

Report

Report to:	Cambuslang/Rutherglen Area Committee
Date of Meeting:	23 June 2009
Report by:	Executive Director (Enterprise Resources)

Application No	CR/09/0091
Planning Proposal:	Change of Use of Shop Unit (Class 1) to Hot Food Shop (Sui Generis) and Installation of Shop Front and External Flue

1 Summary Application Information

- Application Type : Detailed Planning Application
- Applicant : Zulfiqar Ali
- Location : 56 Main Street
Rutherglen

2 Recommendation(s)

2.1 The Committee is asked to approve the following recommendation(s):-

- (1) Grant Detailed Planning Permission – Subject to Conditions (based on the conditions attached).

2.2 Other Actions/Notes

The Area Committee has delegated powers to determine this application.

3 Other Information

- ◆ Applicant's Agent: David Jarvie
- ◆ Council Area/Ward: 12 Rutherglen Central and North
- ◆ Policy Reference(s): **South Lanarkshire Local Plan Adopted 2009**
Policy COM1 – Town Centre Land Use Policy;
Policy ENV4 - Protection of the Natural and Built Environment Policy;
Policy ENV25 - Conservation Areas Policy.
Policy DM1 - Development Management Policy;
Policy DM10 - Hot Food Shops Policy;

◆ Representation(s):

- | | | |
|---|---|--|
| ▶ | 1 | Objection Letter and 1 Petition Containing 13 Signatures |
| ▶ | 1 | Petition of Support Containing 52 Signatures |
| ▶ | 0 | Comments Letters |

◆ Consultation(s):

Environmental Services

Planning & Building Standards (Conservation Officer)

Roads and Transportation Services (North Division)

Planning Application Report

1 Application Site

- 1.1 The application site lies at 56 Main Street, Rutherglen which is an existing shop unit at the western end of Main Street. The property is currently utilised as a fruit shop which has an open display onto the street. The property which is single storey is bounded to the east and south by the Mecca Bingo hall, to the west by a close entry and another shop unit and to the north by the footpath alongside Main Street. From its design and location it would appear that the unit which forms the application site previously formed part of the building which is now used as a bingo hall, however it is clearly an independent unit in its own right.

2 Proposal(s)

- 2.1 The applicant has applied for planning permission to change the use of the premises from Class 1 Retail (fruit shop) to a Sui Generis Hot Food takeaway shop, to re-instate the shop front and to erect an external flue.

3 Background

3.1 Local Plan Status

- 3.1 Within the adopted South Lanarkshire Local Plan the site lies with an area covered by the Town Centre Land Use Policy COM1. This policy seeks to ensure the vitality and viability of the Town Centre by allowing a mixture of uses compatible with their role as a commercial and community focal point. Examples of compatible uses are shops, offices, housing, pubs and restaurants, leisure facilities and community, health and social facilities.

- 3.2 As the site lies within the Rutherglen Conservation Area it is also covered by Policy ENV4 - Protection of the Natural and Built Environment and Policy ENV25 - Conservation Area which seek to ensure that any proposed development will preserve and enhance the character of this important area.

- 3.3 In terms of the detailed assessment of the proposal Policy DM1 - Development Management Policy is applicable. This policy seeks to ensure that any proposed development will not have an adverse impact on the amenity of the area. In addition to this policy as the proposed use is for a hot food take-away Policy DM10 - Hot Food Shop is also applicable which identifies various criteria for the acceptability of this use.

4 Consultation(s)

- 4.1 Roads and Transportation Services – had no objections to the proposed development as there is adequate public car parking within the town centre.

Response: Noted.

- 4.2 Environmental Services – had no objections to the proposed development subject to the inclusion of standard advisory notes regarding noise/vibration, non-domestic food preparation and health and safety.

Response: Noted and the appropriate advisory notes will be attached to any consent granted.

- 4.3 Planning and Building Standards (HQ) – Conservation Officer – it is noted that there is no shop front to the existing unit. Therefore the opportunity should be taken to re-instate a traditional shop front within the Conservation Area. Whilst the external flue should not be visible as it is positioned relatively far back from the front elevation and hidden by the façade it should be finished to give a black appearance.

