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<b>Report To:</b>	<b>The Planning Board</b>	<b>Date:</b>	<b>5 January 2011</b>
<b>Report By:</b>	<b>Head of Regeneration and Planning</b>	<b>Report No:</b>	<b>10/0355/IC Plan1/11</b>
			<b>Local Application Development</b>
<b>Contact Officer:</b>	<b>Guy Phillips</b>	<b>Contact No:</b>	<b>01475 712422</b>
<b>Subject:</b>	<b>Variation to Condition 3 attached to Planning Permission IC/03/470 at 44 Murdieston Street, Greenock</b>		

## **SITE DESCRIPTION**

The application site is a single storey hot food take away shop on the west side of Murdieston Street Greenock. Adjoining to the north is a shop. To the south and west (rear) is a vehicular access leading to a development of lockup garages. South of the garage access, fronting Murdieston Street, is a terrace of one and a half storey houses.

In June 2004 an appeal was sustained against the refusal of planning permission for the change of use of the premises to a hot food take away. The Reporter attached a condition limiting the hours of operation from 12.00 hrs. to 21.00 hrs. daily to control any adverse impact on residential amenity as a result of associated noise and activity in the late evening, night and morning.

In January 2006 planning permission was refused for a variation to this condition 3 to allow the hot food take away to open until 22.00 hrs. seven days per week. Planning permission was refused as the proposed increase in hours of operation beyond 21.00 hrs. would have a detrimental impact on the established amenity of the nearby residential properties by virtue of the potential generation of noise, disturbance and nuisance.

## **PROPOSAL**

It is again proposed to extend the opening hours of the hot food take away until 22.00, seven days per week.

The applicant's agent has submitted a statement in support of the proposed increase in the hours of operation. The supporting statement advises that Greenock Sherriff Court recently overturned a refusal of a licencing application permitting the adjoining shop to sell alcohol until 22.00 hrs. It is suggested that it would be consistent to allow the hot food take away the same hours of operation.

## **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.

## **CONSULTATIONS**

**Head Of Safer And Inclusive Communities** - No objections.

## **PUBLICITY**

The application was advertised in the Greenock Telegraph on 12th November 2010 as there are no premises on neighbouring land and as a Schedule 3 development.

## **SITE NOTICES**

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

## **PUBLIC PARTICIPATION**

No written representations have been received.

## **ASSESSMENT**

The material considerations in the determination of this planning application are the Local Plan, the planning history of the site and the applicant's supporting statement.

Policy H1 of the Local Plan seeks to safeguard and, where practicable, enhance the residential character and amenity of the area. The Reporter's condition restricting the hours of opening until 21.00 hrs. was made with reference to Policy H1, as was the Council's decision to refuse opening until 22.00 in 2006. These two decisions were made within the context of the neighbouring shop pre-dating planning legislation with no planning control over its hours of operation. Separate legislation now permits the sale of alcohol from the supermarket up until 22.00 hrs. but does not restrict the sale of other goods.

It was recognised by the Reporter in 2004 that operating the hot food take away beyond 21.00 hrs. would have an adverse impact upon residential amenity and character. The decision by Greenock Sheriff Court to allow the adjoining supermarket to sell alcohol until 22.00 hrs. is wholly a licensing matter. That licensing legislation permits the sale of alcohol in a neighbouring premises until 22.00 hrs. does not, I consider, provide a justification for increasing the hours of operation of the hot food take away. To grant planning permission would add to existing levels of nighttime noise and activity outwith the hot food take away, to the detriment of the residential character and amenity of the area.

## **RECOMMENDATION**

That the application be refused.

