

## **Notice of Review: Land Rear 20 Eskview Road, 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 allow siting of container for the use as hot food takeaway on land rear of 20 Eskview Road, Mayfield.

#### **2 Background**

- 2.1 Planning application 22/00716/DPP for the change of use from public open space to allow siting of container for the use as hot food takeaway on land rear of 20 Eskview Road, Mayfield was refused planning permission on 18 January 2023; 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 18 January 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](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 four consultation responses and 106 representations received (four objections and 102 support representations). As part of the review process the interested parties were notified of the review. Three additional comments have been received re-enforcing their objects to the application (including comment from the Mayfield and Easthouses Community Council). 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. 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).*

2. Development shall not begin on site until the following details have been submitted to and approved in writing by the planning authority:
  - a) Details and a sample of the proposed cladding of the container;
  - b) Details of the proposed serving hatch;
  - c) Details of litter bins;
  - d) Details of a waste management plan, including how and where waste will be stored on site; and
  - e) A site plan showing the exact position of the container hereby approved.

Thereafter, the development hereby approved shall accord with the details agreed in terms of this condition.

***Reason:*** *These details were not submitted as part of the application: to ensure adequate waste provision is provided; to protect the visual amenity of the surrounding area; for the avoidance of doubt where the container is to be positioned.*

3. The cladding approved in condition 2a) shall be attached to all four sides of the container.

***Reason:*** *To protect the visual amenity of the area.*

4. The litter bins approved in condition 2c) shall be in place before the use is implemented on site and shall remain in place until the use ceases operations.
5. The waste management plan approved in condition 2d) shall be in place before the use is implemented on site and shall remain in place until the use ceases operations.

***Reason for conditions 4 and 5:*** *To ensure adequate and appropriate waste facilities are provided.*

6. The use hereby permitted shall only operate within the hours of 8am to 8pm.
7. No generator shall be operational in connection with the container and use hereby approved.
8. No amplified music, vocals or sound reproduction equipment used in association with the use hereby permitted shall be audible within any nearby residential property.

***Reason for conditions 6 to 8:*** *To protect the amenity of nearby residential units.*

9. Development shall not begin until details, including a timetable of implementation, of superfast broadband have been submitted to and approved in writing by the planning authority. The details shall include delivery of superfast broadband prior to the occupation of

the unit. The delivery of superfast broadband shall be implemented as per the approved details.

**Reason:** *To ensure the quality of the development is enhanced by the provision of appropriate digital infrastructure in accordance with the requirements of policy IT1 of the adopted Midlothian Local Development Plan.*

10. Development shall not begin until details of a sustainability/biodiversity scheme for the site, including the location and details for the provision of nesting and wildlife homes and features to optimise the biodiversity value of the site, has been submitted to and approved in writing by the planning authority. Such a scheme could include swift and bat boxes and biodiverse lawns, ivy screens and green roofs/ walls. Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be approved in writing with the planning authority.

**Reason:** *To ensure the development accords with the requirements of policy DEV5 of the adopted Midlothian Local Development Plan 2017.*

11. When the container is no longer in use for the use hereby approved, within 3 months of operations ceasing at this site the container shall be removed and the land shall be made good within four weeks of the container being removed.

**Reason:** *To ensure the container is removed in a timely manner after the approved use has ceased; to protect the visual amenity of the area to ensure the site is restored.*

## **6 Recommendations**

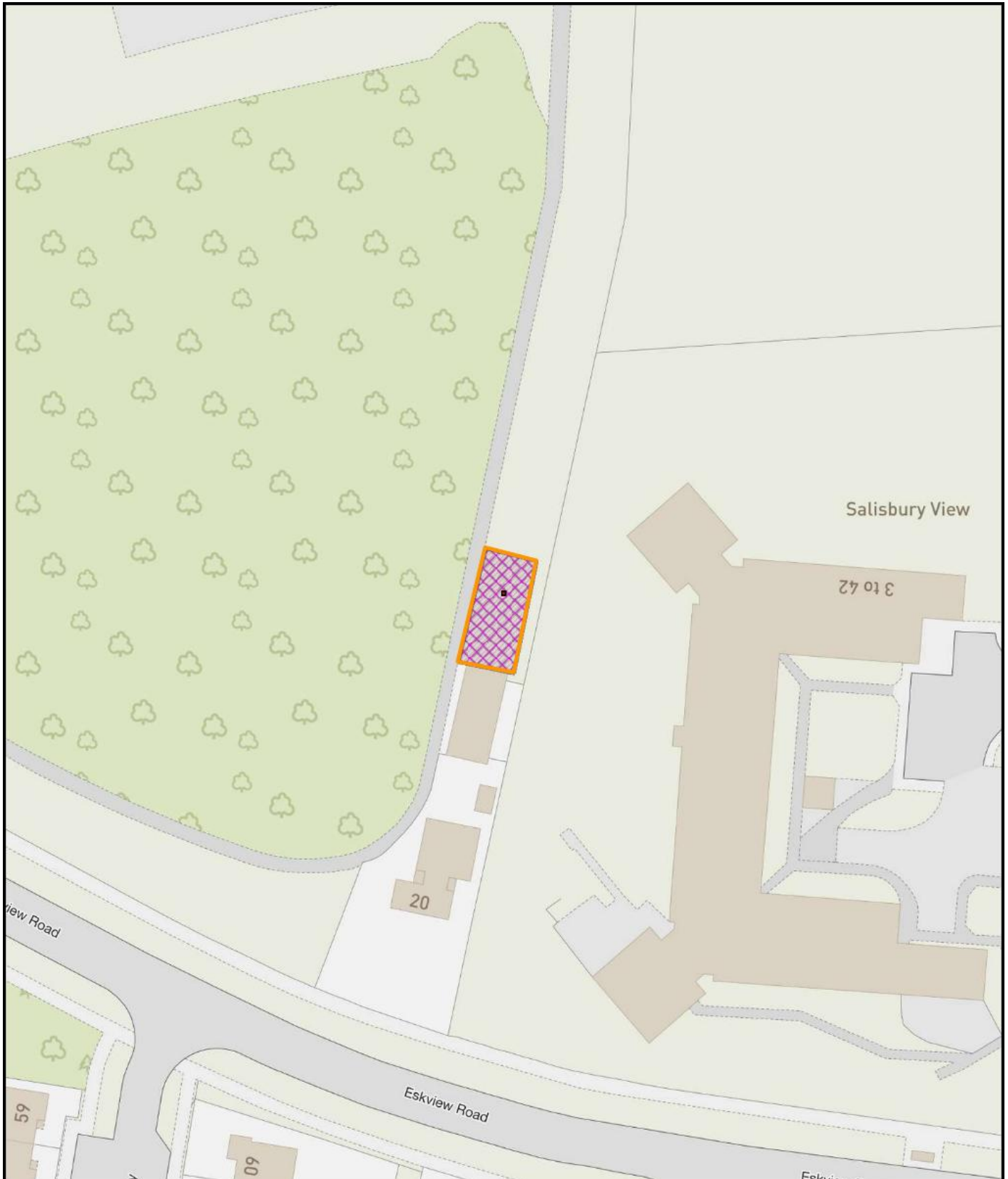
- 6.1 It is recommended that the LRB:
- a) determine the review; and
  - b) the planning advisor draft and issue the decision of the LRB through the Chair

**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](mailto:peter.arnsdorf@midlothian.gov.uk)

**Background Papers:** Planning application 22/00716/DPP available for inspection online.

# Appendix A



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

**Siting of container for use as hot food takeaway**  
**Land to rear of 20 Eskview Road, Mayfield**

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File No.22/00716/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](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 100614482-001

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="William"/>	Building Number:	<input type="text" value="7"/>
Last Name: *	<input type="text" value="Kivlin"/>	Address 1 (Street): *	<input type="text" value="Old school path"/>
Company/Organisation	<input type="text" value="Old school takeaway"/>	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="Midlothian"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="Eh225ng"/>
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:

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

Post Code:

Please identify/describe the location of the site or sites

Land to Rear of 20 Eskview Road Mayfield Dalkeith

Northing

Easting

## 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)

Reference22/00716/DPP Change of use from public open space to allow sitting of container for use as hot food takeaway

## 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 wish to raise a review against these matters stated below in the refusal document. 1. Appearance & serving hatch details 2. Town centre impact 3. Proximity to school 4. Opening hours 5. Bin storage 6. exact site location 7. Litter bins 8. Main planning concern and material evidence

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)

1. Document of further details of refusal matters 2. Site map location 3. Material evidence to support planning application for planning's main concern

## Application Details

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

22/00716/DPP

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

29/09/2022

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

18/01/2023



## 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: Mr William Kivlin

Declaration Date: 08/04/2023

I wish to raise a review against these matters stated below in the refusal document.

1. Appearance & serving hatch details
2. Town centre impact
3. Proximity to school
4. Opening hours
5. Bin storage
6. exact site location
7. Litter bins
8. Main planning concern and material evidence

1. It is suggested for approval and to look more appropriate for locals walking up the path towards the site that the container doors be done in timber cladding also, totally agree and we have no problem timber cladding the entire container to make it more attractive on approach, I've attached images below that we have sent to our builder if planning is approved to show the look we will be going for now.

