



Local Review Body

West Lothian Civic Centre
Howden South Road
LIVINGSTON
EH54 6FF

6 March 2024

A hybrid meeting of the **Local Review Body** of West Lothian Council will be held within the **Council Chambers, West Lothian Civic Centre, Livingston, EH54 6FF** on **Wednesday 13 March 2024 at 11:00am**.

For Chief Executive

BUSINESS

Public Session

1. Apologies for Absence
2. Declarations of Interest - Members must declare any interests they have in the items of business for consideration at the meeting, identifying the relevant agenda items and the nature of their interests.
3. Order of Business, including notice of urgent business, declarations of interest in any urgent business and consideration of reports for information.

The Chair will invite members to identify any such reports they wish to have fully considered, which failing they will be taken as read and their recommendations approved.

4. Confirm Draft Minutes of Meeting of Local Review Body held on Wednesday 28 February 2024 (herewith)

Public Items for Decision

5. Notice of Review Application No.0859/FUL/23 - Change of use from public open space to private garden ground, 100 Huntly Avenue, Deans, Livingston (herewith)
6. Notice of Review Application No.1163/FUL/22 - Change of use from hairdressers (Class 1) to a cafe (Class 3) (sui generis) (in retrospect) at 29 Uphall Station Road, Pumpherston (herewith)

DATA LABEL: Public

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



CODE OF CONDUCT AND DECLARATIONS OF INTEREST (2021)

This form is a reminder and an aid. It is not a substitute for understanding the Code of Conduct and guidance.

Interests must be declared at the meeting, in public.

Look at every item of business and consider if there is a connection.

If you see a connection, decide if it amounts to an interest by applying the objective test.

The objective test is whether or not a member of the public with knowledge of the relevant facts would reasonably regard your connection to a particular matter as being so significant that it would be considered as being likely to influence your discussion or decision-making.

If the connection does not amount to an interest then you have nothing to declare and no reason to withdraw.

If the connection amounts to an interest, declare it as soon as possible and leave the meeting when the agenda item comes up.

When you declare an interest, identify the agenda item and give enough information so that the public understands what it is and why you are declaring it.

Even if the connection does not amount to an interest you can make a statement about it for the purposes of transparency.

More detailed information is on the next page.

Look at each item on the agenda, consider if there is a “connection”, take advice if necessary from appropriate officers in plenty of time. A connection is any link between the item of business and:-

- you
- a person you are associated with (e.g., employer, business partner, domestic partner, family member)
- a body or organisation you are associated with (e.g., outside body, community group, charity)

Anything in your Register of Interests is a connection unless one of the following exceptions applies.

A connection does not exist where:-

- you are a council tax payer, a rate payer, or a council house tenant, including at budget-setting meetings
- services delivered to the public are being considered, including at budget-setting meetings
- councillors’ remuneration, expenses, support services or pensions are being considered
- you are on an outside body through a council appointment or nomination unless it is for regulatory business or you have a personal conflict due to your connections, actions or legal obligations
- you hold a view in advance on a policy issue, have discussed that view, have expressed that view in public, or have asked for support for it

If you see a connection then you have to decide if it is an “interest” by applying the objective test. The objective test is whether or not a member of the public with knowledge of the relevant facts would reasonably regard your connection to a particular matter as being so significant that it would be considered as being likely to influence your discussion or decision-making.

If the connection amounts to an interest then:-

- declare the interest in enough detail that members of the public will understand what it is
- leave the meeting room (physical or online) when that item is being considered
- do not contact colleagues participating in the item of business

Even if decide your connection is not an interest you can voluntarily make a statement about it for the record and for the purposes of transparency.

The relevant documents are:-

- [Councillors’ Code of Conduct, part 5](#)
- [Standards Commission Guidance, paragraphs 129-166](#)
- [Advice note for councillors on how to declare interests](#)

If you require assistance, contact:-

- James Millar, Interim Monitoring Officer and Governance Manager, 01506 281613, james.millar@westlothian.gov.uk
- Carol Johnston, Chief Solicitor and Depute Monitoring Officer, 01506 281626, carol.johnston@westlothian.gov.uk
- Committee Services Team, 01506 281604, 01506 281621
committee.services@westlothian.gov.uk

January 2022

MINUTE of MEETING of the LOCAL REVIEW BODY held within COUNCIL CHAMBERS, WEST LOTHIAN CIVIC CENTRE, LIVINGSTON, EH54 6FF, on 28 FEBRUARY 2024.

Present – Councillors Danny Logue (Chair), Tom Conn, Alison Adamson, Stuart Borrowman, Tony Boyle; and Pauline Clark

Apologies – Councillor William Boyle

1. DECLARATIONS OF INTEREST

No declarations of interest were made.

2. MINUTE

The committee confirmed the draft Minute of its meeting held on 24 January 2024 as a correct record. The Minute was thereafter signed by the Chair.

3. NOTICE OF REVIEW APPLICATION NO.0514/FUL/23

The committee considered a report (copies of which had been circulated) by the Chief Solicitor regarding an application to review the refusal of planning permission by the Appointed Person for the erection of 4 houses with associated works (renewal of planning permission 0460/FUL/16), land to east of Easter Inch Steadings, Bathgate.

Prior to consideration of the review application the Planning Adviser explained to members that two procedural matters had to be considered and determined before they could proceed. These procedural matters pertained to: -

- The introduction of four pieces of new evidence contained within the Notice of Review application
- Reference to a Planning Statement in the Notice of Review application but which had not been included

Motion

To agree to allow the introduction of the following as new evidence for consideration by the LRB in its determination of the review application: -

- 2 Historical maps showing the application site in 1885 and 1965;
- An aerial photograph of the site with new planting super imposed over it;
- A missing page of a tree protection statement;
- A sheet of technical data relative to drainage and water run-off and which is entirely new

To continue the review application for further written procedure with a Procedure Note to be issued to: -

- ❖ The Applicant to allow them to submit a copy of the Planning Statement as referred to in the Notice of Review application within 14 days of the Procedure Notice.
 - ❖ For the Planning Statement to be copied to the Appointed Person, other interested parties and consultees for comment, with any comments to be received within 14 days of receipt. Any responses will be copied to the Applicant, Appointed Person, and interested parties.
- Moved by the Chair and seconded by Councillor Clark

Decision

To unanimously approve the terms of the motion.



LOCAL REVIEW BODY

APPLICATION NO.0859/FUL/23 – CHANGE OF USE FROM PUBLIC OPEN SPACE TO PRIVATE GARDEN GROUND, 100 HUNTLY AVENUE, DEANS, LIVINGSTON

REPORT BY CHIEF SOLICITOR

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 the refusal of planning permission for a change of use from public open space to private garden ground, 100 Huntly Avenue, Deans, 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 Review, and supporting documentation, submitted by the applicant, dated 20 January 2024.
2. The Handling Report, prepared by the Planning Case Officer, dated 20 December 2023. The Development Plan referred to therein can be viewed here <https://www.gov.scot/publications/national-planning-framework-4/> and <https://www.westlothian.gov.uk/LDP>
3. The Decision Notice, issued by the Appointed Person, dated 20 December 2023.

No representations to the proposal have been received by the Council

The applicant has stated in the review application that they believe a review of all written submissions is the most appropriate procedure for determination of the review.

C SITE VISITS AND FURTHER PROCEDURE

A site inspection of the application site will be undertaken in advance of the Local Review Body's first consideration of the review application; this will be completed on 13 March 2024. However, the Local Review Body, upon consideration of the review application before it, can determine if further procedure is required before reaching a decision. This can include any, or any combination, of the following; an accompanied site inspection, further written submissions and hearing session/s.

D DEVELOPMENT PLAN POLICIES AND PLANNING GUIDANCE

The Appointed Person refused the application for the following reason as outlined in the Decision Notice attached to the committee report: -

The proposed change of use will result in an unacceptable loss of public open space and in consequence will be out of keeping with the character of the area and will have a detrimental effect on the visual, residential and recreational amenities of the area.

The proposal is, therefore, contrary to Policy DES 1 (Design Principles) and Policy ENV 21 (Protection of Formal and Informal Open Space) of the adopted West Lothian Local Development Plan, 2018 and Policy 20 (Blue and Green Infrastructure) of National Planning Framework 4.

Further information can be obtained in the Decision Notice and Handling Report both of which are attached to this report.

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, attached to the report are a set of draft 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

Carol Johnston, Chief Solicitor, West Lothian Civic Centre

Email address: - carol.johnston@westlothian.gov.uk

Date: 13 March 2024

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	Milan Kral
		Address	100 Huntly Avenue, Deans, Livingston
		Postcode	EH54 8NG
		Telephone No. (1)	
		Telephone No. (2)	
		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.			
Do you agree to correspondence regarding your review being sent by e-mail? * YES/NO			

PART B	APPLICANT REF. NO.	<u>0859/FUL/23</u>
	SITE ADDRESS	<u>100 Huntly Avenue, Deans, Livingston, EH54 8NG</u>
	DESCRIPTION OF PROPOSED DEVELOPMENT	<u>Graden Extension-</u>
		<u>Change of use from public to private</u>
	DATE OF APPLICATION	<u>12/10/2023</u>
	DATE OF DECISION NOTICE (IF ANY)	<u>20/12/2023</u>

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.</u></p>
	<p>We feel that the decision made has been not adequate and the reason has not very clear background.</p> <p>The notice with the decision (attachment no 1.) states:</p> <p>‘This proposed change of use will result in an unacceptable loss of public open space and in consequence will be out of keeping with the character of the area and will have a detrimental effect on the visual, residential and recreational amenities of the area.’</p> <p>The close by area has a plenty of green spaces so the extension of our garden for extra 4x8m in total will not have any influence on the surrounded space. We can prove, that more Planning Permissions for an extension of the gardens had been granted before (attachment no. 2) which have bigger impact on the visual outlook on the residential and recreational amenities and are even visible from the main road. We provide the pictures of those particular gardens in respect of their privacy but in response of our appeal against the decision.</p> <p>Are there any objections against us, why particularly our application has been refused?</p> <p>The extension we would like to make, won't be seen from the main road. Also, I want to mention that there had not been any appeals or objections from the neighbours so the reason of the refusal such as an influence on the wellbeing and the recreational amenities, is not justified.</p> <p>However, I would like to explain the reason behind our request to extend our existing garden. Immediately after we have received an email from Mr. Kenman Liu on 13th September containing that the Council as landowner has agreed to allow this sale to proceed, we were happy to pay any fees regarding to our application. Of course, before we started to think about this purchase, we did some research in our area and we found that other neighbours had their gardens extended with more awkward steps.</p> <p>We didn't even think that the same landowner (Council) can refuse this sale after we have paid all these fees.</p> <p>Also, I want to point out that we had asked couple of times what are the fees for the application to make sure we have the sufficient amount ready prior to the purchase and we practically did not get satisfying answer from Shannon Fairley-Development Management Technician. After initial payment of £120 we received another email from Shannon that informed us about the Planning Permission application fees of £600 + £80 for advertising. When we asked if this amount is refundable, we didn't get an answer. However, we still believed according to our research of the area and the initial email from Kenman Liu that even if the amount is refundable, we still have a chance to get a positive answer</p>

from the council.

After submitting the completed application, once again we received an email from Shannon which stated:

‘I refer to your application which was received on 12 October 2023. Unfortunately, I cannot register

and process your application for the reasons listed below.

1. The cost of this application is £625.00. (outwith advert fee) we have already received £600.00 so please pay the remaining £25.00 online.’

So, we had outstanding payment of £25 towards the submission. Afterwards, we tried to find out what is the reason for increasement. Even though the email said we can contact Shannon in case of any questions, there was no way to get in touch with her. Luckily, I get on the phone someone who was willing to help (Mr. Steven McLaren Planning Officer) and initiated the phone call back from the planning department. There we have been informed that this payment was also non-refundable as the previous one.

We feel a bit fooled from the council because many of our questions has not been answered straightaway and we had to look for the answers all the time.

Noone had been able to give us the answer how much does it all cost. The last fees we had been informed of, our solicitor sent us the email, that we are expected to cover the payment of council legal fees £500, PM&D fees of £384 and additional payment of advanced notice £20, legal report £60 and probably the second break off registration charge of £80.

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>I'm attaching a photo documentation with addresses of our neighbours who have their gardens extentension that led us to start the process of purchase. It was the first impulse to start the application therefore we want this fact to be considered in our review.</p> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>
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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. **All** 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.	0859/ FUL/23 Handling report
2.	0859/FUL/23 Refuse full planning application
3.	0859/FUL/23 Refused plans
4.	Letter from Council with offer for purchase
5.	Photos of various gardens near by
6.	
7.	
8.	
9.	
10.	
11.	
12.	

PART D

REVIEW PROCEDURE

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review.

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

*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.

A review of all written documents only.

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.

