
NORTH AYRSHIRE COUNCIL

28 September 2022

Local Review Body

Title:	Notice of Review: 22/00292/PP: 15 Pathfoot, Kilwinning
Purpose:	To submit, for consideration of the Local Review Body, a Notice of Review by the applicant in respect of a planning application refused by officers under delegated powers.
Recommendation:	That the Local Review Body considers the Notice of Review.

1. Executive Summary

- 1.1 The Town and Country Planning (Scotland) Act 1997, as amended by the Planning (Scotland) Act 2006, provides for certain categories of planning application for "local" developments to be determined by appointed officers under delegated powers. Where such an application is refused, granted subject to conditions or not determined within the prescribed period of 2 months, the applicant may submit a Notice of Review to require the Planning Authority to review the case. Notices of Review in relation to refusals must be submitted within 3 months of the date of the Decision Notice.

2. Background

- 2.1 A Notice of Review was submitted in respect of Planning Application 22/00292/PP - 15 Pathfoot, Kilwinning for a change of use from lounge bar to hot food takeaway and external alterations to include the erection of a ventilation flue and formation of an access ramp at that address.
- 2.2 The application was refused by officers for the reasons detailed in the Decision Notice.
- 2.3 The following related documents are set out in the appendices to the report: -
- Appendix 1 - Notice of Review documentation;
 - Appendix 2 - Report of Handling;
 - Appendix 3 - Location Plan; and
 - Appendix 4 - Planning Decision Notice.

3. Proposals

- 3.1 The Local Review Body is invited to consider the Notice of Review.

4. Implications/Socio-economic Duty

Financial

4.1 None arising from the recommendation of this report.

Human Resources

4.2 None arising from the recommendation of this report.

Legal

4.3 The Notice of Review requires to be considered in terms of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning (Scotland) Act 2006, and the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013.

Equality/Socio-economic

4.4 None arising from the recommendation of this report.

Environmental and Sustainability

4.5 None arising from the recommendation of this report.

Key Priorities

4.6 None arising from the recommendation of this report.

Community Benefits

4.7 None arising from the recommendation of this report.

5. Consultation

5.1 Interested parties (both objectors to the planning application and statutory consultees) were invited to submit representations in terms of the Notice of Review and no further representations were received.

Craig Hatton
Chief Executive

For further information please contact **Angela Little, Committee Services Officer**, on **01294 324132**.

Background Papers



Cunninghame House Friars Croft Irvine KA12 8EE Email: eplanning@north-ayrshire.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100554662-002

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

☐ Applicant ☒ Agent

Agent Details

Please enter Agent details

Company/Organisation:	<input type="text" value="James Robertson Architects"/>		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	<input type="text" value="James"/>	Building Name:	<input type="text"/>
Last Name: *	<input type="text" value="Robertson"/>	Building Number:	<input type="text" value=""/>
Telephone Number: *	<input type="text" value=""/>	Address 1 (Street): *	<input type="text" value=""/>
Extension Number:	<input type="text"/>	Address 2:	<input type="text"/>
Mobile Number:	<input type="text"/>	Town/City: *	<input type="text" value=""/>
Fax Number:	<input type="text"/>	Country: *	<input type="text" value="United Kingdom"/>
		Postcode: *	<input type="text" value=""/>
Email Address: *	<input type="text" value=""/>		

Is the applicant an individual or an organisation/corporate entity? *

☒ Individual ☐ Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *
Other Title:	<input type="text"/>	Building Name: <input type="text"/>
First Name: *	<input type="text" value="REDACTED"/>	Building Number: <input type="text" value="REDACTED"/>
Last Name: *	<input type="text" value="REDACTED"/>	Address 1 (Street): * <input type="text" value="REDACTED"/>
Company/Organisation	<input type="text"/>	Address 2: <input type="text"/>
Telephone Number: *	<input type="text" value="REDACTED"/>	Town/City: * <input type="text" value="REDACTED"/>
Extension Number:	<input type="text"/>	Country: * <input type="text" value="REDACTED"/>
Mobile Number:	<input type="text"/>	Postcode: * <input type="text" value="REDACTED"/>
Fax Number:	<input type="text"/>	
Email Address: *	<input type="text" value="REDACTED"/>	

Site Address Details

Planning Authority:	<input type="text" value="North Ayrshire Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="15 PATHFOOT"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="KILWINNING"/>
Post Code:	<input type="text" value="KA13 7NG"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="643264"/>	Easting	<input type="text" value="230705"/>
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Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

Change of use from lounge bar to hot food takeaway and external alterations to include the erection of ventilation flue and formation of access ramp

Type of Application

What type of application did you submit to the planning authority? *

- ☐ Application for planning permission (including householder application but excluding application to work minerals).
- ☐ Application for planning permission in principle.
- ☐ Further application.
- ☒ Application for approval of matters specified in conditions.

