

## **Notice of Review: Land adjacent 103 Lothian Street, Bonnyrigg**

### **Determination Report**

Report by Chief Officer Place

#### **1 Purpose of Report**

- 1.1 The purpose of this report is to provide a framework for the Local Review Body (LRB) to consider a 'Notice of Review' for the formation of car park and associated works at land adjacent 103 Lothian Street, Bonnyrigg.

#### **2 Background**

- 2.1 Planning application 24/00062/DPP for the formation of car park and associated works at land adjacent 103 Lothian Street, Bonnyrigg was refused planning permission on 24 April 2024; a copy of the decision is attached to this report.
- 2.2 The review has progressed through the following stages:
- 1 Submission of Notice of Review by the applicant.
  - 2 The Registration and Acknowledgement of the Notice of Review.
  - 3 Carrying out Notification and Consultation.

#### **3 Supporting Documents**

- 3.1 Attached to this report are the following documents:
- A site location plan (Appendix A);
  - A copy of the notice of review form and supporting statement (Appendix B). Any duplication of information is not attached;
  - A copy of the case officer's report (Appendix C);
  - A copy of the decision notice, excluding the standard advisory notes, issued on 24 April 2024 (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 three consultation responses, and 32 representations received (29 objections and three supporting). As part of the review process the interested parties were notified of the review – no additional comments have been received. All comments can be viewed online on the electronic planning application case file.
- 4.3 The next stage in the process is for the LRB to determine the review in accordance with the agreed procedure:
- Identify any provisions of the development plan which are relevant to the decision;
  - Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies;
  - Consider whether or not the proposal accords with the development plan;
  - Identify and consider relevant material considerations for and against the proposal;
  - Assess whether these considerations warrant a departure from the development plan; and
  - State the reason/s for the decision and state any conditions required if planning permission is granted.
- 4.4 In reaching a decision on the case the planning advisor can advise on appropriate phraseology and on appropriate planning reasons for reaching a decision.
- 4.5 Following the determination of the review the planning advisor will prepare a decision notice for issuing through the Chair of the LRB. A copy of the decision notice will be reported back to the LRB for noting.
- 4.6 A copy of the LRB decision will be placed on the planning authority's planning register and made available for inspection online.

## **5 Conditions**

- 5.1 In accordance with the procedures agreed by the LRB at its meeting of 20 June 2022, and without prejudice to the determination of the review, the following conditions have been prepared for the consideration of the LRB if it is minded to uphold the review and grant planning permission.
1. The development to which this permission relates shall commence no later than the expiration of three years beginning with the date of this permission.

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

2. Prior to any work commencing the following information shall be submitted to and approved in writing by the planning authority:
  - a) detailed specification of the proposed material, design and dimensions of the proposed seating;
  - b) detailed specification of the proposed material, design and dimensions of the proposed bollards;
  - c) detailed specification of the material, design and colour of the proposed surface materials;
  - d) details of the proposed drainage of surface water;
  - e) detailed specification of any walls or kerbs to be erected at the site;
  - f) details of the position, height, materials and design of any proposed barrier at the car park entrance;
  - g) a landscape scheme for the site to include details of any plants to be retained, a planting schedule of new planting to include details of the location, size, species and number of plants to be planted; planting construction details; and a maintenance specification and schedule for the planted areas; and
  - h) details of 2 electric vehicle charging points to be provided at the site.

**Reason:** *In order to safeguard the visual amenity of the area. In order to minimise flooding and pollution of watercourses. In order to comply with policy 13 of NPF4 and TRAN5 of the adopted Midlothian Local Development Plan in the interests of sustainability.*

3. The details of the access to the car park shown on drawing 10464 02 are hereby not approved: the car park access shall be formed to provide a continuous footway across the access with no dropped kerb or bellmouth junction.

**Reason:** *In the interests of prioritising pedestrian movement over vehicular movement in the interests of pedestrian safety.*

4. A minimum of 2 of the car parking spaces shall include operational electric vehicle charging points.

**Reason:** *In order to comply with policy 13 of NPF4 and TRAN5 of the adopted Midlothian Local Development Plan in the interests of sustainability.*

5. The approved cycle parking, electric vehicle charging points and bollards shall be installed prior to the car park being brought into use.

