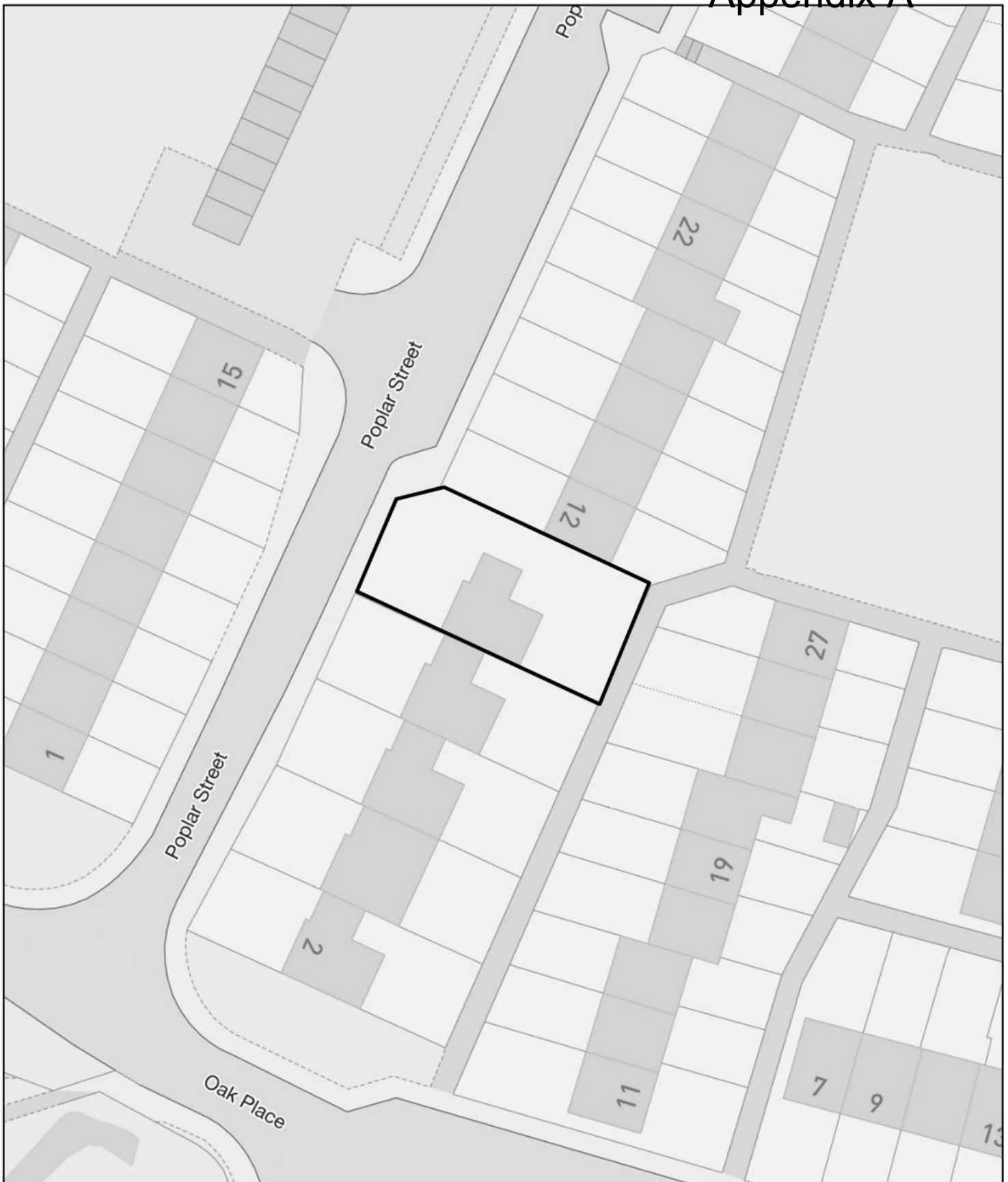
## **6 Recommendations**

- 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



## NOTICE OF REVIEW

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

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

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

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

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

1. Applicant's Details		2. Agent's Details (if any)	
Title	<input type="text" value="Mr"/>	Ref No.	<input type="text"/>
Forename	<input type="text" value="George"/>	Forename	<input type="text"/>
Surname	<input type="text" value="Burnett"/>	Surname	<input type="text"/>
Company Name	<input type="text"/>	Company Name	<input type="text"/>
Building No./Name	<input type="text" value="10"/>	Building No./Name	<input type="text"/>
Address Line 1	<input type="text" value="Poplar Street"/>	Address Line 1	<input type="text"/>
Address Line 2	<input type="text" value="Mayfield"/>	Address Line 2	<input type="text"/>
Town/City	<input type="text" value="Dalkeith"/>	Town/City	<input type="text"/>
Postcode	<input type="text" value="EH22 5LW"/>	Postcode	<input type="text"/>
Telephone	<input type="text" value=""/>	Telephone	<input type="text"/>
Mobile	<input type="text" value=""/>	Mobile	<input type="text"/>
Fax	<input type="text"/>	Fax	<input type="text"/>
Email	<input type="text" value=""/>	Email	<input type="text"/>
<b>3. Application Details</b>			
Planning authority		<input type="text" value="Midlothian Council"/>	
Planning authority's application reference number		<input type="text" value="21/00481/DPP"/>	
Site address			
<input type="text" value="10 Poplar Street, Mayfield, Dalkeith, EH22 5LW."/>			
Description of proposed development			
<input type="text" value="Formation of drive way including retaining wall."/>			

