

**REPORT TO:** Planning Committee  
**MEETING DATE:** Tuesday 7 May 2013  
**BY:** Executive Director (Services for Communities)  
**SUBJECT:** Application for Planning Permission for Consideration

---

*Note: this application was called off the Scheme of Delegation List by Councillor MacKenzie for the following reason: Concern regarding impact upon the amenity of the local area.*

Application No.      **11/00699/P**

Proposal              Change of use from butcher processing unit to hot food take away  
and installation of flue

Location              **McKirdy Brothers**  
**29 Links Road**  
**Longniddry**  
**EH32 0NH**

Applicant             Mr Colin McKirdy

Per                      D M Hall LLP

RECOMMENDATION      Consent Granted

#### PLANNING ASSESSMENT

This application relates to the premises of 29 Links Road which occupy a single storey flat roofed building located on the south side of Links Road, Longniddry. The building is one of a row of commercial business units on the south side of Links Road. It is centrally positioned within the row. There is a vehicle access and parking area in front of the row of commercial business units and a car park to the rear of them. The commercial business units are within a mixed use area as defined by Policy ENV2 of the adopted East Lothian Local Plan 2008. There are nearby residential properties to the north and south of them.

The premises of 29 Links Road are currently vacant. They were last used as a butcher processing unit. Before that they had been used as a butchers shop. Planning permission 01/01269/FUL was granted in May 2002 for the change of use of the premises from the butchers shop to the butcher processing unit.

Planning permission is now sought for the change of use of the premises from a butcher processing unit to a hot food takeaway and for the installation of a flue on the flat roof of the building.

No other alterations to the building are proposed.

As a non-material amendment to the application a revised drawing has been received showing a proposed slight repositioning of the flue and for the flue to be of a vertical form.

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan, unless material considerations indicate otherwise.

The development plan is the approved Edinburgh and the Lothians Structure Plan 2015 and the adopted East Lothian Local Plan 2008.

Policy ENV1G (Design of New Development) of the approved Edinburgh and the Lothians Structure Plan 2015 and Policies ENV2 (Town and Village Centres, Other Retail or Mixed Use Areas), R3 (Hot Food Outlets), DP6 (Extensions and Alterations to Existing Buildings), DP22 (Private Parking), and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

Three written objections to the application have been received. The grounds of objection are that:

- (i) the proposed hot food takeaway would cause noise, disturbance and anti-social behaviour and would generate rubbish in the area;
- (ii) the ventilation of the proposed hot food takeaway would 'pass over' an objector's property;
- (iii) the proposed hot food takeaway would lead to increased road traffic, and;
- (iv) there is no public value in having a hot food takeaway.

Longniddry Community Council, as a consultee on the application object to the proposed hot food takeaway use of the premises on the grounds that: (i) the ventilation on the roof of the premises is not fit for purpose and if used to serve the hot food takeaway use would lead to an odour nuisance to a nearby residential property; (ii) the proposed hot food takeaway use would generate litter and so would detract greatly from the ambience of the centre of the village; (iii) the proposed hot food takeaway use would lead to increased traffic and anti-social behaviour; and (iv) there are not adequate storage facilities for waste.

The premises are within an area of Longniddry that is defined by Policy ENV2 of the adopted East Lothian Local Plan 2008 as being of mixed use, in which uses appropriate to a town and village centre will be acceptable in principle. These uses include retail, business and office use, restaurants, leisure and entertainment. Policy ENV2 does not favour any one of these uses over another.

The proposed hot food takeaway use would be a change of use from the existing butcher processing use of the premises and not from any retail use. It is a use that would not be incompatible with the uses of the row of other commercial business units at Links Road. It would therefore be appropriate to its location. It would provide a conveniently located service to the local community. It would contribute to the vitality and viability of the mixed use area. In principle the proposed hot food takeaway use is not contrary to Local Plan Policy ENV2.

Otherwise it is a requirement of Policy ENV2 that the proposed hot food takeaway use would not have a significant environmental impact, particularly on existing housing.

Policy R3 of the adopted East Lothian Local Plan 2008 supports the provision of hot food takeaways in local shopping and commercial areas subject to the criteria of the Policy being met.

One of the criterion of Policy R3 is for it to be demonstrated that the operation of a proposed hot food takeaway use would not cause harm to local amenity and that in this consideration the cumulative effect of additional premises in locations already containing one or more hot food takeaways in close proximity will be relevant.

There are no existing hot food takeaways in Longniddry and thus the proposed hot food takeaway would not result in any cumulative impact on local amenity.