What does your review relate to? *

- ☒ Refusal Notice.
- ☐ Grant of permission with Conditions imposed.
- ☐ No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? *

☐ Yes ☒ No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

100554662-001

What date was the application submitted to the planning authority? *

19/04/2022

What date was the decision issued by the planning authority? *

17/06/2022

Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. *

☒ Yes ☐ No

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? *

☒ Yes ☐ No

Is it possible for the site to be accessed safely and without barriers to entry? *

☒ Yes ☐ No

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. *

☒ Yes ☐ No

Have you provided the date and reference number of the application which is the subject of this review? *

☒ Yes ☐ No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

☒ Yes ☐ No ☐ N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

☒ Yes ☐ No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

☒ Yes ☐ No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr Mingyan He

Declaration Date: 07/08/2022

Proposal Details

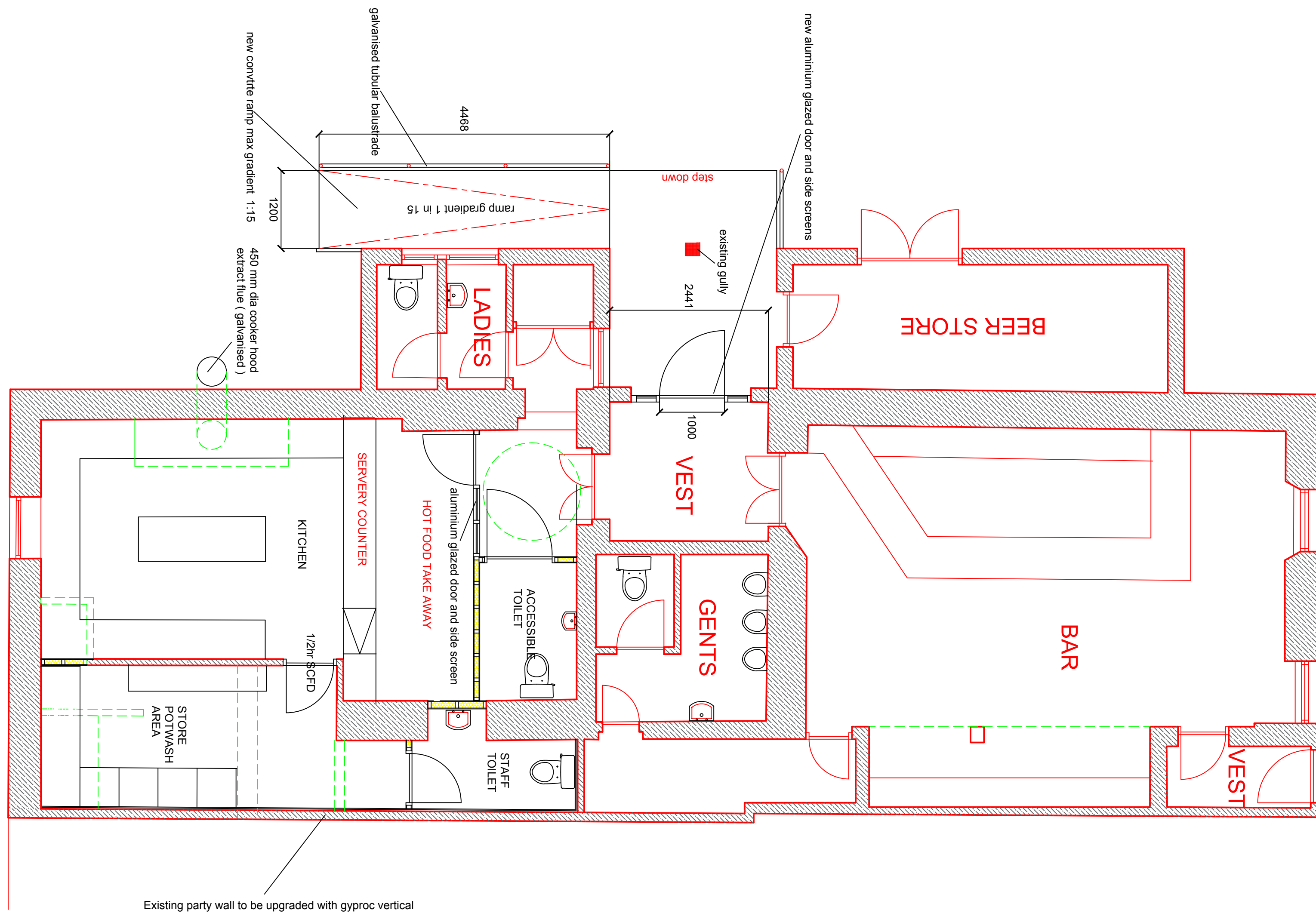
Proposal Name	100595651
Proposal Description	Change of use from lounge bar to hot food takeaway and external alterations to include the erection of ventilation flue and formation of access ramp
Address	15 PATHFOOT, KILWINNING, KA13 7NG
Local Authority	North Ayrshire Council
Application Online Reference	100595651-001

