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| <b>Report To:</b>           | <b>The Planning Board</b>   | <b>Date:</b>       | <b>6<sup>th</sup> January 2010</b>       |
| <b>Report By:</b>           | <b>Head of Planning and Housing</b>   | <b>Report No:</b>  | <b>09/0228/IC<br/>Plan 01/10</b>         |
|                             |   |                    | <b>Local Application<br/>Development</b> |
| <b>Contact<br/>Officer:</b> | <b>Guy Phillips</b>   | <b>Contact No:</b> | <b>01475 712422</b>                      |
| <b>Subject:</b>             | <b>Proposed formation of 34 flats and 2 Class 1 Retail Units at<br/>52-54 Finnart Street, 19 Robertson Street, Greenock</b> |                    |  |

## **BACKGROUND**

At the December meeting of the Planning Board, consideration of the above planning application was continued for a site visit to allow Members to consider the site and its environs. The site visit was undertaken on 11 December 2009.

## **PUBLIC PARTICIPATION**

As an update to the report presented to the Board in December, a further 5 letters of objection and one of support have been submitted. Copies are attached

Accordingly, a total of 153 written representations have been received, comprising 20 individual letters of objection, two individual letters of support and 133 copies of a standard letter objecting to the proposal have been received.

The additional letters raise the following concerns:

1. Traffic implications – congestion, the parking layout may lead to accidents, parking provision will discourage “greener” transport.
2. The shops may encourage anti social behaviour and litter.
3. Retailing overprovision, with an adverse impact on other traders.
4. Devaluation of nearby property.
5. Lack of consultation on the proposal.

These issues were addressed in my previous report to the Board.

## **RECOMMENDATION**

That the application be granted.

Conditions:-

1. Development shall not begin until samples of materials to be used on external surfaces of the buildings (or in construction of hard standings/walls/fences) have been submitted to and approved, in writing, by the Planning Authority. Development shall thereafter be carried out

using the approved materials or such alternatives as may be agreed, in writing, with the Planning Authority.

2. None of the residential units hereby approved shall be occupied until the approved parking layout has been completed.
3. A Traffic Regulation Order promoting 30 minute restricted car parking and loading only over the retail unit frontage as indicated on Drg No 1804-PL-09Rb shall be promoted prior to any trading taking place from the retail units.
4. That access to the site shall be taken via a footway crossover constructed in accordance with the Council's Roads Development Guide.
5. That the pend hereby permitted shall be a minimum of 4.5m wide and 2.1m high.
6. That the footway along the frontages of the site shall be made up where presently crossed by drop kerbs before the first of the flatted dwellings hereby approved is occupied.
7. That prior to the commencement of any site works, a comprehensive contaminated land investigation shall be submitted to and approved, in writing, by the Planning Authority. The investigation shall be completed in accordance with a recognised code of practice such as British Standards Institution "The investigation of potentially contaminated sites - Code of Practice" (BS 10175:2001). The report must include a site-specific risk assessment of all relevant pollutant linkages, as required in Scottish Government Planning Advice Note 33.
8. That where the risk assessment identifies any unacceptable risk or risks as defined under Part IIA of the Environmental Protection Act 1990, a detailed remediation strategy shall be submitted to the Planning Authority for approval. No works, other than investigative works, shall be carried out on the site prior to receipt of written approval of the remediation strategy by the Planning Authority.
9. That remediation of the site shall be carried out in accordance with the approved remediation plan. Any amendments to the approved remediation plan shall not be implemented unless approved, in writing, by the Planning Authority
10. That on completion of the remediation works and prior to the site being occupied, the developer shall submit a report to the Planning Authority confirming that the works have been carried out in accordance with the remediation plan.
11. That the presence of any previously unsuspected or unencountered contamination that becomes evident during the development of the site shall be brought to the attention of the Planning Authority within one week. At this stage, a comprehensive contaminated land investigation shall be carried out if requested by the Planning Authority.
12. No development shall commence until fully detailed landscaping proposals have been submitted to and approved by the Planning Authority.
13. Deliveries to the retail units shall be restricted to the periods between 07.00 and 08.00 hours and 18.00 and 23.00 hours.
14. The retail units shall not be open to the public for the purpose of trading between 23.00 and 07.00 hours.
15. That any air conditioning units associated with the retail units shall not be operational between 23.00 and 07.00 hours.

