



## **LOCAL REVIEW BODY**

### **APPLICATION NO.0697/FUL/20 – ERECTION OF A 422sqm BUILDING CONTAINING TWO RETAIL UNITS (CLASS 1) AND HOT FOOD TAKEAWAY WITH ASSOCIATED WORKS. DIXON TERRACE, WHITBURN**

## **REPORT BY CLERK AND LEGAL ADVISER TO THE LOCAL REVIEW BODY**

### **A PURPOSE OF REPORT**

This report describes the documents and other matters relevant to the consideration by the Local Review Body of this application for review of a decision by the Council's Appointed Person to refuse planning permission for the erection of a 422sqm building containing two retail units and hot food takeaway with associated works at Dixon Terrace, Whitburn

### **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 Review submitted by the applicant's agent, dated 2 December 2020. This also includes a supporting statement and colour photographs.
2. The Handling Report, prepared by the Planning Case Officer, dated 30 October 2020.
3. The Decision Notice, issued by the Appointed Person, dated 30 October 2020.

Four representations were received in relation to the planning application; these were from the council's Transportation Service, BIDS Team, Flood Prevention Team and Environmental Health. The representation from Transportation was a holding objection as they would require more information from the applicant that had been provided in their application before they could fully consider the proposal. All other representations were of a neutral position.

The applicant's agent has stated in the review application that no new matters have been raised.

The applicant's agent has stated, in the review application, that they consider that the review can be determined by consideration of the review papers and a site visit.

### **C SITE VISITS**

The Clerk to the Local Review Body, in consultation with the Chair, has the discretion to determine that a site visit should take place, as further procedure, prior to the first hearing of the review application. In light of current Scottish Government Covid-19

guidance to 'stay at home, except for essential purposes' the Clerk has elected not to exercise their discretion in respect of this application. Members will not therefore require to have undertaken a site visit prior to the first hearing of this review application. Note that this does not preclude Members from determining that a site visit is required, as further procedure, during their consideration of the review application

## **D DEVELOPMENT PLAN POLICIES AND PLANNING GUIDANCE**

The application for planning permission was assessed in terms of Local Development Plan Policy HOU1 (Allocated Housing Sites), TCR2 (Town Centres First Sequential Approach), DES1 (Design Principles), TRAN1 (Transport Infrastructure), EMG3 (Sustainable Drainage), and EMG6 (Vacant, Derelict and Contaminated Land).

The Appointed Person is of the opinion that as the site is allocated for housing – site H-WH 6 it had not been adequately demonstrated that there was no reasonable prospect of the site being developed for housing. It has also not been demonstrated that there are no alternative sites within the town centre and local neighbourhood centre which could accommodate this type of development. Additionally, the Appointed Person considered that the sequential approach for retail, whereby out of town centre developments will only be supported where it had been demonstrated that all other locations within the town centre or on the edge of the identified town centre had been considered and discounted did not accord with TCR2.

The Appointed Person also considered that the proposal had inadequate parking provision and did not encourage sustainable transport modes. Although a footway link to the nearby housing estate could be conditioned the lack of a footway did not contribute to sustainable development.

Finally, the Appointed Person noted that no site investigation report, drainage assessment or engineering/levels layout had been submitted and therefore the proposal did not accord with policies EMG 3 (Sustainable Drainage) or EMG6 (Vacant, derelict and contaminated land).

## **E 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.

Winston Roberts, Solicitor, West Lothian Civic Centre  
Tel No. 01506 283524, [Winston.roberts@westlothian.gov.uk](mailto:Winston.roberts@westlothian.gov.uk)

Date: 10 February 2021



West Lothian Civic Centre Howden South Road Howden Livingston EH54 6FF Tel: 01506 280000 (for general enquiries) Email: [planning@westlothian.gov.uk](mailto:planning@westlothian.gov.uk)

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100333921-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

## Applicant or Agent Details

Are you an applicant or an agent? \* (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

☐ Applicant ☒ Agent

## Agent Details

Please enter Agent details

Company/Organisation:

Ref. Number:  You must enter a Building Name or Number, or both: \*

First Name: \*  Building Name:

Last Name: \*  Building Number:

Telephone Number: \*  Address 1 (Street): \*

Extension Number:  Address 2:

Mobile Number:  Town/City: \*

Fax Number:  Country: \*

Postcode: \*

Email Address: \*

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

☒ Individual ☐ Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text" value="Ashraf"/>	Building Number:	<input type="text" value="1"/>
Last Name: *	<input type="text" value="Ali"/>	Address 1 (Street): *	<input type="text" value="Glenmore"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Elphinstone"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="United Kingdom"/>
Mobile Number:	<input type="text" value=""/>	Postcode: *	<input type="text" value="EH33 2LW"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value=""/>		

## Site Address Details

Planning Authority:	<input type="text" value="West Lothian Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text"/>
Post Code:	<input type="text"/>

Please identify/describe the location of the site or sites

<input type="text" value="Dixon Terrace, Whitburn, EH47 0LH"/>
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Northing	<input type="text"/>	Easting	<input type="text"/>
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## Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: \*  
(Max 500 characters)

The proposal is to erection 3 commercial, convenience outlets on brownfield, post industrial land at Dixon Terrace, Whituburn. It is intended to erect a small parade of single-storey outlets, 1 of which will be a hot-food takeaway and 2 which will be a local convenience stores (Class 1).

## Type of Application

What type of application did you submit to the planning authority? \*

- ☒ Application for planning permission (including householder application but excluding application to work minerals).
- ☐ Application for planning permission in principle.
- ☐ Further application.
- ☐ Application for approval of matters specified in conditions.

What does your review relate to? \*

- ☒ Refusal Notice.
- ☐ Grant of permission with Conditions imposed.
- ☐ No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

## Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: \* (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

Please refer to the Statement on the Grounds for Appeal for details.

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? \*

☐ Yes ☒ No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: \* (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: \* (Max 500 characters)

Statement on the Grounds of Appeal. Photographs of the site and surrounding area.

## Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

0697/FUL/20

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

31/08/2020

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

30/10/2020

## Review Procedure

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

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

☐ Yes ☒ No

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

Please select a further procedure \*

By means of inspection of the land to which the review relates

Please explain in detail in your own words why this further procedure is required and the matters set out in your statement of appeal it will deal with? (Max 500 characters)

The location of the site is crucial to the justification of the proposal relative to the surrounding landuses.

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

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

☒ Yes ☐ No

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

☒ Yes ☐ No

## Checklist – Application for Notice of Review

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

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

☒ Yes ☐ No

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

☒ Yes ☐ No

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

☒ Yes ☐ No ☐ N/A

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

☒ Yes ☐ No

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

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

☒ Yes ☐ No

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

## Declare – Notice of Review

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

Declaration Name: Ms Anne Cunningham

Declaration Date: 02/12/2020

LOWLAND PLANNING ASSOCIATES Ltd.

