

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: 11/02227/PP

Planning Hierarchy: Local Application

Applicant: Gareloch View Ltd

Proposal: Change of use from public toilet to café with associated terrace/play area

Site Address: Kidston Park Public Convenience, Rhu Road Lower, Helensburgh

DECISION ROUTE

Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

Change of use from public toilet to café (Class 3) with associated terrace/play area

(ii) Other specified operations

None

(B) RECOMMENDATION:

It is recommended that planning permission be approved subject to the attached conditions and reasons.

(C) HISTORY:

00/01083/COU- Change of use of land for siting of snack bar (withdrawn)

05/01696/NID- Demolition of existing public toilets and erection of replacement public toilets and cafe facility (withdrawn)

07/01376/COU- Part Change of Use of carpark to site mobile snack caravan from 0700 to 2000 (withdrawn)

(D) CONSULTATIONS:

Area Roads Manager - letter dated 19/12/11 – No objections

Scottish Water – letter dated 24/11/11 – No objections

Protective Services - letter dated 16/12/11- No objection in principle, however, further details require to be submitted to satisfy environmental health requirements

Helensburgh Community Council – letter dated 19/12/11

The HCC Planning group would welcome and support the improvement of Kidston Park by way of sympathetic development that offers a balance of functional usefulness the community deserves coupled to design that adds value to the town.

Suggestions for the design of the cafe include making the building have a lighter feel, more in line with a true modernist solution that still uses the rectilinear building form. The roofline could be projected with a delicate edge, glazing could be enlarged and materials could be individualist e.g. Using stainless steel details or having a hardwood timber cladding made from narrower than standard sections to give the building distinction.

This letter is not a formal objection to the proposal, but a plea to build in some design merit to an otherwise sound idea with a well thought out functional use offering a facility that **could** enhance and add value to this landmark area of Helensburgh.

(E) PUBLICITY:

LREG20 - Regulation 20 Advert Local Application (expiry date 23/12/11)

(F) REPRESENTATIONS:

Ten letters of objection from eleven individuals have been received from the following.

Mr H Mance 7 Cumberland Avenue, Helensburgh, G84 8QE (letter dated 06/12/11)

Mrs J Mance 7 Cumberland Avenue, Helensburgh, G84 8QE (letter dated 06/12/11)

M Spiers 15 Kidston Drive, Helensburgh, G84 8QE (letter received 13/12/11)

James Anderson 22 Kidston Drive, Helensburgh, G84 8QB (letter dated 19/12/11)

Jane Anderson 22 Kidston Drive, Helensburgh, G84 8QB (letter dated 19/12/11)

Mr & Mrs Endersby 17 Kidston Drive, Helensburgh (16/12/11)

Mrs Margery Douglas, Auchenhew, 20 Kidston Drive, Helensburgh, G84 8QB (letter dated 19/12/2011)

Kim Beadle, 22 Machrie Drive, Helensburgh, G84 9EJ (letter dated 16/12/2011)

Bill Millar, Sandown, 21 Kidston Drive, Helensburgh, G84 8QB (letter dated 15/12/2011)

James Blades, Dalfruin, 23 Kidston Drive, Helensburgh, G84 8QB (letter received 28/12/2011)

The points raised and responses are summarised overleaf:

1. The facility will have a detrimental effect of encouraging additional litter.

Comment: A Class 3 use is ostensibly for the consumption of food and drink on the premises, although a small element of takeaway hot food and drink is normally acceptable if it remains at a scale ancillary to the main use as a café. The unauthorised deposition of litter is covered by separate legislation.

2. The development would result in extra traffic at the entrance and departing Kidston Park. In addition, commercial traffic taking advantage of the take-away facilities will require to break the by-law displayed at the car park entrance excluding them from parking there or else park in nearby roads.

