

Report

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Report to:	Cambuslang/Rutherglen Area Committee
Date of Meeting:	23 February 2010
Report by:	Executive Director (Enterprise Resources)

Application No	CR/09/0217
Planning Proposal:	Change of use from shop unit to hot food takeaway including installation of ventilation flue to the rear

1 Summary Application Information

- Application Type : Detailed Planning Application
- Applicant : Aujlas Ltd.
- Location : 352 Kings Park Avenue
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 Conditions Listed)

2.2 Other Actions/Notes

- (i) 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 RES6 – Residential Land Use Policy
Policy DM1 – Development Management Policy
Policy DM10 – Hot Food Shop Policy

◆ Representation(s):

- ▶ 9 Objection Letters
- ▶ 0 Support Letters
- ▶ 0 Comments Letters

◆ Consultation(s):

Environmental Services

Roads and Transportation Services (North Division)

Planning Application Report

1 Application Site

- 1.1 The application site lies within a small group of shops at 344 to 352A on the south side of Kings Park Avenue, Rutherglen opposite its junction with Bankhead Road. The application site is formed by a vacant shop unit which is bounded to the east by an existing hot food shop, to the north by a wide footpath and Kings Park Avenue, to the west by a general grocers and Post Office and to the south by a private builder's yard. Access to the unit is taken directly from Kings Park Avenue

2 Proposal(s)

- 2.1 The applicants have applied for a change of use from a retail shop unit to a hot food takeaway and the associated installation of a new ventilation flue to the rear. The shop unit which forms the application site was used as beautician's shop until October 2009 since which time it has been vacant.

3 Background

3.1. Local Plan Status

- 3.1.1 The adopted South Lanarkshire Local Plan 2009 (SLLP) provides the development plan context for this application. The application site lies within an area covered by SLLP Policies, RES6 – Residential Land Use Policy, DM1 – Development Management Policy and DM10 – Hot Food Shop Policy.

3.2 Relevant Government Advice Policy

- 3.2.1 None

3.3 Planning Background

- 3.3.1 The following planning applications are relevant in the assessment of this planning application:

CR/98/0169 – Alterations to shopfront; granted detailed planning permission 11 December 1998.

CR/99/0170 – Change of use from vacant shop unit to hot food take away with new shop front; refused detailed planning consent 12 October 1999. This decision relates to the unit at 344 Kings Park Avenue which is presently used as a laundry.

4 Consultation(s)

- 4.1 Roads and Transportation Services – no objections to the proposed change of use.

Response: Noted.

- 4.2 Environmental Services – no objections subject to a condition relating to the ventilation system and advisory notes relating to health and safety at work, food safety and noise nuisance.

Response: Noted and the appropriate condition and advisory notes will be added should consent be granted.

5 Representation(s)

- 5.1 Following statutory neighbour notification of the application and advertisement of the proposal in the local press nine letters of objection were received. .

- (a) **There are sufficient hot food shops in the area.**

Response: Policy does not limit the number of such shops at any particular area and the market will regulate any competition between shops. However,

each planning application is considered on its merits, taking into account the individual circumstances.

- (b) **The neighbouring hot food shop has experienced problems with drainage in the area and a further unit will exacerbate the problem.**

Response: It is the owner's responsibility to ensure that their drainage is satisfactory until it feeds in to the public system after which it is the responsibility of Scottish Water. Notwithstanding if planning permission is granted an appropriate condition shall be imposed to ensure that an adequate drainage system is implemented.

- (c) **There should be no late night trading.**

Response: The applicant's agent has requested to be able to trade under the same hours as the other existing hot food takeaway 4pm to 11.30pm, Sunday to Thursday and 3pm to 12.00am, Friday and Saturday. If planning permission is granted an appropriate condition shall be imposed on this basis.

- (d) **The proposed development will cause adverse cooking smells.**

Response: Any consent for the change of use will be conditional on the installation of a ventilation system which meets the requirements of the Council's Environmental Services.

- (e) **Kings Park Avenue is a busy road and the proposed use will increase the number of cars with subsequent traffic problems, including the blocking of access to the units to the rear of the shops.**

Response: Roads and Transportation Services have raised no concerns regarding potential traffic problems on Kings Park Avenue which is a wide thoroughfare at this location.

- (f) **Parking is a major problem at this location, particularly with respect to customers of the existing hot food shop, and this proposal will make matters worse.**

Response: Roads and Transportation Services have raised no concerns regarding potential parking problems associated with this development. They have stated that there is no evidence to suggest that the change of use from shop to hot food takeaway would have any adverse impact as a result of vehicles stopping on this section of road.