NOTICE of APPEAL to WEST LOTHIAN COUNCIL LOCAL REVIEW BODY

GROUND'S for APPEAL

APPELLANT: Mr. ASHRAF ALI

APPLICATION REFERENCE NO. 0697/FUL/20

ERECTION of 3 COMMERCIAL/CONVENIENCE UNITS (1 HOT FOOD TAKEAWAY and a CLASS 1 RETAIL UNIT and a CLASS 1 CONVENIENCE STORE).

### **INTRODUCTION and SITE DESCRIPTION**

Mr. Ashraf Ali has applied to West Lothian Council to create a small parade of local commercial outlets on land close to the old access to what was Polkemmet Pit. Historically, and currently, the land at this part of Dixon Terrace is industrial. Immediately east of the appeal site there are post-war buildings which served as mine offices for Polkemmet, and on the south side of Dixon Terrace, close to where the site lies, there are still industrial buildings that are active businesses. Most notably there is long established branch of Build Base which supplies materials for the construction industry.

On the north side of Dixon Terrace and immediately opposite the appeal site there is a major electrical sub-station which controls the supply of electricity to the whole of the Heartlands major Comprehensive Development Area (CDA). Adjacent to the sub-station lies the long established Burnhouse Industrial Estate, which provides smaller, local business premises for small companies (Use Class 5-general industry) and for local tradespeople.

In general terms this area of Dixon Terrace is undoubtedly dominated by non-sensitive commercial uses.

The massive Heartlands project, which is the original version of a Comprehensive Development Area (CDA) in West Lothian, has been largely completed to the north of Dixon Terrace. This development is of course a large contributor to the housing land supply demanded by the ever-growing importance that West Lothian plays in the economic profile of Central Scotland. There is a housing allocation at Heartlands to the south of Dixon Terrace to accommodate 2,683 units on previously undeveloped land. This is generally poor farmland and land which was previously impacted by mining and the Polkemmet Coal Bing. The writer here wrote the 1st Committee approved Planning and Development Brief for the rehabilitation of the heavily polluted, post mining area, that was Polkemmet Pit. The new M8 junction and associated business park did not form part of the original brief for the area, however, the farms to the immediate south of the A7066, the old main Glasgow-Edinburgh road, were always part of the land identified for housing. This part of Heartlands was not impacted so much by the mining activities. There were also plans back in the 1990s for the continuation of the local distributor road (Blaeberryhill Road) to allow traffic from the east-west



direction to be filtered away from Whitburn town centre. There were however, no proposals to remove all the established industrial businesses along Dixon Terrace. There was an enormous amount of land for housing available for new-build housing and for all the facilities required to sustainably serve the Heartlands residents. West Lothian prides itself on being a huge supporter of all types of businesses, including retail. This modest planning application has been formulated to sustainably support the people who live in Heartlands now and in the future.

## **THE PROPOSAL**

It is clear to see that Dixon Terrace is geographically central to Heartlands. It is midway between the A7066 and the upper reaches of the land stretching towards Longridge. As the [brownfield] appeal site is in fact close to the new housing spanning out at the west-end of Dixon Terrace and it is also close to the remaining housing land south of Dixon Terrace., It was carefully considered by the appellants that this housing area really was not going to be well-served by local and convenient everyday shopping facilities. The appellants are indeed experts in the field of bringing new, essential, shopping opportunities to the people of west West Lothian. Notably the old Gothenburg Public House in East Whitburn was redeveloped, by the appellants, as a convenience store, bringing the ONLY local shop to the residents of East Whitburn and Redmill. This initiative was hugely welcomed by the locals and they have supported it wholeheartedly. It is a version of a community hub, given the large amount of growth that these small villages has experienced in the last 20 years. Perhaps the greatest benefit is of course that the Gothenburg Convenience Store is within easy walking distance for young and old alike. People do not have to jump in a car to get basic provisions. Sustainability must be at the centre of any Council's ambitions and bringing essential services nearer to people is a fantastic way of assisting to reach our carbon-neutral goals.

As stated above, the appeal site is brownfield land. It is a square tarmacked area and it is surrounded on 3 sides by an old spiked metal palisade fence. There are remnants of an old hedge which had grown tall(ish) and wild on the east boundary line. This old vegetation was cut down to leave multi-stemmed stumps. This was done by a previous owner. It had no landscape or habitat qualities given the surrounding past uses of land at Dixon Terrace. However, we now have an opportunity to re-use an unattractive brownfield site for a really beneficial use.

The proposed development comprises a 422 sqm building. This building would be divided into 3 elements comprising a convenience store, another smaller retail unit and a hot-food takeaway. There is of course some parking (12 spaces) shown on the elevation plans and a pedestrian footpath, shown along the northern boundary, is also indicated. It is of course a simple building with clean lines, a modern design with contemporary finishes. It will fit in well with all the redevelopment in the area as a whole.

## **HEARTLANDS and the PLANNING POLICY FRAMEWORK**

Heartlands is primarily a housing site which greatly expands Whitburn to the south and west. The existing houses that have been built number in excess of 3,000 units, with over 2,600 left to be built on the southern reaches of the site. There are older, established, housing developments on the north side of Dixon Terrace that were built prior to Heartlands beginning in earnest. However, Dixon Terrace remains a mixed-use area.

There are proposals for community facilities in the form of a Village Hub close to the A7066. However, what is clear, is that the village hub is a considerable distance (1.5 km) from our Dixon Terrace shopping proposal. Likewise, the housing sites at the central part of Heartlands are quite a distance from Aldi and Lidl on the south side of Whitburn being 1.2 km away from the appeal site and therefore even further from Heartlands. What these distances to the various shops means is that people will inevitably drive to them. We need to provide a more centralised community-based, shopping facility to serve the new and established housing. A convenience store and takeaway on the appeal site clearly does not in any way over-provide commercial outlets in this area. The proposed shops will not adversely affect the viability of the Village Hub premises and they will not adversely impact the budget supermarkets, which will mainly be used for a larger weekly shop. The proposed shops, of course, will not impact in any way Whitburn town centre. There are only benefits by allowing a wee store here and there are no drawbacks.

### **Housing Allocations and the Refusal**

The Development Plan comprises the regional SESplan and the Council-wide Local Development Plan. The housing land allocations within all Council areas in Scotland must comply with directives from the Development Plan to ensure an effective land supply for housing and population growth. It is clear that over the last 20 years the housing land supply totals in West Lothian has benefitted from the large numbers of units prescribed to Heartlands. This major site was included in the Bathgate Area Local Plan some 20 plus years ago. However, the primary reason for refusal of this small shopping development is that it will replace potential land for housing. The land along the south side of Dixon Terrace that currently accommodates businesses and/or previously developed land is not in the control of the consortium of house builders and it has not been specifically identified in the masterplan for Heartlands - despite it being in the middle of the zoning. It is stretching the imagination to say that if this brownfield land is not kept for house building in the future, that there may be a shortfall of housing land in the supply chain.

