

Reference Number: 08/00845/COU
Applicants Name: Kashmir & Rajni Ram
Application Type: Change of Use
Application Description: Partial change of use of hotel (Class 7) to hot food takeaway (Class 3) and formation of disabled access ramp.
Location: Papa Rams, Jackson House (formerly Lazaretto Point Hotel), Shore Road, Sandbank, Dunoon, PA23 8QG

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Partial change of use of hotel (Class 7) to hot food takeaway (Class 3)
- Formation of disabled access ramp

(ii) Other specified operations.

- Formation of additional car parking
 - Landscaping/tree planting
 - Erection on non-illuminated signage
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(B) RECOMMENDATION

Having due regard to the Development Plan and all other material considerations it is recommended that planning permission **be granted** subject to the following conditions and reasons and 'Informatives' detailed overleaf.

(C) SUMMARY OF DETERMINING ISSUES AND MATERIAL CONSIDERATIONS

(i) Development Plan Context:

Jackson House is located within the settlement zone of Sandbank, which has been defined as a 'Small Town' by the emerging Local Plan. The proposed takeaway business will form part of a wider lawful hotel and restaurant business to be operated from this property. In locational terms the site is located within the settlement but outwith the town centre area, where this type of use would normally be found. However, the premise has a lawful use right as a hotel. Therefore the key determining issue is whether this new 'add-on' use will have an adverse effect on established levels of privacy and amenity afforded to neighbouring properties and that there are no adverse parking or roads issues

Given the assessment contained in this report the proposal is also considered to be consistent with policy LP BAD 1 which seeks to resist new uses which would essentially have an adverse effect on the amenity of neighbouring residents. Furthermore, the proposal is also considered consistent with policies TRAN 4 & 6 which concern vehicle parking provision and road safety.

Policy STRAT DC 1 of the adopted Structure Plan seeks to resist urban bad neighbour developments which are essentially incompatible with the close configuration of land uses found in settlement. Again, given the assessment contained in this report the proposed hot food take away business is not considered to constitute

a bad neighbour development and as such this proposal is considered consistent with the adopted structure plan.

(ii) Representations:

Seven letters of objection have been received.

(iii) Consideration of the Need for Non-Statutory or PAN 41 Hearing:

Although seven letters of representation have been received, the proposal accords with the Development Plan. For this reason there is no requirement for a PAN 41 Hearing.

(iv) Reasoned Justification for a Departure to the Provisions of the Development Plan.

Not applicable.

(v) Is the Proposal a Schedule 1 or 2 EIA development:

No.

(vi) Does the Council have an interest in the site:

No.

(vii) Need and Reason for Notification to Scottish Ministers.

No.

(viii) Has a sustainability Checklist Been Submitted:

No.

Angus J Gilmour
Head of Planning
24 June 2008

Author: John Irving, Tel: 01369 708621
Reviewing Officer: David Eaglesham, Tel: 01369 708608

Date: 18th June 2008
Date: 24 June 2008

NOTE: Committee Members, the applicant, agent and any other interested party should note that the consultation responses and letters of representation referred to in Appendix A, have been summarised and that the full consultation response or letter of representations are available on request. It should also be noted that the associated drawings, application forms, consultations, other correspondence and all letters of representations are available for viewing on the Council web site at www.argyll-bute.gov.uk

CONDITIONS AND REASONS RELATIVE TO APPLICATION: 08/00845/COU

2. The premises shall not be utilised by members of the public for any purpose involving the purchase of any takeaway food after 10.30 pm on one day and before 3.00 pm the following day unless the prior written consent of the Planning Authority is obtained for variation of these hours.

Reason: *To protect the residential amenity of adjoining residential properties and in accordance with the provisions of Policy POL COM 5 of the Cowal Local Plan 1993 and Policy LP BAD 1 of the Finalised Draft Local Plan.*

3. **Prior to any development works commencing** a revised site plan at a scale of 1:100 shall be submitted for the approval of the Planning Authority in consultation with the Area Roads Manager. The submitted site plan shall detail the following requirements:

- i) The width of the southern entrance shall be a minimum of 5.5 metres wide for the first 6 metres behind the back of the footway. This will require the relocation of the northern gate post.
- ii) The vehicle access shall be upgraded to comply with Fig 10.16 of the Council's Development Guidelines.
- iii) The gradient of the access shall not exceed 5% for the first 2.5 metres and 8% the remainder.
- iv) A minimum of 3 car parking spaces shall be provided within the site to accommodate the take-away function. Spaces to be 5 metres by 2.5 metres in size. A turning area must also be provided.

