



West Lothian
Council

Local Review Body

West Lothian Civic Centre
Howden South Road
LIVINGSTON
EH54 6FF

27 August 2014

A meeting of the **Local Review Body** of West Lothian Council will be held within the **Council Chambers, West Lothian Civic Centre** on **Wednesday 3 September 2014 at 11:00am**.

For Chief Executive

BUSINESS

Public Session

1. Apologies for Absence
2. Order of Business, including notice of urgent business
3. 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.
4. Confirm Draft Minutes of Meeting of Local Review Body held on 06 August 2014 (herewith).

Public Items for Decision

5. Continued Item of Business -
 - (a) Notice of Review - App No.0003/FUL/14 - Change of use to form cafe (class 3) at Unit 9, Tartraven Place, East Main Industrial Estate, Broxburn (herewith)
6. New Item of Business -
 - (a) Notice of Review - App No.0135/FUL/14 - Change of use from

DATA LABEL: Public

open space to private garden ground and erection of a
boundary fence (in retrospect) at land at 12 Golf COurse
Road, Livingston (herewith)

7. Local Review Body Site Visit Procedures - Report by Clerk and Legal
Adviser (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, LIVINGSTON, on WEDNESDAY 6 AUGUST 2014

Present – Councillors George Paul (Chair), Lawrence Fitzpatrick, Harry Cartmill, Tom Conn, Tom Kerr, Greg McCarra and John Muir

Apologies – Councillor Angela Moohan

Absent – Councillor Willie Boyle

1. ORDER OF BUSINESS

The Chair ruled in terms of Standing Order 8 that Agenda Item 06a (0812/FUL/13) would be moved to the end of the agenda.

2. DECLARATIONS OF INTEREST

- Agenda Item 6b (App No. 0812/FUL/13) - Councillor Fitzpatrick declared a non-financial interest in that he could be perceived as having a pre-determined view on the case and therefore would not participate in the item of business.

3. MINUTE

The committee approved the Minute of its meeting held on 25 June 2014 as a correct record. The Minute was thereafter signed by the Chair.

4. NOTICE OF REVIEW - APP NO.0003/FUL/14 - CHANGE OF USE TO FORM CAFE (CLASS 3) AT UNIT 9, TARTRAVEN PLACE, EAST MAIN INDUSTRIAL ESTATE, BROXBURN

The Local Review Body 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 a change of use to form a café at Unit 9, Tartraven Place, East Main Industrial Estate, Broxburn.

Attached to the report were the Notice of Review and other relevant review 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 Local Review Body considered and took into account all of the review documents placed before it and in doing so noted that it was necessary in terms of Section 25 of the Town and Country Planning (Scotland) Act 1997 that the Local Review Body had regard to the Development Plan and to determine the review in accordance with the Development Plan unless material circumstances indicated otherwise.

The Local Review Body then considered whether the review documents provided sufficient information to enable the review to be determined and

whether further representation or further information was needed. It also took account of the views expressed in the Notice of Review and it agreed that no further written representation was required.

It then also considered whether further procedural steps should be adopted to determine the review. The Local Review Body decided that it would be necessary for an unaccompanied site visit to take place before it would proceed to determination. This would allow members to assess the impact on other users of the units in the area and to see the location, size and layout of the development. The Local Review Body also requested sight of a location plan showing the location and extent of the development site, by way of a Procedure Notice if necessary.

Decision

1. Agreed that an unaccompanied site visit to the proposed site would be necessary with only the elected members, Legal Adviser and Planning Adviser to be in attendance with the arrangements delegated to the Clerk and Legal Adviser; and
2. Agreed to adjourn consideration of the case to a future meeting, with a site location plan to be provided in the agenda papers showing the location and extent of the development site.

5. NOTICE OF REVIEW - APPLICATION NO.0816/H/13 - EXTENSION TO HOUSE AND ERECTION OF A GARAGE T 31 LEISHMAN COURT, BLACKRIDGE

Councillors Kerr and Muir left the meeting and did not participate in the remaining items of business as they had not heard the merits of the application when it was first considered at the previous meeting of the Local Review Body.

The Local Review Body 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 an extension and erection of garage at 31 Leishman Court, Blackridge

Attached to the report were the Notice of Review and other relevant review 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 Local Review Body considered and took into account all of the review documents placed before it and in doing so noted that it was necessary in terms of Section 25 of the Town and Country Planning (Scotland) Act 1997 that the Local Review Body had regard to the Development Plan and to determine the review in accordance with the Development Plan unless material circumstances indicated otherwise.

The Local Review Body then considered whether the review documents provided sufficient information to enable the review to be determined and whether further representation or further information was needed. It also

took account of the views expressed in the Notice of Review and it agreed that no further written representation was required.

It was also noted that the review had been subject to consideration at a previous meeting of the Local Review Body when it had agreed that an unaccompanied site visit was to be conducted; this took place on the 6 August 2014.

The Local Review Body agreed with the Appointed Person's assessment that the development did not accord with policies HOU9, IMP10 and IMP14 of the West Lothian Local Plan in that it would be overbearing in relation to its size and proximity to the property boundary and would overlook and impact on the privacy of a neighbouring property to an unacceptable degree.

It then went on to consider whether there were material considerations that meant the application for review should nevertheless be granted.

After assessing and balancing the relevant considerations, the Local Review Body decided that the relevant material considerations were not sufficient to mean that the application should be decided contrary to the development plan and on balance supported the refusal of planning permission.

Decision

To uphold the decision of the Appointed Person and refuse planning permission as the application did not accord with the Development Plan and the material considerations identified did not merit the review being granted.

6. NOTICE OF REVIEW - APPLICATION NO.0812/FUL/13 - CHANGE OF USE OF OPEN SPACE TO PRIVATE GARDEN GROUND AND ERECTION OF A BOUNDARY FENCE AT LAND AT OSSIAN DRIVE. MURIESTON, LIVINGSTON

Councillor Fitzpatrick, having previously declared a non-financial interest, left the meeting and did not participate in the following item of business.

The Local Review Body 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 a change of use from open space to private garden ground at land at Ossian Drive, Murieston, Livingston

Attached to the report were the Notice of Review and other relevant review 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 Local Review Body considered and took into account all of the review documents placed before it and in doing so noted that it was necessary in terms of Section 25 of the Town and Country Planning (Scotland) Act 1997 that the Local Review Body had regard to the Development Plan

and to determine the review in accordance with the Development Plan unless material circumstances indicated otherwise.

The Local Review Body then considered whether the review documents provided sufficient information to enable the review to be determined and whether further representation or further information was needed. It also took account of the views expressed in the Notice of Review and it agreed that no further written representation was required. The Local Review Body was also reminded that the area to be subject to the change of use was only 3 m wide and not 17 m wide as indicated in the Handling Report.

It was also noted that the review had been subject to consideration at a previous meeting of the Local Review Body when it had agreed that an unaccompanied site visit was to be conducted; this took place on the 6 August 2014.

The Local Review Body did not accept the Appointed Person's assessment of the proposed development against policies HOU9, ENV11, ENV14, COM2 and IMP14 and it decided that the development, with suitable conditions, was in accordance with these policies. It also considered that there would be no significant loss of open space or amenity and that there would be no significant impact on visual and residential amenity.

It then went on to consider whether there were material considerations that meant the application for review should nevertheless be refused.

After assessing and balancing the relevant considerations, the Local Review Body decided that the relevant material considerations were not sufficient to mean that the application should be decided contrary to the development plan and on balance supported the grant of planning permission with suitable conditions.

The Local Review Body then went on to consider what conditions should be attached to the grant of planning permission. It has regard to the draft conditions attached to the report, and decided that they should be included, subject to two alterations as follows:-

- In Condition 1, correcting the width of the site from "5 m" to "3 m"
- In Condition 2, including the words "in perpetuity"

Decision

To grant the review application and so reverse the decision of the Appointed Person and to grant planning permission subject to conditions for the change of open space to private garden ground and erection of boundary fence at land at Ossian Drive, Murieston, Livingston



WEST LOTHIAN COUNCIL LOCAL REVIEW BODY

**APPLICATION NO.0003/FUL/14 – CHANGE OF USE TO FORM CAFÉ (CLASS 3) AT
UNIT 9, TARTRAVEN PLACE, EAST MAINS INDUSTRIAL ESTATE, BROXBURN**

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 the application for review of a decision by the council's Appointed Person. The application is for review of a refusal by the Appointed Person for a change of use to form a café at Unit 9, Tartraven Place, East Mains Industrial Estate, Broxburn.

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 Notice of Decision by the Appointed Person, dated 5 March 2014
2. The Handling Report by the Appointed Person, dated 5 March 2014
3. Notice of Review, submitted by the Applicant, dated 4 June
4. The following documents were also lodged with the Notice of Review:-
 - Supporting statement;
 - Café leaflet;
 - Petition;
 - Hygiene Certificate, dated 27 August 2013;
 - Health & Safety training certificate, dated 15 January 2007;
 - Letter from Scottish Fire & Rescue, date 2 October 2013

One objection was received from Broxburn Community Council, dated 18 February 2014 who were advised that the Notice of Review had been received and that they had fourteen days in which to make further representations. Further comments were received from Broxburn Community Council; these comments were then forwarded to the applicant in accordance with procedure. Further comments were

then received from the applicant, dated 9 July 2014. All correspondence referred to is copied with the papers.

The applicant has indicated that they would welcome further written submissions, a hearing session and a site inspection.

The review was first considered by the Local Review Body at its meeting on 6 August 2014. However it was continued for an unaccompanied site visit which was scheduled to take place on the morning of 3 September 2014. The Local Review Body also requested sight of a location plan. One had formed part of the original planning application and is attached to this report with the review documents.

C DEVELOPMENT PLAN POLICIES AND PLANNING GUIDANCE

Planning permission was refused because the Appointed Person considered that the proposed café was more appropriate to a town centre location than an industrial estate and that the proposed use would conflict with the surrounding uses and would be detrimental to road and pedestrian safety.

Additionally the applicant had failed to demonstrate that the proposed café would be a direct benefit to those working in the employment area and that a sequential approach had been taken to site selection.

Therefore the Appointed Person considered that the proposal was contrary to EM6 (uses outwith classes 4, 5 & 6) of the WLLP, TC1 (sequential test) of the WLLP and TC12 (town centre uses) of the WLLP.

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.

No developer contributions shall be required in the event that planning permission is granted.

James Millar, Solicitor/Committee Services Manager, West Lothian Civic Centre

01506 281613, James.Millar@westlothian.gov.uk

Date: 3 September 2014



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 <u>ESTHER STEWART-BRISSET WARMOD</u>
	Address <u>[REDACTED]</u>	
	Postcode <u>[REDACTED]</u>	
	Telephone No. (1) <u>[REDACTED]</u>	
	Telephone No. (2) <u>[REDACTED]</u>	
	Fax : _____	
	E-mail : _____	
	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.		<input type="checkbox"/>
Do you agree to correspondence regarding your review being sent by e-mail? * YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		

PART B	APPLICANT REF. NO.	_____
	SITE ADDRESS	UNIT 9, TATRAVEN PLACE EAST MAINS IND ESTATE BROXBURN EH52 5LT
	DESCRIPTION OF PROPOSED DEVELOPMENT	SMALL CAFE
	DATE OF APPLICATION	FEB 2014
	DATE OF DECISION NOTICE (IF ANY)	MARCH 2014

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.

Written on separate sheet

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.

	<p>THE COUNCIL'S REFUSED PLANNING ON POINTS THAT WE HOPE WE HAVE NOW ANSWERED ON OUR BACK GROUND / Appeal REPORT WITH THIS FORM.</p>

List of documents and evidence

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.	10x COPIES OF BACK GROUND - Appeal
2.	10x COPIES OF PETITION
3.	10x COPIES OF FOOD + Hygiene (PASS)
4.	10x COPIES OF FIRE SAFETY (VISIT)
5.	10x COPIES OF HEALTH + SAFETY TRAINING
6.	
7.	
8.	
9.	
10.	
11.	
12.	
13.	
14.	

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

<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input type="checkbox"/>

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.

WE HAVE USE MOST OF OUR REDUNDANCY ON
SETTING UP THIS BUSINESS, AND ALSO RECEIVED
A START UP GRANT. SO WE ARE ASKING
THIS TO BE CONSIDERED.

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?

• YES/NO

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

• 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.

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.

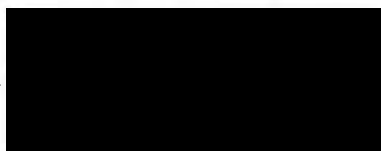
*****DECLARATION*****

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

04/06/14

* 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

Good Food

Great Prices

**THE
PIT STOP
Cafe**

You will find us within:

D.K'S
Valeting Centre

Unit 9, Tartraven Place,
East Mains Ind Estate,
Broxburn, EH52 5LT

Pop in for a Tummy Tune Up!!



THE PIT STOP Cafe

MENU

Hot Rolls

Bacon

Sausage

Egg

Black Pudding

Haggis

Double decker

Cheeseburger

Toasties

Selection of fillings

Salad Rolls

Selection of fillings

Sandwiches

Selection of fillings

Full Breakfast

Extra Toppings Available

Soup of the day

Home Made

Take - Away or Sit - In

Same Prices!

Why not phone in your order? 01506 238 323



Pop in for a Tummy Tune Up!!



**signs
and
graphics**
07986 092 689

All types of signage including:
vehicle and window graphics / shop fronts
illuminated signs / banners / pavement signs
posters / leaflets / flyers
offices 1/2/3 cooper business park, burton lane, broxburn EH15 2SQ



Subject:

Back Ground Report 2014 / Appeal

To Whom It May Concern

30.05.14

Myself (Bridget) and Esther had worked for Vion Halls Broxburn up to February 2013, I had worked for Halls / Grampian Foods & Latterly Vion Foods for over 24 years and Esther had Worked for over 12 years.

