

Appendix 5

Notice of Review (including Statement of Reasons for Requiring the Review) submitted by applicant Mr Liaquit Ali



12 OCT 2011

11 OCT 2011

Notice of Review Form

For official use: NOR/ _ _ / _ _ / _ _ _ _
Date received by PLRB: _ _ / _ _ / _ _ _ _

Notice of Review

Under Section 43A(8) of The Town and Country Planning (Scotland) Act 1997 (as amended) in respect of decisions on local developments
The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008
The Town and Country Planning (Appeals) (Scotland) Regulations 2008

This notice requires to be served on the Planning Authority within 3 months of the date of the decision notice or from the date of expiry of the period allowed for determining the application which is set as 2 months following the validation date of the application

IMPORTANT: Please read and follow the guidance notes provided when completing this form. Failure to supply all the relevant information could invalidate your Notice of Review.

Please complete in BLOCK CAPITALS

Applicant(s)	Agent (if any)
Name: MR LIAQUIT ALI	Name: DAVID JARVIE
Address: 16 VIOLET CRESCENT STONEHOUSE LARKHALL	Address: 27 AYTOUN ROAD POLLOKSHIELDS GLASGOW
Postcode: ML9 3HZ	Postcode: G41 5HW
Contact Telephone 1: <input type="text"/>	Contact Telephone 1: <input type="text"/>
Contact Telephone 2: <input type="text"/>	Contact Telephone 2: <input type="text"/>
Fax No: <input type="text"/>	Fax No: <input type="text"/>
E-mail:* <input type="text"/>	E-mail:* <input type="text"/>

Mark this box to confirm that all contact should be through this representative: X

* Do you agree to correspondence regarding your review being sent by e-mail? Yes No

Application reference number: H M / 1 1 / 0 3 3 2

Site address: 16 VIOLET CRESCENT, STONEHOUSE, ML9 3HZ

Description of proposed development: CHANGE OF USE OF SHOP UNIT TO HOT FOOD TAKEAWAY & THE ERECTION OF FLUE

Validation date of application: 27/7/11

Date of decision (if any): 28/9/11

Nature of application

- 1. Application for planning permission (including householder application)
- 2. Application for planning permission in principle
- 3. Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition)
- 4. Application for approval of matters specified in conditions

Reasons for requesting review

- 1. Refusal of application by appointed officer
- 2. Failure by appointed officer to determine the application within the period allowed for determination of the application
- 3. Conditions imposed on consent by appointed officer

Review procedure

In cases where the Planning Local Review Body considers that it has sufficient information, including the Notice of Review, the decision notice, report of handling and any further representations from interested parties, it may, under Regulation 12, proceed to determine the review. It is anticipated that the majority of cases the Planning Local Review Body deals with will fall into this category.

The Planning Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable it to determine the review. Further information may be required by one or a combination of procedures, such as written submissions, the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Although the Planning Local Review Body will decide on the procedure to be used to determine your review, you can indicate what procedure (or combination of procedures) you consider most appropriate for the handling of your review. You may tick more than one box if you wish the review to be conducted by a combination of procedures.

- 1. Further written submissions
- 2. One or more hearing sessions
- 3. Site inspection
- 4. Assessment of review documents only, with no further procedure

If you have marked box 1 or 2, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing are necessary:

Site inspection

In the event that the Local Review Body decides to inspect the review site, in your opinion:

- 1. Can the site be viewed entirely from public land? Yes No
- 2. Is it possible for the site to be accessed safely, and without barriers to entry? Yes No

If there are reasons why you think the Planning Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

ACCESS TO THE INTERIOR OF THE UNIT CAN BE OBTAINED BY CONTACTING THE AGENT

Statement of reasons for requiring the review

You must state, in full, why you are requesting a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. Note: you may not have a further opportunity to add to your statement of review at a later date. It is, therefore, essential that you submit with your Notice of Review all necessary information and evidence that you rely on and wish the Planning Local Review Body to consider as part of the review.

If the Planning Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your Notice of Review and all matters you wish to raise. If necessary, this statement can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

SEE ATTACHED SHEET

Have you raised any matters which were not before the appointed officer at the time the determination on your application was made? Yes No

If yes, you should explain in the box below, why you are raising new material, why it was not raised with the appointed officer before your application was determined and why you consider it should now be considered in your review.

List of documents and evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your Notice of Review and intend to rely on in support of your review.

COPY OF PLANNING APPLICATION FORM
 COPIES OF PLANNING APPLICATION DRAWINGS – LOCATION PLAN, SITE PLAN, EXISTING PLAN & ELEVATIONS, PROPOSED PLAN & ELEVATIONS
 COPY OF PLANNING REFUSAL
 COPY OF PLANNING POLICIES DM1 & DM10

Note: A copy of the Notice of Review, the review documents and any notice of the procedure of the review will be made available for inspection by prior appointment (Phone: 08457 406080) at the office of Planning and Building Standards Services, Montrose House, 154 Montrose Crescent, Hamilton ML3 6LB until such time as the review is determined. It may also be made available on the Council's website.

Checklist

Please mark the appropriate boxes to confirm that you have provided all supporting documents and evidence relevant to your review:

- X Full completion of all parts of this form
- X Statement of your reasons for requiring a review
- X **2 copies** of all documents, materials and evidence which you intend to rely on (eg planning application form, plans and drawings, decision notice or other documents) which are now the subject of this review.

Note. Where the review relates to a further application, eg renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice from that earlier consent.

Declaration

I the applicant/agent [delete as appropriate] hereby serve notice on the planning authority to review the application [delete as appropriate] in the supporting documents.

Signed:

DA [Redacted Signature]

Date:

7/10/11

This form and **2 copies** of all supporting documents should be sent to:-

Head of Planning and Building Standards Services
Enterprise Resources, Montrose House, 154 Montrose Crescent, Hamilton ML3 6LB

Email: enterprise.hq@southlanarkshire.gov.uk

Phone: 08457 406080

For official use

Date stamp)

For more information or if you want this information in a different format or language, please phone 01698 455379 or send email to enterprise.hq@southlanarkshire.gov.uk

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STATEMENT OF APPEAL

1989: Proposed hot food carry out, 16 Violet Crescent, Stonehouse Planning application ref HM/11/0332

The above application was refused with the council's planning department stating 6 reasons for this decision. The specific reasons for refusal are that the planning department considered the proposals were contrary to policies RES6, DM1 & DM10 of the South Lanarkshire Local Plan –

Policy RES6, Residential Land Uses Policy Food – Within these areas, the council will oppose the loss of houses to other uses & 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 by virtue of visual impact, noise, smell, air pollution, disturbance, traffic or public safety be detrimental to residential areas.

Policy DM1, Development Management Policy – All planning applications will require to take account of the local context & built form & should be compatible with adjacent buildings & surrounding streetscape in terms of scale, massing, design, external materials & impact on amenity.

Policy DM10, Hot Food Shops Policy, Single Shops/ Small Groupings of Shops – 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 (except when certain criteria is met).

Reason 1 for refusal merely refers to the drawings submitted with the application & therefore can be dismissed. I trust if the application was approved these drawings would be listed as a condition of the consent & therefore I believe their listing is merely a practice of the planning department.

Reason 2 refers to policy RES6 stating that the proposals are contrary to the policy as it would introduce a bad neighbour use into a residential area having a significant impact on the amenity of neighbouring residential properties through intensification of noise, disturbance, litter & odours/smells.