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
	<p>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.</p>
	<div> <div>Full completion of all parts of this form</div> <div>✓</div> </div>
	<div> <div>Statement of your reasons for requiring a review and matters to be raised</div> <div>✓</div> </div>
	<div> <div>Statement of your preferred procedure</div> <div>✓</div> </div>
	<div> <div>All documents, materials and evidence INCLUDING LOCATION PLANS AND/OR DRAWINGS which you intend to rely on. Copies must accompany this notice.</div> <div>✓</div> </div>
	<p>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.</p>

*****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 and which includes those plans/drawings that were used by the Appointed Person when determining the original planning application.

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

Signed



Date 20/01/2024

* Delete as appropriate

Please email this completed form to :-

committeeservices@westlothian.gov.uk or alternatively post to :-

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



DATA LABEL: PUBLIC

HANDLING REPORT

Ref. No.:	0859/FUL/23	Email:	Melissa.Bell@westlothian.gov.uk
Case Officer:	Melissa Bell	Tel No.:	
Ward:	Livingston North	Member:	Cllr Alison Adamson Cllr Robert De Bold Cllr Andrew Miller

Title	Change of use from public open space to private garden ground (Grid Ref: 302795,668676) at 100 Huntly Avenue, Deans, Livingston, West Lothian, EH54 8NG
Application Type	Local Application
Decision Level	Delegated List
Site Visit	14.11.2023
Recommendation	Refuse Permission
Decision	
Neighbour Notification	Neighbour notification procedures have been carried out correctly - case officer verification. YES
Advertisement	09.11.2023
EIA Screening	The scale and nature of the development is such that it is not EIA development under the terms of the Environmental Impact Assessment (Scotland) Regulations 2017 (EIA Regulations).
Equality Impact	The application has been assessed and has no impact in terms of equalities or human rights.

Description of Proposals

Change of use from public open space to private garden ground

Site History

None relevant.

Representations

None received.

Consultations

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

Consultee	Objection?	Comments	Planning Response
Land Services - Open Space	N/A	N/A	N/A

Policies Considered

National Planning Framework 4

Policy Title	Policy Text
Policy 20 - Blue and green infrastructure	<p>a) Development proposals that result in fragmentation or net loss of existing blue and green infrastructure will only be supported where it can be demonstrated that the proposal would not result in or exacerbate a deficit in blue or green infrastructure provision, and the overall integrity of the network will be maintained. The planning authority's Open Space Strategy should inform this.</p> <p>b) Development proposals for or incorporating new or enhanced blue and/or green infrastructure will be supported. Where appropriate, this will be an integral element of the design that responds to local circumstances. Design will take account of existing provision, new requirements and network connections (identified in relevant strategies such as the Open Space Strategies) to ensure the proposed blue and/or green infrastructure is of an appropriate type(s), quantity, quality and accessibility and is designed to be multi- functional and well integrated into the overall proposals.</p> <p>c) Development proposals in regional and country parks will only be supported where they are compatible with the uses, natural habitats, and character of the park.</p> <p>d) Development proposals for temporary open space or green space on unused or under- used land will be supported.</p> <p>e) Development proposals that include new or enhanced blue and/or green infrastructure will provide effective management and maintenance plans covering the funding arrangements for their long-term delivery and upkeep, and the party or parties responsible for these.</p>

West Lothian Local Development Plan

Policy Title	Policy Text
ENV21 - Protection of Formal and Informal Open Space	<p>Proposals which will result in the loss of open space will not be supported unless it can be demonstrated that:</p> <ul style="list-style-type: none"> a. there is a specific locational justification for the development which outweighs the need to retain the open space; b. there is no significant adverse effect on the overall recreational amenity of the local area, taking account of the council's Open Space Strategy; c. the area is not of significant ecological value and disturbance and loss of trees, woodlands and wildlife habitats or green corridors is minimised; d. comparable open space or enhancement of existing open space can be provided and/or paid for by the

	developer at an appropriate alternative location where this will provide adequate and acceptable replacement for the open space lost as a result of the development; and e. connectivity within, and functionality of, the wider green network is not threatened and public access routes in or adjacent to the open space will be safeguarded.
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.

Officer Assessment

This application is seeking planning consent for the change of use from public open space to private garden ground, to the rear of 100 Huntly Avenue, Livingston.

The proposed site is situated within the residential area of Huntly Avenue, characterised by uniform rows of terraced houses with public open green spaces and communal parking. The proposal looks to extend the existing garden ground of 100 Huntly Avenue to the rear by approximately 32m² into the existing public open space situated behind the applicants address.

Policy ENV 21 (Protection of Formal and Informal Open Space) of the Local Development Plan states that proposals which will result in the loss of open space will not be supported unless it can be demonstrated that there is no significant adverse effect on the overall recreational amenity of the local area, or there is a specific locational justification for the development which outweighs the need to retain the open space.

The proposal lacks a locational justification and would create an awkward stepping of the rear boundaries resulting in disjointed open space and concealed corners, which would have a detrimental impact on the visual and residential amenity of the area. It is considered that granting of such a proposal would set a precedent for other residents to purchase additional garden space, cumulatively resulting in a significant loss of open space, and giving rise to potentially sporadic development.

Policy DES 1 (Design Principles) of the Local Development Plan requires development to integrate with its local context and built form. In terms of visual impact, the protrusion of the extended garden would result in an unsightly addition in the wider context of the area with no other gardens in the vicinity of the property protruding in such a manner. The loss of open space will have a significant adverse effect on the overall recreational amenity of the area and it is considered that the open space in this area should be retained.

This proposed change of use is not considered to be acceptable, primarily because of the loss of public open space and the detrimental effect on the visual, residential and recreational amenities of the area. Therefore, the proposal is contrary to Policy DES 1 (Design Principles) and Policy ENV 21 (Protection of Formal and Informal Open Space) of West Lothian Council's Local Development Plan 2018.

It is recommended that this application is refused planning permission.

Conclusions and Reasons for Decision

This proposed change of use is not acceptable, primarily because of the loss of public open space and the detrimental effect on the visual, residential and recreational amenities of the area.

Therefore, the proposal is contrary to Policy DES 1 (Design Principles) and Policy ENV 21 (Protection of Formal and Informal Open Space) of West Lothian Council's Local Development Plan 2018 and also Policy 20 of NPF4 (Blue and Green Infrastructure).

It is recommended that this application is refused planning permission.

List of Review Documents

Drawings schedule:

Docquetted Number	Drawing Description	Drawing Number
1	Location and Site Plan	N/A

Other relevant documents:

West Lothian Local Development Plan, 2018;

Case OfficerMelissa Bell.....

Date.....20/12/2023.....



DECISION NOTICE REFUSAL OF PLANNING PERMISSION

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

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

APPLICATION REFERENCE 0859/FUL/23

PROPOSAL Change of use from public open space to private garden ground

LOCATION 100 Huntly Avenue, Deans, Livingston, West Lothian, EH54 8NG,
(GRID REF: 302795, 668676)

APPLICANT Mr Milan Kral, 100 Huntly Avenue, Deans, Livingston, West Lothian, EH54 8NG

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:
20.12.2023

Wendy McCorriston
Development Management Manager

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

Signature:



DATA LABEL: PUBLIC

The council in exercise of its powers under the Town and Country Planning (Scotland) Act 1997 (as amended) refuses planning permission for planning application 0859/FUL/23, for the reason(s) set out as follows:

- 1 This proposed change of use will result in an unacceptable loss of public open space and in consequence will be out of keeping with the character of the area and will have a detrimental effect on the visual, residential and recreational amenities of the area.

The proposal is, therefore, contrary to Policy DES 1 (Design Principles) and Policy ENV 21 (Protection of Formal and Informal Open Space) of the adopted West Lothian Local Development Plan, 2018 and Policy 20 (Blue and Green Infrastructure) of National Planning Framework 4.

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. If the application was heard at a committee and in any other case you can seek an appeal of that decision to the Government's Directorate for Planning and Environmental Appeals. You can find information on these processes and how to apply for a review, or to appeal, here: <https://www.westlothian.gov.uk/article/33128/Decisions-Reviews-and-Appeals>

Annex 1, Schedule of Plans - 0859/FUL/23

Docquetted Number	Drawing Description	Drawing Number
1	Location Plan	N/A

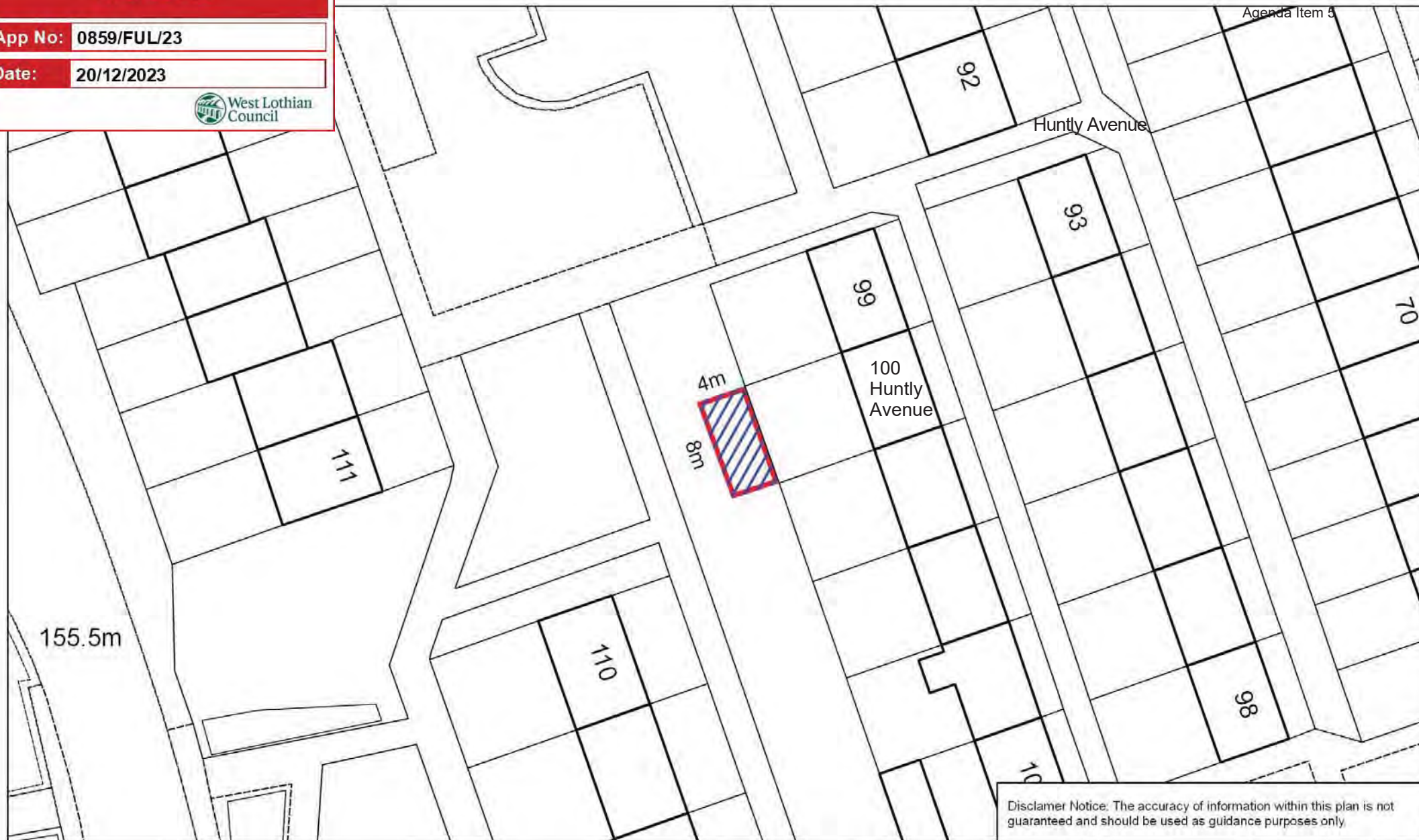
REFUSED

App No: 0859/FUL/23

Date: 20/12/2023



Agenda Item 5



Disclaimer Notice: The accuracy of information within this plan is not guaranteed and should be used as guidance purposes only.



Approximately 32.0m² at 100 Huntly Avenue, Deans, Livingston

Not to Scale

A4



Property Services, West Lothian Civic Centre, Livingston, EH54 6FF

1/9/2023

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

Contact: Kenman Liu
Tel: 07787 103917
Fax: 01506 281683

Email: kenman.liu@westlothian.gov.uk

Our Ref: PS/KL
Your ref:

13th September 2023

Milan Kral
100 Huntly Avenue
Deans
Livingston
EH54 8NG

Acquisition of Land adjacent to 100 Huntly Avenue, Deans, Livingston

I refer to our previous correspondence regarding the above matter and can confirm that the Council as landowner has agreed to allow this sale to proceed, subject to the terms of sale below.

In keeping with the standard procedure adopted by the Council the rate applied for the sale of garden ground is £100 per square metre. I understand that in this instance the area extends to approximately 32.00 square metres. The purchase price will be £3200.00.

