

Delegated 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

Reference No: 21/01250/PP
Planning Hierarchy: Local
Applicant: Mr A Pia
Proposal: Alterations, erection of single storey rear extension, installation of external flue and change of use of flower shop (Class 1) to takeaway premises (Sui-Generis)
Site Address: 25 Lochnell Street Lochgilphead PA31 8JL

DECISION ROUTE

Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Change of use from Class 1 (retail) to Sui Generis (hot food takeaway)
- Installation of external flue
- Erection of single storey rear extension

(ii) Other specified operations

- Internal alterations
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(B) RECOMMENDATION:

Recommended for approval subject to attached conditions.

(C) CONSULTATIONS:

Transport Scotland, replied 21.07.2021.

The director does not object to the proposal.

ABC Environmental Health, replied 13.07.2021

No objections subject to conditions.

(D) HISTORY:

00/01373/DET Rear extension to shop 06.04.2001 Approved

(E) PUBLICITY:

Regulation 20 advert expired 13.08.2021 Campbeltown Courier, Argyllshire Advertiser

Neighbour notification expired 04.08.2021

Site notice expired 13.08.2021

(F) REPRESENTATIONS:

There have been a total of eleven objections. A list of the objectors are included in Appendix B whilst a summary of the raised issues is provided below.

Summary of issues raised:

The submitted plans do not have the correct drawings measurements.

Comment: A measured survey of the building was completed and this is part of the drawings supplied with the application.

The land and buildings that are the subject of the proposal is not owned by the applicant.

Comment: It is for the developer to satisfy themselves that there is unencumbered title to the land which would enable the permission to be implemented. Planning consent does not override any private legal rights in respect of the land.

The development is inappropriate in a conservation area especially the flue.

Comment: A council officer has visited the site and has deemed the proposal acceptable within the conservation area in its impact on the main streetscapes. The rear extension and work is not deemed unexpected in the back lands and its visibility from the lane.

The proposed extension will limit the ability for cars to use the access lane behind the buildings. There is limited turning and parking for increased business use which will be reduced by the extension.

Comment: The scale of the extension is not deemed to introduce an impediment to traffic movement within the rear of the site and the lane. Neither the Council's Roads Department nor Transport Scotland have raised concerns nor asked for amendments. Planning consent does not override any private legal rights in respect of the land.

There are road safety concerns regarding customers stopping vehicles at the proposed shop inhibiting the bus lane, pedestrian crossing point and access to the lane at the side of the shop.

Comment: Noted and advised that this control is under Police Scotland jurisdiction.

Properties in the block will be affected by the flue installation resulting in a loss of amenity to neighbours due to smells and noise. The flue would be on communal ground and would be a loss of visual amenity in a conservation area.

Comment: It would be a condition of any approval that the flue is installed to the design standard agreed with the Council before commencement of any other work. The business requires to be registered with the Council's Environmental Health Service and be subject to inspection at the Council's request. Planning consent does not override any private legal rights in respect of the land.

Surface water drainage issues have not been adequately addressed. The existing plumbing and drainage is insufficient for this use.

Comment: The Environmental Health Team will monitor any misuse of the plumbing and drainage system arising from any change of use. There are no issues identified with surface water or drainage in the area.

Over provision of fast food outlets in the town.

Comment: Overprovision of a type of business within the town centre is not material to the application unless there was deemed to be a cumulative effect on the amenity of the area. This is considered in further detail in appendix A.

The proposed extension would lead to loss of amenity for the refuse and fuel storage for the adjoining property. The provision of bin storage and collection has not been adequately addressed.

Comment: There is an area to the side of the proposed extension where bin storage is adequate. The submitted plans do not show impinged loss of amenity to neighbouring properties.

Increased litter due to discarded packaging waste.

Comment: Noted

A site visit should be required.

