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<b>Report To:</b>	<b>The Planning Board</b>	<b>Date:</b>	<b>7<sup>th</sup> November 2012</b>
<b>Report By:</b>	<b>Head of Regeneration and Planning</b>	<b>Report No:</b>	<b>12/0210/IC Plan 11/12</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>Change of use of shop to hot food take-away at 74B Belville Street, Greenock</b>		

## SITE DESCRIPTION

The site is a former baker's shop within a parade of shops below three/ four storeys of flats on the south east side of Belville Street, Greenock. The majority of the shop units in the parade are unoccupied.



## PROPOSAL

It is proposed to change the use of the shop to a hot food take away shop. An extract ventilation flue is proposed to be affixed to the rear of the building, discharging above eaves height.

In April this year the Planning Board refused planning permission for the change of use of the premises to a hot food takeaway shop as:-

No satisfactory means for the dispersal of cooking odours has been submitted, to the detriment of the residential amenity of the flats above the proposed hot food take away, contrary to policy H1 of the Local Plan.

## LOCAL PLAN POLICIES

### Local Plan Policy R1- Designated Centres

The following Centres are designated:

#### 2. Local Centres, as defined or indicated on the Proposals Map:

- (a) Kilmacolm (defined);
- (b) Dubbs Road, Port Glasgow (defined);
- (c) Sinclair Street, Greenock;
- (d) Belville Street, Greenock;
- (e) Lynedoch Street, Greenock;
- (f) Barrs Cottage (Inverkip Road/Dunlop Street), Greenock;
- (g) Ravenscraig (Cumberland Walk), Greenock;
- (h) Cardwell Road, Gourock (defined);
- (i) Main Street, Inverkip;
- (j) Ardgowan Road, Wemyss Bay;
- (k) By Station/Pier, Wemyss Bay.

Inverclyde Council, as Planning Authority, will seek to assist urban regeneration and sustainable travel patterns. This will be achieved by encouraging each Centre to serve its own retail and service catchments without detriment to other Centres and to the overall roles of Greenock, Port Glasgow and Gourock as the principal Centres serving the Authority.

### Local Plan Policy R2 - Support for Designated Centres

The designated Centres identified in Policy R1 will be protected, enhanced and developed, where resources allow, through a range of initiatives aimed at achieving the following:

- (a) encouraging a diversity of retail, leisure, civic, public administration, office, residential and other uses, of the type which the Council, as Planning Authority, considers to be appropriate to the development of the individual Centres, in order to support their vitality and viability, particularly through mixed use developments and through the use of upper floors of commercial premises;
- (b) identifying and promoting opportunities for new development and for the redevelopment and reuse of existing premises, both within and on the edge of the defined Centres;
- (c) improving the quality of the urban environment through implementing programmes for the improvement of individual properties, the streetscape and open spaces;
- (d) improving accessibility and integration of services by bus, train, ferry and taxi;
- (e) improving accessibility for pedestrians and cyclists through the provision of safe and convenient facilities and routes both into and within the town centres;
- (f) managing provision of freight access and of car, motorcycle and cycle parking for residents, visitors, workers and shoppers in accordance with an approved strategy;
- (g) managing traffic flows to minimise congestion and pollution and to give priority to the disabled, pedestrians, cyclists, public transport and service vehicles; and
- (h) developing Town Centre Action Plans in partnership with other agencies.

## 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 Gourock) 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 11 (Assembly and Leisure); and
- (e) 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 R12 - Residential Uses Above Hot Food Takeaways

Changes of use which result in residential use above hot food takeaways will be acceptable, in principle, in the Central Shopping Area of Greenock, the other two Town Centres (Port Glasgow and Gourock) and the Local Centres, subject to other Local Plan policies. Outside these Centres such changes of use will not normally be acceptable.

## 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 Environmental and Commercial Services** - No objections.

**Head of Safer and Inclusive Communities** - No objections subject to conditions requiring details of the method of disposal of cooking odours, details of waste storage, noise from air conditioning and ventilation units, a limitation on hours of deliveries and advisory notes on external lighting, CDM Regulations, Food Safety Legislation and Health & Safety.

**Scottish Water** - No objections.

## PUBLICITY

The application was advertised in the Greenock Telegraph on 3rd August 2012 as a Schedule 3 (bad neighbour) development.

## SITE NOTICES

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

## PUBLIC PARTICIPATION

Five written representations, including a petition bearing six signatures, have been received. The objectors are concerned that:-

- Litter shall be generated.
- There shall be odour and noise nuisance.
- Anti social behaviour shall occur outside the premises and within neighbouring tenement closes.
- There is no requirement for additional take away premises in the area.
- The proposed flue detracts from the visual amenity of the building and its garden.
- Planning permission has previously been refused for the use of the premises as a hot food take away shop.
- There is no indication of bin storage, opening hours or the type of food to be sold.
- There is a lack of detail on the design of the proposed extract flue.
- There are four other hot food take away shops within 5 minutes walk of the application site, including one at 76 Belville Street.
- The Local Plan advises that changes of use to either residential or hot food take away use, which results in the two uses being in close proximity can impact on residential amenity.
- The previous use as a bakers' shop was limited to between 7am and 5pm and created no offensive cooking smells.
- With only two out of twelve shops remaining open in Belville Street, it should no longer be designated as a Local Centre by the Local Plan.
- Closure of the Belville Street off sales and post office has brought about a reduction in anti-social behaviour which affords residents an improved quality of life.
- Belville Street is one of the main traffic routes through Greenock. Illegal parking outside a convenience store causes traffic disruption with buses and lorries forced onto the opposite carriageway. There are parking restrictions outside the shop.
- A bin outside 76 Belville Street, required by a planning condition attached to the planning permission for the use of the premises as a hot food take away shop, had to be removed due to the attraction of vermin.