We were made redundant having jointly having 36 years in the food processing industry, when we were given notice of the company's intention we both knew that it would be very difficult to seek similar

Employment in this type of industry especially within the local community and also to note that Vion had made over 1700 people redundant which was a significant blow not only to Broxburn / Uphall but to

West Lothian in general, I have also got to stress that over the last five years there has been other companies that have closed for business such as Motorola, NEC, Golden Wonder and Bells Whiskey which

has had a detrimental effect right across the Lothian's and with all these companies closing we knew how difficult it would be to get any kind of employment.

After speaking to business gateway Myself & Bridget had taken it upon ourselves to try something new and try to provide a local service where we seen there was a gap in the market and we opened a shop – café

On the main street in Bathgate, unfortunately this proved to to be unsuccessful and we had no option to close that particular business down after a very short period of time, we believe this was due to being in the wrong

Location and possibly the effects of some bad planning / advice we had obtained prior to opening our 1st business together.

Myself and Esther are very proud individuals and we were prepared for minor setbacks so we decided to reevaluate our business plan and start over again, we had a brief meeting with business gateway again & decided that

We would open another small café within a small garage offering hot and cold foods and beverages, this seemed to be an ideal opportunity for both parties as the garage customers were coming into have their vehicles

Valeted or serviced and there was no seating areas for them to wait so they were just standing around in the wet and cold and we thought that this would be an ideal opportunity to increase our turnover and this also

Offered a benefit to the garage to keep their clients happy and it would also serve for repeat business not only for the garage but would show that we were offering a One Stop Café / Garage which has never been supplied in east mains id estate.

We feel that we are building relationships with the local community and helping bring people together, we have also noticed that ex-colleagues from vion are coming into the café on a day to day basis and we are continually growing Our business and it is refreshing to know that our varied customer base are coming back for all variety of reasons.

We have to strongly indicate that our business is 100% natural and our growth is not down to taking business from the high street but from the industrial estate which does not offer a café but also offers a seated area where they can enjoy their food / beverages in a warm friendly seated area which has never been offered in the estate and we feel that this is the reason why our business is successful and growing, I would also like to point out that our business is within the industrial estate and does not pose a threat from the high way traffic, what it does offer is absolute safety to our walk in customers and the garage customers as it allows them to wait for their vehicles in a 100% safe environment and not standing in the busy street.

On a personal note I would like to state some gratitude to the business gateway staff for their support not only personally but also financially as they gave our business a £1500.00 start-up grant which helped us enormously.

I would also like you to consider some other points

- 1/ We have lived / contributed to the Broxburn community for over 35 years**
- 2/ Our families still reside in the Broxburn area**
- 3/ We have strived to make this business a success without draining West Lothian's Resources**
- 4/ Most importantly we want to work with Broxburn businesses as they are a key factor for our success & failure is not a consideration - We will do everything to comply & Corporate with west Lothian Council**

I hope that the above information we have listed will be enough to support our new venture / adventure for the foreseeable future.

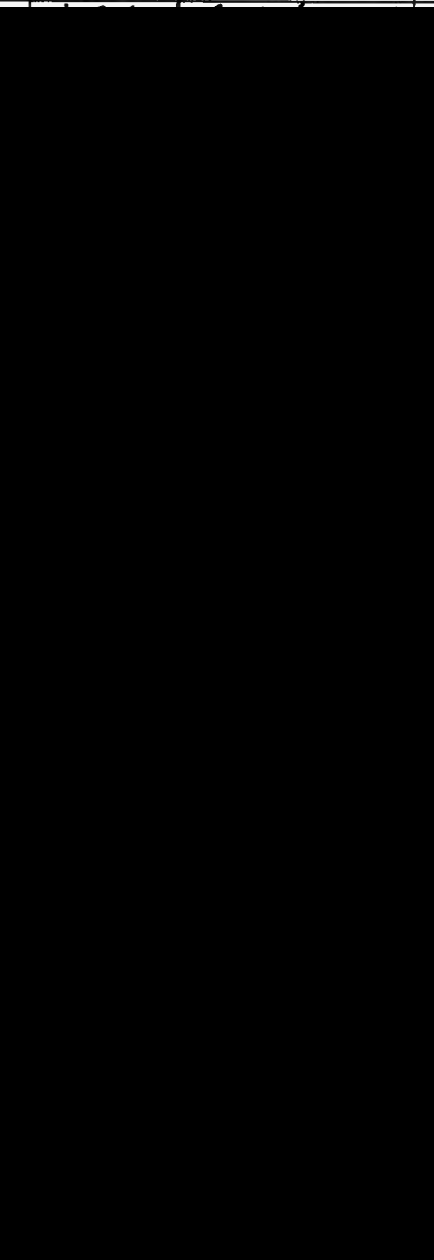
Yours Thankfully

**Bridget / Esther
(Pit Stop Café)**

1

PETITION.

ITSTOP CAFÉ, EAST MAIN IND EST

DATE	NAME	COMPANY/CUSTOMER
20/5/14		CUSTOMER
20/5/14		customer.
20.5.14		customer
20/05/2014		customer
20/05/2014		customer
21.5.2014		CUSTOMER
21/5/14		CUSTOMER
21.5.14		customer
21.5.14		customer
21.5.14		customer
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21.5.14		"
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23.5.14		customer
23.5.14		customer
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23/5/14		"
23/5/14		"

PETITION .. THE USE OF PIT STOP CAFÉ

Kenney cars)



**West Lothian
Council**

Environmental Health & Trading Standards



**Food
Standards
Agency**
food.gov.uk
**Buidheann
Inbhe-Bidhe**

Food *hygiene* *information* scheme

Pit Stop Cafe

PASS

This establishment was inspected by West Lothian Council in accordance
with current food hygiene legislation and passed the inspection on

27 August 2013

12 September 2013

DATE ISSUED

SIGNED ON BEHALF OF THE ISSUING AUTHORITY

You can find out more about the Food Hygiene Information Scheme at <http://www.westlothian.gov.uk/>

This certificate remains the property of the issuing authority, which reserves the right to remove it at any time.

Health and Safety Representative Training

This is to certify that


Bridget Norwood

*Successfully completed the Usdaw
Health and Safety Representative Training Course on*

15 January 2007

The Course discussed:

- Trade Union Attitudes to Health and Safety
- The Role of the Union Health and Safety Representative
- Using Health and Safety and Welfare Legislation
- Carrying Out Workplace Inspections
- Investigating Dangerous Occurrences and Accidents
- Representing Members and Building Workplace Organisation


John Hannett
General Secretary


Jen Broome
President

Udaw
*Union of Shop, Distribution
and Allied Workers*

**Udaw Education
Training for Action**


*Supervisory, Administrative
and Technical Association*



SCOTTISH

FIRE AND RESCUE SERVICE

Working together for a safer Scotland

Scottish Fire and Rescue Service
Service Delivery Area East
76-78 Lauriston Place
Edinburgh EH3 9DE

www.firescotland.gov.uk

The Pit Stop Café
Unit 9, Tartraven Place
East Mains Industrial Estate
Broxburn
EH52 5LT

F.A.O. Esther Stewart

Direct Line 01506 282078
Fax
E-mail fraser.simpson@firescotland.gov.uk
Our Ref BCG/WLWB2/FS/CJ/059/00355
Your Ref
If phoning or
calling ask for Watch Manager Simpson
Date 2nd October 2013

Dear Madam,

FIRE (SCOTLAND) ACT 2005 as amended and THE FIRE SAFETY (SCOTLAND) REGULATIONS 2006

NAME AND ADDRESS OF PREMISES: The Pit Stop Café, Unit 9, Tartraven Place, East
Mains Industrial Estate, Broxburn, EH52 5LT
NAME OF DUTY HOLDER: Esther Stewart
TYPE OF OCCUPANCY: Shop

NOTIFICATION OF FIRE SAFETY DEFICIENCIES

I refer to the fire safety audit of the above mentioned premises carried out on 27th September 2013 by Watch Manager Simpson and would confirm the following.

The existing fire safety measures as audited on the aforesaid date do not appear appropriate to the risk without suitable compensatory measures being in place as assessed with the recommendations and benchmarks contained within the sector specific guidance 'Practical Fire Safety Guidance for Offices, Shop and Similar Premises' published by the Scottish Government.

In order to comply with the above legislation, effect should be given to the under noted matters.

Sections 53, 54

Inadequate Application of the Fire Safety Risk Assessment Process

A fire safety risk assessment is required to be carried out for the premises by a competent person. The outcome of the fire safety risk assessment should be recorded in an easily retrievable manner and available for inspection at all reasonable times where:

- a) Five or more persons are employed; or
- b) A licence or registration under an enactment is required in relation to the relevant premises; or
- c) An alterations notice in terms of Section 65 of the Fire (Scotland) Act 2005 requiring the maintenance of these records is in force in relation to the relevant premises.

Cont'd/...

CJ003096

Acknowledged
20/2/14
HIC

BROXBURN COMMUNITY COUNCIL.

Broxburn Old Town Centre Hall,
26, East Main Street,
Broxburn
West Lothian
EH52 5AE
18th February 2014.

Dear Mr Dods,

Re Planning application: 0003/FUL/14 Change of use to form a Café 9 class 3) (grid ref. 039276 672392) at:-Unit 9, Tartraven Place, East Mains Industrial Estate, Broxburn, EH52 5LT.

We are concerned about several aspects of this application.

- This appears to be a retrospective planning application as the business is trading without any permission and should have been closed until they had.
- We are surprised to read that Business Enterprise, who they say were their advisers, did not inform them of the need for planning permission
- Can a class 3 and a class for Valeting business mix?
- The application is to form a café within a Car Valeting Centre but the plans are inadequate as they are not showing the type of separation/materials that would be built or if it is open as in a half wall etc. to divide the two.
- Section 15 of the planning application. It has been ticked as not required, but they do indeed have to have arrangements for recycling of food storage and waste.
- They also have to have a pest control regime organised.
- There is no report (on the web) from Environmental Health Team regarding this application, and it is required to comment on ventilation, fans, sinks, fridge/freezer, toilets etc. There is also the matter of fumes and pollution from the Valeting business
- Does it comply with Disabled Legislation?
- We wonder if the Fire service or Environmental Health deals with fire precautions due to the close proximity of both businesses.
- We asked the planning officer if SEPA were involved regarding the chemicals used in this type of business but have not had a reply.
- There is not a layout of seating plan or any indication of numbers accommodated.
- There is no indication of access for customers/the public (including vehicle drivers) or parking, regarding safety. This is in the middle of a busy Industrial Estate.

We feel that until these questions and details are supplied we have no option but to object to the aforementioned application.

Yours truly

Dorothy Knox

For and on behalf of Broxburn Community Council

Broxburn Community Council
Broxburn Old Town Centre Hall
26 East main Street
BROXBURN
West Lothian
EH52 5AE
24th June 2014.

FOA. Ms Carol Johnston
Acting Chief Solicitor
West Lothian Civic Centre
Howden Road
Livingston
EH54 6FF

Dear Ms Johnston,

TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2008.

NOTICE OF REVIEW: APPLICATION REFERENCE No 0003/FUL/14 – CHANGE OF USE TO FORM A CAFÉ AT UNIT 9, TARTRAVEN PLACE, EAST MAINS INDUSTRIAL ESTATE, BROXBURN.

We are in agreement with all the reasons for refusal given under delegated powers.

- The change of use of part of an industrial unit within East Mains Industrial Estate (designed for class 4, 5 and 6 uses) to a café. The unit is in the centre of a block of industrial units. It is our understanding that vehicle parking space is allocated to each unit and there could be a shortage if this was opened as a café. There are already ongoing parking/congestion problems for vehicles (especially HGV's) in this estate due to unauthorised parking in the streets.
- Incompatibility of uses: Noted. The proposed use does not comply with the allocated use set out in the WLLP. There is potential for conflict with neighbouring business operations.
- Safety concerns regarding conflict between parking and customers. Noted. The proposed use is one more suited to the town centre where potential conflict between pedestrians and traffic associated with the operations taking place on an industrial estate do not exist. At the time of the original application we believe there were three empty class three food outlets for sale or let in the town centre. Even now, there is one empty and several other shops empty which would be more suited than the Industrial Estate for a café. Competition would have to be looked at by the applicants as there is already a number of eating/café type places in the town of Broxburn. We are concerned that permitting a café within this Industrial Estate would have a detrimental affect on the town centre and set a precedent for West Lothian. There is both a Mobile Food Van, which has served the area for years, and Greggs very close to this site. Ancillary functions are a different matter.

There are several matters that remain to be clarified:

- There is no sign of business or land ownership certificate given for this unit in the application, and thus no permission for change of use from the owner.

- We feel there is still no detail of how chemicals and dirt from the Class 6 area, which is a Vehicle Valet bay, would be prevented from entering the space of a Class 3 area where food is being prepared, served and eaten.
- Section 15 of the application. It has been ticked as not required, but they would surely have to have an arrangement for recycling of food storage and waste. There are currently ongoing issues with seagulls and vermin within the Industrial Estate.
- Environmental Health stated in a letter dated 10th January 2014, but only made available to us on 18th March, that they have no objection to the application. When the EH Officer Paul Couper was contacted on Friday 20th June he informed me that they had done a site visit. The certificate for Health and Hygiene which is displayed on the wall expires in September. Mr Couper could not clarify for me what exactly this certificate or inspection was for - the person or the premises. He did not know what they cooked, how the premises are ventilated as there are no windows in the kitchen or seating area, or whether it was an ancillary function to the garage or a café open to the public. If this certificate has been issued for the premises surely these plans should be available. How can this certificate be issued when change of use has not been granted?
- There is no mention of any provisions for the disabled.

