

Stirling Council

Agenda Item No.9

Planning & Regulation Panel

Date of Meeting: 25 June 2019

Not Exempt

Change Of Use From Retail Unit (Class 1) To Restaurant And Fast Food Takeaway (Class 3) At Land And Unit At 33 - 35, Burghmuir Road, Stirling - 19/00102/FUL

Purpose & Summary

Full planning permission is sought to change the use of this property from retail (Class 1) to a restaurant and fast food takeaway (Class 3) at Land and Unit 33-35 Burghmuir Road, Stirling. The premises is to be occupied by a restaurant.

The application is before the Planning & Regulation Panel at the request of Councillor Kane on the grounds of road safety.

This report forms the Report of Handling for the planning application in compliance with the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013.

Recommendations

Panel is asked to:

1. approve the application subject to the conditions set out at Appendix 1 to this report.

Resource Implications

Not applicable.

Legal & Risk Implications and Mitigation

Not applicable.

1. Background

- 1.1. Not applicable.

2. Considerations

The Site

- 2.1. The site lies outwith the Network Centre (Policy 2.6 in the Local Development Plan) which is a policy supporting town centres but in close proximity to its boundary. It is within a mixed use commercial, retail and residential area opposite the “Waitrose” supermarket. The building subject of this application was constructed to house a retail use and sits at right angles to a large rectangular shaped building, which houses retail uses. The building is modern in appearance, flat roofed and finished using grey metal cladding. To the west of the site there is a public lane that runs parallel with the site, and adjoining the lane, there are long linear gardens of the neighbouring residential properties found on Linden Avenue.

The Proposal

- 2.2. Full planning permission is sought to change the use of this property from retail (Class 1) to a restaurant and fast food takeaway (Class 3) at Land and Unit 33 - 35 Burghmuir Road, Stirling. The premises are to be occupied by a restaurant. As part of this application the drawings show a new ventilation system with filters and vibration proof fixings to satisfy environmental health standards regarding noise and smell.

Previous History

- 2.3. None Relevant.

Consultations

Service Manager (Environmental Health):

- 2.4. No objection to the proposals subject to conditions regarding details of the ventilation system and noise attenuation.

Roads Development Control:

- 2.5. No objection and no roads conditions required.
- 2.6. The development site is located within a retail park served off Burghmuir Road comprising of a number of retail shops and a Dentist Surgery. The number of vehicle trips associated with the development will not have an impact on the local road network nor any detrimental impact on the parking within the vicinity of the site.

Community Council:

- 2.7. Braehead and Broomridge Community Council object to the proposals on the following grounds:
- 2.7.1 There is no need for a restaurant/takeaway in this vicinity.
- 2.7.2 **Response:** Existing provision of nearby similar facilities is not a material planning consideration.

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- 2.7.3 Noise levels from cars will increase during late evening and night - this is already a problem in this car park.
- 2.7.4 **Response:** Noise is addressed in the assessment and the proposed conditions.
- 2.7.5 There is no detail in the planning application on estimated footfall, opening hours and what will be done to minimise noise to residents and minimise litter.
- 2.7.6 **Response:** The scale of operation proposed, at a maximum of 50 seats is not considered to generate significant footfall, particularly in an already established retail destination. Moreover there is adequate car parking from a Road's perspective. Hours of operation are sought to be restricted by proposed condition as is the minimisation of noise. The correct bin storage facilities are shown.
- 2.7.7 The letter to residents (neighbour notification) was not distributed wide enough
- 2.7.8 **Response:** Neighbour notification was correctly carried out and all neighbours within twenty metres of the proposals were neighbour notified.

Representations

- 2.8. Three representations were received, raising objections to the proposals:
- 2.8.1 This use will adversely impact upon the current enjoyment of neighbouring gardens due to cooking smells from the restaurant/takeaway. Vermin is also likely to be a problem as this use will create food and packaging litter in the local area and there is likely to be much more noise in the evenings with cars coming and going, with vandalism and anti-social behaviour.
- 2.8.2 **Response:** Stirling Council Environmental Health Service was consulted on the proposals and has raised no objections subject to conditions set out at Appendix 1 to this report to ensure residential amenity is preserved with respect to noise and cooking smells. The proposals also show the correct bin storage facilities, which will reduce potential for litter and vermin problems. The concerns raised in respect of vandalism and anti-social behaviour are not material planning considerations.
- 2.8.3 This proposal could compromise the legal unrestricted access to the rear of neighbouring properties. Also the road access from off the main road is dangerous.
- 2.8.4 **Response:** Stirling Council Road Service was consulted on the application and has raised no objections. The concerns regarding the lane access are civil matters and not material planning considerations.
- 2.8.5 This proposal will devalue neighbours' homes and result in an adverse impact upon privacy.
- 2.8.6 **Response:** Loss of value to neighbouring properties is not a material planning consideration. In respect of privacy, it is considered that the neighbouring properties separated from the proposals by the long gardens and rear access lane will not result in an adverse impact upon privacy.