Comment: Given the scale of the operation proposed, it is not considered that there will be significant increase in traffic which would detrimentally affect the overall amenity of residents some distance to the north. The Area Roads Manager has no objection to the proposal. The issue of any by-laws and their enforcement is dealt with under separate legislation and is not a material planning consideration in the assessment of this application.

3. There is an abundance of cafes in Helensburgh and this is an unnecessary facility, the car park is used for tourists and walkers to contemplate and it would be more beneficial to upgrade the existing toilets as there is a lack in Helensburgh.

Comment: Cafe facilities are not an uncommon feature in municipal parks and can be an attraction to help sustain recreational use of such areas. Public toilets would be retained in the new facility as part of its overall redevelopment

4. The development will devalue property and is a bad neighbour development.

Comment: Consequences for the value of property are not material planning considerations and the use proposed does not fall within the definition of 'bad neighbour' development (although incidentally, the existing use as a public convenience does).

5. The Council does not own the area to the west which is where the proposed decking will be built.

Comment: The application has been submitted following the service of Notice upon the Council's Estates Department. Any dispute as to the extent of the Council's title would not be a material planning consideration.

6. This development does not fit in with the terms of gift of the land from Captain Kidston.

Comment: This is not a material planning consideration

7. The development will increase the level of noise from the car park.

Comment: Environmental Health have not identified any amenity concerns associated with the use proposed.

8. Current by-laws displayed at the car park entrance exclude commercial vehicles from the car park. New legislation is therefore required to enable cafe deliveries to be made.

Comment: This is not a material planning consideration

9. The erection of illuminated sign will be to the detriment of the natural beauty of the area.

Comment: The erection of any illuminated signage would require to be the subject of a separate Advertisement Consent application.

10. The takeaway window is directly opposite houses which will encourage litter and excessive through traffic. It is unclear what the second takeaway window overlooking the water is to be used for.

Comment: It is considered that a cafe with an ancillary takeaway element in this location (some 70m. from the nearest dwelling), would not lead to an unacceptable loss in any amenity in the surrounding area. The takeaway hatch on the west elevation looking out towards the waterside is proposed to be used as a secondary hatch only in the summer and is not intended to be used on a daily basis.

11. There is no detail on location of bins.

Comment: Further details have been requested. Alternatively, this can be covered by a suspensive condition (as currently recommended).

12. The rear terrace needs to be secured or vacated when the cafe is closed or it will encourage the location for underage drinking and drugs. There are already noise issues in the car park.

Comment: Security is a matter for the applicant. Anti-social activity is a matter for the Police. Environmental Health have indicated no objections.

13. Height restrictors and parking barriers should be placed which would be operated to the same hours of the cafe.

Comment: No such need has been identified by the Area Roads Manager

14. A license to sell alcohol could be applied for.

Comment - The sale of alcohol ancillary to the Class 3 cafe use would be subject to a license being granted. The consideration of any application would be the responsibility of the Council in its capacity as licensing authority rather than as planning authority.

15. There can be no external music or additional lighting of the car park.

Comment: Environmental Health have not identified the need for any conditions to address these amenity concerns.

16. If cooking were to take place on the premises we could be subject to unsavoury smells.

Comment: Further details of a proprietary extraction system have been requested by condition which will be required to be installed prior to the use commencing.

17. Concerns over opening hours.

Comment: Environmental Health have not identified the need for any conditions to control hours of operation in the interests of amenity.

(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
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(H) PLANNING OBLIGATIONS

- (i) **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 Plan' 2009

LP ENV 1 – Impact on the General Environment
LP ENV 19 – Development Setting, Layout and Design
LP BAD 1- Bad Neighbour Development
LP TRAN 6 – Vehicle Parking Provision
LP REC 2- Safeguarding of Recreational Land and important Open Spaces

Appendix A – Sustainable Siting and Design Principles
Appendix C – Access and Parking Standards

- (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.**

Argyll & Bute Sustainable Design Guidance (2006)

- (K) **Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment:** No
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- (L) **Has the application been the subject of statutory pre-application consultation (PAC):** No
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(M) Has a sustainability check list been submitted: No

(N) Does the Council have an interest in the site: Yes

(O) Requirement for a hearing (PAN41 or other): The proposal is considered consistent with the development plan. It is not considered that the eleven objectors warrant a discretionary hearing being held, as the issues raised are fully addressed in the report and a hearing would not add value to the process.

