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**APPLICATION FOR PLANNING PERMISSION 15/00737/DPP,  
FORMATION OF HOT FOOD TAKEAWAY AND INSTALLATION OF FLUE  
AT 5 STAISIDE COURT, BONNYRIGG**

Report by Head of Communities and Economy

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**1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION**

- 1.1 The application is for the formation of a hot food takeaway within the recently erected commercial units at Staiside Court, Bonnyrigg. There has been one letter of representation and a consultation response from the Policy and Road Safety Manager. The relevant policies are RP20 and DP7 of the Midlothian Local Plan. The recommendation is to grant planning permission subject to conditions.**

**2 LOCATION AND SITE DESCRIPTION**

- 2.1 The site is located within a recently erected commercial development on the site of the former Staiside Inn. The site is bound by houses to the south and east, domestic garages and a plumbing and heating commercial unit to the south west, a neighbourhood shopping centre to the west and a bowling green and secondary school to the north.
- 2.1 The site comprises a vacant, 76 square metre unit within a terrace of single storey commercial units. The walls are brick and the front elevation is largely glazed with grey window frames. The roof is light grey profiled sheeting. There is car parking to the front of the site.

**3 PROPOSAL**

- 3.1 It is proposed to use the vacant unit as a hot food takeaway. The only external alteration proposed is the installation of a flue projecting 1.1 metres from the roof. No details of opening hours have been submitted. The unit has been vacant since its construction as part of the larger neighbourhood centre.

**4 BACKGROUND**

- 4.1 Planning permission 13/00206/DPP was granted in 2013 for the erection of a mixed use development comprising class 1 (shops), class 2 (financial, professional and other services) and class 3 (food and

drink) uses, the formation of car park and a roadside loading bay. A number of conditions were attached to the permission, including a restriction on the uses of the units. Units 1, 2 and 3 were permitted to be used for retail purposes under the Town and Country Planning (Use Classes)(Scotland) Order 1997, with the remaining units 4, 5 and 6 restricted to classes 2 and 3 of this order, namely financial, professional and other services and food and drink uses respectively. The reason for this restriction was to ensure that the retail impact of the development was controlled to an extent that it would not have a significant detrimental impact on existing retail centres.

- 4.2 An application for unit 2 at the site, 14/00596/DPP, for the change of use from vacant retail unit to a bookmakers was granted permission subject to conditions, including a condition restricting the use of the unit to class 2 only, thereby removing permitted development rights for a conversion to a class 1, retail, use. This was to ensure that the retail impact of the development as a whole was controlled to an extent that it would not have a significant detrimental impact on existing retail centres in line with the original grant of planning permission under application 13/00206/DPP.
- 4.3 Since the commercial units have been erected, there has also been a number of advertisement applications for individual units.
- 4.4 Prior to the application for commercial development on site, there were two applications for housing. The first was submitted in 2006, 06/00826/OUT, which granted outline permission for the erection of 14 flats. A subsequent application, 10/00600/PPP, for 21 flatted dwellings and car parking was withdrawn.
- 4.5 The application has been called to Committee for consideration by Councillor Milligan on the basis that it does not comply with policy and that it is too close to a school.

## **5 CONSULTATIONS**

- 5.1 The Policy and Road Safety Manager has no objection to the proposal.

## **6 REPRESENTATIONS**

- 6.1 One letter of representation has been received raising concerns that the site is opposite a school and if open during the lunch period it would attract customers from the school contrary to healthy eating guidance. The representation requests that the hours of operation be restricted to outwith the school lunch period.

## 7 PLANNING POLICY

- 7.1 The development plan is comprised of the Edinburgh and South East Scotland Strategic Development Plan (June 2013) and the Midlothian Local Plan, adopted in December 2008. The following policies are relevant to the proposal:

### Midlothian Local Plan (MLP)

- 7.2 Policy **RP20: Development within the Built-up Area** states that development will not be permitted within the built-up area where it is likely to detract materially from the existing character or amenity of the area; and
- 7.3 Policy **DP7: Control of Class 3 (Food and Drink) Uses and Hot Food Takeaway Shops** states that appropriate locations for hot food takeaways would be within a town centre, local or neighbourhood shopping centre or a predominantly commercial or business area. In addition, it states that they will not be permitted where there are residential properties on the floor or floors above or immediately on either side and the floors above such properties unless these are owned and occupied by the applicant or his immediate family or by an employee working in the establishment. The cumulative effect of additional hot food takeaway establishments will be assessed to ensure that the vitality and viability of the shopping centre is not considered to be seriously harmful. In addition, permission will not be granted where it would cause significant harm to residential amenity or the general environment of the area as a result of noise, disturbance, smell or litter. Also, permission would not be granted in a location where it would present a threat to road safety.