Whilst the term 'bad neighbour' is unfortunate & unfair (my client intends to be a good neighbour providing the locality with a selection of quality hot & cold food & fully intends to become integral to the community), the proposed hot food takeaway shall be contained within a block of 3 shops that are detached from the residential community, there shall be no loss of residential accommodation.

The planning department considers that the proposals shall be detrimental to the existing residential community. The nearest house is approximately 20metres away, no house looks directly onto the shop unit, no house can see the shopfront of the shop unit & there no houses to the front of the shop unit or to the rear. The nearest house, 65 Newfield Gardens, is to the side overlooking the A71 which I'm sure is far more detrimental to its amenity because of noise, disturbance, litter & odours/smells than the proposals. The proposals shall have little or no impact on any other houses in the community. The rear of the unit is approximately 4 metres from the rear garden of the aforementioned house & there maybe concerns raised in relation to the

discharge from the proposed flue. The planning department normally only take into account distances to openable windows & height of neighbouring structures when determining the acceptability of the location of an extract flue's terminal. Due to the height of the terminal in relation to neighbours house I believe the location of the flue to be satisfactory but should concerns regarding the discharge be an issue my client is prepared to install a carbon filter extraction system in addition to the normal standard filtration, this could have been a condition of any consent with a requirement for the system to be to the full satisfaction of the council's Environmental Health Department. These systems are, in general terms, over 95% efficient in filtering odours & smells, I believe should such a filtration system be fitted & food/cooking smells are found at the rear of the shop they most probably shall be coming from the houses themselves. There are no residential properties over the unit so there are no legal issues regarding the fixing of any extraction system.

The proposed units opening hours shall be from noon to 11pm. Whilst this shall hopefully result in custom in the evening (the existing shop units close at 6pm), it should also bring some order & control to this area. The existing shop units are cut off from the residential area & the opportunity exists for groups to gather there away from view from the residential community. A successful business operating in the evening would provide a controlling influence providing restraint & a check on anyone who may gather there. This should minimise any noise & disturbance that already exists. Such matters are concerns for the Police, the takeaway would aid them by providing surveillance and witness to any disturbance, its presence would minimise the likelihood of any disturbance in the first place.

Litter currently exists at the application site but this could be minimised by the provision of an additional public waste bin at the premises, my client is prepared to provide this. In addition my client would tidy any litter in the vicinity of the shop prior to opening & at closing time. I do not believe litter shall be a concern. Any business at the shop unit, no matter what they provide, it could be argued would result in litter, as is the case with the existing neighbouring grocers & newsagent.

Reason 3 refers to policy DM1 stating the development does not reflect the local context as it is located in a residential area, would be detrimental to amenity and would have a significant adverse impact on the wider environmental amenity of the area through the generation of noise, litter, disturbance & odour.

Reason 3 is similar to reason 2 & therefore the points raised against reason 2 are also applicable for reason 3. Reason 3 does refer to the amenity of the area, surely the introduction of a hot food takeaway would increase the amenity of the area as this facility does not currently exist. It also reflects the immediate context of the area. The proposals are located exactly where you would expect them to be in a shopping area specifically designed & located to serve its local residential community. The shop unit is contained within a run of 3 shop units at the edges of a residential area but also detached with no houses overlooking. There are also bus stops & a post box at this location giving this section of the community creating a larger public domain, the grassed area opposite is also used by local children for play. This seems the ideal location for a hot food takeaway.

Reason 4 refers to policy DM10 stating that the proposals do not satisfy the criteria for the siting of a hot food operation within a residential area as it would result in an inadequate level of shopping provision provided at the location, the property has not been successfully marketed for class 1 use to the satisfaction of the Planning Authority & would result in an adverse impact in terms of environment, traffic & amenity considerations (e.g. noise, litter, disturbance & odour)

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particularly in relation to the adjacent residential properties & those residential properties surrounding the site.

Again reason 4 raises points that have been previously raised only refers to a different policy. It does in particular raise the siting of the proposals. The proposals are exactly where one would expect them to be – within a run of shops. The shops are not in the middle of a residential area but on the edge of a residential area, if anything slightly detached just off the A71 (one of the shop units even advertises on A71, such is its proximity). The existing shop units area newsagent/confectionery & a grocer than supplies a wide variety of foodstuffs, this unit has been recently extended & operate like a small supermarket, it even provides a carry out facility for food – freshly prepared sandwiches, soup, etc.,. These shop units provide in general terms all the daily needs for a residential community. The application site was previously a hairdresser, unfortunately the business wasn't successful. The unit has been vacant for a considerable time & no potential occupier, other than a hot food takeaway, has approached the owner of the building agents. Whilst the marketing of the unit may not be to the satisfaction of the Planning Authority, the current climate for retail use is at a low & the building's owner cannot see the point in having a shop unit vacant for a view years to satisfy the Planning Department, this makes no business sense. The fact that the previous occupant was a hairdresser provides some credence to this argument. A hairdresser is not the type of shop unit that would be expected at this location, a hairdresser could not survive without business coming from other areas, possibly to the detriment to town centre shopping. A hot food takeaway could be sustained by the local community & therefore is the type of operation one would expect there.

The concern of traffic is also raised. The traffic for a shop unit would be no different from that of a successful shop unit. The takeaway would serve the local community so therefore custom is expected to arrive by foot. There is plenty of on street parking provision as there are no houses in the vicinity. There is also a small crescent/layby in front of the unit that provides additional space. A delivery service shall be available to discourage customers driving to the unit. Traffic is not an issue.

Reason 5 states the interests of residential amenity in that the proposed hot food shop would have a significant & detrimental impact on the neighbouring dwellings in particular & the neighbourhood in general.

Reason 5 appears to be merely an opportunity to reinstate one of the points raised in reasons 2 - 4. The hot food takeaway would provide additional amenity to the neighbourhood & would not have a significant & detrimental impact.

Reason 6 states that if approved, the proposal would set an undesirable precedent which would encourage further similar applications for proposals which would exacerbate the problems stated above (previously).

All planning applications should be judged on their own right. If the council determines planning applications on the basis of previous decisions within the council's area it could be used as a reason for having a planning department without any planners. That is clearly ridiculous. This application should be viewed in its own right as should any other. I'm sure that somewhere in the South Lanarkshire Council's boundaries that a similar situation exists, I'm sure precedent has been made elsewhere.

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Conclusions

There shall be little if additional any impact on residential units neighbouring the application site. There are no residential properties over; the application site is contained within a single storey building.

The application site is currently vacant.

The proposed opening hours of the hot food takeaway shall provide control over an area detached from the community.

The proposed hot food carry out shall not exacerbate any noise problems as the unit is nearby the busy A71 & shall close at 11pm.

The applicant can not be held responsible for litter but the applicant is prepared to place a public litter bin outside the premises in addition to those already within this area. In addition the applicant is prepared to tidy the pavement area in front of the unit before, after & during trading hours. We believe the area shall be tidier because of this.

The proposals shall not exacerbate any parking difficulties as considerable street parking spaces to the front of the application site are available. The custom expected at the proposed hot food carry out shall arrive by foot, the unit serving local customers. The situation regarding parking shall be no worse than exists at present.

The extraction system shall be new, fitted to satisfy the Environmental Health Department & shall be far superior to other hot food carry out operators within the town.

We believe inhabitants of this residential area expect this type of use within the area because of the desire to have a larger choice on one's doorstep.

