

REPORT TO: Planning Committee

MEETING DATE: Tuesday 2 November 2021

BY: Executive Director of Place

SUBJECT: Application for Planning Permission for Consideration

Note - this application was called off the Scheme of Delegation List by Councillor O'Donnell for the following reason: The application has received a number of objections. Longniddry Community have expressed concerns about the impact of this application. I believe it warrants consideration by and a full discussion at Planning Committee.

Application No. **21/01125/P**

Proposal Siting of snack van

Location **Car Park Number 1 Longniddry Bents
Longniddry
East Lothian**

Applicant BBQ StreetFood

RECOMMENDATION **Consent Granted**

REPORT OF HANDLING

PROPOSAL

This application relates to an area of grassed land within the public car park (Number 1) at Longniddry Bents, Longniddry. The application site is located within the countryside as defined by Policy DC1 of the adopted East Lothian Local Development Plan 2018 and within the constrained coast as defined by Policy DC6. It is within the North Berwick to Seton Sands Coast Special Landscape Area. It is also within the Longniddry Bents Local Biodiversity Site. The public car park is accessed from the northwest side of the B1348 public road.

Planning permission is sought for the siting of a snack van within the public car park (Number 1) at Longniddry Bents. The proposed snack van would be in the form of a silver coloured trailer and would have a length of some 7.31 metres, a width of some 2.26 metres and a height of some 2.67 metres.

A supporting statement has been submitted with this application. It states that trading will take place between the hours of 0830 to 1630 November to February and from 0830 to 1930 March to October. It states that the snack van would be brought to and from the site each day and would be removed from the site after trading ceases. It also states that litter bins will be provided during trading hours and that the snack van offers hot food, such as chicken,

ribs, burgers and wraps. It also states that their customers will be walkers and people who visit and use the nearby beach for recreation and pleasure.

The pitch has been offered by East Lothian Council Estates who anticipate that trading would take place between the hours of 0830 to 1630 November to February and from 0830 to 1930 March to October. A condition of the licence is that there would no deep fat frying.

Subsequent to the registration of this application, the applicant's agent has provided a revised location plan and a revised site plan drawing to demonstrate that the location of the proposed snack van accords with the pitch offered by East Lothian Council Estates. The applicant has also confirmed, in writing, that the combined length of his vehicle and trailer measures some 12.6 metres long.

DEVELOPMENT PLAN

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 South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Development Plan 2018.

There are no relevant policies of the approved South East Scotland Strategic Development Plan (SESplan). Policies DC1 (Rural Diversification), DC6 (Development in the Coastal Area), DC9 (Special Landscape Areas), TC4 (Hot Food Outlets), NH1 (Protection of Internationally Designated Sites), NH3 (Protection of Local Sites and Areas), DP2 (Design), T1 (Development Location and Accessibility) and T2 (General Transport Impact) of the adopted East Lothian Local Development Plan 2018 are relevant to the determination of the application.

Also relevant to the determination of the application is the Special Landscape Areas Supplementary Planning Guidance of the adopted East Lothian Local Development Plan adopted by the Council in 2018.

REPRESENTATIONS

Ten objections to this application have been received. The main grounds of objection are:

- (i) the proposal is incompatible with East Lothian Council's designation of this area as a countryside site;
- (ii) the sale of fast food will, despite the applicant offering to provide bins for use by customers, result in an increase in litter within the car park and nearby beach area to the detriment of the amenity of the area;
- (iii) packaging from food purchased towards the end of trading hours is likely to cause litter as the vendor will have removed their own litter bins;
- (iv) there is already a fish and chip van operating from Longniddry Bents No. 3 which has resulted in the coastal road and its associated car park being extremely busy and congested. Litter is being strewn around which attracts vermin. A second fast food outlet would exacerbate the existing traffic and litter problems at this location;
- (v) there are on-going problems with anti-social behaviour within and around the car parks and the proposed snack van is likely to attract more people to the car park area resulting in large gatherings;
- (vi) the applicant seeks to trade during winter months and it is unlikely that there will be any customer demand for it during this season;
- (vii) in order to make a success of this venture the applicant will need to attract more cars to

stop and pick up food and/or place signage on the coast road to advertise this business. The objector states that both of these actions would be inappropriate within a "countryside" location.

