

---

## NORTH AYRSHIRE COUNCIL

26th October 2022

### Planning Committee

Locality	Garnock Valley
Reference	22/00593/PP
Application Registered	8th September 2022
Decision Due	8th November 2022
Ward	Garnock Valley

---

<b>Recommendation</b>	Approved subject to Conditions
-----------------------	--------------------------------

---

<b>Location</b>	32 Eglinton Street, Beith
-----------------	---------------------------

<b>Applicant</b>	Mr Mohammad Jawad
------------------	-------------------

<b>Proposal</b>	Change of use of vacant bank premises to hot food takeaway to include the erection of ventilation flue to rear
-----------------	--

---

### 1. Description

Planning permission is sought for the change of use of vacant bank premises within an attractive stone-built office building to form a hot food takeaway at ground floor level. The application affects part of a category B listed building, formerly occupied by the Beith branch of the Bank of Scotland. It is located on the ground floor of a 3.5 storey building at Eglinton Street within Beith Town Centre. The building is also within the Beith Conservation Area. The application site relates only to the ground floor level. It is proposed to sub-divide the ground floor with a customer waiting area at the front and servery/kitchen and stores (with separate rooms for food and refuse) to the rear. It is proposed that the kitchen would have a ventilation flue which would pass through the rear wall. The flue would then turn vertically, terminating 1m above the eaves. The flue itself would consist of a stainless-steel cylindrical tube topped with a cowl. It is also proposed to install a flue on the rear elevation. The bank has now been vacant since 2018. Throughout this period, the premises have been on the market for sale or lease. The proposed hours of operation have not been indicated on the application.

Three previous applications for a hot food takeaway at the premises have been submitted in recent years, two of which were refused (in 2019 and 2020). The first application was refused under delegated powers and was the subject of an appeal to the Local Review

Body. The appeal was dismissed in September 2019 (ref. 19/00159/PP). A further application, including a takeaway and a basement flat, was submitted in 2020 and refused under delegated powers in April 2020, but was not subject to local review (ref. 20/00237/PP). A repeat application was made in 2021 but was withdrawn prior to determination (ref. 21/00303/PP). Also in 2021, planning permission was granted for the conversion of the former bank premises to form two flats (ref. 21/00697/PP). Whilst this permission remains extant, it has not been implemented. Whilst the residential permission from 2021 remains extant, there has been no interest expressed in taking on the opportunity.

The application site is within Beith Town Centre and also Beith Conservation Area as identified within the Adopted Local Development Plan (LDP). On the upper floors of the building, with access from the same common front entrance door, is an accountant's office that is in separate ownership. It is understood that the basement of the former bank would remain as a storage area. The proposal requires to be assessed against Policy 3 (Town Centres), Policy 9 (Conservation Areas), Policy 10 (Listed Buildings) and Strategic Policy 2 (Placemaking). An application for listed building consent has also been submitted (ref. 22/00675/LBC).

## **Relevant Development Plan Policies**

### **SP1 - 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 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.

#### Detailed Policy 9 - Preserving and Enhancing our Conservation Areas

Development within or adjacent to a Conservation Area, that preserves or enhances its character and appearance, and is consistent with any relevant Conservation Area Appraisal or Management Plan, will be supported providing it can be demonstrated that it retains appropriate scale, proportion, siting, massing, design, and use of materials whilst not inhibiting high quality innovative design.

There is a presumption against the demolition of unlisted buildings that contribute positively towards the character and appearance of a Conservation Area. Proposals will only be supported in the following exceptional circumstances:

- i) The proposal is accompanied by a suitable redevelopment of the site which contributes positively toward the character and appearance of the Conservation Area. Such proposals should also include interim landscaping or sensitive screening of the site. We will also expect proposals to be accompanied by an implementation timetable and where the redevelopment period is considered to be excessive the demolition will generally be resisted.

AND

- ii) A competent assessment of the building's contribution to the Conservation Area has concluded that there is little or no value in the building's retention; and
  - o The repair or reuse of the building is not economically viable; or
  - o The demolition of the building is essential to delivering significant benefits to the wider community economically, socially or environmentally.

Works to trees within Conservation Areas will be supported where they are:

- o Part of an agreed scheme of tree management; or
- o Required on the grounds of safety or nuisance; or

- o Directed towards trees which are not of a material value to the conservation area (i.e. the trees are small, self-seeded saplings; or not otherwise visible to the public/neighbours - they are remotely located; or fast growing tree species such as conifers, leylandii etc.); or
- o In association with a wider development proposal which would enhance the amenity of the conservation area overall - including one where suitable replacement trees can be accommodated.

