

Report

Report to:	Planning Committee
Date of Meeting:	26 May 2020
Report by:	Executive Director (Community and Enterprise Resources)

Application no.	P/19/1544
Planning proposal:	Conversion of existing public house to form one Class 3 (Food and drink) unit, one hot food takeaway (Sui Generis) and one Class 1 (Retail) unit, with associated alterations to the structure of the building and formation of new car park and access

1 Summary application information

Application type:	Detailed planning application
Applicant:	Mr Nabeel Tariq
Location:	Burnhill Bar 18 Chapel Street Rutherglen G73 1JE

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: Alyn Walsh
- ♦ Council Area/Ward: 12 Rutherglen Central And North
- ♦ Policy Reference(s): **South Lanarkshire Local Development Plan (2015)**
Policy 4 -Development management and placemaking
Policy 6 - General urban area/settlements
Policy 10 - New retail/commercial proposals

Supplementary Guidance 3: Development Management, Placemaking and Design

Policy DM1 - Design
Policy DM8 - Hot food shops
Policy DM13 - Development within general urban area/settlement

**Proposed South Lanarkshire Local Development
Plan 2 (2018)**

Policy 3 - General Urban Areas and Settlements

Policy 5 - Development Management and Placemaking

Policy 10 - New Retail and Commercial Proposals

Policy DM1 - New Development Design

Policy DM9 – Hot Food Shops

◆ **Representation(s):**

▶	3, plus 2 petitions containing 35 names.	Objection Letters
▶	0	Support Letters
▶	0	Comment Letters

◆ **Consultation(s):**

Roads and Transportation Services (Development Management Team)

Rutherglen Community Council

Environmental Services

Estates Services - Housing and Technical Resources

Planning Application Report

1 Application Site

- 1.1 The application site is located within the established urban area at 18 Chapel Street, Rutherglen. The site comprises a freestanding vacant public house, with a small car park, servicing and landscaped areas to the front (south) of the site. The existing single storey building, with its shallow roof, has been built on a split level site with a low retaining wall running roughly along the centre of the site. An informal footpath also runs along the eastern edge of the building, linking the site to the wider footpath network and a public car park to the north of the site.
- 1.2 The site is surrounded on all sides by existing residential developments, with four storey blocks of flats in particularly close proximity to the east, west and south of the site. The ground floor of one of these blocks of flats, to the east of the site, contains a number of small commercial units including a Class 1 convenience store. The western edge of Rutherglen Main Street is located approximately 160 metres to the east of the site, on the opposite side of the A730 - Glasgow Road.

2 Proposal(s)

- 2.1 The applicant seeks consent for the change of use and physical conversion of the vacant public house (Sui Generis) to form three separate units; one Class 3 (food and drink) unit, one hot food takeaway (Sui Generis) and one Class 1 (retail) unit. This would involve associated alterations to the structure of the building, including the demolition of a small section of the existing structure. An enlarged car park and revised access to the site are also proposed as part of the application.
- 2.2 In terms of the proposed physical changes on site, the proposal would involve the demolition of a projecting front store and a small section of the existing kitchen. New glazed shopfronts would then be formed to serve the three units. Flues would also be installed towards the rear of the building to serve the proposed food units. Internally, the property would be divided into three units, the largest of which would be a class 3 food/drink use, with a smaller hot food takeaway and retail unit in the recessed section of the building furthest from the front of the site. New rear access doors would be installed to serve these units. No other significant alterations to the building are proposed as part of this application.
- 2.3 The proposal does also involve the formation of a slightly larger car park and delivery area to the front of the property, with a re-designed vehicular access. The site would also be regraded slightly to allow for the removal of the existing retaining wall. Bin stores are proposed to be formed to the front of the building to serve the three units.
- 2.4 The applicant has confirmed that they have ownership over the land containing the existing public house and pedestrian entrance to the building, however a sizeable section of the site containing the existing car park is within the Council's ownership with the applicant having a right of access. In order to alter this section of the site to accommodate the proposed replacement car park, it is understood that the applicant has entered into separate discussions with colleagues in Estates Services over the purchase of this area of land. In addition, the applicant has owner-notified

a number of adjacent flats as a section of land within the red line site boundary at the existing vehicular entrance also appears to be held within common ownership of a number of properties including these flats. This access would be altered and slightly enlarged as part of this proposal. Ultimately land ownership is a civil matter and the applicant would require to resolve these matters before the implementation of any planning consent on this site.