## Reasons

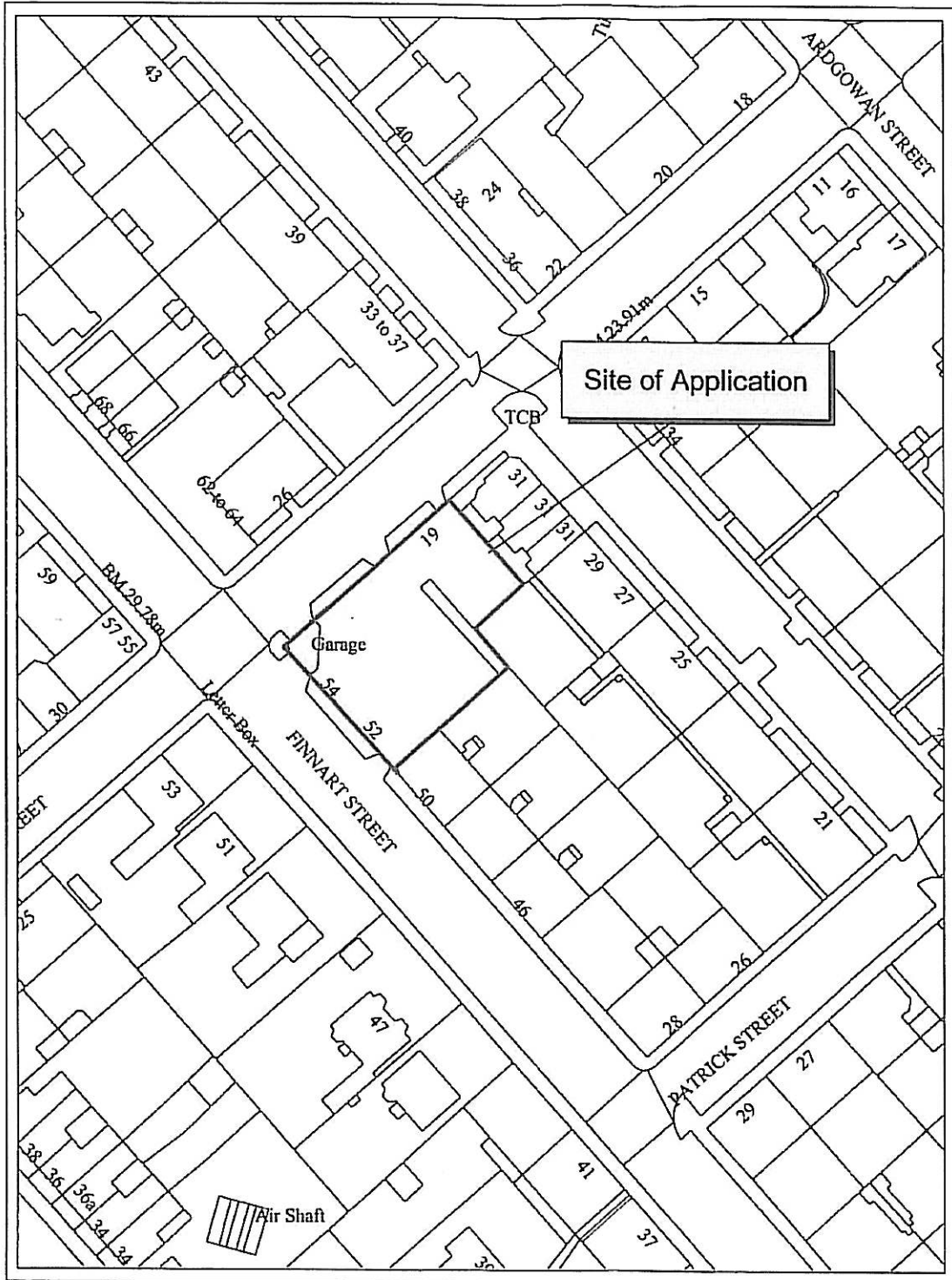
1. To ensure that the building materials reflect the established built character of the locality.
2. To ensure the provision of adequate car parking spaces prior to the development being occupied.
3. To provide parking and servicing in Finnart Street for the retail units.
4. To ensure the vehicles can access and egress the site safely.
5. To ensure the provision of adequate vehicular access facilities.
6. In the interests of pedestrian and vehicular safety on Robertson Street and Finnart Street.
7. To ensure potential risks arising from previous site uses have been fully assessed.
8. To ensure the proposed remediation plan is suitable.
9. To ensure remedial works are carried out to the agreed protocol.
10. To provide verification that remediation has been carried out to the satisfaction of the Planning Authority.
11. To provide verification that remediation has been carried out to the satisfaction of the Planning Authority.
12. To ensure the provision of an adequate landscaping scheme.
13. As there are no servicing facilities provided within the development site, to ensure that delivery vehicles do not cause obstruction during the period when the shop, pedestrian and vehicular activity is at its greatest and to avoid noise and disturbance to nearby residents.
14. To avoid noise and disturbance to nearby residents.
15. To avoid noise and disturbance to nearby residents.

