

Report

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| Report to: | Cambuslang/Rutherglen Area Committee |
| Date of Meeting: | 6 July 2010 |
| Report by: | Executive Director (Enterprise Resources) |

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| Application No | CR/08/0104 |
| Planning Proposal: | Change of use and extension to vacant building to form restaurant/bar |

1 Summary Application Information

- Application Type : Detailed Planning Application
- Applicant : Balvinder Singh Jassal
- Location : 9 Burn Place
Cambuslang

2 Recommendation(s)

2.1 The Committee is asked to approve the following recommendation(s):-

- (1) Grant detailed planning consent subject to conditions (based on the conditions listed in paper apart)

2.2 Other Actions/Notes

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

3 Other Information

- ◆ Applicant's Agent: Ronald J Tasker
- ◆ Council Area/Ward: 13 Cambuslang West
- ◆ Policy Reference(s): **Adopted South Lanarkshire Local Plan 2009**
Policy RES 6 - Residential Land Use Policy.
Policy DM1 – Development Management Policy

- ◆ Representation(s):

- ▶ 34 Objection Letters
- ▶ 0 Support Letters
- ▶ 0 Comments Letters

- ◆ Consultation(s):

Cambuslang Community Council

Environmental Services

Scottish Water

Roads and Transportation Services

Planning Application Report

1 Application Site

- 1.1 An abandoned building lying on the south west corner of the mixed-use premises at Burn Place, Cambuslang. The site lies at the western end of the row of properties which include a public house, an Indian restaurant, a badly fire damaged former snooker club, the vacant and derelict remains of a student residence and a Chinese restaurant. The surrounding area of Burn Place is lying vacant and derelict with a private access road which requires upgrading with informal parking areas. There are no formal pedestrian footpaths into the site.
- 1.2 The property which comprises the application site is lying vacant and semi-derelict and has lain empty for a considerable length of time. The previous use of the site is unknown, although it may have formed part of the original County Inn Hotel. The site lies adjacent to the vacant and derelict land site which is the subject of a concurrent application by the applicant, for the development of 5 shopping units with associated access and parking (Planning Application No. CR/08/0124).

2 Proposal(s)

- 2.1 It is proposed to refurbish the vacant unit to form a new restaurant/bar. It is also intended to slightly extend the property by “squaring-off” the north-west corner of the unit which currently has a bay frontage. No details of the type of restaurant or signage have been provided however the proposed elevations show a modern design with a mixture of rough cast, facing brick and glazed elements to the elevations with a canopy at the front entrance on the front elevation.
- 2.2 In addition a Traffic Statement submitted by the applicant confirms that the applicant will upgrade the access arrangements (vehicular and pedestrian) into the site from Dukes Road, to the standards required by the Council.

3 Background

3.1 Local Plan Status:

- 3.1.1 In terms of the adopted South Lanarkshire Local Plan the site lies within a residential land use area, Policy RES 6 being applicable. In addition Policy DM1– Development Management Policy is also relevant. The content of these policies and how they relate to the proposal is assessed in detail in Section 6 of the report.

3.2 Relevant Government Advice:

- 3.2.1 The Scottish Planning Policy (SPP) encourages the re-use of brownfield sites such as the application subject to the protection of the viability of existing town centres by controlling out of centre retail developments.

3.3 Planning Background:

- 3.3.1 There have been no previous planning applications relating to the site within the last 5 years however the applicant has submitted a separate planning application to develop shopping units with associated access and parking provision at the adjacent vacant and

derelict land site (Planning Application No. CR/08/0124). This planning application is also on the Agenda for the Committee to consider.

- 3.3.2 In addition it should also be noted that the Planning Committee granted consent, subject to the conclusion of an appropriate Section 75 Agreement, for an application for a hotel at the adjacent site of 3 Burn Terrace (Planning Application No. CR/07/0043), in December 2007. This also included improvements to the access road into the site. At the present time the Section 75 Agreement has not been concluded and thus no consent has been issued for this proposal.

4 Consultation(s)

- 4.1 **Roads and Transportation Services:** No objections subject to the provisions of the agreed Traffic Statement being implemented.