3 Background

3.1 Local Plan Status

- 3.1.1 In determining this planning application, the Council must assess the proposed development against the policies contained within the adopted South Lanarkshire Local Development Plan (2015) (SLLDP) and its associated Supplementary Guidance (SG).
- 3.1.2 In land use terms, the application site is identified within the SLLDP as being within a general residential area. Policy 6 (General Urban Area/Settlements) is applicable and states that residential developments and those of an ancillary nature may be acceptable within urban areas and settlements, provided they do not have a significant adverse impact upon the amenity and character of the area. Developments that will be detrimental to residential amenity will not be permitted.
- 3.1.3 Policy 4 (Development Management and Placemaking) of the SLLDP is also considered to be relevant and requires all development proposals to take account of, and be integrated with, the local context and built form of the area.
- 3.1.4 Policy 10 (New retail/commercial proposals) sets out the criteria that proposals for new retail or commercial development will be assessed against. It also states that major developments should be accompanied by a retail assessment.
- 3.1.5 Policy DM1 (Design) states that the design and layout of all new development will be assessed in relation to policies of the SLLDP as well as the relevant policy guidance contained within the Development Management, Placemaking and Design Supplementary Guidance. Further specific design guidance prepared by the Council is applicable to other forms of development.
- 3.1.6 Policy DM8 (Hot food shops) sets out the criteria that new hot food shops will be assessed against in various settings. There is a general presumption against the granting of new hot food takeaways if residential amenity would be adversely affected to a significant degree or if it was within an industrial area. The applicant will also be required to demonstrate that they have control the implement any ventilation system that may be required.
- 3.1.7 Policy DM13 (Development within general urban area/settlement) states that all development within the general urban area/settlement must satisfy a set criteria. This includes; ensuring that the development relates satisfactorily to adjacent and surrounding development, the character of the area not being impaired, no resultant loss or damage to open spaces or significant landscaping, the site being adequately serviced by multiple transport modes and there being no adverse impact on public safety. Development should also take account of other relevant supplementary guidance prepared by the Council.

3.1.8 On 29 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 (SLLDP2) is now a material consideration. In this instance, the following policies are relevant:

- Policy 3 - General Urban Areas and Settlements
- Policy 5 - Development Management and Placemaking
- Policy 10 - New Retail and Commercial Proposals
- Policy DM1 - New Development Design
- Policy DM9 - Hot Food Shops

3.2 Relevant Government Advice/Policy

3.2.1 Given the nature of the proposal there is no specific government guidance relevant to the determination of this application.

3.3 Planning Background

3.3.1 The site has most recently been used as a public house (Sui Generis). The only recent planning consent relating to the site was for the erection of a timber screen fence in 2009 (CR/09/0134). It is understood that the property has now been vacant for several months.

4 Consultation(s)

4.1 **Roads and Transportation Services (Development Management Team)** - Initially raised some concerns with the design of the proposed vehicular access and requested clarification on a number of matters, including the number of parking spaces and the route for delivery and waste collection vehicles. Following the submission of revised drawings altering the design of the vehicular access and clarifying other matters, they have advised that they have no objections to the proposal.

Response: Noted. If applicable, relevant conditions can be added to the decision notice to ensure that the new access and car park are constructed to the required standards.

4.2 **Environmental Services** - No objections to the proposal, subject to the inclusion of conditions related to noise levels and the ventilation system. They have also requested the inclusion of relevant advisory notes.

Response: Noted. Relevant conditions and advisory notes can be added to the decision notice, if applicable.