**Reason:** *In order to comply with policies 13 of NPF4 and DEV6 and TRAN5 of the adopted Midlothian Local Development Plan in the interests of sustainability: in the interests of pedestrian safety.*

6. No trees or existing planting at the site shall be removed until such time as the landscape scheme and subsequent maintenance details as required by condition 2 have been approved in writing by the planning authority.

***Reason:*** To safeguard the visual amenity of the area and biodiversity.

7. The scheme of landscaping approved in accordance with condition 1g) above shall be completed within six months of the car park either being completed or brought into use, whichever is the earlier date and thereafter shall be maintained in accordance with the maintenance specification and schedule also approved in terms of condition 1g) above. Unless otherwise approved in writing by the planning authority any trees or plants removed, dying, severely damaged or becoming seriously diseased thereafter shall be replaced in the following planting season by trees or plants of a size and species similar to those originally required.

***Reason:*** To ensure the landscaping is carried out and becomes successfully established.

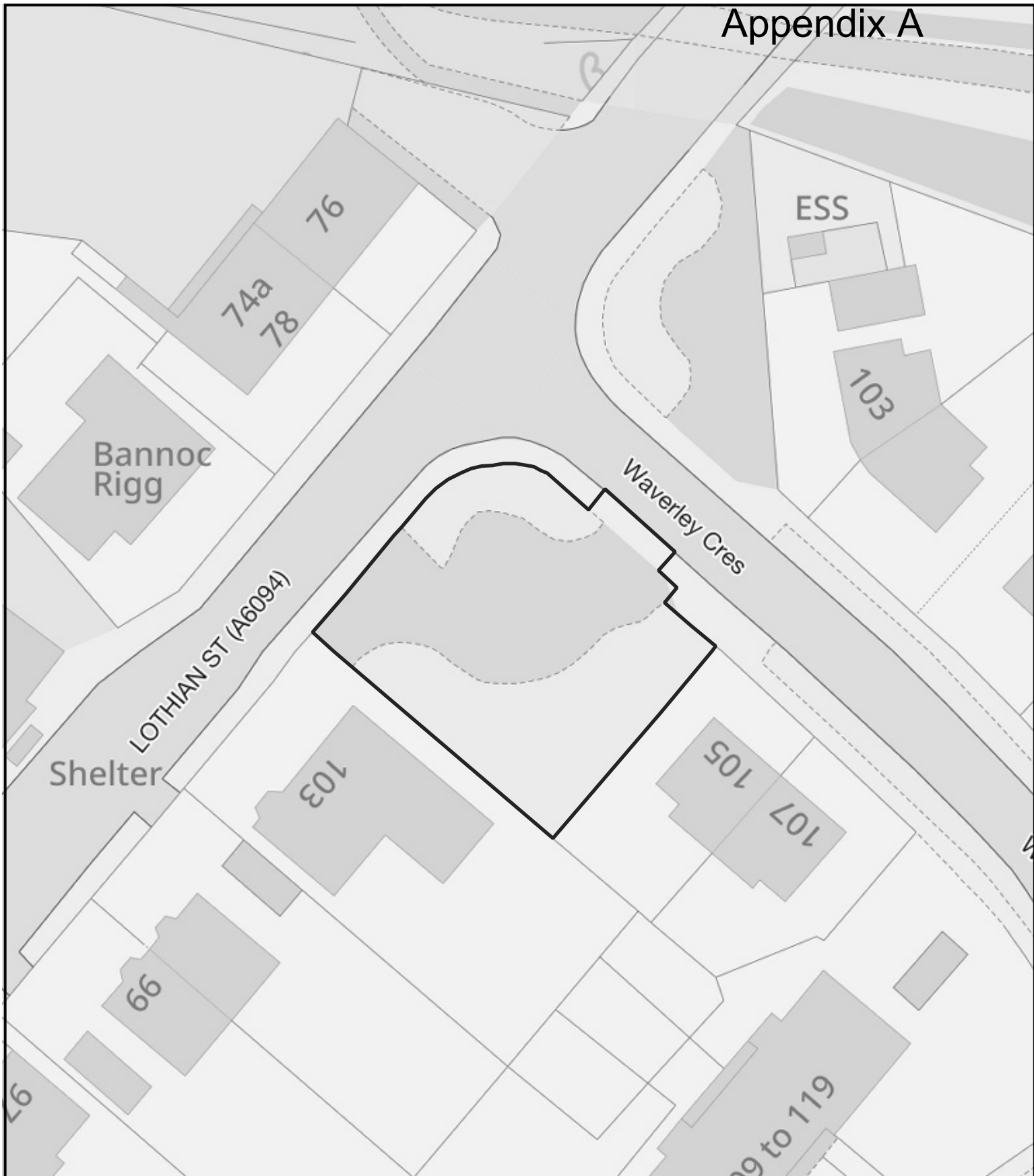
## **6 Recommendations**

- 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:** 13 September 2024  
**Report Contact:** Ingrid Forteath – Planning Officer  
[Ingrid.Forteath@midlothian.gov.uk](mailto:Ingrid.Forteath@midlothian.gov.uk)