The main terms of sale are:

1. *The area of ground to be sold is indicated on the attached plan and extends to approximately 32.00 square metres. To be confirmed by a site survey.*
2. *The purchase price will be £3200.00*
3. *The date of entry shall be 7 days after grant of planning consent.*
4. *This offer is conditional on you obtaining Planning Consent for the change of use from public amenity land.*
5. *West Lothian Council shall retain access for the maintenance of any existing below ground services over the subjects of sale for which they are responsible.*
6. *The purchaser will be responsible for erecting a new boundary fence or wall along the new boundary, the height of which will be determined by the Planning Authority.*

7. *The purchaser shall reimburse West Lothian Council for all reasonable costs in the transaction which in this instance are approximately:*

Administration & Land Surveyors Fees (Inc. Deed Plans) £320.00
W LC Legal fee – Dependent on the work involved.

Please contact the Planning department for Application Fees (Change of Use)

You will note that the offer is conditional upon you obtaining Planning Consent and will only conclude if Planning Consent is granted. You should contact the Council's Development & Building Control Unit at Livingston Civic Centre on 01506 280000, to request the relevant forms and submit your Planning Application for Change of Use from Public Open Space to Private Garden Ground. Information and Application forms can also be found on the Council's website at www.westlothian.gov.uk

Please confirm that the foregoing terms are acceptable and I will instruct the Head of Legal Services to issue you with a formal offer.

This offer remains open for acceptance for a period of three months from the date of issue. If no written confirmation of acceptance is received within three months, the offer will be deemed to have been withdrawn.

Finally, the terms and conditions contained in this letter are not part of any legally binding contract, nor should they be deemed to be so, but are indicative only at this stage and subject to formalisation in due course by the Council's solicitor.

I look forward to hearing from you.

Yours sincerely



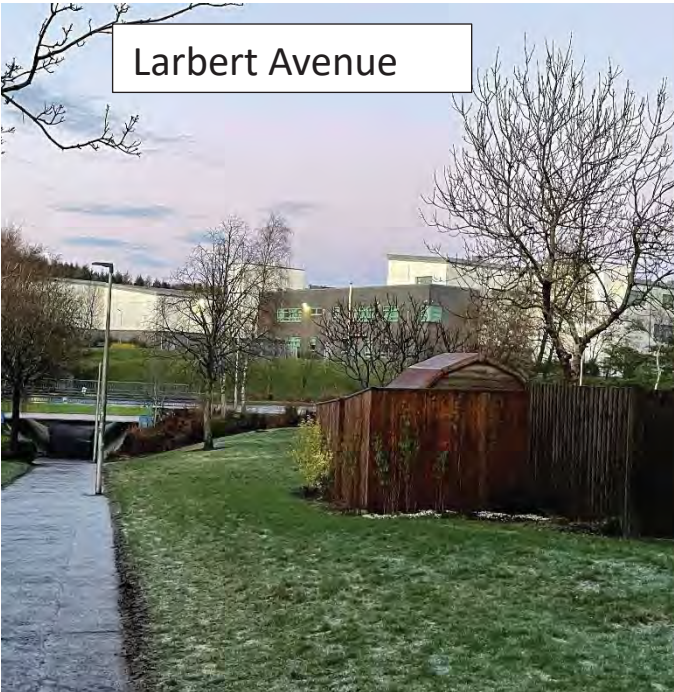
For Head of Finance & Property Services



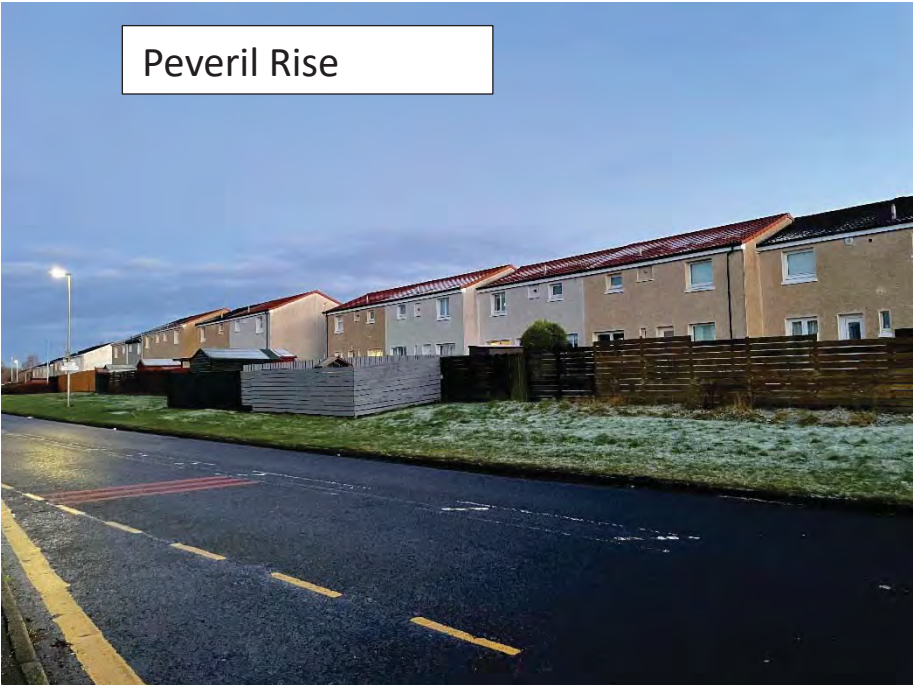
Huntly Avenue



Agenda Item 5



Larbert Avenue



Peveril Rise





DECISION NOTICE REFUSAL OF PLANNING PERMISSION

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

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

APPLICATION REFERENCE 0859/FUL/23

PROPOSAL Change of use from public open space to private garden ground

LOCATION 100 Huntly Avenue, Deans, Livingston, West Lothian, EH54 8NG,
(GRID REF: 302795, 668676)

APPLICANT Mr Milan Kral, 100 Huntly Avenue, Deans, Livingston, West Lothian, EH54 8NG

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:
20.12.2023

Wendy McCorriston
Development Management Manager

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

Signature:

DATA LABEL: PUBLIC

The council in exercise of its powers under the Town and Country Planning (Scotland) Act 1997 (as amended) refuses planning permission for planning application 0859/FUL/23, for the reason(s) set out as follows:

- 1 This proposed change of use will result in an unacceptable loss of public open space and in consequence will be out of keeping with the character of the area and will have a detrimental effect on the visual, residential and recreational amenities of the area.

The proposal is, therefore, contrary to Policy DES 1 (Design Principles) and Policy ENV 21 (Protection of Formal and Informal Open Space) of the adopted West Lothian Local Development Plan, 2018 and Policy 20 (Blue and Green Infrastructure) of National Planning Framework 4.

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. If the application was heard at a committee and in any other case you can seek an appeal of that decision to the Government's Directorate for Planning and Environmental Appeals. You can find information on these processes and how to apply for a review, or to appeal, here: <https://www.westlothian.gov.uk/article/33128/Decisions-Reviews-and-Appeals>

Annex 1, Schedule of Plans - 0859/FUL/23

Docquetted Number	Drawing Description	Drawing Number
1	Location Plan	N/A



DATA LABEL: PUBLIC

HANDLING REPORT

Ref. No.:	0859/FUL/23	Email:	Melissa.Bell@westlothian.gov.uk
Case Officer:	Melissa Bell	Tel No.:	
Ward:	Livingston North	Member:	Cllr Alison Adamson Cllr Robert De Bold Cllr Andrew Miller

Title	Change of use from public open space to private garden ground (Grid Ref: 302795,668676) at 100 Huntly Avenue, Deans, Livingston, West Lothian, EH54 8NG
Application Type	Local Application
Decision Level	Delegated List
Site Visit	14.11.2023
Recommendation	Refuse Permission
Decision	
Neighbour Notification	Neighbour notification procedures have been carried out correctly - case officer verification. YES
Advertisement	09.11.2023
EIA Screening	The scale and nature of the development is such that it is not EIA development under the terms of the Environmental Impact Assessment (Scotland) Regulations 2017 (EIA Regulations).
Equality Impact	The application has been assessed and has no impact in terms of equalities or human rights.

Description of Proposals

Change of use from public open space to private garden ground

Site History

None relevant.

Representations

None received.

Consultations

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

Consultee	Objection?	Comments	Planning Response
Land Services - Open Space	N/A	N/A	N/A

Policies Considered

National Planning Framework 4

Policy Title	Policy Text
Policy 20 - Blue and green infrastructure	<p>a) Development proposals that result in fragmentation or net loss of existing blue and green infrastructure will only be supported where it can be demonstrated that the proposal would not result in or exacerbate a deficit in blue or green infrastructure provision, and the overall integrity of the network will be maintained. The planning authority's Open Space Strategy should inform this.</p> <p>b) Development proposals for or incorporating new or enhanced blue and/or green infrastructure will be supported. Where appropriate, this will be an integral element of the design that responds to local circumstances. Design will take account of existing provision, new requirements and network connections (identified in relevant strategies such as the Open Space Strategies) to ensure the proposed blue and/or green infrastructure is of an appropriate type(s), quantity, quality and accessibility and is designed to be multi- functional and well integrated into the overall proposals.</p> <p>c) Development proposals in regional and country parks will only be supported where they are compatible with the uses, natural habitats, and character of the park.</p> <p>d) Development proposals for temporary open space or green space on unused or under- used land will be supported.</p> <p>e) Development proposals that include new or enhanced blue and/or green infrastructure will provide effective management and maintenance plans covering the funding arrangements for their long-term delivery and upkeep, and the party or parties responsible for these.</p>

West Lothian Local Development Plan

Policy Title	Policy Text
ENV21 - Protection of Formal and Informal Open Space	<p>Proposals which will result in the loss of open space will not be supported unless it can be demonstrated that:</p> <ul style="list-style-type: none"> a. there is a specific locational justification for the development which outweighs the need to retain the open space; b. there is no significant adverse effect on the overall recreational amenity of the local area, taking account of the council's Open Space Strategy; c. the area is not of significant ecological value and disturbance and loss of trees, woodlands and wildlife habitats or green corridors is minimised; d. comparable open space or enhancement of existing open space can be provided and/or paid for by the

	developer at an appropriate alternative location where this will provide adequate and acceptable replacement for the open space lost as a result of the development; and e. connectivity within, and functionality of, the wider green network is not threatened and public access routes in or adjacent to the open space will be safeguarded.
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.

Officer Assessment

This application is seeking planning consent for the change of use from public open space to private garden ground, to the rear of 100 Huntly Avenue, Livingston.

The proposed site is situated within the residential area of Huntly Avenue, characterised by uniform rows of terraced houses with public open green spaces and communal parking. The proposal looks to extend the existing garden ground of 100 Huntly Avenue to the rear by approximately 32m² into the existing public open space situated behind the applicants address.

Policy ENV 21 (Protection of Formal and Informal Open Space) of the Local Development Plan states that proposals which will result in the loss of open space will not be supported unless it can be demonstrated that there is no significant adverse effect on the overall recreational amenity of the local area, or there is a specific locational justification for the development which outweighs the need to retain the open space.

The proposal lacks a locational justification and would create an awkward stepping of the rear boundaries resulting in disjointed open space and concealed corners, which would have a detrimental impact on the visual and residential amenity of the area. It is considered that granting of such a proposal would set a precedent for other residents to purchase additional garden space, cumulatively resulting in a significant loss of open space, and giving rise to potentially sporadic development.

Policy DES 1 (Design Principles) of the Local Development Plan requires development to integrate with its local context and built form. In terms of visual impact, the protrusion of the extended garden would result in an unsightly addition in the wider context of the area with no other gardens in the vicinity of the property protruding in such a manner. The loss of open space will have a significant adverse effect on the overall recreational amenity of the area and it is considered that the open space in this area should be retained.

This proposed change of use is not considered to be acceptable, primarily because of the loss of public open space and the detrimental effect on the visual, residential and recreational amenities of the area. Therefore, the proposal is contrary to Policy DES 1 (Design Principles) and Policy ENV 21 (Protection of Formal and Informal Open Space) of West Lothian Council's Local Development Plan 2018.

It is recommended that this application is refused planning permission.

Conclusions and Reasons for Decision

This proposed change of use is not acceptable, primarily because of the loss of public open space and the detrimental effect on the visual, residential and recreational amenities of the area.

Therefore, the proposal is contrary to Policy DES 1 (Design Principles) and Policy ENV 21 (Protection of Formal and Informal Open Space) of West Lothian Council's Local Development Plan 2018 and also Policy 20 of NPF4 (Blue and Green Infrastructure).

It is recommended that this application is refused planning permission.

List of Review Documents

Drawings schedule:

Docquetted Number	Drawing Description	Drawing Number
1	Location and Site Plan	N/A

Other relevant documents:

West Lothian Local Development Plan, 2018;

Case OfficerMelissa Bell.....

Date.....20/12/2023.....

