
Report To:	The Planning Board	Date:	2 June 2010
Report By:	Head of Regeneration and Planning	Report No:	09/0228/IC Plan06/10
Contact Officer:	Guy Phillips	Contact No:	01475 712422
Subject:	Notification of planning appeal decision: Proposed formation of 34 flats and 2 Class 1 Retail Units at 52- 54 Finnart Street Greenock		

INTRODUCTION

In January 2010 planning permission was refused for the formation of 34 flats and 2 Class 1 Retail Units at 52- 54 Finnart Street Greenock. Planning permission was refused as:

1. The area is zoned for residential not commercial use in the Inverclyde 2005 Local Plan this proposal contravenes Local Plan Policy HR1 (c) as other sites within the local plan are identified as being available for retail use.
2. The site straddles the Greenock West End Conservation Area and is unacceptable in terms of Local Plan Policy HR11, H8 and H9 as the retail proposal is unsympathetic to the existing character, pattern and development and appearance of this residential area.
3. A transport assessment has not been carried out as required in Section 20 of SPP8 Planning for Town Centres and Retailing.
4. Parking for 34 flats are already below that required at only 40 spaces. Loss of additional on street parking for retail uses in a residential area is unacceptable in planning terms. The development does not meet the parking standards laid down in SPP17 Paragraph 67 where one specific parking space must be provided for each 14m². At 455m² of retail floor area this equates to 33 specific spaces dedicated to the retail development alone. To meet requirements the development requires at least 67 (33 + 34) parking spaces specific to the development. SPP 17 clearly states that a development with less than the required number of specific spaces must be referred to the Scottish Ministers under the Town and Country Planning (Notification of Applications) (Scotland) Amendment Direction 2003.
5. On the Head of Planning Services admission there is concern over the viability of certain shops on the periphery of the town centre (this could well apply to those on Finnart Street and South Street) in direct contradiction to SSP8 Section 20 which states that - "there will be no significant adverse effect on the vitality and viability of existing centres" and Local Plan Policy R4 and R3 which seek to support the retail function of Greenock Town Centre.
6. Environmental noise will be created 24 hours a day caused by food chillers running, deliveries being made and customer's movements. This would adversely affect the quality of life of local resident, causing deterioration in health due to sleep deprivation, conversation disruption and stress generated by feelings of annoyance. This is contradictory to PAN 56 Planning and Noise which states that "the noise implications of development can be a

material consideration in determining applications for planning permission” and local plan policy UT10 - Proposals for Development Involving Noise - as this development will involve noisy processes and/or extended hours of operation, which are unacceptable as it will affect the amenity of this noise sensitive residential area.

7. Under the Human Rights Act this application has implications for the residents in terms of interference with privacy, home or family life (Article 8) and peaceful enjoyment of possessions (First Protocol Article 1).

An appeal against the refusal of planning permission and a claim for costs against the Council was lodged with the Scottish Government. The appeal was considered by written submissions.

APPEAL DECISION

The Reporter considered the determining issues to be the impact of the development with reference to the development plan and the Greenock West End Conservation Area.

He noted that the scale of the building is similar to that previously granted and that while the area is primarily residential, retailing to meet local needs is compatible with its character. Subject to the appropriate use of materials, the building would not unacceptably detract from the pattern of development or appearance of the Conservation Area.

Drawing comparison with the nearby “Spar” shop, he considered that it will serve the local area and passing trade only, with there being minimal impact on the vitality and viability of Greenock town centre. He further accepted the appellant’s view that there are no other suitable sites.

Considering issues of road safety, parking and noise disturbance to residents, he accepted the views of roads and environmental health officers that concerns expressed do not merit refusal. The hours of trading should, however, be restricted to 7.00 – 22.30 hours daily, with service deliveries limited to 7.00-8.00 and 18.00-22.30 hours daily. The air conditioning units may not operate from 22.30-7.00 hours.

He further clarified that Scottish Planning Policy does not require a transport assessment and that any reference to parking standards relates to maximum rather than minimum standards, and then only for larger developments. Addressing Human Rights, he found no basis that this proposal presents an infringement.

On the basis of all the above, planning permission was granted.

The appellant lodged a claim for costs against the Council on the grounds that it failed to support the reasons for refusal, was unreasonably influenced by local opposition and refused permission without having reasonable planning grounds.

