

Local Review Body
23 February 2022

At a Meeting of the Local Review Body of North Ayrshire Council at 2.30 p.m. involving participation by remote electronic means.

Present

Christina Larsen, Timothy Billings, Robert Foster, Ellen McMaster and Donald Reid.

In Attendance

J. Miller, Chief Planning Officer, I Davies, Senior Development Management Officer, L. Dempster and K. Gee, Technicians (Planning) (Economic Development and Regeneration); J. Law, Solicitor (Legal Services) and A. Little and H. Clancy, Committee Services Officers (Chief Executive's Service).

Apologies

Robert Barr, Ian Clarkson, Shaun Macaulay and Ronnie McNicol.

Chair

Councillor Larsen in the Chair.

1. Declarations of Interest

In terms of Standing Order 10 and Section 5 of the Code of Conduct for Councillors, Councillor Reid declared an indirect interest in Agenda Item 3: Notice of Review: 21/01027/PP: 1 -3 Gargarin Terrace, Kilwinning.

Following refusal of planning permission, the applicant had contacted him for advice on the next steps available to him. Councillor Reid sought guidance from officers and forwarded that advice to the applicant, making no comment or opinion on the application. Councillor Reid advised that the nature of the interest was such that it did not preclude him from participation in determination of the item.

1. Minutes

The Minutes of the meeting of the Local Review Body held on 26 January 2022 were confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

2. Notice of Review: 21/01027/PP: 1 -3 Gargarin Terrace, Kilwinning

Submitted report by the Head of Service (Democratic) on a Notice of Review by the applicant in respect of a planning application refused by officers under delegated powers. The Notice of Review documentation, Planning Officer's Report of Handling, Location Plan, Planning Decision Notice, Further representations and the applicant's response to further representations were provided as appendices to the report.

The Planning Adviser to the Local Review Body summarised the Notice of Review submitted by the applicant and the Report of Handling submitted by the appointed officer. Photographs and plans of the site were displayed.

Councillor Foster, seconded by Councillor Billings, moved that the Local Review Body uphold the officer's decision to refuse the application for the reasons outlined in the Decision Notice.

As an amendment, Councillor Reid, seconded by Councillor McMaster, moved to uphold the appeal and grant the application, subject to relevant conditions, including those relating to bin storage, extraction system and opening hours.

On a division and a roll call vote, there voted for the amendment, Councillor Larsen, McMaster and Reid (3) and for the motion, Councillors Foster and Billings (2), and the amendment was declared carried.

Accordingly, the Local Review Body agreed to grant the application, subject to the following conditions:-

1. That the hot food takeaway hereby approved shall not operate out with the hours of 15:00 to 22:00 inclusive, to the satisfaction of North Ayrshire Council as Planning Authority.
2. That prior to the commencement of the development hereby approved, the applicant shall provide full details of an alternative bin store location for both the existing shop and the hereby approved hot food takeaway, for the written approval of North Ayrshire Council as Planning Authority. Thereafter, the bin store shall be provided in accordance with such details as may be approved and maintained in perpetuity.
3. Prior to the commencement of the development hereby approved, full details of the extraction system (including, where necessary, 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:
 - 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, and will discharge to the external air in a suitable area to prevent odours affecting the residents of adjoining and 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 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.

4. That the rated noise level, as defined in BS4142, from the operation of plant/equipment e.g. extraction system and associated flues, must not exceed the background noise level by 5dB(A) or more at the curtilage of any noise sensitive property, to the satisfaction of North Ayrshire Council as Planning Authority.

The meeting ended at 3.00 p.m.