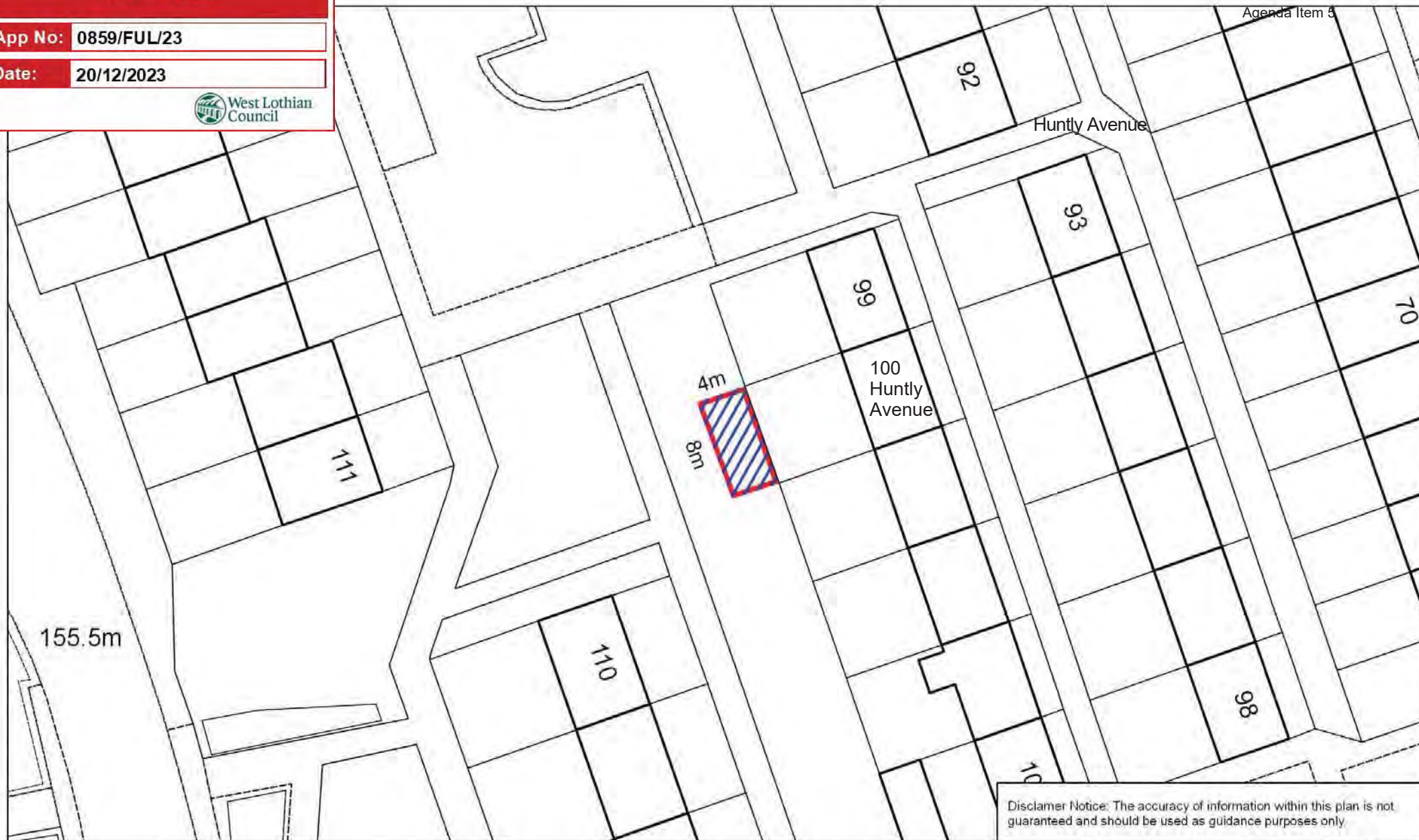
REFUSED

App No: 0859/FUL/23

Date: 20/12/2023



Agenda Item 5



Disclaimer Notice: The accuracy of information within this plan is not guaranteed and should be used as guidance purposes only.



Approximately 32.0m² at 100 Huntly Avenue, Deans, Livingston

Not to Scale

A4



Property Services, West Lothian Civic Centre, Livingston, EH54 6FF

1/9/2023

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Our Ref: 0859/FUL/23
13 March 2024

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

Tel: 01506 280000

Draft Conditions

This permission is granted subject to the following conditions:

1. This planning permission will lapse on the expiration of 3 years from the date of this decision notice, unless the development has been commenced before that date.

Reason: This is the standard three-year period stipulated by the Town and Country Planning (Scotland) Act 1997 (as amended).

2. Development shall not begin until the details and design of the fence have been submitted to and approved in writing by the planning authority thereafter the work shall be carried out in accordance with these approved details.

Reason: In the interests of visual and residential amenity

3. There shall be no vehicular access taken from the public path to the site.

Reason: In the interests of public safety.

Standard Notes:

Please read the following notes carefully as they contain additional information which is of relevance to your development.

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.

Advisory note to developer - SGN

There are a number of risks created by built over gas mains and services; these are:

- Pipework loading - pipes are at risk from loads applied by the new structure and are more susceptible to interference damage.
- Gas entry into buildings - pipework proximity increases risk of gas entry in buildings. Leaks arising from previous external pipework able to track directly into main building from unsealed entry.
- Occupier safety - lack or no fire resistance of pipework, fittings, or meter installation. Means of escape could be impeded by an enclosed meter.

Please note therefore, if you plan to dig, or carry out building work to a property, site, or public highway within our gas network, you must:

1. Check your proposals against the information held at <https://www.linesearchbeforeudig.co.uk/> to assess any risk associated with your development and
2. Contact our Plant Protection team to let them know. Plant location enquiries must be made via email, but you can phone us with general plant protection queries. See our contact details: Phone 0800 912 1722 / Email plantlocation@sgn.co.uk

In the event of an overbuild on our gas network, the pipework must be altered, you may be temporarily disconnected, and your insurance may be invalidated.

Further information on safe digging practices can be found here:

- Our free Damage Prevention e-Learning only takes 10-15 minutes to complete and highlights the importance of working safely near gas pipelines, giving clear guidance on what to do and who to contact before starting any work <https://www.sgn.co.uk/damage-prevention>
- Further information can also be found here <https://www.sgn.co.uk/help-and-advice/digging-safely>.

SGN personnel will contact you accordingly.

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.



LOCAL REVIEW BODY

APPLICATION NO.1163/FUL/22 – CHANGE OF USE FROM HAIRDRESSER (CLASS 1) TO CAFÉ (CLASS 3) (SUI GENERIS) (IN RETROSPECT) AT 29 UPHALL STATION ROAD, PUMPHERSTON

REPORT BY CHIEF SOLICITOR

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 Condition No.3 of the grant of planning permission and which concerns the opening hours.

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, and supporting documentation, submitted by the applicant, dated 24 January 2024.
2. The Handling Report, prepared by the Planning Case Officer, dated 27 October 2023. The Development Plan referred to therein can be viewed here <https://www.gov.scot/publications/national-planning-framework-4/> and <https://www.westlothian.gov.uk/LDP>
3. The Decision Notice, issued by the Appointed Person, dated 27 October 2023.

Four representations to the proposal have been received by the Council. All were contacted to advise that the review application had been submitted and they had 14 days in which to make further representation. Three took the opportunity to submit a further representation; these were copied to the applicant who has since responded to all three. All documentation referred to is attached this report.

The applicant has stated in the review application that they believe a site inspection is the most appropriate procedure for determination of the review.

C SITE VISITS AND FURTHER PROCEDURE

A site inspection of the application site will be undertaken in advance of the Local Review Body's first consideration of the review application; this will be completed on 13 March 2024. However, the Local Review Body, upon

consideration of the review application before it, can determine if further procedure is required before reaching a decision. This can include any, or any combination, of the following; an accompanied site inspection, further written submissions and hearing session/s.

D DEVELOPMENT PLAN POLICIES AND PLANNING GUIDANCE

The Appointed Person has granted planning permission subject to the following conditions outlined in the Decision Notice attached to the committee report: -

1. There shall be no frying within the premises without the installation of a suitable ventilation system in order to protect the amenity of nearby premises. Any external system or any required external additions to the premises shall require the submission of a separate planning application for consideration by the Planning Authority.

Reason: To protect residential amenity.

2. Effective facilities for the storage of refuse and packaging as per approved site plan JWAC A 1 PP 01/49/2022 B shall be provided on site within two months of the date of this consent.

Reason: To protect residential and environmental amenities.

3. The hours of operation of the business shall be restricted to 15.30-22.00 hours.

Reason: To protect residential amenity.

Further information can be obtained in the Decision Notice and Handling Report both of which are attached to this report.

E PLANNING CONDITIONS, LEGAL AGREEMENTS AND GOOD NEIGHBOUR AGREEMENTS

The Local Review Body, in reaching its decision on the review, may uphold the decision of the Appointed Person to attach the conditions, or may determine that; planning permission should not be granted, that planning permission should be granted absent the conditions, or that the conditions should be varied. As the review concerns the conditions attached to a grant of planning permission no draft conditions are attached to the report.

Carol Johnston, Chief Solicitor, West Lothian Civic Centre

Email address: - carol.johnston@westlothian.gov.uk

Date: 13 March 2024



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 <u>Rosanna Crolla</u> Address <u>11 Bankton Terrace</u> <u>Murieston</u> Postcode <u>EH54 9FB</u> Telephone No. (1) [REDACTED] Telephone No. (2) _____ Fax : [REDACTED] E-mail : [REDACTED]
	REPRESENTATIVE (if any)	Name _____ Address _____ _____ Postcode _____ Telephone No. (1) _____ Telephone No. (2) _____ Fax : _____ E-mail : _____
		Please tick this box if you wish all contact to be through your representative. <input type="checkbox"/>
		Do you agree to correspondence regarding your review being sent by e-mail? * YES /NO YES



PART B	APPLICANT REF. NO.	1163/FUL/22
	SITE ADDRESS	29 UPHALL STATION ROAD PUMPHERSTON EH53 0NB
	DESCRIPTION OF PROPOSED DEVELOPMENT	DESSERTS TAKEAWAY/ DELIVERIES (CAFE)
	DATE OF APPLICATION	01/2023
	DATE OF DECISION NOTICE (IF ANY)	27/10/2023

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)	CHANGE OF USE
Application for planning permission in principle	
Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition)	
Application for approval of matters specified in conditions	

PART C	TYPE OF REVIEW CASE	
	Refusal of application by appointed officer	
	Failure by appointed officer to determine the application within the period allowed	
	Conditions imposed on consent by appointed officer	✓



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.

Reason why I would like the decision to be reviewed are:

We have done everything we could to insure we were not disturbing our neighbour, by changing our door to a soft closer door, we've chaged our mikshake mixer to a silent one as the previous one seemindly was loud.

We put our music off at 10pm every night. We stopped selling Churros as the odour to our neighbour was too strong. I've made many changes to accommodate the neighbours following there complaints. There are takeaways in Pumpherston which also have flats above.

Closing 1 hour early expecially at the weekends will ~~ca~~use our business a significant ~~loss~~ loss.

Please consider to let us remain open till 11pm

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

• YES/NO NO

I would appreciate if this would be possible at least for the Friday + Saturday

Much appreciated



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. **All** 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.	I don't have any documents to include
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	
11.	
12.	

PART D**REVIEW PROCEDURE**

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review.

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

*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.

The procedure of an inspection and conclusion as returning to original closing time

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.

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.

HAPPY FOR YOU TO ATTEND AT ANY TIME

**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 INCLUDING LOCATION PLANS AND/OR DRAWINGS 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/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 and which includes those plans/drawings that were used by the Appointed Person when determining the original planning application.

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

Signed



Date

24/01/2024

* Delete as appropriate

Please email this completed form to :-

committeeservices@westlothian.gov.uk or alternatively post to :-

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



DECISION NOTICE GRANT 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), **grants planning permission for the development described below**, and in the planning application and docquetted plan(s). This decision must be read in conjunction with any conditions set out on the following pages, the accompanying advisory notes, and any guidance from the Coal Authority on ground stability

APPLICATION REFERENCE	1163/FUL/22
PROPOSAL	Change of use from hairdressers (Class 1) to a cafe (Class 3) (sui generis) (in retrospect)
LOCATION	29 Uphall Station Road, Pumpherston, West Lothian, EH53 0NB, (GRID REF: 306831, 669105)
APPLICANT	Mrs Roseanna Crolla, , 11 Bankton Terrace, Murieston, Livingston, West Lothian, EH54 9FB

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.

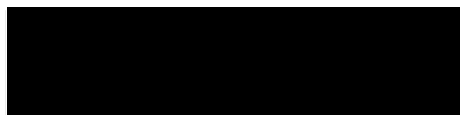
Docquetted plans relative to this decision are identified in Annex 1, Schedule of Plans.

Dated:
27.10.2023

Wendy McCorriston
Development Management Manager

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

Signature:



The reason(s) why the council made this decision is (are) as follows:

Subject to suitably worded conditions in relation to hours of operation, odour control and waste provision to preserve neighbouring amenity, the proposed use would be deemed to an acceptable use of the premises, and the development would comply with the requirements of Policy DES1 of the WLLPD 2018.