4.3 **Estates Services - Housing and Technical Resources** – No formal response received.

Response: Noted. Part of the site is within the Council's ownership and it is understood that the applicant has entered discussions with colleagues in Estates Services regarding the sale of this land. Land ownership is a separate civil matter

and this would require to be finalised prior to the implementation of any planning consent being implemented on the site.

4.4 **Rutherglen Community Council** - No response received.

Response: Noted.

5 Representation(s)

5.1 Statutory neighbour notification was undertaken and the proposal was further advertised in the local press. Three individual letters of objection were received in connection with this proposal, together with two petitions containing the names of 35 objectors.

5.2 The grounds of objection can be summarised as follows: -

a) **There is no need for these types of businesses. There are already a number of retail units, takeaways and licensed premises in the area. A community hall would be a more appropriate use of the site, which would be affordable to the Council and would benefit the area.**

Response: The Planning Service is required to assess planning applications which are submitted for consideration. Whilst there may well be alternative potential uses for the site, this application is limited to the assessment of the proposal that has been submitted by the applicant.

With regards to the concerns regarding the number of similar businesses in the area I would advise that, on a proposal of this scale, these matters are not a material planning consideration. In this respect, the operation of the proposed businesses would not threaten the viability of the town centre, and commercial completion is not a material planning consideration.

b) **Concerns that the proposal would lead to a loss of privacy and allow for overlooking of neighbouring residents' properties, particularly if existing fencing was removed. The use of a smoking area too could lead to a loss of privacy.**

Response: The proposal is for relatively minor demolition and alteration works to the existing commercial building, and, as such, the proposal would not appear to significantly change the levels of privacy in the local area. A condition can be imposed on any consent to control the design and location of fences and landscaping on site to ensure that neighbours are not significantly impacted in terms of overlooking. No dedicated smoking area has been proposed by the applicant.

c) **Concerns that the proposal would adversely impact upon levels of air pollution due to the increased traffic visiting the site. The car park is also still too small, which will lead to parking issues and road safety issues with cars mounting the pavement to get into the car park. Car headlights will also shine into neighbouring flats.**

Response: The existing public house includes a small car park, and this proposal does not significantly change the location of that access. Roads and Transportation Services have advised that the car park design and size is acceptable for this type of proposal, and that the revised access design would not adversely impact upon public safety. It is not considered that this

proposal would lead to a significant increase in traffic which would impact upon air quality, and indeed the site is within walking distance for a large number of nearby residents who would not need to drive.

- d) **Concerns about the noise and disturbance that would result from this proposal. There would be increased activity and traffic visiting the site, and there may be noise from the ventilation units.**

Response: Given that the existing lawful use of the site is a public house, it is not considered that this proposal would result in a significant change in the level of noise or disturbance that residents would be likely to experience. In the event that consent is granted for the development, a condition can be imposed to control the details of the ventilation system and to control the associated noise levels.

- e) **Concerns regarding anti-social behaviour. The proposal would increase activity and may lead to more underage drinking and people loitering in the area. The former public house had issues, but these were limited to two late evenings per week.**

Response: Again, given that the existing lawful use of the site is a public house, it is not considered that this proposal would result in a significant change in terms of the site's potential to attract anti-social behaviour. These matters would, however, be considered as part of any future licensing application for the proposed units, and the police would be able to take action to address any anti-social behaviour that did occur at this location.

- f) **Concerns about the potential odour from the flues associated with the food units and that the flues themselves may not be tall enough to prevent issues to neighbouring residents.**

Response: In the event that consent for the development is granted, a condition can be imposed to control the final design of the ventilation system installed on site. If the final design required a flue height significantly taller than that shown on the drawings, then a further planning application for that work may be required.

- g) **Concerns regarding drainage in the area. There are already drainage issues that impact upon the surrounding residents, and this proposal may exacerbate these.**

Response: The proposal would not seek to significantly change the area of ground covered by buildings or development, and conditions can be added to any consent to control water running onto the road from the car park and to ensure that suitable landscaping is carried out. As such, the proposal should not have a significant impact upon drainage in the area.

