



Council Offices, Almada Street,
Hamilton

Planning Local Review Body

Decision Notice

Decision by South Lanarkshire Council Planning Local Review Body (PLRB)
PLRB Reference NOR/HM/11/002

- ◆ Site address: 16 Violet Crescent, Stonehouse, ML9 3HZ
- ◆ Application for review by L Ali of the decision by an appointed officer of South Lanarkshire Council to refuse planning permission for planning application HM/11/0332
- ◆ Application HM/11/0332 for change of use of shop unit to hot food takeaway and erection of flue
- ◆ Application Drawings: Drawing Numbers 1989/1, 1989/2, 1989/3 and 1989/4

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 HM/11/0332 for the reasons stated on the Council's decision notice dated 28 September 2011

Rosemary M Lake

Rosemary Lake
Head of Administration Services

Date of Decision Notice: 21/12/11

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 2008.
- 1.2 The above application for planning permission was considered by the PLRB at its meeting on 5 December 2011. The PLRB was attended by Councillors Graham Scott (Chair), Hugh Dunsmuir, Bill Holman, Clare McColl, Patrick Ross-Taylor (Depute) and Chris Thompson.

2. Proposal

2.1 The proposal is for the change of use of a shop unit to a hot food takeaway and the erection of a flue at 16 Violet Crescent, Stonehouse.

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 Plan
- ◆ impact on the amenity of adjacent properties

3.2 The PLRB established that the site was located within a designated residential area in terms of the Adopted South Lanarkshire Local Plan. Policies RES6, residential land use, DM1, development management, and DM10, hot food shops, applied.

3.3 Policy RES6 of the Adopted Local Plan states that the Council will not approve any bad neighbour use that would be detrimental to amenity because of noise, smells, disturbance or traffic.

3.4 Policy DM10 states that there will be a general presumption against hot food shops unless:-

- ◆ there was no significant impact from noise, disturbance and smell
- ◆ the site had been unsuccessfully marketed for an appropriate use
- ◆ an adequate level of shopping provision covering a range of daily shopping needs would still exist

3.5 Policy DM1 states that all planning applications should be compatible with the surrounding area in terms of impact on amenity

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

- ◆ the proposal, situated within a block of shops, would add to the facilities in the area
- ◆ the nearest house was 20 metres away from the proposal
- ◆ a carbon filter extraction flue could be fitted to ensure the odours from the shop did not affect the rear garden of the neighbouring house which was 4 metres away
- ◆ the proposed opening hours would be noon until 11.00pm which would provide a controlling influence and reduce potential noise disturbance
- ◆ the existing shop units provided all the daily needs of the community
- ◆ the unit had been vacant for some time and only hot food operators had approached the owners
- ◆ the proposal would provide employment for 3 full time staff members

3.7 The PLRB considered that, in view of the general operational characteristics of hot food takeaways, particularly in terms of noise, smell and disturbance, the proposal would have a detrimental impact on the residential amenity of the area. The PLRB concluded, therefore, that the proposal would adversely affect the area and was contrary to the provisions of Policy RES6, residential land use, of the Adopted Local Plan.

3.8 The PLRB also considered the proposal in terms of Policy DM 1, development management, of the Adopted Local Plan. It concluded that the operation of a hot food takeaway at a site which is predominantly residential in nature would result in the proposal having an adverse impact on amenity and, therefore, not complying with Policy DM1.

3.9 THE PLRB also considered whether the proposal complied with Policy DM10, hot food shops, of the Adopted Local Plan. The PLRB, in considering the nature of the area

surrounding the application site, concluded that it was residential in nature and its amenity would be affected by noise, smells and disturbance resulting from the proposed use. The PLRB also noted that the property had not been marketed and that the applicant had been unable to show that there was no local need for a Class 1 retail use. The PLRB, therefore, concluded that the proposal did not comply with Policy DM10.

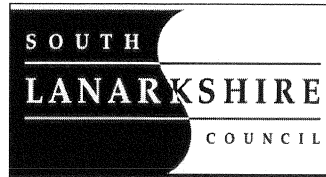
4. Conclusion

4.1 The PLRB considered a request to review the decision to refuse planning permission for the change of use of a shop to a hot food takeaway and the erection of a flue at 16 Violet Crescent, Stonehouse. The PLRB concluded that the proposal would have a material impact on the amenity of the area in terms of noise, disturbance, activity and odour, that it did not comply with Policies RES6, DM1 and DM10 of the Adopted South Lanarkshire Local Plan and that there was no justification to depart from the terms of the Plan.

4.2 The PLRB, therefore, upheld the decision to refuse planning permission for planning application HM/11/0332 for the reasons set out in the decision notice from the Council dated 28 September 2011.

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 2008.



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.