Response: Noted and appropriate conditions can be imposed to address these aspects should consent be issued.

- 4.2 **Environmental Services:** No objection subject to appropriate conditions relating to dust mitigation/control, contaminated land investigation and remediation and advisory notes relating to noise, demolition, asbestos and the contaminated land register.

Response: Noted. Appropriate conditions and advisory notes can be attached to any consent that is issued to address these aspects if consent is granted.

- 4.3 **Cambuslang Community Council:** No objections to the application.

Response: Noted.

- 4.4 **Scottish Water:** No objections to this application.

Response: Noted.

5 Representation(s)

- 5.1 Statutory neighbour notification was undertaken and in addition the application was advertised due to the scale or nature of operations and as development potentially contrary to the Development Plan. In response one letter of objection was received. In addition to this 33 copies of a pro-forma letter, all individually signed, agreeing with the comments contained in the original letter, were submitted thus a total of 34 objections have been received.

- 5.2 The issues raised in the representations received can be summarised as follows:

(a) The development will be on contaminated land.

Response: The Council is aware of the history of contamination of land in this area and was responsible for the remediation of a major contaminated site on the other side of Dukes Road. In this particular instance, the Council's Environmental Services have asked that the applicants provide a contaminated land investigation report, along with a remediation plan if required, prior to the commencement of any works. This will be imposed as a planning condition should consent be granted.

(b) The access road into the site and parking within the site is of a very poor quality.

Response: The applicants have confirmed in writing that they will undertake works to upgrade and surface the access road to the standards required by the Council, including a new mini-roundabout at the access point on Dukes Road. The submitted

drawing indicates sufficient parking for the proposed development and this parking will be set-out, lined and surfaced to the required standards.

(c) The proposed access road may adversely affect the stability of the rear garden wall of the properties at 9 – 31 Burn Terrace.

Response: It is the responsibility of the developer and his contractors to ensure that there is no structural damage to adjoining properties. A condition can be attached to the consent, should it be granted, which requires the applicant to undertake a structural survey of the affected wall prior to the commencement of works.

(d) Residents objected to the original application for a restaurant but have heard nothing since. In addition the applicant did not neighbour notify the residents of this proposed change of use.

Response: The applicants did apply to build a new restaurant on the vacant ground to the rear of Burn Terrace however this application (CR/07/0235) was withdrawn by the applicant on 1 May 2008. The applicants were not required to notify the residents of Burn Terrace as they do not share a contiguous boundary with the application site and they lie some 60 metres away from the site.

- 5.3 These representations have been copied and are available for inspection in the usual manner.

6 Assessment and Conclusions

- 6.1 Section 25 of the 1997 Planning Act requires all planning applications to be determined in accordance with the provisions of the development plan unless material considerations indicate otherwise. Consequently the adopted Local Plan is of fundamental importance to the assessment and determination of this application.
- 6.2 The adopted South Lanarkshire Local Plan identifies the site as being within an area covered by Policy RES6 - Residential Land Use area. This designation states that the Council will oppose the loss of houses to other uses and will resist any development that will be detrimental to the amenity of those areas. In particular the Council will not approve 'bad neighbour' uses which may by virtue of visual impact, noise, smell, air pollution, disturbance, traffic or public safety be detrimental to residential areas. Each application has to be judged on its own merits with particular consideration given to the impact on residential amenity and/or proposed servicing and parking arrangements and an assessment of the contribution of the proposal to meeting an identified local need.
- 6.3 With respect to the potential impact of the development on the residential amenity of the area it is first of all important to note that despite its local plan designation there are no residential properties in Burn Place, in fact the current uses within Burn Place are existing hot food restaurants/takeaways, a public house and derelict buildings which have fallen out of use with the largest existing land use within Burn Place being vacant and derelict land. Secondly it is important to note that the application site is not immediately adjacent to any residential properties lying some 60 metres from the closest dwelling house. Notwithstanding this the impact of the development on the amenity of these residential premises must be considered in relation to the terms of this local plan policy and in particular with respect to visual impact; noise; smell; air pollution; disturbance; traffic and public safety.
- 6.4 With respect to visual impact it is considered that the proposed development will be a significant improvement on the existing semi-derelict building. It is considered that the