Application Status

Form	complete
Main Details	complete
Checklist	complete
Declaration	complete
Supporting Documentation	complete
Email Notification	complete

Attachment Details

Notice of Review	System	A4
Review statement	Attached	A4
Notice of review	Attached	A4
Drawings	Attached	Not Applicable
Drawings proposed	Attached	Not Applicable
Notice_of_Review-2.pdf	Attached	A0
Application_Summary.pdf	Attached	A0
Notice of Review-001.xml	Attached	A0



notes



client

project

PROPOSED ALTERATIONS TO FORM ENTRANCE AND KITCHEN FOR TAKE AWAY

drawing



scale 1 : 50@A2

date	march 2022
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drawn	checked
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drwg no

DRAWING 2



SIDE ELEVATION AS EXISTING


notes

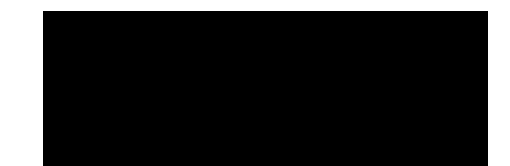
client

project

PROPOSED ALTERATIONS TO FORM
ENTRANCE AND KITCHEN FOR
TAKE AWAY

drawing

 JAMES ROBERTSON ARCHITECT
B. Arch. Dip. Arch. A.R.I.B.A.



scale 1 : 50@A2

date march 2022

drawn

checked

dwg no

DRAWING 4

Mr Mingyan He

Review statement
The Cosy Corner
15 Pathfoot Kilwinning



In recent weeks we have been in the process of retaining the premises license from the previous owners Mr and Mrs Walker in order to continue the operations of the public house. We would like for the review board to take into consideration the current hardship of running a public house due to the current economic climate. We believe that without the opportunity to offer food to bar patrons aswell as offer a takeaway service the public house would not be able to continue operating.

We are looking to continue running the public house and further develop the building with the opportunity of the takeaway running alongside the public house business offering Asian styled bar snacks and the option for takeaway.

The building itself has fallen to disrepair in recent times, we have a keen interest to develop and modernise by fitting a state of the art kitchen, refurbishing the current tired looking bar and reworking the external walls and paintwork in order for the building to look more appealing which can only be beneficial to the local community as the building is one of the first noticeable buildings as you enter Kilwinning.

We understand the towns principles of developing the town center however do believe that old buildings just outside are in need of developing in order for them to continue trading and preventing them from being neglected.

If the planning permissions where to be approved we can see the local community benefitting from the creation of jobs which include,

Contractors for building works

Kitchen and bar staff (full time and part time vacancies)

Delivery drivers

And opportunities for local food produce businesses

Our current aim is to Hire 10-15 members of staff working in this business

The building is currently located in an area which has a mix of commercial and residential properties, an increase in footfall will be beneficial to the local businesses and we would like to work closely with the local authority and residents in order to find solutions to any issues that they may raise.

REPORT OF HANDLING



North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

Reference No: 22/00292/PP
Proposal: Change of use from lounge bar to hot food takeaway and external alterations to include the erection of ventilation flue and formation of access ramp
Location: 15 Pathfoot, Kilwinning, Ayrshire, KA13 7NG

LDP Allocation:
LDP Policies: SP1 - Towns and Villages Objective / Strategic Policy 2 / Detailed Policy 3 -Town Centres & Retail /

Consultations: Yes

Neighbour Notification: Neighbour Notification carried out on 27.04.2022
Neighbour Notification expired on 09.06.2022

