
Report To: The Planning Board **Date:** 6 December 2017

Report By: Head of Regeneration and Planning **Report No:** 17/0281/IC
Plan 12/17

Contact Officer: James McColl **Contact No:** 01475 712462

Subject: Installation of air handling units within enclosure to rear of building (in retrospect) at
5 Tarbet Street, Gourock



SUMMARY

- The proposal accords with the Inverclyde Development Plan.
- Ten objections have been received raising concerns over the impact on residential amenity and procedural issues.
- The Head of Safer and Inclusive Communities considers the development acceptable following an assessment of noise nuisance.
- The recommendation is to GRANT PLANNING PERMISSION subject to conditions.

Drawings may be viewed at:

<https://planning.inverclyde.gov.uk/Online/applicationDetails.do?activeTab=documents&keyVal=OWKZLNIM00E00>

SITE DESCRIPTION

5 Tarbet Street is an industrial building occupied by an ice cream supplier. Externally the building is finished primarily in cream coloured painted render with a corrugated sheet roof. A variety of buildings and uses lie adjacent including vehicle sales and repair premises, a café, the Riverside Gardens sheltered housing complex, tenement flats situated on Tarbet Street and Cardwell Road, and a modern flatted development at Caledonia Gardens.

PROPOSAL

Two air handling units have been installed within an acoustic timber enclosure to the rear of the premises. The timber enclosure measures approximately 6.5 metres, by 2.8 metres by 3 metres high and features a grey felt roof finish. Acoustic material is provided within the enclosure. The plant within the enclosure relates to a refrigeration system within the building.

As the works have already been undertaken, the application is considered in retrospect.

DEVELOPMENT PLAN POLICIES

Policy RES1 - Safeguarding the Character and Amenity of Residential Areas

The character and amenity of residential areas, identified on the Proposals Map, will be safeguarded and, where practicable, enhanced. Proposals for new residential development will be assessed against and have to satisfy the following criteria:

- (a) compatibility with the character and amenity of the area;
- (b) details of proposals for landscaping;
- (c) proposals for the retention of existing landscape or townscape features of value on the site;
- (d) accordance with the Council's adopted roads guidance and Designing Streets, the Scottish Government's policy statement;
- (e) provision of adequate services; and
- (f) having regard to Supplementary Guidance on Planning Application Advice Notes.

Policy RES6 - Non-Residential Development within Residential Areas

Proposals for uses other than residential development in residential areas, including schools, recreational and other community facilities will be acceptable subject to satisfying, where appropriate, the following criteria:

- (a) compatibility with the character and amenity of the area;
- (b) impact on designated and locally valued open space;
- (c) impact of the volume, frequency and type of traffic likely to be generated;
- (d) infrastructure availability;
- (e) social and economic benefits; and
- (f) the cumulative impact of such a use or facilities on an area.

Policy ECN4 - Business and Industrial Proposals Outwith Designated Areas

Proposals for new or expanded business or industrial development on sites outwith the identified Business and Industrial Areas on the Proposals Map, will require to be assessed against the following criteria:

- (a) compatibility with neighbouring uses;
- (b) economic and social benefit; and

- (c) range and suitability of available sites identified in the Local Development Plan as being suitable for the proposed development.

CONSULTATIONS

Head of Safer and Inclusive Communities - Prior to the erection of the enclosure there had been ongoing issues regarding the operation of these air handling units, with noise nuisance affecting nearby residential properties. The acoustic enclosure has addressed the noise to a level that this Service is now satisfied with. In order to maintain the integrity of the acoustic enclosure it is recommended that ongoing maintenance is carried out to ensure that the enclosure does not fall into a state of disrepair which could ultimately lead to noise complaints again.

PUBLICITY

The application was advertised in the Greenock Telegraph on 6 October 2017 as a Schedule 3 development.

SITE NOTICES

The nature of the proposal did not require a site notice.

PUBLIC PARTICIPATION

Eleven objections have been received in connection with the application, including from Gourrock Community Council.

The points raised can be summarised as follows:

- The units operate throughout the day and night and cause disturbance to neighbouring residents.
- The units constitute a statutory noise nuisance under the Environmental Protection Act 1990.
- The timber enclosure is not fit for purpose and does not provide suitable noise suppression particularly in respect of low or high frequency noise.
- The timber structure does not enhance the visual appearance of the area.
- The timber enclosure does not have a grey felt roof as stated.
- The units cannot be described as air handling units, they are industrial cooling units.
- The units were funded by a Scottish Government loan despite there being no planning permission in place.
- The applicant's original submission did not include reference to the units.
- The application is inaccurate in that no specification of the units have been submitted.
- No environmental impact assessment has been submitted.
- The proposal does not accord with policies ECN3 and ECN4 of the Inverclyde Local Development Plan.
- The installation represents a fire risk.
- The application breaches the Human Rights Act.
- The applicant has states that the new units replaced previously installed units and this is untrue.
- Council officers should visit the neighbouring residential properties during the night.
- The application is in retrospect.

I will consider these concerns in my assessment.

ASSESSMENT

The material considerations in the assessment of this application are the Inverclyde Local Development Plan, the visual impact, the impact on neighbouring amenity, the consultation responses, and the objections received. The determining factor is whether the proposal accords with the Development Plan and, if not, whether there are other material considerations to suggest that planning permission may be granted contrary to the Plan.

