

EAST RENFREWSHIRE COUNCILLOCAL REVIEW BODY7 June 2023Report by Director of Business Operations and PartnershipsREVIEW OF CASE - REVIEW/2023/04CHANGE OF USE FROM CLASS 3 TO CLASS 3 SUI GENERIS FOR SHOP AT 196 CROSS
ARTHURLIE STREET, BARRHEAD, G71 1EY.**PURPOSE OF REPORT**

1. The purpose of the report is to present the information currently available to allow a review of the decision taken by officers, in terms of the Scheme of Delegation made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc (Scotland) Act 2006 in respect of the application detailed below.

DETAILS OF APPLICATION

2. Application type: Further application (Ref No:- 2022/0505/TP).
- Applicant: Mrs Amy Li
- Proposal: Change of use from class 3 to class 3 sui generis for shop.
- Location: 196 Cross Arthurlie Street, Barrhead, G71 1EY.
- Council Area/Ward: Barrhead, Liboside and Uplawmoor (Ward 1).

REASON FOR REQUESTING REVIEW

3. The applicant has requested a review on the grounds that the Council's Appointed Officer refused the application.

RECOMMENDATIONS

4. The Local Review Body is asked to:-
- (a) consider whether it has sufficient information to allow it to proceed to determine the review without further procedure and, if so, that:-
 - (i) it proceeds to determine whether the decision taken in respect of the application under review should be upheld, reversed or varied; and
 - (ii) in the event that the decision is reversed or varied, the reasons and the detailed conditions to be attached to the decision letter are agreed; or
 - (b) that in the event that further procedure is required to allow it to determine the review, consider:-

- (i) what further information is required, which parties are to be asked to provide the information and the date by which this is to be provided; and/or;
- (ii) what procedure or combination of procedures are to be followed in determining the review.

BACKGROUND

5. At the meeting of the Council on 29 April 2009, consideration was given to a report by the Director of Environment seeking the adoption of a new Scheme of Delegation in terms of the new Section 43A of the Town and Country Planning (Scotland) Act 1997, subject to approval of the scheme by Scottish Ministers.

6. The report provided details of the new hierarchy of developments that took effect from 6 April 2009 explaining that the Scheme of Delegation related to those applications within the “local development” category as set out in the Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2009, but would in future be determined by an “appointed officer”. In the Council’s case this would be either the Director of Environment or the Head of Roads, Planning and Transportation Service now designated the Head of Environment (Operations).

7. The report highlighted that historically appeals against planning decisions were dealt with by Scottish Ministers. However, following the introduction of the new planning provisions which came into effect on 3 August 2009 all appeals against decisions made in respect of local developments under delegated powers would be heard by a Local Review Body. The Local Review Body would also deal with cases where the appointed officer had failed to determine an application within two months from the date it was lodged.

NOTICE OF REVIEW – STATEMENT OF REASONS FOR REQUIRING THE REVIEW

8. The applicant in submitting the review has stated the reasons for requiring the review of the determination of the application. A copy of the applicant’s Notice of Review and Statement of Reasons including appeal statement is attached as Appendix 5.

9. The applicant is entitled to state a preference for the procedure (or combination of procedures) to be followed by the Local Review Body in the determination of the review and has detailed in their opinion that this review can continue to conclusion based on the assessment of the review documents only, with no further procedure.

10. The Local Review Body is not bound to accede to the applicant’s request as to how it will determine the review and will itself decide what procedure will be used in this regard.

11. At the meeting of the Local Review Body on 10 August 2016, it was decided that the Local Review Body would carry out unaccompanied site inspections for every review case it received prior to the cases being given initial consideration at a meeting of the Local Review Body.

12. In accordance with the above decision, the Local Review Body will carry out an unaccompanied site inspection on Wednesday, 7 June 2023 before the meeting of the Local Review Body which begins at 2.30pm.

INFORMATION AVAILABLE TO ALLOW REVIEW OF APPLICATION

13. Section 43B of the Planning etc (Scotland) Act 2006 restricts the ability of parties to introduce new material at the review stage. The Local Review Body is advised that the focus of the review should, therefore, be on the material which was before the officer who dealt with the application under the Scheme of Delegation.

14. The information detailed below is appended to this report to assist the Local Review Body in carrying out the review of the decision taken by the Appointed Officer:-

- (a) Application for planning permission – Appendix 1
- (b) Consultation Responses – Appendix 2
- (c) Report of Handling by the planning officer under the Scheme of Delegation - Appendix 3
- (d) Decision notice and reasons for refusal – Appendix 4
- (f) A copy of the applicant's Notice of Review and Statement of Reasons including appeal statement - Appendix 5

15. All the documents referred to in this report can be viewed online on the Council's website at www.eastrenfrewshire.gov.uk.

RECOMMENDATIONS

16. The Local Review Body is asked to:-

- (a) consider whether it has sufficient information to allow it to proceed to determine the review without further procedure and, if so, that:-
 - (i) it proceeds to determine whether the decisions taken in respect of the application under review should be upheld, reversed or varied; and
 - (ii) in the event that the decision is reversed or varied, the reasons and the detailed conditions to be attached to the decision letter are agreed; or
- (b) In the event that further procedure is required to allow it to determine the review, consider:-
 - (i) what further information is required, which parties are to be asked to provide the information and the date by which this is to be provided; and/or;
 - (ii) what procedure or combination of procedures are to be followed in determining the review.