Response: If planning permission is granted, the opportunity will be taken to ensure that through the use of appropriate planning conditions a suitable shop front is re-instated and external flue erected. No consent will be given for any proposed

signage which would require a separate planning consent in its own right and a condition to this effect will also be attached to any consent granted.

5 Representation(s)

5.1 Statutory neighbour notification was carried out and the planning application was advertised as an application requiring advertisement due to the scale or nature of operations and as a development affecting the character or appearance of a Conservation Area. One letter of objection and a petition objecting to the development containing 13 signatures was received. In addition to these representations a petition of support for the proposal containing 52 signatures was also received. The petition of support was submitted on the basis that the applicant was going to introduce healthier food in the area.

5.2 The grounds of objection submitted are summarised below:

(a) **There are already 9 hot food shops at this end of Main Street and allowing the proposed development will represent an overprovision of this use in the locality. In addition the existing shops are all struggling to survive in the present economic climate and the provision of a further unit will exacerbate the problem.**

Response: This would be the only hot food shop on the south side of the western end of Main Street which is a broad dual carriageway at this location. As such it is not considered to be over provision in the immediate locality. Notwithstanding this it is well established that market competition is not a material planning consideration or an acceptable reason for refusal of consent.

(b) **People wanting take-away food will park on Main Street which has pedestrian crossing “zig-zag” lines at this location.**

Response: After consultation Roads and Transportation Services had no objections to the proposed development.

(c) **The proposed development will result in an increase in litter, discarded food and other anti-social behaviour in the immediate locality to the detriment of the amenity of the adjoining properties.**

Response: The proposed use is considered to be appropriate for a town centre location which is well served with litter bins and refuse collection. Any anti-social behaviour arising from the use would be the responsibility of the police. In any event it would be in the applicant's commercial interest to keep the area clean, tidy and free from anti-social behaviour.

5.3 These letters have been copied and are available for inspection in the usual manner.

6 Assessment and Conclusions

6.1 The applicant has applied for planning permission to change the use of premises at 56 Main Street, Rutherglen from Class 1 Retail (fruit shop) to a Sui Generis Hot Food takeaway shop, to re-instate the shop front and to erect an external flue. In considering the application the main determining issues are the extent to which the proposal complies with the adopted South Lanarkshire Local Plan, its impact on the Conservation Area and its impact on the amenity of any adjoining residents.

6.2 In terms of the adopted South Lanarkshire Local Plan the proposed development must comply with the terms of the Town Centre Land Use Policy COM1, the Development Management Policy DM1 and the Hot Food Shop Policy DM10. It is also noted that the application site lies within the Rutherglen Conservation Area and as such the local plan Conservation Area Policies ENV4 and ENV25 also apply.

- 6.3 Policy COM1 states that “Within town centres such as Rutherglen the Council will allow a mixture of uses compatible with their role as a commercial and community focal point. Examples of compatible uses are shops, offices, housing, pubs and restaurants, leisure facilities and community, health and social facilities”. It is therefore concluded that as the proposed hot food shop falls within these parameters the principle of the use complies with this land use policy.
- 6.4 In terms of impact on the Rutherglen Conservation Area the proposed re-instatement of the shop front provides the opportunity to improve the character and appearance of the area by providing a development which takes full account of its location within the Conservation Area. At the present time the applicant has provided limited details of the proposed shop front however through the use of conditions it is believed that an acceptable solution can be achieved. If planning permission is granted an appropriate condition will therefore, be imposed, to control this aspect of the development.
- 6.5 In respect of the proposed flue given it will be largely screened and subject to it being given a black appearance, the Council’s Conservation Officer is also satisfied that this element would be acceptable and would not be detrimental to the character or amenity of the Conservation Area. Again, if planning permission is granted an appropriate condition will be imposed to ensure this work is carried out.
- 6.6 Policy DM1 seeks to ensure that proposed developments take account of the local context and built form and should be compatible with adjacent buildings and surrounding streetscape in terms of scale, massing, design, external materials and impact on amenity. In particular any proposed development should have no significant adverse impact on the local environment and enhance its quality and appearance. For the reasons detailed in paragraphs 6.4 and 6.5 it is considered that subject to the conditions attached the proposed development would comply with these criteria and would not have a significant adverse impact on the amenity of the local area.
- 6.7 In addition to the above as the development relates to a hot food shop the proposal requires to be assessed under Policy DM10 of the adopted local plan which states that within commercial areas identified in the local plan, such as Rutherglen Town Centre, there will be a general presumption **in favour** of granting planning permission for hot food shops subject to compliance with all of the following criteria:
- a. An adequate level of shopping provision is maintained and the viability of the centre and its main retail function is not adversely affected.
 - b. A satisfactory balance is retained between retailing and non-retailing uses;
 - c. Within primary shopping or core retail areas the proposal does not result in a concentration of non-retail frontages which would significantly detract from the shopping character of the street.
 - d. The proposal does not have a significant impact in terms of environmental, traffic, public safety and amenity considerations (e.g. noise, disturbance or smell), particularly in relation to residential properties above, adjacent or near to the site.
 - e. The applicant shall demonstrate that they have control to implement any ventilation system that may be required. This shall have prior approval in writing by the Council and be installed to the Council’s satisfaction.
- 6.8 In terms of criteria a and b it is considered that the change of use will not adversely affect the town centre’s main retail function or the balance between retail and non-retail uses. The site does not lie within a primary or core retail area and thus criteria c does not apply. As mentioned above it is considered that in the context of the town centre the proposed use will not have a significant impact in terms of environmental,