proposed development will not have a significant additional impact in terms of smell or air pollution. While it is accepted that the proposed development will attract additional traffic and a level of disturbance to a site which is currently lying unused, given the scale of the development and its location relative to the dwellings, it is considered that any traffic disturbance will have limited impact on residential amenity. It should also be noted that there is no vehicular link between Burn Place and Burn Terrace and thus the proposed development would have no impact on traffic levels and public safety in Burn Terrace. It is therefore concluded that in terms of the criteria set out in Policy RES6, the proposed development will not have a significant adverse impact on the residential amenity of the adjacent dwellings at Burn Terrace. In addition it is also considered that the vacant and derelict nature of the site at present creates a negative image within the area and that the proposed development, by bringing the site back into active use will positively improve the environment and amenity of the application site and the wider area in general. In light of the above it is concluded that the proposed development satisfies the various elements of Policy RES6 and complies with this policy.

- 6.5 All planning applications must also be assessed against the terms of Policy DM1 – Development Management which seeks to ensure that the proposed development is of an acceptable quality in terms of design and materials while at the same time having an acceptable impact on the amenity of the neighbouring properties and the wider area. As mentioned above, in the consideration of Policy RES6, it has been concluded that the proposed development will not significantly adversely affect the residential amenity of the nearby properties. In terms of design the proposed development will be modern in design utilising glazing on the frontage with facing brick and roughcast to the side and rear. Given the current condition of the property it is considered that the design is not only of acceptable quality but that it will enhance the environment and amenity of the area and will thus comply with Policy DM1 of the adopted local plan.
- 6.6 Following statutory neighbour notification a number of letters of objection to the proposed development were received. The representations received have been fully considered however for the reasons detailed above, it is concluded that the concerns expressed cannot justify the refusal of consent. At the outset the application was advertised as being potentially Development Contrary to the Development Plan however as set out above it has been concluded that the proposed development will comply with the relevant local plan policies and is thus not contrary to the development plan.
- 6.7 In terms of the other material considerations one issue requires further examination. While all applications must be considered on their own merits it is clear that this proposal is closely related to, and to some extent dependant on, the other application submitted by the applicant for the redevelopment of the adjacent vacant land and has to be considered in light of that application. In particular the proposal will be dependant on the completion of the access road, footpath and car park improvements set out in the agreed Transport Statement. For this reason it is proposed that a suspensive condition be placed on the consent, should it be granted, stating that the proposed change of use cannot proceed until the road, footpath and car park improvements are completed to the satisfaction of the Council.
- 6.8 The proposed development, along with the concurrent proposals for the vacant and derelict land, will regenerate and revitalise a run down neglected area which is in need of comprehensive improvement. It is therefore recommended that detailed planning consent be granted subject to the attached conditions.

7 Reasons for Decision

- 7.1 The proposed development is in accordance with policies RES6 and DM1 of the adopted South Lanarkshire Local Plan and would not be detrimental to the residential amenity of the area or road safety.

Colin McDowall
Executive Director (Enterprise Resources)

21 June 2010

Previous References

- ◆ CR/07/0043
- ◆ CR/08/0095
- ◆ CR/08/0124

List of Background Papers

- ▶ Application Form
- ▶ Application Plans
- ▶ Neighbour Notification certificate dated 28th April 2008
- ▶ South Lanarkshire Local Plan (adopted) 2009
- ▶ Scottish Planning Policy
- ▶ Traffic Statement by W A Fairhurst & Partners dated 6th May 2009
- ▶ Letter dated 3rd December 2009 from Roads and Transportation Services to Agent agreeing Traffic Statement.

