

## **Notice of Review: Middleton Limeworks, Gorebridge**

### **Determination Report**

Report by Dr Mary Smith Director of Education, Communities and Economy

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

- 1.1 The purpose of this report is to provide a framework for the Local Review Body (LRB) to consider a 'Notice of Review' for the change of use of former limeworks/temporary HGV depot to HGV depot and road surfacing and transport contractors depot at Middleton Limeworks, Gorebridge.

#### **2 Background**

- 2.1 Planning application 18/00756/DPP for the change of use of former limeworks/temporary HGV depot to HGV depot and road surfacing and transport contractors depot at Middleton Limeworks, Gorebridge was refused planning permission on 28 May 2019; 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 (incorporated into the applicant's supporting statement);
  - A copy of the decision notice, excluding the standard advisor notes, issued on 28 May 2019 (Appendix c); and
  - A copy of the relevant plans (Appendix D).
- 3.2 The full planning application case file and the development plan policies referred to in the case officer's report can be viewed online via [www.midlothian.gov.uk](http://www.midlothian.gov.uk)

#### **4 Procedures**

- 4.1 In accordance with procedures agreed by the LRB, the LRB by agreement of the Chair:

- Have scheduled a site visit for Tuesday 10 September 2019; and
  - Have determined to progress the review by way of written submissions.
- 4.2 The case officer's report identified that four consultation responses and one representation were received. As part of the review process the interested parties were notified of the review. The representor reaffirmed their objection to the application. All the comments can be viewed online on the electronic planning application/review case file.
- 4.3 The next stage in the process is for the LRB to determine the review in accordance with the agreed procedure:
- Identify any provisions of the development plan which are relevant to the decision;
  - Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies;
  - Consider whether or not the proposal accords with the development plan;
  - Identify and consider relevant material considerations for and against the proposal;
  - Assess whether these considerations warrant a departure from the development plan; and
  - State the reason/s for the decision and state any conditions required if planning permission is granted.
- 4.4 In reaching a decision on the case the planning advisor can advise on appropriate phraseology and on appropriate planning reasons for reaching a decision.
- 4.5 Following the determination of the review the planning advisor will prepare a decision notice for issuing through the Chair of the LRB. A copy of the decision notice will be reported to the next LRB for noting.
- 4.6 A copy of the LRB decision will be placed on the planning authority's planning register and made available for inspection online.

## **5 Conditions**

- 5.1 In accordance with the procedures agreed by the LRB at its meeting of 13 June 2017, and without prejudice to the determination of the review, the following condition has been prepared for the consideration of the LRB if it is minded to uphold the review and grant planning permission.
1. Development shall not begin until details of a scheme of hard and soft landscaping have been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
    - i existing and finished ground levels and floor levels for all buildings, open space and roads in relation to a fixed datum;
    - ii existing trees, landscaping features and vegetation to be retained; removed, protected during development and in the case of damage, restored;

- iii proposed new planting, including trees, shrubs, hedging, wildflowers and grassed areas;
- iv location and design of any proposed walls, fences and gates, including those surrounding bin stores or any other ancillary structures;
- v schedule of plants to comprise species, plant sizes and proposed numbers/density;
- vi programme for completion and subsequent maintenance of all soft and hard landscaping;
- vii drainage details, watercourse diversions, flood prevention measures and sustainable urban drainage systems to manage water runoff; and
- viii proposed car park configuration and surfacing.

All hard and soft landscaping shall be carried out in accordance with the scheme approved in writing by the planning authority as the programme for completion and subsequent maintenance (vi). Thereafter any trees or shrubs removed, dying, becoming seriously diseased or damaged within five years of planting shall be replaced in the following planting season by trees/shrubs of a similar species to those originally required. Any tree felling or vegetation removal proposed as part of the landscaping scheme shall take place out with the bird nesting season (March-August) and bat roosting period (April – September).

***Reason:*** *To ensure the quality of the development is enhanced by landscaping to reflect its setting in accordance with policies DEV2, DEV6 and DEV7 of the Midlothian Local Development Plan 2017 and national planning guidance and advice.*

2. There shall be no external storage of goods, materials, waste or other items on the site, unless details of containment and screening have been submitted to and approved in writing by the planning authority under condition 1.

***Reason:*** *In the interests of visual amenity.*

## **6 Recommendations**

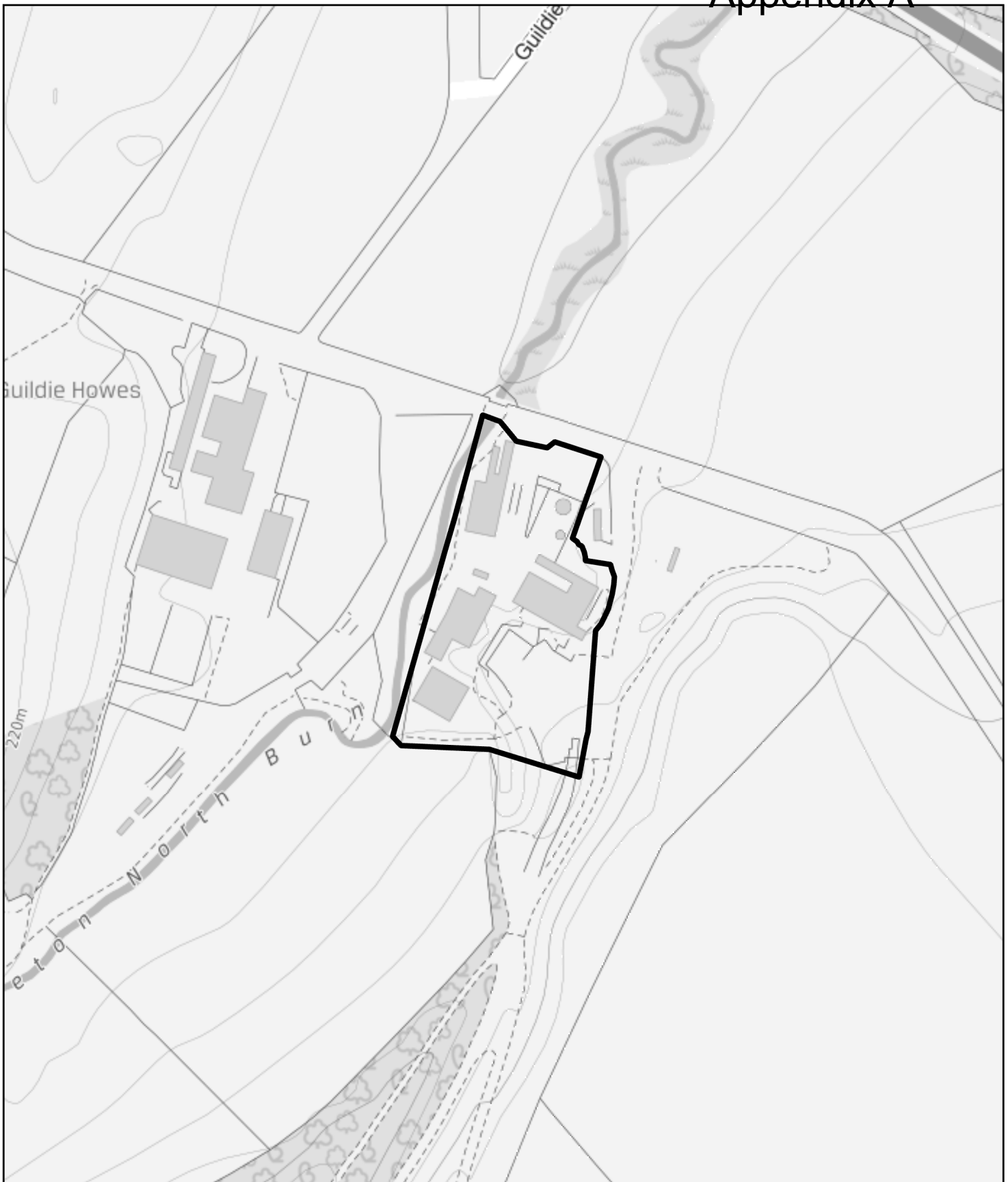
- 6.1 It is recommended that the LRB:
  - a) determine the review; and
  - b) the planning advisor draft and issue the decision of the LRB through the Chair

**Date:** 3 September 2019

**Report Contact:** Duncan Robertson, Lead Officer Local Developments  
duncan.robertson@midlothian.gov.uk

**Tel No:** 0131 271 3317

**Background Papers:** Planning application 18/00756/DPP available for inspection online.



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

Change of use from former limeworks/temporary HGV depot to a mixed use including HGV depot and road surfacing and transport engineering contractors yard with the retention of existing shed as mechanic/plant repair shop and storage at Middleton Limeworks, Gorebridge

