

Notice of Review: 27 The Square, Penicuik Determination Report

Report by Head of Planning and Development

1 Purpose of Report

- 1.1 The purpose of this report is to provide a framework for the Local Review Body (LRB) to determine the 'Notice of Review' for change of use from shop (class 1) to cafe/hot food takeaway (sui generis) (retrospective) at 27 The Square, Penicuik.

2 Background

- 2.1 Planning application 12/00693/DPP for the change of use from shop (class 1) to cafe/hot food takeaway (sui generis) (retrospective) was refused on 17 December 2012. At its meeting on 5 March 2013 the LRB agreed to carry out an accompanied site visit on the 22 April 2013 and to determine the review by way of a hearing. The following documents were attached to the report to the LRB meeting of the 5 March 2013:

- A site location plan;
- A copy of the notice of review form;
- A copy of the case officer's report;
- A copy of the policies stated in the case officer's report; and
- A copy of the decision notice issued on 17 December 2012.

- 2.2 The review has progressed through the following stages:

- 1 Submission of Notice of Review by the applicant.
- 2 The Registration and Acknowledgement of the Notice of Review.
- 3 Carrying out Notification and Consultation.
- 4 The first meeting of the LRB in connection with the review to decide the determination process on 5 March 2013.
- 5 The LRB Requesting Additional Information.
- 6 The LRB carried out a Site Visit on 22 April 2013 (the site visit was scheduled at the time of drafting this report).

- 2.4 The case officer's report identified that there has been two consultation responses and eight representations received. As part of the review process these interested parties were notified of the review. No additional comments have been received.

3 Procedures (Next Stage)

- 3.1 The next stage in the process is for the LRB to determine the review in accordance with the agreed procedure:

- Identify any provisions of the development plan which are relevant to the decision;
- Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies;
- Consider whether or not the proposal accords with the development plan;
- Identify and consider relevant material considerations for and against the proposal;
- Assess whether these considerations warrant a departure from the development plan; and
- State the reason/s for the decision and state any conditions required if planning permission is granted.

In reaching a decision on the case the planning advisor can advise on appropriate phraseology and on appropriate planning reasons for reaching a decision.

- 3.2 Following the determination of the review the planning advisor will prepare a decision notice for issuing through the Chair of the LRB. A copy of the decision notice will be reported to the next LRB for noting.
- 3.3 A copy of the LRB decision will be placed on the planning authority's planning register and made available for inspection online.

4 Conditions

- 4.1 In accordance with the procedures agreed by the LRB at its meeting of 19 June 2012, and without prejudice to the determination of the review, the following conditions have been prepared for the consideration of the LRB if it is minded to uphold the review and grant planning permission.

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: 8am to 11pm
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.

5 Recommendations

- 5.1 It is recommended that the LRB:
 - a) determine the review; and
 - b) the planning advisor draft and issue the decision of the LRB through the Chair

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Background Papers: Planning application 12/00693/DPP available for inspection online.