▶ Consultations

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| Environmental Services | 22/05/2008 |
| Cambuslang Community Council | 14/05/2008 |
| Scottish Water | 17/06/2008 |
| Roads and Transportation Services | 02/07/2008 03/06/2009 |

▶ Representations

Representation from : David Thomson, 25 Burn Terrace
Cambuslang G72 7DN, DATED 12/05/2008

Representation from : Allan Bell, 6 Burn Terrace
Cambuslang , DATED 14/05/2008

Representation from : James Lavery, 8 Burn Terrace
Cambuslang, DATED 14/05/2008

Representation from : Brian Duncan, 9 Burn Terrace
Cambuslang, DATED 14/05/2008

Representation from : Ann Grant, 11 Burn Terrace
Cambuslang, DATED 14/05/2008

Representation from : Mr and Mrs Fullerton, 29 Burn Terrace
Cambuslang, DATED 14/05/2008

Representation from : David Monk, 12 Burn Terrace
Cambuslang, DATED 14/05/2008

Representation from : Miss E Coyne, 7 Burn Terrace
Cambuslang, DATED 14/05/2008

Representation from : J Williams, 22 Burn Terrace
Cambuslang, DATED 14/05/2008

Representation from : Mrs Mattie Sheridan, 18 Burn Terrace
Cambuslang, DATED 14/05/2008

Representation from : Thomas Heaney, 14 Burn Terrace
Cambuslang, DATED 14/05/2008

Representation from : B Grant, 44 Burn Terrace
Cambuslang, DATED 14/05/2008

Representation from : Mrs Judith H Dunn, 39 Burn Terrace
Cambuslang, DATED 14/05/2008

Representation from : Anne Marie Laidlaw, 38 Burn Terrace
Cambuslang, DATED 14/05/2008

Representation from : E McCusker, 37 Burn Terrace
Cambuslang, DATED 14/05/2008

Representation from : Bernadette Murray, 35 Burn Terrace
Cambuslang, DATED 14/05/2008

Representation from : Nancy Orr, 26 Burn Terrace
Cambuslang, DATED 14/05/2008

Representation from : Mr and Mrs McGill, 27 Burn Terrace
Cambuslang, DATED 14/05/2008

Representation from : June Anderson, 34 Burn Terrace
Cambuslang, DATED 14/05/2008

Representation from : S McKenna and E Bruen, 36 Burn Terrace

Cambuslang, DATED 14/05/2008

- Representation from : John Irvine, 13 Burn Terrace
Cambuslang, DATED 14/05/2008
- Representation from : Mrs Theresa Owens, 4 Burn Terrace
Cambuslang, DATED 14/05/2008
- Representation from : J McNamara, 16 Burn Terrace
Cambuslang, DATED 14/05/2008
- Representation from : James Shields, 15 Burn Terrace
Cambuslang, DATED 14/05/2008
- Representation from : E Curlie, 17 Burn Terrace
Cambuslang, DATED 14/05/2008
- Representation from : Catherine Foy, 19 Burn Terrace
Cambuslang, DATED 14/05/2008
- Representation from : Rose Currie, 20 Burn Terrace
Cambuslang, DATED 14/05/2008
- Representation from : J O'Neill, 21 Burn Terrace
Cambuslang, DATED 14/05/2008
- Representation from : John Reid, 23 Burn Terrace
Cambuslang, DATED 14/05/2008
- Representation from : Margaret Coats, 24 Burn Terrace
Cambuslang, DATED 14/05/2008
- Representation from : Anne Malcolm, 28 Burn Terrace
Cambuslang, DATED 14/05/2008
- Representation from : Mr James Healy, 32 Burn Terrace
Cambuslang, DATED 14/05/2008
- Representation from : Hugh McCutcheon, 33 Burn Terrace
Cambuslang, DATED 14/05/2008
- Representation from : Ms Denise Shuff, 30 Burn Terrace
Cambuslang, DATED 14/05/2008