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File No: 18/00756/DPP

Scale: 1:2,500



Midlothian



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 100169488-001

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="Leiths (Scotland) Limited"/>		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	<input type="text" value="Colin"/>	Building Name:	<input type="text" value="Rigifa"/>
Last Name: *	<input type="text" value="Ortlepp"/>	Building Number:	<input type="text"/>
Telephone Number: *	<input type="text" value="01224 293217"/>	Address 1 (Street): *	<input type="text" value="Cove"/>
Extension Number:	<input type="text"/>	Address 2:	<input type="text"/>
Mobile Number:	<input type="text"/>	Town/City: *	<input type="text" value="Aberdeen"/>
Fax Number:	<input type="text"/>	Country: *	<input type="text" value="UK"/>
		Postcode: *	<input type="text" value="AB12 3LR"/>
Email Address: *	<input type="text" value="cortlepp@leiths-group.co.uk"/>		

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

☐ Individual ☒ Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	Other	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	Rigifa
First Name: *		Building Number:	
Last Name: *		Address 1 (Street): *	Cove
Company/Organisation	Leiths (Scotland) Limited	Address 2:	
Telephone Number: *	01224 293217	Town/City: *	Aberdeen
Extension Number:		Country: *	UK
Mobile Number:		Postcode: *	AB12 3LR
Fax Number:			
Email Address: *	corlepp@leiths-group.co.uk		

## Site Address Details

Planning Authority:	Midlothian Council
Full postal address of the site (including postcode where available):	
Address 1:	MIDDLETON LIMEWORKS
Address 2:	NORTH MIDDLETON
Address 3:	
Address 4:	
Address 5:	
Town/City/Settlement:	GOREBRIDGE
Post Code:	EH23 4QP

Please identify/describe the location of the site or sites

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Northing	658458	Easting	335651
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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)

Change of use from former limeworks/temporary HGV depot to a mixed use including HGV depot and road surfacing and transport engineering contractors yard with the retention of existing shed as mechanic/plant repair shop and storage.

## 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.

See separate Supporting Document entitled 'Middleton Limeworks Local Review Body Appeal Statement July 2019 Final'

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)

Middleton Limeworks Local Review Body Appeal Statement July 2019 Final which includes Annexes

## Application Details

Please provide details of the application and decision.

What is the application reference number? \*

18/00756/DPP

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

03/10/2018

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

28/05/2019

## Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. \*

☒ Yes ☐ No

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? \*

☐ Yes ☒ No

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

☐ Yes ☒ No

If there are reasons why you think the local Review Body would be unable to undertake an unaccompanied site inspection, please explain here. (Max 500 characters)

1. Because of the nature of the ground conditions and the health and safety regime which operates within the site visitors will require to be accompanied. 2. A number of the site boundaries are not clearly defined relative to neighbouring land so would require to be identified to the Local Review Body.



## Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant? \*

☒ Yes ☐ No

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

☒ Yes ☐ No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? \*

☐ Yes ☐ No ☒ N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? \*

☒ Yes ☐ No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review \*

☒ Yes ☐ No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

## Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr Colin Ortlepp

Declaration Date: 25/07/2019



Town and Country Planning (Scotland) Act 2007  
Section 43A(8) – Local Review

Request for a Review of the Refusal of Planning Application  
18/00756/DPP

Change of Use from former limeworks/temporary HGV depot to a  
mixed use including HGV depot and road surfacing and transport  
engineering contractors yard with retention of existing shed as  
mechanic/ plant repair shop and storage

at

Middleton Limeworks, Middleton, Midlothian

July 2019

Leiths (Scotland) Limited  
Rigifa  
Cove  
Aberdeen  
AB12 3LR

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## **1. Introduction**

- 1.1 This statement is submitted in support of a request by Leiths (Scotland) Limited ('Leiths') to Midlothian Council's Local Review Body for a review of the decision to refuse planning application 18/00756/DPP. The planning application was submitted in October 2018 and sought permission for:

'Change of use from former limeworks/temporary HGV depot to a mixed use including HGV depot and road surfacing and transport engineering contractors yard with retention of existing shed as mechanic/ plant repair shop and storage at Middleton Limeworks, Middleton'.

- 1.2 The statement sets out various matters which are material to the consideration of the review and the 3 reasons for refusal given in the decision notice.

## **2. Background**

- 2.1 The Review Site is a former limeworks associated with the former Middleton limestone quarries situated south of Gorebridge and approximately 300m south of the village of North Middleton, close to the A7. For over 5 years the former limeworks has been used by Leiths, on a temporary basis, as an HGV depot for lime distribution lorries, road surfacing vehicles and the storage of plant and materials.
- 2.2 Leiths' long established road construction & surfacing business was based within commercial premises at Sighthill in Edinburgh. With the lease of those premises coming to an end there has been a need for the business to find alternative premises in a location which would enable it to continue to serve its established customer base in Edinburgh and Lothians, including Midlothian and Edinburgh City Councils for whom a significant amount of road works are undertaken.
- 2.3 A search for alternative premises was undertaken which considered a range of opportunities. Annex 1 provides details of some of the locations considered, the general criteria being a site with a suitably sized workshop building, ancillary welfare accommodation and a yard for the open storage of HGVs, plant and equipment. For various reasons including site characteristics; availability date; site size and rental costs none of the premises examined proved suitable. This then led to the consideration of the premises at Middleton. Given the Review Site's location relative to the A7; the historical use of the site and its ownership/availability (it is owned by Leiths), the Review Site met the criteria for the company's needs.

## **3. Review Site History**

- 3.1 Middleton Limeworks, of which the Review Site forms the greater part, has a lengthy history of mineral-related industrial use. A review of historical maps and records shows there to have been a limeworks on this site since at least the late 19<sup>th</sup> century. The

following figures are extracts from historical maps which evidence that longstanding use (the Review Site boundary is shown, approximately, edged red on those maps).

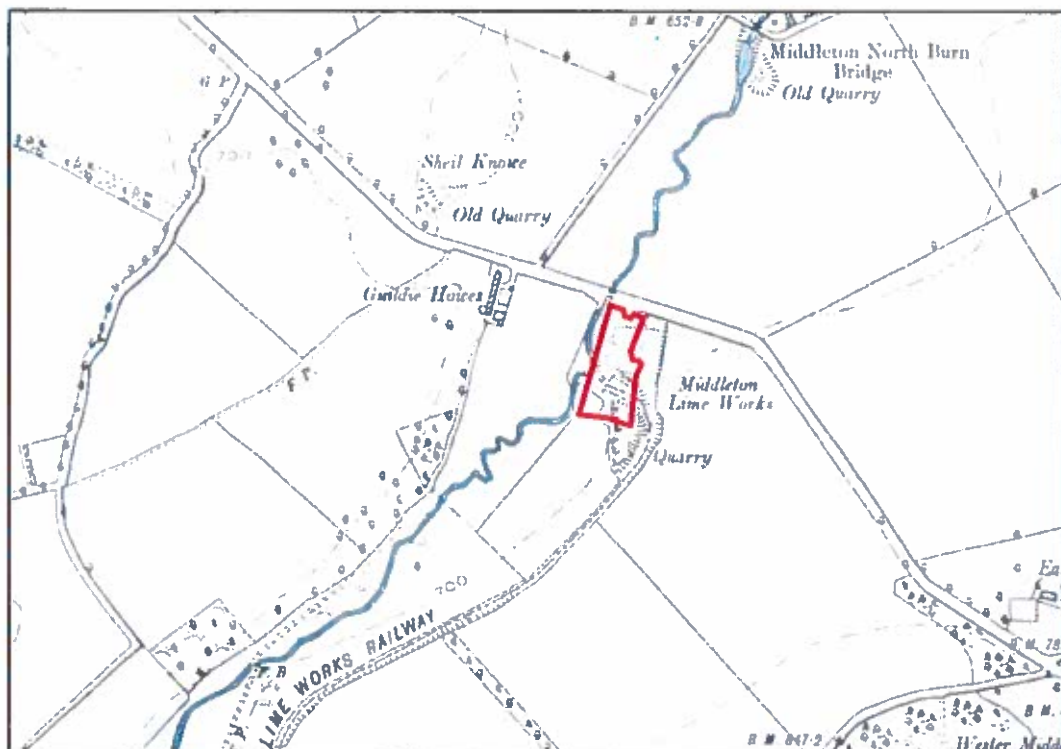
**Figure 1** - Ordnance Survey Six Inch 1843 – 1882

