

restaurant/café (a Class 3 use) to a hot food takeaway (a Sui Generis use).

Planning permission is also sought for alterations to the building comprising of:

- (i) the re-painting of the ground floor frontage of the building in a dark grey colour;
- (ii) the re-painting of the entrance door timber frames within the front elevation of the building in a dark grey colour;
- (iii) the installation of an oven extract terminal on the rear (south) elevation of the single storey mono-pitched roofed component of the building;
- (iv) the replacement of the existing extract grille vent on the centre of the rear (south) elevation of the single storey mono-pitched roofed component of the building;
- (v) the replacement of an existing timber framed top hung casement window in the rear (south) elevation of the single storey mono-pitched roofed component of the building with a dark grey coloured timber framed top hung casement window within that existing opening;
- (vi) the replacement of the existing white painted solid timber door in the centre of the rear (south) elevation of the single storey mono-pitched roofed component of the building with a dark grey coloured solid timber door within that existing opening; and
- (vii) the replacement of the existing timber framed door in the east end of the rear (south) elevation of the building with a dark grey coloured, aluminium framed, acoustic louvre type door within that existing opening.

Through separate application 23/01526/LBC listed building consent is sought for alterations to building and installation of signage. A separate report on application 23/01526/LBC is, at this time, on the Council's Committee Expedited List.

Subsequent to the registration of this application, the applicant's agent has confirmed that the proposed opening hours of the hot food takeaway would be from 11am to 11pm Monday to Sunday. It is also advised that the precise number of delivery vehicles is unknown until the store becomes operational. However, based on similar stores, the applicant advises that there could be between six-to-eight drivers during the busiest evening periods (which are Friday's and Saturday's between 5pm and 9pm). After this time, and should trade/demand reduce, the number of drivers would revert to one or two until closing time. The applicant states that during the day, between 11am and 5pm, there would be one delivery car. On the busiest nights (Fridays and Saturdays between 5pm and 9pm) it is likely that the delivery service would operate using four mopeds, two electric cycle bikes and two cars. On the quieter nights (Mondays to Thursdays between 5pm and 9pm) it is likely that the delivery service would operate using three mopeds and two cars. The applicant advises that delivery drivers, at peak times, will only be making very short stops to the premise and will be out delivering pizzas for the majority of the time. Therefore, it is unlikely that there would be more than two, or at the very most three, drivers needing to park near the store at the same time during the busiest times. The applicant states that, based on the Domino's Model throughout the UK, business is quiet during the day hence the reason for only one daytime delivery vehicle. Percentage orders over operational hours are estimated as 15% between 11am and 5pm, 70% between 5pm and 9pm, and 15% between 9pm and 11pm. The applicant states that 80% of orders are placed online thereby minimising the number of customers visiting the property. The applicant notes that the surrounding on-street spaces along High Street in Haddington are unrestricted after 5.30pm Monday to Saturday and states that it is likely that the parking demand would be reduced and capacity increased after 5.30pm as a number of other businesses in the area would be closed and therefore the parking demand for those units would reduce. It is therefore anticipated that the surrounding on-street spaces can provide ample provision for delivery drivers to park within easy walking distance of the store and that Domino's require their delivery drivers to undergo driving training courses to prevent any unsafe or dangerous parking.

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 National Planning Framework 4 (NPF4) and the adopted East Lothian Local Development Plan 2018.

Policies 1 (Tackling the climate and nature crises), 7 (Historic assets and places), 13 (Sustainable transport), 14 (Design, quality and place) and 27 (City, town, local and commercial centres) of NPF4 are relevant to the determination of this application. Policies CH1 (Listed Buildings), CH2 (Development Affecting Conservation Areas), TC2 (Town and Local Centres), TC4 (Hot Food Outlets), NH13 (Noise), DP5 (Extensions and Alterations to Existing Buildings) and T2 (General Transport Impact) of the adopted East Lothian Local Development Plan 2018 are relevant to the determination of the application.

Material to the determination of the application are Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires that in considering whether to grant planning permission for development which affects a listed building or its setting a planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires that a planning authority must pay special attention to the desirability of preserving or enhancing the character or appearance of the area in which the building is located.

Also material to the determination of the application is supplementary Planning Guidance (SPG) on 'Cultural Heritage and the Built Environment' adopted by the Council on 30th October 2018. The SPG states that painting external walls will only be supported where it is an established local practice accepted by the Council and, where appropriate, painting must respect the architectural features of a building or structure and that colours must harmonise on both the building itself and with adjacent buildings. It also provides policy guidance on replacement windows in buildings which are in a conservation area and/or buildings which are listed as being of special architectural or historic interest.

