

Argyll and Bute Council
Comhairle Earra Ghaidheal agus Bhoid

Customer Services
Executive Director: Douglas Hendry



Kilmory, Lochgilphead, PA31 8RT
Tel: 01546 602127 Fax: 01546 604444
DX 599700 LOCHGILPHEAD
e.mail –douglas.hendry@argyll-bute.gov.uk

29 July 2010

NOTICE OF MEETING

A meeting of the **ARGYLL AND BUTE LOCAL REVIEW BODY** will be held in the **MEMBERS ROOM, KILMORY, LOCHGILPHEAD** on **THURSDAY, 5 AUGUST 2010** at **2:00 PM**, which you are requested to attend.

Douglas Hendry
Executive Director - Customer Services

BUSINESS

1. **APOLOGIES FOR ABSENCE**
2. **DECLARATIONS OF INTEREST (IF ANY)**
3. **CONSIDER NOTICE OF REVIEW REQUEST: 9 MAIN STREET CAMPBELTOWN**
 - (a) Notice of Review and Supporting Documents (Pages 1 - 18)
 - (b) Responses from Interested Parties (Pages 19 - 46)
4. **CONSIDER NOTICE OF REVIEW REQUEST: 11 MAIN STREET, CAMPBELTOWN**
 - (a) Notice of Review and Supporting Documents (Pages 47 - 64)
 - (b) Responses from Interested Parties (Pages 65 - 88)

ARGYLL AND BUTE LOCAL REVIEW BODY

Councillor Daniel Kelly (Chair)
Councillor James McQueen

Councillor Bruce Marshall

Contact: Melissa Stewart Tel: 01546 604331

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Ref:
AB1

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

OFFICIAL USE

12/05/10

Hazel Kelly

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 Procedures
(Scotland) Regulations 2008

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	Clyde Leisure Ltd
Address	67/69 Union Street
	Larkhall
	Lanarkshire
Postcode	ML9 1DZ
Tel. No.	01698 884 898
Email	martinferrie@btinternet.com

(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 from retail to use as Adult Gaming Centre

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

Clyde Leisure Ltd is of the opinion that this application merits review for the following reasons:

In response to the first point regarding the potential detriment to the core shopping area on Main St.

It can be easily demonstrated that this location has been unable to support full occupancy of its retail outlets for a considerable number of years. A recent Tesco survey of the commercial properties in the town identified 26 retail units as being either vacant or unoccupied. (ref Campbelltown Traders Association) At the moment we have identified ten properties in the immediate vicinity of the subject of this application that are available either to let, purchase or are unoccupied. Several other premises are utilised only as promotional window displays, storage facilities for adjacent premises or in one case a charity outlet. The rest of the units in the immediate area are occupied by a mixture of bakers, confectioners, cafes, fast food, factory clearance outlet, low cost general store, newsagent, some prime retailers and one betting shop. This mix does not in our opinion indicate that it is reasonable to expect anything near full occupancy of the Main St area by prime retail uses at any time in the near or foreseeable future. This is one reason that we think it would be of benefit to the area to allow our proposed AGC use.

In response to the second point regarding contravention of LP BAD 1 and LP ENV 1 with respect to alleged noise and disturbance nuisances to residents and the general environment presented by an AGC operation.

AGCs are legally defined adult only entertainment facilities regulated by the Gambling Commission and catering to an almost entirely middle-aged female clientele. This regulation ensures that the operators of such premises are acutely aware of their social responsibilities with regard to protection of minors and vulnerable people, potential criminal activity and identification of problem gambling.

The opening hours of an AGC are specified in the premises permit application and agreed by Local Authority Licensing. They are almost invariably in line with the hours of the other shops or similar outlets in the area. In this case it would be expected that should the application be reviewed favourably the opening hours would be the same as surrounding or similar premises. The Local Authority has the ability to restrict or specify conditions on opening hours should it feel that it is necessary. Clyde Leisure Ltd has premises licenses issued by several different Local Authorities, none of whom have ever had need to enforce any variation on the originally agreed hours of business. Clyde Leisure Ltd would also agree to any probationary condition that the Local Authority may wish to impose regarding opening hours.

With specific regard to noise nuisance we feel that this decision has been made with a misunderstanding concerning how AGCs operate. As previously stated the customers catered to are almost exclusively middle-aged females. AGCs do not attract minors and do not tolerate any form of nuisance or disturbance that would deter the intended customer base from attending. We feel that this decision has been made with consideration given to the effects suffered by residents in close proximity to Video Arcades that used to attract a younger, livelier customer. The development of the home computer and its associated games has meant that such places no longer exist. The nearest modern equivalent is the regulated FEC (Family Entertainment Centre) which tends to be located in seaside resorts and operates with much higher noise levels than the 'leisure lounge' atmosphere created in AGCs. Clyde Leisure Ltd is happy to submit to any noise level test required by the Local Authority and can provide assurance that no operating noise will be audible outside the confines of the premises.

We have also observed that many of the commercial premises in this area are in a serious state of disrepair. The subject of this application and its immediate neighbour 11 Main St are both similarly affected by water ingress through inadequate or missing guttering, general lack of roof maintenance, non maintenance of drainage and long term neglect. This neglect has meant that it is imperative that remedial work be undertaken, even down to foundation level, as soon as is practicable. Having been on the flat roof above No 11 Main St I cannot see from my observations that the surrounding properties are in any way different. There are at least two examples of Main St premises that have been recently refurbished without the necessary remedial work done first. Needless to say the newly applied paintwork is already flaking off in large sections adding to the generally run down appearance of Main Street.

It is our assertion that the revenues being generated by either the commercial letting of Main St premises or by businesses trading there have been insufficient to fund the necessary building maintenance for quite some time. In order to ensure that this decline can be arrested commercially viable uses for these premises will have to be found.

In conclusion we feel that the Local Authority may be missing an opportunity to improve the Main St vicinity. Clyde Leisure Ltd offer the long term occupancy of premises by a sustainable business providing good local employment prospects for at least two full-time staff. We are also able to maintain the fabric, not just the façade, of the buildings we occupy to the necessary high standard.

(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.

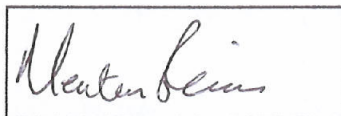
(9) Please list in the schedule all documentation submitted as part of the application for review ensuring that each document corresponds to the numbering in the sections below:-

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	Planning Application as rejected by Local Authority
2	Photo sheet of empty premises
3	
4	
5	
6	
7	
8	
9	
10	

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

Submitted by
(Please Sign)



Dated 30/04/10

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 604331 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 604331 or email localreviewprocess@argyll-bute.gov.uk

For official use only

Date form issued

Issued by (please sign)

Unused commercial properties in the immediate Main St area



The Old Court House 53 Main St
unoccupied more than 10 Years



62 Main St unoccupied
more than 10 years



Victoria Wine 41 Main St
available to lease or rent for
more than six months



52 Main St unoccupied
eighteen months



33 Main St unoccupied



Royal Hotel Main St
unoccupied 4 years



9 Main St unused for retail
more than two years



12 Cross St unoccupied
more than five years



11 Main St unused for retail
eighteen months



12 Longrow South
Unoccupied more than
fifteen years



TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED)
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE)
(SCOTLAND) REGULATIONS 2008

REFUSAL OF PLANNING PERMISSION

REFERENCE NUMBER: 09/01423/PP

Mr Martin Ferrie
Jackpots Too
67-69 Union Street
Larkhall
ML9 1DZ

I refer to your application dated 29th September 2009 for planning permission under the above mentioned Act and Regulations in respect of the following development:

Change of use of small retail unit (Class 1) to Adult Gaming Centre providing amusement machines for play to persons 18 years and over (Sui Generis). at 9 Main Street Campbeltown Argyll And Bute PA28 6AD

Argyll and Bute Council in exercise of their powers under the above mentioned Act and Regulations hereby refuse planning permission for the above development for the **reason(s) contained in the attached appendix**

Dated: 1 April 2010

Angus J. Gilmour
Head of Planning

www.argyll-bute.gov.uk



REFUSAL REASONS RELATIVE TO APPLICATION REF. NO. 09/01423/PP

1. The proposed change of use of these premises to form an 'adult gaming centre' amusement arcade would result in the loss of a ground floor shop within the defined Campbeltown core shopping area resulting in material harm to the viability, vitality and economic integrity of the area and is therefore considered contrary to Local Plan Policy LP RET 2, to the Structure Plan strategy PROP SET 2 and to the advice contained within the Scottish Government's SPP. No very special circumstances or supporting justification has been submitted by the Applicant that would outweigh the harm to these interests caused by the proposed development.

2. It is considered that the proposed use of this building as an amusement arcade for non-specified opening hours would be likely to be materially harmful to the amenity of the occupiers of the residential flats above and on the general area by virtue of increased noise and disturbance both from the premises themselves and from increased activity and potential nuisance from the behaviour of persons outside the premises and attracted to that location by the presence of a use of this nature. Such nuisance behaviour, particularly that outwith the application site, cannot be controlled by the imposition of planning conditions.

The proposed development is therefore considered contrary to Local Plan policy LP BAD 1 and to LP ENV 1 which considers development impact on the general environment.

NOTES TO APPLICANT (1) RELATIVE TO APPLICATION NUMBER 09/01423/PP

1. If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under Section 43A of the Town and Country Planning (Scotland) Act 1997 (as amended) within three months from the date of this notice. The notice of review should be addressed to the Director of Corporate Services, Argyll and Bute Council, Kilmory, Lochgilphead, PA31 8RT.

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state, and it cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the landowner's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997 (as amended).

APPENDIX TO DECISION APPROVAL NOTICE

Appendix relative to application **09/01423/PP**

(A) Has the application been the subject of any “non-material” amendment in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997 (as amended) to the initial submitted plans during its processing. **No**

(B) The reason why planning permission has been refused:

The proposed change of use would result in the loss of a ground floor shop within the core shopping area and is therefore contrary to Policy LP RET 2, to the Structure Plan strategy PROP SET 2 and to the advice contained within the Scottish Government’s SPP.

In addition to the conflicts with the town centre and retailing policies described above, it is also considered that the proposed use of this building as an amusement arcade for non-specified opening hours would be likely to be materially harmful to the amenity of the occupiers of the residential flats above and on the general area by virtue of increased noise and disturbance both from the premises themselves and from increased activity and potential nuisance from the behaviour of persons outside the premises and attracted to that location by the presence of a use of this nature. Such nuisance behaviour, particularly that outwith the application site, cannot be controlled by the imposition of planning conditions.

The proposed development is therefore considered contrary to policy LP BAD 1 and to LP ENV 1 which considers development impact on the general environment.

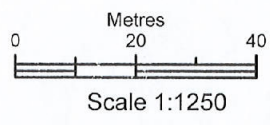


ARGYLL AND BUTE COUNCIL
 Refused by **PLANNING AUTHORITY**
 Relative to Application No 09/01423/PP
Angus J. Gilmore
 Head of Planning
 Date: 1.4.2010

Argyll and Bute Council
Planning Services

Application ref no: 09/01423/PP
 Date received: 4/2/10

Plan no: 1-8
 P.O. number: TPW



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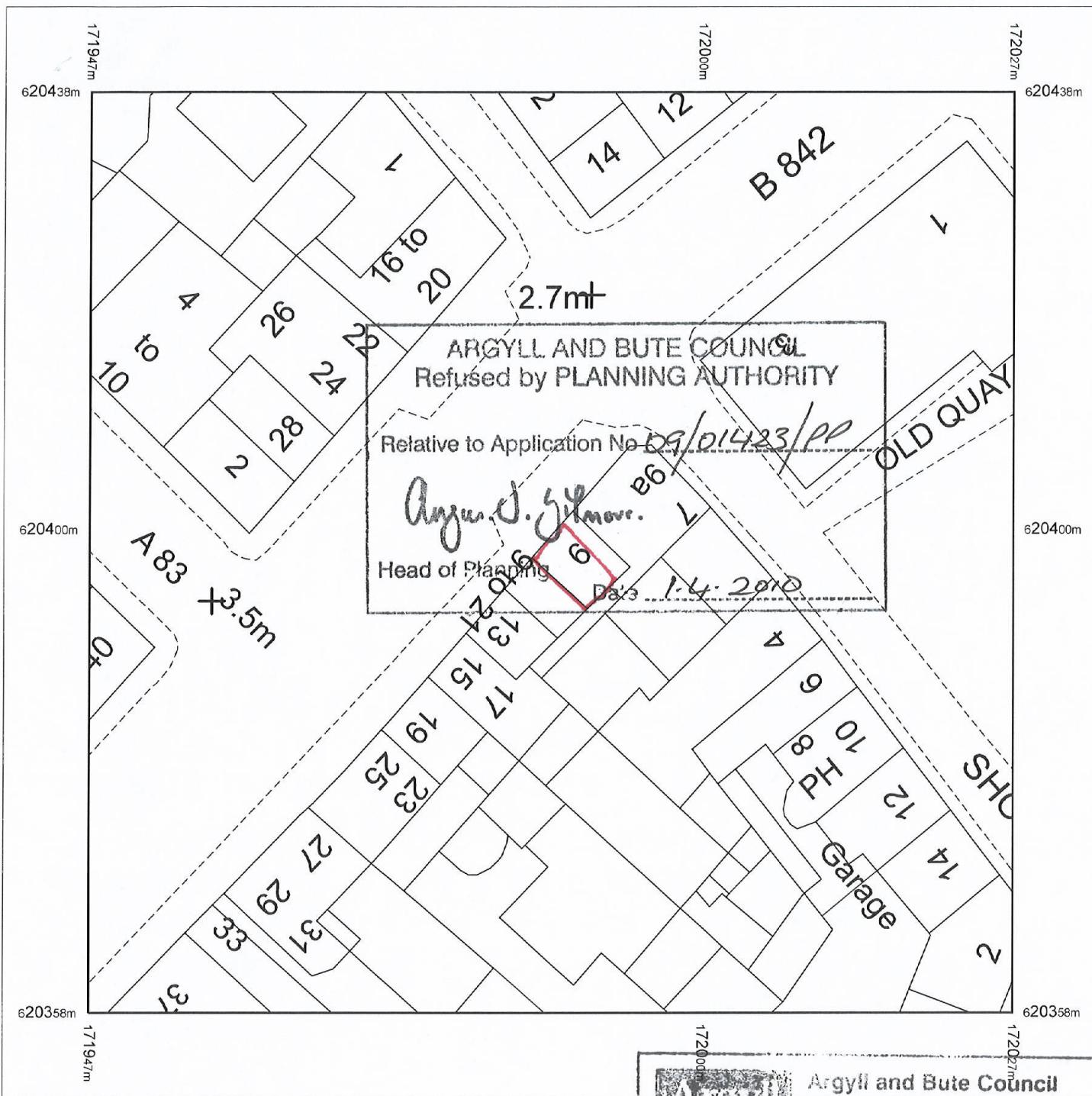
The representation of features as lines is no evidence of a property boundary.