**Background Papers:** Planning application 23/00062/DPP available for inspection online.



## Planning Service Place Directorate

Midlothian Council  
Fairfield House  
8 Lothian Road  
Dalkeith, EH22 3AA

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Formation of car parking and associated works.  
Land adjacent to 103 Lothian Street, Bonnyrigg.

File No. 24/00062/DPP

Scale 1:400





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 100678820-001

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

## Agent Details

Please enter Agent details

Company/Organisation:	<input type="text" value="Format Design"/>		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	<input type="text" value="Shona"/>	Building Name:	<input type="text" value="Holyrood Business Park"/>
Last Name: *	<input type="text" value="Mackay"/>	Building Number:	<input type="text" value="146"/>
Telephone Number: *	<input type="text" value="01316617666"/>	Address 1 (Street): *	<input type="text" value="Duddingston Road West"/>
Extension Number:	<input type="text"/>	Address 2:	<input type="text"/>
Mobile Number:	<input type="text"/>	Town/City: *	<input type="text" value="Edinburgh"/>
Fax Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
		Postcode: *	<input type="text" value="EH16 4AP"/>
Email Address: *	<input type="text" value="formatdesign@aol.com"/>		

Is the applicant an individual or an organisation/corporate entity? \*

☐ Individual ☒ Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text" value="Gigi's Restaurant"/>
First Name: *	<input type="text"/>	Building Number:	<input type="text" value="74"/>
Last Name: *	<input type="text"/>	Address 1 (Street): *	<input type="text" value="Lothian Street"/>
Company/Organisation	<input type="text" value="Gigi's Restaurant"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Bonnyrigg"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="EH19 3AQ"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="REDACTED"/>		

## Site Address Details

Planning Authority:	<input type="text" value="Midlothian Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text"/>
Post Code:	<input type="text"/>

Please identify/describe the location of the site or sites

Land Adjacent to 103 Lothian Street, Bonnyrigg

Northing	<input type="text"/>	Easting	<input type="text"/>
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## 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)

Formation of car parking and associated works at Land adjacent to 103 Lothian Street, Bonnyrigg

## 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.

Please see attached appeal statement

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)

Appeal statement

## Application Details

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

24/00062/DPP

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

25/01/2024

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

24/04/2024

## 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

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may select more than one option if you wish the review to be a combination of procedures.

Please select a further procedure \*

By means of inspection of the land to which the review relates

Please explain in detail in your own words why this further procedure is required and the matters set out in your statement of appeal it will deal with? (Max 500 characters)

To allow the members of the Local Review Body to view the application site and its environs

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?. \*

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? \*

T 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? \*

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: Mrs Shona Mackay

Declaration Date: 17/07/2024

**Grounds of Review - Land adjacent to 103 Lothian Street, Bonnyrigg.**

**Description of Proposal** - Proposed alterations to public landscape area to allow for introduction of car and cycle parking and upgrading of the hard-standing and landscaping.

**Reasons for Refusal:**

*1. "The proposal would result in the loss of an attractive area of landscaped open space which adds interest and enhances the appearance of the surrounding area and is visually important on this main road into the centre of Bonnyrigg and at the entrance to Waverley Crescent providing an amenity for both residents and passers-by.*

*2. The loss of this open space to a car park would detract from this and the open character of the area with a significant detrimental impact on the visual amenity of the surrounding area, contrary to policies 14 of NPF4 and DEV2 of the adopted Midlothian Local Development Plan 2017 which seek to protect the amenity of the surrounding area."*

**Comment on Refusal Reason 1:**

The attached plan submitted as part of our grounds of review shows the proposal as described in our planning statement for:

***"Proposed alterations to public landscape area to allow for introduction of car and cycle parking and upgrading of the hard-standing and landscaping"***

It is our view that the proposal enhances the existing landscaping. The car parking is necessary for the viability of Gigi's Restaurant, which has been seriously affected by the introduction of double yellow lines. The proposed landscaping will improve the current situation, creating community orchard seating areas. The actual car parking area itself, currently made up of concrete slabbing will be removed, and the car parking areas themselves will be the grassed paviors, all as shown on the attached plan.