In the Background Appeal letter, of which we have had sight, no material planning conditions are included. The applicants start by stating that this business is there to support the garage and its customers, but they then go on to say that there is an increasing number of people/friends and public visiting the site. They also call it a café on the various notices they have displayed (without consent) by the roadside.

If, at appeal, the officer(s) are minded to approve this application, we at Broxburn Community Council are concerned that, whilst we approve of all support to enable former Vion employees to earn a living or start a business, an approved application could affect change of use problems on all Industrial Sites as it would set a precedent and would be detrimental to the town centre.

In conclusion, we understand the concerns of the applicants and suggest they pursue any grievance they may feel they have with Business Gateway. We are most surprised they did not involve West Lothian Planning Department from the outset. We believe planning have now asked Business Gateway to include them at the outset of any proposed business venture.

Our objection remains unchanged.

Dorothy Knox

For, and on behalf of, Broxburn Community Council.

Subject: Town & Country Planning / Review

9.07.14

Ref: 0003/FUL/14

To Whom It May Concern

The café is mainly used for a takeaway service by local contractors and factory employees from the surrounding business / catchment area, our customers have alternative options by sitting in or takeaway while there vehicle is valeted.

We have had no conflict from any other party or business in the time we have been in business

We did have a town business in 2013 which was a café before we opened our new venture in Broxburn, we spent a considerable amount of our own money opening that business without any profit being made due to large operating costs which exceeded 1000.00 per month & this was only utility.

Regarding the question raised regarding how would the business affect other traders in the industrial estate ? I / We strongly believe that any competition is far enough away to be considered a threat and this comment was cemented by a member of the WLC

Other competitors such as Greggs is a multi-million pound business, I don't think they could have any objection to a small takeaway business with two employees selling general takeaways, and if this is the case I would like to see any formal letter of complaint showing the grievances and concerns being raised.

Please note that permission was applied for from the owner of the garage to open a small takeaway business.

I must stress that our business has no connection financially and is run as a separate business with no interference from both parties

Our customers have options to either sit or takeaway and I would say it is 50/50 which is something the competition are not offering. IE (Heated Dry Seated Area).

Regarding recycling everything is recorded and disposed in the at the local amity site in Broxburn. The environmental officer who dealt initially was a gentleman called Mr Marshall and he was happy in our overall process in waste management. We received several visits to make Sure we complied with everything that we were asked to undertake such as fitting an additional sink & a pet control area. We were also advised to contact the fire brigade and various other departments which we have done and we must stress his guidance has been invaluable.

We have opened the pit stop café to support the garage and give the customer / public a place to sit and wait should they be having their vehicle valeted, however we must stress that our business cannot survive on that alone and we need to extend our business interest and attract local Contractors within the area as well as ex colleagues from the now closed down factory which was Halls and I must stress that this has been a god send not only to our business but to people who just want to have a coffee and a chat due to themselves not managing to find alternative employment In these difficult times.

We also have had a ramp fitted for wheelchair access which was not pointed out however we felt that it was necessary as we do have some customers with severe walking abilities and they like the thought of sitting in the café while having their vehicle valeted.

We hope that our appeal is approved as we are two honest working women not wanting to set the heather alight but just to be given a chance to make an honest living without interference or hindrance from parties thinking that completion is a threat when we are offering different features and benefits that are not being offered since we opened the Pit Stop Café.

I would also like to put on record that the business gateway have been nothing short of brilliant and without their invaluable assistance then this new venture would not have taken off. I am sincerely sorry that some factors are objecting to our little business and I hope that some lenience will be given and we can all look at the bigger picture – Competition Can Be Healthy.

Yours Sincerely

Esther & Bridget (Pit Stop Café)

WEST LOTHIAN COUNCIL LOCAL REVIEW BODY

MEMBERS' CHECKLIST

PART 1 – IDENTIFICATION OF RELEVANT DOCUMENTS, POLICIES AND OTHER CONSIDERATIONS

1	Type of decision being reviewed	
2	Procedural issues from the processing of the Review	
3	New matters not before the Appointed Person when the decision was made	
4	Development Plan policies	
5	Relevant material considerations	
	Emerging development plan (date, stage reached, consultations, provisions)	Other statutory plans and policies (date, provisions, consultations)
	WLC Supplementary Planning Guidance (date, provisions, consultations)	National Government Planning Policy and Guidance
	Views of consultees (statutory, non-statutory)	Objections and other representations
	Planning history	Visual and spatial amenity
	Residential amenity	Public fears/concerns (with a demonstrable and rational basis)
	Others	
6	Considerations <u>not</u> to be taken into account	
7	Factual disputes to be resolved	
8	Conditions required or not, available or not	
9	Requirement for develop contributions, and for what	
10	Requirement for legal agreement for other reasons	

PART 2 – FIRST MEETING PROCEDURAL DECISIONS

1	The legal and other factors to consider	
	National guidance	Preference expressed in the application
2	Need for site visit required, and for what reason	
3	Need for written submissions, and for what reason	
4	Need for a Hearing Session, and for what reason	

5	Pre-examination meeting, and for what reason
6	Other reasons for adjourned first meeting
7	Is there sufficient information to allow the LRB to determine the application, or is an adjourned First Meeting require?

PART 3 – ADJOURNED FIRST MEETING PROCEDURAL DECISIONS

1	Procedures decided on at first meeting and have they been completed
2	New matters raised or new evidence arising
3	Is the LRB now able to determine the review?
4	If not, what further information is needed and how will it be obtained

PART 4 – DETERMINATION OF THE REVIEW

1	Is the development in accordance with the development plan or is it contrary to the plan?	
	The policies it complies with	The policies it breaches
2	Does the development accord with national planning guidance?	
	The guidance it complies with	The guidance it breaches
3	Does the development accord with local planning guidance?	
	The guidance it complies with	The guidance it breaches
4	Relevant material considerations	
	What relevant considerations exist	The weight to give them and how to balance them
5	In applying the statutory test, what is the LRB's decision?	
	Uphold AP's decision, refuse the review application and so refuse planning permission	
	Reverse AP's decision, grant the review application and so grant planning permission	
	Uphold AP's decision in part, vary that decision and so grant planning permission	
	If planning permission to be granted, for what development?	
	If planning permission to be granted, on what conditions, if any	
	Planning reasons for decision	



**West Lothian
Council**

HANDLING REPORT

Ref. No.:	0003/FUL/14	Email:	ranald.dods@westlothian.gov.uk
Case Officer:	Ranald Dods	Tel No.:	01506 282413
Ward:	Broxburn, Uphall and Winchburgh	Member:	Tony Boyle Diane Calder Janet Campbell Alexander Davidson
Title	Change of use to form a cafe (class 3) (grid ref. 309276 672392) at Unit 9, Tartraven Place, East Mains Industrial Estate, Broxburn, EH52 5LT		
Application Type	Local application		
Decision Level	LIST 21/02/2014		
Site Visit	30/01/2014		
Recommendation	refuse permission		
Decision	REFUSAL OF FULL PLANNING PERMISSION		
Neighbour Notification	Neighbour notification procedures have been carried out correctly - case officer verification <u>RD</u>		

Description of proposals

Change of use of an industrial unit within East Mains Industrial Estate (designated for classes 4, 5 and 6 uses) to a cafe. The unit is in the centre of a block of industrial units.

Site history

There is no relevant history associated with this site.

Representations

The application was advertised in the local press and the period for receipt of representations has expired. One letter of objection has been received from Broxburn Community Council and the material grounds are summarised below. The full document is contained in the application file.

Comments	Response
Incompatibility of uses	Noted. The proposed use does not comply with the allocated use set out in the WLLP. There is the potential for a conflict to occur between the proposed use and the operations carried out in units in the immediate vicinity.
Safety concerns regarding conflict between parking and customers	Noted. The proposed use is one more suited for a town centre where the potential conflict between pedestrians and traffic associated with operations taking place on an industrial estate do not exist.

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	none	Noted
Environmental Health	no	none	noted

Policy

Plan	Policy	Assessment	Conform
WLLP	EM6 (uses outwith classes 4, 5 & 6)	Whilst the proposed cafe might serve those within the industrial area, it will undoubtedly serve a wider customer base as well. In terms of serving those in the industrial estate, the applicant has failed to demonstrate that the retention of the premises for use classes 4, 5, and 6 had been explored without success and that the use would not restrict the range of uses which can be carried out by businesses and industry on nearby sites. In particular, there is a potential for conflict with operations being undertaken in adjoining units.	No
WLLP	TC1 (sequential test)	The proposal is for the creation of cafe within an industrial estate. This sort of use is more appropriate for a town centre. As such, in determining a site for such a use, a sequential approach should be adopted. The applicant has not demonstrated that a sequential approach was used in site selection.	No
WLLP	TC12 (town centre uses)	The intended use of the building is one which is appropriate to the town centre rather than an edge of town industrial estate. The site is not in the Broxburn town centre.	No

Assessment

No further assessments were required or undertaken.

Other considerations

The site is not a strategic one and no SESPlan policies apply. Due regard was had to the submitted material representations.

Conclusions and reason for decision

The proposed use as a cafe (class 3) is a use more appropriate to a town centre than an industrial estate. The proposed use has potential to conflict with surrounding uses which would be detrimental to road and pedestrian safety. The applicant has failed to demonstrate that the

proposed cafe would be a direct benefit to those working in the employment area whilst having explored, without success, the retention of the allocated use of the unit. They have further failed to demonstrate that the proposed cafe would not restrict the range of uses which can be carried out by businesses and industry on nearby sites. The applicant has failed to demonstrate that they have undertaken a sequential approach in selecting this site, which lies outwith the town centre.

The proposal is contrary to:

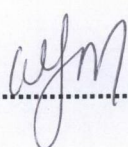
EM6 (uses outwith classes 4, 5 & 6) WLLP;

TC1 (sequential test) WLLP;

TC12 (town centre uses) WLLP.

Case officer 

Date..... 5 MAR 14

Senior officer..... 

Date..... 5/3/14

Development Management Manager..... 

Date..... 5/3

DRAFT DECISION - APPLICATION 0003/FUL/14

- 1 Notwithstanding the permitted development rights ordinarily conveyed by class 3 in Part 3 of Schedule 1 to the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, for a café falling within the definition of Class 3 of the Town and Country Planning (Use Classes) (Scotland) Order 1997, it will not be permissible for the use of these premises to change to Class 1 (shops) or Class 2 (Financial, Professional and Other Services) without the submission and approval of a planning application.

For the avoidance of doubt, any other use which would ordinarily be encompassed by Class 3 of the Town and Country Planning (Use Classes) (Scotland) Order 1997, shall be the subject of a separate application for planning permission.

Reason In order to define the consent and to protect the vitality of the industrial estate.

- 2 The use hereby approved shall be restricted to the following trading hours: 0830 to 1800 hours Monday to Saturday and 1000 to 1800 hours on Sunday.

Reason To protect occupants of adjoining properties from noise / disturbance early in the morning and late in the evening.

Annex 1, schedule of plans

Approved plan 1 of #;
Approved plan 2 of #.

NOTES TO DEVELOPER

Notification of the start of development:

By virtue of section 27A of the Town & Country Planning (Scotland) Act 1997 (as amended), it is a legal requirement that the person undertaking the development gives the planning authority prior written notification of the date on which it is intended to commence the development. Failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken. The notification must include full details of the name and address of the person carrying out the development as well as the owner of the land and must include the reference number of the listed building consent and the date it was granted. If someone is to oversee the work, the name and contact details of that person must be supplied. A form is enclosed with the consent which can be used for this purpose. Failure to provide the above information may lead to enforcement action being taken.

Notification of completion of development:

As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give notice of completion to the planning authority. A form is enclosed with the consent which can be used for this purpose.

Duration of consent:

This planning permission lapses on the expiry of a period of 3 year (beginning with the date on which the permission is granted) unless the development to which the permission relates is begun before that expiry.

Additional consents:

The painting of the frontage of the property or the application of signage will require separate consent. This planning permission confers no rights to apply paint outwith the terms of this consent nor to affix signage to the building.



**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 attached docquetted plan(s).

APPLICATION REFERENCE: 0003/FUL/14

PROPOSAL AND LOCATION: Change of use to form a cafe (class 3) (grid ref. 309276 672392) at Unit 9, Tartraven Place, East Mains Industrial Estate, Broxburn, EH52 5LT

APPLICANT: Pit Stop Cafe
Unit 9
Tartraven Place
East Mains Industrial Estate
Broxburn
EH52 5LT

The above **local application was determined by an officer appointed by the council in accordance with its scheme of delegation**. Please see the guidance 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. Where relevant, this includes the identification of varied plans.

Dated: 05/03/2014

**Chris Norman
Development Management Manager
West Lothian Council
County Buildings
High Street
Linlithgow
EH49 7EZ**

Signature _____

The council in exercise of its powers under the Town and Country Planning (Scotland) Act 1997, as amended, refuses full planning permission for planning application 0003/FUL/14 for the reason(s) set out as follows:

- 1 The proposed use as a cafe (class 3) is a use more appropriate to a town centre than an industrial estate. The proposed use has the potential to conflict with surrounding uses, which would be detrimental to road and pedestrian safety. The applicant has failed to demonstrate that the proposed cafe would be a direct benefit to those working in the employment area. The applicant has failed to demonstrate that they have undertaken a sequential approach in selecting this site, which lies outwith the town centre.

The proposal is contrary to:

EM6 (uses outwith classes 4, 5 & 6) of the West Lothian Local Plan;

TC1 (sequential test) of the West Lothian Local Plan;

TC12 (town centre uses) of the West Lothian Local Plan.

- 2 The applicant has failed to convince the council that there are justifiable reasons to depart from the provisions of the development plan which, by virtue of section 25 of the Town and Country Planning (Scotland) Act 1997, as amended, is to be afforded primacy in decision making.
- 3 By granting planning permission, the council would set an undesirable precedent for other similar developments, the cumulative effect of which would be the gradual erosion of the character and amenity of West Lothian.