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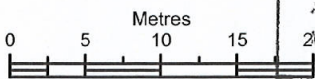
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Scale 1:500

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Argyll and Bute Council Planning Services

Application ref no: 09/01423/PP
 Date received: 4/2/10
 Plan no: 258
 Initials: ITM

Paper Size: A4

Pages Size: A4

3 of 8
Tpw



Argyll and Bute Council
Planning Services

Argyll and Bute Council

Application ref no: 09/01423/PP
 Date received: 4/2/10

Plan no: _____
 PO Initials: _____

ARGYLL AND BUTE COUNCIL
Refused by PLANNING AUTHORITY

Relative to Application No 09/01423/PP

Angus J. Gilmore
 Head of Planning

Date 1.4.2010

9 Main St Campbelltown



View of entry and display window

ARGYLL AND BUTE COUNCIL
 Refused by PLANNING AUTHORITY
 Relative to Application No 09/01423/PP
Angus J. Gilmore
 Head of Planning
 Date: 1.4.2010

View of rear showing door leading to No 11 and proposed toilet and storage area



**Argyll and Bute Council
 Planning Services**

Application ref no: 09/01423/PP
 Date received: 4/2/10

Plan no: _____
 PO. Initials: _____

Views of side walls

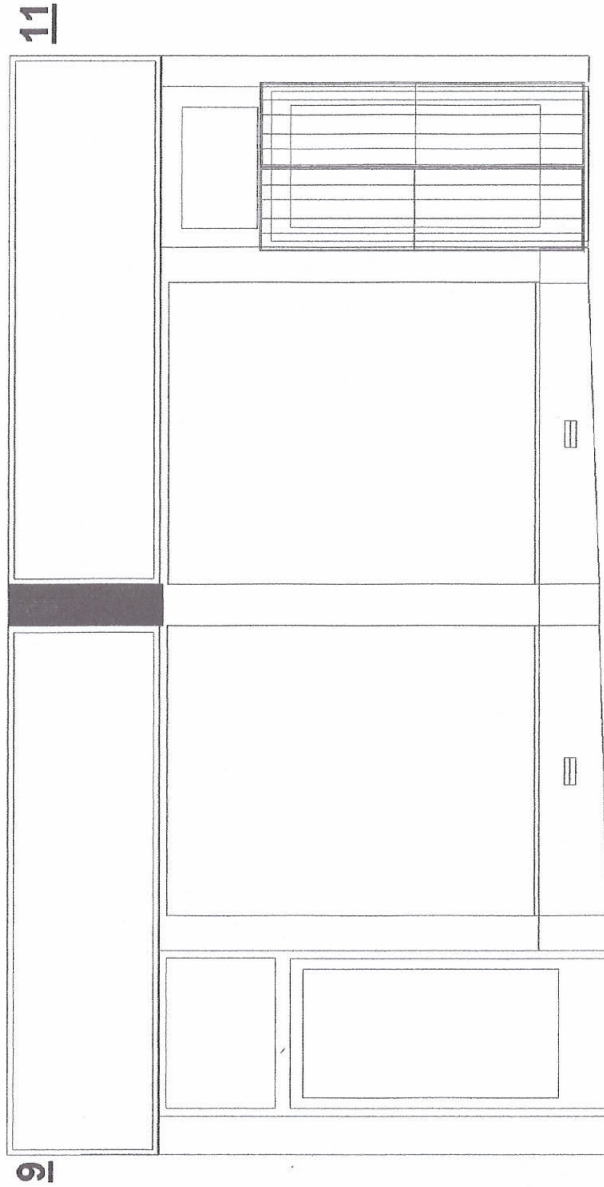


*4 of 8
 TPW*

Paper Size: A4

FRONT ELEVATION Nos 9 and 11 MAIN STREET CAMPBELTOWN

Proposed / Existing Elevation Plans - No external alterations Proposed.



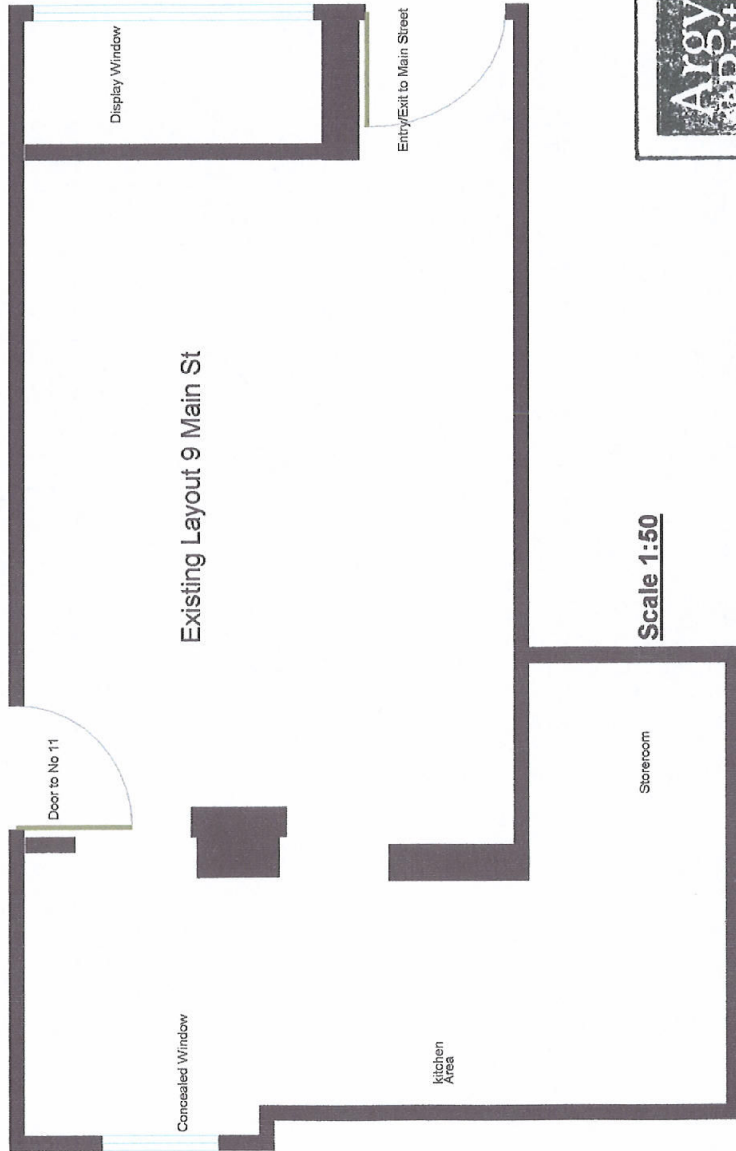
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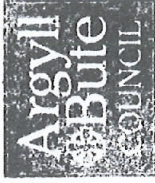
ARGYLL AND BUTE COUNCIL
Refused by PLANNING AUTHORITY
Relative to Application No 09/01423/PP
Angus D. Gilmore
Head of Planning Date 1.4.2010

Argyll and Bute Council
Planning Services
Application ref no: 09/01423/PP
Date received: 4/2/10
Plan no: 501B
P.O. Initials: TPH

Paper Size: A4

Existing Floor Plan No 9 Main Street Campbelltown

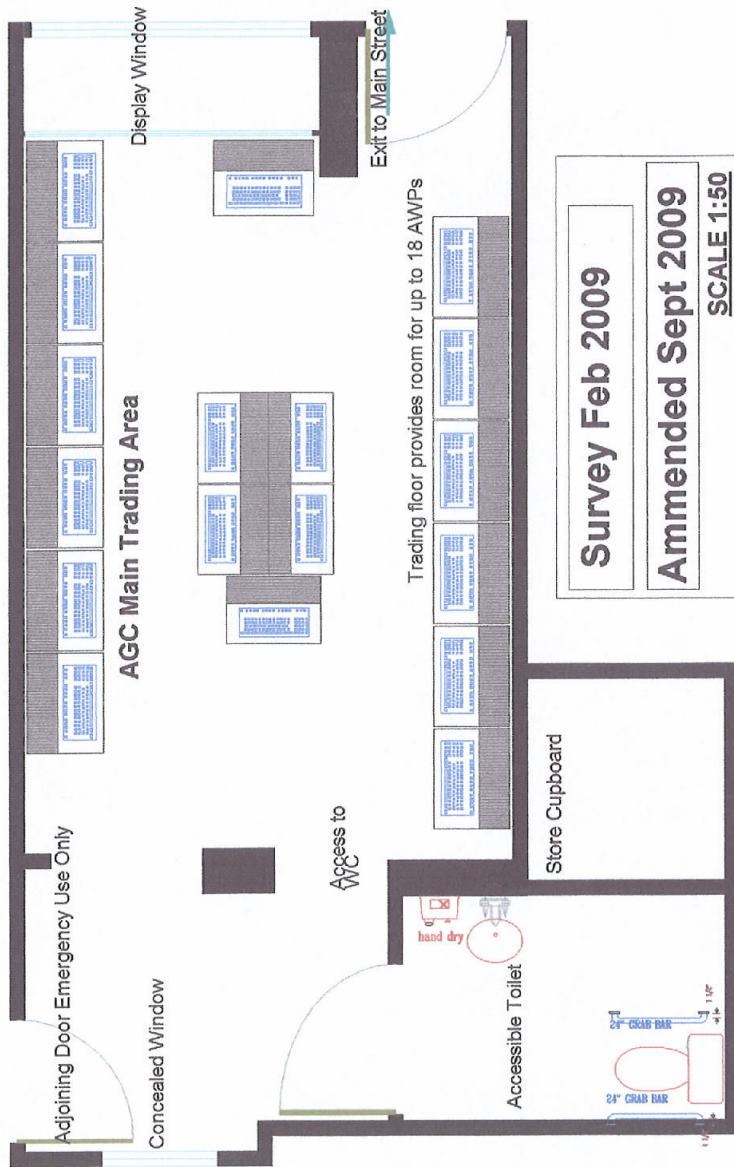


 Argyll and Bute Council Planning Services	Application ref no: 09/01423/PP Date received: 4/2/10 Plan no: 608 P.O. Initials: J.P.W.
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ARGYLL AND BUTE COUNCIL Refused by PLANNING AUTHORITY	Date: 1.4.2010
Relative to Application No 09/01423/PP	
<i>Angus J. Gilmore</i> Head of Planning	

Paper Size: A4

Proposed Floor Plan AGC 9 Main Street Campbeltown



Survey Feb 2009
 Ammended Sept 2009
 SCALE 1:50

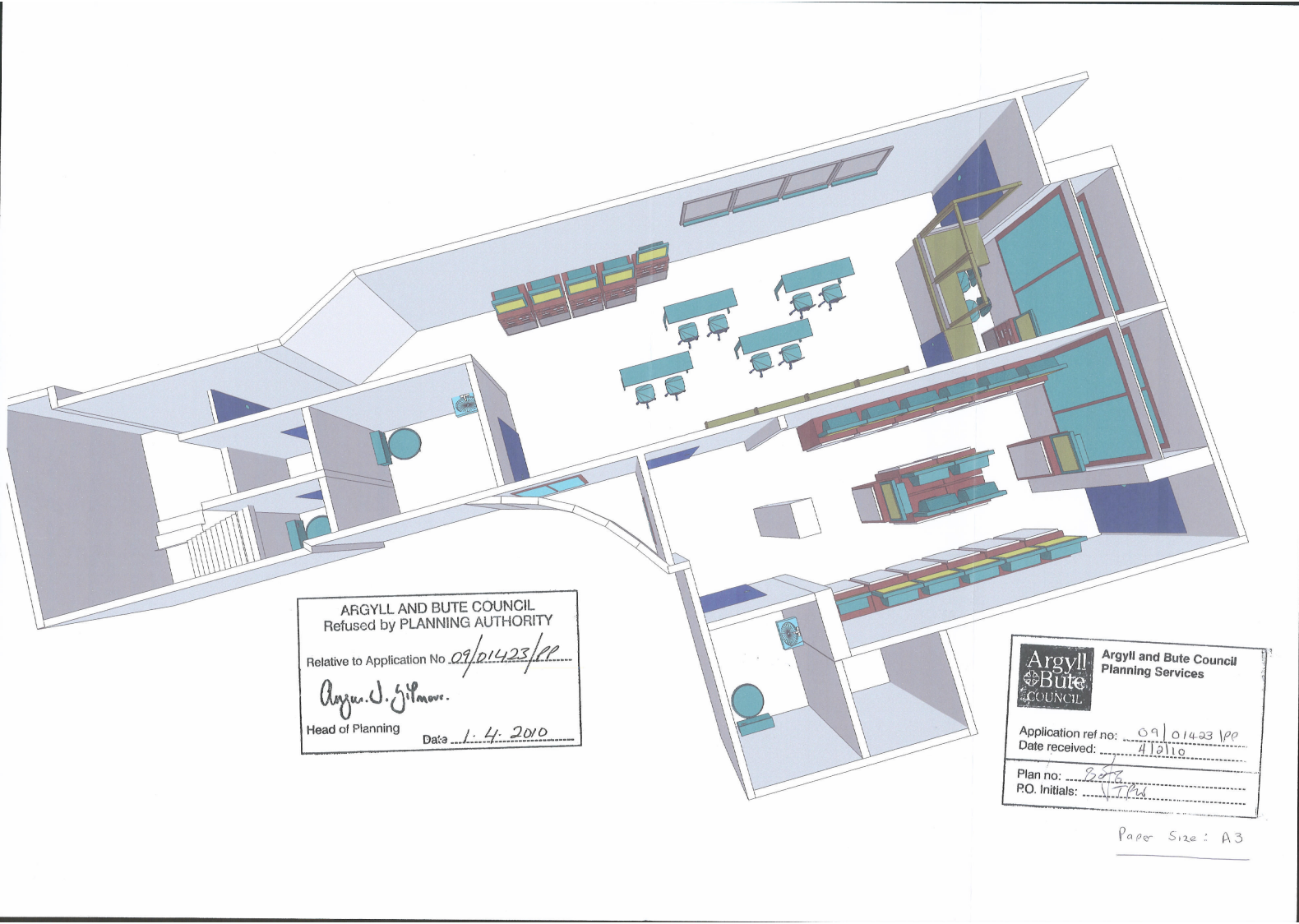
ARGYLL AND BUTE COUNCIL
 Refused by PLANNING AUTHORITY
 Relative to Application No 09/01423/PP
Angus J. Gilmore
 Head of Planning Date 1.4.2010

**Argyll and Bute Council
 Planning Services**

Application ref no: 09/01423/PP
 Date received: 4/2/10

Plan no: 728
 P.O. Initials: TPW

Paper Size: A4



ARGYLL AND BUTE COUNCIL
Refused by PLANNING AUTHORITY
Relative to Application No. 09/01423/PP
Angus J. Gilmore.
Head of Planning Date 1. 4. 2010

Argyll and Bute Council
Argyll and Bute Council
Planning Services
Application ref no: 09/01423/PP
Date received: 11.01.10
Plan no: 09/01423/PP
P.O. Initials: V.T.P.

