

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
AS AMENDED BY THE PLANNING ETC (SCOTLAND) ACT 2006
PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) (SCOTLAND) ACT 1997**

Index of applications under the above acts to be considered by Planning Applications Committee on
15th February 2017

Reference No: 2016/0535/TP

Ward: 2

Applicant:

Mr. Mohammad Jawad
28 Arthurlie Avenue
Barrhead
East Renfrewshire
G78 2JD

Agent:

Site: 28 Arthurlie Avenue, Barrhead, East Renfrewshire, G78 2JD

Description: Change of use of retail premises to hot food takeaway with installation of extract flue at rear

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REPORT OF HANDLING

Reference: 2016/0535/TP

Date Re-registered: 1st December 2016

Application Type: Full Planning Permission

This application is a Local Development

Ward: 2 - Barrhead

Co-ordinates: 250395/:658337

Applicant/Agent:

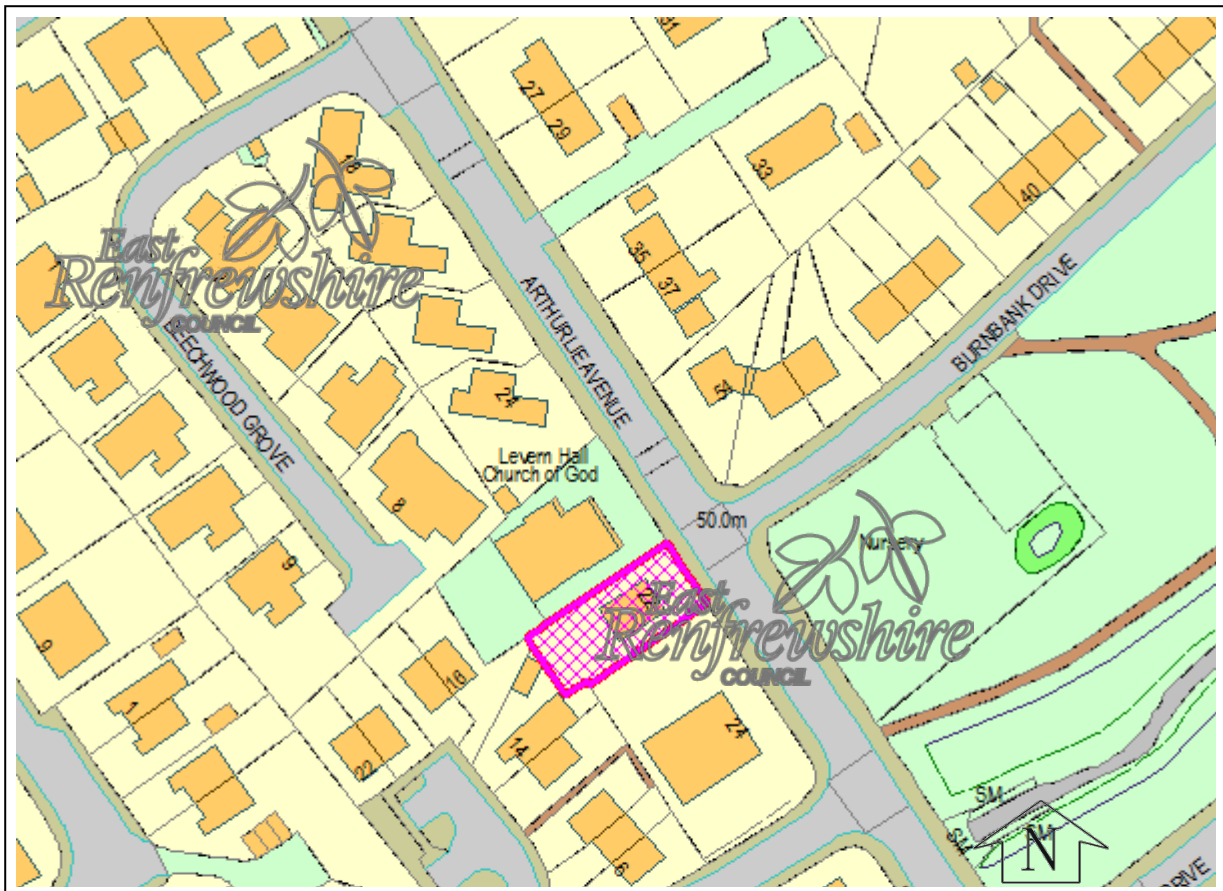
Applicant:

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Location: 28 Arthurlie Avenue
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CONSULTATIONS/COMMENTS:

East Renfrewshire Council Roads Network Manager: No objections subject to conditions

East Renfrewshire Council Environmental Health Service: No objections subject to conditions

PUBLICITY:

26.08.2016 Barrhead News Expiry date 09.09.2016

SITE NOTICES: None.

