

Report

Report to:	Planning Committee
Date of Meeting:	28 August 2018
Report by:	Executive Director (Community and Enterprise Resources)

Application no.	P/18/0822
Planning proposal:	Section 42 Application to Delete Condition 5 of Planning Consent EK/16/0229 to Allow Permanent Use of Outdoor Seating Area as Part of Existing Coffee Shop Operating 11am until 3pm Monday to Saturday

1 Summary application information

Application type:	Further application
Applicant:	Mr Roddy Gillies
Location:	2 Thomson Street Strathaven South Lanarkshire ML10 6JZ

2 Recommendation(s)

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

- (1) Grant detailed planning permission (subject to conditions) based on conditions attached

2.2 Other actions/notes

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

3 Other information

- ◆ Applicant's Agent:
- ◆ Council Area/Ward: 05 Avondale And Stonehouse
- ◆ Policy Reference(s): **South Lanarkshire Local Development Plan (adopted 2015)**
Policy 4 - Development management and placemaking
Policy 6 – General urban area/settlements
Policy 15 – Natural and historic environment
NHE7 - Conservation areas

Proposed South Lanarkshire Local Development Plan 2 (2018)

- Policy 3 - General urban areas/settlements
- Policy 5 – Development management and placemaking

Policy 14 – Natural and historic environment
NHE6 – Conservation areas

◆ **Representation(s):**

▶	15	Objection Letters
▶	0	Support Letters
▶	0	Comment Letters

◆ **Consultation(s):**

Environmental Services

Planning Application Report

1 Application Site

- 1.1 The application site is the rear garden ground associated with the former church hall of the West Church, Thomson Street, Strathaven. The property, which now operates as The Epicentre, comprises of The Crib coffee shop and the Outreach Community Church. The coffee shop is located within the building and was granted planning permission under a previous application (EK/13/0122).
- 1.2 The property is located within a residential area and, as such, is bound immediately on three sides by residential properties. The boundary treatment between the application site and adjacent properties is a mix of hedging and fencing. It is noted that the property also falls within the Strathaven Conservation Area.

2 Proposal(s)

- 2.1 A temporary consent for use of the garden area as part of the coffee shop was granted for one year under planning application EK/16/0229. This current proposal is a Section 42 application to delete condition 5 of this application to allow permanent use of the outdoor seating area as part of the existing coffee shop operating between the hours of 11am until 3pm Monday to Saturday.
- 2.2 The submitted plan shows a seating area with 6 tables with chairs which would be located on the existing deck and patio areas within the garden.

3 Background

3.1 Local Plan Status

- 3.1.1 In terms of the Adopted South Lanarkshire Local Development Plan (2015), the site is located within the settlement boundary and, as such, Policy 4 - Development management and placemaking and Policy 6 - General urban area/settlements are relevant. These policies require development within residential areas to take account of the local context and built form and should be compatible with adjacent buildings in terms of scale, massing, design with no significant adverse impact in the local environment.
- 3.1.2 As the site also lies within a Conservation Area, Policy 15 – Natural and Historic Environment is also applicable and assesses all development proposals in terms of their effect on the character and amenity of the natural and built environment. Policy NHE7 – Conservation Areas of the supplementary guidance advises that development and demolition within a conservation area or affecting its setting shall preserve or enhance its character. The design, materials, scale and siting of any development shall be appropriate to the character of the conservation area and its setting.
- 3.1.3 In addition, the Proposed South Lanarkshire Local Development Plan 2 (Volumes 1 and 2) and Supporting Planning Guidance on Renewable Energy was approved at Planning Committee on 29 May 2018. As such, the SLLDP2 is now a material consideration in determining planning applications. In this case, the corresponding policies are Policy 3 – General urban areas and settlement, Policy 5 – Development management and placemaking, Policy 14 – Natural and historic environment and

NHE6 – Conservation areas. It is noted these policies are broadly consistent with the current adopted local plan.

3.2 Relevant Government Advice/Policy

3.2.1 None relevant.

3.3 Planning Background

3.3.1 The Church gained planning permission for the existing coffee shop under planning application EK/13/0122. Following this, they applied to use the rear garden area for seating for customers of the coffee shop. As such, a temporary consent for 1 year was granted under planning application EK/16/0229. More recently, a planning application (P/18/0443) was submitted to delete the condition for the temporary consent and amend the hours of operation from 9.15am until 4pm. However, after consideration of this proposal, the applicant was advised the Planning Service was unlikely to support the extended hours and, as such, the application was withdrawn.

4 Consultation(s)

4.1 **Environmental Services** – No objections to the proposal for the outdoor seating area to be permanently used for coffee shop patrons between 11am and 3pm Monday to Saturday. They also noted that, during the period in which the outdoor seating area was used under the temporary consent, no complaints were received in relation to noise.