F. K WILLIAMSON

Head of Planning and Housing

## BACKGROUND PAPERS

1. Application form
2. Application plans
3. Inverclyde Local Plan
4. Consultation responses
5. Written representations
6. Sequential appraisal
7. Applicant's letters of support



Application No: 09/0228/IC 52-54 Finnart Street, Greenock

Drawn by IAC

Date: 11:11:06

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|-----------------------------|---|--------------------|--|
| <b>Report To:</b>           | <b>The Planning Board</b>   | <b>Date:</b>       | <b>2<sup>nd</sup> December 2009</b>      |
| <b>Report By:</b>           | <b>Head of Planning and Housing</b>   | <b>Report No:</b>  | <b>09/0228/IC<br/>Plan 12/09</b>         |
|                             |   |                    | <b>Local Application<br/>Development</b> |
| <b>Contact<br/>Officer:</b> | <b>Guy Phillips</b>   | <b>Contact No:</b> | <b>01475 712422</b>                      |
| <b>Subject:</b>             | <b>Proposed formation of 34 flats and 2 Class 1 Retail Units at<br/>52-54 Finnart Street, 19 Robertson Street, Greenock</b> |                    |  |

## SITE DESCRIPTION

The application site is located at the north east side of the junction of Finnart Street and Robertson Street, Greenock. Part of the site is within the Greenock West End Conservation Area. Until recent demolition works, the site was occupied by a two storey building, containing a garage repair workshop, a furniture storage unit and a flat.

The site is surrounded, mostly, by residential properties, ranging from two storey detached dwellings to three storey tenements. There are also a small number of retail shops nearby, at the south west side of the junction of Finnart Street and Robertson Street and to the north east on Brisbane Street.

Construction has commenced on the foundations of a development of 40 flats granted planning permission in May this year.

## PROPOSAL

It is proposed to revise the approved development of 40 flats to a development of 34 flats and two shops. Shop Unit 1 would front Finnart Street and have a retail floor area of approximately 389 square metres plus approximately 144 square metres of storage space. Unit 2 would be sited on the corner of the block, having shop fronts to Finnart Street and Robertson Street and a floor area of approximately 66 square metres. The proposed shops would occupy approximately 50% of the ground floor of the proposed block. Except for the introduction of the two proposed shopfronts, the introduction of a step in the height of the building on the Robertson Street frontage, dormer alterations and formation of a doorway on Robertson Street, the elevations of the proposed block remains as previously approved. Car parking within in basement is also unchanged with 40 off street spaces accessed from Robertson Street. Fifty on street spaces are proposed in end on configuration on Finnart Street and Robertson Street, of which 13 along the shops frontage are identified for 30 minutes limited waiting. The applicant and agent have submitted letters in support of the application (copies attached).

## **LOCAL PLAN POLICIES**

### **Local Plan Policy H1 - Safeguarding the Character and Amenity of Residential Areas**

The character and amenity of existing residential areas, identified on the Proposals Map, will be safeguarded, and where practicable, enhanced. New residential development will be acceptable, in principle, subject to other relevant Local Plan policies.

