
NORTH AYRSHIRE COUNCIL

23 February 2022

Local Review Body

Title: Notice of Review: 21/01027/PP: 1 -3 Gargarin Terrace, 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 21/01027/PP: 1 -3 Gargarin Terrace, Kilwinning for the erection of a hot food takeaway to the side of the shop unit to include the erection of a ventilation flue.

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;
- Appendix 4 - Planning Decision Notice;
- Appendix 5 - Further Representations; and
- Appendix 6 - Applicants Response to Further Representations.

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. Representations received from interested parties or statutory consultees to the planning application are attached at Appendix 5 and Appendix 6 provides the applicant's response to these representations.

Craig Hatton
Chief Executive

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

Background Papers

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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 100488702-003

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="JWM Architectural Drawing Services"/>		
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="Mair"/>	Building Number:	<input type="text" value="25"/>
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="Scotland"/>
		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="Joseph"/>	Building Number: <input type="text" value="█"/>
Last Name: *	<input type="text" value="Fitzsimmons"/>	Address 1 (Street): * <input type="text" value="██████████"/>
Company/Organisation	<input type="text"/>	Address 2: <input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: * <input type="text" value="██████"/>
Extension Number:	<input type="text"/>	Country: * <input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: * <input type="text" value="██████"/>
Fax Number:	<input type="text"/>	
Email Address: *	<input type="text" value="████████████████████"/>	

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="1-3 GAGARIN TERRACE"/>
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 6JA"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="642718"/>	Easting	<input type="text" value="230133"/>
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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)

proposed extension to general store to form a chip shop takeaway

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.

see attached statement

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)

a supporting statement was not included in the original application due to the ignorance of the agent not realising the importance of this statement at that time

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)

Document headed "Appeal"

Application Details

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

21/01027/PP

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

20/10/2021

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

14/12/2021

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 James Mair

Declaration Date: 19/01/2022

Proposal: Erection of hot food takeaway to side of shop unit to include the erection of ventilation flue at 1-3 Gagarin Terrace, Kilwinning, Ayrshire, KA13 6JA

The application was refused under the contents of Strategic Policy 1 (Spatial Strategy), Strategic Policy 2 (Placemaking) and Policy 3 (Town Centres and Retail).

The applicant would like to comment on the grounds of refusal as follows:-

The existing site consisted of a grocers shop, newsagent and hot food takeaway before being converted into one large retail unit with a hot food takeaway facility.

The land on which the proposed chip shop extension is to be built was bought from the council with this chip shop business in mind and was intimated to the council at that time when an offer was made but no indications were given back by the council that a chip shop would be problematic for the area.

In relation to siting the new business within the town centre boundary, the applicant feels that there is no benefit to this as there exists at least two chip shops within this area with other various hot food outlets and creating another one would not be financially viable.

The people who would use the new proposal at Gagarin Terrace are the local people of Blacklands area who would not drive into the town centre for this service and certainly wouldn't walk as it is too far to walk both ways for a hot food takeaway.

Since the proposals were made public, there has been a lot of good feedback and constant enquiries from the local people to the staff within the general store from the 'older' residents as to what is happening with the Planning Application and when is it likely that the extension can be built.

In the Report of Handling it was suggested that because the existing general store sells takeaway food it should not be considered necessary to provide a second hot food takeaway at this location.

Applicant would like to point out that there has recently been approval given to premises in Pennyburn, adjacent to the railway station on the outskirts of the town centre boundary that creates two fast food outlets next door to each other which contradicts the point being made above.

The general store does not provide a menu that is available from a chip shop and feel that this is an unfair comparison to make.

It also should be mentioned that most communities within most towns have their own hot food takeaway, whether it be chip shop, Indian, Chinese, pizza etc. etc.

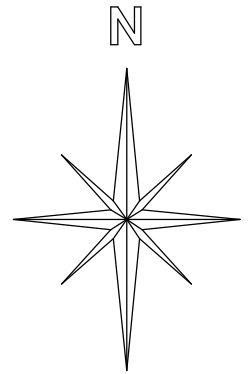
The new proposal will be a small scale operation within this community and is a minor departure from the Policies mentioned that will employ at least 4 people.

The opening hours that have been deemed to be too late and can easily be limited to the same closing time as the adjoining store.