The appeal site measures 1178 sqm in area. This is only space enough for around 4 small homes or 2 modest detached units, if you take into account the need to provide gardens and driveways too. To refuse a very useful convenience store, retail unit and takeaway here because the site could potentially be a contributor to the overall housing development is not credible. Surely development that will attract customers that will most likely walk to the facilities, to get their everyday basics, is far more sustainable than directing people to places like the Village Hub and the local supermarkets which are at the periphery of Heartlands. The appeal proposal is, environmentally, a much more preferable concept.

### **The Consultees**

There have been no concerns raised about the proposal from the Council's internal consultees, although, Transportation and Environmental Health have made suggestions that can be readily accommodated into the development and can be controlled by planning conditions. There were no neighbour responses either.

### **Response to the Reasons for Refusal (in detail)**

#### **Reason 1**

This relates to the fact that the site and the wider area is allocated for housing. Policy HOU1.

As explained above the provision of 2 small retail units and take-away will NOT jeopardise the overall ambitions for Heartlands. It is a truly sustainable idea to include a 'walk-to', central-to-development, shopping area which will facilitate more people walking to the shops and not having to jump in a car. The masterplan for Heartlands shows Dixon Terrace as a primary pedestrian route and this goes right past the appeal site.

Policy HOU1 presents various caveats that can be applied to allow alternative land uses on sites allocated for housing. Parts a, b, and c of HOU1 are all applicable to some degree, however part b is the strongest reason to depart from housing on this particular part of the greater Heartlands area.

The WLLDP policy HOU1 states that " To ensure that an effective 5 year supply of housing land is maintained at all times, proposals for uses other than housing, except for subsidiary ancillary uses which may be appropriate to provide in a residential area, will not be supported unless it can be demonstrated that:"

a, there is a constraint on the site.... This land is a tarmacked over and not very pretty. It also looks directly onto the major electricity sub-station on the north side of Dixon Terrace. This site will not be of interest whatsoever to house builders when more attractive and easier sites to be developed are available. Being brownfield and facing a very industrialised feature, will definitely put builders and prospective occupants off this location completely.

We truly believe that part a, is satisfied, and that the site would remain undeveloped within the timeframe of the WLLDP. Please refer to Production 1 which is photographs of the site and the immediate area.

b, the alternative use facilitates regeneration or offers significant environmental, economic or community benefits that are considered to outweigh the need to maintain the intended housing use..... It is clear that by offering people a local, walk-to, facility, that will serve as a sub- village hub is extremely sustainable. It is a brownfield site and we all should be cognisant of the need to develop such sites (where possible) in favour of greenfield or amenity land. This proposal will bring a few new jobs to the area, it will be well-used by local people who live closer to Dixon Terrace and of course it is a very sensible environmental move by directing development to land that would never be a prime housing site.

C, for proposed employment uses, there are no suitable, available, allocated employment sites which could accommodate the development. This part of HOU1 is less important to this case, as shops could be sited, physically, in other parts of the Heartlands site. BUT, this land, with its brownfield credentials, and its central geographic location within Heartlands, makes it a very sensible choice for a convenience store and ancillary outlets. The Village Hub serves the northern parts of Heartlands, but not the core of it.

## **Reason 2**

This reason for refusal is somewhat confusing. It states that it has not been demonstrated that there is no proven lack of impact on town centre uses and that a sequential approach to determining a suitable site for such a development has not been undertaken. Policy TRC2 (Town Centres First Sequential Approach) is just not relevant to this scale of development. It WILL NOT in any way affect the viability of Whitburn town centre. This policy has rightly been developed to ensure large-scale retail at the edge of towns does not render the town centres of West Lothian redundant. Convenience stores never have needed a Retail Impact Assessment, due to the clear knowledge and common sense that they do not affect the trade of town centre shops. Plus, the applicant was not asked for such an analysis. I propose that this is because it would have been wrong to do so. This reason for refusal is not appropriate in this case and the reason for refusal 2 is therefore not applicable to this case.

### **Reason 3**

As stated above, Dixon Terrace is defined as a major pedestrian route from Heartlands to the wider area. Once the continuation of the Blaeberry Hill distributor road has been constructed, and this will be when Heartlands South is brought forward, Dixon Terrace, which has already been heavily traffic calmed, will not have much through traffic and the area will much quieter again. That is not to say we can ignore safety now, but the appellants have proposed a footpath along the frontage of the site, as per Transportation's recommendation. The appellants are willing to go further. It has been discussed with the writer that they will be happy to offer to build a refuge traffic island where the adopted footpath, that is on the north side of the road, finishes and the appellant's footpath on the south side, begins. This will allow pedestrians, which we are very keen to prioritise, can cross safely to get to the local store. In time this part of Whitburn will be very pedestrian friendly.

Transportation also states that 19 car parking spaces should be created within the site. We have space for 12 cars identified already. Again, in the spirit of reducing car use, we should not be making it easier to bring your car to the corner shop. We can however, if this is a major sticking point, have room for a few additional parking spaces that we can implement if really required.

Policy DES1 (Design Principles) is also brought into reason for refusal 3. The officers are concerned that the parking along the frontage of the site is not attractive. Considering the outlook of this site, facing a large electricity sub-station, we need not be so precious about parking being at the front of the building. We strongly believe that the proposal does not contravene Policies TRAN1 or DES1.

### **Reason 4**

Again, a SuDS scheme was not requested by officers and therefore it was not submitted. However, a SuDS scheme can be readily conditioned and approved prior to construction beginning on site. It can all be drawn up at the same time as a building warrant is being prepared. There is no way the development would ever be built without a suitable drainage scheme being approved and implemented, hence, the proposal is not contrary to Policy EMG3 (Sustainable Drainage).

### **Reason 5**

A Contaminated Land Survey (CLS) was requested by the officers as the site was previously developed. The applicants were of course willing to have this work carried out and were in the process of getting quotes for the work when the application was refused. Of course there are

statutory targets for processing planning applications, in this case it would be 2 months for processing this local proposal. However, with good reason, applications can be continued by agreement between the planner and the applicant. Not every applicant knows of this ability to request a continuation beyond the statutory processing time. They depend a lot on nudges from those in the know (in this case the officials) to alert them that this can be sanctioned and therefore giving time to make proposals approvable. In the writers' mind this way of working is really helpful to all concerned, but perhaps the case officer considered that the allocated housing site was the major concern and did not push it to the stage where reports could be added to the application?

What must be emphasised again, is that a CLS can be conditioned and this condition must be to supply the CLS prior to development beginning on-site and only after remediation works have been undertaken. This site, whilst being previously developed with some buildings and that it is largely tarmacked, it is very unlikely to exhibit severe, if any, contamination. We must disagree that the absence of a CLS renders the site contrary to policy EMG6 (Vacant, Derelict and Contaminated Land) as this has not been proven and the appellants should be given the opportunity to prove this fact.