traffic, public safety or amenity considerations and thus accords with criteria d, especially as there are no residential properties above or adjacent to the application site. Finally as a single storey building the applicant will have the control to implement a ventilation system without any other ownership issues. Furthermore after consultation Environmental Services had no objections to the proposed ventilation system. It is therefore considered that the proposal complies with all the relevant criteria and thus accords with Policy DM10 of the adopted local plan.

- 6.9 It is therefore concluded that the proposed development accords with all the relevant policies of the adopted local plan.
- 6.10 In terms of the representations received, issues have been raised in respect of parking, litter, anti-social behaviour and overprovision / competition. As mentioned above in section 3 it is considered that while these concerns are noted none of which would justify the refusal of this planning application.
- 6.11 In light of the above, it is recommended that planning consent be granted for the proposal subject to the conditions attached.

7 Reasons for Decision

- 7.1 The proposed development accords with Policies COM1, ENV4, ENV25, DM1 and DM10 of the adopted South Lanarkshire Local Plan and will not have a significant adverse impact on the amenity of the surrounding area or the character of Rutherglen Conservation Area.

Iain Urquhart

Executive Director (Enterprise Resources)

15 June 2009

Previous References

- ◆ None.

List of Background Papers

- ▶ Application Form
- ▶ Application Plans
- ▶ Neighbour Notification Certificate dated 19 April 2009
- ▶ South Lanarkshire Local Plan (adopted) 2009

▶ Consultations

Roads and Transportation Services (North Division)	05/05/2009
Environmental Services	06/05/2009
Planning and Building Standards (HQ) Conservation Officer	15/05/2009

▶ Representations

Representation from : Fiona Niven, Fionas Styling Studio
48 Main Street
Rutherglen G73 2HY, DATED 27/04/2009

Representation from : Shahid Hanif, Faisal 3 in 1
59 Main Street
Rutherglen, DATED 29/04/2009 (Petition of Objection
Containing 13 signatures)

Representation from : Zulfiqar Ali
56 Main Street
Rutherglen, DATED 27/05/2009 (Petition of Support
Containing 52 Signatures)

Contact for Further Information

If you would like to inspect the background papers or want further information, please contact:-

Bill Kerr, Planning Officer, Royal Burgh House, 380 King Street, Rutherglen G73 1DQ
Ext 5141 (Tel :0141 613 5141)
E-mail: Enterprise.cam-ruth@southlanarkshire.gov.uk

