

Notice of Meeting and Agenda



Local Review Body

Venue: Council Chambers,
Midlothian House, Dalkeith, EH22 1DN

Date: Tuesday, 16 October 2018

Time: 14:00

John Blair
Director, Resources

Contact:

Clerk Name: Mike Broadway

Clerk Telephone: 0131 271 3160

Clerk Email: mike.broadway@midlothian.gov.uk

Further Information:

This is a meeting which is open to members of the public.

Audio Recording Notice: Please note that this meeting will be recorded. The recording will be publicly available following the meeting. The Council will comply with its statutory obligations under the Data Protection Act 1998 and the Freedom of Information (Scotland) Act 2002.

1 Welcome, Introductions and Apologies

2 Order of Business

Including notice of new business submitted as urgent for consideration at the end of the meeting.

3 Declaration of Interest

Members should declare any financial and non-financial interests they have in the items of business for consideration, identifying the relevant agenda item and the nature of their interest.

4 Minutes of Previous Meeting

- | | | |
|------------|--|--------|
| 4.1 | Minutes of Meeting held on 4 September 2018 - For Approval | 3 - 10 |
|------------|--|--------|

5 Public Reports

Decision Notices: -

- | | | |
|------------|---|---------|
| 5.1 | Land South East of the Old School House, Laswade
18/00180/DPP. | 11 - 16 |
|------------|---|---------|

- | | | |
|------------|---|---------|
| 5.2 | 15 Pendreich Terrace, Bonnyrigg 18/00312/DPP. | 17 - 20 |
|------------|---|---------|

Notice of Review Requests Considered for the First Time –
Determination Reports by Head of Communities and Economy:-

- | | | |
|------------|---|---------|
| 5.3 | Unit 1, 40 Hardengreen Business Park, Dalhousie Road, Dalkeith
18/00369/DPP. | 21 - 36 |
|------------|---|---------|

- | | | |
|------------|---|---------|
| 5.4 | Units 7 and 8, 40 Hardengreen Business Park, Dalhousie Road,
Dalkeith 18/00402/DPP | 37 - 52 |
|------------|---|---------|

6 Private Reports

No private reports to be discussed at this meeting.

Plans and papers relating to the applications on this agenda can
also be viewed online at www.midlothian.gov.uk.

7 Date of Next Meeting

The next meeting will be held on Tuesday 27 November 2018 at 2.00 pm.

Minute of Meeting



Local Review Body

Date	Time	Venue
4 September 2018	2.00pm	Council Chambers, Midlothian House, Buccleuch Street, Dalkeith

Present:

Councillor Imrie (Chair)	Councillor Baird
Councillor Cassidy	Councillor Curran
Councillor Milligan	Councillor Muirhead

1 Apologies

Apologies for absence were received from Councillors Alexander, Lay-Douglas Munro and Smaill.

2 Order of Business

The order of business was confirmed as outlined in the agenda that had been previously circulated.

3 Declarations of interest

No declarations of interest were received.

4 Minutes of Previous Meetings

The Minutes of (i) Meeting of 22 May 2018 and (ii) Special Meeting of 20 June 2018 were submitted and approved as correct records.

5 Reports

Agenda No	Report Title	Presented by:
5.1	Decision Notice – Land North West of Melville Gate Road, Dalkeith, [17/00587/DPP].	Peter Arnsdorf
Executive Summary of Report		
With reference to paragraph 4.3 of the Minutes of 20 June 2018, there was submitted a copy of the Local Review Body decision notice dismissing a review request from Jessica Powell, Colliers International, 1 Exchange Crescent, Conference Square, Edinburgh seeking on behalf of their clients, Montpelier Estates a review of planning application 17/00587/DPP for the erection of residential care home with associated access, car parking, landscaping and works at land north-west of Melville Gate Road, Dalkeith, which had not been determined within the statutory time periods (2 months as extended by agreement) and refusing planning permission.		
Decision		
To note the LRB decision notice.		

Agenda No	Report Title	Presented by:
5.2	Decision Notice – Land West of Wellington Cottages, Springfield Road, Penicuik, [17/00900/DPP].	Peter Arnsdorf
Executive Summary of Report		
With reference to paragraph 4.4 of the Minutes of 20 June 2018, there was submitted a copy of the Local Review Body decision notice dismissing a review request from Chris Turner, Westland Horticulture, Old School House, 9 School Lane, Stow, Lincoln seeking on behalf of their clients Westland Horticulture, a review of the decision of the Planning Authority to refuse planning permission (17/00900/DPP, refused on 26 January 2018) for the siting of two residential caravans for a temporary period of two years (retrospective) at land west of Wellington Cottages, Springfield Road, Penicuik and refusing planning permission.		
Decision		
To note the LRB decision notice.		

Agenda No	Report Title	Presented by:
5.3	Decision Notice – 17-29 Engine Road, Loanhead, [18/00065/DPP].	Peter Arnsdorf
Executive Summary of Report		
With reference to paragraph 4.5 of the Minutes of 20 June 2018, there was submitted a copy of the Local Review Body decision notice upholding a review request from Mrs Louise McVay, Ace Car Disposal & Spares Ltd, Yard 1, Camps Yard, Camps Industrial Estate, East Calder, seeking a review of the decision of the Planning Authority to refuse planning permission (18/00065/DPP, refused on 24 April 2018) for the change of use of coach depot and garage to a car breakers yard (end of life vehicle recycling centre) at 17-29 Engine Road, Loanhead and granting planning permission subject to conditions.		
Decision		
To note the LRB decision notice.		

Agenda No	Report Title	Presented by:
5.4	Decision Notice – Mansfield, Mayfield, Dalkeith, [17/00864/DPP].	Peter Arnsdorf

Executive Summary of Report

With reference to paragraph 4.6 of the Minutes of 20 June 2018, there was submitted a copy of the Local Review Body decision notice dismissing a review request from Douglas Strachan, 79 High Street, Dalkeith seeking on behalf of their client Mrs L McKellar, a review of the decision of the Planning Authority to refuse planning permission (17/00864/DPP, refused on 7 March 2018) for the conversion of steading buildings into four dwellinghouses and associated works at Mansfield, Mayfield, Dalkeith and refusing planning permission.

Decision

To note the LRB decision notice.

Agenda No	Report Title	Presented by:
5.5	Decision Notice – Land Adjacent to Mansfield, Mayfield, Dalkeith, [17/00960/DPP].	Peter Arnsdorf

Executive Summary of Report

With reference to paragraph 4.7 of the Minutes of 20 June 2018, there was submitted a copy of the Local Review Body decision notice dismissing a review request from Douglas Strachan, 79 High Street, Dalkeith seeking on behalf of their client Mrs L McKellar, a review of the decision of the Planning Authority to refuse planning permission in principle (17/00960/PPP, refused on 19 February 2018) for the erection of three dwellinghouses and associated works at land adjacent to Mansfield, Mayfield, Dalkeith and refusing planning permission.

Decision

To note the LRB decision notice.

Eligibility to Participate in Debate

In considering the following items of business, all the LRB Members present had attended the site visits on Monday 3 September 2018 and therefore they all participated in the review process.

Agenda No	Report Title	Presented by:
5.6	Notice of Review Request Considered for the First Time – Land South East of the Old School House, School Green, Lasswade, [18/00180/DPP].	Peter Arnsdorf

Executive Summary of Report

There was submitted report, dated 28 August 2018, by the Head of Communities and Economy regarding an application from Mr Stuart Armstrong, 19 Polton

Terrace, Lasswade seeking a review of the decision of the Planning Authority to refuse planning permission (18/00180/DPP, refused on 24 May 2018) for the erection of dwellinghouse; erection of fencing and retaining walls; formation of access and associated works on land south east of the Old School House, School Green, Lasswade

Accompanying the Notice of Review Form and supporting statement, which were appended to the report, was a copy of the report of handling thereon.

The Local Review Body had made an accompanied visit to the site on Monday 3 September 2018.

Summary of Discussion

In accordance with the procedures for the Local Review Body, the Planning Advisor gave a brief overview of the review hearing procedures and outlined the background to the case.

Thereafter, oral representations were received firstly from the applicant Stuart Armstrong, and then from Duncan Robertson, the local authority Planning Officer; following which they both responded to Members' questions/comments.

The LRB, in giving consideration to the merits of the case based on all of the information provided both in writing and in person at the Hearing, discussed the proposed development, in particular the siting and design of the proposed dwellinghouse. It was acknowledged that whilst the principle of development of the application site was supported, there were concerns regarding whether or not the current scheme made best use of the site due to its topography and the boundary planting within the neighbouring site. With regards the boundary planting the applicant sought to reassure Members that he had reached agreement with the owner of the neighbouring property regarding its future maintenance, however the potential for this to become an issue in the future remained a possibility. These issues aside, the LRB concluded that on balance the proposed development would not adversely impact on the conservation area or special landscape area and was therefore worthy of support.

