

## **Notice of Review: Land at 2 Finlay Place, 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 change of use from public open space to private garden ground at land at 2 Finlay Place, Mayfield.

#### **2 Background**

- 2.1 Planning application 22/00481/DPP for the change of use from public open space to private garden ground at land at 2 Finlay Place, Mayfield was refused planning permission on 24 August 2022; 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 24 August 2022 (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](http://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 were no consultations and one representation 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 conditions have been prepared for the consideration of the LRB if it is minded to uphold the review and grant planning permission.
1. The development to which this permission relates shall commence no later than the expiration of three years beginning with the date of this permission.

**Reason:** *To accord with the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended by the Planning (Scotland) Act 2019).*

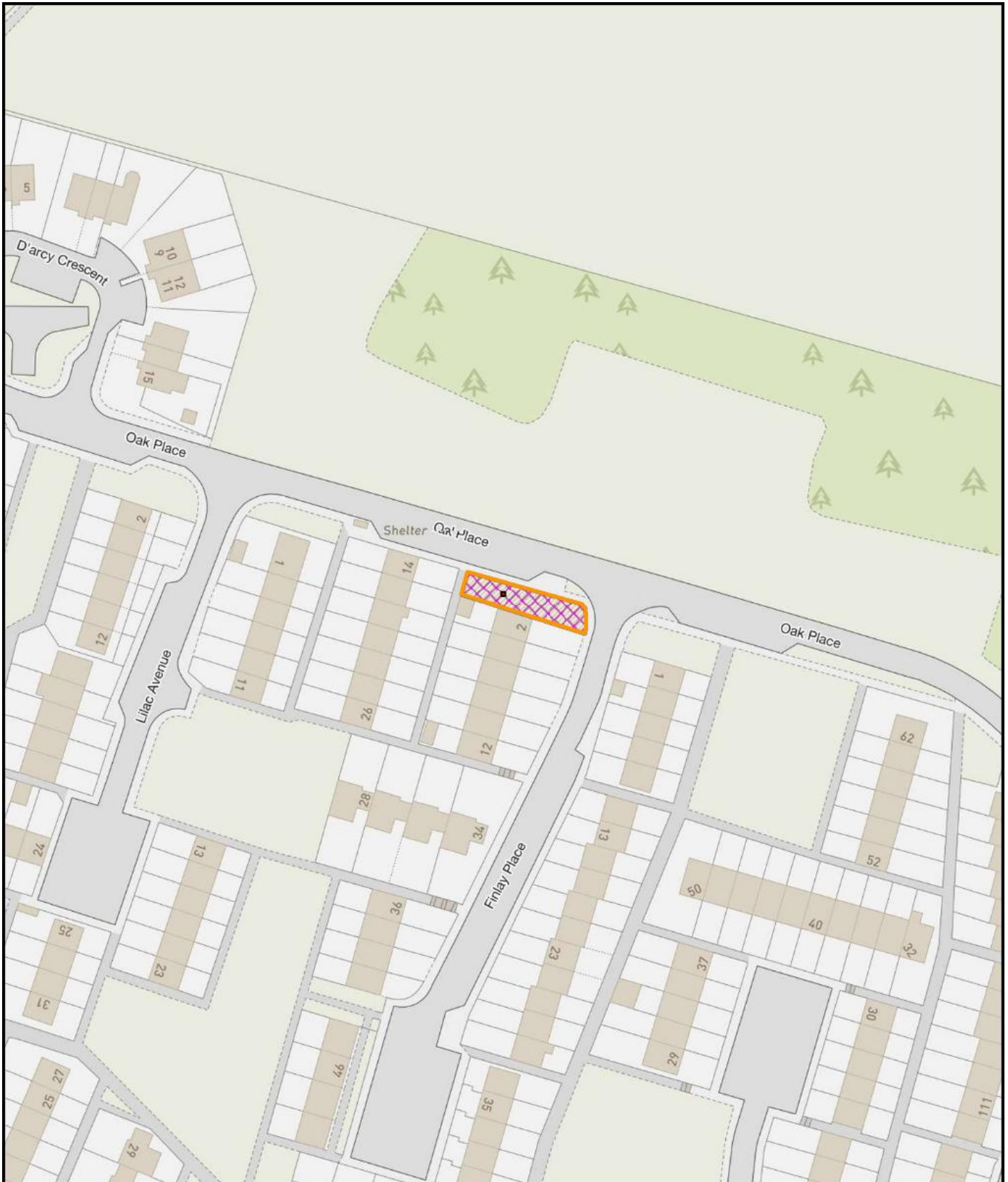
## **6 Recommendations**

- 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:** 22 February 2023  
**Report Contact:** Duncan Robertson, Planning Officer  
[duncan.robertson@midlothian.gov.uk](mailto:duncan.robertson@midlothian.gov.uk)

**Background Papers:** Planning application 22/00481/DPP available for inspection online.



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

**Change of use of open space to private garden**  
**Land at 2 Finlay Place, Mayfield**

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File No.22/00481/DPP  
 Scale: 1:1,250





Fairfield House 8 Lothian Road Dalkeith EH22 3ZN Tel: 0131 271 3302 Fax: 0131 271 3537 Email: [planning-applications@midlothian.gov.uk](mailto: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      100601820-001

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="Mr"/>	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="Allan"/>	Building Number:	<input type="text" value="2"/>
Last Name: *	<input type="text" value="Shiels"/>	Address 1 (Street): *	<input type="text" value="2 FINLAY PLACE"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text" value="MAYFIELD"/>
Telephone Number: *	<input type="text" value="REDACTED"/>	Town/City: *	<input type="text" value="DALKEITH"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="United Kingdom"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="EH22 5NF"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="REDACTED"/>		<input type="text"/>

## Site Address Details

Planning Authority:

Midlothian Council

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

Address 1:

2 FINLAY PLACE

Address 2:

MAYFIELD

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

DALKEITH

Post Code:

EH22 5NF

Please identify/describe the location of the site or sites

Northing

664945

Easting

335614

## 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)

CHANGE OF USE FROM PUBLIC OPEN SPACE TO PRIVATE GARDEN GROUND. SMALL EXTENTION AND UTILITIES AREA AT THE GABLE END OF THE HOUSE.

