



Local Review Body

West Lothian Civic Centre
Howden South Road
LIVINGSTON
EH54 6FF

21 June 2017

A meeting of the **Local Review Body** of West Lothian Council will be held within the **Council Chambers, West Lothian Civic Centre** on **Wednesday 28 June 2017** at **11:00am**.

For Chief Executive

BUSINESS

Public Session

1. Apologies for Absence
2. Declarations of Interest - Members should declare any financial and non-financial interests they have in the items of business for consideration at the meeting, identifying the relevant agenda item and the nature of their interest.
3. Order of Business, including notice of urgent business and declarations of interest in any urgent business
4. Confirm Draft Minutes of Meeting of Local Review Body held on Wednesday 22 February 2017 (herewith).
5. Notice of Review - Application No.0020/FUL/17 - Siting of timber clad ctainer to be used as a catering unit at former Bathgate Road, Boghead roundabout, Bathgate (herewith)

NOTE **For further information please contact Val Johnston, Tel No.01506 281604 or email val.johnston@westlothian.gov.uk**

MINUTE of MEETING of the LOCAL REVIEW BODY of WEST LOTHIAN COUNCIL held within COUNCIL CHAMBERS, WEST LOTHIAN CIVIC CENTRE, on 22 FEBRUARY 2017.

Present – Councillors George Paul (Chair), Harry Cartmill, Tom Conn, Greg McCarra and David Tait

Apologies – Councillors Lawrence Fitzpatrick, Tony Boyle, William Boyle and Tom Kerr

1. DECLARATIONS OF INTEREST

No declarations of interest were made.

2. MINUTE

The committee confirmed the Minute of its meeting held on 12 October 2016 subject to the removal of the word “by” from the last sentence of the second paragraph in Minute Item 3.

3. NOTICE OF REVIEW - APPLICATION NO.0560/FIUL/16

The committee considered a report (copies of which had been circulated) by the Clerk and Legal Adviser to the Local Review Body which related to a Notice of Review for the refusal of planning permission for the change of use and alterations to class 4 building to a car and van hire business at Houston Golf Range, 19 Houston Mains Holdings.

Attached to the report were the Notice of Review and other relevant documents and the report identified the policies in the development plan and relevant planning guidance that had been referred to in the review documents. The committee then decided that the review documents in conjunction with the site visit conducted before the meeting provided sufficient information to enable the review to be determined without any further procedure.

The committee considered the review application in terms of the statutory test, to have regards to the development plan and to make its decision in accordance with the development plan unless material considerations indicted otherwise.

The Local Review Body also took into account the views expressed in the Notice of Review documents received from all parties.

Decision

To uphold the review application and grant planning permission subject to conditions and to include the additional condition that the parking of vehicles associated with the vehicle hire premises were not to be parked outwith areas under the control of the applicant as committee considered

that the former use of the premises had already been established as a class 4 use.

4. NOTICE OF REVIEW - APPLICATION NO.0583/FUL/16

The committee considered a report (copies of which had been circulated) by the Clerk and Legal Adviser to the Local Review Body which related to a Notice of Review for the refusal of planning permission for the change of use from open space to private garden ground at 1 Oldwood Place, Eilburn, Livingston.

Attached to the report were the Notice of Review and other relevant documents and the report identified the policies in the development plan and relevant planning guidance that had been referred to in the review documents. The committee then decided that the review documents in conjunction with the site visit conducted before the meeting provided sufficient information to enable the review to be determined without any further procedure.

The committee considered the review application in terms of the statutory test, to have regards to the development plan and to make its decision in accordance with the development plan unless material considerations indicted otherwise.

The Local Review Body also took into account the views expressed in the Notice of Review documents received from all parties.

Decision

To uphold the review and granted planning permission subject to conditions as committee considered that the proposal was not contrary to HOU9 and the proposal would not impact on the visual amenity of the area.

5. CHANGES TO STANDING ORDERS - REPORT BY CHIEF EXECUTIVE

The committee considered a report (copies of which had been circulated) by the Chief Executive advising of approved changes to the council's Standing Orders for the Regulation of Meetings and the Scheme of Administration relevant to the Local Review Body.

The committee were advised that reports were presented to Council Executive on 25 October and 25 November 2016 dealing with the independent review of the council's planning service and the review of Standing Orders for the Regulation of Meetings and Scheme of Administration.

Standing Orders contained the general rules about the way meetings of the bodies in the council's decision-making structure were called and conducted. The Scheme of Administration detailed the particular rules for each of these bodies in relation to their remit, powers, membership and administrative arrangements.