Report Author: John Burke

Director – Louise Pringle, Director of Business Operations and Partnerships

John Burke, Committee Services Officer
e-mail: john.burke@eastrenfrewshire.gov.uk
Tel: 0141 577 3026

Date:- 31 May 2023

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APPLICATION FOR PLANNING PERMISSION

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2 Spiersbridge Way Thornliebank G46 8NG Tel: 0141 577 3001 Email: planning@eastrenfrewshire.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100595965-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Type of Application

What is this application for? Please select one of the following: *

- Application for planning permission (including changes of use and surface mineral working).
- Application for planning permission in principle.
- Further application, (including renewal of planning permission, modification, variation or removal of a planning condition etc)
- Application for Approval of Matters specified in conditions.

Description of Proposal

Please describe the proposal including any change of use: * (Max 500 characters)

change of use to hot food takeaway

Is this a temporary permission? *

Yes No

If a change of use is to be included in the proposal has it already taken place?
(Answer 'No' if there is no change of use.) *

Yes No

Has the work already been started and/or completed? *

No Yes – Started Yes - Completed

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:	Building Consultant		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	Frank	Building Name:	<input type="text"/>
Last Name: *	McCabe	Building Number:	11
Telephone Number: *	01355232016	Address 1 (Street): *	Wellesley Drive
Extension Number:	<input type="text"/>	Address 2:	<input type="text"/>
Mobile Number:	<input type="text"/>	Town/City: *	East Kilbride
Fax Number:	<input type="text"/>	Country: *	UK
		Postcode: *	G75 8TR
Email Address: *	frank.mccabe@talktalk.net		

Is the applicant an individual or an organisation/corporate entity? *

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	Mrs	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	Amy	Building Number:	196
Last Name: *	Li	Address 1 (Street): *	Cross Arthurlie Street
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	Barrhead
Extension Number:	<input type="text"/>	Country: *	UK
Mobile Number:	<input type="text"/>	Postcode: *	G78 1EY
Fax Number:	<input type="text"/>		
Email Address: *	frank.mccabe@talktalk.net		

Site Address Details

Planning Authority:

East Renfrewshire Council

Full postal address of the site (including postcode where available):

Address 1:

196 CROSS ARTHURLIE STREET

Address 2:

BARRHEAD

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

GLASGOW

Post Code:

G78 1EY

Please identify/describe the location of the site or sites

Northing

659274

Easting

249807

Pre-Application Discussion

Have you discussed your proposal with the planning authority? *

Yes No

Site Area

Please state the site area:

60.00

Please state the measurement type used:

Hectares (ha) Square Metres (sq.m)

Existing Use

Please describe the current or most recent use: * (Max 500 characters)

Vacant shop previous cafe

Access and Parking

Are you proposing a new altered vehicle access to or from a public road? *

Yes No

If Yes please describe and show on your drawings the position of any existing. Altered or new access points, highlighting the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

<p>Are you proposing any change to public paths, public rights of way or affecting any public right of access? * <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes please show on your drawings the position of any affected areas highlighting the changes you propose to make, including arrangements for continuing or alternative public access.</p>	
<p>How many vehicle parking spaces (garaging and open parking) currently exist on the application Site?</p>	<input type="text" value="0"/>
<p>How many vehicle parking spaces (garaging and open parking) do you propose on the site (i.e. the Total of existing and any new spaces or a reduced number of spaces)? *</p>	<input type="text" value="0"/>
<p>Please show on your drawings the position of existing and proposed parking spaces and identify if these are for the use of particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, cycles spaces).</p>	
<h3>Water Supply and Drainage Arrangements</h3>	
<p>Will your proposal require new or altered water supply or drainage arrangements? * <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	
<p>Do your proposals make provision for sustainable drainage of surface water?? * <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (e.g. SUDS arrangements) *</p> <p>Note:- Please include details of SUDS arrangements on your plans Selecting 'No' to the above question means that you could be in breach of Environmental legislation.</p>	
<p>Are you proposing to connect to the public water supply network? *</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, using a private water supply <input type="checkbox"/> No connection required</p> <p>If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).</p>	
<h3>Assessment of Flood Risk</h3>	
<p>Is the site within an area of known risk of flooding? * <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Don't Know</p> <p>If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your Planning Authority or SEPA for advice on what information may be required.</p> <p>Do you think your proposal may increase the flood risk elsewhere? * <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Don't Know</p>	
<h3>Trees</h3>	
<p>Are there any trees on or adjacent to the application site? * <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.</p>	
<h3>Waste Storage and Collection</h3>	
<p>Do the plans incorporate areas to store and aid the collection of waste (including recycling)? * <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>	

If Yes or No, please provide further details: * (Max 500 characters)

to opposite side of tenement building already site in use

Residential Units Including Conversion

Does your proposal include new or additional houses and/or flats? *

Yes No

All Types of Non Housing Development – Proposed New Floorspace

Does your proposal alter or create non-residential floorspace? *

Yes No

Schedule 3 Development

Does the proposal involve a form of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2013) *

Yes No Don't Know

If yes, your proposal will additionally have to be advertised in a newspaper circulating in the area of the development. Your planning authority will do this on your behalf but will charge you a fee. Please check the planning authority's website for advice on the additional fee and add this to your planning fee.

