

Ref:
AB1

ARGYLL AND BUTE COUNCIL
WWW.ARGYLL-BUTE.GOV.UK/**

OFFICIAL USE
29 August 2013
Fiona McCallum
Date Received

NOTICE OF REVIEW

Notice of Request for Review under Section 43(a)8
of the Town and Country Planning (Scotland) Act 1997 and the Town and
Country Planning (Schemes of Delegation and Local Review Procedure)
(Scotland) Regulations 2013

Important – Please read the notes on how to complete this form and use
Block Capitals. Further information is available on the Council's Website.
You should, if you wish, seek advice from a Professional Advisor on how to
complete this form.

(1) APPLICANT FOR REVIEW

Name

Address

Postcode

Tel. No.

Email

(2) AGENT (if any)

Name

Address

Postcode

Tel. No.

Email

(3) Do you wish correspondence to be sent to you or your agent

(4) (a) Reference Number of Planning Application
(b) Date of Submission
(c) Date of Decision Notice (if applicable)

(5) Address of Appeal Property

(6) Description of Proposal

CHANGE OF USE CLASS 1 TO CLASS 3

(7)

Please set out the detailed reasons for requesting the review:-

PLEASE SEE ATTACHED.

If insufficient space please continue on a separate page. Is this is attached? (Please tick to confirm)

(7) Please set out the reasons for requesting the review:

13/00731/PP Change of use from retail (Class1) to café and takeaway (Class3 and Sui generis) at 79 East Clyde Street.

On the 31st of May 2013 Council refused planning permission for the above development on the following grounds: "Policy LP TRAN 6 states that off street car parking should be provided in accordance with the standards set out in Appendix C, which specifies a requirement for 4 parking spaces for the development proposed. The existing premises have no parking provision and the proposal makes no provision for four spaces required by the Area Roads Manager. This would therefore create increased traffic hazards and congestion at this locality which would adversely affect vehicle and pedestrian safety. The development is therefore contrary to Policy LP TRAN 6 and Appendix C of the Argyll and Bute Local Plan in that it does not conform to road guidelines".

I have requested a review of the decision to effectively close down my business, remove a well-supported local enterprise and put three employees out of work because I am not able to provide four parking spaces for a shop that is landlocked and fronted by double yellow lines. So that members of the Review Body have insight into the impact of the decision to deny me the change of use requested, I offer the following background information. In March 2012, I took on the lease of the premises from the owner of the building who had been granted a Certificate of Lawful Development in 2010. Before I took over the lease, three other tenants had failed to succeed with the business, one lasting only a few weeks, and I realised that I would have to make considerable investment in both time and money to ensure that I did not fail as others had done. I invested a considerable sum in new equipment including a salad bar facility (not hot food bar as reported by the planning officer), bain marie for soup and hotplates for warm roll fillings. I have also upgraded the interior and exterior of the building generally with new decoration. I continued to use the tables and chairs which were in the premises when I took over the lease. My investment has paid dividends and I am now finding that I have a growing number of regular customers and my cash flow is improving. I am now able to employ two people in addition to myself for whom this business is my sole source of income. The addition to my menu and the products and services I offer such as the chance to have a seat for a wee while to enjoy a hot drink and a piece has made my business sustainable for the long term whereas previous tenants had gone out of business.

Following a visit from the council's Enforcement Officer, I was compelled to apply for change of use and took out a bank loan to pay the £500 fee as I was not cash rich because I had invested heavily in the modern equipment. Before I submitted my application for change of use in March of this year, my wife had pre-application discussions with Mr. David Moore, planning officer, who was most helpful, although at no time did he suggest that there would be a requirement for parking and I just thought and believed that this application would go through because it is just so right for me, my employees, the town, my customers, the local economy and of course the council because it helps to meet targets for new businesses. I was devastated when I received the notification of refusal at the end of May from a council that states in its corporate plan that it wants "more new businesses operating in the area creating new jobs" and "we contribute to an environment where existing and new businesses can succeed" (Corporate Plan 2013-2017 – Corporate Objective 3).

One of the main reasons that I decided to take over the lease in 2012 was because the premises are a few hundred yards away from the new council offices being created in the old Clyde Street school.

This will bring hundreds of staff under one roof, increasing footfall in the town as planned and an expected surge in customers in my shop and the sustainability of my business and perhaps even more staff. The council itself relaxed the parking requirements for the new council offices because they said they had a green travel plan, they could not provide the parking for all the staff that will work there but account was taken of the fact that people in town walk, come by bus, train and taxi yet this flexibility of approach to parking is not given to me and I am about to lose my business in which I have invested so much. Work has started on the new council offices and I am already benefitting from the workers buying from my premises and I expect to be even busier once the workforce increases on site over the winter months.

My shop is fronted by double yellow lines, it is illegal to park in front of my shop. My customers walk and have usually parked elsewhere because they are working people. Clyde Street is one of the widest streets in town and my premises are a few yards away from businesses in this secondary trading area who have no restrictions in front of their shops. I am next door to a hairdresser whose customers go in and sit down, yet the owner does not have to supply parking spaces because the old rules did not require it. I could not possibly conform to the new regulations, there is no ground attached to my building and I could not generate extra funds to buy land to provide parking from a business that exists on selling teas, coffees and rolls. There is no land available in the vicinity either. Officers have not taken account of the flexibility available in Policy Trans 6 Appendix C or even looked at the bigger picture of the economic benefit of businesses such as mine, and reach a decision that will allow my business to continue, thrive and succeed.