Decision

After further discussion, the LRB agreed to uphold the review request, and grant planning permission for the following reason:-

The proposed dwelling by means of its siting, form, design and materials fits into the landscape and is not detrimental to the special landscape area or conservation area and as such does not undermine the spirit of those development plan policies designed to protect the local landscape and conservation area. Furthermore, the proposed dwelling will not have an unacceptable impact on the amenity of neighbouring residential properties or the adjoining listed building.

subject to the following conditions:

1. Development shall not begin until a revised scheme of hard and soft landscaping has 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 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 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. The landscaping shall be completed prior to the house is occupied; and
 - vii drainage details and sustainable urban drainage systems to manage water runoff.

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 ENV1, ENV6, ENV19 and DEV6 of the Midlothian Local Development Plan 2017 and national planning guidance and advice.*

2. Development shall not begin until samples of materials to be used on external surfaces of the buildings; hard ground cover surfaces; means of enclosure and ancillary structures have been submitted to and approved in writing by the planning authority. Development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the planning authority.

Reason: *In the interest of protecting the character and appearance of the conservation area so as to comply with ENV6 and ENV19 of the Midlothian Local Development Plan 2017 and Historic Environment Scotland's policy and guidance.*

3. Development shall not begin until details of a sustainability/biodiversity scheme for the site, including the provision of house bricks and boxes for bats and swifts throughout the development has been submitted to and approved in writing by the planning authority. Development shall thereafter

be carried out in accordance with the approved details or such alternatives as may be approved in writing with the planning authority.

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

4. Development shall not begin until a scheme to deal with any contamination of the site and/or previous mineral workings has been submitted to and approved by the planning authority. The scheme shall contain details of the proposals to deal with any contamination and/or previous mineral workings and include:
- i the nature, extent and types of contamination and/or previous mineral workings on the site;
 - ii measures to treat or remove contamination and/or previous mineral workings to ensure that the site is fit for the uses hereby approved, and that there is no risk to the wider environment from contamination and/or previous mineral workings originating within the site;
 - iii measures to deal with contamination and/or previous mineral workings encountered during construction work; and
 - iv the condition of the site on completion of the specified decontamination measures.

Before any part of the site is occupied for residential purposes, the measures to decontaminate the site shall be fully implemented as approved by the planning authority and a validation report confirming the works have been completed shall be submitted to the planning authority.

Reason: *To ensure that any contamination on the site/ground conditions is adequately identified and that appropriate decontamination measures/ground mitigation measures are undertaken to mitigate the identified risk to site users and construction workers, built development on the site, landscaped areas, and the wider environment.*

5. Development shall not begin until details of the provision of an electric vehicle charging station has been submitted to and approved in writing by the planning authority. Development shall thereafter be carried out in accordance with the approved details.

Reason: *To ensure the development accords with the requirements of policy TRAN5 of the Midlothian Local Development Plan 2017.*

6. Prior to the dwellinghouse being occupied the vehicular access arrangements detailed on drawing number LASS (LP)002 and in the Design & Access Statement shall be completed and operational.

Reason: *To ensure that the dwellinghouse is provided with a safe access.*

Action

Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.7	Notice of Review Request Considered for the First Time –15 Pendreich Terrace, Bonnyrigg, [18/00312/DPP].	Peter Arnsdorf
Executive Summary of Report		
<p>There was submitted report, dated 28 August 2018, by the Head of Communities and Economy regarding an application from Mr and Mrs J Millar, Bowling Green Cottage, Murderdean Road, Newtongrange seeking a review of the decision of the Planning Authority to refuse planning permission (18/00312/DPP, refused on 26 June 2018) for the erection of a two storey extension at 15 Pendreich Terrace, Bonnyrigg.</p> <p>Accompanying the Notice of Review Form and supporting statement, which were appended to the report, was a copy of the report of handling thereon, together with a copy of the decision notice.</p> <p>The Local Review Body had made an unaccompanied visit to the site on Monday 3 September 2018.</p>		
Summary of Discussion		
<p>In accordance with the procedures for the Local Review Body, the Planning Advisor then gave a brief overview of the background to the case and the review procedures. Thereafter, having heard from the Planning Adviser, the LRB gave careful consideration to the merits of the case based on all the written information provided. In discussing the proposed development and the reasons for its refusal, the LRB considered the current policy position and the potential impact on neighbouring properties many of which also had extensions.</p>		
Decision		
<p>After further discussion, the LRB agreed to uphold the review request, and grant planning permission for the following reason:-</p> <p><i>The proposed extension by means of its design and form will complement the host dwellinghouse and will not have a detrimental impact on the amenity of the neighbouring properties. Furthermore, the proposed extension is comparable in scale to extensions on neighbouring/nearby properties.</i></p>		
Action		
Head of Communities and Economy		

The meeting terminated at 2.32 pm.

Local Review Body: Review of Planning Application Reg. No. 18/00180/DPP

Mr Stuart Armstrong
19 Polton Terrace
Lasswade
EH18 1BN

Midlothian Council, as Planning Authority, having considered the review of the application by Mr Stuart Armstrong, 19 Polton Terrace, Lasswade, EH18 1BN, which was registered on 29 May 2018 in pursuance of their powers under the above Act, hereby **grant** permission to carry out the following proposed development:

Erection of dwellinghouse; erection of fencing and retaining walls; formation of access and associated works at land south east of The Old School House, School Green, Lasswade, in accordance with the application and the following plans:

<u>Drawing Description.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	LASS (LP)001 1:1250, 1:500	16.03.2018
Site Plan	LASS (LP)002 1:250	16.03.2018
Elevations And Floor Plans	LASS (LP)003 1:200	16.03.2018
Landscaping Plan And Site Sections	LASS (LP)004 1:2500, 1:200	16.03.2018
Site Plan	LASS (LP)005 1:500	16.03.2018
Proposed Elevations	LASS (LP)006 NTS	16.03.2018
Design And Access Statement		16.03.2018
Supporting Statement Scottish Water Capacity		16.03.2018
Supporting Statement Broadband Connections		16.03.2018
Supporting Statement Water Capacity		09.04.2018
Supporting Statement Visibility Splay		17.04.2018

Subject to the following conditions:

1. Development shall not begin until a revised scheme of hard and soft landscaping has 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 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 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. The landscaping shall be completed prior to the house is occupied; and
- vii drainage details and sustainable urban drainage systems to manage water runoff.

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 ENV1, ENV6, ENV19 and DEV6 of the Midlothian Local Development Plan 2017 and national planning guidance and advice.*

2. Development shall not begin until samples of materials to be used on external surfaces of the buildings; hard ground cover surfaces; means of enclosure and ancillary structures have been submitted to and approved in writing by the planning authority. Development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the planning authority.

Reason: *In the interest of protecting the character and appearance of the conservation area so as to comply with ENV6 and ENV19 of the Midlothian Local Development Plan 2017 and Historic Environment Scotland's policy and guidance.*

3. Development shall not begin until details of a sustainability/biodiversity scheme for the site, including the provision of house bricks and boxes for bats and swifts throughout the development has been submitted to and approved in writing by the planning authority. Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be approved in writing with the planning authority.

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

4. Development shall not begin until a scheme to deal with any contamination of the site and/or previous mineral workings has been submitted to and approved by the planning authority. The scheme shall contain details of the proposals to deal with any contamination and/or previous mineral workings and include:
 - i. the nature, extent and types of contamination and/or previous mineral workings on the site;
 - ii measures to treat or remove contamination and/or previous mineral workings to ensure that the site is fit for the uses hereby approved, and that there is no risk to the wider environment from contamination and/or previous mineral workings originating within the site;
 - iii measures to deal with contamination and/or previous mineral workings encountered during construction work; and
 - iv the condition of the site on completion of the specified decontamination measures.

Before any part of the site is occupied for residential purposes, the measures to decontaminate the site shall be fully implemented as approved by the planning authority and a validation report confirming the works have been completed shall be submitted to the planning authority.

Reason: To ensure that any contamination on the site/ground conditions is adequately identified and that appropriate decontamination measures/ground mitigation measures are undertaken to mitigate the identified risk to site users and construction workers, built development on the site, landscaped areas, and the wider environment.

5. Development shall not begin until details of the provision of an electric vehicle charging station has been submitted to and approved in writing by the planning authority. Development shall thereafter be carried out in accordance with the approved details.

Reason: To ensure the development accords with the requirements of policy TRAN5 of the Midlothian Local Development Plan 2017.

6. Prior to the dwellinghouse being occupied the vehicular access arrangements detailed on drawing number LASS (LP)002 and in the Design & Access Statement shall be completed and operational.

Reason: To ensure that the dwellinghouse is provided with a safe access.