If you are unsure whether your proposal involves a form of development listed in Schedule 3, please check the Help Text and Guidance notes before contacting your planning authority.

Planning Service Employee/Elected Member Interest

Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? *

Yes No

Certificates and Notices

CERTIFICATE AND NOTICE UNDER REGULATION 15 – TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATION 2013

One Certificate must be completed and submitted along with the application form. This is most usually Certificate A, Form 1, Certificate B, Certificate C or Certificate E.

Are you/the applicant the sole owner of ALL the land? *

Yes No

Is any of the land part of an agricultural holding? *

Yes No

Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate A

Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Certificate A

I hereby certify that –

(1) - No person other than myself/the applicant was an owner (Any person who, in respect of any part of the land, is the owner or is the lessee under a lease thereof of which not less than 7 years remain unexpired.) of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application.

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding

Signed: Frank McCabe

On behalf of: Mrs Amy Li

Date: 23/08/2022

Please tick here to certify this Certificate. *

Checklist – Application for Planning Permission

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Please take a few moments to complete the following checklist in order to ensure that you have provided all the necessary information in support of your application. Failure to submit sufficient information with your application may result in your application being deemed invalid. The planning authority will not start processing your application until it is valid.

a) If this is a further application where there is a variation of conditions attached to a previous consent, have you provided a statement to that effect? *

Yes No Not applicable to this application

b) If this is an application for planning permission or planning permission in principle where there is a crown interest in the land, have you provided a statement to that effect? *

Yes No Not applicable to this application

c) If this is an application for planning permission, planning permission in principle or a further application and the application is for development belonging to the categories of national or major development (other than one under Section 42 of the planning Act), have you provided a Pre-Application Consultation Report? *

Yes No Not applicable to this application

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

d) If this is an application for planning permission and the application relates to development belonging to the categories of national or major developments and you do not benefit from exemption under Regulation 13 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, have you provided a Design and Access Statement? *

Yes No Not applicable to this application

e) If this is an application for planning permission and relates to development belonging to the category of local developments (subject to regulation 13. (2) and (3) of the Development Management Procedure (Scotland) Regulations 2013) have you provided a Design Statement? *

Yes No Not applicable to this application

f) If your application relates to installation of an antenna to be employed in an electronic communication network, have you provided an ICNIRP Declaration? *

Yes No Not applicable to this application

g) If this is an application for planning permission, planning permission in principle, an application for approval of matters specified in conditions or an application for mineral development, have you provided any other plans or drawings as necessary:

- Site Layout Plan or Block plan.
- Elevations.
- Floor plans.
- Cross sections.
- Roof plan.
- Master Plan/Framework Plan.
- Landscape plan.
- Photographs and/or photomontages.
- Other.

If Other, please specify: * (Max 500 characters)

details of flue extract

Provide copies of the following documents if applicable:

- | | |
|--|--|
| A copy of an Environmental Statement. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Design Statement or Design and Access Statement. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Flood Risk Assessment. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Drainage/SUDS layout. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Transport Assessment or Travel Plan | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Contaminated Land Assessment. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Habitat Survey. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Processing Agreement. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |

Other Statements (please specify). (Max 500 characters)

Declare – For Application to Planning Authority

I, the applicant/agent certify that this is an application to the planning authority as described in this form. The accompanying Plans/drawings and additional information are provided as a part of this application.

Declaration Name: Mr Frank McCabe

Declaration Date: 23/08/2022

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CONSULTATION RESPONSES

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Internal Memo

Our Ref: VD
Your Ref: 2022/0505/TP
Date: 10/11/2022
From: Environmental Health
To: Development Management

PROPOSAL: Change of use from a cafe (class 3) to a hot food takeaway (sui generis).

LOCATION: 196 Cross Arthurlie Street, Barrhead, East Renfrewshire, G78 1EY

I have reviewed the plans for the above development and would comment as follows:

Environmental Health have reservations regarding the proposal for a ventilation system with a low level discharge compared to the height of the adjacent 3 storey tenement building. Environmental Health recommend objection to the proposal on the grounds that cooking odours from the proposed Chinese takeaway discharged 1m above single storey level is likely to cause odour nuisance to the residents of the 3 storey flats at 192-194 Cross Arthurlie Street.