## **ASSESSMENT**

The material considerations in the determination of this planning application are the Local Plan, the consultation responses, the written representations and the previous refusal of planning permission.

Policy R1 of the Local Plan identifies the site as lying within the Belville Street Local Centre. Policy R2 seeks to protect, enhance and develop the Local Centres through a range of initiatives aimed at achieving a number of goals. The relevant goal in this instance is:-

(b): identifying and promoting opportunities for new development and for the redevelopment and reuse of existing premises, both within and on the edge of the defined Centres. As a reuse of an empty shop unit, the proposal accords with criterion (b) of Policy R2.

Policy R3 directs a number of land uses to the Local Centres, including hot food takeaways. As such, the proposal also accords with policy R3.

Policy R12 advises that changes of use which result in residential use above hot food takeaways will be acceptable in principle in the Local Centres, subject to other Local Plan policies. The relevant policy, in this instance, is H1 which seeks to safeguard and, where practicable, enhance residential amenity and character. Critical in order to safeguard the residential amenity of flats above is control of cooking odours. The proposal includes an approximately 13m high flue to discharge odours above eaves level at the rear of the building. The Head of Safer & Inclusive Communities is content with the height of the proposed flue.

There are no objections on road safety grounds from the Head of Environmental & Commercial Services and clearly the management of the premises would require to satisfactorily address environmental health issues relating to refuse, including the attraction of vermin; it is appropriate

that issues raised by the Head of Safer and Inclusive Communities and governed by other legislation are attached as advisory notes should planning permission be granted. While I recognise the concerns relating to potential anti social behaviour, in particular concerns over noise, litter and loitering, it is not a function of the planning system to withhold planning permission and restrain a legitimate activity for which there is reasonable demand solely to avoid situations arising from breaches of law which may or may not happen.



Planning permission was previously refused for the change of use of the premises to a hot food take away shop solely as there was no satisfactory means for the dispersal of cooking odours. In this instance a flue to discharge cooking odours is proposed to be affixed to the rear elevation. The applicant advises he has obtained his title deeds which confirm that the external fabric of the building is communal and that he, along with other owners, has a right to affix to it. In order to safeguard the amenity of residents occupying the flats above the premises it is essential that the flue is provided before the hot food take away comes into operation and is, thereafter retained in perpetuity. I consider that this matter can be satisfactorily addressed by condition. Visual impact of the flue can, I consider, be mitigated to an acceptable degree by attaching a condition requiring it to be finished in a colour matching that of the rear of the building to which it is affixed. The detailed design of the mechanical extract system is a matter best controlled under Public Health legislation by the Head of Safer & Inclusive Communities.

The parade of shops containing the application site already contains a hot food take away at No 76 Belville Street. It was granted planning permission in October 2004 and has a restriction on its hours of operation of 11.00 to 22.00 in order to protect residents from early morning and late night noise and disturbance. I consider it consistent to place a similar restriction in this instance. The commercial viability of the existing and proposed hot food takeaways in this part of Belville Street and other such uses in the surrounding area is not a material Planning consideration.

I note the objectors' suggestion that Belville Street should no longer be designated as a Local Centre. I consider that is a matter most appropriately considered in the adoption of the forthcoming Local Development Plan.

Overall, I consider the proposal merits support.

## **RECOMMENDATION**

That the application be granted subject to conditions.

### Conditions

1. Any air conditioning units or ventilation units should be suitably isolated from the building structure.
2. Deliveries or collections to and from the site shall not be carried out between the hours of 23:00 and 07:00.
3. The premises shall be open for business only between 11.00 and 22.00 hours.
4. The premises shall not be brought into use until the flue detailed in docquetted drawing 01 has been completed: thereafter, the approved flue shall be retained in perpetuity.
5. No development shall commence until the colour of the extract flue has been agreed in writing with the Planning Authority: thereafter, the flue shall be finished in the approved colour within one month of its erection.

### Reasons

1. To minimise the effects of vibration within the properties.
2. To protect the amenities of occupiers of premises from unreasonable noise and vibration levels.
3. To safeguard the residents of nearby properties from noise and disturbance late in the evening and early in the morning.
4. To prevent odour nuisance.
5. In the interests of visual amenity in Garvald Street.

Stuart Jamieson  
Head of Regeneration and Planning

## **BACKGROUND PAPERS**

1. Application form and plans.
2. Inverclyde Local Plan
3. Consultation replies
4. Written representations.
5. Planning applications 11/0309/IC and IC/04/148



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