### **Local Plan Policy H8 - The Character and Amenity of Residential Areas**

Proposals for residential development that are acceptable in principle in terms of the Development Strategy of the Local Plan will still be required to satisfy the following development control criteria:

- (a) compatibility with the character and amenity of an area in terms of land use, density, design and materials used;
- (b) visual impact of development on the site and its surroundings;
- (c) landscaping proposals;
- (d) open space proposals (see also Policy H11 and guidance in Policy DC1);
- (e) proposals for the retention of existing landscape or townscape features of value on the site;
- (f) assessment against the Council's Roads Development Guidelines 1995 with regard to road design, parking and traffic safety;
- (g) provision of adequate services; and
- (h) accommodation of, in appropriate cases, the requirements of bus operators regarding road widths, lay-bys and turning areas.

### **Local Plan Policy H9 - Non-Residential Development Proposals within Residential Areas**

The introduction of new, or the extension of, non-residential uses in existing residential areas will be acceptable only where such uses are compatible with the character and amenity of the area and satisfy other relevant policies of the Local Plan.

### **Local Plan Policy HR11 - Development Within and Adjacent to Conservation Areas**

Development proposals both within and adjacent to Conservation Areas will be acceptable where they are sympathetic to the existing character, pattern of development and appearance of the area and the following matters are satisfactorily addressed, as appropriate:

- (a) siting and orientation of new buildings;
- (b) overall design and style;
- (c) scale of building, extension or alteration;
- (d) design details;
- (e) finishing materials; and
- (f) landscaping and boundary materials.

### **Local Plan Policy R3 - Town Centre Uses**

The following town centre uses will be directed towards the Central Shopping Area of Greenock, the other two Town Centres (Port Glasgow and Gourrock) and the Local Centres:

- (a) Use Class 1 (Shops)
- (b) Use Class 2 (Financial, Professional and other Services);
- (c) Use Class 3 (Food and Drink);
- (d) Use Class 10 (Community Uses);
- (e) Use Class 11 (Assembly and Leisure); and
- (f) Related uses such as public houses, hot food take-aways, theatres, amusement arcades and offices for taxis for public hire.

Outside these designated Centres, the above uses will be permitted in principle in the Outer Mixed/ Commercial Area around the Central Shopping Area of Greenock Town Centre, according to the specification in Policy R5. Applications for any of the uses listed will be considered subject to the criteria outlined in Policy R10. Proposals for other uses in designated Centres will be considered on their merit.

#### Local Plan Policy R10 - Assessing Development Proposals for Town Centre Uses

Any proposal for a development of one or more of the town centre uses identified in Policy R3, or for any other commercial use within a defined centre, will be required to satisfy the criteria listed below:

- (a) for developments on the edge of, or outside, the designated Centres, the applicant should have adopted a sequential approach to site selection, including consideration of sites identified under Policy R6;
- (b) the applicant having demonstrated that there is a capacity for the development in terms of expenditure compared to turnover in the appropriate catchment area, or a qualitative deficiency in existing provision;
- (c) the proposal should not have a detrimental effect, including cumulatively, on the vitality and viability of existing Centres;
- (d) the size and format of the development is appropriate to the Centre for which it is proposed;
- (e) the proposed development should be accessible by a choice of means of transport from its forecast catchment, make provision for improved infrastructure where deemed necessary, not result in unacceptable changes in travel patterns and, where required, be supported by the production of a Transport Assessment;
- (f) the proposed development should be to a high standard of design and its scale, siting and relationship to the surrounding townscape and land uses should make a positive contribution to the quality of the urban environment;
- (g) the proposal should not have a detrimental effect on residential amenity or on the amenity and effective operation of existing businesses;
- (h) the proposal should be consistent with other relevant national, Structure Plan and Local Plan policies and guidelines, including any Town Centre Strategy or other relevant initiative which may have been instigated, the Council's Roads Development Guide, 1995 and any other standards; and
- (i) in Greenock Town Centre the proposed development should be consistent with Policies R4 and R5.

#### Local Plan Policy R13 - Shopping Facilities to Meet Local Needs

Inverclyde Council, as Planning Authority, will support the retention, improvement and, subject to Policy R10, the provision of local shopping facilities where they meet local needs. A proposed change of use to non-retail use will not be supported where it is considered to conflict with this objective.