In addition to the above the proposals shall provide employment. It is expected that at least 3 full time members of staff shall be required with several more part time staff. The proposals shall generate jobs, custom & income that will support & produce spin-off benefits for the general local economy.

We believe that whilst the proposals do not meet the requirements of the City Plan, extenuating circumstances exist. The reasons for the policy - to protect residential amenity by not exacerbating problems of cooking fumes, litter, noise & parking - are not justified in this case, whilst the proposals have little impact on the retail character of the block. The proposals shall not exacerbate an existing situation. Basically we feel the Council is being unduly draconian in their views and failing to act in a competent and reasonable manner. In all law there are basically two aspects, namely the literal expression of that law and the other, the spirit of that law. In this context we feel that in both considerations the proposed take away should have been considered to be in accord and granted accordingly.



Enterprise Resources

1989

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Non - householder planning application form

Town and Country Planning (Scotland) Act 1997
as amended by the Planning etc (Scotland) Act 2006

The Town and Country Planning (Development Management Procedure)
(Scotland) Regulations 2008

Please refer to notes of guidance prior to completing this form.

Part 1 Name and address of applicant(s).

Name

Address

Post code Daytime Phone

Email

Part 2 Name and address of agent (if any).

Name

Company

Address

Post code Daytime Phone

Email

Part 3 Full address of application site.

Building name / plot / unit no / flat position

Address

Post code

(please outline site in RED on all your location/block plans, if you own or control any land adjoining the application site please outline area(s) in BLUE)

Part 4 Description of proposed development.

Please provide an accurate and detailed description of the proposed development e.g. Erection of rear extension to building / change of use shop to office.

CHANGE OF USE OF EXISTING SHOP UNIT TO HOT FOOD CARRY OUT WITH FORMATION OF EXTRACT DUCT/RUE & TERMINAL TO REAR.

Part 5 Is the application for? (please tick one box only)

- Planning permission in principle.
- Detailed planning permission (including change of use).
- Approval of matters specified in conditions (please provide approval date and reference number of previous planning consent).
- Ref no. Date
- Renewal of a previous temporary permission (please provide date on which original consent expired and previous planning reference number).
- Ref no. Date
- Amendment to previous consent (please provide approved date and reference number of previous planning consent).
- Ref no. Date

Part 6 Is this proposal a revised version of an application which has been withdrawn or refused within the last 12 months?

Yes No Ref no.

Part 7 If you have previously discussed this application with a planning officer, please provide the name of the officer and date of discussion.

Name of officer Date

Part 8 Site area / floorspace.

- (a) Gross area of application site (in hectares). ha.
- (b) Gross floorspace of existing building (in square metres). sq.m.
- (c) Proposed additional floorspace (in square metres). sq.m.

Part 9**Materials (finishes: include colour and type).**

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→ see Note 1

Not applicable

Existing (NO CHANGE)

Proposed

External walls

Roof

FLUE - GALVANISED

Windows

STEEL.

Boundary treatment

Part 10**Access and parking.**

(a) Are you proposing a new altered vehicle access to or from a public road?

Yes No

If yes, please show in your drawings the position of any existing, altered or new access and explain the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

(b) Are you proposing any changes to public paths, public rights of way or affecting any public rights of access?

Yes No

If yes, please show on your drawings the position of any affected areas and explain the changes you propose to make, including arrangements for continuing or alternative public access.

(c) How many vehicle parking spaces (garaging and open parking) currently exist on the application site?

(d) How many vehicle parking spaces (garaging and open parking) do you propose on the site? (i.e. the total of existing and any new spaces or a reduced number of spaces)

Please show on your drawings the position of existing and proposed parking spaces and identify if these are for the use of particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, etc.)

Part 11**Design and access statement/ design statement/ pre-application consultation report .**

→ see Note 2

Do you require to submit any of the following?

Design and access statement?

Yes No Don't know

Design statement?

Yes No Don't know

Pre-application consultation report?

Yes No Don't know

If 'yes' to any of these, please ensure that it is submitted with your application.

Part 12 Water supply and drainage arrangements.

(a) Will your proposals require new or altered water supply or drainage arrangements?

Yes No

(b) Are you proposing to connect to the public drainage network (e.g. to an existing sewer?)

 Yes, connecting to public drainage network No, proposing to make private drainage arrangements Not Applicable - only arrangement for water supply required

(c) What private arrangements are you proposing for the new/alterd septic tank?

 Discharge to land via soakaway Discharge to watercourse(s) (including partial soakaway)

Please show more details on your plans and supporting information

(d) What private arrangements are you proposing?

 Treatment/Additional treatment (relates to package sewer treatment plants, or passive sewage treatment such as a reed bed) Other private drainage arrangement (such as chemical toilets or composting toilets)

Please show more details on your plans and supporting information

(e) Do your proposals make provision for sustainable drainage of surface water? (e.g. SUDS arrangements)

Yes No

Note:- Please include details of SUDS arrangements on your plans

(f) Are you proposing to connect to the public water supply network?

Yes No, using a private water supply

If no, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).

Part 13 Does the application relate to a listed building?Yes No Don't know

➔ see Note 3

Part 14 Does the application relate to a building within a conservation area?Yes No Don't know

➔ see Note 3

Part 15 Will the proposed development affect any trees?Yes No

➔ see Note 4

Part 16**Assessment of flood risk.**

Is the site within an area of known risk of flooding?

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Yes No Don't know

If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact Planning and Building Standards Services or SEPA for advice on what information may be required.

Do you think your proposal may increase the flood risk elsewhere?

Yes No Don't know

If yes, briefly describe how the risk of flooding might be increased elsewhere and any proposals that you intend to carry out to mitigate these effects:

Part 17**Contamination and pollution.**

➔ see Note 5

Is the site known or suspected to be contaminated or polluted?

Yes No Don't know

(If yes please provide further details in an accompanying letter)

Part 18**Hazardous materials.**

➔ see Note 6

Do any of the proposals involve the use, storage, manufacture or disposal of hazardous materials?

Yes No (If yes please provide further details in an accompanying letter)

Part 19**Proposals relating to agriculture.**

Is the development required for the furtherance of agriculture, horticulture or forestry?

Yes No (If yes please provide further details in an accompanying letter)

Part 20**Waste storage and collection.**

Do the plans incorporate areas to store and aid the collection of waste?

Yes No

If yes, please provide details and illustrate on plans.

If no, please provide details as to why no provision for refuse/recycling storage is being made.

Waste storage and collection details:

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AS EXISTING

Part 21 Planning service employee/Elected member interest.

Are you or is the applicant, or the applicant's spouse/partner, a member of staff within the planning service or an elected member of the planning authority?

Yes No

Or, are you/the applicant/the applicant's spouse or partner a close relative of a member of staff in the planning service or elected member of the planning authority?

Yes No

If you have answered yes please provide details:

Part 22 Planning fee.

(ADVERTISEMENT FEE ONLY)

I enclose a fee of £

100

No fee is required

(APPLICATION WITHIN 1 YEAR OF PREVIOUS)

Part 23

Any other information the applicant / agent wishes to submit in support (REFUSAL) of their application.

Ownership certificate

Under Regulation 15 of the Town and Country Planning
(Development Management Procedure) (Scotland) Regulations 2008 1 OCT 2011

If you do not own all the land relating to the application, then you must notify
all owners 21 days before submitting this application.

I certify that 21 days before the date of this application that:

A The applicant owned all the land relating to the application. (tick one box only)

OR

The applicant has notified every other person who was the owner of the land of the submission of this planning application. Those notified as the owner/part owner of the site are listed below.

