

Report

Report to:	Hamilton Area Committee
Date of Meeting:	11 June 2008
Report by:	Executive Director (Enterprise Resources)

Application No	HM/08/0189
Planning Proposal:	Siting of Mobile Snack Van (Retrospective)

1. Summary Application Information

- Application Type : Detailed Planning Application
- Applicant : Angela Wilson
- Location : Park & Ride
McNeil Gate
Larkhall

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

- (1) The Area Committee has delegated powers to determine the application.

3. Other Information

- ◆ Applicant's Agent: None
- ◆ Council Area/Ward: 20 Larkhall
- ◆ Policy Reference(s): **Hamilton District Local Plan**
Policy M2 – Priority Schemes –
Hamilton/Larkhall Rail Link.
Policy DC1 – Development Control – General
Development Advice Policy Note 13: Mobile
Snack Vans
South Lanarkshire Planning Policies
SLP6 – Development Control – General
Finalised South Lanarkshire Local Plan (as modified)
Policy RES6 – Residential Land Use
Policy DM1 – Development Management
Policy DM14 – Mobile Snack Vans

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

- ◆ Consultation(s):

Environmental Services

Roads and Transportation Services (Hamilton Area)

Planning Application Report

1. Application Site

- 1.1 The application site relates to a rectangular area of ground with an area of approximately 35 square metres, located behind the footway outwith the Park and Ride car park at McNeil Gate, Larkhall.

2. Proposal(s)

- 2.1 The applicant seeks retrospective planning consent for the siting of a mobile snack van at the above location. The van is approximately 3.8 metres long and 2.3 metres wide. The proposal relates to the relocation of an existing snack van from Caledonian Road as a result of the road improvement works in the area. The proposed hours of operation are 8am to 2pm, Monday to Saturday.

3. Background

3.1 Local Plan Status

- 3.1.1 The application site is located within an area designated for the Hamilton/Larkhall Rail Link under Policy M2 – Priority Schemes of the adopted Hamilton District Local Plan.
- 3.1.2 Development Advice Note 13 – Mobile Snack Vans of the adopted Hamilton District Local Plan provides a set of guidelines relating to ‘acceptable’ and ‘unacceptable’ locations and criteria for snack vans. Proposals shall be considered in relation to visual impact, traffic implications, impact on the surrounding area and provision of litter disposal facilities. Policy DM14 – Mobile Snack Vans of the Finalised South Lanarkshire Local Plan (as modified) supports the principles of Development Advice Note 13.
- 3.1.3 Policy RES6 – Residential Land Use Policy of the Finalised South Lanarkshire Local Plan (after modifications) states that the Council will oppose the loss of houses to other uses and will resist any development that will be detrimental to the amenity of those areas.
- 3.1.4 Policy DC1 – Development Control – General of the adopted Hamilton District Local Plan, SLP6 of the South Lanarkshire Planning Policies and Policy DM1 of the Finalised South Lanarkshire Local Plan (after modifications) require all planning applications to take due regard to the local context and built form of the area. Proposals should take cognisance of scale, position and materials of surrounding buildings and landscape.

3.2 Relevant Government Advice/Policy

- 3.2.1 There is no current Government advice applicable to this proposal.

3.3 Site History

- 3.3.1 The snack van was originally located and operated at Caledonian Road. In 2007 the applicant submitted an application for a certificate of lawfulness for an existing use under Section 150 of the Town and Country Planning (Scotland) Act 1997 in response to an investigation by the Planning Service into a potential breach of planning controls for the operation of the snack van at this site. (Planning application

number HM/07/0040). Sufficient evidence to demonstrate the long history of the site was provided and it was therefore accepted that the use of the site at Caledonian Road for the operation of a snack van began more than 10 years ago and a certificate of lawfulness was granted in May last year.

3.3.2 However whilst the application was accepted in planning terms at Caledonian Road, Roads and Transportation Services had at this time entered into discussions with the applicant regarding the re-siting of her snack van as a result of the road improvement works to be carried out at Caledonian Road as on completion of this work Roads and Transportation would no longer issue a road occupation permit for this site.

3.3.3 As a result of these discussions it was agreed by the Roads and Transportation Services that subject to obtaining all the necessary consents such as planning permission and street traders licence to allow the applicant to operate from an area of hardstanding adjacent to the Park and Ride car park at McNeil Street, Larkhall and the applicant has submitted this planning application for consideration on this basis.