One of the objectors also states that if the applicant was offering to provide bins for general use and to ensure customers litter was removed from the beach, or that ELC was planning to increase year round litter-picking, this would help mitigate the concerns raised. That objector also states that the vendor at Longniddry Bents No. 3 actively objects to accepting litter from non-customers even though their own waste gets spread far and wide for others to dispose of.

In response to the some of the points raised by the objectors above:

The supporting statement submitted with this application confirms that the applicant will provide litter bins during trading hours and that his street food business is also registered with a recycling company.

There is no evidence to suggest that the proposed development would result in unacceptable ant-social behaviour. Nevertheless, the Council's Estates Team Leader advises that East Lothian Council operate the car park at Longniddry Bents and have issued the lease to the applicant to allow them to operate from this site. Therefore she is content that East Lothian Council have controls, over and above the controls attached to any conditions of a planning permission, through the wording of the lease to ensure that the snack van is operated in a manner which does not cause a nuisance. Furthermore, any pest control matters would be for the Council's Environmental Health service to deal with under statutory nuisance provisions.

In July 2021, planning permission (Ref: 21/00729/PCL) was granted to vary condition 1 of planning permission (DC)473/89 to allow for the siting of a caravan, kiosk or mobile van from 8.30am to 16.30pm November to February and from 8.30am to 19.30pm March to October within an area of grassed land at the existing car park of Longniddry Bents No 3. That car park is some 1.5km away from the Longniddry Bents No 1 car park. The stance to which planning permission 21/00729/PCL relates is leased to a mobile van, called 'Alandas', which occupies the site.

Whether there will be any customer demand for the snack van during the winter months is not a material consideration in the determination of an application for planning permission. However, the applicant has indicated that he may only operate two days a week during the winter season should there be limited demand during this period.

The submitted application drawings do not indicate that any signage is to be erected within, or outwith, the application site. Should any signage be proposed then the applicant would require to obtain all necessary consents.

The remaining points raised by the objectors are addressed elsewhere within this report of handling.

COMMUNITY COUNCIL COMMENTS

Longniddry Community Council, as a consultee to this application, state that their main area of concern is that of litter. In particular, they state that there is already a well-established 'fast food' van operating at Longniddry Bents No. 3 Car Park and that although this facility provides a litter bin, it is small in size and litter is still found along the roadside and in other car parks along the coastal road. Accordingly, it is stated that the siting of another snack van providing take-away food will be an additional source of litter.

They also state that there are no litter bins provided in the Bents car parks by East Lothian Council and that there is unlikely to be any provision in the near future. Over the past years, and particularly over the past months, they state that many members of the public are just not prepared to take their litter home with them and, as no bins are provided, the litter is just dropped and left behind for either the Park Wardens or for the volunteer litter pickers to dispose of.

They therefore state that, if this application is to be granted, adequate provisions for the disposal of litter, along with requirements for the vendor to be environmentally friendly with their packaging and cutlery (such that biodegradable products should be used) should be considered so that no plastic waste is being irresponsibly deposited in the public car parks and beach areas.

PLANNING ASSESSMENT

Policy DC1 supports development in the countryside where it is for agriculture, horticulture, forestry, infrastructure or countryside recreation or other businesses that have an operational requirement for a countryside location, including tourism and leisure uses. Policy DC6 states that development proposed on the constrained coast will only be supported if it requires a coastal location. The siting and design of new development must respect the qualities of the particular coastal location.

Longniddry Bents Car Park No 1 is one of three large coastal car parks which are used by a range of visitors including families, surfers, horse riders, dog walkers and ramblers who wish to explore this part of East Lothian's coastline. It is therefore a popular coastal location within East Lothian. The proposed snack van is a business use that would serve visitors to the area who are participating in coastal and countryside activities based within this coastal area. Consequently the siting of the proposed snack van and the provision of food and drink from it would not be incompatible with this coastal location. Therefore, and as it would benefit and further the enjoyment of the visiting public, it is a use that would enable and enhance the attraction of Longniddry Bents as a popular tourist area. Consequently, the proposed snack van does not conflict with Policies DC1 and DC6 of the adopted East Lothian Local Development Plan 2018.

