

Report

Report to:	Planning Committee
Date of Meeting:	21 November 2017
Report by:	Executive Director (Community and Enterprise Resources)

Application No	EK/17/0309
Planning Proposal:	Change of Use From Restaurant with Ancillary Takeaway to Form Takeaway with Ancillary Seating Area

1 Summary Application Information

- Application Type : Detailed Planning Application
- Applicant : Mr Majid Ali
- Location : 12 Green Street
Strathaven
ML10 6LT

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

- (1) The Planning Committee has delegated powers to determine this application.

3 Other Information

- ◆ Applicant's Agent: Alcon Design
- ◆ Council Area/Ward: 05 Avondale and Stonehouse
- ◆ Policy Reference(s): **South Lanarkshire Local Development Plan (adopted 2015)**
Policy 4 - Development management and placemaking
Policy 8 - Strategic and Town Centres
Policy 15 - Natural and Historic Environment
DM8 – Hot food shops
NHE7 - Conservation Areas
Development management, placemaking and design supplementary guidance (2015)

◆ Representation(s):

- ▶ 5 Objection Letters including petition with 71 names
- ▶ 0 Support Letters
- ▶ 0 Comments Letters

◆ Consultation(s):

Environmental Services [e-consult]

Roads Development Management Team

Planning Application Report

1 Application Site

- 1.1 The application site relates to an existing commercial unit at 12 Green Street, Strathaven. The unit, which previously operated as a restaurant with ancillary takeaway, is situated on the end of a small row of commercial properties. There is an existing flue on the side of the building which projects to the rear. The upper storey of the unit was last used as staff facilities, an office, storage space and customer toilets associated with the former restaurant on the ground floor. The property sits within the Conservation Area.

2 Proposal(s)

- 2.1 Planning permission is sought for a change of use from restaurant with ancillary takeaway to form takeaway with ancillary seating area. The proposal includes internal alterations to create an open plan servery and counter area with approximately 6 tables. The staff facilities, customer toilets, storage area and office on the upper storey would still be utilised as per the previous use. As such, there are no proposed alterations to the upper storey. Furthermore, there are no proposed external alterations, however, the applicant is aware any proposed signage requires to be submitted as a part of a separate application for advertisement consent.

3 Background

3.1 Local Plan Status

- 3.1.1 In terms of the Adopted South Lanarkshire Local Development Plan (2015), the site is identified as lying within the town centre. As such, Policy 8 - Strategic and town centres is applicable and advises that the Council will allow a mix of compatible uses within these areas. Policy 4 – Development Management is also relevant and advises all planning applications are required to take account of the local context and built form and should be compatible with adjacent buildings and streetscape.
- 3.1.2 Policy DM8 – Hot food shops of the supplementary guidance is also relevant which states that there will be a general presumption in favour of permission for this type of development within commercial areas.
- 3.1.3 As the application site is located within the conservation area, Policy 15 – Natural and Historic Environment and NHE7 – Conservation Areas of the supplementary guidance are applicable and state that development proposals will be assessed in terms of their effect on character and amenity of the natural and built environment.

4 Consultation(s)

- 4.1 **Environmental Services** – no objections to the proposal subject to the attachment of advisory notes in relation to health and safety, non-domestic food preparation, noise and vibration.
Response: Noted. Appropriate advisory notes can be attached to any planning permission issued.
- 4.2 **Roads and Transportation Services** – no objections as there is existing parking within the nearby shopping area which is used by a number of similar establishments and shops.
Response: Noted.

5 Representation(s)

- 5.1 Following the statutory neighbour notification procedure carried out by the Council and advertisement in the local press due to the nature of the proposal and as non notification of neighbours; 5 letters of objection including a petition with 71 names were received, the points of which are summarised below:

- a) **Objector makes allegations in relation to a personal situation with the property owner.**

Response: This is not a valid planning consideration.