## 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 am requesting this review due to being refused the land, this was refused due to being detrimental to the local community and a loss of open space. I don't feel that can be justified as there is no active use of the land I am applying for. the tree and drainage that is on the land is out with the measurements of the land i am looking to buy. I was given permission back in August 2009 to purchase the whole land 172 square meters. documents will follow.

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)

supporting documents to follow

## Application Details

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

100579434

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

27/06/2022

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

24/08/2022

## 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. \*

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? \*

Yes  No

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

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?. \*

Yes  No

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

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  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? \*

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 \*

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: Mr Allan Shiels

Declaration Date: 14/10/2022



Development  
Midlothian Council  
Midlothian House  
Buccleuch Street  
Dalkeith  
EH22 1DJ

Strategic Services

Director  
Ian L. Young

Midlothian

28 July 2008

Darren Dickson  
7 Colliery View  
NEWTONGRANGE  
Midlothian  
EH22 4AQ



Dear Darren

### Request to Purchase Land Adjacent To 2 Finlay Place, Mayfield

I write with reference to your recent correspondence regarding your client's request to purchase land adjacent to 2 Finlay Place, Mayfield.

Please find enclosed a copy of the plan I received from the Council's Land Surveyor which shows the area your client has requested to purchase. The total area shown is 172 sq m and this plan will be used in connection with the sale.

In addition to the terms and conditions stated in my previous letter I can advise that a concern has been raised by one of the Local Members in relation to the tree which sits on the site. Therefore an extra condition of sale would be that a replacement tree would require to be planted on the site if practical and possible.

I hope this information is of use to you. If you have any questions please do not hesitate to contact me on the number given below.

Yours sincerely



Alison McGowan  
Estates Surveyor  
alison.mcgowan@midlothian.gov.uk

Enc

This letter merely indicates or outlines the terms, or some of the terms, on which the Council would consider entering into a binding and legal contract with you/your client, and does not of itself create or impose, nor shall it be deemed to create or impose, on the Council any legally enforceable obligation or obligations of a contractual nature.