Thereafter the approved alterations to parking and access provisions shall be fully undertaken **prior to the re-opening of the hotel and take-away business**, unless the prior written consent for variation is obtained in writing from the Planning Authority.

Reason: *In the interest of road safety.*

4. Visibility splays measuring 35 metres from a 2.5 metre set back at both accesses shall be free of all obstructions (including walls, fences, hedges, etc.) over one metre in height above the level of the road and thereafter maintained in perpetuity, unless consent for variation is obtained in writing from the Planning Authority in consultation with the Area Roads Manager.

Reason: *In the interests of road safety.*

INFORMATIVES

Surface Water

The Area Roads Manager has advised that a system of surface water drainage is required to prevent water running onto the road. Failure to address this matter would be contrary to Section 99 of the Roads (Scotland) Act 1984, which states that:

"(i) The owner and occupier of any land, whether or not that land is such as constitutes a structure over or across a road, shall prevent any flow of water, or of filth, dirt or offensive matter from, or any percolation of water through, the land onto the road."

A drainage system including positive surface water drainage measures should be agreed with the Area Roads Manager. The applicant is advised to contact the Area Roads Manager's representative (Mr. Paul Farrell on 01369 708613) directly in this regard.

Road Opening Permit

The Area Roads Manager has advised that the proposed works will require a Road Opening Permit (Section 56). The applicant is advised to contact the Area Roads Manager's representative (Mr. Paul Farrell on 01369 708613) directly upon this matter.

Odour and Noise Management

Prior to any development works commencing, it would be advisable to agree an odour and noise management plan with the Council's Area Environmental Health Manager. Planning permission may be required for any external alterations which may become necessary.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 08/00845/COU

MATERIAL CONSIDERATIONS AND ADVICE

(i) POLICY OVERVIEW AND MATERIAL ADVICE

Argyll & Bute Structure Plan 2002

STRAT DC 1 '*Development within Settlement*' supports the principle of up to 'medium scale' development with the 'Small Town' settlements such as Sandbank on appropriate infill, rounding-off and redevelopment sites.

Cowal Local Plan 1993

Policy POL COM 5 '*Bad Neighbour Development*' seeks to oppose developments when it is considered that they are likely to adversely affect the amenity of neighbouring properties.

Policy POL BE 4 '*Townscape Policy Area*' seeks to protect these areas from adverse environmental changes and where possible to promote high standards of design. This includes changes of use which could have a detrimental effect upon the character and external appearance of buildings within such an area.

Argyll & Bute Modified Finalised Draft Local Plan 2006

Policy LP BAD 1 '*Bad Neighbour Development*' seeks to permit such developments where there are no unacceptable effects on the amenity of neighbouring properties, the proposal includes appropriate measures to reduce adverse impact, there are no transport objections and technical standards are adhered to.

Policy LP ENV 14 '*Development in Special Built Environment Areas*' seeks a presumption against development that does not preserve or enhance the character or appearance of the area.

Policy ENV 18 '*Protection & Enhancement of Buildings*' opportunities for the enhancement and re-use of building will be sought through proposals for re-building, re-use or change of use to maintain the fabric of the building.

Policy TRAN 4 '*New and Existing, Public Roads and Private Access Regimes*' sets out the requirements for development in respect of new and existing public roads and private access regimes.

Policy TRAN 6 '*Vehicle Parking Provision*' sets out the car parking provision for specific categories of development.

Note (i): **The applicable elements of the above Policies have not been objected too or have no unresolved material planning issues and are therefore material planning considerations.**

Note (ii): **The Full Policies are available to view on the Council's Web Site at www.argyll-bute.gov.uk**

(ii) SITE HISTORY

There is no specific site history associated with this application or property. However, while the hotel has been closed for approximately five years it is considered to have a lawful use as a Class 7 hotel use which included a function room, bedroom accommodation and a restaurant which was open to non-hotel residents.

(iii) CONSULTATIONS

Area Roads Manager (memo dated 28th May 2008); No objection subject to conditions.

Area Environmental Health Manager (memo dated 13th June 2008): No objection subject to conditions.

