

	<h1>Report</h1>	<b>Agenda Item</b>  <h1>11</h1>
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Report to: **Planning Committee**  
 Date of Meeting: **1 December 2009**  
 Report by: **Executive Director (Enterprise Resources)**

Application No      EK/09/0359  
 Planning Proposal:    Change of use from Carpet Shop (Class 1) to Sandwich Takeaway Shop and Restaurant (Class 3)

## 1 Summary Application Information

- Application Type :      Detailed Planning Application
- Applicant :              WJD Property
- Location :                9 Hunter Street  
East Kilbride  
Glasgow  
G74 4LZ

## 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 Conditions Attached)

### 2.2 Other Actions/Notes

The Planning Committee has delegated powers to determine this application.

## 3 Other Information

- ◆ Applicant's Agent:      N/A
- ◆ Council Area/Ward:      08 East Kilbride Central North
- ◆ Policy Reference(s):      **South Lanarkshire Local Plan (adopted 2009)**  
Policy DM1 – Development Management  
Policy COM6 -Village/Neighbourhood Centres  
Policy ENV25 – Conservation Areas

- ◆ Representation(s):  
  - ▶ 7      Objection Letters

- ◆ Consultation(s):

Environmental Services

Roads and Transportation Services (East Kilbride)

East Mains Community Council

## Planning Application Report

### 1 Application Site

- 1.1 The application site is a vacant shop unit within the East Kilbride Village Conservation Area and forms part of an established two storey building with a flatted dwelling above which is accessed from Cross Wynd. A baker shop is located immediately to the east of the application site, a tanning salon is situated to the west, to the south lies an existing car park and to the north, Hunter Street. A Chinese restaurant and tattoo parlour are located opposite the unit. A service door exists to the rear onto the car park.

### 2.0 Proposal(s)

- 2.1 The applicant proposes to change the use of the unit from a Class 1 carpet shop unit to a sandwich shop with Class 3 restaurant/seating area.

### 2 Background

#### 3.1 Local Plan Status

The application site lies within the commercial area of East Kilbride Village as defined in the Adopted South Lanarkshire Local Plan. It also lies within The Village Conservation Area. In this respect Policies DM1 – Development Management, COM6 - Village/Neighbourhood Centres and ENV25 – Conservation Areas all apply in this instance.

### 4 Consultation(s)

- 4.1 **Environmental Services** - have raised no objections, subject to the imposition of conditions relating to ventilation and noise.

**Response:** Noted, appropriate conditions can be imposed on any consent issued.

- 4.2 **Roads and Transportation Services (East Kilbride)** – have no objections to the proposal due to the existence of car parking provision within the Village and the availability of public transport links.

**Response:** Noted.

- 4.3 **East Mains Community Council** – object to the application as the proposals are in direct contravention of Policy COM6 of the South Lanarkshire Local Plan.

**Response:** It is acknowledged that the proposal does not comply with Policy COM6 as the unit has not been marketed for Class 1 use for a period of at least 12 months and the representation of retail units within the Village is currently below 60%. However, it is considered that due to current market and economic conditions this proposal should be supported in this instance to help ensure the continued operation of East Kilbride Village as a successful commercial centre. An element of the proposal will still remain in Class 1 use in that it relates to a sandwich takeaway.

### 5 Representation(s)

- 5.1 Following neighbour notification and advertisement of the application, seven letters of representation have been received. The points raised are summarised as follows:

- a) **Given that the percentage of Class 1 retail units within the Village is below 60%, the premises would have to have been unsuccessfully advertised for let for a period of at least 12 months in order to comply with Policy COM6 of the Adopted South Lanarkshire Local Plan. As such, the proposal is contrary to Policy COM6.**

**Response:** It is acknowledged that the proposal does not comply with Policy COM6 as the unit has not been marketed for Class 1 use for a period of at least 12 months and the representation of retail units within the Village is currently below 60%.

However, it is considered that due to current market and economic conditions this proposal should be supported in this instance to help ensure the continued operation of East Kilbride Village as a successful commercial centre. An element of the proposal will still remain in Class 1 use in that it relates to a sandwich takeaway.