- h) **Concerns regarding bin storage. Previously bins were not collected regularly, leading to waste collecting and littering the area. The proposal may also increase littering from the food businesses. These issues may lead to a rat/vermin problem.**

Response: The location of the proposed bin stores has been indicated on the submitted drawings. Details regarding the frequency of waste collections is not generally a matter for the Planning Service, however, it would be in the best interests of operators of food units in particular to ensure that the waste was collected regularly as rats and vermin can impact upon their ability to

trade. Environmental Services have powers in relation to these matters, and they have been consulted on this proposal and have offered no objections.

- i) **Concerns that letters of representation are published, together with the names and addresses of those making the comments. This may put people off expressing their views.**

Response: The processes relating to planning applications and how representations are handled is set out in legislation. Personal details (e.g. phone numbers and private email addresses) are redacted from representations, however the legislation requires that the names and addresses are published. In this instance, more than 35 people have formally made their views on the proposal known by submitting a letter of representation or by signing a petition.

- 5.3 These letters are available for inspection on the planning portal.

6 Assessment and Conclusions

- 6.1 The applicant seeks detailed planning consent for the conversion of existing public house to form one Class 3 (Food and drink) unit, one hot food takeaway (Sui Generis) and one Class 1 (Retail) unit, with associated alterations to the structure of the building and formation of new car park and access. The determining issues in consideration of this application are its compliance with local development plan policy, the acceptability of the proposal in terms of scale, design, impact upon public safety and the potential impacts upon the residential and visual amenity of the surrounding area.
- 6.2 Within the adopted 2015 South Lanarkshire Local Development Plan, the application site lies within the settlement boundary of Rutherglen. Policy 4 - Development management and placemaking, Policy 6 - General urban area/settlements therefore apply, together with Policy 10 - New retail/commercial proposals. The proposal also requires to be assessed against the guidance contained within the associated supplementary guidance documents, namely that guidance contained within Supplementary Guidance 3: Development Management, Placemaking and Design. These policies seek to protect the character and amenity of the area and require proposals to take account of and be integrated with the local context and built form.
- 6.3 Policy 1 - Design sets the criteria by which new development design is to be assessed in relation to. In this instance, the policy confirms that there should be no significant adverse impact on adjacent buildings or the streetscape in terms of layout, scale, massing, design, external materials or amenity, as a result of the proposal. Policy DM8 - Hot foods shops sets the criteria that hot food shops will be assessed against in various settings. There is a general presumption against the granting of new hot food takeaways if residential amenity would be adversely affected to a significant degree or if it was within an industrial area. The applicant will also be required to demonstrate that they have control the implement any ventilation system that may be required. Policy DM13 - Development within general urban area/settlement sets out criteria that new developments within the urban area must satisfy. These relate to the proposal taking account of surrounding development in terms of its layout, design, character and scale, and its impact upon existing open spaces, landscaping and public safety. Development must also be

adequately serviced in terms of a number of transport modes, including public transport.

