

**LOCAL REVIEW BODY – 2 JUNE 2021**

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**Local Review Body**

**Wednesday 2 June 2021 at 4pm**

**Present:** Councillors Clocherty, Crowther, Dorrian, McKenzie, Nelson, Rebecchi and Wilson.

**Chair:** Councillor Wilson presided.

**In attendance:** Mr A Williamson and Ms M Pickett (Planning Advisers), Mr J Kerr (Legal Adviser), Mr C MacDonald and Ms D Sweeney (Legal Services) and Mr P Coulter (for Service Manager Communications, Tourism and Health & Safety).

The meeting was held by video-conference.

**The following paragraphs are submitted for information only, having been dealt with under the powers delegated to the Local Review Body.**

**235 APOLOGIES, SUBSTITUTIONS AND DECLARATIONS OF INTEREST 235**

No apologies for absence were intimated.

Councillor Wilson declared an interest in Agenda Item 2(b) (Planning Application for Review: Ardfrooch, Glenmosston Road, Kilmacolm (20/0314/IC)).

**236 PLANNING APPLICATIONS FOR REVIEW 236**

- (a) Proposed variation to planning condition attached to planning consent No 20/0165/IC (Proposed Change of Use from Retail Unit to Hot Food Take-Away and Installation of Flue):  
Carpet Shop, 6 Grey Place, Greenock (20/0318/IC)**

There were submitted papers relative to the application for review of the refusal of planning permission for proposed variation to planning condition attached to planning consent No 20/0165/IC (proposed change of use from retail unit to hot food take-away and installation of flue) (20/0318/IC) to enable the Local Review Body to consider the matter afresh.

Mr Williamson acted as Planning Adviser relative to this case.

Following discussions, Councillor McKenzie moved that (1) that sufficient information had been submitted to allow the Local Review Body to decide the matter without further procedure; and (2) that the application for review be upheld and that planning permission be granted subject to the following conditions and advisory notes:-

Conditions

(1) the flue as detailed on the approved plans shall be installed or alternative odour extraction arrangements shall be submitted to and approved in writing with the Planning Authority. The extraction arrangement agreed in writing by the Planning Authority shall be installed and operational prior to the commencement of the use, to ensure that the ventilation arrangements will not be to the detriment of neighbouring residential properties;

(2) the development shall not commence until a detailed specification regarding the

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collection, treatment and disposal of cooking odours has been submitted to and approved by the Planning Authority. Such specification shall include precise details on the location of the equipment used, the volume and type of cooking and heating of food, canopies, grease filters, rates of air movement over the canopies, make-up air, air disposal points etc., to protect the amenity of the immediate area and prevent the creation of odour nuisance;

(3) in the event of any changes to either the volume or type of cooking and heating of food from that approved by the Planning Authority in condition 2, or if the alternative odour extraction arrangements approved under condition 1 result in an odour or noise nuisance being brought to the attention of the Planning Authority, the flue as detailed on the approved plans shall be installed and operational, to ensure that the ventilation arrangements will not be to the detriment of neighbouring residential properties;

(4) the system for discharging cooking odours approved under conditions 1 and 2 shall be fully implemented to the satisfaction of the Planning Authority prior to the commencement of the use hereby approved. It shall then remain in full and effective working order at all times thereafter during the lifetime of the use, to the satisfaction of the Planning Authority, to ensure the provision and retention of the system for discharging cooking odours; and

(5) that details of bin store screening shall be submitted to and approved in writing by the Planning Authority and constructed or implemented, all prior to the commencement of the approved use, in the interests of visual amenity.

**Advisory Notes**

(1) the development shall not commence until a detailed specification regarding the collection, treatment and disposal of cooking odours has been submitted to and approved by the Planning Authority. Such specification shall include precise details on the location of equipment used for the cooking and heating of food, canopies, grease filters, rates of air movement over the canopy, make-up air, air disposal points etc.;

(2) the applicant shall submit to the Planning Authority a detailed specification of the containers to be used to store waste materials and recyclable materials produced on the premises as well as specific details of the areas where such containers are to be located. The use of the development shall not commence until the above details are approved in writing by the Planning Authority and the equipment and any structural changes are in place;

(3) all external lighting on the application site should comply with the Scottish Government Guidance Note "Controlling Light Pollution and Reducing Lighting Energy Consumption";

(4) the applicant should be fully aware of the Construction (Design & Management) Regulations 2015 (CDM 2015) and its implications on client duties etc;