Paper Size: A3

STATEMENT OF CASE

FOR

**ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY**

**REFUSAL OF PLANNING PERMISSION IN
PRINCIPLE FOR A CHANGE OF USE FROM
SHOP (CLASS 1) TO ADULT GAMING CENTRE
(SUI GENERIS) AT 9 MAIN STREET,
CAMPBELTOWN, ARGYLL AND BUTE, PA28
6AD**

LOCAL REVIEW BODY REF. 10/0007/LRB

**PLANNING PERMISSION APPLICATION
REFERENCE NUMBER 09/01423/PP**

26TH MAY 2010

STATEMENT OF CASE

The planning authority is Argyll and Bute Council ('the Council'). The appellant is Clyde Leisure Ltd. ('the appellant').

The planning application, reference number 09/01423/PP, for the change of use of a shop (Class 1) to an Adult Gaming Centre providing amusement machines for play to persons 18 years and over (Sui Generis) at 9 Main Street, Campbeltown ("the appeal site") was refused under delegated powers on the 1st April 2010. The planning application has been appealed and is subject of referral to a Local Review Body.

DESCRIPTION OF SITE

The application site is an existing retail premises located within Campbeltown town centre.

SITE HISTORY

None directly relating to the current application site but permission was refused for a retrospective change of use of a shop at 17 Longrow South, Campbeltown to an amusement arcade on 6th March 2002 and a subsequent planning and enforcement notice appeal to Scottish Ministers dismissed in August 2002, the Reporter commenting that the development was contrary to retail policy and detrimental to residential amenity (application number 02/00144/COU refers). A subsequent revised application for a change of use of this shop to a mixed use consisting of retail and amusement arcade was refused on 2nd October 2002 (application number 02/01528/COU refers). This site, together with the current application site, was (and remains) in the Campbeltown core shopping area and had residential flatted properties above. Many of the issues raised are directly comparable to the current application.

STATUTORY BASIS ON WHICH THE APPEAL SHOULD BE DECIDED

Section 25 of the Town & Country Planning (Scotland) Act 1997 provides that where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise. This is the test for this application.

STATEMENT OF CASE

Argyll and Bute Council considers the determining issues in relation to the case are as follows:-

- Whether or not the proposal is acceptable having regard to the provisions of policy LP RET 2 which seeks to prevent the loss of Class

1 retail premises to non-retailing uses within the identified Campbeltown “core shopping area”.

- Whether or not the proposed development is likely to give cause to a significant loss of amenity to existing residential development.

The Report of Handling (Appendix 1) sets out the Council’s assessment of the application in terms of Development Plan policy and other material considerations. The consultation comments submitted by statutory and other consultees (Appendix 2) and third party representation (Appendix 3) are attached for the purpose of clarity.

REQUIREMENT FOR ADDITIONAL INFORMATION AND A HEARING

The issues raised were covered in the Report of Handling which is contained in Appendix 1, including a summary of third party representations. As such it is considered that Members have all the information they need to determine the case. Given the above and that the proposal is small-scale, has no complex or challenging issues and has not been the subject of significant body of conflicting representation, then it is considered that a Hearing is not required.

The applicant has provided some clarification relating to the operation of the property in respect of the potential for the development to result in a loss of residential amenity by virtue of noise and disturbance. It would be appropriate to seek further comment from the Area Environmental Health Manager to ascertain whether his comments of 8th March 2010 which raise concern in these respects remain valid.

COMMENT ON APPELLANTS’ SUBMISSION

Having regard to part (7) of the appellants submission it is noted that their case relies heavily upon new information which was not made available to the case officer prior to the determination of the application. In this respect Members are respectfully reminded that Section 43B of the Act restricts the introduction of material in the review; paragraph 38. of Circular 7/2009 sets out that new material will only be permitted where the party can demonstrate that it could not have been introduced earlier in the process, or that it arises as a result of exceptional consequences.

In pre-application discussions with planning officers, the applicant was advised that the proposals conflicted with the normal requirements of policy LP RET 2 and that support could only be given to such a proposal where the applicant satisfactorily demonstrated that:

- (i) Every effort is to be made to retain a lively street frontage.
- (ii) That the premises have been vacant and unused for at least 12 months despite reasonable attempts (including a clear marketing strategy) to market the property/business; OR

- (iii) That the development is part of a wider building refurbishment or re-development which, in the view of the planning authority, will add value to the economic vitality or built environment of the town centre.

Despite having been advised of the above, the application as submitted did not include information to support the proposal in respect of the requirements of (i), (ii) or (iii) above and was duly refused as being contrary to the provisions of policy LP RET 2.

It is surmised that the new information submitted by the applicant fails to satisfy the requirements of (ii) above as there is no confirmation as whether the property has been satisfactorily marketed.

Having regard to (iii), whilst there may indeed be some merit in the applicant's claim that the proposal would result in the refurbishment of the building it is noted that the supporting information which accompanied the application specified that no exterior modifications to the building with the exception of signage and livery were required for the development – in this respect it is considered disingenuous in the least that the applicant now seeks to introduce new material in the review process which would suggest to the contrary that a wider scheme of building refurbishment works would be involved.

The applicant has also submitted additional material relating to unoccupied commercial premises and an argument that there is a lack of demand for commercial property within Campbelltown town centre; it is again noted that the application as submitted did not contain any supporting information in this regard.

It is contended that any new information relating either to proposals for the improvement/repair of the building or local economic benefit associated with the proposal to justify a case under (iii) above is inadmissible to the review process having regard to Section 43B of the Act as there would have been no barrier to the applicant submitting such information at the time the application was submitted.

Whilst it is recognised that such information relating to the improvement of the building or economic benefit to the locale would have been material to the determination of the planning application it is however advised that any such submissions and consideration should be subject to an opportunity for proper public scrutiny and third party submissions through the mechanism of a revised application for planning permission rather than being introduced as an afterthought in the review process.

CONCLUSION

Section 25 of the Town and Country Planning Act 1997 requires that all decisions be made in accordance with the development plan unless material considerations indicate otherwise.

The application site is located within 'settlement area' pertaining to Campbeltown and more pertinently within the identified "core shopping area" defined by the Adopted 'Argyll and Bute Structure Plan' 2002 and the Adopted 'Argyll and Bute Local Plan' 2009. Within this zone policy LP RET 2 sets out a presumption against proposals involving the loss of Class 1 retail premises, except where the change is to Class 3 food and drink or, unless it can satisfactorily demonstrated that there is no demand for the property as a retail premises or, that the proposal would add significant value to the economic vitality or built environment of the town centre.

In this particular instance the proposal involves the loss of a Class 1 retail premises to a Sui Generis Adult Gaming Centre; the applicant has failed in the details provided as part of the planning application to demonstrate that the proposal could be justified in respect of the criteria (i) – (iii) set out under policy LP RET 2. New information relating to a justification of the proposal under (iii) is considered by planning officers to be inadmissible to the review process.

In addition, the Area Environmental Health Manager has raised concern in his consultation response dated 8th March 2010, that the nature of the development gives potential to a significant loss of amenity of the area and adjoining residential property by virtue of noise and disturbance arising from the premises.

In view of the above, the proposed development is considered contrary to the provisions of Policies LP ENV 1, LP RET 2 and LP BAD 1 of the Adopted 'Argyll and Bute Local Plan' 2009. Taking account of the above, it is respectfully requested that the appeal be dismissed.

Appendix 1 – Report of Handling

**Argyll and Bute Council
Development Services**

Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 09/01423/PP
Planning Hierarchy: Local
Applicant: Mr. Martin Ferrie, Clyde Leisure Ltd.
Proposal: Change of use from shop (Class 1) to adult gaming centre providing amusement machines for play to persons 18 years old and above (Sui Generis)
Site Address: Former 'Trade Winds' gift shop, 9 Main Street, Campbeltown

DECISION ROUTE

Sect 43 (A) of the Town and Country Planning (Scotland) Act 1997

(A) THE APPLICATION

- (i) Development Requiring Express Planning Permission**
 - Change of use from shop (Use Class 1) to adult gaming centre providing amusement machines for play to persons 18 years old and above (Sui Generis Use Class)
 - (ii) Other specified operations**
 - Internal alterations to shop. No external alterations proposed within current application
-

(B) RECOMMENDATION:

That permission be Refused subject to the reasons contained in this report.

(C) CONSULTATIONS:

Environmental Services Mid Argyll	08.03.2010	Recommends refusal due to potential for statutory noise nuisance.
Licensing		No reply received.

(D) HISTORY:

None directly relating to the current application site but permission was refused for a retrospective change of use of a shop at 17 Longrow South, Campbeltown to an amusement arcade on 6th March 2002 and a subsequent planning and enforcement notice appeal to Scottish Ministers dismissed in August 2002, the Reporter commenting that the development was contrary to retail policy and detrimental to residential amenity (application number 02/00144/COU refers). A subsequent revised application for a change of use of this shop to a mixed use consisting of retail and amusement arcade was refused on 2nd October 2002 (application number 02/01528/COU refers). This site, together with the current application site, was (and remains) in the Campbeltown core shopping area and had residential flatted properties above. Many of the issues raised are directly comparable to the current application.

(E) PUBLICITY:

ADVERT TYPE:

Listed Building/Conservation Advert

EXPIRY DATE: 12.03.2010

(F) REPRESENTATIONS:

(i) Representations received from:

Four letters of objection received from: Councillor John Semple, Campbeltown; Mary Turner, Kildalloig, Campbeltown; Mr Alan MacGregor, Flat 1, 21 Main Street, Campbeltown; and Marina Carrier, St. Mary's, Pier View, Low Askomil, Campbeltown.

One letter of objection received from the Campbeltown Community Council.

(ii) Summary of issues raised:

- The proposed change of use and loss of a retail shop would be contrary to the viability and vitality of the town centre retail core. This will reduce the attractiveness and vibrancy of the town's retail centre.
 - The proposed change of use would be contrary to the Council's development plan for the area.
 - The proposed development would be likely to encourage an increase in criminal behaviour and an increase in vandalism in the centre of the town.
 - The proposed opening hours would mean that there would be a risk of noise nuisance to surrounding residential properties.
 - Moral concerns regarding the promotion of gambling, the temptation of 'poor and vulnerable' people etc. Planners should be providing / promoting and arts / music centre instead.
-

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- | | | |
|-------|---|----|
| (i) | Environmental Statement: | No |
| (ii) | An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994: | No |
| (iii) | A design or design/access statement: | No |
| (iv) | A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc: | No |

(H) PLANNING OBLIGATIONS

Is a Section 75 agreement required: No

(I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32: No

(J) Section 25 of the Act; Development Plan and any other material considerations over and above those listed above which have been taken into account in the assessment of the application

(i) List of all Development Plan Policy considerations taken into account in assessment of the application.

'Argyll and Bute Structure Plan' 2002

PROP SET 2 – Retailing and Town Centres
STRAT DC 1 – Development within the Settlements
STRAT DC 9 – Historic Environment and Development Control

'Argyll and Bute Local Plan' 2009

LP ENV 1 – Impact on the General Environment
LP ENV 13a – Development Impact on Listed Buildings
LP ENV 14 – Conservation Areas and Special Built Environment Areas

LP RET 2 – Change of Use to and from Use Class 1 (Shops) in the Core Shopping Areas of the Main Town Centres
LP BAD 1 – Bad Neighbour Development

(ii) List of all other material planning considerations taken into account in the assessment of the application, having due regard to Annex A of Circular 4/2009.

- Scottish Planning Policy – February 2010.

(K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment: No

(L) Has the application been the subject of statutory pre-application consultation (PAC): No

(M) Has a sustainability check list been submitted: No

(N) Does the Council have an interest in the site: No

(O) Requirement for a hearing (PAN41 or other): No

(P) Assessment and summary of determining issues and material considerations

This application relates to a vacant ground floor shop premises formerly trading as 'Tradewinds' a gifts and crafts shop, located within the Campbeltown core shopping area as defined by the Argyll and Bute Local Plan.

This shop has been vacant for several months having been purchased by the Applicant prior to making licensing and planning applications for the currently proposed use.

The application site is the ground floor of a mid terraced property with residential flats above. These premises are located within the Campbeltown conservation area and adjacent to several listed buildings, although the premises themselves are not listed.

It is proposed to change the use of this ground floor shop (Use Class 1) to an 'adult gaming centre' which is a 'sui generis use, i.e. one not falling within any designated Use Class. The Applicant has stated that an adult gaming centre is defined by the Gambling Commission as a category of amusement arcade where gaming machines are only made available to members of the public aged eighteen years old or over; that no more than four Category B3 machines (maximum payout of £500) are provided and that an unlimited number of Category C (maximum payout of £70) and Category D (usually non-money prize machines but can include for maximum payout of £50 in the case of 'crane-grab' machines) can be provided.

This application is for a change of use only and does not involve any external alterations. The Applicant has stated that new signage will be required but these details do not form part of the current application.

No indication has been given by the Applicant as to the proposed opening hours of this amusement arcade.

Adopted Structure Plan proposal PROP SET 2 – ‘Retailing and Town Centres’ states that the Council shall seek to sustain the viability and vitality of town centres within Argyll and Bute and states that a sequential approach to retail development will be adopted in accordance with national guidance.

The current expression of national guidance is the ‘Scottish Planning Policy’ (February 2010) which acknowledges that the planning system has a significant role in supporting successful town centres through its influence on the type, siting and design of development. Planning authorities should assess how town centres can accommodate development and relevant opportunities should be identified in the development plan. The SPP also states that the development plan should identify appropriate locations for new development and regeneration, and can specify a centre’s function, for instance allocating specific types and categories of use to certain centres or parts of centres. Paragraph 58 of the SPP states that, “When preparing policies and deciding applications, planning authorities should consider the scale of the developments and their likely impact, including cumulative impact, on the character and function of the centre, the amenity of nearby residents and anti-social behaviour and crime.”