- (g) **The proposed development would adversely affect the residential amenity of the area by increasing late night noise and anti-social behaviour. This makes the area feel unsafe.**

Response: The opening hours of the proposed shop shall be controlled by condition. Furthermore the development will not be introducing a new use to the area. Anti-social behaviour is the responsibility of the police force and it is noted that any operators of the unit will have a vested interest in ensuring that they do not attract significant anti-social behaviour in terms of their licence to operate.

- (h) **The development will increase litter and add to an already serious problem of vermin in the area, namely mice, rats and birds.**

Response: Environmental Services have been consulted and have no objections to the proposal. However, notwithstanding it is considered that should consent be granted there will be a condition attached to ensure that the operator installs litter bins at the shop.

- (i) **A previous application for a hot food takeaway was refused consent and so there is no reason to grant consent this time.**

Response: It is acknowledged that a previous application was refused in 1999 (Planning Application CR/99/0170) was for the unit at 344 Kings Park Avenue. However each application has to be assessed on its own merits and judged on the circumstances pertaining at the time and the acceptability of this proposed use will be fully considered in the Assessment and Conclusions section of the report.

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

6 Assessment and Conclusions

- 6.1 As with all applications, this proposal has to be assessed against the development plan for the area and any other significant material considerations. In this case the relevant development plan is the adopted South Lanarkshire Local Plan 2009 and Policies RES6 – Residential Land Use, DM1 – Development Management and DM10 – Hot Food Shop will apply for this development.
- 6.2 Policy RES6 aims to protect the character and amenity of residential areas while supporting, in principle, compatible uses. The policy, therefore, is aimed at resisting proposals which will detract from the character and amenity of the area while supporting development which satisfies the following criteria:
- (a) The proposed development relates satisfactorily to adjacent and surrounding development in terms of scale, massing, materials and intensity of use;
 - (b) The character and amenity of the area is not impaired by reason of traffic generation, parking, visual intrusion, noise, emission of gases and particles;
 - (c) There is no resultant loss or damage to spaces, trees, bushes or hedgerows that made a significant contribution to the character or amenity of the area;
 - (d) The development is adequately serviced in terms of cycle, pedestrian and vehicular access, parking and accessibility to public transport.
 - (e) There is no detrimental effect on public safety.
- 6.3 In general terms it is noted that the unit lies within a pre-existing group of shops and is not introducing a new non-residential use to the area and thus can be considered to generally accord with this policy. In terms of the specific criteria outlined above, it should be noted that Roads and Transportation Services have concluded that the character and amenity of the area will not be impaired in terms of traffic generation and parking and any additional noise is considered to be marginal as a hot food takeaway is already located within the shops and the shops adjoin a busy thoroughfare. Furthermore in assessment of the other criteria, the applicants would require to provide an approved ventilation system, the proposal would not result in the loss of any open space, it would be adequately serviced and it would not have an adverse impact on public safety. It is therefore considered that the proposal accords with the terms of Policy RES6.
- 6.4 Policy DM1 – Development Management Policy states that in general all planning applications will require 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. Development will require to have no significant adverse impact on the local environment and to enhance its quality and appearance. It also identifies various criteria to be considered by the Council when assessing applications. Given the above assessment I am satisfied that the proposed development will satisfy these requirements and accord with this policy.

6.5 Notwithstanding the terms of Policy DM1, Policy DM10 – Hot Food Shop sets out the Council's specific policy for assessing this type of application with the aim of guiding such shops to preferred locations in town and village centres while protecting residential areas. The policy identifies a hierarchy of locations for hot food shops and identifies criteria appropriate to each type of site. In this instance the relevant level in the hierarchy is level 2 - "Single Shops/Small Groupings of Shops" where the policy states that "where there are single shops or groupings of small numbers of shops located in predominantly residential area or very small settlements, which meet the daily shopping needs of people within a locality, there will be a presumption against granting permission for hot-food takeaways unless all of the following criteria are met:

(a) An adequate level of shopping provision covering a range of daily shopping needs will still exist at the location or;

(b) Alternative shopping facilities are located near the site.

(c) There is shown to be no local need for the existing use and a need for the proposed use or it has been unsuccessfully marketed for an appropriate use to the Council's satisfaction.

(d) There is no significant impact in terms of environmental, traffic 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."

It is against these criteria that the application must be assessed.

6.6 With respect to criteria (a) and (b) it is noted that a general grocer and post office is located in a larger unit next door to the application site which will continue to provide for daily shopping needs. In addition there are further shops in Castlemilk Road which are within a relatively short walk or bus-ride away. It is therefore concluded that the proposal meets these criteria.