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

Detailed Planning Application

PAPER APART – APPLICATION NUMBER: CR/08/0104

CONDITIONS

- 1 The consent shall be carried out strictly in accordance with drawing numbers: 1351/01 and 1351/02.
- 2 The use hereby permitted shall be instituted within three years of the date of this permission.
- 3 That the development shall be carried out strictly in accordance with the plans hereby approved and no change to the design or external finishes shall take place without the prior written approval of the Council as Planning Authority.
- 4 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.
- 5 That the roller shutters hereby approved shall be of a "brick bond" design unless otherwise approved in writing by the Council as Planning Authority.
- 6 That no consent is hereby granted for any of advertising or signage related to the proposed change of use.
- 7 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 BS4142:1997 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 BS4142:1997 at buildings where people are likely to be affected.
- 8 Before the bar/restaurant is brought into use, the proposed method of ventilation shall be submitted to and approved in writing by the Council as Planning Authority. The proposed development 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

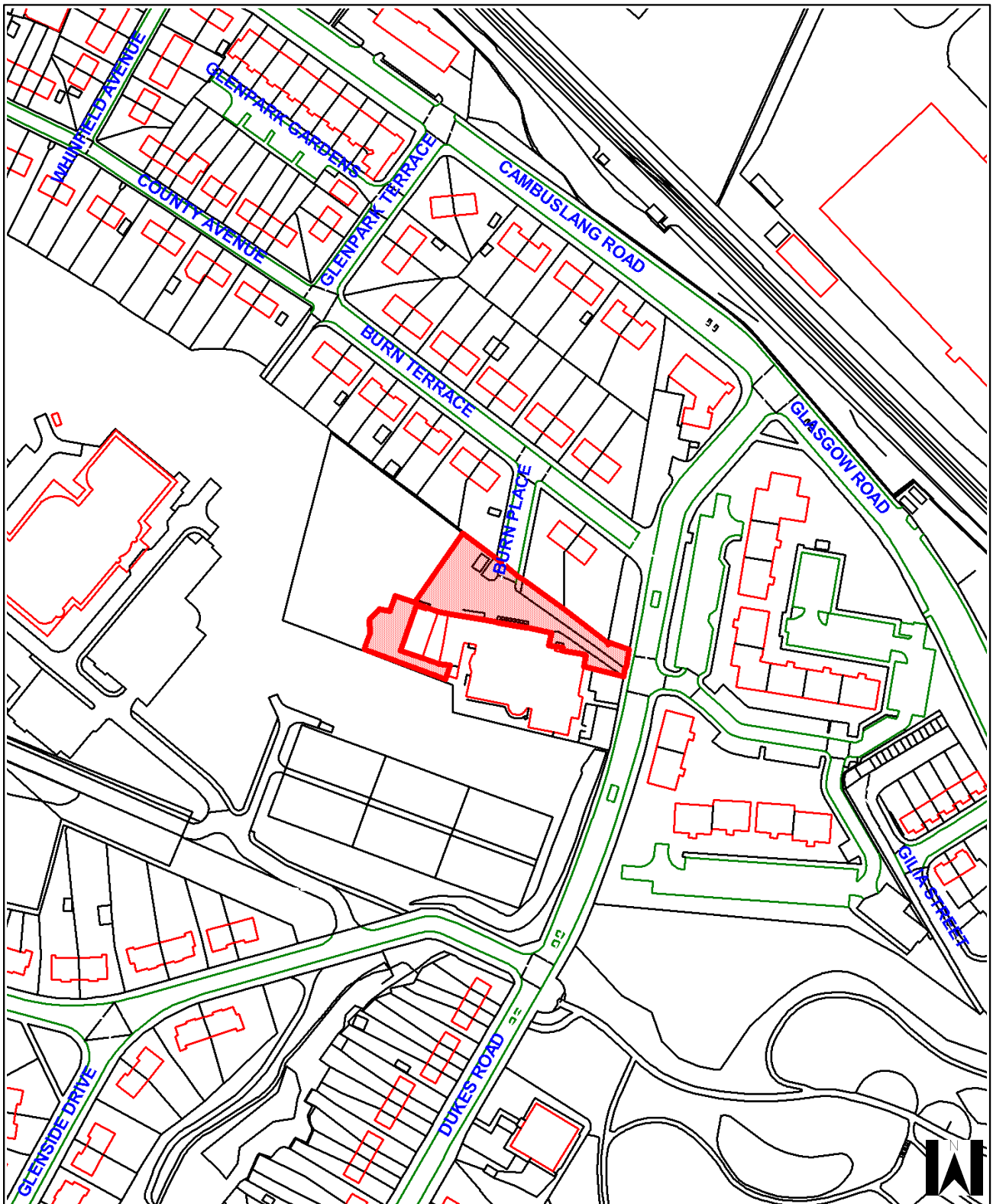
Noise Rating Curve 25 at all other times.