If, however, a decision is made that planning permission will be granted then the following conditions are recommended:

1. A suitable ventilation and extraction system, which meets the approval of the Environmental Health Section requires to be installed. The ventilation system should not cause nuisance to the occupiers of nearby properties arising from cooking odours/noise. Consideration should be made to the installation of an extraction flue that extends at least 1 metre above the eaves of the building.
2. Noise from the proposed development and any associated equipment shall not exceed residential Noise Rating Curve 25 (as described in BS 8233 2014) between the hours of 2300 and 0700 and NR Curve 35 between 0700 and 2300 hrs, as measured from any neighbouring residential property.
3. Between the hours of 0800 and 2000 the measured noise level emitted from the premises (L_{Aeq} (1hour)) shall not exceed the pre-existing background noise level (L_{A90} (1/2hour)) by more than 4dB (A) when measured in accordance with BS4142:2014 at buildings where people are likely to be affected. Between the hours of 2000 and 0800 the noise emitted from the premises (L_{Aeq} (5mins)) shall not exceed the pre-existing background noise level

(L_{A90} (1/2hour)) by more than 4dB(A) when measured in accordance with BS4142:2014 at buildings where people are likely to be affected.

4. There shall be no construction work or offloading of delivered materials at the development site outwith the hours of 0800 to 1900 Monday to Friday and 0800 to 1300 on Saturday with no working on Sunday or local or national public holidays unless minor and temporary amendments have been otherwise agreed in advance in writing by the planning authority
5. The premises require to comply with –
 - a) The Food Safety Act 1990 and any subordinate legislation made thereunder
 - b) The Food Hygiene (Scotland) Regulations 2006.
 - c) The Health and Safety at Work Etc Act 1974 and any subordinate legislation made thereunder.
 - d) The business operations and any activities in relation to alterations require to comply with The Health and Safety at Work Etc Act 1974 and any subordinate legislation made thereunder.
6. Suitable arrangements should be made for the safe storage and disposal of waste arising from the business activities.
7. The food business requires to register with the Environmental Health Section 28 days prior to commencing business. A Food Safety Registration form may be accessed online or requested directly from the Section, by contacting 0141 577 8487 or emailing environmentalhealth@eastrenfrewshire.gov.uk .
8. It is strongly advised that a grease trap of suitable capacity is installed for the collection of grease before it accesses the waste drainage system. For further information, please contact 0800 0778 778 to speak to Scottish Water Trade Effluent Quality Team.
<https://www.scottishwater.co.uk/en/Business-and-Developers/Byelaws-and-Trade-Effluent/Trade-Effluent>
9. The light emanating from the proposed sign must not cause disturbance to the occupiers of neighbouring dwellinghouses, therefore consideration must be given to the hours of operation and to the intensity and direction of said light. Guidance regarding lighting nuisance is available at www.scotland.gov.uk/Publications/2009/01/23142152/39

Reference should also be made to the Institute of Lighting Professionals Guidance Note 1 on the reduction of obtrusive light.

<https://theilp.org.uk/publication/guidance-note-1-for-the-reduction-of-obtrusive-light-2021/>

I trust that this information is of use. If you wish to discuss any of the matters raised in this memo, please do not hesitate to contact me.

SENIOR ENVIRONMENTAL HEALTH OFFICER

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Roads Service OBSERVATIONS ON PLANNING APPLICATION

Our Ref: 2022/0505/TP
D.C Ref Derek Scott
Contact: Allan Telfer

Planning Application No: 2022/0505/TP **Dated:** 04/11/22 **Received:** 04/11/22
Applicant: Mrs Amy Li
Proposed Development: Change of use from a cafe (class 3) to a hot food takeaway (sui generis).
Location: 196 Cross Arthurlie Street, Barrhead
Type of Consent: Full Planning Permission

RECOMMENDATION

No objections

Proposals Acceptable Y/N or N/A

Proposals Acceptable Y/N or N/A

Proposals Acceptable Y/N or N/A

1. General

(a) General principle of development	Y
(b) Safety Audit Required	N
(c) Traffic Impact Analysis Required	N

2. Existing Roads

(a) Type of Connection (junction / footway crossing)	N/A
(b) Location(s) of Connection(s)	N/A
(c) Pedestrian Provision	N/A
(d) Sightlines	N/A

3. New Roads

(a) Widths	N/A
(b) Pedestrian Provision	N/A
(c) Layout (horizontal/vertical alignment)	N/A
(d) Turning Facilities (Circles / hammerhead)	N/A
(e) Junction Details (locations / radii / sightlines)	N/A
(f) Provision for P.U. services	N/A

4. Servicing & Car Parking

(a) Drainage	N/A
(b) Car Parking Provision	Y
(c) Layout of parking bays / Garages	N/A
(d) Servicing Arrangements	Y

5. Signing

(a) Location	N/A
(b) Illumination	N/A

Ref.	COMMENTS
	<p>General</p> <p>The proposed development is located close to a town and neighbourhood centre and is fronted by the B771.</p> <p>Adjacent roads and footways are adopted.</p> <p>There are no plans for additional parking.</p> <p>Loading and parking restrictions apply on Carlibar Road and B771 adjacent to the application site.</p> <p>Parking / Servicing</p> <p>As the proposed development lies within an established town and neighbourhood centre location, the parking, access and servicing arrangements can be assumed to be part of the town centre supply.</p> <p>Service vehicles for this development, like all traffic, will be subject to national and local traffic restrictions and regulations.</p> <p>As such, this Service has no objection to this application.</p>