Development Management Manager  Date: 05 March 2014
Page 2 of 3

Subject:

Back Ground Report 2014 / Appeal

To Whom It May Concern

30.05.14

Myself (Bridget) and Esther had worked for Vion Halls Broxburn up to February 2013, I had worked for Halls / Grampian Foods & Latterly Vion Foods for over 24 years and Esther had Worked for over 12 years.

We were made redundant having jointly having 36 years in the food processing industry, when we were given notice of the company's intention we both knew that it would be very difficult to seek similar

Employment in this type of industry especially within the local community and also to note that Vion had made over 1700 people redundant which was a significant blow not only to Broxburn / Uphall but to

West Lothian in general, I have also got to stress that over the last five years there has been other companies that have closed for business such as Motorola, NEC, Golden Wonder and Bells Whiskey which

has had a detrimental effect right across the Lothian's and with all these companies closing we knew how difficult it would be to get any kind of employment.

After speaking to business gateway Myself & Bridget had taken it upon ourselves to try something new and try to provide a local service where we seen there was a gap in the market and we opened a shop – café

On the main street in Bathgate, unfortunately this proved to to be unsuccessful and we had no option to close that particular business down after a very short period of time, we believe this was due to being in the wrong

Location and possibly the effects of some bad planning / advice we had obtained prior to opening our 1st business together.

Myself and Esther are very proud individuals and we were prepared for minor setbacks so we decided to reevaluate our business plan and start over again, we had a brief meeting with business gateway again & decided that

We would open another small café within a small garage offering hot and cold foods and beverages, this seemed to be an ideal opportunity for both parties as the garage customers were coming into have their vehicles

Valeted or serviced and there was no seating areas for them to wait so they were just standing around in the wet and cold and we thought that this would be an ideal opportunity to increase our turnover and this also

Offered a benefit to the garage to keep their clients happy and it would also serve for repeat business not only for the garage but would show that we were offering a One Stop Café / Garage which has never been supplied in east mains id estate.

We feel that we are building relationships with the local community and helping bring people together, we have also noticed that ex-colleagues from vion are coming into the café on a day to day basis and we are continually growing Our business and it is refreshing to know that our varied customer base are coming back for all variety of reasons.

We have to strongly indicate that our business is 100% natural and our growth is not down to taking business from the high street but from the industrial estate which does not offer a café but also offers a seated area where they can enjoy their food / beverages in a warm friendly seated area which has never been offered in the estate and we feel that this is the reason why our business is successful and growing, I would also like to point out that our business is within the industrial estate and does not pose a threat from the high way traffic, what it does offer is absolute safety to our walk in customers and the garage customers as it allows them to wait for their vehicles in a 100% safe environment and not standing in the busy street.

On a personal note I would like to state some gratitude to the business gateway staff for their support not only personally but also financially as they gave our business a £1500.00 start-up grant which helped us enormously.

I would also like you to consider some other points

- 1/ We have lived / contributed to the Broxburn community for over 35 years
- 2/ Our families still reside in the Broxburn area
- 3/ We have strived to make this business a success without draining West Lothian's Resources
- 4/ Most importantly we want to work with Broxburn businesses as they are a key factor for our success & failure is not a consideration - We will do everything to comply & Corporate with west Lothian Council

I hope that the above information we have listed will be enough to support our new venture / adventure for the foreseeable future.

Yours Thankfully

Bridget / Esther
(Pit Stop Café)



WEST LOTHIAN COUNCIL LOCAL REVIEW BODY

APPLICATION NO.0135/FUL/14 – CHANGE OF USE FROM OPEN SPACE TO PRIVATE GARDEN GROUND AND ERECTION OF BOUNDARY FENCE (IN RETROSPECT) AT LAND AT 12 GOLF COURSE ROAD, LIVINGSTON

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 the application for review of a decision by the council's Appointed Person. The application is for review of a refusal by the Appointed Person for a change of use from open space to private garden ground and erection of boundary fence (in retrospect) at land t 12 Golf Course Road, Livingston.

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 Notice of Decision by the Appointed Person, dated 24 April 2014
2. The Handling Report by the Appointed Person, dated 24 April 2014
3. Notice of Review, submitted by the Applicant, dated 13 July 2014
4. The following documents were also lodged with the Notice of Review:-
 - A copy of the Decision Notice;
 - A copy of the Handling Report;
 - Comments from Mr & Mrs R & H Armstrong;
 - Evidence of grant of planning permission for a similar development at Barnes Green, Deer Park, Livingston (1096/FUL/07);
 - Photographs showing evidence of fence having been in place in the location previously;
 - Photograph of similar fencing on Golf Course Road;
 - Copy of original planning application form;

- Drawing of location and area for change of use;
- Google map; and
- Land register map.

Two representations were made, one from Mr & Mrs R Armstrong of 9 Golf Course Road, dated 14 March 2014, and one from Lindsays Solicitors on behalf of Mr Walker of 10 Golf Course Road, dated 13 and 14 March 2014. Both parties were advised that the Notice of Review had been received and that they had fourteen days in which to make further representations. Lindsays Solicitors (on behalf of Mr Walker) submitted a further representation, dated 11 August 2014, which was then forwarded to the applicant. However the applicant did not make any further comments on this. All correspondence referred to is copied with the papers.

The applicant has indicated that they would welcome a review of the documents only with no further procedure.

In the review application there are references to other developments where similar changes have been made, and reference to one which is said to have been authorised. Those specific comparators would not have been before the Appointed Person when the decision was taken, and members may wish to consider if that amounts to a new matter which should be allowed to proceed as part of the case.

C DEVELOPMENT PLAN POLICIES AND PLANNING GUIDANCE

Planning permission was refused because the Appointed Person considered that the development would be an unnecessary incursion into an area of woodland strip incorporated as a shelter belt and landscape buffer between housing developments and would set an undesirable precedent for similar incursions into designed and established tree belts. Therefore the application was considered contrary to policy ENV11 and COM2 of the West Lothian Local Plan.

Additionally the applicant had failed to convince the council that there were justifiable reasons to depart from the provisions of the development plan.

The committee's Planning Adviser has indicated that policy HOU9 of the West Lothian Local Plan (residential and visual amenity) may be a consideration in this case. It has not been specifically referred to in the Review Documents.

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.

James Millar, Solicitor/Committee Services Manager, West Lothian Civic Centre
01506 281613, James.Millar@westlothian.gov.uk

Date: 3 September 2014

SM
0135/FUL/14
ACKNOWLEDGED
9/4/14
Com
No
lead

McLaren, Steve

From:
Sent:
To:
Subject:

[REDACTED]
14 March 2014 20:10
McLaren, Steve
Notice of an Application for Planning Permission/ Ref : 0135/FUL/14

Dear sirs,

With reference to the above planning application, we would like to raise the following representations:

1. We were never made aware of the sale of this land by the original owner. Can you clarify why this was never done?
2. The original Development Brief from Livingston Development Corporation provided that "The development area is to be subdivided into a number of separate sites by tree belts which are to be provided by the developer. This is particularly important in areas KW1 (3B) and (3C) which are large prominent sites where tree belts should be suitably sized and located to provide a good level of shelter from prevailing winds and to break down the scale of the development."

Subject to your response on point 1 above, we have no objection to the continuing use of this land as a 'garden' or 'tree belt' but would object if this was a precursor to any request for a change of use to building development.

The reasons for our concern are clear, namely:

- a. Potential blockage of our southerly view;
- b. Lack of road access;
- c. Safety concerns arising from this part of Golf Course Road being the scene of road accidents in the past, including one recent fatality.

We would appreciate your acknowledgement of this representation and we look forward to hearing from you.

Sincerely,

[REDACTED]

Mr McLaren

Thanks for that.

In the circumstances, with a view to protecting the tree belt, Dr Walker would wish his comments to be recorded as an objection.

Please record his address as: c/o Lindsays, Caledonian Exchange, 19a Canning Street, Edinburgh, EH3 8HE.

From: McLaren, Steve [<mailto:Steve.McLaren@westlothian.gov.uk>]

Sent: 14 March 2014 10:20

To: Brian Abrams

Subject: RE: Dr TH Walker 12 Golf Course Road Livingston, Planning Application 0135/FUL/14 - [INTERNAL ONLY]

DATA LABEL: INTERNAL ONLY

Dear Mr Abrams,

My apologies for not being available over the past few days, I have been working to a deadline for providing information on performance to the Scottish Government.

Further to our brief discussion. I have yet to look at the details of the application or visit the site but I will try and answer your questions as best I can at present.

1. There is no Tree Preservation Order on this land therefore there is currently no specific protection for the trees.
2. If planning permission were forthcoming then a condition to protect trees on the site could be imposed. To say at this stage that that will be the case is predetermining the application but it is certainly something which could be considered.
3. If you are enquiring whether public access will be permitted over this land, if it were to be changed to private garden ground then I think the presumption would be that and public access would be severed. I do not think therefore that a condition could be applied allowing public access through what would essentially be private garden ground.
4. Conditions could be used to ensure mature trees are retained or suitable boundary treatment to retain to protect privacy.

I would presume that the comments made are to be taken as an objection to this application and I will treat them as such. In order to record these objections in our back office system I need a full postal address as this allows us to letter objectors on the application status and acknowledge correspondence. In that regard, should I put Dr Walker and his address in the system or an alternative. I look forward to your instruction on this matter.

In respect of the determination process, an application will only be taken to the planning committee if referred by a local councillor or if there are more than 15 objectors. Any application to be refused or which has an objection is placed on a list of recommended decisions. That 'delegated list' is circulated around all councillors on a Friday afternoon and they have the following week to consider if the application should be heard at committee.

Currently, the application will follow the delegated process until such times as there is sufficient information to make a recommendation. I hope this helps in the mean time but please get in touch if you wish to discuss further.

Regards

Steven McLaren
Planning Officer
01506 282404

West Lothian Council
Development Management
And from 16 September 2013 for around 6 months from
Lomond House
2 Beveridge Square
Dedridge
Livingston EH54 6QF

thereafter returning to
County Buildings
High Street
Linlithgow
EH49 7EZ

Development Management will be temporarily located in Lomond House, Beveridge Square, LIVINGSTON EH54 6QF, from Monday 16 September 2013, for what is likely to be a six month period, while County Buildings is renovated. Our telephone numbers and email addresses will not be affected, and any mail received at County Buildings will be automatically redirected to Lomond House.

West Lothian Council is committed to helping local people understand the changes which are being introduced as part of the Welfare Reform programme. Since April 2013, the council has managed Crisis and Community Care Grants through the Scottish Welfare Fund. For more information on eligibility and how to apply visit www.westlothian.gov.uk/welfarereform

The Winter Ready West Lothian campaign aims to inform residents about the steps that have been taken to prepare for winter. An email information service is available. To sign up to the e newsletter visit www.westlothian.gov.uk/email

For more information about our winter campaign please visit www.westlothian.gov.uk/winter

From: Brian Abrams [<mailto:BrianAbrams@lindsays.co.uk>]
Sent: 13 March 2014 22:52
To: McLaren, Steve
Subject: Dr TH Walker 12 Golf Course Road Livingston 0135/FUL/14

Mr McLaren

I am sorry you were unable to respond to the telephone messages I left for you on 11, 12 and 13 March.

I represent Dr Walker and also hold power of attorney for him.

Dr Walker's house at 10 Golf Course Road is separated from that of his neighbour at Number 12 by the tree belt which is the subject of the planning application.

Livingston Development Corporation intended that this tree belt should protect, in perpetuity, the amenity of the owners of houses on this estate. Some years ago, however, LDC sold the tree belt and other land to Muir Homes who, in turn, sold the area between number 10 and number 12 to the owner of number 12, subject, of course, to the title obligation to continue to use it as Open Space, an obligation which is of course of no concern to the Planning Authority.

However, the original intended use is still a matter of concern to the proprietors of properties in the immediate vicinity, who enjoy shelter and visual amenity, as well as the benefits of a habitat for wildlife from the stand of mature trees and shrubs which the applicant now wishes to use as garden

ground, rather than for its current permitted use as open space. As open space, of course, it would have been available for use by the public. As garden ground appropriated to number 12 that may no longer be the case.

Of particular concern to Dr Walker is the continued existence of the trees and shrubs on the land.

The questions/comments which Dr Walker has in relation to the matter comprise:

1. What protection is currently in place to protect the trees etc on this land ?
2. In the event of planning consent being granted for change of use, will the Planning Authority be minded to impose conditions to protect the nature of the tree belt ?
3. Will conditions be imposed to protect the interests of the public who currently benefit from the designation of the land as "open space " ?
4. What steps will be taken by the Planning Authority to protect the amenity of local residents who currently benefit from the shelter, visual amenity and wildlife habitat described above ?

My client would like these concerns to be placed before the Planning Committee when the application comes before it for consideration.

In the meantime, please acknowledge receipt.

Regards

Brian Abrams

Lindsays' head office is at Caledonian Exchange, 19A Canning Street, Edinburgh, EH3 8HE. Offices in Edinburgh, Glasgow, Dundee, Jedburgh and North Berwick. A list of Partners is available for inspection at our offices. For further information visit our website www.lindsays.co.uk.

lindsays



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

Our ref: BA/pl/AB/608/3
Your ref: 0135/FUL/14
Direct line: 0131 656 5778
Email: brianabrams@lindsays.co.uk

11 August 2014

Dear Ms. Johnston

**Dr. T.H Walker,
10 Golf Course Road, Livingston**

Application No. 0135/FUL/14 – Change of Use from public open space to private garden ground and erection of boundary fence at land adjacent to 12 Golf Course Road, Livingston

Further to our recent telephone conversation, I now acknowledge, with thanks, receipt of your letter of 29 July with enclosures.