#### Local Plan Policy DC1 - Development Control Advice

Inverclyde Council, as Planning Authority, will support applications for planning, listed building and advertisement consent, where applicable, which accord with the principles established in the Council's Planning Practice Advice Notes.

The relevant PPAN in this instance is No 12 which provides detailed guidance on shopfront design.

## **CONSULTATIONS**

**Head Of Environmental Services** – No objections subject to conditions being imposed restricting delivery times to between 6pm and 8am and requiring the promotion of a Traffic Regulation Order promoting 30 minute restricted parking in 13 of the on street parking bays.

**Head Of Safer Communities** - No objections subject to air conditioning units being switched off between 2300 and 0700, the premises not operating between 2300 and 0700 and deliveries not taking place from 2300 to 0700.

## **PUBLICITY**

The application was advertised in the Greenock Telegraph on 14th August 2009 as a Potential Bad Neighbour Development and on 7th August 2009 as a Development Affecting Conservation Areas and as a Potential Departure from the Local Plan.

## **SITE NOTICES**

A site notice was posted on 7th August 2009 for Development Affecting Conservation Areas.

## **PUBLIC PARTICIPATION**

A total of 147 written representations have been received, comprising 15 individual letters of objection, one individual letter of support and 133 copies of a standard letter objecting to the proposal. Copies of the individual letters, the letters from the applicant and agent and a sample of the standard letter are attached.

The objectors are concerned that :-

1. Road safety would be adversely affected by congestion and increased demand for parking. School children would be at risk going to and coming from school. Delivery vehicles would make it difficult for residents to park. End on parking generates a potential for collisions with parked vehicles emerging onto the carriageway. Parking spaces will be taken up by parking from the nearby James Watt College.
2. An existing newsagent's business would be adversely affected by the competition from the proposed shops.
3. There would be job losses in surrounding local businesses
4. There are already sufficient shops to serve the area.
5. Residents amenity would be adversely affected by early morning and late evening opening, young people gathering, perceived antisocial behaviour and litter.



6. There would be further disruption to residents if 24 hour cash machines are installed and a licence for the sale of alcohol is approved.
7. Residents would have to park further away from their homes.
8. There should not be retail units within a conservation area.
9. There is a greater need for housing than for retail units in the area.
10. There are vacant shop units in Greenock Town Centre that could accommodate the proposed use.

The representation in support of the proposal expresses the view that the proposed retail development would provide a substitute for the former Tesco store at West Shaw Street and would be of benefit to the disabled.

## **ASSESSMENT**

The material considerations in the determination of this planning application are the Development Plan, the Council's PPAN 12, the consultation responses and the written representations. As planning permission has been granted for the residential elements of the proposal previously, this report focuses on the acceptability, or otherwise, of the proposal to introduce 2 retail units.

Policy R13 supports the provision of local shopping facilities, while Policy R3 directs town centre uses, including retail, towards the town and local centres. Both policies, however, require retail proposals to be assessed against criteria established in policy R10, 8 of which apply to this location.

- (a) The applicant should adopt a sequential approach to site selection. The potential occupier has submitted a statement to demonstrate the sequential approach they consider to have adopted in site selection based on a convenience store with a target market of the Greenock West End. The 6 sites identified for convenience retailing in schedule 8.1 of the Local Plan fail to meet the locational and market targets and they consider there to be no appropriate vacant units within the target area. In response, it is acknowledged that the applicant's target market for this proposal is Greenock West End, but it should be noted that a number of vacant shop units are located within the western part of the town centre, two of which are identified in Schedule 8.1.
- (b) The applicant requires to demonstrate there is a capacity for the development in terms of expenditure compared to turnover in the appropriate catchment area, or a qualitative deficiency in the existing provision. The potential occupier has submitted figures, which I accept, to demonstrate that this criterion can be satisfied.
- (c) The proposal should not have a detrimental effect, including cumulatively, on the vitality and viability of existing centres. The potential occupier advises that there is sufficient turnover to support existing and proposed shops in the area. It is further stated that a new convenience store at Finnart Street/Robertson Street will not compete with existing supermarkets and similarly will not compete with other centres, and that the purpose of a convenience store is to serve the local population who are expected to arrive on foot. While it is accepted that the intention of the proposed convenience store is to serve the local population, there remains a concern over the potential impact on certain shops on the periphery of the town centre, and therefore on the vitality and viability of the town centre itself. I accept however the principle of retailing competition, and note that in reality convenience stores attract considerable trade which generates vehicular movement in addition to those on foot. Much of this "drop in on route" trade will not impact on town centre shops.