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

Planning permission is sought for the change of use of public toilets to a café within Kidston Park, Helensburgh. Public toilets would be retained in the new facility as part of its overall redevelopment.

The existing toilet block is of basic design and finished with red facing brick and a flat roof. It is proposed that public toilets would be retained in the new facility as part of its overall redevelopment. In terms of design, externally the cafe comprises a new zinc fascia, horizontal timber cladding with zinc panels and new timber windows. To the front, the west elevation will have a terrace for outdoor seating and a toddler's play area added. To the rear, the east elevation will have one of the two takeaway hatches which will be screened with additional planting and timber screening. The takeaway hatch on the west elevation looking out towards the waterside is only intended to be used as a secondary hatch only in the summer rather than on a daily basis. The design is considered acceptable at this location and in the context of the appearance of this existing building. Separate Advertisement Consent will be required for external signage.

It is considered that a café in this location would be a positive addition to the facilities at Kidston Park and would contribute to the overall attraction of the park and encourage more recreational and tourist activity. Neither Roads nor Environmental Health have indicated any objections on road safety or amenity grounds.

It is considered that the proposal is an acceptable use within Kidston Park and complies with development plan policy.

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

(R) Reasons why planning permission or a Planning Permission in Principle should be granted

It is considered that a café in this location would be a positive addition to the facilities at Kidston Park and would contribute to the overall attraction of the park and encourage more recreational and tourist activity. Neither Roads nor Environmental Health have indicated any objections on road safety or amenity grounds. It is considered that the proposal is an acceptable use within Kidston Park and would comply with the overall provisions of Policies LP ENV 1, LP ENV 19, LP REC 2, LP TRAN 6, Appendix A and Appendix C of the Argyll and Bute Local Plan. There are no other material considerations, including the views expressed by third parties, which would warrant

anything other than permission being granted in accordance with the provisions of the development plan.

(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: Morag Jardine

Date: 16/12/2011

Reviewing Officer: Howard Young

Date: 30/12/2011

Angus Gilmour
Head of Planning and Regulatory Services

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 11/02227/PP

1. The development shall be implemented in accordance with the details specified on the application form dated 23/11/11 and the approved drawing reference 1/6, 2/6, 3/3, 4/3, 5/6 and 6/6 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. The use hereby permitted shall not be commenced until a fume extraction system incorporating odour control has been installed on the premises in accordance with a scheme to be submitted to and approved in writing, in advance, by the Council as Planning Authority. Thereafter the duly approved system shall be operated and maintained in accordance with manufacturers' instructions.

Reason: In order to control cooking odours in the interests of the amenity of the area '

3. The use hereby permitted shall not be commenced until details of the intended number, type and location of waste bins to serve the development have been submitted to and approved in writing, in advance, by the Council as Planning Authority, and the duly approved provision has been installed. Thereafter the duly approved provision shall be retained to serve the approved use..

Reason: In order to ensure adequate provision for the collection of waste arising from the use proposed in the interests of amenity.

INFORMATIVES

1. **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).]
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.

A. Settlement Strategy

The application site is within the settlement boundary for Helensburgh as defined by the Argyll and Bute Local Plan. Within such areas there is a presumption in favour of development subject to all development plan policies being complied with. It also lies within a designated Open Space Protection Area (OSPA) subject to the effect of Policy LP REC 2. This policy, *inter alia*, presumes against the development or redevelopment of OSPAs. Development will only be allowed where:

- (i) The retention or enhancement of the facilities can best be achieved by the redevelopment of part of the site which will not compromise its amenity value;
- (ii) There would be no loss of amenity and alternative provision of equal community benefit and accessibility would be made available.