Advert: Regulation 20 (1) Advert
Published on:- 04.05.2022
Expired on:- 25.05.2022 Schedule 3
Published on:- 04.05.2022
Expired on:- 25.05.2022

Previous Applications: None

Appeal History Of Site:

Relevant Development Plan Policies

SP1 - Towns and Villages Objective
Towns and Villages Objective

Our towns and villages are where most of our homes, jobs, community facilities, shops and services are located. We want to continue to support our communities, businesses and protect our natural environment by directing new development to our towns and villages as shown in the Spatial Strategy. Within urban areas (within the settlement boundary), the LDP identifies town centre locations, employment locations and areas of open space. Most of the remaining area within settlements is shown as General Urban Area. Within the General Urban Area, proposals for residential development will accord with the development plan in principle, and applications will be assessed against the policies of the LDP. New non-residential proposals will be assessed against policies of this LDP that relate to the proposal.

In principle, we will support development proposals within our towns and villages that:

- a) Support the social and economic functions of our town centres by adopting a town centre first principle that directs major new development and investment to town centre locations as a priority including supporting town centre living.
- b) Provide the right new homes in the right places by working alongside the Local Housing Strategy to deliver choice and variety in the housing stock, protecting land for housing development to ensure we address housing need and demand within North Ayrshire and by supporting innovative approaches to improving the volume and speed of housing delivery.
- c) Generate new employment opportunities by identifying a flexible range of business, commercial and industrial areas to meet market demands including those that would support key sector development at Hunterston and i3, Irvine.
- d) Recognise the value of our built and natural environment by embedding placemaking into our decision-making.
- e) Prioritise the re-use of brownfield land over greenfield land by supporting a range of strategic developments that will deliver:
 - o regeneration of vacant and derelict land through its sustainable and productive re-use, particularly at Ardrossan North Shore, harbour and marina areas, Montgomerie Park (Irvine) and Lochshore (Kilbirnie).
 - o regeneration and conservation benefits, including securing the productive re-use of Stoneyholm Mill (Kilbirnie) and supporting the Millport Conservation Area Regeneration Scheme.
- f) Support the delivery of regional partnerships such as the Ayrshire Growth Deal in unlocking the economic potential of the Ayrshire region.

Strategic Policy 2

Placemaking

Our Placemaking policy will ensure we are meeting LOIP priorities to make North Ayrshire safer and healthier by ensuring that all development contributes to making quality places.

The policy also safeguards, and where possible enhances environmental quality through the avoidance of unacceptable adverse environmental or amenity impacts. We expect that all applications for planning permission meet the six qualities of successful places, contained in this policy. This is in addition to establishing the principle of development in accordance with Strategic Policy 1: Spatial Strategy. These detailed criteria are generally not repeated in the detailed policies section of the LDP. They will apply, as appropriate, to all developments.

Six qualities of a successful place

Distinctive

The proposal draws upon the positive characteristics of the surrounding area including landscapes, topography, ecology, skylines, spaces and scales, street and building forms, and materials to create places with a sense of identity.

Welcoming

The proposal considers the future users of the site and helps people to find their way around, for example, by accentuating existing landmarks to create or improve views (including sea views), locating a distinctive work of art in a notable place or making the most of gateway features to and from the development. It should also ensure

that appropriate signage and lighting is used to improve safety and illuminate attractive buildings.

Safe and Pleasant

The proposal creates attractive places by providing a sense of security, including by encouraging activity, considering crime rates, providing a clear distinction between private and public space, creating active frontages and considering the benefits of natural surveillance for streets, paths and open spaces.

The proposal creates a pleasant, positive sense of place by promoting visual quality, encouraging social and economic interaction and activity, and by considering the place before vehicle movement.

The proposal respects the amenity of existing and future users in terms of noise, privacy, sunlight/daylight, smells, vibrations, glare, traffic generation, and parking. The proposal sufficiently investigates and responds to any issues of ground instability.

Adaptable

The proposal considers future users of the site and ensures that the design is adaptable to their needs. This includes consideration of future changes of use that may involve a mix of densities, tenures, and typologies to ensure that future diverse but compatible uses can be integrated including the provision of versatile multi-functional greenspace.

Resource Efficient

The proposal maximises the efficient use of resources. This can be achieved by re-using or sharing existing resources and by minimising their future depletion. This includes consideration of technological and natural means such as flood drainage systems, heat networks, solar gain, renewable energy and waste recycling as well as use of green and blue networks.