Notes for Intimation to Applicant:

(i) Construction Consent (S21)*	Not Required
(ii) Road Bond (S17)*	Not Required
(iii) Road Opening Permit (S56)*	Not Required

* Relevant Section of the Roads (Scotland) Act 1984

Comments Authorised By: John Marley
Principal Traffic Officer

Date: 29.11.2022

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REPORT OF HANDLING

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REPORT OF HANDLING

Reference: 2022/0505/TP

Date Registered: 23rd August 2022

Application Type: Full Planning Permission

This application is a Local Development

Ward: 1 -Barrhead, Liboside And Uplawmoor

Co-ordinates: 249807/:659274

Applicant/Agent:

Applicant:

Mrs Amy Li

196 Cross Arthurlie Street

Barrhead

G78 1EY

Agent:

Frank McCabe

11 Wellesley Drive

East Kilbride

G75 8TR

Proposal:

Change of use from a cafe (class 3) to a hot food takeaway (sui generis).

Location:

196 Cross Arthurlie Street

Barrhead

Glasgow

East Renfrewshire

G78 1EY

CONSULTATIONS/COMMENTS:

East Renfrewshire Council Roads Service

No objection.

East Renfrewshire Council Environmental
Health Service

Indicates objection to the proposal on the grounds that cooking odours from the proposed Chinese takeaway discharged 1m above single storey level is likely to cause odour nuisance to the residents of the 3 storey flats at 192-194 Cross Arthurlie Street.

PUBLICITY: None.

SITE NOTICES: None.

SITE HISTORY:

2021/0991/TP

Change of use from a
cafe (class 3) to a hot
food takeaway (sui
generis).

Refused

16.06.2022

REPRESENTATIONS: No representations have been received.

DEVELOPMENT PLAN & GOVERNMENT GUIDANCE: See Appendix 1

SUPPORTING REPORTS:

Supporting Statements – describes the proposal and outlines measures proposed to mitigate noise and odour. Indicates that the proposed use would provide employment for seven persons.

Various technical specifications and details of the proposed extraction system have also been submitted.

ASSESSMENT:

The application site comprises a single storey commercial unit and lies at the junction of Cross Arthurlie Street with Carlibar Road. It lies within the general urban area of Barrhead as defined within the adopted Local Development Plan 2 (LDP2). The unit is part of a grouping of four commercial premises and is currently in use as a cafe (class 3). The other units in the grouping are: 194 Cross Arthurlie Street, hairdressing salon (class 1); 4 Carlibar Road, currently vacant (class 2); and 6 Carlibar Road, hot food takeaway (sui generis). A tenemented block of flatted dwellings are attached to the south elevation of the unit and have windows on their north elevation that directly overlook the unit and rear yard area. A public house lies opposite, on the other side of Cross Arthurlie Street and Barrhead railway station and its approaches lie adjacent, on the other side of Carlibar Road. A hot food takeaway and a taxi office lie immediately to the south of the tenement block.

Planning permission is sought for a change of use of the premises to allow operation as a hot food takeaway (sui generis). External alterations include the installation of an extract flu on the roof of the unit. Internal alterations include refurbishment to provide, a serving area, food preparation and cooking area, storage area and customer waiting area.

A previous application 2021/0991/TP, for a change of use from a cafe (class 3) to a hot food takeaway (sui generis) at the premises by the same applicant was refused on 16 June 2022 for the following reason:

"The proposal is contrary to Policies D1 and D2 of the adopted East Renfrewshire Local Development Plan 2 as: (i) the proposed hot food takeaway would give rise to a concentration of similar uses, the cumulative impact of which would result in significant odour nuisances, noise and disturbance to the detriment of residential amenity and erode the mixed commercial character of the area; and (ii) the position of the proposed extract flu and its proximity to the adjacent flatted dwellings would give rise to significant odour nuisance affecting the occupants of the closest properties".

The applicant has submitted details of the proposed extraction system in support of this current application.

The application requires to be assessed against Policies D1 and D2 of the adopted East Renfrewshire Local Development Plan 2. Policy D1 requires that all development should not result in a significant loss of character or amenity to the surrounding area. It also states that the amenity of residents, occupants and users of neighbouring existing and new buildings and spaces should not be adversely affected by noise, dust, pollution and smell or poor air quality. Policy D2 states that development will be supported within the general urban area where it does not result in a significant loss of character or amenity and where it complies with other relevant policies of the plan.

It is noted, that whilst the site lies out with the Barrhead town centre as defined within the LDP2, it nevertheless lies at the junction of two busy thoroughfares within an area of mixed commercial and residential use. As such, the proposed change of use could therefore be considered to be

acceptable in principle. It is also accepted that the Council's Roads Service has no objection to the proposal on the grounds of public road safety.

However, the cumulative impact of this proposed hot food outlet and the existing hot food outlets on the character and amenity of the area must also be considered. Within the relatively short mix-use frontage from 168 Cross Arthurlie Street to 6 Carlibar Road, the proposal would result in three hot food takeaways, all within close proximity to the existing flatted dwellings. The cumulative impact of those hot food takeaways would have a significant impact on residential amenity by means of odour nuisance, noise and disturbance. The resulting concentration of similar uses would erode the existing mixed use character of the area.