4. Consultation(s)

4.1 **Environmental Services** – have no objection to the proposal.

Response: Noted

4.2 **Roads and Transportation Service** – have no objections commenting that the snack van is located behind the footway outwith the car park and this location will not reduce the number of parking bays available for use and that there is sufficient parking available within the car park to accommodate any parking requirements generated by this application. However the service has stipulated that no advertisement sign boards should be placed on any street furniture or within the public road.

Response: Noted and an appropriate condition can be imposed to control any signage if planning permission is granted.

5. Representation(s)

5.1 The proposal was advertised in the local press as a Development Requiring Advertisement due to the Scale or Nature of Operations and statutory neighbour notification was carried out. As a result of this eleven letters of objection have been received. These letters of objection included a letter of objection from Larkhall Community Council. In addition, the history of the location of this particular snack van requires to be taken into consideration.

5.2 The grounds of which can be summarised below:

(a) **Planning legislation states that snack vans are not allowed to trade near existing businesses. It is Council policy only to allow snack vans in industrial estates and that they are not located in the proximity of other local businesses offering the same type of service and goods. Furthermore the objector was advised that it would not be appropriate to site a snack van in the vicinity of residential dwellings when inquiring about potential sites at Larkhall, Merryton and Chatelherault.**

Response: The proposed development requires to be assessed in terms of Council Policy for the siting of the snack van and this matter will be fully considered in the assessment and conclusions section of the report. In addition, the history of the location of this particular snack van requires to be taken into consideration.

- (b) **The site was built by the Council and trading began without any planning permission having been applied for. As the site was built by the Council surely in the face of best value it should have gone to competitive tendering.**

Response: Whilst it was agreed by Roads and Transportation Services that this service would form the hardstanding, the applicant financed the cost of this work. In terms of the objectors' comments regarding competitive tendering it was considered by the Council that this process was not required in this instance as the applicant was being forced from her current site through works by the Council and an alternative site required to be found. It is noted that the application for planning permission is retrospective.

- (c) **It is not permissible to have a snack van in a town centre and the proposal is located in an area designated as a town centre car park.**

Response: The application site is located within an area zoned as Hamilton/Larkhall Rail Link (Policy M2 – Priority Schemes) in the adopted Hamilton District Local Plan and in terms of planning policy does not fall within the area designated for the town centre in the adopted local plan.

- (d) **Concerns over direct competition with rent and rate paying businesses. This business operates without the need to pay rent, business or water rates which would allow the trader to undercut competition.**

Response: The snack van has operated on Caledonian Road for many years and therefore this planning application relates to the relocation of an existing operator rather than the addition of a new operator therefore it is considered that there will be no additional impact on established businesses.

- (e) **Waste water from this van does not go into a main sewer. All other traders are required to pay for this service.**

Response: After consultation Environmental Services had no objections to the proposal.

- (f) **Should this van not have running water and a toilet for its staff? It is also likely to generate litter.**

Response: After consultation Environmental Services had no objections to the proposal. If planning permission is granted an appropriate condition shall be imposed to mitigate against litter.

- (g) **The objector was advised that the snack van was moved from Caledonian Road to it's new site on grounds of safety. Therefore why was it given an extension of nine months and then a further 3 months if it was considered unsafe?**

Response: After consultation Roads and Transportation Services indicated that this Service sought the snack van's relocation as a result of road improvement works in the area to protect increasing rail goers to Larkhall Train station as forward visibility splays for drivers of vehicles travelling in a northerly direction may have been restricted by the snack van. Given the period of time the applicant had been located at this site Roads and Transportation Services were willing to allow the applicant sufficient time to find an alternative location.

- (h) **Why is this business permitted to trade with neither a trader's licence nor planning application when other traders vans are not permitted to do so? Enforcement should have been taken.**

Response: The issue of a trader's license is dealt with by the Council's Licensing Board and does not constitute a material planning consideration in the assessment of this planning application. With regards to obtaining the necessary planning consent it should be noted that it would not be appropriate to take enforcement action when it is related to a retrospective planning application pending decision. The planning system allows applications to be considered retrospectively.

- (i) **The objector was advised in writing that her proposal for a snack van on the exact same site would be refused.**

Response: A pre-application letter dated 13 December 2006 was issued by the Planning Service advising that the proposal for a mobile snack van at Larkhall Railway Station Car Park would in principle not be looked upon favourably. The letter did state however that this view was given without prejudice to the outcome of any planning application submitted and that any proposal going through the planning process may result in a different outcome. In this instance it is considered that the new location for the relocation of this existing snack van strikes a reasonable balance between the needs of the Council to provide a convenient and safe access to the new station and the trading needs of the existing snack van operator being forced to relocate as a result of works being carried out by the Council and would not result in an additional snack van.