Further information on our Built Heritage Designations can be found in schedule 9.

### Detailed Policy 10 - Listed Buildings

We will support proposals for the re-use and restoration of a Listed Building where the special architectural or historical interest of the building is preserved and enhanced. This can include the restoration of original features which have previously been lost due to development or demolition. The layout, design, materials, scale, siting and use of any development affecting a Listed Building or its setting should be appropriate to the character and appearance of the listed building.

Enabling development may be acceptable where it can be clearly shown to be the only means of preventing the loss of the asset and securing its long-term future. Any development should be the minimum necessary to achieve these aims. The resultant development should be designed and sited carefully to preserve or enhance the character and setting of the historic asset.

There is a presumption against the demolition of Listed Buildings and will only be supported in the following exceptional circumstances:

- i) The building is not of special interest; or
- ii) The building is incapable of repair and reuse through the submission and verification of a thorough structural condition report produced by a qualified structural engineer; or
- iii) The repair of the building is not economically viable, and it has been marketed at a price reflecting its location and condition to potential restoring purchasers for a reasonable period; or
- iv) The demolition of the building is essential to delivering significant benefits to the wider community economically, socially or environmentally

## 2. Consultations and Representations

The application was subject to the statutory neighbour notification procedures and also included an advertisement in a local newspaper. 3 representations have been received. The contents of these are summarised below:

### Objections

1. There are presently five or six hot food takeaways in Beith town centre, four of which are within 100 metres of each other in a continuous row from 32 to 42 Eglinton Street. It is questioned whether not there is a need for another takeaway.

*Response: This is not an accurate reflection of Eglinton Street, the overall condition of which continues to be harmed by many vacant shop units and buildings. There is one existing takeaway adjacent to the vacant bank premises, another nearby. Both open during evening*

hours. There are several other takeaways further down the street (one of which is a baker's shop that opens only during daytime; the other is a long established traditional fish and chip shop catering for evening trade). These outlets provide a variety and cater for different markets at different times. There are other takeaways elsewhere in the town centre. Finally, there is no 'needs test' in relation to applications for hot food takeaways in town centres: applications require to be assessed on their individual merits. See Analysis.

2. The proposed takeaway would increase traffic with danger to drivers and pedestrians alike. Double parking occurs when deliveries are taking place and there are also bus stops nearby, all adding to congestion.

*Response: There is no evidence to support that there would be any significant increase in traffic nor congestion resulting from this proposal. Town centre trade has declined in recent years and there is parking available nearby for customers and delivery drivers to use free of charge. See also Active Travel and Transportation response below.*

3. If there is a fracas in the common entrance lobby arising from the proposed takeaway, the window of the door leading to the upper flat could get broken. No details of signage are indicated in the application. A neon sign would surely be inappropriate on a listed building.

*Response: Noted. Anti-social behaviour or vandalism is not a material planning consideration and would be a matter for the police. Signage would be subject to further application(s) for advertisement consent and potentially listed building consent.*

4. It is noted that a flue is proposed for the rear wall of the building. Permission from the owner above the application site has not been sought. What guarantee would there be that the flue would not result in cooking fumes affecting the upper floor?

*Response: Permission to attach the flue brackets onto the wall, if required, would be a private legal matter between the parties concerned. The proposed flue design includes a detailed design specification indicating the system for removing cooking odours from the air to be expelled. This matter could be addressed further by a condition.*

## **Comment**

1. If this is another Chinese takeaway, then this application should not be supported. If it is an Indian or kebab shop, then that should be fine. The town already has 3 Chinese takeaways.

*Response: Noted. The type of food which a hot food takeaway offers is not controlled by the planning system, nor is competition between businesses.*

## **Consultations**

**Environmental Health** – No objections. The application gives specifications for various pre-filters designed to control odours; however, it is not clear from the plans where or if these filters will actually be installed. No information is provided in relation to noise control. Conditions are therefore recommended to address these issues.

*Response: Noted. The matters raised could be covered with the imposition of appropriate planning conditions.*

**NAC Active Travel and Transport** - No objections. Parking is available on street at this location, which is currently unrestricted. North Ayrshire Council reserves the right to alter parking control measures in the future.

*Response: Noted.*

**Beith Community Council** was consulted but did not provide a response.

### **3. Analysis**

The application site consists of a category B listed building located within Beith town centre and within Beith Conservation Area. Unless material considerations indicate otherwise, the application requires to be determined in accordance with the provisions of the Local Development Plan, which would include Policy 3 on town centres, Policy 9 on conservation areas, Policy 10 on listed buildings and Strategic Policy 2 on placemaking.

