

Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 09/00939/PP

Planning Hierarchy: Local

Applicant: Helena Jane Craggs-Fryer

Proposal: Change of use from hairdresser (Class 1) to tearoom (Class 3)

Site Address: Trinity's Hair Salon, The Clachan, Rosneath

DECISION ROUTE

(i) Local Government Scotland Act 1973

(A) THE APPLICATION

- (i) Development Requiring Express Planning Permission**
 - Change of use from hairdresser (Class 1) to tearoom (Class 3)
 - (ii) Other specified operations**
 - None
-

(B) RECOMMENDATION:

It is recommended that planning permission be granted subject to the attached conditions and reasons.

(C) HISTORY:
None

(D) CONSULTATIONS:

Roads Helensburgh and Lomond (memo dated 12.10.09). No objections in principle, however, existing business needs one space and the new business would need two. As no off-street parking exists, the proposal is contrary to Policy LP TRAN 6. Recommends refusal unless this can be addressed.

Area Environmental Health Manager (memos dated 25.08.09 and 03/07/2012). The layout is unacceptable regarding equipment and sanitary facilities but this can be dealt with through Building Standards. Concerned about the possible impact of cooking odours on the detached dwellinghouse to the north. Suitable and sufficient ventilation requires to be provided if frying, boiling or baking is carried out on the premises. Extract ventilation will require dispersing to the external air by means of ducting which will require to terminate above any opening windows in neighbouring properties.

(E) PUBLICITY: Listed Building/Conservation Advert (expiry date 11.09.2009)

(F) REPRESENTATIONS:

One letter of objection with an attached petition, two letters of support and two letters from the applicant with two petitions attached have been received.

Objection

One letter with attached 17 signature petition has been received from Mrs Yvonne Davies, 1 The Clachan, Rosneath (letter received 13 August 2009)

(i) Summary of issues raised

The parking in the Clachan is both congested and chaotic. This situation already causes concern as the footpath is too narrow for a pram or a mother and child to walk hand in hand along the path so everyone uses the road. A tearoom can only make it worse.

Comment: See assessment.

Pollution from cooking smells would badly affect the quality of life of those living close by.

Comment: See assessment.

We feel that the on-going problem we have with vermin, rats, mice and squirrels would be exacerbated.

Comment: It is not considered that the proposed premises would have a significant detrimental impact on numbers of vermin. However, this is a matter for Environmental Health

The noise created by extra people congregating together would also badly affect local residents.

Comment: It is not considered that the use of the premises as a tearoom would have a significant impact in terms of extra people congregating in the area and causing a noise or other nuisance. If a nuisance is being created then it is a matter for both the Police and Environmental Health under separate legislation.

The development would have an adverse effect on surrounding property prices.

Comment: This is not a material planning consideration.

Representations

Two letters from individuals have been received from the following individuals indicating no objections.

Eva Bell, The Clachan, Rosneath (letter dated 8 July 2009)

Jill Freitag, Flat above The Clachan, Rosneath (letter dated 9 July 2009)

Support

Two letters from the applicant dated 14 and 31 August 2011 respectively enclosing two petitions, one with 71 signatures (1 of the 71 not objecting but preferring hairdressers to remain), the other with 51 signatures have been received.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- (i) **Environmental Statement:** N
- (ii) **An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:** N
- (iii) **A design or design/access statement:** N
- (iv) **A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** N

(H) PLANNING OBLIGATIONS

(i) Is a Section 75 agreement required: Yes

Environmental Health and the Area Roads Manager both initially recommended refusal of this application. Discussions were held at the request of the applicant to see if a solution could be found. Whilst this resulted in some delay the issues have now been resolved.

A Section 75 agreement was required in order to secure two off-site parking spaces for use by customers of the tearoom. This was done in advance of determination of this application as it was initially considered that a further planning application was not required for the two parking spaces. This was on the basis that they could be accommodated within the applicant's driveway entrance without formal construction. Following a review, planning permission will be required for the two spaces as they constitute development. In the interim the applicant has now concluded a Section 75 Agreement which agrees to form the 2 parking spaces at the entrance to her home, Easter Garth, approx. 30m to the west of the premises. On further consultation, the Area Roads Manager considers this acceptable.