Given the applicant's stated reasons for requiring the review, I think that it is important to bring to his notice that notwithstanding his reference to only one letter of objection appearing on the planning file, Dr Walker did indeed object through me, my initial e-mail to Steve McLaren of 13 March 20014 having been acknowledged by him by e-mail on 14 March. On 11 April, Mr McLaren wrote to Dr Walker, care of me, formally acknowledging receipt of Dr Walker's representation. Since the applicant appears to be unaware of Dr Walker's objection please confirm that you will now bring Dr Walker's objection to his notice, if you have not done so already, as Mr Gardner believes that the decision to refuse the application is based on "factually incorrect information", i.e. he believes there was only one letter of objection.

As regards the merits of the application Dr Walker's objections stand, particularly in the light of the comments made by Mr McLaren in his e-mail to me of 14 March in which he confirmed that (a) there is no Tree Preservation Order on the land, (b) while, if Planning Permission were forthcoming, a condition to protect trees could be imposed but to say at this stage that such a

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DX: ED25 LP-102 Edinburgh 2
www.lindsays.co.uk

Offices in Edinburgh, Glasgow, Dundee, Jedburgh and North Berwick
Head office: Caledonian Exchange, 19a Canning Street, Edinburgh EH3 8HE
A list of partners' names is available on request

condition would be imposed would be to predetermine the application and (c) that as garden ground, the presumption is that public access would be severed.

Finally, Mr Gardner quotes from an e-mail from Mr and Mrs Armstrong which I think may have caused some confusion. The Armstrong's e-mail is being relied upon by Mr Gardner to support the argument that Mr and Mrs Armstrong do not object to the application for garden use, on the basis that they said that they have no objection to the "continuing use of the land as garden or tree belt". The point of course is that the land is not currently garden. Garden use would be a new use, and therefore a change of use. Clearly, Dr Walker cannot speak for Mr and Mrs Armstrong but he shares their concern that the application may one day be a precursor to an application for development. Dr Walker's view is that there was a clear intention at the outset that the land should be used as tree belt for the protection of the amenity of homes on the Deer Park Development, and he would like to see it remain that way.

Yours sincerely

A handwritten signature in black ink, appearing to read 'B. Abrams', with a stylized flourish at the end.

Brian Abrams
Consultant

Cc. Tom Walker – tom.walker@tinyworled.co.uk

DRAFT CONDITIONS - APPLICATION 0135/FUL/14

- 1 Within 1 month of the date of this decision notice, a landscaping plan shall be submitted for the consideration and written approval of the planning authority. It shall include details of replacement tree planting with plant species, sizes, planting distances and methods of protection.

Once approved, the landscaping proposals shall be implemented in the first planting season following that approval.

Unless otherwise agreed in writing with the planning authority, the new planting shall be maintained in perpetuity and any trees which, following completion of the planting scheme, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species.

Reason To ensure proper implementation of the planting proposals, in the interests of the amenity of the area as a whole and to ensure the re-establishment of the tree belt.

- 2 Unless otherwise agreed in writing with the planning authority, there shall be no sheds, outbuilding, trampolines or any other structure or household garden items located within the site.

Reason To ensure the character of the tree belt is reinstated.

- 3 The fence fronting onto Golf Course Road shall be dark stained within 1 month of the date of this decision notice and maintained in good order at all times to the satisfaction of the planning authority.

Reason In the interest of the visual amenity of the area.



**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 attached docquetted plan(s).

APPLICATION REFERENCE: 0135/FUL/14

PROPOSAL AND LOCATION: Change of use from open space to private garden ground and erection of a boundary fence (in retrospect) (grid ref. 303769 669689) at Land at 12 Golf Course Road, Livingston, EH54 8QF

APPLICANT: Mr D Gardner
12 Golf Course Road
Livingston
EH54 8QF

The above **local application was determined by an officer appointed by the council in accordance with its scheme of delegation**. Please see the guidance 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. Where relevant, this includes the identification of varied plans.

Dated: 24/04/2014

Chris Norman
Development Management Manager
West Lothian Council
County Buildings
High Street
Linlithgow
EH49 7EZ

Signature _____

The council in exercise of its powers under the Town and Country Planning (Scotland) Act 1997 (as amended) refuses full planning permission for planning application 0135/FUL/14, for the reason(s) set out as follows:

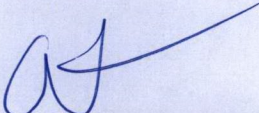
- 1 The development results in the unnecessary incursion into an area of woodland strip incorporated as a shelter belt and landscape buffer between housing developments. It sets an undesirable precedent for similar incursions into designed and established tree belts within the immediate area and the district as a whole, resulting in the long term harm and loss of woodland environment to the detriment of the overall amenity of the area.

The development is therefore contrary to policy ENV11 (woodland and forestry) and COM2 (open space) of the West Lothian Local Plan.

- 2 The applicant has failed to convince the Council that there are justifiable reasons to depart from the provisions of the development plan which by virtue of Section 25 of the Town and Country Planning (Scotland) Act 1997 is to be afforded primacy in decision making.

Annex 1, Schedule of Plans - 0135/FUL/14

	Description	Drawing Number	Docquetted Number
1	Location plan	-	1 of 3
2	Are for change of use	-	2 of 3
3	Annotated aerial view	-	3 of 3


Development Management Manager  Date: 24 April 2014
Page 2 of 2



**West Lothian
Council**

HANDLING REPORT

Ref. No.:	0135/FUL/14	Email:	steve.mclaren@westlothian.gov.uk
Case Officer:	Steven McLaren	Tel No.:	01506 282404
Ward:	Livingston North	Member:	Robert De Bold Anne McMillan Andrew Miller Angela Moohan

Title	Change of use from open space to private garden ground and erection of a boundary fence (in retrospect) (grid ref. 303769 669689) at Land at 12 Golf Course Road, Livingston, EH54 8QF
Application Type	Local Application
Decision Level	LIST 11/04/2014
Site Visit	<u>08/04/2014</u>
Recommendation	refuse permission
Decision	REFUSAL OF FULL PLANNING PERMISSION
Neighbour Notification	Neighbour notification procedures have been carried out correctly - case officer verification <u></u>

Description of Proposals

The proposal is to incorporate an area of tree belt within private garden ground and the construction of a fence (in retrospect).

Site History

There have been no previous applications on this site.

Representations

The application was advertised in the local press and the period for receipt of representations has expired. 2 letters of objection have been received which are summarised below; This is a summary of the representations received. The full documents are contained in the application file.

Comments	Response
Loss of trees. Loss of habitat. Land never intend to be used as garden ground. Loss of privacy.	Noted. The removal of trees from the site impacts on the amenity and character of the area resulting in an undesirable precedent for other areas of the tree belt. There is an existing high hedge on the western boundary of the site which provides privacy to neighbouring properties.

Consultations

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

Consultee	Objection?	Comments	Planning Response
Neighbourhood Environment Teams (NETS)			No response received.

Policy

Plan	Policy	Assessment	Conform
West Lothian Local Plan	COM2 - Protection of Open Space Proposals which will result in the loss of urban sports and recreation facilities, or formal and informal open space, will be resisted. These spaces include parks and formal gardens, wildlife habitats, civic spaces and allotments. Proposals to develop or change the use of open space areas will be assessed against the following criteria: a. a locational justification for the development; b. the importance of the open space for recreation or amenity; c. disturbance and loss of trees, woodlands and wildlife habitats or green corridors; and d. the availability and accessibility of alternative suitable open space, including the suitability of any replacement provision proposed by a developer.	There is no locational justification for the development given that the area of land forms part of a larger woodland strip and the use of this land as garden ground would set an undesirable precedent. Trees have been removed from the site to the detriment of the character of the area.	No

West Lothian Local Plan	<p>ENV11 - Development Affecting Woodland</p> <p>There will be a presumption against development affecting woodlands and trees unless there is a proven locational need and where a sustainable environmental gain through replacement and additional tree planting appropriate to the area is provided.</p>	There is no proven locational need for this development which sets an undesirable precedent for the loss of trees within the remainder of the woodland strip.	No
-------------------------	--	---	----

Assessment

The application has been assessed on its merits and in line with the policies above.

Other Considerations

Consideration has been given to the condition of the site as it stands and whilst it has been degraded by the removal of trees, although not necessarily by the current owner, the principle of the use of the land is called into question and the impact similar developments may have on the wider environmental infrastructure either put in place or retained during the development of adjacent land.

Conclusions and Reason for Decision

The application site forms the northern tip of an established tree belt which runs approximately north to south for approximately 100m between properties off Golf Course Road, Nicklaus Green and Sarazen Green. Some clearing of the site had previously taken place, possibly by the previous owners, and the land in question now contains few trees. Whilst the quality of the tree belt has been degraded, the principle of taking sections of shelter belt into garden ground has to be considered. The hedging to the front of the site adjacent to the footpath has been replaced with a timber fence and a low level fence has been constructed on two boundaries within the site to delineate land ownership. The applicant has not as yet removed or altered the existing 1.8m high boundary fence and as such the area of tree belt is still self contained. By allowing areas such as this to become incorporated into garden ground will result in the long term degradation of shelter belts between developments and set an undesirable precedent for other similar proposals within Livingston and West Lothian as a whole. The proposals are contrary to the following policies of the West Lothian Local Plan and recommendation is to refuse planning permission and seek an enforcement mandate for the re-planting of the site.

ENV11 (woodland and forestry)
COM2 (open space)

Case Officer

Date..... 24/4/14

Senior Officer.....

Date..... 24/4/14

Development Management Manager.....

Date.....

WEST LOTHIAN COUNCIL LOCAL REVIEW BODY

MEMBERS' CHECKLIST

PART 1 – IDENTIFICATION OF RELEVANT DOCUMENTS, POLICIES AND OTHER CONSIDERATIONS

1	Type of decision being reviewed	
2	Procedural issues from the processing of the Review	
3	New matters not before the Appointed Person when the decision was made	
4	Development Plan policies	
5	Relevant material considerations	
	Emerging development plan (date, stage reached, consultations, provisions)	Other statutory plans and policies (date, provisions, consultations)
	WLC Supplementary Planning Guidance (date, provisions, consultations)	National Government Planning Policy and Guidance
	Views of consultees (statutory, non-statutory)	Objections and other representations
	Planning history	Visual and spatial amenity
	Residential amenity	Public fears/concerns (with a demonstrable and rational basis)
	Others	
6	Considerations <u>not</u> to be taken into account	
7	Factual disputes to be resolved	
8	Conditions required or not, available or not	
9	Requirement for develop contributions, and for what	
10	Requirement for legal agreement for other reasons	

PART 2 – FIRST MEETING PROCEDURAL DECISIONS

1	The legal and other factors to consider	
	National guidance	Preference expressed in the application
2	Need for site visit required, and for what reason	
3	Need for written submissions, and for what reason	
4	Need for a Hearing Session, and for what reason	

5	Pre-examination meeting, and for what reason
6	Other reasons for adjourned first meeting
7	Is there sufficient information to allow the LRB to determine the application, or is an adjourned First Meeting require?

PART 3 – ADJOURNED FIRST MEETING PROCEDURAL DECISIONS

1	Procedures decided on at first meeting and have they been completed
2	New matters raised or new evidence arising
3	Is the LRB now able to determine the review?
4	If not, what further information is needed and how will it be obtained

PART 4 – DETERMINATION OF THE REVIEW

1	Is the development in accordance with the development plan or is it contrary to the plan?	
	The policies it complies with	The policies it breaches
2	Does the development accord with national planning guidance?	
	The guidance it complies with	The guidance it breaches
3	Does the development accord with local planning guidance?	
	The guidance it complies with	The guidance it breaches
4	Relevant material considerations	
	What relevant considerations exist	The weight to give them and how to balance them
5	In applying the statutory test, what is the LRB's decision?	
	Uphold AP's decision, refuse the review application and so refuse planning permission	
	Reverse AP's decision, grant the review application and so grant planning permission	
	Uphold AP's decision in part, vary that decision and so grant planning permission	
	If planning permission to be granted, for what development?	
	If planning permission to be granted, on what conditions, if any	
	Planning reasons for decision	



WEST LoTHIAN COUNCIL

17 JUL 2014

COMMITTEE SERVICES

FOR OFFICIAL USE ONLY

Reference No :
Date of Receipt :

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: Donald Gardner
		Address: 12 Golf Course Road
		Livingston
		Postcode EH54 8QF
		Telephone No. (1) [REDACTED]
		Telephone No. (2) [REDACTED]
		Fax : _____
		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.		<input type="checkbox"/>
Do you agree to correspondence regarding your review being sent by e-mail? * YES		

PART B	APPLICANT REF. NO.	0135 / FUL / 14
	SITE ADDRESS	Adjacent to 12 Golf Course Road, Livingston, EH54 8QF. Grid Ref 303769 669689
	DESCRIPTION OF PROPOSED DEVELOPMENT	Change of use from open space (tree belt) to private garden ground and erection of a boundary fence to Golf Course Road (in retrospect)
	DATE OF APPLICATION	19 February 2014
	DATE OF DECISION NOTICE (IF ANY)	24 April 2014

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"/>

<p>Statement of reasons and matters to be raised</p> <p>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.</p>	
<p>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. <u>You may also submit additional documentation with this form of which ten copies must be provided.</u></p>	
<p>The stated reason for refusal is that the proposed change of use "sets an undesirable precedent" (reference document 1 - Decision). However, the precedent for change of use from tree belt to garden ground with the Deer Park area has already been established (reference document 4 - Planning Application 1096/FUL/O7). It is therefore difficult to understand why this application was refused when a similar earlier application in the same area had been approved.</p> <p>In reading the handling report (reference document 2) for the application, it is stated that there were 2 letters of objection, however only one of these appears in the planning file. This letter (reference document 3: General Comment – Email from R & H Armstrong) states "no objection to the continuing use of the land as a garden or tree belt but would object if this was a precursor to any request for a change of use to building development" – in other words, there is no objection to the proposed application.</p> <p>It is therefore believed that the decision to refuse the application is based on factually incorrect information contained within the handling report</p> <p>The area of land in question does not provide any through access to other areas. The intention of the applicant is to retain the area as a wild space and we would therefore be happy to accept any additional conditions to ensure the area is maintained as such.</p> <p>With reference to the second part of the application, namely the erection of a fence in retrospect, attention is drawn to the evidence of a prior fence (reference document 5) in the same location. This earlier fence had disappeared before the current ownership of 12 Golf Course Road so nothing is known beyond the evidence provided. There is however precedent of a similar fence to that applied for at the west end of Golf Course Road at the junction of Nicklaus Green (reference document 6).</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>	
<p>Have you raised any matters which were not before the appointed officer at the time the determination on your application was made?</p>	<p>NO</p>

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.

