

Report

Report to:	Planning Committee
Date of Meeting:	11 October 2022
Report by:	Executive Director (Community and Enterprise Resources)

Application no.	P/21/2167
Planning proposal:	Change of use of after school care facility to Class 1 retail premises and associated external alterations

1 Summary application information

Application type:	Detailed planning application
Applicant:	1A Real Estate Ltd
Location:	Cruse House 20 Argyle Drive Hamilton South Lanarkshire ML3 9EB

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.
- (2) A request for a hearing prior to determination has been received. However, in terms of the Council's guidance on hearings, the request is not considered to meet the criteria in this case. Therefore, the application can be determined without a hearing taking place.

3 Other information

- ◆ Applicant's Agent: Kevin Spence
- ◆ Council Area/Ward: 18 Hamilton West and Earnock
- ◆ Policy Reference(s): **South Lanarkshire Local Development Plan 2 (adopted 2021)**
Policy 2 Climate Change
Policy 3 General Urban Areas

Policy 5 Development Management and
Placemaking
Policy 10 New Retail and Commercial Proposals
Policy 15 Travel and Transport
Policy DM1 New Development Design

◆ **Representation(s):**

▶	24	Objection Letters
▶	0	Support Letters
▶	0	Comment Letter

◆ **Consultation(s):**

Roads Development Management Team

Environmental Services

Planning Application Report

1 Application Site

- 1.1 The application site consists of a modern, single storey building and associated ground, located at Cruse House, 20 Argyle Drive, Hamilton. It was originally constructed as a new build unit in the early 1980's, as a doctor's surgery, as well as also being used as a bereavement support unit, and more recently as an afterschool childcare facility. Historic OS maps also indicate that the site was occupied by a retail unit in the 1950s/ 1960s.
- 1.2 Argyle Drive is a no through road, set within an established residential area predominantly comprised of 2 and 3 storey local authority constructed houses and flats. Until recently, a pedestrian safety barrier existed along the frontage of the site, although it had been removed by the applicant to facilitate access for building renovation purposes. The barrier has now been reinstated by the applicant. The site is bounded by residential properties to north, south and east, and by a small area of public open space at the rear, to the west.

2 Proposal(s)

- 2.1 The applicant proposes the change of use of the vacant Class 10 unit (Non – Residential Institution) to form a Class 1 retail shop unit, and for associated external alterations to form an aluminium framed, double glazed shopfront. The original plans also proposed the formation of a single car parking space to the front of the site, although this has now been amended to indicate the reinstatement of the recently removed pedestrian safety barrier, following discussions with roads and planning officers.
- 2.2 The detailed plans submitted indicate that the majority of the 188 square metre property will be utilised as retail floorspace, with the remainder of the floorspace providing a small storeroom at the rear, a staff WC and a staff kitchen area. A small, covered cycle store is also proposed at the front of the premises.

3 Background

3.1 Local Plan Status

- 3.1.1 In terms of the South Lanarkshire Local Development Plan 2 (adopted 2021), the site is located within a general urban area, and is therefore subject to an assessment against the following policies:-

- ◆ Policy 2 Climate Change
- ◆ Policy 3 General Urban Areas and Settlements
- ◆ Policy 5 Development Management and Placemaking
- ◆ Policy 10 New Retail/Commercial Proposals
- ◆ Policy 15 Travel and Transport
- ◆ Policy DM1 New Development Design

3.2 Relevant Government Advice/Policy

- 3.2.1 Given the nature and scale of the proposal, there is no specific government guidance relevant to the determination of this application. There is, however, a growing move towards providing locally accessible, sustainable services and facilities, often referred to as 20 minute neighbourhoods. As the name suggests, these neighbourhoods should be able to provide residents with the majority of services and facilities they seek within a reasonable walking distance of where they live, helping to minimise car use/dependency, and assisting with tackling climate change by providing sustainable alternatives.