In this case, the application relates to the retention and re-use of an existing structure, with ancillary use of an adjoining external area for seating and childrens' play. The proposal supports the use of the park as a recreational facility. The proposed external area is small in terms of the size of the park and its occupation by park users will support recreational use will be a positive addition to park facilities and will not compromise the purpose of the OSPA designation. The proposal is therefore consistent with Policy LP REC 2.

B. Location, Nature and Design of Proposed Development

The proposed café would be located within an existing public toilet block which is currently still open to the public. There are no other buildings in Kidston Park. The primary aim of the café would be to provide a service to the visitors of Kidston Park. Public toilets would be retained in the new facility as part of its overall redevelopment.

The existing toilet block is of basic design and finished with red facing brick and a flat roof. It is proposed that public toilets would be retained in the new facility as part of its overall redevelopment. In terms of design, externally the cafe comprises a new zinc fascia, horizontal timber cladding with zinc panels and new timber windows. To the front, the west elevation will have a terrace for outdoor seating and a toddler's play area added. To the rear, the east elevation will have one of the two takeaway hatches which will be screened with additional planting and timber screening. The takeaway hatch on the west elevation looking out towards the waterside is only intended to be used as a secondary hatch only in the summer rather than on a daily basis. The design is considered acceptable at this location and in the context of the appearance of this existing building. Separate Advertisement Consent will be required for external signage.

As such it is considered that the proposed change of use would be in accordance with the provisions of Policy LP ENV 1 – Impact on the General Environment and LP ENV 19 – Development Setting, Layout and Design.

In terms of Policy LP TRAN 6 - Vehicle Parking Provision, the Area Roads Manager has no objection to the proposal with regards to on-site parking or to traffic flow onto the surrounding road network.

In terms of its location within Kidston Park, it is not considered that the proposal would lead to any unacceptable loss of amenity by reason of noise or disturbance to adjoining residential areas. The nearest dwelling is approximately 74m from the site boundary. Environmental Health have indicated no objections to the proposal. The proposed use as

a café does not fall within the definition of 'bad neighbour' development, although the current use of the building as public conveniences does amount to such.

A café in this location would be a positive addition to the facilities at Kidston Park and could contribute to the overall attraction of the park and encourage more recreational and tourist activity. It is not considered that the development will give rise to any significant detrimental impact upon surrounding residential property in terms of amenity, parking or traffic considerations.

The proposal is an appropriate use for the building in question and the associated external area proposed is an acceptable ancillary facility which will support the use in question and the use of the park as a whole. The proposal is considered consistent with policies LP ENV 1, LP ENV 19, LP REC 2, LP TRAN 6, Appendix A and Appendix C of the Argyll and Bute Local Plan.

C. Road Network, Parking and Associated Transport Matters.

The Area Roads Manager has been consulted regarding this application. It is not considered that the proposal would give rise to parking, traffic or road safety concerns. No objection has been raised and no conditions recommended.

APPENDIX TO DECISION APPROVAL NOTICE

Appendix relative to application – **11/02227/PP**

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- (A)** Has the application required an obligation under Section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended)?

N

- (B)** 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?

N

- (C)** The reason why planning permission has been approved.

It is considered that a café in this location would be a positive addition to the facilities at Kidston Park and would contribute to the overall attraction of the park and encourage more recreational and tourist activity. Neither Roads nor Environmental Health have indicated any objections on road safety or amenity grounds. It is considered that the proposal is an acceptable use within Kidston Park and would comply with the overall provisions of Policies LP ENV 1, LP ENV 19, LP REC 2, LP TRAN 6, Appendix A and Appendix C of the Argyll and Bute Local Plan. There are no other material considerations, including the views expressed by third parties, which would warrant anything other than permission being granted in accordance with the provisions of the development plan.