The Local Review Body (LRB) considered the review of the planning application at its meeting of 4 September 2018. The LRB carried out a site visit on the 3 September 2018.

In reaching its decision the LRB gave consideration to the following development plan policies and material considerations:

Development Plan Policies:

1. STRAT2 Midlothian Local Development Plan – Windfall Housing sites;
2. DEV2 Midlothian Local Development Plan - Protecting amenity within the built-up area
3. DEV5 Midlothian Local Development Plan – Sustainability in New Development
4. DEV6 Midlothian Local Development Plan – Layout and Design of New Development
5. DEV7 Midlothian Local Development Plan – Landscaping in New Development
6. ENV6 Midlothian Local Development Plan – Special Landscape areas
7. ENV19 Midlothian Local Development Plan – Conservation Areas
8. ENV22 Listed Buildings

Material considerations:

1. The individual circumstances of the proposal

In determining the review the LRB concluded:

The proposed dwelling by means of its siting, form, design and materials fits into the landscape and is not detrimental to the special landscape area or conservation area and as such does not undermine the spirit of those development plan policies designed to protect the local landscape and conservation area. Furthermore, the proposed dwelling will not have an unacceptable impact on the amenity of neighbouring residential properties or the adjoining listed building.

Dated: 04/09/2018



Peter Arnsdorf
Planning Manager (Advisor to the Local Review Body)
Communities and Economy
Midlothian Council

On behalf of:
Councillor R Imrie
Chair of the Local Review Body
Midlothian Council

NOTICE TO ACCOMPANY REFUSAL ETC.

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Notification to be sent to applicant on refusal of planning permission or on the grant of permission subject to conditions, or

Notification to be sent to applicant on determination by the planning authority of an application following a review conducted under section 43A(8)

1. 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 question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
2. 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 reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by 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.

Advisory note:

If you have any questions or enquiries regarding the Local Review Body procedures or this decision notice please do not hesitate to contact Peter Arnsdorf, Planning Manager tel: 0131 2713310 or via peter.arnsdorf@midlothian.gov.uk

Local Review Body: Review of Planning Application Reg. No. 18/00312/DPP

Mr and Mrs James Millar
Bowling Green Cottage
Murderdean Road
Newtongrange
Midlothian
EH22 4PD

Midlothian Council, as Planning Authority, having considered the review of the application by Mr and Mrs James Millar, 15 Pendreich Terrace, Bonnyrigg, EH19 2DT, which was registered on 23 July 2018 in pursuance of their powers under the above Act, hereby **grant** permission to carry out the following proposed development:

Two storey extension to dwellinghouse at 15 Pendreich Terrace, Bonnyrigg, EH19 2DT, in accordance with the application and the following plans:

<u>Drawing Description.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	1:2500	11.05.2018
Site Plan	W1819/(S)01 1:200	11.05.2018
Existing Elevations	W1819 (EX) 02A 1:100	11.05.2018
Existing Elevations	W1819 (DTK) 02A 1:100	11.05.2018
Existing Floor Plan	W1819/(EX)01 1:100	11.05.2018
Existing Floor Plan	W1819/(DTK)01 1:100	11.05.2018
Proposed Floor Plan	W1819/(GA)01 1:50	11.05.2018
Proposed Floor Plan	W1819/(GA)02 1:50	11.05.2018
Proposed Elevations	W1819 (GA) 03A 1:100	11.05.2018

The Local Review Body (LRB) considered the review of the planning application at its meeting of 4 September 2018. The LRB carried out a site visit on the 3 September 2018.

In reaching its decision the LRB gave consideration to the following development plan policies and material considerations:

Development Plan Policies:

1. DEV2 Midlothian Local Development Plan - Protecting amenity within the built-up area

Material considerations:

1. The individual circumstances of the proposal

In determining the review the LRB concluded:

The proposed extension by means of its design and form will complement the host dwellinghouse and will not have a detrimental impact on the amenity of the neighbouring properties. Furthermore, the proposed extension is comparable in scale to extensions on neighbouring/nearby properties.

Dated: 04/09/2018

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

Peter Arnsdorf
Planning Manager (Advisor to the Local Review Body)
Communities and Economy
Midlothian Council

On behalf of:

Councillor R Imrie
Chair of the Local Review Body
Midlothian Council

NOTICE TO ACCOMPANY REFUSAL ETC.

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Notification to be sent to applicant on refusal of planning permission or on the grant of permission subject to conditions, or

Notification to be sent to applicant on determination by the planning authority of an application following a review conducted under section 43A(8)

1. 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 question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
2. 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 reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by 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.

Advisory note:

If you have any questions or enquiries regarding the Local Review Body procedures or this decision notice please do not hesitate to contact Peter Arnsdorf, Planning Manager tel: 0131 2713310 or via peter.arnsdorf@midlothian.gov.uk

**Notice of Review: Unit 1, 40 Hardengreen Business Park,
Dalhousie Road, Dalkeith****Determination Report**

Report by Ian Johnson, Head of Communities and Economy

1 Purpose of Report

- 1.1 The purpose of this report is to provide a framework for the Local Review Body (LRB) to consider a 'Notice of Review' for the change of use from office/light industry (class 4) to a fitness studio (class 11) at Unit 1, 40 Hardengreen Business Park, Dalhousie Road, Dalkeith.

2 Background

- 2.1 Planning application 18/00369/DPP for the change of use from office/light industry (class 4) to a use of fitness studio (class 11) at Unit 1, 40 Hardengreen Business Park, Dalhousie Road, Dalkeith was refused planning permission on 25 July 2018; 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, issued on 25 July 2018 (Appendix D); and
 - A copy of the relevant drawings/plans (Appendix E).
- 3.2 The full planning application case file and the development plan policies referred to in the case officer's report can be viewed online via www.midlothian.gov.uk.

4 Procedures

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

- Have scheduled an unaccompanied site visit for Monday 15 October 2018; and
 - Have determined to progress the review by way of a hearing.
- 4.2 The case officer's report identified that there were no consultations required and no representations received.
- 4.3 The next stage in the process is for the LRB to determine the review in accordance with the agreed procedure:
- Identify any provisions of the development plan which are relevant to the decision;
 - Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies;
 - Consider whether or not the proposal accords with the development plan;
 - Identify and consider relevant material considerations for and against the proposal;
 - Assess whether these considerations warrant a departure from the development plan; and
 - State the reason/s for the decision and state any conditions required if planning permission is granted.
- 4.4 In reaching a decision on the case the planning advisor can advise on appropriate phraseology and on appropriate planning reasons for reaching a decision.
- 4.5 Following the determination of the review the planning advisor will prepare a decision notice for issuing through the Chair of the LRB. A copy of the decision notice will be reported to the next LRB for noting.
- 4.6 A copy of the LRB decision will be placed on the planning authority's planning register and made available for inspection online.

5 Conditions

- 5.1 In accordance with the procedures agreed by the LRB at its meeting of 13 June 2017, 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. No amplified music or sound reproduction equipment used in association with the unit hereby permitted shall be audible at the boundary of any noise sensitive property (residential dwellinghouse) during the hours of 9.00pm to 7.00am.

Reason: *To ensure a satisfactory standard of amenity in nearby residential properties.*

2. The use of the site shall be as a fitness studio and beauty salon only and for no other purpose unless otherwise agreed in writing by the Planning Authority. This grant of planning permission does not permit any other use within Class 11: Assembly and Leisure or Class 2: Financial, Professional or Other Services respectively of

The Town and Country Planning (Use Classes) (Scotland) Order 1997 or any subsequent amending or replacement order.

