

**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 2013 relative to applications for Planning Permission or Planning Permission in Principle**

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**Reference No:** 20/01028/PP

**Planning Hierarchy:** Local Development

**Applicant:** John Rapallini

**Proposal:** Variation of Condition 2 relative to planning permission reference 17/01756/PP to extend permitted opening hours to beer garden

**Site Address:** Clyde Bar, 62 West Clyde Street, Helensburgh

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**DECISION ROUTE**

**Local Government (Scotland) Act 1973**

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**(A) THE APPLICATION**

**(i) Development Requiring Express Planning Permission**

- Variation of Condition 2 relative to planning permission 17/01756/PP to extend permitted opening hours to beer garden

**(ii) Other specified operations**

None

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**(B) RECOMMENDATION:**

Having due regard to the Development Plan and all other material considerations, it is recommended that planning permission be approved subject to the conditions and reasons appended to this report.

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**(C) HISTORY:**

04/00657/DET Rear extension to Clyde Bar. Approved 27.05.2004

17/01756/PP Formation of beer garden. Approved 24.08.2017

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**(D) CONSULTATIONS:**

Environmental Health - Helensburgh and Lomond – 27.07.2020 – No objections subject to a noise mitigation management plan.

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**(E) PUBLICITY:**

Regulation 20 Advert, closing date 23/07/20.

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**(F) REPRESENTATIONS:**

12 objections and two representations have been received to the proposed development from the parties listed below. A summary of the key issues raised is provided below, individual representations are available in full for review on the planning file available to view in Public Access.

**Objection**

John Green, 57 West Clyde Street, Helensburgh, G84 8AX (e-mail dated 24.06.20)  
Jane Twigg, 2/1, 24 John Street, Helensburgh, G84 8BA (e-mail dated 28.06.20)  
Mr Matthews, NAR Estates, 241 East Clyde Street, Helensburgh, G84 7AY (e-mail dated 01.07.20)  
Emma Horner, Flat B/B1, 57 West Clyde Street, Helensburgh, G84 8AX (e-mail dated 03.07.20)  
Jeff Horner, Flat B/B1, 57 West Clyde Street, Helensburgh, G84 8AX (e-mail dated 03.07.20)  
Mrs Nicola White, Flat B 2/1, 65 West Clyde Street, Helensburgh, G84 8AX (e-mail dated 06.07.20)  
John Skinner, 2 John Street, Helensburgh, G84 8BA (e-mail dated 07.07.20)  
Fiona and Tommy Gallagher, 70 West Clyde Street, Helensburgh, G84 8AX (e-mail dated 08.07.20)  
Matt Shields, 10 John Street, Helensburgh, G84 8BA (e-mail dated 13.07.20)  
Neil Welsh, Flat B2/2, 65 West Clyde Street, Helensburgh, G84 8AX (e-mails dated 15.07.20 and 21.07.20)  
Martin Welsh, 15 Westerlands Gardens, Newton Mearns, Glasgow, G77 6YJ (e-mail dated 17.07.20)

**i) Summary of issues raised**

The Clyde Bar has gone from a normal pub that closed around midnight to a very loud and rowdy pub that closes at 2am. Not only are we kept awake until the wee, small hours every weekend we have to put up with the aftermath from the night before with bottles and glasses being thrown into our property not to mention the vomit and take away cartons. Due to the constant noise from the front of the pub my wife and I (Mr and Mrs Green) have to sleep at the rear. We have family that we can't have to stay because of the noise and bad language.

Comment: See the assessment.

There is regular trouble almost every weekend with Police and ambulances having to attend not to mention the regular fights that breakout without the Police being involved.

It's the only pub in Helensburgh that opens until 2am when the other pubs close. Everyone pores into it and that's where the trouble stems from.

Comment: Anti-social behaviour is primarily a matter for the Police. However, the impact on residential amenity is a material planning consideration. See the assessment.

We (NAR Estates) have two flats at 59 West Clyde Street. We have on-going complaints from our tenants of noise, property damage, public urination and fear when accessing or leaving their flats. Pictures have also been submitted showing people standing on tables in the beer garden. Therefore would not agree to extend hours and would ask that the Council fully enforce the conditions of the current licence which are not being adhered to.

Comment: Anti-social behaviour is primarily a matter for the Police. However, the impact on residential amenity is a material planning consideration. See the assessment.