- (j) **This will impact on South Lanarkshire Council's healthy eating programme. The objector cannot understand why Educational Resources would support this proposal and questions whether they were consulted on this application.**

Response: The proposal relates to the relocation of an existing mobile snack van therefore it is considered that it will have no increased impact on South Lanarkshire Council's healthy eating programme. Furthermore it was not considered relevant to consult with Educational Resources in this instance.

- (k) **Concerns that granting this application could set an undesirable precedent to grant and encourage other similar applications.**

Response: Any future applications for food/snack bar outlets would be determined on their own individual merits taking account of local plan policy, traffic safety and amenity issues.

- (l) **The site is adjacent to and overlooked by residential properties which will be affected by this van.**

Response: This matter will be fully considered in the assessment and conclusions section of the report.

5.3 The grounds of objection from Larkhall Community Council can be summarised as follows:

- (a) **The mobile snack van has been moved closer to the adjacent school and residential areas and will have a detrimental impact contrary to Policy DM14 which is here to protect existing local businesses.**

Response: Noted. This matter will be considered in detail in the assessment and conclusions section of the report.

- (b) **The snack van and associated equipment, located adjacent to the access/exit to the Railway Station, will create a detrimental impact to the image of Larkhall.**

Response: It is considered that the relocation of the mobile snack van from Caledonian Road to this location will not have any additional detrimental effect on the amenity of the area.

- (c) **The snack van will be located within parking bays, which are in high demand in the town centre area.**

Response: The snack van is located outwith any parking bays and Roads and Transportation Services have no objections to it's location.

- (d) **It is our understanding that snack vans should only be sited in locations where there is a lack of 'fast food' outlets. Larkhall is well serviced with 'fast food' outlets.**

Response: Noted. This will be fully considered in the assessment and conditions section of the report.

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

6. Assessment and Conclusions

- 6.1 The determining issues in consideration of this application for the siting of a snack van are it's compliance with local plan policy, other appropriate guidance and the proposal's impact on traffic safety and amenity.

- 6.2 The application site is identified as being within an area zoned as Hamilton/Larkhall Rail Link within the adopted Hamilton District Local Plan and it is considered that the proposal is acceptable as it will have no impact on the operation of this priority traffic scheme.

- 6.3 With regards to Policy RES6, the proposed relocation of the snack van for a temporary period will not result in the loss of any houses however it's impact on residential amenity will require to be assessed and this will be fully considered in the assessment of Council Policy on the siting of snack vans.

- 6.4 Development Advice Note 13 – Mobile Snack Vans of the adopted Hamilton District Local Plan provides a set of guidelines relating to 'acceptable' and 'unacceptable' locations and criteria for snack vans. Policy DM14 – Mobile Snack Vans of the Finalised South Lanarkshire Local Plan (as modified) supports the principles of Development Advice Note 13.

The criteria referred to above includes the following:

- a. Mobile vans will be unacceptable on sites in close proximity to established retail centres or where local shops exist nearby.

Response: Given the location on the edge of the park and ride car park and that the proposal will not create the addition of a new operator as it is as a result of the relocation of an existing operation which was closer to the town centre, it is considered that there will be no additional impact on established shops/businesses

- b. Mobile vans will be unacceptable on or adjacent to major traffic routes or where traffic safety problems will result from the siting of the snack van.

Response: The snack van is located outwith any parking bays and Roads and Transportation Services have no objections to it's location.

- c. Mobile snack vans will be unacceptable in locations where the siting of the van is likely to result in a significant loss of urban or rural amenity.

Response: Given the location on the edge of the park and ride car park it is considered that the proposal will not result in a significant loss of urban amenity.

- d. Mobile snack vans will be unacceptable in locations where planning consent has already been granted for a mobile snack van.

Response: According to the file records there is no history of planning consent being granted for a mobile snack van at this location.

6.5 The policy guidance states that mobile snack vans may be acceptable on sites where there is an identifiable shortage of local hot food facilities i.e industrial estates. However as the proposal will not create the addition of a new operator there will be no additional impact on established shops/businesses and the proposal is considered to be acceptable. On this basis if planning permission is granted it is considered appropriate to impose planning conditions limiting the operation of the snack van for a temporary period of 1 year and the provision for adequate litter disposal facilities as required under this policy guidance. Overall it is therefore considered that the proposal is not contrary to Development Advice Note 13 of the adopted local plan or Policy DM14 of the finalised local plan.