Reason: *To enable the Planning Authority to retain effective control over the future use of the site and to ensure that it is able to assess any such proposals in terms of their traffic generation, parking requirements and overall impact on the amenity of the area; the application has been assessed for this specific use only and no other uses within Classes 11 or 2 of the above mentioned legislation.*

6 Recommendations

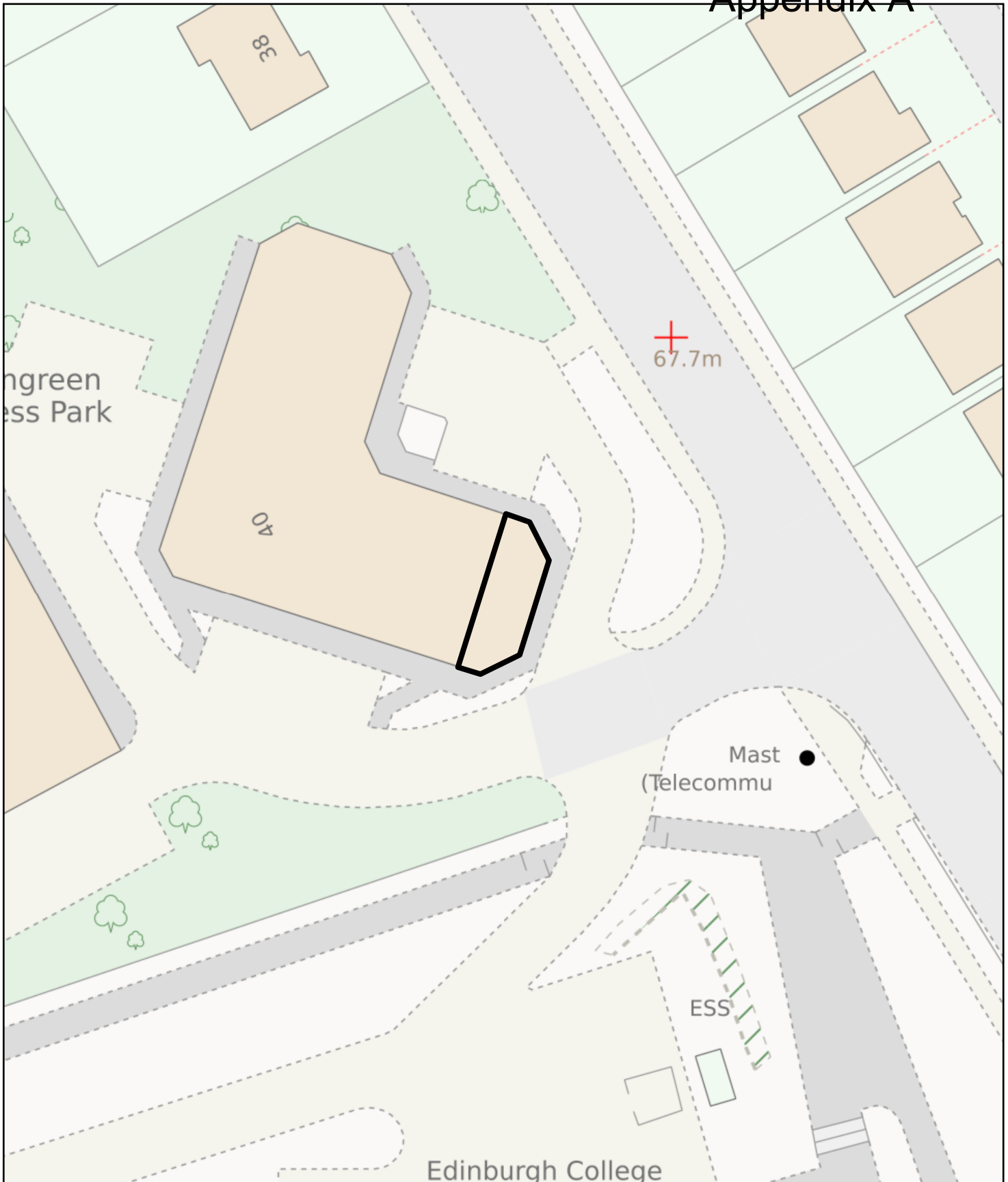
- 6.1 It is recommended that the LRB:
- a) determine the review; and
 - b) the planning advisor draft and issue the decision of the LRB through the Chair

Date: 9 October 2018

Report Contact: Peter Arnsdorf, Planning Manager (LRB Advisor)
peter.arnsdorf@midlothian.gov.uk

Tel No: 0131 271 3310

Background Papers: Planning application 18/00369/DPP available for inspection online.



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

Change of use from office/light industry (class 4) to fitness studio (class 11) (retrospective) at Unit 1, 40 Hardengreen Business Park, Dalhousie Road, Dalkeith

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

Midlothian Council Licence No. 100023416 (2018)

File No. 18/00369/DPP

Scale: 1:500

Page 24 of 52



NOTICE OF REVIEW

Under Section 43A(8) Of the Town and Country Planning (SCOTLAND) ACT 1997 (As amended) In Respect
of Decisions on Local Developments

The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (SCOTLAND)
Regulations 2013

The Town and Country Planning (Appeals) (SCOTLAND) Regulations 2013

IMPORTANT: Please read and follow the guidance notes provided when completing this form. Failure to supply all the relevant information could invalidate your notice of review.

**PLEASE NOTE IT IS FASTER AND SIMPLER TO SUBMIT PLANNING APPLICATIONS
ELECTRONICALLY VIA <https://www.eplanning.scot>**

1. Applicant's Details		2. Agent's Details (if any)	
Title	MRS	Ref No.	
Forename	JANICE	Forename	
Surname	PATERSON	Surname	
Company Name	PREMIER PILATES	Company Name	
Building No./Name	8 FITNESS STUDIO	Building No./Name	
Address Line 1	40/1 HARDENGREEN	Address Line 1	CORPORATE RE
Address Line 2	INDUSTRIAL ESTATE	Address Line 2	FILE:
Town/City	DALHOUSIE ROAD . ESKBANK .	Town/City	RECEIVED 09 AUG 2013
Postcode	EH22 3NU .	Postcode	
Telephone		Telephone	
Mobile	07585- 337809.	Mobile	
Fax		Fax	
Email	pafstudios@hotmail.co.uk	Email	
3. Application Details			
Planning authority		MIDLOTHIAN COUNCIL .	
Planning authority's application reference number		18 00369 0PP .	
Site address			
40/1 HARDENGREEN INDUSTRIAL ESTATE. DALHOUSIE ROAD . ESKBANK DALKEITH. EH22 3NU			
Description of proposed development			
CHANGE OF USE. CLASS 4 TO CLASS 11.			

Date of application	<div style="border: 1px solid black; padding: 2px; display: inline-block;">1 JUNE 2018</div>	Date of decision (if any)	<div style="border: 1px solid black; padding: 2px; display: inline-block;">25 JULY 2018</div>
<p>Note. This notice must be served on the planning authority within three months of the date of decision notice or from the date of expiry of the period allowed for determining the application.</p>			
4. Nature of Application			
Application for planning permission (including householder application)			<input type="checkbox"/>
Application for planning permission in principle			<input type="checkbox"/>
Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission and/or modification, variation or removal of a planning condition)			<input type="checkbox"/>
Application for approval of matters specified in conditions			<input checked="" type="checkbox"/>
5. Reasons for seeking review			
Refusal of application by appointed officer			<input checked="" type="checkbox"/>
Failure by appointed officer to determine the application within the period allowed for determination of the application			<input type="checkbox"/>
Conditions imposed on consent by appointed officer			<input type="checkbox"/>
6. Review procedure			
<p>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.</p> <p>Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may tick more than one box if you wish the review to be conducted by a combination of procedures.</p>			
Further written submissions			<input checked="" type="checkbox"/>
One or more hearing sessions			<input checked="" type="checkbox"/>
Site inspection			<input checked="" type="checkbox"/>
Assessment of review documents only, with no further procedure			<input type="checkbox"/>
<p>If you have marked either of the first 2 options, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing necessary.</p> <div style="border: 1px solid black; padding: 10px; min-height: 40px; margin-top: 10px;"> <p style="font-family: cursive;">See attached Sheet.</p> </div>			
7. Site inspection			
<p>In the event that the Local Review Body decides to inspect the review site, in your opinion:</p> <p>Can the site be viewed entirely from public land?</p> <p>Is it possible for the site to be accessed safely, and without barriers to entry?</p>			
			<input checked="" type="checkbox"/>
			<input checked="" type="checkbox"/>

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

8. Statement

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. Note: 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.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

See attached Sheet.

Have you raised any matters which were not before the appointed officer at the time your application was determined?

Yes ☐ No ☒

If yes, please explain below a) why your are raising new material b) why it was not raised with the appointed officer before your application was determined and c) why you believe it should now be considered with your review.

9. List of Documents and Evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review

Note. The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

10. Checklist

Please mark the appropriate boxes to confirm that you have provided all supporting documents and evidence relevant to your review:

Full completion of all parts of this form

☒

Statement of your reasons for requesting a review

☒

All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

☐

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 from that earlier consent.

DECLARATION

I, the applicant/agent hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents. I hereby confirm that the information given in this form is true and accurate to the best of my knowledge.

Signature:

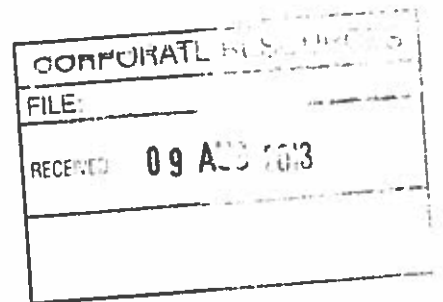
Name:

JANICE PARSON

Date:

7 Aug 2018

Any personal data that you have been asked to provide on this form will be held and processed in accordance with Data Protection Legislation.