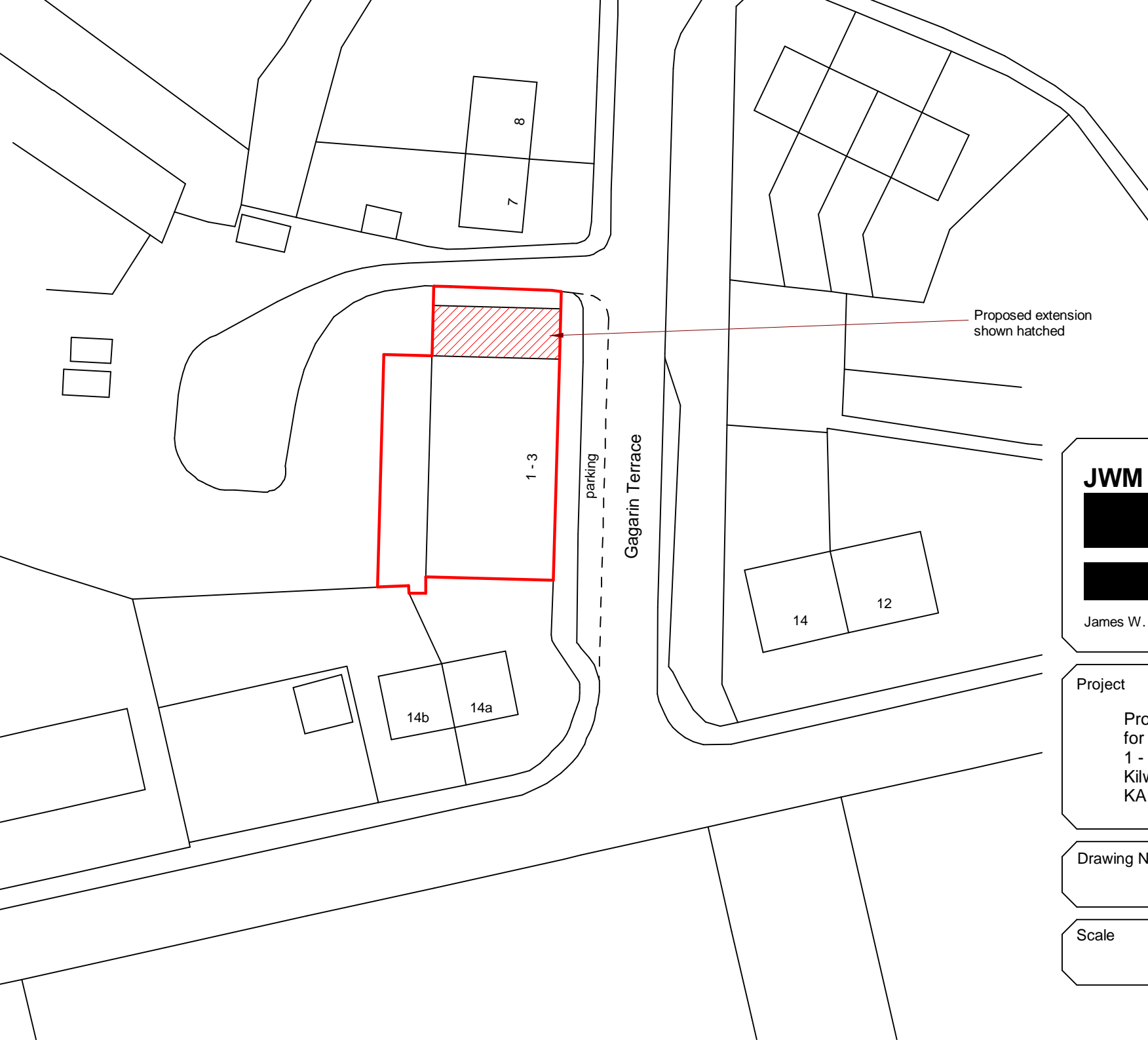
With respect to the unit being located approx. 7.8m from the neighbouring house to the north, the proposals would not cause any additional nuisance or be detrimental to that property as it would be separated by an access road.

The existing general store is located a further 5.0m away and poses no problem at present with regard to late night nuisance or disturbance.

Separate arrangements have been made in the past with the council regarding storage of waste and the same would apply to the new chip shop.



