

29<sup>th</sup> March 2007

Reference Number: 07/00156/COU  
Applicants Name: Skyforth Ltd  
Application Type: Change of Use  
Application Description: Change of use of Shop (Class 1) to Café (Class 3) with ancillary hot food takeaway facilities.  
Location: 1 Victoria Street, Rothesay, Isle of Bute, Argyll, PA20 0AJ.

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## (A) THE APPLICATION

Development Requiring Express Planning Permission.

- Change of use of Shop (Class 1) to Café (Class 3) with ancillary hot food takeaway facilities.

## (B) RECOMMENDATION

It is recommended that planning permission be **Granted** subject to the standard condition and reason and the following condition and reason together with a '*note to the applicant*' set out overleaf.

## (C) DETERMINING ISSUES AND MATERIAL CONSIDERATIONS

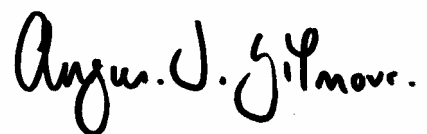
The subject ground floor premise is contained within the core retail area of Rothesay town centre and such a proposed new use is contrary to the provisions of POL COM 3 of the Bute Local Plan 1990 that seeks to protect the core retail area of the town centre from non-retail usage. The approval of this change of use would represent a '*minor departure*' from the adopted Local Plan but would not conflict with the emerging Argyll & Bute Modified Finalised Draft Local Plan (2006) and relevant Scottish Planning Policy.

Two letters of representation have been received in respect of this application. However, the impact of the proposed new use upon established levels of amenity is considered to be limited given that the hot food take-away element of the business will be ancillary to main use of the café. The cafe is to operate during the day time only while the types of food to be sold do not require special ventilation systems and should not give rise to odour concerns.

'Minor Departure' from Policy POL COM 3 the (Adopted) Cowal Local Plan 1995

Policy POL COM 3 of the adopted Bute Local Plan 1990 seeks to protect Rothesay's retail core by restricting changes of use from Class 1 in the part of *Victoria Street* that contains the subject premises. The Bute Local Plan adopted some fifteen years ago is aged and is being replaced by the *Argyll & Bute Modified Finalised Draft Local Plan 2006* with which the Change of Use would not conflict.

The Change of Use from Class 1 to Class 2 is also further supported by National Planning Policy Guidance 8 '*Town Centres and Retailing*' which states that: '*Planning policies should be supportive of local facilities in small towns and villages which provide an effective and valuable service to the local community.*'



Angus J Gilmour  
Head of Planning Services

<b>Case Officer:</b>	J. Irving	01369-70-8621
<b>Area Team Leader</b>	D. Eaglesham	01369-70-8608

*"In reaching my assessment on this application, I have had regard to the documents identified in brackets above which are available for public inspection in terms of the Local Government (Access to Information) Act 1985".*

## **CONDITIONS AND REASONS RELATIVE TO APPLICATION 07/00156/COU**

1. No hot foods shall be prepared within the subject ground floor premises unless the prior written consent for variation is obtained in writing from the Planning Authority.

*Reason : In order to safeguard the existing level of amenity afforded to the surrounding area.*

### **NOTE TO APPLICANT**

#### **Use of Premise**

This permission has been granted on the basis that no hot food shall be prepared within the ground floor premise (i.e. the subject premises) with limited hot food supplied by dumb waiter from the first floor restaurant only. Any changes or alterations to the types of foods sold, installation of new ventilation systems or business operations may be required to be subject to a further planning application.

#### **Scottish Water**

For Scottish Water's comments please see attached consultation response dated 2<sup>nd</sup> February 2007.

## APPENDIX RELATIVE TO 07/00156/COU

### A. OTHER MATERIAL CONSIDERATIONS

#### (i) Site History

Advertisement Consent granted on 12<sup>th</sup> November 2002 for the erection of a signboard.

#### (ii) Consultations

**Scottish Water** (letter dated 2<sup>nd</sup> February 2007): No objection subject to Advisory Information.

**Development Policy** (letter dated 31<sup>st</sup> January 2007): Application can be determined against policy LP RET 2 and LP Bad 1 of the emerging local plan.

**Public Protection Service** (memo dated 21<sup>st</sup> February 2007) No objection subject to Advisory Information.

*'The premises to which the planning application relates is located on ground floor level directly beneath the Esplanade Hotel. There are residential properties in the adjoining buildings at first floor level and above. The plans submitted show that there will be no provision of mechanical ventilation on the kitchen and that natural ventilation will be limited as there are no openable windows. In view of this, there is a potential for complaints to be received due to residents living in close by being exposed to odour and particulates from cooking operations. This is dependent on the type and number of hot meals being produced for consumption on and/or off site.*

*These concerns were discussed with the applicant... it is his intention to limit the preparation of hot meals so as not to cause loss of amenity to local residents. In practice he states that the foods prepared will include sandwiches, hot drinks, ice-creams and some hot meals. In the circumstances it is therefore the intention of this Service not to offer any objections to the proposed application for change of use of the premises.'*

**Area Roads Manager** (memo dated 5<sup>th</sup> March 2007): No objection.

#### (iii) Publicity and Representations

Under Article 9 Neighbour Notification Procedure and Section 65 advertisement (published 9<sup>th</sup> February 2007, expired 2<sup>nd</sup> March 2007) and Potential Departure advertisement (published 2<sup>nd</sup> March 2007, expired 23<sup>rd</sup> March 2007) two letters of representation have been received from; Mr & Mrs R. W. Hall (letter received 2<sup>nd</sup> February 2007), Flat 1, Victoria Place, 44 Montague Street, Rothesay, Isle of Bute, PA20 0BT and Mrs B. Greig (letter dated 3<sup>rd</sup> February 2006) Flat 3, Victoria Place, 44 Montague Street, Rothesay, Isle of Bute, PA20 0BT.