Attached to the report at Appendix 1 was the former remit of the Local Review Body with Appendix 2 also attached to the report containing the updated remit for the Local Review Body as highlighted in grey text. The revised remit had been approved by Council Executive at its meeting on 25 October 2016 as part of the review of the council's planning service.

Appendix 3 summarised the changes to Standing Orders relevant to the Local Review Body which were approved by Council Executive on 22 November 2016.

It was recommended that committee note the changes which would take effect for all meetings called on or after 1 January 2017.

Decision

To note the contents of the report



LOCAL REVIEW BODY

APPLICATION NO. 0020/FUL/17 – SITING OF TIMBER CLAD CONTAINER TO BE USED AS A CATERING UNIT AT FORMER BATHGATE ROAD, BOGHEAD ROUNDABOUT, BATHGATE

REPORT BY CLERK AND LEGAL ADVISER TO THE LOCAL REVIEW BODY

A PURPOSE OF REPORT

This covering report describes the documents and other matters relevant to the consideration by the Local Review Body of this application for review of a decision by the council's Appointed Person. The application is to review the refusal of planning permission for the siting of a timber clad container to be used as a catering unit at former Bathgate Road, Boghead Roundabout, Bathgate

B REVIEW DOCUMENTS

The following documents form the Review Documents for consideration by the Local Review Body and are circulated to members with this report:-

1. The Decision Notice, dated 28 February 2017;
2. The Handling Report, not dated;
3. Location Plan;
4. Photographs of site;
5. Photograph of proposed container
6. The Notice of Review, submitted by the applicant, dated 24 April 2017

No representations to the application have been received.

The applicant has stated in the review application that they consider that the Local Review Body could decide the review case either by holding a hearing session or by assessment of the review documents only.

C DEVELOPMENT PLAN POLICIES AND PLANNING GUIDANCE

Planning permission was refused by the Appointed Person as they considered that the permanent placement of a timber-clad steel container within the countryside belt would be unacceptable as it would be in a prominent position adjacent to the road network and would be visually intrusive in the countryside. They also believed

that an existing belt of mature trees would have to be removed to accommodate the unit and therefore the proposal was contrary to policies ENV22, ENV33 and IMP14

D PLANNING CONDITIONS, LEGAL AGREEMENTS AND GOOD NEIGHBOUR AGREEMENTS

Without prejudice to the outcome of this review, to assist the Local Review Body in its deliberations and to assist the applicant and interested persons in securing a prompt resolution of the review, the Planning Adviser has drafted planning conditions which the Local Review Body may wish to consider imposing should it be minded to grant planning permission. A copy is circulated with this report.

Wendy Richardson, Solicitor, West Lothian Civic Centre

Tel No. 01506 283524, Wendy.Richarson@westlothian.gov.uk

Date: 28 June 2017



**West Lothian
Council**

DECISION NOTICE
REFUSAL OF FULL PLANNING PERMISSION
Town and Country Planning (Scotland) Act 1997, as amended

West Lothian Council, in exercise of its powers under the Town & Country Planning (Scotland) Act 1997 (as amended), **refuses full planning permission for the development described below**, and in the planning application and docquetted plan(s).

APPLICATION REFERENCE: 0020/FUL/17

PROPOSAL AND LOCATION: Siting of a timber clad steel container to be used as a catering unit (Grid Ref: 296203, 666345) at Former Bathgate Road, Boghead Roundabout, Bathgate

APPLICANT: Mr Fisher
Rebecca's
9 Glen Road
Armadale
Bathgate
EH48 3NH

The above **local application was determined by an officer appointed by the council in accordance with its scheme of delegation**. Please see the advisory notes for further information, including how to request a review of the decision.

Docquetted plans relative to this decision are identified in Annex 1, Schedule of Plans.

Dated: 28/02/2017

Craig McCorrison
Head of Planning, Economic Development and Regeneration
West Lothian Council
West Lothian Civic Centre
Howden South Road
Livingston
EH54 6FF

The council in exercise of its powers under the Town and Country Planning (Scotland) Act 1997 (as amended) refuses planning permission for planning application 0020/FUL/17, for the reason(s) set out as follows:

- 1 The proposed permanent placement of a timber-clad steel container to be used as a catering unit within the countryside belt is unacceptable. The building and site would be prominent in particular on the adjacent road network and will be visually intrusive on the countryside. It would appear that a part of an existing mature tree belt along the roadside would require to be removed to accommodate the proposed unit. The proposal is therefore contrary to policies ENV 22 (Countryside Belt) and ENV 33 (Design of Development in the Countryside) and IMP 14 (Supplementary Planning Guidance - Mobile Snack Bars) of the West Lothian Local Plan