### **Conclusion**

This proposal is an excellent example of providing a much-needed community shopping facility at the heart of Heartlands! It ticks all the boxes of environmental sustainability by bringing in a walk-to, convenient, shopping facility. The Village Hub for Heartlands is considerably distant from this area and cars will be used from the central Heartlands estate to get there and again there is a long walk (carrying shopping!) from Aldi or Lidl. We need to look favourably at proposals that 1, use brownfield land; 2, ensures more walking than driving; 3, that the community in these new areas are well served by local facilities and lastly do not impact on the housing land supply figures and do not take business from the wider area.

We strongly commend this appeal to Members.

Anne Cunningham MRTPI

Lowland Planning Associates Ltd.



















## DECISION NOTICE REFUSAL OF PLANNING PERMISSION

Town and Country Planning (Scotland) Act 1997, as amended

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

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**APPLICATION REFERENCE** 0697/FUL/20

**PROPOSAL** Erection of a 422sqm building containing 2 retail units (class 1) and hot food takeaway with associated works

**LOCATION** Dixon Terrace, Whitburn, West Lothian, EH47 0HL,  
(GRID REF: 294368, 664346)

**APPLICANT** Mr Ashraf Ali, 8 Mclauchlan View, Harthill, ML7 5SU

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

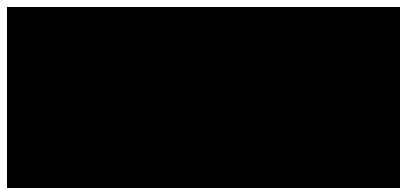
Docquetted plans relative to this decision are identified in Annex 1, Schedule of Plans.

**Dated:**  
**30.10.2020**

**Craig McCorriston**  
**Head of Planning, Economic Development and Regeneration**

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

**Signature:**



**The council in exercise of its powers under the Town and Country Planning (Scotland) Act 1997 (as amended) refuses planning permission for planning application 0697/FUL/20, for the reason(s) set out as follows:**

- 1 The site is allocated for housing (reference H-WH 6) in the West Lothian Local Development Plan 2018. It has not been demonstrated that the development meets the criteria to allow non-residential uses which is contrary to policy HOU1 (Allocated Housing Sites) of the West Lothian Local Development Plan, 2018.
- 2 The application site is located at an out of town centre location and it has not been demonstrated through a sequential approach that there is no alternative sequentially preferable site for the proposed uses. The proposal is therefore contrary to policy TCR 2 (Town Centres First Sequential Approach) of the West Lothian Local Development Plan 2018.
- 3 The proposed parking layout fails to meet the council's parking standards. Nor does the site have sufficient footpath links to allow pedestrians to walk to the site safely from the East. The proposal also fails to provide an attractive frontage onto Dixon Terrace due to parking being positioned hard against the North site boundary. The proposal is therefore contrary to policies DES1 (Design Principles) and TRAN 1 (Transport Infrastructure) of the West Lothian Local Development Plan 2018.
- 4 The applicant has failed to submit a drainage assessment to demonstrate acceptable surface water drainage proposals. The proposal is therefore contrary to Policy EMG 3 (Sustainable Drainage) of the West Lothian Local Development Plan 2018.
- 5 The applicant has failed to submit a contaminated land site investigation report to demonstrate that the site is or can be made safe for the proposed use. The proposal is therefore contrary to Policy EMG 6 (Vacant, Derelict and Contaminated Land) of the West Lothian Local Development Plan 2018.

**ADVISORY NOTES TO DEVELOPER**

***How to challenge the council's Decision***

*If your application was determined under delegated powers as a local application by an officer appointed by the council and you disagree with the council's decision on your application, or one or more of the conditions attached to the decision, you can apply for a review by the council's Local Review Body. You can find information on these processes and how to apply for a review, or to appeal, here:*

<https://www.westlothian.gov.uk/article/33128/Decisions-Reviews-and-Appeals>

***If the decision of the council is overturned by the Local Review Body or the Directorate for Planning and Environmental Appeals, the developer of the land should be made aware of the following notes.***

***Notification of the start of development***

*It is a legal requirement that the person carrying out this development must notify the planning authority prior to work starting on site. 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 planning permission and the date it was granted. If someone is to oversee the work, the name and contact details of that*



person must be supplied.

The relevant form is available online on the council web site under Planning and Building Standards. Please ensure this form is completed and returned accordingly.

### **Notification of completion of development**

The person who completes this development must, as soon as practicable after doing so, give notice of completion to the planning authority. The relevant form is available online on the council web site under Planning and Building Standards. Please ensure this form is completed and returned accordingly.

### **Contaminated land procedures**

In the event that contamination is found at any time when carrying out the approved development that was not previously identified, work on site shall cease and the issue shall be reported in writing to the planning authority immediately. The developer is required to follow the councils Supplementary Planning Guidance Development of land potentially affected by contamination. This document provides developers and their consultants with information on dealing with the planning process in West Lothian when development is proposed on land which is suspected of being affected by contamination. This document and further guidance is provided via the Councils web pages at <https://www.westlothian.gov.uk/article/34731/Contaminated-Land>

### **Liaison with the Coal Authority**

As the proposed development is within an area which could be subject to hazards from current or past coal mining activity, the applicant is advised to liaise with the Coal Authority before work begins on site, to ensure that the ground is suitable for development.

Any activities which affect any coal seams, mine workings or coal mine entries (shafts) require the written permission of the Coal Authority. Failure to obtain such permission constitutes trespass, with the potential for court action. The Coal Authority is concerned, in the interest of public safety, to ensure that any risks associated with existing or proposed coal mine workings are identified and mitigated.

To contact the Coal Authority to obtain specific information on past, current and proposed coal mining activity you should contact the Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com).

### **Advisory note to developer - General**

Please note that it is the developer's responsibility to ensure that all relevant consents and certificates are in place prior to starting work on site and that it is the developer's responsibility to speak with service authorities to ensure safe connection is possible to allow the development to proceed.