Location Plan 1:2500



Proposed extension
shown hatched

JWM (Architectural Drawing Services)



James W. Mair MCIAT Architectural Technologist

Project

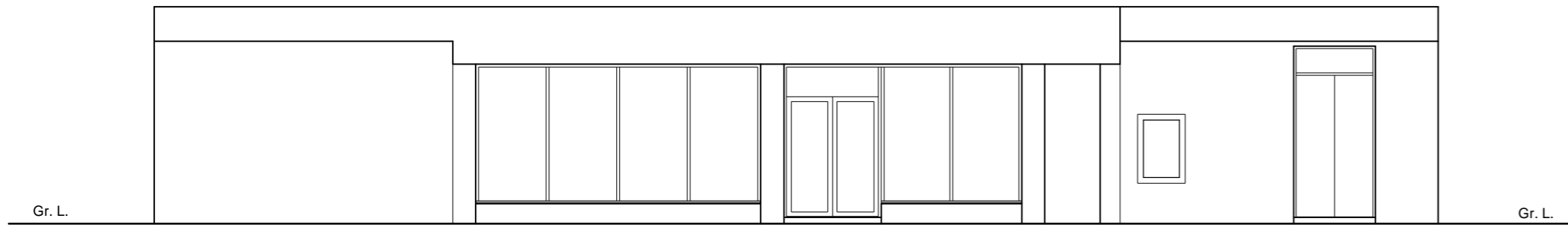
Proposed Chip Shop Extension
for Mr. J. Fitzsimmons at
1 - 3 Gagarin Terrace
Kilwinning
KA13 6JA

Drawing No.
A001

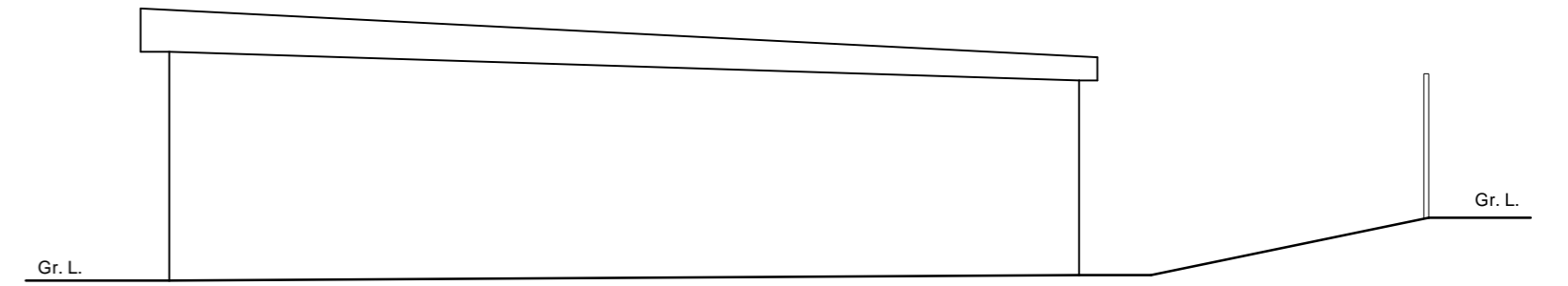
Revision

Scale
1:500

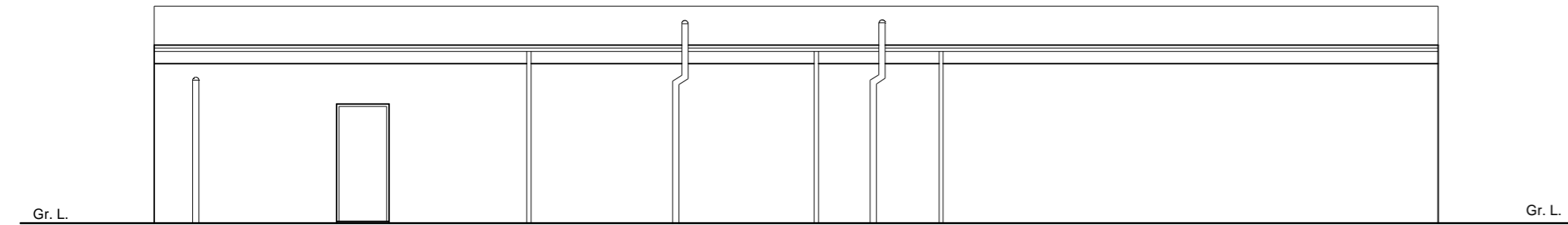
Date
October 2021



Existing East Elevation



Existing North Elevation



Existing West Elevation



Existing Plan

JWM (Architectural Drawing Services)
 [Redacted]
 [Redacted]
 James W. Mair MCIAT Architectural Technologist