ADVISORY NOTE

How to challenge the council's Decision

If your application was determined under delegated powers as a local application by an officer appointed by the council and you disagree with the council's decision on your application, or one or more of the conditions attached to the decision, you can apply for a review by the council's Local Review Body. If the application was heard at a committee and in any other case you can seek an appeal of that decision to the Government's Directorate for Planning and Environmental Appeals. You can find information on these processes and how to apply for a review, or to appeal, here: <http://www.westlothian.gov.uk/article/2078/Decisions-Reviews-and-Appeals>

Annex 1, Schedule of Plans - 0020/FUL/17

Docquetted Number	Drawing Description	Drawing Number
1 of 1	Location Plan	
2 of 2	Image	

Consultations

This is a summary of the consultations received. The full documents are contained in the application file.

Consultee	Objection	Comments	Planning Response
Transportation	No	A hard standing area (slabs or type 1 sub base) on the verge in front of the catering unit shall be provided within the first week of opening.	Noted. Should planning permission be granted, then a condition to this effect is recommended to be attached to any consent.
Environmental Health	No	None	Noted

Policy

Plan	Policy	Assessment	Conform
West Lothian Local Plan	ENV23 - Countryside Belt Countryside Belt	The proposed catering unit is located within a tree belt that provides a strong landscaped screen between the road and the fields. Given this, it considered that there would be an adverse visual impact on the countryside belt.	No
West Lothian Local Plan	ENV24 - Road Corridors The M8, M9, A89, A7066, A706, A70, A71 and A801 and railway lines are key transport corridors in West Lothian. Development which is visually intrusive and impairs the appearance of the countryside, outwith urban areas will be resisted.	It is considered that the proposed development would be visually intrusive and would impair the appearance of the countryside	No
West Lothian Local Plan	ENV31 - Development in the Countryside Proposals for new build development in the countryside will not normally be approved. Exceptions to this policy are: (i) a house for a full-time worker in agriculture or other rural business (ii) a house for a retired farmer who wishes to remain on the farm but vacate the existing farmhouse to accommodate his successor (iii) development of a visually intrusive brownfield site where there is no realistic prospect of it being	There is no fundamental objection against the proposed use given that it replaces an existing mobile snack van. However, as stated above, it is considered that the proposed unit would create an adverse visual impact on the countryside belt. This is due the permanent structure and the loss of planting that serves a landscape purpose.	Yes

	<p>returned to agriculture or woodland use and the site has no significant natural heritage value in its current condition <input type="checkbox"/></p> <p>(iv) replacement of an existing house in the countryside which is of a poor design or in a poor structural condition <input type="checkbox"/></p> <p>(v) infill development within the curtilage of an existing building group or infilling of gaps between existing houses of a single plot width <input type="checkbox"/></p> <p>(vi) a very small number of proposals for a house which by virtue of its design, location and landscape setting makes an exceptional contribution to the appearance of countryside <input type="checkbox"/> and</p> <p>(vii) small scale farm diversification projects or other business proposals appropriate to a rural area which would help sustain the rural economy or create significant social benefits.</p> <p>In the case of the first and second policy exceptions above, approval of any new house must be linked to the business by a Section 75 Agreement.</p>		
West Lothian Local Plan	<p>ENV33 - Design of Development in the Countryside</p> <p>Any new development in the countryside acceptable in terms of policies ENV 31 and ENV 32 must conform to the design and development control policy guidelines issued by the council and contained in Planning Advice Notes issued by the Scottish Executive and the Scottish Government. In particular, new developments should:</p> <p>a. demonstrate there is a specific locational need and that there are no available, less sensitive alternative sites <input type="checkbox"/></p> <p>b. avoid open fields, skylines and other exposed locations <input type="checkbox"/></p> <p>c. avoid sites immediately adjacent to main roads and railway lines, or which constitute ribbon development on the edge of settlements <input type="checkbox"/></p> <p>d. avoid disturbance or damage to trees, woodland and wildlife habitats and the site and setting of listed buildings, scheduled monuments and archaeological sites <input type="checkbox"/></p>	While there is an existing mobile snack van, It is considered that there is not a locational need to have a permanent structure in place. The catering unit would be visually intrusive and not conducive to countryside design or similar uses and activities along the roadside. Such a unit as shown in images submitted with the application would be visually unacceptable in the location.	No