Comment: A council officer has visited the site to assess the application and concerns raised.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- | | |
|---|-----|
| (i) EIAR: | No |
| (ii) An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994: | No |
| (iii) A design or design/access statement:
General design notes in support of application and detail on materials within the conservation area. | Yes |
| (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

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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' Adopted March 2015

LDP STRAT 1 – Sustainable Development
LDP DM 1 – Development within the Development Management Zones
LDP 3 – Supporting the Protection Conservation and Enhancement of our Environment
LDP 7 – Supporting our Town Centres and Retailing
LDP 8 – Supporting the Strength of our Communities
LDP 9 – Development Setting, Layout and Design

'Supplementary Guidance to the Argyll and Bute Local Plan 2015' (Adopted)

Historic Environment and Archaeology

SG LDP ENV 17 - Development in Conservation Areas and Special Built Environment Areas

Bad Neighbour Development

SG LDP BAD 1 - Bad Neighbour Development

Sustainable Siting and Design

SG LDP Sustainable – Sustainable Siting and Design Principles

(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 3/2013. None.**

- Scottish Planning Policy
- Argyll and Bute Proposed Local Development Plan 2 November 2019
- Consultations
- Representations raising material planning considerations
- Argyll and Bute proposed Local Development Plan 2 (November 2019) – The unchallenged policies and proposals within pLDP2 may be afforded significant material weighting in the determination of planning applications at this time as the settled and unopposed view of the Council. Elements of the pLDP2 which have been identified as being subject to unresolved objections still require to be subject of Examination by a Scottish Government appointed Reporter and cannot be afforded significant material weighting at this time. The provisions of pLDP2 that may be afforded significant weighting in the determination of this application are listed below:
 - Policy 14 – Bad Neighbour Development

(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: No. The application is being presented to PPSL as a result of negative representation above the threshold for a delegated decision. Guidance states that the degree of local interest and controversy on material considerations, in this case the interested parties affected set against the relative number of representations, and their provenance will allow discretion. This proposal provides sufficient matters arising necessary to present the application to PPSL for determination but is not deemed to raise levels of public interest or complexity to warrant a hearing. Officers do not consider that a discretionary hearing will add value to the decision making process in this instance.

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

The change of use is from Class 1 (retail) to a hot food takeaway (Sui Generis). Policy LDP DM 1 requires that this land use is on an appropriate site within the town centre and LDP STRAT 1 requires that the proposal maximises the opportunity for local community benefits and supports them through the use of existing infrastructure and services.

The current upgrade programme of the Lochgilphead Conservation Area Regeneration Scheme (CARS) includes the upgrading of shop frontages. If there is to be a change of use of the shop, advertising permission is likely to be required for new signage, which may qualify for assistance under the grants scheme. It is deemed that as the building is within the CARS area, a void shop may be detrimental to the streetscape and the economic vitality of the town centre.

The Sui Generis use must be appropriate for this site and must also be consistent with policies LDP 8 and SG LDP BAD 1 where developments classed as “Bad Neighbour” Developments should consider all available mitigation to reduce impact on public and residential amenity.

The rear extension to form toilet and sanitary facilities is to be a single storey rectangular structure of around 4sqm adjoining the rear wall of the current building. This is not only subordinate to this part of the block but to the shop unit itself. It will be accessible from both the premises kitchen and the outside yard. The exterior of the extension is to be finished in materials consistent with a rear of block townscape and with its limited exposure with the conservation area.

Letters of representation have been received all with objections to the proposal. These have been predominantly considered in Section F which lists the issues raised.

During the processing of the application parties have questioned the ownership of the land and private access rights which may exist. It is for the developer to satisfy themselves that there is unencumbered title to the land which would enable the permission to be implemented. Any planning consent does not override any private legal rights in respect of the land. The applicant has certified that he is the owner of the land involved and served the relevant notices on communal owners.

(Q) Is the proposal consistent with the Development Plan: Yes

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

The proposal conforms to the relevant policies of the development plan, and there are no other material considerations which would warrant departure from these policies.

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

Not applicable.

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

Author of Report: Derek Wilson

Date: 06.10.2021

Reviewing Officer:

Date: 6th October 2021

A handwritten signature in black ink, appearing to read 'Fergus Murray', with a horizontal line underneath the name.