The proposal will clearly enhance the current situation and will not be removing the landscaping, as indicated on the refusal decision. The grassed car parking area is an improvement and the community orchard being introduced will be an amenity to the local area and residents. The new planting will be maintained, it is currently not well maintained, see photos submitted in our appendix.

## **Comment on Refusal Reason 2:**

### **Planning Policy 14 of NPF4 states:**

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

b) Development proposals will be supported where they are consistent with the six qualities of successful places:

Healthy: Supporting the prioritisation of women’s safety and improving physical and mental health.

Pleasant: Supporting attractive natural and built spaces.

Connected: Supporting well connected networks that make moving around easy and reduce car dependency

Distinctive: Supporting attention to detail of local architectural styles and natural landscapes to be interpreted, literally or creatively, into designs to reinforce identity.

Sustainable: Supporting the efficient use of resources that will allow people to live, play, work and stay in their area, ensuring climate resilience, and integrating nature positive, biodiversity solutions.

Adaptable: Supporting commitment to investing in the long-term value of buildings, streets and spaces by allowing for flexibility so that they can be changed quickly to accommodate different uses as well as maintained over time.

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

### **Comment:**

We contend that Policy 14 is not entirely appropriate to apply to this proposal, which does meet the aspirations of the policy. The proposal meets the intention of paras a), b) and c). The six qualities, as noted below, have been considered where appropriate and we comment as follows:

Healthy: Supporting the prioritisation of women’s safety and improving physical and mental health.

**Comment:** The proposal will support this

Pleasant: Supporting attractive natural and built spaces.

**Comment** - This proposal will support this.

Connected: Supporting well connected networks that make moving around easy and reduce car dependency

**Comment** - In a small way this connects the community and the car parking proposed is to ensure the viability of the local business.

Distinctive: Supporting attention to detail of local architectural styles and natural landscapes to be interpreted, literally or creatively, into designs to reinforce identity.

**Comment** - This proposal will comply

Sustainable: Supporting the efficient use of resources that will allow people to live, play, work and stay in their area, ensuring climate resilience, and integrating nature positive, biodiversity solutions

**Comment** - This proposal will comply

Adaptable: Supporting commitment to investing in the long-term value of buildings, streets and spaces by allowing for flexibility so that they can be changed quickly to accommodate different uses as well as maintained over time.

**Comment** - This proposal integrates car parking to sustain the local business, flexibility of use of the current space. It will be well maintained.

We are of the opinion that the proposal complies with DEV2, as the existing amenity in many ways described above will be enhanced, as well as protect the amenity.

### **Conclusion:**

In view of the above we contend that the proposal complies with Policy 14 of NPF4 and DEV2 of the adopted Midlothian Development Plan 2017. The proposal will improve the visual amenity, the landscaping will be improved and enhanced. The car parking will ensure the continuing viability of the restaurant. There are no objections from Transport, and the upgrading and improvement to the site will all be in line with the planning policies, improving the current site, encouraging birds and wildlife to the area.

Thank you for your consideration of the above statement and we hope that you will be able to consider the appeal for this proposal favourably and grant planning approval.

**Format Design**  
**22<sup>nd</sup> July 2024**

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## Appendix

Below are some current photos of the application site, and some examples of grassed car parking, timber bollards and seating proposed for the site:



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## MIDLOTHIAN COUNCIL

### DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

**Planning Application Reference:** 24/00062/dpp

**Site Address:** Land adjacent to 103 Lothian Street, Bonnyrigg

**Site Description:**

The application site comprises an area of public open space comprising two large beds, 1 densely planted with 3 cypress trees and hebe shrubs with the other grassed with two small trees and a holly, and a central paved area, located at the junction of Lothian Street with Waverley Crescent.