REPRESENTATION

Nineteen objections, two representations and three letters of support to this application have been received. The main grounds of objection, as summarised, are:

- (i) the proposed change in use of the premises from a restaurant/café to a hot food takeaway will result in delivery vehicles being parked outside and/or near to the premises;
- (ii) this location is already congested from late afternoon with delivery vehicles from existing takeaways and given that Domino`s Pizza is essentially a delivery and collection service, which operates from 11am to 11pm, this will greatly increase the vehicle movements in the area which will be a danger to pedestrians and other motorists;
- (iii) if another pizza takeaway and delivery service is added to the area this will increase traffic and activity and will add to existing parking and congestion problems within the

east end of the High Street;

(iv) at peak times, especially at the weekends, vehicles are illegally parked in disabled parking bays, on double yellow lines or on parts of the pavement. Another fast food outlet will only add to this current problem;

(v) there are already a number of other pizza outlets operating within the High Street which are run by local businesses and are not a 'chain'. Allowing a national chain such as Domino's to move into the same street to sell pizza is likely to result in the loss of one or more of these local businesses;

(vi) the volume of refuse is likely to increase leading to potential issues with noise and activity and that there is potential for noise disruption to be caused by the external extractor fan to the detriment of nearby residents;

(vii) it is expected that the proposals will result in an increase in noise, odours and vibration from equipment, fridges, dish washers and machine operations which will be continuous throughout the day;

(viii) the proposals are likely to encourage antisocial behaviour in the immediate neighbourhood, noise nuisance, verbal abuse, youth gathering and loitering, criminal damage and littering;

(ix) An objector states that Domino's Pizza operates a franchise system and questions whether a franchisee has been identified and been given the go ahead by a bank for sound financial business practice and, if so, who checks references?;

(x) An objector states that the Domino's in Tranent uses the pavement to park delivery scooters and questions whether the pavement will be used along Haddington High Street for delivery vehicles;

(xi) a hot food takeaway would not be in keeping with the architectural, cultural or historic heritage of this Category B listed building;

(xii) the submitted location plan includes a complete fill which reduces the accuracy of the drawing and the application site boundary is not outlined in red on that drawing;

(xiii) the submitted block plan drawing does not identify all land and buildings within a 20 metre radius of the application site, does not include or specify boundary treatments or their heights and does not show where access arrangements for collection of waste bins will take place;

(xiv) the submitted elevation drawings do not illustrate all of the windows in the rear elevation of the building and do not show the relationship of the single storey west elevation with adjoining properties and their associated windows; and

(xv) the proposals fail to comply with relevant development plan policies.

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

The matters of inconsiderate parking, illegal use of disabled parking bays, parking on double yellow lines and on the pavement by customers or by delivery drivers are matters controlled through legislation other than planning legislation.

There is no Policy in NPF4 or the adopted East Lothian Local Development Plan 2018 that limits the number of hot food takeaways in a particular area of East Lothian. Any planning application must be determined on its own merits in accordance with the Development Plan unless material planning considerations indicate otherwise.

The matter of there not being sufficient demand or need for this specific takeaway is not a material planning consideration relevant to the determination of this planning application.

Matters of anti-social behaviour, littering and/or refuse collection are controllable under legislation other than planning legislation.

The representations made to this application raise concerns with deliveries associated

with the hot food takeaway. They state that deliveries associated with the existing restaurant/café occur during the day, between 9am and 5pm, and thus request that the same hours be adhered to with the use of the premises as a hot food takeaway in order to ensure that neighbouring properties are not forced to endure noise and fumes from lorries (loading or unloading) outwith these hours.

Three letters of support to this application have also been received. One of them states that this proposal will bring more people and trade into the High Street and another pizza place is not going to impact the other takeaway service (or at least the ones that have any quality). It also states that as a delivery service, the proposals are not going to heavily impact upon other road users on the High Street and no such impacts are evident at the Domino's takeaway operating in Tranent and that the proposals will not increase the number of delivery vehicles as Domino's is replacing another food outlet that already exists there. The introduction of such a chain will not impact the historic character of the town and a number of shop fronts have been modernised to suit (e.g. Subway). The other letters of support state that Haddington needs more businesses and that a petition, opposing this change, seems to be misplaced on various grounds in that this will not be an additional pizza outlet nor an additional fast food outlet generating additional vehicle traffic.