### **Annex 1, Schedule of Plans - 0697/FUL/20**

Docquetted Number	Drawing Description	Drawing Number
1	Location Plan	
2	Block Plan Existing	
3	Block Plan	A103
4	Floor Plan (proposed)	A100
5	Proposed Elevations	A101
6	3D Visuals	



DATA LABEL: PUBLIC

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**HANDLING REPORT**

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<b>Ref. No.:</b>	0697/FUL/20	<b>Email:</b>	kirsty.hope@westlothian.gov.uk
<b>Case Officer:</b>	Kirsty Hope	<b>Tel No.:</b>	01506 282413
<b>Ward:</b>	Whitburn & Blackburn	<b>Member:</b>	Cllr Bruce Fairbairn Cllr Kirsteen Sullivan Cllr Jim Dickson Cllr George Paul

<b>Title</b>	Erection of a 422sqm building containing 2 retail units (class 1) and hot food takeaway with associated works (Grid Ref: 294368,664346) at Dixon Terrace, Whitburn, West Lothian, EH47 0HL
<b>Application Type</b>	Local Application
<b>Decision Level</b>	Delegated List
<b>Site Visit</b>	22.10.2020
<b>Recommendation</b>	Refuse Permission
<b>Decision</b>	
<b>Neighbour Notification</b>	Neighbour notification procedures have been carried out correctly - case officer verification. YES
<b>Advertisement</b>	10.09.2020
<b>EIA Screening</b>	Does the development require EIA screening - No If Yes, checklist completed and filed – N/A

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**Description of Proposals**

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Erection of a 422sqm building containing 2 retail units (class 1) and hot food takeaway with associated works.

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**Site History**

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None.

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**Representations**

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None

## Consultations

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

Consultee	Objection?	Comments	Planning Response
Town Centre Manager	N/A	No comments received	Noted
WLC Environmental Health	No	Concern with lack of pavement for pedestrians.	Noted
WLC Flood Risk Management	No	No drainage assessment to assess surface water drainage.	Noted.
WLC Roads and Transportation	No	Attach conditions in relation to a 2m footway along frontage of the site and no.19 spaces required within site, as well as install signs to clearly mark exist and entrance.	Noted.

## Policies Considered

Policy Title	Policy Text Summary
DES1 - Design Principles	All development proposals will require to take account of and be integrated with the local context and built form. Development proposals should have no significant adverse impacts on the local community and where appropriate, should include measures to enhance the environment and be high quality in their design. Development proposals which are poorly designed will not be supported.
HOU1 - Allocated Housing Sites	<p>The sites listed in Appendix 2 of the Plan and shown on the Proposals Map are allocated as housing sites which contribute to meeting the LDP housing land requirements for the plan period to 2024, as required by the Strategic Development Plan (SDP1), and are compliant with the spatial strategy set out in this plan.</p> <p>Development of housing on these sites will be supported in principle and proposals shall have regard to and be in accordance with the 'Residential Development Guide'. Where applicable, proposals must also accord with the specific development requirements identified in Appendix 2.</p>

Policy Title	Policy Text Summary
HOU1 - Allocated Housing Sites continued.	<p>To ensure that an effective 5 year supply of housing land is maintained at all times, proposals for uses other than housing, except for subsidiary ancillary uses which may be appropriate to provide in a residential area, will not be supported unless it can be demonstrated that:</p> <ul style="list-style-type: none"> <li>a. there is a constraint on the site and there is no reasonable prospect of it becoming available for housing development within the plan period;</li> <li>b. the alternative use facilitates regeneration or offers significant environmental, economic or community benefits that are considered to outweigh the need to maintain the intended housing use; and</li> <li>c. for proposed employment uses, there are no suitable, available allocated employment sites which could accommodate the development.</li> </ul>
TCR2 - Town Centres First Sequential Approach	<p>New retail, commercial leisure, visitor attractions, offices, community and cultural facilities and other developments appropriate to town centres should be located in accordance with the following sequential approach, depending on the availability of suitable opportunities:</p> <p>Town Centres: Within an identified town centre as defined on the proposals map and in accordance with the town centre policy.</p> <p>Local Neighbourhood Centres: New shopping facilities will be supported in local neighbourhood centres provided they do not undermine the vitality and viability of the sub-regional centre or any of the identified town centres.</p> <p>Further local neighbourhood centres will be supported in major new housing developments (strategic housing locations and previously identified CDAs) and identified in master plans provided there is no adverse impact on the amenity of surrounding residents.</p> <p>Proposals for retail development above 2,500m<sup>2</sup> outwith a town centre will require a Retail Impact Assessment to be submitted for assessment.</p> <p>Where proposals of less than 2,500m<sup>2</sup> are considered to affect the vitality and viability of existing town centres a Retail Impact Assessment may be required to be submitted for assessment.</p> <p>Edge of Centre: Proposals on sites which adjoin the boundary of a town centre or can form an effective extension to the centre may be supported where it can be demonstrated that all</p>

Policy Title	Policy Text Summary
TCR2 - Town Centres First Sequential Approach continued	<p>locations within existing town centres have been discounted; there will be no adverse effects on the vitality and viability of the sub-regional centre or any other town centre; the proposal is of an appropriate scale and type consistent with the function of the centre and that the proposal is accessible by a choice of transport modes.</p> <p>Commercial Centres: Proposals for additional retail floorspace at commercial centres will only be supported where it can be demonstrated that the proposal is appropriate in scale to meet only a qualitative or quantitative deficiency; all other locations within the town centre or on the edge of an identified town centre have been discounted; the proposal will not have an adverse effect either individually or cumulatively on the sub-regional centre, town centres, commercial centre or local neighbourhood centres; the proposal is of an appropriate scale and type consistent with the function of the centre and that the proposal is accessible by a choice of sustainable transport modes.</p> <p>Out of Centre: Proposals for out of centre developments will only be supported where it can be demonstrated that the proposal is appropriate in scale to meet only a qualitative or quantitative deficiency; all other locations within the town centre or on the edge of an identified town centre have been discounted; the proposal will not have an adverse effect either individually or cumulatively on the sub-regional centre, town centres, commercial centre or local neighbourhood centres and that the proposal is accessible by a choice of sustainable transport modes.</p> <p>Proposals for a new public building or office with a gross floorspace over 2,500m<sup>2</sup> outwith a town centre and contrary to the development plan will require an assessment of the impact on the town centres.</p>
TRAN1 - Transport Infrastructure	<p>Development will only be permitted where transport impacts are acceptable.</p> <p>This will be established where appropriate, through a Transport Assessment which covers all modes of transport and has been approved by the council.</p> <p>Parking levels for development shall conform to the council's current adopted standards.</p>



