

Planning Local Review Body

Decision Notice

Decision by South Lanarkshire Council Planning Local Review Body (PLRB)

PLRB Reference NOR/CR/18/001

- ◆ Site address: 5 Greenlees Road, Cambuslang G72 8JB
- ◆ Application for review by M Jawab of the decision by an appointed officer of South Lanarkshire Council to refuse planning permission for planning application P/18/1104
- ◆ Application P/18/1104 for the change of use of existing bank to form restaurant, ancillary hot food takeaway, function room on first floor and erection of flue to rear
- ◆ Application Drawings: Site Plan; 25160/1 Existing Ground Floor; 25160/11 Proposed Side Elevation; 25160/2 Existing First Floor; 25160/3B Proposed Ground Floor; 25160/4 Proposed First Floor; 25160/5 Existing Shopfront and Rear Elevations; 25160/6 Proposed Shopfront and Rear Elevation

Decision

The PLRB upholds the decision taken by the appointed officer, in terms of the Scheme of Delegation, to refuse planning permission for planning application P/18/1104 for the reasons stated on the Council's decision notice dated 17 September 2018.



Geraldine McCann
Head of Administration and Legal Services

Date of Decision Notice: 19 February 2019

1. Background

- 1.1 This Notice constitutes the formal decision notice of the Planning Local Review Body (PLRB) as required by the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013.
- 1.2 The above application for planning permission was considered by the PLRB at its meeting on 28 January 2019. The PLRB was attended by Councillors Alex Allison, Walter Brogan, Stephanie Callaghan, Isobel Dorman (Depute), Fiona Dryburgh, Alistair Fulton (Chair), Ann Le Blond, Graham Scott, David Shearer and Jim Wardhaugh.

2. Proposal

- 2.1 The proposal is for the change of use of existing bank to form restaurant, ancillary hot food takeaway, function room on first floor and erection of flue to rear.
- 2.2 The options available to the PLRB were to uphold, reverse or vary the decision taken in respect of the application under review.

3. Determining Issues

- 3.1 The determining issues in this review were:-

- ◆ the proposal's compliance with the Adopted South Lanarkshire Local Development Plan (SLLDP) and Supplementary Guidance (SG)
- ◆ impact on the amenity of the surrounding residential properties

- 3.2 The PLRB established that, in terms of the Adopted South Lanarkshire Local Development Plan, the site was located within the strategic town centre of Cambuslang. The following policies applied to the application site:-

- ◆ Policy 4 – Development Management and Place Making
- ◆ Policy 8 – Strategic and Town Centres
- ◆ Policy DM8 – Hot Food Shops (Development Management, Placemaking and Design Supplementary Guidance)

- 3.3 The Proposed South Lanarkshire Local Development Plan 2 (SLLDP2), approved on 29 May 2018, was also a material consideration in determining the application. The following policies applied to the application site:-

- ◆ Policy 5 – Development Management and Placemaking
- ◆ Policy 9 – Network of Centres and Retailing
- ◆ Policy DM9 - Hot Food Shops (Development Management, Placemaking and Design Supplementary Guidance)

- 3.4 Policy 4 of the Adopted South Lanarkshire Local Development Plan states that all applications will require to take account of and be integrated with the local context and built form. When assessing development proposals, this will include ensuring that:-

- ◆ there is no significant adverse impact on buildings or streetscape in terms of layout, scale, massing, design, external materials or amenity
- ◆ there is no significant adverse impact on landscape character, built heritage, habitats or species, including Natura 2000 sites, biodiversity and protected species nor on amenity as a result of light, noise, odours, dust or particulates

- 3.5 Policy 8 states that, within strategic and town centres, the Council will allow a mixture of uses compatible with their role as commercial and community focal points. In terms of Policy 8, development proposals must also accord with other relevant policies and proposals in the development plan and associated supplementary guidance.

- 3.6 Policy DM8 (Hot Food Shops) of the Development Management, Placemaking and Design Supplementary Guidance states that 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:-

- ◆ an adequate level of shopping provision is maintained and the viability of the centre and its retail function is not adversely affected

- ◆ a satisfactory balance is retained between retailing and non-retailing uses
- ◆ the proposal does not have a significant impact in terms of environmental, traffic, public safety and amenity considerations, for example, noise, disturbance or smell, particularly in relation to residential properties above, adjacent or near to the site

Policy DM8 also requires that, in all cases, the applicant shall demonstrate that they have control to implement any ventilation system that may be required. If an external flue is required, details must be included in the planning application. If the hot food shop is proposed on the ground floor, there will be a presumption against the proposal unless ventilation arrangements, including a rear flue termination one metre above the eaves, can be provided. Since the rear of the building is often in common ownership, evidence of agreement from all owners should be provided to demonstrate that permission is given for the erection of the flue along the elevation of the property and on the roof.

3.7 In terms of the Proposed SLLDP2, Policy 5 states that all planning applications require to be well designed and integrated with the local area. When assessing development proposals, this will include ensuring that:-

- ◆ there is no significant adverse impact on adjacent buildings or streetscape in terms of layout, scale, massing, design, external materials or amenity
- ◆ the development shall not have a significant adverse impact on the amenity of any nearby residential properties in terms of overshadowing, overlooking or other loss of residential amenity as a result of noise, odours, dust or particulates or other emissions

3.8 Policy 9 states that, within strategic and town centres, the Council will allow a mixture of uses compatible with their role as commercial and community focal points. In addition, it states that development proposals must also accord with other relevant policies and proposals in the development plan.

