

Notice of Review: Land at Stone Place, Mayfield

Determination Report

Report by Ian Johnson, Head of 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 change of use of vacant ground to allow the siting of site huts for the use as a builders welfare facility (retrospective) on land at Stone Place, Mayfield.

2 Background

- 2.1 Planning application 15/00199/DPP for the change of use of vacant ground to allow the siting of site huts for the use as a builders welfare facility (retrospective) on land at Stone Place, Mayfield was refused planning permission on 14 April 2015; 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 advisor notes, issued on 14 April 2015 (Appendix D); and
- A copy of the relevant 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 Monday 31 August 2015; and
 - Have determined to progress the review by way of written submissions.
- 4.2 The case officer's report identified that no consultations were required and no representations have been received.
- 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 19 June 2012, 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. The use hereby approved shall cease within two years of the date of this permission and the land returned to its condition prior to the development commencing within one month of the cessation of the use. All storage containers, material, structures and equipment brought onto the land in association with the temporary use shall also be removed within one month of the cessation of the use.

Reason: *The proposed use does not accord with development plan policies; however the material considerations of the application mean a temporary use is considered acceptable and enables the local planning authority to consider the environmental impacts of the development in the future.*

6 Recommendations

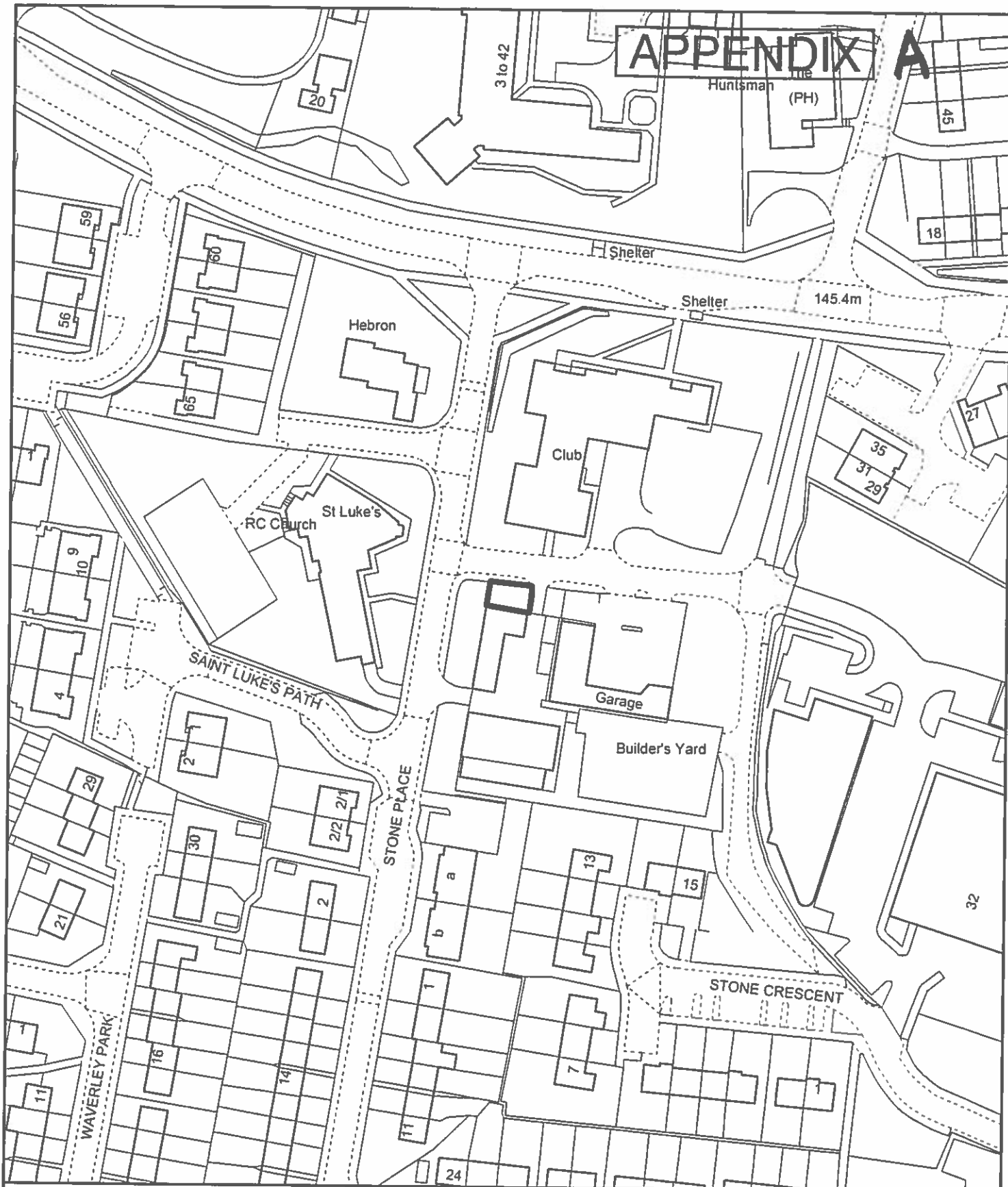
- 6.1 It is recommended that the LRB:
- a) determine the review; and
 - b) the planning advisor draft and issue the decision of the LRB through the Chair