The current disruption until 9pm is already too much. Any extension past the watershed hour would be disruptive and interfering to all residents.

Comment: See the assessment.

The beer garden is surrounded by tall buildings and any sound created within reverberates around the area. To extend this beyond 9pm would be unbearable. My property (57 West Clyde Street) is to be used as a holiday home and this extension could be disruptive and have a direct effect on my business.

Comment: See the assessment.

We feel this would be an invasion of privacy and a breach of the peace of the adjacent residential properties due to the required light pollution accompanied by the inevitable noise pollution.

Comment: See the assessment.

Myself and an elderly neighbour have both been shielding due to the threat of Covid 19. We were exposed to an increased risk due to the negligence of the owner by allowing himself and a number of staff to consume alcohol during lockdown. An increase in hours will put extra pressure on the emergency services who are already at breaking point.

Comment: The issue of an alleged Covid breach and the potential impact on emergency services is not a material planning consideration in this instance.

I have been advised that my property (Flat B2/2 65 West Clyde Street) is being increasingly undervalued due to the beer garden and public house.

Comment: Impact on property values is not a material planning consideration.

Representation

Alex Brown, Flat 9 Princes Court, Helensburgh (e-mail dated 14.06.20)

Susan Martin, No address, (e-mail dated 09.07.2020)

**i) Summary of issues raised**

Not clear what the extended hours will be.

Comment: The applicant wishes to open the beer garden for an extra hour.

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**(G) SUPPORTING INFORMATION**

**Has the application been the subject of:**

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| <b>(i) Environmental Statement:</b>   | <b>No</b> |
| <b>(ii) An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:</b>   | <b>No</b> |
| <b>(iii) A design or design/access statement:</b>   | <b>No</b> |
| <b>(iv) A report on the impact of the proposed development e.g. retail impact, transport impact, noise impact, flood risk, drainage impact etc:</b> | <b>No</b> |
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**(H) PLANNING OBLIGATIONS**

- (i) Is a Section 75 agreement required:** **No**
- (ii) Reason for refusal in the event that the Section 75 agreement is not concluded:**
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- (I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32:** **No**
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**(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 Local Development Plan, 2015

Policy LDP STRAT 1 Sustainable Development

Policy LDP DM 1 Settlement Helensburgh Main Town Centre

Policy LDP 3 – Supporting the Protection, Conservation and Enhancement of our Environment

Policy LDP 5 – Supporting the Sustainable Growth of Our Economy

Policy LDP 7 – Supporting our Town Centres and Retailing

Policy LDP 8 – Supporting the Strength of Our Communities

Policy LDP 9 – Development Setting, Layout and Design

Supplementary Guidance

SG LDP BUS 1 Business and Industry Proposals in Existing Settlements and Identified Business and Industry Areas

Policy LP TOUR 1 Tourist Facilities and Accommodation including Static and

Touring Caravans;  
Leisure  
SG LDP BAD 1 – Bad Neighbour Development  
Appendix A – Sustainable Siting and Design Principles

**(i) 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 (SPP), 2014  
Representations  
Argyll and Bute proposed Local Development Plan 2

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<b>(K)</b>	<b>Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment:</b>	<b>No</b>
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<b>(L)</b>	<b>Has the application been the subject of statutory pre-application consultation (PAC):</b>	<b>No</b>
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<b>(M)</b>	<b>Has a sustainability check list been submitted:</b>	<b>No</b>
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<b>(N)</b>	<b>Does the Council have an interest in the site:</b>	<b>No</b>
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**(O) Requirement for a hearing:**

A total of twelve objections and two representations have been received and consideration has to be given to holding a Discretionary Hearing. The beer garden is already operating and the applicant wishes to extend its use by one hour. The key material objections relate to noise and impact on amenity. In addressing these issues Environmental Health have been consulted and have indicated no objections. As such it is not considered that holding a Hearing would add value to the process of determining this application.

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

The application property is the Clyde Bar located on the seafront within Helensburgh. In 2017 planning permission was granted for the formation of a beer garden under application 17/01756/PP. A series of conditions were imposed including Condition 2 limiting the use of the beer garden to 9pm each day. The current application seeks to extend the use of the beer garden for an additional hour until 10pm each day.