3.3 Planning Background

- 3.3.1 As stated above, the site is understood to have been occupied by a Class 1 retail shop in the late 1950s and 1960s, prior to the erection of the current building as a doctor's surgery in 1980. The property was subsequently utilised as a bereavement centre facility by Cruse Bereavement Support. Planning permission was also granted in 2003 for the partial change of use of the premises to an after school care facility, albeit restricted to between 3 pm and 5.30 pm Monday to Friday, (planning ref: HM/03/0808). It is understood that both the bereavement support facility and the after school care facility operated from the premises at the same time, albeit at different hours of the day.

4 Consultation(s)

- 4.1 **Roads and Transportation Services** – no objections, as the proposals will not generate a significant volume of traffic, and the lack of parking may in fact encourage walking trips. In addition, on street parking already occurs on Argyle Drive and, provided the anticipated small number of drivers park in a considerate manner, Roads and Transportation Services do not consider this will cause issues.
Response: Noted and agreed.

- 4.2 **Environmental Services** – no objections, subject to the attachment of an informative relating to the proposed use of the premises for the preparation, sale, or consumption of food.
Response: Noted. Relevant informatives would be added to any consent.

5 Representation(s)

- 5.1 Statutory neighbour notification was undertaken, and the proposal was further advertised in the local press. 24 letters of objection and a petition with 67 signatures have been received as a result of this publicity. The organiser of the petition claims that 102 people signed the petition, however, admits it was submitted in 3 parts, one of which had no front cover sheet and which to date has not been located. The grounds of objection and matters raised are summarised below:-

- a) **Concerns regarding the negative impact on the surrounding area from extra traffic, noise, and danger to existing residents from cars parking on pavements and restricting visibility, noting that Argyle Drive is a narrow, no through road with no traffic calming, set within a residential area, where historically there have been several serious accidents. Further, there is no parking provision for customers which will lead to the road being blocked, access to resident's driveways being restricted and potential restrictions on emergency vehicles and refuse trucks etc being unable to safely pass the site. In addition, the road is not suitable for large delivery vehicles and the previous use as an after school care facility caused many parking issues, which will be exacerbated if the current application is approved.**

Response: These concerns are noted, however, the Council's Roads and Transportation Services have been consulted on this application and have offered no objections to the proposed change of use. Further, the modest size of the retail unit proposed does not appear to be of a scale that would result in significant additional traffic or parking in the local area. Colleagues in Roads and Transportation Services would assess the need for any traffic calming, should it be requested, and the Police could investigate any illegal/obstructive parking issues that may arise.

- b) **Concerns regarding the negative impact on the residential amenity of the surrounding residential area, in particular delivery noise early in the morning, litter and anti-social behaviour if permission is granted.**
Response: These concerns are noted, however, the levels of noise disturbance and litter associated with a retail shop of the 188 square metre size proposed are considered unlikely to be of an extent that warrants refusal of the application. It should also be noted that historically a similar sized retail unit occupied the site, and that it has had a variety of commercial/business uses with associated noise and disturbance over the last 40 years. With regard to anti-social behaviour, the Police would be able to investigate any instances of anti-social behaviour in the area. Further, it is also considered that a retail shop operating from the currently vacant premises would create an active frontage in this part of Argyle Drive, in addition to noting that most shop units have CCTV to monitor anti-social behaviour outside their premises. Indeed, it could be argued that the reuse of the site could in fact result in an improvement to the appearance of the vacant building, and potentially result in less anti-social behaviour.
- c) **Questions over the need for a retail unit on the site, given the proximity of the site to the existing Burnbank shopping centre and other nearby retail premises. In addition, concerns that an approval for a shop would take away business from these existing shops.**
Response: Noted, however, issues of commercial competition are not a material consideration in the assessment of the application, and the Council assesses each planning application on its individual merits.
- d) **Everyone in the wider housing estate should be served neighbour notification, as the proposed development will impact on the whole neighbourhood, not just those within the 20 metre buffer zone indicated on the neighbour notification map. Do the total number of neighbours in the buffer zone qualify for a serious objection to the proposed development?**
Response: These comments are noted, however, the planning application has been subject to the normal standard levels of statutory consultation (neighbour notification of properties close to the site and an advert in the local newspaper). It is understood that some residents would have liked further properties outwith the 20 metre buffer zone to have been neighbour notified, however, the distance requirements for neighbour notification are set out in relevant legislation by the Scottish Government. It is considered that the standard methods of consultation on the planning application were sufficient in this instance.
- e) **Concerns that the retail shop will sell alcohol. Drug and alcohol addiction is a serious problem in the local area, which can also be backed up by the local police and the Council. Would any resultant disturbances and anti-social behaviour be dealt with by the overstretched local police service?**
Response: These concerns are noted, however, planning permission is sought for a Class 1 retail shop use, where the sale of alcohol cannot be restricted under planning controls. Notwithstanding this, the sale of alcohol from the premises would require to be the subject of a separate licensing application. With regard to anti-social behaviour, as stated in point b) above, the Police would be able to investigate any instances in the area.
- f) **Concern that the premises would encourage criminality.**
Response: This concern is noted, however, no further reasoning or evidence for coming to this conclusion are provided.