Your Ref:  
Our Ref: AM/JR/57588

A McGowan

Tel 0131 271 3493  
Fax 0131 271 3239  
Minicom 0131 271 3291  
Legal Post LP4 - Dalkeith  
www.midlothian.gov.uk

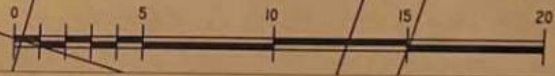
THIS IS THE PLAN REFERRED TO  
IN THE FOREGOING DISPOSITION  
BY THE MIDLOTHIAN COUNCIL IN  
FAVOUR OF



LOCATION PLAN MAYFIELD  
SCALE 1:1250  
AREA 172 SQUARE METRES OR THEREBY



© CROWN COPYRIGHT  
MIDLOTHIAN COUNCIL  
LA 09038L  
SCALE IN METRES



Midlothian  
Commercial Services  
Land Survey

LAND SALE  
2 FINLAY PLACE  
MAYFIELD  
MIDLOTHIAN

DRAWN: JGD  
SCALE: 1:200  
DATE: 25.6.08  
REF D-3594

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Development  
Midlothian Council  
Midlothian House  
Buccleuch Street  
Dalkeith  
EH22 1DJ

Strategic Services

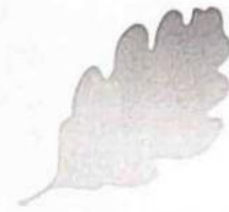
Director  
Jan L Young

145 m<sup>2</sup>  
GAVIN  
SHIELS

Midlothian

5 June 2008

Mr Darren Dickson  
7 Colliery View  
Newtongrange  
Midlothian  
EH22 4AQ



Dear Darren

### Request to Purchase Land Adjacent to 2 Finlay Place, Mayfield

I write with reference to your client's recent request to purchase land at the above address.

I can advise that I have consulted the relevant Council Sections and the Local Members for Ward 5 Midlothian East have been notified of the details and have no objections to the sale.

I am therefore prepared to recommend to Committee that the area of land be sold to Mr Shiels based on the following terms and conditions:

1. The site is to be used to facilitate an extension to his property and for no other purpose whatsoever without the Council's prior written consent.
2. The sale price is £5,000.
3. The date of entry will be as stipulated in the Missives to follow hereon.
4. He will erect a suitable fence or boundary on the site.
5. He will be responsible for the Council's reasonable legal, valuation and surveying fees.
6. He will be responsible for obtaining planning permission and any other statutory consents in connection with the proposed use of the subjects, if required.
7. He will be responsible for paying any fees associated with the cost of advertising the proposed sale in the local press for two consecutive weeks even if the sale does not proceed to legal conclusion.

I should be grateful if you would consider the above request and confirm in writing whether or not your client wishes to proceed with the purchase of land adjacent to 2 Finlay Place, Mayfield.

Yours sincerely



Estates Surveyor  
alison.mcgowan@midlothian.gov.uk

This letter merely indicates or outlines the terms, or some of the terms, on which the Council would consider entering into a binding and legal contract with you/your client, and does not of itself create or impose, nor shall it be deemed to create or impose, on the Council any legally enforceable obligation or obligations of a contractual nature.

Your Ref:  
Our Ref: AM/PB/56918

A McGowan

Tel 0131 271 3493  
Fax 0131 271 3239  
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Legal Post LP4 - Dalkeith  
www.midlothian.gov.uk

Allan Shiels Esq  
2 Finlay Place  
Mayfield  
Dalkeith  
Midlothian  
EH22 5NF

93 High Street  
Dalkeith EH22 1JA  
T: 0131 663 7261  
F: 0131 663 5483

DX 540573 DALKEITH  
dalkeith@allanmcdougall.co.uk

Our Ref: D.JMAC.CM.SHI  
Your Ref:  
Date: 27 August 2009

Dear Mr Shiels,

***Purchase of Land at 2 Finlay Place, Mayfield***

We have been contacted by the Midlothian Council in relation to the purchase of land adjacent to 2 Finlay Place, Mayfield. We enclose a copy of an Offer which they have made. In the circumstances, we would ask that you telephone and make an appointment to meet with our Mr MacIntyre to discuss matters further.