- 6.4 Following a detailed assessment of this proposal, it is considered that it would not have any significant adverse impact upon residential or visual amenity, or upon public safety in the immediate area. It is recognised that the site is located within a predominantly residential area, and that it is in close proximity to a number of 4 storey blocks of flats. It is, however, also noted that the existing building has a lawful use as a public house and that the uses proposed, a Class 1 retail unit, Class 3 food/drink unit and a hot food takeaway, are not uncommon in residential areas. In addition, it is understood that the public house has been vacant for almost a year now and that this proposal is intended to bring the building and the wider site back into use. It is recognised that there is always the potential for new commercial development to lead to unwelcome anti-social behaviour, however, given the history of the site, the proposed uses would not appear to significantly change the character of the area and the new units will bring increased choice to local residents.
- 6.5 In terms of the detailed design of the proposal, the external alterations to the building would not appear to be of a scale that would materially impact upon the residential amenity of neighbouring residents. In addition, the physical changes to the building would improve its appearance, given that the pub has been vacant for almost a year with its condition deteriorating. A condition could be imposed on any consent to control the final choices of external finishing materials, to ensure that they do not appear out of character in the wider area. The proposed enlarged car park and amended access would not materially impact upon public safety, and the work would enable the site to be tidied and upgraded from its current condition, whilst the existing footpath link through the site would remain. The new access would not appear to significantly impact upon residential amenity and sufficient parking spaces would be provided to serve the units, particularly as it seems likely that a large number of customers living locally would be likely able to walk to these businesses.
- 6.6 The impact upon residential amenity can be further controlled by the use of suitably worded planning conditions. These can be used to control the layout and design of fencing and boundary treatments at the site and to ensure that suitable landscaping is undertaken to improve the visual appearance of the area. In addition, given the proposed uses of the units, a condition can be imposed to ensure that full technical details of the ventilation systems are agreed with the Council prior to any of the relevant businesses opening. This will prevent the operation of the food units from significantly impacting neighbours by way of odours, smells or noise from any such system. The applicant has indicated the location of bin storage for the three units on the submitted drawings. Finally, conditions can be included to control the implementation of the new vehicular access arrangements.
- 6.7 No details of the final operators of the units are available at this stage, however it is noted that any licenced premises will require to apply to the Councils Licensing Service who may impose conditions on the hours of operation where there are concerns about the impact of late hour openings on neighbouring residents. Similarly, hot food takeaways and most retail shops that open beyond 11pm require a late hours catering licence, which may not be issued where there are concerns about anti-social behaviour or disturbance to residents. As such, it is not considered reasonable to add any conditions related to hours of operation at this stage.

- 6.8 On 29 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. Therefore, the Proposed SLLDP2 is now a material consideration in determining planning applications. The proposed development has been considered against the relevant policies in the proposed plan and it is noted that these policies are broadly consistent with the current adopted South Lanarkshire Local Development Plan. It is, therefore, considered that the proposal also accords with Policies 3, 5, 10, DM1 and DM9 in the proposed plan.
- 6.9 Three individual letters of objection and two petitions containing a further 35 objectors have been received in connection with this proposal. These raise concerns regarding the impact of the proposal upon their general amenity, upon parking and road safety and upon the potential for additional anti-social behaviour. It is, however, not considered that these objections are of sufficient weight or merit, either individually or collectively, to justify the refusal of consent in this instance.
- 6.10 In view of all of the above, and noting that the proposal broadly accords with the policies and guidance of the adopted South Lanarkshire Local Development Plan, its associated supplementary guidance and with the policies of the emerging Proposed South Lanarkshire Development Plan 2, it is recommended that planning permission is granted subject to the attached planning conditions.

7 Reasons for Decision

- 7.1 The proposal will have no significant adverse impact on amenity or public safety, and it complies with the relevant policies of the adopted South Lanarkshire Local Development Plan and Supplementary Guidance (Policies 4, 6, 10, DM1, DM8 and DM13) and the proposed South Lanarkshire Local Development Plan 2 (Policies 3, 5, 10, DM1 and DM9).

Michael McGlynn
Executive Director (Community and Enterprise Resources)

Date: 14 May 2020

Previous references

- ◆ CR/09/0134 - Erection of timber screen fence (Retrospective Application)

List of background papers

- ▶ Application form
- ▶ Application plans
- ▶ South Lanarkshire Local Development Plan 2015 (adopted)
- ▶ Supplementary Guidance 3: Development Management, Placemaking and Design
- ▶ Proposed South Lanarkshire Development Plan 2
- ▶ Neighbour notification letter dated 23 October 2019
- ▶ Newspaper advert, Rutherglen Reformer dated 30 October 2019
- ▶ Correspondence with agent, various dates

- ▶ Consultations

Dated:

Roads and Transportation Services (Development Management Team)	11.11.2019 & 16.01.2020
Environmental Services	01.11.2019