Response: Noted.

5 Representation(s)

5.1 Following the statutory neighbour notification procedure undertaken by the Council and advertisement in the local press due to the nature of the proposal and for non-notification of neighbours, fifteen letters of objection have been received in relation to this proposal. The contents of the letters are summarised below:

a) Objection to extending the opening hours of the external seating area as part of the coffee shop use.

Response: This revised proposal does not include an extension to hours; the proposed hours are as per the temporary consent which is 11am to 3pm 6 days a week. It is noted this time there is no proposal to use the seating area for the coffee shop on Sundays.

b) The level of disturbance created by the proposed use will be constant and therefore greater than the use of the garden for sporadic church activities.

Response: It is noted that excluding use by customers of the coffee shop, the church garden is available for use for a number of events such as children's parties, BBQ's and general church related activities. It is, therefore, considered that use of the garden for customers of the coffee shop for a limited numbers of hours Monday to Saturday will not have an additional impact on adjacent residents.

c) This proposal significantly impacts on the adjacent residents. There was significant noise and disturbance to adjacent residents as a result of this use during the summer months last year.

Response: As noted above, the Council's Environmental Services were consulted as part of this application and have raised no objection to permanent use of the garden area for the specified days and hours. They

have also further noted that they received no noise complaints during use of the external seating area under the temporary consent.

- d) There is a lack of parking to support the existing coffee house; permanent use of the seating area will increase traffic congestion.

Response: The proposal is ancillary to the existing coffee shop, therefore, it is not considered there will be a significant increase in footfall as a result of the external seating area.

- 5.2 These letters have been copied and are available for inspection in the usual manner and on the planning portal.

6 Assessment and Conclusions

- 6.1 A Section 42 application has been submitted to delete condition 5 of planning application EK/16/0229 to allow permanent use of the outdoor seating area as part of the existing coffee shop operating from 11am until 3pm Monday to Saturday. The determining issues in the assessment of this application are compliance with local plan policy and its impact on the amenity of the adjacent properties.

- 6.2 As detailed above, Policy 4 requires all development to take account of and integrate with the local context and have no adverse impacts on the local community. Policy 6 also states that within residential areas, development will not be permitted if it is detrimental to the amenity of residents in terms of visual impact, noise, smell etc. Policies 15 and NHE7 are also relevant in this case as the application site is located within a Conservation Area. These policies require proposals to be assessed in terms of their effect on the character and amenity of the natural and built environment. Any development shall be appropriate to the character of the Conservation Area and its setting.

- 6.3 In this case, there is an existing patio area with deck within the rear garden of the property. The applicant has advised this can be used for church events and activities such as parties, functions, clubs etc along with the remainder of the garden at any time. In addition, as detailed above, the outdoor seating area associated with the existing coffee shop operated under a temporary consent for 1 year from 11am until 3pm 7days a week. During this period, Environmental Services have confirmed they received no complaints regarding any noise associated with the outdoor seating area. Furthermore, no complaints were received by the Planning Service.

- 6.4 In terms of Policies 4 and 6, given that the garden can already be used at any time for a variety of activities and events by the Church, it is considered that use of the outdoor seating area for patrons of the existing coffee shop is acceptable between the limited hours of 11am and 3pm Monday to Saturday. It is noted that the applicant does not propose to use the seating area for coffee shop patrons on Sundays at all. In addition, given that patrons of the coffee shop have used the outdoor seating area under the temporary consent for a year without any complaints being received by either the Planning Service or Environmental Services, it is considered on this occasion that the proposal is acceptable. In terms of Policies 15 and NHE7, it is noted that the garden is enclosed and not visible from Thomson Street, therefore, I am satisfied it will have no adverse impact on the character of the Conservation Area.

- 6.5 On 29 May 2018, the Planning Committee approved the proposed South Lanarkshire Local Development Plan 2 (Volumes 1 and 2) and Supporting Planning Guidance on Renewable Energy. Therefore, the Proposed SLLDP2 is now a material

consideration in determining planning applications. The proposed development has been considered against the relevant policies in the proposed plan and it is noted that these policies are broadly consistent with the current adopted South Lanarkshire Local Development Plan 1. It is considered that the proposals accords with Policies 3, 5, 14 and NHE6 in the proposed plan.

6.6 In conclusion, is it considered that the proposal to delete condition 5 of planning application EK/16/0229 to allow permanent use of the outdoor seating area as part of the existing coffee shop operating 11am until 3pm Monday to Saturday is acceptable. I, therefore, recommend planning permission is granted subject to the attached conditions.

7 Reasons for Decision

7.1 The proposal would have no additional adverse impact on residential amenity or the character of the Conservation Area and complies with policies 4, 6, 15 and NHE7 of the Adopted South Lanarkshire Local Development Plan (2015) and Policies 3, 5, 14 and NHE6 of the Proposed South Lanarkshire Local Development Plan 2 (2018).