The approved and adopted Argyll and Bute Local Plan reflects this Government guidance. Campbeltown is recognized in the Development Plan as one of the six ‘main town centres’ within Argyll and Bute’ each of which have been identified as having ‘core shopping areas’. In such areas the vitality of the town centres and the commercial interests of individual shops benefit from ground floor shop premises being located close to one another. The Campbeltown centre is thus split into the ‘core shopping area’, a compact central zone that includes parts of Main Street (including the application site) and Longrow South; the ‘main town centre’ which is the zone immediately surrounding the core shopping area and the ‘edge of town centre’ which is a more extensive outlying zone surrounding the main town centre. Thus Campbeltown has been mapped and assessed for its capacity to accommodate development opportunities with appropriate locations for specific categories of development identified.

To this extent, Local Plan policy LP RET 2 – ‘Change of Use to and From Use Class 1 (Shops) in the Core Shopping Areas of the Main Town Centres’ states that within the ground floor frontage premises in core shopping area locations, changes of Use Class 1 (shops) to any other use other than Use Class 3 (food and drink) is contrary to this policy unless it is demonstrated that: (i) every effort is made by the applicant to retain a lively street frontage; (ii) the premises have been vacant for at least 12 months despite reasonable attempts (including a clear marketing strategy) to market the property / business or, (iii) the development is part of a wider building refurbishment or redevelopment which, in the view of the planning authority, will add value to the economic vitality or built environment of the town centre.

The proposed change of use would result in the loss of a ground floor shop within the core shopping area and is therefore contrary to Policy LP RET 2, to the Structure Plan strategy PROP SET 2 and to the advice contained within the Scottish Government’s SPP. Although the shop premises are currently vacant and have been for a number of months, it appears they were purchased (or optioned) by the Applicant upon (or shortly after) becoming vacant. There has been no evidence submitted to demonstrate that any

attempts have been made to market the premises for shop use. No marketing strategy accompanies this application and the proposals do not form part of a wider programme of building refurbishment or redevelopment sufficient to outweigh the policy presumption that exists against the proposed development in this case.

The submitted planning application form contains the assertion by the Applicant that, 'the shop has not been traded as a retail unit for several years but has been used as an office to promote the previous owner's other interests.' The recollection of the planning authority is somewhat different to this but no evidence has been offered by either party to confirm or deny this assertion.

In addition to the above, the proposed use of this building is classed as a 'bad neighbour development' as defined by Schedule 7 of the Town and Country Planning (General Development Procedure) (Scotland) Order 1992.

Local Plan policy LP BAD 1 – 'Bad Neighbour Development' states that such developments will only be permitted where all of the following criteria are satisfied: (a) There are no unacceptable adverse effects on the amenity of neighbouring residents; (b) The proposal includes appropriate measures to reduce the impact on amenity as defined by the use classes order (i.e. noise, light, smells); (c) There are no significant transport, amenity or public service provision objections; (d) Technical standards in terms of parking, traffic circulation, vehicular access and servicing and pedestrian access are met in full; and (e) The proposal does not conflict with any other Structure Plan or Local Plan policy.

In addition to the conflicts with the town centre and retailing policies described above, it is also considered that the proposed use of this building as an amusement arcade for non-specified opening hours would be likely to be materially harmful to the amenity of the occupiers of the residential flats above and on the general area by virtue of increased noise and disturbance both from the premises themselves and from increased activity and potential nuisance from the behaviour of persons outside the premises and attracted to that location by the presence of a use of this nature. Such nuisance behaviour, particularly that outwith the application site, cannot be controlled by the imposition of planning conditions.

The proposed development is therefore considered contrary to policy LP BAD 1 and to LP ENV 1 which considers development impact on the general environment.

(Q) Is the proposal consistent with the Development Plan: No

(R) Reasons why Planning Permission or Planning Permission in Principle Should be Refused:

The proposed change of use would result in the loss of a ground floor shop within the core shopping area and is therefore contrary to Policy LP RET 2, to the Structure Plan strategy PROP SET 2 and to the advice contained within the Scottish Government's SPP.

In addition to the conflicts with the town centre and retailing policies described above, it is also considered that the proposed use of this building as an amusement arcade for non-specified opening hours would be likely to be materially harmful to the amenity of the occupiers of the residential flats above and on the general area by virtue of increased noise and disturbance both from the premises themselves and from increased activity and potential nuisance from the behaviour of persons outside the premises and attracted to that location by the presence of a use of this nature. Such nuisance behaviour, particularly that outwith the application site, cannot be controlled by the imposition of planning conditions.

The proposed development is therefore considered contrary to policy LP BAD 1 and to LP ENV 1 which considers development impact on the general environment.

(S) Reasoned justification for a departure to the provisions of the Development Plan

N/A

(T) Need for notification to Scottish Ministers or Historic Scotland: No

Author of Report: Tim Williams

Date: 23rd March 2010

Reviewing Officer:

Date: 1st April 2010



**Angus Gilmour
Head of Planning**

REFUSAL REASONS RELATIVE TO APPLICATION REF. NO. 09/01423/PP

1. The proposed change of use of these premises to form an 'adult gaming centre' amusement arcade would result in the loss of a ground floor shop within the defined Campbeltown core shopping area resulting in material harm to the viability, vitality and economic integrity of the area and is therefore considered contrary to Local Plan Policy LP RET 2, to the Structure Plan strategy PROP SET 2 and to the advice contained within the Scottish Government's SPP. No very special circumstances or supporting justification has been submitted by the Applicant that would outweigh the harm to these interests caused by the proposed development.

2. It is considered that the proposed use of this building as an amusement arcade for non-specified opening hours would be likely to be materially harmful to the amenity of the occupiers of the residential flats above and on the general area by virtue of increased noise and disturbance both from the premises themselves and from increased activity and potential nuisance from the behaviour of persons outside the premises and attracted to that location by the presence of a use of this nature. Such nuisance behaviour, particularly that outwith the application site, cannot be controlled by the imposition of planning conditions.

The proposed development is therefore considered contrary to Local Plan policy LP BAD 1 and to LP ENV 1 which considers development impact on the general environment.

APPENDIX TO DECISION APPROVAL NOTICE

Appendix relative to application **09/01423/PP**

(A) Has the application been the subject of any “non-material” amendment in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997 (as amended) to the initial submitted plans during its processing. **No**

(B) The reason why planning permission has been refused:

The proposed change of use would result in the loss of a ground floor shop within the core shopping area and is therefore contrary to Policy LP RET 2, to the Structure Plan strategy PROP SET 2 and to the advice contained within the Scottish Government’s SPP.

In addition to the conflicts with the town centre and retailing policies described above, it is also considered that the proposed use of this building as an amusement arcade for non-specified opening hours would be likely to be materially harmful to the amenity of the occupiers of the residential flats above and on the general area by virtue of increased noise and disturbance both from the premises themselves and from increased activity and potential nuisance from the behaviour of persons outside the premises and attracted to that location by the presence of a use of this nature. Such nuisance behaviour, particularly that outwith the application site, cannot be controlled by the imposition of planning conditions.

The proposed development is therefore considered contrary to policy LP BAD 1 and to LP ENV 1 which considers development impact on the general environment.

Appendix 2 – Statutory and other Consultee Comments

Other Consultees:

- **Argyll and Bute Council – Environmental Health (8th March 2010)**

Argyll and Bute Council
Comhairle Earra Ghàidheal agus Bhòid



Memorandum

Legal & Protective Services

Date: 8th March 2010

To: planning.maki@argyll-bute.gov.uk

Attn: Planning

Our Ref: GT/

From: Geoff Taylor,
Environmental Health Officer

Extension: 4782

Planning Application No: 0901423

Change of use of small retail unit (Class 1) to AGC providing amusement machines for play to persons 18 years and over (Class 2)

Trade Winds 9 Main Street, Campbeltown, PA28 6AD

I recommend that approval for this application be refused.

It is likely that noise emanating from activities in and around the adult gaming centre, including noise from amusement machines, would have an adverse effect on the amenity of the area. The potential for a statutory noise nuisance to be caused to the residents of the flats above and beside the premises also exists.

Reason: In order to protect nearby residents and the amenities of the area from noise disturbance.

Yours sincerely,

Geoff Taylor
Environmental Health Officer

Appendix 3 – Third Party Representation

Four letters of objection received from: Councillor John Semple, Campbeltown; Mary Turner, Kildalloig, Campbeltown; Mr Alan MacGregor, Flat 1, 21 Main Street, Campbeltown; and Marina Carrier, St. Mary's, Pier View, Low Askomil, Campbeltown.

One letter of objection received from the Campbeltown Community Council.

Williams, Tim

From: Semple, John
Sent: 08 March 2010 16:11
To: Williams, Tim
Subject: planning application 09/01423/PP

Dear Tim,

With regards to the above application by Mr M Ferrie of Clyde Leisure Ltd for change of use at 11 Main St Campbeltown from Class 1, Retail to class 2 adult gaming .

I would like to object to this application on the grounds that it is contrary to the viability and vitality the of Town Centre retail core. And to the aspirations of the community for the development of Campbeltown town centre for high value tourism product.

Regards,

John Semple

**Councillor for Ward 1 -South Kintyre
Third Sector Spokesperson**

Telephone - 01586 553765
Mobile - 07554334944
john.semple@argyll-bute.gov.uk

**Kildalloig
Campbeltown
Argyll PA28 6RE**

8th March 2010

**Planning applications 09/01423/PP for Adult Gaming Premises and
10/00249/PP for Betting Shop in Main Street, Campbeltown**

Mr Tim Williams
Senior Planning Officer
Argyll & Bute Council
Ardrishaig
Argyll

Dear Mr Williams

As a local resident who is on the electoral roll I wish to object to both of the above planning applications on the following grounds:

- The former use of these premises has been retail. The proposed change of use of these properties to gaming and betting will mean loss of retail outlets in the core retail area of the town. This will reduce the attractiveness and vibrancy of the town's retail area.
- The proposed change of use will be contrary to Argyll & Bute Council's development plan for this area.
- The proposed development would be likely to encourage an increase in criminal behaviour and an increase in vandalism in the centre of the town.
- The proposed opening hours would mean that there would be a risk of noise nuisance to surrounding residential properties.

Yours sincerely

Mary Turner

MacDonald, Rory

From: maki, planning
Sent: 24 February 2010 12:34
To: Clark, Catherine; MacDonald, Rory
Subject: FW: Planning Comment Form - Mid Argyll, Kintyre and Islay office

Follow Up Flag: Follow up
Flag Status: Flagged

From: [REDACTED] SMTP [REDACTED]
Sent: Wednesday, February 24, 2010 12:33:44 PM
To: maki, planning
Subject: Planning Comment Form - Mid Argyll, Kintyre and Islay office Auto forwarded by a Rule

Name : Mr Alan MacGregor
Address : Flat1
21 Main Street
Campbeltown
PostCode : PA28 6AD
Email : [REDACTED]

Reference No : 09/01423/PP
Location : 9 Main Street,Campbeltown,PA28 6AD
Proposal : Change of use of small retail unit (Class 1) to AGC providing amusement machines for play to persons 18 years and over (Class 2)
Comments : I object totally to the above application on specific points.
1.Will not help improve the local Gov plan.
2.Encourage adults & local youths to a gambling addiction.
3. Properties in Main Street,Campbeltown are currently being subjected to criminal damage.Gambling in Main Street, at any time of day, will encourage more people to this area for the wrong reasons.

0 58440

CC to: Argyle and Bute Development Services,
Argyll and Bute Legal and Protective Services
Cllrs Donald Kelly: John Semple: Rory Colville



St Mary's, Pier View,
Low Askomil
Campbeltown
Argyll PA28 6EP
24th March

Dear Sir or Madam,

Re: Application for License for Licensed Betting Office
and Adult Gaming Centre,
11 and 9 Main St. ,Campbeltown

I have been concerned for some time about the development and well-being of Campbeltown and it's people. I wonder what sort of hope planners have for the town and what they desire to provide.

On the one hand I see Campbeltown CARS wanting to make best use and provision of cultural facilities through use of old buildings; on the other I see a very large sign saying 'Nickel 'n Dime' welcoming visitors to the harbour and town. Is it a cheap-skate town we are wanting to promote?

In the same vein I am concerned about the potential licensing of the above premises.

Firstly; there is one betting shop already in the centre and a town of this size does not need two.

Secondly: How can we on one hand spend money on encouraging responsible use of money and resources in young adults, when, on the other hand, we are allowing premises such as these to tempt the vulnerable to waste the money they have. I believe that planners have a responsibility for right decisions and if they do things for expediency – or worse, for financial reasons, they have to live with the consequence of their decisions.

Thirdly: These premises are not shops (something CARS seems to be concerned about). However if planners are wanting to provide for the poor and vulnerable then they need to look at providing work and alternative forms of employment and service. While we encourage activities which do nothing to enhance the worth and value of life and our citizens, particularly the young, we are not seeking justice for these people, or for those that might be drawn in to gaming because they have no other activity. Let the planners provide an art/music centre for example, where the vulnerable can go and develop the gifts they have and become more confident that they have something to offer to society. (See www.impactarts.co.uk – a Glasgow Arts initiative changing lives.)

I hope to see this town focussing on what is good and life-giving. This will draw visitors and provide work.

Although I do not come under the 3 stipulated groups of people who can object; I believe strongly that these places would affect the whole population of Campbeltown who go into the centre and thus I am affected by these places as I would have to pass them.

Yours sincerely,

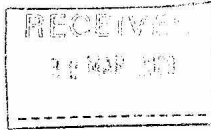
(Dr)

Marina Carrier

0

CAMPBELTOWN COMMUNITY COUNCIL

Killean Place
High Street
CAMPBELTOWN
Argyll
PA28 6EA



Argyll and Bute Planning
MAKI
Kilmory
LOCHGILPHEAD
Argyll
PA318RT

11 March 2010

Dear Sir

Application Ref: 09/01423/PP

Campbeltown Community Council wishes to register its objection to the above application which entails 'Change of use of small retail unit to Adult Gaming Centre providing amusement machines for play to persons 18 years and over' at 9 Main Street, Campbeltown.

Campbeltown town centre is a Conservation Area with many listed buildings and is presently benefiting from a Conservation Area Regeneration Scheme and a Townscape Heritage Initiative (THI).

Main Street is the main retail area in Campbeltown and Campbeltown Community Council is against infiltration of non-retail businesses in Campbeltown Town Centre.