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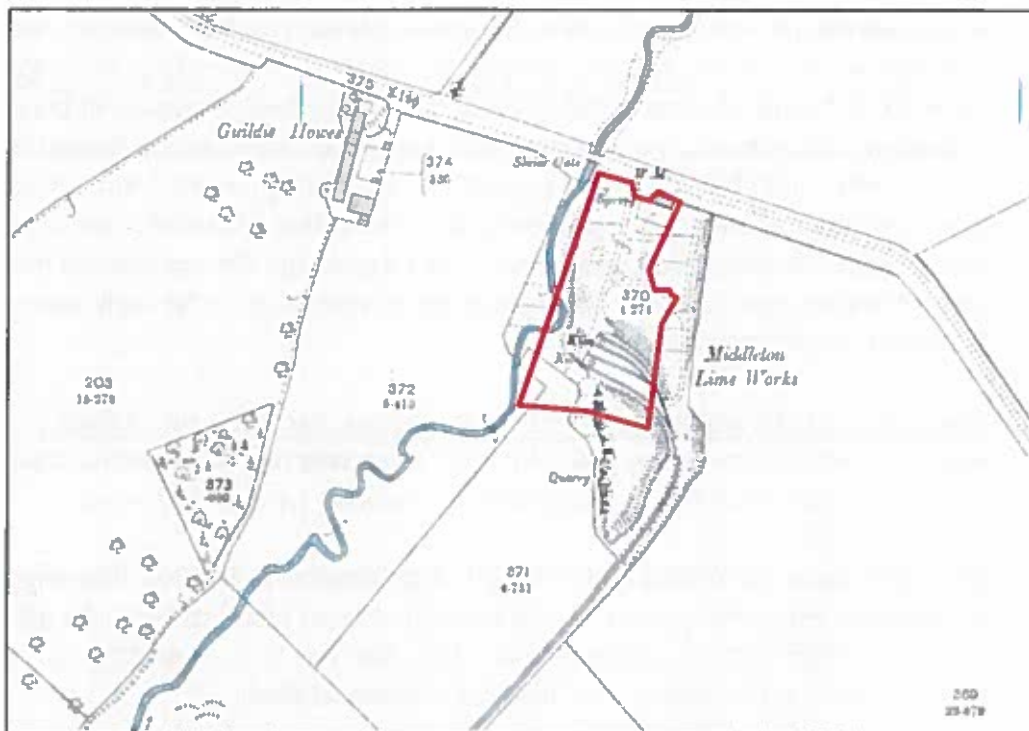


**Figure 2** - Ordnance Survey Six Inch 1888 – 1913 Surveyed 1892 Published 1895

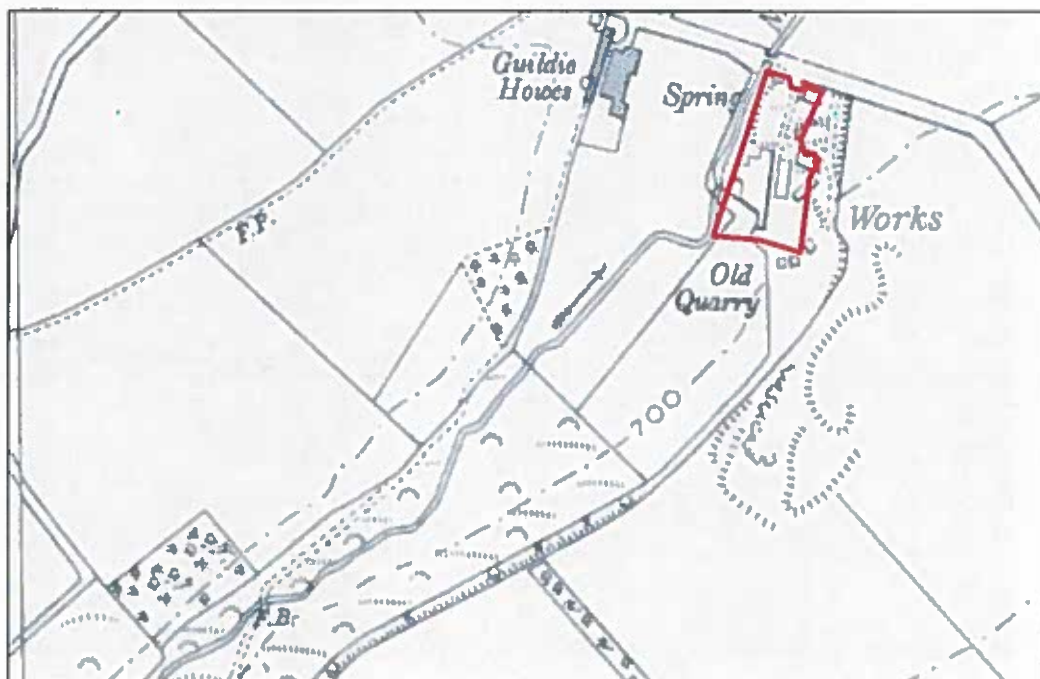
Reproduced with the permission of the National Library of Scotland



**Figure 3** - OS 25 Inch 1892 - 1905 Surveyed 1892 Published 1893  
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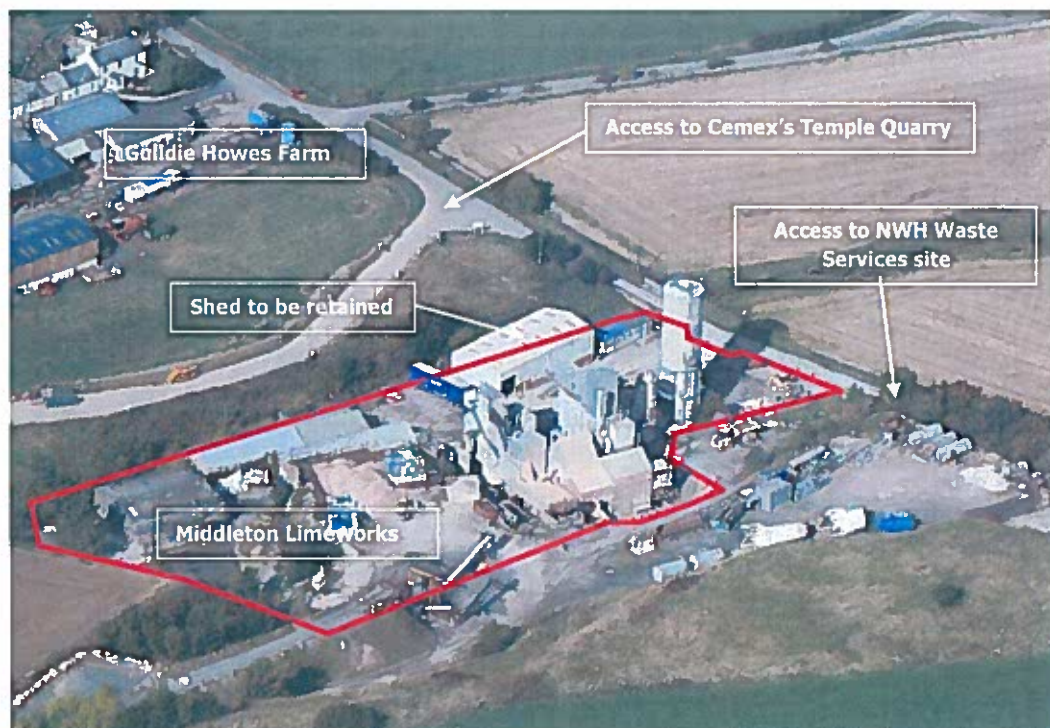
**Figure 4** - OS 10,560 1949-1968 Surveyed pre-1930-1957 Published 1957  
Reproduced with the permission of the National Library of Scotland





- 3.2 It is acknowledged that the limeworks is located here simply because it was associated with the adjoining and nearby limestone quarries which supplied the raw material. Those quarries are now exhausted so the primary reason for the limeworks has gone. It is also acknowledged that as demand increased and technology developed the limeworks infrastructure increased in scale over those years. However, in the context of these historical maps, it is important and material to note that the Review Site has never been a 'greenfield site' or in agricultural use in living memory; it has functioned as an industrial activity alongside nearby quarries within the wider rural landscape. Importantly, the soils which would have once covered the Review Site are no longer present having most probably been lost or taken elsewhere in the early years of the limeworks development.
- 3.3 Whilst in Local Development Plan terms the Review Site has been defined as falling within a rural area covered by Policy RD1, the limeworks has, in increasing scale, been a developed feature of the local area and its character for over 120 years.
- 3.4 The figure below comprises a photograph of the limeworks in 2009. The majority of the buildings and infrastructure shown have since been removed by Leiths and some land reprofiling works implemented. The Review Site boundary is shown, approximately, in red. Other local features are also labelled.

**Figure 5 – Middleton Limeworks 2009**



## **4 Planning History**

- 4.1 The planning history of the Review Site is material to the consideration of the review.