- g) **Concerns that the building has no water supply, is prone to flooding and cannot be insured. How will the new owners go about repairing the drains etc, without making repairs/changes to the building, noting that there is not enough space for access for equipment to repair?**

Response: These concerns are noted and are for the owner/applicant to consider. Given its urban location, it is unlikely that all relevant services, including water and drainage, cannot be provided. With regard to the degree of available space around the existing building for repairs to be undertaken, following a recent site visit it is considered that adequate space exists on all sides of the structure, should repairs be required.

- h) **Concerns that building works have been carrying on since March 2022, without any planning permission having been granted. In addition, the workmen have been blocking existing resident's access to their properties and have removed a large section of pedestrian safety barrier along Argyle Drive, to facilitate the placing of a skip on the public pavement area outside the property. Planning Permission should be denied in light of this blatant disregard for safety and respect for neighbouring properties.**

Response: These comments are noted. In response, the Council has contacted the agent for the application on a number of occasions, to advise that building works should cease until such time that a decision has been made on the application, and that any works continuing are undertaken without approval, and wholly at the risk of the applicant. With regard to the removal of the safety barrier, the applicant has been told to replace this in its original position, which has been agreed to. Roads and Transportation Services have also been pursuing this issue separately with the applicant. Finally, with regard to refusing permission in light of the works already undertaken at the property and their impact on local residents, Scottish Government advice is that retrospective applications should be assessed in the same manner as any other planning application.

- i) **Concerns that a previous application for a retail premises was turned down. What makes this current application different?**

Response: There is no record of a previous planning application having been refused for a shop at the current site within the last 20 years, and the objector hasn't provided any further clarification. It should, however, be noted that in terms of the 1997 Use Classes (Scotland) Order, had the original approved use of the property as a Class 2 Doctor's surgery, and the later Class 2 bereavement support centre continued, the applicant would not have required a planning application to change the use to a Class 1 retail shop. This is because a change from Class 2: Financial, professional, and other services to Class 1: Shops is a permitted change in terms of the relevant Use Classes legislation. The current planning application only requires permission as the premises was partly utilised for 2 and a half hours a day, Monday to Friday, as a Class 10 after school facility.

- j) **Concerns that the site is prone to flooding during periods of heavy rain, which creates a hazard.**

Response: Noted. The proposals seek consent for a change of use of an existing building, with no additional extensions, and are therefore unlikely to result in any additional flood risk.