Yours faithfully



Partners: David JC Nicol Gordon F Bathgate Damian A White  
Julie Harris Fiona R Mason Craig M Forster  
Clare M McCarroll John MacIntyre Isobel Joiner

Consultants: William F Brown Scott H Miller Alan P McLaren

Offices at: 3 Coates Crescent Edinburgh T. 0131 225 2121  
20 High Street Penicuik T. 01968 675694  
33 Lasswade Road Edinburgh T. 0131 666 2424  
93 High Street Dalkeith T. 0131 663 7261  
5 St Vincent Place Glasgow T. 0141 275 4883  
Property Shop Direct Line T. 0131 240 3818

Visit our web site: [www.amcdlaw.co.uk](http://www.amcdlaw.co.uk)

Law and Administration Corporate Services  
Midlothian Council  
Midlothian House  
Buccleuch Street  
Dalkeith  
EH22 1DJ

Director  
Ian Jackson

Midlothian

24 August 2009

26 AUG 2009

John MacIntyre  
Allan McDougall  
Solicitors  
93 High Street  
Dalkeith  
EH22 1JA

Dear Sirs,

**Sale of land beside 2 Finlay Place, Mayfield  
Allan Shiels**

On behalf of and as authorised by the Midlothian Council ("the Council") I hereby offer to sell to your client Mr. Allan Shiels ("the Purchaser") ALL and WHOLE that plot or area of ground adjacent to 2 Finlay place, Mayfield in the County of Midlothian extending to 172 square metres or thereby in total being the subjects shown shaded in pink on the plan annexed and executed as relative hereto together with the whole parts, privileges and pertinents thereof ("the Subjects") and that on the following terms and conditions:-

- 1 The purchase price shall be FIVE THOUSAND POUNDS (£5,000) STERLING payable on the date of entry after mentioned.
- 2 The Date of Entry shall be as agreed between the parties.
- 3 In the event that the price is not paid in full on the date of entry for any reason not attributable to fault or delay on the part of the Council interest at the rate of 4 per centum per annum above the base lending rate of The Royal Bank of Scotland plc as varied from time to time shall be payable, and that notwithstanding the consignment nor the fact that the Purchasers have been denied entry. If the price is not paid in full as aforesaid within 28 days of the date of entry for any reason not attributable to fault or delay on the part of the Council, the Council shall be entitled but not bound to resile from the missives to follow hereon but reserving nonetheless their right to claim damages from the Purchaser for all loss, damage and expenses suffered by the Council which will include but will not necessarily be limited to any capita loss on resale, interest on the purchase price at the aforesaid rate both before and after decree against the Purchaser from the date of entry until the date of receipt of the sale proceeds on resale, advertising and Estate Agents' expenses, and the Council's legal expenses in connection with any resale.

Your Ref:JM

Our Ref: E 7.562/DQ

Tel 0131 271 3138  
Fax 0131 271 3107  
Minicom 0131 271 3291  
DX540568 Dalkeith (Receipt only)  
Legal Post LP - 4 Dalkeith  
www.midlothian.gov.uk



The Subjects are sold subject to all existing burdens and conditions contained in the titles thereto and will be sold subject to all existing rights of way and access, servitude rights, wayleaves and others in, over, under and through or affecting the subjects of sale.