Detailed Planning Application

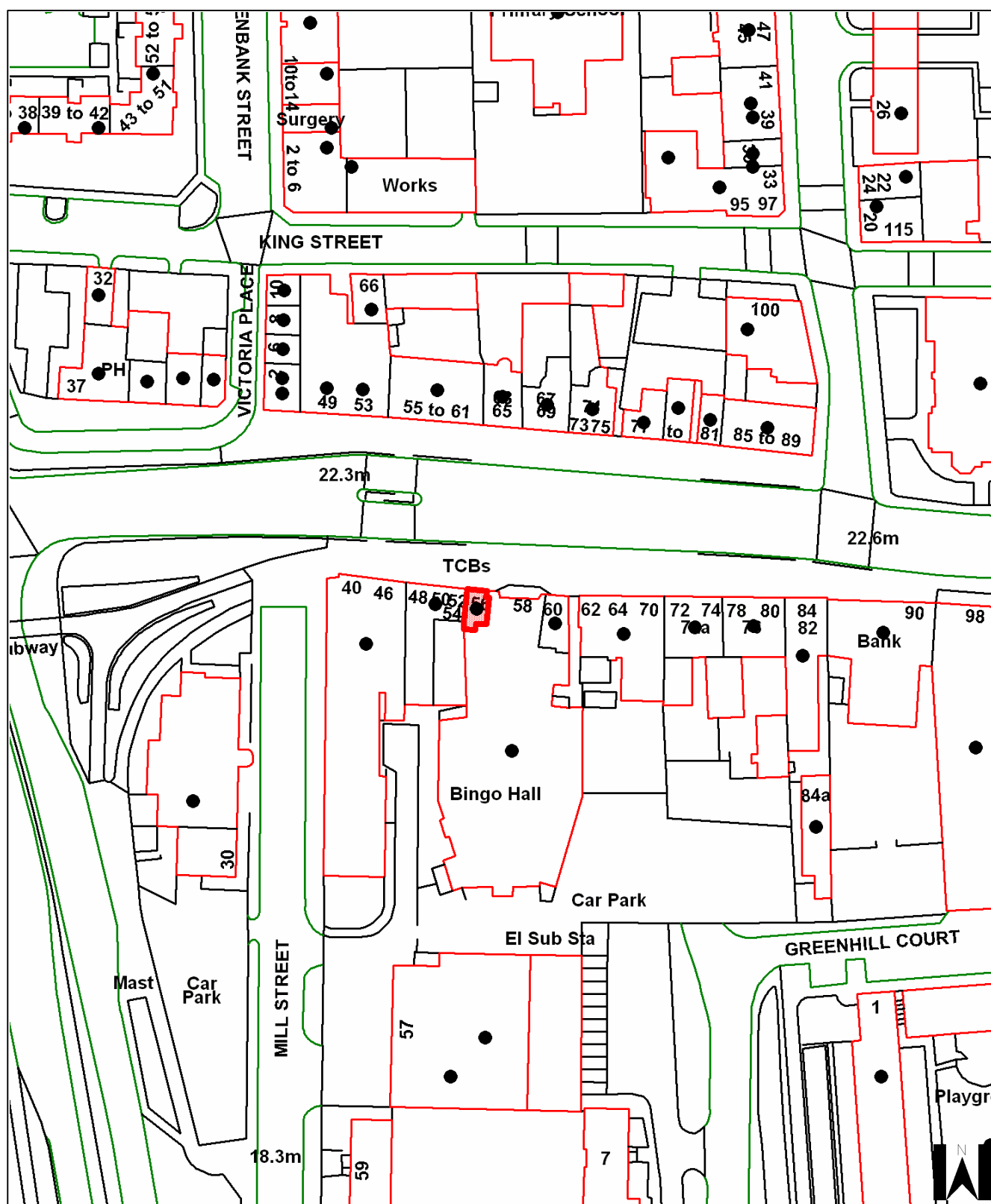
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CONDITIONS

- 1 That the development hereby permitted shall be started within five years of the date of this permission.
- 2 No consent is hereby granted for any of the external finishes, shop front design or signage shown on the approved plans.
- 3 That before development starts full details of the shop front design including external finishes shall be submitted to and approved in writing by the Council as Planning Authority.
- 4 The external flue hereby approved shall be finished to give a black appearance to the satisfaction of the Council as Planning Authority

REASONS

- 1 To accord with the provisions of the Town and Country Planning (Scotland) Act 1997.
- 2 These details have not been submitted or approved.
- 3 These details have not been submitted or approved.
- 4 To safeguard the amenity of the area.



For information only

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