### **Planning Permissions – Middleton Quarries**

- 4.2 As noted in the officer's Delegated Report of Handling (**Annex 2**), planning permission was granted in 1982 (ref. 198/81) to a predecessor company for an extension to Middleton lime quarry. That permission included various restoration obligations which appear to have covered the limeworks area. The permission required limestone extraction to cease by 2002 and the quarries to be restored by 2006.
- 4.3 Leiths acquired the Middleton quarries and limeworks in 2008 by way of the purchase of the then operating company, Howie Minerals. Subsequently, in 2013, Leiths sold the Middleton quarries to NWH Waste Services who then secured planning permission (ref. 15/00503/DPP) to infill the lower quarry with inert materials. Leiths retained the limeworks area.

### **Change of Use of Limeworks to HGV Depot etc**

- 4.4 Planning permission was granted in 2015 to Leiths (ref. 14/00868/DPP – see Annex 3) for a temporary change of use of the former limeworks buildings to an HGV depot including the storage and supply of materials from the site, as noted in the planning application form. This temporary consent was renewed in 2018 (ref. 16/00796/S42 – see Annex 4) which allowed continuation of the use until 31 December 2018. A condition of that consent required the whole site to be permanently restored to agriculture and/or forestry by 31 August 2024. As noted earlier, the limeworks site has not been in agricultural use or in a non-industrial condition for over 120 years and any soils which may have been present on the land have long since gone.
- 4.5 The following commentary is noted in the decision notices referenced above:
- (i) That the use is operating without significant harm to the amenity of the area including neighbouring properties and the road infrastructure is of a standard capable of coping with the scale of development; and
  - (ii) That whilst the temporary use is contrary to Policy RP1 it would not conflict with the strategic aims and objectives of the Local Development Plan.

### **Permanent Change of Use of Limeworks**

- 4.6 The planning application which is subject of this review was submitted on 3 October 2018. As noted earlier, it sought permission for a permanent change of use for the former limeworks/HGV depot to a mixed-use including HGV depot and road surfacing contractors yard with the retention of the existing workshop, in essence the



continuation of the majority of uses already on site. The reasons for refusal of this application are addressed in Section 5 of this statement.

- 4.7 This planning application followed submission of an earlier application for a similar permanent use (ref. 18/00407/DPP). That application was withdrawn following discussion with the then case officer on the use class for which that first permanent permission had been sought. Helpfully, the case officer visited Leiths former Sighthill premises and took time to understand what was being sought. We appreciate that officer advice does not prevent the Council corporately from taking a different position on a development proposal but we understand there was no intimation at the time that a re-submission of the application for a permanent use would, in principle, be unacceptable and thus should be dissuaded.
- 4.8 It should be noted that the application was refused some 7 months after its submission. During this time no communication was received from the determining case officer on the matters which the refusal notice suggests are deficient e.g. employment information.

## 5 Reasons for Refusal

- 5.1 This section addresses the specific reasons for refusal noted in bold below taking into account the material considerations identified earlier.

### Reason for Refusal 1

**The application site is part of a wider area of development. The site has been the subject of mineral extraction and conditions require the restoration of the site and adjacent extraction areas. Granting planning permission for development would result in the site remaining un-restored and becoming visually incongruous within the rural landscape.**

- 5.2 The Review Site has functioned primarily as the mineral processing area for limestone quarrying which has taken place in the locality and not as a quarry in its own right. In landownership & planning terms the former adjoining Middleton limestone quarries are now operating under the separate planning permission for infilling using inert materials granted to NWH Waste Services. The 1982 minerals permission no longer has applicability to the Review Site given that more than 10 years have elapsed since the reinstatement end date of 31 December 2006.
- 5.3 As part of the development for which planning permission is being sought Leiths were not intending to leave the Review Site in its current condition. Whilst this may not have been fully expressed in the planning application documents, had planning permission been granted a programme of works would have taken place to complete the earlier removal of the remaining limeworks infrastructure and reinstate the southern half of the site not required for the permanent development.

- 5.4 The programme of works would have included the following:
- Removal of the two storage silos and associated infrastructure.
  - Removal of the remaining steelwork on the higher part of the site.
  - Reprofilling of the graded boundary areas on the south and east side of the Review Site
  - Removal of hardstanding areas
  - Removal of residual infrastructure and debris.
  - Road frontage landscaping
- 5.5 Were the Local Review Body minded to allow the Review and grant planning permission for the permanent change of use Leiths are happy to accept a planning condition requiring the submission of a reinstatement and landscaping scheme for the Review Site which includes the bullet point items listed above. Noting the absence of soil or soil making material within the Review Site that condition would need to permit the importation of such material.
- 5.6 In terms of the Review proposal being visually incongruous within the rural landscape, the proposal is exceptionally modest in scale in comparison to the limeworks infrastructure which used to exist within the Review Site – see Figure 5 earlier in this statement. Moreover, it is not dissimilar in scale and characteristics to some of the agricultural buildings and infrastructure which are located at Guildie Howes Farm nearby, parts of which can be seen in Figure 5. While it is fully acknowledged that the Guildie Howes farm buildings are associated with an active farm and thus benefit from permitted development/prior notification rights, the retention of the existing workshop building (shed) and use of open ground within the Review Site in the context of the nearby farm buildings and the reinstatement and landscaping scheme noted above would not lead to something which is alien or incongruous in the local landscape.
- 5.7 We note that a little further north on the A7 the Council's Fushiebridge roads depot falls within the rural area covered by Policy RD1, but from appearance this is not a visually incongruous feature within the rural landscape.

### **Reason for Refusal 2**

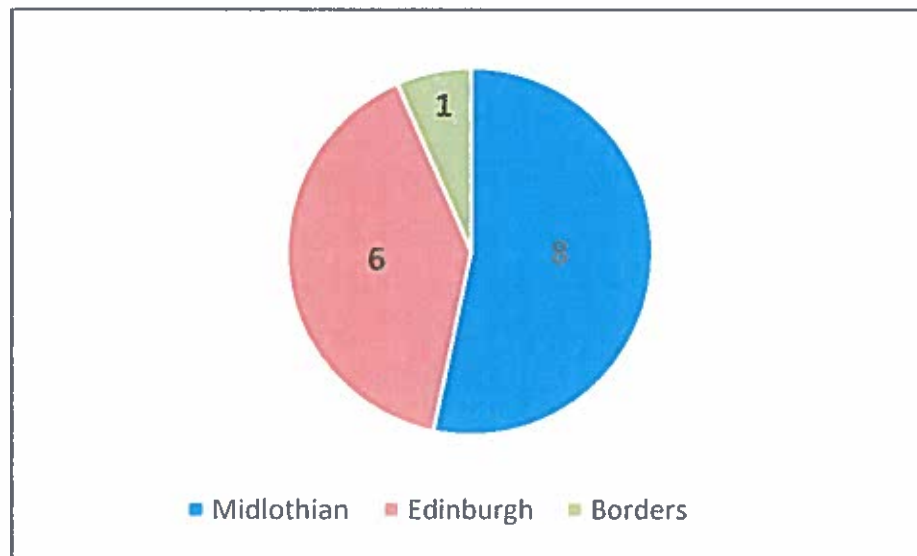
**The justification put forward by the applicant is not considered to be sufficient to conclude that planning permission should be granted contrary to the Development Plan.**

- 5.8 As noted earlier, Leiths has undertaken a search for a replacement site to accommodate the development for which planning permission has been sought, namely a road construction and surfacing depot use. No suitable site has been identified for this type of use hence the decision to seek to locate the business at the

Review Site. The site is well positioned for such as use being close to the A7; being a non-greenfield site and having few sensitive receptors in the locality.

- 5.9 In terms of employment, 15 staff will work from the Review Site. Figure 6 below illustrates their home locations from which it can be seen that over 50% live with Midlothian. So, Leiths operation at Middleton will be a Midlothian based business with the majority of the employees living within Midlothian. The Review proposal therefore allows for economic activity within Midlothian.

**Figure 6 - Middleton Limeworks Employee Residency**



- 5.10 Leiths appreciate that the temporary consents previously granted have been just that, temporary. However, these temporary activities have taken place over a period of over 5 years without, to our knowledge, any complaint and it is noted from the Report of Handling that neither Roads nor Environmental Health have any objection to the Review Proposal.
- 5.11 As noted earlier in this statement, the Review Site is not a greenfield site but rather one with a longstanding development history. It is material that the site has not been in a greenfield use e.g. agriculture for a significant length of time. There are currently no soils or soil making material on site which would allow it to be restored to agriculture or forestry.