- 5 The Council will not exhibit Property Enquiry certificates or Searches.
- 6 At the date of settlement the Council will in exchange for the purchase price exhibit a good and marketable title to the Subjects.
- 7 Clauses to the following effect shall be inserted in the Disposition to follow hereon if desired :-
  - (i) The Subjects shall be used as garden ground and a driveway and for no other purpose whatsoever without the prior written consent in writing of the Council.
  - (ii) The Purchaser in using the subjects shall be bound to conform in all respects to the provisions of any local Acts and Acts relating to Town Planning, all statutory powers available to the council as local authority under or in virtue of the said Acts being hereby reserved.
  - (iii) The subjects, so far as not occupied by buildings, internal roadways and car parking areas, shall be kept landscaped and free from weeds and in a neat and tidy condition to the satisfaction of the Council; in particular and without prejudice to the foregoing generality any materials stored by the Purchaser on the subjects shall be adequately screened all to the reasonable satisfaction of the Council so as not to injure the amenity of the area.
  - (iv) The Purchaser at his sole expense shall erect fencing on the boundary of the subjects sold; the Purchaser shall maintain, repair and when necessary renew such fences at his sole expense in all time coming and all fences to be erected in terms of this condition shall be in accordance with a design and specification to be approved by the Council in writing prior to the erection thereof.
  - (v) There is reserved to the Council power to take access to the subjects at any time and to such extent as the Council shall reasonably determine as necessary or desirable (a) in the interests of all or any of the purchasers, tenants or proprietors of ground adjoining the subjects or (b) for the proper development of the ground adjoining or in the neighbourhood of the subjects.
  - (vi) Where under this offer or the Disposition to follow thereon, the Council is required to give its approval, permission or consent the Council is giving that approval, permission or consent as seller only and not as local authority in terms of any statute or statutory instrument or order and notwithstanding the generality not as planning or roads authority to which separate application will require to be made as necessary.
  - (vii) There shall be reserved to the Council in so far as we have a right thereto and subject always to the terms of the Coal Mining Subsidence Act 1991 and the Coal Industry Act 1994, the whole mines, metals and minerals of whatsoever nature within and under the subjects, with full power and

liberty to the council or any persons authorised by them, but without entering on the surface of the subjects, to search for, work, win, raise, calcine, manufacture and carry away the said minerals and others to do everything necessary for all or any of these purposes; declaring that in the event of the Council exercising any of the said reserved rights or powers, they shall be bound to make payment to the purchasers for all damage which may thereby be occasioned to the surface of the subjects or buildings or erections thereon as such damage shall, failing agreement, be determined by an Arbiter to be mutually chosen, or, on the application of either party, to be appointed by the Sheriff Principal of Lothian and Borders.

(viii) The large tree in the centre of the site will be replaced by the purchaser if possible and practical

8 The Purchaser shall pay the Council's reasonable valuation, surveying and legal costs and the advertising costs.

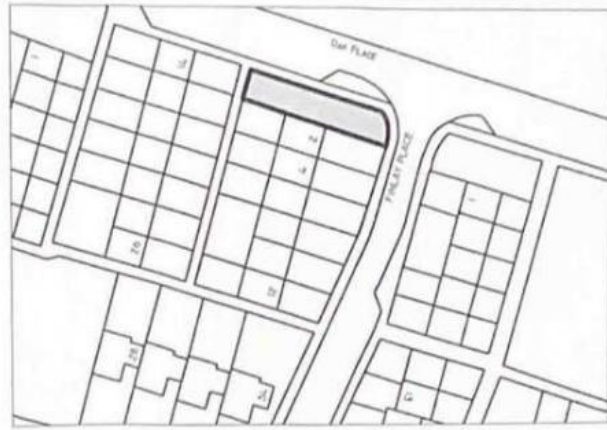
The contact for this case is David Quinn, ([david.quinn@midlothian.gov.uk](mailto:david.quinn@midlothian.gov.uk)).

Yours faithfully

*Elspeth Osborne*

Elspeth Osborne  
Legal Manager

THE PLAN REFERRED TO  
THE FOREGOING DISPOSITION  
THE MIDLOTHIAN COUNCIL IN  
FAVOUR OF



Aspean Osborne

LOCATION PLAN MAYFIELD  
SCALE 1:1250  
AREA 172 SQUARE METRES OR THEREBY



Midlothian  
Commercial Services  
Land Survey

LAND SALE  
2 FINLAY PLACE  
MAYFIELD  
MIDLOTHIAN

DRAWN: JGD  
SCALE: 1:200  
DATE: 25.6.08  
REF D-3594



## MIDLOTHIAN COUNCIL

### DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

**Planning Application Reference:** 22/00481/DPP

**Site Address:** Land at 2 Finlay Place, Mayfield, Dalkeith

**Site Description:** The application site is located within a primarily residential area of Mayfield. The property comprises of a two storey end terrace property with front driveway and rear garden. The land located to the north of the application property is currently utilised as a landscape buffer between the gable end of the property and the pedestrian footpath and road, Oak Place.