Project
 Proposed Chip Shop Extension
 for Mr. J. Fitzsimmons at
 1 - 3 Gagarin Terrace
 Kilwinning
 KA13 6JA

Drawing No. A002	Revision
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Scale 1:100	Date October 2021
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Proposed Plan

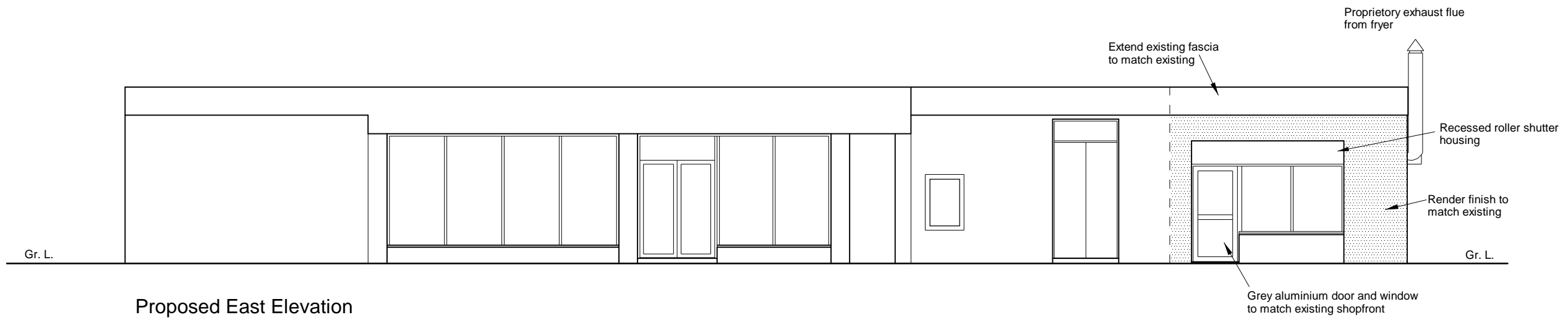
General note to confirm that prior to commencement on site, full details of extraction system, odour control, noise levels etc. will be provided to council for approval and accompanied with a written certification from a member of the Building & Engineering Services Association (or any other equally qualified person in this field)

JWM (Architectural Drawing Services)
 [Redacted]
 [Redacted]
 James W. Mair MCIAT Architectural Technologist

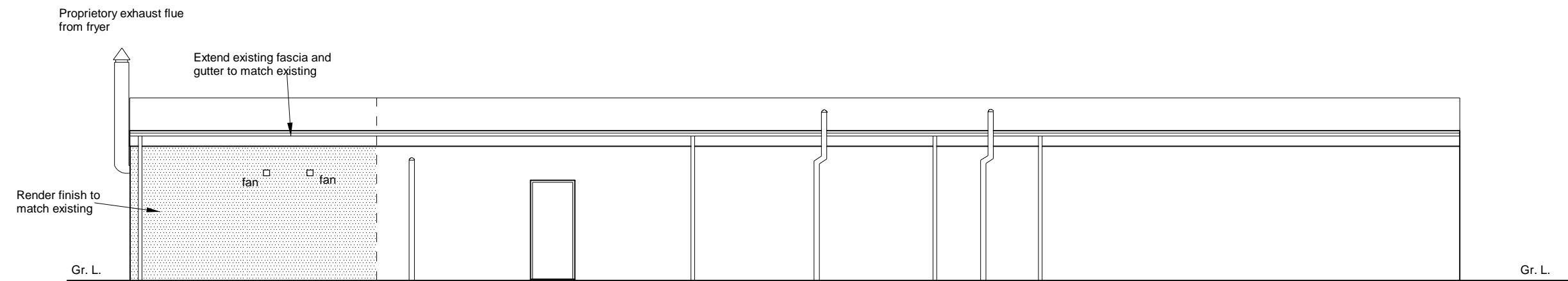
Project
 Proposed Chip Shop Extension
 for Mr. J. Fitzsimmons at
 1 - 3 Gagarin Terrace
 Kilwinning
 KA13 6JA