Yours faithfully



NANCIE SMITH
Secretary

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From: mary turner [marycturner@btinternet.com]
Sent: 18 May 2010 18:40
To: Stewart, Melissa
Subject: 5532/MS 10/0007/LRB and 10/0008 LB

Hi Melissa

Ref your letter of 14th May regarding the above appeals, I do not wish to make any further representations as I see that my original representations will be taken into account

Kind Regards,

Mary Turner
Kildalloig
Campbeltown
Argyll PA28 6RE
Tel/Fax 01586 553192

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From: A MACGREGOR [macgregor992@btinternet.com]
Sent: 27 May 2010 13:27
To: localreviewprocess
Cc: Carol MacGregor
Subject: Review Ref No: 10/0007/LRB Ref No of Planning App: 09/01423/PP

9 Main Street Campbeltown

In regards to the Notice of Review of the above party Clyde Leisure Ltd,67/69 Union Street Larkhall ML9 1DZ I wish to object to this review. As an owner of property in Main Street Campbeltown, please note that I have already given my reasons to Argyll & Bute Council . I firmly back the original refusal given by Argyll & Bute Council on 1st April 2010 & would agree with paragraph 1&2 of Refusal Reasons relative to application ref No 09/01423/PP and would also like to add that policing of Main Street,Campbeltown would be stretched to unacceptable levels should this review become sucessfull. Please reject again with utmost haste.

Best regards

Alan MacGregor
21 Main Street
Campbeltown
PA28 6AD

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CAMPBELTOWN COMMUNITY COUNCIL

Killean Place
High Street
CAMPBELTOWN
Argyll
PA28 6EA

Argyll and Bute Planning
MAKI
Kilmory
LOCHGILPHEAD
Argyll
PA318RT

28th May 2010

Dear Sir

LOCAL REVIEW BODY REFERENCE: 10/0007/LRB
PLANNING APPLICATION REFERENCE: 09/01423/PP
9 MAIN STREET CAMPBELTOWN

I write regarding the above notice of review.

Campbeltown Community Council notes the issues raised by the applicant in support of the appeal against refusal of the above application and wishes to make the following points:

It is stated that there are 26 vacant or unoccupied retail units in the centre of Campbeltown. In addition, there are, apparently, 10 units in the immediate vicinity of 9 Main Street, Campbeltown which are to let, to purchase or are unoccupied.

A survey of the immediate vicinity of 9 Main Street, carried out very recently along with a member of Campbeltown Trading Association, failed to identify even half the number claimed in the immediate vicinity. A further survey of the town centre identified significantly fewer than 26 vacant or unoccupied retail units.

It is accepted that there was a problem with empty retail units in the past, but there is a strong perception that this situation is improving.

One retail unit in Main Street is about to reopen and another large retail unit in Longrow, which has been empty for several years, will shortly reopen; Main Street has seen a resurgence of trade with the opening of the Original Factory Shop, formerly Woolworths; two shops selling children's clothes and toys have opened recently in Cross Street and Longrow and an empty shop in Kirk Street reopened earlier this year; Springbank Distillery will be opening a new shop in Bolgam Street in the near future.

In addition, there is good reason to believe that the empty shop in Main Street which was formerly Victoria Wine will reopen shortly.

These are positive indicators of an important improvement in the economy of Campbeltown.

As previously stated Campbeltown town centre is a conservation area with many listed buildings and it is presently benefiting from a Conservation Area Regeneration Scheme (CARS) and a Townscape Heritage Initiative (THI). These initiatives are targeting properties in Main Street which suffer from 'water ingress, inadequate guttering and lack of roof maintenance'.

Similarly, through CARS and THI private sector grants will benefit properties in the conservation area within the town centre.

We would wish to emphasise that Campbeltown's Main Street is the main retail area in Campbeltown and Campbeltown Community Council remains opposed to infiltration of non-retail businesses in Campbeltown town centre for the above reasons.

Yours faithfully

NANCIE SMITH
Secretary

Ref:
AB1

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

OFFICIAL USE

12/05/10
Hazel Kelly

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 Procedures
(Scotland) Regulations 2008

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	Clvde Leisure Ltd
Address	67/69 Union Street
	Larkhall
	Lanarkshire
Postcode	ML9 1DZ
Tel. No.	01698 884 898
Email	martinferrie@btinternet.com

(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 ~~09/01427/PP~~ 10/00249/PP

(b) Date of Submission

04/02/10

(c) Date of Decision Notice (if applicable)

1st April 2010

(5) Address of Appeal Property

11 Main Street Campbeltown

(6) Description of Proposal

Change of Use from retail to use as Licensed Betting Office (LBO)

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

Clyde Leisure Ltd is of the opinion that this application merits review for the following reasons:

In response to the first point regarding the potential detriment to the core shopping area on Main St.

It can be easily demonstrated that this location has been unable to support full occupancy of its retail outlets for a considerable number of years. A recent Tesco survey of the commercial properties in the town identified 26 retail units as being either vacant or unoccupied. (ref Campbeltown Traders Association) At the moment we have identified ten properties in the immediate vicinity of the subject of this application that are available either to let, purchase or are unoccupied. Several other premises are utilised only as promotional window displays, storage facilities for adjacent premises or in one case a charity outlet. The rest of the units in the immediate area are occupied by a mixture of bakers, confectioners, cafes, fast food, factory clearance outlet, low cost general store, newsagent, some prime retailers and one betting shop. This mix does not in our opinion indicate that it is reasonable to expect anything near full occupancy of the Main St area by prime retail uses at any time in the near or foreseeable future. This is one reason that we think it would be of benefit to the area to allow our proposed LBO use.

In response to the second point regarding contravention of LP BAD 1 and LP ENV 1 with respect to alleged noise and disturbance nuisances to residents and the general environment presented by an AGC operation.

LBOs are legally defined adult only entertainment facilities regulated by the Gambling Commission and catering to a wide range of customers.

The opening hours of a Licensed Betting Office are specified in the premises permit application and agreed by Local Authority Licensing. In this case the opening hours were agreed in August 2009 at a Licensing Board hearing. It was decided that opening hours should be the same as the other Licensed Betting Office located on Main St. The Licensing Board were erroneously under the impression that the other outlet was open only from 09:00 – 17:30 Mon - Sat and so the business hours for 11 Main St were similarly set. In fact the Scotbet outlet some 25m distant trades without nuisance to its surroundings until 21:00. Clyde Leisure is at a loss to see how it can possibly be viewed that an LBO trading in very close proximity to another can be prejudged to constitute a nuisance where the other does not.

Historically Campbeltown has supported up to three Licensed Betting Offices two of which were located in the immediate Main Street area. It ill serves the Campbeltown customers that under the current arrangement no competition with regard to pricing or promotions is available to them.

We have also observed that many of the commercial premises in this area are in a serious state of disrepair. The subject of this application and its immediate neighbour 9 Main St are both similarly affected by water ingress through inadequate or missing guttering, general lack of roof maintenance, non maintenance of drainage and long term neglect. This neglect has meant that it is imperative that remedial work be undertaken, even down to foundation level, as soon as is practicable. Having been on the flat roof above this premises I cannot see from my observations that the surrounding properties are in any way different. There are at least two examples of Main St premises that have been recently refurbished without the necessary remedial work done first. Needless to say the newly applied paintwork is already flaking off in large sections adding to the generally run down appearance of Main Street.

It is our assertion that the revenues being generated by either the commercial letting of Main St premises or by businesses trading there have been insufficient to fund the necessary building maintenance for quite some time. In order to ensure that this decline can be arrested commercially viable uses for these premises will have to be found.

In conclusion we feel that the Local Authority may be missing an opportunity to improve the Main St vicinity. Clyde Leisure Ltd offer the long term occupancy of premises by a sustainable business providing good local employment prospects for at least three full-time staff. We are also able to maintain the fabric, not just the façade, of the buildings we occupy to the necessary high standard.

(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):

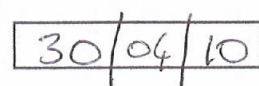
No.	Detail
1	Planning Application as rejected by Local Authority
2	Photo sheet of empty premises
3	
4	
5	
6	
7	
8	
9	
10	

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

Submitted by
(Please Sign)



Dated



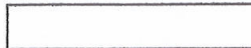
Important Notes for Guidance

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 604331 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.

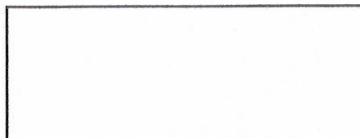
If you have any queries relating to the completion of this form please contact Committee Services on 01546 604331 or email localreviewprocess@argyll-bute.gov.uk

For official use only

Date form issued



Issued by (please sign)



Unused commercial properties in the immediate Main St area



The Old Court House 53 Main St
unoccupied more than 10 Years



62 Main St unoccupied
more than 10 years



Victoria Wine 41 Main St
available to lease or rent for
more than six months



52 Main St unoccupied
eighteen months



33 Main St unoccupied



Royal Hotel Main St
unoccupied 4 years



9 Main St unused for retail
more than two years



12 Cross St unoccupied
more than five years



11 Main St unused for retail
eighteen months



12 Longrow South
Unoccupied more than
fifteen years



TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED)
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE)
(SCOTLAND) REGULATIONS 2008

REFUSAL OF PLANNING PERMISSION

REFERENCE NUMBER: 10/00249/PP

**Mr Martin Ferrie
Clyde Leisure Ltd
Jackpots Too
67-69 Union Street
Larkhall
ML9 1DZ**

I refer to your application dated 4th February 2010 for planning permission under the above mentioned Act and Regulations in respect of the following development:

**Change of use from shop (Class 1) to licenced betting office (Class 2). at Shop 11 Main Street
Campbeltown Argyll And Bute PA28 6AD**

Argyll and Bute Council in exercise of their powers under the above mentioned Act and Regulations hereby refuse planning permission for the above development for the **reason(s) contained in the attached appendix**

Dated: 1 April 2010

Angus J. Gilmour
Head of Planning

www.argyll-bute.gov.uk



REASONS FOR REFUSAL RELATIVE TO APPLICATION NUMBER 10/00249/PP

1. The proposed change of use of these premises to form a Class 2 betting shop would result in the loss of a ground floor shop within the defined Campbeltown core shopping area resulting in material harm to the viability, vitality and economic integrity of the area and is therefore considered contrary to Local Plan Policy LP RET 2, to the Structure Plan strategy PROP SET 2 and to the advice contained within the Scottish Government's SPP. No very special circumstances or supporting justification has been submitted by the Applicant that would outweigh the harm to these interests caused by the proposed development.

2. It is considered that the proposed use of this building as a betting shop for non-specified opening hours would be likely to be materially harmful to the amenity of the occupiers of the residential flats above and on the general area by virtue of increased noise and disturbance both from the premises themselves and from increased activity and potential nuisance from the behaviour of persons outside the premises and attracted to that location by the presence of a use of this nature. Such nuisance behaviour, particularly that outwith the application site, cannot be controlled by the imposition of planning conditions.

The proposed development is therefore considered contrary to Local Plan policy LP BAD 1 and to LP ENV 1 which considers development impact on the general environment.

NOTES TO APPLICANT (1) RELATIVE TO APPLICATION NUMBER 10/00249/PP

1. If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under Section 43A of the Town and Country Planning (Scotland) Act 1997 (as amended) within three months from the date of this notice. The notice of review should be addressed to the Director of Corporate Services, Argyll and Bute Council, Kilmory, Lochgilphead, PA31 8RT.

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state, and it cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the landowner's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997 (as amended).

APPENDIX TO DECISION APPROVAL NOTICE

Appendix relative to application **10/00249/PP**

(A) Has the application been the subject of any "non-material" amendment in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997 (as amended) to the initial submitted plans during its processing. **No**

(B) The reason why planning permission has been refused:

The proposed change of use would result in the loss of a ground floor shop within the core shopping area and is therefore contrary to Policy LP RET 2, to the Structure Plan strategy PROP SET 2 and to the advice contained within the Scottish Government's SPP.

In addition to the conflicts with the town centre and retailing policies described above, it is also considered that the proposed use of this building as a betting shop for non-specified opening hours would be likely to be materially harmful to the amenity of the occupiers of the residential flats above and on the general area by virtue of increased noise and disturbance both from the premises themselves and from increased activity and potential nuisance from the behaviour of persons outside the premises and attracted to that location by the presence of a use of this nature. Such nuisance behaviour, particularly that outwith the application site, cannot be controlled by the imposition of planning conditions.

The proposed development is therefore considered contrary to policy LP BAD 1 and to LP ENV 1 which considers development impact on the general environment.



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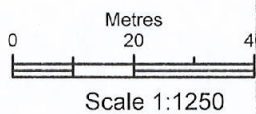
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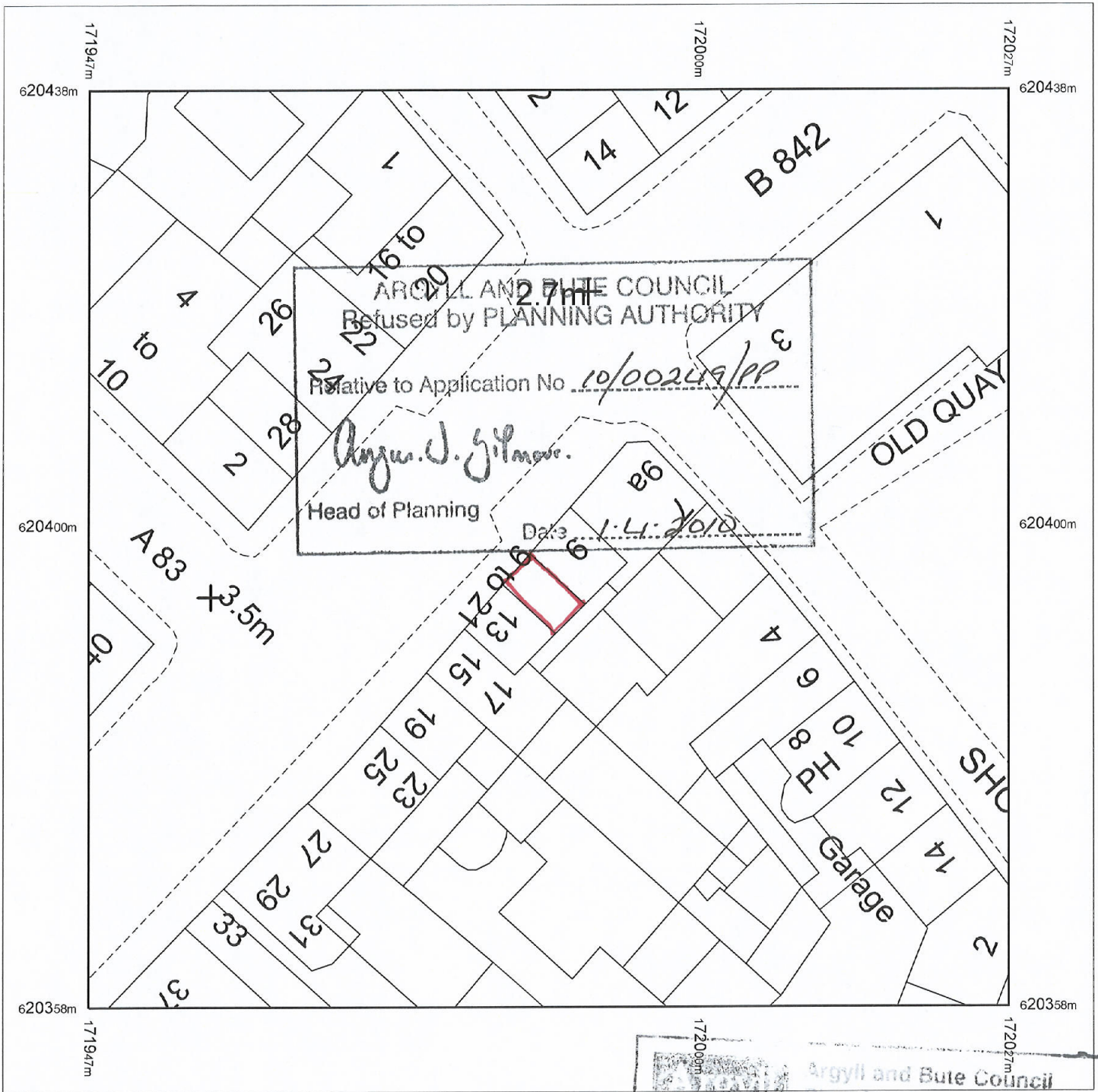


Argyll and Bute Council
 Planning Services

Application ref no: 10/00249/PP
 Date received: 4/2/10

Plan no: 128
 P.O. Initials: JTPW

Page Size: A4



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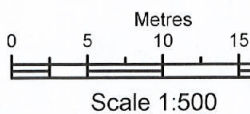
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Argyll and Bute Council
Planning Services

Application ref no: 10/00249/PP
Date received: 4/2/10

Plan no: 2078
PO Initials: JTW

PAPER SIZE: A4

Paper Size: A4



**Argyll and Bute Council
Planning Services**

Application ref no: 10/00249/PP
 Date received: 4/2/10

Plan no: 3018
 PO. Initials: J.P.W.