► Representations	Dated:
Adele McIntyre, 2 Gilmour Crescent, Rutherglen, Glasgow, South Lanarkshire, G73 1HR (Petition)	13.11.2019
Megan Ross, 2-4, 3 Liddoch Way, Rutherglen, Glasgow, South Lanarkshire, G73 1JN (Petition)	15.11.2019
Mrs M & Mr C Madden, 0-4, 1 Liddoch Way, Rutherglen, G73 1JN	11.11.2019
J P Morton, 0-3, 1 Liddoch Way, Rutherglen, Glasgow, South Lanarkshire, G73 1JN	12.11.2019
Mr S Smith, Received Via E-mail	12.11.2019

Contact for further information

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

Andrew Muir, Planning Officer, Montrose House, 154 Montrose Crescent, Hamilton, ML3 6LB
 Phone: 01698 455058
 Email: andrew.muir2@southlanarkshire.gov.uk

Detailed planning application

Paper apart – Application number: P/19/1544

Conditions and reasons

01. That before any development commences on site or before any materials are ordered or brought to the site, details and samples of all materials to be used as external finishes on the development shall be submitted to and approved by the Council as Planning Authority.

Reason: To ensure the development is satisfactory in appearance and to maintain the visual quality of the area.

02. That before development starts, full details of the design and location of all fences and walls, including any retaining walls, to be erected on the site shall be submitted to and approved by the Council as Planning Authority.

Reason: To ensure the development is satisfactory in appearance and to maintain the visual quality of the area.

03. That before the development hereby permitted is occupied or brought into use, all the fences or walls for which the permission of the Council as Planning Authority has been obtained under the terms of Condition 2, shall be erected and thereafter maintained to the satisfaction of the Council.

Reason: To ensure the development is satisfactory in appearance and to maintain the visual quality of the area.

04. That before any work commences on the site, a scheme of landscaping shall be submitted to the Council as Planning Authority for written approval and it shall include:

- (a) an indication of all existing trees and hedgerows plus details of those to be retained and measures for their protection in the course of development;
- (b) details and specification of all trees, shrubs, grass mix, etc., including, where appropriate, the planting of fruit/apple trees;
- (c) details of any top-soiling or other treatment to the ground;
- (d) sections and other necessary details of any mounding, earthworks and hard landscaping;
- (e) proposals for the initial and future maintenance of the landscaped areas;
- (f) details of the phasing of these works; and no work shall be undertaken on the site until approval has been given to these details.

Reason: To ensure the appropriate provision of landscaping within the site.

05. That before the development hereby approved is brought into use, a dropped kerb access to the site shall be constructed in accordance with the specification and to the satisfaction of the Council as Roads and Planning Authority.

Reason: In the interests of traffic and public safety.

06. That before the development is completed or brought into use, the surface of the vehicular access and car park shall be so trapped and finished in hardstanding as to prevent any surface water or deleterious material from running onto or entering the road.

Reason: In the interests of traffic safety and to prevent deleterious material entering the road.

07. Before either the Class 3 unit or the hot food takeaway (Sui Generis) unit that form part of this proposal are brought into use, the proposed method(s) 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.

Reason: To minimise the risk of nuisance from smells, fumes, vapours and noise to nearby occupants.

08. Between the hours of 0800 and 2000 the measured noise level emitted from the premises (LAeq (1hour)) shall not exceed the pre-existing background noise level (LA90(1/2hour)) by more than 4dB (A) when measured in accordance with BS4142: 2014 at buildings where people are likely to be affected.
Between the hours of 2000 and 0800 the noise emitted from the premises (LAeq (5mins)) shall not exceed the pre-existing background noise level (L A90 (1/2hour)) by more than 4dB(A) when measured in accordance with BS4142:2014 at buildings where people are likely to be affected.

Reason: To minimise noise disturbance to adjacent occupants.

P/19/1544

Burnhill Bar, 18 Chapel Street, Rutherglen