Local Development Plan

- 2.9. Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended) indicates that in making any determination under the Planning Acts, regard is to be had to the Development Plan. The determination shall be made in accordance with the Plan unless material considerations indicate otherwise. The following provisions of the Development Plan are considered relevant to the consideration of this application.
- 2.10. Primary Policy 1: Place making.
- 2.11. Policy 1.1 Site Planning.

Other Planning Policy

- 2.12. None.

Assessment

- 2.13. Having regard to the Development Plan policies set out above, the determining issues for this application are whether the proposal complies with the Council's strategic objectives which seeks to enhance and protect the vitality and viability of the Network of Centres support the right development in the right locations with particular regard to the Council's Place making objectives and protecting residential amenity.
- 2.14. The shop unit falls just outwith but is proximate to the Town Centre/Network Centre as identified in the Local Development Plan at Policy 2.6. It is however, a long established retail/commercial location. These two factors are key material considerations to be taken in to account where there is limited policy commentary in respect of the proposed change of use.
- 2.15. The proposed restaurant use with takeaway element is considered appropriate as the applicant has demonstrated that a flue can be constructed to the front of the premises (facing towards the car park) to Environmental Health Standards thereby limiting odour. The flue duct is to discharge the minimum one metre above the roof and it is to be attached to the structure using anti-vibration mountings to prevent the transmission of noise or vibration to dwellings adjacent. As part of the conditions, detailed specifications for the ventilation system shall be submitted for approval prior to works being started.
- 2.16. For these reasons, it is reasonably considered that the proposal will not impact on the amenity of the occupiers of surrounding buildings, in particular, immediately adjacent residential properties.
- 2.17. Overall, it is considered that granting of planning permission is appropriate as the site is situated within an established commercial location and the legitimate concerns of noise and odour have been adequately addressed.

3 Implications

Equalities Impact

- 3.1 This application was assessed in terms of equality and human rights. Any impact has been identified in the Consideration/Assessment section of this report.

Fairer Scotland Duty

- 3.2 This section is not applicable.

Sustainability and Environmental

3.3 An Environmental Impact Assessment is not required.

Other Policy Implications

3.4 All relevant policies have been set out in section 2.

Consultations

3.5 As set out in section 2.

4 Background Papers

4.1 Planning Application file 19/00102/FUL. [View Application](#)

4.2 List of determining plans:

Stirling Council Plan No.	Name	Ref on Plan
01B	General	5956/01 RevB

5 Appendices

5.1 Appendix 1: Conditions and reasons.

Author of Report:

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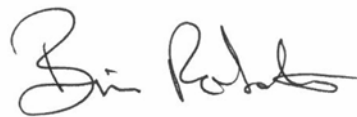
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Approved By:

Brian Roberts
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Date: 14 June 2019

Signature:

Details of Convener(s), Vice Convener(s),
Portfolio Holder and Depute Portfolio Holder
consulted on this report

Wards affected:	Ward 6 Stirling East
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Key Priorities:	N/A
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Key Priority Considerations:	N/A
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Stirling Plan Priority Outcomes: (Local Outcomes Improvement Plan:	N/A
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**CHANGE OF USE FROM RETAIL UNIT (CLASS 1) TO RESTAURANT AND FAST FOOD TAKEAWAY (CLASS 3) AT LAND AND UNIT AT 33 - 35, BURGHMUIR ROAD, STIRLING,
- PEPES - 19/00102/FUL**