**ARGYLL AND BUTE COUNCIL
Refused by PLANNING AUTHORITY**

Relative to Application No 10/00249/PP

Angus D. Gilmore
 Head of Planning

Date: 1.4.2010

11 Main St Campbeltown



View of door entry and display window



View looking back into shop from same point

ARGYLL AND BUTE COUNCIL
 Refused by PLANNING AUTHORITY
 Relative to Application No 10/00249/PP
Angus J. Gilmore.
 Head of Planning
 Date 1.4.2010




View of shop rear



Argyll and Bute Council
 Planning Services

Application ref no: 10/00249/PP
 Date received: 4/2/10

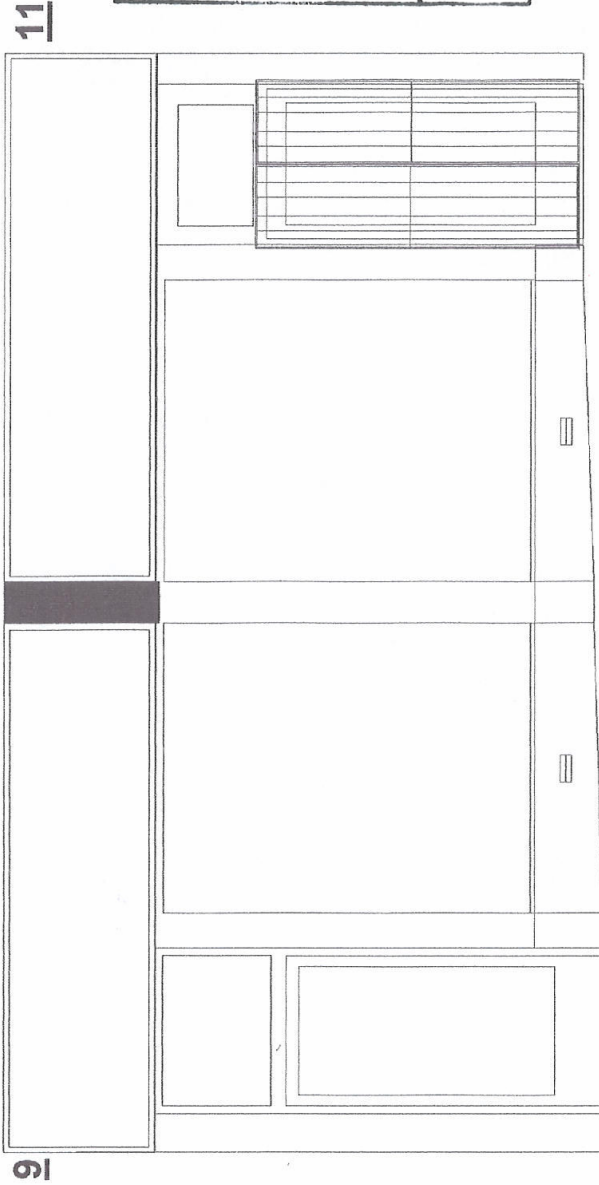
Plan no: 10/00249/PP
 P.O. initials: JTS




Upper level showing services bulkhead

FRONT ELEVATION Nos 9 and 11 MAIN STREET CAMPBELTOWN

Proposed / Existing Elevation Plans - No External Alterations Proposed.



Argyll and Bute Council
Planning Services

Application ref no: 10/00249/PP
Date received: 4.2.10

Plan no: 508
PC Initials: JTW

ARGYLL AND BUTE COUNCIL
Refused by PLANNING AUTHORITY

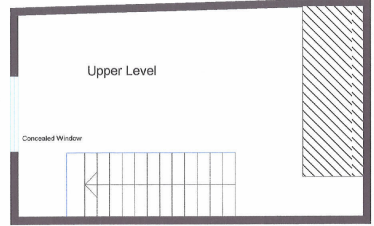
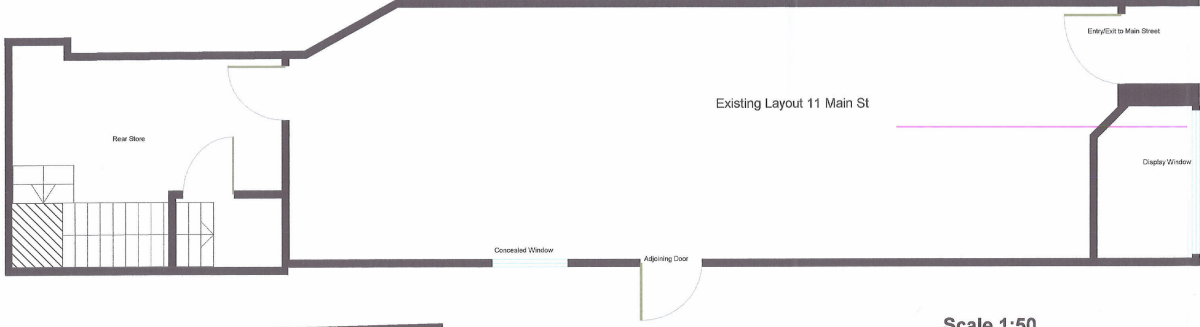
Relative to Application No 10/00249/PP

Angus J. Gilmore
Head of Planning

Date 1.4.2010

Scale 1:50

Existing Floor Plan No 11 Main Street Campbeltown



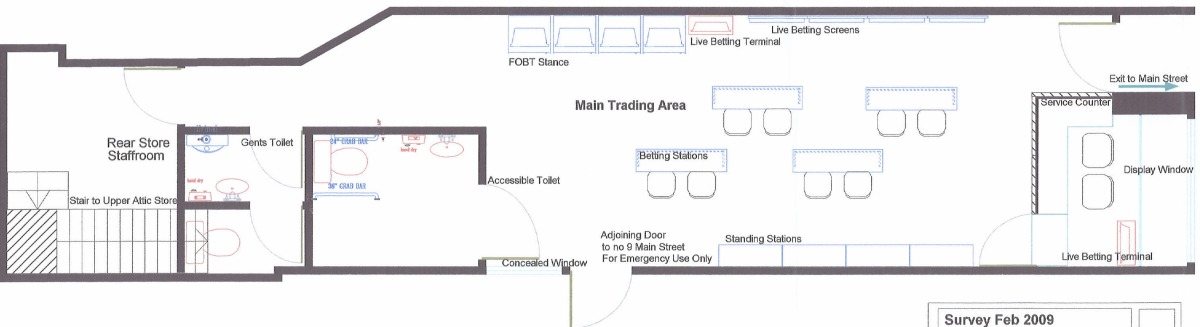
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ARGYLL AND BUTE COUNCIL
Refused by PLANNING AUTHORITY
Relative to Application No 10/00249/051
Angus J. Gilmore.
Head of Planning Date 1.4.2010

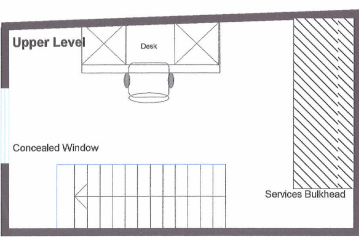
Argyll and Bute Council
Planning Services
Application ref no: 10/00249/051
Date received: 11.1.10
Plan no: 5.18
PO. Initials: J. P. W.

Paper Size : A3

Proposed Floor Plan
LBO 11 Main Street Campbelltown



Survey Feb 2009
 Amended Sept 2009
 Scale 1:50



AGYFI AND BUTE COUNCIL
 Refused by PLANNING AUTHORITY

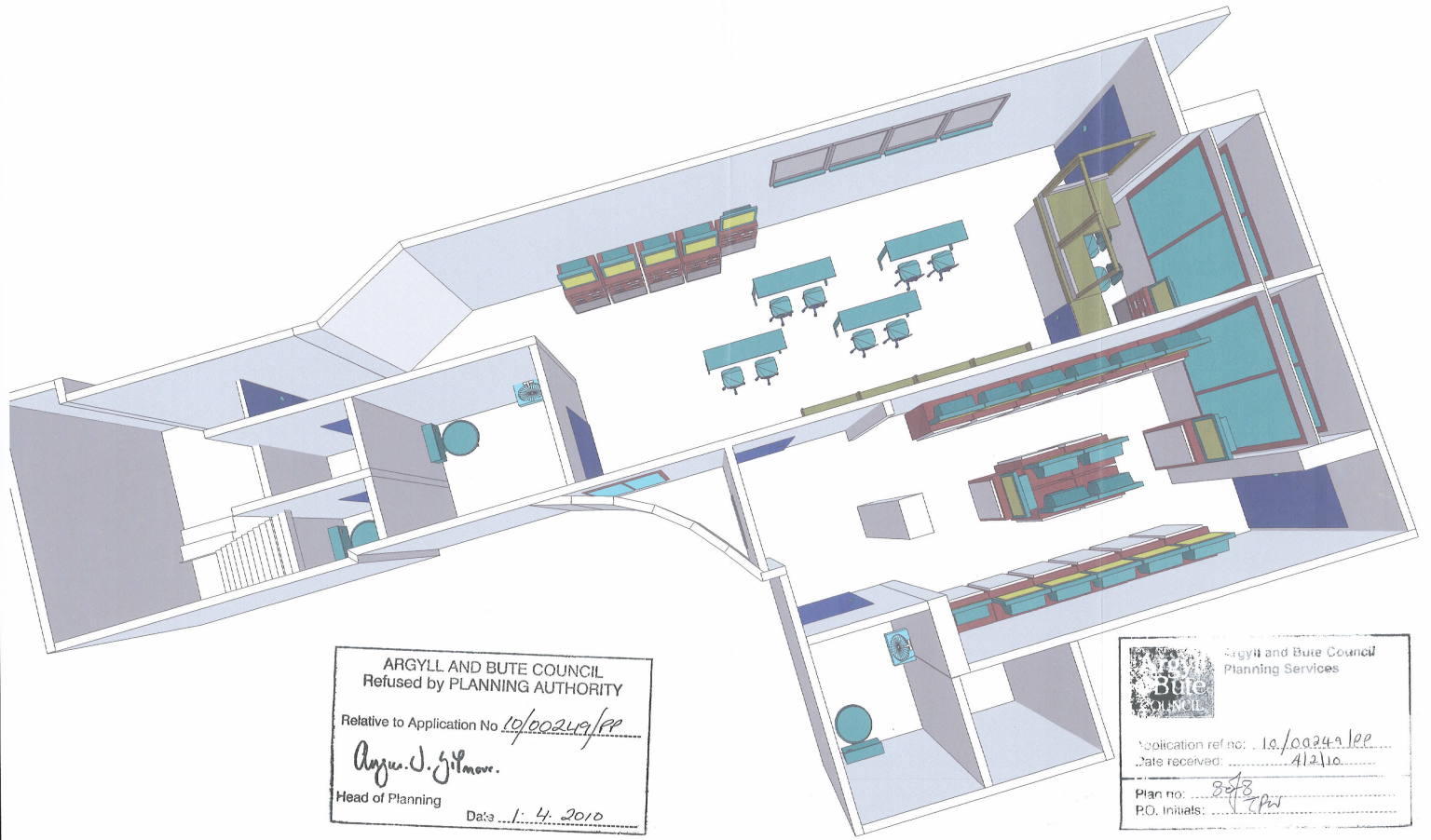
Relative to Application No 10/00249/CP

Angus J. Gilmore.
 Head of Planning
 Date: 1.4.2010

AGYFI AND BUTE COUNCIL
 Planning Services

Application ref no. 10/00249/CP
 Date received: 4/2/10

Plan no: 703
 P.O. Initials: J.P.W.



ARGYLL AND BUTE COUNCIL
Refused by PLANNING AUTHORITY
Relative to Application No 10/00249/PP
Angus W. Gilmore
Head of Planning
Date 1. 4. 2010

Argyll and Bute Council
Planning Services
Application ref no: 10/00249/PP
Date received: 4/2/10
Plan no: 208
PO, Initials: AW

Paper size: A3

STATEMENT OF CASE

FOR

**ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY**

**REFUSAL OF PLANNING PERMISSION IN
PRINCIPLE FOR A CHANGE OF USE FROM
SHOP (CLASS 1) TO LICENCED BETTING
OFFICE (CLASS 2) AT 11 MAIN STREET,
CAMPBELTOWN, ARGYLL AND BUTE, PA28
6AD**

LOCAL REVIEW BODY REF. 10/0008/LRB

**PLANNING PERMISSION APPLICATION
REFERENCE NUMBER 10/00249**

26TH MAY 2010

STATEMENT OF CASE

The planning authority is Argyll and Bute Council ('the Council'). The appellant is Clyde Leisure Ltd. ('the appellant').

The planning application, reference number 10/00249/PP, for the change of use of a shop (Class 1) to a licensed betting office at 11 Main Street, Campbeltown ("the appeal site") was refused under delegated powers on the 1st April 2010. The planning application has been appealed and is subject of referral to a Local Review Body.