This permission is granted subject to the following conditions:-

- 1 There shall be no frying within the premises without the installation of a suitable ventilation system in order to protect the amenity of nearby premises. Any external system or any required external additions to the premises shall require the submission of a separate planning application for consideration by the Planning Authority.
Reason: To protect residential amenity
- 2 Effective facilities for the storage of refuse and packaging as per approved site plan JWAC A1 PP 01/49/2022 B shall be provided on site within two months of the date of this consent.
Reason: To protect residential and environmental amenities.
- 3 The hours of operation of the business shall be restricted to 15.30-22.00 hours.
Reason: To protect residential amenity.

ADVISORY NOTES TO DEVELOPER

Please read the following notes carefully as they contain additional information which is of relevance to your development.

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. Failure to provide the above information may lead to enforcement action being taken.

A form which can be used for this purpose can be found using the following link:

<https://www.westlothian.gov.uk/article/33097/Initiation-of-Development>

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. A form which can be used for this purpose can be found using the following link:

<https://www.westlothian.gov.uk/article/33098/Completion-of-development>

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.

Advisory note to developer - SGN

There are a number of risks created by built over gas mains and services; these are:

Pipework loading - pipes are at risk from loads applied by the new structure and are more susceptible to interference damage.

Gas entry into buildings - pipework proximity increases risk of gas entry in buildings. Leaks arising from previous external pipework able to track directly into main building from unsealed entry.

Occupier safety - lack or no fire resistance of pipework, fittings, or meter installation. Means of escape could be impeded by an enclosed meter.

Please note therefore, if you plan to dig, or carry out building work to a property, site, or public highway within our gas network, you must:

1. Check your proposals against the information held at <https://www.linesearchbeforeudig.co.uk/> to assess any risk associated with your development and
2. Contact our Plant Protection team to let them know. Plant location enquiries must be made via email, but you can phone us with general plant protection queries. See our contact details: Phone 0800 912 1722 / Email plantlocation@sgn.co.uk

In the event of an overbuild on our gas network, the pipework must be altered, you may be temporarily disconnected, and your insurance may be invalidated.

Further information on safe digging practices can be found here:

Our free Damage Prevention e-Learning only takes 10-15 minutes to complete and highlights the importance of working safely near gas pipelines, giving clear guidance on what to do and who to contact before starting any work <https://www.sgn.co.uk/damage-prevention>

Further information can also be found here <https://www.sgn.co.uk/help-and-advice/digging-safely>

SGN personnel will contact you accordingly.

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.

How to challenge the council's Decision

If your application was for a local development and was determined by an officer appointed by the council and you disagree with the decision or with conditions which have been attached, you can apply for a review of the decision/conditions by the council's Local Review Body. In all other cases, if you disagree with the decision you can seek an appeal of the decision/conditions to the Scottish Government Planning and Environmental Appeals Division. You can find information on these processes at <https://www.westlothian.gov.uk/article/33128/Decisions-Reviews-and-Appeals>

Annex 1, Schedule of Plans - 1163/FUL/22

Docquetted Number	Drawing Description	Drawing Number
1	Technical Specification	Extract fan
2	General	JWAC A1 PP 01/49/2022 B



DATA LABEL: PUBLIC

HANDLING REPORT

Ref. No.:	1163/FUL/22	Email:	lucy.hoad@westlothian.gov.uk
Case Officer:	Lucy Hoad	Tel No.:	
Ward:	East Livingston & East Calder	Member:	Cllr Damian Doran-Timson Cllr Carl John Cllr Danny Logue Cllr Veronica Smith

Title	Change of use from hairdressers (Class 1) to a cafe (Class 3) (sui generis) (in retrospect) (Grid Ref: 306831,669105) at 29 Uphall Station Road, Pumpherston, West Lothian, EH53 0NB
Application Type	Local Application
Decision Level	Delegated List
Site Visit	10.01.2023
Recommendation	Grant Planning Permission
Decision	Grant Planning Permission
Neighbour Notification	Neighbour notification procedures have been carried out correctly - case officer verification. YES/NO
Advertisement	12.01.2023
EIA Screening	The scale and nature of the development is such that it is not EIA development under the terms of the Environmental Impact Assessment (Scotland) Regulations 2017 (EIA Regulations). OR An EIA was carried out and has been assessed as part of the application. A copy of the ES is in the file.
Equality Impact	The application has been assessed and has no impact in terms of equalities or human rights.

Description of Proposals

Change of use from hairdressers (Class 1) to a cafe (Class 3) (sui generis) (in retrospect)

Representations

4 Representations were received for this application. This is a summary of the representations received. The full documents are contained in the application file.

Four number objections received. Main points include:

No requirement for a further eatery/food place

Residential area

Litter and vermin

Parking and traffic

Road safety

Smells/Lack of ventilation

Noise

Antisocial behaviour

Opening late

Fire risk

Consultations

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

Consultee	Objection?	Comments	Planning Response
Environmental Health	None	Condition advised	Noted
Transportation	None		Noted

Policies Considered

West Lothian Local Development Plan

Policy Title	Policy Text
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. When assessing development proposals, the developer will be required to ensure that: a. there is no significant adverse impact on adjacent buildings or streetscape in terms of layout, scale, massing, design, external materials or amenity; b. there is no significant adverse impact on landscape character, built heritage, habitats or species including European sites, biodiversity and Protected Species nor on amenity as a result of light, noise, odours, dust or particulates; c. the proposed development is accessible for all, provides suitable access and parking, encourages active travel and has no adverse implications for public safety; d. the proposal includes appropriate integrated and accessible infrastructure, open space, green infrastructure and landscaping; e. sustainability issues are addressed through energy efficient

	<p>design, layout, site orientation and building practices; f. the development does not result in any significant adverse impact on the water environment as required by the Water Framework Directive and related regulations and as appropriate, mitigation to minimise any adverse effects is provided; g. there are no significant adverse effects on air quality (particularly in and around Air Quality Management Areas), or on water or soil quality and, as appropriate, mitigation to minimise any adverse effects is provided; and h. risks to new development from unstable land resulting from past mining activities are fully assessed and, where necessary, mitigated prior to development. Where appropriate, developers will be required to produce masterplans, design statements and design guides in support of their proposals. Development proposals must also accord with other relevant policies and proposals in the development plan and with appropriate supplementary guidance.</p>
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Officer Assessment

The application site occupies the ground floor shop unit within a terrace of dwellings. The building is constructed of render and tile and fronts the road to the east B8046. There is a storage yard to the rear/west.

The application seeks full planning permission for the change of use from a hairdresser (Class 1) to a cafe/take away (Class 3/sui generis) (in retrospect). The site falls within the settlement boundary of Pumpherston & Uphall Station. A separate application was approved for signage for the business 1195/A/22.

The business primarily sells ice cream, a use acceptable under Class 1, but also sells hot food that is prepared on site for consumption either on or off site. The applicant has confirmed that there are 3 seats which are used by clients sitting in/waiting on orders for short periods. The proposed opening hours would be from 15.30-22.00 hours. There is provision for waste storage bins in the service area to the rear of the building.

The key considerations are the potential impact on the vitality of the area, residential amenities and the character and appearance of the area.

Four objections have been received to the proposals. The main points raised include the need for the business, the operating hours, waste storage, noise, odour, vermin and traffic and parking.

Policy DES1 requires that 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.

This is a vacant unit formerly used as a hairdressing salon. The proposal to change the use of the premises from Class 1 use (hairdresser) to Class 3/sui generis use (cafe/takeaway) is deemed to be acceptable in principle. The site is reasonably and appropriately located within the village for the proposed use. The application site is situated on the main thoroughfare adjacent to a convenience store/sweet shop. The proposal will bring back into use a vacant site on the street. The use is appropriate for this location. The development will generate footfall to the area with a similar level of associated noise and disturbance as similar establishments aimed at family use.

Concerns have been raised as to parking and road safety. The Roads Transport Officer has reviewed the proposals and not objected to the development.

Other matters

Concerns have been raised with regard to odour, noise and littering. The EHO has no objections to the proposed development but has recommended conditions be applied with regard to equipment on the premises in order to ensure odours and waste are controlled. The applicant has provided details of the menus and proposed ventilation (cooker hood). The EHO is content that the system is suffice for the submitted menu provision, but would not be suitable for frying within the premises thus it would be prudent to apply a condition to control this aspect to ensure that residential amenity is preserved. The EHO requested that suitable bin storage be provided on the site premises. The applicant has provided an amended plan to detail that there is to be provision for waste storage in tall bins within the service area to the rear of the shop. It is therefore advised that the application be approved. Subject to suitably worded conditions with respect to odour, waste and operating hours, to preserve residential amenities, the development would comply with the requirements of Policy DES1 of the WLLPD 2018.

Conclusions and Reasons for Decision

Subject to suitably worded conditions in relation to hours of operation, odour control and waste provision to preserve neighbouring amenity, the proposed use would be deemed to an acceptable use of the premises, and the development would comply with the requirements of Policy DES1 of the WLLPD 2018.

List of Review Documents

Drawings schedule:

Docquetted Number	Drawing Description	Drawing Number
1	Technical Specification	Extract fan
2	General	JWAC A1 PP 01/49/2022 B

Other relevant documents:

West Lothian Local Development Plan, 2018;