### **Reason for Refusal 3**

**Allowing the existing employment uses to be retained as the expense of restoring the site would be contrary to policies RD1, MIN 2 and ENV7 of the Midlothian Local Plan 2017.**

#### **Policy RD1 – Development in the Countryside**

- 5.12 The longevity of development on the Review Site has been established earlier in this statement from which it's clear that, despite the Review Site falling within the rural area covered by Policy RD1, it has hosted limeworks activity for at least 120 years. The current change of use proposal will not leave an un-restored site as has been explained earlier.
- 5.13 In terms of the three principle limbs of **Policy RD1** (A to C) it is acknowledged that:
- A. the change of use is not associated with any of the types of development listed, although in terms of scale and character the development is, in many respects, not dissimilar to the buildings and infrastructure at Guildie Howes Farm nearby;
  - B. the change of use does not fall within the categories of development in policies NRG1, NRG2, MIN1 and RD2; and
  - C. although the supplementary guidance has still to be formally adopted it relates to housing development in the rural area so is not directly relevant to the Review proposal.
- 5.14 Policy RD1 allows for development opportunities in the countryside which enhance rural economic development, subject to compliance with four criteria. No definition is given of 'rural economic development' in the supporting text to the policy but, by virtue of the fact that the Review Site lies within an area covered by Policy RD1, it must by definition lie within a rural area albeit with the former limeworks characteristics described earlier. The change of use proposal does provide for economic development as it allows for the continued employment of 15 people and the associated economic activity the business located here will generate. In terms of the four criteria that require to be satisfied:
- (a) the development is of a scale and character which is not inappropriate to the rural area and the site will be landscaped;
  - (b) the Review Site is served by existing access arrangements which are entirely adequate and appropriate. We note that the Roads Dept did not object to the proposal;
  - (c) the Review Site is already has a suitable public water supply and foul drainage arrangements which do not require alteration; and

(d) the X95 bus service operated by Borders Buses serves North Middleton by way of bus stops at the A7 Middleton Crossroads, approximately 300m from the site. The bus service is operated hourly.

5.15 We therefore believe the change of use proposal complies with Policy RD1.

#### **Policy MIN 2 – Surface Mineral Extraction**

5.16 It's unclear how the proposal is contrary to Policy MIN 2. The policy assessment in the Delegated of Report of Handling (page 6) says:

*'The quarry only exists due to planning consent being granted for the extraction of minerals, which was only acceptable on the condition that the site would be restored in this manner. This would be contrary to policy MIN 2 which requires restoration of sites following the removal of minerals.'*

5.17 Policy MIN 2 deals exclusively with the assessment of new surface mineral extraction proposals and lists, in bullet point fashion, a number of factors to be considered. The current proposal is not a new surface mineral extraction site so the policy can't be of relevance. Moreover, the 1982 permission can be of no relevance to the policy in that Policy MIN 2 wasn't in existence when the minerals application was determined.

5.18 Moreover, the Report of Handling is also misleading: the quarries and limeworks do not exist only because of the 1982 permission – the quarries and limeworks were here long before the 1982 permission was granted.

5.19 In Leiths view, Policy MIN 2 is not relevant to the consideration of the Review.

#### **Policy ENV7 – Landscape Character**

5.20 Policy ENV 7 deals with landscape character. It is useful to quote the supporting text to the policy which says:

*'Many localities contain areas of a diverse and distinctive landscape character, both within and outside SLAs, which enhance the attractiveness of Midlothian as a whole. Policy ENV 7 aims to afford protection to these local landscape character areas and to encourage sensitive landscape planning and management. Landscape character can include a variety of natural and built heritage features including woodland, hedges, field patterns, stone walls and historical sites.'*

5.21 The policy itself says:

*'Development will not be permitted where it may have an unacceptable effect on landscape character. Where development is acceptable, it should respect such character and be compatible in terms of scale, siting and design. New developments*

*will normally be required to incorporate proposals to maintain the diversity and distinctiveness of local landscape and to enhance landscape characteristics where they have been weakened’.*

- 5.22 The Delegated Report of Handling doesn’t explain clearly and concisely how this policy is offended i.e. how distinctive landscape character would be harmed by the development, especially considering what has already been noted about the history of the Review Site. It’s clear that the policy is not simply a landscape protection policy – it’s been crafted to deal with character features such as stone walls, woodland, hedges, field patterns and so on. No such features will be affected by the Review proposal.
- 5.23 At risk of labouring the point, the limeworks site has been part of the character of the local landscape for over a century. We don’t believe it a correct approach to consider the Review proposal on the basis that the Review Site is/will be greenfield farmland. Rather, if the review is allowed and permission granted a programme of works including landscaping will implemented to assist in ensuring that the retained workshop building and open areas which remain are not ‘incongruous’ in the landscape and that no ‘un-restored’ areas remain. Moreover, Guildie Howes Farm nearby has a range of buildings and open storage areas which are not dissimilar in character to the Review Site. Whilst it is appreciated that these are for agricultural purposes the key point is their character, not their use.
- 5.24 It hasn’t been demonstrated how the change of use proposal would have an unacceptable effect on the character on the landscape contrary to Policy ENV7. Rather, Leiths believe that given the nature of the Review Site; the scale and characteristics of the building and open yard and the proposed landscaping the landscape character will not be unacceptably affected.

## **6 Summary & Conclusions**

- 6.1 The proposal for which permission is sought is not development on a greenfield site within the rural area. As noted earlier, the Review Site has a lengthy history of industrial type development connected with limestone quarrying.
- 6.2 The analysis in Section 5 demonstrates that the Review proposal is not contrary to policies MIN 2 and ENV 7. It is acknowledged that the development is not one listed in Policy RD1 Parts A to C but is nonetheless acceptable economic development in the rural area. Furthermore, there are material considerations which do need to be considered in the overall planning assessment, namely:
- (i) Alternative Sites - Despite undertaking a site search Leiths have been unable to find an alternative site suitable for this development given the need to have a suitably sized and located workshop building, welfare accommodation and yard. Development of a similar nature has already been undertaken on the Review Site on a temporary consent basis without adverse impact on amenity or roads;

- (ii) Employment – The change of use proposal will support the employment of 15 people, just over half of whom live within Midlothian. It therefore provides local employment and local economic benefit and allows Leiths to continue to serve its existing customer base in Midlothian and Edinburgh;
- (iii) Site Characteristics – It is not a greenfield site and has never been in living memory.
- (iv) Restoration – Allowing the Review proposal and granting permission will not lead to an un-restored site. Leiths is committed to reinstating that part of the site not within the physical footprint of the change of use area. If the Local Review Body is minded to allow the Review and grant planning permission Leiths are happy to accept a planning condition which allows the use of soils/soil forming materials to allow the 'greening' of that part of the site not being used for the permanent development and secures an earlier programme of reinstatement works and landscaping.

6.3 The Review Site has a development & planning history and characteristics which are unique to this area. Leiths believes that the proposal is compliant with policies of the development plan but there are nevertheless material considerations which support the granting of planning permission.

6.4 If the Review Body concludes that a permanent change of use of the Review Site is not acceptable Leiths would ask that they grant permission for the continued temporary change of use of the Review Site until 31 August 2024, which reflects the date specified for site reinstatement set out in the most recent of the temporary permissions granted to Leiths (Annex 4). This date also aligns closely with the permitted end date for the infilling and reinstatement of the adjoining Middleton Quarry by NWH Waste Services.

## **Annex 1**

### **Alternative Site Search**



**Alternative Site Search**  
**Selection of Sites Considered**

<b>Area</b>	<b>Location</b>	<b>Reason for Not Pursuing</b>
Borthwick View, Pentland Industrial Estate	Loanhead	Unit and yard too small.
West Edinburgh Business Park	Edinburgh	Unit only, no yard
R6, Newbridge	Edinburgh	Unit too small, no yard
Imex Business Centre	Loanhead	No suitable units with yard space.
West Craigs Industrial Estate	Edinburgh	Yard too small. Roller shutter door too small.

## **Annex 2**

### **Delegated Report of Handling**

## **MIDLOTHIAN COUNCIL**

### **DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:**

**Planning Application Reference:** 18/00756/DPP

**Site Address:** Middleton Limeworks, Gorebridge

#### **Site Description:**

This 1.2 hectare site comprises the former Middleton Limeworks, previously part of a wider complex with the adjacent former Middleton Quarry, and currently used as a temporary HGV depot.

The site is accessed from a minor public road abutting on its north side, which is accessed from Guildie Howes Road, and in turn from the A7 at North Middleton. The site is approximately half a kilometre south-west of the village. The nearest noise sensitive property is approximately 100 metres away.

The former Middleton Quarry 'No.1' (the 'lower' or 'bottom' quarry) bounds the site to the east and extends south, with Middleton Quarry 'No.2' (the 'upper' or 'top' quarry) located further south beyond the unclassified road. Temple Quarry is to the west of the site. Middleton Quarry No.2 aside, these sites are accessed off the same minor road as the application site. The area surrounding the site is otherwise in agricultural use.