DESCRIPTION OF SITE

The application site is an existing retail premises located within Campbeltown town centre.

SITE HISTORY

No relevant planning history relating directly to the appeal site; it is however noted that permission was granted for the subdivision of a retail shop to form one retail unit and one betting shop at 16 Main Street Campbeltown on 1st November 2007 (planning application 07/01744/COU refers) This site, together with the current application site, was (and remains) in the Campbeltown core shopping area. Although the general policy issues raised are directly comparable to the current application, this particular permission was for the relocation of an existing and established betting shop from the opposite side of the street (7 Main Street). There was no net increase in betting shops (or other Class 2 non-shop uses) within the core shopping area as a result of this permission and the existing Class 2 betting shop use was extinguished by legal agreement and reverted back to a Class 1 shop use.

STATUTORY BASIS ON WHICH THE APPEAL SHOULD BE DECIDED

Section 25 of the Town & Country Planning (Scotland) Act 1997 provides that where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise. This is the test for this application.

STATEMENT OF CASE

Argyll and Bute Council considers the determining issues in relation to the case are as follows:-

- Whether or not the proposal is acceptable having regard to the provisions of policy LP RET 2 which seeks to prevent the loss of Class 1 retail premises to non-retailing uses within the identified Campbeltown "core shopping area".

- Whether or not the proposed development is likely to give cause to a significant loss of amenity to existing residential development.

The Report of Handling (Appendix 1) sets out the Council's assessment of the application in terms of Development Plan policy and other material considerations. The consultation comments submitted by statutory and other consultees (Appendix 2) and third party representation (Appendix 3) are attached for the purpose of clarity.

REQUIREMENT FOR ADDITIONAL INFORMATION AND A HEARING

The issues raised were covered in the Report of Handling which is contained in Appendix 1, including a summary of third party representations. As such it is considered that Members have all the information they need to determine the case. Given the above and that the proposal is small-scale, has no complex or challenging issues and has not been the subject of significant body of conflicting representation, then it is considered that a Hearing is not required.

The applicant has provided some clarification relating to the operation of the property in respect of the potential for the development to result in a loss of residential amenity by virtue of noise and disturbance. It would be appropriate to seek further comment from the Area Environmental Health Manager to ascertain whether his comments of 8th March 2010 which raise concern in these respects remain valid.

COMMENT ON APPELLANTS' SUBMISSION

Having regard to part (7) of the appellants submission it is noted that their case relies heavily upon new information which was not made available to the case officer prior to the determination of the application. In this respect Members are respectfully reminded that Section 43B of the Act restricts the introduction of material in the review; paragraph 38. of Circular 7/2009 sets out that new material will only be permitted where the party can demonstrate that it could not have been introduced earlier in the process, or that it arises as a result of exceptional consequences.

In pre-application discussions with planning officers, the applicant was advised that the proposals conflicted with the normal requirements of policy LP RET 2 and that support could only be given to such a proposal where the applicant satisfactorily demonstrated that:

- (i) Every effort is to be made to retain a lively street frontage.
- (ii) That the premises have been vacant and unused for at least 12 months despite reasonable attempts (including a clear marketing strategy) to market the property/business; OR
- (iii) That the development is part of a wider building refurbishment or re-development which, in the view of the planning authority, will add

value to the economic vitality or built environment of the town centre.

Despite having been advised of the above, the application as submitted did not include information to support the proposal in respect of the requirements of (i), (ii) or (iii) above and was duly refused as being contrary to the provisions of policy LP RET 2.

It is surmised that the new information submitted by the applicant fails to satisfy the requirements of (ii) above as there is no confirmation as whether the property has been satisfactorily marketed.

Having regard to (iii), whilst there may indeed be some merit in the applicant's claim that the proposal would result in the refurbishment of the building it is noted that the supporting information which accompanied the application specified that no exterior modifications to the building with the exception of signage and livery were required for the development – in this respect it is considered disingenuous in the least that the applicant now seeks to introduce new material in the review process which would suggest to the contrary that a wider scheme of building refurbishment works would be involved.

The applicant has also submitted additional material relating to unoccupied commercial premises and an argument that there is a lack of demand for commercial property within Campbeltown town centre; it is again noted that the application as submitted did not contain any supporting information in this regard.

It is contended that any new information relating either to proposals for the improvement/repair of the building or local economic benefit associated with the proposal to justify a case under (iii) above is inadmissible to the review process having regard to Section 43B of the Act as there would have been no barrier to the applicant submitting such information at the time the application was submitted.

Whilst it is recognised that such information relating to the improvement of the building or economic benefit to the locale would have been material to the determination of the planning application it is however advised that any such submissions and consideration should be subject to an opportunity for proper public scrutiny and third party submissions through the mechanism of a revised application for planning permission rather than being introduced as an afterthought in the review process.

CONCLUSION

Section 25 of the Town and Country Planning Act 1997 requires that all decisions be made in accordance with the development plan unless material considerations indicate otherwise.

The application site is located within 'settlement area' pertaining to Campbeltown and more pertinently within the identified "core shopping area"

defined by the Adopted 'Argyll and Bute Structure Plan' 2002 and the Adopted 'Argyll and Bute Local Plan' 2009. Within this zone policy LP RET 2 sets out a presumption against proposals involving the loss of Class 1 retail premises, except where the change is to Class 3 food and drink or, unless it can satisfactorily demonstrated that there is no demand for the property as a retail premises or, that the proposal would add significant value to the economic vitality or built environment of the town centre.

In this particular instance the proposal involves the loss of a Class 1 retail premises to a Class 2 licensed betting office; the applicant has failed in the details provided as part of the planning application to demonstrate that the proposal could be justified in respect of the criteria (i) – (iii) set out under policy LP RET 2. New information relating to a justification of the proposal under (iii) is considered by planning officers to be inadmissible to the review process.

In addition, the Area Environmental Health Manager has raised concern in his consultation response dated 8th March 2010, that the nature of the development gives potential to a significant loss of amenity of the area and adjoining residential property by virtue of noise and disturbance arising from the premises.

In view of the above, the proposed development is considered contrary to the provisions of Policies LP ENV 1, LP RET 2 and LP BAD 1 of the Adopted 'Argyll and Bute Local Plan' 2009. Taking account of the above, it is respectfully requested that the appeal be dismissed.

Appendix 1 – Report of Handling

**Argyll and Bute Council
Development Services**

Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 10/00249/PP
Planning Local
Hierarchy:
Applicant: Mr. Martin Ferrie, Clyde Leisure Ltd.
Proposal: Change of use from shop (Class 1) to licensed betting office (Class 2)
Site Address: Shop at 11 Main Street, Campbeltown

DECISION ROUTE

Sect 43 (A) of the Town and Country Planning (Scotland) Act 1997

(A) THE APPLICATION

- (i) Development Requiring Express Planning Permission**
- Change of use from shop (Use Class 1) to a licensed betting office ('bookmakers') (Use Class 2)
- (ii) Other specified operations**
- Internal alterations to shop. No external alterations proposed within current application
-

(B) RECOMMENDATION:

That permission be Refused subject to the reasons contained in this report.

(C) CONSULTATIONS:

Environmental Services Mid Argyll	08.03.2010	Recommends refusal due to potential for statutory noise nuisance.
Licensing		No reply received.

(D) HISTORY:

None directly relating to the current application site but permission was

granted for the subdivision of a retail shop to form one retail unit and one betting shop at 16 Main Street Campbeltown on 1st November 2007 (planning application 07/01744/COU refers) This site, together with the current application site, was (and remains) in the Campbeltown core shopping area. Although the general policy issues raised are directly comparable to the current application, this particular permission was for the relocation of an existing and established betting shop from the opposite side of the street (7 Main Street). There was no net increase in betting shops (or other Class 2 non-shop uses) within the core shopping area as a result of this permission and the existing Class 2 betting shop use was extinguished by legal agreement and reverted back to a Class 1 shop use.

(E) PUBLICITY:

ADVERT TYPE:

Listed Building/Conservation Advert

EXPIRY DATE: 12.03.2010

(F) REPRESENTATIONS:

(i) Representations received from:

Four e-mail letters of objection received from: Councillor John Semple, Campbeltown; Mary Turner, Kildalloig, Campbeltown; Deirdre Henderson, Campbeltown; and Marina Carrier, St. Mary's, Pier View, Low Askomil, Campbeltown.

One letter of objection received from the Campbeltown Community Council.

One e-mail letter of support received from Jason McCall – no stated residential or e-mail address.

(ii) Summary of issues raised:

- The proposed change of use and loss of a retail shop would be contrary to the viability and vitality of the town centre retail core. This will reduce the attractiveness and vibrancy of the town's retail centre.
- The proposed change of use would be contrary to the Council's development plan for the area.
- The proposed development would be likely to encourage an increase in criminal behaviour and an increase in vandalism in the centre of the town.
- The proposed opening hours would mean that there would be a risk of noise nuisance to surrounding residential properties.
- Moral concerns regarding the promotion of gambling, the temptation of 'poor and vulnerable' people etc. Planners should be providing / promoting and arts / music centre instead.
- Sounds great and what the town needs – more jobs and some competition for Scotbet. Whether there is one gambling facility in town or five makes no difference as the opportunity exists at the moment.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- | | | |
|-------|--|----|
| (i) | Environmental Statement: | No |
| (ii) | An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994: | No |
| (iii) | A design or design/access statement: | No |
| (iv) | A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc: | No |

(H) PLANNING OBLIGATIONS

Is a Section 75 agreement required: No

-
- (I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32: No**

-
- (J) Section 25 of the Act; Development Plan and any other material considerations over and above those listed above which have been taken into account in the assessment of the application**

- (i) List of all Development Plan Policy considerations taken into account in assessment of the application.**

'Argyll and Bute Structure Plan' 2002

PROP SET 2 – Retailing and Town Centres
STRAT DC 1 – Development within the Settlements
STRAT DC 9 – Historic Environment and Development Control

'Argyll and Bute Local Plan' 2009

LP ENV 1 – Impact on the General Environment
LP ENV 13a – Development Impact on Listed Buildings
LP ENV 14 – Conservation Areas and Special Built Environment Areas

LP RET 2 – Change of Use to and from Use Class 1 (Shops) in the Core Shopping Areas of the Main Town Centres
LP BAD 1 – Bad Neighbour Development

- (ii) List of all other material planning considerations taken into**

account in the assessment of the application, having due regard to Annex A of Circular 4/2009.

- Scottish Planning Policy – February 2010.

(K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment: No

(L) Has the application been the subject of statutory pre-application consultation (PAC): No

(M) Has a sustainability check list been submitted: No

(N) Does the Council have an interest in the site: No

(O) Requirement for a hearing (PAN41 or other): No

(P) Assessment and summary of determining issues and material considerations

This application relates to a vacant ground floor shop premises located within the Campbeltown core shopping area as defined by the Argyll and Bute Local Plan.

This shop has been vacant for several months having been purchased by the Applicant prior to making licensing and planning applications for the currently proposed use.

The application site is the ground floor of a mid terraced property with residential flats above. These premises are located within the Campbeltown conservation area and adjacent to several listed buildings, although the premises themselves are not listed.

It is proposed to change the use of this ground floor shop (Use Class 1) to a betting shop (Use Class 2).

This application is for a change of use only and does not involve any external alterations. The Applicant has stated that new signage will be required but these details do not form part of the current application.

No indication has been given by the Applicant as to the proposed opening hours of this betting shop.

Adopted Structure Plan proposal PROP SET 2 – ‘Retailing and Town Centres’ states that the Council shall seek to sustain the viability and vitality of town centres within Argyll and Bute and states that a sequential approach to retail development will be adopted in accordance with national guidance.

The current expression of national guidance is the 'Scottish Planning Policy' (February 2010) which acknowledges that the planning system has a significant role in supporting successful town centres through its influence on the type, siting and design of development. Planning authorities should assess how town centres can accommodate development and relevant opportunities should be identified in the development plan. The SPP also states that the development plan should identify appropriate locations for new development and regeneration, and can specify a centre's function, for instance allocating specific types and categories of use to certain centres or parts of centres. Paragraph 58 of the SPP states that, "When preparing policies and deciding applications, planning authorities should consider the scale of the developments and their likely impact, including cumulative impact, on the character and function of the centre, the amenity of nearby residents and anti-social behaviour and crime."

The approved and adopted Argyll and Bute Local Plan reflects this Government guidance. Campbeltown is recognized in the Development Plan as one of the six 'main town centres' within Argyll and Bute' each of which have been identified as having 'core shopping areas'. In such areas the vitality of the town centres and the commercial interests of individual shops benefit from ground floor shop premises being located close to one another. The Campbeltown centre is thus split into the 'core shopping area', a compact central zone that includes parts of Main Street (including the application site) and Longrow South; the 'main town centre' which is the zone immediately surrounding the core shopping area and the 'edge of town centre' which is a more extensive outlying zone surrounding the main town centre. Thus Campbeltown has been mapped and assessed for its capacity to accommodate development opportunities with appropriate locations for specific categories of development identified.

To this extent, Local Plan policy LP RET 2 – 'Change of Use to and From Use Class 1 (Shops) in the Core Shopping Areas of the Main Town Centres' states that within the ground floor frontage premises in core shopping area locations, changes of Use Class 1 (shops) to any other use other than Use Class 3 (food and drink) is contrary to this policy unless it is demonstrated that: (i) every effort is made by the applicant to retain a lively street frontage; (ii) the premises have been vacant for at least 12 months despite reasonable attempts (including a clear marketing strategy) to market the property / business or, (iii) the development is part of a wider building refurbishment or redevelopment which, in the view of the planning authority, will add value to the economic vitality or built environment of the town centre.

The proposed change of use would result in the loss of a ground floor shop within the core shopping area and is therefore contrary to Policy LP RET 2, to the Structure Plan strategy PROP SET 2 and to the advice contained within the Scottish Government's SPP. Although the shop premises are currently vacant and have been for a number of months, it appears they were purchased (or optioned) by the Applicant upon (or shortly after) becoming vacant. There has been no substantial evidence submitted to demonstrate that any attempts have been made to market the premises for shop use. No marketing strategy accompanies this application and the proposals do not form part of a wider programme of building refurbishment or redevelopment sufficient to outweigh the policy presumption that exists against the proposed development in this case.

The submitted planning application form contains the assertion by the Applicant that, 'the shop was used as a general retail outlet by the previous owners. It was offered for sale on the commercial property market for a considerable time before being purchased by Clyde Leisure.' The recollection of the planning authority is somewhat different to this but no evidence has been offered by either party to confirm or deny this assertion.