**Proposed Development:** Change of use from public open space to private garden ground

**Proposed Development Details:** The application refers to the change of use from public open space to private garden ground. The space is currently utilised as public open space and as a landscape buffer between the gable end of the property and the pedestrian footpath and road, Oak Place. There is currently a manhole cover and tree located within the area of public open space.

**Background (Previous Applications, Supporting Documents, Development Briefs):** History sheet checked.

**Consultations:** No consultations were required.

**Representations:** One representation has been received objecting to the application. The representation objected to the proposal based on the loss of public open space, the use of the existing garden ground and increase in noise and detrimental impact to surrounding neighbours should this application be approved.

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

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

#### **DEV2 Protecting Amenity in the Built up Area**

Development will be permitted within existing and future build-up areas, and in particular within residential areas, unless it is likely to detract materially from the existing character or amenity of the area.

#### **Planning Issues:**

The main planning issue to be considered is whether or not the proposal complies with the development plan policies and, if not, whether there are any material planning considerations which would otherwise justify approval.

With regards to this application, planning permission is requested for the change of use from public open space to private garden ground at the land at 2 Finlay Place, Mayfield, Dalkeith.

The land is currently owned by Midlothian Council. On discussion with Neil Hunter, Property Development Manager, within Midlothian Council's Property and Facilities Management department, it was noted that should the Planning Authority consider the approval of this proposal the Council would require the retention of a proportion of the land to allow access to the manhole cover and maintenance of the existing tree.

However the Planning Authority does have concerns regarding the application, in particular, the loss of this public open space which would occur due to a change of use proposal.

Similar pockets of land next to residential properties can be seen in close proximity to the application site, at 1 Finlay Place and to 1 and 2 Lilac Avenue. It is considered that these small pockets of public open space contribute positively to the character of the area and street at Oak Place and the loss of such space would be detrimental to the overall setting.

In addition, the open space acts as a landscape buffer, setting apart the gable end of the property and respective back gardens from the pedestrian footpath. As such this creates a standoff between the two uses, creating separation and an element of privacy and security. As with this proposal this would result in the loss of this space which would have an impact on the overall setting of the residential housing.

As such all relevant matters including the principles and policies of the adopted Midlothian Local Development Plan 2017 have been taken into consideration in determining this application. Given the concerns with regards to the loss of open space and as such the landscape buffer, planning permission is to be refused for the change of use from public open space to private garden ground.

**Recommendation:** Refuse Planning Permission

**Reg. No. 22/00481/DPP**

Mr Allan Shiels  
2 Finlay Place  
Mayfield  
Dalkeith  
EH22 5NF

Midlothian Council, as Planning Authority, having considered the application by Mr Allan Shiels, 2 Finlay Place, Mayfield, Dalkeith, EH22 5NF, which was registered on 1 July 2022 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

**Change of use from public open space to private garden ground at Land At 2, Finlay Place, Mayfield, Dalkeith**

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	01.07.2022

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

1. *The proposed change of use would result in the unacceptable loss of open space, which acts as a landscape buffer, and the detrimental impact on the setting and character of the local residential area.*

Dated 24 / 08 /2022



.....  
Matthew Atkins Lead Officer – Planning Obligations  
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)