SITE HISTORY:

2006/0615/TP	Change of use of existing retail unit to form hot food takeaway	Refused	31.10.2006
2009/0022/TP	Demolition of existing shop unit and erection of single storey building to form shop unit and hot food take away	Refused	18.05.2009
	Appeal to the Scottish Ministers dismissed 04.08.2009		
2009/0752/TP	Change of use from retail premises to hot food take away	Refused	12.01.2010
	Local Review Body dismissed review 07.06.2010		
2011/0737/TP	Change of use of vacant shop to form Cafe	Withdrawn	25.01.2012
2012/0120/TP	Change of use from shop to cafe with installation of flue at rear and formation of vehicular accesses and parking	Refused	12.06.2012
	Appeal to the Scottish Ministers upheld 27.08.2012		
2014/0786/TP	Change of use from retail premises to hot food take away with installation of extract flue at rear and formation of parking spaces at front	Refused	11.02.2015

REPRESENTATIONS:

A total of 34 representations have been received:

Representations can be summarised as follows:

Contrary to local planning policies
History of previous applications refused

Noise and disturbance
 Cooking smells
 Litter/food waste
 Anti-social behaviour
 Late night opening
 No need for another café/take away in the local vicinity
 Exacerbate existing parking and traffic issues
 Danger to pedestrians/proximity to schools
 Impact on property values
 Visual impact of extractor
 Property in poor condition/complaints to Environmental Health

DEVELOPMENT PLAN & GOVERNMENT GUIDANCE: See Appendix 1

SUPPORTING REPORTS: No reports have been submitted for consideration as part of this application

ASSESSMENT:

The application is a Local Development under the terms of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009. However as more than 10 objections have been received it is required to be determined by the Planning Applications Committee.

The site is located on the west side of Arthurlie Avenue within the urban area of Barrhead. It is primarily a residential area but it is adjacent to a church, and in close proximity to a licensed grocer. There is a vacant site on the opposite side of the road that previously contained a children's nursery.

The application property is a single storey brick building with a monopitch roof set back from the road. It has a roller shuttered shopfront in place on its front elevation and an exit at the rear similarly shuttered. Other windows are blocked up and barred. The premises did operate as a hairdresser, which is a Class 1 retail use, but has been unoccupied for a period of approximately ten years.

Planning permission is being sought to change the use to a hot food takeaway together with the installation of an external flue towards the rear of the building. The proposed opening hours are indicated as 8.00am to 11.00pm daily. However the applicant's agent has indicated that he would accept restricted operating hours and a temporary permission.

The application is required to be assessed against the relevant policies of the adopted East Renfrewshire Local Development Plan (LDP) as well as any material planning considerations.

Policy D1 includes a number of criteria that are relevant to the determination of this application which are as follows:

1. The development should not result in a significant loss of character or amenity to the surrounding area;
2. The proposal should be of a size, scale, massing and density that is in keeping with the buildings in the locality and should respect local architecture, building form, design, and materials;
6. Development should create safe and secure environments that reduce the scope for anti-social behaviour and fear of crime;
9. Parking and access requirements of the Council should be met in all development and appropriate mitigation measures should be introduced to minimise the impact of new development.

In terms of Policy D1(1) hot food establishments by their nature are recognised as having an impact on the amenity of areas/and or streets. They can generate a higher level of pedestrian and vehicular movements which can cause unacceptable noise and disturbance to nearby residents particularly later into the evening. Accordingly they are normally directed to town centre locations by appropriate policies in an effort to mitigate the anticipated impacts with the vitality and activity of other mixed town centre uses.

The planning history of the application site is lengthy and the Council has resisted hot food take away proposals. However the planning permission that was granted for the café use resulted from an appeal in relation to application 2012/0120/TP whereby the appointed Reporter found that the premises could be occupied by any retail use without restriction on the hours of use and was of the opinion that restricted opening hours of 09.00 to 20.00hours of the café would not cause significant harm to the amenity of the area.

Although the surrounding area is predominantly residential in character there is a licensed grocer outlet on the corner of Aurs Glen with Arthurlie Avenue. This unit operates from early morning to 9.00pm seven days per week and thus generates various levels of customer activity with a resultant impact on amenity. Residents in the immediate area do not benefit from higher levels of amenity as residents in exclusively residential areas would enjoy. The previous use of the application unit constituted a small commercial area.

The continued vacancy of the unit is considered to have an impact on the amenity of the surrounding area primarily in terms of visual impact. It is considered that there are benefits of bringing the vacant unit back into use to address these amenity concerns.