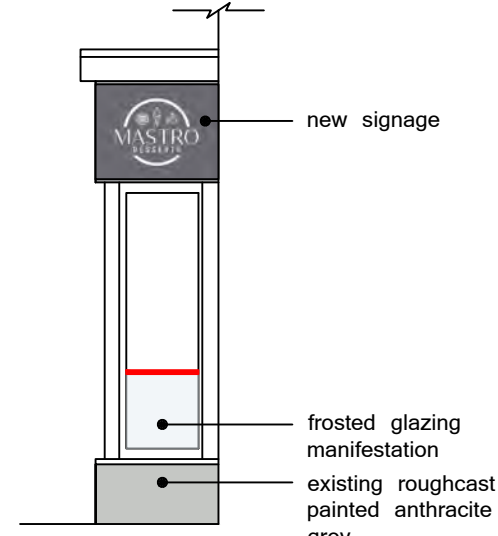
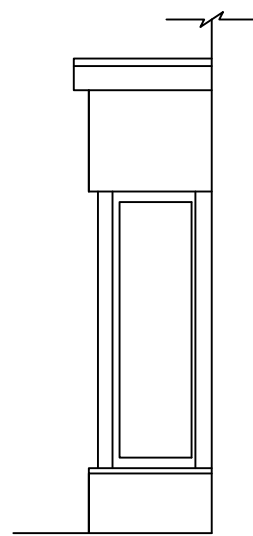
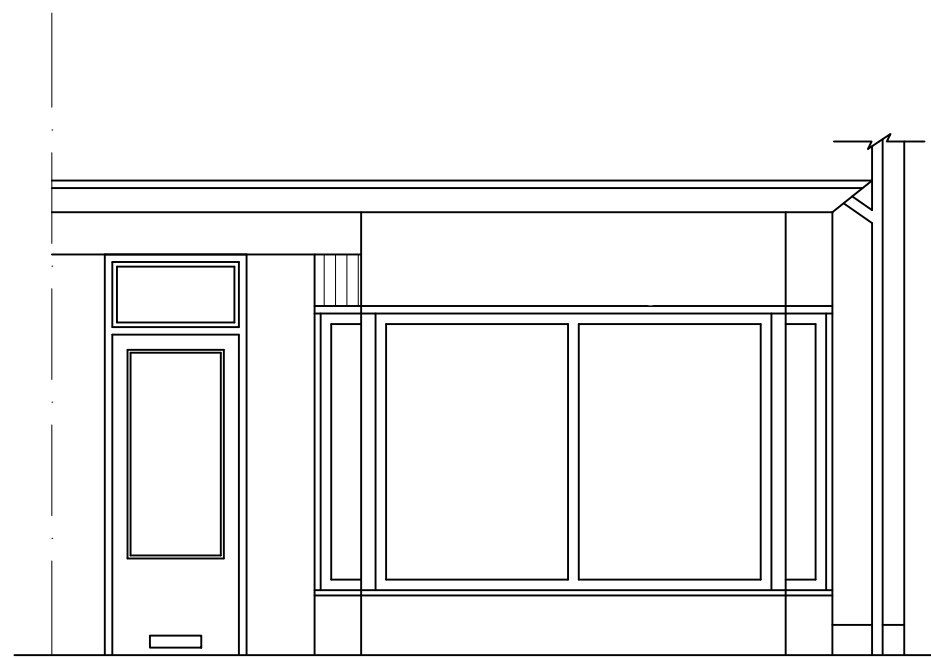
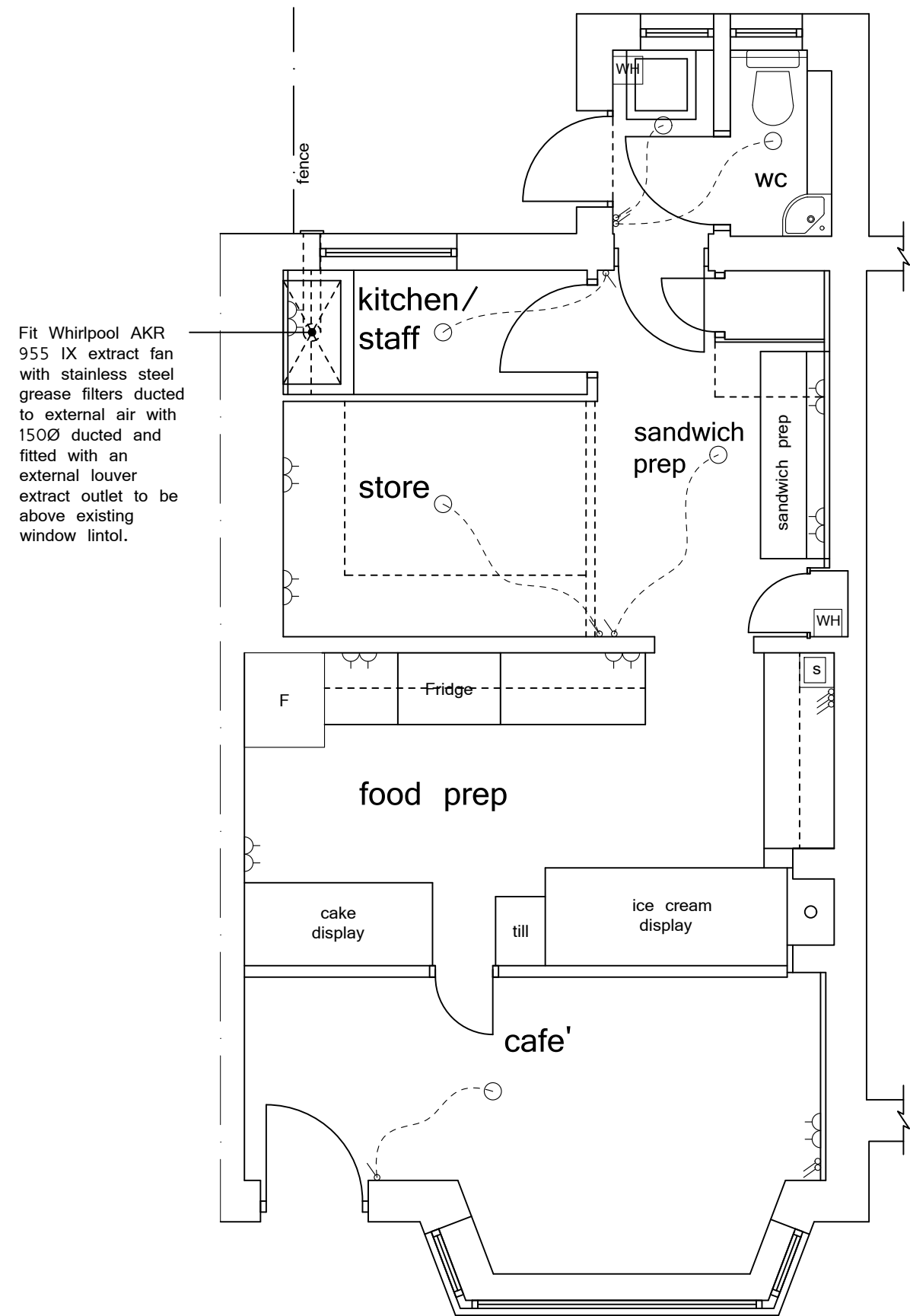
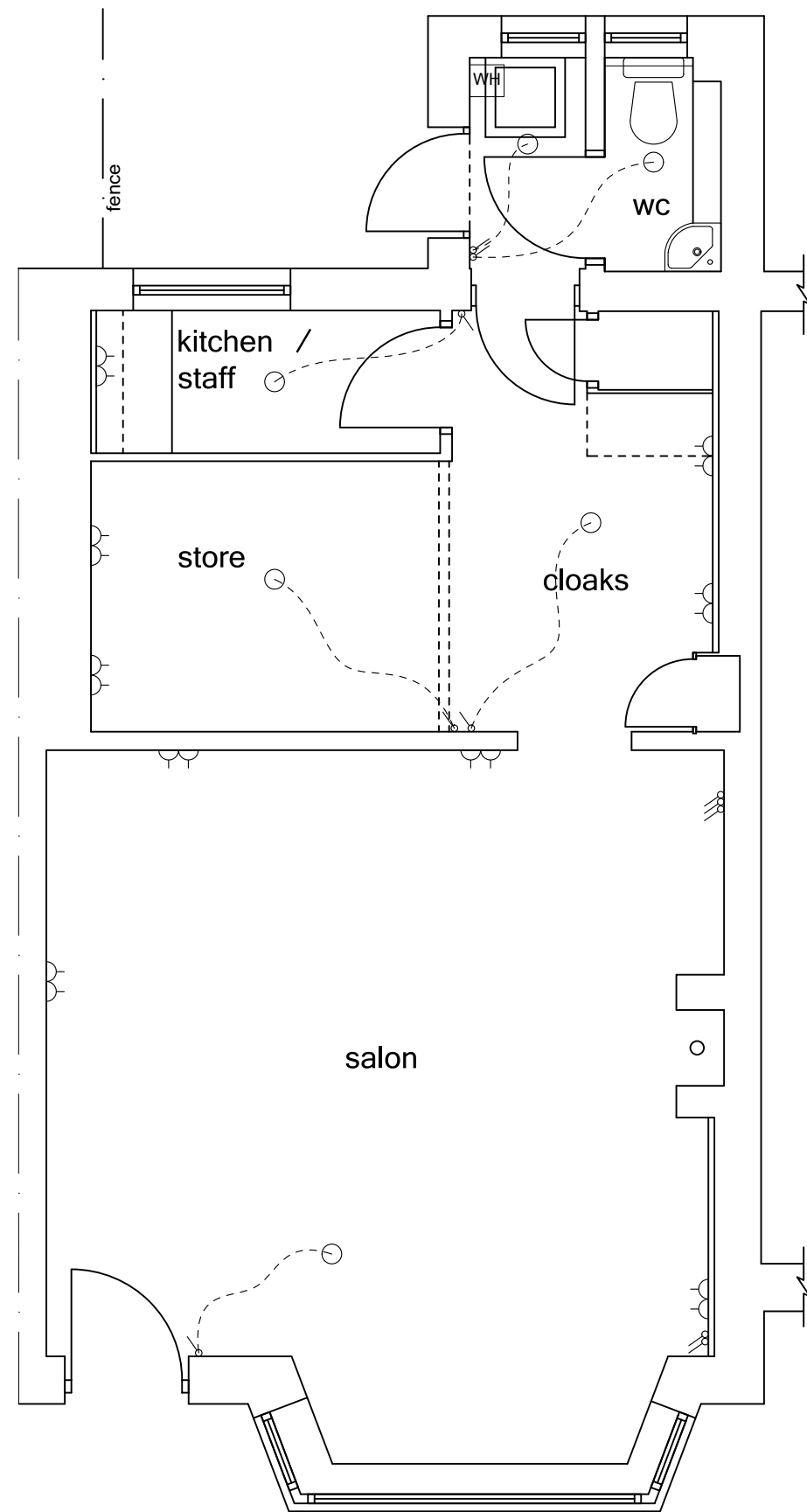
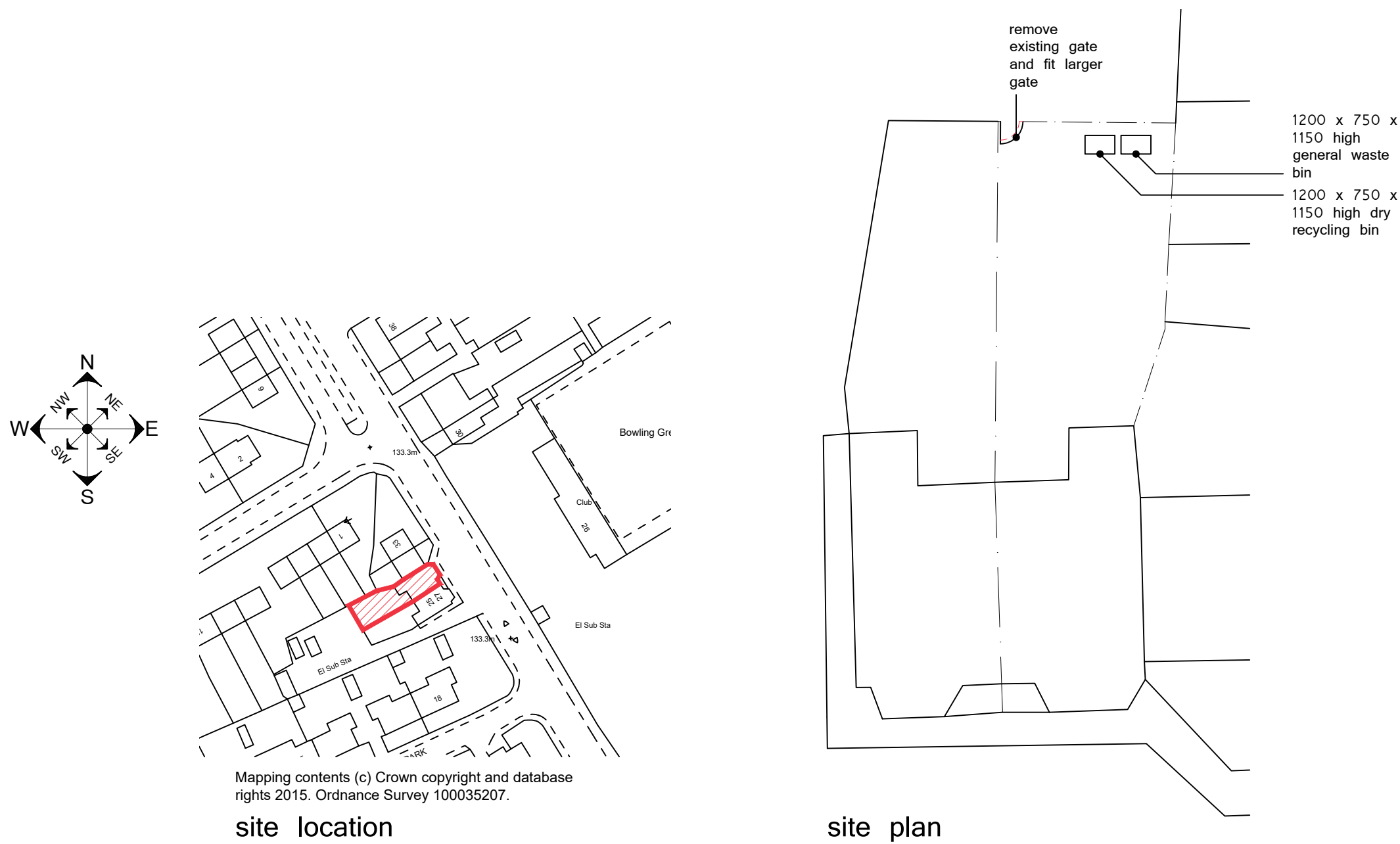
Case Officer: L Hoad Date: 27/10/2023

GRANTED

App No: 1163/FUL/23

Date: 27/10/2023





VENTILATION Agenda Item 6

Kitchen volume = 7.695m³

Minimum air changes per hour (ACH) for a kitchen = 30ACH

Required fan capacity 7.695m³ x 30ACH = 230.85 m³/hr.

Fit Whirlpool AKR 955 IX wall mounted cooker hood with a maximum capacity of 581 m³/hr, hood has stainless steel washable grease filters. Ducted out to external air with 150Ø stainless steel duct fitted with an external louver, ducting passing through external wall to be above window lintol. Fan to be fitted in accordance with manufactures installation guide recommendations.

Ventilation to be carried out in accordance with BS 5720:1979 or CIBSE Guide B 2001.

MAINTENANCE

Cooker hood should be cleaned on a daily basis.

filters should be cleaned twice weekly.

A visual inspection of the ventilation system should be carried out one a week. All metal surfaces checked to ensure there is no accumulation of grease or dirt and that there is no surface damage.

Ductwork and fans cleaned on a 6 month basis.

HEALTH AND SAFETY

All works to be carried out in accordance with The Construction (Design and Management) Regulations 2015.