- b) **The proposal will lead to an added concentration of non-retail frontages in the village and thus the vitality and viability of the retail centre will be diminished. There is a lack of daily footfall during normal working hours.**

**Response:** While the proposal will result in one additional non-retail frontage being added on Hunter Street, it is considered that, given that the unit is currently vacant, there would be no significant impact on the vitality and viability of the Village as a retail centre. As mentioned above, an element of the proposal will still remain in Class 1 use in that it relates to a sandwich takeaway.

- c) **The objector seeks to ensure that the policy requirements that have been met correctly by them are also set for the other applicants in the Village, including this current proposal. The baker adjacent had to prove that the majority percentage of their turnover was generated by the Retail Bakery Counter and not the associated tea room. If this proposed application proceeds then Bradfords will also be entitled to a change of use to Class 3.**

**Response:** In planning terms, each application is assessed on its own merits. In this instance the proposal has been assessed and the view has been taken that, while the proposal fails to comply with Policy COM6, it does comply with all other relevant criteria.

- d) **The Bakers' unit adjacent has experienced drainage issues and has been advised that the current drainage system is inadequate. Any toilets and sinks proposed by in this instance could exacerbate the situation.**

**Response:** This is a matter which will be dealt with by the Building Warrant application.

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

## **6 Assessment and Conclusions**

- 6.1 The determining issue that requires to be addressed in respect of this application is compliance with local plan policy as set out in the Adopted South Lanarkshire Local Plan 2009 and any other material considerations.
- 6.2 Policy DM1 states that all planning applications will be required to 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 this instance it is considered that as the proposal involves no alterations to the existing to the unit it is compatible with surrounding streetscape and that, given the mix of uses in the vicinity of the site and the commercial nature of the area in general, the development should have minimal impact on surrounding amenity. A condition has been attached to ensure that the unit is closed at 11pm every night to protect local amenity.
- 6.3 Policy ENV25 details requirements for planning applications for sites situated within Conservation Areas. The policy states that the Council shall presume against all development that fails to ensure that the character and appearance of the conservation area would be preserved or enhanced. Design, materials, scale and siting of any development should be appropriate to the character of the Conservation Area and its setting. In this instance the applicants do not propose any alterations to the unit and as such the proposal is considered to comply with Policy ENV25.

- 6.4 Policy COM6, concerning village/neighbourhood centres, states that proposals for changes of use in these areas will be assessed with regard to the appropriate mix of uses, retaining a retail element to serve the needs of the local area and with regard to the amenity of the surrounding area. Within East Kilbride Village, the policy states that proposals for changes of use will not be supported if the representation of units is below 60%, unless it can be demonstrated that the premises have been marketed unsuccessfully for a period of one year.
- 6.5 It is considered that the development as proposed would assist in terms of the provision of an appropriate mix of uses within the commercial area and would not adversely affect the retail service to the local area. However, it is acknowledged that the representation of retail units within the Village is currently below 60% and the proposal is, therefore, contrary to Policy COM6.
- 6.6 It has been noted, however, that there are a number of units within the Village which are currently vacant. This number of vacant units is most likely a direct result of the recent economic downturn and that situation is considered to be detrimental to the vitality and function of the Village. Although the terms of Policy COM6 are intended to assist in the provision of essential retail services to the local area, given that there remains a wide variety of important retail services in the area and given current economic circumstances, it is considered that in this case it would be more beneficial for the unit to be occupied. It should be noted that an element of the proposal contains a class 1 sandwich shop use.
- 6.7 In summary, although the proposed development does not comply with local plan policy, specifically in relation to Policy COM6 of the Adopted South Lanarkshire Local Plan, it is considered that in this instance it would be more beneficial to the Village as a whole for the unit to be occupied at this time rather than for it to continue to lie vacant, potentially for a year or more. Additionally, the proposal is deemed to comply with all other relevant South Lanarkshire Local Plan criteria including Policies DM1 and ENV25, subject to the attached conditions.
- 6.8 The proposal was advertised as Development Potentially Contrary to Development Plan in the East Kilbride News as it constitutes a change of use away from Class 1 within an area designated as a Village/Neighbourhood Centre in the Adopted South Lanarkshire Local Plan. The proposal has been fully assessed and I would recommend that planning permission is granted contrary to the adopted local plan for the following reasons.
1. The proposal complies with Policies DM1 and ENV25 of the Adopted South Lanarkshire Local Plan.
  2. The proposal is not considered to adversely affect the amenity or vitality of the surrounding area.
  3. There are no adverse infrastructure issues.