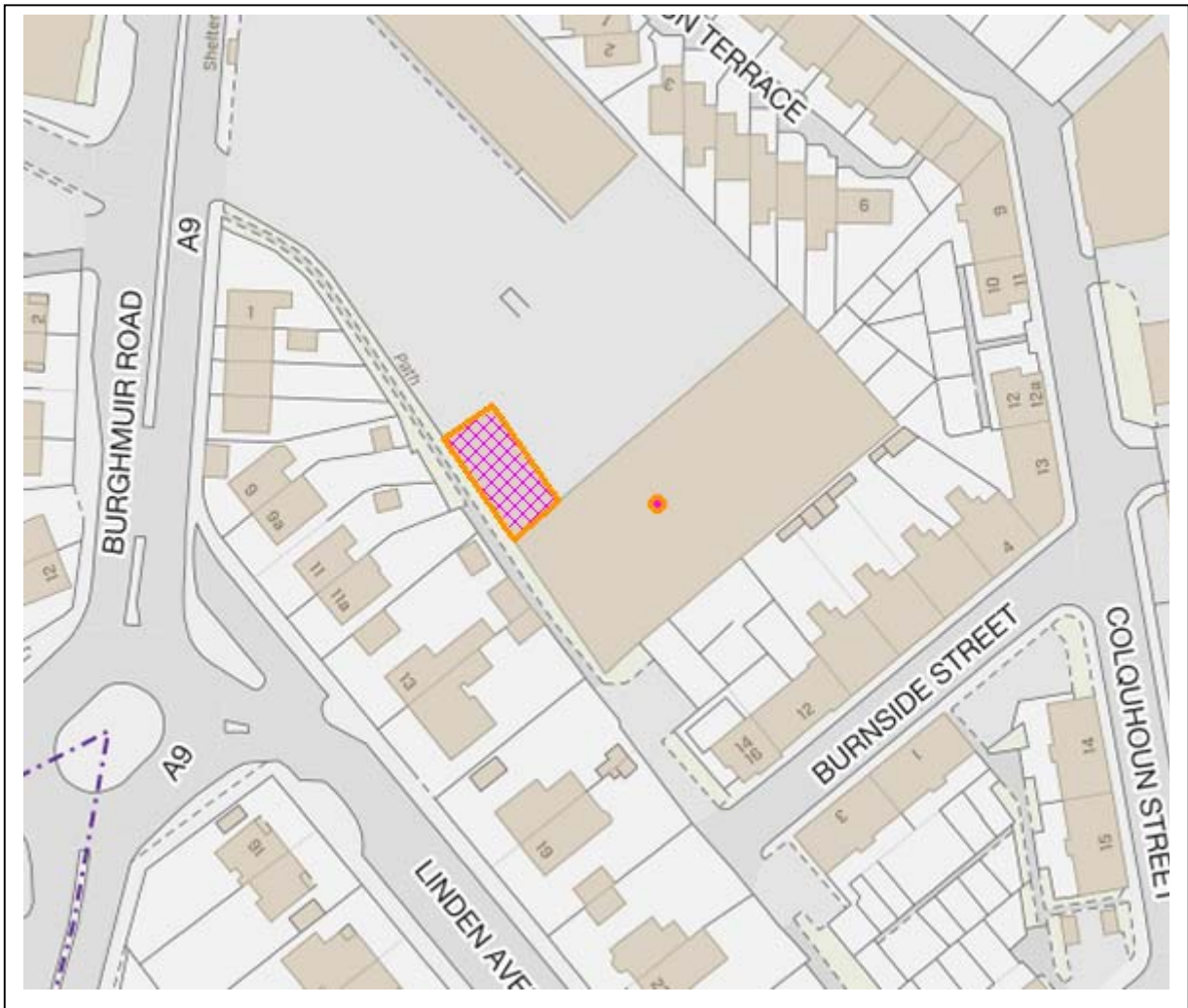
Approve, subject to the following conditions

1. **Hours of Operation:** Unless otherwise agreed in writing by the Planning Authority, the hours of operation at the site shall not commence before 11am and shall cease at 11pm each day.
2. **Flue Duct:** Prior to the approved restaurant/hot food takeaway being brought into use, details of the proposed flue must be submitted for the written approval of the Planning Authority. This is to include details of the proposed fan specifications and noise levels and details of the proposed ventilation filtration system.
3. **Anti-Vibration Fixings:** The new ventilation flue shall be attached to the structure using anti-vibration mountings and fixings.

Reasons

1. To protect occupants of nearby housing from noise/disturbance late in the evening.
2. To protect local residents from nuisance resulting due to the disposal of cooking odours.
3. To protect local residents from noise associated with the operation of the facility.

Location of Development



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