Policy DC9 of the adopted East Lothian Local Development Plan states that development within or affecting Special Landscape Areas will only be permitted where: (i) it accords with the statement of importance and does not harm the special character of the area or (ii) the public benefits of it would outweigh any adverse impacts and is designed, sited and landscaped to minimise such adverse impacts.

The Special Landscape Area Supplementary Guidance states that the North Berwick to Seton Sands Coast Special Landscape Area is the heart of East Lothian's recreational coast, including many beautiful, well-loved beaches, as well as the expansive nature reserve of Aberlady Bay and world class golf courses. In particular it states that the coast has high recreation value, the beaches and sand dunes being popular with visitors for walking, picnicking and observing wildlife. It also states that the sea offers opportunities for a wide variety of water sports from canoeing to surfing, kite surfing and wind surfing.

In the guidelines for development it states that any proposed development must not harm the coastal character and characteristic features of the area. It also states that well sited small scale development to enable beach and other coastal recreation may be acceptable. Infrastructure where necessary should be sensitively located and carefully screened.

In accordance with the statement of importance of the Supplementary Planning Guidance on North Berwick to Seton Sands Coast Special Landscape Area the proposed snack van would be small in scale to enable beach and other coastal recreation. Furthermore, by being located within close proximity of the existing car park it would be seen in relation to other motor vehicles using that car park. When seen in the context of that car park the proposed snack van would not be out of keeping with its surroundings and would not harm the special qualities of the North Berwick to Seton Sands Coast Special Landscape Area. Therefore the proposed snack van does not conflict with Policy DC9 of the adopted East Lothian Local Development Plan 2018 or with the Special Landscape Areas Supplementary Planning Guidance.

Policy TC4 (Hot Food Outlets) of the East Lothian Local Development Plan 2018 states that proposals for hot food takeaways will be supported in town or local centres or designated employment areas provided they would not result in significant impacts on local amenity, including cumulatively with other existing or consented takeaways in the area, and are consistent with other relevant Plan policies, including in relation to parking and road safety. Mobile snack bars may also be permitted on suitable car parks or lay-by sites adjacent to main transport routes, subject to other Plan policies including consideration of visual and landscape impacts.

The proposed snack van would be positioned within the proximity of the existing car park area at Longniddry Bents No 1. Therefore the principle of siting the snack bar in this location is not contrary to Policy TC4. Furthermore, as so positioned the proposed snack van would be seen in relation to other motor vehicles using the car park. When seen in the context of that car park the proposed snack van would not appear harmfully out of keeping with its surroundings and would not harm the landscape character or visual amenity of the area. Whilst there is an existing snack van operating in Longniddry Bents Car Park No. 3, this is a different car park some 1.5km away from the Longniddry Bents No.1 car park where this snack van is proposed. Therefore it would not result in more than 1 snack van operating in this car park.

There are no neighbouring residential properties in close proximity to the application site. Therefore the use of the proposed snack van would not harm the residential amenity of any neighbouring residential properties.

The Council's Environmental Health Officer raises no objection to this application, including on cumulative impacts in addition to the snack van operating from car park no. 1.

On these considerations the proposed snack van does not conflict with Policies TC4 or DP2 of the adopted East Lothian Local Development Plan 2018.

The Council's Landscape department have been consulted on this application but have not responded with any comments.

The Council's Biodiversity Officer advises that the application site is within the Longniddry Bents Local Biodiversity Site which is designated as a coastal grassland habitat. She notes that the snack van would be located on an area of grassland, which is in poor condition as it is frequently used for parking, and thus it is unlikely to have any significant impact on the habitat. She notes that whilst the proposal could cause an increase in litter within the site which would have a negative impact on the surrounding habitat and wildlife she notes that the applicant will provide their own bins and remove rubbish at the end of the day which can be controlled by condition on any grant of planning permission. She also advises that if the bins had a lid this would help prevent the spread of litter across the site by wind and/or scavenging birds. She also states that there is a barrier of scrub between the site and the Firth of Forth SPA and therefore the proposal will not have a significant impact on the site or

its qualifying interests. Accordingly, the proposals do not conflict with Policies NH1 or NH3 of the adopted East Lothian Local Development Plan 2018.