## **7 Reasons for Decision**

- 7.1 The proposal is an acceptable departure from the development plan for the reasons stated in paragraph 6.8 above.

**Colin McDowall**  
**Executive Director (Enterprise Resources)**

23 November 2009

**Previous References**

- ◆ None

**List of Background Papers**

- ▶ Application Form
- ▶ Application Plans
- ▶ South Lanarkshire Local Plan 2009
- ▶ Consultations
  - Roads and Transportation Services (East Kilbride) 29/10/2009
  - Environmental Services 22/10/2009
  - East Mains Community Council 26/10/2009
- ▶ Representations
  - Representation from : Claire McGoldrick, Bradfords, 70 Speirsbridge Road, Thornliebank, Glasgow, G46 7SN, DATED 04/11/2009
  - Representation from : Mrs J Poodle, 3 Markethill Road, East Mains, East Kilbride, DATED 10/11/2009
  - Representation from : C McCartney, 4 Old Coach Road, East Mains, East Kilbride, DATED 05/11/2009
  - Representation from : W Arthur, 11 Theshold, Whitehills, East Kilbride, DATED 03/11/2009
  - Representation from : J Ingram, 61 Old Mill Road, East Mains, East Kilbride, DATED 03/11/2009
  - Representation from : James A McWilliam, 45 Avondale Avenue, East Kilbride, G74 1NS, DATED 02/11/2009
  - Representation from : E Coogans, 10 St Bryde Lane, East Mains, East Kilbride, DATED 11/11/2009

**Contact for Further Information**

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

Iain Morton, Planning Officer, Civic Centre  
Ext 6314, (Tel :01355 806314 )  
E-mail: Enterprise.ek@southlanarkshire.gov.uk

## **CONDITIONS**

- 1 The consent shall be carried out strictly in accordance with drawings:  
  
Location Plan  
Existing Floor Plan  
Proposed Floor Plan
- 2 The development hereby permitted shall be started within three years of the date of this permission.
- 3 That the development shall be carried out strictly in accordance with the plans hereby approved and no change to the design or external finishes shall take place without the prior written approval of the Council as Planning Authority.
- 4 That prior to the development hereby approved commencing, the proprietor of the premises shall supply receptacles for discarded food containers and wrappings to the satisfaction of the Council as Planning Authority.
- 5 Before the development is brought into use, the proposed method of ventilation shall be submitted to and approved in writing by the Council as Planning Authority. The sandwich takeaway shop and restaurant shall not be brought into use until the ventilation systems are operational in accordance with the approved details. All odours, fumes and vapours generated on the premises shall be controlled by best practicable means to prevent them causing nuisance to occupants of nearby dwellings or premises.  
The ventilation system shall:
  - a) Incorporate systems to reduce the emission of odours and pollutants and shall thereafter be maintained as necessary.
  - b) Be constructed by employing best practical means to minimise noise and vibration transmission via plant and the building structure.
  - c) Noise associated with the business shall not give rise to a noise level, assessed with the windows closed, within any dwelling or noise sensitive building, in excess of the equivalent to Noise Rating Curve 35, between 07:00 and 20:00 hours, and Noise Rating Curve 25 at all other times.
- 6 That prior to the development hereby approved commencing, details of the proposed seating plan shall be submitted to and approved in writing by the Council as Planning Authority.
- 7 The use hereby permitted shall not operate after 11pm Monday to Sunday.

## **REASONS**

- 1 For the avoidance of doubt and to specify the drawings upon which the decision was made.
- 2 To comply with section 58 of the Town and Country Planning (Scotland) Act 1997, as amended.
- 3 In the interests of amenity and in order to retain effective planning control.
- 4 To safeguard the amenity of the area.