The site accommodates silos and other modern plant and buildings consistent with its previous limeworks/quarry use, including a metal clad shed towards the northern (roadside) part of the site. The site is otherwise partly surfaced in concrete hardstanding and partly in hardcore.

#### **Proposed Development:**

An application for detailed planning permission has been made to change the use of the former limeworks/temporary HGV depot to mixed use including HGV depot, road surfacing and transport contractors yard. This application would involve the retention of the existing shed for use as a mechanical/plant repair shop and storage.

#### **Proposed Development Details:**

It is proposed that the HGV depot use would continue as per the existing temporary consent 16/00796/S42 (see below) but on a non-temporary basis.

The applicant states that the existing metal shed is to be retained for use as a mechanics/plant repair shop with general storage of tools and equipment. It is proposed to remove the existing silos and buildings.

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

In March 1982, planning permission 198/81 was granted for continued limestone working at Middleton Quarry, including associated processing on the current application site, subject to the whole complex being restored to agricultural use by 31 December 2002. A Breach of Condition Notice was served on 19 December 2012 requiring infill and restoration to agricultural use of the former Middleton Quarry No.2 only (i.e. not including the current application site or the former Middleton Quarry No.1 to the east) by 19 December 2015, with restoration work currently being undertaken.

The former Middleton Quarry No.1, which adjoins the application site to the east, is currently being infilled under planning permission 15/00503/DPP, granted on 1 February 2016. Restoration is to be completed within seven years of commencement of operations, which began on 1 May 2017.

In January 2015, planning permission 14/00868/DPP was granted for *Change of use from former quarry buildings to HGV depot* on the current application site, for the following reasons and subject to the following conditions:

*"The development is presently operating without any significant harm to the amenity of the area, including the amenity of neighbouring properties. The existing road infrastructure is of a standard to cope with the development of this scale being operated. A temporary planning permission is justified and would not conflict with the strategic objectives of Local Plan Policy RP1 or jeopardise the future restoration of the site to agricultural use, which is a requirement of planning permission ref. 198/82 [sic] for the lime quarry.*

.....

1. *The HGV lorry depot use and the associated storage of tools in the metal clad shed on the northern part of the site hereby approved shall cease operating on the land by the 1st December 2016. All vehicles, equipment, tools and storage sheds shall be removed from the site by 1st December 2016.*

*Reason: The use is within the countryside and is [sic] allowed long term it would be a source of unsightliness, harmful to the character and amenity of the countryside.*

2. *Unless otherwise approved in writing by the planning authority no more than 8 HGV tankers and/or road surfacing HGVs shall be parked on the site at any time.*

*Reason: To restrict the scale of the HGV depot to that applied for in the interests of safeguarding the amenity of the countryside and in the interests of road safety."*

On 28 March 2018, planning permission 16/00796/S42 was granted under Section 42 for continuation of use the subject of planning permission 14/00868/DPP (HGV depot) without compliance with Condition 1 (cease operating by 1 December 2016), to allow operation until 1 December 2018, for the following reasons and subject to the following conditions:

*"The use is currently operating without significant harm to the amenity of the area, including the amenity of neighbouring properties. The existing road infrastructure is of a standard able to cope with the use. The proposed continuation of the temporary use, while contrary to Policy RD 1 of the adopted Midlothian Local Development Plan 2017, would not conflict with the strategic aims and objectives of the plan. Subject to conditions, planning permission would now provide for full restoration of the site in tandem with that of Middleton Quarry No.1, in accordance with Policy ENV 7 of the plan.*

.....

1. *Unless otherwise approved in writing by the planning authority, no more than eight HGV tankers and/or road surfacing HGVs shall be parked on the site at any time.*

**Reason:** *To restrict the scale of the HGV depot to that applied for, in the interests of safeguarding the amenity of the countryside and in the interests of road safety.*

2. *Except for the metal clad shed on the northern part of the site and the silos, all duntakings shown in the docketed drawing shall have been permanently removed from the site within three months of the date of this consent.*

**Reason:** *To ensure the timeous removal of plant and other buildings to be demolished, in the interests of safeguarding the character and amenity of the countryside.*

3. *The metal clad shed on the northern part of the site, all duntakings shown in the docketed drawing, and all hardcore and hard surfaces, shall have been permanently removed from the site by 1 April 2019.*

**Reason:** *To ensure timeous removal of plant and other buildings to be demolished, and of all hardcore and hard surfaces, in the interests of safeguarding the character and amenity of the countryside.*

4. *The whole site shall have been permanently restored to agricultural and/or forestry use by 31 August 2024 in accordance with detailed plans which shall have been submitted for the written approval of the planning authority.*

**Reason:** *To ensure effective restoration of the site in the interests of safeguarding the character and amenity of the countryside.*

The applicant has submitted a Supporting Statement to provide justification for the proposal, which states:

- There are four tankers at the site with a maximum of 2 vehicle movements per day, though an additional four vehicles utilise the site;
- The application is to retain the status quo but without the architectural blight of the work-shed, lime mills and siles;
- Design of buildings are similar to those that are approved in the countryside for agriculture (with Guildieknowes Farm given as an example);
- The benefits of returning site to agricultural use compared with the existing does not equate as the existing provides opportunity to support existing jobs and offer new employment;
- Will allow M&M Road Surfacing to remain in local area after moving out of Sighthill Industrial Estate;
- Location of site reduces travel distances for distribution of Leith's products and reduces impact on environment through reduced traffic movement;
- Once Middleton Quarry has been restored, traffic movements in the area will reduce dramatically;
- Robust landscaping design would allow the site to be integrated with the immediate surroundings.

#### **Consultations:**

**Moorfoot Community Council** submits that the application should be refused because:

- Consent would remove a long-standing requirement for the site to be restored to agricultural use. Supports restoration of the site and has previously expressed concern about the granting of permissions for separate activities;
- Proposal is contrary to the Council's policies on Development in the Countryside;
- The proposal does not represent the 'status quo' as stated by the applicant as it would result in a permanent change of use;
- Applicants comment comparing proposal to prior notification applications for agricultural use are highly misleading. Separate process exists due to the recognition that agriculture is an acceptable use in the countryside;
- Claims over jobs should be dismissed by the Council as no evidence has been submitted stating how many jobs there are or how many will be for those in the local area and because this does not justify determining an application contrary to policy.

The **Council's Group Manager Environmental Health** was consulted on the previously submitted application and made no comment.

The **Council's Policy & Roads Safety Officer** raised no objection to the previously submitted application.

The **Council's Economic Development team** was consulted on the previously submitted application and made no comment.

## **Representations:**

One representation has been received in relation to this application, stating:

- Previous planning notices and conditions have been disregarded and there is an expectation that the Planning Authority will uphold these;
- Concern about an increase in traffic once all of the business has relocated to the application site from Sighthill Industrial Estate, Edinburgh;
- Concern that the hours of work for road surfacing will go beyond those for the existing neighbouring uses;
- Proposal will form a visible eyesore in the landscape;
- Assertion that continued use of the site would not be detrimental is unsubstantiated with no views sought from the local community.

## **Relevant Planning Policies:**

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

**Policy RD1 Development in the Countryside** states that development in the countryside will only be permitted if:

- it is required for the furtherance of agriculture (including farm-related diversification), horticulture, forestry, countryside recreation or tourism; or
- it accords with policies RD2, MIN1, NRG1 or NRG2; or
- it accords with the Council's Supplementary Guidance on *Development in the Countryside and Green Belt*.

**Policy MIN2 Surface Mineral Extraction** makes provision for the extraction of minerals outwith Areas of Search and their subsequent restoration.

**Policy ENV7 Landscape Character** expects that new developments incorporate proposals to maintain the diversity and distinctiveness of local landscapes and enhance landscape characteristics where they have been weakened.

## **Planning Issues:**

The main planning issue to consider is whether the proposal accords with the provisions of the development plan, and if not whether material considerations justify departing from it.

The delegated report for 14/00868/DPP notes that the proposal does not accord with Policy RP1 of the then adopted Midlothian Local Plan 2008 (provisions cited above from Policy RD1 of MLDP being identical) and sets out the following:

- Commercial use on the site here is long-established, bringing economic benefits;
- It would be reasonable for the planning authority to grant a temporary planning permission for the HGV depot on the proviso that this does not prejudice future restoration of the site;

- Until now the unauthorised HGV depot use appears to be operating without significant detriment to the amenity of the area, including the amenity of neighbouring properties. The Council's Policy & Road Safety Officer raises no objection;
- Storage of tools and equipment associated with the HGV depot use in the metal clad shed on the northern part of the site is acceptable and would not harm the amenity of the countryside on the proviso that that use ceases by the end of the temporary period granted for the planning permission;
- If it were to become a permanent use it would be a source of unsightliness in the countryside and thus it not a suitable use in the long term;
- The site is over a hundred metres away from the nearest noise sensitive property. The use, as proposed, would not give rise to significant harmful noise nuisance and disturbance to neighbouring noise sensitive properties including residences;
- To allow the proposed HGV depot use to continue on the site for a temporary period of time would not conflict with the strategic objectives of Local Plan Policy RP1.