To facilitate the use of the proposed hot food takeaway it is proposed that a new flue be installed in a position close to the southern edge of the flat roof of the principal single storey component of the building. The proposed new flue would be made of galvanised steel. It would function as an extract duct for the mechanical ventilation and odour abatement system to be operated within the kitchen of the proposed hot food takeaway. In the odour assessment report submitted with the application it is concluded that in its position the proposed new flue would enable sufficient odour dispersion to ensure there would be no harm to the amenity of nearby residential properties. To achieve this, the mechanical ventilation and odour abatement system to be operated within the kitchen would be provided with a primary abatement treatment of cooking odours including grease traps and fine filtration, secondary fine filtration and tertiary treatment such as carbon filtration, all prior to venting through the flue.

The Council's Environmental Protection Manager has appraised the odour assessment report and is satisfied that with the form of mechanical ventilation, odour abatement system and flue proposed and with the additional control that any plant or equipment associated with the operation of the proposed hot food takeaway use be designed and constructed so that no noise emanating there from shall exceed noise rating curve NR20, the proposed hot food takeaway use of the premises would not result in harmful loss of amenity to the nearby residential properties due to odours or noise emanating from the premises. These controls can be made conditional of the grant of planning permission for the proposed hot food takeaway use of the premises.

The applicant has not indicated intended opening hours for the hot food takeaway. In light of this and if planning permission is to be granted it would be prudent, in accordance with Policy R3 of the adopted East Lothian Local Plan 2008 to restrict the operation of the proposed hot food takeaway to the opening hours of between 7:30am and 12 midnight only. Such control on hours of opening can also be conditional of the grant of planning permission.

Subject to these planning controls over odour, noise and hours of opening the proposed hot food takeaway use of the premises is consistent with the requirements of Policies ENV2 and R3 of the adopted East Lothian Local Plan 2008 that uses within mixed use areas should not have a significant environmental impact, particularly on existing housing.

Lothian and Borders Police have been consulted on the application but have given no response.

Antisocial behaviour, litter and waste storage are all controllable under other legislation.

Another determining criterion of Local Plan Policy R3 is that a proposed hot food takeaway use does not present a threat to road safety. It must therefore provide, or be close to, safe on or off street parking such that it will not encourage parking in locations which could present a hazard to pedestrians or other road users.

The Council's Transportation service raise no objection to the proposed hot food takeaway use. They advise that there is existing satisfactory vehicular and pedestrian access to the premises in the form of the existing access road in front of the row of commercial business units at Links Road and that there is adequate existing customer car parking provision in the form of the car parking spaces in front of the units and the car park to the rear of the units. Accordingly, the proposed hot food takeaway is consistent with Policy R3 and with Policies T2 and DP22 of the adopted East Lothian Local Plan 2008.

The proposed new flue would be small in size and would project only some 0.65 of a metre above the top of the upstand parapet wall on the edges of the flat roof of the building. Moreover, it would be positioned close to the rear edge of the flat roof of the principal single storey component of the building. In all of this the proposed new flue would be a subservient addition to the building that would not be harmfully prominent, intrusive or incongruous in its appearance and which would not be harmful to the character and appearance of the building, of the row of commercial business units or of the area. The proposed new flue is consistent with Policy ENV1G of the approved Edinburgh and the Lothians Structure Plan 2015 and with Policy DP6 of the adopted East Lothian Local Plan 2008.

#### CONDITIONS:

- 1 Prior to the commencement of use of the premises as a hot food takeaway as hereby approved the extract ventilation system used to vent the premises, including the flue approved by this grant of planning permission shall be designed and installed in accordance with what is stated in the 'Proposed Odour Abatement System' section of The Airshed Odour Impact Assessment docketed to this planning permission and the extract ventilation system shall be maintained to ensure its continued satisfactory operation and any cooking processes reliant on the extract system shall cease to operate if, at any time, the extract equipment ceases to function effectively in accordance with these requirements.

Reason:

To ensure the use of the premises as a hot food takeaway does not because of cooking odours harm the amenity of nearby residential properties.

- 2 The design and installation of the extract ventilation system and any other plant and equipment used in association with the operation of the hot food takeaway hereby approved shall be such that any associated noise emanating there from does not exceed noise rating curve NR20 at any octave band frequency when measured within any nearby residential building. Noise measurements shall be taken with the windows of the nearby residential buildings open at least 50mm.

Reason:

To ensure the use of the premises as a hot food takeaway does not because of noise impact harm the amenity of nearby residential properties.

- 3 The hours of operation of the use of the hot food takeaway hereby approved (including the operation of plant and machinery) shall only be between 7.30 am and 12 midnight on Mondays to Sundays inclusive.

Reason:

To safeguard the amenity of the area, including the amenity of nearby residential properties.