6.6 Policy DC1 – Development Control – General of the adopted Hamilton District Local Plan, SLP6 of the South Lanarkshire Planning Policies and Policy DM1 of the South Lanarkshire Local Plan (Finalised Plan) require all planning applications to take due regard to the local context and built form of the area. Proposals should take cognisance of scale, position and materials of surrounding buildings and landscape. In this instance it is considered that given the above assessment in paragraph 6.5 above that the proposal raises no issues.

6.7 After consultation Roads and Transportation Services and Environmental Services have raised no objections. With regards to the representations received I am of the opinion that they are not sufficient to merit refusal of this application in this instance.

6.8 It is considered the proposed relocation of an existing mobile snack van which has operated for over 10 years in the nearby area will still allow for a convenient and safe access to be provided to the new station whilst meeting the trading needs of the snack van operator. Given the location on the edge of the park and ride car park and that the proposal will not create the addition of a new operator it is considered that there will be no additional impact on established shops/businesses and that the proposal is not contrary to local plan policy in this instance.

6.9 I would recommend that permission be limited for a period of 1 year as it involves a temporary structure.

7. Reasons for Decision

- 7.1 The proposal has no adverse impact on the amenity of the area and complies with Policies M2, DC1 and Development Advice Note 13 – Mobile Snack Vans of the adopted Hamilton District Local Plan, Policies RES 6, DM1 and DM14 of the Finalised South Lanarkshire Local Plan (as modified) and SLP6 of the South Lanarkshire Planning Policies

Iain Urquhart
Executive Director (Enterprise Resources)

27 May 2008

Previous References

- ▶ HM/07/0040

List of Background Papers

- ▶ Application Form
- ▶ Application Plans
- ▶ Consultations
 - Roads and Transportation Services (Hamilton Area) 28/04/2008
 - Environmental Services 30/04/2008
- ▶ Representations
 - Representation from : Tomcraw19@aol.com, , DATED 01/05/2008
 - Representation from : Summerlee Local Action Group, 7 Chestnut Grove, Summerlee Estate, Larkhall ML9 2AS, DATED 01/05/2008
 - Representation from : Isabel Campbell, 46 Shiel Drive, Larkhall ML9 2TN, DATED 01/05/2008
 - Representation from : David Airey, DJS Computers, The Shop, 149 Union Street, Larkhall, ML9 1EB, DATED 01/05/2008
 - Representation from : Jill Airey, DJS Computers, The Shop, 149 Union Street, Larkhall, ML9 1EB, DATED 01/05/2008
 - Representation from : Caroline Gilluley, C/o 47 Union Street, Larkhall, DATED 01/05/2008
 - Representation from : Jean Sweeney, C/o 16 Duke Street, Larkhall, ML9 2AL, DATED 01/05/2008
 - Representation from : aileen_rdaglasgow@msn.com, , DATED 01/05/2008
 - Representation from : Mr Graeme Peat, 6 Etive Place, Larkhall, DATED

25/04/2008

Representation from : Larkhall Community Council, Mrs S. Campbell, 41 Clove Mill Wynd, Larkhall, DATED 25/04/2008

Representation from : Wilma Cornfield, 42 Fyne Crescent, Larkhall ML9 2UX, DATED 02/05/2008

Contact for Further Information

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

Murray Reid, Planning Officer, Brandon Gate, Hamilton
Ext 3521 (Tel :01698 453521)
E-mail: Enterprise.hamilton@southlanarkshire.gov.uk

Detailed Planning Application

PAPER APART – APPLICATION NUMBER : HM/08/0189

CONDITIONS

1	That the permission hereby granted is for a temporary period only and shall expire on 11 June 2009.
2	The proprietor of the hot food takeaway shall supply receptacles for discarded food containers wrappings to the satisfaction of the Council as Planning Authority.
3	That no signage or advertisements shall be placed on the public road/footway/verge or on any item of street furniture without the prior written consent of the Council as both Planning and Roads Authority.
4	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.

REASONS

1.1	To define the permission
2.1	In the interests of amenity and in order to retain effective planning control.
3.1	To safeguard the amenity of the area.
4.1	In the interests of amenity and in order to retain effective planning control.

For information only

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