

# Grant of Planning Permission

Town and Country Planning (Scotland) Act 1997

## Local Review Body: Review of Planning Application Reg. No. 12/00693/DPP

Format Design  
146 Duddingston Road West  
Edinburgh  
EH16 4AP

Midlothian Council, as Planning Authority, having considered the review of the application by Ms Salsa Porteous, 27 The Square, Penicuik, EH26 8LH, which was registered on 18 February 2013 in pursuance of their powers under the above Acts, hereby **grant** permission to carry out the following proposed development:

**Change of use from shop (class 1) to cafe/hot food takeaway (sui generis) (retrospective) at 27 The Square, Penicuik, EH26 8LH**, in accordance with the application and the following plans:

<u>Drawing Description.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	9748 1:1250 1:500	22.10.2012
Floor plan	974801 1:100	22.10.2012

Subject to the following conditions:

1. The use hereby approved shall not commence operating until an extraction system as been installed and is operational. The system shall be in accordance with details to be submitted to, and approved by the Local Planning Authority. The extract ventilation system shall:
  - a) Provide adequate ventilation to the cooking area to eliminate the need to leave doors and windows open;
  - b) Prevent the emission of cooking odours likely to cause nuisance to neighbouring commercial units and surrounding residential properties;
  - c) Be inaudible at the boundary of any noise sensitive properties; and
  - d) Terminate at sufficient height to permit the free disposal of exhaust fumes.

2. The use hereby permitted will not open to the public outwith the following hours:

Mondays to Saturdays inclusive: 7am to 10pm

Sundays: 9am to 10pm

3. No amplified music or sound reproduction equipment used in association with the unit hereby permitted shall be audible at the boundary of any noise sensitive property.

***Reason for conditions 1, 2 and 3:*** To ensure a satisfactory standard of amenity in nearby residential properties.

The Local Review Body (LRB) considered the review of the planning application at its meeting of 23 April 2013. The LRB carried out an accompanied site visit on the 22 April 2013.

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

Development Plan Policies:

1. RP20 Midlothian Local Plan – Development within the built-up area
2. RP22 Midlothian Local Plan – Conservation Areas
3. SHOP1 Midlothian Local Plan - Town Centres
4. SHOP3 Midlothian Local Plan – Change of use within strategic town centres
5. DP7 Midlothian Local Plan – Control of Class 3 (Food and Drink) uses and hot food takeaway shops

Material Considerations:

1. The individual circumstances of the site; and
2. The provision of hot food takeaways and other eateries in the town centre.

In determining the review the LRB concluded:

The proposed hot food takeaway benefits the town centre by bringing a vacant unit back into commercial use. This material consideration outweighs concerns with regard overprovision and the loss of a retail unit.

Dated: 23/04/2013

Councillor J Bryant  
Chair of the Local Review Body  
Midlothian Council

# SCHEDULE 2

Regulation 21

## NOTICE TO ACCOMPANY REFUSAL ETC.

### TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

***Notification to be sent to applicant on refusal of planning permission or on the grant of permission subject to conditions, or***

***Notification to be sent to applicant on determination by the planning authority of an application following a review conducted under section 43A(8)***

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the town and Country Planning (Scotland) Act 1997

*Advisory note:*

*If you have any questions or enquiries regarding the Local Review Body procedures or this decision notice please do not hesitate to contact Peter Arnsdorf, Development Management Manager tel: 0131 2713310 or via [peter.arnsdorf@midlothian.gov.uk](mailto:peter.arnsdorf@midlothian.gov.uk)*