

REVIEW DECISION NOTICE

Decision by East Lothian Local Review Body (the “**ELLRB**”)

Application for Review by Sava Estates Limited against decision by an appointed officer of East Lothian Council

Site Address: 100 High Street, Tranent

Application Ref: 17/01091/P

Application Drawings: DWG1;
25127/1; 25127/5 rev A;
DWG 2; 25127/4 rev A;
25127/3 rev B;
25127/7 rev A;
25127/6 rev B; and
25127/2 rev A

Date of Review Decision Notice: 16 October 2018

Decision

The ELLRB unanimously upholds the decision to include Condition 1 of Planning Consent granted on 8 February 2018 for the reasons given below and dismisses the review.

This Notice constitutes the formal decision notice of the Local Review Body as required by the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008.

1. Introduction

1.1. The above application for planning permission was considered by the ELLRB, at a meeting held on Thursday, 19 April 2018. The Review Body was constituted by Councillor N Hampshire (Chair); Councillor J Findlay, and Councillor K McLeod. All three members of the ELLRB had attended an unaccompanied site visit in respect of this application prior to the meeting.

1.2. The following persons were also present at the meeting of the ELLRB:-

Mr L Taylor, Planning Adviser to the LRB
Mr C Grilli, Legal Adviser/Clerk to the LRB
Ms M Haddow, Transportation Planning Officer
Fiona Stewart, Clerk.

2. Proposal

- 2.1. The application before the Local Review Body for consideration is for review against condition 1 of planning permission 17/01091/P for alterations and change of use of former bank (class 2) use to form restaurant (class 3) use and hot food takeaway (sui generis) at 100 High Street, Tranent to allow the use of the site as a hot food takeaway.
- 2.2. Planning permission (reference number 17/01091/P) was granted under delegated powers on 8 February 2018 subject to conditions which included refusal to grant permission for the proposed hot food takeaway use from the premises. The notice of review is dated 7 March 2018.
- 2.3. The reasons Planning Consent was granted subject to Condition 1 are set out in full in the Decision Notice and are, in summary, that the proposed hot food takeaway would encourage parking in locations that could cause congestion and a hazard to pedestrians and other road users in a heavily trafficked area and would be contrary to Policy T2 of the adopted East Lothian Local Plan 2008.

3. Preliminaries

- 3.1. The ELLRB members were provided with copies of the following:-

1	The drawings specified above
2	The Application for planning permission registered on 16 August 2017
3	The Appointed Officer's Report of Handling
4	A copy of the Decision Notice dated 8 February 2018
5	Copies of Policy 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SES Plan) and Policies ENV2, DP6, T2 and ENV4 of the adopted East Lothian Local Plan 2008.
6	Notice of Review dated 7 March 2018 together with Applicant's Submission with supporting statement and associated documents.

4. Findings and Conclusions

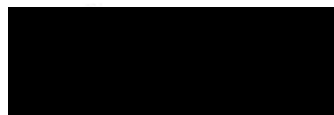
- 4.1. The ELLRB confirmed that they had access to the planning file in respect of this matter and to all the information that the Appointed Officer had available when reaching the original decision to grant planning permission with conditions, including all drawings and copies of all representations and objections received in respect of the original application.
- 4.2. The Members then asked the Planning Adviser to summarise the planning policy position in respect of this matter. The Planning Adviser gave a brief presentation to Members advising that, when considering the application, the Case Officer had consulted the Council's Transportation Service. Transportation had raised an objection to the takeaway aspect of the proposal based on potential for illegal parking on the footway and dangerous manoeuvring of vehicles, particularly during peak travel times. No objection had been raised by Transportation Officers to the restaurant use as they accepted that there would be parking available either at the rear of the premises or in other car parks in Tranent.

The Planning Adviser stated that, whilst the applicant stated arrangements were in place to make two parking spaces available at the rear of the premises for take-away customers, the Case Officer considered that the applicant had not demonstrated to the satisfaction of the Planning Authority that the parking and access issues could be resolved. Policy T2 of

the adopted Local Plan 2008 requires new development to have no adverse impact upon road safety and the amenity of other neighbouring properties or land uses. The takeaway use was considered contrary to Policy T2. Consequently planning permission had been granted for restaurant use only with a condition applied preventing the use of the premises as a takeaway.

- 4.3. Councillor McLeod stated that he was finding it difficult to understand where customers would park given the parking issues arising from these premises. He felt that suitable parking was an issue. Councillor McLeod was pleased that the premises would operate as a restaurant but had concerns about a takeaway operation due to traffic and parking issues. He was therefore minded to uphold the decision of the Case Officer to include Condition 1 which was attached to the consent given to this planning application.
- 4.4. Councillor Findlay noted that Road Services stated that peak demand for takeaway use was expected to start at around 5pm when road and pedestrian traffic was still high. The applicant in his supporting statement disputed this, stating that the peak time for takeaways was from 6.30pm when pedestrian and traffic volumes were lower. The Planning Adviser stated that the Case Officer would have based their decision on evidence from other takeaway businesses in East Lothian. It had been established that many customers visit takeaways on finishing work, which would occur during the period 5pm-6.30pm. Councillor Findlay noted that policy T2 of the adopted Local Plan requires that new development must have no significant adverse consequences for road safety. In his view, the proposed takeaway was located close to a set of traffic lights and a busy junction. He too would therefore vote to uphold the decision of the Case Officer.
- 4.5. Councillor Hampshire (Chair) noted that the applicant was critical of Road Services for submitting a list of events which could happen without offering evidence to verify the claims made. He asked the Planning Adviser if it was normal practice for the Council to highlight potential issues and the Planning Adviser replied that, as traffic flow and parking was already under pressure in Tranent, the Transport Department had deemed that removing Condition 1 would create significant problems. He stated that there were bus stops and restricted parking on both sides of the road and inconsiderate parking could pose a threat to public safety. The Chair indicated he agreed with the other members of the board and would support the Case Officer's decision.

Accordingly, the ELLRB decided unanimously to uphold the officer's decision to include Condition 1 of the planning permission for the reasons set out in the original Decision Notice of 8 February 2018.



Carlo Grilli
Legal Adviser to ELLRB

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

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

Notice Under Regulation 21 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008.

- 1 If the applicant is aggrieved by the decision of the planning authority to refuse permission 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 the 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.