40/1 Hardengreen Industrial Estate Dalhousie Road Eskbank Dalkeith EH22 3NU

Mobile - 07585 337809

Application Ref No. 18/00369/DPP

Premier Pilates & Fitness Studio

To Whom It may concern

I am making this appeal to the review board based of the information set out below.

My Husband and I started the business in May 2012, we originally had premises in Jarnac court above Farmfoods, we were granted change of use for this location.

Due to the success of the business we required larger premises, we applied and were granted change of use after an appeal to the review board in September 2013 for 30/3 Hardengreen Industrial Estate Eskbank Dalkeith.

We moved into the premises in October 2013, after major investment in the premises, we also added a second business to the Pilates business which was the beauty Yoga and Pilates.

Both Business operated for almost 5 years at 30/3 Hardengreen. However, from almost day one we discovered we have a very unscrupulous landlord. Robert and I tried over the years to appease his unreasonable behaviour, unfortunately in August 2016 we had to engage a solicitor to help us with his unreasonable behaviour. The solicitors were engaged for almost 2 years at great expense and time, which ended in only beneficiary being the Solicitors.

In March 2018 Robert and I had to make a decision to move the business to another part of Hardengreen when the unit 40/1 became available. This was not an easy decision as more expense was incurred making the unit ready for a fitness studio. **We currently have 5 people working at the studio**

We are also aware of other units on the estate which are not used for industrial purposes, also other industrial Estate in the vicinity have been granted change of use for fitness.

I am sure you will all agree that we all want to keep the people of Midlothian fit and healthy, this is one of my key initiatives and hopefully one of yours. I would ask the board to review our application favourably.

Janice Paterson

MIDLOTHIAN COUNCIL

DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

Planning Application Reference: 18/00369/DPP

Site Address: Unit 1, Hardengreen Business Park, 40 Dalhousie Road, Dalkeith.

Site Description: The application site comprises a unit within a building located within Hardengreen Industrial Estate. There are a variety of uses within this building, including offices and a physio. The building has buff brick walls and a roof finished with concrete tiles. The site is located adjacent to one of two entrances to the industrial estate, with the industrial estate to the west. The Jewel and Esk Valley College is to the south and there are houses to the north and east.

Proposed Development: Change of use from office/light industry (class 4) to fitness studio (class 11) (retrospective).

Proposed Development Details: It is proposed to change the use of the existing vacant building from office/light industry to a fitness centre. This use began in March 2018 after moving from another unit within the estate. The applicant states the use operates as follows:

- 6 staff;
- Operating hours are Mondays to Thursdays 9.30am to 11.15am and 6pm to 9pm, Fridays to Sundays 9am to 11am;
- 5 classes per day Mondays to Thursdays and 2 classes per day Fridays to Sunday mornings; and
- an average of 6 to 8 people per class.

The application form states there are 5 parking spaces within the site but the applicant states there are parking spaces around the site.

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

18/00402/DPP Unit 7 and Unit 8, 40 Hardengreen Road Change of use from office (class 4) to mixed use of fitness studio and beauty salon. Pending consideration.

Consultations:

The Policy and Road Safety Manager has no objection.

The Economic Development Manager states there is a shortage of commercial/industrial land within Midlothian and the preference would be for the site to continue in commercial/industrial use. However they also state it could be argued there is a shortage of class 11 sites which means that refusal may result in the loss of a business in Midlothian. Should permission be granted, a condition should be attached to ensure the site reverts to a class 4 use should the business cease operating.

Representations: No representations were received.

Relevant Planning Policies: The relevant policies of the **2017 Midlothian Local Development Plan** are;

STRAT1 Committed Development seeks the early implementation of all committed development sites;

DEV2 Protecting Amenity within the Built-Up Area advises that development will not be permitted where it is likely to detract materially from the existing character or amenity of the area;

ECON1 Existing Employment Locations states that business and industrial locations will be safeguarded against loss. Development will be supported where it:

- A. Will contribute to an employment density commensurate with the type of development proposed;
- B. Will be compatible with neighbouring uses;
- C. Will not have a detrimental impact on the amenity of the area; and
- D. Can mitigate any infrastructure deficiency or requirement; and

ECON3 Ancillary Development on Business Parks states the Council supports the principle of limited ancillary uses (such as child day care services, banking, convenience, healthcare services, etc) within Shawfair Park and Salter's Park only.

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 site is within the Hardengreen Business Park which is allocated and established as business/general industry land. The unit is small and there is a shortage of these types of units for business or industrial use. No details of how, or if, the site was marketed before the proposed use began have been submitted and so it has not been demonstrated that a more appropriate business or industrial occupant could have been found rather than a leisure use. It has not been demonstrated that there is no appetite for the unit to be used for business or industrial purposes.

The Planning Authority has a strong preference that such units be retained for industrial type uses as these are activities which cannot be readily accommodated out with these designated areas. There appears to be a low number of vacant industrial sites within the wider business park, indicating a high level of interest in these units. The Planning Authority would be concerned if this unit were to be lost from economic development land supply to a leisure use.

It has not been demonstrated to the satisfaction of the Planning Authority that there is no prospect of the unit being taken over by a business or industrial use as allocated for this industrial area. It appears that the applicant was looking for a unit near their previous site and this site was available.

Planning permission was granted for the applicant to change the use of a larger unit within this business park to a fitness studio at Local Review Body in 2014. This was on the basis that the use would be complementary to and not undermine the primary economic land use of the business park. The unit had been vacant for a period and

the LRB were keen on bringing this back into use, as well as to support a local business.

Since this decision was made, there have been a number applications for leisure or non-business or industrial uses within land allocated for business or industrial uses. These applications have been determined in a way which protects the allocated business and industrial areas from inappropriate uses. An application for a petrol filling station, shop, restaurant and drive thru and café and drive thru at Sheriffhall South (17/00537/DPP) was refused by Planning Committee in May 2018. The site was allocated for class 4 business use and the proposal was not for these uses. It was considered that the proposal was not in accordance with the site's allocation for class 4 use and as such was contrary to the adopted MLDP and Strategic Development Plan.

An application for residential development and employment uses at Salters Park, Dalkeith (16/00893/PPP) was refused by Planning Committee in June 2018. The site was allocated for classes 4 (business), 5 (general industry) and 6 (storage and distribution) uses in the MLDP. The proposal was not for these uses, with two thirds of the site for indicated for housing. Again, it was considered that the proposal was not in accordance with the site's allocation for class 4 use and as such was contrary to the adopted MLDP and Strategic Development Plan.

There is a similar application for the change of use of two units within the larger building also to a fitness studio and beauty salon. Should these applications be approved, there would be four units within this established and successful business park in a leisure use. This would significantly undermine the primary economic land use of this business park and have a serious detrimental impact on other business or industrial uses if these are not able to find suitable accommodation within Midlothian.

The recent Planning Committee decisions clearly demonstrate the Council is seeking to actively protect and support economic development and employment sites. The current application would be contrary to this aim and adopted policy. Midlothian is an area with an increasing number of households. In order to ensure the sustainability of the Council area it is essential that there are employment opportunities within close proximity to the new households. This requires the retention of economic land allocations in employment generating and business related uses.

As is evident in the current applications at Hardengreen as well as Salters Road and Sheriffhall South, economic and employment sites in Midlothian are under significant pressure. Although there are a number of businesses which do not fall within business or industry uses in Hardengreen Business Park, it is clear that the existing units should be protected and retained for these uses.

It is clear that the applicant intends on providing fitness classes through the day, as well as in the evening. The numbers of customer vehicles arriving at the site is likely to exceed the available parking and inconsiderate parking could impact on the freeflow of vehicles (particularly larger service vehicles) at one of the two entrances to the business estate to the detriment of local businesses. However there has been no objection from the Policy and Road Safety Manager.

The proposed use of the unit as a fitness studio would result in an uncomfortable mix of uses within an established business estate. The Planning Authority has significant concerns regarding the compatibility of pedestrians within an active and busy business estate. It raises safety concerns for both the pedestrians and vehicles accessing the unit as well as the operators of the existing businesses at the site and their vehicles.

Having increased numbers of pedestrians accessing the site may impact on the desirability of the industrial estate to businesses.

Recommendation: Refuse planning permission.



Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

Reg. No. 18/00369/DPP

Premier Pilates and Fitness Studio Limited
40/1 Hardengreen Industrial Estate
Dalhousie Road
Eskbank
EH22 3NU

Midlothian Council, as Planning Authority, having considered the application by Mrs Janice Paterson, 40/1 Hardengreen Industrial Estate, Dalhousie Road, Eskbank, EH22 3NU, which was registered on 1 June 2018 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

Change of use from office/light industry (class 4) to fitness studio (class 11) (retrospective) at Unit 1, 40 Hardengreen Business Park, Dalhousie Road, Dalkeith, EH22 3NU

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

<u>Document/Drawing.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan, Site Plan		01.06.2018

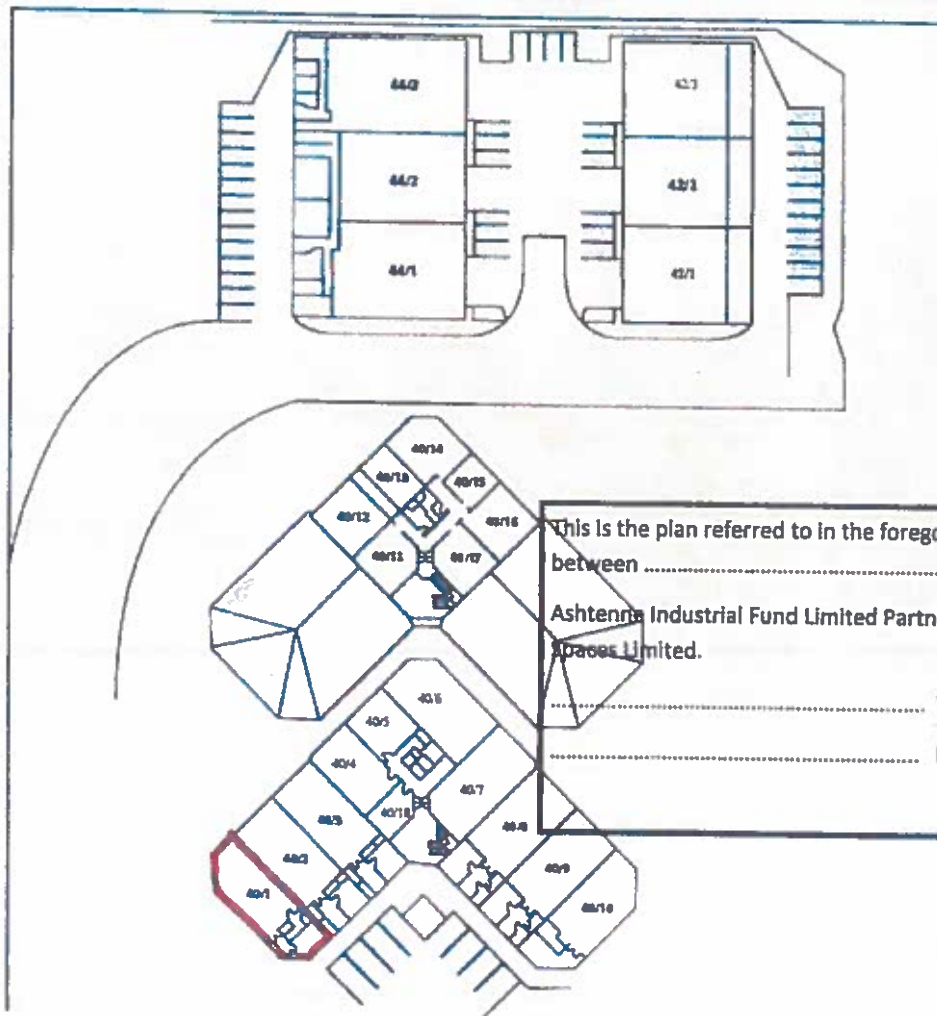
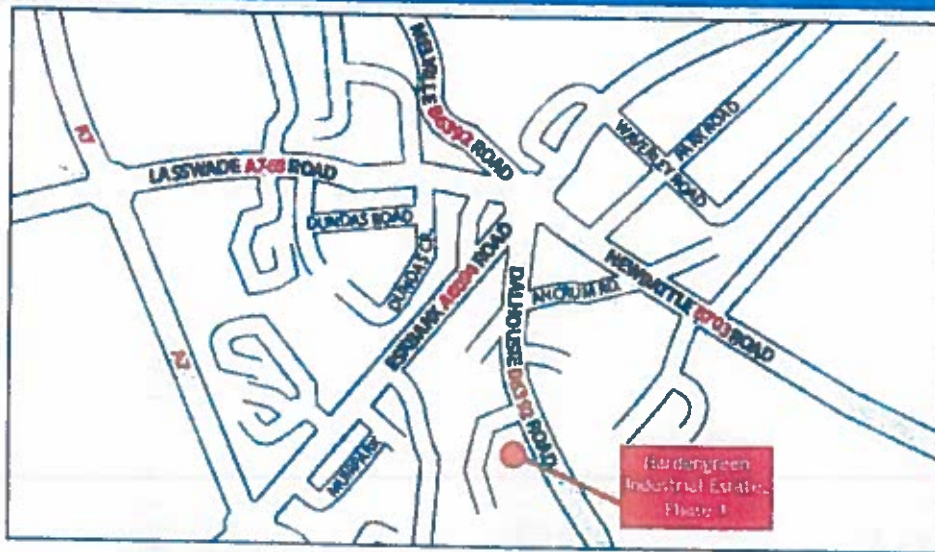
The reason for the Council's decision are set out below:

The proposed land use is not in accordance with the site's allocation for Class 4 (business) and Class 5 (general industry) use in the development plan and as such the development is contrary to policies STRAT1 and ECON1 of the adopted Midlothian Local Development Plan 2017.

Dated 25 / 7 / 2018

.....
Duncan Robertson
Lead Officer – Local Developments
Fairfield House, 8 Lothian Road, Dalkeith, EH22 3ZN

HARDENGREEN INDUSTRIAL ESTATE, PHASE 1



Notice of Review: Units 7 and 8, 40 Hardengreen Business Park, Dalhousie Road, Dalkeith

Determination Report

Report by Ian Johnson, Head of Communities and Economy

1 Purpose of Report

- 1.1 The purpose of this report is to provide a framework for the Local Review Body (LRB) to consider a 'Notice of Review' for the change of use from office (class 4) to a mixed use of fitness studio (class 11) and beauty salon (class 2) at Units 7 and 8, 40 Hardengreen Business Park, Dalhousie Road, Dalkeith.

2 Background

- 2.1 Planning application 18/00402/DPP for the change of use from office (class 4) to a mixed use of fitness studio (class 11) and beauty salon (class 2) at Units 7 and 8, 40 Hardengreen Business Park, Dalhousie Road, Dalkeith was refused planning permission on 25 July 2018; 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, issued on 25 July 2018 (Appendix D); and
 - A copy of the relevant drawings/plans (Appendix E).
- 3.2 The full planning application case file and the development plan policies referred to in the case officer's report can be viewed online via www.midlothian.gov.uk.

4 Procedures

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

- Have scheduled an unaccompanied site visit for Monday 15 October 2018; and
 - Have determined to progress the review by way of a hearing.
- 4.2 The case officer's report identified that there were no consultations required and no representations received.
- 4.3 The next stage in the process is for the LRB to determine the review in accordance with the agreed procedure:
- Identify any provisions of the development plan which are relevant to the decision;
 - Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies;
 - Consider whether or not the proposal accords with the development plan;
 - Identify and consider relevant material considerations for and against the proposal;
 - Assess whether these considerations warrant a departure from the development plan; and
 - State the reason/s for the decision and state any conditions required if planning permission is granted.
- 4.4 In reaching a decision on the case the planning advisor can advise on appropriate phraseology and on appropriate planning reasons for reaching a decision.
- 4.5 Following the determination of the review the planning advisor will prepare a decision notice for issuing through the Chair of the LRB. A copy of the decision notice will be reported to the next LRB for noting.
- 4.6 A copy of the LRB decision will be placed on the planning authority's planning register and made available for inspection online.

5 Conditions

- 5.1 In accordance with the procedures agreed by the LRB at its meeting of 13 June 2017, 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. No amplified music or sound reproduction equipment used in association with the unit hereby permitted shall be audible at the boundary of any noise sensitive property (residential dwellinghouse) during the hours of 9.00pm to 7.00am.

Reason: To ensure a satisfactory standard of amenity in nearby residential properties.

2. The use of the site shall be as a fitness studio and beauty salon only and for no other purpose unless otherwise agreed in writing by the Planning Authority. This grant of planning permission does not permit any other use within Class 11: Assembly and Leisure or Class 2: Financial, Professional or Other Services respectively of

The Town and Country Planning (Use Classes) (Scotland) Order 1997 or any subsequent amending or replacement order.