The proposal does not accord with Policy RD1 of the MLDP. While the above considerations are pertinent in the consideration of a time extension for a temporary use, the weight they are accorded changes when considering an application for a permanent use.

The planning authority has not been presented with justification that a HGV depot use on the site is an acceptable use in the countryside. While matters such as employment can be a material consideration in the determination of planning applications, the weight of this alone does not justify making a determination contrary to policy RD1, particularly where there is no indication of the level of employment likely to occur as part of the proposal. Furthermore, there is currently in excess of 200 Ha of vacant employment land allocated in Midlothian therefore there is not a lack of alternative locations in the area.

Allowing the continuation of the current use on a permanent basis would prevent the restoration of the site to being suitable for agricultural purposes. The quarry only exists due to planning consent being granted for the extraction of minerals, which was only acceptable on the condition that the site would be restored in this manner. This would be contrary to policy MIN2, which requires the restoration of sites following the removal of minerals.

With regards to the design of the building at Guildieknowes Farm, it is considered that the design of this building is fairly typical of modern agricultural buildings in Midlothian and it is therefore not out of character with the rural area.

The former Middleton Quarry No.1 is currently being infilled under planning permission 15/00503/DPP, granted on 1 February 2016. Restoration is to be completed within seven years of commencement of operations, which began on 1 May 2017, resulting in a final restoration date of 1 May 2024. Temple Quarry to the west of the site is due to be restored by 31 December 2025. While public views of



the site are currently set in the context of the neighbouring sand and gravel quarry, upon completion of the restoration projects, the appearance of the application site will be anomalous within the wider landscape and contrary to policy ENV7 of the LDP.

In relation to road safety concerns submitted by Moorfoot Community Council (MCC), the Council's Policy & Roads Safety Officer has reviewed the situation and continues to offer no objection. With regard to noise, dust and other amenity matters, the Council's Environmental Health Department have raised no concerns.

In relation to the other concerns raised by MCC and the representor, it should be noted that the Breach of Condition Notice, served on 19 December 2012, sought restoration of the former Middleton Quarry No.2 only, with work currently underway. The restoration of Temple Quarry and Middleton Quarry No. 1 is currently being undertaken under the auspices of planning applications 05/00378/FUL (as amended) and 15/00503/DPP respectively. Enforcement action has not been taken on the application site as this application was submitted prior to 1 December 2018, when the current operations are to cease or the 31 August 2024, when the site is to be restored under planning application 16/00796/S42.

The Middleton Limeworks site is part of a wider scheme required as a condition of the original planning permission allowing for the extraction and working of limestone. Permissions and restoration details have been agreed for the adjoining sites, which would result in the application site becoming visually incongruous within the rural landscape. Insufficient justification has been provided to conclude that permission be granted contrary to the Development Plan. Allowing the existing employment uses to be retained at the expense of restoring the site would be contrary to policies RD1, MIN2 and ENV7 of the Midlothian Local Development Plan 2017.

**Recommendation:**

It is recommended that planning permission be refused.

### **Annex 3**

#### **Middleton Limeworks – Planning Permission 14/00868/DPP**

# Planning Permission

Town and Country Planning (Scotland) Act 1997

Reg. No. 14/00868/DPP



Stewart Associates Building Consultants  
Rigifa  
Cove  
Aberdeen  
AB12 3LR

Midlothian Council, as Planning Authority, having considered the application by Leiths (Scotland) Limited, Rigifa, Cove, Aberdeen, AB12 3LR, which was registered on 1 December 2014, in pursuance of their powers under the above Acts, hereby grant permission to carry out the following proposed development:

**Change of use from former quarry buildings to HGV depot at Middleton Limeworks, Gorebridge, EH23 4QP**

in accordance with the application and the following plans:

<u>Drawing Description.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Site plan, location plan and elevations	2293.01	01.12.2014
Negotiation Correspondence/General	EMAIL FROM AGENT	05.01.2015
Negotiation Correspondence/General	EMAIL FROM AGENT	20.01.2015

This permission is granted for the following reasons:

*The development is presently operating without any significant harm to the amenity of the area, including the amenity of neighbouring properties. The existing road infrastructure is of a standard to cope with the development of this scale being operated. A temporary planning permission is justified and would not conflict with the strategic objectives of Local Plan Policy RP1 or jeopardise the future restoration of the site to agricultural use, which is a requirement of planning permission ref. 198/82 for the lime quarry.*

Subject to the following conditions:

1. The HGV lorry depot use and the associated storage of tools in the metal clad shed on the northern part of the site hereby approved shall cease operating on the land by the 1<sup>st</sup> December 2016. All vehicles, equipment, tools and storage sheds shall be removed from the site by 1<sup>st</sup> December 2016.

**Reason:** *The use is within the countryside and is allowed long term it would be a source of unsightliness, harmful to the character and amenity of the countryside.*

2. Unless otherwise approved in writing by the planning authority no more than 8 HGV tankers and/or road surfacing HGVs shall be parked on the site at any time.

**Reason:** *To restrict the scale of the HGV depot to that applied for in the interests of safeguarding the amenity of the countryside and in the interests of road safety.*

Dated: 26/01/2015

A handwritten signature in black ink, appearing to read 'Peter', with a large, stylized initial 'P' and a cursive 'Arnsdorf'.

.....  
Peter Arnsdorf  
Development Management Manager  
Fairfield House, 8 Lothian Road, Dalkeith, EH22 3ZN

## PLEASE NOTE

This permission does not carry with it any necessary consent or approval to the proposed development which may be required under the Building (Scotland) Acts and Regulations or under any other Statutory Enactment.

If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town & Country Planning (Scotland) Act 1997 within 3 months from the date of this notice. The notice of review should be addressed to The Development Manager, Development Management Section, Midlothian Council, Fairfield House, 8 Lothian Road, Dalkeith, EH22 3ZN. A notice of review form is available from the same address and will also be made available online at [www.midlothian.gov.uk](http://www.midlothian.gov.uk)

If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonable beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.

### Duration of Planning Permission and/or Listed Building Consent

The permission hereby approved lapses on the expiration of a period of either:

- a) three years from the date of this decision notice, if the permission is for **detailed planning permission (DPP)** or **listed building consent (LBC)** as specified in Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended by Planning etc (Scotland) Act 2006); or
- b) two years from the date of approval by the planning authority of the last application for matters specified in conditions to be approved if the permission is for **planning permission in principle (PPP)** as specified in Section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended by Planning etc (Scotland) Act 2006). Applications for approval of matters specified in conditions shall be made to the planning authority within three years from the date of this permission.

Prior to any work taking place on site all pre commencement conditions attached to a grant of planning permission must be agreed in writing with the planning authority. Failure to do so could result in any development works taking place being unauthorised and undertaken at your own risk and expense.

### The Felling of Trees

Where full planning permission authorises the felling of trees on a development site, no further consent is required under the Forestry Act 1967 (as amended). However, developers should note that any tree felling not expressly authorised by full planning permission, and not exempted, requires a felling licence granted under the Forestry Act 1967 (as amended).

Developers should note that any felling carried out without either a licence or other valid permission is an offence. This can mean, on conviction, a fine of up to £2,500 (level 4 on the standard scale) or twice the value of the trees, whichever is higher with the conviction being recorded.

Contact your local Forestry Commission Scotland Office if you are not certain whether exemptions apply. You can get an application form for a felling licence from the Forestry Commission website [www.forestry.gov.uk](http://www.forestry.gov.uk) or any Forestry Commission Scotland Office.

### Prior to Commencement (Notice of Initiation of Development)

Prior to the development commencing the planning authority shall be notified in writing of the expected commencement of work date and once development on site has been completed the planning authority shall be notified of the completion of works date in writing. Failure to do so would be a breach of planning control under section 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended by the Planning etc (Scotland) Act 2006). A copy of the Notice of Initiation of Development is available on the Councils web site [www.midlothian.gov.uk](http://www.midlothian.gov.uk)

## IMPORTANT NOTE REGARDING PUBLIC ACCESS TO INFORMATION

### Making an application

Please note that when you submit a planning application, the information will appear on the Planning Register and the completed forms and any associated documentation will also be published on the Council's website.

### Making comment on an application

Please note that any information, consultation response, objection or supporting letters submitted in relation to a planning application, will be published on the Council's website.