- b) **There is no requirement for a further Indian food takeaway service in the local area as there are already two Indian food/pizza takeaways, four Chinese food takeaways and two chip shops. The property should remain as a restaurant.**

Response: The Planning Service is required to assess and determine any planning application submitted. The application site is located within an established commercial area as identified in the Adopted South Lanarkshire Local Development Plan. The local plan allows for a mix of uses compatible with their role as a commercial and community focal point. There is no restriction on the number of specific types of development in these commercial areas and the type of business is driven by local demand. It is also considered that the use of vacant units within a town centre should be supported to maintain the viability and visual amenity of the town centre, particularly in visible locations. It is noted that this property previously operated as a restaurant with ancillary takeaway facility therefore its operation as a takeaway with ancillary seating is considered acceptable in this case.

- c) **The application site is on the approach to traffic lights which requires two dedicated lanes due to one lane being for right turn only. The limited space for parking at this site would cause significant traffic congestion as customers and delivery drivers use the road/pavement outside the property.**

Response: The Council's Roads and Transportation Services have been consulted as part of this application. Whilst there is no proposed parking for this property, Roads have noted that there are a number of similar establishments and shops within Strathaven town centre which use existing public parking facilities. It is, therefore, considered there is adequate parking in the vicinity to support this proposal. Notwithstanding this, however, it is noted that the road outside the application site is lined; therefore, any road users are required by law to comply with any traffic restrictions imposed.

- d) **The size of the premises is not conducive to a takeaway establishment. The unit has a kitchen, bar area and substantial seating area and additional seating upstairs with private bar and lounge. It is unlikely this will only be used for a takeaway. Any licence to serve alcohol at these premises would encourage activities outwith the takeaway service proposed.**

Response: This proposal involves internal alterations on the ground floor to form a larger counter and servery area which reduces the floor area for seating. The bar area will also be removed. It is noted the upper storey will be used as previously for staff facilities, an office, storage and customer toilets. Therefore, given the alterations on the ground floor, I am satisfied this will be an acceptable size for a takeaway business. There is nothing to suggest there is any intention of selling alcohol; however this would be a matter for the Council's Licensing Service.

- 5.2 These letters and petition are available for inspection in the usual manner and on the Council's Planning Portal.

6 Assessment and Conclusions

- 6.1 The applicant seeks planning permission for a change of use from restaurant with ancillary takeaway to form takeaway with ancillary seating. The determining issues in the assessment of this application are compliance with local plan policy and its impact on the amenity of the adjacent properties.
- 6.2 In this regard, the application site and associated proposal is affected by Policy 8 - Strategic and town centres which advises that the Council will allow a mix of uses compatible with these areas as commercial and community focal points including shops, offices, leisure and community, residential and other appropriate uses. Policy 4 – Development Management states that all development proposals will require to take account of and be integrated with the local context and built form.
- 6.3 Policy DM8 – Hot food shops of the supplementary guidance is also relevant. This advises in relation to retail/commercial areas, there will be a general presumption in favour of granting planning permission subject to compliance with 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, particularly in relation to residential properties near the site.
- 6.4 As the application site is located within the conservation area, Policy 15 – Natural and Historic Environment is also applicable and assesses all development proposals in terms of their effect on the character and amenity of the natural and built environment. Policy NHE7 – Conservation Areas of the supplementary guidance advises that development and demolition within a conservation area or affecting its setting shall preserve or enhance its character. The design, materials, scale and siting of any development shall be appropriate to the character of the conservation area and its setting.
- 6.5 As noted above, this proposal involves internal reconfiguration to provide a larger servery and counter thereby reducing the size of the existing seating area. It is noted there is an existing flue located on the side of the building projecting to the rear, however, there are no proposed alterations to the exterior of the building. In terms of Policy 8, a hot food takeaway is considered an acceptable use within a commercial area. In terms of Policy DM8, the unit is located at the end of a row of commercial properties. As its last use was a restaurant with ancillary takeaway facility, this does not result in the loss of any retail units. Furthermore, as there are no traffic issues and there is an existing flue suitable for the proposed use; I am satisfied the proposal complies with policies 8 and DM8.
- 6.6 With regards to policies 4, 15 and NHE7, there are no proposed external alterations in this case, therefore, the proposal is in compliance with these policies also. It is noted that any proposed signage will be considered under a separate application for advertisement consent.

