

Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

Local Review Body
Tuesday 26 October 2021
Item No 5.3

Local Review Body: Review of Planning Application Reg. No. 20/00562/DPP

Alex Mitchell
Zander Planning Ltd
Clyde Offices
2nd Floor
48 West George Street
Glasgow
G2 1BP

Midlothian Council, as Planning Authority, having considered the review of the application by A F Noble and Sons, 2A Eastfield Farm Road, Eastfield Farm Industrial Estate, Penicuik EH26 8EZ, which was registered on 2 September 2020 in pursuance of their powers under the above Act, hereby **refuse** permission to carry out the following proposed development:

Erection of retail (class 1) and food and drink (class 3) units, formation of car park, creation of external seating area and erection of fence and gates at 18 - 20 Edinburgh Road, Penicuik, in accordance with the application and the following plans:

<u>Drawing Description.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	AL(0)001 5 1:1250	02.09.2020
Site Plan	AL(0)001 4 1:500	02.09.2020
Site plan	AL(0)003 6 1:200	02.09.2020
Proposed Floor Plan	AL(0)005 6 1:125	02.09.2020
Proposed Elevations	AL(0)009 5 1:100	02.09.2020

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

- 1. It has not been demonstrated that the proposed retail and class 3 units would not have a significant detrimental impact on the vitality and viability of Penicuik town centre and so the proposal does not comply with policy TCR2 of the Midlothian Local Development Plan and the Scottish Planning Policy, both of which aim to prioritise and protect town centres through the town centre first principle.*

2. *The proposed access and turning space within the site raises road safety concerns which would be to the detriment of the safety of road users and customers of the proposed units.*
3. *The service/delivery area, being located to the front of the building, will have an adverse impact on the appearance of the area, thereby not complying with policy DEV2 of the adopted Midlothian Local Development Plan 2017.*
4. *The proposed ancillary takeaway for the class 3 unit is within 400m of the curtilage of Strathesk Primary School and so the proposal does not comply with the adopted Supplementary Guidance for Food and Drink and Other Non-retail Uses in Town Centres.*

The Local Review Body (LRB) considered the review of the planning application at its meeting of 14 September 2021.

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

Midlothian Local Development Plan Policies:

1. DEV2: Protecting Amenity within the Built-Up Area
2. DEV5: Sustainability in New Development
3. DEV6: Layout and Design of New Development
4. DEV7: Landscaping in New Development requires
5. TRAN5: Electric Vehicle Charging
6. IT1: Digital Infrastructure
7. TCR2 Location of New Retail and Commercial Leisure Facilities

Supplementary Guidance on Food & Drink and Other Non-Retail Uses in Town Centres

Material considerations:

1. The individual circumstances of the proposal and the site.
2. The representations received.
3. The consultation responses received.

Dated: 20/09/2021



Joyce Learmonth
Lead Officer - Major Developments and Enforcement (Advisor to the Local Review Body)
Place Directorate

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



The Coal
Authority

Any Planning Enquiries should be directed to:

Planning and Local Authority Liaison
Direct Telephone: 01623 637 119
Email: planningconsultation@coal.gov.uk
Website: www.gov.uk/coalauthority

STANDING ADVICE

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:
www.gov.uk/government/organisations/the-coal-authority

Standing Advice valid from 1st January 2021 until 31st December 2022