Policy 3 of the adopted LDP states that "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." The policy considers a range of issues including role and function of the centre; quality and character; community well-being; vitality, viability and vibrancy as well as several other matters that are less relevant to this proposal.

Prior to the Covid-19 pandemic, footfall was observed to be low in Eglinton Street during daytime, which may be a consequence of the changing nature of Beith town centre as a local shopping and service centre. Since the refusal of the second application in 2020, there has been further decline in Eglinton Street, due to the effects of Covid-19, with more long-term vacant premises, low footfall and a growing problem of unmaintained and dilapidated buildings and shopfronts, all having been observed. These issues were observed again in the Spring of 2021 when the third application was submitted. This application was withdrawn. The lack of footfall, low levels of economic activity and visible decline of the physical fabric within the street continues to be evident during the Autumn of 2022.

32 Eglinton Street has now been vacant for over four years. It is noted that a robust marketing exercise has been undertaken by the applicant since November 2020 using a professional agent. This exercise has not resulted in any alternative proposal from a third party. The owner obtained planning permission for residential use during 2021. Again, no interest has come forward. It is therefore considered that, had there been any serious demand for the property, it is probable that this would have emerged after four years.

The 2019 planning application (ref. 19/00159/PP) was refused under the previous Local Development Plan and was considered at the LRB around six months before the outbreak of the Covid-19 pandemic. Permission was sought to operate until midnight. The 2019 application was refused on the following grounds:

*The proposal would be contrary to the provisions of the North Ayrshire Council Local Development Plan Policy TC 1 and General Policy criterion (b) Amenity, by reason of the*



*resulting concentration of hot food uses in close proximity to one another resulting in adverse impacts on amenity, including additional noise, disturbance, potential odour nuisance and adverse impacts on the character of Beith town centre.*

The 2020 planning application (ref. 20/00237/PP), which was also refused, differs in a number of respects from the original proposal in that it was submitted after the adoption of the current LDP. Again, permission was sought to operate until midnight. In addition, the 2020 application included proposals for a basement flat. It was refused on the following grounds:

*"The proposal would be contrary to the provisions of the adopted North Ayrshire Council Local Development Plan Policy 3 (Town Centres) and Strategic Policy 2 (Placemaking), by reason of the resulting concentration of hot food uses in close proximity to one another to the detriment of the vitality, viability and vibrancy of Beith town centre. The proposed basement flat would not enjoy an acceptable level of residential amenity given its single aspect orientation and siting below a hot food takeaway."*

In contrast to the earlier applications, both of which were submitted before the impact of the Covid-19 pandemic on town centres, and both of which sought permission to operate until midnight, it is not considered that the current proposal would result in an unacceptable concentration of hot food uses within Eglinton Street given both the level of decline that has been observed and that different hours of operation could be applied, thus providing an opportunity for adding to the vitality and viability of Beith town centre during the daytime and evening period. In contrast, the 2019 and 2020 applications would have had hours of operation later into the night, resulting in greater potential for noise and disturbance to nearby residents. Finally, the current application does not propose a basement flat, thus addressing this potential amenity issue.

Accordingly, in the absence of any alternative viable proposal for the premises, it is reasoned that the proposed change of use of the former bank for hot food takeaway use would accord with Policy 3.

With regards to Policy 9 (Conservation Areas), the only proposed external alterations relate to the erection of a metal flue on the rear elevation. This installation would not be visible from Eglinton Street. The rear of the property is set some distance back from Bellsdale Park and views towards it are mitigated, in part, by an established wooded area. These alterations and the proposed use for the building would not of themselves cause any significant harm to the character of the Conservation Area. Nevertheless, detailed consideration in terms of the proposed alterations to the building is also required in respect of Policy 10, below.

Policy 10 (Listed Buildings) seeks to support the re-use and restoration of a listed building where some of its character has been lost in the past. Whilst there are some matters of detail to consider, a wider and more significant issue is that long term vacancy of older buildings causes serious harm to their historic fabric, especially when unheated and unmaintained. After four years of vacancy, a new use for the former bank premises is now vital. The front of the building has retained almost all of its external architectural character, having been carefully managed by its former owners over many decades. The proposed alterations on the rear elevation have not attracted any adverse comments from Historic Environment Scotland. The rear elevation is not especially visible from the surrounding area. As such, it is considered that the visual impact of a large metal flue on the rear

elevation could be mitigated by paintwork, the details of which could be addressed by condition within the Listed Building Consent. On balance, it is considered that the proposal could be supported in relation to Policy 9.