- (d) The size and format of the development should be appropriate for the centre for which it is proposed. The potential occupier advises that shop is over 250 square metres in order to provide the minimum range of products that the customer demands in a comfortable and DDA compliant environment. Any smaller, they consider, and the range of products is insufficient and the store cramped. I note and recognise the changing floorspace requirements resulting from DDA requirements and that previously a smaller shop could have provided the range of goods now proposed.
- (e) The shop should be accessible by a range of transport recognising the catchment. I note that this is intended as a local facility and would expect walking, bicycle and car to be the dominant transport modes.
- (f) The proposal should be of a high standard of design and make a positive impact on the quality of the urban environment. The design has been assessed favourably against Policy H8 in the determination of the previous planning application and I consider there is no necessity to further assess it now. Regarding shopfront design, I am content that the proposal accords with the design guidance in the Council's PPAN 12 "Shopfront Design" and as such merits support in accordance with Policy DC1. The part of the building containing the shops lies outwith the Conservation Area. Policy HR11 identifies a range of criteria which require to be satisfied if development within the Conservation Area is to be acceptable. That part of the proposed building lying within the Conservation Area remains unchanged from the previous planning permission and was assessed favourably against the criteria in Policy HR11. I therefore also consider that there is no requirement to assess the design further against Policy HR11. Overall, I am satisfied that the proposed design satisfies the aims of policies H8, HR11 and DC1, and complies with PPAN12.
- (g) The proposal should not have a detrimental effect on residential amenity or on the amenity and effective operation of existing businesses. The proposed retail unit 1 has an approximate floor area of 389 square metres plus approximately 144 square metres of storage space. Unit 2 is smaller, being more along the lines of a traditional corner shop, with an approximate floor area of approximately 66 square metres. By comparison the Sainsbury store at Inverkip has an approximate floor area of 259 square metres. In further comparison the nearby Spar shop in South Street has an approximate floor area of 323 square metres.

Noting the proposed size of the shops, I am of the view that general customer activity and parking associated with the proposed shops has the potential to impact upon the amenity of residents. In concluding on this impact I am required to consider the views of objectors, consultees and the historical use of the site.

Concern has been expressed over opening hours, people gathering and all associated noise generated as a consequence. The Head of Safer Communities has powers to control noise nuisance arising from noise within the proposed shops and from delivery vehicles. He does not have any control over noise arising from patrons entering and exiting or from patrons arriving by car. Accordingly, he recommends that as there are flats above the proposed shops, a condition be attached limiting the hours of operation to 0700 to 2300. It is further recommended that any air conditioning units are switched off between 2300 and 0700 and that deliveries be restricted to 0700 to 2300. I am also mindful of the historical commercial use of the site, with the now demolished building having been designed as and operated as a commercial garage.

The Head of Environmental Services is satisfied that by restricting servicing times and introducing 30 minute restricted car parking in 13 of the on street bays concerns relating to demand for on street parking, congestion and vehicular and pedestrian confrontation are addressed.

Moving on to consider the impact on the effective operation of existing businesses, it is important to distinguish between competition and effective operation in terms of potential impact on nearby businesses. Competition is not a material town planning consideration. I am satisfied that there is unlikely to be any physical impact upon the effective operation of the newsagents shop diagonally opposite the site.

- (h) The proposal should be consistent with other relevant national, regional and local planning policies and the Council's Roads Development Guide. I note that the proposal may be justified in terms of retailing capacity and local demand, that the building design implications are deemed acceptable and that the Head of Environmental Services considers the proposal acceptable with reference to the Council's Road Development Guide.