(5) Design and Construction of Buildings – Gulls: It is very strongly recommended that appropriate measures be taken in the design of all buildings and their construction, to inhibit the roosting and nesting of gulls. Such measures are intended to reduce nuisance to, and intimidation of, persons living, working and visiting the development;

(6) consultation on Proposed Use: It is strongly recommended that prior to the commencement of any works the applicant consults with Officers of Safer and Inclusive Communities to ensure structural compliance with legislation relating to;

(a) Food Safety Legislation,

(b) Health and Safety at Work etc. Act 1974; and

(7) alteration to current use and likely impact on ventilation requirements. It is imperative that if there is any alteration to the use which has been outlined in this application such as a change to the type of cooking carried out, cooking equipment to be used, food types or a significant increase in the volume of cooking that officers of

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Environmental and Public Protection (Public Health and Housing) and Planning are consulted with a view to the likely increase in cooking odours resulting in a need to improve the ventilation/ air handling to the premises.

As an amendment, Councillor Nelson moved that (1) sufficient information had been submitted to allow the Local Review Body to decide the matter without further procedure; and (2) that the application for review be dismissed and that planning permission be refused (upholding the Appointed Officer's determination) due to the proximity of sensitive receptors and the likelihood of odour emissions from the proposed low level grille extract. Accordingly, the proposal is not justified under Policy 1 of the Inverclyde Local Development Plan and would be likely to have an unacceptable impact on the amenity and operation of existing and surrounding land uses under criterion (a) of Policy 24 of the Inverclyde Local Development Plan.

Following a roll call vote, 3 Members, Councillors Nelson, Rebecchi and Wilson voted in favour of the amendment and 4 Members, Councillors Clocherty, Crowther, Dorrian and McKenzie voted for the motion which was declared carried.

**Decided:**

(1) that sufficient information had been submitted to allow the Local Review Body to decide the matter without further procedure; and

(2) that the application for review be upheld and that planning permission be granted subject to the following conditions and advisory notes:-

**Conditions**

(1) the flue as detailed on the approved plans shall be installed or alternative odour extraction arrangements shall be submitted to and approved in writing with the Planning Authority. The extraction arrangement agreed in writing by the Planning Authority shall be installed and operational prior to the commencement of the use, to ensure that the ventilation arrangements will not be to the detriment of neighbouring residential properties;

(2) the development shall not commence until a detailed specification regarding the collection, treatment and disposal of cooking odours has been submitted to and approved by the Planning Authority. Such specification shall include precise details on the location of the equipment used, the volume and type of cooking and heating of food, canopies, grease filters, rates of air movement over the canopies, make-up air, air disposal points etc., to protect the amenity of the immediate area and prevent the creation of odour nuisance;

(3) in the event of any changes to either the volume or type of cooking and heating of food from that approved by the Planning Authority in condition 2, or if the alternative odour extraction arrangements approved under condition 1 result in an odour or noise nuisance being brought to the attention of the Planning Authority, the flue as detailed on the approved plans shall be installed and operational, to ensure that the ventilation arrangements will not be to the detriment of neighbouring residential properties;

(4) the system for discharging cooking odours approved under conditions 1 and 2 shall be fully implemented to the satisfaction of the Planning Authority prior to the commencement of the use hereby approved. It shall then remain in full and effective working order at all times thereafter during the lifetime of the use, to the satisfaction of the Planning Authority, to ensure the provision and retention of the system for discharging cooking odours; and

(5) that details of bin store screening shall be submitted to and approved in writing by the Planning Authority and constructed or implemented, all prior to the commencement of the approved use, in the interests of visual amenity.

**Advisory Notes**

(1) the development shall not commence until a detailed specification regarding the

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collection, treatment and disposal of cooking odours has been submitted to and approved by the Planning Authority. Such specification shall include precise details on the location of equipment used for the cooking and heating of food, canopies, grease filters, rates of air movement over the canopy, make-up air, air disposal points etc;

(2) the applicant shall submit to the Planning Authority a detailed specification of the containers to be used to store waste materials and recyclable materials produced on the premises as well as specific details of the areas where such containers are to be located. The use of the development shall not commence until the above details are approved in writing by the Planning Authority and the equipment and any structural changes are in place;

(3) all external lighting on the application site should comply with the Scottish Government Guidance Note “Controlling Light Pollution and Reducing Lighting Energy Consumption”;

(4) the applicant should be fully aware of the Construction (Design & Management) Regulations 2015 (CDM 2015) and its implications on client duties etc;

