

Appendix 2(a)

Report of Handling

Report dated 14 September 2018 by the Council's Authorised Officer under the Scheme of Delegation

	Delegated Report	Reference no.	P/18/1104
		Date	14 September 2018

Planning proposal:	Change of use of existing bank to form restaurant, ancillary hot food takeaway, entrance alterations on ground floor, function room on first floor and erection of flue to rear
Location:	5 Greenlees Road Cambuslang Glasgow South Lanarkshire G72 8JA

Application Type : Detailed planning application

Applicant : Mr Mohammed Jawab

Location : 5 Greenlees Road
Cambuslang
Glasgow
South Lanarkshire
G72 8JA

Decision: Application refused

Report by: Area Manager (Planning & Building Standards)

Policy reference:

South Lanarkshire Local Development Plan

Policy 4 Development management and placemaking

Policy 8 Strategic and town centres

Supplementary Guidance 3: Development Management, Placemaking and Design

Policy DM8 Hot food shops

Proposed South Lanarkshire Local Development Plan 2

Policy 5 Development Management and Placemaking

Policy 9 Network of Centres and Retailing

Policy DM9 Hot Food Shops

Assessment

Impact on privacy?	No
Impact on sunlight/daylight?	No
Impact on amenity?	Yes
Traffic issues?	No
Adheres to development plan policy?	No
Adverse comments from consultees?	No

Consultations

Environmental Services

Summary of response

Recommend that a decision on the application be deferred until a noise assessment is submitted to determine the impact of noise from the proposed development on nearby dwellings. They also require further details on the method of ventilation, details of storage and the collection of waste. The applicant has chosen not to submit a noise assessment, the full ventilation details or details of suitable storage and collection of waste.

Representation(s):

▶	13
▶	0
▶	0

Objection letters
Support letters
Comment letters

Planning Application Delegated Report

1 Application Site

- 1.1 The application site relates to a vacant commercial unit at 5 Greenlees Road in Cambuslang. The property was formerly occupied by a bank (TSB) and extends over the ground floor and first floor. A residential flat is then located on the floor above and residential flats are also located on either side of the property at this level. The site is located opposite the junction of Greenlees Road and Main Street, Cambuslang and a public house is located adjacent to the site. To the rear of the property there is a small communal courtyard containing a drying area and bin storage.

2 Proposal

- 2.1 The proposal extends over the ground and first floor. The submitted plans show that the ground floor would consist of a restaurant, kitchen server, preparation area and an accessible toilet. A function room, staff room ladies and gents toilets are proposed on the first floor. A flue is proposed on the rear elevation which would extend from the ground floor passing internally to the first floor, would exit through the staff room where it would be attached externally to the residential property above. The proposal also includes minor changes to the shop front by alterations to the door.
- 2.2 Planning Application P/18/0180 - Change of use of existing bank to form restaurant, hot food takeaway, entrance alterations on ground floor, function room on first floor and erection of flue to rear at this site was refused planning consent on 24 July 2018. It is noted that the only change from the previous plans is the removal of the text on the proposed ground floor plan identifying the takeaway waiting area. The supporting statement submitted relating to the current application has reduced the proposed takeaway element of the business to 10%. The previous application projected a ratio of 50% restaurant, 25% takeaway and 25% deliveries.

3 Local Plan Status

- 3.1 The South Lanarkshire Local Development Plan (2015) provides the development plan context for this application. In this instance Policy 4 - Development management and placemaking, Policy 8 - Strategic and town centres and Policy DM8 Hot food shops apply.
- 3.2 Policy 4 requires the Council to ensure that all development proposals have no significant adverse impact on adjacent buildings or the streetscape in terms of layout, scale, design, external materials and that noise and odours do not adversely impact on residential amenity. Policy 8 states that development proposals must also accord with other relevant policies within the development plan and supplementary guidance. In terms of Policy DM8, development proposals will not have a significant impact in terms of environmental, traffic, public safety and amenity considerations, in terms of noise, disturbance or smells, particularly in relation to residential properties above, adjacent or near to the site. The policy also states that in all cases the applicant shall demonstrate that they have control to implement any ventilation system that may be required. In addition, where a hot food shop is proposed on the ground floor and requires an external flue, there will be a presumption against this type of proposal unless evidence of agreement from all of the common owners is provided.
- 3.3 On 29th May 2018 the Planning Committee approved the proposed South Lanarkshire Local Development Plan 2 (Volumes 1 and 2) and Supporting Planning Guidance on Renewable Energy. The new plan builds on the policies and proposals contained in the currently adopted South Lanarkshire Local Development Plan. For the purposes of determining planning applications the proposed South Lanarkshire Local Development

Plan 2 is now a material consideration. In this instance Policies 5, 9 and DM9 are relevant.