Planning application 2014/0786/TP is a material consideration in determining this application as it is the most recent application for a hot food takeaway at this site. Although this was refused (with opening hours of 11.00am to 9.00pm daily) it was refused solely on the basis of road safety grounds relating to the side by side parking bays proposed at the front of the unit. This application does not propose such an arrangement but proposes on-site provision that could function as staff parking. The impact of the use on the surrounding area was considered in the assessment of that application and concluded that with restrictions on opening times would not have a significant detrimental impact on residential amenity.

Taking the above into account it is considered that there is scope for a hot food takeaway use on site. Should the opening hours for the proposed hot food takeaway be restricted with appropriate ventilation equipment installed and litter receptacles in place, it is not considered that there would be a significant detrimental impact on residential amenity.

In terms of Policy D1(2) although the building is currently vacant and unkempt it is not in itself out of keeping with the areas character. The proposal includes the installation of a flue to the rear of the building projecting 1.2m above the roof. Given the profile of the roof, the proposed flue would project approximately 0.5m above the front face of the property when viewed from the front. However, given the size and scale of the flue, it is not considered to have a significant detrimental effect on the visual amenity of local residents or in the wider area.

In terms Policy D1(6) it is considered that limiting opening hours would assist in reducing the likelihood of nuisance and or crime. It would not be appropriate at this location for opening hours to be late into the evening or after midnight.

Policy D1(9) refers to parking requirements. The previous retail use did not have any private or dedicated parking provision for customers. The licensed grocer similarly does not have any dedicated parking provision. The applicant does propose on-site parking provision of two spaces at the rear which although limited will permit staff parking to be off street. The Council's Roads Service has been consulted on the application and has indicated that three parking spaces are required and it would be possible to provide these. In addition Roads Service has indicated that signage is required to advise of the one way nature of the parking area. These matters can be addressed by planning conditions if the development is approved.

In addition to the above Policy D2 advises that development will be supported within the general urban area as defined in the LDP where compatible with the character and amenity of the locality and surrounding uses. It is considered that the impact on the amenity of the area will be limited subject to restricting the opening hours.

In support of the application, the applicant has indicated that despite the permission being granted for a café in 2012, interest in the property has only been to open as a hot food takeaway. The applicant has submitted that in August 2012 the premises were occupied with the aim of establishing a cafe for only two months and reductions in rental have failed to secure a tenant. The

applicant considers approval for hot food takeaway would bring jobs and revenue and would improve the appearance of the premises.

Whilst there is no formal policy requirement to do so the unit has been marketed for retail use, no interest has been recorded. The applicant is willing to accept a temporary permission and restricted opening hours.

The Council's Environmental Health Service has been consulted on the application and raises no objections to the proposal. The proposed flue is approximately 15m to 20m from the nearest house to the rear. Given the distance from the nearest houses and with an efficient ventilation system, it is considered that local residents would be safeguarded against issues with cooking smells. If approved a condition can be attached requiring the submission of the specific details of the ventilation system.

Any potential issues with litter can be addressed with a condition requiring the provision of refuse bin arrangements.

In terms of the objections that have been received and have not been addressed in the assessment above the following comments are made. The existence of other hot food shops in the area; the impact on property values; or the current condition of the shop are not considered to be material considerations in determining this application.

Overall conclusion

Drawing all the above matters together, it is considered that the proposal does not conflict with Policies D1 and D2 of the adopted Local Development Plan and can on balance be supported with appropriate conditions.

RECOMMENDATION: Approve subject to conditions.

CONDITIONS:

1. The use hereby approved shall not be open for business outwith the hours 11:00 to 21:00hrs Mondays to Thursdays, 11:00 to 22.00hrs Fridays and Saturdays, and not at all on Sundays unless otherwise agreed in writing by the planning authority.

Reason: To protect nearby residents from noise and disturbance.

2. Notwithstanding the details shown on the 1:200 scale block plan (drawing 16185/21) three car parking spaces shall be formed within the site. Development shall not commence until amended drawings, including details of the surfacing materials for the parking spaces and driveway, and the method of delineating the parking spaces, have been submitted to and approved in writing by the planning authority. Thereafter the approved parking spaces shall be unobstructed and available for use during the operational hours noted in condition 1 above unless otherwise agreed in writing by the planning authority.

Reason: To ensure the availability of adequate off-street and disabled parking.

3. Signage shall be erected within the site to advise of the one way nature of the access and exit to the parking area. Development shall not commence until details of the signage has been submitted and approved in writing by the planning authority. Thereafter the approved signage shall be erected prior to commencement of the use hereby approved.

Reason: In the interests of roads safety.

4. Development shall not commence until details and specifications of all ventilation and extraction systems to serve the hot food premises have been submitted to and approved in writing by the planning authority. Thereafter the approved systems shall be fully operational prior to commencement of the use hereby approved.

Reason: To protect local residents from cooking odours.