It is further noted that the proposal includes the installation of an extract flu on the roof of the unit and that this would be located only 4.5 metres from the north gable of the attached tenement block, in close proximity to eight flatted dwellings. It is also noted that six of those flats have windows that open directly over the roof of the unit and are adjacent to and above the proposed extract outlet. Notwithstanding the information submitted detailing the proposed extraction system, the Council's Environmental Health Service has stated it has reservations regarding the proposed ventilation system given its proximity to the adjacent flats. Given the proximity of the nearest dwellings, it is likely that a significant amount of cooking odours would be extracted out into the atmosphere in proximity of the windows. This would be particularly problematic during the summer months when windows are often open for the purposes of ventilation. It is therefore considered that given the proximity of the adjacent flatted dwellings and the location of the extract flu, the proposal would give rise to a significant odour nuisance that would be difficult to control through the use of planning conditions. If the extract flu were to be increased in height to take it above the height of the adjacent windows, it would be in excess of 10 metres high and as such, would be unduly prominent to the detriment of visual amenity.

Given the above, the proposal is considered to be contrary to Policies D1 and D2 of the adopted Local Development Plan 2.

The applicant's comments in the supporting statement on employment generation are noted, however this is not considered to outweigh the terms of the development plan.

In conclusion, the proposal is contrary to the relevant terms of the adopted LDP2. There are no material considerations that indicate the application should not be refused. It is therefore recommended that the application is refused.

PLANNING OBLIGATIONS: None.

RECOMMENDATION: Refuse

REASON FOR REFUSAL:

1. The proposal is contrary to Policies D1 and D2 of the adopted East Renfrewshire Local Development Plan 2 as: (i) the proposed hot food takeaway would give rise to a concentration of similar uses, the cumulative impact of which would result in significant odour nuisances, noise and disturbance to the detriment of residential amenity and erode the mixed commercial character of the area; and (ii) the position of the proposed extract flu and its proximity to the adjacent flatted dwellings would give rise to significant odour nuisance affecting the occupants of the closest properties. .

ADDITIONAL NOTES: None.

ADDED VALUE: None.

BACKGROUND PAPERS:

Further information on background papers can be obtained from Mr Derek Scott on 0141 577 3001.

Ref. No.: 2022/0505/TP
(DESC)

DATE: 7th December 2022

DIRECTOR OF ENVIRONMENT

Reference: 2022/0505/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 2

Policy D1

Placemaking and Design

Proposals for development within the urban and rural areas should be well designed, sympathetic to the local area and demonstrate that the following criteria have been considered, and, where appropriate, met. Proposals will be assessed against the 6 qualities of a successful place as outlined in SPP, Designing Streets and the Placemaking and Design Supplementary Guidance.

1. The development should not result in a significant loss of character or amenity to the surrounding area;
2. The proposal should be appropriate to its location, be high quality and of a size, scale, height, massing and density and layout that is in keeping with the buildings in the locality or appropriate to the existing building and should respect local architecture, building form and design;
3. Respect existing building lines and heights of the locality;
4. Create a well-defined structure of streets, public spaces and buildings;
5. Ensure the use of high quality sustainable and durable materials, colours and finishes that complement existing development and buildings in the locality;
6. Respond to and complement site topography and not impact adversely upon the green belt and landscape character and setting, green networks, features of historic interest, landmarks, vistas, skylines and key gateways. Existing buildings and natural features of suitable quality, should be retained and sensitively integrated into proposals including greenspace, trees and hedgerows;

7. Boundary treatment and landscaping should create a distinctive edge and gateway to the development and reflect local character;
8. Promote permeable and legible places through a clear sustainable movement hierarchy favouring walking, then cycling, public transport, then the private car as forms of movement;
9. Demonstrate connectivity through the site and to surrounding spaces via a network of safe, direct, attractive and coherent walking and cycling routes. These must be suitable for all age groups, and levels of agility and mobility to allow for ease of movement from place to place;
10. Demonstrate that safe and functional pedestrian, cycle and vehicular access, and parking facilities and infrastructure, including for disabled and visitor parking, is provided in accordance with the Council's Roads Development Guide. Where appropriate, proposals will be required to provide secure and accessible shelters, lockers, showers and seating and be designed to meet the needs of all users. Cycle parking and facilities should be located in close proximity to the entrances of all buildings to provide convenience and choice for users;
11. Incorporate integrated and enhance existing green infrastructure assets, such as landscaping, trees and greenspace, water management and SUDs including access and prioritise links to the wider green network as an integral part of the design process from the outset, in accordance with Policies D4 - D6. New green infrastructure must be designed to protect and enhance the habitat and biodiversity of the area and demonstrate a net gain;
12. Unless justified, there will be a general presumption against landraising. Where there is a justifiable reason for landraising, proposals must have regard to the scale and visual impact of the resultant changes to the local landscape and amenity. Proposals that adversely impact upon the visual and physical connections through the site and to the surrounding areas will be resisted;
13. Backland development should be avoided;
14. Provide safe, secure and welcoming places with buildings and spaces, including open spaces, play areas and landscaping, designed and positioned to reduce the scope for anti-social behaviour and fear of crime, improve natural surveillance, passive overlooking, security and street activity;
15. The amenity of residents, occupants and users of neighbouring existing and new buildings and spaces 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 Guidance;
16. Development should minimise the extent of light pollution caused by street and communal lighting and any floodlighting associated with the proposal;
17. The amenity of residents, occupants and users of neighbouring existing and new buildings and spaces should not be adversely affected by noise, dust, pollution and smell or poor air quality;
18. Ensure buildings and spaces are future proof designed to be easily adaptable and flexible to respond to changing social, environmental, technological, digital and economic conditions;
19. Incorporate provision for the recycling, storage, collection and composting of waste materials; and
20. Incorporate the use of sustainable design and construction methods and materials in the layout and design to support a low carbon economy.

