

Inverclyde Local Review Body

Our Ref: 11/0285/IC

REVIEW DECISION NOTICE

Decision by Inverclyde Local Review Body (the ILRB)

- Site address: 58-60 Captain Street, Greenock
 - Application for Review by Canata & Seggie, Chartered Architects against the decision by an appointed officer of Inverclyde Council
 - Application Ref: 11/0285/IC
 - Application Drawings: Drawing No 2000 - FCS - 001 (Revision B) - Existing and Proposed Floor Plans
Drawing No 2000 - FCS - 002 (Revision A) - Existing and Proposed Elevations
 - Date of Decision Notice: 17 August 2012
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Decision

The ILRB reverses the determination reviewed by it and grants Planning Permission, subject to the conditions listed below. Attention is also drawn to the Advisory Notice at the end of this Review Decision Notice.

1. Introduction

- 1.1 This Notice constitutes the formal decision notice of the ILRB as required by the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008.
- 1.2 The above application for planning permission was considered by the ILRB at a meeting held on 1 August 2012. The ILRB was constituted by Provost R Moran, Councillors D Wilson (Chair), G Dorrian, T Loughran and I Nelson.

2. Proposal

- 2.1 The application proposal is for change of use of the property to a hot food takeaway. New windows, shopfront and galvanized extraction flue are also proposed. The application was refused consent in terms of a decision letter dated 20 December 2011.

3. Preliminaries

- 3.1 The ILRB members were provided with copies of the following:
 - (i) Planning Application and plans specified above;
 - (ii) Site Photographs;
 - (iii) The Appointed Officer's Report of Handling dated 19 December 2011;
 - (iv) Letters of Representation and Consultation responses in respect of the Planning Application;
 - (v) Decision Notice dated 20 December 2011;

- (vi) Notice of Review and supporting documents dated 1 March 2012;
- (vii) Email dated 16 March 2012 from applicant on new material submitted with Notice of Review;
- (viii) Further representation;
- (ix) Letter dated 27 April 2012 from applicant in response to further representation;
- (x) Draft Conditions should the ILRB be minded to grant planning permission.

3.2 Having regard to the material produced the ILRB resolved that the Review Application could be determined without any further procedure allowed in terms of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008.

4. **Reasons**

4.1 The determining issue in this review is the impact of the proposal on adjacent residential property.

4.2 The application had been refused as the proposal would have had a detrimental effect on the amenity of the residents living adjacent to the premises in terms of noise and activity, as the proposed changes may have generated an unacceptable level of noise and activity particularly late into the evening, contrary to Inverclyde Local Plan Policies H1 and H9.

4.3 In the Notice of Review, the applicant's agents stated that the applicant has operated a licensed grocers and convenience store immediately adjacent to the application site since 2001; the store is open till 22:00 each evening and the adjacent residents are already used to any minor noise increase generated from customers as they enter and leave the premises; and over the period since 2001 there have been no instances of adjacent residents complaining about noise, loitering or disturbance from customers. The applicant's agents anticipated that the majority of the proposed takeaway customers would be the same people who currently use the existing convenience store.

4.4 The ILRB considered the amenity issues associated with the proposed use of the premises as a hot food takeaway as raised by the applicant, the objectors to the proposal and the supporters of the proposal. The ILRB considered evidence from the applicant's agents that the proposal would enhance the existing building, was well received by local residents generally, would recreate a once vibrant area and that the existing premises were well run.

4.5 The ILRB determined that the proposal meets Local Plan Policies H1 and H9 and that there would not be a detrimental effect on the amenity of the residents living adjacent to the premises in terms of noise and activity. Having regard to the whole circumstances and taking the application on its individual merits, the ILRB determined that the review be upheld subject to the imposition of the conditions listed at paragraph 5 below.

5 **Conditions**

1. That the premises shall not operate out with the hours of 7am and 10pm each day.
2. No deliveries shall take place out with the hours of operation specified in condition 1 above.
3. Prior to the commencement of the new use, a detailed specification regarding the collection, treatment and disposal of cooking odours has been submitted to and approved by the Head of Regeneration & Planning Services. 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.
4. A bin for use by the customers of the takeaway hereby permitted shall be provided at the premises and full details of this shall be submitted to and approved in writing by the planning authority prior to the commencement of the new use. The bin shall then be made available for customers' use at all times during the operation of the hot food takeaway.

Reasons:

1. To protect neighbouring residents from undue disturbance early in the morning and late in the evening, in the interests of residential amenity.
2. To protect neighbouring residents from undue disturbance early in the morning and late in the evening, in the interests of residential amenity.
3. To aim to minimise odours originating at the application site, in the interests of residential amenity.
4. To aim to minimise litter originating at the application site.

Signed _____

Head of Legal & Democratic Services
Inverclyde Council
Municipal Buildings
Greenock
PA15 1LX

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Notification to be sent to applicant on determination by the planning authority of an application following a review conducted under section 43A(8)

Notice under Regulation 21 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure)(Scotland) Regulations 2008

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.