Policy Title	Policy Text Summary
NRG1 - Climate Change and Sustainability	<p>The reduction of greenhouse gas emissions through a wide range of measures designed to mitigate and adapt to climate change is a strategic over-arching set of principles which will be promoted by having the statutory requirements of The Climate Change (Scotland) Act 2009 enforced in relation to:</p> <ul style="list-style-type: none"> <li>a. assisting in achieving the Scottish Government's renewable energy targets set out in the Act;</li> <li>b. assisting in achieving the Scottish Government's Climate Change Adaptation Programme (May 2014) to address identified impacts and build resilience for a climate ready natural environment, society, buildings and infrastructure networks;</li> <li>c. protecting and enhancing land uses that act as 'carbon sinks' (for example extending woodland cover and protecting valued peat lands);</li> <li>d. protecting the amenity of new and existing development including environmental quality;</li> <li>e. assisting the move to zero waste; and</li> <li>f. influencing reduction in environmental impacts of production and consumption, particularly energy efficiency and waste reduction.</li> </ul> <p>Sustainable land use will be promoted through: a. assisting in achieving compliance with the long-term objectives of the Scottish Government's Land Use Strategy (2011): delivery of multiple benefits from land based businesses; responsible stewardship of natural resources and partnerships with nature; and better linkages of communities to the land; b. integrating land use with sustainable transport approaches through safeguarding and enhancing the network of sustainable forms of transport: walking and cycling, public transport, rail, park and ride and water-borne traffic; c. directing new developments to locations accessible by a choice of modes of transport and which specifically encourage walking, cycling, and public transport in preference to the private car; and d. encouraging more sustainable forms of transport and active travel.</p> <p>Sustainable design and development will be promoted through: a. building in harmony with the site including optimising orientation and relationships to land contours, improvements to micro-climate, and utilising natural features; b. addressing sustainable energy approaches; c. facilitating designs for passive heating and cooling including natural ventilation and supportive landscape schemes; d. fostering and maintaining the site's biodiversity and maintaining and enhancing connections with local habitat networks; e. facilitating</p>

Policy Title	Policy Text Summary
NRG1 - Climate Change and Sustainability continued	accessibility and adaptability; f. treating and conserving water on site in line with best practice and guidance on sustainable drainage; g. recycling of construction materials and minimising the use of non-renewable resources; and h. providing for waste minimisation and recycling incorporating high speed broadband connections and other digital technologies. The council will expect development proposals to have regard to the above principles, and further detailed policy throughout the Local Development Plan for reducing climate change and increasing sustainability.
EMG2 – Flooding	<p>Flooding can seriously impact on people, businesses and the environment and the council will, as a first principle, seek to prevent development which would have a significant probability of being affected by flooding or would increase the probability of giving rise to flooding. When considering proposals for development, the council will adopt a precautionary approach to the flood risk from all sources, including coastal, water course (fluvial), surface water (pluvial), groundwater, reservoirs and drainage systems (sewers and culverts), taking account of the predicted impacts of climate change. Development will specifically not be supported in: a. locations identified as being at medium to high flood risk, unless it accords with the flood risk framework set out in SPP 2014; or b. where it would lead to an increase in the probability of flooding elsewhere. Developers will be required to submit a full Flood Risk Assessment (FRA) for all developments deemed to be at risk of flooding from any source in medium to high risk areas and developments in low to medium risk areas identified in the risk framework (i.e. developments located in an area at the upper end of the probability scale, essential infrastructure and the most vulnerable land uses). The Flood Risk Assessment should be undertaken in accordance with the relevant and prevailing the Scottish Environment Protection Agency (SEPA) technical guidance. To limit the impact of potential flood risk any development that is subsequently permitted in medium to high risk areas (that accords with the exceptions in the risk framework) or is located in adjacent low to medium risk areas must be built to a water resilient design.</p> <p>Development that is proposed in an area that is or will be behind a formal flood protection scheme must be an appropriate and acceptable land use for the location, designed to be resilient. Any such formal flood protection scheme must be designed to an appropriate standard. Developments will be assessed against the flood risk framework contained in SPP which sets out the types of development and locations where it is appropriate to develop.</p>

Policy Title	Policy Text Summary
EMG2 – Flooding continued	<p>New development requiring new defences against coastal erosion or coastal flooding will not be supported except where there is clear justification for a departure from the general policy to avoid development in areas at risk. Appendices 1 &amp; 2 (which respectively list employment and housing land allocations in the plan) identify those sites where there is a known requirement for a FRA, watercourse buffer strips and best practice SuDS treatment. The council nevertheless reserves the right to require the preparation and submission of FRAs for other development sites which present over the plan period where deemed necessary. Guidance will be sought from the Scottish Environment Protection Agency (SEPA) and other agencies as appropriate. Alterations and small-scale extensions to existing buildings are outwith the scope of this policy, provided that they would not have a significant effect on the storage capacity of the functional floodplain or local flooding problems. All proposals must comply with the terms of Supplementary Guidance on Flooding and Drainage.</p>
EMG3 - Sustainable Drainage	<p>Developers may be required to submit a Drainage Impact Assessment (DIA) to ensure that surface water flows are properly taken into account in the design of a development. DIAs, proportionate to the development proposal and covering both surface and foul water, will be required for areas where drainage is already constrained or otherwise problematic, or if there would be off-site effects. With the exception of single houses, SuDS will be a required part of all proposed development as a means of treating/attenuating surface water and managing flow rates. Developers will be required to ensure that adequate land to accommodate SuDS is incorporated within development proposals and that housing densities take into account the physical space for effective SuDS. The design of the system should meet best current practice.</p>
EMG6 - Vacant, Derelict and Contaminated Land	<p>Where it is suspected by the council that a development site may be contaminated, the developer will be required to undertake a site investigation, to the satisfaction of the council. Where contamination is found, and prior to the granting of any planning permission, the developer must submit a programme of remedial works to be agreed with the council which should also address any adverse impact on controlled waters.</p> <p>The developer must appoint an accredited site investigator to identify the specifications and monitor compliance to the works. Appropriate planning conditions will be applied to secure the r</p>

Policy Title	Policy Text Summary
EMG6 - Vacant, Derelict and Contaminated Land continued	remedial works. Any proposal requiring remediation will require to accord with Supplementary Guidance entitled Development on Contaminated Land.
NGR1a - Low and Zero Carbon Generating Technology	A statement will be required to be submitted demonstrating compliance with this requirement. The percentage will increase at the next review of the Local Development Plan. This requirement will not apply to: a. Alterations and extensions to buildings; b. Change of use or conservation of buildings c. Ancillary buildings that stand alone and cover less than 50 square metres d. Buildings which will not be heated or cooled, other than by heating provided solely for frost protection; e. Buildings which have an intended life of less than two years.

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### Supplementary Guidance

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Development on Contaminated Land  
Flooding and Drainage

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### Officer Assessment

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The proposal is for the erection of a building to contain 2 retail units and a hot food takeaway with parking provision to the front of the premises. The proposed building is single storey with a pitched roof. Vehicular access and an exit would be taken from Dixon Terrace.

The site at present is enclosed on three sides and open at the eastern boundary. There is currently hard surfacing within the site as well as a snack van positioned with seating within the South/West corner as well as adverts attached to the boundary fencing that appears to have no planning permission/advertisement consent. This will be investigated by enforcement separately.

The site has been allocated for housing within the local plan and forms part of a larger site allocated for housing - site H-WH 6. The proposal is contrary to HOU1 as it has not been demonstrated that there is no reasonable prospect of this land being developed for housing.