- k) **Suggestions that the vacant premises could be used for something much more beneficial to local residents, for example, a centre for kids with activities to do and somewhere they can play safely.**
Response: It is acknowledged that there are other potential ways to develop this site, however, when a planning application is submitted an assessment of that particular proposal requires to be undertaken. Alternative proposals would require the submission and assessment of separate planning applications. The applicant wishes to have the submitted planning application assessed and determined in its current form.
- l) **Concerns that the plans do not indicate where the proposed shop will keep their commercial waste. In addition, commercial waste could encourage insects and vermin, result in contaminated surface water running into the ecosystem and impact on air quality for residents in terms of foul smells from the bins.**
Response: The applicant seeks planning permission for the change of use to a retail shop and therefore commercial waste is likely to be limited to cardboard boxes and food/retail goods packaging. The site has adequate open space to the side and the rear where commercial waste bins may be stored, and the agent has amended the proposed site plan to reflect this. Given the type of use proposed it is unlikely that the type of waste produced will result in attracting insects and vermin to the site or result in air quality issues/smells. With regard to contaminated surface water, again, given the type of waste likely to result, cardboard and packaging, this is highly unlikely to result in contaminated surface water at the site. Notwithstanding this, the Council's Environmental Services could investigate and take action should any issues of contaminated water, smells, vermin, or air quality arise.
- m) **Concern that an application for 3 car parking spaces outside the premises will take up most of the existing pavement area, resulting in a dangerous health and safety issue, particularly for wheelchair users.**
Response: Noted, however, following a number of discussions between the applicant and the Council, the plans have been amended to drop the originally requested car parking spaces at the front of the premises. Roads and Transportation Services have also stated that the preference will be to reinstate the recently removed pedestrian safety barrier located at the edge of the pavement to the front of the premises and are in active discussion with the applicant to ensure this is carried out.
- n) **Concerns that if the safety barrier is to stay removed that delivery vehicles and customers will park on the pavement. Alternatively, if the barrier removed is to be reinstated this will narrow the road outside the shop and make it nearly impossible for vehicles to pass.**
Response: As stated in m) above, the safety barrier is to be reinstated and the road is considered to be wide enough to enable 2 vehicles to pass each other safely. It should also be noted that parking vehicles on the public road, in a considerate manner, can be considered to effectively represent a form of traffic calming, slowing vehicle speeds.
- o) **A petition has been submitted in objection to the application by the local residents. This petition clearly shows that every resident, with the exception of one who had no opinion, do not want, or need the store. Residents in adjoining streets have also signed, indicating that they also don't want this store. In weighing this up, the Planning Committee can only reach one outcome. Further, this decision does not impact on any**

other person than the local residents. Refusing the application does not affect the applicant's lifestyle, as he has several other stores. As a democracy the overwhelming voice of the majority must be taken. Residents should not have their lives impacted on for the profit of one person.

Response: The submission of the petition and the number of signatures is noted, however, all of the points raised have been fully considered in the assessment of the planning application. The strength of public feeling is recognised, however, a planning application requires to be assessed against material planning considerations. With regard to the potential impact of a refusal on the applicant's lifestyle, this is not a material planning consideration. It should also be noted that in the vast majority of cases, including this one, any resultant planning approval is attached to the physical property/site, and not to the applicant.

- p) Concerns that on all postcode search engines a Nisa store is listed at this property. This is rather presumptuous since planning has not been approved, or has it?**

Response: This concern is noted, however, it is not material to the assessment of the application. The Council has no input into what information is provided by internet postcode search engines. To date, as stated above, no approval has been given for the use/works proposed, or for those partly undertaken on site.

- q) Having read the comments from the Roads Department, the Government's guidelines for 20 minute neighbourhoods is more than covered. There are more than 20 convenience stores, 6 supermarkets and Hamilton Town Centre within 20 minutes' walk of the application site. The proposed shop will be within 3 minutes' walk from anywhere on the housing estate.**

Response: This comment is noted, however, the proposals seek consent to bring a vacant local property back into productive use, adding to consumer choice in the local neighbourhood. It may also be that this is the only retail shop unit that a number of residents are physically able to walk to, given its close proximity for local residents, some of whom may in fact be unable to walk/travel further to other retail premises in the wider surrounding area.

5.2 These letters are available for inspection on the planning portal.

6 Assessment and Conclusions

- 6.1 The applicant seeks detailed planning consent for the change of use of a vacant Class 10 unit (Non – Residential Institution) to form a Class 1 retail shop unit, and for associated external alterations to form a new double glazed shopfront at 20 Argyle Drive in Hamilton. The main determining issues in assessing this proposal are whether it accords with adopted local development plan policy and its impact upon residential and visual amenity, and on road safety.
- 6.2 In terms of the adopted South Lanarkshire Local Development Plan 2, the relevant policies to be considered for this application are Policies 2, 3, 5, 10, 15 and DM1.
- 6.3 Policy 2 – Climate Change states that proposals for new development must, where possible, seek to minimise and mitigate against the effects of climate change by meeting a number of criteria, including maximising the reuse of vacant and derelict land, and having no significant adverse impacts on the water and soils environment, air quality and biodiversity. Having carefully considered the impact of the proposal and associated alterations on site, it is considered that the retail use, and the

development's scale, design, and siting would not have a significant adverse impact on the water and soil environments, or on biodiversity. The proposals in this instance raise no issues in relation to flood risk, and the proposals are considered to represent the appropriate re-use of a previously occupied, vacant building.