Drawing No. A003a	Revision lvs added
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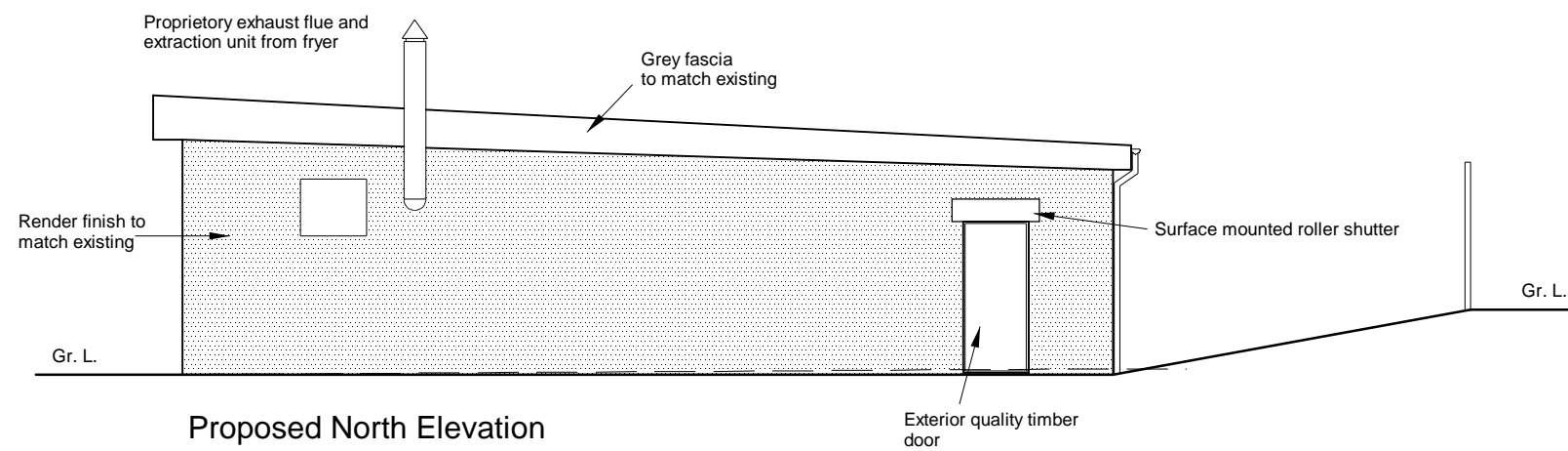
Scale 1:50	Date October 2021
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Proposed East Elevation



Proposed West Elevation



Proposed North Elevation

JWM (Architectural Drawing Services)
 [Redacted]
 [Redacted]
 James W. Mair MCIAT Architectural Technologist

Project
 Proposed Chip Shop Extension
 for Mr. J. Fitzsimmons at
 1 - 3 Gagarin Terrace
 Kilwinning
 KA13 6JA

Drawing No. A004	Revision
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Scale 1:100	Date October 2021
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REPORT OF HANDLING



North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

Reference No:	21/01027/PP
Proposal:	Erection of hot food takeaway to side of shop unit to include the erection of ventilation flue
Location:	1-3 Gagarin Terrace, Kilwinning, Ayrshire, KA13 6JA
LDP Allocation:	General Urban Area
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 22.10.2021 Neighbour Notification expired on 12.11.2021
Advert:	Regulation 20 (1) Advert Published on:- 03.11.2021 Expired on:- 24.11.2021 Schedule 3 Published on:- 03.11.2021 Expired on:- 24.11.2021
Previous Applications:	03/00895/PP for Extension to side of shop, installation of new shopfront and ATM to front and alterations to rear elevation Approved subject to Conditions on 20.01.2004

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

The application site refers to a small retail building within the residential area at Gagarin Terrace, Kilwinning. The building is occupied by a small local shop and comprises of a single storey detached structure with a mono-pitched roof. The site refers to a small section of land to the north of the existing building which is currently open grass and is being used to store trolleys and bins.

It is proposed to erect a single storey extension to the north side of the building to form an additional retail unit to house a hot food takeaway (a chip shop). The extension would measure approx. 65sqm in area and would have a mono-pitched roof to match the height of the existing building (approx. 3.75m). It would feature a shopfront on the east elevation, a personnel door on the north elevation and an

approx. 4.5m high flue on the north elevation. The walls of the extension would be finished in render. An area to the north of the extension would be retained for bin storage.

In the adopted North Ayrshire Local Development Plan (LDP) the site lies within a General Urban Area allocation and therefore the Towns and Villages Objective of Strategic Policy 1: Spatial Strategy applies to this proposal. In addition, all development proposals require to be assessed in terms of Strategic Policy 2: Placemaking. Policy 3: Town Centres and Retail, also applies to this proposal.