The serving hatch dimensions are stated in the official drawing but further details of this is that it will be cut out the side of the container, lined with rubber edging for a protective finish and gas struts used for support, it will be great for shelter from the rain for placing your order at the hatch and also allows us to take any disabled users orders very easily through the serving hatch.

When closed it will have 3 security bolts inside for extra security as this will be an attractive entry point during closed hours.

If approval is given once we are in I have thought about the possibility of fitting lighting to the hatch so when opened it lightens up the pathway in front of the hatch which will be another great addition for lighting on the pathway.

2. We don't believe there to be any town centre impact a strongly believe this will attract more people to the town centre and the park, we are already operating not far from the park so its no change to the people were already here just in a better location for the community.

There is also the pavilion in the park which myself volunteered at for nearly 1 year before starting old school takeaway, this falls just outside the town centre and is adjacent to the site location presented in the planning application a strongly believe if the pavilion has had no detrimental impact in the town centre with being 3 x the scale we'll be the smaller business in the park with a less chance of impacting the town centre. Our aim is to bring life to the park and town centre not bring it down.

3. A strongly disagree with it being said we are 400 metres within newbattle high school grounds and less than this from St lukes primary school, myself has taken a quick walk and calculated the distance for both schools distance and I'm hoping there's a way we could have this distance checked, I don't think we're within 400 metres from either school but I could be wrong.

There is also the matter of the pavilion cafe in the park that myself got up and running for Sharon Hill back in 2022 when I volunteered for nearly a year built the cafe furniture designed the menu and brought the cafe to life but there was never anything mentioned or brought up by planning / environmental health or the community council about the pavilion cafe being within 400 metres of the school, the site location in the planning application is very noticeably further away from newbattle high school so I'm strongly disagreeing with this part of the refusal and would hope with many other businesses in the area closer and given permission we would also be accepted.

We would also be willing to discuss closing during the newbattle school lunch break if it meant the possibility of getting approved.

4. Opening hours will be 8am to 8pm 7 days a week, we agree they weren't fully stated as we were letting environmental decide appropriate opening hours.
5. Main bin storage will be our commercial 1100litre bin at our prep kitchen still at our home business kitchen, we will have upto 3 litter bins outside the cafe site in the park and 2 bins inside the kitchen which will be emptied daily and emptied into our 1100litre bin, we operate from home just now and bin storage and litter is top priority for us we have many walk through inspection and never had a problem.
6. There does seem to be a bit confusion to the exact site location, I've attached a new site map of the exact location, it is said about the storage shed already situated in the park that we will be taking power from and it had been said between parties involved us being so close to the existing building this will be great for reducing vandalism this building already gets just now.

The exact location however is clearly visible in the park outside the storage shed there is a concrete driveway our container cafe will sit on the adjoining grass of the concrete driveway leaving plenty space for access.

7. Litter bins have been covered in section 2. But we have also made contact with the local primary schools and would be hoping to start up litter pick days in the park and we would definitely be teaming up with a few local businesses to start litter pick days also this is a big part of the idea of moving into the park and making it a cleaner brighter place with the added bonus of a trendy cafe in the corner now .
8. The planning departments main concern can only really be subsided by allowing me this opportunity of approval and showing you this will be great for the town and an amazing opportunity to see the opportunities of having different businesses in midlothian council, we have been open nearly a year now and have built up a massive community base that strongly wanted this approved to bring something different to the area. Its mentioned its not

clear how this could bring more job opportunities to the park but with us being there this allows more groups like football, karate, judo, outside badminton, fitness, yoga, running & cycling groups and most of all dog walkers to now bring their business to Mayfield park or allow others the opportunity to start a new business idea. Also over time as we grow we will be taking on more staff we operate from home now and have grown from myself and partner to now 6 staff in total all from Mayfield.

9. Material evidence has been attached in the form of pictures of reviews and just general customer feedback to show the impact we have in the community, someone said not long ago we were not like a takeaway we were like friends it never forgets that.
10. The conditions mentioned to be attached if approval is given we are more than happy with all of them especially about within 5 years having a more permanent building this would be a main goal of ours also. We will also be making great use of an abandoned building just now till it becomes in use fully again.

A hope you can see the opportunity this planning application has for the area and the potential it could bring for future growth of the park, we are now up for nomination for the 2023 business chambers awards for the community impact award and we are hoping for this approval so we can now have the tools to help the community even more.

Added in 8<sup>th</sup> April – amazingly we made it through to the last 4 finalists of the chamber awards for the community impact award we were truly lost for words and even more a really can't believe it but myself won the local hero award for Midlothian & East Lothian this has truly given me even more passion and drive to build something amazing for my community and keep on doing our Christmas meals every year along with the local parish church which we have already arranged for use of their kitchen again this Christmas, Colin Beattie has sent a motion to parliament for the award to be recognised also if I'm honest a really don't know how I'm here a really just like doing what I do and have so much passion to make something of myself for my family and the local community with the type of business I want to build it can only come with putting the community first.

Please give me this opportunity to further our business not just for ourselves but everyone around old school takeaway with this great location and extension to the size of kitchen we could really provide something even more affordable and more benefits to the community, I would also like to stress how much we are willing to let any conditions be made we see it as it's still an opportunity to work on and more than we have now if approved with any type of conditions we just want somewhere in Mayfield to keep doing our thing, please if you can check our Facebook page and read about our journey through the rewards it really shows you what we're trying to achieve for everyone to enjoy.

Thanks for your time

William Kivlin

Old school takeaway

## Mayfield park container cafe business plan

1. We are currently open 6 days a week with the opening hours of 9am to 8.30pm Tuesday to Sunday, we would be hoping to extend the opening hours to 8am to 11pm or 12pm but we would definitely just go with what the planning department allowed us with the opening days and times.
2. We are hoping by bringing this project to the park it's really going to bring something great for everyone and now we really can be a 20 minute community and have everything at our doorstep including some activity for everyone now in the park with an affordable menu for everyone to enjoy and much more.
3. The town centre car park would be used for anyone coming to the park in there vehicle but we're really trying to

make it a place where everyone has everything within walking distance and there's no more cars than usual, we're hoping to start a recycling programme and try get involved with a green energy programme which would involve more of convincing people to walk to the park to.

4. The container would be placed directly onto concrete foundations that are already in place and with permission by planning to go ahead we have been given permission by Justin venton to connect upto power and water to there existing storage building on site, which also has a toilet he's allowed access to so we don't need to install a toilet.
5. It's going to be a hatch only service cafe so nobody apart from staff would be entering the container, we are just moving the kitchen were we are operating from just now into the container with a few extra fridge and freezers for storage.



6. We are going to paint the outside of the container a neutral colour to match the park until we have been operating for a few months and are happy with the outside fittings as in lights and menu boards ect then we would like to timber frame the outside to look something like this below.



We have built up an amazing connection with the community since opening already and

before we started pursuing the project we asked loads of customers there thoughts of the idea and with there response we really can't wait for an opportunity to bring something amazing to the park and everyone in the community we are hoping to start a low funded hot meals on wheels programme for low funded family's in the area also.

### Shipping Container, Modular & Pop-Up Restaurant Ideas



Portable Coffee Shop





## Shipping Container Cafe



## Shipping Container Bar



## Pop-Up Beer Garden

Even though you may not have thought about alternative building materials such as shipping containers before, the style and versatility they provide has been recognized by industry leaders, including Taco Bell, Subway and Starbucks. Taco Bell debuted its first shipping container store at an annual film and music festival in Austin, Texas in 2015. Starbucks introduced its drive-thru shipping container outlets in 2014 and is already using them in

Seattle, Chicago, Denver, Oregon, Kansas City and Colorado.

During the construction of the Freedom Tower in New York City, Subway was tapped for what is perhaps the most creative pop-up restaurant idea to-date, and it was certainly one of the highest. While construction continued on the 105-floor structure, workers found it increasingly difficult to make it to ground level, eat their lunches and return to work on time the higher the building became. Subway solved this problem by using shipping containers to make a portable restaurant that could be lifted to the height of whatever floor the workers were on, saving them valuable time.

Pop-up restaurant ideas aren't limited to national chain operators, though. Many independent restaurant owners have also recognized the practicality and flexibility that shipping containers provide and have used them to either add onto an existing structure or to create a new one. Asheville, NC residents Matt Logan, Kristie Quinn and chef Mark Rosenstein, used 19 shipping containers to open America's largest shipping container

restaurant in the spring of 2015, for instance. Amazingly, the structure was installed in just three days.

Ska Brewing opened the Container Restaurant to offer guests fare that would complement their beer tasting experience when they visited the brewery's Durango, CO campus. The Container Restaurant consists of two containers that are positioned on top of each other. The Container Restaurant uses its lower level to prepare food while its upper container serves as an outdoor patio where people can eat their food and enjoy an elevated view of the brewery's property.

While shipping containers are ideal for large-scale operations because they can be used to build outward as well as upward, they are also perfect for smaller businesses. If you're trying to think of an outside the box pop-up restaurant idea that will enable you to enjoy the many benefits that come with having a mobile structure made from durable materials and the strong structure of custom shipping containers, you may want to consider the following popular ideas:

- Portable Coffee Shop
- Shipping Container Cafe
- Modular Bar
- Pop-Up Beer Garden

If you're interested in a modular café or mobile coffee shop, you have a lot of options if you choose to establish your business using a shipping container. Standard shipping containers range in size from 10-feet to 40-feet in length. While a shipping container's usual ceiling height is eight-feet, six-inches, "high cube" containers that have a nine-foot, six-inch ceiling are available.