Date: 25 August 2015

**Report Contact: Peter Arnsdorf, Planning Manager
peter.arnsdorf@midlothian.gov.uk**

Tel No: 0131 271 3310

Background Papers: Planning application 15/00199/DPP available for inspection online.



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

Change of use from vacant ground to allow siting of temporary site huts at Land At Stone Place ,Mayfield, Dalkeith

Reproduced from the Ordnance Survey map with the permission of the controller of Her Majesty's Stationary Office. Crown copyright reserved. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings

Midlothian Council Licence No. 100023416 (2015)

File No. 15/00199/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

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

Thank you for completing this application form:

ONLINE REFERENCE 000112993-002

The online ref number 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: *

Other Title:

First Name: *

Last Name: *

Company/Organisation:

Telephone Number: *

Extension Number:

Mobile Number:

Fax Number:

Email Address: *

You must enter a Building Name or Number, or both: *

Building Name:

Building Number:

Address 1 (Street): *

Address 2:

Town/City: *

Country: *

Postcode: *

Site Address Details

Planning Authority:

Midlothian Council

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

Address 1:

2A STONE PLACE

Address 5:

Address 2:

MAYFIELD

Town/City/Settlement:

DALKEITH

Address 3:

Post Code:

EH22 5PG

Address 4:

Please identify/describe the location of the site or sites.

Northing

664629

Easting

334804

Description of the Proposal

Please provide a description of the 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)

Apply for consent to temporary site 2x welfare containers on perimeter of our grounds.

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 of 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.

The key points are:

- *The cabins are temporary and essential to the on going regeneration/energy saving EWI installations which are on going.
- *The works support local employment including an apprenticeship.
- *The works increase inward investment and supports local businesses.

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

☐ Yes ☒ No

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)

Please see attached

Application Details

Please provide details of the application and decision.

What is the application reference number? *

000112993

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

02/02/15

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

14/04/15

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 Ross Mackay

Declaration Date: 23/06/2015

Submission Date: 23/06/2015



SERS Energy Solutions (Scotland) Ltd
E/D Hillbank Road
Lochmaben
Lockerbie
Dumfries & Galloway
DG11 1RR
T - 01387 811222
F - 01387 811794

20th June 2015

Mr Mackay
Rightway Property Ltd
2A Stone Place
Mayfield
EH22 5PG

Dear Sir

Planning Appeal

As you are aware the 2 containers in question are the temporary welfare facilities which are vital to support the important Home insulation programme currently underway in Mayfield.

SERS are working closely with Midlothian Council & Melville Housing association to benefit the residents of Midlothian. SERS are also providing local employment & apprenticeship opportunities.