4.0 Representations

4.1 Statutory neighbour notification was undertaken in respect of this application and the proposal was advertised in the local press for bad neighbour development and non-notification of neighbours. Thirteen letters of objection were received as a result of this publicity. The contents of these objections are summarised below.

(a) **That an additional food establishment, hot food or fast food outlet is not required in Cambuslang as there is already too many of this type of unit and this will affect the viability of other such businesses in the surrounding area.**

Response: Policy 8 Strategic and Town Centres states that the Council will allow a mixture of uses compatible with their role as commercial and community focal points. The unit previously operated as Class 2 – Financial and Professional, however it is currently vacant. The Planning Service recognises the importance of the occupation of this prominent commercial unit, however the proposed use is not considered compatible with the surrounding residential units. Matters of potential business competition are not a material consideration in determining this application.

b) **That the proposal will have a detrimental impact on odours, drainage and parking, causing congestion on Greenlees Road and other surrounding streets.**

Response: Policy DM8 states that in all cases the applicant shall demonstrate that they have control to implement any ventilation system that may be required. Confirmation that the proposed ventilation system can be attached to the private property above has not been provided. There is no evidence that the proposal can be adequately ventilated and that the surrounding properties will not be impacted by increased odours. The drainage relating to the application site is not a material planning consideration. A Building Warrant application will be required which will assess any proposed changes to the drainage connections. In terms of parking, Roads and Transportation Services offered no objections to the previous planning application and as there were no significant changes to the current proposal, a further consultation was not required.

5 Assessment and Conclusions

5.1 The applicant seeks detailed planning consent for the change of use of an existing bank to form a restaurant with ancillary hot food takeaway and entrance alterations on the ground floor. A function room and toilet facilities are proposed on the first floor and an external flue is to be erected on the rear elevation. The applicant envisages that the proportion of the takeaway element of the business will be in the region of 10%.

5.2 The proposal requires assessment in terms of the relevant local plan policies. The primary consideration when assessing the proposal is the impact on the amenity of the surrounding residential properties. Policy 4 Development Management and Placemaking states that development proposals should have no significant adverse impacts on the local community and that there should be no significant adverse impact on adjacent buildings in terms of layout, scale, massing, design, external materials or amenity. The premises were previously occupied by a bank which did not impact on the amenity of the surrounding properties due to the nature of the operation and the opening hours. In contrast, the proposed change of use of the ground floor and the first floor of the premises would have a detrimental impact on the amenity of the residential property above. The applicant has not submitted amended opening hours from the previous application. The proposed opening hours of Sunday to Thursday 10am – 11pm and Saturday 10am – midnight will introduce an unacceptable level of disturbance to the neighbouring property. In this instance the applicant has chosen not to submit a noise assessment, therefore it

has not been demonstrated that there would be no impact on nearby dwellings. In addition, the proposal includes the installation of an external ventilation flue which would be located on the elevation of the residential property above and would be located in close proximity to the windows of the property. It is considered that the amenity of the property will be adversely affected by the location of the flue. The proposal is therefore not considered to comply with Policy 4 of the adopted South Lanarkshire Local Development Plan.