Shipping containers are made with 16-gauge corrugated steel which provides a modern industrial look, but you can alter the appearance of a container with materials such as siding. While Taco Bell decided to leave the external appearance of the containers used to make its first shipping container outlet intact, Starbucks chose to alter the look of its drive-thru shipping container locations by adding reclaimed wood paneling and a logo sign to the outside of each one.



Since shipping containers can be positioned next to or on top of each other and can bear hundreds of thousands of pounds of weight as a function of their design and the materials used to make them, the options you have for the configuration of your shipping container coffee house are nearly limitless.

Although shipping containers can be made to construct a permanent structure, the fact that they were originally made to be transported on boats, trucks and trains makes them ideal for mobile businesses. They can move fast since they were moved from location to location and from one form of transportation to another during their shipping careers, shipping containers are outfitted to be picked up and loaded onto a truck with ease.

## Benefits of Mobile Coffee Shop Construction



The benefits of having a mobile coffee shop or modular café include your ability to move your business from one location to another. This advantage can literally save your business if you didn't initially pick an ideal location or if the mix of consumers in your area changes. It also gives you the opportunity to capitalize on special events in your area because you can haul your portable coffee shop to them.

Additional benefits of making a mobile coffee shop construction include:

- **Environmentally Friendly:** Using shipping containers for restaurant construction is environmentally friendly for multiple reasons. First, it re-

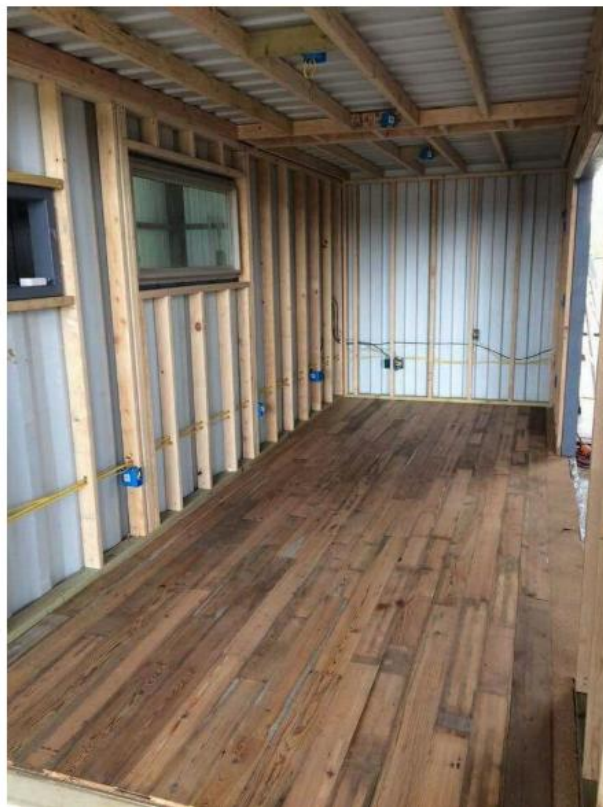
purposes material that may otherwise have been left to decay on a dock or in a landfill. This type of construction is also normally done indoors as modular construction typically is, meaning shipping container construction releases less dust into the air than stick-built, on-site construction does.

- **Time-Saving:** Shipping container construction can be completed faster than on-site construction because its progress is not dependent on the weather, and you start with a structure that already exists before the construction work even begins.
- **Security:** Since shipping containers are made from corrugated steel, they are virtually impossible to break into. At the end of the day, you'll simply lock down your shipping container coffee house to guard against theft. Given the material they're made of, shipping containers are fire resistant as a function of their design as well.













Food restaurants and cafes have become more progressive and well-designed with shipping containers. Nowadays shipping containers were used by many food restaurants.

One of the largest reason for building a shipping container restaurant is because it's Eco-friendly.

Chef Thomas Keller, who has 3-Michelin Star restaurant, French Laundry used shipping containers while renovating his restaurant kitchens in 2015. This is a good example of how shipping containers fabulous for any business, from small cafes to world-renowned restaurants.

- Our plans are to convert a 40ft container with a cafe hatch/window service to the public in the park , it will be lined and sealed & insulated and with the high security door it's extra secure in the park also.
- We are happy for the council to decide the design for the outside of the container so it ties in well with the park, but initially we are planning on painting a colour to tie in with the park (green) to start with and once containers are linked together install timber gladding to the outside which will look very nice situated in the corner of the park.

1. Below is some examples of what it will look like.

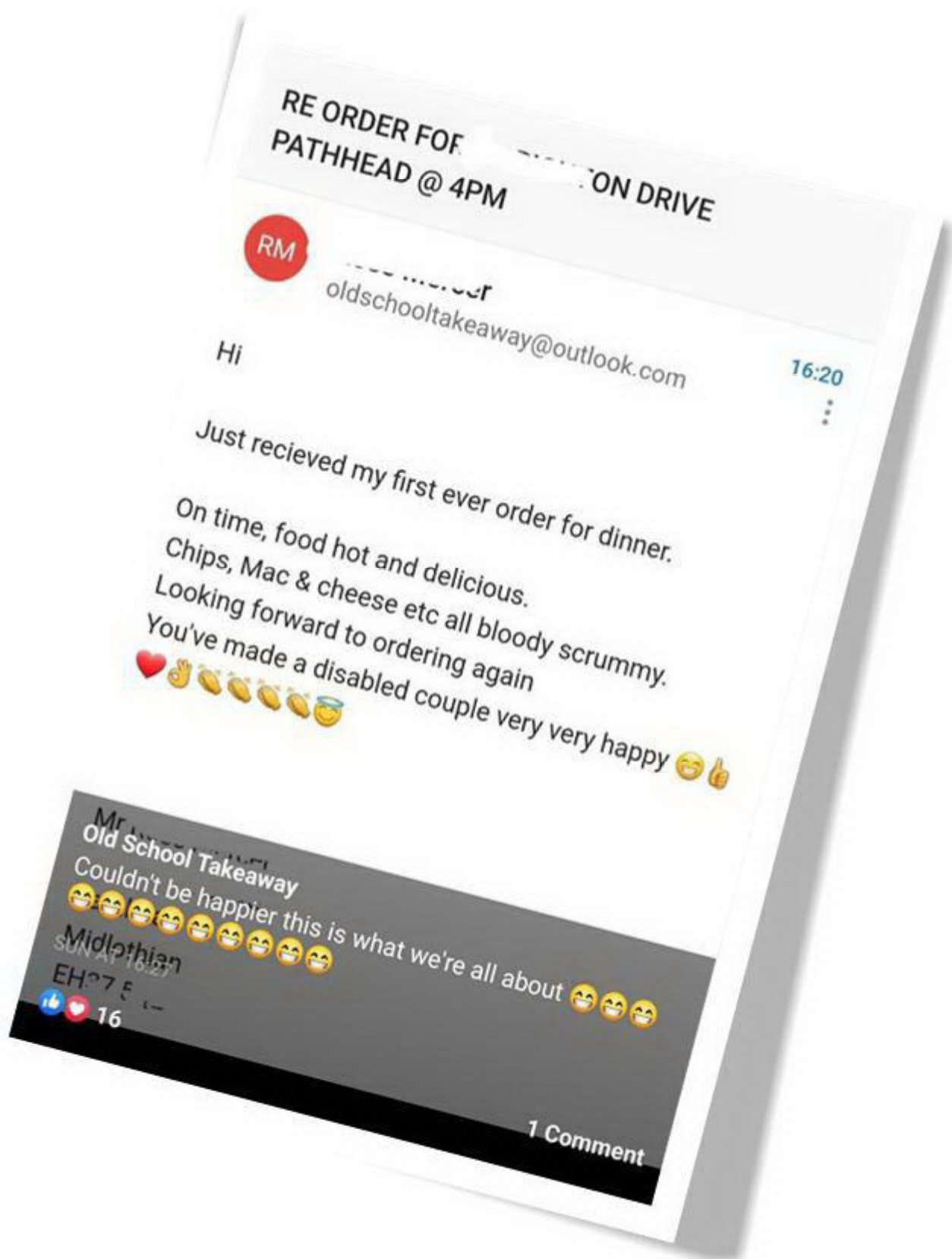








## The voice of the community





## Old School Takeaway

4 d · 🌐

🔪 The secrets out 👁️👁️ 🔪

As promised when we started we wer... See more



👍❤️ 143 >



👍❤️ 143 >

write a reply...