(5) Design and Construction of Buildings – Gulls: It is very strongly recommended that appropriate measures be taken in the design of all buildings and their construction, to inhibit the roosting and nesting of gulls. Such measures are intended to reduce nuisance to, and intimidation of, persons living, working and visiting the development;

(6) consultation on Proposed Use: It is strongly recommended that prior to the commencement of any works the applicant consults with Officers of Safer and Inclusive Communities to ensure structural compliance with legislation relating to;

(c) Food Safety Legislation,

(d) Health and Safety at Work etc. Act 1974; and

(7) alteration to current use and likely impact on ventilation requirements. It is imperative that if there is any alteration to the use which has been outlined in this application such as a change to the type of cooking carried out, cooking equipment to be used, food types or a significant increase in the volume of cooking that officers of Environmental and Public Protection (Public Health and Housing) and Planning are consulted with a view to the likely increase in cooking odours resulting in a need to improve the ventilation/ air handling to the premises.

**(b) Erection of two storey extension with single storey extension incorporating a canopy and external terrace:**

**Ardfruch, Glenmosston Road, Kilmacolm (20/0314/IC)**

There were submitted papers relative to the application for review for the refusal of planning permission for the erection of two storey extension with single storey extension incorporating a canopy and external terrace at Ardfruch, Glenmosston Road, Kilmacolm (20/0314/IC) to enable the Local Review Body to consider the matter afresh.

Councillor Wilson declared a non-financial interest in this item as a member of Strathclyde Partnership for Transport. He also formed the view that the nature of his interest and of the item of business did not preclude his continued presence in the meeting or his participation in the decision making process.

Prior to the commencement of discussion on this item, Mr Kerr clarified that in consideration of the review, the relevant Inverclyde Local Development Plan 2019 Planning Application Advice Notes were Advice Note 4 (House Extensions) and Advice Note 5 (Outdoor Seating Areas) as contained in the agenda papers.

Mr Williamson acted as Planning Adviser relative to this case.

**Decided:**

(1) that sufficient information had been submitted to allow the Local Review Body to

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decide the matter without further procedure; and

(2) that the application for review be upheld and permission be granted subject to the following condition:-

1. development shall not commence until samples of materials to be used on all external surfaces of the development hereby approved have been submitted to and approved in writing by the Planning Authority. Thereafter the development shall be implemented in accordance with the approved details.

**(c) Erection of shed in front drive:  
26A Victoria Road, Gourrock (20/0324/IC)**

There were submitted papers relative to the application for review for the refusal of planning permission for the erection of a shed in front drive at 26A Victoria Road, Gourrock (20/0324/IC) to enable the Local Review Body to consider the matter afresh.

Prior to the commencement of discussion on this item, Mr Kerr highlighted the new matter contained in the agenda papers and advised members that the inclusion or otherwise of this information as a material planning consideration in the review was a matter for the committee to decide in terms of Section 43B of the 1997 Act. The Members agreed to have regard to the new matter.

Ms Pickett acted as Planning Adviser relative to this case.

Following discussions, Councillor Nelson moved that (1) that sufficient information had not been submitted to allow the Local Review Body to decide the matter without further procedure; and (2) that, in terms of Regulation 16 of the Town & Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008, consideration of the application for review be continued for an unaccompanied site inspection to be arranged by the Interim Head of Legal Services in consultation with the Chair.

As an amendment, Councillor McKenzie moved that (1) sufficient information had been submitted to allow the Local Review Body to decide the matter without further procedure; and (2) that the application for review be dismissed and that planning permission be refused (upholding the Appointed Officer's determination) for the following reasons:-

1. by reason of location and design, including the use of finishing materials, the development fails to reflect local architecture and urban form as required by Policy 1 of the Inverclyde Local Development Plan; and

2. the proposal would result in an unexpected and dominant feature on the streetscape, which would harm the established pattern of development and setting of the Conservation Area, contrary to the aims of Policy 28 of the Inverclyde Local Development Plan.

Following a roll call vote, 3 Members, Councillors Clocherty, McKenzie and Wilson voted in favour of the amendment, and 4 Members, Councillors Crowther, Dorrian, Nelson and Rebecchi voted in favour of the motion which was declared carried.

**Decided:**

(1) that sufficient information had not been submitted to allow the Local Review Body to decide the matter without further procedure; and

(2) that, in terms of Regulation 16 of the Town & Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008, consideration of the application for review be continued for an unaccompanied site inspection to be arranged by the Interim Head of Legal Services in consultation with the Chair.