Fergus Murray
Head of Development and Economic Growth

**CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO.
21/01250/PP**

1. The development shall be implemented in accordance with the details specified on the application form dated 14.06.2021, supporting information and, the approved drawings listed in the table below unless the prior written approval of the planning authority is obtained for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

Plan Title.	Plan Ref. No.	Version	Date Received
Site plan proposal	20-2734-P-03		15.06.2021
Plans, elevations, sections existing	20-2734-P-01		15.06.2021
Plans, elevations, sections proposed	20-2734-P-02		15.06.2021
Door schedule	20-2734-P-04		15.06.2021
Measure Survey	2734		15.09.2021

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, no development shall commence until a scheme for the control of odour arising from the operation of the permitted use has been submitted to and approved in writing by the Planning Authority. The scheme shall comprise a fume extraction system with an external extraction duct incorporating an odour control unit. The ventilation provided must discharge at high level to ensure adequate dispersal of any cooking fumes and that level must be at least 900mm above any window opening. The terminal of the duct must not be fitted with any plate or other restriction that will impede the vertical discharge of emissions.

The permitted use shall not be commenced until the duly approved ventilation, extraction and odour control system is operational and thereafter it shall be maintained in accordance with the manufacturer's instruction unless it is replaced by an alternative system with the prior written consent of the Planning Authority.

Reason: In order to avoid odour nuisance in the interest of amenity.

3. Notwithstanding the provisions of Condition 1, no customer shall be permitted entry to the premises before 10:00 or after 23:00 and no customer shall be permitted to remain on the premises after 23:15.

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

4. Given the proximity of the neighbouring residential properties to the site address, construction works shall be restricted to 0800-1800 hours Mondays to Fridays, 0800-1300 hours on Saturdays and not at all on Sundays. Bank or Scottish Public Holidays.

Reason: To minimise the impact of noise generated by construction activities on occupiers of residential properties.

5. Notwithstanding the effect of Condition 1, no development shall commence until written details of the type and colour of materials to be used in the construction of

the walls, roof and door of the rear extension have been submitted to and approved in writing by the Planning Authority. The development shall thereafter be completed using the approved materials or such alternatives as may be agreed in writing with the Planning Authority.

Reason: In order to integrate the development into its surroundings.

7. If, in the opinion of the local planning authority, the proposed ventilation flue results in any noise nuisance to an occupant of any neighbouring residential property, the applicant shall install noise mitigation measures agreed and approved in writing by the planning authority.

Reason: In order to safeguard neighbouring property from any potential noise nuisance in the interests of residential amenity.

NOTE TO APPLICANT

- **The length of the 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).]
- 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.
- 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.
- The business will be required to register the takeaway with the Environmental Health service as a food business and will be liable to routine food hygiene inspections according to regulations. This registration can be completed through the Argyll and Bute website. Site specific advice may be obtained by contacting the Council's Environmental Health Officers.
- Please note that separate Advertisement Consent will be required for any signage.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 21/01250/PP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

Policy LDP DM 1 sets out the settlement strategy with respect to all proposals across the planning authority area. In this regard the proposal is within the settlement boundary of Lochgilphead. The policy supports a range of development types and scales and therefore the principle of the proposal is consistent with LDP DM 1.

B. Location, Nature and Design of Proposed Development

Policies SG LDP 17 and SG LDP Sustainable seeks to protect conservation areas from inappropriate forms of development to ensure the qualifying interests of the historic environment would not be compromised.

The proposal is for a change of use of a shop unit within the town centre to hot food take away. The internal alterations are not material to the application as the building is not listed. The rear extension to form toilet and sanitary facilities is to be a single storey rectangular structure of around 4sqm adjoining the rear wall of the current building. It will be accessible from both the premises kitchen and the outside yard.

The exterior of the extension is to be finished in white roughcast and the roof covering is to be of grey slate. The outside door will be white uPVC with grey uPVC rainwater goods. The installation of the kitchen will include a canopy with ventilation flue, which will be discharged 900mm min. above any opening window, to comply with building regulations. The flue will be exposed as is consistent with other businesses of this type within the conservation area and would not be an unexpected feature in the rear area of a shopping street. It will be positioned so that it will not encroach on the rear windows of the properties above and will discharge above the ridge line of the upper dormers. The extension and flue is not deemed to affect the character or setting of the Conservation Area. The proposal will utilise appropriate materials which respect the historic character and fabric of the building which will be conditioned on any approval.