- 5 To minimise nuisance to occupants of nearby buildings as a result of cooking smells, vapours, airborne pollutants or noise from the premises.
- 6 In the interests of amenity and in order to retain effective planning control.
- 7 In the interests of amenity and in order to retain effective planning control.

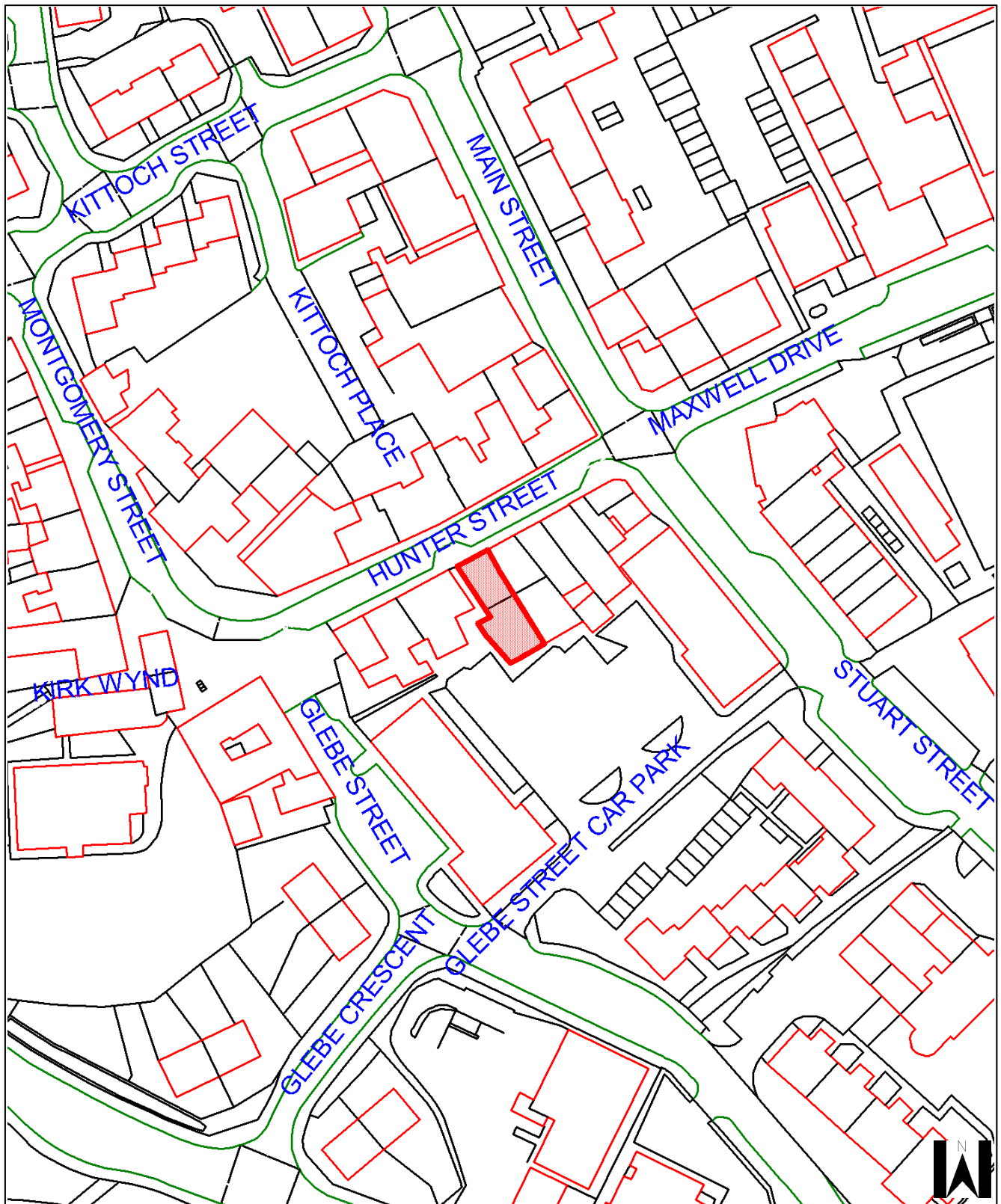
EK/09/0359

9 Hunter Street, East Kilbride

Planning and Building Standards Services

Scale: 1: 1250

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