The owners notified are:

Name of owner(s)	Address(es)	Date notified

I further certify that 21 days before the date of this application that:

(tick one box only)

B None of the land relating to the application relates to or formed part of an agricultural holding.

OR

The land forms part of an agricultural holding and the applicant has notified every person who was an agricultural tenant. Those notified as an agricultural tenant are listed below.

Agricultural tenant(s) notified:

Name of tenant(s)	Address(es)	Date notified

C I am unable to issue a certificate in accordance with either A or B above.

1. I have been unable to serve notice on all persons who, 21 days before the date of this application, were either an owner or agricultural tenant with an interest in the land. I have been able to notify the following:

Name of owner(s) / tenant(s)	Address(es)	Date notified

2. I have taken reasonable steps, as listed below, to identify the names and addresses of the other owners and agricultural tenants, but have been unable to do so:

N.B. If you cannot serve notice on all persons because you do not know who owns the application site, or part of it, or who is an agricultural tenant, then you should contact the appropriate area office to obtain the relevant notice that you will need to complete and publish in a local newspaper.

Part 25

Does the proposed development involve any of the following?

(please tick the appropriate boxes)

Yes No

The construction of buildings for use as a public convenience;

The construction of buildings or other operations, or use of land -

- a. for the disposal of refuse or waste materials, or for the storage or recovery of re-useable metal;
- b. for the retention, treatment or disposal of sewage, trade-waste, or effluent other than -
 - (i) the construction of pumphouses in a line of sewers;
 - (ii) the construction of septic tanks and cesspools serving single dwelling-houses, or single caravans, or single buildings in which not more than 10 people will normally reside, work or congregate;
 - (iii) the laying of sewers; or
 - (iv) works ancillary to those described in sub-paragraph (i) to (iii);
- c. as a scrap yard or coal yard; or
- d. for the winning or working of minerals;

The construction of buildings or use of land for the purposes of slaughtering animals (including fish and poultry) or the processing of animal carcasses for final disposal or as part of the production of other goods;

- | Yes | No | |
|-------------------------------------|-------------------------------------|--|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | The construction or use of buildings for any of the following purposes - bingo hall; building for indoor games; cinema; dancing; fun fair; gymnasium (not forming part of a school, college or university); hot food shop; licensed premises; skating rink; swimming pool or theatre; |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | The construction of buildings for or the use of buildings or land as -
a. a crematorium, or use of land as a cemetery;
b. a zoo, or wildlife park, or for the business of boarding or breeding animals; |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | The construction of buildings and use of buildings or land for motor racing; |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | The construction of a building to a height exceeding 20 metres; |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | The construction of buildings, operations, and use of buildings or land which will -
a. affect residential property by reason of fumes, noise, vibration, smoke, artificial lighting or discharge of any solid or liquid substance;
b. alter the character of an area of established amenity;
c. bring crowds into a generally quiet area;
d. cause activity and noise between the hours of 8pm and 8am;
e. introduce significant change into a homogeneous area. |

If the answer to any of the above is "yes", then the planning authority have to advertise the proposal in a local newspaper. The applicant is required to pay the cost of this advert. Please contact Planning and Building Standards Services to establish the cost involved.

Checklist

To allow us to register your application and avoid unnecessary delays, please ensure that you have submitted the following information :-

Documentation

- Fully completed, signed and dated application form.
- Completion of ownership certificate confirming who owns the land and advising of any other owners who have been notified.
- Design and access statement (if it is a major development or a design statement if it is a local development within a specified area).
- Pre-application consultation report (if the application is a major development).

Fees

- Correct fee enclosed – checked against scale of fees.

Plans

- Non-householder** applications – six full sets of plans

For more information or if you want this information in a different format or language, please phone 01698 455379 or e-mail enterprise.hq@southlanarkshire.gov.uk

Each set of plans includes:-

- Location plan at scale of 1:2500 or 1:1250 (or 1: 10000 if in rural area). Site clearly outlined in red and any other land owned by the applicant outlined in blue.
- Site plan at a scale of 1:500.
- Scaled floor plan(s) (not required for applications in principle applications).
- Scaled elevation plan(s) (not required for applications in principle applications).
- If any plan is larger than A3 size, it would assist if you could also provide one set of correctly scaled A3 size copies of the plan. This assists with speeding up the consultation process.

Declaration

I hereby certify that the information given by me in this form is true and accurate to the best of my knowledge.

Signature of applicant/ agent* (Delete as appropriate)

Date

[Redacted Signature]

[Redacted Signature]

27/7/11

Note: It should be understood that planning permission does not exempt you from the need to obtain any other permission which may be necessary under other legislation or regulations including The Building (Scotland) Acts, The Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) (Scotland) Act 1997, or the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984. If in doubt please contact the appropriate area office on 08457 406080.



Data Protection Act 1998

In terms of the Town and Country Planning (Scotland) Act 1997, the Council is required to maintain a public register of specified information relating to planning applications which are submitted. The Council is required to make that register available for public inspection. In addition, the Council is required to make some of that information available to Community Councils in the form of a published weekly list of planning applications received. This weekly list is also available for sale to private individuals and companies. Accordingly, by submitting this application you are consenting to the processing of the relevant data under the terms of the Data Protection Act 1998 and to the inclusion of the data in the public register and the publicly available weekly list. If you do not wish to be included in the weekly list for public sale, please tick here.

Please note that when you submit a planning application, the information will appear on the planning register and the completed forms and any associated documentation will also be published on the Council's website. Personal telephone numbers, e-mail addresses and signatures will not be made public.

For official use only:

App. No.:

Date of Receipt:

Receipt No.:

Fee Paid:



Application No

HM/11/0332

Town and Country Planning (Scotland) Act 1997

To: **Mr Liaquit Ali**
16 Violet Crescent
Stonehouse
Larkhall
ML9 3HZ

Per: **David Jarvie**
27 Aytoun Road
Pollokshields
Glasgow
G41 2HW

With reference to your application dated 27 July 2011 for Planning Permission under the above mentioned Act :

Description of Proposed Development :

Change of use of shop to hot food takeaway and erection of flue

Site Location:


16 Violet Crescent
Stonehouse
Larkhall
ML9 3HZ

South Lanarkshire Council in exercise of their powers under the above mentioned Act hereby:

REFUSE PLANNING PERMISSSION

for the above development in accordance with the accompanying plan(s) and particulars given in the application, for the reason(s) listed overleaf in the paper apart.

Date: 28/09/11


Michael McGlynn, Head of Planning and Building Standards Services

This permission does not grant any consent for the development that may be required under other Legislation, e.g. Planning Permission, Building Warrant or Roads Construction Consent.