'The premise to which the planning application relates is located in a residential area of Sandbank. Although the premises has a hotel class of use it has not traded as such in the past 5 years and so the neighbouring properties will not have been subject to any disturbances associated with normal business operation. There are residential properties to the south and east elevations of the property and those known as 'Beneli' and 'Firbank Cottage' are close to the restaurant kitchen. The proprietor indicates that there is a window mounted extractor fan which will be connected to a canopy over the cooking area to provide ventilation. There currently is no flue and in view of this, there is a potential for complaints to be received due to residents living close by being exposed to odour and particulates (e.g. smoke) from the cooking operations. This is dependent on the type and number of hot meals being produced for consumption on and/or off site. These concerns were discussed with the applicant, Mr Ram, who stated that he is currently cooking on a reasonable scale to support his outside catering business and to date he has not received any complaints regarding odours or nuisance. In addition this Service has not received complaint.'

(iv) PUBLICITY AND REPRESENTATIONS

This application has been advertised as a Section 34 'Bad Neighbour' development (expired 6th June 2008) and 'Potential Departure' advertisement (expired 13th June 2006). As a result seven letters of objection have been received from the following:

Elizabeth Howell (e-mail dated 26th May 2008), Firpark Cottage, Shore Road, Sandbank, Dunoon, PA23 8QG. Jean Keenan (letter dated 26th May 2008), Beneli Cottage, Ardandam, PA23 8QG. Sheila I Homs (letter dated 27th June 2008), Beneli, Ardandam, Dunoon, Argyll. Mrs Jean Lynch (Letter dated 27th May 2008), Beneli Cottage 2, Ardandam, Dunoon, PA23 8QG. Mrs Renee Forsyth (Letter dated 27th May 2008), Monkdyke, Shore Road, Ardandam, Dunoon, Argyll, PA23. Richard Addis (Letter dated 24th May 2008), Anchorage, Shore Road, Ardandam, Sandbank, PA23 8QG. D. J. Sloan & June H. Sloan (letter dated 26th May 2008), 1 Monkdyke, Shore Road, Ardandam, Sandbank, Dunoon, Argyll, PA23 8QG.

The points raised are summarised below:

- i) Lead to increased traffic at a very dangerous corner. An increase of cars would be another hazard on an already busy road and dangerous corner.

Comment: The Area Roads Manager has raised no objection to this application.

- ii) Take away meals will lead to odour and smell within the nearby area.

Comment: See assessment below.

- iii) Litter is usually associated with fast food wherever it is situated and however many bins are provided. Waste is often discarded, just thrown away and not put in bins.

Comment: See assessment below

- iv) It will have an impact on my property value which is already falling.

Comment: This is not a material planning consideration.

- v) It is bound to be noisier with more traffic. Both cars and patrons.

Comment: See assessment below.

- vi) It seems unsuitable to add a take away business to a residential and highly desirable area.

Comment: It is proposed to incorporate a new use into an existing and lawful hotel/restaurant business located within residential area.

- vii) Increased odour nuisance associated with this sort of cooking.

Comment: See assessment below.

- viii) Thrown away foods, however small, particularly on site near the seashore would, no doubt, encourage rats in the area.

Comment: See assessment below.

- ix) I feel a take away business would detract from the impressive war memorial at the Lazaretto Point which is a place of beauty and peace.

Comment: See assessment below.

- x) What does concern me is what hours are the applicants going to trade? Will it be late into the evening or early morning?

Comment: The applicant proposes to operate the takeaway business 7 days per week from 15.00 hrs until 22.30 hrs. Should this be considered acceptable a suitable condition will be attached to the grant of permission to ensure the takeaway business only operates within the stipulated times.

APPENDIX B – RELATIVE TO APPLICATION NUMBER: 08/00845/DET

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

Jackson House is located within the settlement zone of Sandbank, which has been defined as a 'Small Town' by the emerging Local Plan. The proposed takeaway business will form part of a wider lawful hotel and restaurant business to be operated from this property.

Policy STRAT DC 1 of the Structure Plan concerns development within the settlement zone: those which are considered to be bad neighbour developments and incompatible with the surrounding land uses will be considered contrary to this policy. Given the assessment contained within the Section B below, the proposal is considered to be consistent with Policy LP BAD 1 of the Finalised Draft Local Plan and for this reason the development is considered to be a use not only compatible with the existing lawful use of the hotel but that of the surrounding area. The proposal in turn is therefore consistent with policy STRAT DC 1.

Access and parking provision is acceptable to the Area Roads Manager, which is also consistent with the provisions of Policy LP TRAN 4 & 6 of the Finalised Draft Local Plan.