	<p>e. respect and complement local vernacular building styles including ridge orientation, roof pitch, chimney, windows, door, and porch details and the use of materials□</p> <p>f. avoid the creation of excessive underbuilding□</p> <p>g. ensure outbuildings, garages and fuel storage tanks are designed or appropriately located, or screened, so as not to have a significant visual impact on the landscape and not to detract from the overall appearance of the development□</p> <p>h. incorporate boundary treatments, with preference given to stone walling, and use of locally characteristic hedging plants (e.g. hawthorn or beech), and the avoidance of ranch or palisade fencing, concrete block walls and fast-growing conifers□</p> <p>i. incorporate significant enhancements to existing landscaping using native woodland species□</p> <p>j. be serviced to accepted standards, without excessive resource commitment by the council□</p> <p>k. be capable of being served by a safe vehicular access□</p> <p>l. avoid disruption of public rights of responsible access or to rights of way or core paths (where appropriate, opportunities should be taken to provide links to these routes)□</p> <p>m. avoid sites adjoining or particularly visible from rights of way, core paths, the Union Canal, view points and other well frequented public areas□and</p> <p>n. in exceptional circumstances, innovative and contemporary designs, compatible with PAN 72, may be considered acceptable.</p>		
West Lothian Local Plan	<p>IMP 14 - Supplementary Planning Guidance</p> <p>Mobile Snack Bars</p>	<p>While the proposal is essentially a replacement of the existing snack van, the proposal is considered to be detrimental to the countryside by reason of its appearance.</p>	No

Assessment

N/A

Other Considerations

N/A

Conclusions and Reason for Decision

The proposed permanent placement of a container to be used as a catering unit within the countryside belt is unacceptable. The building and site would be prominent in particular on the adjacent road network and will be visually intrusive on the countryside. It would appear that a part of an existing mature tree belt along the roadside would require to be removed to accommodate the proposed unit.

It is considered that the proposal is contrary to ENV 23, ENV 24, ENV 33 and IMP 14 - Supplementary Planning Guidance (Mobile Snack Bars).

Therefore it is recommended that the application is refused.

BOGHEAD ROUNDABOUT

REFUSED

App No 0020-FUL-17 1of2
Date 28 Feb 2017



A 708

Land owned by
EWP Investments Ltd

A 801

Location of 20ft catering unit



Survey Scale 1/2500

REFUSED

App No: 00007416-17 2019
Date: 28 Feb 2019













NOTICE OF REVIEW**(LOCAL DEVELOPMENT – DECISION BY APPOINTED PERSON)**

This Form is for a review by the West Lothian Council Local Review Body under Section 43A(8) of the Town and Country Planning (Scotland) Act 1997 in respect of decisions by the appointed person on local development applications

The review will be conducted under the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008

Please read and follow the accompanying West Lothian Council Local Review Body Guidance Notes when completing this form. Failure to supply all the relevant information or to lodge the form on time could invalidate your notice of review.

Use **BLOCK CAPITALS** if you are completing the form by hand

PART A	APPLICANT'S DETAILS	Name	ALAN FISHER
		Address	9 GLEN ROAD ARMADALE
		Postcode	EH48 3NH
		Telephone No. (1)	[REDACTED]
		Telephone No. (2)	
		Fax :	[REDACTED]
	E-mail :	[REDACTED]	
	REPRESENTATIVE (if any)	Name	
		Address	
		Postcode	
		Telephone No. (1)	
		Telephone No. (2)	
		Fax :	
		E-mail :	
Please tick this box if you wish all contact to be through your representative.			

Do you agree to correspondence regarding your review being sent by e-mail? *
 YES NO

PART B	APPLICANT REF. NO.	LIVE/0020/FULL/17
	SITE ADDRESS	BOGHEAD ROUNDABOUT DRUM ROAD EH48 2HU
	DESCRIPTION OF PROPOSED DEVELOPMENT	SITING OF A TIMBER CLAD STEEL CONTAINER TO BE USED AS A CATCHING UNIT.
	DATE OF APPLICATION	22 NOV 16
	DATE OF DECISION NOTICE (IF ANY)	28 FEB 17

Note:- This notice must be served on the planning authority within three months beginning with the date of the decision notice or, if no decision notice was issued, from the date of expiry of the period allowed for determining the application.

Type of Application (please tick the appropriate box)

Application for planning permission (including householder application)	<input checked="" 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 type="checkbox"/>

PART C	TYPE OF REVIEW CASE	
	Refusal of application by appointed officer	<input checked="" type="checkbox"/>
	Failure by appointed officer to determine the application within the period allowed	<input type="checkbox"/>
Conditions imposed on consent by appointed officer	<input type="checkbox"/>	

Statement of reasons and matters to be raised

You must state, in full, the reasons for requiring a review of your case. You must also set out and include with your application all the matters you consider require to be taken into account and which you intend to raise in the 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.