COMMUNITY COUNCIL COMMENTS

Haddington Area Community Council, as a consultee to this application, object to this planning application. They state that a new takeaway premise at this location will increase the current problems with traffic flow due to the road being at its narrowest which is already a bottleneck for traffic coming into the High Street. They state that Domino's operate a home delivery service and that the number of vehicles, both cars and mopeds, will lead to more vehicles being parked where the road is at its narrowest which will impact the smooth flow of traffic coming into the High Street. They state that this application is likely to lead to an increase in noise pollution due to the coming and going of delivery drivers and the operating hours of the Domino's business. They also raise concern that the opening of another takeaway will lead to more people congregating at this end of the High Street and potentially resulting in anti-social behaviour.

PLANNING ASSESSMENT

Haddington Town Centre is characterised by many of its ground floor shop fronts being painted in variety of colours. The painting of ground floor commercial premises within Haddington Town Centre is, therefore, an established local practice accepted by the Council. Many of those painted shop fronts are on buildings that are listed as being of special architectural or historic interest. The variety of colour of the shopfronts adds visual interest to the streetscape of the town centre and they do not appear harmfully intrusive or incongruous in relation to the variety of colours being displayed.

The external brick walls of the ground floor frontage of the building are already painted in a light grey colour. The proposed repainting of the brick walls of the front (north) elevation of the building in a slightly darker shade of grey would not detract, but rather would respect, the architectural features of it. It would also harmonise with the proposed dark grey painted finish to be applied to the existing fascia and door frames on the frontage of the building. The proposed re-painting of the frontage of the building would not appear at odds with the colours of other buildings and shop frontages within the streetscape. In all of this, these proposed alterations would not harm the special architectural or historic interest of the listed building or its setting. They would not detract from the character and appearance of the streetscape or of this part of the Haddington

Conservation Area.

The proposed oven extract terminal would measure some 1.3 metres high, some 620mm wide and would have a galvanised finish. It would replace the existing smaller sized extract terminal that exists on the rear (south) elevation of the single storey mono-pitched roofed component of the building. Nevertheless, in its contained position on the rear of the building, the proposed oven extract terminal would not be visible from a public place and would not appear as a harmfully dominant or intrusive feature. Neither would the proposed extract grille vent to be installed on the centre of the rear (south) elevation of the single storey mono-pitched roofed component of the building (as a replacement for the existing extract grille vent that exists there). By virtue of their architectural forms, sizes, scales, proportions, materials and positions, these proposed alterations would not harm the special architectural or historic interest of the listed building or its setting. They would not be harmful to the character and appearance of this part of the Haddington Conservation Area.

The existing white painted timber framed window displayed within the rear (south) elevation of the mono-pitched roofed component of the building is of a modern casement type and style. The mono-pitched roofed component of the building is also of a modern architectural form. It is distinctly different to the character and appearance of the main building to which it forms a part. Nevertheless, the proposed replacement window would be of the same size, material, proportions, opening method and glazing pattern as the existing window to which it would replace. The only difference being that it would be painted in a dark grey colour. Notwithstanding this change, the proposed replacement window would not be visible from a public place. By virtue of its architectural form, size, scale, proportions, colour, glazing pattern or materials, the proposed replacement window would not have a significant visual impact on, and thus would not be harmful to, the character and appearance of the listed building or its setting. It would not be harmful to the character and appearance of this part of the Haddington Conservation Area.

The proposed replacement of the existing white painted solid timber door in the centre of the rear (south) elevation of the single storey mono-pitched roofed component of the building and for the installation of a dark grey coloured solid timber door within that existing opening would be of the same size, proportions and opening method as that of the existing door to which it would replace. The only difference being that it would be painted in a dark grey colour. Notwithstanding this change, the proposed replacement door would not be visible from a public place. Neither would the proposed replacement of the existing timber framed door in the east end of the rear (south) elevation of the building with a dark grey coloured, aluminium framed, acoustic louvre type door within that existing opening. By virtue of their architectural forms, sizes, scales, proportions, colours, glazing pattern or materials, these proposed alterations would not have a significant visual impact on, and thus would not be harmful to, the character and appearance of the listed building or its setting. They would not be harmful to the character and appearance of this part of the Haddington Conservation Area.

None of these proposed alterations would harm the privacy or amenity of a neighbouring residential property.