Reason: *To enable the Planning Authority to retain effective control over the future use of the site and to ensure that it is able to assess any such proposals in terms of their traffic generation, parking requirements and overall impact on the amenity of the area; the application has been assessed for this specific use only and no other uses within Classes 11 or 2 of the above mentioned legislation.*

6 Recommendations

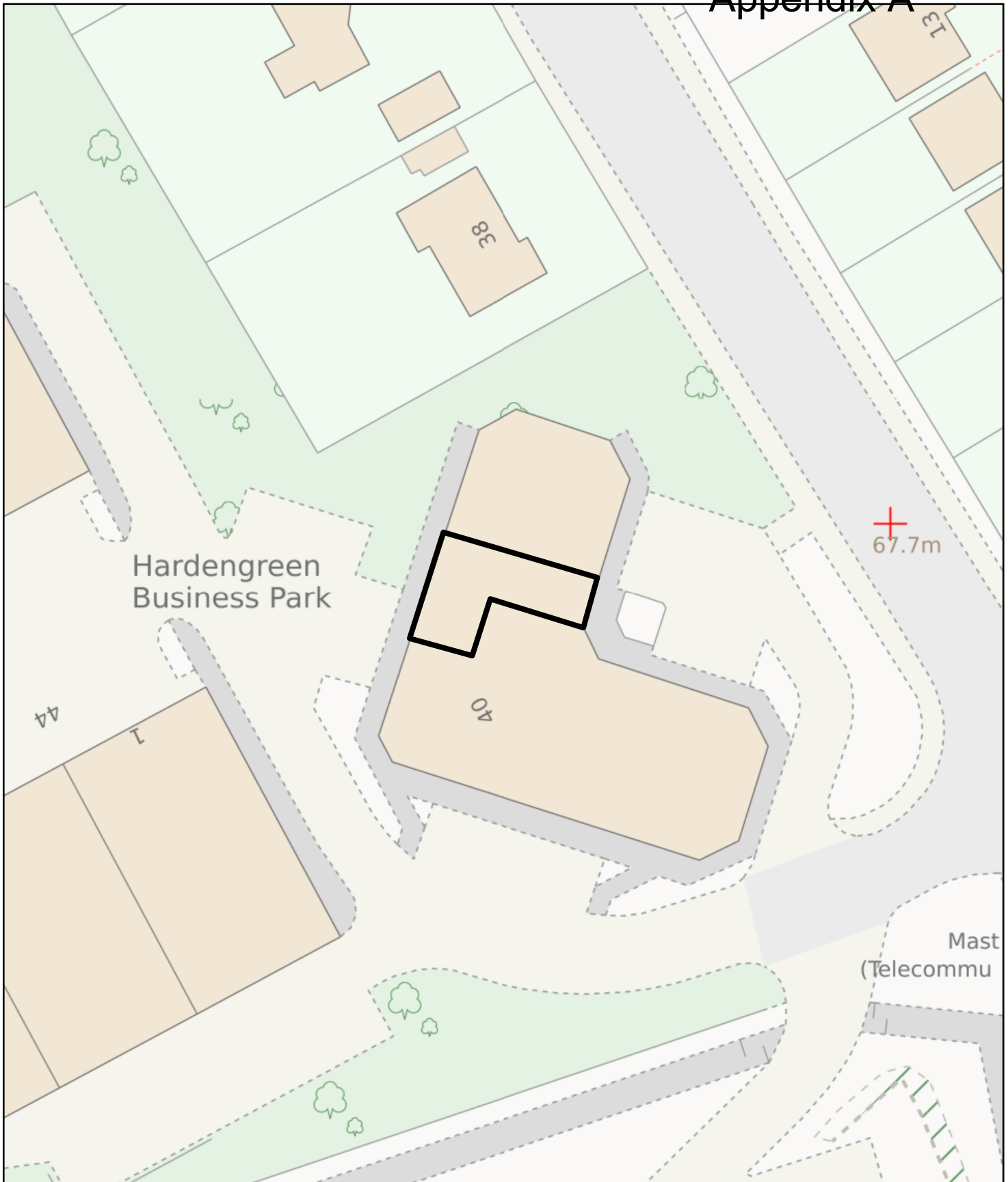
- 6.1 It is recommended that the LRB:
- a) determine the review; and
 - b) the planning advisor draft and issue the decision of the LRB through the Chair

Date: 9 October 2018

Report Contact: Peter Arnsdorf, Planning Manager (LRB Advisor)
peter.arnsdorf@midlothian.gov.uk

Tel No: 0131 271 3310

Background Papers: Planning application 18/00402/DPP available for inspection online.



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

Change of use from office (class 4) to mixed use of fitness studio and beauty salon at Unit 7 and Unit 8, 40 Hardengreen Business Park, Dalhousie Road, Dalkeith

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

Midlothian Council Licence No. 100023416 (2018)

File No. 18/00402/DPP

Scale: 1:500

Page 40 of 52



NOTICE OF REVIEW

Under Section 43A(8) Of the Town and Country Planning (SCOTLAND) ACT 1997 (As amended) In Respect
of Decisions on Local Developments

The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (SCOTLAND)
Regulations 2013

The Town and Country Planning (Appeals) (SCOTLAND) Regulations 2013

IMPORTANT: Please read and follow the guidance notes provided when completing this form. Failure to supply all the relevant information could invalidate your notice of review.

**PLEASE NOTE IT IS FASTER AND SIMPLER TO SUBMIT PLANNING APPLICATIONS
ELECTRONICALLY VIA <https://www.eplanning.scot>**

1. Applicant's Details		2. Agent's Details (if any)	
Title	Mrs	Ref No.	
Forename	JANICE	Forename	
Surname	PATERSON	Surname	
Company Name	Mind Body & Beauty	Company Name	
Building No./Name	LTO .	Building No./Name	
Address Line 1	40/7 HARDENGREEN	Address Line 1	
Address Line 2	INDUSTRIAL ESTATE	Address Line 2	
Town/City	DALHOUSE ROAD ESKBANK	Town/City	
Postcode	EH22 3NU .	Postcode	
Telephone		Telephone	
Mobile	07585-337806.	Mobile	
Fax		Fax	
Email	mindbody-beauty@myself.co.uk	Email	

CORPORATE RESOURCES
 FILE:
 RECEIVED 09 AUG 2018

3. Application Details	
Planning authority	Midlothian Council
Planning authority's application reference number	18/00402/PPP.
Site address	40/7 Harden Green Ind. Estate Dalhousie Road . Eskbank Dalkeith EH22 3NU .
Description of proposed development	Change of use - class 4 - to mixed. use pilates, yoga & beauty

Date of application

7 June 2018

Date of decision (if any)

29 July 2018

Note. This notice must be served on the planning authority within three months of the date of decision notice or from the date of expiry of the period allowed for determining the application.

4. Nature of Application

Application for planning permission (including householder application)

☐

Application for planning permission in principle

☐

Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission and/or modification, variation or removal of a planning condition)

☐

Application for approval of matters specified in conditions

☒

5. Reasons for seeking review

Refusal of application by appointed officer

☒

Failure by appointed officer to determine the application within the period allowed for determination of the application

☐

Conditions imposed on consent by appointed officer

☐

6. 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.

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

Further written submissions

One or more hearing sessions

Site inspection

Assessment of review documents only, with no further procedure

☒
☒
☒
☐

If you have marked either of the first 2 options, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing necessary.

See attached sheet.

7. Site inspection

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

Can the site be viewed entirely from public land?

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

☒
☒

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

8. Statement

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. Note: 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.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

See attached Sheet.

Have you raised any matters which were not before the appointed officer at the time your application was determined?

Yes ☐ No ☒

If yes, please explain below a) why your are raising new material b) why it was not raised with the appointed officer before your application was determined and c) why you believe it should now be considered with your review.

9. List of Documents and Evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review

See attached sheet.

Note. The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

10. Checklist

Please mark the appropriate boxes to confirm that you have provided all supporting documents and evidence relevant to your review:

Full completion of all parts of this form

☒

Statement of your reasons for requesting a review

☒

All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

☐

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 from that earlier consent.

DECLARATION

I, the applicant/agent hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents. I hereby confirm that the information given in this form is true and accurate to the best of my knowledge.

Signature:

[Redacted Signature]

Name:

JUSTICE PATERSON

Date:

7 Aug 2018

Any personal data that you have been asked to provide on this form will be held and processed in accordance with Data Protection Legislation.



40/7 Hardengreen Industrial Estate Dalhousie Road Eskbank Dalkeith EH22 3NU

Mobile Number 07585 337806

Application Ref No. 18/00402/DPP

Mind Body & Beauty Limited

To Whom It may concern

I am making this appeal to the review board based on the information set out below.

My Husband and I started the business in May 2012, we originally had premises in Jarnac court above Farmfoods, we were granted change of use for this location.

Due to the success of the business we required larger premises, we applied and were granted change of use after an appeal to the review board in September 2013 for 30/3 Hardengreen Industrial Estate Eskbank Dalkeith.

We moved into the premises in October 2013, after major investment in the premises, we also added a second business to the Pilates business which is the beauty Yoga and Pilates.

Both Business operated for almost 5 years at 30/3 Hardengreen. However, from almost day one we discovered we have a very unscrupulous landlord. Robert and I tried over the years to appease his unreasonable behaviour, unfortunately in August 2016 we had to engage a solicitor to help us with his unreasonable behaviour. The solicitors were engaged for almost 2 years at great expense and time, which ended in only beneficiary being the Solicitors.