- 6.4 Policy 3 (General Urban Area) states that within urban areas and settlements, proposals for uses ancillary to residential areas will be assessed on their individual merits, with particular regards to their effect on the amenity and character of the area. Developments which would be detrimental to the amenity of residents and the wider community, or to the character of the surrounding area will not be permitted. Following a detailed assessment, it is considered that the proposed use as a retail shop would not be detrimental to the amenity of residents and the wider community, or to the character of the surrounding area.
- 6.5 Policy 5 (Development Management and Placemaking) seeks to ensure that development takes account of and is integrated with, the local context and built form. Proposals should have no significant adverse impacts on the local community and include, where appropriate, measures to enhance the environment. As the proposal seeks to bring a vacant, unoccupied property back into productive use, with minimal external alterations, the proposals are considered to take account of the local context and built form and have no significant adverse impact on the local community.
- 6.6 Policy 10 New Retail/Commercial Proposals states that any proposals for retail or commercial development will be assessed against a number of criteria, including; proposals should not undermine the vitality and viability of town centres and/or local centres; be supported by the area's catchment population; complement regeneration strategies for the area; promote sustainable development; take account of development location and accessibility; promote quality design and accessibility for all. Following a detailed assessment, it is considered that the proposed change of use and associated alterations complies with all relevant policy criteria of Policy 10, in particular being of a modest scale that should not undermine the vitality and viability of either Burnbank or Hamilton town centre.
- 6.7 Policy 15 Travel and Transport states new development proposals should aim to reduce the need to travel. Proposals should incorporate measures to reduce travel by private car and encourage walking, cycling and public transport. Proposals should also support and facilitate economic recovery, regeneration, and sustainable growth. As this proposal seeks to bring a vacant property back into use as a retail unit to serve the local neighbourhood, reducing the need to travel, it is considered to represent a form of development that fully complies with the requirements of Policy 15.
- 6.8 Finally, Policy DM1 (New Development Design) states that new development will require to promote quality and sustainability and should make a positive contribution to the character and appearance of the environment. New developments will require to:-
- ◆ Respect the local context and be appropriate to the character and topography of the site in terms of layout, scale, proportion, massing, and appearance.
 - ◆ Be of a high quality design which is sympathetic to local traditions of form, detailing and materials.
 - ◆ Ensure that any archaeological, built heritage, landscape features and natural conservation interests on or adjacent to the site are identified and incorporated into the overall layout and design, with appropriate measures taken to enhance and/or protect the setting of these features.

- ◆ Address sustainable development issues including the incorporation of energy efficient designs and layouts, the re-use/recycling of materials, water and waste, and the use of alternative energy sources.
- ◆ Ensure there is no conflict with adjacent land uses and no adverse impact on properties in terms of overlooking, loss of privacy, overshadowing, noise and disturbance.

6.9 Following a detailed assessment, it is considered that the proposals do respect the local context and are appropriate to the character and topography of the site, are of a high quality design that is sympathetic to the local area and have no adverse impact on built heritage or nature conservation. Further, they represent a sustainable reuse of an existing vacant building and ensure no conflict with the adjacent residential land use and it is unlikely to result in adverse impacts.

6.10 In summary, following a full and detailed assessment of the proposed development, it is considered that it would have no significant adverse impact upon residential or visual amenity, the character of the area or road safety, and that it is in accordance with the relevant policies of the adopted South Lanarkshire Local Development Plan 2 (2021). As such, the granting of planning permission is recommended.