Easy to Move Around and Beyond

The proposal considers the connectedness of the site for people before the movement of motor vehicles, by prioritising sustainable and active travel choices, such as walking, cycling and public transport and ensuring layouts reflect likely desire lines, through routes and future expansions.

Detailed Policy 3 -Town Centres & Retail

Policy 3:

Town Centres and Retail

Our town centres are the social and economic heart of our communities, providing jobs, homes and employment. Appropriate development within our town centres has the potential to improve their vitality and vibrancy. This can also ensure that investment in our communities is directed in a way that is most beneficial to residents, employees and visitors to our towns.

In principle, we will support development in our network of centres shown in schedule 6 where it would be of a scale appropriate to that centre.

For development that has the potential to generate significant footfall, we will support proposals that have adopted a town centre first sequential approach. This includes retail and commercial leisure uses, offices, community and cultural facilities and where appropriate, public buildings such as education and health facilities.

We will require that locations are considered, and a reasoned justification given for discounting them, in the order of preference:

- o Town centres (as defined in Strategic Policy 1).

- o Edge of town centres.
- o Other commercial centres (as defined above).
- o Out-of-centre locations that are, or can be made, easily accessible by a choice of transport modes.

We will be flexible and realistic in applying the sequential approach, in particular where key sector and employment uses are proposed, to ensure that different uses are developed in the most appropriate locations. It is important that community, education and healthcare facilities are located where they are easily accessible to the communities that they intend to serve. We recognise that for some uses, such as sports centres and schools, a town centre location may not always be the appropriate location for them, particularly where sports pitches are part of the proposal.

When a development is proposed within our Network of Centres, we will support proposals which positively contribute to:

- o The role and function of the centre within the network, including by addressing an identified opportunity.
- o Quality of character and identity that creates a shared sense of place for users, visitors and residents
- o Community well-being, including by supporting the integration of residential uses and by enhancing links with surrounding residential areas and tourist attractions via the road and path network with associated blue & green network.
- o Vitality, viability and vibrancy of the centre, supporting it as a place for business to locate, expand and flourish by enhancing and diversifying the mix of uses including supporting economic and social activity.
- o Our important retail streets/areas (as described in schedule 6 and in our Town Centre Audits), recognising the fragile nature of some of our retail areas.
- o Accessibility of the town centre including considering the location of regular rail and bus routes.

In principle, we will also support proposals which align with town centre strategies and we will continue to encourage other regeneration initiatives, such as Conservation Area renewal projects, which improve the quality, accessibility and perception of town centre environments.

Description

Planning permission is sought for the change of use from lounge bar to hot food takeaway and external alterations to include the erection of ventilation flue and formation of access ramp at 15 Pathfoot in Kilwinning.

The proposed change of use relates to an area to the rear of a public house, with a floorspace of approx. 51 sqm. The area is currently used as a bar lounge and store. The proposal would involve alterations to form a new kitchen area, store/pot wash area, service counter, and accessible and staff toilets. An access ramp would be formed to the southeast elevation of the building and would relate to a new entrance to the building which would be formed of a new aluminium glazed door and side screens. A ventilation flue would be installed on the southeast elevation of the building.

6 no. off street parking spaces would remain within the site. Waste storage and collection would be provided via an external bin area located within the existing car park.

The application site consists of the rear section of The Cosy Corner public house which fronts onto Pathfoot (A737). There is a car park located to the south of the building. Vehicular and pedestrian access to the proposed hot food takeaway would be via the car park. A bus stop is located immediately adjacent to the application site on the public footpath. The surrounding area is formed primarily of residential properties. However, there is also a used car dealership to the north and several other business premises located further north along the A737 closer to Kilwinning Town Centre.

The application site is located within the General Urban Area within the settlement boundary of Kilwinning as identified in the Adopted Local Development Plan (LDP). Kilwinning Town Centre is located approx. 230m to the northwest of the site, an approx. 3 - 5 minute walk. Therefore, the Towns and Villages Objective of Strategic Policy 1 (Spatial Strategy) applies, and the application requires to be considered in respect of Strategic Policy 2 (Placemaking) and Policy 3 (Town Centres and Retail).

Consultations and Representations

Neighbour notification was conducted for this application in accordance with statutory procedures and an advertisement was placed in a local newspaper. Four representations were received in response to the application, two in objection, one in support, and one neither in objection to nor supporting the planning application. The points raised are summarised below:

1. Concern that the proposed hot food takeaway will increase the number and frequency of vehicular traffic to the site.

Response: The traffic and parking implications of the proposal are considered in the Analysis section below. See also the consultation response from NAC Active Travel and Transport (Roads).