**South Lanarkshire Council
Refuse Planning Permission**

Application Number: HM/11/0332

Reason(s) for Refusal:

- 1 This decision relates to drawing numbers:
1989/1
1989/2
1989/3
1989/4
- 2 The proposal is contrary to Policy RES6 of the South Lanarkshire Local Plan in that it would introduce a bad neighbour use into a residential area and would have a significant impact on the amenity of the neighbouring residential properties through the significant intensification of noise, disturbance litter and odours/smell.
- 3 The proposal is contrary to Policy DM1 of the South Lanarkshire Local Plan in that it represents a form of development that does not comply with the criteria of the policy with particular regard to criteria (a) and (d) in that it does not reflect the local context as it is located in a residential area, would be detrimental to amenity and would have a significant adverse impact on the wider environmental amenity of the area through the generation of noise, litter, disturbance and odour.
- 4 The proposal is contrary to Policy DM10 of the South Lanarkshire Local Plan in that it fails to satisfy the relevant criteria for the siting of a hot food operation within a residential area as it would result in an inadequate level of shopping provision provided at the location, the property has not been successfully marketed for a Class 1 use to the satisfaction of the Planning Authority and it would result in an adverse impact in terms of environmental, traffic and amenity considerations (e.g. noise, litter, disturbance and odour) particularly in relation to the adjacent residential properties and those residential properties surrounding the site.
- 5 In the interests of residential amenity in that the proposed hot food shop would have a significant and detrimental impact on the neighbouring dwellings in particular and the neighbourhood in general.
- 6 If approved, the proposal would set an undesirable precedent which could encourage further similar applications for proposals which would exacerbate the problems stated above.

11 OCT 2011



ENTERPRISE RESOURCES
EXECUTIVE DIRECTOR Colin McDowall
Planning and Building Standards Services

Important notes

Town and Country Planning (Scotland) Act 1997

1. Compliance with conditions

Under the provisions of the Town and Country Planning (Scotland) Act 1997 (Section 145), failure to comply with any condition(s) imposed on any planning permission may result in the service by the Council of a "Breach of Condition Notice" requiring compliance with the said condition(s).

There is no right of appeal against such a Notice and failure to comply with the terms of the Notice within the specified time limit will constitute a summary offence, liable on summary conviction to a fine not exceeding £1000.

2. Procedure for appeal to the planning authority

- (a) 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 require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997, within three months from the date of this notice. The notice of review should be addressed to:

Executive Director (Corporate Resources)
Council Headquarters
Almada Street
Hamilton
ML3 0AA

To obtain the appropriate forms:

Administrative Services at the above address.

Telephone: 01698 454108

E-mail: pauline.macrae@southlanarkshire.gov.uk

- (b) If permission to develop land is refused or granted subject to conditions, whether by the planning authority or by the Scottish Ministers, 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 incapable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the planning authority a purchase notice requiring the purchase of his interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.



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Housing Choice

3.27 In addition to the needs assessment carried out by the LHS, analysis has been undertaken on the household composition within South Lanarkshire.

3.28 Average household sizes are falling and household composition is significantly changing. Single adult households are likely to increase by 26% and single adult households with children by 19%, while in contrast households with two or more adults with children is likely to fall by 27% (2002 – 2016 Source: Scottish Government). Average household size is projected to decrease from 2.3 in 2002 to 2.1 in 2016. At present housing developments, particularly larger developments, have tended to produce the same type and size of house unit in very similar site layouts. These have mainly been estates of three to four bedroom detached villas of a similar layout, design and materials. In SPP 3 the Scottish Government directs local authorities to provide for more diverse, attractive, mixed residential communities, both in terms of tenure and land use. In order to meet these requirements, and to ensure that all areas of South Lanarkshire have access to housing that meets both need and demand, developers must ensure that a full range of housing types is provided.

Quality Residential Environments

RES 6

Residential Land Use Policy

Within these areas, 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.

Developments of an ancillary nature may be acceptable e.g. guest houses, children's nurseries, medical or dental surgeries or single retail development for local needs. Each application will 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.

All new development must comply with Council design policies as set out in ENV 11 'Design Quality Policy' and in Volume II: Development Policies, DM 1 – Development Management Policy.

In addition any development proposed must satisfy the following criteria:

- The proposed development must relate satisfactorily to adjacent and surrounding development in terms of scale, massing, materials and intensity of use, except in circumstances where the existing local characteristics are considered to be of poor quality or detrimental to the overall character of the area. In such cases, the new development should be of good quality design and enhance the environment in which it is located.
- The character and amenity of the area must not be impaired by reason of traffic generation, parking, visual intrusion, noise or emission of gases or particulates.



- There must be no resultant loss of, or damage to, open or play spaces, trees, bushes or hedgerows which make a significant contribution to the character or amenity of the area.
- The development must be adequately serviced in terms of cycle, pedestrian and vehicular access, parking and accessibility to public transport.
- There must be no adverse effect on public safety.

3.29 Protection of the quality of life of residents (often referred to as amenity) and the character of residential areas is important. To ensure this, RES 6 'Residential Land Use Policy' applies to those areas identified on the Proposals Map. In new housing developments there is the opportunity to create high quality residential environments and further Policy ENV 31 in Volume II: Development Policies and Guidance, sets out the specific framework for new development.

Further Policies within Volume II: Development Policies and Guidance

In addition to those set out above the following housing policies are detailed in Volume II: Development Policies and Guidance –

DM 1 - Development Management Policy

ENV 11 - Design Quality Policy

ENV 31 - New Housing Development Policy

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- d. Redevelopment shall not result in increased overlooking of adjoining property or garden ground, either through the formation of side windows or by virtue of the new development extending deep into a site beyond the footprint of the demolished building
- e. Redevelopment shall not result in overshadowing of adjacent properties or garden ground. Assessment of the impact of the new development shall have regard to orientation, height, proximity to boundaries and adjacent buildings.
- f. Vehicular access and off-street parking must be satisfactorily achieved and must not present a traffic hazard or create amenity problems for neighbours (through noise or loss of privacy). Parking provision in front or rear gardens should not adversely affect the appearance or character of the street and the major part of the surface area of the front or rear gardens should remain in use as garden ground.

Reasoned Justification

11.26 Demolition of existing buildings and redevelopment for residential use can create particular issues in terms of retaining the character and integrity of the established street scene. Careful consideration of the siting of buildings, massing, architectural treatment, use of materials and maintenance of the existing landscape is essential to ensure that redevelopment schemes do not adversely affect the quality and character of the residential environment. Attention also needs to be given to the design of any new vehicular access and its relationship to the street.

Hot Food Shops

DM 10

Hot Food Shops Policy

1. Commercial Areas

Within commercial areas identified in the Local Plan there will be a general presumption in favour of granting planning permission for hot food shops subject to compliance with all of the following criteria:

- a. An adequate level of shopping provision is maintained and the viability of the centre and its main retail function is not adversely affected.
- b. A satisfactory balance is retained between retailing and non-retailing uses;
- c. Within primary shopping or core retail areas the proposal does not result in a concentration of non-retail frontages which would significantly detract from the shopping character of the street.



- d. The proposal does not have a significant impact in terms of environmental, traffic, public safety 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.

2. Single Shops/Small Groupings of Shops

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.

In addition, in both areas 1 and 2 above, if the hot food shop is proposed on the ground floor of a tenement there will be a presumption against the proposal unless ventilation arrangements including a rear flue terminating 1 metre above the eaves can be provided. Since the rear of a tenement is often in common ownership, agreement from all owners is necessary.

3. Residential/Industrial Areas

There will be a general presumption against the granting of hot-food takeaways if residential amenity would be adversely affected to a significant degree or within industrial areas.

4. General

There will be a general presumption against permission in those cases where the proposed development is likely to have an adverse effect on existing traffic circulation or public safety.



In addition, where the Council is disposed to grant permission, this will be subject to the installation of a ventilation system to the satisfaction of the Council, to restrictions on noise levels and on hours of opening commensurate with the recognised nature and level of activity in the locality. These will vary depending on the precise location of the site.