7 Reasons for Decision

7.1 The proposals are considered acceptable in terms of the proposed use, their scale, design and siting, their potential impact on residential and visual amenity, and are in accordance with Policies 2, 3, 5, 10, 15 and DM1 of the adopted South Lanarkshire Local Development Plan 2. There are no other material considerations which would justify the refusal of planning permission.

David Booth

Executive Director (Community and Enterprise Resources)

Date: 3 October 2022

Previous references

- ◆ HM/03/0808

List of background papers

- ▶ Application form
- ▶ Application plans
- ▶ South Lanarkshire Local Development Plan 2 (adopted 2021)
- ▶ Neighbour notification letter dated 07.01.2022
- ▶ Newspaper Advert, Hamilton Advertiser, dated 20.01.2022
- ▶ Consultations

Roads Development Management Team

17.02.2022

29.06.2022

Environmental Services

07.01.2022

► Representations	Dated:
Mrs Jean McGilligan, 21 Argyle Drive, Hamilton, ML3 9EB	09.01.2022
Lesley Steele/Morrison, Received Via Email	13.01.2022
M Braidwood, 11 Argyle Drive, Hamilton, South Lanarkshire, ML3 9EB	20.01.2022
Mrs Christine Boyd, 18 Argyle Drive, Burnbank, Hamilton, ML3 9EB	20.01.2022
Mr Thomas Gallagher, 18 Argyle Drive, Hamilton, ML3 9EB	20.01.2022
Mrs Jean McGilligan, 21 Argyle Drive, Hamilton, ML3 9EB	26.01.2022
Karen Duddy, Received Via Email	28.01.2022
Mr Gordon Todd, 19 Argyle Drive, Burnbank, ML3 9EB	16.01.2022
Mr Gerard Rooney, 61 Leys Park, Hamilton, ML3 9EQ	08.04.2022
Ms Michelle Neil, 16 Marswood Green, Hamilton, ML3 9EE	09.04.2022
Mr Paul Maguire, 50 Leys Park, Hamilton, ML3 9EQ	11.04.2022
Mr Bernie Anderson, 52 Argyle Drive, Hamilton,	14.04.2022
Mrs Jean McGilligan, 21 Argyle Drive, Hamilton, ML3 9EB	23.03.2022
Ann Hanlan, 4 Marrswood Green, Hamilton	08.04.2022
Sandra Mullen, 36 Argyle Drive, Hamilton, South Lanarkshire, ML3 9EB	06.05.2022
Jean McGilligan, 21 Argyle Drive, Hamilton, South Lanarkshire, ML3 9EB	06.05.2022
Miss Lauren Allan, 50 Leys Park, Hamilton, ML3 9EQ	11.04.2022
Mr William Clark, 7 Marrswood Green, Burnbank, Hamilton, ML3 9ED	08.04.2022
Mrs Jean McGilligan, 21, Argyle drive, Hamilton, ML3 9EB	03.08.2022
Mrs Jean McGilligan, 21 Argyle Drive, Hamilton, ML3 9EB	26.04.2022
Mrs Lorraine Dickie, 9 Marrswood Green, Burnbank, Hamilton, ML3 9ED	03.04.2022
Miss Natalie Kiely, 28 Argyle Drive, Hamilton, ML3 9EB	06.04.2022
Miss Natalie Kiely, 28 Argyle Drive, Hamilton, ML3 9EB	07.04.2022

Mrs Jean McGilligan, 21 Argyle Drive, Hamilton, ML3 9EB 26.05.2022

Mrs Jean McGilligan, 21 Argyle Drive, Hamilton, ML3 9EB 22.08.2022

Contact for further information

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

Stuart Ramsay, Planning Officer, Montrose House, 154 Montrose Crescent, Hamilton, ML3 6LB