List of documents and evidence

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.	Decision
2.	Handling Report
3.	General Comment – Email from R and H Armstrong
4.	1096FUL07 Barnes Green
5.	Photographs showing evidence of earlier fence
6.	Street View Photograph of Similar Fence on Golf Course Road
7.	Application Form
8.	Drawing-Area for Change of Use
9.	Google Map
10.	OS Map
11.	
12.	
13.	
14.	

PART D	<p>REVIEW PROCEDURE</p> <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 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.</p> <p>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.</p> <table style="width: 100%; margin-top: 10px;"> <tr> <td style="width: 80%;">Further written submissions</td> <td style="width: 20%; text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>Hearing sessions(s)</td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>Site inspection</td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>Assessment of review documents only, with no further procedure</td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> </tr> </table> <p>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.</p> <div style="border-bottom: 1px solid black; height: 15px; margin-top: 5px;"></div> <div style="border-bottom: 1px solid black; height: 15px; margin-top: 5px;"></div> <div style="border-bottom: 1px solid black; height: 15px; margin-top: 5px;"></div> <div style="border-bottom: 1px solid black; height: 15px; margin-top: 5px;"></div> <div style="border-bottom: 1px solid black; height: 15px; margin-top: 5px;"></div> <div style="border-bottom: 1px solid black; height: 15px; margin-top: 5px;"></div>	Further written submissions	<input type="checkbox"/>	Hearing sessions(s)	<input type="checkbox"/>	Site inspection	<input type="checkbox"/>	Assessment of review documents only, with no further procedure	<input checked="" type="checkbox"/>
Further written submissions	<input type="checkbox"/>								
Hearing sessions(s)	<input type="checkbox"/>								
Site inspection	<input type="checkbox"/>								
Assessment of review documents only, with no further procedure	<input checked="" type="checkbox"/>								
SITE INSPECTION	<p>The Local Review Body may decide to inspect the land which is subject to the review.</p> <table style="width: 100%; margin-top: 10px;"> <tr> <td style="width: 80%;">Can the site be viewed entirely from public land?</td> <td style="width: 20%; text-align: center;"><input checked="" type="checkbox"/> YES</td> </tr> <tr> <td>Is it possible for the site to be accessed safely, and without barriers to entry?</td> <td style="text-align: center;"><input checked="" type="checkbox"/> NO</td> </tr> </table> <p>If you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain why that may be the case.</p>	Can the site be viewed entirely from public land?	<input checked="" type="checkbox"/> YES	Is it possible for the site to be accessed safely, and without barriers to entry?	<input checked="" type="checkbox"/> NO				
Can the site be viewed entirely from public land?	<input checked="" type="checkbox"/> YES								
Is it possible for the site to be accessed safely, and without barriers to entry?	<input checked="" type="checkbox"/> NO								
	<p>On the boundary of the site and Golf Course Road there is a substantial thorny growth, which together with the fence for which planning is being applied for prevents access to the site. It is possible to view the site from the west corner of site and Golf Course Road</p>								

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.								
	<table border="1"> <tr> <td>Full completion of all parts of this form</td> <td>X</td> </tr> <tr> <td>Statement of your reasons for requiring a review and matters to be raised</td> <td>X</td> </tr> <tr> <td>Statement of your preferred procedure</td> <td>X</td> </tr> <tr> <td>All documents, materials and evidence which you intend to rely on. Copies must accompany this notice.</td> <td>X</td> </tr> </table>	Full completion of all parts of this form	X	Statement of your reasons for requiring a review and matters to be raised	X	Statement of your preferred procedure	X	All documents, materials and evidence which you intend to rely on. Copies must accompany this notice.	X
	Full completion of all parts of this form	X							
	Statement of your reasons for requiring a review and matters to be raised	X							
Statement of your preferred procedure	X								
All documents, materials and evidence which you intend to rely on. Copies must accompany this notice.	X								
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.									

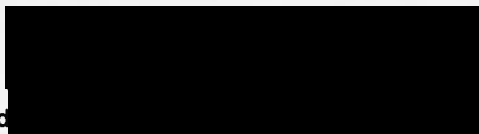
*****DECLARATION*****

I, the applicant, 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: 13 July 2014

* 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



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 attached docquetted plan(s).

APPLICATION REFERENCE: 0135/FUL/14

PROPOSAL AND LOCATION: Change of use from open space to private garden ground and erection of a boundary fence (in retrospect) (grid ref. 303769 669689) at Land at 12 Golf Course Road, Livingston, EH54 8QF

APPLICANT: Mr D Gardner
12 Golf Course Road
Livingston
EH54 8QF

The above local application was determined by an officer appointed by the council in accordance with its scheme of delegation. Please see the guidance 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. Where relevant, this includes the identification of varied plans.

Dated: 24/04/2014

Chris Norman
Development Management Manager
West Lothian Council
County Buildings
High Street
Linlithgow
EH49 7EZ

Signature _____

The council in exercise of its powers under the Town and Country Planning (Scotland) Act 1997 (as amended) refuses full planning permission for planning application 0135/FUL/14, for the reason(s) set out as follows:

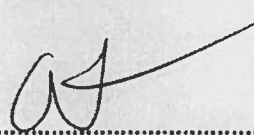
- 1 The development results in the unnecessary incursion into an area of woodland strip incorporated as a shelter belt and landscape buffer between housing developments. It sets an undesirable precedent for similar incursions into designed and established tree belts within the immediate area and the district as a whole, resulting in the long term harm and loss of woodland environment to the detriment of the overall amenity of the area.

The development is therefore contrary to policy ENV11 (woodland and forestry) and COM2 (open space) of the West Lothian Local Plan.

- 2 The applicant has failed to convince the Council that there are justifiable reasons to depart from the provisions of the development plan which by virtue of Section 25 of the Town and Country Planning (Scotland) Act 1997 is to be afforded primacy in decision making.

Annex 1, Schedule of Plans - 0135/FUL/14

	Description	Drawing Number	Docquetted Number
1	Location plan	-	1 of 3
2	Are for change of use	-	2 of 3
3	Annotated aerial view	-	3 of 3


Development Management Manager  Date: 24 April 2014



West Lothian
Council

HANDLING REPORT

Ref. No.:	0135/FUL/14	Email:	steve.mclaren@westlothian.gov.uk
Case Officer:	Steven McLaren	Tel No.:	01506 282404
Ward:	Livingston North	Member:	Robert De Bold Anne McMillan Andrew Miller Angela Moohan

Title	Change of use from open space to private garden ground and erection of a boundary fence (in retrospect) (grid ref. 303769 669689) at Land at 12 Golf Course Road, Livingston, EH54 8QF
Application Type	Local Application
Decision Level	LIST 11/04/2014
Site Visit	08/04/2014
Recommendation	refuse permission
Decision	REFUSAL OF FULL PLANNING PERMISSION
Neighbour Notification	Neighbour notification procedures have been carried out correctly - case officer verification 

Description of Proposals

The proposal is to incorporate an area of tree belt within private garden ground and the construction of a fence (in retrospect).

Site History

There have been no previous applications on this site.

Representations

The application was advertised in the local press and the period for receipt of representations has expired. 2 letters of objection have been received which are summarised below; This is a summary of the representations received. The full documents are contained in the application file.

Comments	Response
Loss of trees. Loss of habitat. Land never intend to be used as garden ground. Loss of privacy.	Noted. The removal of trees from the site impacts on the amenity and character of the area resulting in an undesirable precedent for other areas of the tree belt. There is an existing high hedge on the western boundary of the site which provides privacy to neighbouring properties.

Consultations

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

Consultee	Objection?	Comments	Planning Response
Neighbourhood Environment Teams (NETS)			No response received.

Policy

Plan	Policy	Assessment	Conform
West Lothian Local Plan	COM2 - Protection of Open Space Proposals which will result in the loss of urban sports and recreation facilities, or formal and informal open space, will be resisted. These spaces include parks and formal gardens, wildlife habitats, civic spaces and allotments. Proposals to develop or change the use of open space areas will be assessed against the following criteria: a. a locational justification for the development; b. the importance of the open space for recreation or amenity; c. disturbance and loss of trees, woodlands and wildlife habitats or green corridors; and d. the availability and accessibility of alternative suitable open space, including the suitability of any replacement provision proposed by a developer.	There is no locational justification for the development given that the area of land forms part of a larger woodland strip and the use of this land as garden ground would set an undesirable precedent. Trees have been removed from the site to the detriment of the character of the area.	No

West Lothian Local Plan	<p>ENV11 - Development Affecting Woodland</p> <p>There will be a presumption against development affecting woodlands and trees unless there is a proven locational need and where a sustainable environmental gain through replacement and additional tree planting appropriate to the area is provided.</p>	There is no proven locational need for this development which sets an undesirable precedent for the loss of trees within the remainder of the woodland strip.	No
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Assessment

The application has been assessed on its merits and in line with the policies above.

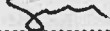
Other Considerations

Consideration has been given to the condition of the site as it stands and whilst it has been degraded by the removal of trees, although not necessarily by the current owner, the principle of the use of the land is called into question and the impact similar developments may have on the wider environmental infrastructure either put in place or retained during the development of adjacent land.


Conclusions and Reason for Decision

The application site forms the northern tip of an established tree belt which runs approximately north to south for approximately 100m between properties off Golf Course Road, Nicklaus Green and Sarazen Green. Some clearing of the site had previously taken place, possibly by the previous owners, and the land in question now contains few trees. Whilst the quality of the tree belt has been degraded, the principle of taking sections of shelter belt into garden ground has to be considered. The hedging to the front of the site adjacent to the footpath has been replaced with a timber fence and a low level fence has been constructed on two boundaries within the site to delineate land ownership. The applicant has not as yet removed or altered the existing 1.8m high boundary fence and as such the area of tree belt is still self contained. By allowing areas such as this to become incorporated into garden ground will result in the long term degradation of shelter belts between developments and set an undesirable precedent for other similar proposals within Livingston and West Lothian as a whole. The proposals are contrary to the following policies of the West Lothian Local Plan and recommendation is to refuse planning permission and seek an enforcement mandate for the re-planting of the site.

ENV11 (woodland and forestry)
COM2 (open space)

Case Officer 

Date..... 24/4/14

Senior Officer..... 

Date..... 24/4/14

Development Management Manager..... 

Date..... _____

SM
0135/FUL/14

COM1
NO
LOW

McLaren, Steve

ACKNOWLEDGED

9/4/14

From:
Sent:
To:
Subject:

14 March 2014 20:10
McLaren, Steve
Notice of an Application for Planning Permission/ Ref : 0135/FUL/14

Dear sirs,

With reference to the above planning application, we would like to raise the following representations:

1. We were never made aware of the sale of this land by the original owner. Can you clarify why this was never done?
2. The original Development Brief from Livingston Development Corporation provided that "The development area is to be subdivided into a number of separate sites by tree belts which are to be provided by the developer. This is particularly important in areas KW1 (3B) and (3C) which are large prominent sites where tree belts should be suitably sized and located to provide a good level of shelter from prevailing winds and to break down the scale of the development."

Subject to your response on point 1 above, we have no objection to the continuing use of this land as a 'garden' or 'tree belt' but would object if this was a precursor to any request for a change of use to building development.

The reasons for our concern are clear, namely:

- a. Potential blockage of our southerly view;
- b. Lack of road access;
- c. Safety concerns arising from this part of Golf Course Road being the scene of road accidents in the past, including one recent fatality.

We would appreciate your acknowledgement of this representation and we look forward to hearing from you.

Sincerely,

[Redacted signature block]

[You are here: Home » Planning and the environment » Planning and Building Standards » Search Applications](#)

Services

Planning and Building
Standards

Search Applications

Case File

Comment On Application

Application Type: PLANNING

Development: Change of use from tree belt to private garden ground

Location: LAND AT REAR OF 26, 27, 28, 29 & 30 BARNES GREEN, DEER PARK, LIVINGSTON

Application No: 1096/FUL/07

Registration date: 21 Nov 2007

Ward: Livingston North

Decision date: 07 Feb 2008

Case Officer: James Wright

Decision Type: Grant Conditional Permission

Applicant: Mr & Mrs Holton
27 BARNES GREEN DEER PARK
LIVINGSTON

Agent: 27 BARNES GREENDEER
PARKLIVINGSTON



Drawings can be large files. We recommend that you click on the "thumbnail" links. The quality of the image depends on the quality of the original submission.