Reasoned Justification

11.27 The Council wishes to ensure the on-going viability of all commercial areas and that these continue to provide appropriate facilities reflecting their role and function.

11.28 The Council is particularly concerned about the loss or retail floorspace to hot food shops within the commercial area identified in the Local Plan. In addition there is increasing pressure for hot food takeaways in neighbourhood centres within residential areas where the amenity of the residential area is of prime concern.

Advertisement Hoardings

DM 11

Advertisement Hoardings Policy

Applications for hoardings/poster display panels, (advertisements using specialised structures for their display and which generally display advertisements unrelated to the site on which they are located) will be acceptable where they comply with the following criteria:

- a. The advertisement has no adverse impact on the general character of the area, including any features of historic, archaeological, architectural, landscape or cultural interest;
- b. If located on a building, the advertisement is of a size, scale, position, design and materials appropriate to the scale of that building and the appearance and characteristics of the surrounding area;
- c. If freestanding, the advertisement is of a size, scale, position, design and materials appropriate to the appearance and characteristics of the surrounding area;
- d. The advertisement does not result in clutter or have an adverse impact on amenity by creating a proliferation of advertisements on a building or in the surrounding area;
- e. The advertisement has no adverse impact on the amenity of nearby residents by virtue of light or noise pollution; and
- f. The advertisement has no adverse impact on public safety by virtue of causing distraction, confusion or creating a hazard to pedestrians, cyclists or drivers.



11 Development Management Policies

Development Management, Enforcement and Monitoring Policies

11.1 This section sets out some of the more frequently used topic-based development management policies that, together with the strategic policies contained in Volume I, will be used to assess individual planning applications. It includes policies on extensions, alterations and other development affecting dwellings and their garden ground, hot-food shops, advertisement hoardings, telecommunications, working from home and mobile snack vans. Policies on enforcement of planning control and monitoring of development are also included.

11.2 In addition, this section provides detailed guidance on householder proposals such as extensions and associated alterations, the erection of garages, porches, garden sheds, greenhouses and walls/fences in open plan areas. Any planning application will be assessed against DM 4 ' House Extensions and Alterations Policy '. However, the guidance sets out certain standards which if met, will make the proposal more likely to be approved. It will also be a material consideration in the determination of any planning application.

11.3 Applicants should be aware that securing planning permission does not remove the legal requirements to obtain authorisations or licences under other regulatory regimes. For example this may include Building Warrants, Road Construction Consent and authorisation from Scottish Environment Protection Agency in respect of the Water Environment (Controlled Activities) (Scotland) Regulations 2005, Waste Management Licensing Regulations 1994 (as amended), and The Pollution Prevention and Control (Scotland) Regulations 2000.

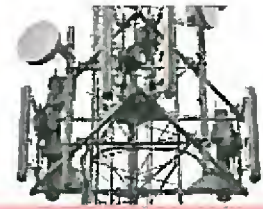
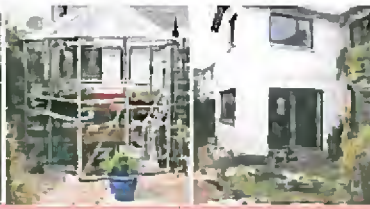
DM 1

Development Management Policy

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. When assessing applications, the Council will require proposals to comply with the following:

- a. respect the local context;
- b. be of a layout, form and design which makes a positive contribution to the area;
- c. make use of materials appropriate to the locality;
- d. have no significant adverse impact on visual amenity, landscape character, habitats or species, including those given statutory protection, or wider environmental amenity;
- e. ensure accessibility for all;



- f. incorporate safety and security measures within the proposal;
- g. make appropriate open space and landscape provision;
- h. provide suitable access, parking and have no adverse implications for public safety;
- i. make appropriate infrastructure provision to serve the development;
- j. address sustainability issues through energy efficient design, layout and environmentally friendly building practices;
- k. Where appropriate demonstrate that the development will not result in negative impact on the water environment as required by the Water Framework Directive and related regulations;
- l. there will be no significant adverse effects on air, water or soil quality and as appropriate, mitigation to minimise any adverse effects to be provided; and
- m. take account of any supplementary design guidance prepared by the Council.

Reasoned Justification.

11.4 The Council will ensure that good quality design is given a high priority in development proposals. To achieve this all new buildings or alterations to existing buildings will require to be designed to high standards in terms of materials, style of development and scale. Whilst not wishing to stifle architectural expression, the Council wishes to safeguard basic amenity and promote sensitive design which respects and contributes positively to its surroundings.

DM 2

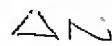
General Enforcement Policy

The Council will take enforcement action against any unauthorised development that unacceptably harms public amenity, public safety or the existing use of land and buildings meriting protection in the public interest. In considering whether to take enforcement action, the Council will assess the breach against the following:

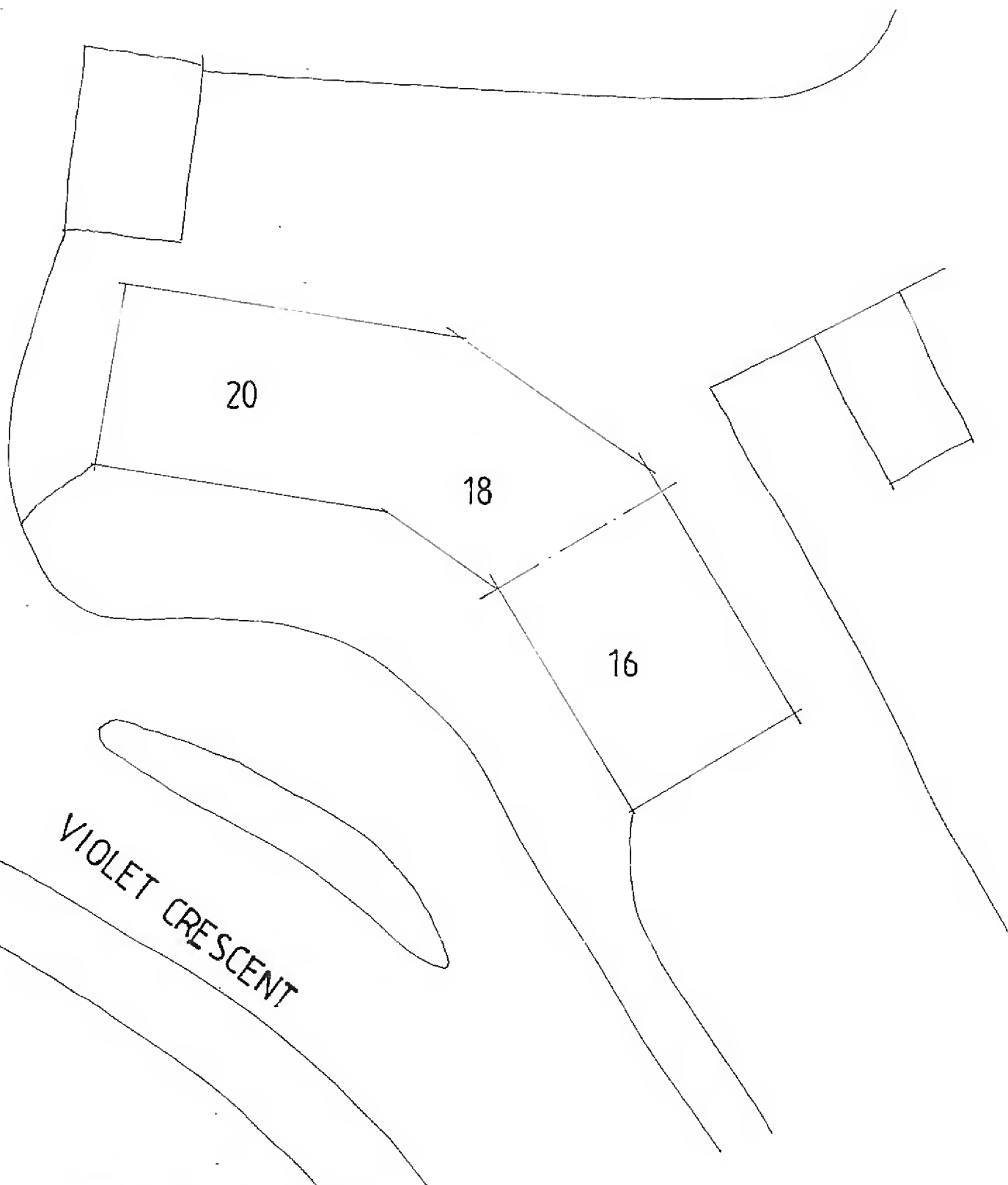
- a. local plan and enforcement policies
- b. impact on residential amenity
- c. impact on road safety
- d. magnitude of the breach