Michael McGlynn
Executive Director (Community and Enterprise Resources)

24 July 2018

Previous references

- ◆ P/18/0443
- ◆ EK/16/0229
- ◆ EK/13/0122

List of background papers

- ▶ Application form
- ▶ Application plans
- ▶ South Lanarkshire Local Development Plan 2015 (adopted)
- ▶ Neighbour notification letter dated 13 June 2018

- ▶ Consultations
 - Environmental Services 14.06.2018

- ▶ Representations
 - Mrs C McMillan, 14A Dunlop Street, Strathaven, ML10 6PU Dated: 03.07.2018
 - K MacKenzie, 17 Thomson Street, Strathaven, ML10 6JZ 02.07.2018
 - Sandra E Davidson, 17 Thomson Street, Strathaven, ML10 6JZ 03.07.2018
 - Fiona Beveridge, 6 Thomson Street, Strathaven, ML10 6JZ 03.07.2018
 - E Aird, 8A Dunlop Street, Strathaven, ML10 02.07.2018
 - Owner Occupier, 13 Thomson Street, Strathaven, ML10 6JZ 03.07.2018
 - Owner Occupier, 35 Townhead Street, Strathaven, ML10 03.07.2018

6DH

Mrs Gillian Bryce, 14 Dunlop Street, Strathaven, ML10	03.07.2018
Susan Ford, 35 Townhead Street, Strathaven, South Lanarkshire, ML10 6DH	03.07.2018
Margaret Lundie, 10 Dunlop Street, Strathaven, South Lanarkshire, ML10 6LA	03.07.2018
Margaret S.G. Leiper, 8 Dunlop Street, Strathaven, South Lanarkshire, ML10 6LA	03.07.2018
Owner/Occupier, 8A Dunlop Street, Strathaven, South Lanarkshire, ML10 6LA	02.07.2018
L Sneddon, 13 Thomson Street, Strathaven, South Lanarkshire, ML10 6JZ	02.07.2018
Ms Rosslyn Halliday, 11B Thomson Street, Strathaven, South Lanarkshire, ML10 6JZ	25.06.2018
Owner/Occupier, 6 Thomson Street, Strathaven, South Lanarkshire, ML10 6JZ	21.06.2018

Contact for further information

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

Julie Pepper, Planning Officer, Montrose House, 154 Montrose Crescent, Hamilton, ML3 6LB

Phone: 01698 455046

Email: julie.pepper@southlanarkshire.gov.uk

Conditions and reasons

01. That the permission hereby granted relates to a change of use only and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (or any other such order revoking or re-enacting that order) no alterations shall be made to the external appearance of the building without the prior written consent of the Council as Planning Authority.

Reason: In order to retain effective planning control.

02. The opening hours of the coffee shop shall be restricted to the following hours of opening:

Mondays to Sundays: Between 09.00 and 20.00

Reason: To minimise disturbance to adjacent occupants.

03. Before the coffee shop is brought into use, the proposed method of ventilation shall be operational in accordance with the approved details and thereafter maintained to the satisfaction of the Council as Planning Authority.

All odours, fumes and vapours generated on the premises shall be controlled by best practicable means to prevent them causing nuisance to occupants of nearby dwellings or premises.

The ventilation system shall:

- a) Incorporate systems to reduce the emission of odours and pollutants and shall thereafter be maintained as necessary;
- b) Be constructed, designed, installed and operated employing the principles of best practical means, to minimise noise and vibration transmission via plant and the building structure;
- c) Noise associated with the business shall not give rise to a noise level, assessed with the windows closed, within any dwelling or noise sensitive building, in excess of the equivalent to Noise Rating Curve 35, between 07:00 and 20:00 hours, and Noise Rating Curve 25 at all other times.

Reason: To minimise nuisance to occupants of nearby buildings as a result of cooking smells, vapours, airborne pollutants or noise from the premises.

04. That before the development hereby approved is brought into use, details of the storage and collection of waste arising from the development shall be submitted to and approved by the Council as Planning Authority. The storage and waste collection scheme shall be implemented before the development is brought into use and shall thereafter be maintained to the satisfaction of the Council as Planning Authority.

Reason: To minimise nuisance, littering and pest problems to nearby occupants.

05. That use of outdoor seating area for patrons of the existing coffee shop shall be restricted to the following hours:

Mondays to Saturdays: Between 11.00 and 15.00

Reason: To safeguard the residential amenity of the area.

P/18/0822

2 Thomson Street, Strathaven



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Scale:
1:1,250
Date:
27/07/2018



South Lanarkshire Council
Community and Enterprise Resources
Planning and Economic Development