2. Concern regarding the parking associated with the proposed hot food takeaway due to the current situation where vehicles park on the public footpath.

Response: The traffic and parking implications of the proposal are considered in the Analysis section below. See also the consultation response from NAC Active Travel and Transport (Roads). The parking of private vehicles on the public footpath is not a matter for Planning Services.

3. Concern regarding litter associated with the hot food takeaway.

Response: This is not a material planning consideration. Nonetheless, it is noted that there is an existing waste bin located near the application site adjacent to the bus shelter on the public footpath at Pathfoot.

4. Concern regarding odour, noise, and disruption associated with the hot food takeaway.

Response: Amenity impacts including those highlighted are considered in the Analysis section below. See also the consultation response from NAC Environmental Health.

5. Concern that no proper neighbour consultation has been undertaken as part of the application process as neighbour notification letters were received 18th May 2022 the expiry date for public comments.

Response: It is acknowledged that there was a delay in the delivery of the neighbour notification letters for this application. Accordingly, additional time was made for public comments.

Consultations:

NAC Environmental Health - no objections to the development subject to a range of matters being addressed. In particular, the ventilation system for the hot food takeaway. A letter has been sent directly from Environmental Health to the applicant/agent regarding the matters raised.

Response: A condition could be added to any consent regarding the ventilation system.

NAC Active Travel and Transport (Roads) - no transport related objections to this proposal. There is sufficient parking and turning within the confines of the site to accommodate the proposed development, such that it will not impact on the adjacent public road network.

Response: Noted.

Scottish Water - no objection to this planning application. However, the application should be aware that this does not confirm that the proposed development can currently be serviced. Further advice given regarding water and wastewater capacity, drinking water protected areas, surface water, general notes, and next steps.

Response: Noted.

Analysis

The Towns and Villages Objective of Strategic Policy 1 (Spatial Strategy) supports, in principle, development proposals within North Ayrshire's towns and villages that support the social and economic functions of its towns centres by adopting a town centre first principle that directs major new development and investment to town centre locations as a priority including supporting town centre living. The application therefore requires to be considered with reference to Policy 3 (Town Centres and Retail) in addition to Strategic Policy 2 (Placemaking).

Firstly, in terms of Policy 3 (Town Centres and Retail), for development that has the potential to generate significant footfall, the Council will support proposals that have adopted a town centre first sequential approach. This includes a variety of uses and it is considered that the proposed hot food takeaway facility would fall under this type of development. Conversely, proposals which do not accord with Policy 3 may be contrary to the aims of the LDP. In this case, the application site is located outwith Kilwinning Town Centre and is within a General Urban Area as identified in

the LDP. In the submitted application, it has not been demonstrated that consideration has been given to the town centre first sequential approach. No reasoned justification has been provided for discounting the relevant locations in the order of preference (i.e., town centres, edge of town centres, other commercial centres, and out of centre locations that are, or can be made easily accessible by a choice of transport modes).

As noted above, the application site is located outwith Kilwinning Town Centre and within the General Urban Area of Kilwinning. The edge of Kilwinning Town Centre is located within approx. 230 metres of the application site, within walking distance of both the application site and the surrounding residential area with the primary walking route along the A737 available via the public footpath network and a walking time of around 3 - 5 minutes. Similarly, more immediate access to the town centre is available via cycle and public transport with several bus stops located throughout the surrounding residential area, or by private car. In these circumstances, it is not considered that a hot food takeaway can be justified at this location in terms of the town centre first principle. As such, the proposal would not accord with Policy 3 (Town Centres and Retail) and the associated town centre first principle and sequential approach. The proposal would undermine the goal of Policy 3 (Town Centres and Retail) to support the social and economic functions of the town centre.

The application also requires to be considered in accordance with Strategic Policy 2 (Placemaking). The stated purpose of Strategic Policy 2 on Placemaking is to ensure "all development contributes to making quality places." The policy also seeks to "safeguard, and where possible enhances environmental quality through the avoidance of adverse environmental or amenity impacts." Strategic Policy 2 (Placemaking) identifies six qualities of a successful place which all applications for planning permission are expected to meet. In this case, it is considered that the 'Safe and Pleasant' quality is most relevant.

In terms of the Safe and Pleasant quality, it is noted that proposals should respect the amenity of existing and future users of an area in terms of noise, privacy, sunlight/daylight, smells, vibrations, glare, traffic generation, and parking. It is acknowledged that the proposed hot food takeaway facility has the potential to cause nuisance to neighbouring residents by way of adverse noise and odours created through cooking processes and transport impacts through the pickup and delivery of hot food sales.