The planning authority will redact personal information in accordance with its redaction policy and use its discretion to redact any comments or information it considers to be derogatory or offensive. However, it is important to note that the publishing of comments and views expressed in letters and reports submitted by applicants, consultees and representors on the Council's website, does not mean that the planning authority agrees or endorses these views, or confirms any statements of fact to be correct.

## **Annex 4**

### **Middleton Limeworks – Planning Permission 16/00796/S42**

# Planning Permission

Town and Country Planning (Scotland) Act 1997

Reg. No. 16/00796/S42



Leiths (Scotland) Ltd  
Rigifa  
Cove  
Aberdeen  
AB12 3LR

Midlothian Council, as Planning Authority, having considered the application by Mr Philip Leith, Rigifa, Cove, Aberdeen, AB12 3LR, which was registered on 17 November 2016, in pursuance of their powers under the above Acts, hereby grant permission to carry out the following proposed development:

**Section 42 application for continuation of use the subject of planning permission 14/00868/DPP (HGV depot) without compliance with Condition 1 (cease operating by 1 December 2016), to allow operation until 1 December 2018 at Middleton Limeworks, Gorebridge, EH23 4QP**

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

<u>Document/Drawing</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	229 03 1:500	17.11.2016
Negotiation Correspondence	Email from Agent	05.01.2015
Negotiation Correspondence	Email from Agent	20.01.2015

This permission is granted for the following reasons:

*The use is currently operating without significant harm to the amenity of the area, including the amenity of neighbouring properties. The existing road infrastructure is of a standard able to cope with the use. The proposed continuation of the temporary use, while contrary to Policy RD 1 of the adopted Midlothian Local Development Plan 2017, would not conflict with the strategic aims and objectives of the plan. Subject to conditions, planning permission would now provide for full restoration of the site in tandem with that of Middleton Quarry No.1, in accordance with Policy ENV 7 of the plan.*

Subject to the following conditions:

1. Unless otherwise approved in writing by the planning authority, no more than eight HGV tankers and/or road surfacing HGVs shall be parked on the site at any time.

*Reason: To restrict the scale of the HGV depot to that applied for, in the interests of safeguarding the amenity of the countryside and in the interests of road safety.*

2. Except for the metal clad shed on the northern part of the site and the silos, all downtakings shown in the docketed drawing shall have been permanently removed from the site within three months of the date of this consent.

*Reason: To ensure the timeous removal of plant and other buildings to be demolished, in the interests of safeguarding the character and amenity of the countryside.*

3. The metal clad shed on the northern part of the site, all downtakings shown in the

docketed drawing, and all hardcore and hard surfaces, shall have been permanently removed from the site by 1 April 2019.

**Reason:** *To ensure the timeous removal of plant and other buildings to be demolished, and of all hardcore and hard surfaces, in the interests of safeguarding the character and amenity of the countryside.*

4. The whole site shall have been permanently restored to agricultural and/or forestry use by 31 August 2024 in accordance with detailed plans which shall have been submitted for the written approval of the planning authority.

**Reason:** *To ensure effective restoration of the site in the interests of safeguarding the character and amenity of the countryside.*

Dated 28 / 03 / 18



.....  
Joyce Learmonth  
Lead Officer – Major Developments and Enforcement,  
Fairfield House, 8 Lothian Road, Dalkeith, EH22 3ZN



## PLEASE NOTE

*This permission does not carry with it any necessary consent or approval to the proposed development which may be required under the Building (Scotland) Acts and Regulations or under any other Statutory Enactment.*

*If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town & Country Planning (Scotland) Act 1997 within 3 months from the date of this notice. The notice of review should be addressed to The Planning Manager, Planning, Midlothian Council, Fairfield House, 8 Lothian Road, Dalkeith, EH22 3ZN. A notice of review form is available from the same address and will also be made available online at [www.midlothian.gov.uk](http://www.midlothian.gov.uk)*

*If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonable beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.*

### Duration of Planning Permission and/or Listed Building Consent

*The permission hereby approved lapses on the expiration of a period of either:*

- a) three years from the date of this decision notice, if the permission is for **detailed planning permission (DPP)** or **listed building consent (LBC)** as specified in Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended by Planning etc (Scotland) Act 2006); or*
- b) two years from the date of approval by the planning authority of the last application for matters specified in conditions to be approved if the permission is for **planning permission in principle (PPP)** as specified in Section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended by Planning etc (Scotland) Act 2006). Applications for approval of matters specified in conditions shall be made to the planning authority within three years from the date of this permission.*

*Prior to any work taking place on site all pre commencement conditions attached to a grant of planning permission must be agreed in writing with the planning authority. Failure to do so could result in any development works taking place being unauthorised and undertaken at your own risk and expense.*

### The Felling of Trees

*Where full planning permission authorises the felling of trees on a development site, no further consent is required under the Forestry Act 1967 (as amended). However, developers should note that any tree felling not expressly authorised by full planning permission, and not exempted, requires a felling licence granted under the Forestry Act 1967 (as amended).*

*Developers should note that any felling carried out without either a licence or other valid permission is an offence. This can mean, on conviction, a fine of up to £2,500 (level 4 on the standard scale) or twice the value of the trees, whichever is higher with the conviction being recorded.*

*Contact your local Forestry Commission Scotland Office if you are not certain whether exemptions apply. You can get an application form for a felling licence from the Forestry Commission website [www.forestry.gov.uk](http://www.forestry.gov.uk) or any Forestry Commission Scotland Office.*

### Prior to Commencement (Notice of Initiation of Development)

*Prior to the development commencing the planning authority shall be notified in writing of the expected commencement of work date and once development on site has been completed the planning authority shall be notified of the completion of works date in writing. Failure to do so would be a breach of planning control under section 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended by the Planning etc (Scotland) Act 2006). A copy of the Notice of Initiation of Development is available on the Council's web site [www.midlothian.gov.uk](http://www.midlothian.gov.uk)*

## IMPORTANT NOTE REGARDING PUBLIC ACCESS TO INFORMATION

### Making an application

*Please note that when you submit a planning application, the information will appear on the Planning Register and the completed forms and any associated documentation will also be published on the Council's website.*

### Making comment on an application

*Please note that any information, consultation response, objection or supporting letters submitted in relation to a planning application, will be published on the Council's website.*

*The planning authority will redact personal information in accordance with its redaction policy and use its discretion to redact any comments or information it considers to be derogatory or offensive. However, it is important to note that the publishing of comments and views expressed in letters and reports submitted by applicants, consultees and representatives on the Council's website, does not mean that the planning authority agrees or endorses these views, or confirms any statements of fact to be correct.*



## Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

**Reg. No. 18/00756/DPP**

Leiths (Scotland) Ltd  
Rigifa  
Cove  
Aberdeen  
AB12 3LR

Midlothian Council, as Planning Authority, having considered the application by Mr Phil Leith, Rigifa, Cove, Aberdeen, AB12 3LR, which was registered on 4 October 2018 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

**Change of use from former limeworks/temporary HGV depot to a mixed use including HGV depot and road surfacing and transport engineering contractors yard with the retention of existing shed as mechanic/plant repair shop and storage at Middleton Limeworks, Gorebridge, EH23 4QP**

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

<u>Document/Drawing.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	1:2500	04.10.2018
Site Plan	Existing Site Layout	04.10.2018
Other Statements	NA	04.10.2018

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

- 1. The application site is part of a wider area of development. The site has been the subject of mineral extraction and conditions require the restoration of this site and adjacent extraction areas. Granting planning permission for the development would result in the site remaining un-restored and becoming a visually incongruous within the rural landscape.*
- 2. The justification put forward by the applicant is not considered to be sufficient to conclude that planning permission should be granted contrary to the Development Plan.*
- 3. Allowing the existing employment uses to be retained at the expense of restoring the site would be contrary to policies RD1, MIN2 and ENV7 of the Midlothian Local Development Plan 2017.*

Dated 28 / 05 / 19

.....  
Joyce Learmonth  
Lead Officer Major Developments and Enforcement,



**The Coal  
Authority**

Planning and Local Authority Liaison

Direct Telephone: 01623 637 119

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

Website:

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

**Any Planning Enquiries should be directed to:**

### **INFORMATIVE NOTE**

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

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Standards approval (if relevant). Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant safety and engineering risks and exposes all parties to potential financial liabilities. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should wherever possible be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design is developed and agreed with regulatory bodies which takes into account of all the relevant safety and environmental risk factors, including gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at: <https://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries>

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

Property specific summary information on past, current and future coal mining activity can be obtained from: [www.groundstability.com](http://www.groundstability.com) or a similar service provider.

If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at: [www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

*This Informative Note is valid from 1<sup>st</sup> January 2019 until 31<sup>st</sup> December 2020*

## Scales as shown @ A1



## EXTENT OF BOUNDARY