Policy 27 of NPF4 and Policies TC2 and TC4 of the adopted East Lothian Local Development Plan 2018 applies to Haddington Town Centre, an area it defines as being of mixed uses and one in which uses associated with a town centre will be acceptable in principle. These acceptable uses include retailing, business and office use, restaurants, leisure and entertainment, and the principle of a change of use from one of these uses to another will be supported. Hot food outlets are also supported in a town centre location.

Policy TC4 of the East Lothian Local Plan 2018 relates specifically to hot food takeaways. The policy state that within town centres hot food take-aways will be supported provided they will not result in significant impacts on local amenity, including cumulatively with other existing or consented take-aways in the area, and are consistent with other relevant Plan policies, including in relation to parking and road safety.

Although the ELLDP requires that the cumulative impact of hot food takeaways is considered, there is no development plan policy which seeks to control the number of hot food takeaway, or any other use class, within Haddington Town Centre. Furthermore, the premises were last in use as a restaurant/cafe with an element of hot food takeaway and an associated delivery service, albeit on a smaller scale than is proposed through this application. Therefore there would be no net increase in the number of hot food takeaways operating on Haddington High Street, if this application were to be approved. Consequently, the proposed change of use of the premises from a restaurant/café (a Class 3 use) to a hot food takeaway (a Sui Generis use) would be compatible with the Town Centre uses within the locality. The proposed change of use and would contribute to the viability and vitality of the Town Centre as a whole and would not undermine it. Accordingly, the principle of the proposed change of use does not conflict with Policy 27 of NPF4 or with Policies TC2 and TC4 of the adopted East Lothian Local Development Plan 2018.

The applicant has confirmed that the proposed opening hours of the hot food takeaway would be 11am to 11pm Monday to Sunday. In the interests of the amenity of nearby residential properties, it would be prudent to restrict the operating hours of the hot food takeaway to those applied for. This can reasonably be made a condition on a grant of planning permission.

The **Council's Senior Environmental Health Officer** advises that he has concerns regarding potential impacts upon neighbouring residential amenity due to cooking odours associated with the proposed takeaway and the low-level position of the flue terminal for the kitchen extract. However, he recommends that the ventilation system be designed and installed in accordance with the submitted report titled 'Ventilation Proposal' dated 15th November 2023 and that noise associated with any proposed plant and/or equipment shall not exceed Noise Rating curve NR25 at any Octave Band Centre frequency between the hours of 0700-2300 and Noise Rating curve NR20 between the hours of 2300-0700 within any neighbouring residential property, assuming windows open 50mm for ventilation. Subject to the imposition of these recommended controls, the use of the premise as a hot food takeaway and the operation of the proposed oven extract terminal would not give rise to a harmful loss of amenity to neighbouring and nearby residential properties. Accordingly, the proposals do not conflict with Policy NH13 of the adopted East Lothian Local Development Plan 2018.

The **Council's Antisocial Behaviour Team** advise that they have had no records of any incidents relating to any antisocial behaviour matters at this address and thus they raise no objection to this planning application.

The site is located on Haddington High Street where there is controlled parking between the hours of 8.30am and 5.30pm Monday to Saturday. However, the **Council's Road Services** state that they are concerned that the proposal will generate a higher level of traffic and short-term indiscriminate parking, compared to its current use as a café/restaurant, and that car-based customers picking up orders and delivery vehicles collecting orders and returning to the premises will exacerbate the on-going parking and traffic problems that exist within this part of the High Street. They also state that there is already localised congestion in the area with vehicles illegal parking on double yellow lines, mounting the footway and parking outside marked bays and double parking,

especially in the early evening which presents a conflict between cars and pedestrians. They state that the additional traffic that would be generated by this proposal, which includes the use of moped and electric cycle bikes, would compound the existing parking problems. Accordingly, the Council's Road Services advise that they do not support this planning application.

However, they also advise that, if it is minded to grant planning permission for the proposals then a Green Travel Plan (GTP) must be submitted to and approved in advance by the Planning Authority prior to the operation of the hot food takeaway use commencing. The GTP shall identify measures to reduce and mitigate the impact of traffic associated with the use of the hot food takeaway and shall consider travel behaviour of staff, walk-in customers as well as the impact of delivery vehicles. The Council's Road Services Officer also advises that bike racks would need to be provided on the footway build-out next to the premises with details of the location, number and design specification of the bike racks to be agreed in writing prior to their installation and prior to the operation of the hot food takeaway use commencing.

Notwithstanding what is stated by the Council's Road Services, these premises are located on Haddington High Street where there is controlled parking between the hours of 8.30am and 5.30pm Monday to Saturday. Any indiscriminate parking causing localised congestion in this part of the High Street is a matter controlled by legislation other than by Planning. Furthermore, the premises were last in use as a restaurant/café which offered an element of hot food takeaway and therefore, if planning permission were to be granted this would not increase the overall number of premises offering hot food takeaways on Haddington High Street. Moreover, as this was previously a café that offered a takeaway service, it would have already generated some traffic movements to and from it. Importantly if planning permission were to be granted for the change of use to a hot food takeaway, this would not necessarily result in the creation of new demand for hot food takeaways. Instead it is more likely that this premises would offer an alternative to customers already using the existing hot food takeaways operating on the High Street and would thereby cater for customers who may already be visiting the High Street or have ordered a delivery from them. Therefore, there is no evidence to suggest that the use of the premises as a hot food takeaway would exacerbate the existing parking problems within this part of the High Street. Furthermore, the premises are well located for walking and cycling within this part of the High Street and is located on a public transport route. Consequently there are alternative options available for the public visiting the premises, other than by car.

Therefore the proposed change of use would not either individually or cumulatively with the other hot food takeaways on the High Street, have a significant impact on the local amenity of this part of the High Street. Accordingly, and subject to the provision of a Green Travel Plan and details of the bike racks being submitted to and approved in writing by the Planning Authority prior to the operation of the hot food takeaway use commencing, the proposals would not conflict with Policies 27 or 13 of NPF4 or with Policies TC4, T1 and T2 of the adopted East Lothian Local Development Plan 2018.

Policy 1 of NPF4 aims to encourage, promote and facilitate development that minimises emissions and adapts to the current and future impacts of climate change. Given the nature and scale of this change of use application, and as the proposal would have a neutral impact in terms of Policy 1 of NPF 4.

On these considerations, the proposals do not conflict with Policies 1, 7, 13, 14 and 27 of National Planning Framework 4 and Policies CH1, CH2, TC2, TC4., NH13, DP5 and T2 of the adopted East Lothian Local Development Plan 2018. The proposals are also consistent with the Council's supplementary Planning Guidance on 'Cultural Heritage and

the Built Environment'. Therefore, the proposals are considered to be in accordance with the provisions of the stated relevant Development Plan policies and there are no material considerations which outweigh the proposal's accordance with the Development Plan.

CONDITIONS:

- 1 The development hereby approved shall begin before the expiration of 3 years from the date of this permission.

Reason:

Pursuant to Section 58 of the Town and Country Planning (Scotland) Act 1997 as amended.

- 2 The hot food takeaway hereby approved shall only operate between the hours of 11:00 and 23:00, Monday to Sunday.

Reason:

In the interests of the residential amenity of surrounding residential properties.

- 3 No use shall be made of the hot food takeaway hereby approved unless and until the extract ventilation system is installed, in accordance with the docketed report titled 'Ventilation Proposal' dated 15th November 2023, and made operational and any cooking process reliant on that extract system shall cease to operate if at any time the extract equipment ceases to function to the approval of the Planning Authority.

Reason:

To safeguard the amenity of nearby residential properties against odour nuisance from the use of the hot food takeaway.

- 4 Noise from the operation of any plant and/or equipment associated with the use of the hot food takeaway hereby approved shall not exceed Noise Rating curve NR20 at any octave band frequency between the hours of 2300-0700 and Noise Rating curve NR25 at any octave band frequency between the hours of 0700-2300 within any residential property with all measurements to be made with windows open at least 50mm.

Reason:

To safeguard the amenity of the occupants of nearby residential properties.

- 5 Prior to the hot food takeaway hereby approved being brought into use a Travel Plan shall be submitted to and approved in writing by the Planning Authority. The Travel Plan shall include details of the measures to be provided to reduce and mitigate the impact of traffic associated with the use of the hot food takeaway and shall consider travel behaviour of staff, walk-in customers as well as the impact of delivery vehicles, together with the management, monitoring, review and reporting of information for implementation for the duration of the Plan.

Thereafter, the Travel Plan shall be implemented in accordance with the details so approved.

Reason:

In the interests of road safety and to encourage active and sustainable travel to and from the site.

- 6 Prior to the hot food takeaway hereby approved being brought into use, details of the exact location, number and design specification of bike racks shall be submitted to and approved in writing by the Planning Authority.

Thereafter, the bike racks shall be installed in the location shown for them and retained in

place in their entirety in accordance with the details of them so approved.

Reason:

To ensure the provision of adequate cycle parking facilities are available in the interests of road safety.