Proposals must meet the requirements of any development brief prepared by the Council for an allocated site.

Further detailed guidance and information will be set out in the Placemaking and Design Supplementary Guidance, Householder Design Supplementary Guidance and the Daylight and Sunlight Design Supplementary Guidance.

Policy D2:

General Urban Areas

Development will be supported within the general urban areas, shown on the Proposals Map. Proposals will be required to demonstrate that the proposed development is appropriate in terms of its location and scale and will not result in a significant loss of character or amenity to the surrounding area. Proposals must also comply with appropriate policies of the Proposed Plan.

GOVERNMENT GUIDANCE: None

Finalised 07/12/2022 GMcC

DECISION NOTICE

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**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
(AS AMENDED BY THE PLANNING ETC (SCOTLAND) ACT 2006)
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE)
(SCOTLAND) REGULATIONS 2013**

REFUSAL OF PLANNING PERMISSION

Ref. No. **2022/0505/TP**

Applicant:

Mrs Amy Li
196 Cross Arthurlie Street
Barrhead
G78 1EY

Agent:

Frank McCabe
11 Wellesley Drive
East Kilbride
G75 8TR

With reference to your application which was registered on 23rd August 2022 for planning permission under the abovementioned Act and Regulations for the following development, viz:-

Change of use from a cafe (class 3) to a hot food takeaway (sui generis).

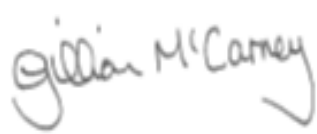
at: 196 Cross Arthurlie Street Barrhead Glasgow East Renfrewshire G78 1EY

the Council in exercise of their powers under the abovementioned Act and Regulations hereby refuse planning permission for the said development.

The reason(s) for the Council's decision are:-

1. The proposal is contrary to Policies D1 and D2 of the adopted East Renfrewshire Local Development Plan 2 as: (i) the proposed hot food takeaway would give rise to a concentration of similar uses, the cumulative impact of which would result in significant odour nuisances, noise and disturbance to the detriment of residential amenity and erode the mixed commercial character of the area; and (ii) the position of the proposed extract flu and its proximity to the adjacent flatted dwellings would give rise to significant odour nuisance affecting the occupants of the closest properties. .

Dated 7th December 2022



Head of Environment
(Chief Planning Officer)
East Renfrewshire Council
2 Spiersbridge Way,
Spiersbridge Business Park,
Thornliebank,
G46 8NG
Tel. No. 0141 577 3001

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The following drawings/plans have been refused

Plan Description	Drawing Number	Drawing Version	Date on Plan
Location Plan	1		
Plans Proposed	2		

GUIDANCE NOTE FOR REFUSAL OF LOCAL DEVELOPMENTS DETERMINED UNDER DELEGATED POWERS

REVIEW BY EAST RENFREWSHIRE COUNCIL'S LOCAL REVIEW BODY

1. If the applicant is aggrieved by a decision to refuse permission (or by an 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 within three months from the date of this notice. A Notice of Review can be submitted online at www.eplanning.scotland.gov.uk. Please note that beyond the content of the appeal or review forms, **you cannot normally raise new matters** in support of an appeal or review, unless you can demonstrate that the matter could not have been raised before, or that its not being raised before is a consequence of exceptional circumstances. Following submission of the notice, you will receive an acknowledgement letter informing you of the date of the Local Review Body meeting or whether further information is required.