State here the reasons for requiring the review and all the 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 of which ten copies must be provided.

MY FAMILY HAS HAD A MOBILE SNACK VAN AT THIS SITE FOR 22 YEARS, WE WANT TO REPLACE THE VAN WITH WOODEN CLAD CONTAINER FOR THE FOLLOWING REASONS:

- 1) IT GETS THE VAN OFF THE ROAD AND ONTO THE ADJACENT LAND (LANDOWNERS PERMISSION HAS BEEN GRANTED)
- 2) IT GIVES US MORE ROOM AND WILL ALLOW ME TO CREATE 4 NEW JOBS, PART TIME FOR LOCAL PEOPLE.
- 3) TOO MANY OTHER REASONS TO LIST! TRANSPORTATION DEPT AND ENVIRONMENTAL HEALTH DEPT HAVE BOTH APPROVED MY APPLICATION. THE PLANNING OFFICER HAS REJECTED MY APPLICATION FOR 3 REASONS WHICH I FEEL ARE WRONG:

1) IT IS NOT VISUALLY INTRUSIVE. THE TIMBER CLAD UNIT IS VERY ATTRACTIVE AND

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 now explain why you are raising new material, why it was not raised with the appointed officer before, and why you consider it should now be considered in your review.

WILL BLEND INTO THE AREA.
 2) THERE ARE NO TREES TO BE REMOVED, THERE IS AN EXISTING GAP THE UNIT WILL EASILY FIT INTO. THE PLANNING OFFICER EVEN CAME TO LOOK AT THE SITE AND AGREED THERE IS SPACE FOR IT.
 3) THE ACTUAL SITE IS NOT PROMINENT FROM ANY ADJACENT ROADS. IT'S ACTUALLY GOING TO BE QUITE DIFFICULT TO SEE THE

List of documents and evidence UNIT.

Please provide a list of all documents, materials and evidence which you wish to submit and rely on in your review. Ten (10) copies of these documents, materials and evidence must be lodged with this notice. If necessary, this can be continued or provided in full in a separate document.

1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	
11.	
12.	

PART D 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 ask for further information or representations. The procedure adopted will be one or a combination of meetings; adjourned meetings; written submissions; hearing sessions and inspecting the land which is the subject of the review.

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

Further written submissions

Hearing sessions(s)

Site inspection

Assessment of review documents only, with no further procedure

✓
✓

If you have selected "further written submissions" or "hearing session(s)", please explain which of the matters you have included in your statement of reasons you believe ought to be subject of those procedures, and why.

- IT IS NOT VISUALLY INTRUSIVE
- THERE ARE NO TREES TO BE REMOVED.
- THE SITE IS NOT PROMINENT FROM THE ADJACENT ROADS.

SITE INSPECTION

The Local Review Body may decide to inspect the land which is subject to the review.

Can the site be viewed entirely from public land?

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

• YES/NO
• YES/NO

If you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain why that may be the case.

THESE WAS ALREADY BEEN A SITE VISIT - AFTER THE PERMISSION WAS REFUSED. THE PLANNING OFFICER ACTUALLY SAID HE ~~WAS~~ THOUGHT IT SHOULDN'T HAVE BEEN REFUSED, AND THAT ITS USUALLY THE TRANSPORTATION DEPT WHO SAY NO.

PART E

CHECKLIST

Please mark the appropriate boxes to confirm you have provided all supporting documents and evidence relevant to your review. Failure to supply all the relevant information or to lodge the form on time could invalidate your notice of review.

Full completion of all parts of this form



Statement of your reasons for requiring a review and matters to be raised



Statement of your preferred procedure



All documents, materials and evidence which you intend to rely on. Copies must accompany this notice.



Where your case relates to another application (e.g. it is a renewal of planning permission or a modification, variation or removal of a planning condition, or an application for approval of matters specified in conditions), it is advisable to provide that other application reference number, approved plans and decision notice from that earlier consent.

*****DECLARATION*****

I, the applicant/agent*, hereby require West Lothian Council to review the case as set out in this form and in the supporting documents, materials and evidence lodged with it

I have been provided with a copy of the West Lothian Council Local Review Body Guidance Notes before lodging this notice.

I understand that the Council will make a copy of the notice of review (including my name, address and other personal information), the review documents and any notice of the procedure of the review available for inspection at an office of the Council until such time as the review is determined, and that all of that information may also be available on the Council website.

Signed _____

Date 24 APRIL 17

* Delete as appropriate

Please return this completed form to :-

Val Johnston
Committee Services
West Lothian Council
West Lothian Civic Centre
Howden South Road
Livingston
EH54 6FF