Date published *	Document Type	View	Description
26 Nov 2007	Application Form	Whole Doc / Thumbnails	PLANNING APPLICATION



Evidence of earlier fence between Golf Course
Road and Site (2 separate locations)

6 Street View Photograph Of Similar Fence On Golf Course Road



Steve

Application for planning permission

Town and Country Planning (Scotland) Act 1997 as amended

Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008

West Lothian
Council

Planning Services Development Management

Please refer to the accompanying guidance notes when completing this application form

1 Applicant's details (mandatory)

Name	DONALD GARDNER		
Company	-		
Address	12 GOLF COURSE ROAD LIVINGSTON		
Postcode	EH54 8QF		
Telephone		Fax	-
Email			

2 Agent's details (if applicable)

Name			
Company			
Address			
Postcode			
Telephone		Fax	
Email			

3 Address or location of proposed development (please include postcode)

Address	AREA OF LAND ADJACENT TO 12 GOLF COURSE ROAD (WEST SIDE) OWNED BY OWNERS OF 12 GOLF COURSE ROAD
Postcode	EH54 8QF.

4 What are you applying for?

Please select one of the following:

☒ Planning permission

Planning permission in principle

☐ Renewal of temporary permission*

☐ Modification, variation or removal of a planning condition*

☐ Application for approval, consent or agreement required by a condition imposed on a grant of planning permission

* Please give the reference number of the previous application and the date when permission was granted.

Reference number
(if this applies)

Date of consent

5 Site history

Have there been any previous applications on this site? ☐ Yes ☒ No

If yes, please give the reference number(s), if known, and any other relevant details.

Ref no(s).

Details

6 Description of the proposal

Please describe the proposal, including any change of use.

1. APPLICATION FOR RETROSPECTIVE PLANNING PERMISSION FOR A FENCE WHAT IS DEEMED TO BE AN OPEN PUBLIC AREA ADJACENT TO 12 GOLF COURSE ROAD. FENCE HEIGHT TO BE 1M
2. CHANGE OF USE OF THE AREA ADJACENT TO 12 GOLF COURSE ROAD TO GARDEN CHANGE OF USE FROM OPEN SPACE TO PRIVATE GARDEN GROUND AND RECEPTION

Are you applying for temporary permission? ☐ Yes ☒ No (OF A BOUNDARY FENCE IN RETROSPECT)

If yes, please state how long the permission is required and why. (GRO REF. 303769 669 689)

What is the present or most recent use of the site/building?

TREE BELT

7 Has work started or is it complete?

Have the works been started or completed? ☒ Yes ☐ No

If yes, please give the start date and completion date, if applicable.

DEC 2013 - FENCE ERECTED

If yes, please explain why work has already taken place in advance of making this application.

I WAS UNAWARE OF THE NEED FOR PLANNING PERMISSION.
REFERENCE LETTER ENF/0002/14

8 Pre-application consultation / discussion

Have you had pre-application discussions with the council in relation to this process? ☒ Yes ☐ No

If yes, please provide details about the discussion below.

In what format was the correspondence given?

☒ Meeting ☒ Telephone call ☐ Letter ☒ Email

Please provide a summary of the discussion you had and who it was with.

Name MARTIN COSTELLO & ESME CLELLAND

Date 24 - 30 JANUARY 2014

Summary of discussion

I ACKNOWLEDGED FENCE WAS TOO HIGH & BREACHED RULES (IN MAX HEIGHT)
IT WAS EXPLAINED THAT SINCE LAND WAS DESIGNATED OPEN, HOUSEHOLDER
CLASS 3E RIGHTS DID NOT APPLY AND THAT AN APPLICATION WAS REQUIRED
FOR THE FENCE.

I WAS ALSO ADVISED THAT A CHANGE OF USE APPLICATION COULD BE
SUBMITTED AS PART OF SAME APPLICATION.

9 Size of land to which the proposed relates

Please state the site area

Hectares (ha) 0.028 ha

Square metres (sq.m.)

10 Existing use

Please describe the current or most recent use of the land or buildings on the site

TREE BELT.

11 Access and parking

Are you proposing a new or altered vehicle access to or from a public road? Yes ☒ No

If yes, please show in your drawings the position of any existing, altered or new access and explain the changes you propose to make. You should also show existing footpaths and note any impact on these.

Are you proposing any changes to public paths, public rights of way or affecting any public rights of access? Yes ☒ No

If yes, please show on your drawings the position of any such affected areas and explain the changes you propose to make, including arrangements for continuing or alternative public access.

How many vehicle parking spaces (garaging and open parking) currently exist on the application site?

NONE

How many vehicle parking spaces (garaging and open parking) do you propose on the site?

NONE

Please show on your drawings the position of existing and proposed parking spaces and identify if these are for the use of particular types of vehicles (e.g. parking for disabled people, coaches, HGVs, etc.).

12 Water supply and drainage arrangements

Will your proposals require new or altered water supply or drainage arrangements? ☐ Yes ☒ No

Are you proposing to connect to the public drainage network (e.g. to an existing sewer)?

- ☐ Yes, connecting to public drainage network
- ☐ No, proposing to make private drainage arrangements
- ☒ Not applicable

What private arrangements are you proposing for the new/altered septic tank?

- ☐ Discharge to land via soakaway
- ☐ Discharge to watercourse(s) (including partial soakaway)
- ☐ Discharge to coastal waters
- ☒ Not applicable

What private drainage arrangements are you proposing?

- ☐ Treatment/additional treatment (relates to package sewer treatment plants, or passive sewage treatment such as a reed bed)
- ☐ Other private drainage arrangement (such as chemical toilets or composting toilets)
- ☒ Not applicable

Please show details on your plans and supporting information.

Do your proposals make provision for sustainable drainage of surface water? ☒ Yes ☐ No
(e.g. SUDS arrangements) *Note: Please include details of SUDS arrangements on your plans*

~~CHANGE OF LAND USE TO GARDEN - NO IMPACT ON DRAINAGE.~~

Are you proposing to connect to the public water supply network?

- ☐ Yes
 - ☐ No, a private water supply
- NONE

NO WATER CONNECTION NEEDED

If using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).

13 Assessment of flood risk

Is the site within an area of a known risk of flooding? ☐ Yes ☒ No ☐ Don't know

If the site is within an area of known risk of flooding you may need to submit a flood risk assessment before your application can be determined. A drainage impact assessment may also be required (you may wish to contact the council or the Scottish Environment Protection Agency for advice on what information may be required).

Do you think your proposal may increase the risk of flooding elsewhere?

☐ Yes ☒ No ☐ Don't know

If yes, please explain why work has already taken place in advance of making this application

14 Trees

Are there any trees on or adjacent to the application site? ☒ Yes ☐ No

If yes, please mark on your drawings any trees, known protected trees and their canopy spread and indicate if any are to be cut back or felled.

15 Waste storage and collection

Do the plans incorporate areas to store and aid the collection of waste (including recycling)? ☐ Yes ☒ No

If yes, please provide details and illustrate on plans.

If no, please provide details as to why no provision for refuse/recycling storage is being made:

CHANGE OF USE FROM TREE BELT TO GARDEN, & ERECTION OF FENCE
NO WASTE WILL BE GENERATED

16 Residential units including conversion

Does your proposal include new or additional houses and/or flats? ☐ Yes ☒ No

If yes, how many of each type of unit do you propose?

Please provide full details of the number and types of units on the plans. Additional information may be provided in a supporting statement.

17 For all types of non housing development - new floorspace proposed

Does your proposal alter or create non-residential floorspace?

If yes, please provide details below:

Yes ☐ No ☒

Type of floor space

Gross proposed floorspace (sq. m.)

Number of new or additional rooms

For retail proposals only; please give details of internal floor space:

Net trading space

Gross trading space

Total

18 Data protection

Please note that when you submit a planning application, the information, including the name and address of the application and agent, will appear on the Planning Register, the regulatory List of Current Applications and Pre-Applications, and the weekly list which is circulated. The completed forms and any associated documentation will also be available for public access at the Development Management office and published on the council's website.

Personal and sensitive information, as defined by the Data Protection Act 1998, including personal telephone numbers, signatures, personal email addresses and other information considered to be sensitive under the Act will be redacted from the published information.

19 Declaration

Please check that you have completed all the questions and the land ownership certificate correctly.

You must sign the declaration below to validate the application.

Please note failure to complete these forms may result in a delay in the registration and determination of your application.

I certify that the information given by me in this form is true and accurate to the best of my knowledge. The accompanying plans/drawings, land ownership certificate and additional information are provided as part of this application.

I understand that anyone who knowingly or recklessly makes a false declaration is liable, on conviction, to a fine of currently up to £5,000.

Signature

Name

Date

☐ Please tick the box if the applicant is an elected member or an officer involved in the planning process of West Lothian Council, or is a partner/close friend/relative of either.

FOR OFFICIAL USE ONLY

Fee

£462.00

Receipt

558813

Received by

☒ Cheque

☐ Cash

☐ Postal order

☐ Other

Customers with special requirements

Information is available in **Braille, tape, large print and community languages**. Please contact the **Interpretation and translation** service on **01506 280000**

Text phones offer the opportunity for people with a hearing impairment to access the council. The text phone number is **18001 01506 464427**. A loop system is also available in all offices.

Disabled access: County Buildings is fully accessible to people with mobility difficulties.

Development Management, West Lothian Council,
County Buildings, High Street, Linlithgow, West Lothian EH49 7EZ.

tel 01506 282456 fax 01506 282449 email planning@westlothian.gov.uk web westlothian.gov.uk

Land Ownership Certificate to accompany an application for planning permission

Town and Country Planning (Scotland) Act 1997

Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008

Section 35 Land Ownership Certificate



West Lothian
Council

Planning Services Development Management

If you do not own all of the land or property to which this application relates, you **MUST** notify all owners of the site at the same time as submitting this application. (A form for this purpose can be obtained from the council's Development Management service).

Site address (including postcode)

LAND ADJACENT TO 12 GOLF COURSE ROAD, LIVINGSTON
EH54 8QF

I CERTIFY THAT: (please choose only one option)

- ☒ Twenty one days before the date of this planning application, the applicant owned **ALL** the land to which this application relates.
- ☐ The applicant has given notice to all persons who, twenty one days before the date of this planning application, owned any part of the land which it relates. These are:

Name of owner

Address where notification sent

Date notified

- ☐ The applicant is unable to give notice to every such person (Please set out steps you have taken to ascertain the names and addresses of such persons overleaf).

I FURTHER CERTIFY THAT: (please choose only one option)

- ☒ Twenty one days before the date of this planning application, **NONE** of the land or part of the land to which this application relates, constitutes or forms part of agricultural land;
- ☐ The applicant has given notice to every person (other than the applicant) who, twenty one days before the date of this planning application, was an agricultural tenant on any part of the land to which the application relates. These are:

Name of owner

Address where notification sent

Date notified

- ☐ The applicant is unable to give notice to every such person (Please set out steps you have taken to ascertain the names and addresses of such persons overleaf).

Where necessary, continue on another sheet and attach to this certificate

If you do not know who owns land or who is an agricultural tenant, you **MUST** advise the council. If the council has to publish details of the application in the local press to remedy this, the advertisement cost will have to be paid in full by the applicant.

Steps taken to ascertain land ownership (if appropriate)

1 If any person:

- (a) issues a certificate which purports to comply with any requirement imposed by virtue of this section and contains a statement which he knows to be false or misleading in a material particular, or
- (b) recklessly issue a certificate which purports to comply with any such requirement and contains a statement which is false or misleading in a material particular,

he/she shall be guilty of an offence.

A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level five on the standard scale.

2 In this section:

agricultural holding has the same meaning as in the [1991 c.55.] Agricultural Holdings (Scotland) Act 1991; and **owner** in relation to any land means any person who:

- (a) under the Land Clauses Acts would be enabled to sell and convey the land to the promoters of an undertaking and includes any person entitled to possession of the land as lessee under a lease the unexpired period of which is not less than seven years, or
 - (b) in the case of such applications as may be prescribed by regulations or by a development order, is entitled to an interest in any mineral so prescribed,
- and the reference to the interests in the land to which an application for planning permission relates includes any interest in any mineral in, on or under the land.

3

Proceedings for an offence under this section may be brought at any time within the period of two years following the commission of the offence.