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 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 owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

CONTACT DETAILS

**East Renfrewshire Council
Development Management Service
2 Spiersbridge Way,
Spiersbridge Business Park,
Thornliebank,
G46 8NG**

**General Inquiry lines 0141 577 3001
Email planning@eastrenfrewshire.gov.uk**

NOTICE OF REVIEW

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2 Spiersbridge Way Thornliebank G46 8NG Tel: 0141 577 3001 Email: planning@eastrenfrewshire.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100595965-002

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:	Building Consultant		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Frank	Building Name:	
Last Name: *	McCabe	Building Number:	11
Telephone Number: *	01355232016	Address 1 (Street): *	Wellesley Drive
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	East Kilbride
Fax Number:		Country: *	UK
		Postcode: *	G75 8TR
Email Address: *	frank.mccabe@talktalk.net		

Is the applicant an individual or an organisation/corporate entity? *

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mrs"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text" value="Amy"/>	Building Number:	<input type="text" value="196"/>
Last Name: *	<input type="text" value="Li"/>	Address 1 (Street): *	<input type="text" value="Cross Arthurlie Street"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Barrhead"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="UK"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="G78 1EY"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="frank.mccabe@talktalk.net"/>		

Site Address Details

Planning Authority:	<input type="text" value="East Renfrewshire Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="196 CROSS ARTHURLIE STREET"/>
Address 2:	<input type="text" value="BARRHEAD"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="GLASGOW"/>
Post Code:	<input type="text" value="G78 1EY"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="659274"/>	Easting	<input type="text" value="249807"/>
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Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

Change of use from class 3 to class 3 Sui Generis for shop at 196 Cross Athurlie Street Barrhead G71 1EY Planning Permission ref 2022/0505/TP

Type of Application

What type of application did you submit to the planning authority? *

- Application for planning permission (including householder application but excluding application to work minerals).
- Application for planning permission in principle.
- Further application.
- Application for approval of matters specified in conditions.

What does your review relate to? *

- Refusal Notice.
- Grant of permission with Conditions imposed.
- No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

See statement dated 24 Jan 2023 and statement in support of application at time of making application.

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? *

Yes No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

See letter of 24 Jan 2023.

Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

2022/0505/TP23 August 2022

What date was the application submitted to the planning authority? *

23/08/2022

What date was the decision issued by the planning authority? *

08/12/2022

Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. *

Yes No

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may select more than one option if you wish the review to be a combination of procedures.

Please select a further procedure *

Holding one or more hearing sessions on specific matters

Please explain in detail in your own words why this further procedure is required and the matters set out in your statement of appeal it will deal with? (Max 500 characters)

my client would like to be present at any review.

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? *

Yes No

Is it possible for the site to be accessed safely and without barriers to entry? *

Yes No

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. *

Yes No

Have you provided the date and reference number of the application which is the subject of this review? *

Yes No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

Yes No N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

Yes No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

Yes No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr Frank McCabe

Declaration Date: 24/01/2023

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Frank McCabe
Building Consultant

11 Wellesley Drive

East Kilbride

G75 8TR

Phone 01355 232016

E-mail frank.mccabe@talktalk.net

24 Jan 2023

Review by East Renfrewshire Council's Local Review Body

Ref refusal 8 Dec 2022 Application Number 2022/0505/TP, 196 Cross Arthurlie Street
Barrhead G78 1EY

We refer to the above and would like to appeal the decision to the Local Review Body.

At the time of this submission we were fairly treated with courtesy and professionalism by the allocated Planning Officer Mr Derek Scott. We were however disappointed by the refusal and would ask for a review. Since the refusal, Mr Scott has been helpful in providing additional information which we requested. The application was to change use from class 3 to sui generis.

We would ask the Review Body to consider the points listed below.

1. The Planning Officer is restricted in making the decision under Delegated Powers by compliance with Policies D1 and D2 of the Local Development Plan. It is our hope that the Review Body may allow slight variance to the Plan in consideration of the particular circumstances.
2. In a survey of the existing retail premises approximately 400 metres from the proposal there was found along Paisley Road as far as the British Legion and along Cross Arthurlie Street as far as Robertson Street twenty eight retail units with a further three units, the proposal and two others adjacent on Carlibar Road. Of these thirty one units there are 4 empty (12.5 %) and 4 hot food outlets including the proposed (12.5%) The proposal would reduce the empty units to 3 empty (10%) maintaining 4 hot food outlets.
3. Asian style cooking is not regarded as high odour producing hot food preparation unlike for example fish and chip cooking. Despite this we have proposed a high odour control system comprising grease filters, electrostatic precipitators, carbon filters, variable speed extract fan and high velocity flue discharge terminal. We have also specified the system should be designed and installed by a competent installer. Additionally the installer is asked to design a maintenance schedule for the system. We had hoped this would allay the concerns of the Environmental Health Service.
4. It is our belief that the proposal will not impact to any extent on the background noise as there are adjacent busy roads with a public bus service, a traffic light controlled junction adjacent and a railway within 50 metres of the application site. In addition it is suggested drivers calling to pick up hot food are encouraged to use the free public car park within 50 metres of the shop.

5. Neighbour notification made to the residents of the adjacent flats raised no objections to the proposal. We also believe no other objections were raised
6. The persons proposed to use the shop are residents in East Renfrewshire and have experience in operating an Asian type takeaway. It is proposed employment will be provided for seven persons on full and part time engagement.
7. My client would be happy to change the position of the flue discharge to eight metres from the nearest building instead of the existing four and a half metres. We would also accept a monitoring period for odour discharge complaints of one year should Planning Permission be granted. Additionally should another type of cooking be envisaged then a return to the Planning Authorities must be made.

In conclusion we would ask you to refer to the statement supporting the application submitted at the time of the application for Planning Permission.

Frank McCabe
Agent