One of the main concerns raised by objectors and Longniddry Community Council relates to the potential generation of litter. In respect of this, when granting planning permission for the siting of a snack van the Council as Planning Authority will generally impose a condition requiring that at least one litter bin be provided adjacent to the mobile snack van and that it shall be accessible to customers at all times whilst trading takes place. The normally imposed condition also requires that the area around the snack van shall at all times during trading and at cessation of trading each day, be kept free of litter and any other waste or refuse. It would be prudent to impose such a condition in this case. Moreover, given the consultation response from the Biodiversity Officer, the condition should specify that the litter bin(s) should have a self-closing lid. On top of this, **the Council's Estates Team Manager** advises that litter control will be covered in the lease and agreed in advance prior to the commencement of trading. She raises no objection, being satisfied that the imposition of these controls would be sufficient to prevent unacceptable generation of litter.

The Council's Principal Countryside Officer advises that the applicant will be given a key to operate the existing metal gate in order to access and exit the application site. He also advises that temporary barriers will need to be erected to segregate cars from customers once the snack van is positioned within the site and that service should take place away from the road side. The applicant has been informed accordingly.

Notwithstanding that planning permission is sought for the siting of the snack van on the application site throughout the year, there is no applied for limit on how many years this could be for. A mobile snack van, by its nature, is not satisfactory as a permanent use at the site. Therefore, it would be prudent for the Council, as Planning Authority, to allow the use on a temporary basis only. A temporary permission for 3 years would allow the Council the opportunity to continue to review this use within the application site in the interests of safeguarding the landscape character and amenity of the area.

It would also be prudent to make the planning permission personal to the applicant and to limit the number of snack vans within this site to one, in order to safeguard against over-commercialisation. Furthermore, it would also be prudent to control, by condition, the hours of operation in accordance with those applied for and otherwise to ensure that litter bins be provided outside the snack van at all times whilst trading takes place, and that the area around the snack van be kept free of litter and any other waste or refuse at all times during trading and at cessation of trading each day. These controls can be made conditions on a grant of planning permission.

On all of the above considerations, and subject to the imposition of appropriately worded conditions, the proposed snack van does not conflict with Policies DC1, DC6, DC9, TC4, NH1, NH3, DP2 of the adopted East Lothian Local Development Plan 2018 or with the Special Landscape Areas Supplementary Planning Guidance.

The Council's Road Services advise that there is sufficient distance between the existing access gate serving the car park and the B1348 public road such that the applicant's vehicle and trailer would not encroach onto the public road when entering and exiting the application site. He also advises that, according to available accident data for this section of the B1348 public road, there has only been one minor collision in the vicinity of the junction to the car park within the last 10 years. However, he also advises that there have been a number of collisions on the section of road to the west of the car park entrance which includes one fatal accident in 2018.

The Council's Road Services Officer also notes that the applicant only needs to enter and exit the site once per day - resulting in a total of two manoeuvres; one to access the car park and one when leaving the car park. However, he advises that a vehicle with trailer measuring approximately some 12.6 metres long will not be able to undertake a manoeuvre out from the junction of the site as quickly as a car without a trailer would be able to. He therefore advises that, on at least one occasion per day, the exiting manoeuvre from the entrance at the junction of the car park onto the B1348 public road could present a hazard to vehicles travelling on the B1348 public road and thus advises that he cannot support this planning application. However, he also advises that should planning permission be granted, a condition could be imposed to ensure that a towing vehicle with trailer does not exceed 12.8 metres in length to ensure that there remains sufficient distance between the existing access gate serving the car park and the B1348 public road.