**Proposed Development:**

Formation of car parking and associated works

**Proposed Development Details:**

It is proposed to change the use of the area of open space to a car park in association with Gigis restaurant on the opposite side of Lothian Street. The submitted plan indicates 9 car parking spaces with vehicular access off Waverley Crescent. Cycle parking is proposed in the west corner of the site. The plan indicates planting around much of the perimeter of the site with the plans annotated that existing trees, plants and shrubs are to be replanted with a grassed area incorporating a community orchard and seating area in the south corner. The plans appear to indicate a pedestrian path, in the main segregated from the car park by what appear to be bollards, with seating along the northern part of the site incorporating an area of planting. The parking spaces are to be surfaced in permeable pavers with grass with permeable paving proposed in the centre and the pedestrian path. No details of the appearance of the paving, seating or bollards have been submitted.

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

History sheet checked.

15/00222/dpp - Formation of car parking - It was proposed to change the use of the area of open space to a car park in association with Gigis restaurant on the opposite side of Lothian Street. The submitted plan indicated 13 car parking spaces with vehicular access off Waverley Crescent. The plan indicated planting around the perimeter of the site. Refused 29.04.15 – reason for refusal:

*The proposal would result in the loss of an attractive area of landscaped open space which is visually important on this main road in to the centre of Bonnyrigg with a significant detrimental impact on the visual amenity of the surrounding area, contrary to policies RP20 and RP30 of the adopted Midlothian Local Plan which seek to protect the character and amenity of the built-up area and protect important areas of open space in towns and villages.*

19/00851/dpp - Change of use from hardstanding to external seating area; change of use from retail (class 1) to restaurant (class 3); extension to restaurant; formation of entrance canopy; recladding of building, external alterations to building and erection of fence at 70 - 74 Lothian Street, Bonnyrigg pp 19.12.2019 Policy and Road safety manager did not consider that the proposal would result in any major changes to parking arrangements at this location. The report noted that at the time of the application the restaurant had an area available for vehicle parking nearby. The Policy and Road Safety Manager considered that the application premises was already operating as a retail unit, attracting customers arriving by car, and that the proposal would not operate on a significantly different scale. Therefore, the proposed development would not have a sufficiently significant adverse impact on road safety, as compared to what could happen at the site at present, to warrant refusal.

The agent has submitted a statement in support of the application describing the proposal as - Proposed alterations to public landscape area to allow for introduction of car and cycle parking and upgrading of the hard-standing and landscaping. It states that Gigis will be affected by double yellow lines proposed along Lothian Street and that it is not practical to expect all customers to walk or use public transport in the evenings with the proposed car park going some way to alleviate the problem. It states that there is a risk that employment in the restaurant could be affected. It goes on to describe the proposed parking provision for restaurant customer use with cycle parking for customers and the general public. Parking and pedestrian surfaces will be permeable pavers with the landscaping redesigned using existing plants where practical and a small community orchard of apple trees is also proposed. It concludes that the applicant hopes to either purchase or enter in to a long term lease with the Council to use the land. It also states that the proposal will help to sustain Gigis and the employment of numerous staff.

In relation to policy 1 of NPF4 the submitted statement states that the new layout, surface materials and improved planted area, with existing plants to be retained where possible with additional plants also proposed including apple and plum trees, will improve the sustainability of the site and will be an asset to the community. It is also noted that permeable paving is to be used and that materials will be sourced locally and local contractors employed.

### **Consultations:**

Environmental Health – No objection.

Senior Manager Neighbourhood Services (Roads) Policy– No objections. Suggested details regarding layout of access and segregation for pedestrians.

Estates – No comments provided.

### **Representations:**

29 representation have been received objecting to the proposal and 3 in support. The grounds for objection are summarised below.

- Parking already difficult at The Waverleys

- Due to double yellow lines on Lothian Street difficulties for residents to park displacing parking to other nearby streets causing inconvenience; any proposed parking should be for residents.
- Congestion as a result of new entrance/exit to the car park
- Car park will impact on safety and add to congestion at an already busy junction, where children walk to school, making it unsafe for drivers and pedestrians
- Car park will only benefit Gigis and could be used by staff leaving little space for customers
- Car parking is available for customers at Bonnyrigg Rose
- Proposal will not alleviate parking issues for restaurant or residents creating more traffic in to Waverley Crescent
- Will Gigis buy the land or rent it?
- How will parking be regulated and maintained?
- No measurements on plans
- Provision of car park will encourage car journeys to the restaurant
- Parking should have been considered/ provided on site rather than allowing the premises to extend
- Gigis and the Council should be promoting public transport; there is a bus stop directly outside Gigis and a train station nearby
- Restaurants in Edinburgh do not have parking
- Space is frequently used by children going to school and nursery
- Object to public space being made in to a car park for private benefit
- The area is a main route to school for children
- Removal of green space, trees and plants and habitat for wildlife replaced with rubbish and pollution
- Open spaces should be protected
- Proposal will affect symmetrical planting on either side of entrance to Waverley Crescent
- Object to fruit trees with potential for fruit being thrown possibly damaging nearby properties
- Car fumes next to an orchard
- Benches will encourage youth to congregate with potential vandalism of cars in car park and at neighbouring properties
- Affected area is a well used pedestrian area
- Car park will detract from welcoming space at the entrance to The Waverleys
- Impact on property value
- Potential disturbance from anti-social behaviour with noisy engines running
- Double yellow lines have made Lothian Street much safer
- Existing planting does not affect visibility at the junction; parked cars could affect visibility
- Bikes would get stolen from the bicycle stand
- A car park at this site has previously been refused