In March 2018 Robert and I had to make a decision to move the business to another part of Hardengreen when the unit 40/1 became available. This was not an easy decision as more expense was incurred making the unit ready for a fitness studio. We currently have 5 people working at the studio. I also moved my Business to 40/7 In Aug 2018 after this unit became available as the unit at 40/1 was too small from both business and we were turning away business and new clients. I have 4 people working in my business so between both businesses we have 9 people

We are also aware of other units on the estate which are not used for industrial purposes, also other industrial Estate in the vicinity have been granted change of use for fitness.

I am sure you will all agree that we all want to keep the people of Midlothian fit and healthy, this is one of my key initiatives and hopefully one of yours. I would ask the board to review our application favourably.

Janice Paterson

CORPORATE RESOURCES	
FILE:	
RECEIVED	09 AUG 2018

MIDLOTHIAN COUNCIL

DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

Planning Application Reference: 18/00402/DPP

Site Address: Unit 7 and Unit 8, 40 Hardengreen Business Park, Dalhousie Road, Dalkeith.

Site Description: The application site comprises two units within a building located within Hardengreen Industrial Estate. There are a variety of uses within this building, including offices and a physio. The building has buff brick walls and a roof finished with concrete tiles. The site is located adjacent to one of two entrances to the industrial estate, with the industrial estate to the west. The Jewel and Esk Valley College is to the south and there are houses to the north and east.

Proposed Development: Change of use from office (class 4) to mixed use of fitness studio and beauty salon.

Proposed Development Details: It is proposed to change the use of these vacant offices to a mixed use fitness studio and beauty salon. No details of how these uses are to be operated have been submitted. The application form states there are 6 parking spaces at the site.

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

18/00369/DPP Change of use from office/light industry (class 4) to fitness studio (class 11) (retrospective). Pending consideration.

Consultations:

The **Policy and Road Safety Manager** states that while the proposal may result in some additional vehicular and pedestrian activity within the industrial estate, the site is well located in relation to public transport links. It is not considered that the new activity will have any negative impact on the road safety of the local area.

The **Economic Development Manager** states there is a shortage of commercial/industrial land within Midlothian and the preference would be for the site to continue in commercial/industrial use. However they also state it could be argued there is a shortage of class 11 sites which means that refusal may result in the loss of a business in Midlothian. Should permission be granted, a condition should be attached to ensure the site reverts to a class 4 use should the business cease operating.

Representations: One representation was received from the owners of a neighbouring residential property neither objecting to nor supporting the proposal. They raise concerns over the impact of parking on Dalhousie Road. The existing parking situation makes accessing their property difficult and the majority of these

cars appear to be for the classes at the applicant's previous site within the estate which indicates there is not sufficient parking for the current businesses.

Relevant Planning Policies: The relevant policies of the **2017 Midlothian Local Development Plan** are;

STRAT1 Committed Development seeks the early implementation of all committed development sites;

DEV2 Protecting Amenity within the Built-Up Area advises that development will not be permitted where it is likely to detract materially from the existing character or amenity of the area;

ECON1 Existing Employment Locations states that business and industrial locations will be safeguarded against loss. Development will be supported where it:

- A. Will contribute to an employment density commensurate with the type of development proposed;
- B. Will be compatible with neighbouring uses;
- C. Will not have a detrimental impact on the amenity of the area; and
- D. Can mitigate any infrastructure deficiency or requirement; and

ECON3 Ancillary Development on Business Parks states the Council supports the principle of limited ancillary uses (such as child day care services, banking, convenience, healthcare services, etc) within Shawfair Park and Salter's Park only.

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 site is within the Hardengreen Business Park which is allocated and established as business/general industry land. The units are small and there is a shortage of these types of units for business or industrial use. No details of how, or if, the site was marketed have been submitted and so it has not been demonstrated that a more appropriate business or industrial occupant could be found rather than a leisure use. It has not been demonstrated that there is no appetite for the units to be used for business or industrial purposes.

The Planning Authority has a strong preference that such units be retained for industrial type uses as these are activities which cannot be readily accommodated out with these designated areas. There appears to be a low number of vacant industrial sites within the wider business park, indicating a high level of interest in these units. The Planning Authority would be concerned if these units were to be lost from economic development land supply to a leisure use.

It has not been demonstrated to the satisfaction of the Planning Authority that there is no prospect of the units being taken over by a business or industrial use as allocated for this industrial area. It appears that the applicant may be the same applicant as the other application pending consideration for a leisure use in this wider building and are looking for units near their previous site.

Planning permission was previously granted for the change of use of a larger unit within this business park to a fitness studio at Local Review Body in 2014. This was on the basis that the use would be complementary to and not undermine the primary economic land use of the business park. The unit had been vacant for a period and

the LRB were keen on bringing this back into use, as well as to support a local business.

Since this decision was made, there have been a number applications for leisure or non-business or industrial uses within land allocated for business or industrial uses. These applications have been determined in a way which protects the allocated business and industrial areas from inappropriate uses. An application for a petrol filling station, shop, restaurant and drive thru and café and drive thru at Sheriffhall South (17/00537/DPP) was refused by Planning Committee in May 2018. The site was allocated for class 4 business use and the proposal was not for these uses. It was considered that the proposal was not in accordance with the site's allocation for class 4 use and as such was contrary to the adopted MLDP and Strategic Development Plan.

An application for residential development and employment uses at Salters Park, Dalkeith (16/00893/PPP) was refused by Planning Committee in June 2018. The site was allocated for classes 4 (business), 5 (general industry) and 6 (storage and distribution) uses in the MLDP. The proposal was not for these uses, with two thirds of the site for indicated for housing. Again, it was considered that the proposal was not in accordance with the site's allocation for class 4 use and as such was contrary to the adopted MLDP and Strategic Development Plan.

As previously detailed, there is a similar application for the change of use of one unit within the larger building to a fitness studio. Should these applications be approved, there would be four units within this established and successful business park in leisure use. This would significantly undermine the primary economic land use of this business park and have a serious detrimental impact on other business or industrial uses if these are not able to find suitable accommodation within Midlothian.

The recent Planning Committee decisions clearly demonstrate the Council is seeking to actively protect economic development and employment sites. The current application would be contrary to this aim and adopted policy. Midlothian is an area with an increasing number of households. In order to ensure the sustainability of the Council area it is essential that there are employment opportunities within close proximity to the new households. This requires the retention of economic land allocations in employment generating and business related uses.

As evident in the current applications at Hardengreen as well as Salters Road and Sheriffhall South, economic and employment sites in Midlothian are under significant pressure. Although there are a number of businesses which do not fall within business or industry uses in Hardengreen Business Park, it is clear that the existing units should be protected and retained for these uses.

It is envisaged that there will be fitness classes and treatments through the day, as well as in the evening at this site. The numbers of customer vehicles arriving at the site is likely to exceed the available parking and inconsiderate parking could impact on the freeflow of vehicles (particularly larger service vehicles) at one of the two entrances to the business estate to the detriment of local businesses. This is already causing problems in the surrounding area and this use would exacerbate

this. However there is no objection from the Policy and Road Safety Manager who has considered all the submitted information and comments.

The proposed use of the unit as a fitness studio and beauty salon would result in an uncomfortable mix of uses within an established business estate. The Planning Authority has significant concerns regarding the compatibility of pedestrians within an active and busy business estate. It raises safety concerns for both the pedestrians and vehicles accessing the unit as well as the operators of the existing businesses at the site and their vehicles.

Having increased numbers of pedestrians accessing the site may impact on the desirability of the industrial estate to businesses.

Recommendation: Refuse planning permission.



Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

Reg. No. 18/00402/DPP

Mind Body & Beauty Limited
Hardengreen Business Park
7 Dalhousie Road
Eskbank
EH22 3NU

Midlothian Council, as Planning Authority, having considered the application by Mrs Janice Paterson, Hardengreen Business Park, 7 Dalhousie Road, Eskbank, EH22 3NU, which was registered on 11 June 2018 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

Change of use from office (class 4) to mixed use of fitness studio and beauty salon at Unit 7 and Unit 8, 40 Hardengreen Business Park, Dalhousie Road, Dalkeith

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

<u>Document/Drawing.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan, Site Plan		11.06.2018

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

The proposed land uses are not in accordance with the site's allocation for Class 4 (business) and Class 5 (general industry) use in the development plan and as such the development is contrary to policies STRAT1 and ECON1 of the adopted Midlothian Local Development Plan 2017.

Dated 25 / 7 / 2018

.....
Duncan Robertson
Lead Officer – Local Developments
Fairfield House, 8 Lothian Road, Dalkeith, EH22 3ZN