Newest ▾



**Catherine Thomas Mccolm**

Agnes Sutherland the Pavillion is amazing and I love it I use it weekly sometimes 3 times a week I think Pavillion will always be a winner in fact maybe having old school takeaway will bring more people to the park and the pavilion as it has the bonus of having an indoor seated area . I think there is enough for both old school and pavilion to benefit.xx

15 h Love Reply Message Hide 1 🗳️



**Old School Takeaway**

Catherine Thomas Mccolm the pavillion is an amazing place ❤️ exactly our thoughts thanks so much, we intend to advertise all about what's going on at the pavillion and recommend the seating area in the pavillion with there lunch it's came to life so well 😊 we also would love to purchase all the fruit and veg all year round that they have available and introduce it into our menu and this should be... See more



**Iona Birrell**

YES

3 d Love Reply Message Hide 1 🗳️



Top fan

**Adele McGowan**

Amazing hope it all works out for u xxx

3 d Love Reply Message Hide 1 🗳️



**Carol Webster**

That's brilliant well done guys xx

3 d Love Reply Message Hide 1 🗳️



**Jane Grieve**

Brilliant idea

3 d Love Reply Message Hide 1 🗳️



**Lisa Smith**

Leila Smith 🥰🥰

3 d Love Reply Message Hide 1 🗳️



**Shirley Macpherson**

This sounds brilliant and defo need more lighting in the park

4 d Love Reply Message Hide 1 🗳️



**Lesley MacKinnon**

What a fantastic idea yes yes yes 🍀🍀 Best of luck xx





16 Apr · 🌐

 Old School Takeaway



14 Apr · 🌐

 Old School Takeaway



7 Apr · 🌐

Amazing food amazing taste quick service will  
defo buy again xxx

## OLD SCHOOL TAKEAWAY

< 2 Lesley MacKinnon



**Lesley MacKinnon**

MON 06:22

we received our first order of Mac & cheese and chips for 2 on Friday. It was delicious and the portions were huge. 10 out of ten will defo be ordering again and at least next time you're driver will know where to find us 😊

MON 15:10

Thank you so so much ❤️ so glad we enjoyed your first order 😊 haha definitely we'll make sure she doesn't do 3 laps around the street before coming to your door next time 😊😊x



< 1 Pam Mochar



**Pam Mochar**

WED 11:22

Hi just received my first order, it was perfect, everything i needed, 😊 will definitely be ordering again!!! Thank you x

Hi Pam, thank you so much for the kind words 😊 We are so glad you enjoyed your tasty breakfast 😊

We look forward to hearing from you again, hope you have a lovely day xx



**Eilish Williams** recommends Old School Takeaway.

1 Apr · 🌐

Had macaroni cheese and chips today for lunch, great portion sizes, fab prices and very tasty!!

My colleague doesn't have Facebook, she had a firecracker chicken and cheese panini with salad and crisps and again highly recommends!

Will definitely be back 🍔❤️

❤️ 1

👍 Like

💬 Comment

➦ Share



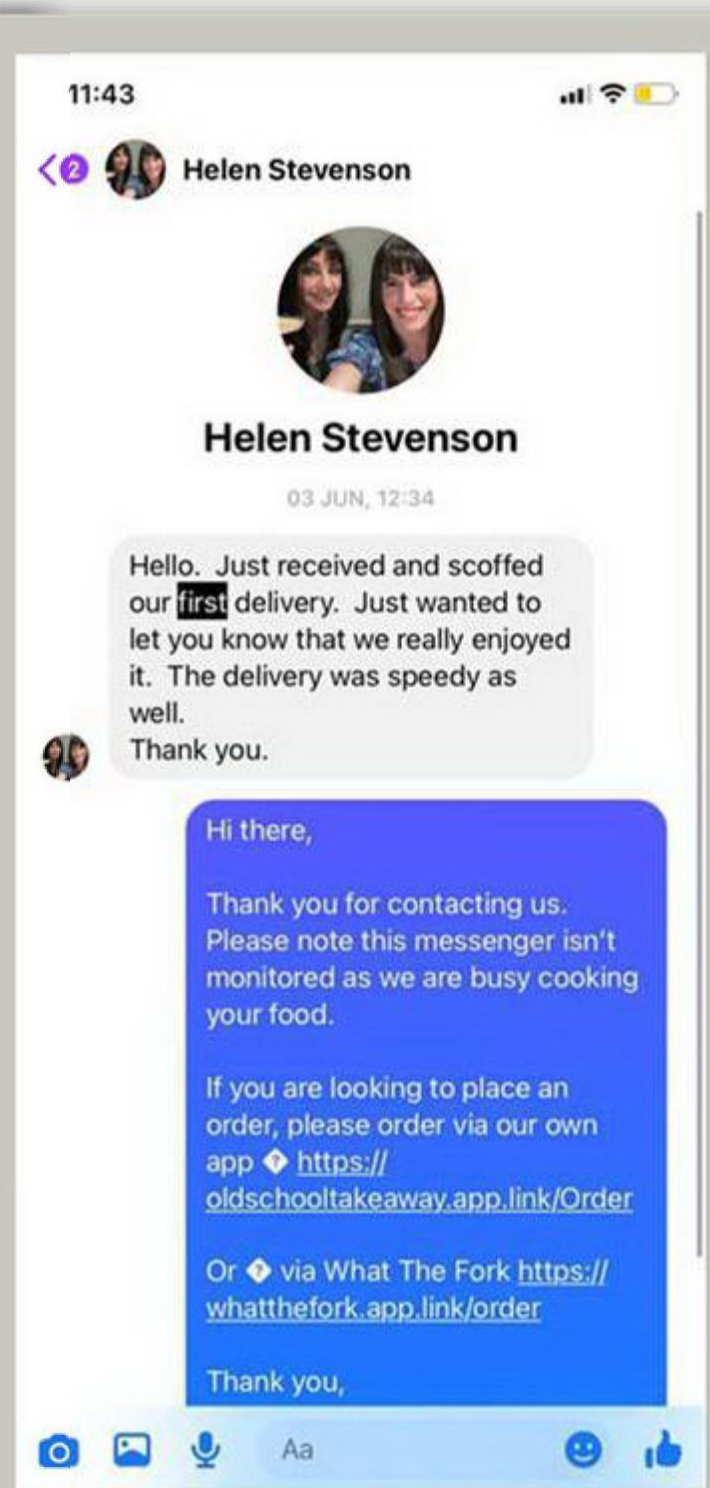
**Adele McGowan** recommends Old School Takeaway.

1 Apr · 🌐

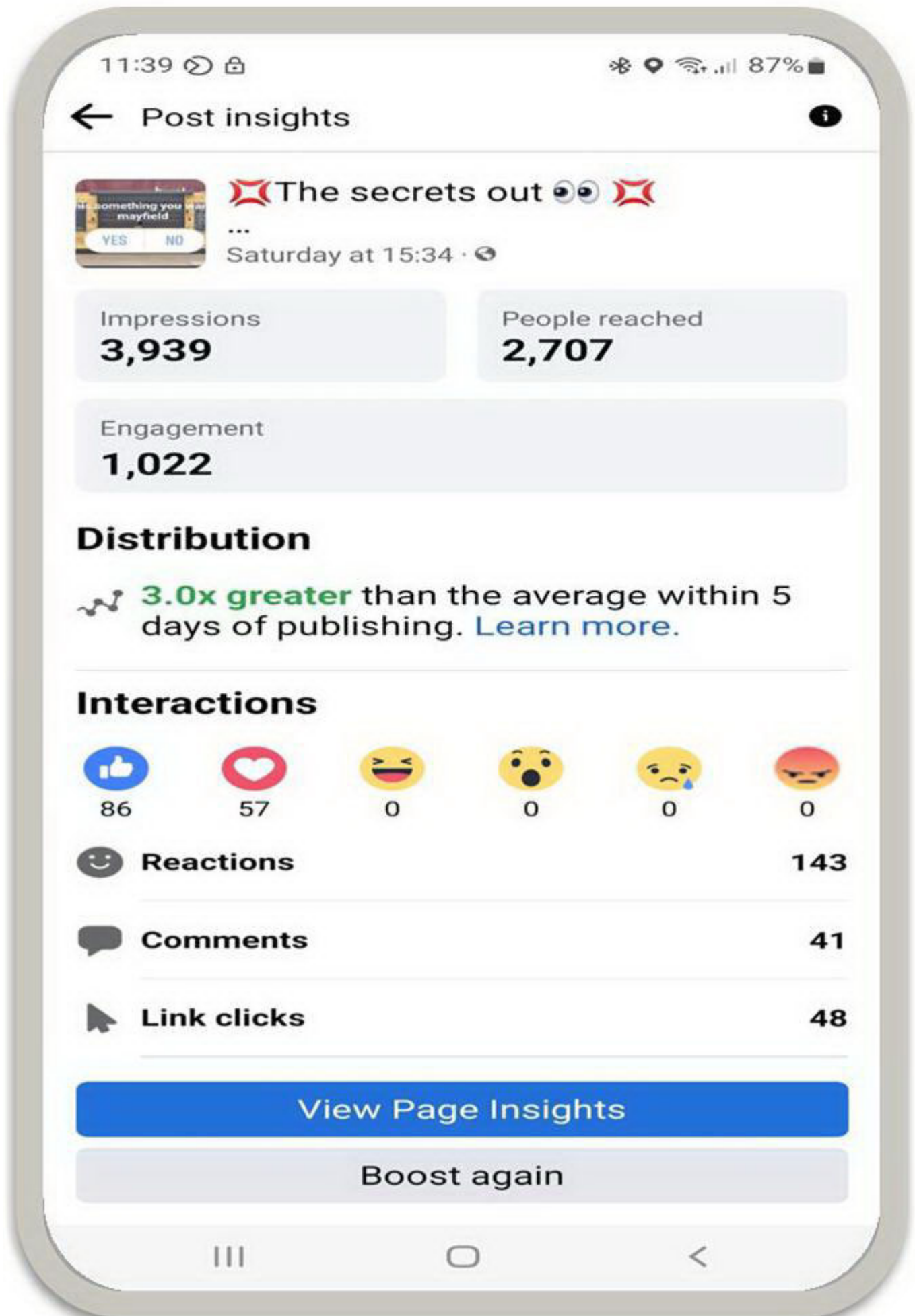
just had a delivery from here today was good tasty very And was quick would order again x

❤️ 1

1 Comment







Just ordered there after thinking about chippy Chinese etc so glad we did!  
Absolutely outstanding changed a few things on menu to suit myself

11:41

86%

**Mr Robert Macdonald (Supports)**

Comment submitted date: Tue 18 Oct 2022

I think it would be a great idea because me and my chums love this place and it just makes it a great location and means we can go on a nice walk and stop and get a bite to eat.