Declaration

☐ Please tick the box if the applicant is an Elected Member, or an officer involved in the planning process, of West Lothian Council, or is a partner/close friend/relative of either

Signed

[Redacted Signature]

Date

18/2/2014

On

behalf of

[Redacted Name]

(If signed by an agent)

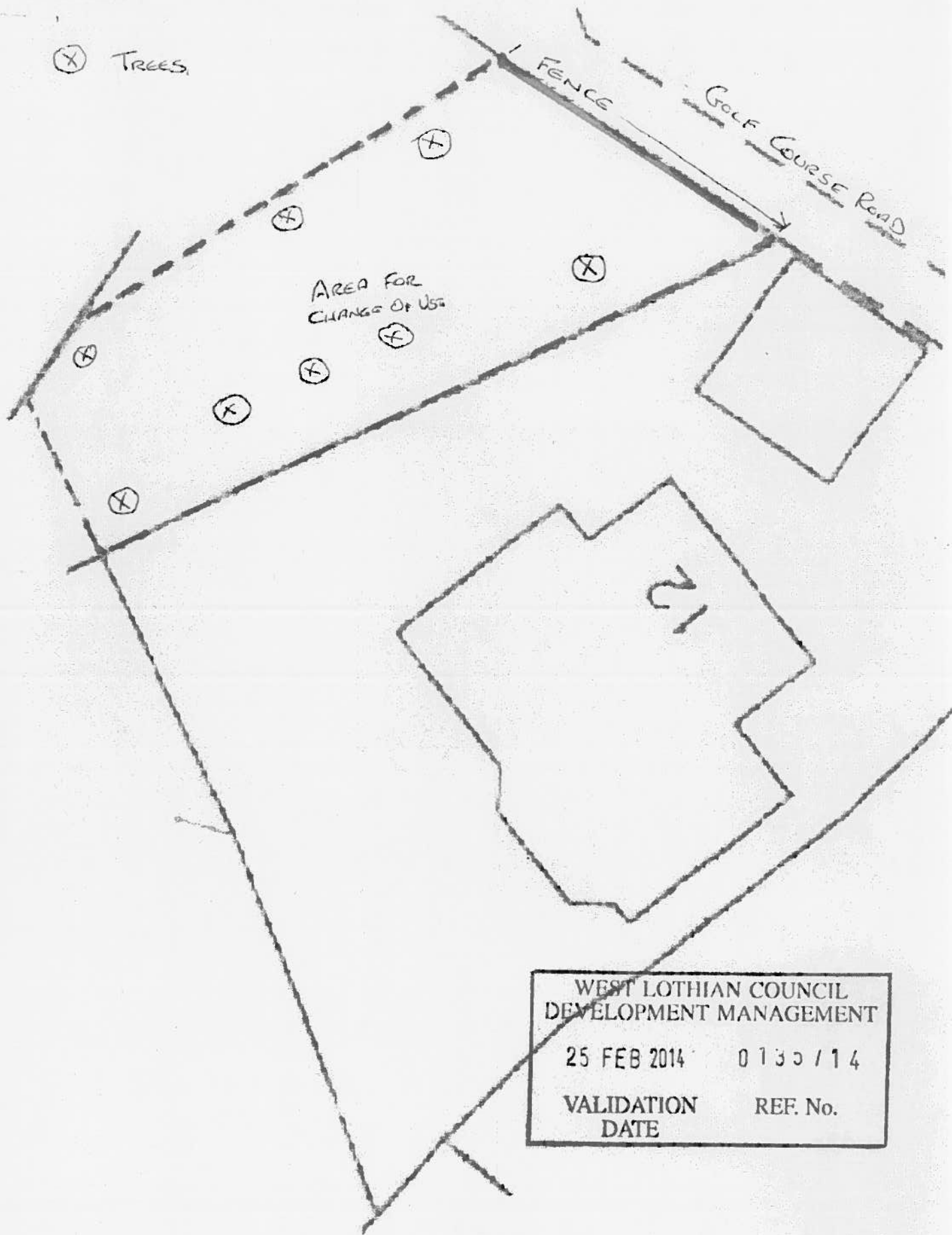
To be returned, signed, with the planning application

Development Management, West Lothian Council,

County Buildings, High Street, Linlithgow, West Lothian EH49 7EZ.

tel 01506 282456 fax 01506 282449 email planning@westlothian.gov.uk web westlothian.gov.uk

8 DRAWING - AREA FOR CHANGE OF USE



WEST LoTHIAN COUNCIL
DEVELOPMENT MANAGEMENT

25 FEB 2014

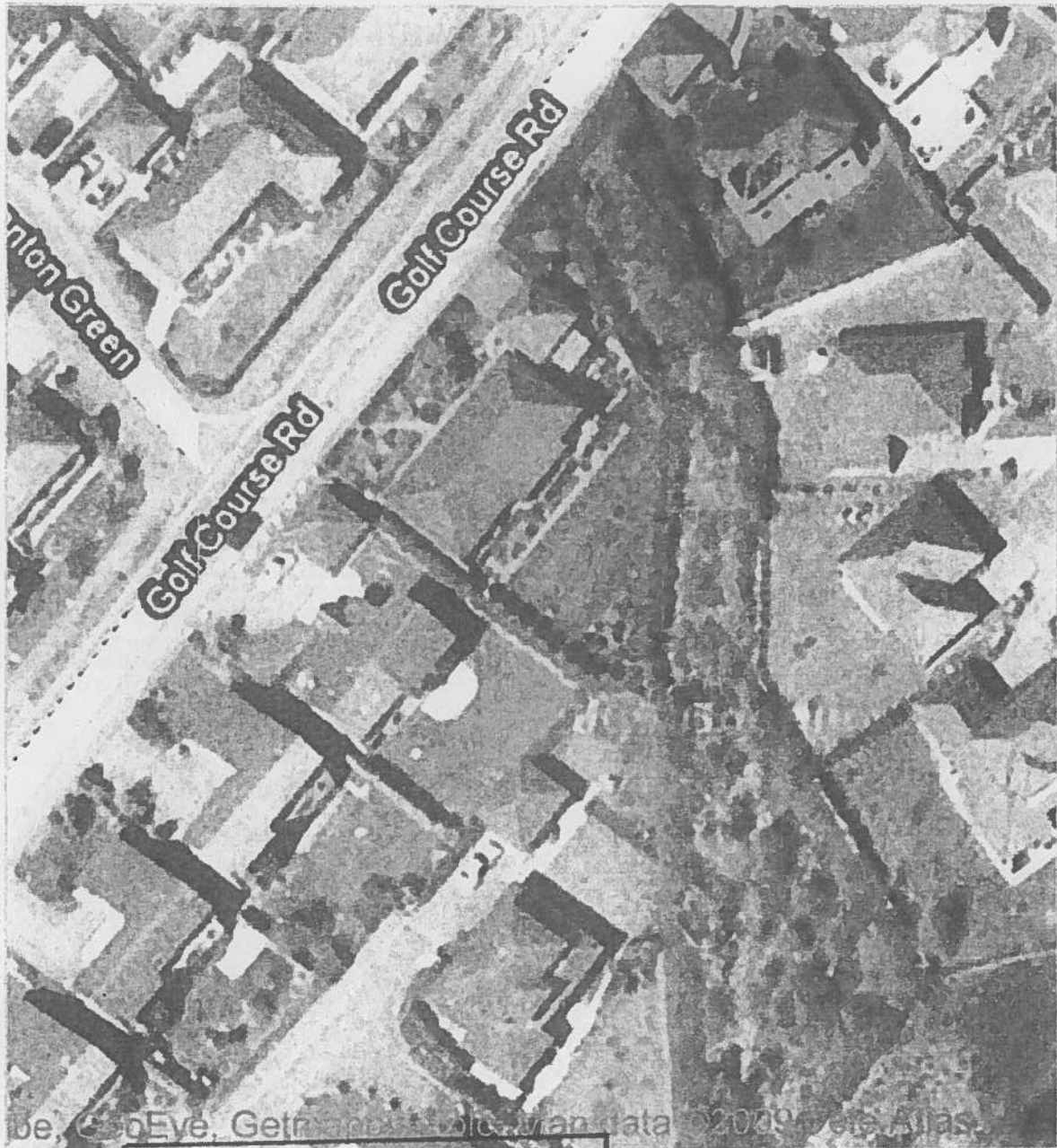
0130/14

VALIDATION
DATE

REF. No.

Google Maps

To see all the details that are visible on the screen, use the "Print" link next to the map.



WEST Lothian COUNCIL
DEVELOPMENT MANAGEMENT

Kew Gardens

25 FEB 2014

0130/14

VALIDATION
DATE



REF. No.

- Boundaries for number 10

- Boundaries of area Muir
Homes sold to Mr Jamieson

- Boundaries for number 12

- overlap between Muir
Homes / number 10 - not
included in title

 LAND REGISTER OF SCOTLAND	Officer's ID / Date	TITLE NUMBER
	3821 WEST LOTHIAN COUNCIL 17/11/2000 DEVELOPMENT MANAGEMENT	WLN22923
 ORDNANCE SURVEY NATIONAL GRID REFERENCE	25 FEB 2014	Scale 0 1 3 5 7 14 1/1250
	VALIDATION DATE	REBUKEY SCALE 1/1250
NT0369NE		

CROWN COPYRIGHT © - This copy has been produced from the ROS Digital Mapping System on 17/11/2000 and was made with the authority of Ordnance Survey pursuant to Section 47 of the Copyright, Designs and Patents Act 1988. Unless that act provides a relevant exception to copyright, the copy must not be copied without the prior permission of the copyright owner.



The boundaries shown by dotted lines have been plotted from the deeds. Physical boundaries will be indicated after their delineation on the Ordnance Map.



LOCAL REVIEW BODY

LOCAL REVIEW BODY SITE VISITS

REPORT BY CHIEF SOLICITOR

A. PURPOSE OF REPORT

To agree a procedure for Local Review Body (LRB) cases in relation to site visits.

B. RECOMMENDATION

1. To note that the Chief Solicitor has a delegated power to set the procedures for LRB cases, in consultation with the Chair
2. To agree that with effect from the LRB meeting on 29 October 2014 the procedure set out in Appendix 1 will apply, whereby the Chief Solicitor, through the Clerk to the LRB, shall decide, in consultation with the Chair, if a site visit should be arranged to take place prior to the first hearing of the case and shall make appropriate arrangements where required
3. To agree that any site visit arranged under that procedure should be an unaccompanied site visit
4. To note that the LRB will retain the power to decide for itself in any case if a site visit should take place and if it should be an accompanied or unaccompanied site visit

C. SUMMARY OF IMPLICATIONS

I Council Values	Focusing on our customers' needs; being honest, open and accountable; making best use of our resources
II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	The Local Review Body is a requirement of legislation and its procedures are regulated by statutory instrument. Local arrangements are in the Scheme of Delegation to Officers and the Scheme of Administration
III Implications for Scheme of Delegations to Officers	None
IV Impact on performance and performance Indicators	The time taken to deal with many LRB cases will be reduced

V	Relevance to Single Outcome Agreement	None
VI	Resources - (Financial, Staffing and Property)	Within existing resources
VII	Consideration at PDSP	Not required
VIII	Other consultations	Development Management Manager, Committee Services

D. TERMS OF REPORT

The LRB hears and determines applications for review of decisions taken by officers through a statutory Scheme of Delegations for determining applications for local developments. Its procedures are largely regulated by statutory rules. As part of those rules, when it first deals with a case, it requires to determine if further information is required before it can make a determination, and if any further procedural steps should take place, such as a site visit or a request for additional written information.

If the LRB decides that a site visit is needed then it currently requires to do so at a formal meeting, and that then requires the case to be adjourned to a future meeting for the site visit to take place. A decision on the merits of the review application is therefore delayed, and the LRB will deal with the case at two, usually successive, meetings.

Based on the experience of LRB business since it was established, there are types of applications where the LRB very often decides that a site visit should take place. The main examples are where the principal issue is the impact on visual and residential amenity (especially where privacy and overlooking are involved), and the impact of a development such as a wind turbine on its countryside setting.

The Chair and members of the LRB have suggested that a decision on whether a site visit should take place before the first consideration of a case could be delegated to officers, in consultation with the Chair. The result would be that cases will often be dealt with at one meeting instead of two, and cases will be determined more quickly than they are at present.

That proposal is legally competent, since by law any committee is always able to delegate its powers to officers unless Standing Orders expressly prevent that from happening. In addition, in the case of the LRB, there is already a delegation to the Chief Solicitor to determine procedures at meetings of the LRB, in consultation with the Chair. That power was put in place when the LRB was established as it was a new creation at the time, and it was felt better to enable there to be as much flexibility as possible in relation to procedural matters within the constraints of the legislation. These proposals are brought to the LRB to allow members to comment and agree the detail of what the process should be.

It is proposed that the procedure set out in Appendix 1 is followed in future, with effect from the LRB meeting on 29 October. Committee Services will consult with the Chair and decide if a site visit should take place before the first hearing of the case. If a site visit is arranged in this way then it will be an unaccompanied site visit, which means that the applicant and objectors will not be able to attend and make representations. Members will be provided with information about the case to enable them to consider if they are able to deal with the case having regard to the Councillors' Code of Conduct. Committee Services shall then make arrangements for the site visit to take place, typically on the morning of and before the appropriate LRB meeting.

If no site visit is arranged through this procedure then the LRB will in any event be at liberty to decide at the first hearing of the case that a site visit, whether accompanied or not, should take place. Further, after an unaccompanied site visit has taken place through this procedure, the LRB will still be able to decide that an accompanied site visit would be of benefit and should take place.

Because of the existing entry in the Scheme of Delegations there are no changes required to that document. An amendment will however be made to the Scheme of Administration to include this procedure as part of the particular rules that apply to the LRB.

E. CONCLUSION

Adopting this procedure will speed up the determination of many LRB cases; it will avoid a case being heard at two separate committee meetings; and it will avoid delay in reaching a determination where a site visit is required before a decision can be made.

F. BACKGROUND REFERENCES

Town and Country Planning (Scotland) Act 1987, as amended

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

Council's Standing Orders – Scheme of Delegations to Officers and Scheme of Administration

Council Executive, 19 May and 23 June 2009

West Lothian Council, 2 June 2009

Appendices/Attachments: Appendix 1 – LRB Site Visit Arrangements

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Carol Johnston, Chief Solicitor

Date of meeting: 3 September 2014

APPENDIX 1

LOCAL REVIEW BODY – SITE VISIT ARRANGEMENTS

1. When an application is ready to be put on the agenda for a meeting of the LRB the Clerk shall consider if the issues raised indicate that a site visit would be appropriate
2. The Clerk shall consult with the Chair and decide if a site visit should be arranged to take place prior to the LRB considering the application at a meeting
3. In doing so, the Clerk shall provide sufficient information to enable the Chair to consider his or her position in relation to the Councillors' Code of Conduct
4. If it is decided that a prior site visit should not take place then the application shall be placed on the agenda for the meeting in the usual way
5. If it is decided that a prior site visit should take place then the Clerk shall make the necessary arrangements and shall advise the LRB members of them, and the report to the LRB shall refer to the site visit having been arranged
6. In advising LRB members of the arrangements for the site visit, the Clerk shall provide sufficient information to enable members to consider their position in relation to the Councillors' Code of Conduct
7. Where possible the site visit shall be arranged to take place earlier in the same day as the LRB meeting
8. Any site visit arranged under this procedure shall be an unaccompanied site visit
9. As is the current practice, only members who attend the site visit will be able to deal with the case at an LRB meeting
10. It shall be open to the LRB to decide at its first consideration of the case that a site visit, accompanied or not, should nevertheless take place before the case is determined