- 9 Prior to the development being brought into use, details of the storage of waste arising from the commercial activity shall be submitted to and approved in writing by the Council as Planning Authority. The agreed details shall be in place prior to the development being brought into use.
- 10 (a) Prior to commencement of any works on site, a comprehensive site investigation carried out to the appropriate Phase level, shall be submitted to and approved in writing by the Council as Planning Authority. The investigation shall be completed in accordance with the advice given in the following:
- (i) Planning Advice Note 33 (2000) and Part IIA of the Environmental Protection Act 1990 (as inserted by section 57 of the Environment Act 1995);
 - (ii) Contaminated Land Report 11 - 'Model Procedures for the Management of Land Contamination (CLR 11) - issued by DEFRA and the Environment Agency;
 - (iii) BS 10175:2001 - British Standards institution 'The Investigation of Potentially Contaminated Sites - Code of Practice'.
- (b) If the Phase 1 investigation indicates any potential pollution linkages, a Conceptual Site Model must be formulated and these linkages must be subjected to risk assessment. If a Phase 2 investigation is required, then a risk assessment of all relevant pollution linkages using site specific assessment criteria will require to be submitted.
- (c) If the risk assessment identifies any unacceptable risks as defined under Part IIA of the Environmental Protection Act, a detailed remediation strategy will be submitted to and approved in writing by the Council as Planning Authority. No works other than investigative works shall be carried out on site prior to receipt of the Council's written approval of the remediation plan.
- 11 (a) Remediation of the site shall be carried out in accordance with the approved remediation plan prior to the proposed development being brought into use. Any amendments to the approved remediation plan shall not be implemented unless approved in writing by the Council as Planning Authority.
- (b) On completion of the remediation works, the developer shall submit a completion report to the Council as Planning Authority, confirming that the works have been carried out in accordance with the approved remediation plan and that the works have successfully reduced these risks to acceptable levels.
- (c) Any previously unsuspected contamination which becomes evident during the development of the site shall be brought to the attention of the Council as Planning Authority within one week or earlier of it being identified. A more detailed site investigation to determine the extent and nature of the contaminant(s) and a site-specific risk assessment of any associated pollutant linkages, shall then require to be submitted to and approved in writing by the Council as Planning Authority.

- 12 That prior to any work commencing on the site detailed plans for the new access arrangements, including car parking, a widened access road, new footpath and the provision of a mini roundabout at the access point on Dukes Road, shall be submitted to the Council for formal written approval and thereafter shall, before any works commence of the change of use hereby approved, be constructed in accordance with the specification of the Council as Roads and Planning Authority.
- 13 That prior to any work commencing on the site, a maintenance agreement for the access and car park arrangements approved under the terms of Condition 12 above shall be submitted to and approved by the Council as Planning and Roads Authority. Thereafter, the access road, footpath and car park shall be maintained in accordance with the approved management agreement to the satisfaction of the Council.

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 In the interests of amenity and in order to retain effective planning control.
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- 6 In the interests of amenity and in order to retain effective planning control.
- 7 To minimise noise disturbance to adjacent occupants.
- 8 To minimise nuisance to occupants of nearby buildings as a result of cooking smells, vapours, airborne pollutants or noise from the premises.
- 9 To minimise nuisance, littering and pest problems to nearby occupants.
- 10 To avoid unacceptable risks to human health and the environment, to ensure that the land is remediated and made suitable for its proposed use.
- 11 To avoid unacceptable risks to human health and the environment, to ensure that the land is remediated and made suitable for its proposed use.
- 12 In the interest of public safety
- 13 To ensure the provision of adequate vehicular and pedestrian access and parking facilities to serve the development.



For information only

For information only