PROPOSALS AT
 16 VIOLET CRESCENT
 STENHOUSE
 SCALE 1:1250
 DWG NO. 1989/L

LOCATION PLAN 

11 OCT 2011

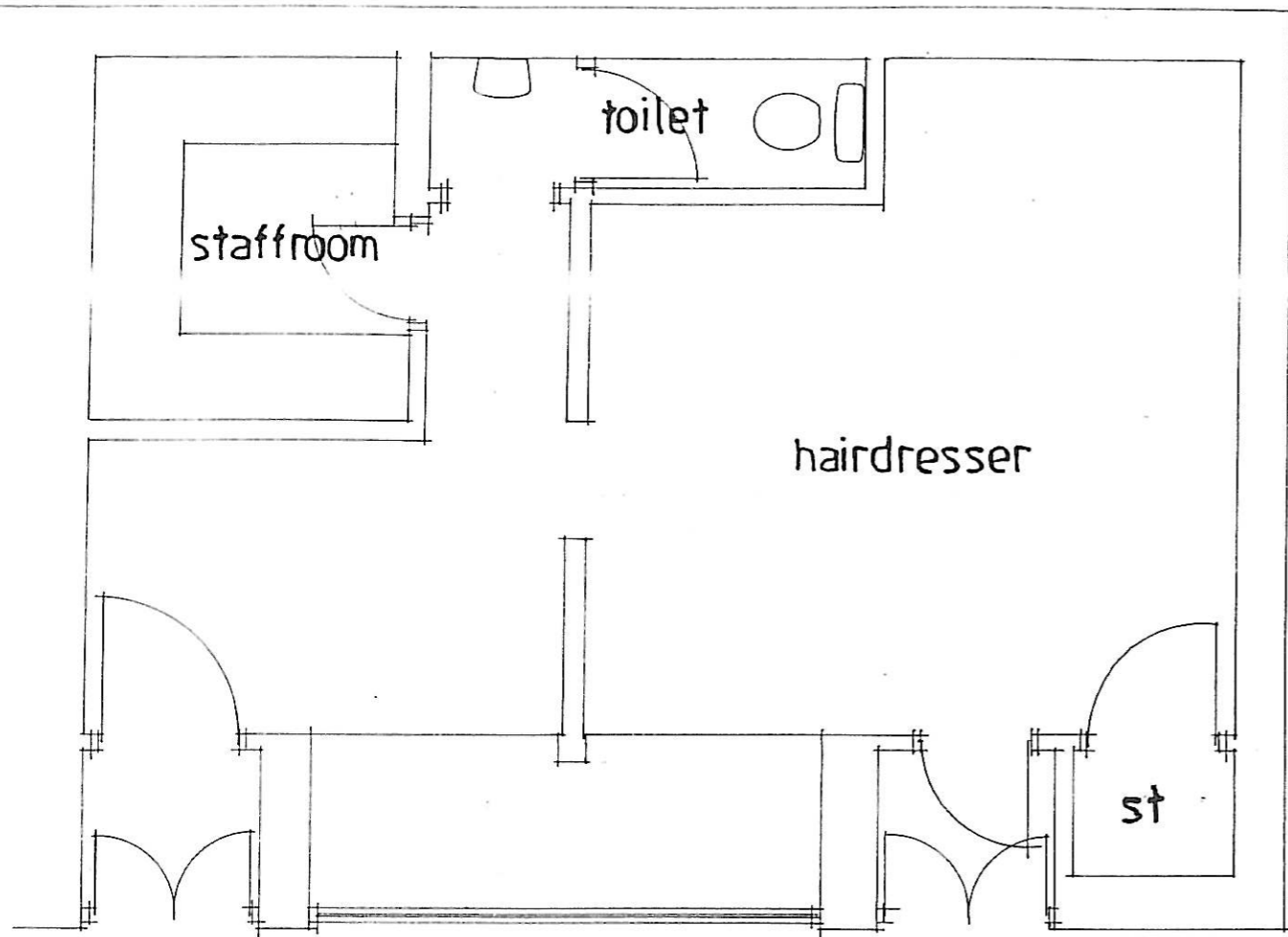


SITE PLAN 1:200

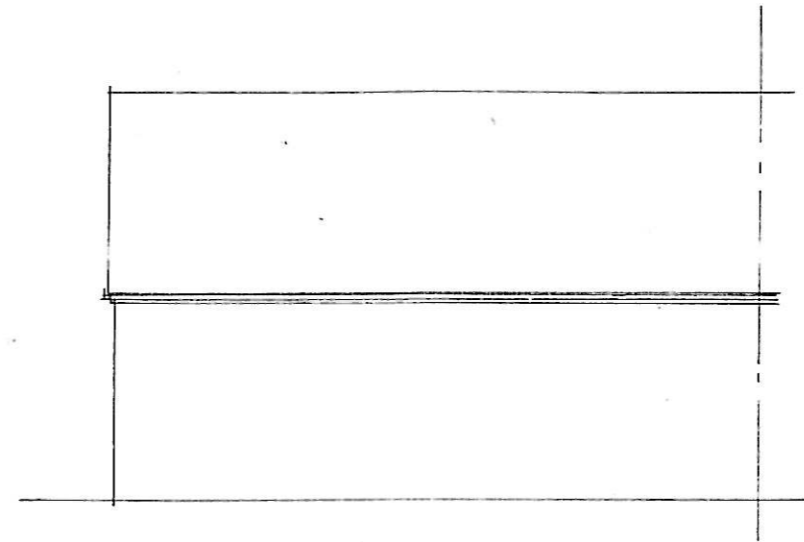
Proposals at
16 Violet Crescent
Stonehouse
scale 1:200 dwg no. 1989/3