This proposal is not considered to outweigh the environmental, economic or community benefits as this would detract from the new local centre within application 0206/MS/20 which is to create a purpose built center for the surrounding residents. There are also local shops within walking distance to the east of this site namely Aldi and Lidl. It has not been demonstrated that there are no suitable alternative sites within the Town Centres, local neighbourhood centres which could accommodate this type of development. The application fails to accord with Policy TCR1.

The proposed scale and design whilst in-keeping with the adjacent industrial units has no footpath links to the existing housing estate. Although it is noted that this could be conditioned to provide a pathway. Given the lack of footway the development would not contribute to a sustainable development. The proposal fails to comply with TRAN1.

Policy TCR2 identifies the sequential approach for retail use whereby out of centre developments will only be supported where it has been demonstrated that all other locations within the town centre or on the edge of an identified town centre have been considered and discounted. It is considered that the proposal will have an adverse effect combatively on a site that is allocated for housing and is not easily accessible by a choice of sustainable transport modes given there is no pathway. The proposal is contrary to TCR2.

Parking provision is not adequate and the proposed layout does not encourage sustainable transport modes the proposal is therefore contrary to policy DES1 and policy TRAN1. The proposal also fails to provide an attractive frontage onto Dixon Terrace due to parking being positioned hard against the North site boundary.

No site investigation report, drainage assessment or engineering/levels layout have been submitted. The proposal therefore does not accord with policies EMG 3 (Sustainable Drainage) or EMG6 (Vacant, derelict and contaminated land).

No site levels have been provided despite there being a change in level on site. There is a small wall on the eastern boundary and no details of this are shown on the plans submitted.

Trees/shrubs have been felled on site that are not shown on the plans. There is also a power post within the site that is not shown on the plans. Whilst this might be a private legal matter it is worth noting.

It is recommended that planning permission be refused for the reasons noted above.

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## Conclusions and Reasons for Decision

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The application has been assessed against the policies and provisions of the development plan. The proposal fails to meet the terms of policy DES 1 (Design Principles), TCR 2 (Town Centres First Sequential Approach), HOU 1 (Allocated Housing Sites), EMG 3 (Sustainable Drainage), EMG 6 (Vacant, derelict and contaminated land) and TRAN 1 (Transport Infrastructure).

It is therefore recommended that planning permission be refused.

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## List of Review Documents

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Drawings schedule:

Docquetted Number	Drawing Description	Drawing Number
1	Location Plan	
2	Existing Block Plan	
3	Proposed Block Plan	A103
4	Proposed Floor Plan	A100
5	Proposed Elevations	A101
6	3D visuals	

Other relevant documents:

West Lothian Local Development Plan, 2018;

Case Officer: Kirsty Hope

Date: 30 October 2020

## Hope, Kirsty

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**From:** Pearson, Nairn  
**Sent:** 24 November 2020 11:27  
**To:** Hope, Kirsty  
**Subject:** Planning Consultation, Dixon Terrace, Whitburn, EH47 0HL (Ref. 0697/FUL/20) - [OFFICIAL]

### DATA LABEL: OFFICIAL

FAO: Kirsty Hope  
Planning Officer - Development Management  
Planning, Economic Development & Regeneration  
West Lothian Council  
Civic Centre  
Howden South Road  
Livingston  
EH54 6FF

Dear Kirsty,

**Planning Consultation Ref. 0697/FUL/20**

**Proposed Erection of 2 Retail Units (Class 1) and Hot Food Takeaway with Associated Works**

**Application for Planning Permission by Ashwood Commercial Investment Ltd, at Dixon Terrace, Whitburn, West Lothian, EH47 0HL**

Thank you for your recent consultation request in relation to the above received application for planning permission in Whitburn.

Having had the opportunity to review the online application documentation and to view the application site subject of these proposals, I now understand that this planning application has been given formal consideration with recommendation being for refusal of permission by the Council via delegated powers. On this basis, there is no longer a requirement to provide you with the requested Council officer consultation response.

If you should wish to discuss this consultation response further then please do get in touch. Thank you.

Kind regards.

Nairn

**Nairn Pearson**

BID & Town Centre Manager (Armadale, Bathgate & Whitburn)  
Community Regeneration (Bathgate)  
Economic Development & Regeneration  
Planning, Economic Development & Regeneration  
West Lothian Council  
Email. [nairn.pearson@westlothian.gov.uk](mailto:nairn.pearson@westlothian.gov.uk)

### West Lothian Council - Data Labels:

**OFFICIAL - Sensitive:** Contains Personal or Business Sensitive Information for authorised personnel only

**OFFICIAL:** Contains information for council staff only

**PUBLIC:** All information has been approved for public disclosure

**NON-COUNCIL BUSINESS:** Contains no business related or sensitive information

Link to **Information Handling Procedure:** <http://www.westlothian.gov.uk/media/1597/Information-Handling-Procedure/pdf/infohandling1.pdf>

**S SAVE PAPER - Please do not print this e-mail unless absolutely necessary.**



## Memo

Our reference: DLB/167879  
Direct Dial: 01506 282 376  
Email: david.brewster@westlothian.gov.uk

31 August 2020

Environmental Health & Trading Standards  
West Lothian Civic Centre  
Howden South Road  
Livingston  
EH54 6FF

Tel: 01506 280000

[Environmentalhealth@westlothian.gov.uk](mailto:Environmentalhealth@westlothian.gov.uk)  
[Tradingstandards@westlothian.gov.uk](mailto:Tradingstandards@westlothian.gov.uk)

### For the attention of Ms Hope

West Lothian Civic Centre  
Howden South Road  
Howden  
Livingston  
EH54 6FF

**Environmental Health &  
Trading Standards Manager**  
Craig Smith

### **PREMISES: Dixon Terrace, Whitburn Planning Consultation Response 0697/FUL/20**

I refer your consultation of 31/08/2020 regarding this application.

At this time Environmental Health has suspended its input to the Development Management and Development Planning services. This is to allow us to concentrate on current high priority public health work and to reflect the reduced staffing currently available for normal service delivery. We are therefore unable to assess this application and therefore can offer no comments on its suitability or otherwise.

The lack of pavement is noted, discouraging pedestrian access from the east and encouraging short vehicle trips. This should not be encouraged for air quality and personal wellbeing reasons.

It will be the responsibility of the developer and / or future occupants to ensure that conditions and behaviour do not give rise to circumstances likely to cause nuisance, be prejudicial to health or fail to comply with other legislative requirements covering Environmental Health, housing and safety.

I regret that we are currently unable to discuss the matter further.

Yours faithfully

Mr David Brewster  
Senior Environmental Health Officer



DATA LABEL: PUBLIC



OPERATIONAL SERVICES  
ROADS & TRANSPORTATION  
DEVELOPMENT MANAGEMENT & TRANSPORTATION PLANNING

## ROADS & TRANSPORTATION CONSULTATION RESPONSE TO PLANNING APPLICATION

<b>This proposal is (tick as appropriate)</b>		<b>Signing Off</b>	
Acceptable without conditions	<input type="checkbox"/>	DM & TP Officer Roads & Transportation	Chris Nicol
Acceptable with conditions noted below	<input checked="" type="checkbox"/>	DM & TP Manager Roads & Transportation	
Not acceptable & should be refused	<input type="checkbox"/>	Date Issued to Development Management Officer	17 September 2020
<b>HOLDING OBJECTION</b> – The application is not acceptable in current format and applicant requires to submit additional information to enable the proposals to be fully assessed.			