(I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32: N

(J) Section 25 of the Act; Development Plan and any other material considerations over and above those listed above which have been taken into account in the assessment of the application

(i) List of all Development Plan Policy considerations taken into account in assessment of the application.

'Argyll and Bute Local Plan' 2009

LP ENV 1 – Impact on the General Environment
LP ENV 19 – Development Setting, Layout and Design
LP BAD 1- Bad Neighbour Development
LP ENV 14 – Development Impact in Conservation Areas
LP TRAN 6 – Vehicle Parking Provision

Appendix A – Sustainable Siting and Design Principles
Appendix C – Access and Parking Standards

(ii) List of all other material planning considerations taken into account in the assessment of the application, having due regard to Annex A of Circular 4/2009.

(K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment: N

(L) Has the application been the subject of statutory pre-application consultation (PAC): N

(M) Has a sustainability check list been submitted: N

(N) Does the Council have an interest in the site: N

(O) Requirement for a hearing (PAN41 or other): One letter with a 17 signature petition has been received objecting to the proposal. Two letters with two petitions of 71 and 51 signatures respectively have also been received in support of the proposal. Petitions are normally treated as a single representation. Moreover, as two of the key objections, parking and cooking smells, have now been resolved and the majority of the signatures on the petitions are in support of the proposal, it is not considered that a discretionary hearing would be justified in this instance.

(P) Assessment and summary of determining issues and material considerations

The application site is within the settlement boundary as defined by the Argyll and Bute Local Plan, where there is a presumption in favour of development subject to all development plan policies being complied with. It is also within the designated Conservation Area where development must preserve or enhance the character of the Conservation Area.

The Use Classes Order states that Class 3 reflects the breaking down of the traditional boundaries between different types of premises, enabling the catering trade to adapt to changing trends and demands with greater speed and certainty in premises where the potential environmental nuisances such as smell, traffic and parking have already been accepted. Planning authorities should not seek to restrict the freedoms granted by this use class unless they can clearly demonstrate that serious environmental problems, which are not capable of control under other legislation, would result. In this case I consider that the principle of a café/tearoom should be supported but that it should only be done on a restricted basis given the concerns of Environmental Health on cooking odours and the potential impact an extract flue could have on the wider conservation area. As there would be minimal external alterations, it is not considered there would be any detrimental impact on the character of the conservation area.

Policy LP TRAN 6 requires the provision of off-street and vehicle parking provision based on standards set out in Appendix C of the adopted Local Plan. The Area Roads Manager was consulted regarding this application. Whilst he has no objections in principle he did raise concerns regarding the lack of parking provision in this part of Rosneath. The existing business requires one parking space whilst the proposed use would require two. As there is currently no off-street parking facilities then the increased requirement would render the development unacceptable. However, the applicant has concluded a Section 75 Agreement which agrees to form 2 parking spaces for the use of patrons of the tea rooms at the entrance to her home, Easter Garth, approx. 30m to the west of the premises. On further consultation, the Area Roads Manager considers this acceptable.

On this basis and with the caveats outlined, a café in this location would be an acceptable use and would comply with the overall provisions of Policies LP BAD 1, LP ENV 1, LP ENV 19, LP TRAN 6, Appendix A and Appendix C of the Argyll and Bute Local Plan.

(Q) Is the proposal consistent with the Development Plan: Y

(R) Reasons why planning permission or a Planning Permission in Principle should be granted

It is considered that the proposed development is acceptable in this location and, subject to no cooking on the premises and the provision of appropriate parking, would comply with the overall provisions of Policies LP BAD 1, LP ENV 1, LP ENV 19, LP TRAN 6, Appendix A and Appendix C of the Argyll and Bute Local Plan.