The current use of the premises under Class 1 retail use was defined on 30th of December 2010 by the issue of a Certificate of Lawful Development to sell cold filled rolls, drinks, confectionery, warm drinks and rolls. The Certificate did not specify on or off the premises and the previous proprietor of the premises had already installed tables and chairs prior to the issue of the Certificate of Lawfulness. I believed there was consent to sell the items I am currently selling for consumption on or off the premises and assumed I had already consent to offer my customers the option of 'sitting in'. Obviously because of the actions of the Enforcement Officer in compelling me to apply for Change of Use I was mistaken in my understanding and I now paying a heavy price for my lack of detailed knowledge of the planning and enforcement system. However, I do not agree with the planning officer's conclusion, because he could have looked at what we are trying to achieve here and been flexible in his approach and determination by considering the following points:

- a) National maximum parking standards do not apply to the application under review as the premises are less than 1000sqm but do require consideration under the A&BC policy on minimum parking standards as laid out in Appendix C of the Argyll and Bute Local Plan.
- b) Paragraph 1.12 of Appendix C states; In normal circumstances, adequate off-street parking or communal parking should be provided adjacent to all new development to ensure that vehicles are not parked on the road where they may impede traffic flow or cause a hazard. A degree of flexibility will be available where:-
 1. It can be shown by the applicant that the parking requirement can be met by existing car parks and that the demand for parking in connection with the development will not coincide with the peak demand from the other land uses in the area.
 2. The development is a straight replacement that can use the existing parking provision. It should be noted that there may also be a requirement to provide additional parking spaces if there was a shortfall in the original provision.

3. The development is adjacent to, and well served by, good public transport and pedestrian links.

- c) These three paragraphs highlight a degree of flexibility built into TRAN 6 and its Appendix C and can be satisfied by the current application for the following reasons; My small shop is near to Helensburgh's major car park on the seafront. Also nearby is the Council car park in Maitland Street which is currently significantly underused. The proposed development is not increasing the shop size, merely adding hot food to take away or sit in on six chairs serving three small tables. Vehicles belonging to customers cannot be parked on the road as there are double yellow lines on both sides of the road for some distance either side of the shop and there has been no objection from Police Scotland. No shortfall in the original Certificate of Lawfulness granted in 2010 was highlighted and the area is well served by public transport being very close to significant nodes of transport in the form of bus, rail and taxi and is on the main pedestrian route to and from the town centre and directly opposite the development of the new A&BC offices. I have recently surveyed my customers and have proved that most of them are working locally, have walked to my shop from their place of work or are walking into town and stop en route. I have found no firm evidence to suggest my customers pose a threat to road and/or pedestrian safety. My business is not a new development, I just want to branch out and expand the choice and nature of the business run from a building that has been here for decades and could not possibly comply with new regulations.

As the applicant I contend that for the reasons stated above the provision of car parking locally is adequate and coincides with the flexibility allowed in the extant Local Plan.

I would therefore respectfully ask the LRB Members to grant consent for the Change of Use and inject not only flexibility into this determination but a great deal of common sense and natural justice into the mix. The flexibility in Appendix C will allow for a competent motion to grant consent to emerge.

(8) If the Local Review Body determines that it requires further information on "specified matters" please indicate which of the following procedure you would prefer to provide such information :-

(a) Dealt with by written submission

(b) Dealt with by Local Hearing

(c) Dealt with by written submission and site inspection

(d) Dealt with by local hearing and site inspection

NB It is a matter solely for the Local Review Body to determine if further information is required and, if so, how it should be obtained.

(9) Please list in the schedule all documentation submitted as part of the application for review ensuring that each document corresponds to the numbering in the sections below:-

Schedule of documents submitted with Notice of Review (Note: 3 paper copies of each of the documents referred to in the schedule below must be attached):

No.	Detail
1	
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8	
9	
10	

If insufficient space please continue on a separate page. Is this is attached? (Please tick to confirm)

Submitted by
(Please Sign)


J CAMPBELL

Dated

29/2/13

Important Notes for Guidance

1. All matters which the applicant intends to raise in the review must be set out in or accompany this Notice of Review
2. All documents, materials and evidence which the applicant intends to rely on in the Review must accompany the Notice of Review UNLESS further information is required under Regulation 15 or by authority of the Hearing Session Rules.
3. Guidance on the procedures can be found on the Council's website – www.argyll-bute.gov.uk/
4. If in doubt how to proceed please contact 01546 604392/604269 or email localreviewprocess@argyll-bute.gov.uk
5. Once completed this form can be either emailed to localreviewprocess@argyll-bute.gov.uk or returned by post to **Committee Services (Local Review Board), Kilmory, Lochgilphead, Argyll, PA31 8RT**
6. You will receive an acknowledgement of this form, usually by electronic mail (if applicable), within 14 days of the receipt of your form and supporting documentation.

If you have any queries relating to the completion of this form please contact Committee Services on 01546 604392/604269 or email localreviewprocess@argyll-bute.gov.uk

For official use only

Date form issued

Issued by (please sign)