Longniddry Bents No. 1 is an existing car park accessed from an existing junction on the northwest side of the B1348 public road. No changes to the existing access or its associated junction are proposed through this application. Moreover, the existing access and junction serving the car park is already used by vehicles on a daily basis and there have been no reported accidents within the last 10 years from vehicles either entering or exiting the car park directly from this junction onto the B1348 public road. There is also a free standing directional sign, erected on the grass verge on the opposite side of the junction leading into the car park, which makes road users aware that there is a public car park located there.

The Council's Road Services Officer advises that there is sufficient distance between the existing access gate serving the car park and the B1348 public road such that the applicant's vehicle and trailer would not encroach onto the public road when entering and exiting the application site. His only concern is that the applicant's vehicle and trailer would, due to its combined length of some 12.6 metres, be slower when entering or exiting the junction of the car park than a standard vehicle without a trailer would and thus advises that such manoeuvre could present a hazard to vehicles travelling on the B1348 public road. However, any vehicle exiting the car park could in theory manoeuvre slowly from that existing junction which is pertinent to driver behaviour and which the Council, as Planning Authority, cannot control. Therefore any vehicle exiting the car park could do so slowly which would present the same hazard perceived by Road Services.

Moreover, whilst the applicant's vehicle and trailer would be longer than the length of a standard car, the number of trips into and out of the existing car park would only amount to 14 per week - assuming that the applicant trades from the pitch each day of the week. It would also not be unreasonable to presume that the number of vehicle trips into and out of the existing car park by the applicant would be less during the winter months when demand for it is likely to be lower in comparison to the summer months. The applicant has also advised that, if there is less demand from customers during the winter months, he would only trade two days per week. This would result in a total of four trips into and out of the existing car park per week during the winter period. Based on the low number of trips into and out of the site, it can be reasonably deduced that the applicant's vehicle and trailer would not significantly increase, or result in an intensification of, the number of vehicular movements into and out of the existing car park.

It can reasonably be made a condition of a grant of planning permission that the applicant's vehicle and trailer does not exceed 12.8 metres in length to ensure that there remains sufficient distance between the existing access gate serving the car park and the B1348 public road.

On all of the above, and subject to the imposition of that aforementioned condition, the proposed development would not be inconsistent with Policy T1 and T2 of the adopted East Lothian Local Development Plan 2018.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

- 1 Planning permission is granted for a temporary period of three years, beginning from the date of this grant of planning permission, and after which time all trading from the site shall cease and the mobile snack van shall be removed from the site and the grass verge restored to its former condition to the satisfaction of the Planning Authority.

Reason:

To enable the Planning Authority to assess the environmental impact of the operation of this type of temporary use on the locality in the interests of safeguarding the landscape character and amenity of the area.

- 2 This permission is made personal to the applicant, Mr Andre De Villiers and shall not be capable of being taken up by any other party.

Reason:

To prevent an over-commercialisation of the site in the interests of safeguarding the landscape character and amenity of the area.

- 3 No more than one mobile snack bar shall trade from the site at any one time.

Reason:

To prevent an over-commercialisation of the car park in the interests of safeguarding the landscape character and amenity of the area, and without detriment to the principle of the use of the car park for the parking of vehicles and the safe accessing and manoeuvring of those vehicles.

- 4 The mobile snack van hereby approved shall only operate during the hours of 0830 to 1630 November to February and from 0830 to 1930 March to October for the duration of its temporary siting, unless otherwise agreed by the Planning Authority.

At the close of business each day the mobile snack van shall be removed from the site. It shall not be brought back onto the site until the commencement time of the next day of business.

Reason:

In the interests of safeguarding the landscape character and amenity of the area.

- 5 A minimum of one litter bin, with a self-closing lid, shall be provided adjacent to the mobile snack van and shall be accessible to customers at all times whilst trading takes place. The area around the snack van shall at all times during trading and at cessation of trading each day, be kept free of litter and any other waste or refuse. The bin and its contents shall thereafter be removed from the site and the site cleared from litter.

Reason:

In the interests of safeguarding the landscape character and amenity of the area.

- 6 No use of the existing car park access shall be used if the combined length of a vehicle and trailer exceeds 12.8 metres long.

Reason:

To ensure that there remains sufficient distance between the existing access gate serving the car park and the B1348 public road in the interests of road safety.