6.7 The Council's Environmental Services were consulted as part of this application and raised no objection to the proposal subject to the attachment of advisory notes in relation to noise, vibration and food preparation. Roads and Transportation Services also provided comments and noted that the site is located within an existing shopping area where there is existing public parking available nearby. As such, they also have no objections.

6.8 In addition to the statutory neighbour notification procedure carried out by the Council, the application was also advertised in the local press due to the nature of the proposal but also for non-notification of neighbours as not all neighbours could be identified. 5 letters of representation including a petition with 71 names have been received, the points of which are summarised in section 5 above. It is not considered that the points raised merit refusal of the application.

6.9 In conclusion, it is considered that the proposed change of use from restaurant with ancillary takeaway to takeaway with ancillary seating area will have no adverse impact on amenity or on the functioning of the surrounding commercial area and I, therefore, recommend planning permission is granted subject to the attached conditions.

7 Reasons for Decision

7.1 The proposed development complies with Policies 4, 8 and 15 of the Adopted South Lanarkshire Local Development Plan (2015) and related supplementary guidance DM8 and NHE7.

Michael McGlynn
Executive Director (Community and Enterprise Resources)

7 November 2017

Previous References

♦ None

List of Background Papers

- ▶ Application Form
- ▶ Application Plans
- ▶ South Lanarkshire Local Development Plan (adopted 2015)
- ▶ Development management placemaking and design supplementary guidance (2015)
- ▶ Neighbour notification letter dated 31.08.2017

- ▶ Consultations
 - Roads Development Management Team 12/09/2017
 - Environmental Services [e-consult] 13/09/2017

- ▶ Representations
 - Representation from : Shanaz Wahid, Manzil Tandoori
7 Green Street
Strathaven
ML10 6LT, DATED 05/10/2017 (including a petition with 71

names)

Representation from : Allan Corn, 64 Waterside Street
Strathaven
ML10 6AW, DATED 27/10/2017

Representation from : Shanaz Wahid, Manzil Tandoori
7 Green Street
Strathaven
ML10 6LT, DATED 27/09/2017

Representation from : Joe Allan, East Kilbride Historic Society
94 Franklin Place
Westwood
East Kilbride
G75 8LS, DATED 20/09/2017

Representation from : Mr John Taylor, 12 Waterside Street
Strathaven
ML10 3AW, DATED 03/10/2017