We support your appeal in this matter and bring the following points to your attention

- The area is temporary
- Such facilities are not available elsewhere in the close vicinity
- Reasonable aesthetic improvement can be made as required
- Neighbouring businesses welcome our presence
- Customers are able to access the office facilities
- Local employment incl apprenticeships are dependent on the infrastructure

Kind regards

Marion Gracie
Operations Director
SERS Energy Solutions(Scotland) Ltd

MIDLOTHIAN COUNCIL**DEVELOPMENT MANAGEMENT
PLANNING APPLICATION DELEGATED WORKSHEET:**

Planning Application Reference: 15/00199/DPP

Site Address: Land at Stone Place, Mayfield.

Site Description: The application site comprises an area of land to the front of a builder's yard within the built up area of Mayfield. There is a two storey building adjacent to the site which houses the offices of the builder's business. There is a social club and associated car park to the north of the site, a church to the west, a shop and a hot food takeaway to the east and housing to the south.

Proposed Development: Change of use from vacant ground to allow siting of temporary site huts.

Proposed Development Details: Two shipping containers have been sited adjacent to the two storey building providing service facilities for a company carrying out building works on Melville Housing in the surrounding area. The containers are positioned across the whole front elevation of the building and are hard up to the heel of the pavement.

A supporting letter has been submitted stating that the containers provide temporary welfare facilities in connection to home improvements in the Mayfield area. These works are likely to end in March 2017. Reasonable aesthetic improvements can be made as required.

Planning permission has already been refused for these containers (see background section below). These were refused on the grounds of appearance and the applicant was given three months to remove these from the site. This time has expired and the units remain on site.

Background (Previous Applications, Supporting Documents, Development Briefs): Application site 14/00708/DPP Change of use from vacant ground to allow siting of temporary site huts and shipping containers and erection of palisade fence (retrospective). 04/00861/CL Application for certificate of lawful use for 3 storage containers. Permitted. This application did not assess the suitability or acceptableness of the containers at the site, only that these had been in place for more than 10 years.

Consultations: No consultations were required.

Representations: No representations were received.

Relevant Planning Policies: The relevant policies of the 2008 Midlothian Local Plan are;

RP20 Development within the Built-up Area states that development will not be permitted within the built-up area where 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.

As noted above, planning permission was not granted for these containers in the previous application at the site. The containers are positioned on the front elevation of the building associated with the builders' business and are hard up to the heel of the pavement. The position and size of the containers make the containers highly visible in the surrounding area. They have an appearance which is incongruous to the surrounding area and, given their prominent position, significantly detract from the character and amenity of the area. As a result, these containers should be removed and this area of the site returned to its previous condition.

Recommendation: Refuse planning permission.

Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

Reg. No. 15/00199/DPP

Mr Ross Mackay
Rightway Property Ltd
2A Stone Place
Mayfield
EH22 5PG

Midlothian Council, as Planning Authority, having considered the application by Mr Ross Mackay, Rightway Property Ltd, 2A Stone Place, Mayfield, EH22 5PG, which was registered on 11 March 2015 in pursuance of their powers under the above Acts, hereby refuse permission to carry out the following proposed development:

Change of use from vacant ground to allow siting of temporary site huts at Land At Stone Place, Mayfield, Dalkeith,

in accordance with the application and the following plans:

<u>Drawing Description.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan		11.03.2015
Illustration/Photograph		11.03.2015

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

1. *The containers form an unattractive feature at this prominent location and have a significant detrimental impact on the character and appearance of the area, seriously degrading visual amenity, and therefore do not comply with policy RP20 of the adopted Midlothian Local Plan.*

Dated 14 / 4 / 2015



.....
Duncan Robertson
Senior Planning Officer; Local Developments
Fairfield House, 8 Lothian Road, Dalkeith, EH22 3ZN



**The Coal
Authority**

authority

Any Planning Enquiries should be directed to:

Planning and Local Authority Liaison

Direct Telephone: 01623 637 119

Email: planningconsultation@coal.gov.uk

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

INFORMATIVE NOTE

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

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Standards approval (if relevant). Your attention is drawn to The Coal Authority Policy in relation to new development and mine entries available at:

<https://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, digging of 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.

Property specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com

If any of the 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

This Informative Note is valid from 1st January 2015 until 31st December 2016







0045 236 9128
www.southmalla.com
SERS