The retail unit originally comprised of three separate units but has been combined into one. It has also already been extended to the north following an approved Planning application in December 2003 (03/00895/PP).

Consultations and Representations

The standard neighbour notification was undertaken, and the application was advertised in the local press. One letter of objection has been received. The points raised in which are summarised below:

1. The proposed extension is too near to neighbouring residential dwellings.

Response: The proposed extension would be located approx. 7.8m from the neighbouring house to the north. The proposed opening hours for the hot food takeaway are 15:00 to 23:00 seven days per week. The adjacent shop closes at 10pm. The proposed late opening hours would potentially impact negatively on nearby housing due to the potential for noise and disturbance late at night. See Analysis.

2. There is already an issue with rubbish being left on the land and people loitering, and the proposal will likely exacerbate the situation. The objector's wall has been damaged by people sitting on it.

Response: Should planning permission be granted, further details of bin storage could be ensured via condition in order to make sure that rubbish is not left outside. Restricting people sitting on walls is not a matter for the planning system to address.

3. There is already a shortage of parking in the area and the proposed development would increase demand on parking without providing new spaces.

Response: North Ayrshire Council (NAC) Active Travel and Transportation were consulted and did not raise any concerns relating to the impact of the proposal on parking in the area.

Consultations:

NAC Environmental Health: No information has been provided regarding noise or odour control measures incorporated into the ventilation/extraction system. Conditions covering this issue are recommended. The toilet should not open directly into a food preparation area. A condition should limit the noise level at nearby noise sensitive properties.

Response: Noted. Conditions covering ventilation/extraction and noise could be attached to any planning permission. Whilst internal layout is not a material planning consideration, the floor plan has been revised to show a separation between the toilet and the food area.

NAC Active Travel and Transportation: No objections.

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 town centres by adopting a town centre first principle. This approach directs major new development and investment to town centre locations as a priority including supporting town centre living. Whilst the proposal is not major in scale, it nevertheless relates to a capital investment in the built environment of Kilwinning. 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 approximately 600m outside of Kilwinning Town Centre and is within a General Urban Area as identified in the LDP. Whilst it is noted that the proposal is small in terms of scale, the applicant has not demonstrated that consideration has been given to the town centre first sequential approach and no reasoned justification has been provided for discounting the relevant locations in the order of preference (ie. town centre sites, edge of town centre sites, other commercial centres, and out of centre locations that are, or can be made easily accessible by a choice of transport modes).

The application site is located in the middle of a residential area. As noted above, it is located about 600m from the town centre or a 5-10-minute walk. At present, Kilwinning town centre suffers from high levels of vacant retail and commercial units which can, at least in part, be attributed to the availability of out-of-town retail and more recent trends towards online shopping. The existing shop at Gagarin Terrace serves the immediate residential neighbourhood and is considered to be a local convenience store serving the Blacklands area. The shop already sells takeaway food and has a large ventilation flue on the rear wall. It is not considered necessary to provide a second hot food takeaway at this location given its relative proximity to Kilwinning town centre where there are vacant units that could accommodate a new business of this type. It is therefore considered that the proposed development would have a negative impact on the town centre by diverting investment away from where it is most needed to support Kilwinning's regeneration. In summary, the proposal would undermine the stated aim of Policy 3 (Town Centres and Retail) to support the social and economic functions of the town centre.

Strategic Policy 2 states that all applications for planning permission should meet the qualities of successful places. The scale of the proposed hot food retail unit would be relatively small. It would occupy a parcel of land beside an existing single storey shop unit, some of which is used to store bins and cages within view of the street. The design of the proposed extension would be in-keeping with the appearance of the existing building both in terms of design, scale and external finishing materials.

The proposed hot food takeaway unit would be located close to nearby dwellinghouses, and in particular would be approx. 7.8m from the neighbouring house to the north. The proposed opening hours for the hot food takeaway are 15:00 to 23:00 seven days per week. The shop closes at 10pm. The proposed late opening hours would potentially impact negatively on nearby housing due to the potential for noise and disturbance late at night. If the application is granted, further details would be required regarding the ventilation/extraction system to ensure that there would be no negative impacts on nearby properties in terms of noise or fumes; such details could be ensured via condition. It is not considered that the proposal would result in any overlooking or overshadowing of neighbouring properties.