A ventilation flue is proposed to the southeast facing side elevation of the building. NAC Environmental Health has no objections to the development subject to a range of matters being addressed, including the ventilation system for the hot food takeaway.

In terms of traffic generation and parking, it is proposed that 6 no. off street parking spaces would remain within the site within the existing car park area off the A737. NAC Active Travel and Transport (Roads) has no transport related objections to this proposal observing that there is sufficient parking and turning within the confines of the site to accommodate the proposed development, such that it will not impact on the adjacent public road network.

In light of above, it is acknowledged that any noise and odour impacts resulting from the proposed hot food takeaway facility could potentially be mitigated through an appropriately designed ventilation system. There is existing parking provided at the site which would remain and could accommodate any associated vehicular travel,

provided it is used for short stay purposes. However, it is also recognised that the surrounding area to the application site is primarily residential in character and appearance, with the exception of the existing public house and the car dealership to the north. As noted above, it is not considered that the application site is of adequate distance away from Kilwinning Town Centre to justify the siting of a hot food takeaway in this location. Similarly, it is considered that the siting of a hot food takeaway facility within a primarily residential area would be inappropriate and would adversely impact on the residential character and amenity of the surrounding area. It is noted that the existing public house already represents a "bad neighbour" in the area. However, it is considered that the addition of a further "bad neighbour" use with the potential to cause nuisance to neighbouring residents by way of adverse noise and odours would not be appropriate.

Therefore, it is not considered that the proposal meets the relevant criteria of a successful place as identified in Strategic Policy 2 (Placemaking).

Based on the above observations, the proposal does not accord with the relevant policies of the LDP and there are no other material considerations to indicate otherwise. Therefore, planning permission should be refused.

Decision

Refused

Case Officer - Mr Joe Thompson

Appendix 1 - Drawings relating to decision

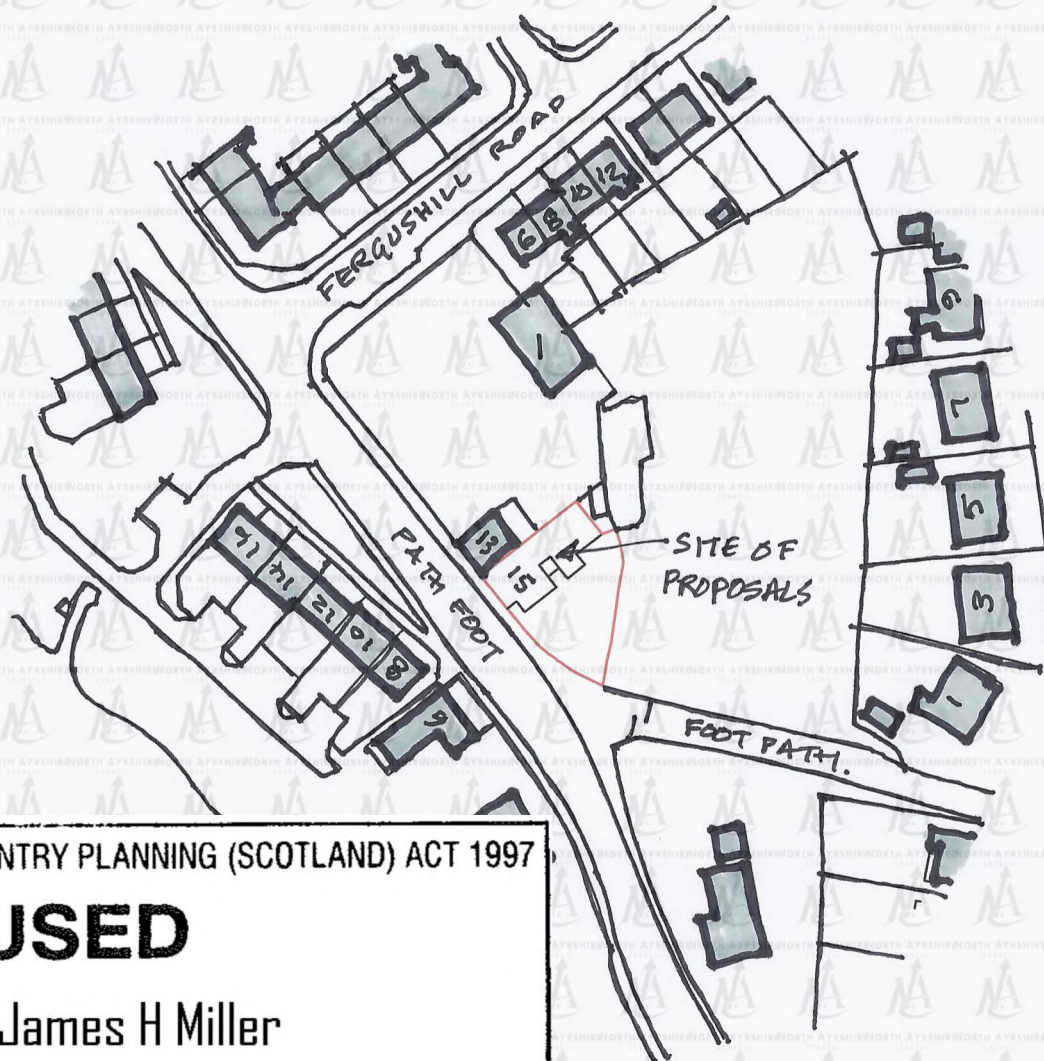
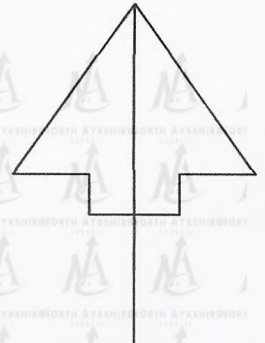
Drawing Title	Drawing Reference (if applicable)	Drawing Version (if applicable)
Block Plan / Site Plan		
Location Plan		
Existing Floor Plans	MH/01	
Proposed Floor Plans	MH/02	
Proposed Cross Section	MH/03	
Existing Elevations	MH/04	
Proposed Elevations	MH/05	