Phone: 07551 840 251

Email: stuart.ramsay@southlanarkshire.gov.uk

Detailed planning application

Paper apart – Application number: P/21/2167

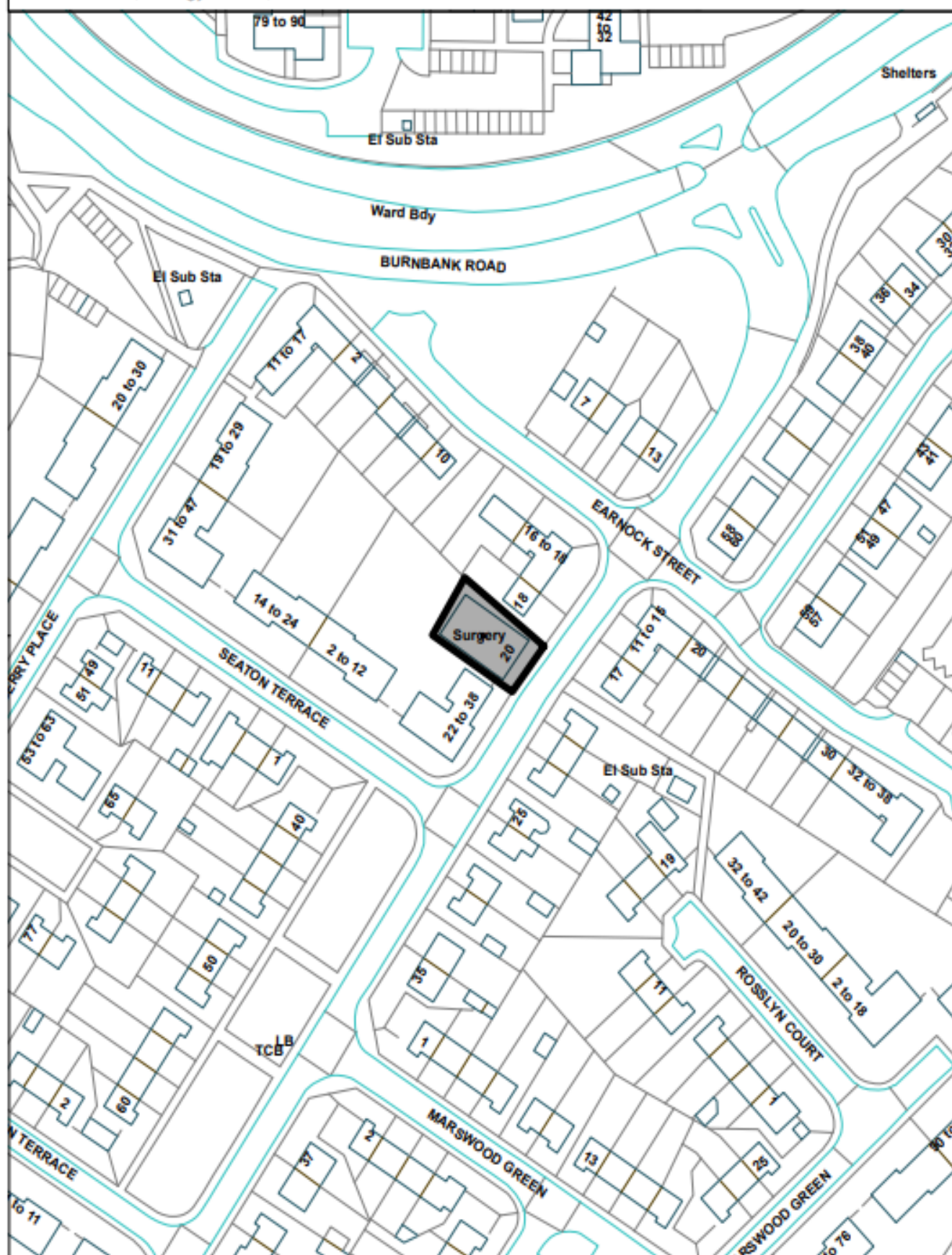
Conditions and reasons

01. Prior to the retail unit hereby approved being brought into use, the pedestrian safety barrier indicated on plan G(00) 003 Rev C shall be reinstated to the front of the premises onto Argyle Drive, and shall thereafter be retained in perpetuity, all to the satisfaction of the Council as Planning and Roads Authority.

Reason: In the interests of pedestrian and road safety.

P/21/2167

Cruse House, 20 Argyle Drive, Hamilton



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Scale:
1:1,250
Date:
15/09/2022



South Lanarkshire Council
Community and Enterprise Resources
Planning and Economic Development