

Inverclyde Local Review Body

Our Ref: 17/0053/IC

REVIEW DECISION NOTICE

Decision by Inverclyde Local Review Body (the ILRB)

- Site address: The Tontine Hotel, 6 Ardgowan Square, Greenock
 - Application for Review by MacPhail Architecture on behalf of Mr J Nellis against the decision by an appointed officer of Inverclyde Council
 - Application Ref: 17/0053/IC
 - Application Drawings: Drawing No. 01 – Location Plan
Drawing No. 02 – Basement Floor Plan as proposed
 - Date of Decision Notice: 19 September 2017
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Decision

The ILRB reverses the determination reviewed by it and deletes the conditions attached to the Planning Permission granted in terms of the Decision Notice dated 18 April 2017. Attention is also drawn to the Advisory Notice at the end of this Review Decision Notice.

1. Introduction

- 1.1 This Notice constitutes the formal decision notice of the ILRB as required by the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013.
- 1.2 The above application for planning permission was considered by the ILRB at a meeting held on 6 September 2017. The Review Body was constituted by Councillors J Clocherty, J Crowther, G Dorrian, D McKenzie, I Nelson, R Moran and D Wilson (Chair).

2. Proposal

- 2.1 Planning application reference 17/0053/IC sought to regularise the use of the basement area of the premises which was operating as a bar serving food, rather than the approved restaurant, and was in retrospect. During the day, breakfast, tea, coffee and high tea would be served and a menu offered. In the evenings, depending on business, food service would cease and the premises would operate solely as a bar. Planning permission in respect of the application was granted subject to the following two conditions in terms of a Decision Notice dated 18 April 2017:

1. That in the exception of an emergency, all external doors at the basement/lower ground floor level (bar level) shall be closed and not be used by any person between the hours of 11pm and 7am, unless otherwise agreed in writing by the Planning Authority. For the avoidance of doubt, these doors comprise the entrance door to Robertson Street, the door to the stair hall facing the courtyard, the bi-folding doors to the courtyard, the access door to the courtyard to the southern end of the bar and the access door to the storage area to the southern end of the bar, all of which are marked in blue on approved drawing 02. For the

avoidance of doubt, an emergency is defined as a serious or dangerous situation occurring unexpectedly and requiring immediate evacuation of the building.

2. That within 4 weeks of the date of this permission, a plan to identify and address any litter issue arising from the use of the premises shall be submitted to and approved in writing by the Planning Authority. The plan shall then be followed at all times thereafter unless otherwise agreed in writing by the Planning Authority.

The foregoing condition(s) are imposed by the Council for the following reason(s):-

1. To protect occupants of nearby housing from noise/disturbance late in the evening/early morning.
2. To make adequate provision for the disposal of litter occurring from the use of the premises.

3. Preliminaries

3.1 The ILRB members were provided with copies of the following:

- (i) Planning Application and plans dated 7 February 2017;
- (ii) Appointed Officer's Report of Handling dated 18 April 2017;
- (iii) Consultation response in relation to planning application;
- (iv) Representations in relation to planning application;
- (v) Decision Notice dated 18 April 2017 issued by Head of Regeneration & Planning;
- (vi) Letter dated 10 July 2017 from MacPhail Architecture enclosing Notice of Review Form and supporting documentation.

3.2 Having regard to the material produced the ILRB resolved that the Review Application could be determined without any further procedure allowed in terms of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013.

4. Reasons

4.1 The determining issue in this review is condition (1) requiring the closure of all external doors at basement/lower ground floor level between the hours of 11pm and 7am. While acknowledging the concerns expressed by neighbouring residents in relation to noise and disturbance, the ILRB noted that such restrictions did not apply to other establishments in the vicinity and considered that there is no reason for any such restriction on access.

4.2 Having regard to the whole circumstances, the ILRB having considered the matter afresh and, having taken into account the Inverclyde Local Development Plan and all relevant material and planning considerations, determined that the review application should be upheld and that conditions (1) and (2) attached to the Planning Permission granted in terms of Decision Notice dated 18 April 2017 be deleted.

Signed _____

Head of Legal & Property Services
Inverclyde Council
Municipal Buildings
Greenock
PA15 1LX

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Notification to be sent to applicant on determination by the planning authority of an application following a review conducted under section 43A(8)

Notice under Regulation 22 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure)(Scotland) Regulations 2013

1. If the applicant is aggrieved by the decision of the planning authority -
 - (a) to refuse permission for the proposed development;
 - (b) to refuse approval, consent or agreement required by a condition imposed on a grant of planning permission; or
 - (c) to grant permission or approval, consent or agreement subject to conditions,

the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.