The points raised can be summarised as follows:

- i. Noise, no details given of proposed opening and closing hours.

**Comment:** See assessment detailed below.

- ii. Smell, no details given of siting ventilation system, possible odour concerns given close proximity of neighbouring bedroom windows.

**Comment:** See assessment detailed below.

- iii. What does ancillary hot food take-away facility mean?

**Comment:** The hot food take-away service will not be the main function and service of the café.

- iv. There is already an over provision of café, restaurants and take-aways in the area.

**Comment:** This planning application must be assessed on its own individual merits.

- v. Possible road safety issues as the proposed café is on a corner, busy with both pedestrian and vehicular traffic.

**Comment:** The Area Roads Manager has raised no objections toward this application.

vi. Increase in litter and mess.

**Comment:** This is not a material planning consideration.

vii. The value of my home would be reduced as a result of this café.

**Comment:** This is not a material planning consideration.

## **B. POLICY OVERVIEW**

### **Bute Local Plan 1990**

#### Policy POL COM 3 'Protection of Rothesay's Commercial Core'

*'The Council will oppose additional ground floor non-retail uses which would result in a loss of retail frontage in Victoria Street, Gallowgate and in that part of Montague Street west of High Street. Within this area, non retail commercial uses will normally be permitted on upper floors'*

#### Policy POL COM 6 'Bad Neighbour Development'

*'The Council will examine carefully proposals for 'Bad Neighbour' commercial uses in residential area and will not normally permit such uses where it is considered that they would have an adverse effect on the amenity of residential property.'*

#### Policy POL BE 6 'Rothesay Conservation Area'

*'The Councils prime objective will be to prevent any deterioration in the character and setting of the designated area through unsympathetic new development, changes of use, demolitions, tree felling, extensions or alterations to buildings and structures, any of which do not normally require planning permission.'*

### **Argyll and Bute Modified Finalised Draft Local Plan 2006**

#### Policy LP RET 2 'Change of Use to & from Use Class 1 (shops) in Core Shopping Area of Main Town Centres'

*'Within these ground floor frontage premises change of use of Class 1 (Shop) to any other use other than a Use Class 3 (Food & Drink) is contrary to this policy unless it is demonstrated that: (i) every effort is made by the applicant to retain a lively street frontage; (ii) the premises have been vacant and unused for at least 12 months despite reasonable attempts to market the property/business; (iii) the development is part of a wider building refurbishment or redevelopment which, in the view of the planning authority, will add value to the economic vitality or built environment of the town centre.'*

#### Policy LP BAD 1 'Bad Neighbour Development'

*'In all Development Control Zones proposals for developments classed as 'Bad Neighbour' developments will only be permitted where: (A) There are no unacceptable adverse effects on neighbouring residents; (B) The proposal includes appropriate measures to reduce the impact on amenity as defined by the use classes order; (C) There is no significant transport, amenity or public service provision objection; (D) Technical standards are met in full; (E) The proposal does not conflict with any other development plan policy.'*

#### Policy LP ENV 14 - Development in Conservation Areas & Special Built Environment Areas

*'There is a presumption against development that does not preserve or enhance the character or appearance of an existing conservation area. New development within these areas and on the sites forming part of their setting must be of the highest quality, respect and enhance the architectural and other special qualities that give rise to their actual designation.'*

## Scottish Planning Policy

National Planning Policy Guidelines 8 (Revised 1998) – ‘Town Centres and Retailing’:

*In exercising their planning powers, planning authorities should encourage diversification of uses in the town centre as a whole.*

*Town centres are easily accessible by public transport, and therefore are not only the best location for new shopping but also related uses which attract many people.*

*Planning policies should be supportive of local facilities in small towns and villages which provide an effective and valuable service to the local community.*

### C. ASSESSMENT

This application is for the change of use of the ground floor premise at 1 Victoria Street, Rothesay to a café with ancillary hot food takeaway. The conversion makes best use of the existing internal layout with minor internal alterations required to install a new food preparation area and waiting counter along with a dumb waiter from the first floor restaurant's kitchen to supply hot meals to the cafe. Externally, a new non-illuminated signage is proposed along with general repair and repainting works. With this in mind the impact of the development on character of the wider conservation area is considered to be minimal. Notwithstanding the fact that this application departs from the adopted local plan the key issues in the determination of this application are the appropriateness of such a new use at this location and its subsequent impact upon existing levels of amenity.

It is the applicant's intention to prepare and sell sandwiches, hot drinks, ice creams and some limited hot meals. The café, along with the take-away element of the business will be limited to the day time only; therefore excessive noise levels as a result of patrons using the premise remain unlikely. The types of foods being prepared and sold on site do not require a specialist ventilation system and should not give rise to odour nuisance. Those hot meals sold in the café will be prepared within the ventilated kitchen on the upper floor and sent to the café.

Given the aforementioned, the proposal is not considered to be a 'bad neighbour' development as existing levels of amenity should not be unduly compromised.

The consultation process has raised no adverse concerns that cannot otherwise be resolved by the imposition of an appropriate condition and advisory information.

In policy terms this application is contrary to the adopted Bute Local Plan 1990, as policy POL COM 3 seeks to prevent any non retail uses within ground floor premises in this part of Rothesay town centre. However, under the emerging draft Local Plan the application site is outwith the defined Core Shopping Area. This application is therefore consistent with the provisions of the emerging local plan policy LP RET 2.

#### Requirement for a Hearing

Members must give consideration to a 'PAN 41 hearing' if they are minded to approve the application as a 'minor departure' from the adopted Local Plan Policy. In this instance the department would not recommend a formal 'PAN 41 hearing', since only 2 representations have been received.