11 OCT 2011

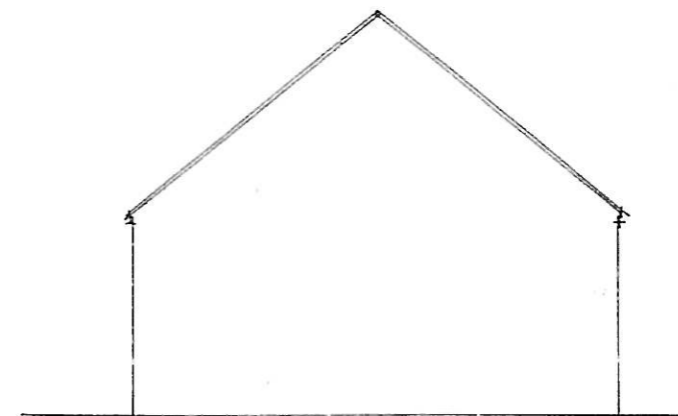




floor plan as existing
1:50



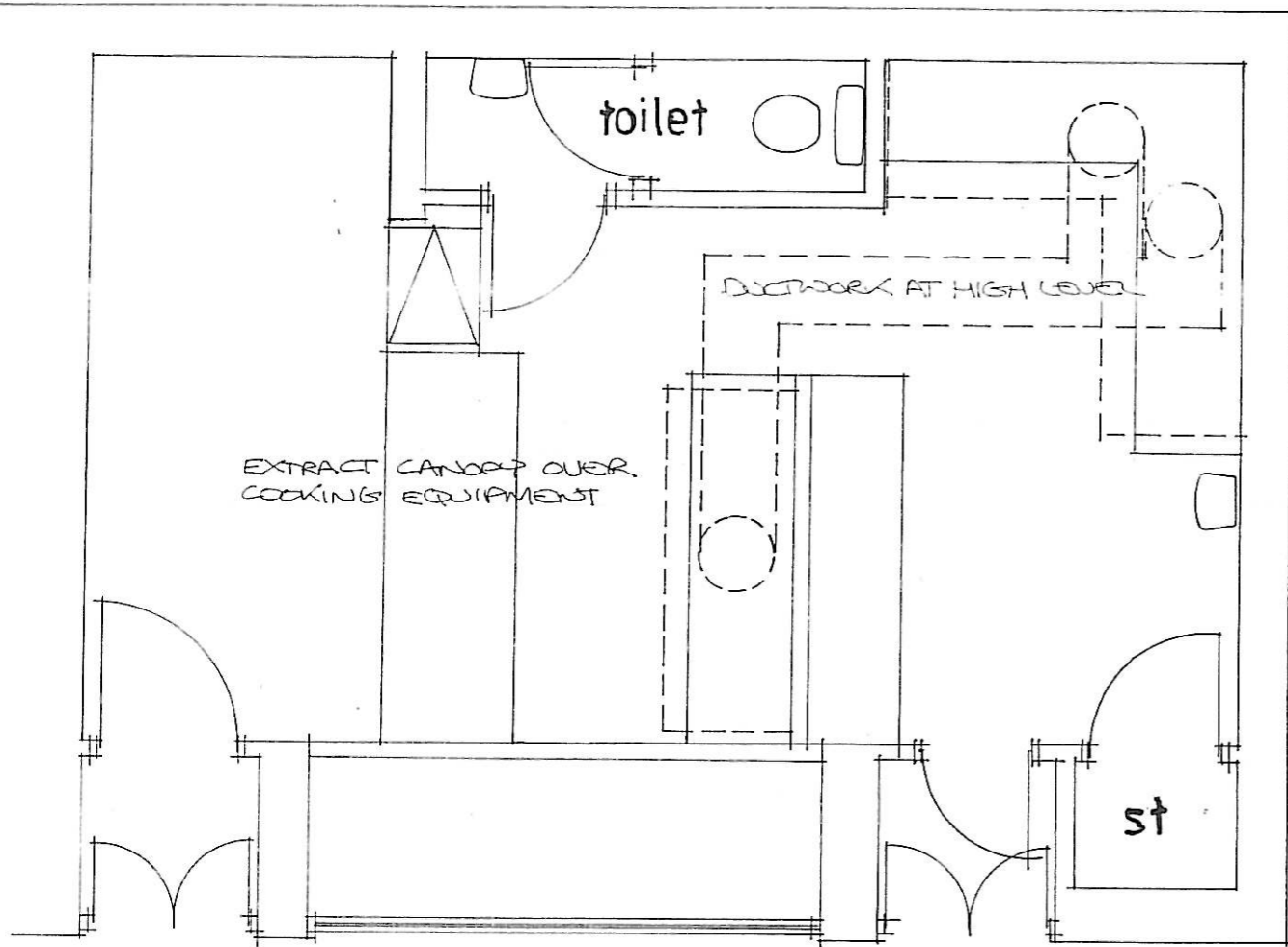
rear elevation as existing
1:100



side elevation as existing
1:100

11 OCT 2011

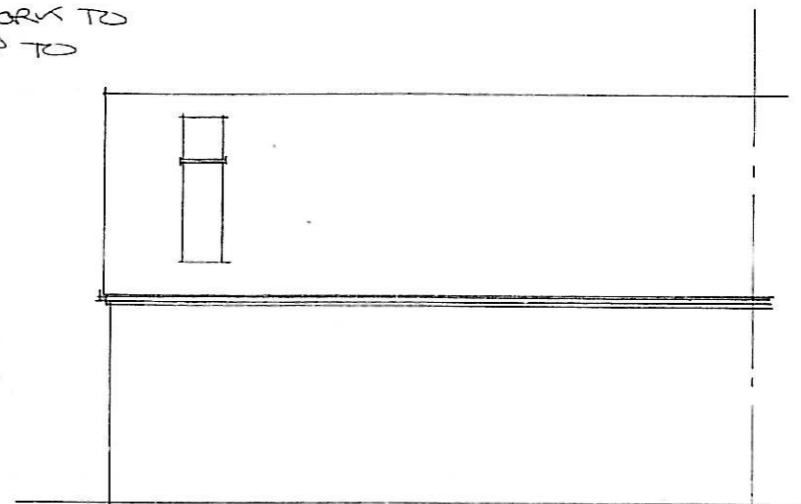
Proposals at 16 Violet Crescent Stonehouse	
scale 1:50	dwg no. 1989/1



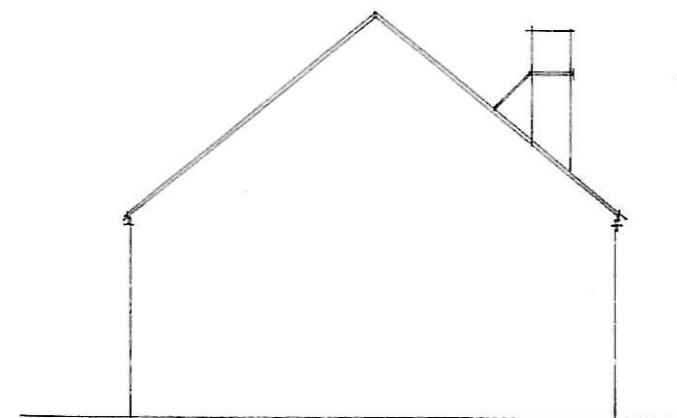
floor plan as proposed
1:50

EXTRACT DUCTWORK TO
RISE VERTICALLY TO
TERMINAL

EXTRACT CANOPY
OVER COOKING
EQUIPMENT



rear elevation as proposed
1:100



side elevation as proposed
1:100

GALVANISED STEEL EXTRACT
DUCTWORK TO RISE TO
TERMINAL 1M MIN. ABOVE
ROOF FINISH. SECURED TO
ROOF STRUCTURE BY
GALVANISED STEEL TIES.

11 OCT 2011

Proposals at
16 Violet Crescent
Stonehouse

scale 1:50

dwg no. 1989/2