On this basis the proposal is consistent with Policy STRAT DC 1 of the adopted Structure Plan along with LP BAD 1 and TRAN 4 & 6 of the Finalised Draft Local Plan.

B. Location, Nature and Design of Proposed Development

The property of Jackson House has not been open as a hotel and restaurant for a number of years but it is considered to have a lawful Class 7, hotel use. The applicant's intention is to renovate and reopen the property as a new hotel including a hot food take-away function. Initially it is only intended to operate the takeaway business.

It is proposed to operate the takeaway function from 3pm until 10.30pm seven days per week. There will also be a telephone order and delivery service. The applicant also intends to operate a cooked meal delivery service for the elderly in the area at a reduced cost to help establish a year round economic base.

A number of representations have been received raising a number of concerns relating to the adverse impact a take away business will have upon the established levels of privacy and amenity afforded to the surrounding area. These concerns centre on odour and smell issues and increased levels of unacceptable noise and litter issues.

Crucially, the proposal represents an 'add-on' use to a lawful hotel use at Jackson House which is a self contained detached property within a large curtilage. The three immediate neighbouring properties are The Anchorage, Firpark Cottage and Beneli. The Anchorage is located to the south of Jackson House and is well screened by vegetation along the dividing boundary, there is not considered to be any privacy or amenity issues associated with this property. Both Firpark Cottage and Beneli are located to the rear (west) of Jackson House. While these properties, particularly Firpark Cottage, are in close vicinity to Jackson House there are areas of substantial screening and vegetation which help to maintain levels of privacy afforded to these properties. There is the potential for overlooking from window at the rear of Jackson House into these properties and associated garden. However, these rooms form part of the lawful use of the building as a hotel and this should be recognised when considering established levels of privacy.

Both Firpark Cottage and Beneli are located in close vicinity to the restaurant kitchen which is currently operational (external catering) and to date no complaints have been received by the Council's Public Protection Service regarding adverse odour and noise issues.

There does remain the potential for the new hot food takeaway use to impact upon established levels of amenity afforded to surrounding properties. As such, it has been

considered appropriate to recommend a condition to the grant of permission to limit the hours of operation and an advisory note for the applicant to submit a detailed noise and odour management plan prior to development work commencing.

On this basis the proposal is consistent with Policy LP ENV 18 of the Finalised Draft Local Plan.

C. Built Environment

Jackson House is located within a Townscape Policy Area as defined by the existing local plan and a Special Built Environment Area by the Finalised Draft Local Plan. Such designations seek to protect the appearance and character of the area from unsympathetic new development that could have an adverse visual impact. The main thrust of these policies centre on design issues to ensure new development is of a high and acceptable standard of design.

The only external alteration proposed to Jackson House is the formation of a disabled access ramp onto the front north east elevation. This alteration has little to no impact on Jackson House or the wider streetscape setting.

It is the applicant's intention to substantially renovate and improve Jackson House and its surroundings which are currently in a rundown dilapidated condition. The reopening of this hotel will bring this landmark building back into use and vastly improve its visual appearance within the wider streetscape.

On this basis the proposal is consistent with Policy BE 4 of the Cowal Local Plan and Policy ENV 14 of the Finalised Draft Local Plan.

D. Road Network, Parking and Associated Transport Matters.

Representations have been received raising concerns that the proposal will lead to increased levels of traffic.

The Area Roads Manager has raised no objection to this application subject to conditions concerning improvements to the site entrance. The proposed levels of car parking are also considered to be acceptable and consistent with the car parking standards stipulated by Policy TRAN 4. For this reason there is not considered to be any adverse road safety issues associated with this proposal.

On this basis the proposal is consistent with Policy LP TRAN 4 & 6 of the Finalised Draft Local Plan.

E. Infrastructure

There are no proposed changes to the existing infrastructure and servicing arrangements. Connections to the public water main and sewerage system are to remain.

On this basis the proposal is consistent with Policy LP SERV 1 and 4 of the Finalised Draft Local Plan.

F. Conclusion.

The objections raised against this application centre on adverse amenity issues such as noise, smell and litter. It must be remembered that this application is only for a partial change of use of a hotel which is to reopen. The takeaway business will operate through the existing kitchen arrangement with no requirement for additional ventilation. Given the hours of operation, the out of town location of the premises and fact that the takeaway service will be part of an existing hotel/restaurant function, it is considered that it will have a limited impact upon established levels of amenity. Given all of the above, and the proposed conditions to be attached to the grant of permission, this partial change of use is considered to be acceptable.