Policy RES1 of the Local Development Plan advises that the character and amenity of identified residential areas will be safeguarded and, where practicable, enhanced. Whilst primarily relating to new non-residential uses within residential areas, I consider Policy RES6 provides relevant guidance in respect of this proposal affecting a non-residential use within a residential area. Criterion (a) this Policy requires non-residential uses within such areas to be compatible with the character and amenity. Policy ECN4 advises on new and expanded business and industrial uses outwith the designated business and industrial locations with criterion (a) requiring such to be compatible with neighbouring uses.

The potential impact of the air handling units on character and amenity requires to be assessed with reference to the visual impact and any noise and disturbance as it affects those in close proximity.

In first considering the visual impact, the air handling units are located to the rear of a small industrial building. There is no clear visibility from Tarbet Street and the existing boundary fence separating the site from the residential development at Caledonia Gardens screens any potential view from this location. Given the lack of visibility from the public domain together with the position to the rear of an industrial building, I consider the visual impact within the wider streetscape to be neutral.



It rests therefore to consider the impact of noise and disturbance, in particular on nearby residents. It is noted that the use of the building is very long established and, notwithstanding that it lies within a residential area as defined by the Local Development Plan, the area is not exclusively residential. In addition to the flatted residential dwellings and the Riverside Gardens sheltered housing complex which lie adjacent to the site, a variety of other uses can also be found. These include vehicle sales and repair premises on both Tarbet Street and Cardwell Road, a café on the corner of Tarbet Street and Cardwell Road and a metal recyclers and vehicle breakers situated on Cardwell Road. Those living within this area cannot expect the same degree a quietude as would occur in a wholly residential area.

The air handling units were initially installed on a plinth to the rear of the premises without the acoustic enclosure now in place. The Head of Safer and Inclusive Communities advises that prior to the erection of the enclosure there had been ongoing noise issues with the operation of these units, with noise nuisance affecting nearby residential properties. The acoustic enclosure now installed has addressed the noise to a level that the Head of Safer and Inclusive Communities is satisfied with. He recommends that in order to maintain the integrity of the acoustic enclosure, ongoing maintenance is carried out to ensure that the enclosure does not fall into a state of disrepair which could ultimately lead to new noise complaints. Whilst being mindful of the initial noise issue prior to the construction of the acoustic enclosure, I note the advice of the Head of Safer and Inclusive Communities that the enclosure addresses this issue to a point where he does not consider that adjacent residents are impacted by a statutory noise nuisance. Being guided by this advice and subject to a condition in respect of the retention and future maintenance of the acoustic enclosure, it cannot therefore be held that the units installed have an unacceptable impact on adjacent residential amenity by virtue of noise and disturbance. The proposal therefore complies with Local Development Plan Policies RES1, RES6(a) and ECN4(a).



It rests to consider if there are any reasons why the proposal should be refused contrary to the Local Development Plan. Assessing the outstanding points raised in the objections received I note:

- Whilst the original submission did not include reference to the units, the description of the application was amended to include reference to avoid dubiety as to what the application is considering. This was done with the agreement of the applicant.
- The units, regardless of the specific description in the application, relate to the operation of the refrigeration system within the building and the assessment of the application has been undertaken on this basis. The applicant has subsequently provided detail of the units installed and in any case the Head of Safer and Inclusive Communities raised no concern regarding the detailed specification of the units.
- An Environmental Impact Assessment is not required for this small scale application.
- Perceived fire risk is not a material planning consideration.
- Officers from Safer and Inclusive Communities have visited neighbouring residential premises at night and the consultation response received has been informed by this.
- The Human Rights Act is not prejudiced by consideration of the planning merits of a proposal. Planning legislation ensures that all those with a right to comment are allowed to do so during the entire procedure.
- Policy ECN3 of the Local Development Plan relates to proposals within designated business and industrial areas and is not relevant to the assessment of this application.

- There is nothing to confirm or deny the previous existence of similar plant on the site and the internet image accompanying one of the objections received is inconclusive in this regard.
- The funding source of the works is not a material planning consideration.
- Whilst I share concerns that the application is considered in retrospect, a planning application cannot be refused on this basis alone.

In conclusion, the application relates to a long established industrial premises in an area which, whilst identified as residential in the Local Development Plan, is not exclusively so. In light of the assessment of statutory noise nuisance by the Head of Safer and Inclusive Communities, I consider the impact on residential amenity is acceptable and the balance between the operation of this long established business and the amenity of adjacent residents is maintained. The works undertaken are not therefore considered to contrary to the aims of Policies RES1, RES6 and ECN4 of the Local Development Plan. Whilst mindful of the objections received, there are no material planning considerations which suggest that planning permission should not be granted subject to the conditions below.

RECOMMENDATION

That the application be granted subject to the following conditions:

1. The timber acoustic enclosure hereby permitted shall be retained on site to the satisfaction of the Planning Authority at all times in the future.
2. The timber acoustic enclosure hereby permitted shall be appropriately maintained at all times to the satisfaction of the Planning Authority in order that it continues to perform its designed function.

Reasons

1. To ensure the retention of the timber acoustic enclosure in the interests of protecting neighbouring residential amenity.
2. To ensure the appropriate maintenance of the timber acoustic enclosure in the interests of protecting neighbouring residential amenity.

Stuart Jamieson
Head of Regeneration and Planning

Local Government (Access to Information) Act 1985 – Background Papers. For further information please contact James McColl on 01475 712462.