The grounds for support are summarised as follows:

- Proposal would be helpful for both customers and locals freeing up space on the main road, helping with visibility and allowing emergency vehicles to pass
- Not everyone is able to use public transport

- Proposal would provide for parking for blue badge holders
- The car park will benefit the locality in providing parking for restaurant users – potentially up to 45 cars over the course of a day reducing issues of parking
- Existing planting impedes visibility at the junction; improving the space would increase safety at the junction
- Whilst it is attractive to have a green space it is unused and parking would be more beneficial for both residents and restaurant customers.

### **Relevant Planning Policies:**

Scottish Government Planning Advice Note (PAN) 65 Planning and Open Space (2008) recognises that open spaces contribute to the amenity and character of an area and can help soften the impact of development.

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

### **NPF4**

#### **Policy 1 Tackling the climate and nature crises**

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

#### **Policy 3 (Pg38) Biodiversity**

a) Development proposals will contribute to the enhancement of biodiversity, including where relevant, restoring degraded habitats and building and strengthening nature networks and the connections between them. Proposals should also integrate nature-based solutions, where possible.

c) Proposals for local development will include appropriate measures to conserve, restore and enhance biodiversity, in accordance with national and local guidance. Measures should be proportionate to the nature and scale of development. Applications for individual householder development, or which fall within scope of (b) above, are excluded from this requirement.

d) Any potential adverse impacts, including cumulative impacts, of development proposals on biodiversity, nature networks and the natural environment will be minimised through careful planning and design. This will take into account the need to reverse biodiversity loss, safeguard the ecosystem services that the natural environment provides, and build resilience by enhancing nature networks and maximising the potential for restoration.

#### **Policy 6 – Forestry, woodland and trees**

b) Development proposals will not be supported where they will result in:  
 ii. Adverse impacts on native woodlands, hedgerows and individual trees of high biodiversity value,  
 or identified for protection in the Forestry and Woodland Strategy

#### **Policy 14 Design, quality and place**

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

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

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

DEV2 – Protecting amenity within the built-up area - seeks to protect the character and amenity of the built-up area.

ENV11 – Woodland, Trees and Hedges states that development will not be permitted where it could lead directly or indirectly to the loss of, or damage to, woodland, groups of trees (including trees covered by a Tree Preservation Order, areas defined as ancient or semi-natural woodland, veteran trees or areas forming part of any designated landscape) and hedges which have a particular amenity, nature conservation, biodiversity, recreation, landscape, shelter, cultural, or historical value or are of other importance.

#### **Planning Issues:**

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

The Council's Senior Manager Neighbourhood Services (Roads) has not raised any objection to the proposal on road safety grounds.

There is very limited car parking associated with the restaurant with a small area to the side of the building and a lay-by in front. Planning permission was granted for the change of use of the premises from a public house to a restaurant in 2010. As part of the assessment of the application it was considered that the proposed change of use would not result in any significant change in the parking or servicing requirements of the premise. Also the owners would have been aware of the situation when they took over the premises and subsequently extended in to the former newsagents.

It is acknowledged that the introduction of additional double yellow lines on Lothian Street will reduce on street parking in the area both for residents and restaurant users. However it is not unusual that town centre uses do not have dedicated parking. The site is well served by public transport.

There are two bus stops very close to the restaurant with 4 buses an hour in each direction Mon-Fri during the day and 2 buses an hour in each direction Sat-Sun and in the evenings. Whilst there are now double yellow lines on Lothian street there is still unrestricted on-street parking in the surrounding streets albeit the concerns regarding congestion in the area are acknowledged. There are two Council run free public car parks in the town centre approximately 500m away from the restaurant with a total of 68 spaces (information from Council' website).