REVISIONS
A - 14.03.2023 - Add site plan and update signage
B - 29.08.2023 - Add extraction.
JOB TITLE
SITE LOCATION, EXISTING AND PROPOSED PLANS AND ELEVATIONS
PROPOSED CHANGE OF USE FROM CLASS 1 (HAIRDRESSERS) TO CLASS 3 (CAFE') 29 UPHALL STATION ROAD PUMPHERSTON WEST LoTHIAN
Scale 1:50, 1:100, 1:1250 5th December 2022
Drawing Number JWAC A1 PP 01/49/2022 B
John Watson Architectural Consultant Ltd. 11 Market Street Midcalder West Lothian EH53 0AL Phone: 01506 885928 E-mail: info@jwac Ltd.com

AKR 966 IX

12NC: 857896601900

GTIN (EAN) code: 8003437971921

GRANTED

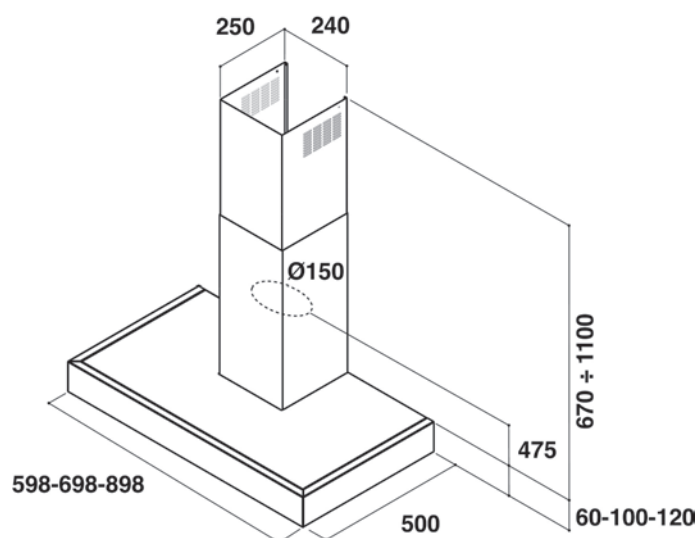
App No: 1163/FUL/23

Date: 27/10/2023



Whirlpool

SENSING THE DIFFERENCE



- Maximum noise level 65 dBA
- Noise Level (min. - max.): 46-67 dBA
- Air Flow (min. - max.): 240, 581 m³/h
- Maximum extraction rate: 581 (m³/h)
- Energy class D
- 3 speed settings
- 2 Halogen, 40 W lamps
- 1 x 175 W motor
- Electronic Backlit soft buttons
- 3 Washable stainless steel filters
- Backlit soft buttons
- Grease Filtering Efficiency Class: D
- Lighting Efficiency Class: E
- Fluid Dynamic Efficiency Class: D
- Operating Mode: Air extraction, Recirculating air
- 1 Motor
- Motor Power: 175 W

Whirlpool wall mounted cooker hood - AKR 966 IX

This Whirlpool wall mounted Cooker Hood features: dishwasher-safe, washable stainless steel grease filters. An outstanding cooker extractor fan, ensuring a fresh, grease-free cooking environment. Between 60cm and 90cm wide appliance. New design ensuring extra silent performance.



Electronic control

Effortless control. This Whirlpool Hood includes an intuitive electronic user interface, designed to provide you with the simplest, most satisfying user experience ever.



Stainless Steel Filter

Enjoy fresh air in your kitchen, always. This Whirlpool Hood includes a stainless steel purifying air filter, that effectively protects your kitchen from odours and grease.



Flexible Installation

Flexible installation options. This Whirlpool Hood can be operated in either Ducted or Recirculated mode (filter needed), so you can enjoy complete freedom when designing your kitchen.



3 Speeds

Versatile performance. This Whirlpool Hood offers 3 speed options, giving you complete control over the extraction rate.



Wall-mounted installation

Wall-mounted installation. This wall-mounted Whirlpool Hood is a breeze to install.



Total annual energy consumption

Ideal performance, outstanding savings. Whirlpool Hoods are designed to provide exceptional results, while reducing energy costs.



Light Soft touch button

Light Soft Touch button. Your hood's options are only a fingertip away, thanks to the Light Soft touch button.



Halogen Lamps

Halogen lamps generate 3 times more light than normal lamps, so you can always see what's cooking.



2 lights

Perfect lighting. This Whirlpool Hood features two integrated lights, providing ideal illumination, so you'll always be able to see what's cooking.



Energy class D

This is an Energy Class D appliance.

AKR 966 IX

12NC: 857896601900

GTIN (EAN) code: 8003437971921

GRANTED	
App No:	1163/FUL/23
Date:	27/10/2023
West Lothian Council	

Agenda Item 6

Whirlpool

SENSING THE DIFFERENCE

MAIN FEATURES

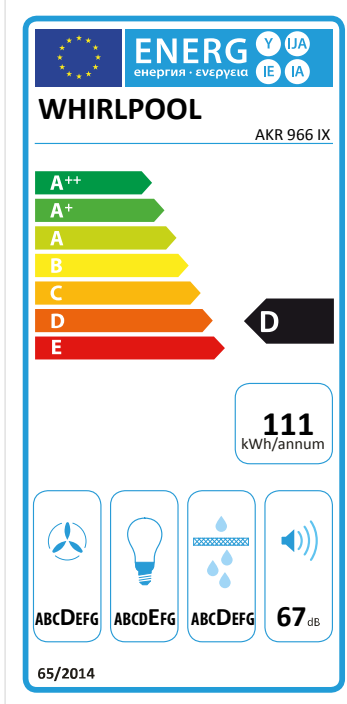
Product group	Hood
Colour body	Inox
Material body	Stainless steel
Colour chimney	-
Material chimney	-
Typology	Wall-mounted
Installation type	Wall-mounted
Type of control	Electronic
Type of control settings	-
Decor panel options	N/A
Motor location	Integrated motor in hood chimney
Operating Mode	Convertible
Electrical connection rating (W)	215
Current (A)	0,9
Voltage (V)	220-240
Frequency (Hz)	50/60
Length of Electrical Supply Cord (cm)	150
Plug type	Schuko
Chimney height (mm)	300-730
Height of product, without chimney (mm)	60
Height of the product	1160
Width of the product	898
Depth of the product	500
Minimum niche height	0
Minimum niche width	0
Niche depth	0
Net weight (kg)	19.45

TECHNICAL FEATURES

Type of manual control devices	Backlit soft buttons
Type of automatic control devices	-
Number of motors	1
Total power of the motors (W)	175
Number of speed settings: boost option availability	3
Boost presence	No
Maximum output air extraction (m³/h)	630
Boost position air extraction (m³/h)	0
Maximum output recirculating air (m³/h)	455
Boost position output recirculating (m³/h)	0
Light Control Type	On/Off
Number of lights	2
Type of lamps used	Halogen
Total power of the lamps (W)	40
Diameter of air outlet (mm)	150
No-return airflow flap	Yes
Grease filter material	Washable stainless steel
Odour filter	No

PERFORMANCES

Sound power at min. speed (2010/30/EU)	46
Sound power at max. speed (2010/30/EU)	67
Noise level with boost position (dB(A) re 1 pW)	0





OPERATIONAL SERVICES
ROADS & TRANSPORTATION
DEVELOPMENT MANAGEMENT & TRANSPORTATION PLANNING

ROADS & TRANSPORTATION CONSULTATION RESPONSE TO PLANNING APPLICATION

This proposal is (tick as appropriate)		Signing Off	
Acceptable without conditions	<input checked="" type="checkbox"/>	DM & TP Officer Roads & Transportation	Chris Nicol
Acceptable with conditions noted below	<input type="checkbox"/>	DM & TP Manager Roads & Transportation	
Not acceptable & should be refused	<input type="checkbox"/>	Date Issued to Development Management Officer	26 January 2023
HOLDING OBJECTION – The application is not acceptable in current format and applicant requires to submit additional information to enable the proposals to be fully assessed.	<input type="checkbox"/>		

Recommendation & Proposed Conditions	From a Roads & Transportation view, this application is approved no conditions
--------------------------------------	--

DM Case Officer	Alexander Calderwood	Applicant	Mrs Roseanna Crolla
Application Ref	1163/FUL/22	Date Issued	06 January 2023
Proposal	Change of use from hairdressers (class 1) to a café (class 3) (in retrospect)		
Location	29 Uphall Station Road, Pumpherston		

Legislation & Guidance Applicable (tick as appropriate)	Constraints (tick as appropriate)
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 type="checkbox"/>	<input type="checkbox"/>
SUDS for Roads <input type="checkbox"/>	Control of Advertisements (Scotland) 1984 <input type="checkbox"/>
Sewers for Scotland <input type="checkbox"/>	Residential Development Guide 2018 <input type="checkbox"/>
	Other (please specify) <input type="text"/>

Site Description	Retail unit – has no parking but aimed for locals not travelling by car.
Quality Plan	N/A
Road Safety Audit	N/A
Transport Assessment or Statement	N/A
Does the red line boundary reach the adopted public road	Yes
Is there a footway or footpath connecting the site to the existing adopted road network	No access direct from public footway
Drawings & documents assessed	Site photos Proposed layout
Does Road Layout comply with WLC Standards	N/A
Does Parking comply with WLC Standards (including disabled provision)	No parking for existing commercial unit and none proposed.

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

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

Comments for Planning Application 1163/FUL/22

Application Summary

Application Number: 1163/FUL/22

Address: 29 Uphall Station Road Pumpherston West Lothian EH53 0NB

Proposal: Change of use from hairdressers (Class 1) to a cafe (Class 3) (in retrospect)

Case Officer: Alexander Calderwood

Customer Details

Name: Barbara-Ann Ellett

Address: 8 Hamilton Court Uphall Station Road Pumpherston EH53 0FH

Comment Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: We have one cafe already in the village and this place is more suited to a commercial town centre, not a residential area where people are trying to sleep .. being disturbed by late night noise, cooking smells and people hanging around.

Comments for Planning Application 1163/FUL/22

Application Summary

Application Number: 1163/FUL/22

Address: 29 Uphall Station Road Pumpherston West Lothian EH53 0NB

Proposal: Change of use from hairdressers (Class 1) to a cafe (Class 3) (in retrospect)

Case Officer: Alexander Calderwood

Customer Details

Name: Mrs Deborah Moyes

Address: 25 Uphall Station Road Pumpherston EH530NB

Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment:

Hi

I object to the objection on the following points.

Pumpherston is a smallish village which already has numerous eateries . We have 1 chip shop 1 cafe. 4 Chinese , 1 Indian. A Scotmid and 2 local stores.

If you allow the application to allow hot food to be sold from the premises then this means that at any point in the future a further fast food takeaway can be opened. This is unnecessary in this village.

Second point is road safety, the shop is located at the more residential area of the village where the road is narrower. Since the shop has opened there has been numerous obstructions in relation to increased traffic. Their delivery vehicles park on the pavement stopping any one with mobility aids or pushchairs are having to cross the road due to the obstruction.

In addition the deliveries and shop goers and in deed shop tenants are causing nuisance . The deliveries are obstructing the drive way I use to access the rear of the property which then means I am blocking the main road. This can be extremely dangerous as Emergency services have to move to the opposite side of the road meaning this end of the village is u safe for pedestrians. People are also parking adjacent to the traffic islands which again narrows the road meaning road users have to use the opposite side.

Littering has become an issue with additional litter being strewn in and around my property, also the rubbish bins from the shop are overflowing and when it has been piled in the garden something has been ripping the bin bags open which may cause additional vermin in the area. In

addition the bins for the shop have been left in the area behind my home which is an eyesore .

Anti social behaviour has also increased with the opening hours being breached as per their advertising there is car doors slamming lots of noise noise from the store itself. Door to the shop slammed when closed. Fridges running 24/7.

Smells and ventilation is also an issue, there is not sufficient ventilation at the property which means they are cooking with the back door open which means when the shop is open it means I am unable to open my windows for ventilation the smell permeates the entire area .

I am also concerned over fire risk that will now be there due to cooking food. What fire prevention has been taken?

With reference to your planning charter I consider harm to have happened in this case for the following.

Harm due to traffic, disruption or nuisance for the additional reasons not yet covered.

Whatever has been installed in the store has negatively impacted my life, as the store is open when I am trying to relax in the evenings the additional noise is extensive and excessive They have installed doors from the front of the shop to the rear, each time someone goes through the doors my floors vibrate and the squeaking noise from the goes on for a few minutes and can be clearly heard over my tv. The front and back door bang each time opened. Email to follow

Comments for Planning Application 1163/FUL/22

Application Summary

Application Number: 1163/FUL/22

Address: 29 Uphall Station Road Pumpherston West Lothian EH53 0NB

Proposal: Change of use from hairdressers (Class 1) to a cafe (Class 3) (in retrospect)

Case Officer: Alexander Calderwood

Customer Details

Name: Mrs Deborah Moyes

Address: 25 Uphall Station Road Pumpherston Eh530nb

Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I have read the transport report and it does clearly state no parking applied for this property. The majority of its trade is by people in cars. They themselves use 3 parking spaces this consists of whomever is working and the delivery driver. You have clearly not looked at the photos that have been provided at various times of the day that show what an issue it is.