JAMES ROBERTSON ARCHITECT

B. Arch. Dip. Arch. A.R.I.B.A.

NORTH



TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

REFUSED

James H Miller

CHIEF DEVELOPMENT MANAGEMENT OFFICER

PROPOSED CHANGE OF USE FROM LOUNGE BAR TO HOT FOOD TAKE AWAY
AT 15 PATHFOOT KILWINNING
FOR Mr Mingyan He

LOCATION PLAN

1:1250



North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

Caitriona McAuley : Head Of Service (Economic Development & Regeneration)

No N/22/00292/PP

(Original Application No. N/100554662-001)

REFUSAL OF PLANNING PERMISSION

Type of Application: Local Application

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT, 1997,
AS AMENDED BY THE PLANNING ETC (SCOTLAND) ACT 2006.
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATIONS
2013

To : Mr Mingyan He
c/o James Robertson Architects
7 Park Avenue
Prestwick
Ayrshire
KA9 1RG

With reference to your application received on 22 April 2022 for planning permission under the above mentioned Acts and Orders for :-

Change of use from lounge bar to hot food takeaway and external alterations to include the erection of ventilation flue and formation of access ramp

at 15 Pathfoot
Kilwinning
Ayrshire
KA13 7NG

North Ayrshire Council in exercise of their powers under the above-mentioned Acts and Orders hereby refuse planning permission on the following grounds :-

1. The proposed hot food takeaway facility would be contrary to the Towns and Villages Objective of Strategic Policy 1 (Spatial Strategy) and Policy 3 (Town Centres and Retail) of the adopted North Ayrshire Local Development Plan as the site is located outwith Kilwinning Town Centre. Therefore, the proposal would not support the town centre first principle, which seeks to direct such uses to town centres in the first instance. No justification has been provided to demonstrate otherwise, nor would any other material considerations outweigh the provisions of the Local Development Plan.
2. The proposed hot food takeaway facility would be contrary to Strategic Policy 2 (Placemaking) of the adopted North Ayrshire Local Development Plan as it is likely to have an adverse impact on the predominantly residential character and amenity of the surrounding area as a result of additional noise, disturbance, traffic and potential cooking odours.

Dated this : 17 June 2022



.....
for the North Ayrshire Council

(See accompanying notes)



North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
AS AMENDED BY THE PLANNING ETC (SCOTLAND) ACT 2006.
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATIONS
2013 – REGULATION 28

Caitriona McAuley : Head Of Service (Economic Development & Regeneration)

FORM 2

1. If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of review should be addressed to Committee Services, Chief Executive's Department, Cunninghame House, Irvine, North Ayrshire, KA12 8EE.

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 5 of the Town and Country Planning (Scotland) Act 1997.