The approach in to Bonnyrigg along Eskbank Road up to this part of Lothian Street is characterised by planting and open space along the road with the houses set back behind serving as an attractive approach in to Bonnyrigg from this direction. Along with the open space on the opposite side of the road the planting and open space at the application site forms an attractive entrance in to Bonnyrigg and Waverley Crescent.

The affected area of open space is of particular value in that it adds interest and enhances the appearance of the surrounding area providing an amenity for both residents and passersby. Despite the proposed planting the loss of this open space to a car park would detract from this and the open character of the area.

The area of grass/planting would be reduced from approx. 261m<sup>2</sup> to 139m<sup>2</sup> (excluding the parking bays) which represents a reduction of approx. 46%. The proposal would result in the loss of an attractive area of landscaped open space which is visually important on this main road in to the centre of Bonnyrigg with a significant detrimental impact on the visual amenity of the surrounding area, contrary to development plan policy. Whilst it is acknowledged that the area could be enhanced in terms of additional planting and higher quality hard surfaces this does not warrant the loss of a large area to car parking.

Currently the space is for pedestrian use only. The proposed layout of the car park and pedestrian link has the potential to give rise to conflict between pedestrians and cars with pedestrians channelled towards the car park entrance.

Also there is potential for noise disturbance to neighbouring residential properties albeit this is difficult to assess as compared to the existing situation.

Whilst there are no annotated dimensions on the plans the submitted plans are to scale. No details of a barrier at the car park entrance have been submitted. One of the supporting representations received states that the car park will be professionally managed by a third party. The impact on property value is not a material planning consideration in the assessment of the planning application. Antisocial behaviour would be matter for the police.

Whilst it is acknowledged that not everyone is able to use public transport and that the proposal would provide for parking for blue badge holders, albeit only 1 space is shown on the plans, and that it would take a number of cars off the road the benefits put forward by the applicant's agent and included in the comments of support are not significant enough to justify the permanent loss of this area of open space to be changed to be used as a car park.

**Recommendation:**

Refuse planning permission.

# Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

**Reg. No. 24/00062/DPP**

Format Design  
Holyrood Business Park  
146 Duddingston Road West  
Edinburgh  
EH16 4AP

Midlothian Council, as Planning Authority, having considered the application by Gigi's Restaurant, 146 Duddingston Road West, Edinburgh, EH16 4AP, which was registered on 25 January 2024 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

## **Formation of car parking and associated works at Land adjacent to 103 Lothian Street, Bonnyrigg**

in accordance with the application and the following documents/drawings:

<u>Document/Drawing</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	10464 02 1:1250	25.01.2024
Site Plan	10464 02 1:100	25.01.2024

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

*The proposal would result in the loss of an attractive area of landscaped open space which adds interest and enhances the appearance of the surrounding area and is visually important on this main road in to the centre of Bonnyrigg and at the entrance to Waverley Crescent providing an amenity for both residents and passersby. The loss of this open space to a car park would detract from this and the open character of the area with a significant detrimental impact on the visual amenity of the surrounding area, contrary to policies 14 of NPF4 and DEV2 of the adopted Midlothian Local Development Plan 2017 which seek to protect the amenity of the surrounding area.*

Dated 24 / 4 / 2024



.....  
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**





existing paving

- existing
- grass
- paving slabs
- proposed
- permeable paving slabs
- permeable paving with grass
- grass
- permeable paving slabs
- tactile paving
- bench seating

REFUSED  
24.00062.DPP  
24.04.2024

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existing  
SITE PLAN  
scale 1:100



proposed  
SITE PLAN  
scale 1:100

rev	date	details	by	rev	date	details	by

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SERVICES OFFERED:

MEASURED SURVEYS  
PLANNING CONSULTANTS  
FEASIBILITY STUDIES  
NEW BUILDS

PLANNING APPLICATIONS  
LISTED BUILDING APPLICATIONS  
BUILDING WARRANT APPLICATIONS  
LIQUOR LICENCING DRAWINGS  
DEED PLANS

drawing title: existing and proposed site plan	scale: @A1
job title: Luigi Pia Gigi's Restaurant	drawing no: 10464 02
client: 70-74 Lothian Street, Bonnyrigg	date: 01.12.2023
status: PLANNING PERMISSION	drawn: SK
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