<b>Recommendation &amp; Proposed Conditions</b>	From a Roads & Transportation view, this application is approved subject to the following conditions:-  <b>A 2m footway shall be provided along the frontage of the development within the car park.</b>  <b>Perpendicular spaces shall be marked out along this footway to provide 19 spaces. Extra spaces can be marked out between the entry and exit.</b>  <b>The Entry and exit access points to the car park area shall be clearly marked out with appropriate signs.</b>
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DM Case Officer	Kirsty Hope	Applicant	Ashwood Commercial investment Ltd
Application Ref	0697/FUL/20	Date Issued	31 August 2020
Proposal	Erection of 2 retail units (class 1) and hot food takeaway with associated works		
Location	Dixon Terrace, Whitburn		

<b>Legislation &amp; Guidance Applicable (tick as appropriate)</b>		<b>Constraints (tick as appropriate)</b>	
Roads (Scotland) Act 1984	<input type="checkbox"/>	Public Footpath / Rights of Way	<input type="checkbox"/>
Designing Streets	<input type="checkbox"/>	Core Path Plan	<input type="checkbox"/>
SCOTS National Roads Development Guide	<input checked="" type="checkbox"/>		<input type="checkbox"/>
SUDS for Roads	<input type="checkbox"/>		<input type="checkbox"/>
Sewers for Scotland	<input type="checkbox"/>		<input type="checkbox"/>
		Other (please specify)	Council car parking standards

DATA LABEL: PUBLIC

<b>Site Description</b>	Disused commercial buildings
<b>Quality Plan</b>	N/A
<b>Road Safety Audit</b>	N/A
<b>Transport Assessment or Statement</b>	N/A
<b>Does the red line boundary reach the adopted public road</b>	Yes
<b>Is there a footway or footpath connecting the site to the existing adopted road network</b>	Yes
<b>Drawings &amp; documents assessed</b>	Location plan Proposed site plan Ground floor plan
<b>Does Road Layout comply with WLC Standards</b>	Yes
<b>Does Parking comply with WLC Standards (including disabled provision)</b>	Retail 1 space per 20sqm Takeaway 1 space per 13sqm

**DATA LABEL: PUBLIC**

<b>Sightline Requirements</b>	2.4 by 40m
<b>Do the proposals affect any existing TRO's (e.g) waiting restrictions, speed limits) or bus stop locations</b>	No
<b>Do the proposals affect any Core Paths, NCR's or Rights of Way</b>	No
<b>SUDS Details</b>	
<b>Site History including any previous planning applications</b>	

**ROADS & TRANSPORTATION MANAGER**  
Operational Services  
Whitehill Service Centre  
4 Inchmuir Road  
Whitehill Industrial Estate  
Bathgate  
West Lothian  
EH48 2EP

## **Draft Conditions 0697/FUL/20**

1. The development shall not commence until details of a 2meter wide footway along the site frontage has been agreed in writing by the planning authority. Thereafter the 2m footway shall be constructed in accordance with the approved details agreed by the planning authority.

Reason: In the interests of road safety, sustainable travel and visual and environmental amenity.

2. The development shall not commence until details of the parking spaces are shown and delineated within the site boundary as well as details of the exit and entrance points submitted in writing to and agreed in writing by the planning authority. Thereafter shall be constructed and shall remain as such as agreed by the planning authority.

Reason: In the interests of road safety, sustainable travel and visual and environmental amenity.

3. Prior to the unit being occupied details of a bicycle store shall be submitted and approved in writing by the planning authority and the constructed in accordance with the approved plan. Thereafter the development shall be implemented in accordance with the details as approved by the planning authority.

Reason: In the interests of sustainable travel and amenity.

4. Surface water from the development shall be treated and attenuated by a sustainable drainage system (SUDS) in accordance with the Water Assessment & Drainage Assessment Guide (published by SUDS Working Party) and The SUDS Manual C753 (published by CIRIA). The development shall not begin until a drainage assessment has been submitted to and approved in in writing by the planning authority. Thereafter the development shall be implemented in accordance with the details as approved by the planning authority.

Reason: To minimise the cumulative effects of surface water and diffuse pollution on the water environment.

5. The development shall not commence until details of the materials to be used as external finishes on the building, roads, footways/footpaths, parking areas and other hardstanding areas have been submitted to and approved in writing by the planning authority. Thereafter the development shall be implemented in accordance with the details as approved by the planning authority.

Reason: To enable full consideration to be given to those details which have yet to be submitted, in the interests of visual and environmental amenity.

6. The boundary enclosures including the location, height, constriction material and colour shall be submitted to and approved in writing by the planning authority prior to implementation. Thereafter the development shall be implemented in accordance with the details as approved by the planning authority.

Reason: In the interests of visual and environmental amenity.

7. The following restrictions shall apply to the construction of the development:

Noise (Construction)

Any work required to implement this planning permission that is audible within any adjacent noise sensitive receptor or its curtilage shall be carried out only between the hours of 0800 and 1800 Monday to Friday and 0800 and 1300 on a Saturday and at no time on a Sunday. This includes deliveries and operation of on-site vehicles and equipment. No generators shall be audible within any residential properties between the hours of 2100 and 0800.

Noise (Vehicles/Plant)

All site vehicles (other than delivery vehicles) must be fitted with non-tonal broadband reversing alarms. Heavy goods vehicles shall not arrive or leave the site except between the hours of 0800 and 1800 Monday to Friday and 0800 and 1300 on a Saturday. No heavy goods vehicles shall arrive or leave the site on a Sunday.

Site Compound

The development shall not begin until the location and dimensions of any site compound have been submitted to and approved in writing by the planning authority. Thereafter the development shall be implemented in accordance with the details as approved.

Waste

Effective facilities for the storage of refuse, building debris and packaging shall be provided on site. The facilities shall be specifically designed to prevent refuse, building debris and packaging from being blown off site. Any debris blown or spilled from the site onto surrounding land shall be cleared on a weekly basis. For the purposes of this condition, it shall be assumed that refuse, debris and packaging on surrounding land has originated from the site if it is of the same or similar character to items used or present on the site.

Wheel Cleaning

All construction vehicles leaving the site shall do so in a manner that does not cause the deposition of mud or other deleterious material on surrounding roads. Such steps shall include the cleaning of the wheels and undercarriage of each vehicle where necessary and the provision of road sweeping equipment.

Reason(s): In the interests of visual and environmental amenity.