The design, scale and siting of the new development is deemed to respect the townscape character and appearance of the surrounding area in accordance with LDP 9, SG LDP ENV 17 and SG LDP Sustainable.

C. Built Environment

Change of Use

There is not a specific supplementary guidance policy relating to the change of use of retail units out with the identified core shopping areas but yet within the designated main town centres. Therefore, consideration must be had to Policy LDP 7 which seeks to support proposals that maintain and enhance the vitality and viability of our established town centres. The change of use from a shop to a hot food takeaway within the main town centre is considered to be a complimentary and appropriate. Takeaways are a common occurrence in town centres and generally provide an evening economy once retail units have closed. LDP 7 supports development proposals that seek to maintain and enhance the vitality and viability of town centres.

The works will have a positive effect on the conservation area by virtue of the investment in the fabric of the building. The proposal is consistent with policies LDP 7, SG LDP ENV 17 and LDP SG Sustainable.

D. Road Network, Parking and Associated Transport Matters.

Policies LDP 11, SG LDP TRAN 4 and SG LDP TRAN 6 seeks to ensure safe and acceptable means of access and parking. The area to the rear of the site is used for informal parking by residents. Concerns have been raised the works will prevent this. Although not a formal parking area officers have investigated issues of parking and access.

The site will be accessed from MacBraynes Lane to the east side of building 29 and which runs northerly for 85m to a stopped up opening at Union Street. The lane opening (3m approx.) is therefore a constraint to the size of commercial vehicles able to access the rear of the proposal site. This access is subject to the title of the property regarding pedestrian and vehicular access which grants unhindered access to MacBraynes Lane and the back lane. The proposed rear extension is 1.1m from the rear of the shop and therefore after construction, still allows around 8m of land to manoeuvre and/or park vehicles. There are no parking or turning places designated in the area behind the building. Any temporary vehicle obstruction would not be a planning matter and therefore cannot be controlled by condition on any approval.

The Roads Department and Transport Scotland have no concerns regarding the proposal as there is unlikely to be any significant disruption to traffic or pedestrian movement during any approved works.

The application is considered consistent with the provisions of LDP 11, SG LDP TRAN 4 and SG LDP TRAN 6.

E. Other Key Policy Matters

Policies LDP 8 and SG LDP BAD 1 seeks to protect residential and public amenity from the potential adverse of schedule three developments. Hot food takeaways can cause disturbance as a result of noise, smells and general activity at unsociable hours.

The council's Environmental Health team have been consulted and have placed requirements on the application by suspensive condition and informatives in these respects. The new flue is of a standard required by the Council and will be agreed prior to the commencement of works with Council officers. Furthermore, a planning condition will restrict opening hours.

It is considered that although the proposal has the potential to raise issues of a bad neighbour development the use of planning conditions can mitigate these to an acceptable level associated with the expectations of a town centre location.

Appendix B

Objections

Stephen Ellis 13 Lochnell Street Lochgilphead PA31 8JL 30.07.2021
Bruce Robertson Flat 2 17 Lochnell Street Lochgilphead 28.07.2021
Archie Ferguson 21 Lochnell Street Lochgilphead PA31 8JL 27.07.2021
Lena Ferguson 21 Lochnell Street Lochgilphead PA31 8JL 27.07.2021
Mary Ferguson Attic Flat 27 Lochnell Street Lochgilphead 28.07.2021
Mary Ferguson 23 Lochnell Street Lochgilphead PA31 8JL 29.07.2021
Amanda Duffy Brown 29 Lochnell Street Lochgilphead PA31 8JL 29.07.2021
Trustees of Kilmory Estate Pension Scheme 19 Lochnell Street Lochgilphead
PA31 8JL 29.07.2021
Charles Randak Top Flat Left 27 Lochnell Street Lochgilphead 30.07.2021 + 02.08.2021
Christine Randak Top Flat Left 27 Lochnell Street Lochgilphead 30.07.2021 + 02.08.2021
Peter Sinclair No Address Given 28.07.2021