In summary, I consider that this proposal must be considered as a departure from the Inverclyde Local Plan. The Plan expects retailing to be directed to the town centre, with the express intent of protecting the vitality and viability. Against this, I note that the likely impact on Greenock Town Centre is unlikely to be significant, that convenience shopping at hand will be a welcome addition for many west end residents and that the Head of Environmental Services expresses no objection with reference to road safety matters. I also note the previous commercial use of the site. Given the aforementioned I consider there to be justification for departing from the terms of the Inverclyde Local Plan.

Finally, in answer to the points raised by the objectors and not covered by my assessment of the proposal against the Development Plan, the proposal does not contain a cash machine, sale of alcohol is a matter controlled by the licensing board, and there is no justification for a blanket ban on shops in conservation areas.

## **RECOMMENDATION**

That the application be granted.

Conditions:-

1. Development shall not begin until samples of materials to be used on external surfaces of the buildings or (in construction of hard standings/walls/fences) have been submitted to and approved in writing by the planning authority. Development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the Planning Authority.
2. None of the residential units hereby approved shall be occupied until the approved parking layout has been completed.
3. A Traffic Regulation Order promoting 30 minute restricted car parking and loading only over the retail unit frontage as indicated on Drg No 1804-PL-09Rb shall be promoted prior to any trading taking place from the retail units.
4. That access to the site shall be taken via a footway crossover constructed in accordance with the Council's Roads Development Guide.
5. That the pend hereby permitted shall be a minimum of 4.5m wide and 2.1m high.
6. That the footway along the frontages of the site shall be made up where presently crossed by drop kerbs before the first of the flatted dwellings hereby approved is occupied.

7. That prior to the commencement of any site works, a comprehensive contaminated land investigation shall be submitted to and approved in writing by the Planning Authority. The investigation shall be completed in accordance with a recognised code of practice such as British Standards Institution "The investigation of potentially contaminated sites - Code of Practice (BS 10175:2001). The report must include a site-specific risk assessment of all relevant pollutant linkages, as required in Scottish Government Planning Advice Note 33.
8. That where the risk assessment identifies any unacceptable risk or risks as defined under Part IIA of the Environmental Protection Act 1990, a detailed remediation strategy shall be submitted to the Planning Authority for approval. No works, other than investigative works, shall be carried out on the site prior to receipt of written approval of the remediation strategy by the Planning Authority.
9. That remediation of the site shall be carried out in accordance with the approved remediation plan. Any amendments to the approved remediation plan shall not be implemented unless approved in writing by the Planning Authority
10. That on completion of the remediation works and prior to the site being occupied, the developer shall submit a report to the Planning Authority confirming that the works have been carried out in accordance with the remediation plan.
11. That the presence of any previously unsuspected or unencountered contamination that becomes evident during the development of the site shall be brought to the attention of the Planning Authority within one week. At this stage, a comprehensive contaminated land investigation shall be carried out if requested by the Planning Authority.
12. No development shall commence until fully detailed landscaping proposals have been submitted to and approved by the Planning Authority.
13. Deliveries to the retail units shall be restricted to the periods between 07.00 and 08.00 hours and 18.00 and 23.00 hours.
14. The retail units shall not be open to the public for the purpose of trading between 23.00 and 07.00 hours.
15. That any air conditioning units associated with the retail units shall not be operational between 23.00 and 07.00 hours.

#### Reasons

1. To ensure that the building materials reflect the established built character of the locality.
2. To ensure the provision of adequate car parking spaces prior to the development being occupied.
3. To provide parking and servicing in Finnart Street for the retail units.
4. To ensure the vehicles can access and egress the site safely.
5. To ensure the provision of adequate vehicular access facilities.
6. In the interests of pedestrian and vehicular safety on Robertson Street and Finnart Street.
7. To ensure potential risks arising from previous site uses have been fully assessed.
8. To ensure the proposed remediation plan is suitable.

9. To ensure remedial works are carried out to the agreed protocol.
10. To provide verification that remediation has been carried out to the satisfaction of the Planning Authority.
11. To provide verification that remediation has been carried out to the satisfaction of the Planning Authority.
12. To ensure the provision of an adequate landscaping scheme.
13. As there are no servicing facilities provided within the development site, to ensure that delivery vehicles do not cause obstruction during the period when the shop, pedestrian and vehicular activity is at its greatest and to avoid noise and disturbance to nearby residents.
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F. K WILLIAMSON  
Head of Planning and Housing

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