## 8 PLANNING ISSUES

- 8.1 The main planning issue to be considered in determining this application is whether the proposal complies with development plan policies unless material planning considerations indicate otherwise. The representations and consultation response received are material considerations.
- 8.2 The application site lies within an established neighbourhood shopping centre within Bonnyrigg. The unit forms part of a recently erected commercial development which includes a retail unit, a bookmakers and a dentist. The remaining units in the development are currently vacant. To the north west of the site is a local shopping centre which houses a variety of commercial businesses, including a butcher, newsagent, sandwich shop and hair and beauty salon. The site is within a neighbourhood shopping centre and would be appropriate for a hot food takeaway.

- 8.3 The variety of commercial uses within the neighbourhood shopping centre appears to be operating successfully. The introduction of a hot food takeaway unit would not have a significant cumulative detrimental impact on the vitality and viability of this shopping area and would complement the other uses.
- 8.4 The original consent for the larger commercial development attached a condition restricting the amount of retail floorspace offered in order to protect the existing retail centres from any detrimental impact as a result of the new commercial units. This was in relation to the retail units only at 1, 2 and 3 with the remainder approved for classes 2 and 3 uses. The proposed hot food takeaway would not increase the amount of retail floorspace being provided within the larger development and therefore would not have a detrimental impact on existing retail centres.
- 8.5 Given the location of the site within an established neighbourhood shopping centre and on the site of a former public house, it is considered that the proposed hot food takeaway would be unlikely to cause significant harm to nearby residential amenity or the general environment of the area as a result of noise or disturbance. It would be prudent to condition the hours of operation to protect the amenity of nearby residential occupants. The unit forms part of a single storey commercial development with no residential properties either above or immediately adjacent to the site and as such accords with policy DP7 of the MLP.
- 8.6 The plans include details of a ventilation system to be installed on the rear elevation of the building. This would have a limited impact on the character and appearance of the existing building and amenity of the area. Further details of the proposed ventilation system are required to ensure that the system is sufficient for the proposed use and the hot food takeaway shall not come into use before the system is in place. In order to address any potential littering in the surrounding area, a litterbin shall be required at the front of the store before the hot food takeaway use begins.
- 8.7 The unit fronts onto an area of off-street parking and the Policy and Road Safety Manager has not raised any concerns.
- 8.8 With regard to the representor's comments about the potential customers of the hot food takeaway being from the nearby school, this is not a material planning consideration. Therefore it would not be reasonable to restrict the hours of operation outwith the school lunchtime.

## 9 RECOMMENDATION

9.1 That planning permission be granted for the following reason:

*The proposed development is located within a neighbourhood shopping centre and would not have any detrimental impact on the character and appearance of this centre or surrounding properties. As such, the proposal complies with Midlothian Local Plan policies RP20 and DP7.*

Subject to the following conditions:

1. Prior to the commencement of development, details of the extract ventilation system shown on drawing number 629/07 shall be submitted to and approved in writing by the planning authority. The 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 properties; and
  - c) Terminate at sufficient chimney height to expelled with suitable upwards velocity to permit the free disposal of exhaust fumes.

The use hereby approved shall not begin until the approved ventilation system is installed and operational. The ventilation system shall thereafter remain operational, as approved, whilst the unit is used as a hot food takeaway.

***Reason:*** *These details were not submitted with the original application and are required in order to ensure the proposed development does not have an adverse impact on the amenity of occupiers of nearby properties.*

2. The extract ventilation system shall be designed to achieve 30 air charges per hour.

***Reason:*** *To ensure a satisfactory standard of amenity.*

3. The design and installation of any plant, machinery or equipment shall be such that any associated noise complies with NR25 when measured within any living accommodation and NR40 within any adjacent office accommodation.
4. All music shall be controlled to be inaudible within any neighbouring residence.

***Reason for conditions 3 and 4:*** *To minimise the potential impact on the amenity of nearby residents from noise generated.*

5. A litterbin shall be provided at the front of the premises during the opening hours of the hot food takeaway.

**Reason:** *To ensure a satisfactory standard of amenity and to safeguard the appearance of the neighbourhood shopping centre.*

6. The use hereby approved will not open to the public outwith the following hours:

Mondays – Saturdays inclusive: 11am to 12midnight,  
Sundays: 11am to 11pm.

**Reason:** *To ensure a satisfactory standard of amenity in the neighbourhood shopping centre.*

**Ian Johnson**  
**Head of Communities and Economy**

**Date:** 10 November 2015

**Application No:** 15/00737/DPP (Available online)

**Applicant:** Mr Ghulam Dean, 8 Clarkin Avenue, East Kilbride,  
G75 9GS

**Agent:** Ken Duncan, 2/2 3 Kaims Terrace, Livingston,  
EH54 7EX

**Validation Date:** 4<sup>th</sup> September 2015

**Contact Person:** Mhairi-Anne Cowie

**Tel No:** 0131 271 3308

**Background Papers:**