In addition to the above, the proposed use of this building is classed as a 'bad neighbour development' as defined by Schedule 7 of the Town and Country Planning (General Development Procedure) (Scotland) Order 1992.

Local Plan policy LP BAD 1 – 'Bad Neighbour Development' states that such developments will only be permitted where all of the following criteria are satisfied: (a) There are no unacceptable adverse effects on the amenity of neighbouring residents; (b) The proposal includes appropriate measures to reduce the impact on amenity as defined by the use classes order (i.e. noise, light, smells); (c) There are no significant transport, amenity or public service provision objections; (d) Technical standards in terms of parking, traffic circulation, vehicular access and servicing and pedestrian access are met in full; and (e) The proposal does not conflict with any other Structure Plan or Local Plan policy.

In addition to the conflicts with the town centre and retailing policies described above, it is also considered that the proposed use of this building as a betting shop for non-specified opening hours would be likely to be materially harmful to the amenity of the occupiers of the residential flats above and on the general area by virtue of increased noise and disturbance both from the premises themselves and from increased activity and potential nuisance from the behaviour of persons outside the premises and attracted to that location by the presence of a use of this nature. Such nuisance behaviour, particularly that outwith the application site, cannot be controlled by the imposition of planning conditions.

The proposed development is therefore considered contrary to policy LP BAD 1 and to LP ENV 1 which considers development impact on the general environment.

(Q) Is the proposal consistent with the Development Plan: No

(R) Reasons why Planning Permission or Planning Permission in Principle Should be Refused:

The proposed change of use would result in the loss of a ground floor shop within the core shopping area and is therefore contrary to Policy LP RET 2, to the Structure Plan strategy PROP SET 2 and to the advice contained within the Scottish Government's SPP.

In addition to the conflicts with the town centre and retailing policies described above, it is also considered that the proposed use of this building as a betting shop for non-specified opening hours would be likely to be materially harmful to the amenity of the occupiers of the residential flats above and on the general area by virtue of increased noise and disturbance both from the premises themselves and from increased activity and potential nuisance from

the behaviour of persons outside the premises and attracted to that location by the presence of a use of this nature. Such nuisance behaviour, particularly that outwith the application site, cannot be controlled by the imposition of planning conditions.

The proposed development is therefore considered contrary to policy LP BAD 1 and to LP ENV 1 which considers development impact on the general environment.

(S) Reasoned justification for a departure to the provisions of the Development Plan

N/A

(T) Need for notification to Scottish Ministers or Historic Scotland: No

Author of Report: Tim Williams

Date: 23rd March 2010

Reviewing Officer:

Date: 1st April 2010



**Angus Gilmour
Head of Planning**

REFUSAL REASONS RELATIVE TO APPLICATION REF. NO. 10/00249/PP

1. The proposed change of use of these premises to form a Class 2 betting shop would result in the loss of a ground floor shop within the defined Campbeltown core shopping area resulting in material harm to the viability, vitality and economic integrity of the area and is therefore considered contrary to Local Plan Policy LP RET 2, to the Structure Plan strategy PROP SET 2 and to the advice contained within the Scottish Government's SPP. No very special circumstances or supporting justification has been submitted by the Applicant that would outweigh the harm to these interests caused by the proposed development.

2. It is considered that the proposed use of this building as a betting shop for non-specified opening hours would be likely to be materially harmful to the amenity of the occupiers of the residential flats above and on the general area by virtue of increased noise and disturbance both from the premises themselves and from increased activity and potential nuisance from the behaviour of persons outside the premises and attracted to that location by the presence of a use of this nature. Such nuisance behaviour, particularly that outwith the application site, cannot be controlled by the imposition of planning conditions.

The proposed development is therefore considered contrary to Local Plan policy LP BAD 1 and to LP ENV 1 which considers development impact on the general environment.

APPENDIX TO DECISION APPROVAL NOTICE

Appendix relative to application **10/00249/PP**

- (A) Has the application been the subject of any “non-material” amendment in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997 (as amended) to the initial submitted plans during its processing. **No**
- (B) The reason why planning permission has been refused:

The proposed change of use would result in the loss of a ground floor shop within the core shopping area and is therefore contrary to Policy LP RET 2, to the Structure Plan strategy PROP SET 2 and to the advice contained within the Scottish Government’s SPP.


In addition to the conflicts with the town centre and retailing policies described above, it is also considered that the proposed use of this building as a betting shop for non-specified opening hours would be likely to be materially harmful to the amenity of the occupiers of the residential flats above and on the general area by virtue of increased noise and disturbance both from the premises themselves and from increased activity and potential nuisance from the behaviour of persons outside the premises and attracted to that location by the presence of a use of this nature. Such nuisance behaviour, particularly that outwith the application site, cannot be controlled by the imposition of planning conditions.

The proposed development is therefore considered contrary to policy LP BAD 1 and to LP ENV 1 which considers development impact on the general environment.

Appendix 2 – Statutory and other Consultee Comments

Other Consultees:

- **Argyll and Bute Council – Environmental Health (8th March 2010)**

Argyll and Bute Council Comhairle Earra Ghàidheal agus Bhòid			
Memorandum			
Legal & Protective Services	Date:	8 th March 2010	
To:	planning.maki@argyll-bute.gov.uk		
Attn:	Planning	Our Ref:	GT/
From:	Geoff Taylor, Environmental Health Officer	Extension:	4782
Planning Application No: 10/00249/PP Change of use from shop (Class 1) to licensed betting office (Class2) 11 Main Street, Campbeltown, PA28 6AD			
I recommend that approval for this application be refused.			
It is likely that noise emanating from activities in and around the betting shop, including shouting and amplified sound from speakers, would have an adverse effect on the amenity of the area. The potential for a statutory noise nuisance to be caused to the residents of the flats above and beside the premises also exists.			
Reason: In order to protect nearby residents and the amenities of the area from noise disturbance.			
Yours sincerely,			
Geoff Taylor Environmental Health Officer			

Appendix 3 – Third Party Representation

Four e-mail letters of objection received from: Councillor John Semple, Campbeltown; Mary Turner, Kildalloig, Campbeltown; Deirdre Henderson, Campbeltown; and Marina Carrier, St. Mary's, Pier View, Low Askomil, Campbeltown.

One letter of objection received from the Campbeltown Community Council.

One e-mail letter of support received from Jason McCall – no stated residential or e-mail address.

MacDonald, Rory

From: MacLean, Marion on behalf of planning.reps
Sent: 15 March 2010 08:13
To: Williams, Tim
Cc: Clark, Catherine; MacDonald, Rory
Subject: FW: PublicAccess for Planning - Application Comments (10/00249/PP)

Follow Up Flag: Follow up
Flag Status: Flagged

For your attention...

Marion MacLean
System Support Technician
Planning Dalriada House

Tel: 01546 604853
email: Marion.MacLean@argyll-bute.gov.uk

-----Original Message-----

From: publicaccess@argyll-bute.gov.uk [mailto:publicaccess@argyll-bute.gov.uk]
Sent: 13 March 2010 00:31
To: planning.reps; Williams, Tim
Subject: PublicAccess for Planning - Application Comments (10/00249/PP)

PublicAccess for Planning - Application Comments (10/00249/PP)

"Jason McCall" has used the PublicAccess for Planning website to submit their comments on a Planning Application. You have received this message because you are the Case Officer for this application or because this is a designated mailbox for PublicAccess comments submissions.

PublicAccessForPlanning - Application comments for 10/00249/PP

"Jason McCall" you have been sent this email because you or somebody else has submitted a comment on a Planning Application to Argyll & Bute planning department using your email address.

A summary of your comments is provided below. Comments were submitted at 13/03/2010 00:30:32 from .

Comments: "Sounds great and what the town needs, more jobs and some competition for Scotbet

Best of luck, whether there is one gambling or 5 in town, makes no difference.... The opportunity is there ATM"

PublicAccess for Planning. (c) CAPS Solutions Ltd.

**Kildalloig
Campbeltown
Argyll PA28 6RE**

8th March 2010

**Planning applications 09/01423/PP for Adult Gaming Premises and
10/00249/PP for Betting Shop in Main Street, Campbeltown**

Mr Tim Williams
Senior Planning Officer
Argyll & Bute Council
Ardrishaig
Argyll

Dear Mr Williams

As a local resident who is on the electoral roll I wish to object to both of the above planning applications on the following grounds:

- The former use of these premises has been retail. The proposed change of use of these properties to gaming and betting will mean loss of retail outlets in the core retail area of the town. This will reduce the attractiveness and vibrancy of the town's retail area.
- The proposed change of use will be contrary to Argyll & Bute Council's development plan for this area.
- The proposed development would be likely to encourage an increase in criminal behaviour and an increase in vandalism in the centre of the town.
- The proposed opening hours would mean that there would be a risk of noise nuisance to surrounding residential properties.

Yours sincerely

Mary Turner

0 58440

CC to: Argyle and Bute Development Services,
Argyle and Bute Legal and Protective Services
Cllrs Donald Kelly: John Semple: Rory Colville



St Mary's, Pier View,
Low Askomil
Campbeltown
Argyll PA28 6EP
24th March

Dear Sir or Madam,

Re: Application for License for Licensed Betting Office
and Adult Gaming Centre,
11 and 9 Main St. ,Campbeltown

I have been concerned for some time about the development and well-being of Campbeltown and it's people. I wonder what sort of hope planners have for the town and what they desire to provide.

On the one hand I see Campbeltown CARS wanting to make best use and provision of cultural facilities through use of old buildings; on the other I see a very large sign saying 'Nickel 'n Dime' welcoming visitors to the harbour and town. Is it a cheap-skate town we are wanting to promote?

In the same vein I am concerned about the potential licensing of the above premises.

Firstly; there is one betting shop already in the centre and a town of this size does not need two.

Secondly: How can we on one hand spend money on encouraging responsible use of money and resources in young adults, when, on the other hand, we are allowing premises such as these to tempt the vulnerable to waste the money they have. I believe that planners have a responsibility for right decisions and if they do things for expediency – or worse, for financial reasons, they have to live with the consequence of their decisions.

Thirdly: These premises are not shops (something CARS seems to be concerned about). However if planners are wanting to provide for the poor and vulnerable then they need to look at providing work and alternative forms of employment and service. While we encourage activities which do nothing to enhance the worth and value of life and our citizens, particularly the young, we are not seeking justice for these people, or for those that might be drawn in to gaming because they have no other activity. Let the planners provide an art/music centre for example, where the vulnerable can go and develop the gifts they have and become more confident that they have something to offer to society. (See www.impactarts.co.uk – a Glasgow Arts initiative changing lives.)

I hope to see this town focussing on what is good and life-giving. This will draw visitors and provide work.

Although I do not come under the 3 stipulated groups of people who can object; I believe strongly that these places would affect the whole population of Campbeltown who go into the centre and thus I am affected by these places as I would have to pass them.

Yours sincerely,

(Dr)

Marina Carrier

MacDonald, Rory

From: MacLean, Marion on behalf of planning.reps
Sent: 15 March 2010 08:13
To: Williams, Tim
Cc: Clark, Catherine; MacDonald, Rory
Subject: FW: PublicAccess for Planning - Application Comments (10/00249/PP)

Follow Up Flag: Follow up
Flag Status: Flagged

For your attention...

Marion MacLean
System Support Technician
Planning Dalriada House

Tel: 01546 604853
email: Marion.MacLean@argyll-bute.gov.uk

-----Original Message-----

From: publicaccess@argyll-bute.gov.uk [mailto:publicaccess@argyll-bute.gov.uk]
Sent: 13 March 2010 00:31
To: planning.reps; Williams, Tim
Subject: PublicAccess for Planning - Application Comments (10/00249/PP)

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Comments: "Sounds great and what the town needs, more jobs and some competition for Scotbet

Best of luck, whether there is one gambling or 5 in town, makes no difference.... The opportunity is there ATM"

PublicAccess for Planning. (c) CAPS Solutions Ltd.

From: mary turner [marycturner@btinternet.com]
Sent: 18 May 2010 18:40
To: Stewart, Melissa
Subject: 5532/MS 10/0007/LRB and 10/0008 LB

Hi Melissa

Ref your letter of 14th May regarding the above appeals, I do not wish to make any further representations as I see that my original representations will be taken into account

Kind Regards,

Mary Turner
Kildalloig
Campbeltown
Argyll PA28 6RE
Tel/Fax 01586 553192

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CAMPBELTOWN COMMUNITY COUNCIL

Killean Place
High Street
CAMPBELTOWN
Argyll
PA28 6EA

Argyll and Bute Planning
MAKI
Kilmory
LOCHGILPHEAD
Argyll
PA318RT

28th May 2010

Dear Sir

LOCAL REVIEW BODY REFERENCE: 10/0008/LRB
PLANNING APPLICATION REFERENCE: 10/00249/PP
11 MAIN STREET CAMPBELTOWN

I write regarding the above notice of review.

Campbeltown Community Council notes the issues raised by the applicant in support of the appeal against refusal of the above application and wishes to make the following points:

Campbeltown Community Council disputes the number of retail units in the centre of Campbeltown claimed by the applicant to be vacant or unoccupied. Apparently there are 26 retail units in the centre of Campbeltown which are vacant or unoccupied. In addition within the immediate vicinity of 11 Main Street it is claimed there are 10 retail units which are to let, to purchase or are unoccupied.

A survey of the immediate vicinity of 11 Main Street, Campbeltown, carried out with a member of Campbeltown Trading Association very recently, failed to identify even half the number claimed within the immediate vicinity. In addition, a further survey of the town centre identified significantly fewer than 26 vacant or unoccupied retail units.

There was a significant problem with empty retail units in the past but there is a general perception that this situation is improving.

One vacant retail unit in Main Street will shortly reopen and another large retail unit in Longrow, which has been empty for several years, is about to open its doors for business; Main Street has seen a resurgence of trade with the opening of the Original Factory Shop, formerly Woolworths, which has had a positive knock-on effect for other retail businesses in Main Street. There are strong indications that other retail units will be occupied soon.

These are positive indications of significant improvement in the economy of Campbeltown which should be encouraged.

Campbeltown will benefit in the near future from several initiatives which should give a boost to the local economy eg the CHORD project including the regeneration of the harbour area and the realignment of Longrow and Kinloch Road. These projects will bring more money into Campbeltown and arguably encourage an increase in retail opportunities.

Campbeltown Community Council is represented on the Conservation Area Regeneration Scheme (CARS) and the Townscape Heritage Initiative (THI). These schemes are making good progress in tackling the centre of town properties which have suffered from 'long term neglect'.

We would wish to emphasise that Main Street is the main retail area in Campbeltown and Campbeltown Community Council is against infiltration of non-retail businesses in Campbeltown Town Centre for the above reasons.

Yours faithfully

NANCIE SMITH
Secretary