**Mr Declan O'Neill (Supports)**

Comment submitted date: Tue 18 Oct 2022

Being a teenager myself, I think this would be an amazing opportunity for me and my friends will now have something to do later on at night. We already love the food and now it's going to be somewhere we can get a bite to eat and hang around friends at the same time, we need something to keep us occupied

**Mrs Maxine Alexander (Supports)**

Comment submitted date: Mon 17 Oct 2022

I think this would be an amazing addition for the community. To know how much hard work has went into the business is amazing to see, to be given this huge opportunity to grow is astounding! The menu itself has such a great variety of "Old School" hearty food and even the prices are so much more reasonable for what you get... it is literally value for money! For someone starting from scratch and watching how well their business has done but also having great ideas about their future only builds up the surprise of what's to come! Great for all age ranges and a huge variety of food!

11:42

86%

**Mrs Lynne anderson (Neutral)**

Comment submitted date: Fri 14 Oct 2022

We own and manage Retirement Development at Salisbury. We have concerns about litter, noise and people this will attract so close to the development

**Miss Shannon Johnston (Supports)**

Comment submitted date: Thu 13 Oct 2022

This would be great to see in Mayfield it's definitely something different for the community and having nieces and nephews that I'm always at the park with this is going to be great for them to, also me and my partner use the park daily to walk our dog and this would be amazing to have that extra comfort of security on the later nights having this in the park. 100% support this

**Mr Steven O'Neill (Supports)**

Comment submitted date: Thu 13 Oct 2022

I've used this park a few times with the grandchildren over the summer, beautiful wide open space with lots of potential. I had thought it was missing a nice café, place for a coffee and bite to eat. I think this would be a welcome addition and perhaps stimulate more community activities in the park, hears hoping.

**Miss Michelle Szebert (Supports)**

Comment submitted date: Wed 12 Oct 2022

As someone who visits family in Mayfield regularly I would support this 100%.

## OLD SCHOOL TAKEAWAY

11:41

86%

### Mr Taylor Wight (Supports)

Comment submitted date: Tue 18 Oct 2022

Love this idea aye struggle from mental health myself and can't travel to far will definitely be using this a lot to get out for a break with me and the dog

11:40

87%

### Catherine Tumulka (Supports)

Comment submitted date: Wed 26 Oct 2022

this representation was made on paper please refer to the documents tab

### Mrs Dawn Bernard (Supports)

Comment submitted date: Tue 25 Oct 2022

I fully support this venture , I think it would be a great asset to the community  
I have used Old School Take away many times for delivery and would definitely be using this venue on a regular basis, it would definitely be a great asset to the community, there food is amazing and great value for money , I sincerely hope that the council support this as well

### Mr Peter Burns (Supports)

Comment submitted date: Mon 24 Oct 2022

This would be great asset to the local community of Mayfield and Dalkeith. A young business that has a great desire to succeed. This application should be applauded by all.

### Miss Courtney Main (Supports)

Comment submitted date: Sun 23 Oct 2022

I support this idea, as I commonly take my son here and would be nice if there was something like this in the area.

### Miss Gemma McGowan (Supports)

Comment submitted date: Tue 18 Oct 2022

I think this would be a fantastic idea for mayfield this would attract loads of kids from school builders

11:40

87%

### Miss Sinead Masterton (Supports)

Comment submitted date: Wed 19 Oct 2022

This food outlet would be a brilliant addition to mayfield especially after the loss of the cafe recently. The menu is reasonably priced and is filled with healthy options for the kids at lunch time from school and an ideal walking distance for people working in surrounding businesses in the area.

### Miss Danielle Walker (Supports)

Comment submitted date: Tue 18 Oct 2022

This is a fantastic opportunity for the community of mayfield and the thriving small businesses Old School Takeaway. I for one am a regular customer of the Old School Takeaway we have always had an excellent service. My daughter and her friends who are at the High School looking forward to using there services.

### Miss Yazmin Laidlaw (Supports)

Comment submitted date: Tue 18 Oct 2022

I think it'll be a brilliant idea to bring a food Buisness with such a verity of food to central mayfield with easy access for everybody to enjoy

### Miss Haylie McKenzie (Supports)

Comment submitted date: Tue 18 Oct 2022

I think it is a brilliant idea to have something like this in the park that many people use everyday. It would be a smart move to have a cafe where everyone can access it. Good idea for the school kids as it's healthy menu added bonus. Overall a great idea

III

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community through the app.

Let's bring people into the 21st century and h

III

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III

O

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11:41  

   86% 

### Miss Emma Hardie (Supports)

Comment submitted date: Tue 18 Oct 2022

I fully support the idea of a new food establishment being placed in mayfield park. I don't live within the community myself but family who I visit a lot are and I use the park so often while walking our dogs.

As far as I'm lead to believe this food establishment isn't only going to provide great, tasty and wholesome food for the community, but provide dog treats also for the avid dog walkers of the community. This is a big plus as I have seen anything like that around here.

I took a walk around to see what could possibly have issues with this establishment going up and can't see any. There are varies other establishments selling food and takeaway things however these all work along side each other on a daily basis so why not another. Somewhere where they is a place big enough for everyone to gather with family and friends and enjoy a day out or even a rainy stroll through the park for a hot chocolate or coffee to heat you up.

Littering would not be an issue if there are bins put in place to which I'm sure being a reputable business they will provide in the droves to stop this happening. Prices won't take away from community places within park either because each establishment is different, serving a selection of different foods. This establishment is all for the community also already offering back to school discounts online and other gestures to the community through the app.

Let's bring people into the 21st century and h



## Old School Takeaway



what time to you stop delivering 😊

2 h Love Reply Message

1 ❤️

Author

**Old School Takeaway**

Katie Hastie Rankin we stop at 8pm Tuesday to Fri and 8.30pm Saturday and Sunday 😊 hope to see you soon



2 h Like Reply

**Katie Hastie Rankin**

**Old School Takeaway** you definitely will 😊

2 h Love Reply Message

1 ❤️

**Lisa Smith**

**Katie Hastie Rankin** you won't be disappointed We have had a few and never any leftovers 😊

1 h Love Reply

2 🍕❤️

Message

**Katie Hastie Rankin**

**Lisa Smith** heard so many brilliant reviews so definitely going to try it soon it will also save me cooking also I'm in the street lol 😊😊

1 h Love Reply Message

1 ❤️

Hi there I've just been speaking to your dad.  
Was wondering if you could possibly do catering for a Wedding. It's John Mclelland's oldest daughter.

Thanks Annie

hey guys! Will you still be open for delivery about 2pm today? 😊

Yeah of course we will 😊 Are you looking to order?

Yeah I'll be doing it through the what the fork app as usual 😊😊 cannot get enough of the Mac N Cheese 😊😊😊

😊 it's very tasty isn't it, we look forward to cooking your tasty order

Appreciate it! ❤️



Just received my mac n cheese and just had to message you and day this might be your best Mac n cheese yet!! It's absolutely delicious!



11:22

Hi just received my first order, it was perfect, everything i needed, 😊 will definitely be ordering again!!! Thank you x

Hi [redacted], thank you so much for the kind words 😊 We are so glad you enjoyed your tasty breakfast 😊

We look forward to hearing from you again, hope you have a lovely day xx

## Old School Takeaway

Another Happy, Hungry Old Schooler satisfied 😊

Love receiving messages like this, you lot are just absolutely amazing 😊

WED AT 12:02



William kivlin

Kind Regards Elaine xx

We are absolutely delighted to be given the opportunity

**Lost for words nisa local giving us a supporting vote we really do want to bring something amazing to the community and work with as many other's as we possibly can we've never looked at old school takeaway as a business we always call it a family and we're trying to find a way to bring the community more and more into this growing family everyday.**

**A hope you all liked what I've put together instead of me just telling you what the community says let me show you through our growing old school family page there own voice of opinions.**

**I've called this the voice of the community because you can see from the locations chart our community is speaking loudly, thanks so much for taking the time to read this and be part of old school takeaway have a lovely night .**

Visa Local  
+2 Mayfield Place  
EH22 5EB  
Mayfield

ACKNOWLEDGED 28.10.2022

I Write In Regards to the following  
Planning Application - 22/00716/PP

As a local Business owner in the area, we  
are 100% Supporting this Application.