In respect of the Placemaking Policy, the most relevant quality is that of 'Safe and Pleasant'. The application premises were operated as a bank over a long period of many decades, as has been noted above. However, the premises have been vacant for well over 4 years now, and therefore do not provide an active frontage onto Eglinton Street.

Whilst there are other hot food takeaways and food outlets in close proximity, including one directly adjacent, several of these open only during evening hours. Whilst no specific hours have been specified in the application, a condition could be attached to control the maximum operating hours. In the interests of promoting increased footfall during daytime, the focus of the hours of operation could be on the lunchtime to evening period in order to achieve a better balance of town centre trade. A condition limiting the hours of operation from 12 noon - 9 pm could be attached to any grant of planning permission.

Concerns about an unbalanced mix of uses in Eglinton Street were noted during the consideration of previous applications, but the decline has steadily continued and has arguably been accelerated by several Covid-19 lockdowns during the past two and a half years. Given that active marketing of the premises has been ongoing since November 2020, it is now reasonably clear that there is little or no economic demand for other forms of commercial use at the premises nor for a residential use as an alternative. The applicant is proposing to operate a business which would be preferable to the ongoing situation of decline. In previous years, there were concerns raised about the impacts of another takeaway on town centre flats. Notably, this is no longer reflected in the representations which have been submitted. Conversely, there is now a more significant issue with the growing number of vacant premises (including entire vacant buildings).

In light of current circumstances, which appears to be part of an established longer-term trend, it is now considered the proposal could be supported in terms of the 'Safe and Pleasant' quality of Placemaking. Environmental matters, such as noise and odours from cooking, would be addressed by conditions.

In relation to the other qualities, the premises are centrally located within Beith and have good access to public transport, parks and open spaces. As such, the proposed takeaway would be appropriately located both for business purposes. Finally, the proposal also demonstrates that the building is adaptable to change. In summary, the proposal accords with the Placemaking Policy.

Notwithstanding the history of previous refusals, the material considerations identified above in relation to the decline of Eglinton Street and the long term vacancy presented by the former Bank of Scotland has led to the conclusion that the proposed hot food takeaway, in light of the circumstances, would now accord with the relevant provisions of the LDP, including Policy 3 on town centres and the strategic policy on placemaking. As such, the application should therefore be granted, subject to conditions.

#### **4. Full Recommendation**

Approved subject to Conditions

## **Reasons for Decision**

### **Condition**

1. That prior to the commencement of the development hereby approved, full details and drawings of the extraction system (including details of odour control and noise/vibration reduction measures) shall be submitted and approved in writing by North Ayrshire Council as Planning Authority. Details of the extraction system will be accompanied by written certification from a member of the Building & Engineering Services Association, or any other suitably qualified person, confirming that the extraction system, as designed:

- can be affixed to the external wall without the need for approval by a third party, or alternatively, evidence of such approval;
- is suitable for use in a catering environment;
- will provide a suitable rate of extraction above all cooking appliances;
- will sufficiently reduce or eliminate odours and efficiently extract products of combustion, considering the nature of the business, will discharge to the external air in a suitable area to prevent odours affecting the residents of surrounding dwellings;
- has incorporated any necessary noise/vibration reduction measures to ensure operation of the system will not result in intrusive levels of noise affecting the residents of adjoining and surrounding dwellings.

Thereafter, the extraction system shall be fully installed as detailed in the drawings and tested prior to the commencement of the operation, shall always be in operation when cooking appliances are in use and shall be maintained to the satisfaction of North Ayrshire Council as Planning Authority.

### **Reason**

In the interest of the amenity of the area.

### **Condition**

2. The rated noise level, as defined in BS4142, from the operation of plant/equipment (extraction system and associated flues) shall not exceed the background noise level by 5dB(A) or more at the curtilage of any noise sensitive property in the vicinity of the site.

### **Reason**

In the interest of the amenity of the area.

### **Condition**

3. That the maximum operating hours of the hot food takeaway hereby approved shall be between 1200 and 2100 hours on any day. The premises shall not operate outwith these hours without the prior written approval of North Ayrshire Council as Planning Authority.

### **Reason**

In the interest of the amenity of the area.

James Miller  
Chief Planning Officer

For further information please contact Mr A Hume Planning Officer on 01294 324318.

## Appendix 1 – Location Plan

**DO NOT SCALE** Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. North Ayrshire Council Licence Number 100023393.