6.7 With respect to criterion (c) the applicant, who owns the unit, has provided written confirmation that the previous use had struggled to operate for some time and had been forced to close in October 2009. Since this time the unit has been unsuccessfully marketed for another Class 1 (Retail) tenant and has only had enquiries from hot food operators. Given these circumstances it is concluded that the proposed development satisfies this criterion.

6.8 Criterion (d) relates to amenity issues. Given neither Environmental Services nor Roads and Transportation Services have any objections to the proposed development it is considered that the proposed hot food shop would not have an adverse impact in terms of road safety or nuisance. There are no flats above the unit or any of the adjoining shops and the site is adjacent to a busy thoroughfare. It is therefore considered that the proposed development will not have a significant adverse impact on the residential amenity of the neighbouring properties and thus complies with this criterion.

- 6.9 Finally, criterion (e) relates to the provision of an approved ventilation system and should consent be granted a condition will be attached to meet the terms of this criterion. It is therefore concluded that within the terms of this policy the proposed development satisfies all the specified criteria and thus accords with Policy DM10.
- 6.10 While the representations received have raised a number of different issues, it is believed that these have been addressed in the assessment of the proposal in relation to local plan policy and through consultation with Roads and Transportation Services and Environmental Services. It is therefore considered that these concerns have been fully considered and none have been raised that justify the refusal of this planning application.
- 6.11 Having regard to all of the above I am satisfied that the proposal is an acceptable development which accords with the relevant local plan policies and it is therefore recommended that planning permission be granted subject to the conditions listed.

7 Reasons for Decision

- 7.1 The proposal has no significant adverse impact on the local amenity and complies with Policies RES6, DM1 and DM10 of the adopted South Lanarkshire Local Plan.

Colin McDowall

Executive Director (Enterprise Resources)

08 February 2010

Previous References

- ◆ CR/98/0169 – Alterations to shopfront; granted detailed planning permission 11 December 1998.
- ◆ CR/99/0170 – Change of use from vacant shop unit to hot food take away with new shop front (at 344 Kings Park Avenue); refused detailed planning consent 12 October 1999

List of Background Papers

- ▶ Application Form
- ▶ Application Plans
- ▶ South Lanarkshire Local Plan (adopted) 2009
- ▶ Letter from D M Jarvie (Agent) dated 21 January 2010

- ▶ Consultations
 - Roads and Transportation Services (North Division) 27/10/2009
 - Environmental Services 20/10/2009

- ▶ Representations
 - Representation from : Mrs G Penman, 363 Kings Park Avenue
Rutherglen G73 2AU, DATED 06/11/2009

 - Representation from : Mr J Wrattton, 338 Kingspark Avenue
Rutherglen
G73 2AG, DATED 23/10/2009

 - Representation from : R & R S Mearns Solicitors & Notaries, 2 Carment Drive

Glasgow G41 3PR, DATED 12/10/2009

Representation from : James McGrath, 342 Kingspark Avenue
Rutherglen G73 2AG, DATED 14/10/2009

Representation from : J Rhodie, 359 Kingspark Avenue
Rutherglen G73 2AU, DATED 28/10/2009

Representation from : Madge McGhee, 361 Kings Park Avenue
Glasgow G73 2AH, DATED 27/10/2009

Representation from : Ms Marilyn Gordon, 358 Kingspark Avenue
Glasgow G73 2AL, DATED 04/11/2009

Representation from : Margaret Robinson, 356 Kings Park Avenue
Rutherglen G73 2AL, DATED 22/10/2009

Representation from : Mr R Rhee, 354A Kingspark Avenue
Rutherglen G73 2AL, DATED 22/10/2009

Contact for Further Information

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

Bill Kerr

(Tel :0141 613 5141)

E-mail: Enterprise.cam-ruth@southlanarkshire.gov.uk

CONDITIONS

- 1 The consent shall be carried out strictly in accordance with drawing numbers: 1791/L, 1791/1, 1791/2, 1791/3, 1791/4, 1791/5.
- 2 The use hereby permitted shall be instituted within three years of the date of this permission.
- 3 That no consent is hereby granted for any shopfront alterations or advertising signage related to the change of use hereby approved.
- 4 Before the hot food shop is brought into use, the proposed method of ventilation shall be submitted to and approved in writing by the Council as Planning Authority. The hot food shop 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.
- 5 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.
- 6 The use of the premises , shall be restricted to the following hours of operation:
Sundays to Thursdays: Between 4pm and 11.30pm
Fridays to Saturdays: Between 3pm and 12am
- 7 That the development hereby approved shall not be occupied until the site is served by a sewerage scheme constructed in accordance with Scottish Water standards and as approved by the Council as Planning Authority in consultation with Scottish Water as Sewerage Authority.