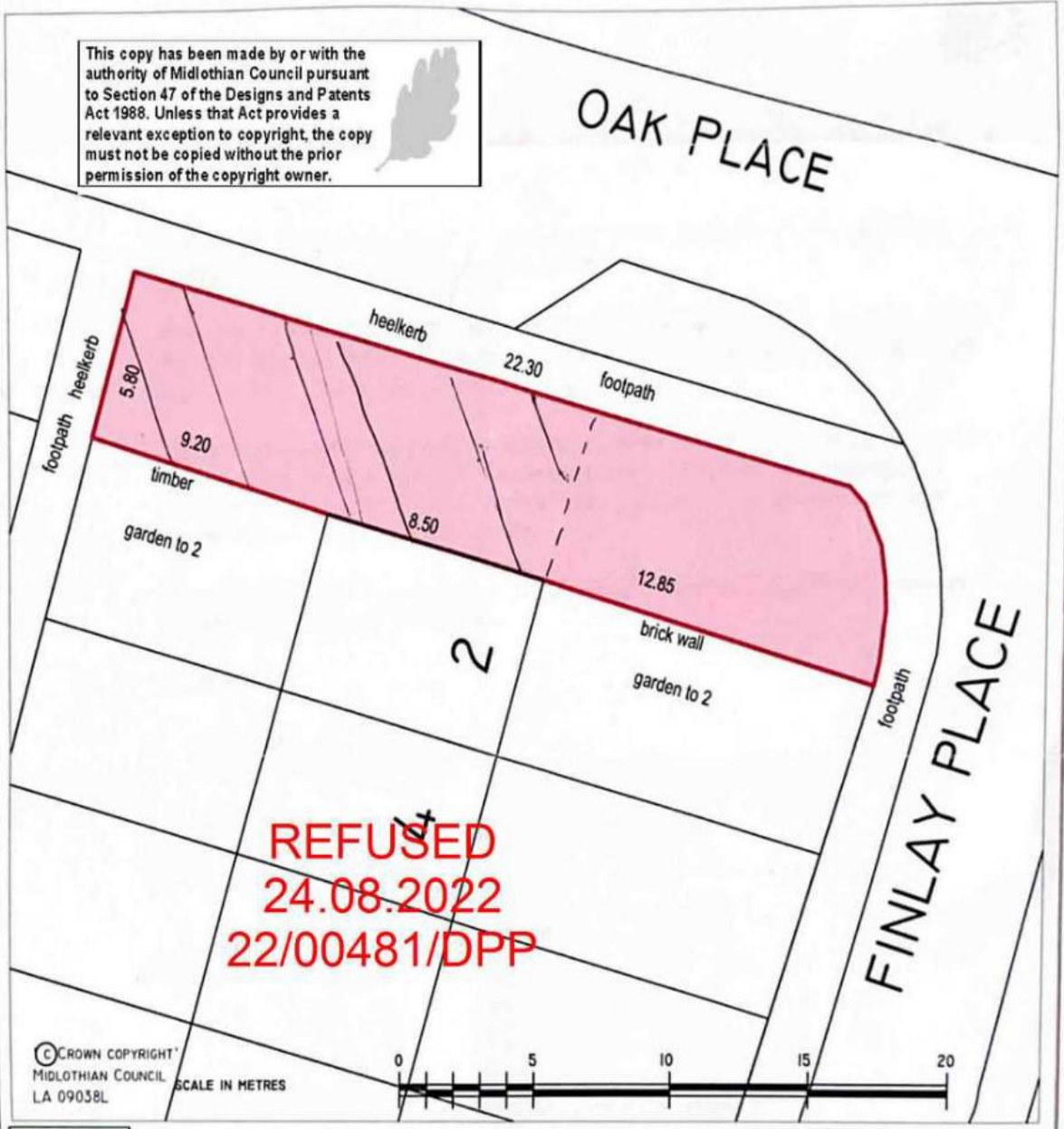
Standing Advice valid from 1st January 2021 until 31st December 2022

THIS IS THE PLAN REFERRED TO IN THE FOREGOING DISPOSITION BY THE MIDLOTHIAN COUNCIL IN FAVOUR OF



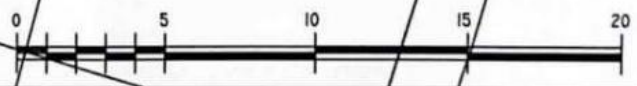
LOCATION PLAN MAYFIELD  
SCALE 1:1250  
AREA 172 SQUARE METRES OR THEREBY

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**REFUSED**  
**24.08.2022**  
**22/00481/DPP**

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MIDLOTHIAN COUNCIL  
LA 09038L  
SCALE IN METRES



Midlothian  
Commercial Services  
Land Survey

LAND SALE  
2 FINLAY PLACE  
MAYFIELD  
MIDLOTHIAN

DRAWN: JGD  
SCALE: 1:200  
DATE: 25.6.08  
REF D-3594