Under application 17/01756/PP the applicant constructed a low level timber decked area with timber screen boundaries measuring 11m by 7.5m, accessed from a rear fire exit door and screened by fencing and landscaping. The distance from adjacent residences (15m) is a similar distance to other beer gardens that have secured planning permission within the Town Centre i.e. Sugar Boat, Wetherspoons etc. This distance was considered acceptable and to not directly affect residential amenity in terms of privacy. In addition, whilst not suggested by Environmental Health, the 9pm limit/curfew was

considered an appropriate compromise between the commercial interests of the bar and the amenity of adjoining residents. The issue is whether the proposal to operate for an additional hour each day will detrimentally impact on the amenity of adjoining residential properties.

Policy LDP 3 – Supporting the Protection, Conservation and Enhancement of our Environment and Policy LDP 9 – Development Setting, Layout and Design are applicable. Both policies state that in all development management zones, Argyll and Bute Council will assess applications for planning permission with the aim of protecting, conserving and where possible enhancing the built, human and natural environment.

SG LDP BUS 1 – Business and Industry Proposals in Existing Settlements and Identified Business and Industry Areas provides additional detail to Policy LDP 5 – Supporting the Sustainable Growth of Our Economy, proposals for the development of new/extensions to existing businesses in existing settlements areas will normally be permitted provided that:

- The development is of a form, location and scale, consistent with Policy LDP DM 1, Schedule B 1, (Small scale not exceeding 200m<sup>2</sup> footprint) and Schedule B 2; (Preferred location in settlements)
- In residential locations the proposed development would not erode the residential character of the area, or adversely affect local residents, through an increase in traffic levels, noise, fumes or hours of operation;
- The proposal is consistent with any other relevant Local Development Plan policy and associated SG;
- Technical standards in terms of parking, traffic circulation, vehicular access and servicing, and pedestrian access are met in full.
- The design, scale and siting of the new development respects the landscape/townscape character and appearance of the surrounding area.

Policy SG LDP BAD 1 – Bad Neighbour Development outlines the issues that could affect amenity and requires methodologies to ensure development places no harm on communities in terms of noise, light, smell etc.

Under application 17/01756/PP it was considered appropriate to control the development by restrictive condition relating to hours of operation and evidence that residential amenity will be protected in the form of a noise management plan submitted for further approval. Environmental Health have been consulted on the current proposal and have indicated that they have had complaints from one neighbour regarding noise. However, no noise diary has been submitted to justify the complaint. As such they have indicated no objections subject to the submission of a noise mitigation plan. Subject to this and other safeguarding conditions the proposal is regarded to comply with the above policies and guidance.

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<b>(Q)</b>	<b>Is the proposal consistent with the Development Plan:</b>	<b>Yes</b>
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**(R) Reasons why planning permission should be approved**

The proposed development is regarded to be in compliance with the Development Plan, Supplementary Guidance and there are no material considerations that outweigh policy in this instance.

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

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

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**Author of Report:** Howard Young                      **Date:** 30/07/2020

**Reviewing Officer:** Sandra Davies                      **Date:** 02/08/2020

**Fergus Murray**  
**Head of Development and Economic Growth**

## CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 20/01028/PP

1. The development shall be implemented in accordance with the details specified on the application form dated 29/6/17 and the approved drawing reference numbers

RA/01  
RA/02

unless the prior written approval of the planning authority is obtained for other materials/finishes/for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

Reason: For the purpose of clarity, to ensure that the development is implemented in accordance with the approved details.

2. Notwithstanding the provisions of Condition 1, the development hereby permitted shall be restricted to the specified operational hours of midday to 10pm on any day.

Reason: In order to protect the amenity of the area.

3. Notwithstanding the provisions of Condition 1, the land to which this permission relates shall only be used for the consumption of drink and not for the preparation or cooking of any food.

Reason: In order to protect the amenity of the area.

4. Notwithstanding the provisions of Condition 1, the land to which this permission relates shall not have amplified music played in this area.

Reason: In order to protect the amenity of the area.

5. Notwithstanding the provisions of Condition 1, the land to which this permission relates shall not be a location to view television or large screen broadcasts i.e. sporting events.

Reason: In order to protect the amenity of the area.

6. Notwithstanding the provisions of Condition 1, no development shall commence until a noise mitigation management plan is submitted to and approved in writing by the Planning Authority. Thereafter, the noise mitigation measures shall be in place prior to the beer garden coming into operation

Reason: In order to control noise levels to protect residential amenity.

## NOTES TO APPLICANT

1. The length of this planning permission: This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. [See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).]