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 minimise nuisance to occupants of nearby buildings as a result of cooking smells, vapours, airborne pollutants or noise from the premises.

- 5 To safeguard the amenity of the area.
- 6 To minimise noise disturbance to adjacent occupants.
- 7 To ensure that the disposal of surface water from the site is dealt with in a safe and sustainable manner, to return it to the natural water cycle with minimal adverse impact on people and the environment and to alleviate the potential for on-site and off-site flooding.

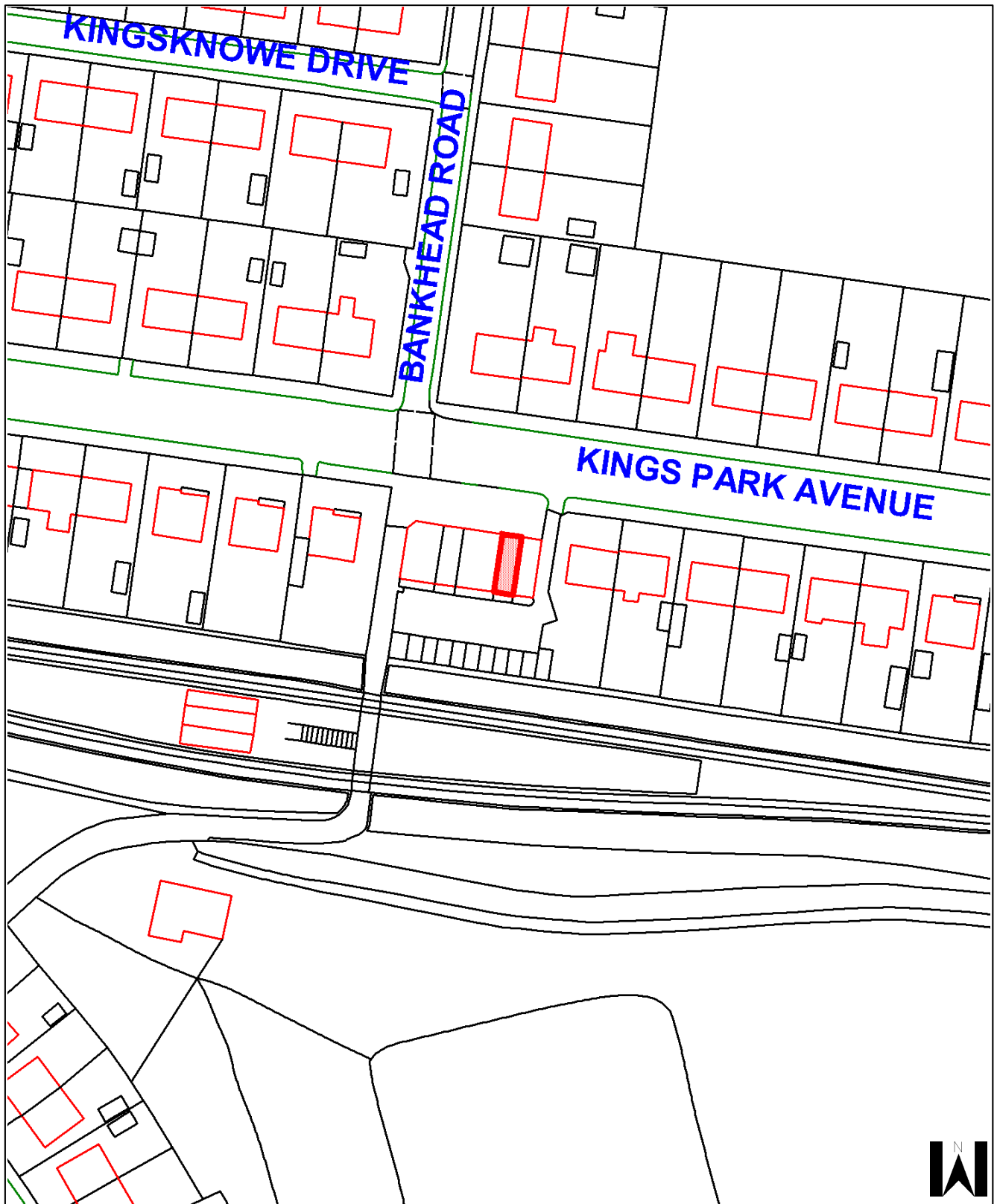
CR/09/0217

352 Kings Park Avenue, Rutherglen

Planning and Building Standards Services

Scale: 1: 1250

For information only



For information only