In terms of access, no dedicated parking is proposed. There is on street parking, however, the road is quite narrow and excessive parking could lead to congestion. There is a hard-surfaced road to the rear of the site which provides access to a number of domestic garages. Due to the small scale of the proposal and the likelihood that it would primarily serve the surrounding residential area where all houses are within walking distance it is not considered that the proposed development would lead to a significant increase in vehicular traffic. It is noted that NAC Active Travel and Transport has not objected to the proposal.

Although the proposed development is potentially acceptable in terms of its scale and design, as it is contrary to the town centre first principle, it would not meet the qualities of successful placemaking. The surrounding area to the application site is primarily residential in character and appearance, with the exception of the existing retail unit at the application site. 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. The proposal is therefore contrary to 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.

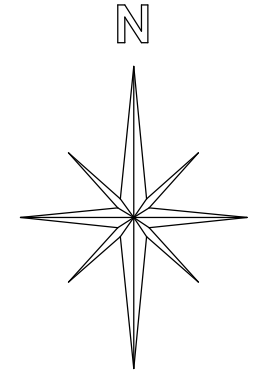
Decision

Refused

Case Officer - Mr John Mack

Appendix 1 - Drawings relating to decision

Drawing Title	Drawing Reference (if applicable)	Drawing Version (if applicable)
Location Plan		
Block Plan / Site Plan	A001	
Existing Plans and Elevations	A002	
Proposed Elevations	A004	
Proposed Floor Plans	A003a	



Location Plan 1:2500



North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

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

No N/21/01027/PP

(Original Application No. N/100488702-001)

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 Joseph Fitzsimmons
c/o JWM Architectural Drawing Services Fao James Mair
25 Woodside Avenue
Kilmarnock
Ayrshire
KA1 1TU

With reference to your application received on 22 October 2021 for planning permission under the above mentioned Acts and Orders for :-

Erection of hot food takeaway to side of shop unit to include the erection of ventilation flue

at 1-3 Gagarin Terrace
Kilwinning
Ayrshire
KA13 6JA

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. The proposed development would undermine the town centre first principle and the social and economic functions of the town centre. 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 would have an adverse impact on the predominantly residential character and amenity of the surrounding area.

Dated this : 14 December 2021



.....
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.

From: [lyn.rocks](#)
To: [Angela Little \(Committee Services Officer / Committee & Member Serv \)](#)
Subject: Re: Planning Application: 21/01027/PP - 1 – 3 Gargarin Terrace, Kilwinning
Date: 02 February 2022 14:28:32

Hi Angela

Just the same again

Parking

Litter

Loitering youths

And to close to my property . There is plenty of takeaways in the area that can get deliver

Regards

Lyn

Sent from my iPhone

On 2 Feb 2022, at 14:12, Angela Little (Committee Services Officer / Committee & Member Serv) <alittle@north-ayrshire.gov.uk> wrote:

From: [Henry Fitzsimmons](#)
To: [Angela Little \(Committee Services Officer / Committee & Member Serv \)](#)
Cc: [REDACTED]
Subject: Re: Notice of Review: 21/01027/PP - 1 – 3 Gargarin Terrace, Kilwinning
Date: 06 February 2022 16:35:17
Attachments: [220202 - Invitation to Comment on Representations.doc](#)
[Further representation - L.Rocks.pdf](#)

*** This email is from an EXTERNAL source. Please be cautious and evaluate before you click on links, open attachments, or provide credentials. ***

Hi Angela

I was wondering if their will be a round the table appeal that I can attend in order to put my case forward, we as a family have had many shops of this type and Kilwinning has not got a problem with loitering the parking is not a problem either, the residents park outside the shop, as far as the litter goes we got the council to give us a extra bin and the manager cleans any litter every night before close of business, we have a petition for customers that what a chip shop in this location so one person saying she doesn't want it is not fair if their was a problem the police would have made you aware of that we Never got any trouble at Blacklands, if you need to discuss please call [REDACTED]

Sent from my iPhone

On 2 Feb 2022, at 2:43 pm, Angela Little (Committee Services Officer / Committee & Member Serv) <alittle@north-ayrshire.gov.uk> wrote:

Dear Sirs

Please find attached a further representation in respect of the Notice of Review submitted.

I am working from home and can be contacted by email

Angela Little
Committee Services Officer

01294 324132
Democratic Services
Cunninghame House
Irvine
KA12 8EE

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