The issue is compounded when the bowling club has a function on

It is an accident waiting to happen

Comments for Planning Application 1163/FUL/22

Application Summary

Application Number: 1163/FUL/22

Address: 29 Uphall Station Road Pumpherston West Lothian EH53 0NB

Proposal: Change of use from hairdressers (Class 1) to a cafe (Class 3) (in retrospect)

Case Officer: Alexander Calderwood

Customer Details

Name: Deborah Moyes

Address: 25 Uphall station Road Pumpherston EH530NB

Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I object on the premise that the transport report states that as no parking this shop is aimed at locals. Pumpherston does not need any further takeaway shop. Although transport states it is intended for locals sadly this is not the case. People double park the delivery drivers take up spaces and park on the pavement stopping people from passing. Maybe transport needs to actually visit at a time the shop is open

Comments for Planning Application 1163/FUL/22

Application Summary

Application Number: 1163/FUL/22

Address: 29 Uphall Station Road Pumpherston West Lothian EH53 0NB

Proposal: Change of use from hairdressers (Class 1) to a cafe (Class 3) (in retrospect)

Case Officer: Alexander Calderwood

Customer Details

Name: Miss Mary Millar

Address: 33 Uphall Station Road Pumpherston Eh530nb

Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I have lived in Pumpherston all my life we do not need another food place we have far too many in the village as it is.

There is 4 Chinese 1 chip shop and 1 cafe already for a small village that is more than enough

Since opening I am unable to open my windows due to the smell

There is anti social behaviour due to kids hanging around people are parking over my drive

It is an accident waiting to happen with the parking already adding deliveries of this size are compounding the issue

This is a residential part of the village and as such should be kept residential

There is

Comments for Planning Application 1163/FUL/22

Application Summary

Application Number: 1163/FUL/22

Address: 29 Uphall Station Road Pumpherston West Lothian EH53 0NB

Proposal: Change of use from hairdressers (Class 1) to a cafe (Class 3) (in retrospect)

Case Officer: Alexander Calderwood

Customer Details

Name: Moiz Ahmed

Address: 27 Uphall Station Road Pumpherston EH530NB

Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: Road safety - we request a technical examination by a qualified engineer. There is a risk to pedestrians, especially to young children and vulnerable people. Uphall Station Road is a main arterial route into Broxburn. We have witnessed many major accidents and take this opportunity to make you fully aware of the risk of a fatality, if unchecked.

2. Nuisance - cars parked on pavements make it difficult for disabled customers to access the store. There is limited parking and we are inconvenienced by the additional volume of cars parked outside the store. Across the road and in and around the store. Deliveries also block neighbours access to their homes.

3. Architect Plans - we request a copy of the architects plan as we are unsure of the sufficient fire safety and ventilation for the property. We are concerned about the possibility of a fire due to inadequate voltage overload due to machinery in the premises. It is our opinion that these safety issues could present problems in the future or loss of life.

4. Environment - litter is an unfortunate issue and we have seen a rise in discarded food waste. This attracts vermin and causes a cleanliness issue. We are tired of rubbish floating into our store.

5. Community Safety - in almost twenty years of trading we have had three attempted robberies. The issue of night time activity is still a concern and late night opening will attract undesirable crowds, drug dealing and murder to the area.

We therefore object to the afore mentioned retrospective planning application.

Objection Regarding 29 Uphall Station Road

I object to the late night opening hours due to :-

- . Noise
- . Traffic
- Nuisance
- Safety

Thank you for your consideration.

Yours Faithfully

BA Ellett

(received by email on 7 Feb 2024 at 18.17)

Hi

Thank you for your email

Yes, I agree there is some traffic issues.

Once again as pointed in my previous emails it's due to Sweetlife my neighbour parking both his cars in the customers parking space

They park there from 10am till 10pm

Photos attached!

Sweetlife is very busy with customer walking so again not sure why we're getting blamed for noise and nuisance

I'm extremely tired being blamed for no reason while all we're doing is working hard!

Many thanks

Rosanna Crolla

(received by email on 8 Feb 2024 at 16.24)



Dear Val (received by email on 4 Feb 2024 at 15:20)

I am writing to you regarding the review of planning for the shop at 29 Uphall Station Road.

Before I add my points as to why I think the planning permission should stand I would like to address the points raised by the applicant.

The applicant states that they have done everything they could to mitigate any nuisance however the external Doors have not been changed the doors are still causing nuisance so much that the safer neighbourhood team and environmental health are involved.

I would like to state that they have fixed the internal doors that were constantly squeaking.

The music is not turned off at 10 pm as stated it is in fact turned up when the shop is closed to walk in as they do their cleaning up and if at any time the music has got to a point where it is a nuisance I have politely asked them to turn it down. Which I think has been twice.

I agree there are many more takeaway premises in Pumpherston which also have property above them, however the type of shops they are have different types of customers and don't operate until midnight.

In regard to them advising that they would have to close one hour early is not the whole truth as they have been known to deliveries until midnight.

I would like to bring your attention to the entire process that either has or has not been followed and why I think the times should stay at 10 pm for all aspects of the business including deliveries.

I have lived above these shops and opposite the bowling club for over 14 years so expect noise of some level. Anyone who would think otherwise is deluded. However, all of the previous premises have adhered to planning and been a courteous neighbour.

Sweet Service closes at 10 pm and as this area is more residential than the rest of the shops I believe the addition of opening late will not just affect myself but the wider neighbours.

The shop was taken over in November and work was started when we approached the applicant regarding the noise and what work was getting done (for 3 weeks there had been banging drilling and such like that you would expect from major renovations) they advised us that it would be an ice cream shop and then would apply for planning to include hot food and would close at 10pm.

However, they put signs on the windows to indicate there would be hot items of food so at that point I got in touch with planning who advised them to stop the work until a planning application had been made

However, this was not adhered to and the shop opened on or around the 8th of December.

Planning was eventually applied for in January more than a month since they opened and advised on the planning application that it would be a cafe and designed for locals to use.

Traffic were consulted and stated there were no objections.

Environmental Health were contacted on numerous occasions in regard to the points covered at the beginning.

Planning application also stated that they knew there was no parking attached but continue to park at the access to the garages.

In addition, the planning application also advised that the work had not been started when in fact it had been completed and the shop was open.

On 27/10/23 planning permission was granted on the basis that they closed at 10 pm. The applicant must have been made aware of this but did not adhere to these hours.

I was not notified of the planning decision and due to personal issues was not checking the portal.

When I did check the portal, I saw that planning had been granted with the stipulation they closed at 10pm. Since October they have been continually open until 1030 pm Sunday to Thursday sometimes until 11pm but Friday and Saturday they were open until 1130 pm.

I contacted planning enforcement on or around 20th of January 24 and advised that the stipulations were not being met. They spoke to the applicant who agreed to stop customers attending the shop after 10pm but continue to do deliveries until 1130/1200 pm each weekend.

Planning also states that the bin storage should have been provided on the premises within 2 months of the permission being granted. We are 3 months forward and nothing has been done in respect of this.

We have had fly tipping as people have seen their industrial bins and tried to use them however they are like locked so they just dumped the rubbish. This has happened on more than 1 occasion.

As the premises are open after 11 pm they also need a food late license, however yet again this has never been applied for and they have operated without this for over a year.

If you do agree that they can open until 1130 pm this will have a detrimental effect on my physical and mental health. I suffer from fibromyalgia and if I do not get enough sleep this has a detrimental effect on my overall health.

As they are also doing deliveries I believe that a further transport review should be done as they can have 2 cars for the people working in the shop and 4 delivery vehicles.

Being opposite the bowling club this causes traffic chaos with people parked up our drive so we can't get in which means we have to wait on the main road for them to move which causes a backlog of traffic and as people double park it is an accident waiting to happen.

It's the inconsideration from their delivery drivers as they bang the car doors have the music playing loudly and leave the engine running also they rev while pulling away which is the last thing you want when trying to get some sleep.

Other shops similar in different areas of Livingston also close at 10 pm which I think is a reasonable time.

To clarify original planning allocation not truthful as work had been completed and shop open and operating as a cafe and takeaway and delivery when only advised a cafe and work not started.

Hours of operation were to be until 10 pm but have been open consistently past this even though they knew the hours they should be adhering to.

Waste not addressed.

The applicant has flaunted every step of the process and if I had not been vigilant about checking the portal and contacting the council when I did it would be clear to anyone that they never had any intention of sticking to the hours granted.

I hope you will take all information into consideration when making your decision and thank you for reading if you got this far.

I know there will be noise I'm not asking them to be silent but to be considerate of the area they are in.

Regards

Debbie Moyes
Sent from my iPad

Email received from the applicant Roseanna Crolla on 5 February 2024 at 18:58

Many thanks for your email

The door was changed however we're putting on a soft door closure this week I believe that will resolve the problem.

Why is Mrs Moyes saying I have different customers than other takeaways in Pumpherston?

I unfortunately don't understand her point

My customers are very polite I haven't had any issues what so ever since opening.

It's many family's with kids!

Surely not asking to stay open till midnight but 23:00 -like others.

I've been informed by my manager that Mrs Moyes had called down regarding the music at 22:10 twice, it was put off immediately

I do apologise for this..... girls were busy forgot to turn it off

I will keep on top of it

We have not once closed at midnight

Perhaps been inside cleaning if need be we'll start going in an hour earlier to do cleaning rather than staying later.

Sweet life closes at 10pm but not once she has complained about them and the huge issues there causing

Since day 1 I have had lots of problems with customers parking as the owners of Sweetlife park in front of our shop!

When there's availability to park at the rear of their property (seemingly their tyres were cut from the Mr&Mrs Moyes after an argument between them) reason to why they park at the front

None of the other neighbours have complained regarding our opening times!

Our dessert shop is very much loved & appreciated in Pumpherston

Planning was delayed as I was initially told by my architect I did not need to apply for change of use for doing crepes and waffles.

Regarding parking I was told by the landlord I'm allowed to park at the back of the property

I've not been advised differently or I would look in to another solution.

The rear carpark doesn't belong to them not sure what their issue is

We are open till 10pm Deliveries till 11:30 only at weekends as agreed until further notice...

We do not have 4 delivery drivers

Only 1 through the week ,2 drivers for 2/3 hours at the weekend!

However, we opened this business with no intention of upsetting or causing issues to anyone....

we've been trading in West Calder (The chippy takeaway) for the last 24 years never once we've had complaints from customers or neighbours

We've had nothing more than moaning from the above neighbours (the sit at their window taking pictures of us & customers entering & leaving the property it's very upsetting and frustrating as it's cost us a lot of work and money to set-up this business

Their approach with us is very aggressive their language is unacceptable.... same reason that the previous tenant left this property....
If only I had been informed before.

Regarding the waste, the work to our gate was to be carried out last week when there was the bad weather warning
However, the landscape company moved us to Friday this week as they had emergency work due to the damage caused by the bad weather.

Hope I've answered to all points
I believe & trust the council in taking the correct decision

Many thanks

Rosanna Crolla



Part of the Sweet
Service family.

EMAIL COPY

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

5th February 2024

Dear Val,

APPLICATION NO.1163/FUL/22

Thank you for your email in respect of the Notice of Review for the aforementioned.

We would like you to note our objection(s) as previously advised and would like the committee to fully examine the following issues of concern.

These are as follows:-

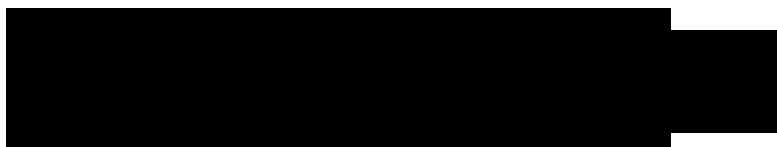
1. The applicant has failed to adhere to the condition(s) set by West Lothian Council. These include the hours of operation and the storage of bins. Ref: JWAC A1 PP 01/49/2022 B.
2. Fire safety – there is no safety certificate or fire proofing to protect the amenity of nearby premises.
3. Transport – the original application stated ‘aimed for locals, not travelling by car’. DM Case Officer – Alexander Calderwood. There is a severe problem with parking, especially for disabled and elderly customers visiting our store. This is a result of inconsiderate delivery drivers, double parked, illegally.
4. Nuisance – late night opening is inconsiderate to neighbours and poses a security issue for residents. Noise from cars and littering is still an ongoing problem.
5. Opening hours – restrictions by WLC have been flaunted by the applicant and have deliberately been extended past 22.00 hrs. This is unfair and goes against the protection order of environmental and residential amenities.

We therefore respectfully ask the review committee to reject the applicant’s proposal.

**Yours sincerely,
For Sweet Service**

Moiz

Moiz Amjid



Email received from the applicant Roseanna Crolla on 6 February 2024 at 15:12

Hi,
Regarding Sweetlife

1 We are currently opening during the hours agreed and bins storage being sorted.

2 Fire safety not been requested from the council for a crepes and waffles maker not sure if it's required or not

3 I will attach a pic of where sweet life parks his car (only from when I opened) right in front of our shop causing customers not being able to park 7 days a week.

Unreal how they are blaming us for traffic issues!

Our car has always been parked at the back of the property.

To allow customers to park

4 We've never had any complaints regarding littering! Or regarding are delivery drivers

5 Sweetlife is opened from 10am to 10pm

We're only asking to be opened 4pm to 11pm only at weekend

Apart from Mrs &Mr Moyes and Sweetlife there is no other objections or any complaints from other residents

I find it very unfair for us to have to close at 10pm when we are not doing anything wrong.

I appreciate you taking all points in to consideration and trust you will take the best decision for all.

Many thanks
Rosanna Crolla