(S) Reasoned justification for a departure to the provisions of the Development Plan

N/A

(T) Need for notification to Scottish Ministers or Historic Scotland: N

Author of Report: David Eaglesham

Date: 19 April 2013

Reviewing Officer: Howard Young

Date: 24 April 2013

**Angus Gilmour
Head of Planning & Regulatory Services**

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 09/00939/PP

1. The development shall be implemented in accordance with the details specified on the application form dated 26 June 2011 and the approved drawings reference number 1 of 2, location plan, and 2 of 2, existing and proposed layout unless the prior written approval of the planning authority is obtained for other materials/finishes/for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

Reason: For the purpose of clarity, to ensure that the development is implemented in accordance with the approved details.

2. The use of the premises hereby approved shall be limited to the sale and consumption of cold food, hot and cold drinks and food re-heated on the premises.

Reason: In order to ensure that there is no cooking on the premises as this will require an external flue which will be both visually intrusive and would, through cooking smells and other odours, detrimentally impact on the amenity of adjoining residential properties and the character of the Conservation Area.

3. The premises hereby approved shall not be occupied or brought into use until such time as planning permission has been granted for the two car parking spaces required to service the proposed development. Thereafter, the two parking spaces shall be provided to the satisfaction of the Council as Planning Authority prior to the operations hereby approved commencing.

Reason: In the interests of road safety.

NOTES TO APPLICANT

1. **The length of the permission:** This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. [See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).
2. In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997, prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start.
3. In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 09/00939/PP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

The application site is within the settlement boundary as defined by the Argyll and Bute Local Plan where there is a presumption in favour of development subject to all development plan policies being complied with. It is also within the designated Conservation Area where development must preserve or enhance the character of the Conservation Area.

B. Location, Nature and Design of Proposed Development

Planning permission is sought for the change of use of hairdressers (Class 1) to a café within Rosneath.

Under the Town and Country Planning (Use Classes) (Scotland) Order 1997 the premises would operate as a Class 3 Food and Drink use. As such it has the potential to be a “bad neighbour” development. Policy BAD 1 states that bad neighbour developments will only be permitted, inter alia, where there are no adverse effects on amenity of neighbouring residents and no significant transport, amenity or public service provision objections.

Environmental Health was consulted and indicated potential problems could occur with cooking odours affecting the detached house to the north. An extraction system is potentially possible but would likely to be very visually intrusive with a potential detrimental impact on the character and amenity of the conservation area. The applicant has indicated that she would be prepared to accept a restriction on the type of goods sold such as sandwiches, hot and cold drinks and food re-heated rather than cooked on the premises. The Use Classes Order states that Class 3 reflects the breaking down of the traditional boundaries between different types of premises, enabling the catering trade to adapt to changing trends and demands with greater speed and certainty in premises where the potential environmental nuisances such as smell, traffic and parking have already been accepted. Planning authorities should not seek to restrict the freedoms granted by this use class unless they can clearly demonstrate that serious environmental problems, which are not capable of control under other legislation, would result. In this case I consider that the principle of a café/tearoom should be supported but that it should only be done on a restricted basis given the concerns of Environmental Health on cooking odours and the potential impact an extract flue could have on the wider conservation area. As there would be minimal external alterations then it is not considered there would be any detrimental impact on the character of the conservation area.

C. Road Network, Parking and Associated Transport Matters.

Policy LP TRAN 6 requires the provision of off-street and vehicle parking provision based on standards set out in Appendix C of the adopted Local Plan. The Area Roads Manager was consulted regarding this application. Whilst he has no objections in principle he did raise concerns regarding the lack of parking provision in this part of Rosneath. The existing business requires one parking space whilst the proposed use

would require two. As there is currently no off-street parking facilities then the increased requirement would render the development unacceptable. However, the applicant has concluded a Section 75 Agreement which agrees to form 2 parking spaces for the use of patrons of the tea rooms at the entrance to her home, Easter Garth, approx. 30m to the west of the premises. On further consultation, the Area Roads Manager considers this acceptable.

CONCLUSION.

On this basis and with the caveats outlined, a café in this location would be acceptable and would comply with the overall provisions of Policies LP BAD 1, LP ENV 1, LP ENV 19, LP TRAN 6, Appendix A and Appendix C of the Argyll and Bute Local Plan.