Date of application	07/06/21	Date of decision (if any)	30/07/21
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**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.

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**4. Nature of Application**

Application for planning permission (including householder application)	<input checked="" type="checkbox"/>
Application for planning permission in principle	<input type="checkbox"/>
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)	<input type="checkbox"/>
Application for approval of matters specified in conditions	<input type="checkbox"/>

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**5. Reasons for seeking review**

Refusal of application by appointed officer	<input checked="" type="checkbox"/>
Failure by appointed officer to determine the application within the period allowed for determination of the application	<input type="checkbox"/>
Conditions imposed on consent by appointed officer	<input type="checkbox"/>

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**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	<input type="checkbox"/>
One or more hearing sessions	<input type="checkbox"/>
Site inspection	<input checked="" type="checkbox"/>
Assessment of review documents only, with no further procedure	<input type="checkbox"/>

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.

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**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?	<input type="checkbox"/>
Is it possible for the site to be accessed safely, and without barriers to entry?	<input type="checkbox"/>

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: **George Burnett** Date: **10/08/21**

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 recommended 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

Appendix D

**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)

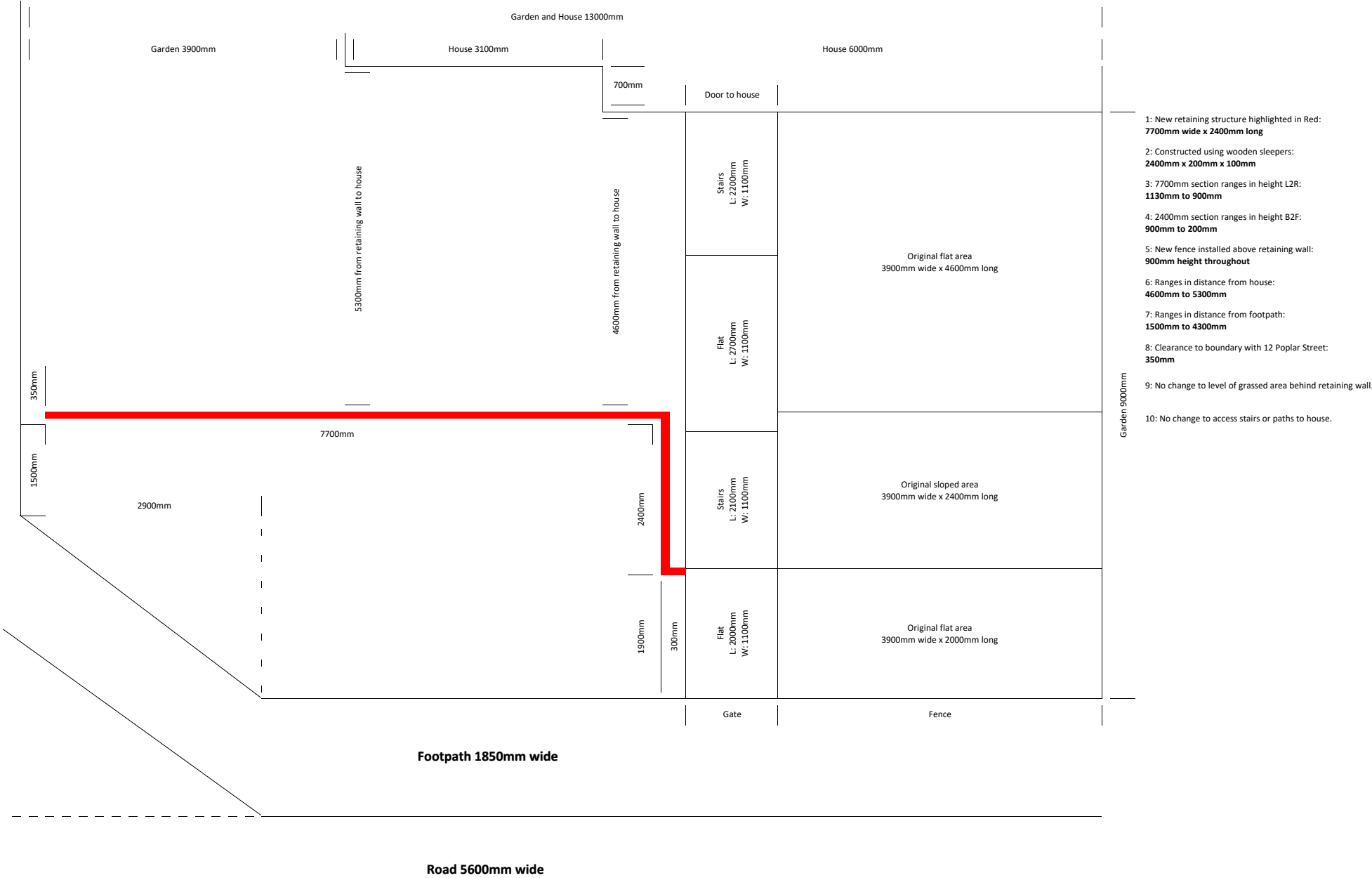
**STANDING ADVICE**

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.

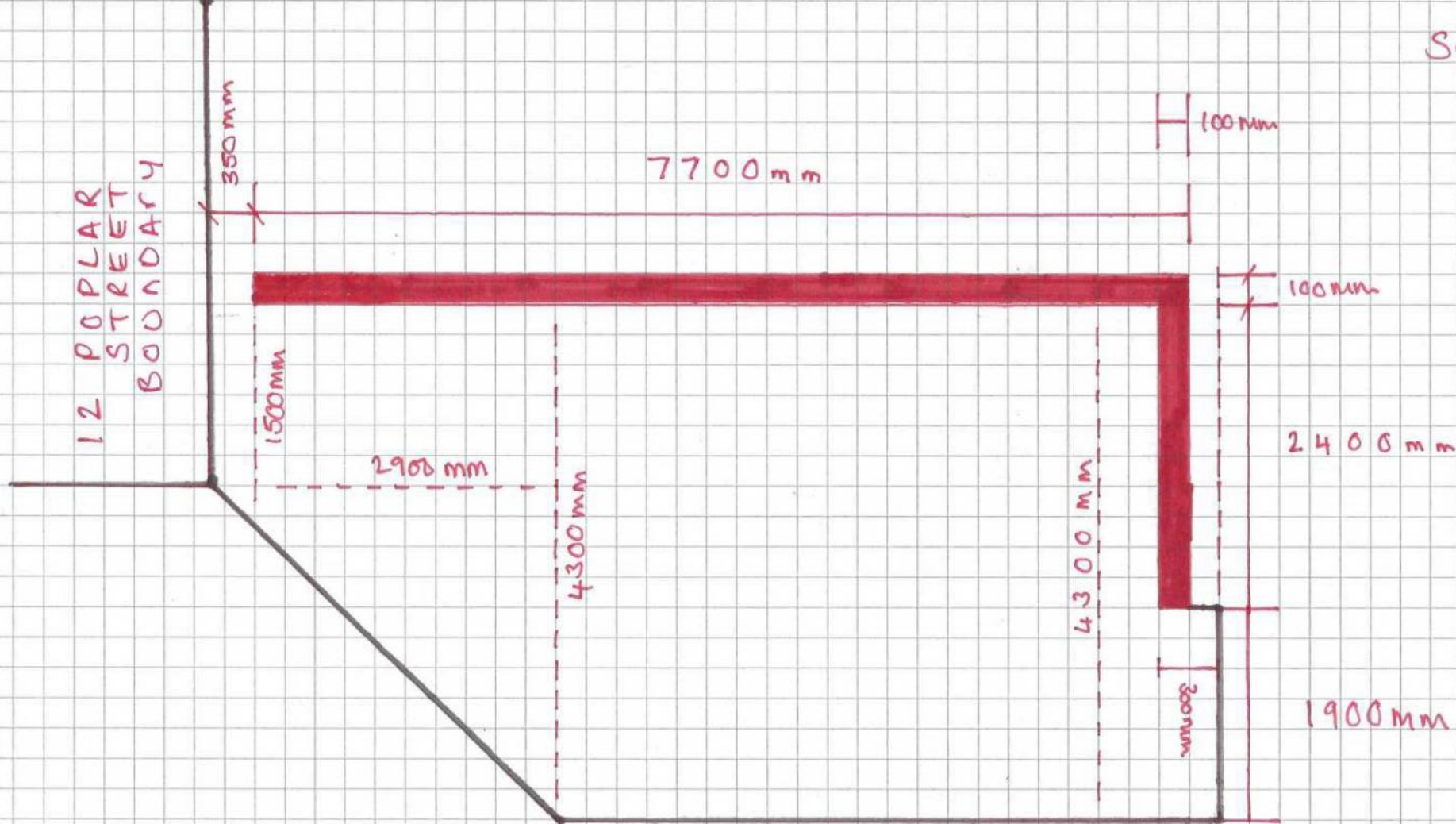
Further information is also available on the Coal Authority website at:  
[www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

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

# Appendix E



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.