Yours Sincerely  
27/10/22

G RASUL

RECEIVED  
28 OCT 2022



Old School Takeaway, Dalkeith

📍 7 Old School Path | 0.13 miles

★★★★★★ 6.78/7 (43)

Breakfast • Burgers • Baked Potato

We are so happy to have the highest review rating on the entire what the fork platform which consists of nearly 1000 restaurants to takeaways on there platform

Locations

Cities Countries

Dalkeith	681
Edinburgh	217
Gorebridge	104
Bonnyrigg	103
Tranent	22
Musselburgh	20
Loanhead	12
Lasswade	11
Penicuik	11
Pathhead	8

## MIDLOTHIAN COUNCIL

### DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

**Planning Application Reference:** 22/00716/DPP

**Site Address:** Land to Rear of 20 Eskview Road, Mayfield, Dalkeith

**Site Description:** The application site comprises an area of hardstanding within Mayfield Park. The site is by the eastern edge of the park which extends to the west, south and north. There is a building within the park to the north (the Pavilion) which operates as a café and hub, with a community garden to the north. The site is at an elevated level, with the land sloping down to the west. There are retirement flats to the east and a flat roofed building used by the Council as storage to the south. There are houses to the south, beyond the park, with Mayfield Town Centre to the northeast. Newbattle High School lies beyond the park to the west.

**Proposed Development:** Change of use from public open space to allow siting of container for use as hot food takeaway.

**Proposed Development Details:** The proposed container is to be used as a hot food takeaway. This measures 12 metres long by 2.4 metres wide and 2.4 metres high and will be clad in timber cladding on three sides, with an opening cut out to accommodate a serving hatch. The container will connect to the public water supply and drainage network. The existing food business is operating from the applicant's home as a delivery only service.

**Background (Previous Applications, Supporting Documents, Development Briefs):** No relevant history.

### Consultations:

The Council's **Senior Manager Neighbourhood Services (Roads)** has no objection as the proposal does not raise any major transportation or road safety issues.

The Council's **Senior Manager Protective Services** does not object, subject to conditions being attached to any planning permission to ensure there are no generators used in the vicinity of the container and that the use only operates between 8am and 8pm. These conditions would limit noise and disturbance to nearby residential properties.

The Council's **Biodiversity consultant** has not flagged up that the development would affect any protected species.

The **Mayfield and Easthouses Community Council** objects to the proposal and support the objection from Mayfield & East Houses Development Trust (MAEDT) while acknowledging the amount of support from the community. They state:

- A large amount of representations are from people who do not live in the local area, from people under 16 years old and written on other people's behalf by



the same person. They query how these are considered in the assessment of the application and how these are checked to be authentic. They note some people have sent in more than one letter and/or signed petitions. They do not suggest the comments are not authentic but query how this is handled. If they are satisfied on this point, they would support the application based on the community support in the representations;

- They ask if the claim that healthy food would be served will be investigated. They are concerned the unit would target school children and the menu is largely fried/fast food, raising issues over healthy eating. They are part of the Council's whole system approach to type 2 Diabetes in the area. They are also considering campaigning for Fast Food Exclusion Zones to be included the Local Development Plan (LDP) to restrict new fast food outlets to outwith 400m of any school. They would support the proposal if this were providing healthy food at affordable prices, but this has not been submitted;
- The business plan does not provide any evidence of job opportunities or how it would reduce commuting from the area, or what policies it satisfies from the LDP. The application cannot be supported on this basis;
- Concerns over people parking in nearby laybys which are not car parks;
- They note representors state this is wheelchair accessible, but that the hatch would need to be lower to be so. They would support the application if the Council provide public toilets in the part, including a disabled toilet and changing facilities;
- They make reference to a similar unit in Dunbar that is a sit in café and takeaway that opens between 10am to 4pm. They would support the proposal if it operated like this;
- They query the community spirit and benefits noted in the letters of support. A lot of representations state this is a café when this is a takeaway, with no details of seating. The only toilet facilities are in the adjacent storage building but it is not clear if this is for staff or customers. MAEDT already run activities and litter picking the area, as proposed by the applicant. There is no evidence that the proposal would support community spirit in the area and they do not support the application on this basis, but hope that those who signed up for these events take part in the MAEDT events;
- Anti-social behaviour concerns as it is implied the takeaway would open late at night. It is not clear if this use later into the evenings would create a safer feel with people in the area or less safe if youths are gathered here. It is not clear how this would reduce anti-social behaviour and there is no evidence that this would be reduced. This would be better achieved by better lighting and not more people hanging around in the park. They do not support the proposal on this basis;
- They query the Council's involvement as the submissions include a statement from a Council officer in the Landscape and Countryside Services section that they would support this, as well as Councillor support. They are disappointed that there is more support for this than the Town Centre Masterplan;
- There are 12 food provision units in the area, including in the park itself. They highlight that if people are not aware of these in the area, the proposed use may also not be well used. They also highlight the impact on these existing businesses as a result of another food unit in the area, if preferential treatment is given to this use on Council owned land. If this were acceptable

in principle, the lease should be open for competition. They do not support the proposal on this basis;

- The proposal is contrary to the MDLP and the consented use as a park. This is also contrary to and would undermine the Town Centre Masterplan and they do not support the proposal on this basis;
- They support the applicant in establishing the business this far but state that if there is space for another food outlet in the area this should be in one of the retail units that already exist;
- Concern over what would happen to the container if the applicant gets permission but moves elsewhere in the future – would the container remain for someone else to take over, if so for what use, and if not would it sit empty? They ask that if this is approved, conditions be attached to control the future of the container. If this were clear, they would support the application;
- Concern over an overlap between existing and proposed community work which may affect existing relationships. Planning to work with young people is certainly admirable but they do not want to be a position where they need to take sides between community groups and so neither support nor oppose the application on this basis;
- Approving a shipping containers as a solution for commercial premises will set a precedent for any other new buildings within the town centre; and
- Potential noise and litter concerns.

**Representations:** 106 letters of representation have been received, 4 objecting, 102 supporting and one neutral.

The objections are on the following grounds:

- The proposal would cause noise, smells, litter, anti-social behaviour and vermin in the park and area;
- The application is misleading as there is a café in the park;
- The proposal would threaten the existing café which is a community café that offers a number of activities in the area;
- The container would be in front of the adjacent flats;
- There is no barrier between the container and adjacent flats;
- Vehicles use the site to access the adjacent Council building which has been vandalised;
- There are plenty other food units in the area;
- Impact on wildlife;
- Loss of parkland;
- Why should local people be asked to do litter picks;
- This will not make the park safer at night but the opposite; and
- This would devalue local properties.

Two additional petitions with 34 and 64 signatures were also received, objecting for the above reasons.

The supporting letters are on the following grounds:

- The proposal complies with the 2017 Midlothian Local Development Plan;
- Would be a good facility in the park and community;
- A good facility for healthy food close to the local high school;
- Would add extra security to the park at nights;

- Supports a local business;
- The business provides good quality food;
- Be somewhere for young people to gather;
- The area is large enough to accommodate another food unit;
- Litter could be addressed with bins provided and collections which a number of supporters have signed up to;
- The Community Council said they would support the proposal if there was a way to prove all representations were real;
- This would have good disabled access;
- The proposal will bring local jobs; and
- The proposal will create tourism in the area.

One additional petition with 9 signatures was also received, supporting for the same reasons.

The neutral letter raises concerns over noise, litter and people in the area close to the adjacent retirement flats.

The adopted Scheme of Delegation states a representation on an application shall only be competent if it comprises a written submission in the form of either a letter, e-mail or online submission. In the case of a letter the correspondent will require to include their name, full address and signature. There have been 61 representations submitted that comply with this (56 supporting, 4 objecting and one neutral) and 42 representations that do not comply with this (all supporting).

**Relevant Planning Policies:** Planning policy currently comprises National Planning Framework 3 and Scottish Planning Policy, SESPlan and the adopted Midlothian Local Development Plan 2017. On 8 November the Revised Draft National Planning Framework 4 was submitted to the Scottish Parliament for approval along with an Explanatory Report that outlines the changes from Draft NPF4 to the Revised Draft. The Planning Act requires that NPF4 must be approved by the Scottish Parliament before it can be adopted by Scottish Ministers. On adoption the provisions in the Planning Act will commence to make NPF4 part of the statutory development plan. The existing National Planning Framework 3 and Scottish Planning Policy remain in place until NPF4 has been adopted by Scottish Ministers. As the Revised Draft NPF4 is at an advanced stage and represents the settled view of the Scottish Government in terms of its planning policy it is a material consideration of significant weight in the assessment of the application. The following policies are relevant to the proposal;

- Policy 1 Tackling the climate and nature crises
- Policy 2 Climate mitigation and adaptation
- Policy 3 Biodiversity
- Policy 14 Design, quality and place
- Policy 15 Local Living and 20 minute neighbourhoods
- Policy 21 Play, recreation and sport
- Policy 23 Health and safety
- Policy 25 Community wealth building
- Policy 26 Business and industry
- Policy 27 City, town, local and commercial centres



The relevant policies of the **2017 Midlothian Local Development Plan** are;  
**DEV2 Protecting Amenity within the Built-Up Area** advises that development will not be permitted where it is likely to detract materially from the existing character or amenity of the area;

**TCR1 Town Centres** supports proposals for retail, commercial leisure development or other uses which will attract significant numbers of people in Midlothian's town centres, provided their scale and function is consistent with the town centre's role. In support of this policy the Council has prepared supplementary guidance on food and drink and other non-retail uses in town centres; this guidance also includes guidance in respect of food and drink and hot food takeaways outwith town centres. The guidance was adopted by the Council on 4 March 2019. Further details on the Supplementary Guidance are provided below; and

**ENV18 Noise** states that the Council will seek to prevent noisy developments from damaging residential amenity or disturbing noise sensitive uses. Where new developments with the potential to create significant noise are proposed, these may be refused or required to be modified so that no unacceptable impact at sensitive receptors is generated. Applicants may be required to carry out a noise impact assessment either as part of an Environmental Impact Assessment or separately. Where new noise sensitive uses are proposed in the locality of existing noisy uses, the Council will seek to ensure that the function of the established operation is not adversely affected.