- 5.3 Policy DM8 Hot Food Shops states that within retail/commercial areas there will be a general presumption in favour of granting planning permission for hot food shops subject to compliance with certain criteria including that the proposal should 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. The policy further states that in all cases, the applicant shall demonstrate that they have control to implement any ventilation system that may be required. The policy specifically states that if the hot food shop is proposed on the ground floor of flats there will be a presumption against the proposal unless ventilation arrangements including a rear flue terminating 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.
- 5.4 When the application was submitted the agent was asked to provide confirmation that the applicant had the legal right to install the flue at the rear and on the roof of the property. The applicant has stated that consent from owners is not required as this is not a planning matter but a legal matter, however, Policy DM8 clearly sets out this requirement. Environmental Services requested a noise assessment, ventilation details and waste storage details to evaluate the impact on the surrounding properties. This request was forwarded to the agent, however, this information has not been submitted, and therefore the Environmental Services assessment cannot be completed. The proposed flue is attached to a residential property above the application site and an agreement from the owner of this property has not been submitted. The applicant has not demonstrated that they have control to implement the proposed ventilation system therefore the proposal is contrary to Policy DM8.
- 5.5 The rear courtyard of the building is communally accessed by the adjoining residents and businesses and contains a small drying area and domestic bin storage. The introduction of commercial waste and increased access to this courtyard is considered to have a detrimental impact on the amenity of this area and the existing residents. Any storage of the waste disposal bins at the front of the property would have a detrimental visual impact on the streetscape at this prominent location in Cambuslang.
- 5.6 Policy 8 Strategic and Town centres is also relevant. This policy 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. It further states that development proposals must also accord with other relevant policies and proposals in the appropriate supplementary guidance. The Council welcomes the principle of reusing vacant premises such as this which are located on a prominent frontage in the town centre, however, in this particular case it is considered the proposal would have an adverse impact on the residential amenity of the adjacent properties and as such does not comply with Policies 4 and DM8. The proposal is therefore contrary to Policy 8.
- 5.7 The planning application has been assessed in relation to Policies 5, 9 and DM9 of the Proposed South Lanarkshire Development Plan 2. In particular Policy DM9, Hot Food Shops states that proposals should not have a significant impact in terms of environmental, traffic, public safety and amenity considerations regarding noise,

disturbance or smell, particularly in relation to residential properties above, adjacent or near to the site. The application is considered to have a significant detrimental on the amenity of the surrounding residential properties and as such, the proposal does not comply with the proposed development plan.

- 5.8 In conclusion, although the Planning Service recognises the importance of the occupation of this prominent commercial unit, this Service cannot support the proposed operations in this change of use application. The unit extends over two floors within a traditional sandstone terrace with commercial units to each side on the ground floor and residential units surrounding above. The unit is currently vacant; however, the previous use of the unit was as a bank. It is considered that the proposed use as a restaurant, ancillary hot food takeaway and function room will introduce a significant increase of noise and disturbance to the surrounding residential units. The late night opening and use of a function room below a residential property is considered to have a significant detrimental impact on the residential amenity. The applicant has not submitted the information required by Environmental Services or ownership agreements. It is therefore considered that the application for the change of use should be refused. Planning Application P/18/0180 was refused for the site on 24th July 2018 and the only change to this application is the removal of the text identifying the takeaway waiting area. There are no significant differences from the previously refused application which would warrant approval of the current application.

6 Reasons for refusal

- 6.1 The proposal is contrary to Policies 4 and 8 and of the South Lanarkshire Local Development Plan (2015) and Policy DM8 Hot Food Shops of the Development Management, Place Making and Design Supplementary Guidance. The proposal is also contrary to Policy 5, 9 and DM9 of the Proposed South Lanarkshire Development Plan 2.

Delegating officer: G Rae

Date: 14 September

Previous references

- ◆ P/18/0180

List of background papers

- ▶ Application Form
- ▶ Application Plans
- ▶ South Lanarkshire Local Development Plan 2015 (adopted)
- ▶ Proposed South Lanarkshire Development Plan 2
- ▶ Neighbour notification letter dated 06.08.2018

▶ Consultations

Environmental Services

23.08.2018

▶ Representations

Swarnjit Rainth, 0/1, 4 Bellisle Street, Govanhill, Glasgow, G42

Dated:
24.08.2018

Roma George, 2/3, 61 Westmoreland Street, Glasgow, G42 8LJ

Dated:

	24.08.2018
Santokh Singh, 37 Albert Drive, Glasgow	Dated: 24.08.2018
Taimur Malik, 260 Aitkenhead Road, Glasgow	Dated: 24.08.2018
Aqib Shahzad, 21 Dumbreck Road, Glasgow, G41 5LJ	Dated: 24.08.2018
Sajid Hussain, 120 Kirkcaldy Road, Maxwell Park, Glasgow, G41 4LF	Dated: 24.08.2018
Aman Singh, 2/1, 77 Barrland Street, Glasgow, G41 1RH	Dated: 24.08.2018
Jaspreet Kaur, 0/1, 91 Batson Street, Govanhill, G42	Dated: 24.08.2018
L S Memmi, 30 Melville Street, Pollokshields, Glasgow, G41 2JT	Dated: 24.08.2018
M J Ashworth, Madras Cottage, 21 Station Road, Blantyre, G72 9AB	Dated: 24.08.2018
Iqbal Mohammed, Madras Cottage, 21 Station Road, Blantyre, G72 9AB	Dated: 24.08.2018
Mrs Jean Austin, 96 Main Street, Cambuslang, Glasgow, South Lanarkshire, G72 7EJ	Dated: 22.08.2018
Mr John Kerr, 1-1, 9 Greenlees Road, Cambuslang, G72 8JB	Dated: 22.08.2018

Contact for further information

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

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Planning Application

Application number: P/18/1104

Reasons for refusal

01. The proposal is contrary to criteria (i) and (ii) of Policy 4 Development Management and Place Making of the adopted South Lanarkshire Local Development Plan in that it would have a significant adverse impact on the amenity of the adjacent residential dwellings.
02. The proposal is contrary to Policy DM8 Hot Food Shops of the adopted South Lanarkshire Local Development Plan in that it represents a form of development that would have an adverse impact on the amenity of the surrounding residential properties and the applicant has failed to demonstrate the control to implement the proposed ventilation system.
03. The proposal is contrary to Policy 8 Strategic and Town Centres of the adopted South Lanarkshire Local Development Plan as it does not comply with Policy 4 Development Management or with the Development Management Place Making and Design Supplementary Guidance - Policy DM8 Hot Food Shops.
04. The proposal is contrary to criteria (1) and (2) of Policy 5 Development Management and Place Making of the Proposed South Lanarkshire Local Development Plan 2 in that it would have a significant adverse impact on the amenity of the adjacent residential dwellings.
05. The proposal is contrary to Policy DM9 Hot Food Shops of the Proposed South Lanarkshire Local Development Plan 2 in that it represents a form of development that would have an adverse impact on the amenity of the surrounding residential properties and the applicant has failed to demonstrate the control to implement the proposed ventilation system.
06. The proposal is contrary to Policy 9 Network of Centres and Retailing of the Proposed South Lanarkshire Local Development Plan 2 as it does not comply with Policy 5 Development Management or with the Development Management Place Making and Design Supplementary Guidance - Policy DM9 Hot Food Shops.

Reason(s) for decision

The proposal is contrary to Policies 4 and 8 and of the South Lanarkshire Local Development Plan (2015) and Policy DM8 Hot Food Shops of the Development Management, Place Making and Design Supplementary Guidance. The proposal is also contrary to Policy 5, 9 and DM9 of the Proposed South Lanarkshire Development Plan 2.

Informatives

01. This decision relates to drawing numbers:

Reference	Version No:	Plan Status
SITE PLAN	1	Refused
25160/1 EXISTING GROUND FLOOR	1	Refused
25160/11 PROPOSED	1	Refused

SIDE ELEVATION

25160/2 EXISTING FIRST FLOOR	1	Refused
25160/3B PROPOSED GROUND FLOOR	1	Refused
25160/4 PROPOSED FIRST FLOOR	1	Refused
25160/5 EXISTING SHOPFRONT AND REAR ELEVATIONS	1	Refused
25160/6 PROPOSED SHOPFRONT AND REAR ELEVATION	1	Refused

02. The proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Standards approval (if relevant). Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant safety and engineering risks and exposes all parties to potential financial liabilities. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should wherever possible be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design is developed and agreed with regulatory bodies which takes into account of all the relevant safety and environmental risk factors, including gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at: <https://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries>

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain Property specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com or a similar service provider.

If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority