

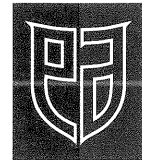
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MEMORANDUM

**To: BILL WALKINSHAW, HEAD OF DEMOCRATIC SERVICES
LONDON ROAD HEADQUARTERS**

**From: WILLIAM GILCHRIST
TEAM LEADER (POLLUTION CONTROL/CORPORATE
ENFORCEMENT UNIT)**

Ref: WG/LB

Date: 30 JUNE 2011

CORPORATE SUPPORT	
- 6 JUL 2011	
	Initials
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**Subject: TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
LOCAL REVIEW BODY REQUEST FOR FURTHER INFORMATION
APPLICATION LRB 10/0689/PP – PERMISSION FOR A HOT FOOD
TAKEAWAY AT 65 HIGH STREET STEWARTON – MR. AFTAB
MALIK**

I refer to your memo of 24th inst. concerning the above, and to the Local Review Board's request for additional information.

In relation to the specific information requested I can respond as follows:-

- (1) – in relation to the adequacy of the proposals as they stand it is the opinion of this Department that the provision of a filtered ventilation system and vapour barrier offers the best available solution to the potential for odour nuisance in the event that the application is granted. In normal circumstances an extract ventilation system with flue arrangement, as can be seen at the majority of takeaway premises, does not actively remove odours and fumes which are released as part of the cooking process. Filters in these systems are designed solely for the removal of coarse particles and grease to prevent build-up of this material inside the flue. No odour removal takes place, dispersal of odours being at the point of emission to the atmosphere at the termination point of the flue.

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In this case the use of a filter system, which actively removes cooking odours and fumes prior to discharge provides the most effective method of odour control (subject of course to recommended cleaning and filter change regimes being followed). I would, however, state that in my experience no system is 100% effective in odour control (as is suggested for the proposed system by the applicant's engineer) and some, albeit perhaps slight, odour will be emitted. However this system, coupled with the provision of a vapour barrier to prevent percolation of odours and fumes through the building fabric to the property above, should reduce odours etc. to a minimum.

- (2) – the investigation of complaints of Statutory Nuisance is one which is entirely subjective. A complaint of odour would be considered on the basis of whether or not a reasonable person could tolerate the exposure. If not then the odour would be considered a Statutory Nuisance. Also taken into account would be the duration and frequency of exposure. As an example, smells from a neighbour's barbecue may not be intolerable two or three times a year, but may well be so if it takes place two or three times a week, and this is the judgement the EHO would have to make.

In relation to fumes, where there are potential health effects, monitoring can be carried out to determine the level of exposure and an opinion formed on Nuisance taking into account the results of monitoring. Should Statutory Nuisance be found to exist, an Abatement Notice would be served requiring such works to be carried out as will abate the Nuisance and prevent its recurrence. Breach of any Abatement Notice is punishable either by Fixed Penalty Notice or prosecution through the Sheriff Court. In particularly serious cases the Council can seek interdict to prevent the activity complained of.

- (3) – in relation to potential noise nuisance it is the opinion of this Department that as the operating hours of the premises are to remain unchanged it is unlikely noise levels experienced by any receptors will change to any significant degree. Should, however, operating hours change to extend into the later part of the evening and early hours of the morning the potential for nuisance will significantly increase. It may be that consideration could be given to limiting hours of operation to those currently in place. In the event of complaint, the investigation procedure would be as for odour nuisance, in that exposure to noise is subjective. It may be that a condition could be considered providing some measure of noise control. If a condition is considered it is suggested that the noise from the premises cannot result in the noise in any adjoining receptor to rise, with the measurement being considered as the underlying noise level $L_{A9015min}$, which is the background noise level (the noise level not exceeded for 90% of the measurement period, A-weighted to correct for human response, measured over a 15 minute period. This will, in effect, require the takeaway premises to maintain noise within their premises to such a level as will result in noise from the premises, at the point at which it is received in the adjoining property being at least 10dB(A) below the underlying noise level in the adjoining property. I apologise if this seems complicated but I can clarify this if required at any future meeting.

As before, if Statutory Nuisance is proved the remedy is as outlined for odour or fume Nuisance.