2. In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997, prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start.
3. In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.

## **APPENDIX A – RELATIVE TO APPLICATION NUMBER: 20/01028/PP**

### **PLANNING LAND USE AND POLICY ASSESSMENT**

#### **A. Settlement Strategy**

The application property is the Clyde Bar located on the seafront within Helensburgh. In 2017 planning permission was granted for the formation of a beer garden under application 17/01756/PP. A series of conditions were imposed including Condition 2 limiting the use of the beer garden to 9pm each day. The current application is to extend the use of the beer garden for an additional hour until 10pm each day.

#### **B. Location, Nature and Design of Proposed Development**

The current application seeks to vary condition 2 of planning permission 17/01756/PP. This stated that:

Notwithstanding the provisions of Condition 1, the development hereby permitted shall be restricted to the specified operational hours of midday to 9pm on any day.

Reason: In order to protect the amenity of the area.

In terms of the adopted Argyll and Bute Local Development Plan the original proposal was assessed against Policy LDP STRAT 1 – Sustainable Development which requires developers to demonstrate sustainable development principles. Policy LDP DM1– Development within the Development Management Zones also encourages the same within the Main Towns and Key Settlements up to and including large scale on appropriate sites. Under application 17/01756/PP it was considered that the proposed beer garden was small in scale and complied with these principles.

The distance from adjacent residences (15m) is a similar distance to other beer gardens that have secured planning permission within the Town Centre i.e. Sugar Boat, Wetherspoons etc. This distance was considered acceptable and to not directly affect residential amenity in terms of privacy. The issue is whether the proposal to operate for an additional hour will detrimentally impact on the amenity of adjoining residential properties.

Policy LDP 3 – Supporting the Protection, Conservation and Enhancement of our Environment and Policy LDP 9 – Development Setting, Layout and Design are applicable. Both policies state that In all development management zones, Argyll and Bute Council will assess applications for planning permission with the aim of protecting conserving and where possible enhancing the built, human and natural environment.

SG LDP BUS 1 – Business and Industry Proposals in Existing Settlements and Identified Business and Industry Areas provides additional detail to Policy LDP 5 – Supporting the Sustainable Growth of Our Economy, proposals for the development of new/extensions to existing businesses in existing settlements areas will normally be permitted provided that:

- The development is of a form, location and scale, consistent with Policy LDP DM 1, Schedule B 1, (Small scale not exceeding 200m<sup>2</sup> footprint) and Schedule B 2; (Preferred location in settlements)

- In residential locations the proposed development would not erode the residential character of the area, or adversely affect local residents, through an increase in traffic levels, noise, fumes or hours of operation;
- The proposal is consistent with any other relevant Local Development Plan policy and associated SG;
- Technical standards in terms of parking, traffic circulation, vehicular access and servicing, and pedestrian access are met in full.
- The design, scale and siting of the new development respects the landscape/townscape character and appearance of the surrounding area.

Policy SG LDP BAD 1 – Bad Neighbour Development outlines the issues that could affect amenity and requires methodologies to ensure development places no harm on communities in terms of noise, light, smell etc.

Under application 17/01756/PP it was considered appropriate to control the development by a restrictive condition relating to hours of operation and evidence that residential amenity will be protected in the form of a noise management plan submitted for further approval. Environmental Health have been consulted on this application and have indicated that they have had complaints from one neighbour regarding noise. However, no noise diary has been submitted to justify the complaint. As such they have indicated no objections subject to the submission of a noise mitigation plan. Subject to this and other safeguarding conditions the proposal is regarded to comply with the above policies and guidance.

The proposed variation of operation hours allowed by this permission for the operation of the building and the use of the external seating area is considered to appropriately balance the commercial interests of the bar with the need to ensure adjoining residential occupiers do not have an unacceptable impact upon the level of amenity they can reasonably expect to enjoy given the site location and characteristics. The amended conditions are therefore considered to accord with Policy LDP 3 and SG LDP BAD 1 of the Statutory Plan.

## **C. Conclusion.**

Section 25 of the Town and Country Planning (Scotland) Act 1997 establishes that the determination of a planning application shall be made in accordance with the development plan unless material considerations indicate otherwise. In this instance the plan relevant to the application is the Local Development Plan (LDP).

The proposed development is regarded to be in compliance with the Development Plan, Supplementary Guidance and there were no material considerations that outweigh policy in this instance.