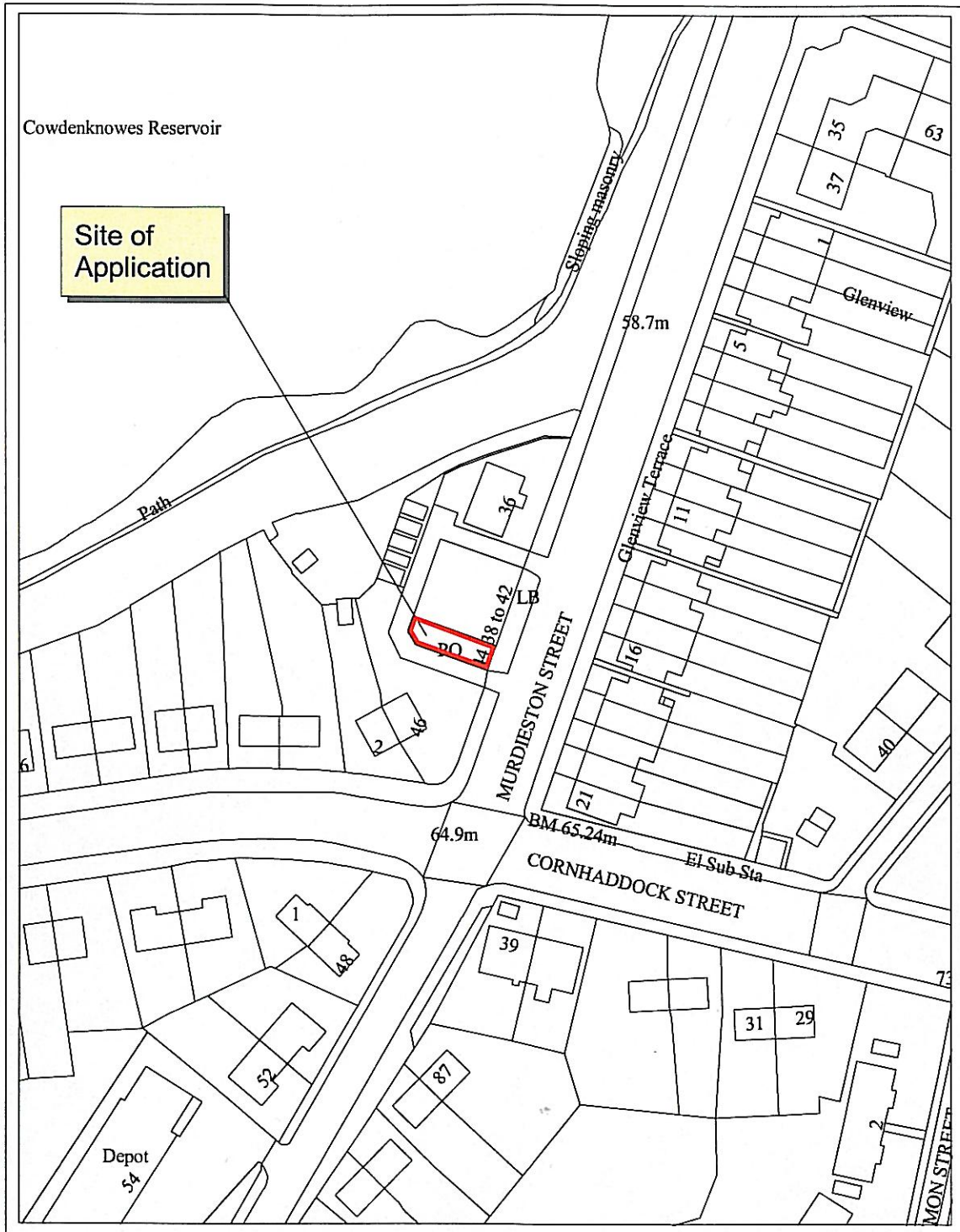
### **Reasons**

The proposed increase in hours of operation beyond 21.00 would have a detrimental impact on the established amenity of the nearby residential properties by virtue of the potential generation of noise, disturbance and nuisance, contrary to Policy H1 of the Inverclyde Local Plan.

Stuart Jamieson  
Head of Regeneration and Planning

## BACKGROUND PAPERS

1. Application form
2. Application plans
3. Inverclyde Local plan
4. Statement of support
5. Planning applications IC/03/470 and IC/05/423



Drawing No. 10/0355/IC 44 Murdieston Street, Greenock.

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