The site is adjacent to an area covered by the following policy:

**DEV8 Open Spaces** states that the Council will seek to protect and enhance the open spaces identified in the Local Development Plan. Development will not be permitted in these areas would which: result in the permanent loss of the open space; and/or adversely affect the accessibility of the open space; and/or diminish the quality, amenity or biodiversity of the open space; and/or otherwise undermine the value of the open space as part of the Midlothian Green Network or the potential for the enhancement of the open space for this purpose.

**Supplementary Guidance on Food and Drink and Other Non-Retail Uses in Town Centres** has been adopted. This states food and drink uses outwith town and local centres will not be permitted unless it has been demonstrated there will be no adverse impact on the viability of nearby town centres. Such applications should be accompanied by a Town Centre Impact Assessment. However the Planning Authority can use discretion not to request such an assessment where an application is submitted for the change of use of a high footfall use to a food and drink use, where there is no reasonable prospect of the original use being retained. There shall be no take away facilities within 400 metres of a primary or secondary school. This is in order to address the adverse impacts such uses have on the diets of young people and the health of communities. This position was slightly amended by the elected members where it was agreed that food and drink units can have a takeaway facility provided this did not operate during school hours.

**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.

Principle of development

The Planning Authority are keen to support local businesses where possible. However this should be the right development in the right place, have no detrimental impact on the character or appearance of the surrounding area and comply with policy, unless otherwise justified. The application site is within the built up area where there is a presumption to support development, however the details of the proposal must be considered. Due to the nature of the proposal, the impact on the nearby town centre, residential properties and surrounding area are paramount.

#### Amenity of residential properties

There are flats to the east which could be affected by noise, disturbance and smell from the use. These issues could also extend to the remainder of the park. The application site is 12 metres from the flats at the closest point, with the main elevations 23 metres apart. There is a railing approximately 1.6 metres high and some planting along the shared boundary. There is a house to the south, though this is separated from the site the storage building.

The Council's Senior Manager Protective Services (Environmental Health) was consulted regarding the concerns over noise and smell. In regards noise, they have no objection provided that the use be limited to 8am to 8pm daily. They also state no generator should be used, as this would result in noise and fumes. They do not raise any concerns over smells from food cooking or that the proximity to the flats would have a significant detrimental impact on the amenity of the residents or users of the park which could not be mitigated by these conditions.

The distance between the container and the flats means that, although it will block some views, the container will not have an overbearing impact on the outlook of these flats.

Should permission be approved, conditions would be attached to require litter bins be in place before the use is operational.

#### Appearance

The container is a standard shipping container of generic scale and form. This will be improved by it being finished on three sides in timber cladding. The side elevation which is not to be clad includes the doors into the unit. It is appreciated that this will be in daily use which may be why the cladding is not proposed here, however this will be a highly prominent elevation on approach from the south and so in the visual interest of the area this should also be clad. Further details of the finish of the service hatch are required as it is not clear what this would be.

The Planning Authority generally restrict the time periods where containers are approved as these have the appearance of temporary units and are not suitable as long-term additions to areas. This is considered in detail below.

#### Road safety

The Council's Senior Manager Neighbourhood Services (Roads) has considered the application and is satisfied that this does not raise any major road safety issues. The scale of the container is such that the proposed use would be unlikely to create any significant road safety issues.

Representors have queried if the siting of the container would block access to the adjacent storage building as the pedestrian and vehicular doors are on the elevation that faces the site. There appears to be a discrepancy between the information submitted over the exact position of the container, as this appears as close as 2 metres and also approximately 3 or 4 metres. This point needs clarified and can be covered by condition if approved.

#### Impact on Mayfield Town Centre and other businesses in the area

The SG states food and drink uses outwith town and local centres will not be permitted unless it has been demonstrated there will be no adverse impact on the viability of nearby town centres. Such applications should be accompanied by a Town Centre Impact Assessment. The Planning Authority can use discretion not to request such an assessment where an application is submitted for the change of use of a high footfall use to a food and drink use, where there is no reasonable prospect of the original use being retained.

The application site is close to, but outwith, Mayfield Town Centre and does not lie within a local centre. The application is for a new container to be sited in the park, not the change of use of an existing site to a takeaway use. Given this, the proposal is contrary to the SG due to the fact that the site is not situated within either a town centre or a local centre. In the absence of a Town Centre Impact Assessment demonstrating that there is no adverse impact on the vitality of Mayfield town centre, then a takeaway use at this location is contrary to the SG and by association policy TCR1

There are a variety of uses within the town centre, including retail, class 2 and at least four cafes/hot food takeaways and a further two shops that sell food. There are also a number of food provision units outwith the town centre but in the surrounding area, including a café within the park which is open Tuesdays to Fridays 10am – 4pm. It would be more appropriate for this business to operate from an existing unit in the area, rather than as proposed.

#### Proximity to schools

The application site is approximately 250 metres from Newbattle High School which lies beyond the park to the east and 340 metres from Mayfield and St Luke's RC Primary School to the south. The adopted SG states there shall be no takeaway facilities within 400 metres of a primary or secondary school. This is to address the adverse impacts such uses have on the diets of young people and the health of communities. This position was slightly amended by the elected members where it was agreed that food and drink units can have a takeaway facility provided this did not operate during school hours. It is clear from the information submitted that a large part of the customer base would be school pupils and that the use would operate during school hours. This would be contrary to adopted policy and so there is no support for this proposal.

It has been submitted that the container would offer healthy food and that this may address some concerns over the proposal. However if the Planning Authority were to approve this application, it would not be possible to restrict this to only selling healthy foods. If it were approved it would be approved as a hot food takeaway as it is not reasonable or enforceable to restrict the type of food.

The MLDP does not contain any specific policies relating to healthy eating; however the 400 metres buffer between schools and hot food takeaways that is specified in the SG is intended to discourage unhealthy eating amongst school children.

#### Other matters

The following section addresses representors' comments not addressed above.

The number of representations received from people who do not live in the local area, who are from people under 16 years old and are written on other people's behalf by the same person have been queried. All representations that comply with the adopted Scheme of Delegation are referred to in the assessment of applications. The relevant planning matters raised in representations are taken into account in the assessment of the application, with other matters noted. All representors are sent acknowledgements which confirms comments have been received and will be made publically available to view, along with details of how to contact the Planning Authority if they are not happy with this. Two representors decided to withdraw their comments after receiving this acknowledgement.

The comments made by other Council officials are of interest, however these do not form part of the assessment. Any Councillor involvement in applications should be declared if they are involved in the decision making process, such as if these are determined by Planning Committee or in the event of a review to the Local Review Body if the Councillor is a member of this.

It has been queried what would happen to the container if the applicant moves on. If this application were approved, this could either have a personal or temporary condition attached. Personal conditions can be used in instances where the proposal is only acceptable due to the specific way the applicant seeks to operate, thereby limiting approval to one person only. The planning authority have concerns over the long term use of shipping containers as these have a temporary appearance which are not suitable for long term or permanent use. Where these are approved, these are generally conditioned to be in place for up to five years to allow the applicant to find a permanent, long term solution for the use. It is acknowledged that cladding the container will improve its appearance, however this will still be a storage container which is not appropriate for a long term use. In any case, this is not being supported so these conditions are not necessary.

It is not clear how the proposal would result in job opportunities, how it would reduce commuting, create tourism or which MLDP policies it satisfies. The container would be wheelchair accessible.

It would be outwith the scope of the application to require the Council to install public toilets or additional lighting in the park.

The similar operation in Dunbar reference by a representor is of interest but not relevant to this application.

The proposed hours of operation are not clear, however if approved these would be limited to between 8am to 8pm. People would generally be using the park in these



times so it is not anticipated that the proposed use would bring a significant amount of people into an otherwise quiet area during these hours. Any issues of anti-social behaviour is a police matter.

Reference is made to community spirit and existing and proposed community works in the area and potential conflict. While interesting, this is not a material planning consideration and does not form part of the application assessment.