Contact for Further Information

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

Julie Pepper, Planning Officer, Montrose House, Hamilton
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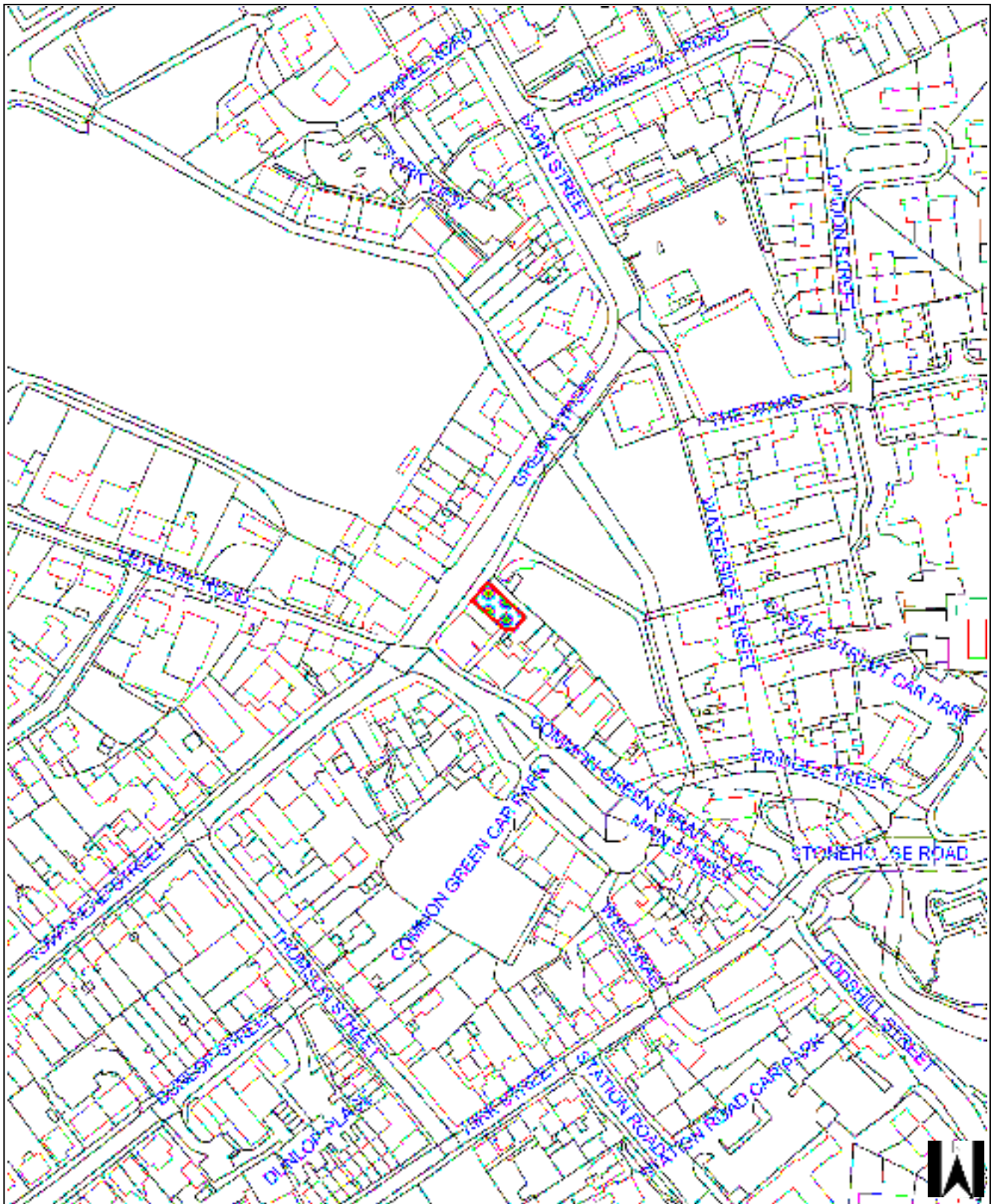
CONDITIONS

- 1 That the permission hereby granted relates to a change of use only and notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(Scotland) Order 1992 (or any other such order revoking or re-enacting that order) no alterations shall be made to the external appearance of the building without the prior written consent of the Council as Planning Authority.
- 2 Before the hot food shop is brought into use, the existing method of ventilation shall be operational in accordance with the approved details and thereafter maintained to the satisfaction of the Council as Planning Authority.

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, designed, installed and operated employing the principles of 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.
- 3 That before the development hereby approved is brought into use, details of the storage and collection of waste arising from the development shall be submitted to and approved by the Council as Planning Authority. The storage and waste collection scheme shall be implemented before the development is brought into use and shall thereafter be maintained to the satisfaction of the Council as Planning Authority.
- 4 The proprietor of the hot food takeaway shall supply receptacles for discarded food containers and wrappings to the satisfaction of the Council as Planning Authority.
- 5 That no consent is given for use of the function suite on the upper storey to be used as part of this proposal.

REASONS

- 1.1 In order to retain effective planning control.
- 2.1 To minimise nuisance to occupants of nearby buildings as a result of cooking smells, vapours, airborne pollutants or noise from the premises.
- 3.1 To minimise nuisance, littering and pest problems to nearby occupants.
- 4.1 To safeguard the amenity of the area.
- 5.1 In the interests of amenity and in order to retain effective planning control.



For information only

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