While agreeing that the Council did not substantiate all of the reasons for refusal, this is not unreasonable, with the appeal itself able to address this matter. He found no evidence that the Council had acted improperly and had been unduly influenced by local opposition. While the Council’s reasons for refusal may not have been sustainable, they had sufficient precision to allow counter argument. This enabled him to conclude that the Council’s actions were not unreasonable and deny the claim for costs.

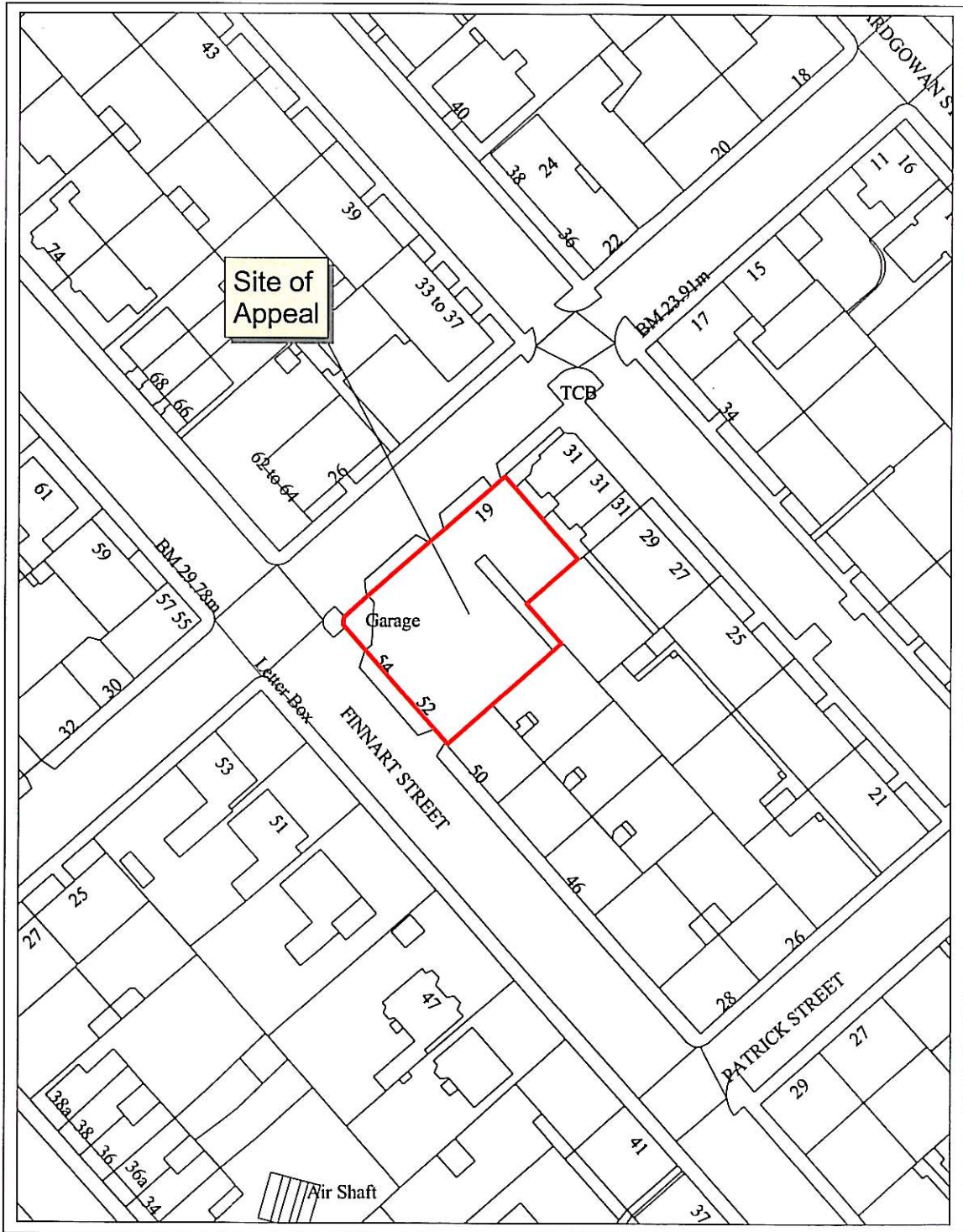
RECOMMENDATION

That the Board notes the position.

Stuart Jamieson
Head of Regeneration & Planning

BACKGROUND PAPERS

1. Planning application 09/0228/IC
2. Appeal decision dated 17 May 2010.



Drawing No. 09/0228/IC 52-54 Finnart Street, Greenock

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