12

5. Development shall not commence until details and location of the proposed waste management arrangements have been submitted to and approved in writing by the planning authority. The approved arrangements shall be implemented prior to commencement of the use hereby approved and maintained thereafter unless otherwise agreed in writing by the planning authority.

Reason: To protect local amenity by ensuring appropriate refuse storage arrangements.

6. Development shall not commence until details and location of all walls and fences to be erected on the site have been submitted to and approved in writing by the planning authority. The approved walls and fences shall be implemented prior to commencement of the use.

Reason: To ensure that the walls and fences are acceptable in appearance.

7. Visibility splays of 2.5 metres by 35 metres shall be provided in both directions at the junctions with the existing road prior to commencement of the use hereby approved and shall thereafter be maintained free from any obstructions exceeding a height of 1.05 metres above the adjacent road.

Reason: In the interests of road safety.

ADDITIONAL NOTES:

The applicant/developer to contact the Council's Environmental Health Service prior to commencing any works on the property, to ensure that the premises will comply with any relevant health and safety/food hygiene legislation.

The applicant/developer is reminded that an application for a Section 56 Road Opening Permit is required in order to form the two dropped kerbs at the entry and exit from the site. This work would be carried out to the Council's specifications and at the applicants' expense.

The applicant/developer is reminded that the display of any signage may require advertisement consent.

ADDED VALUE: Added value by condition.

BACKGROUND PAPERS:

Further information on background papers can be obtained from Mr Ian Walker on 0141 577 3042.

Ref. No.: 2016/0535/TP
(IAWA)

DATE: 8th February 2017

DIRECTOR OF ENVIRONMENT

Reference: 2016/0535/TP - Appendix 1

DEVELOPMENT PLAN:

Strategic Development Plan

This proposal raises no strategic issues in terms of the Glasgow and the Clyde Valley Strategic Development Plan and therefore the East Renfrewshire Local Plan is the relevant policy document

Adopted East Renfrewshire Local Development Plan

Policy D1

Detailed Guidance for all Development

Proposals for development should be well designed, sympathetic to the local area and demonstrate that the following criteria have been considered, and, where appropriate, met. In some cases, where the criteria have not been met, a written justification will be required to assist with assessment.

1. The development should not result in a significant loss of character or amenity to the surrounding area;
2. The proposal should be of a size, scale, massing and density that is in keeping with the buildings in the locality and should respect local architecture, building form, design, and materials;
3. The amenity of neighbouring properties should not be adversely affected by unreasonably restricting their sunlight or privacy. Additional guidance on this issue is available in the Daylight and Sunlight Design Guide Supplementary Planning Guidance;
4. The development should not impact adversely on landscape character or the green network, involve a significant loss of trees or other important landscape, greenspace or biodiversity features;
5. Developments should incorporate green infrastructure including access, landscaping, greenspace, water management and Sustainable Urban Drainage Systems at the outset of the design process. Where appropriate, new tree or shrub planting should be incorporated using native species. The physical area of any development covered by impermeable surfaces should be kept to a minimum to assist with flood risk management. Further guidance is contained within the Green Network and Environmental Management Supplementary Planning Guidance;
6. Development should create safe and secure environments that reduce the scope for anti-social behaviour and fear of crime;
7. Developments must be designed to meet disability needs and include provision for disabled access within public areas;
8. The Council will not accept 'backland' development, that is, development without a road frontage;
9. Parking and access requirements of the Council should be met in all development and appropriate mitigation measures should be introduced to minimise the impact of new development. Development should take account of the principles set out in 'Designing Streets';
10. Development should minimise the extent of light pollution caused by street and communal lighting and any floodlighting associated with the development;
11. Developments should include provision for the recycling, storage, collection and composting of waste materials;
12. Where possible, all waste material arising from construction of the development should be retained on-site for use as part of the new development;
13. Where applicable, new development should take into account the legacy of former mining activity;
14. Development should enhance the opportunity for and access to sustainable transportation, including provision for bus infrastructure, and particularly walking and cycle opportunities including cycle parking and provision of facilities such as showers/lockers, all where appropriate. The Council will not support development on railways solums or other development that would remove opportunities to enhance pedestrian and cycle access unless mitigation measures have been demonstrated;
15. The Council requires the submission of a design statement for national and major developments. Design statements must also be submitted in cases where a local development relates to a site within a conservation area or Category A listed building in line with Planning Advice Note 68: Design Statements.
16. Where applicable, developers should explore opportunities for the provision of digital infrastructure to new homes and business premises as an integral part of development.

Policy D2

General Urban Areas

Development will be supported within the general urban areas, as defined on the Proposals Map, where compatible with the character and amenity of the locality and surrounding land uses and where it complies with other appropriate policies of the Plan.

GOVERNMENT GUIDANCE:

Given the size and scale of the development it is not considered that government guidance is a relevant material consideration.