The proposal would result in the loss of a small area of hardstanding of less than 30 square metres (0.3 hectares) within a park which is approximately 67,046 square metres (6.7 hectares). It is acknowledged that the incremental loss of small parts of the park would have a cumulative impact, however the loss of parkland to site a container that is not a permanent building that can be easily removed, is not a reason to refuse permission in this instance.

The loss of value to nearby properties is not a material planning consideration.

Should permission be approved, details of bin storage would be required for approval. Any issues over vermin should be reported to the Protective Services (Environmental Health) team.

The Council's Biodiversity consultant has not flagged up that the development would affect any protected species. Although wildlife may use the site, this is not protected wildlife and so there is no control in planning terms to protect this.

There are a number of food provision units in the area which could be affected by the proposal, however competition between operations is not a material planning consideration. The issue over the lease on Council owned land being open for public competition is not something the Planning Authority can control.

**Recommendation:** Refuse planning permission.



## Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

**Reg. No. 22/00716/DPP**

Old School Takeaway  
7 Old School Path  
Mayfield  
Dalkeith  
EH22 5NG

Midlothian Council, as Planning Authority, having considered the application by Old School Takeaway, Mr William Kivlin, 7 Old School Path, Mayfield, Dalkeith, EH22 5NG, which was registered on 6 October 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 allow sitting of container for use as hot food takeaway at Land to Rear of 20, Eskview Road, 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	06.10.2022
Site Plan	1:500	06.10.2022
Floor Plan, Elevations	2586/01 1:50	06.10.2022
Illustration/Photograph		06.10.2022

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

- The proposed site is within 400 metres of Newbattle High School and Mayfield and Saint Luke's RC Primary School. Midlothian Council's Supplementary Guidance on Food and drink and other non-retail uses in Town Centres does not permit hot food takeaways within 400 metres of the curtilage of either primary or secondary schools. The proposal is therefore contrary to policy TCR1 of the Midlothian Local Development Plan 2017 and its associated Supplementary Guidance.*
- The building is not situated within either a Town Centre or a Local Centre, as defined in the Midlothian Local Development Plan 2017, and no evidence has been provided to demonstrate that the use will not have an adverse impact on the vitality of Mayfield Town Centre. The proposal is therefore contrary to policy TCR1 of the Midlothian Local Development Plan 2017 and its associated Supplementary Guidance.*

Dated 18 / 1 / 2023

A handwritten signature in dark ink, appearing to be the initials 'DR' with a stylized flourish.

.....  
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](mailto:planningconsultation@coal.gov.uk)

Website: [www.gov.uk/coalauthority](http://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](http://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries)

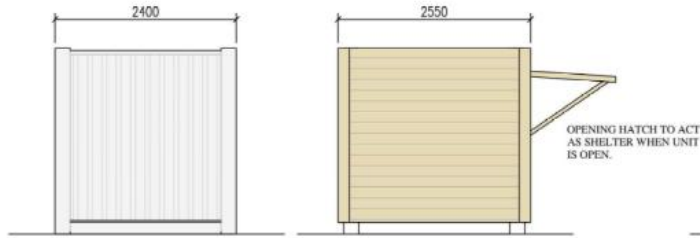
Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, excavations for foundations, piling activities, other ground works and any subsequent 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](http://www.gov.uk/government/organisations/the-coal-authority)

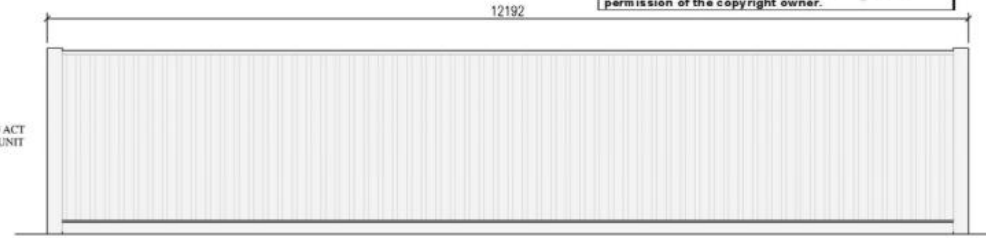
**Informative Note valid from 1st January 2023 until 31st December 2024**



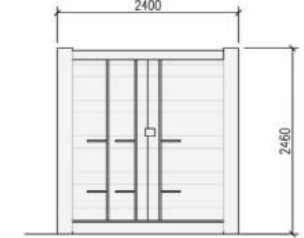


END ELEVATION  
AS PROPOSED  
(WITHOUT CLADDING)

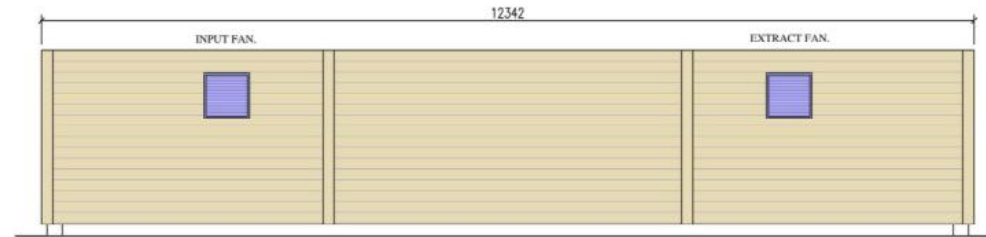
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AS PROPOSED  
(CLADDING SHOWN)



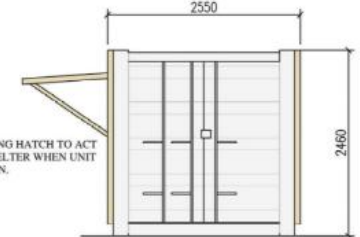
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AS PROPOSED



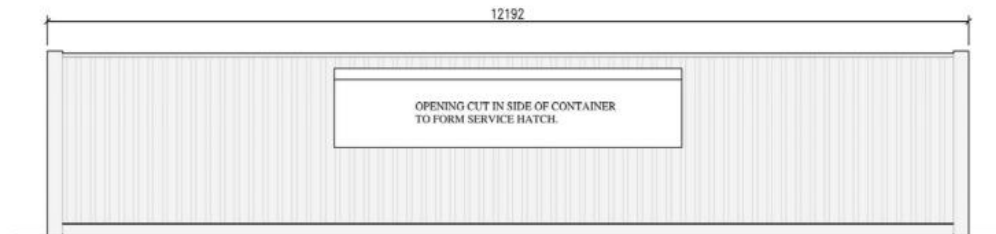
END ELEVATION  
AS PROPOSED



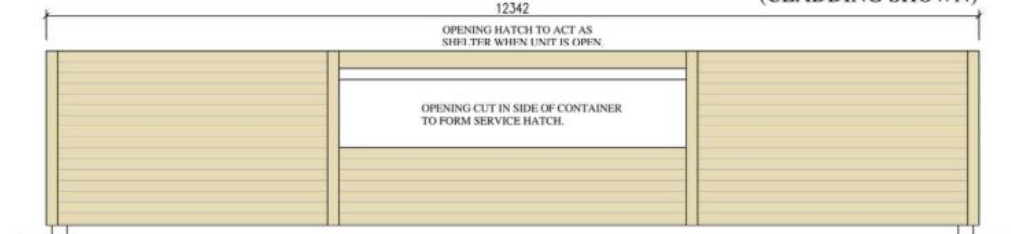
REAR ELEVATION  
AS PROPOSED (WITH CLADDING AS EXTERNAL FINISH SHOWN)



END ELEVATION  
AS PROPOSED  
(CLADDING SHOWN)



FRONT ELEVATION  
AS PROPOSED  
(WITHOUT CLADDING)



FRONT ELEVATION  
AS PROPOSED (WITH CLADDING AS EXTERNAL FINISH SHOWN)



- EXTERNAL FINISHES :**
- NEW STORAGE CONTAINER TO BE PROVIDED TO ACCOMMODATE FOOD PREPARATION AND TAKE AWAY FACILITY.
  - CONTAINER TO BE FINISHED EXTERNALLY USING HORIZONTAL TIMBER CLADDING TO THE SATISFACTION OF THE PLANNING DEPARTMENT.
- INTERNAL FINISHES :**
- WALLS TO BE LINED IN TIMBER STUDS AND FINISHED WITH EASY CLEAN SHEETS.
  - FLOOR TO BE FITTED WITH TIMBER BATTENS, T & G FLOORING AND VINYL FINISH WITH COVES FOR EASY CLEANING.
  - EXTRACT FAN TO BE PROVIDED TO ACHIEVE 30 AIR CHANGES PER HOUR AND INPUT FAN PROVIDED FOR MAKE UP AIR
  - KITCHEN UNITS TO BE SUPPLIED AND FITTED TO CLIENTS SPECIFICATION.

Project		
INSTALL NEW STORAGE CONTAINER TO ACCOMMODATE NEW HOT FOOD TAKE AWAY FACILITY AT LAND WITHIN MAYFIELD PARK ADJACENT TO ESKVIEW ROAD MAYFIELD MIDLOTHIAN		
Client		
MR. WILLIAM KIVLIN		
Date	Scale	Drq.Num.
SEPT 2022	1 : 50	2586/01

REFUSED  
22.00716.DPP  
18.01.2023











Container conversions scotland  
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18.01.2023