3.9 Policy DM9 (Hot Food Shops) of the Development Management, Placemaking and Design Supplementary Guidance states that, within retail/commercial areas identified in SLLDP2, applications for hot food shops will be considered against the following criteria:-

- ◆ an adequate level of shopping provision is maintained and the viability of the retail/commercial centre and its retail function is not adversely affected
- ◆ a satisfactory balance is retained between retailing and non-retailing uses
- ◆ the proposal does not have a significant impact in terms of environmental, traffic, public safety and amenity considerations, for example, noise, disturbance or smell, particularly in relation to residential properties above, adjacent or near to the site

Policy DM9 also requires that, in all cases, the applicant shall demonstrate that they have control over the land or buildings to implement any ventilation system that may be required. If an external flue is required, details must be included in the planning application. Where the hot food shop is proposed on the ground floor of a building where residential properties are located on upper floors or in adjoining properties, the applicant must demonstrate that appropriate ventilation arrangements can be provided. Since the rear of the building is often in common ownership, evidence of agreement from all owners should be provided to demonstrate that permission is given for the implementation of ventilation on the relevant elevation of the property and on the roof.

3.10 In considering the case, the PLRB had regard to the applicant's submission that:-

- ◆ the change of use would not result in the loss of a retail unit. The premises were within the town centre where uses such as a restaurant would be expected
- ◆ there was a mixture of uses within the surrounding area and the proposed restaurant would make little difference to disturbance in the area. A noise survey could be conditioned on any consent to satisfy Environmental Services. It would be unreasonable to expect a noise survey to be provided as this would be expensive and

the planning application had been submitted to establish if the proposed use was acceptable for the location. The applicant was willing to amend the proposed hours of opening, including a condition that the first floor function suite closes at 10.00pm

- ◆ the proposed restaurant would not generate more customers than the former use of the premises as a bank. It was, therefore, not expected that there would be any more traffic or congestion in the area
- ◆ the proposed flue would meet industry standards and meet Environmental Services' requirements. It would be unreasonable to expect the applicant to provide full details of the proposed system as this would be expensive and the planning application had been submitted to establish if the proposed use was acceptable for the location. This matter could be conditioned
- ◆ consent to fit the proposed flue to the rear wall of the building would be sought after planning permission was granted. The applicant considered that this was a legal matter. The applicant owned a third of the building and the flue could be erected with the consent of the majority of the building owners. Only one flat would be directly affected by the fixing of the proposed flue
- ◆ waste would be sited within the premises and placed on the pavement for uplift by the Council. Should the Council wish the waste to remain on the premises until the uplift, the applicant would do this. The applicant was prepared to accept the removal of food waste from the premises on a daily basis
- ◆ the front of the premises would be cleaned and kept tidy prior to opening and closing. It was not expected to be a source of rubbish as the takeaway service would not be encouraged
- ◆ the proposal would bring back to life a vacant unit and provide 8 full time and 8 part time jobs
- ◆ it was expected that the proposal would generate approximately 10% takeaway sales. There would be no takeaway menu as such

3.11 The PLRB also had regard to the fact that the applicant had not submitted:-

- ◆ a noise assessment
- ◆ a vibration report
- ◆ evidence which demonstrated that they had control to implement the proposed ventilation system

3.12 The PLRB concluded that the proposed development would have a significant adverse impact on the amenity of the adjacent residential properties and that the applicant had failed to demonstrate that they had the control to implement the proposed ventilation system. As a result, it concluded that the proposal did not accord with Policies 4 and 8 of the Adopted South Lanarkshire Local Development Plan and Policy DM8, Hot Food Shops, of the Development Management, Placemaking and Design Supplementary Guidance as well as Policies 5, 9 and DM9 of the proposed South Lanarkshire Local Development Plan 2.

4. Conclusion

4.1 The PLRB considered a request to review the decision taken by the appointed officer, in terms of the Scheme of Delegation, to refuse planning permission for planning application P/18/1104 for the change of use of an existing bank to form a restaurant, ancillary hot food takeaway, function room on first floor and erection of a flue to the rear of the property at 5 Greenlees Road, Cambuslang. The PLRB concluded that the proposal would have a significant adverse impact on the amenity of the adjacent residential properties and that the applicant had failed to demonstrate that they had the control to implement the proposed ventilation system. As a result, the PLRB concluded that the proposal was contrary to Policies 4 and 8 of the Adopted South Lanarkshire Local Development Plan and Policy DM8, Hot Food Shops, of the Development Management, Placemaking and Design Supplementary Guidance as well as Policies 5, 9 and DM9 of the proposed South Lanarkshire Local Development Plan 2.

- 4.2 The PLRB, therefore, upheld the decision to refuse planning permission for planning application P/18/1104 for the reasons stated on the Council's decision notice dated 17 September 2018.

5. Accompanying Notice

- 5.1 Attached is a copy of the Notice to Accompany Refusal, etc in the terms set out in Schedule 2 to the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013.



NOTICE TO ACCOMPANY REFUSAL ETC

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
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 V of the Town and Country Planning (Scotland) Act 1997.

